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Counsel for Highland Capital Management, L.P.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	

HIGHLAND CAPITAL MANAGEMENT, L.P.'s WITNESS AND EXHIBIT LIST WITH RESPECT TO HEARING TO BE HELD ON DECEMBER 18, 2024

Highland Capital Management, L.P. ("HCMLP," or, as applicable, the "Debtor"), the reorganized debtor in the above-styled bankruptcy case (the "Bankruptcy Case"), by and through its undersigned counsel, submits the following witness and exhibit list with respect to *Highland Capital Management, L.P.'s Objection to Scheduled Claims 3.65 and 3.66 of Highland CLO*

[1] The Reorganized Debtor's last four digits of its taxpayer identification number are (8357). The headquarters and service address for the above-captioned Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Management, Ltd. [Docket No. 3657] (the "Motion"), which the Court has set for hearing at 9:30 a.m. (Central Time) on December 18, 2024 (the "Hearing") in the Bankruptcy Case.

A. Witnesses:

1. James P. Seery Jr.;
2. David Klos;
3. Frank Waterhouse;
4. James Dondero;
5. Any witness identified by or called by any other party; and
6. Any witness necessary for rebuttal.

B. Exhibits:

Number	Exhibit	Offered	Admitted
1.	Highland Capital Management, L.P.'s Objection to Scheduled Claims 3.65 and 3.66 of Highland CLO Management, Ltd. [Dkt. No. 3657]		
2.	Order Approving Stipulation Concerning the Litigation of HCMLP's Objection to Scheduled Claims 3.65 and 3.66 of Highland CLO Management, Ltd. [DE # 3657] and Related Matters [DE # 3695] [Dkt No. 4086]		
3.	Deposition Transcript of Frank Waterhouse, Individually and as Corporate Representative of Highland CLO Management, Ltd., 9/24/24		
4.	Highland Capital Management, L.P.'s Amended Notice of Rule 30(b)(6) Deposition to Highland CLO Management, Ltd. [Dkt. No. 4159] (FW No. 1)		
5.	Highland CLO Management Ltd. Written Resolutions of the Subscriber to the Company's Memorandum of Association, 10/27/18 [HCLOM00009363] (FW No. 2)		
6.	Highland CLO Management Ltd. Written Resolutions of the Sole Director of the Company, 2/7/18 [HCLOM01373468] (FW No. 3)		
7.	Acknowledgement and Waiver, 1/19/18 [HCLOM00002807, 2809]		

Number	Exhibit	Offered	Admitted
8.	Findings of Fact and Conclusions of Law in Support of Orders for Relief Issued After Trial on Contested Involuntary Bankruptcy Petitions, 4/13/18 [HCLOM00258116-8168] (FW No. 5)		
9.	Consent of the Sole Member of Acis Capital Management GP, LLC, dated 6/10/16 [HCLOM00003607; 3609] (FW No. 6)		
10.	Second Amended and Restated Sub-Advisory Agreement and Third Amended and Restated Shared Services Agreement for Acis, 7/29/16 [HCLOM00535296-321] (FW No. 7)		
11.	Fourth Amended and Restated Shared Services for Acis, 3/17/17 [HCLOM00613316-339] (FW No. 8)		
12.	Third Amended and Restated Sub-Advisory Agreement for Acis, 3/17/17 [HCLOM00613469-489] (FW No. 9)		
13.	Agreement for Purchase and Sale of CLO Participation Interests, 10/7/16 [HCLOM00263384-405] (FW No. 10)		
14.	Promissory Note in amount of $12,666,446, 10/7/16 [HCLOM0119205-210] (FW No. 11)		
15.	Portfolio Management Agreement (Acis-7), 4/20/17 [HCLOM00007050-7101] (FW No. 12)		
16.	Assignment and Transfer Agreement, 11/3/17 [ACIS00000050-55] (FW No. 13)		
17.	HCMLP Proof of Claim No. 27-1 filed in Acis bankruptcy case, 8/1/18 (FW No. 14)		
18.	Forbearance Agreement, 5/31/18 [HCLOM00009462-9465] (FW No. 15)		
19.	Amended and Restated Forbearance Agreement, 5/31/19 [HCLOM00009466-9469] (FW No. 16)		
20.	Response of Highland CLO Management, Ltd. to Highland Capital Management, L.P.'s Objection to Scheduled Claims 3.65 and 3.66 of Highland CLO Management, Ltd. [Dkt. No. 3715] (FW No. 17)		
21.	Highland CLO Management, Ltd.'s Combined Discovery Responses and Objections (Interrogatories) (FW No. 18)		
22.	Deposition Transcript of David Klos, 9/25/24		

Number	Exhibit	Offered	Admitted
23.	Payment Cancellation Agreement, 5/10/18 [HCLOM00008893-8896] (DK No. 4)		
24.	Legal Fee Agreement, 1/10/18 [HCLOM00013413-13415] (DK No. 8)		
25.	Terry's Motion to Compel Arbitration, 9/12/16 [HCLOM00269373-00269428]		
26.	Terry's Final Arbitration Award, 10/20/17 [HCLOM00013416-13443]		
27.	Standard Custodial Terms for Highland CLO Management, LLC, 1/19/18 [HCLOM02119915-02119943]		
28.	Hunton & Williams Opinion Letter ("H&W Letter"), 1/31/17 [HCLOM02119946-02119966]		
29.	H&W Letter – Ex A – CLO 2013-1 Indenture, 3/18/13 [HCLOM02119967-02120305]		
30.	H&W Letter – Ex B – CLO 2013-1 Portfolio Management Agreement, 3/18/13 [HCLOM02120306-02120371]		
31.	H&W Letter – Ex C – CLO 2014-3 Indenture, 2/25/14 [HCLOM02120372-02120984]2		
32.	H&W Letter – Ex D – CLO 2014-3 Portfolio Management Agreement, 2/25/14 [HCLOM02120985-02121037]		
33.	H&W Letter – Ex E – CLO 2014-4 Indenture, 6/5/14 [HCLOM02121038-02121459]		
34.	H&W Letter – Ex F – CLO 2014-4 Portfolio Management Agreement, 6/5/14 [HCLOM02121460-02121512]		
35.	H&W Letter – Ex G – CLO 2014-5 Indenture, 11/18/14 [HCLOM02121513-02121847]		

2 Because Highland currently intends to rely on the Indentures (marked as Exhibits 31, 33, 35, and 37, respectively) for the definition of "S&P Rating Condition," a term used in Section 14 of the CLO Portfolio Management Agreements (Exhibits 32, 34, 36, and 38, respectively), and because the Indentures are voluminous, Highland is only offering into evidence the cover page, table of contents, applicable definition, and signature pages of each Indenture. The complete Indentures were produced to HCLOM Ltd. in discovery and are available upon request.

Number	Exhibit	Offered	Admitted
36.	H&W Letter – Ex H – CLO 2014-5 Portfolio Management Agreement, 11/18/14 [HCLOM02121849-02121900]		
37.	H&W Letter – Ex I – CLO 2015-6 Indenture, 4/16/15 [HCLOM02121901-02122230]		
38.	H&W Letter – Ex J – CLO 2015-6 Portfolio Management Agreement, 4/16/15 [HCLOM02122231-021211183]		
39.	H&W Letter – Ex K – Projection of Senior Management Fees [HCLOM02122284-02122285]		
40.	H&W Letter – Ex L – Agreement for Purchase and Sale of CLO Participation Interests, 10/7/16 [HCLOM02122286-02122308]		
41.	H&W Letter – Ex M – Promissory Note, 10/7/16 [HCLOM02122309-02122315]		
42.	H&W Letter – Ex N – Bank Statements of Acis and Buyer evidencing cash payment [HCLOM02122316-02122323]		
43.	H&W Letter – Ex O – Dondero Certificate of Representations, 1/31/17 [HCLOM02122324-02122327]		
44.	Weekly Budget Checklist – Week of 1/29/18 [HCLOM02119751-02119760]		
45.	Weekly Budget Checklist – Week of 2/5/18 [HCLOM02119761-02119770]		
46.	Weekly Budget Checklist – Week of 2/12/18 [HCLOM02119771-02119779]		
47.	Weekly Budget Checklist – Week of 2/19/18 [HCLOM02119780-02119788]		
48.	Weekly Budget Checklist – Week of 2/26/18 [HCLOM02119789-02119797]		
49.	Weekly Budget Checklist – Week of 3/5/18 [HCLOM02119798-02119806]		
50.	Weekly Budget Checklist – Week of 3/12/18 [HCLOM02119807-02119815]		

Number	Exhibit	Offered	Admitted
51.	Weekly Budget Checklist – Week of 3/19/18 [HCLOM02119816-02119824]		
52.	Weekly Budget Checklist – Week of 3/26/18 [HCLOM02119825-02119833]		
53.	Weekly Budget Checklist – Week of 4/2/18 [HCLOM02119834-02119842]		
54.	Weekly Budget Checklist – Week of 4/9/18 [HCLOM02119843-02119851]		
55.	Weekly Budget Checklist – Week of 4/16/18 [HCLOM02119852-02119860]		
56.	Weekly Budget Checklist – Week of 4/23/18 [HCLOM02119861-02119869]		
57.	Weekly Budget Checklist – Week of 4/30/18 [HCLOM02119870-02119878]		
58.	Weekly Budget Checklist – Week of 5/7/18 [HCLOM02119879-02119887]		
59.	Weekly Budget Checklist – Week of 5/14/18 [HCLOM02119888-02119896]		
60.	Weekly Budget Checklist – Week of 5/21/18 [HCLOM02119897-02119905]		
61.	Weekly Budget Checklist – Week of 5/28/18 [HCLOM02119906-02119914]		
62.	Dondero's deposition transcript – 11/4/2024		
63.	Assignment and Transfer Agreement [HCLOM00002801-2806] (JD No. 08)		
64.	Mizuho Engagement Letter, 11/15/17 [HCLOM00004397-00004415] (JD No. 9)		
65.	(Acis Bankruptcy) Dondero's Answers to Acis' Interrogatories, 8/29/24		
66.	(Acis Bankruptcy) Dondero's deposition transcript, 9/4/24 [Draft]		

Number	Exhibit	Offered	Admitted
67.	(Acis Bankruptcy) – HCMLP's Administrative Expense Claim [Dkt No. 772]		
68.	Email from Ellington, 9/23/16 [HCLOM01435770]		
69.	Leventon Email re: Terry/Acis, 11/3/17 [HCLOM02097611-02097613]		
70.	Goldman Sachs Email, 10/27/17 [HCLOM01048701-01048703]		
71.	Amendment to Amended and Restated Limited Partnership Agreement of Acis, effective 7/1/2016 [HCLOM00701708-00701711]		
72.	NWCC, LLC Master Repurchase Agreement, 1/26/18 [HCLOM01510485-01510531]		
73.	NWCC, LLC Conforming Transaction Supplement, 1/29/18 [HCLOM01085830-01085834]		
74.	Order Confirming Terry Arbitration Award, 12/18/17 [HCLOM00013446]		
75.	"Judgement Proof" letter, 11/7/17 [HCLOM00198459-00198460]		
76.	Acis Trial Transcript, 3/23/18 [HCLOM00246926-00247174]		
77.	INTENTIONALLY OMITTED		
78.	Dondero deposition transcript (Acis), 3/19/18 [HCLOM00288431-00288486]		
79.	J. Bumgarner email w/ attachments Private Placement Memorandums (clean and redline), 10/12/2017 [HCLOM01224559-01224719]		
80.	Roy Amit (GS) 11/06/2017 Email [HCLOM01431067-01431068]		
81.	Accepted meeting with Thomas, JP, Tim, Isaac re: Terry, 11/3/17 [HCLOM01922726]		
82.	Hunter Covitz 11/3/2017 Email [HCLOM02094918]		

Number	Exhibit	Offered	Admitted
83.	Acis – Terry Arbitration Agenda [HCLOM02119944-02119945]		
84.	JP Sevilla 2019-1-19 Email [HCLOM00407382-00407383]		
85.	Shared Services Agreement between Highland CLO Holdings, Ltd. and Highland Capital Management, L.P. dated 12/19/2017 [HCLOM00007597-00007619]		
86.	Sub-Advisory Agreement between Highland CLO Holdings, Ltd. and Highland Capital Management, L.P. dated 12/19/2017 [HCLOM00007686-00007705]		
87.	Highland CLO Management, LLC formation documents 10.19.2017 [HCLOM00220920-00220921]		
88.	Any document entered or filed in the Debtor's chapter 11 bankruptcy case, including any exhibits thereto		
89.	All exhibits necessary for impeachment and/or rebuttal purposes		
90.	All exhibits identified by or offered by any other party at the Hearing		

Dated: November 21, 2024

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EXHIBIT 1

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Counsel for Highland Capital Management, L.P.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	**Response Deadline: March 6, 2023 at 5:00 p.m. (CT)**

HIGHLAND CAPITAL MANAGEMENT, L.P.'S OBJECTION TO SCHEDULED CLAIMS 3.65 AND 3.66 OF HIGHLAND CLO MANAGEMENT, LTD.

Pursuant to sections 502(a)-(d) and 558 of title 11 of the United States Code (the "Bankruptcy Code") and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), the reorganized debtor in the above-referenced bankruptcy case, Highland

[1] Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

Capital Management, L.P. (as temporally required, referred to as "Highland" (the entity that existed before the Petition Date) or the "Debtor" (the entity that existed from the Petition Date until the Effective Date) or "Reorganized Highland" (the entity that came into existence upon the Effective Date)), hereby objects to scheduled claim numbers 3.65 and 3.66 (together, the "HCLOM Scheduled Claim") carried on Schedule F of the Debtor's Amended Schedules [*see* Docket No. 1082] with respect to Highland CLO Management, Ltd. ("HCLOM").

Reorganized Highland respectfully submits that there are numerous bases for the disallowance of the HCLOM Scheduled Claim and represents as follows:

Preliminary Statement[2]

1. The HCLOM Scheduled Claim arises out of a note dated October 7, 2016 (the "Note") executed by Highland in favor of Acis Capital Management, L.P. ("Acis", and together with Highland and HCLOM, the "Parties"), then an affiliate of Highland, in the original amount of $12,666,446.00, which was then purportedly assigned to HCLOM. The HCLOM Scheduled Claim should be disallowed because HCLOM provided no consideration for the Note and otherwise materially breached the Parties' agreements, thereby relieving Highland of any obligation to perform under the Note.

2. The background facts are straight-forward. At all relevant times, Mr. Dondero controlled each of the Parties. Acis managed certain CLOs and received certain Servicer Fees in exchange. Since Acis had no employees of its own, Highland provided the services on behalf of Acis that enabled Acis to fulfill its obligations to the CLOs. In October 2016, Acis and Highland entered into the Purchase Agreement pursuant to which Highland tendered the Note to Acis in exchange for purported "Participation Interests" in Acis' Servicer Fees over a specified

[2] Capitalized terms not defined in this Preliminary Statement shall have the meanings ascribed to them below.

period, less certain expenses. Highland and Acis appeared to perform their respective obligations under the Purchase Agreement through early November 2017.

3. In November 2017 (immediately after the Joshua Terry arbitration award was issued but before the Acis involuntary), Highland purportedly notified Acis that it was unwilling to continue to support Acis' management of the CLOs, leaving Acis unable to fulfill its obligations as the CLOs' manager. HCLOM, a newly-formed entity created to replace Acis, purportedly offered to step into the breach and serve as Acis' Successor Manager in exchange for an assignment of the Note. On November 3, 2017, the Parties executed the Assignment pursuant to which, among other things, (a) HCLOM was to become the CLOs' Successor Manager, (b) Acis and HCLOM were to remit the Servicer Fees to Highland, and (c) the Note was assigned to HCLOM. Dondero executed the Assignment for both Highland and Acis. One of the Dondero entities' then-regular Cayman Islands directors, John Cullinane, executed the Assignment on behalf of HCLOM.

4. Notwithstanding the purported Assignment, HCLOM and Acis failed to perform their respective obligations under the Assignment and HCLOM never provided anything of value to Highland in exchange for the Note. HCLOM and Acis breached the Assignment by, among other things, failing to tender any Servicer Fees associated with the Acis Participation Interests and failing to "promptly pursue Successor Manager appointment . . . in respect of each CLO, including but not limited to achieving all conditions precedent required under the CLO Documents." (Assignment § 2).

5. Consequently, HCLOM never obtained an Appointment (defined in the Assignment as the "consummation of HCLOM's appointment as Portfolio Manager of a given CLO"), the entire purpose and purported *quid pro quo* of the Assignment. In fact, Acis has

continued to manage the CLOs, including during the first six months after the Assignment was executed while Mr. Dondero remained in control of Acis, but no Servicer Fees were paid to Highland. These failures (a) constituted material breaches of contract that relieved Highland of its obligations under the Note, both by the express terms of the Parties' agreements and also pursuant to applicable law; and (b) resulted in a complete failure of consideration under the Assignment, which had the effect of voiding the assignment of the Note.

6. As set forth in more detail below, Reorganized Highland has no continuing liability under the Note and received nothing of value for the Note. The HCLOM Scheduled Claim should, therefore, be disallowed in its entirety. Alternatively, if Reorganized Highland is determined to have any continuing obligations under the Note, any such obligations would be subject to Reorganized Highland's rights of offset and recoupment for all amounts due from both Acis and HCLOM (*i.e.*, all covered Servicer Fees on the Acis CLOs from the date of the Note to present). On information and belief, such amounts exceeded the purported amount of the Note.

Jurisdiction

7. The Court has jurisdiction over this matter under the Bankruptcy Code and pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. §§ 157(b)(2)(A), (B), and (L). Venue is proper in this District under 28 U.S.C. §§ 1408 and 1409.

8. The statutory predicates for the relief requested herein are 11 U.S.C. § 502(b)-(d), 11 U.S.C. § 558, and Federal Rule of Bankruptcy Procedure 3007.

Factual Background

9. On October 16, 2019 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the "Delaware Court").

10. On December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor's Bankruptcy Case to this Court [Docket No. 186].[3]

11. On February 22, 2021, this Court entered the *Order Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified) and (ii) Granting Related Relief* [Docket No. 1943] (the "Confirmation Order"), which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (as Modified)* [Docket No. 1808] (the "Plan").

12. The Plan became effective on August 11, 2021 (the "Effective Date") [Docket No. 2700].

The Note and Purchase Agreement

13. Prior to the Petition Date, Acis, using Highland employees, provided management services with respect to certain collateralized loan obligations ("CLOs") in exchange for management fees ("Servicer Fees") paid by the CLOs to Acis. Purportedly, because "cash flows from the Servicer Fees [we]re unpredictable," Acis sought to "obtain[] a guaranteed fixed amount of cash flow" in exchange for the Servicer Fees it earned from the CLOs. Purchase Agreement (as defined) at 102. In that context, Highland, as Purchaser, and Acis, as Seller, entered into the *Agreement for Purchase and Sale of CLO Participation Interests* dated October 7, 2016 (the "Purchase Agreement").

14. Pursuant to Section 1 of the Purchase Agreement, Acis agreed to sell to Highland "participation interests in the Servicer Fees (the "Acis Participation Interests") in an amount equal to . . . the total Servicer Fees paid to Seller [Acis] by each of the CLOs beginning in November 2016 and ending August 2019," less certain specified amounts. In exchange for the

[3] All docket numbers refer to the docket maintained by this Court.

Acis Participation Interests, Highland agreed to pay Acis $666,655 in cash and to execute the Note in favor of Acis as Payee. Thus, the Note was the primary form of consideration tendered by Highland to Acis in exchange for the Acis Participation Interests.

15. The Note and the Purchase Agreement were inextricably tied together as part of the purchase transaction. The Purchase Agreement attached a copy of the Note as an exhibit and made repeated references to the Note. Moreover, by its terms, the Note was to become effective only upon the effectiveness of the Purchase Agreement, which was executed contemporaneously by Highland and Acis. A condition precedent to the effectiveness of the Note provides:

> ***This Note shall not become effective and Payee shall have no obligation to make the advance hereunder until*** Payee has received each of the following in form and substance acceptable to Payee:
>
> . . . .
>
> (b) the Agreement for Purchase and Sale of CLO Participation Interests dated of even date herewith (the "Purchase Agreement"), by and between Maker and Acis Capital Management, LP, a Delaware limited partnership ("Highland") [*sic*], and copies of all agreements, documents and instruments executed or delivered in connection therewith and evidence that ***all conditions to the effectiveness of the Purchase Agreement have been or will be fulfilled contemporaneously with the initial advance under this Note***;

Note at 1 (emphases added).

16. Moreover, as highlighted above, Acis' obligation to remit the cash received with respect to the Acis Participation Interests to Highland was expressly incorporated into the terms of the Note through multiple references to the obligation of the Payee (*i.e.*, Acis) to make advances "hereunder" or "under this Note" to the Maker (*i.e.*, Highland). For example, as quoted above, the Note provides that "*Payee* shall have no obligation to make *the advance hereunder* until Payee has received" certain specified documents. Note at 1 (emphases added). The Note also

states that, in the event of a default by the Maker, the Payee may "terminate Payee's commitment to make any advances under this Note." Note at 3. The Note further provides:

> Notwithstanding any provision contained herein to the contrary, the total amount of interest that Maker is obligated to pay and Payee is entitled to receive with respect to this Note shall not exceed the amount calculated on a simple (i.e., non-compounded) interest basis at the maximum rate allowed by applicable law ***on principal amounts actually advanced hereunder to or for the account of Maker***.

Id. (emphasis added).

17. These repeated references to amounts to be advanced by the Payee to the Maker "under" the Note describe Acis's obligations to "remit" the cash received with respect to the Acis Participation Interests to Highland, as noted in Section 4 below.

18. Section 4 of the Purchase Agreement is titled "Covenants" and imposes several obligations on the parties to the Purchase Agreement. Section 4.1 of the Purchase Agreement includes the following covenant of the Seller (*i.e.*, Acis): "The Seller agrees to promptly remit, or cause to be promptly remitted, to the Purchaser the cash received with respect to the Acis Participation Interests." Purchase Agreement, § 4.1.

19. Section 3.6 of the Purchase Agreement further provides:

> Subject to Section 1.5, the Purchaser acknowledges and agrees that: (a) except as provided in Section 1.5, *should the Seller's rights with respect to the Servicer Fees be terminated, such termination shall not affect the Purchaser's obligations under the Note*; (b) except as provided in Section 1.5, ***the Seller may exercise all of its legal rights and remedies to enforce the Purchaser's obligations under the Note*** *even if the Acis Participation Interests are not paid, in full or part, by the CLO trustees for any reason, including the termination of the Seller as the manager, a hostile buyout of such CLO, or any other reason* ***(other than as a result of the Seller breaching its covenants under this Agreement or as a result of fraud or by willful misconduct of the Seller);*** and (c) Purchaser has had the opportunity to consult with its own legal counsel with respect to the purchase of the Acis Participation Interests. The Purchaser understands such actions could negatively impact the timing and amount of payment of such Acis Participation Interests during the pendency of such dispute by the trustee of such CLO. *The Purchaser bears the sole risk with respect to nonpayment of the Acis Participation Interests* ***(other than as a result of the Seller breaching its covenants under this Agreement or as a result of the fraud or willful misconduct of the Seller)***.

Purchase Agreement, § 3.6 (emphases added).

20. Thus, the Purchase Agreement is clear that, whereas Highland would remain obligated under the Note if Acis did not receive Servicer Fees from the CLO third parties, in the event that Acis breached its covenants under the Purchase Agreement to remit the cash received with respect to the Acis Participation Interests to Highland, Acis would forfeit the right to enforce the Note (subject to Section 1.5, which addresses a seizure or forfeiture of Servicer Fees due to governmental action, which did not occur here). In short, Highland's payment obligations under the Note were conditioned upon Acis' compliance with its own agreement to transfer to Highland the cash received with respect to the Acis Participation Interests pursuant to Sections 1 and 4.1 of the Purchase Agreement.

21. Section 5.7 of the Purchase Agreement provides Highland with the right to seek specific performance of the Purchase Agreement in the event of a breach by Acis:

> The Seller and the Purchaser agree that the rights created by this Agreement are unique and that the loss of any such rights is not susceptible to monetary quantification. Consequently, the Seller and the Purchaser agree that an action for specific performance (including for temporary and/or permanent injunctive relief) of the obligations created by this Agreement is a proper remedy for the breach of the provisions of this Agreement, and the Purchaser shall be entitled to such relief without the necessity of proving actual damages or posting a bond.

Purchase Agreement, § 5.7.

22. Both the Purchase Agreement and the Note are governed by Texas law.

The Purported Assignment of the Note to HCLOM

23. In November 2017, Highland (controlled by Mr. Dondero) notified Acis that it was "unwilling to continue to provide support personnel and other critical services to Acis with respect to the CLOs." Acis (also controlled by Mr. Dondero) then determined that it could no longer "fulfill its duties as portfolio manager of the CLOs" and needed to find a replacement,

and HCLOM (also controlled by Mr. Dondero) offered to fill the void. Assignment (as defined below) at 1.

24. To address the problem that Mr. Dondero manufactured, Highland, Acis, and HCLOM then entered into that certain *Assignment and Transfer Agreement* dated as of November 3, 2017 (the "Assignment"), the purpose of which was to have HCLOM replace Acis as the Successor Manager for the CLOs and assume all of Acis' rights and obligations under the Purchase Agreement and Note.

25. Thus, pursuant to the Assignment, (a) HCLOM agreed to act as Acis's Successor Manager, (b) Acis assigned to HCLOM all rights in the Note, (c) each of Acis and HCLOM agreed to transfer to Highland any Servicer Fees received by Acis and HCLOM, respectively, that Acis would have been required to remit to Highland pursuant to the Purchase Agreement, and (d) HCLOM agreed to execute a joinder to the Purchase Agreement.

26. A recital to the Assignment provides: "HCLOM, a qualified Successor Manager, irrevocably commits to be appointed as Successor Manager ***in consideration of Acis assigning to it the Note***." Assignment at 1 (emphasis added).

27. Section 1 of the Assignment required Acis (again, then under Mr. Dondero's control) to "promptly provide the Controlling Class (as defined in the CLO Indentures) with notice requesting the appointment of HCLOM as Portfolio Manager pursuant to the requirements of the CLO Documents."

28. Section 2 of the Assignment provides that each of Acis and HCLOM would "promptly pursue Successor Manager appointment of HCLOM in respect of each CLO." Assignment, § 1.

29. Section 3 of the Assignment provides:

3. Assignment and Transfer of the Promissory Note; Stabilization Payments.

a. Effective immediately upon execution of this Agreement by the Parties, all right, title and interest of Acis under the Note, including the right to any and all Stabilization Payments[4] not yet paid to Acis, are hereby irrevocably assigned and transferred by Acis to HCLOM, it being understood that from the date of such assignment, HCLOM shall become the "Payee" thereunder.

b. For so long as Acis shall receive Servicer Fees following the date hereof, Acis shall remit to HCM the HCM Stabilization Fees[5] pursuant to the Note Purchase Agreement.

c. For so long as HCLOM receives any Servicer Fees following any Appointment, then HCLOM shall remit to HCM any portion of such fees that would otherwise have constituted HCM Stabilization Fees pursuant to the Note Purchase Agreement if Acis was the recipient of such fees.

d. HCLOM shall sign a joinder to Note Purchase Agreement upon HCM's written notice thereof.

Assignment, § 3 (emphasis added).

30. Thus, the parties to the Assignment contemplated that HCLOM would assume Acis's rights under the Note, subject to HCLOM becoming the Successor Manager and to the continuing obligation of both Acis and HCLOM to remit Servicer Fees received by each entity to Highland.

31. Section 6.h of the Assignment contains a right of specific performance for breach and provides:

> The Parties agree that the rights created by this Agreement are unique and that the loss of any such rights is not susceptible to monetary quantification. Consequently, the Parties agree that an action for specific performance, including for temporary and/or injunctive relief) of the obligations created by this Agreement is a proper remedy for the breach of the provisions of this Agreement, and the Debtor shall be

[4] The term "Stabilization Payments" is defined in the Assignment to mean "cash flows from HCM," as set forth in the Note.

[5] The term "HCM Stabilization Fees" is defined in the Assignment to mean the "future Servicer Fees identified to be paid to HCM pursuant to the Purchase Agreement."

entitled to such relief without the necessity of proving actual damages or posting a bond.

Assignment, § 6.h.

32. After the parties executed the Assignment, Acis and HCLOM failed to consummate the appointment of HCLOM as Successor Manager. Moreover, although Acis retained the benefit of the CLO servicer arrangements and received the Servicer Fees that were the subject of the Purchase Agreement and Assignment, neither Acis nor HCLOM made any further payments to Highland.

33. Following the commencement of the Acis bankruptcy, HCLOM and Highland released each other from the obligations under the Note and the Assignment.

Objection

A. Legal Standard

34. The Bankruptcy Code establishes a burden-shifting framework for proving the amount and validity of a claim. As the HCLOM Scheduled Claim was scheduled in the Debtor's schedules but was not scheduled as disputed, contingent, or unliquidated, the HCLOM Claim is deemed filed under section 501 of the Bankruptcy Code, notwithstanding that no proof of claim was filed by HCLOM. 11 U.S.C. § 1111(a). Furthermore, "[a] claim . . . , proof of which is filed under section 501 [of the Bankruptcy Code], is deemed allowed, unless a party in interest . . . objects." 11 U.S.C. § 502(a). "A proof of claim executed and filed in accordance with the [Bankruptcy Rules] shall constitute *prima facie* evidence of the validity and amount of the claim." FED. R. BANKR. P. 3001(f); *see also In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006). However, the ultimate burden of proof for a claim always lies with the claimant. *Armstrong*, 347 B.R. at 583 (citing *Raleigh v. Ill. Dep't of Rev.*, 530 U.S. 15 (2000)).

35. The HCLOM Scheduled Claim is based upon the Note. For the reasons described below, the Debtor is not liable on the Note. The HCLOM Scheduled Claim should, therefore, be disallowed in full.

B. Acis' Material Breaches of Contract Excused the Debtor's Performance under the Note

36. For the reasons discussed below, Acis' material breaches of the Purchase Agreement, the Note, and the Assignment relieved the Debtor from any purported payment obligations under the Note.

1. HCLOM and/or Acis' Breach of the Purchase Agreement Relieved the Debtor from any Purported Payment Obligations under the Note.

37. Pursuant to the terms of the Note, Highland was to make three payments to Acis. The first payment was scheduled to be made on May 31, 2017 in the amount of $3,370,694. The second payment was scheduled to be made on May 31, 2018 in the amount of $5,286,243, and the third payment was scheduled to be made on May 31, 2019 in the amount of 4,677,690. Highland made the first payment, but not the other two for the reasons set forth below.

38. As noted above, Acis agreed in Section 1 of the Purchase Agreement to remit to the Debtor the cash received with respect to the Acis Participation Interests through August 2019. Acis last remitted cash to Highland with respect to the Acis Participation Interests on November 1, 2017, before the Assignment was executed. Upon information and belief, the CLOs consistently paid the Servicer Fees to Acis on a regular basis. HCLOM and Acis breached their obligations under the Assignment by failing to remit to Highland any of the Servicer Fees related to the Acis Participation Interests (or any other amounts). The failure to remit such cash to Highland constituted a material breach of that agreement.

39. Pursuant to the express terms of the Purchase Agreement, HCLOM's and Acis' breach of their covenant to remit the cash received with respect to the Acis Participation Interests to Highland excused Highland's own performance under the Note. As explained above, Section 3.6 of the Purchase Agreement provides that Acis would retain the right to enforce Highland's obligations under the Note except where Acis' failure to transfer the cash received with respect to the Acis Participation Interests to Highland is "a result of [Acis] breaching its covenants under" the Purchase Agreement.

40. Upon information and belief, HCLOM and/or Acis apparently continued to receive Servicer Fees after November 3, 2017; they simply failed to remit those fees to Highland as the Purchase Agreement required. Since this failure to remit was due to a breach of the covenant to make such payments under the Purchase Agreement, Highland's obligation to pay any amounts under the Note was excused under Section 3.6 of the Purchase Agreement, and Acis (as well as any assignee) forfeited its rights to enforce Highland's obligations under the Note.

41. Indeed, even had Highland's obligations on the Note not been excused by the express terms of the Purchase Agreement, HCLOM's and Acis' material breaches would still have excused Highland's performance under applicable law. *See, e.g.*, *Allied Elevator, Inc. v. E. Tex. State Bank*, 965 F.2d 34, 38 (5th Cir. 1992) (holding that, if defendant had materially breached an agreement to procure life insurance, as required by the terms of a promissory note provided by plaintiff to the defendant in exchange for borrowed money, plaintiff would be excused from performing under the note, because "'[a] fundamental rule of contract law is that whenever a party to a contract … commits a material breach, the other party to that contract, at its election, is excused

from further performance'") (quoting *Bernal v. Garrison*, 818 S.W.2d 79, 83 (Tex. App. 1991); *see also MJR Corp. v. B & B Vending Co.*, 760 S.W.2d 4, 20-21 (Tex. App. 1988) ("It is fundamental that whenever one party to a contract commits a material breach, the other party, at its election, is excused from further performance") (citing *Mead v. Johnson Grp., Inc.*, 615 S.W.2d 685, 689 (Tex. 1981)).

2. HCLOM and Acis Breached the Note, Thereby Excusing the Debtor's Performance.

42. The failure by HCLOM and Acis to remit the requisite Servicer Fees to Highland resulted in a breach of the Note. As described above, the Note expressly requires Acis to make advances to Highland "under" the Note. The only advances that Acis committed to make to Highland in connection with the transactions that were the subject of the Purchase Agreement and the Note were those constituting the Servicer Fees received with respect to the Acis Participation Interests. By failing to honor the payment obligations under the Note, HCLOM and Acis materially breached their obligations under the Note.

43. Such material breach of the Note deprived Highland of the benefit of its bargain under that agreement in a manner that excused Highland's performance under the Note, which was given as the primary form of consideration provided in exchange for the Acis Participation Interests. *See, e.g.*, *Mustang Pipeline Co. v. Driver Co.*, 134 S.W.3d 195, 199 (Tex. 2004) (defendant's material breach of contract discharged plaintiff from its duties under the contract); *see also In re Dallas Roadster, Ltd.*, 846 F.3d 112 (5th Cir. 2017) ("A fundamental principle of contract law is that when one party to a contract commits a material breach of that contract, the other party is discharged or excused from any obligation to perform") (quoting *Hernandez v. Gulf Grp. Lloyds*, 875 S.W.2d 691, 692 (Tex. 1994)).

3. Alternatively, HCLOM's and Acis's Breach of the Purchase Agreement also Breached the Note, which Excused the Debtor's Performance under the Note.

44. It is a general rule of contract interpretation under Texas law that "separate instruments or contracts executed at the same time, for the same purpose, and in the course of the same transaction are to be considered as one instrument, and are to be read and construed together." *Jones v. Kelley*, 614 S.W.2d 95, 98 (Tex. 1981); *see also Vista Dev. Joint Venture II v. Pac. Mut. Life Ins. Co.*, 822 S.W.2d 305, 307 (Tex. App. 1992) (applying rule to promissory note and deed of trust).

45. The Note was unquestionably an integral part of the Purchase Agreement. It was tendered by Highland as the primary form of consideration in exchange for the Acis Participation Interests, it was executed at the same time as the Purchase Agreement, and the Purchase Agreement attached a copy of, and made repeated references to, the Note. Similarly, the Note is conditioned on the effectiveness of the Purchase Agreement. The Purchase Agreement and the Note should, therefore, "be considered as one instrument, and . . . be read and construed together." *See Kelley*, 614 S.W.2d at 98.

46. When considered as part of the Purchase Agreement, HCLOM's and Acis' material breach of the Purchase Agreement excused Highland's obligations under the Note. *See, e.g.*, *Fitzpatrick v. Animal Care Hosp., PLLC*, 104 A.D.3d 1078 (N.Y. App. Div. 2013) (where promissory note executed contemporaneously with purchase agreement represented partial consideration for the purchased assets and the purchase agreement specifically referred to the note, the court concluded that the parties' rights and obligations set forth in the note and purchase agreement were inextricably intertwined and one party's breach of the purchase agreement permitted the other party to offset its obligations due under the promissory note against any damages caused by the breach); *see also Ingalsbe v. Mueller*, 257 A.D.2d 894 (N.Y. App. Div.

1999); *A+ Assocs. v. Naughter*, 236 A.D.2d 655 (N.Y. App. Div. 1997); *Windmill Run Assocs. v. Fannie Mae (In re Windmill Run Assocs.)*, 566 B.R. 396, 444 (Bankr. S.D. Tex. 2017) (applying Texas law; "[s]eparate documents executed at the same time, for the same purpose, and in the course of the same transaction are to be construed together.... The note, the deed of trust, and the RRSA [replacement reserve and security agreement] were executed contemporaneously. The court concludes that these documents form the contract between the parties"); *Rieder v. Woods*, 603 S.W.3d 86, 94 (Tex. 2020) ("We construe a contract in a manner that gives 'effect to the parties' intent expressed in the text,' but we may also take into account 'the facts and circumstances surrounding the contract's execution.' In that vein, Texas courts have long recognized that, under appropriate circumstances, 'instruments pertaining to the same transaction may be read together to ascertain the parties' intent, even if the parties executed the instruments at different times and the instruments do not expressly refer to each other.' Where appropriate, 'a court may determine, as a matter of law,' that multiple separate contracts, documents, and agreements 'were part of a single, unified instrument.' In determining whether multiple agreements are part and parcel of a unified instrument, a court may consider whether each written agreement and instrument was 'a necessary part of the same transaction'" (footnotes and citations omitted)); *Nat'l City Bank of Ind. v. Ortiz*, 401 S.W.3d 867, 884 (Tex. App. 2013) ("National City's [noteholder] claims for breach of contract and judicial foreclosure cannot be parsed fairly into claims under the Note and claims under the Deed of Trust. Because the two documents form a single contract, both the Note and the Deed of Trust must be considered on remand in relitigating these claims"); *Wasaff v. Lipscomb*, 713 S.W.2d 730, 732 (Tex. App. 1986) ("We hold that the 'Trusteeship Agreement,' the promissory note and the deed of trust securing same must be read together and that when so read together, they permit the trustee to conduct the sale").

47. Notably, the Purchase Agreement expressly provides for specific performance and injunctive relief in the event of a breach by Acis. Because the Note and the Purchase Agreement must be construed together, absent strict performance by HCLOM and Acis of their obligations under the Purchase Agreement, Reorganized Highland cannot be compelled to honor any obligations under the Note.

4. The Note Is Unenforceable Due to a Failure of Consideration

48. The Note is unenforceable because there was a failure of consideration provided by HCLOM or Acis to support the Note. "Failure of consideration generally 'occurs when, because of some supervening cause after an agreement is reached, the promised performance fails.'" *Ropa Expl. Corp. v. Barash Energy*, No. 02-11-00258-CV, 2013 Tex. App. LEXIS 7290, at *15 (Tex. App. June 13, 2013) (quoting *US Bank, N.A. v. Prestige Ford Garland Ltd. P'ship*, 170 S.W.3d 272, 279 (Tex. App. 2005). "[F]ailure of consideration may result as a consequence of one party's failure to perform its obligations under the agreement, resulting in the other party's failure to receive the consideration set forth in the agreement." *City of The Colony v. N. Tex. Mun. Water Dist.*, 272 S.W.3d 699, 733 (Tex. App. 2008). The defense of failure of consideration "challenges the agreement as a whole." *Doskocil Mfg. Co. v. Sang Nguyen*, No. 02-16-00382-CV, 2017 Tex. App. LEXIS 5961, at *15 (Tex. App. June 29, 2017).

49. Highland tendered the Note to Acis in exchange for the Acis Participation Interests and Acis' obligation to remit the related cash received with respect to such interests. HCLOM's and Acis' failure to honor the obligation to remit those amounts after the Assignment was executed deprived Highland of its bargained-for consideration. Because the performance promised by Acis failed, the Note is unenforceable, including by Acis' assignees.

C. Material Breaches of the Assignment by HCLOM and Acis Excuse the Debtor's Performance under the Note

1. HCLOM's Failure to Perform under the Assignment Resulted in the Note Being Unenforceable Due to a Failure of Consideration.

50. The Parties purportedly entered into the Assignment because:

> (a) Highland sent the Notification (as defined in the Assignment) to Acis pursuant to which Acis was informed that Highland was "unwilling to continue to provide support personnel and other critical services to Acis with respect to the CLOS,"
>
> (b) Acis determined that in light of the Notification, it could not "fulfill its duties as portfolio manager of the CLOs," and
>
> (c) HCLOM "irrevocably commit[ted] to be appointed as Successor Manager [as defined in the Assignment] in consideration of Acis assigning to it the Note."

Assignment at 1.

51. Thus, the whole purpose of the Dondero-engineered Assignment was to have HCLOM step into Acis' shoes as the Successor Manager of the CLOs. Assignment §§ 1, 2. Until the Appointments (as defined in the Assignment) were consummated, Acis agreed to remit to Highland the "HCM Stabilization Fees pursuant to the Note Purchase Agreement" (to the extent Acis received Servicer Fees). After the Appointments (as defined in the Assignment) were consummated, HCLOM agreed to remit to Highland the any portion of such Fees that would have constituted HCM Stabilization Fees had they been received by Acis. *Id*. § 3(b), (c).

52. Although the Note was purportedly assigned to HCLOM, HCLOM never succeeded to Acis' role as the Successor Manager, no Appointments were ever consummated, and, therefore, HCLOM never transferred any Servicer Fees to Highland. In short, because the intent of the Assignment was never realized, HCLOM cannot receive all of the benefits of the transaction – *i.e.*, the Note – without accepting any of the burdens or providing anything of value in exchange for the Note or payments thereunder.

53. The total failure of consideration provided by HCLOM to support the Assignment, to which Highland was a party, renders the Assignment unenforceable as against Reorganized Highland. As described above, "failure of consideration may result as a consequence of one party's failure to perform its obligations under the agreement, resulting in the other party's failure to receive the consideration set forth in the agreement." *City of The Colony*, 272 S.W.3d at 733. HCLOM agreed in the Assignment to assume certain rights and obligations then held by Acis, including the obligation to transfer Servicer Fees to Highland. The assumption of those obligations constituted the consideration provided by HCLOM in exchange for the right to receive an assignment of the Note and to receive payments from Highland under the Note. Indeed, Highland consented to the Assignment only because HCLOM agreed to perform in accordance with its agreements under the Assignment.

54. HCLOM's failure to succeed to Acis as Successor Manager meant that HCLOM never assumed any servicer obligations, controlled any Servicer Fees, or transferred any Servicer Fees to Highland; indeed, HCLOM completely failed to perform under the Assignment as the parties intended. As a result, Highland never received any of the consideration for which it bargained under the Assignment. The total failure of performance by HCLOM under the Assignment renders the Note unenforceable by HCLOM.

2. Alternatively, HCLOM's Breach of the Assignment Excused the Debtor's Performance under the Note.

55. Even if the Assignment is not rendered unenforceable for failure of consideration, HCLOM's failure to comply with its obligations constituted material breaches thereof. Specifically, HCLOM breached the Assignment by failing to: (a) "provide the Controlling Class (as defined in each of the CLO Indentures) with notice requesting the appointment of HCLOM as Portfolio Manager," as required by Section 1 of the Assignment; (b) "promptly pursue

Successor Manager appointment," as required by Section 2 of the Assignment; (c) "achiev[e] all conditions precedent required by the CLO Documents," as required by Section 2 of the Assignment; and (d) execute a joinder to the Purchase Agreement, as required by Section 3.d of the Assignment.

56. HCLOM's material breaches of the Assignment excused Highland's obligations under the Note. *See, e.g.*, *Mustang Pipeline Co.*, 134 S.W.3d at 199 (defendant's material breach of contract discharged plaintiff from its duties under the contract).

D. Any Obligations that May Be Due under the Note Are Subject to Highland's Rights of Offset and Recoupment

57. Even if Reorganized Highland's remaining obligations under the Note are not excused, Reorganized Highland's rights of setoff and recoupment would reduce those obligations by an amount that is not less than the amount of unpaid Servicer Fees that should have been remitted to Highland through August 2019 by Acis and HCLOM. On information and belief, that amount exceeds the face amount of the Note.

58. As discussed above, Highland became obligated to Acis under the Note in exchange for Acis' simultaneous commitment to transfer Acis Participation Interests to Highland. Acis assigned its interests in the Note to HCLOM on the condition that HCLOM share Acis' payment obligations to Highland. Both Acis and HCLOM failed to transfer any cash received with respect to the Acis Participation Interests to Highland from and after November 3, 2017.

59. As summarized by the Texas appellate court:

> "Recoupment" allows a defendant to reduce the amount of a plaintiff's claims by asserting a counterclaim which arose out of the same transaction. There are two general requirements for recoupment: (1) some type of overpayment must have been made, and (2) both the creditor's claim and the amount owed the debtor must arise from a single transaction. . . .
>
> . . . .

> The right of setoff allows entities that owe each other money to apply their debts to each other. Where setoff is allowed, there are mutual debts arising from different transactions, which contrasts with the single transaction required in recoupment.

Sommers v. Concepción, 20 S.W.3d 27, 35 (Tex. App. 2000) (citing *Matter of Kosadnar*, 157 F.3d 1011, 1013 (5th Cir. 1998)).

60. Because Highland's obligations under the Note arose from the same transaction as Acis' payment obligations under the Purchase Agreement, Highland's obligations must be reduced under a theory of recoupment by the amount of Acis' obligations to Highland. Similarly, since Highland's consent to the assignment of the Note by Acis to HCLOM was conditioned on the agreement by both Acis and HCLOM to continue making payments to Highland under the Purchase Agreement, Reorganized Highland's obligations must be reduced under a theory of recoupment by the amount of HCLOM's obligations to Highland.

61. Alternatively, even if Highland's obligations under the Note are not viewed as arising under the same transaction as Acis' or HCLOM's respective obligations to Highland, Reorganized Highland's obligations must be reduced under a theory of setoff by all amounts owed by Acis and HCLOM to Highland, which include all unpaid obligations of those entities under the Purchase Agreement and the Assignment.

E. Reservation of Rights

62. Reorganized Highland reserves its right to supplement, amend, or modify this Objection based on facts adduced in discovery or otherwise, including to assert further objections, defenses or arguments in support of the disallowance of the HCLOM Scheduled Claim.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

WHEREFORE, Reorganized Highland respectfully requests (i) that the HCLOM Claim be disallowed in its entirety, and (ii) for such other and further relief as this Court may deem just and proper.

Dated: February 2, 2023

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Counsel for Highland Capital Management, L.P.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	

ORDER SUSTAINING
HIGHLAND CAPITAL MANAGEMENT, L.P.'S OBJECTION TO
SCHEDULED CLAIMS 3.65 AND 3.66 OF HIGHLAND CLO MANAGEMENT, LTD.

Upon consideration of the *Objection to Scheduled Claims 3.65 and 3.66 of Highland CLO Management, Ltd.* [Docket No. __] (the "Objection")[2] filed by Highland Capital Management, L.P., the reorganized debtor (as temporally required, the "Debtor" or "Reorganized Highland") in the above-captioned chapter 11 case (the "Bankruptcy Case"), and the Court (1) having considered the Objection and (2) finding that (a) notice of the Objection was good and sufficient upon the particular circumstances and that no other or further notice need be given, (b) the Objection is a

[1] The last four digits of the Reorganized Debtor's taxpayer identification number are 8357. The headquarters and service address for the Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

[2] Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Objection.

core proceeding under 28 U.S.C. § 157(b), (c) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (d) venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409, and (e) Highland CLO Management, Ltd. ("HCLOM") was properly and timely served with the Objection and the notice of hearing on the Objection, and good and sufficient cause appearing therefor,

it is **HEREBY ORDERED THAT**:

1. The Objection is **SUSTAINED**.

2. The HCLOM Scheduled Claim is **DISALLOWED** with prejudice.

3. To the extent applicable, the official claims register in the Debtor's Bankruptcy Case will be modified in accordance with this Order.

4. Reorganized Highland is authorized and empowered to take any action necessary to implement and effectuate the terms of this Order.

5. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Order.

###END OF ORDER###

EXHIBIT 2

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed June 11, 2024

United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	**Chapter 11**
HIGHLAND CAPITAL MANAGEMENT, L.P.,	**Case No. 19-34054-sgj**
Reorganized Debtor.	

ORDER APPROVING STIPULATION CONCERNING THE LITIGATION OF HCMLP'S OBJECTION TO SCHEDULED CLAIMS 3.65 and 3.66 OF HIGHLAND CLO MANAGEMENT, LTD. [DE # 3657] AND RELATED MATTERS [DE # 3695]

Having considered the *Stipulation Concerning the Litigation of HCMLP's Objection to Scheduled Claims 3.65 and 3.66 of Highland CLO Management Ltd. [DE #3657] and Related Matters [DE #3695]* [Docket No. 4078] (the "Stipulation"), a copy of which is attached as **Exhibit A**, made by and among Highland Capital Management, L.P., the reorganized debtor in the above-

referenced bankruptcy case ("Highland"), Highland Management, Ltd. ("HCLOM"), and Acis Capital Management, L.P. ("Acis", and together with HCMLP and HCLOM, the "Parties") by and through their respective counsel, it is **HEREBY ORDERED THAT:**

1. The Stipulation is **APPROVED**.

2. The Stipulation shall become effective immediately upon entry of this Order.

3. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of the Stipulation and this Order.

###End of Order###

EXHIBIT A

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	Case No. 19-34054-sgj
Reorganized Debtor.	

STIPULATION CONCERNING THE LITIGATION OF HCMLP'S OBJECTION TO SCHEDULED CLAIMS 3.65 and 3.66 OF HIGHLAND CLO MANAGEMENT, LTD. [DE # 3657] AND RELATED MATTERS [DE # 3695]

This stipulation (the "Stipulation") is made by and among Highland Capital Management, L.P. ("HCMLP"), the reorganized debtor in the above-referenced bankruptcy case, Highland CLO

Management, Ltd. ("HCLOM"), and Acis Capital Management, L.P. ("Acis", and together with HCMLP and HCLOM, the "Parties") by and through their respective undersigned counsel.

RECITALS

WHEREAS, on February 2, 2023, HCMLP filed its *Objection to Scheduled Claims 3.65 and 3.66 of Highland CLO Management, Ltd.* [Docket No. 3657] (the "Objection");

WHEREAS, on March 21, 2023, the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the "Court"), entered an order approving a scheduling stipulation entered into between HCMLP and HCLOM [Docket No. 3686] (the "Scheduling Order");

WHEREAS, on March 27, 2023, Acis filed its *Motion to Intervene and Brief in Support* [Docket No. 3695] (the "Acis Intervention Motion");

WHEREAS, on April 3, 2023, in accordance with the Scheduling Order, HCLOM timely filed its response (and supporting Appendix) to the Objection [Docket Nos. 3715 and 3716], thereby initiating a contested matter under Federal Rule of Bankruptcy Procedure 9014 (the "Contested Matter", and together with the Acis Intervention Motion, the "Litigated Matters");

WHEREAS, on April 3, 2023, in accordance with the Scheduling Order, Acis timely filed its response to the Objection [Docket No. 3717] (the "Acis Response");

WHEREAS, on April 10, 2023, Acis and HCLOM filed a stipulation extending HCLOM's time to respond to the Acis Intervention Motion and fixing Acis' time to file a reply [Docket No. 3732];

WHEREAS, on April 10, 2023, in accordance with the Scheduling Order, HCMLP timely filed an omnibus reply in further support of its Objection [Docket No. 3733];

WHEREAS, on April 13, 2023, the Court entered an order staying the Litigated Matters in accordance with the Parties' stipulation [Docket No. 3736] (the "Stay Order");

WHEREAS, HCMLP previously provided Notice (as defined in the Stay Order) to HCLOM and Acis of its intent to resume the Litigated Matters; and

WHEREAS, subject to the Court's approval, the Parties have conferred in good faith to establish a schedule for the adjudication of the Litigated Matters.

NOW, WHEREFORE, IT IS HEREBY JOINTLY STIPULATED AND AGREED as follows:

1. Acis Intervention Motion. With respect to the Acis Intervention Motion, (a) HCMLP does not oppose the Acis Intervention Motion; (b) HCLOM shall serve and file its objection, if any, to the Acis Intervention Motion on or before June 7, 2024; (c) Acis shall serve and file its reply, if any, on or before June 28, 2024; and (d) the Acis Intervention Motion shall be argued before the Court on July 10, 2024, at 1:30 p.m. Central Time via Webex.
2. Contested Matter. With respect to the Contested Matter, the Parties shall (a) serve all written discovery (*i.e.*, document requests, interrogatories, and requests for admissions (limited to ten (10) of each by each Party, the "Written Requests")) seven (7) days after the Order Date;[1] (b) serve written responses and objections to the Written Requests, and be substantially complete with document production, 35 days after the Order Date; (c) serve up to two (2) deposition notices (including deposition notices issued pursuant to Fed. R. Civ. P. 30(b)(6)) 42 days after the Order Date; (d) complete discovery (including all depositions) 70 days after the Order Date;[2] and (e) seek a mutually-

[1] "Order Date" means the date on which the Court enters an order resolving the Acis Intervention Motion, even if such order is subject to a motion for reconsideration, appeal, or other review.

[2] The Parties do not currently expect to proffer expert testimony or opinions pursuant to Fed. R. Civ. P. 26(a)(2) but reserve the right to seek an amendment of this Stipulation.

agreeable date from the Court for a one-day evidentiary hearing that is no earlier than 77 days from the Order Date.

3. The schedule set forth herein shall not be subject to change expect by written agreement among the Parties or upon entry of an order by the Court entered after reasonable notice and a showing of good cause.

[*Remainder of Page Intentionally Blank*]

Dated: June 7, 2024

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EXHIBIT 3

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	)	
	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	)	Case No. 19-34054-sgj11
Reorganized Debtor.	)	

ORAL/ VIDEOTAPED/ REALTIME DEPOSITION OF

FRANK WATERHOUSE

INDIVIDUALLY AND AS CORPORATE REPRESENTATIVE OF

HIGHLAND CLO MANAGEMENT, LTD.

SEPTEMBER 24, 2024

ORAL/ VIDEOTAPED/ REALTIME DEPOSITION OF FRANK WATERHOUSE, produced as a witness at the instance of the Reorganized Debtor, and duly sworn, was taken in the above-styled and numbered cause on September 24, 2024, from 10:09 a.m. to 4:44 p.m., before Christy Cortopassi, CSR in and for the State of Texas, reported by machine shorthand, at the law offices of Stinson LLP, 2200 Ross Avenue, Suite 2900, Dallas, Texas 75201, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

A P P E A R A N C E S

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ALSO PRESENT:
Alexis Frank - Videographer

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Please be advised that an UNCERTIFIED ROUGH DRAFT version of this transcript exists. If you are in possession of said rough draft, please replace it immediately with this CERTIFIED FINAL TRANSCRIPT.

P R O C E E D I N G S

THE VIDEOGRAPHER: We are going on the record in the videotaped deposition of Frank Waterhouse for Highland CLO Management, LTD.

This deposition is being taken under the Federal Rules of Civil Procedure in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division, in re: Highland Capital Management, LP, Chapter 11, Case Number 19-34054-SGJ11.

Today's date is September 24, 2024. The time is 10:09 a.m. This is the start of Media 1.

For the record, counsel will state their appearances and the court reporter will swear in the witness.

MR. MORRIS: Good morning, John Morris, Pachulski Stang Ziehl & Jones for the reorganized Debtor, Highland Capital Management, LP.

MR. AIGEN: Michael Aigen from Stinson representing HCLOM.

FRANK WATERHOUSE,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. MORRIS:

Q. Good morning, Mr. Waterhouse,

A. Good morning.

Q. I'm going to give to you a document that has been labeled Highland Capital Management's Amended Notice of Rule 30(B)(6) Deposition and ask you if you -- I would like to mark that as Exhibit 1.

MR. MORRIS: Do you have a stapler?

Thank you.

(Exhibit 1 marked.)

Q. (BY MR. MORRIS) Have you had a chance to look at Exhibit 1, sir?

A. Yes.

Q. Have you seen it before?

A. I haven't -- I don't think I have seen this particular document.

Q. Have you seen a form of this document before?

A. Yes.

Q. Do you understand that you are here today in your individual capacity and as in your capacity as a corporate representative of Highland CLO Management Ltd.?

A. I thought I was just the representative for HCLOM but if I'm here individually, then understood.

Q. And do you understand that as the corporate representative of Highland CLO Management, Ltd., your answers and testimony will be binding on that entity?

MR. AIGEN: Objection; form.

A. Yes.

Q. (BY MR. MORRIS) If I use the phrase "HCLOM," will you understand that I'm referring to the entity that is named Highland CLO Management, Ltd. and no other entity?

A. I'm sorry. You said HCLOM?

Q. Yes.

A. Yes.

Q. Are you aware that there's a different entity called Highland CLO Management, LLC?

A. I'm not aware. I just don't recall.

Q. So when I use the phrase "Highland CLO Management, Ltd.," I'm -- withdrawn.

When I use the phrase "HCLOM," I'm only referring to Highland CLO Management, Ltd. Do you understand that?

A. Yes.

Q. Okay. Did you do anything to prepare for today's deposition?

A. Yes.

Q. What did you do?

A. I met with Michael here and Deborah. We went through documents and just had a discussion.

Q. Did any of the documents refresh your recollection?

A. Yes. I mean, the -- they refreshed recollection to the extent that I had memories of that.

Q. Okay. And can you describe for me the documents that you reviewed that refreshed your recollection in any way?

A. Yes. There was a note agreement between Highland and Acis. There was a purchase and sale agreement of servicing fees between Acis and Highland. There was a transfer agreement between Acis for the note or there was a transfer agreement from the note between Acis and HCLOM.

We reviewed other documents like topics. We reviewed Pachulski's, I don't know, we'll call it observations, Stinson's answers, things like that.

Q. Did you review any emails?

A. No.

Q. Did you review any transcripts of any prior testimony or any prior proceeding?

A. I briefly reviewed some testimony, yes.

Q. And do you recall who was testifying?

A. It was Jim Dondero.

Q. And do you know, was that in the Highland case or was that in the Acis case; do you recall?

A. That was the Acis case.

Q. And do you recall if it was deposition

testimony or trial testimony or both?

A. I don't recall that.

Q. Did you review an entire transcript on your own?

A. No.

Q. Were there portions of the transcript that you were focused on?

A. Not really. Just scanning the document that was provided to me.

Q. Were you previously familiar with Mr. Dondero's testimony as you read it?

A. No.

Q. So can you describe for me what you recall about the testimony that you read?

A. Yeah. It was focused around the transactions between Highland and Acis.

Q. And was the note and the purchase and sale agreement and the transfer agreement among the transactions that were the subject of the deposition testimony that you reviewed?

A. I don't know, because they weren't specifically stated.

Q. Did you review any other -- withdrawn.

You are aware that at some point Acis was put into involuntary bankruptcy, right?

A. Yes.

Q. Okay. And you just testified that you reviewed at least portions of the transcript in which Mr. Dondero gave testimony in connection with the Acis bankruptcy, right?

A. Yeah. I believe it's a transcript or a summary or something that had portions of what he testified. I mean, it wasn't -- I have reviewed transcripts where you have people's names. It wasn't like that, but it was testimony that Jim Dondero gave.

Q. Do you recall if you reviewed any other document or transcript that was created in connection with the Acis bankruptcy?

A. I did not.

Q. Are you aware that there's ongoing litigation in the Acis bankruptcy between Acis and Mr. Dondero?

A. I am not.

Q. Do you recall what year Mr. Dondero testified that resulted in the transcript that you reviewed?

A. I don't know.

Q. Did you speak with anybody other than counsel in connection with the preparation for today's testimony?

A. I did not.

Q. So just to be clear, you're here today as

HCLOM's 30(b)(6) witness but you never spoke with Mr. Dondero to prepare for today's deposition, correct?

A. Correct.

Q. Do you know who John Cullinane is?

A. I know -- yes. He's -- yes, I do.

Q. Did you make any attempt to speak with Mr. Cullinane in connection with the preparation for today's deposition?

A. I did not.

Q. Have you ever spoken with Mr. Cullinane?

A. No.

Q. Have you ever communicated with Mr. Cullinane by email or otherwise?

A. Not that I recall. But I don't have access to emails that I would have acted in a capacity. So I could have, but I don't remember.

Q. Okay. How about J.P. Savilla, did you speak with him as part of your preparation for today's deposition?

A. No.

Q. Did you speak with Scott Ellington to prepare for today's deposition?

A. No.

Q. Did you speak with Isaac Levanton to prepare for today's deposition?

A. No.

Q. So again, other than counsel, you did not speak with any person to prepare for today's deposition; is that fair?

A. Correct.

Q. Let's just look at the topics quickly on Exhibit 1. If you can turn, I guess, to the document that says 7 of 9 at the top. You will see their topics.

A. Uh-huh.

Q. The first topic concerns the purchase agreement. Do you see that?

A. Yes.

Q. And did you review the purchase agreement to prepare for answering questions on Topic 1?

A. Yes. I reviewed the purchase agreement.

Q. Are there any other documents that you reviewed to prepare for answering questions on Topic 1 --

MR. AIGEN: Objection; form.

Q. (BY MR. MORRIS) -- that you recall?

A. I just read portions of the purchase agreement and discussed it with counsel.

Q. Okay. Would the answer be the same for the note, do you recall -- withdrawn.

Did you review the note?

A. Yes.

Q. Okay. Do you recall reviewing any other documents to prepare to answer questions about the note?

A. No. I -- no.

Q. How about the assignment, did you review the assignment?

A. Yes.

Q. And did you review any other documents to prepare to answer questions concerning the assignment?

A. No.

Q. I have defined the term "ancillary agreement" to refer to several other agreements. Are you prepared to answer questions on the topic of the ancillary agreements?

A. Yeah. We did review other ancillary agreements as well. So yes.

Q. And when you say other ancillary agreements, if we can go to the definition of ancillary agreement, it refers specifically to three agreements or four agreements, rather.

A. Yes. Counsel and I reviewed the forbearance agreements.

Q. Right.

A. And the acknowledgement -- we reviewed these agreements together.

Q. Did you review any other agreement other than

the ancillary agreements and the ones that were the subject of the prior topics in connection with the preparation of today's deposition?

A. Not that I'm aware.

Q. Okay. On the next page, Topic 5 refers to actually one more agreement, the cancellation agreement.

Are you familiar with the cancellation agreement?

A. Cancellation agreement? Generally.

Q. Okay. How about the formation and operation of HCLOM, are you prepared to testify as to the facts and circumstances concerning the formation and operation of HCLOM?

A. Yes.

Q. And are you prepared to testify to the balance of the topics that are here? We don't need to go through them all, but is it safe to say that you are prepared to testify to all topics on this notice?

A. Sure.

Q. Okay. What's your current position, sir?

A. I'm the chief financial officer for Skyview Group.

Q. And what is Skyview Group?

A. Skyview Group is a -- it's an entity that provides back-office services to financial services

firms.

Q. Does Skyview Group provide financial services to any firm in which Mr. Dondero lacks an ownership, a direct or indirect ownership interest, or control position?

A. Yeah, there are entities -- if you are asking -- if I'm understanding your question correctly, that Skyview Group provides services to -- that are not -- that Mr. Dondero does not own, yes. If that's the question.

Q. It was a little broader than that. Don't worry. I'll just move on.

Did you ever serve as an officer of HCLOM?

A. I don't recall.

Q. Do you know if you're an officer of HCLOM today?

A. I don't know. But I am the representative.

Q. For today's deposition?

A. For today's deposition.

Q. I appreciate that.

Did you ever serve as a director of HCLOM?

A. No.

Q. No. So you can affirmatively state that you have never served as a director but you are unsure as to whether you have ever served as an officer; is that

fair?

A. Correct.

(Exhibit 2 marked.)

Q. (BY MR. MORRIS) All right. Let's mark as Exhibit 2, a document ending in Bates Number 9363 and it's certain resolutions that are dated October 27, 2017. Let me know when you have had a chance to review that.

A. Okay. Okay.

Q. All right. So do you understand that these are certain resolutions that were prepared for HCLOM?

A. I think that's -- yeah, that's what it appears to be.

Q. Have you ever seen this document before?

A. Not that I recall.

Q. You didn't see this document in connection with your preparation for today's deposition, right?

A. I did not.

Q. Do you see that it's signed and dated as of October 27, 2017?

A. Yes.

Q. Do you understand that that's the date on which HCLOM was formed?

A. That's what this -- yes.

Q. Okay. And do you see that under paragraph two,

Summit Management, Limited was appointed the sole director of HCLOM?

A. Yes.

Q. Do you know who Summit Management, Limited is?

A. It's -- they are the directors of HCLOM.

Q. Do you know where Summit Management, Limited is located?

A. They would be located in where this entity was incorporated.

Q. Do you know where this entity was incorporated?

A. Yeah, I believe it was the Cayman's.

Q. What's the basis for that belief?

A. Just looking at Ltd., you know, reviewing the documents with counsel prior, John Cullinane, as you alluded to, was a director. So, you know, he's -- this is an officer entity. So that's my belief.

Q. Okay. Do you know how Summit Management came to be HCLOM's sole director at formation? Do you know who decided that?

A. I don't.

Q. Are you aware of any communications with either Mr. Cullinane or Summit Management, Limited concerning the formation of HCLOM?

A. I -- I'm -- no. I'm not aware of any communications.

Q. Do you know whether someone at Highland caused HCLOM to be created?

A. Do I know why someone at Highland --

Q. Do I know -- withdrawn.

Do you know whether Highland caused HCLOM to be created?

A. I don't know who formed HCLOM.

Q. Were you aware that HCLOM was formed in October 2017?

A. Generally, yes.

Q. Do you recall any discussions concerning the formation of HCLOM?

A. I generally recall discussions of -- yes, of HCLOM's formation.

Q. Who did you have those discussions with?

A. Generally been the Highland legal team and Mr. Dondero.

Q. Do you recall anything about your conversations with the Highland legal team and Mr. Dondero concerning the formation of HCLOM?

MR. AIGEN: And, John, I just want to interject. Obviously, that brings a privilege but it is your privilege. Are you willing to waive privilege related to that?

MR. MORRIS: We have waived all privileges

prepetition.

MR. AIGEN: Okay.

MR. MORRIS: So can't call that back now. That was in the Kirschner suit.

MR. AIGEN: Okay.

A. I, generally, recall with the need for HCLOM to be formed due to the issues that Acis was having.

Q. (BY MR. MORRIS) What issues was Acis having?

A. Acis was -- basically had a large liability to Josh Terry that it was not able to meet. You know, it wasn't in a position to continue to serve as the manager for the CLOs that it managed. So therefore, there was a need to create a new CLO asset manager.

Q. Okay. So is it fair to say that in October 2017, you discussed with Highland's team and Mr. Dondero the need to form HCLOM, who was intended to substitute as the collateral manager and portfolio manager of the Acis CLOs?

A. I don't recall specifically whether that was in October. I don't -- I don't remember. But I remember generally that there were discussions about the issues that Acis was having and therefore there was a need to create a successor asset manager for the CLOs.

Q. Was Acis facing any issues other than the adverse judgment that Mr. Terry obtained?

A. From what I re- -- yes.

Q. Can you identify any issue that Acis was confronting in October 2017 that caused the formation of HCLOM, other than Mr. Terry's judgment -- or arbitration award?

A. Again, I can't speak directly to the date. So I don't know if it was October 2017. But Highland, from what I recall, notified Acis that it would no longer support Acis from a personnel prospective.

Q. Anything else?

A. I generally recall that having been told that the investors in the CLOs did not want to be associated with Acis due to its difficulties.

Q. Who told you that?

A. Just Highland personnel.

Q. Do you know -- can you tell me -- can you identify any of Highland's personnel who told you that, in fact, investors didn't want to be associated with Acis?

A. These were general discussions that I don't -- I mean, I -- this was seven years ago. I generally recall those discussions being had or being informed of them. I can't tell you who exactly or where. This was seven years ago; it's a long time.

Q. Do you recall if any investors were identified?

A. I -- I -- as an asset manager, what I do recall is that, you know, the asset manager knows who the investors are that are invested in the deals, especially the CLO. So I don't recall who those investors were, but we had a team at Highland who's -- that's what they did and, you know, they were in touch with those investors.

Q. Okay. But my only question is whether you recall whether anybody identified any particular investor who expressed the view that they didn't want to be associated with Acis any longer?

A. I don't recall. Again, I heard -- I remember general conversations. So I don't recall.

Q. Do you recall whether any of these conversations occurred before the Terry arbitration award was issued?

A. I don't remember.

Q. Do you know why HCM, LP told Acis it would no longer support it?

A. I don't remember specifically, no.

Q. Do you know whether HCLOM ever engaged in any business activities?

MR. AIGEN: Objection; form.

A. Yes, generally.

Q. (BY MR. MORRIS) Can you describe the business

activities that you believe HCLOM engaged in?

A. Well, HCLOM was formed to be the successor CLO servicer for the Acis deals.

Q. I appreciate that's the reason it was formed. But it never served in that capacity, correct?

A. Correct.

Q. Okay. So did HCLOM ever generate a dollar of revenue?

A. Not that I'm aware.

Q. Did HCLOM ever incur any expenses?

A. It may have -- I don't remember. There may have been some expenses incurred for formation.

Q. As well as preps, director fees; is that right?

A. Perhaps.

Q. Okay. And are you aware that Highland paid all of HCLOM's expenses?

A. I don't remember.

Q. Other than formation expenses and perhaps director's fees or other lawyer's fees, do you know whether HCLOM ever incurred any other expenses?

A. I don't have access to HCLOM's records. So I don't know.

Q. You were the treasurer of HCLOM, right?

A. I -- like I said earlier, I don't know.

Q. Do you know if HCLOM ever had any employees?

A. Not that I'm aware.

Q. Do you know if HCLOM ever had a shared services agreement with Highland or any other entity?

A. Not that I remember.

Q. Do you know if HCLOM was ever party to an advisory agreement or a sub-advisory relationship with Highland or any other entity?

A. Not that I'm aware.

(Exhibit 3 marked.)

Q. (BY MR. MORRIS) Okay. All right. Let's mark as Exhibit 3 a one-page document ending in Bates Number 1373468, which are written resolutions of HCLOM dated February 7, 2018, and have you had a chance to review this exhibit, sir?

A. Yes.

Q. And have you ever seen this before?

A. Not that I recall.

Q. Do you see that you are identified as the treasurer of HCLOM?

A. Yes.

Q. But until you saw this document, you had no recollection of being HCLOM's treasurer; is that fair?

A. I don't have recollection but, you know, I'm not surprised that I was named treasurer due to my

former position at Highland Capital Management. So I just didn't remember if I was or not.

Highland Capital Management owned a lot of entities and so there was -- you know, he had a lot of assets under management, things like that. So, I mean, I can't remember every single position that I'm a part of.

Q. Right. But this is the entity that is asserting a $10 million claim against Highland, right?

A. Again, I'm not the lawyer here. But, I guess, yes. Again, as the representative of HCLOM, I think HCLOM's books and records and all of their -- were held at Highland, or things like, you know, documents.

Q. Right. Do you see that we produced this document in response to your lawyer's request since it has got that Bates number on it?

A. If that's what the Bates number identifies, sure. I see a number here.

Q. All right. And one of the topics you were asked about, if you look back at Exhibit 1, is the formation and operation of HCLOM, including as set forth in subpart C, the identification, appointment, and/or selection of HCLOM's officers and directors.

Do you have any idea who HCLOM's officers and directors are today?

A. I do not.

Q. Other than the people identified as officers on Exhibit 3 and Summit Management, Limited who is identified as the director of HCLOM on Exhibit 2, are you able to identify who at any time was an officer or director of HCLOM?

A. I don't have a list of all the officers and directors at HCLOM, no.

Q. Okay. So is it fair to say you don't recall anybody discussing with you becoming the treasurer of HCLOM in February of 2018?

A. I don't remember those discussions, specifically.

Q. Okay. Is it fair to say that since you weren't aware that you were the treasurer of HCLOM, you didn't perform any services for HCLOM, in your capacity as the treasurer of HCLOM?

A. I don't recall myself providing services. You know, like I said, HCLOM was formed to be the successor manager of the Acis CLOs.

Q. And it never did that, correct?

A. It tried to. But, yeah, I mean, HCLOM tried to become the successor manager of the Acis CLOs. What I don't recall about providing services is there were -- you are asking -- I'm a representative, I'm an

individual and now you are asking me for treasurer.

So, John, it is a little bit difficult to kind of -- you know, HCLOM was working with the investors of the Acis deals because, again, there was issues with Acis.

So there were likely numbers that were needed. There were likely presentations, data, you know, things like that provided to those investors.

So I mean, again, do I remember specifically if I provided those services seven years ago when this was formed? I -- you know, that's so long ago. But HCLOM definitely did a lot of work. They tried hard, worked with investors, communicated with investors. There were resets that were in the market. They did a lot with the investors to become the successor managers of the Acis CLOs.

Q. Okay. Do you know if everything you just described was done not by HCLOM but by Highland CLO management, LLC, or do you not know the difference?

A. I don't recall.

Q. You don't recall that there were two entities that were called Highland CLO Management, one of which was Ltd. and one of which was LLC?

A. John is -- Pachulski and Highland has asserted throughout this case, there are thousands of entities in

the Highland company. I don't remember every single entity that was there.

Q. Okay.

A. And if we're talking about the substitution of one word seven years ago, I don't recall.

Q. Okay. Do you know if HCLOM ever held title to a bank account?

A. Not that I recall.

Q. Do you know if HCLOM ever had a bank account?

A. Not that I recall.

Q. Do you know if anybody ever prepared financial statements for HCLOM?

A. Not that I recall.

Q. Do you know if anybody ever maintained any books and records on behalf of HCLOM?

A. Not that I recall.

Q. Do you know if HCLOM was a registered investment advisor?

A. Not that I recall.

Q. Do you know if HCLOM was ever qualified to be a portfolio manager?

A. I mean, presumably. Right? When HCLOM is working with the investors to transfer the agreements to HCLOM, they would have demonstrated the ability to manage those assets. And, you know, the investors would

not have submitted, you know, these resets if they didn't feel confident that HCLOM had the ability to manage the CLOs.

Q. Have you ever seen a document concerning resets where HCLOM was identified as the proposed portfolio manager as opposed to Highland CLO Management, LLC?

A. I have not.

Q. Okay. I'm getting to my last document to try to move this along.

A. Okay.

Q. I'll mark as Exhibit 4 a document entitled Acknowledgment and Waiver, which begins at Bates Number ending in 2807.

(Exhibit 4 marked.)

Q. (BY MR. MORRIS) This is one of the ancillary documents that was cited in the Rule 30(b)(6) Notice.

Are you aware of that?

A. Yes.

Q. Have you seen this before?

A. Yes.

Q. Do you know what it is?

A. Yes.

Q. What is it?

A. Pursuant to the transfer agreement, it says here in paragraph -- "Acis was required to promptly

provide notice to the controlling class of each CLO and subsequent to the delivery notices to each of Acis and each H-C-L-O-M, HCLOM was required to promptly pursue an appointment for each CLO."

So basically -- this document basically waives that.

Q. Okay. And do you see that it is signed by Mr. Dondero on behalf of Highland and it's acknowledged by him on behalf of Acis?

A. Yes.

Q. And do you see Mr. Cullinane signed on behalf of HCLOM?

A. Yes.

Q. And do you see at the top that it's dated as of January 19, 2018?

A. Yes.

Q. And so this is just about, what, ten weeks after the transfer agreement is signed -- withdrawn.

I can bring it out if you would like, but do you recall that the transfer agreement was dated November 3rd, 2017?

A. It says under the paragraph two. So yeah, sure.

Q. Okay. So this acknowledgment and waiver is signed, what, about ten weeks later?

A. Yes.

Q. And it's signed by Mr. Dondero and Mr. Cullinane in their capacities as indicated?

A. Yes.

Q. Okay. And is there anything about this document that you think is inaccurate or incorrect?

MR. AIGEN: Objection; form.

A. Not that I'm aware.

Q. (BY MR. MORRIS) Okay. And you would agree, then, as set forth in paragraph three, "That pursuant to Sections 1 and 2 of the transfer agreement, Acis was required to promptly provide notice to the controlling class of each CLO, and subsequent to the delivery of the notices, each of Acis and HCLOM was required to promptly pursue an appointment for each CLO."

Have I read that accurately?

A. Yes.

Q. And are you aware that this acknowledgment and waiver is signed and executed before the involuntary bankruptcy was filed against Acis?

A. I don't remember the exact date for the Acis involuntary.

Q. Do you recall that it was at the end of January?

A. I remember it was towards the end of January.

Q. Right. And so HCLOM and Highland acknowledge in this document that A, each CLO was going to be reset.

Have I paraphrased that fairly?

A. Yes. It was intended for each CLO to be reset.

Q. B, that each reset transaction will need to comply with certain rules.

Is that fair?

A. Fair.

Q. C, in order to comply with those risk retention rules in connection with each reset, "Each applicable CLO issuer will appoint Highland CLO Management, LLC as the collateral manager of the CLO."

Do you see that?

A. Yes.

Q. Okay. So is it your understanding as the corporate representative of HCLOM, that in this acknowledgment and waiver from January 19, 2018, that HCLOM was acknowledging that Highland CLO Management, LLC would succeed Acis as the collateral manager and not HCLOM, Ltd.?

A. I don't know. I mean, I didn't draft this document or sign it. It could be just a typo.

Q. That's pure speculation on your part, right?

A. I -- yeah. I'm just -- but I don't know. But it could be just a typo.

Q. Well, do you still think it's a typo when you look at the next clause that says, "None of the notices have been nor will be delivered"?

A. That's what it says.

Q. And do you understand that to be a fact that as of January 19, 2018, quote, "None of the notices have been nor will be delivered pursuant to Section 1 of the transfer agreement and none of the appointments have been nor will be made pursuant to Section 2 of the transfer agreement"?

A. As of January 19, 2018, it is my understanding that none of the CLOs were reset at the time and -- but that's what this document says.

Q. Doesn't it also say that the notices and appointments required under the transfer agreement will never occur?

A. Yes.

Q. And, in fact, the notices and appointments described in the transfer agreement never occurred, correct?

A. Yes. But, I mean, there could be other ancillary reasons for that.

Q. Okay. But you are not aware of any?

A. I'm not aware of any.

Q. And is it fair to say that since the Acis

bankruptcy started after the date of this acknowledgment and waiver, that the Court's injunction preventing the resets had nothing to do with the failure to deliver the notices or attend the appointments as set forth in this document?

MR. AIGEN: Objection; form.

A. I mean, I can't say that with -- agree with that with certainty. I mean, if, again, it's asset managers talk to their investors, and yes, there are policies and procedures that are in deal, but if you are talking to investors and they're going to reset deals or do certain things, the manager and the investors can -- you know, they can agree to whatever they want to agree to.

So I wasn't in any of these discussions; that wasn't my position. But it doesn't surprise me that an asset manager or the investors can say, "Hey, we're going to reset these deals. We are just not going to give you these notices, because we're talking about it, you don't need it."

I mean, I'm not saying it didn't happen; I'm not saying it did happen. But it wouldn't surprise me that this -- that something like this would be filed.

MR. MORRIS: I'm going to move to strike.

Q. (BY MR. MORRIS) Let's try and take this in

smaller bites.

A. Well, you were asking about if these were delivered.

MR. AIGEN: Let John ask a question.

THE WITNESS: Okay.

Q. (BY MR. MORRIS) Are you prepared to testify about the resets?

A. I know generally of the resets.

Q. Okay. And does your general knowledge include knowledge about the identity of the specific entity that was identified in 2018 to be the substitute collateral manager and portfolio manager for the Acis CLOs?

A. I'm sorry. I don't follow the question.

Q. Do you know who -- withdrawn.

Do you know the name of the entity that was designated in 2018 to be the successor collateral manager or portfolio manager of the Acis CLOs?

A. I mean, Highland CLO manager or HCLOM, as we have been referring to it, it was my general understanding that it was going to be the manager.

Q. And looking at this document, was it your understanding that it was going to be HCLOM, Ltd. or HCLOM, LLC or you didn't really have an understanding at the time?

A. Well, I -- again, Highland CLO Management, LLC

could be a subsidiary of HCLOM, Ltd. I mean, I don't --

Q. Do you have any facts that support that statement?

A. Well, just given the fact that HCLOM was going to be the successor manager, it just makes sense.

Q. Okay. Other than what you think makes sense, are you aware of any facts? Do you know who owns HCLOM?

A. Yeah. Today, yeah. Yes.

Q. And who owns HCLOM?

A. Dugaboy and Okada.

Q. Okay. And who owns HCLOM, LLC?

A. I don't know who the name there is -- or who the owner is. I said it could be the -- it could be HCLOM, for all I know.

Q. Or it could be you, right?

A. Well, no. I would know if I owned it.

Q. You didn't know you were the treasurer of HCLOM; isn't that right?

A. That doesn't mean I -- being a treasurer and owning something --

MR. AIGEN: Objection; form. I don't think that was a serious question.

A. Being treasurer and owning something are pretty big distinctions.

Q. (BY MR. MORRIS) Well, is there a distinction

in your -- if -- I think you said that you thought HCLOM was formed in the Cayman Islands because it ended in Ltd. Do I have that right?

A. Yes.

Q. Okay. In your experience, do Cayman Island entities ending in LLC, are they formed in the Cayman Islands?

A. Well, this says here it's a Delaware Limited Liability Company and it says it right there.

Q. Okay.

A. But that doesn't mean that -- just because you have an officer entity, it doesn't mean that an officer entity can't be owned by an officer, you know.

Q. It's a very simple question, sir. Can you tell me any facts to support your speculation --

A. It --

Q. Let me finish the question.

A. Okay.

Q. -- that there is an ownership relationship between HCLOM, Ltd. and HCLOM, LLC?

A. No. It's generally based on my experience of being the CFO at Highland Capital Management for -- for my work there since being employed from October of 2006 to February of 2021.

MR. MORRIS: Okay. I move to strike

everything after the word "no."

Q. (BY MR. MORRIS) And I will ask you to turn back to Exhibit 1, and let's look at Topic 6(e), which refers to the direct or indirect ownership of HCLOM at all time since formation and the timing and reasons for ownership changes.

I think you mentioned that Dugaboy and Mr. Okada owned HCLOM; is that right?

A. They're the owners now, yes.

Q. And have there ever been any other owners of HCLOM?

A. Yes.

Q. Who were the other owners of HCLOM?

A. Highland Capital Management.

Q. And when was Highland Capital Management the owner of HCLOM?

A. I think as recently as 2022.

Q. Are you sure that Highland had an ownership interest as opposed to a voting interest?

A. I -- it may have had both. I don't -- I don't -- it's my understanding that Highland was the owner of HCLOM until a few years ago.

Q. Has any other person or entity ever had an ownership in HCLOM, other than Highland Capital Management, L.P., Mr. Okada, and Dugaboy?

A. Not that I'm aware.

Q. Did you do any work to prepare to answer questions about the ownership of HCLOM or were you just going from your memory?

A. Just what I generally understand or know.

Q. Okay. And based on your general understanding, you have no reason to believe that Highland CLO Management, LLC ever had an ownership interest in Highland CLO Management, Ltd., correct?

A. I don't recall Highland CLO Management. I --

Q. I'm not sure that -- that sounded like a fragment there.

A. Sorry.

Q. I'm going to ask the question again.

Based on your general understanding, you have no reason to believe that Highland CLO Management, LLC ever had a direct or indirect ownership interest in Highland CLO Management, Ltd., correct?

A. I don't know.

Q. Do you know who owned HCLOM at the time it was formed?

A. From what I recall, it was Highland Capital Management.

Q. Do you know when Dugaboy and Mr. Okada obtained an ownership interest in HCLOM?

A. It was sometime in 2022.

Q. So it's your testimony as the 30(b)(6) representative today, that HCLOM was owned solely by Highland at all times from formation until 2022 when Mr. Okada and Dugaboy became owners?

A. I would say that without these records, I mean, generally, that's my understanding, yes. You know, I haven't been -- you know, Highland could have assigned its interest, you know, to another Highland entity prior to 2022. Again, I don't -- I was let go of Highland in February 2021. So something could have happened in between but...

Q. Okay. I don't want the speculation. I just want your knowledge here today, sir.

A. Well, that's -- I mean, I can only talk to what I know. And so if there were things that happened when I wasn't there, then, I mean, I can't really speak to that.

Q. And that's fine.

But based on what you know, based on your understanding, Highland was the sole owner of HCLOM from the time of formation until sometime in 2022 when Dugaboy and Mr. Okada obtained ownership interest in HCLOM; is that right?

A. Yeah. That's generally my understanding.

Q. And when Mr. Okada and Dugaboy obtained the ownership interest in HCLOM, did they obtain 100 percent of the ownership interest or something less than that?

A. A hundred percent is my understanding.

Q. Okay. So to the best of your knowledge, at the time of this transaction, Highland sold its 100 percent interest in HCLOM to Mr. Okada and Dugaboy, right?

A. I don't know whether they sold it or they transferred it, assigned it. But Mr. -- or Dugaboy and Mr. Okada were -- became new owners of HCLOM.

Q. Okay. Do you know who controlled HCLOM from the time it was formed until the time it was sold to Dugaboy and Mr. Okada?

A. You showed me the officer and director list earlier. So those would have been the officers and directors at -- you know, after that. I don't know.

Q. Let's switch gears now to Acis.

You're familiar with an entity called Acis Capital Management, L.P., right?

A. Yes.

Q. Do you know when Acis was first formed?

A. I don't remember. It was -- I don't recall.

Q. Were you at Highland when it was formed?

A. Yes.

Q. Do you know if Mr. Terry had a role at Acis at

least until June of 2016?

A. Yes.

Q. And was he the portfolio manager of Acis?

A. I mean, he was a portfolio manager.

Q. Who else served as portfolio manager of Acis prior to June of 2016?

A. I recall Mr. Okada and Mr. Dondero having, you know, involvement with Acis.

Q. Do you know if Mr. Terry was ever employed by Acis?

A. He wasn't an employee.

Q. He was employed by Highland, right?

A. Yes.

Q. And he was terminated on June 9, 2016, correct?

A. I -- I don't remember.

(Exhibit 5 marked.)

MR. MORRIS: Let's just mark this as Exhibit 5 --

THE WITNESS: I don't mean to rush -- slow things down but can we take a bathroom break soon.

MR. MORRIS: Yeah. Of course. Just --

THE WITNESS: We can do it whenever is a good stop time.

MR. MORRIS: It's perfectly fine. Let's go off the record.

THE VIDEOGRAPHER: Off the record. The time is 11:13.

(Break taken from 11:13 a.m. to 11:23 a.m.)

THE VIDEOGRAPHER: Back on the record. The time is 11:23.

Q. (BY MR. MORRIS) Are you ready to proceed, Mr. Waterhouse?

A. Yes.

Q. Earlier I asked you about your preparation for today's deposition and you mentioned that you met with counsel. Do I have that right?

A. Yes.

Q. And you looked at documents; is that right?

A. Yes.

Q. And you searched your memory; is that right?

A. Yes.

Q. And those were all the things you did to prepare for today, correct?

A. Yes.

Q. How many times did you meet with counsel for purposes of preparing for today's deposition?

A. Just once.

Q. And when was that?

A. A couple of weeks ago.

Q. And how long did you spend with counsel to

prepare for today's deposition during that one meeting?

A. Two or three hours.

Q. Where did the meeting take place?

A. In his conference room.

Q. Did anybody participate in that meeting, other than you and Mr. Aigen, Ms. Deitsch-Perez?

A. No.

Q. I have put in front of you what we have marked as Exhibit 5, which is one of the bankruptcy court's decisions from the Acis matter, just to identify some basic facts. If you look at paragraph seven, does that refresh your recollection that Mr. Terry was terminated on June 9, 2016?

A. It doesn't refresh my recollection, but I -- if it's in here, sure.

Q. You don't have any reason to dispute that, correct?

A. I don't.

Q. Okay. Are you aware of the circumstances surrounding Mr. Terry's termination?

A. Generally.

Q. Can you tell me generally what you know about the circumstances surrounding Mr. Terry's termination?

A. From what I recall, Mr. Dondero was not happy with Mr. Terry and decided to terminate him.

Q. Do you know what made Mr. Dondero unhappy with Mr. Terry?

A. Honestly, at this point, I have kind of blanked it all out.

Q. So you have no recollection of why Mr. Dondero was so unhappy with Mr. Terry that he terminated him?

A. I don't remember if it was for performance reasons or, you know, things like that. I don't remember the specifics of what led to his termination on this date, on June 9th. Just he wasn't --

Q. Would that be -- I'm sorry.

A. He wasn't -- obviously, he wasn't happy with him. I don't remember exactly why.

Q. Okay. Were you ever an officer of Acis?

A. Yes.

Q. What position did you hold?

A. I was likely treasurer.

Q. And do you know when you became the treasurer of Acis?

A. I don't remember.

Q. Is -- do you know -- I assume you ceased to be the treasurer of Acis at some point?

A. Yes.

Q. And do you know when that was?

A. It was likely sometime during the bankruptcy.

I don't remember the exact date.

Q. Okay. Are you aware that after Mr. Terry was terminated, you and Mr. Dondero were the only officers of Acis?

A. I don't remember, but...

Q. Okay. Let's mark as Exhibit 6 -- I'm sorry.

A. I mean, I don't remember. This was long ago and I don't remember. I didn't -- we're going off memory of years ago and, you know, we were preparing on HCLOM, not Acis too. So I don't...

Q. Well, Acis is very much involved in the transactions that we're here to talk about, right? Acis entered into the original participation agreement, right?

A. Yes.

Q. Okay.

THE COURT REPORTER: Are we marking this?

MR. MORRIS: Yes.

(Exhibit 6 marked.)

Q. (BY MR. MORRIS) Have you seen this before, sir?

A. Not that I remember.

Q. Do you see that it's the consent of the sole member of Acis Capital Management, GP and it's dated June 10, 2016?

A. Yes.

Q. And at least based on Judge Jernigan's decision, this is the day after Mr. Terry was terminated?

A. Yeah. That was June 9, right?

Q. Yeah.

A. Yes.

Q. And do you see the first resolution below states that Mr. Terry was removed as the portfolio manager of the company?

A. Yes.

Q. And you and Mr. Dondero are identified as the sole officers of Acis as of that time, correct?

A. Yes.

Q. Do you know if anybody was ever added as an officer of Acis at any time prior to the Acis bankruptcy?

A. I don't remember. I -- it wasn't -- I don't remember. No, I don't remember.

Q. All right. This consent is signed by Nancy Dondero in her capacity as the trustee of the Dugaboy Investment Trust. Do you see that?

A. Yes.

Q. Did you ever discuss your appointment as treasurer of Acis with Ms. Dondero?

A. No. I mean, if I was --

Q. Sure.

A. No, because if I was treasurer before, I wouldn't have talked to Nancy.

Q. Okay. I'm asking a broader question without regard to time.

A. Okay.

Q. Did you ever have a conversation with Nancy Dondero concerning your appointment as the treasurer of Acis?

A. No.

Q. Have you ever had a conversation with Nancy Dondero regarding anything having to do with Acis?

A. Not that I recall.

Q. Do you know who made the decision that you and Mr. Dondero would be the only officers of Acis following Mr. Terry's departure?

A. I don't remember.

Q. I think we have established that in late January 2018, Mr. Terry filed an involuntary bankruptcy petition against Acis and its general partner, right?

A. Yes.

Q. And do you recall that sometime in the spring of 2018, Robin Phalen was appointed the trustee of the Acis entities?

A. I have heard that name, yes.

Q. And do you recall that Mr. Phalen was appointed sometime in the spring of 2018?

A. I really don't know.

Q. Okay. Do you know if there were any changes in Acis' roster of officers between June 10, 2016, and the time of Mr. Phalen's appointment as trustee?

A. I don't know.

Q. Do you know whether Acis was a registered investment advisor at least until control shifted to Mr. Phalen?

A. I generally recall that it filed form A, D & Es so that would I think make it an RAA.

Q. Would you agree that Mr. Dondero controlled Acis from at least June 2000 -- withdrawn.

Would you agree that Mr. Dondero controlled Acis at all times from at least June 10, 2016, until Mr. Phalen's appointment during the bankruptcy case?

A. Yes.

Q. Nobody else controlled Acis during that period, true?

A. I mean, Dugaboy is the -- you know, like I said, Dugaboy Investment Trust, Trustee of Acis Capital Management GP, LLC, there could have been. I mean, again, I didn't have discussions with Nancy. The other

officer could have. There could have been other things. I wasn't involved in that.

Q. And you certainly never turned to Nancy Dondero for her approval with regard to anything having to do with Acis, correct?

A. I didn't talk -- I didn't talk to Nancy. I didn't have a conversation with Nancy. But again, I -- but that's my experience. I'm not saying that -- you are asking about Acis in general. I don't know if there were other things if -- you know, if she was involved in Acis, talking with Jim, I don't know.

Q. Okay. But whenever you believed you needed approval to do something in your capacity as the treasurer of Acis, you sought that approval from Mr. Dondero and nobody else, correct?

A. I -- yeah. I would talk to Jim.

Q. Okay. And the reason that you would talk to Jim is because it was your perception that he controlled Acis, correct?

A. When I was employed at Highland Capital Management, Jim Dondero was my boss.

Q. Is it your understanding that from the time Acis was formed until the bankruptcy filing in 2018, that Acis never had any employees?

A. Correct.

Q. But Acis was party to a shared services agreement as amended with Highland, correct?

A. Yes.

Q. Acis was also party to an advisory agreement as amended with Highland, correct?

A. Acis -- I believe Acis and Highland were -- there was a sub-advisory agreement.

Q. Okay. And is it your understanding that Acis was able to perform its duties as portfolio manager because it had entered into the shared services agreement and the sub-advisory agreement with Highland?

A. Yes.

Q. Acis couldn't have fulfilled its duties as portfolio manager unless it entered into the shared services and sub-advisory agreements, correct?

MR. AIGEN: Object to form.

A. Yes.

Q. (BY MR. MORRIS) Withdrawn. That's a fair objection.

The services that Acis received from Highland under the shared services agreement as amended and the sub-advisory agreement as amended were required in order to enable Acis to fulfill its duties as portfolio manager, correct?

MR. AIGEN: Object to form.

A. Yes. Acis hadn't -- had no employees.

Q. (BY MR. MORRIS) Right. And Acis paid Highland for those services under those two agreements as amended, correct?

A. Yes.

Q. Let's take a look at those agreements for a moment. The first one we'll look at is The Second Amended and Restated Sub-Advisory Agreement, which we will mark as Exhibit 7 and actually attached to it as Exhibit A is the Shared Services Agreement. So it's all in one document.

(Exhibit 7 marked.)

A. Thank you.

Q. (BY MR. MORRIS) And the first document here is The Second Amended and Restated Sub-Advisory Agreement.

Do you see that?

A. Yes.

Q. And if you turn to the page ending in Bates Number 5305, you will see some signatures. Let me know when you are there.

A. I'm there.

Q. Okay. And am I right that Mr. Dondero signed this agreement on behalf of both Acis and Highland Capital Management?

A. Yes.

Q. And this document is signed the month after Mr. Terry was terminated, correct?

A. Um.

Q. At the top. I apologize. It said it was made this 29th day of July 2016 but effective as of the beginning of the year. Do you see that?

A. Yes.

Q. Okay. So Mr. Dondero signs this agreement the month after he terminates Mr. Terry, correct?

A. Yes.

Q. Were you aware that a second amended and restated sub-advisory agreement was being prepared?

A. I don't recall. I don't remember.

Q. Do you recall discussing whether Acis sub-advisory agreement with Highland needed to be amended at any time in the summer of 2016?

A. I wasn't -- I don't -- I wasn't in any of those discussions. If those discussions were had, I wasn't in those discussions, that I can recall.

Q. Did anybody ask for your input with respect to any of the terms of the proposed second amended and restated sub-advisory agreement?

A. I don't remember. And this was -- I don't remember.

Q. Okay. Do you recall doing any analysis in

connection with the preparation of this document?

A. This was eight years ago; I don't remember.

Q. Do you recall whether you directed anybody on your team to undertake any work or any analysis in connection with the preparation of this agreement?

A. I don't remember. I don't remember. I mean -- when I'm saying I don't remember, could it have happened? Maybe. Could it have not happened? Maybe. I don't remember.

Q. Okay. And, Mr. Waterhouse, we have done this a few times. And you must know that "I don't remember" is a perfectly reasonable answer if you don't remember.

A. Yeah. I don't.

Q. Okay? I don't mean to embarrass you. I don't mean to make you uncomfortable. I do understand it was a while ago. I'm just going to ask my questions and if you remember, great. If you don't, just say "I don't remember."

What I don't want you to do is say "I don't remember" when you do; is that fair?

A. Yeah. Sure.

Q. Okay. Do you know why the sub-advisory agreement was amended and restated the month after Mr. Terry was terminated?

A. I don't remember. I don't recall. I don't

know.

Q. Do you know if Mr. Terry's departure was a factor in the decision to amend and restate the sub-advisory agreement?

A. I don't remember what the sub-advisory agreement said. I would have to read -- yeah, I don't remember the sub-advisory agreement.

Q. Okay. Let's take a look at Section 2 of this document where the heading is Sub-Advisory Duties. Do you see that?

A. Yes.

Q. Is it generally fair -- is it fair to summarize this paragraph as saying that Highland, in its capacity as the sub-advisor, would provide both the shared services as set forth in Exhibit A and it would also provide advisory services as set forth in this document?

A. Yes.

Q. Okay. And at the time, Highland was controlled by Mr. Dondero, right? As Highland's president?

A. Yes.

Q. And Highland was to provide the shared services and the advisory services to Acis in its capacity as the investment manager, correct?

A. Yes.

Q. And Acis was also controlled by Mr. Dondero at

the time, correct? In his capacity as Acis president?

A. Yes.

Q. Okay. Turn to page five, please. And we'll look at paragraph five, Compensation. Simply take your time to read it and let me know when you have done that.

A. Okay.

Q. All right. Did you have any input into paragraph five?

A. I don't remember.

Q. Do you remember having any conversation with anybody in July 2016 concerning the compensation that Highland was to receive from Acis in exchange for this shared services and the sub-advisory services Highland was going to provide?

A. I remember having general conversations with Mr. Dondero, but this was eight years ago.

Q. Do you remember anything about those general conversations?

A. I just remember we had discussions about -- but I don't -- again, I just remember there were just discussions.

Q. Okay. And is it fair to just summarize paragraph five by saying the compensation for shared services was set forth in the shared services agreement attached as Exhibit A and the compensation for the

sub-advisor fees were going to be set forth in Schedule A to this agreement?

A. Yes.

Q. All right. So let's just take a look at Schedule A. It's on the page ending Bates Number 5306.

A. Okay.

Q. All right. Simple question. Is it your understanding that under this agreement, Acis agreed to pay Highland 20 bases points for sub-advisory services?

A. That's -- as I am reading it now, that's what it appears to say.

Q. And does that interpretation of this agreement comport with your memory, did Acis in fact begin paying Highland 20 bases points for sub-advisory services in July 2016?

A. I don't re- -- I mean, there was a prior sub-advisory agreement. I don't recall when Acis started paying Highland fees as sub-advisory. I don't remember.

Q. Is it your recollection that there was a period of time when Highland was providing sub-advisory services to Acis without compensation, without receiving compensation?

A. I don't remember.

Q. Do you remember if there was any method of

calculating the compensation by which Acis would pay Highland for sub-advisory services, other than 20 bases points?

A. I don't remember how, you know, how 20 bases points was derived. I don't remember.

Q. Do you know who determined that the compensation would be set at 20 bases points?

A. I mean, I -- since Mr. Dondero signed the agreement I would -- I mean, I -- the assumption is he was fine with 20 bases points being the appropriate amount of fees to be remitted to Highland.

Q. And even though you were the treasurer of both -- well, withdrawn.

Even though you were the treasurer of Acis and the CFO of Highland at this time, you don't know whether the 20 bases points set forth in Schedule A represented a change in the method of compensation for sub-advisory services; is that fair?

A. Yeah. I don't remember something that happened eight years ago. I don't remember what was on the initial document. I mean, I -- if we had the other document we could compare the first document to this document but I don't remember.

Q. Do you know if this was ever an issue in the Acis bankruptcy case, the amount of fees that were being

charged pursuant to this agreement?

A. I wasn't involved in the Acis bankruptcy case.

Q. Okay. The last sentence says quote, "The parties may agree to a different allocation from that set forth above during any period in order to reflect the then current fair market value of the services rendered."

Do you see that? I'm still on Exhibit A or Schedule A.

A. I'm --

Q. Yeah, it ends in 06.

A. 06.

Q. Take your time. Do you see that last sentence?

A. Yes.

Q. Okay. Do you have any recollection as to whether the parties ever agreed to a different allocation than the 20 bases points set forth in Schedule A?

A. I don't recall.

Q. Okay. Do you see that it's -- the fee is retroactive to January 1st, 2016?

A. It says effective January 1st, 2016.

Q. Do you recall any discussion as to why the agreement was made retroactive to January 1st, 2016?

A. I don't. I mean, I don't -- I don't --

Q. Do you recall whether Acis had to pay Highland any money on account of the retroactive date of January 1, 2016 to make Highland whole?

A. I don't recall. I -- but if the agreement was effective as of another date, I mean, you know, I just don't remember. I mean, I just don't remember what happened.

To the extent that the document that was executed, you know, one date but effective another date, what happened, you know, to make that effective.

Q. Okay. But the fact that it's retroactive to January does suggest to you that there is a change, right? Otherwise, there would be no reason to make it retroactive, fair?

A. Yeah. Yeah. I mean, fair.

Q. But you just don't know what the change is as you sit here today, fair?

A. Yeah. I don't remember.

Q. And you don't know who determined what the change would be, fair?

A. I mean, I don't. I don't -- I don't -- again, I don't -- I don't remember what -- again, I don't -- can't even -- I can't tell you if there was a change because I don't have the other document.

And again, presume -- I don't know if

Mr. Dondero determined this number -- you know, I mean, he signed the document, but I don't know.

Q. Is it fair to say that from your prospective, Mr. Dondero would have had to have approved the 20-bases-point formula on behalf of both Acis and Highland before it was effective?

A. Yes.

Q. Okay. Do you recall whether any analysis of -- withdrawn.

To the best of your knowledge, as Acis' treasurer and Highland's CFO, was -- did Acis pay Highland 20 bases points for sub-advisory agreements from January 1, 2016 until the time Brigade took over in the summer of 2018?

A. I recall Acis remitting payments to Highland. But I don't recall when that started or exactly when it -- you know, I don't -- or when it stopped. I don't -- don't have those details from that long ago.

Q. Okay. Let's go to Section 10 of this agreement. No, I apologize, it's 14. Do you see Section 14 deals with duration and termination?

A. Yes.

Q. Okay. And do you see that in Subpart A on page six, there's a reference to the agreement being in effect for ten years?

A. Yes.

Q. Okay. And then on the next page it says that "Subject to Section 14(b), the agreement could be terminated under (i) by Highland at any time with 60 days written notice."

A. Yes.

Q. Okay. Are you aware as to whether or not Highland ever provided written notice of termination under this agreement?

A. I'm not aware.

Q. You never saw a written termination of this agreement, correct?

A. Yeah. No. I'm not aware.

Q. And nobody ever told you that Highland had given notice of termination of this agreement, correct?

A. Not that I recall.

Q. And the shared services agreement was amended and restated at the same time, correct? If you take a look at the agreement beginning with the page ending in Bates Number 5308, do you see that's the Third Amended and Restated Shared Services Agreement?

A. Yes.

Q. And again, if you go to page 12 of the agreement ending in Bates Number 5319, can you confirm that Mr. Dondero signed on behalf of both parties?

A. Yes.

Q. And were you aware that the shared services agreement was being amended in the summer of 2016?

A. I don't recall.

Q. Okay. Do you recall whether anybody asked for your input with respect to any of the terms of this agreement?

A. I don't recall specifically. But generally, with shared services agreements, you know, there was an analysis, you know, we tried to put together to estimate the cost of providing services under Annex A.

Q. Okay. Do you have any recollection as to why the shared services agreement was amended and restated at this time?

A. I -- I don't remember what prompted this to be amended and restated.

Q. Okay. Turn to Article IV on page four, please.

Are you familiar with the methodology set forth in Article -- in Section 4.01?

A. I don't recall this cost allocation formula but I -- I am reading it now.

Okay.

Q. Was there somebody on your team who was responsible for making sure that Acis paid Highland the proper amounts under this amended and restated shared

services agreement?

A. There would be someone who would be responsible for that.

Q. Do you recall who that person was?

A. I don't -- it would have been someone on the corporate accounting team.

Q. And so would that be either Mr. Closs or Ms. Hendrix?

A. Yes. I mean -- okay. We're going back to 2016. I don't remember what their titles were eight years ago but we had other individuals there. You know, Drew -- there were other individuals besides Mr. Closs, Ms. Hendrix -- Ms. Hendrix, you know, we typically had another accountant. So it would have been someone on that team.

Q. And it would have been someone who reported to you, correct?

A. Yes.

Q. Do you know if Highland sent bills to Acis for shared services or did Acis just remit payment to Highland?

A. I didn't generate any of these invoices, but for form they -- Highland should have, you know, generated an invoice out of the accounting system to bill Acis for the services rendered.

And I can't tell you sitting here today what was provided but it was always -- we always tried to, you know, to the extent possible provide support.

Q. All right. If we go back to Article IV, is it fair to summarize it as saying that in Subpart A, if there is an item demonstratively attributable to Acis, Acis will pay a hundred percent of the cost; if a specific percentage could be identified, that under B, that specific percentage would be charged, but under C, if you are not really sure, you would go to exhibit B -- Annex B?

A. No. If you weren't sure, it says that cost would be allocated between fee-earning assets. So you would -- I -- what I'm reading is you would take Acis' proportion of the fee-earning assets related to Highland and they would be allocated that way.

Q. Okay. And if you look at Annex B, which is the last page --

A. And annex -- that's what this said. Maybe that's what Annex B says. I'm just reading.

Q. That's okay.

So am I reading this correctly that under Annex B, if to the extent Annex B was being relied upon to set the shared service fee, Acis was agreeing to pay 15 bases points from each of the funds that it managed?

A. Yeah. It looks like -- yes. So under Annex B, there was a 15 bases point shared service fee that was being paid from these funds listed in the annex, to Highland.

Q. Okay. Can you recall at any time after June of 2016 that Acis was charged 100 percent of an item that was demonstratively attributable to it? I'm looking at 4.01A. Yeah. Let me try this differently.

Are you aware of any methodology that was used to calculate the fees due for shared services, other than the application of the 15 bases points, after the summer of 2016?

A. I -- what I do remember is, if there were costs attributable to Acis outside of this annex, Acis was charged those expenses. They paid those expenses. I don't recall that changing in time, so after 2016. I don't recall that changing.

So to the extent there were items that were allocable to Acis under this cost allocation, I don't recall that changing.

Q. Okay. Is it fair to say, looking at the two documents, the sub-advisory agreement and the shared services agreement, that it's your understanding of -- both based on recollection and looking at the documents now, that Acis was going to pay Highland a total of 35

bases points for sub-advisory services and shared services?

A. Under these documents, yes.

Q. Okay. Can we go to Section 7.02, Termination. And you will see in Subpart A, it says that "Subject to 7.02(b), either party may terminate this agreement upon at least 30 days' advance written notice at any time prior to expiration."

Do you see that?

A. Yes.

Q. Okay. To the best of your knowledge, did either party ever provide 30 days' written notice of termination of this agreement?

A. I -- earlier I said that Highland notified Acis that it would not be providing services. That's what I recall.

Q. Okay. So let me ask my question again.

A. Uh-huh.

Q. To the best of your knowledge, did either party ever provide 30 days' written notice of termination of this agreement as set forth in Section 7.02 A?

A. I don't recall.

Q. Okay. Did you ever see a written notice of termination?

A. I may have. I don't remember.

Q. Okay.

A. I don't recall.

Q. Okay. Did anybody ever tell you that the -- that the written notice of termination had been tendered by one party to the other?

A. That -- I don't remember. This was -- I don't know how many years -- I don't remember.

Q. Okay. In fact, both of these agreements were amended in 2017, right?

A. This is -- this is made in July 2016.

Q. That's right.

And do you recall that the following spring in 2017, the agreements were amended yet again?

A. I -- again, this was years ago. I don't remember.

Q. Okay. Let's just look at them quickly and then we can take our lunch break.

(Exhibit 8 marked.)

Q. (BY MR. MORRIS) So I have marked as Exhibit 8, the Fourth Amended and Restated Shared Services Agreement dated March 17, 2017. You know what, I'm just going to go ahead and mark as Exhibit 9, the Third Amended and Restated Sub-Advisory Agreement also dated March 17, 2017.

(Exhibit 9 marked.)

Q. (BY MR. MORRIS) And looking at Exhibit 8, do you see the title page, the Fourth Amended and Restated Shared Services Agreement between Acis and Highland dated March 17, 2017?

A. Yes.

Q. And if you go to the page ending in Bates Number 3337, do you see that Mr. Dondero has signed on behalf of both entities again?

A. Yes.

Q. Okay. And if you look at the last page, do you see the annualized staff and services fees is 15 bases points for each of the funds?

A. Yeah. Yes. Yes.

Q. Okay. And if we look at Exhibit 9, that's the Third Amended and Restated Sub-Advisory Agreement between Acis and Highland dated also March 17, 2017.

Do you see that?

A. Yes.

Q. And if you go to page ending in Bates Number 3483, you will see Mr. Dondero has signed on behalf of both parties, correct?

A. Yes.

Q. And if you go to Exhibit A, the chart that's on the page ending in 3485, you will see that the sub-advisory fee was 20 bases points, correct?

A. Yes.

Q. So that with these amended agreements, Acis agreed, again, to pay a total of 35 bases points to Highland on account of the shared services and sub-advisory services, correct?

A. Yes.

Q. Okay. And do you know why the agreements were amended and restated in March 2017?

A. I don't remember.

Q. This is -- so if Mr. Terry was terminated in June of 2016, this is about nine months after he was terminated, right?

A. Yes.

Q. So is it fair to say that Acis was still the vehicle through which the Acis CLOs were expected to be managed?

A. Yeah. I mean, these are the agreements in place, correct. That's right.

Q. Well, you wouldn't go through the trouble of amending and restating agreements if you didn't think that Acis was going to continue to be the portfolio manager of the Acis CLOs; is that fair?

A. Yes. I mean, I -- I don't know why these are restated, but, yes, there is agreements that -- there is sub-advisory, there's shared services arrangements

between Highland and Acis dated in March, so...

Q. And through these -- through Mr. Dondero's execution of these agreements on behalf of both parties, it was your understanding that Acis would continue to manage the Acis CLOs for the foreseeable future, fair?

A. Yes.

Q. Do you recall whether as of the first quarter of 2017 anybody ever suggesting that Acis should not continue to manage the Acis CLOs?

A. I don't recall.

Q. You don't recall any of the investors expressing any concerns about the continuation of Acis as the portfolio manager of the Acis CLOs, correct?

A. Yeah. I never talked to the CLO investors directly, so I would hear things secondhand. I don't recall any of those conversations.

Q. Right. You don't recall anybody telling you in the first quarter of 2017 that they had heard from investors that they had concerns about Acis continuing on as the manager of the Acis CLOs; is that fair?

A. Yeah. Not at this time. In 2018, with all the problems with Acis, yes, there were -- I remember discussions happening then. But not -- these agreements are dated in March of 2017.

Q. Okay. We can turn to Article VII, which at

Section 7.01, which is on the page ending in Bates Number 3332. Okay. At the bottom it says, "Either party may terminate this agreement at any time upon at least 30 days' written notice to the other."

Do you see that?

A. Yes.

Q. Do you know if either party ever gave written notice of termination to the other party pursuant to this provision?

A. I don't recall.

Q. Have you ever seen written notice of termination of this agreement pursuant to Section 7.01?

A. I don't remember.

Q. Do you recall whether anybody ever told you that written notice of termination was given?

A. I don't remember.

Q. In fact, this agreement was never terminated, correct?

MR. AIGEN: Objection; form.

MR. MORRIS: Withdrawn.

Q. (BY MR. MORRIS) To the best of your knowledge, sir, this agreement was never terminated, was it?

MR. AIGEN: Objection; form.

A. I mean, yeah. I mean, what --

MR. MORRIS: Withdrawn.

I appreciate the objection now that I realize what he was objecting to.

Q. (BY MR. MORRIS) To the best of your knowledge, this agreement was not -- was never terminated until the transition of services to Brigade in August of 2018, correct?

A. I don't even know that. I don't know. I don't recall. All -- what I do remember is there was the involuntary bankruptcies we talked about and there was a TRO put in place. I don't remember -- usually when TROs are put in place, everything stays as is.

So I don't -- I don't remember if and when this was terminated or what the TRO did -- I don't recall. I wasn't involved in those proceedings.

Q. Do you recall that there was a time that Brigade replaced Highland as the provider of shared services and advisory services to Acis?

A. I recall the name Brigade that -- now that you bring that up. I don't remember what capacity they served.

Q. Okay.

A. But they were involved, you know, while the bankruptcy was going on.

Q. Okay. Is it fair to say that you have no reason to believe the shared services agreement was

terminated prior to the Acis bankruptcy?

MR. AIGEN: Object to form.

A. I don't know.

Q. (BY MR. MORRIS) Okay. Let's turn to Section 8.01. That deals with amendments. Do you see that?

A. Yes.

Q. The agreement cannot -- withdrawn.

"The agreement may not be amended or modified except by an instrument on writing signed by each party."

Do you see that?

A. Yes.

Q. Do you know if the parties ever amended or modified this agreement in writing?

A. I don't remember.

Q. Have you ever seen a writing signed by both parties that amended or modified this agreement?

A. I may have. I don't remember.

Q. Okay. Do you remember if anybody ever told you that a written amendment or modification existed?

A. I don't recall.

Q. Okay. The next section is 8.02; it deals with assignment and delegation. Do you see that?

A. Yes.

Q. Do you know if this agreement was ever assigned or delegated to anybody?

A. I don't remember this ever -- that ever happening, so I don't recall.

Q. You never saw a written consent pursuant to Section 8.02, pursuant to which, you know, all or any of the rights or responsibilities under this agreement were assigned or delegated, correct?

A. Again, I may have. I don't remember. This was years ago. I may have at some point. I just don't remember.

Q. Okay. Do you remember if anybody ever told you that Acis or Highland had assigned or delegated any part of their rights or obligations under this agreement?

A. I don't recall.

Q. Looking at Subsection C, there's a reference to the staff and services provider.

That's Highland, correct?

A. The agreement doesn't say Highland but, I mean, I don't think it names Highland. It just says staff and services provider.

Q. If you look on the very first page.

A. Uh-huh. Is it Highland?

Q. Yeah. Ending in 3319.

A. Okay.

Q. You see there's a reference to Highland Capital Management as the staff --

A. Staff and services provider.

Q. Okay.

A. Yes.

Q. So you will agree, based on that, that Highland is the staff and services provider referred to in Section 8.02(c)?

A. Yes.

Q. And do you see that it didn't need to obtain prior written consent to assign any of its rights or obligations under the agreement as long as it was assigning it to an affiliate under the circumstances set forth in that paragraph?

A. Yes.

Q. Okay. So do you know whether Highland ever assigned any of its rights or obligations under this agreement to any affiliate?

A. Not that I'm aware.

Q. Have you ever seen anything, any document that purported to assign any of Highland's rights or obligations under this agreement to an affiliate?

A. I'm not aware.

Q. And you don't have any recollection of anybody ever telling you that Highland had assigned any of its

rights or obligations under this agreement to an affiliate, correct?

A. Yeah. I don't recall any of those discussions.

Q. Okay. Let's just knock off the sub-advisory agreement and then we'll take a break. If we can switch to Exhibit 9. Again, I apologize if I asked you this question, but if you turn to page ending in Bates Number 3483, can you just confirm that those are Mr. Dondero's signatures?

A. Yes.

Q. And do you have any recollection as to why the sub-advisory agreement was amended and restated in March of 2017?

A. I don't.

Q. If you take a look at -- oh, no, look at that.

Let's go to Section 6, Termination, which is page eight.

A. Okay.

Q. Okay. So for purposes of this agreement, Acis is identified as the management company and Highland is either Highland or the sub-advisor.

Do you see under 6(a), Acis had the ability to terminate this agreement upon 30 days' prior written notice to Highland?

A. Yes.

Q. Okay. Do you know if Acis ever gave written notice of termination of this agreement to Highland?

A. I'm not aware.

Q. Okay. Did anybody ever tell you that Acis had provided written notice of termination of this agreement?

A. I don't recall any of those discussions.

Q. Okay. Do you know if this agreement was ever terminated by anybody at any time prior to the Acis bankruptcy?

A. I'm not aware of that.

Q. You never saw any document that stated that the Third Amended and Restated Sub-Advisory Agreement had been terminated prior to the Acis bankruptcy, correct?

A. The third -- I don't remember seeing a document.

Q. And nobody ever told you that the Third Amended and Restated Sub-Advisory Agreement had been terminated at any time prior to the bankruptcy, correct?

A. I don't -- yeah, I don't remember those conversations but...

Q. Okay. If we can turn to page nine, Section 9. That deals with amendments and assignments.

Do you know if this agreement was ever amended?

A. I don't remember.

Q. Did you ever see any document that purported to amend this agreement?

A. There could be a fourth amendment. I don't remember.

Q. Okay. Do you recall if anybody ever told you that this agreement was amended?

A. I don't remember. And again, I don't know.

Q. Okay.

A. There could be an amendment. I don't remember.

Q. How about assignment, are you aware of this agreement ever being assigned to anybody?

A. I'm not aware of that.

Q. Have you seen a -- do you recall ever seeing any documents that purported to assign this agreement to anybody?

A. No. I don't recall any.

Q. Did anybody ever tell you that Highland had assigned any of its rights or obligations under this agreement to an affiliate?

A. Not that I recall.

Q. All right.

MR. MORRIS: Let's break.

THE VIDEOGRAPHER: Off the record. The time is 12:26.

(Lunch break from 12:26 p.m. to 1:13 p.m.)

THE VIDEOGRAPHER: Back on the record. The time is 1:13.

Q. (BY MR. MORRIS) Mr. Waterhouse, are you ready to proceed?

A. Yes.

MR. MORRIS: Mr. Aigen, you ready to go?

MR. AIGEN: Absolutely.

MR. MORRIS: Okay.

Q. (BY MR. MORRIS) We're going to mark as the next exhibit, Exhibit Number 10, the Acis -- the agreement for purchase and sale of CLO participation agreements that begins with Bates Number ending in 3384.

THE COURT REPORTER: Oh.

MR. MORRIS: Uh-huh. You're up.

(Exhibit 10 marked.)

Q. (BY MR. MORRIS) All right. Have you seen this document before, sir?

A. Yes.

Q. What is it?

A. To summarize, Highland purchased an interest of -- interest in Acis' SM management fees.

Q. And what did it pay for the -- what -- do you have an understanding of what it paid for that interest, if anything?

A. What Highland actually purchased -- I mean, it exchanged a promissory note for that.

Q. So is it your understanding that -- we'll look at this in a bit. Okay. Do you know who prepared this document?

A. What I recall is like on page nine, Hunton & Williams was involved, which is why they were referenced under Section 5.6. But I don't recall specifically who prepared this.

But I remember an outside law firm being involved and it could have been involved with in-house attorneys again, but there was -- there was several -- there were many people involved in this.

Q. Okay. And if you go to the page ending in 3398, can you just confirm for me that Mr. Dondero signed this agreement on behalf of both Acis and Highland?

A. Yes, he did.

Q. Do you know who came up with the idea to enter into this agreement, the idea of a participation interest agreement?

A. I mean, yeah. Generally, yeah. It was -- this agreement and a promissory note were the -- it was an overall tax -- it was a tax-driven strategy to enter into these agreements, both on Acis' and Highland's

part.

Q. And is it your understanding that that's the purpose of this agreement and the note, was that those -- the entry into both agreements was part of a tax strategy?

A. I would say generally tax and there's also, from Highland's prospective, some cash management advantages as well.

Q. What cash management advantages were there from this arrangement?

A. Well, I mean Highland would receive fees in advance of when they had to pay them out. So they had the ability to use cash. It is like -- it's kind of like -- what's a good analogy? Like, you have the cash, you can use it, right? And then you don't have to pay for it until a later day.

Q. Okay. So if I understand you correctly, Acis was going to pay Highland the servicer fees at a faster rate than Highland was supposed to pay under the terms of the note?

A. Yeah. Acis was remitting fees as they received them on a quarterly bases, while Highland's obligation to remit payments under the note were done on a yearly bases.

Q. So that -- and at the end of the process, was

the expectation that Highland would pay to Acis an amount that equalled what Acis was expected to pay to Highland?

A. I don't remember the specifics of the numbers. I think there -- I think it's in the ballpark.

Q. So that at any given moment in time, Acis may have paid more to Highland than Highland paid to Acis, but the expectation was at the end of the agreement, everybody should be about equal; is that fair?

A. I mean, maybe Acis has paid a little more and -- but, yeah. I mean, I -- I, again, it's a timing so -- and, again, not -- there's all sorts of calculations that go into what the quarterly service fees are, right?

The promissory note was fixed at inception. You know, you could have assets that go down in the -- right in the -- again, there's a lot of unknowns going in the future. But I think in -- if you just take the assumption that nothing -- everything stays kind of static and the same, which it's very hard to predict the future, the cash flows are in a ballpark.

Q. Okay.

A. Yeah.

Q. Okay. And that was the intent; is that fair?

A. Yeah. I mean, I think, yeah. I mean, I think

the intent of -- yes.

Q. Okay.

A. Yes.

Q. Did you participate in any discussions concerning this agreement before it was actually executed?

A. Yes. I was involved in discussions, for sure.

Q. And do you remember the substance of any of the discussions?

A. I mean, the substance was around -- and in tax planning, it was around, just like I said, you know, cash management. But it's more optimizing, you know, they're more focused around tax.

Q. And who is "they"?

A. Just with internal tax folks at Highland and outside tax counsel.

Q. And who is the internal tax folks that you spoke to?

A. It would have been Mark Patrick, Rick Swadley.

Q. Did you speak with Mr. Dondero about this agreement before you signed it?

A. Yes. Yes. We definitely spoke with Jim.

Q. And was Jim supportive of creating a mechanism that would assist in tax planning and cash management?

A. Yes.

Q. Are you aware of any discussions with anybody at any time that suggested there was a purpose or intent with the participation and agreement other than tax planning and cash management?

A. I generally, what I generally remember is that these were, again, the drivers for the transaction.

Q. Okay. And this agreement is entered into in October 2016, if you look at the first page; is that right?

A. Yes.

Q. And this is just four months after Mr. Terry was terminated, correct?

A. Yes.

Q. And just maybe a month after litigation was commenced between Terry and Highland, correct?

A. I don't recall the -- when litigation between Terry and Highland commenced.

Q. Did anything happen in September or October of 2016 that caused folks to think that of -- that that was the right moment to do this tax planning and cash management through these agreements?

A. I don't recall a significant, you know, "Oh, this really happened therefore" -- you know, at Highland we are tax planning and, you know, optimizing things are always just part of the job.

Q. Okay. Do you know whether the concept of a participation agreement was ever considered before Mr. Terry was terminated?

A. Again, we're going back many years. I don't -- I remember we had discussions over the years of things of this nature. I can't really put in a timeline around was it post or pre Mr. Terry being terminated.

But there were always discussions around tax optimization. It's just so long ago to pinpoint where exactly on the timeline these discussions took place.

Q. Okay. Do you know whether Mr. Terry's termination and subsequent litigation was a factor at all in the decision to enter into this agreement?

A. I don't recall that being a factor.

Q. And do you know if any option was considered to address the tax issues and the cash management issues, other than the participation agreement and note?

A. We strive to come up with different tax planning ideas year to year. I don't recall what other options were available in 2016.

But there are, I guess, as past practices we do try to brainstorm as business conditions change and, you know, tax laws change, things like that, various options.

But I can't tell you, sitting here today, what was on the table in 2016. I just don't remember.

Q. Did -- could a loan have addressed the issues that you have identified, the cash management and tax issues, if Highland had just loaned Acis the money?

A. No. I don't believe so. No.

Q. Is -- Acis was a pass-through entity, correct?

A. Yeah. I mean, Acis was a partnership, yes.

Q. Do you know who the ultimate beneficial owners of Acis was at the time the participation agreement was executed?

A. Um.

Q. Is that just Dugaboy and Mr. Okada?

A. I don't remember. Mr. Terry was an owner in Acis. I don't remember when he -- when his -- I think -- his ownership, right, was -- I don't remember if it was terminated when he was terminated or exactly what happened to that.

But, yes, there was a point where there were three owners in Acis and then it was Mr. Okada and Mr. Dugaboy -- or Dugaboy.

Q. Okay. So you mentioned that tax benefits were one of the drivers of this agreement; is that right?

A. Correct.

Q. And Acis is a pass-through entity, correct?

A. Yes.

Q. Who was the beneficiary on the Acis side -- withdrawn.

Were Acis' ultimate beneficial owners the beneficiary of the tax benefits on the Acis side?

A. Yes.

Q. And the same is true with respect to Highland, correct?

A. Yes.

Q. Highland was a pass-through entity, correct?

A. Correct.

Q. And this transaction and the note together created tax benefits for the beneficial owners of Highland, correct?

A. Yes. And the beneficial owners of Acis, as well.

Q. All right.

A. Because they're one and the same. Unless Mr. Terry somehow in there and I can't -- I don't remember what -- when he exited.

Q. Do you have an understanding of what the tax benefit was?

A. Yes.

Q. What's your understanding of the tax benefit?

A. It's a deferral of income.

Q. And who was deferring the income?

A. Acis.

Q. And how did this agreement and the note permit Acis to defer income?

A. The income that Acis paid to Highland was not -- was not reported as income upon receipt, upon Highland receiving. The income would then be reported as when -- when Acis -- when there were payments made to Acis is -- is -- I mean, that's what I generally remember. I mean, I could be screwing this up.

Q. And how about from the Highland side? How did Highland -- how did the beneficial owners of Highland receive a tax benefit from the entry into the participation agreement and note?

A. From what I recall, income on the Highland side was shielded by other tax planning.

Q. And is that through Hunter Mountain?

A. I mean, Hunter Mountain was involved. I don't think it's Hunter Mountain.

Q. Well, was Highland able to write off the income it received from Acis against the debt that Hunter Mountain had as the beneficial owner of Highland?

A. I don't think it would work like that.

Q. Okay. I'll just ask one more time and I -- I can see of we can do this a clean way.

Can you describe for me the tax benefits from the participation agreement and the note for Highland and its beneficial owners?

A. Highland received income from Acis which was shielded at the Highland level, and then as cash went out from Highland to Acis, that income was then picked up at the Acis' level.

So therefore the timing between the cash being received and paid by Acis to Highland versus the deferral of recognition of income just, you know, it created tax benefit because you are deferring when taxes are eventually being paid. Taxes are being paid; it's just a deferral.

Q. Do you know if anybody quantified the tax benefit to Acis or Acis' ultimate beneficial owners from the participation agreement and note arrangement?

A. Yes. I remember generally.

Q. What do you remember generally about that?

A. I remember working with Hunton & Williams and there were models that were put together to basically, you know, calculate what the benefits were.

Q. Do you have any recollection as to the range of the benefits?

A. I don't remember.

Q. Do you remember if it was more than a million

dollars?

A. I don't remember, but it likely was.

Q. And how about from the Highland side? Was a similar analysis done to attempt to quantify the tax benefits to Highland from entering into the participation agreement and note?

A. It would have been done from both sides. So -- and sorry. To clarify that, a million dollars of that was specifically -- if that was just what Acis was saving. I'm just remembering generally from the transaction just with both parties.

I can't say with specificity what did Acis say, what did Highland say. I don't remember those details. But it was significant enough where, you know, this transaction with tax benefits was put together.

Q. And is it your understanding at the time that, other than perhaps Josh Terry, the ultimate beneficial owners of Acis were the same as the ultimate beneficial owners of Highland?

A. Yes. I mean, Highland has -- I mean, what I recall from Acis is you had Dugaboy and you had Mr. Okada. At Highland you had -- on the Okada side you had other trusts that I remember being owners in Highland. I don't -- I can't -- I wasn't involved with Mr. Okada that much.

So if you are saying are they the exact same people? I don't know, because I don't know how those trusts reported income, what kind of trusts they were on Mr. Okada's side.

I mean, there were Okada entities involved; there were Dondero-related entities involved.

Q. Can you identify the Dondero-related entities?

A. I mean, it would have been Dugaboy.

Q. Okay. So is it fair to say that other than Mr. Terry, all of the beneficial owners of Acis and Highland at the time the participation agreement and note were entered into, were entities that were either owned, controlled, or affiliated with Mr. Dondero and Mr. Okada?

A. Yes. Unless Mr. Akada's trusts -- again, I --

Q. Right.

A. -- I don't know how those trusts were structured.

Q. Okay.

A. So maybe there was a different beneficiary other than Mr. Okada and those trusts. I don't know.

Q. And so the analysis that Hunton & Williams did, was that an analysis done to determine the net tax benefit looking at both entities at once or were each entity looked at in isolation, if you recall?

A. I don't remember. I just remember generally they were putting together calculations. I don't remember if it was separate, whether it was together or anything like that.

Q. Okay. Now you were the treasurer of Acis and the CFO of Highland at the time, correct?

A. Yes.

Q. Okay. Would you have recommended this transaction to Mr. Dondero if the only benefit were the cash management issues that you identified earlier and that there was no tax benefit?

MR. AIGEN: Objection; form.

A. I don't remember -- I don't remember the cash -- I don't remember the significance of the cash -- I mean -- and I don't remember where cash was. So -- I don't know. I mean, what I do recall is there were cash benefits and there were also tax benefits. So, again --

Q. (BY MR. MORRIS) Do you know -- do you recall if anybody did any analysis to determine the benefit to Highland on the cash management side, on the cash management issue? Was that ever quantified?

A. I think what I remember generally, it was part of these models or whatever was put together. It was, you know, again, another benefit of the transaction.

Q. All right. So if the cash management was a

benefit to Highland, then it must have been a disadvantage to Acis; is that fair?

A. No. As we talked about, there was a -- it had these advisory agreements and shared services agreements. But if it had -- and it didn't have any other employees or really any other, you know, significant expenses.

So if it is just sitting on -- if it just has cash that's just sitting there and it's not doing anything, you know, I wouldn't say it would hurt Acis, you know.

Q. How could the flow of funds under the participation and note benefit one side without hurting the other side? Isn't it binary?

MR. AIGEN: Objection; form.

A. Well, I mean, I'm looking at this to the -- yeah. I -- like, well, I guess, you are right there -- well, there is a benefit to Highland. So if the opposite of that is could Acis have used that cash for another purpose? Sure. It could have decided to have done that.

I think it looked at this transaction and said, "Hey, you know, this transaction overall with the tax benefits and everything is beneficial, you know, there are benefits." So there could be cash management

detriments. But I think maybe, you know, in this transaction it says, well, you know, we do benefit better off from tax, you know, prospective.

So I think if there were some cash management detriments to Acis, which I can't really -- it could have invested the money or something like that. But it made the decision that it was -- that was in the best benefit or interest of Acis.

Q. (BY MR. MORRIS) Is it true that prior to the entry into this agreement, Acis used its revenue to pay its expenses and to make annual distributions to its equity holders?

A. Acis -- yes. I, you know, recall Acis paid for its expenses and then there were distributions made to its owners. I don't remember the amounts, magnitude, and frequency. I just don't remember those details but I generally recall that.

Q. Okay. If you take a look at the agreement, the first page and you look down at the fourth whereas clause, it says that the seller here, which is Acis, was -- I'm summarizing and paraphrasing. If you disagree with my summary or paraphrasing, let me know.

But Acis was engaged -- had engaged a banker to try to actively market a new CLO to prospective investors. Do you see that?

A. Yes.

Q. Was that true at that time?

A. I don't remember.

Q. Okay. Were you involved? Do you recall being involved in any activities relating to the marketing of the new CLO to prospective investors in October of 2016?

A. I don't remember. I mean -- I -- yeah. I don't remember.

Q. Okay. Do you see the next whereas clause refers to a risk retention amount?

A. Yes.

Q. And are you generally familiar with the concept of risk retention mandates of managers of CLOs?

A. Yes.

Q. And what's your general understanding of the risk retention mandate?

A. It's -- the manager of the CLOs has to retain a certain interest, like it says here, in -- in the equity of the CLO.

Q. Okay. And then the next whereas clause refers to a joint venture with another entity to originate and sponsor new CLO investments pursuant to which Acis would contribute 51 percent of the risk retention amount.

Do you see that?

A. Yes.

Q. Do you know anything about that?

A. I don't -- I don't remember it.

Q. Do you have any idea who the joint venture partner was?

A. I don't remember.

Q. Do you know if there was a joint venture partner?

A. I don't recall.

Q. Do you know how it was decided that Acis would contribute 51 percent of the risk retention amount?

A. I -- I don't remember. I guess, like I said earlier, we had a special group at Highland that all they did was manage the CLOs. They managed the investments. You know, that's -- that was all their purview.

Q. Okay. Do you see towards the bottom, the next of the last whereas clause says, quote, "Cash flows from the servicer fees are unpredictable and unstable."

A. Yes.

Q. Do you know who made that determination?

A. I guess, I don't understand -- I think -- I guess I don't understand the question. Any investments that are -- or any fees that are calculated on an investment portfolio, right, investment portfolio by nature can go up, go down. So I just...

Q. So was that a known fact for a long time?

A. I think it was a general fact about investments in general. So it's like, I mean.

Q. That's all that is intended to convey, is that investments can fluctuate?

A. That's how I read. Like earlier I testified like, hey, there's, you know, your -- Acis is paying management fees on Acis. Right? Those can be -- those vary as market conditions can -- market conditions dictate.

And, you know, markets depending on -- sometimes we've got bear, you know, bull markets or bear markets, right? We could have recessions. How I read that is I think it's unpredictable and completely unstable.

Q. Okay. Servicer fees are paid by the issuer to the portfolio manager, right?

A. Servicer fee -- so, yeah. Those are paid by the CLO to the manager of the CLO but they are paid by the -- there's a trustee at the CLO. The trustee is the one who calculates that and pays that out.

Q. And as -- in the trustee's capacity is the agent for the CLO, right? The trustee is not paying its own money, is it?

A. Yeah. No, the trustee is the trustee over the

CLO. Yeah.

Q. So --

A. Yeah, I mean, yeah.

Q. And this agreement related to participation interest only in the CLOs that are identified on Schedule A at Bates Number ending 3399, right?

A. Yes.

Q. Okay. You know, the first of those CLOs was formed in 2013, correct?

A. Yes.

Q. Okay. Did Acis do anything from 2013 until this agreement was entered into to mitigate the risk of investments in the manner that you described earlier? The instability and the unpredictability of the servicing fees, did they do anything to mitigate that risk until now?

A. I mean, I -- just generally, that's the job of the portfolio manager is to -- right? You're managing assets to provide a return but also mitigate risks. I mean, that's just -- that's just -- you know, so I guess it's a long way of saying yes.

But I guess I just don't understand the question, because that's their job.

Q. I appreciate that's their job.

I'm asking you if you can identity anything

that Acis did prior to October 2016 to mitigate against the unpredictability and the instability of servicing fees.

A. Just by performing its duties, performing its job. That's inherent, it was providing services. So I would say yes.

Q. Okay. So it could have -- it was mitigating the risk without a participation agreement, in your view; is that fair?

A. Acis was providing advisory services to the CLOs and as part of that agreement. It -- you know, it's managing the assets and the CLO. A participation interest isn't needed for that to occur.

Q. Okay. Do you know if the unpredictability and instability of servicing fees ever caused Acis to breach any obligations under any contract?

A. I don't -- not that I recall.

Q. Okay. Do you recall if the unpredictability and instability of the servicer fees ever caused Acis to fail to timely pay for expenses and goods that it had purchased or acquired?

A. Not that I recall.

Q. Okay. As the treasurer of Acis and the CFO of Highland, can you identify any adverse consequences flowing to Acis from the alleged unpredictability and

instability of servicer fees?

A. You are asking if the Acis fees are unpredictable and unstable, what consequences does that do to Acis? Is that what you are --

Q. Kind of. You testified that, you know, like all investments, servicer fees, can be unpredictable and unstable; is that fair?

A. Yes.

Q. Okay. Can you identify any adverse consequence to Acis arising from the instability and uncertainty of the servicing fees? Because they didn't breach contract, right?

A. Yeah. I mean, if those servicing fees became unstable where they couldn't pay for expenses, that would be adverse to Acis.

Q. Right. But that never happened, correct?

A. I mean, in hindsight, yes, that did not happen. That isn't to say when you enter into an agreement that it couldn't happen.

Q. I appreciate that but I'm just asking a really simple question.

Can you identify any adverse consequence to Acis from the alleged unpredictability and instability of servicing fees?

A. Not that I'm aware.

Q. Thank you.

The contracts that gave Acis the right to receive the servicing fees, those are portfolio management agreements, correct?

A. I don't -- there is a special con- -- there is a specific contract between the CLO and the -- the manager of the CLO. I don't know if it's called a portfolio management agreement. I don't -- there -- or an advisory agreement or a servicing fee agreement. There is a special name in the CLO world for the agreement.

Q. Okay. And that agreement, whatever it's called, is the agreement that gives -- that obligates Acis to perform portfolio management services and gives it the right to receive the servicing fees in exchange for those services, correct?

A. Yes.

Q. Okay. And I think you said this earlier, the party who is obligated -- the counterparty is the issuer, correct?

A. Yes.

Q. Okay. Well, who controlled the Acis CLOs before Mr. Terry was terminated; do you know?

A. I guess the trustees control the CLO, right, because they're trustee.

Q. Uh-huh. Okay. Withdrawn. Good point.

Who controlled the management of the CLOs before Mr. Terry was terminated?

A. My recollection is Mr. Terry, Mr. Dondero, Mr. Okada, and there are other analysts that worked at Highland that provided analysis.

There was a CLO group at Highland that would provide analysis, right? To -- so it was -- there was a team of people.

Q. Right. I don't want to know about who did analyses. I want to know who the ultimate decision-makers were for Acis.

Was Mr. Dondero an ultimate decision-maker? Could he have -- did he have the authority and the ability to make decisions on behalf of Acis prior to Mr. Terry's departure?

A. Yes.

Q. And could Mr. Terry do that too?

A. Yes.

Q. And could Mr. Okada do that too?

A. Yes.

Q. Was there anybody else who had that ability?

A. Not that I'm aware. They were the owners.

Q. Okay. And after Mr. Terry was terminated, did Mr. Dondero and Mr. Okada retain the control and

authority to manage Acis?

A. Yes.

Q. And was that true until Mr. Phalen was appointed the trustee of Acis?

A. Yes. Mr. Phalen took over Acis then that presumably ceased.

Q. Do you know if any of the Acis CLOs ever breached their obligation to pay the servicing fees to Acis?

A. I don't recall.

Q. Do you recall whether Acis ever declared a default as a result of the issuers failure to timely pay all servicer fees it owed?

A. I don't recall. I'm not aware of any.

Q. Okay. Let's go to Section 1 of the agreement, which is on the page ending in Bates-stamped 3387.

A. Okay.

Q. Section 1 deals with the sale and purchase of the Acis participation agreements, correct?

A. Yes.

Q. And the participation agreements are shown on Schedule A, correct?

A. Yes.

Q. And that's at the page ending in Bates-stamped 3399, right?

A. Yes.

Q. And on page -- on Schedule A, Schedule A lists the CLO issuers that are the subject of this agreement, correct?

A. Yes.

Q. And the total servicer fees or the total fees that Acis is entitled to receive from each CLO in exchange for its portfolio management services, correct?

A. I believe so. I mean, I don't remember the agreements but if it is -- this matches the agreement, yes.

Q. Okay. And so then the next two columns divide up the total servicer fee between what Acis is going to keep, which is the servicer fee retention amount and the Acis participation interest, which is what Highland is supposed to get; is that right?

A. Yes.

Q. So, for example, for the 2015-6 CLO, is it fair to say that Acis was going to receive from that CLO 40 bases points as its servicing fee, it was going -- and it was going to split that fee between Highland and itself?

A. Yes.

Q. Okay. Do you remember earlier that we concluded that under the amended and restatement shared

services agreement and sub-advisory agreement that Acis was going to pay Highland 35 bases points for those services?

A. Yes.

Q. And here they're promising to pay Highland an additional 20 to 30 bases points as part of the participation interest, right?

A. Yes.

Q. So can you conclude -- is it fair to conclude that between this agreement, the shared services agreement and sub-advisory agreement, Acis was obligated to pay to Highland more than it expected to receive in servicing fees?

A. Yeah. If all those agreements were in force, yes.

Q. Okay. If you look down further on that page there's the purchase price. Do you see that?

A. Yes.

Q. And in Section 1.1 it says, quote, "In consideration of the sale of the Acis participation interest to the purchasers, to the purchaser, the purchaser shall do two things."

It's going to pay the cash purchase price and it's going to give up the note. Is that a fair summary of that?

A. Yes.

Q. Are you familiar with the phrase "quid pro quo"?

A. Yes.

Q. Okay. And is the quid pro quo here that Acis would transfer to Highland the Acis participation interest and Highland would give to Acis the cash purchase price and the note?

A. I mean, I'm familiar with quid pro quo. I mean, it just says, "In consideration of the sale."

Q. Right.

A. "Of the Acis part- -- then the purchaser shall pay to seller this amount 606,655 and deliver to seller a promissory note and the initial principle balance of 12,666,446."

Q. Right. So Highland is giving the cash purchase price and the note to Acis in exchange for Acis' promise to share the Acis participation interest as defined in this agreement, fair?

A. Fair.

Q. Okay. All right. And that was your understanding as the treasurer of Acis and the CFO of Highland at the time, correct?

A. Yes.

Q. Do you see that if you add up the -- withdrawn.

Do you know how the cash purchase price and the initial principle balance of the note were determined?

A. I don't recall. Again, I talked about there were models done and things like that. I'm sure it was in the model.

Q. Do you recall whether if you added the cash purchase price and the initial principle balance of the note, if you added those two numbers together, do you recall if that total number equalled to the dollar the projected value of the Acis participation interest as defined in this agreement?

A. I don't remember.

Q. Do you know if these numbers in Section 1.1 were the subject of any negotiation?

A. I don't recall.

Q. If you turn to the Section 1.3 on the next page, it says that "The parties acknowledge and agree that the purchase price reflects the arm's-length value of the Acis participation interest as of the date of the agreement as determined by mutually-agreed appraisal methods."

Do you see that?

A. Yes.

Q. Isn't that -- do you see that the purchase

price is defined as the cash purchase price and the delivery of the note on the bottom of the prior page?

A. Yes.

Q. So would you agree that in Section 1.3 the parties are agreeing that the value of the cash purchase price plus the note reflects the arm's-length value of the Acis participation interest as of the date of the agreement?

A. That's what the parties agreed to.

Q. All right. And so your understanding is that, in fact, the purchase price and the value of the Acis participation interest were supposed to be the same, at least as of the date of the agreement?

A. I don't know if that's -- I don't know if they were the same.

Q. Well, it says that the purchase price reflects the arm's-length value of the Acis participation agreements. Doesn't that mean that they were supposed to be equal? They reflect the same value.

A. Arm's-length value doesn't mean the same value. It just means what -- you know, someone will participate in an arm's-length transaction. You know, that's not saying value. I don't agree that arm's-length transaction is saying value.

Q. Do you know how the purchase price was

calculated?

A. I don't remember.

Q. Do you know if it was intended to be the equivalent of the expected value of the Acis participation interest?

A. Like I said, I don't remember.

Q. Well, you're here as the 30(b)(6) witness today. Does HCLOM have a view as to how the purchase price was determined?

MR. AIGEN: Objection; form.

A. Again, we -- I discussed there is models, right? That was -- that were put together around this transaction, presumably the models, right? Modeled what an arm's-length transaction would have been.

So again, there's different ways to value different transactions. So presumably that's what was in the model.

Q. (BY MR. MORRIS) All right. I appreciate that you presume a lot of things.

Did you do anything to prepare today --

A. I don't --

Q. -- to determine how the purchase price was calculated?

A. I don't have access to the models. HCLOM doesn't have access to the models. I don't know.

Q. Okay. Does HCLOM have a view as to whether or not the purchase price was intended to equal the value of the Acis participation interest as of the date of the agreement?

MR. AIGEN: Objection; form.

A. I mean, from HCLOM's point of view, I don't think HCLOM was around on October 27, 2016. So this agreement was between Acis and Highland. It looks like Acis and Highland's -- those parties acknowledge that it was supposed to be done in an arm's-length transaction. HCLOM wasn't even there.

Q. (BY MR. MORRIS) I appreciate that.

A. So --

Q. Thank you very much. So let me ask the question again.

As the treasurer of Acis and the CFO of Highland, do you have a view as to whether the purchase price was intended to equal the value of the Acis participation interest as of the date of this agreement?

A. It was intended -- it should have intended to be whatever the arm's-length value was determined.

Q. Do you have any idea what that was?

A. I don't recall. I don't have any of those models.

Q. Can you think of a reason why one party would

be giving the other party more money --

MR. AIGEN: Objection; form.

Q. (BY MR. MORRIS) -- than it was expecting to receive?

A. Yeah. What's, you know, there's other benefits involved. We talked about tax benefits or things like that. Sure. I mean, there's all sorts of things that you model into the model.

So, again, without looking at the details of the model and you are talking about you are actually going to have to model in maybe variability of servicing fees, and discount rates, and tax benefits, I mean, there's all sorts of things you can assume. But it's intended per 1.3 for however what was decided to reflect the arm's-length value.

Q. There's a reference there to mutually agreed appraisal methods. Do you see that?

A. Yes.

Q. Can you identify those appraisal methods?

A. I don't remember what was used.

Q. Do you know if any appraisals were actually done?

A. Well, I don't -- it doesn't say -- it says appraisal methods. It doesn't say appraisals. So I don't know what appraisals were done. It says appraisal

method. So you can put something together using an appraisal method.

So again, I don't have access to these records. I don't remember what was done.

Q. Okay. Let's look at the promissory note.

MR. MORRIS: Let's mark that as Exhibit 11 I think.

(Exhibit 11 marked.)

Q. (BY MR. MORRIS) Have you seen this before, sir?

A. Yes.

Q. And what is this?

A. This is the -- this is the note between Highland Capital and Acis Capital Management.

Q. And is this the note that HCLOM contends it's the holder in due course of today?

A. Yes.

Q. And is this the note that HCLOM contends Highland is obligated to satisfy?

A. Yes.

Q. Do you know -- this note was executed at the same time as the participation agreement, correct?

A. Yes.

Q. And they were part and parcel of the same overall transaction, correct?

A. Yes.

Q. Do you know if the terms of this note were negotiated?

A. This was part of the transaction. I don't remember. As we talked about, these numbers were derived from models and things like that.

So again, they are -- the different assumptions are in these models. I don't remember the back and forth but it's somehow derived --

Q. Are the same people making decisions on behalf of both Acis and Highland at this time in connection with the participation agreement and the note? It's the same human beings, right?

A. Yeah. Acis doesn't have employees.

Q. Right. And Jim Dondero was signing everything on behalf of everybody, right?

MR. AIGEN: Object to form.

A. I mean, Jim executed these agreements, correct.

Q. (BY MR. MORRIS) Right. And he executed them on behalf of both parties, right?

A. Yes.

Q. All right. Acis and Highland didn't obtain independent counsel, did they?

A. I just recall Hunton & Williams being involved. I don't -- I -- you would have to look at the engagement

letter. I don't know how those things are written.

Q. Was there a team at Highland that was dedicated to protecting Highland's interest and another team that was dedicated to protecting Acis' interest?

A. I don't recall that at Highland. So, again, I -- but, you know, if there's outside counsel involved, maybe there's other dynamics there as well.

Q. Do you remember any law firm being involved other than Hunton & Williams?

A. No. I just recall Hunton.

Q. Do you know who established the terms of the notes -- of the note?

A. I don't remember those. I don't remember that detail.

Q. Okay. And you don't know how that principle amount of the note was determined, correct?

A. Like I said before, it would have been in these analyses, and cash consideration, and other consideration and all that would have been determined.

Q. Do you believe Acis would have agreed to give Highland a portion of its servicing fees without receiving an agreement to receive the cash purchase price and the note?

MR. AIGEN: Objection; form.

A. I'm sorry. Acis would have agreed --

Q. (BY MR. MORRIS) Withdrawn.

Do you believe that Acis would have agreed to give a portion of its servicing fees to Highland if Highland didn't simultaneously agree to give that cash purchase price and the note to Acis?

MR. AIGEN: Objection; form.

A. I think that was all -- in order for the tax planning to work, I mean, Acis had to receive compensation later.

Q. (BY MR. MORRIS) Stated another way, in order for the tax planning to work, Acis had to share the servicing fees with Highland and Highland had to make that cash purchase price payment and the payments under the note. That was the intent, correct?

MR. AIGEN: Objection; form.

A. No. I mean, no. I mean, the -- for the tax planning to work the note here had to be a real bona fide note. You don't -- you have to create tax planning with economic substance. Without economic -- real economic substance, it's not tax planning; it's just shuffling papers.

So this note is a real binding note between Highland and Acis. If -- you know, and Highland has to pay, and is obligated to pay that to Acis. Without that, it's not tax planning.

Q. (BY MR. MORRIS) Okay. I don't mean to quarrel with you but let me try and make this easier.

In order for the tax planning to work, you need both pieces to happen, right? You need both Acis to share its participation interest and you need Highland to give the note, correct?

MR. AIGEN: Objection; form.

A. I mean, the agreement was to share the participation interest because that was agreed to. But if the participation interests were never paid, it's still a bona fide note.

But Highland bears the risk of this planning to pay those amounts to Acis. You know, as we -- and as you pointed those whereas clauses, the markets are uncertain and unstable. So, you know, we saw that through the great recession, right, in 2008, 2009.

So to the extent that those payments -- that was the deal, right? As you said, that was the -- but if those payments aren't made, the promissory note is still a good note. You have to have -- you have to make good on these agreements.

Q. (BY MR. MORRIS) But the failure to pay the servicing fees had nothing to do with the unpredictability and instability of the market, right?

MR. AIGEN: Objection; form.

Q. (BY MR. MORRIS) It had to do with the involuntary bankruptcy that filed against Acis?

A. No. I mean, I'm saying in the -- when we entered into this in 2016, right? The -- you don't know what markets are going to do. So the whole idea is in the event there is turmoil in the markets and here it is an ability not to pay, as we saw in a prior turmoil, there still is an obligation under this note to make payment to Acis.

Q. Did you discuss with anybody at any time before this transaction was entered into, that there was a risk that Highland might receive zero in servicing fees?

A. Sure. A hundred percent.

Q. And Mr. Dondero and you as the officers of Highland agreed to give this promissory note with the understanding that you might receive nothing in return?

A. One, I will tell you what I remember and what stands up, 110 percent we sat with Jim, the tax team, and said you understand if you make this note and for some reason these participation interests are not paid on, you still owe this money. Yes, that was the understanding.

There was no way we wanted to obl- -- like that's part of tax planning. If you don't do that, the

tax planning doesn't work.

Q. But isn't the failure to pay servicing fees a breach of the agreement?

MR. AIGEN: Objection; form.

A. When you say -- we're talking about the note. There is a note between Highland and Acis. This note doesn't say if you don't pay -- like it's my understanding that, you know, these are real -- again, it's my understanding that these payments under the note were real obligations and that was stressed.

I remember having those conversations with this transaction.

Q. (BY MR. MORRIS) So you are saying that Highland gave the note and -- it gave the note not in exchange for the participation interest?

A. No. No. It did. It received the participation interest. But as we talked about, those participation interests can vary, right? There's variability under those participation interests.

So to the extent there's -- you know, again, Highland is making a fixed commitment, right, which is outlined in this promissory note.

And the fees that are received, you know, you are -- you are -- they are -- they were modeled out initially. But they're models. And models, you know,

again, you are projecting out to the best of your ability but I, you know, again, markets move.

Q. Did the market cause HCLOM to not pay servicing fees?

MR. AIGEN: Objection; form.

Q. (BY MR. MORRIS) Withdrawn.

HCLOM never paid Highland any servicing fees, right?

A. We already talked about that earlier, yes.

Q. Okay. Why didn't HCLOM pay Highland any servicing fees?

A. Because despite its best efforts, HCLOM -- the -- these servicing, you know, these resets we talked about were never effectuated over to HCLOM. It never became the collateral manager of the CLOs.

Q. And why didn't it become the collateral manager of the CLOs?

A. Because of the Acis bankruptcy.

Q. Okay. Great.

Can you turn to Exhibit A on the note.

A. Yes.

Q. The first payment was due on May 31, 2017, correct?

A. Yes.

Q. And that payment was made, right?

A. Yes.

Q. Did Highland make the payment that was due on May 31, 2018?

A. It did not.

Q. Did HCLOM declare default under this note?

A. Not that I'm aware of.

Q. Did you discuss with anybody declaring a default under the note?

A. No, because there was a forbearance in place.

Q. Instead of declaring a default you entered into a forbearance agreement, correct?

A. Correct.

Q. After the participation agreement was signed, Acis satisfied its obligations by paying Highland its allocated portion of the servicing fees through at least October 2017, correct?

A. Correct. I mean, I remember Acis making the payments. That's -- so I don't recall when that stopped.

Q. And Highland made its payment in the spring of 2017, correct? We just established that.

A. Yeah, in May of 2017.

Q. Do you recall that as of the end of October 2017, for the timing reasons you described earlier, Acis had paid Highland about $3 million more in servicing

fees than Highland had paid under the note?

A. I don't remember numbers.

Q. As of November 1st, 2017, you and Mr. Dondero were the sole officers of Acis, correct?

A. Yes.

Q. And you remained the sole officers of Acis until Mr. Phalen was appointed in the summer or spring of 2018, correct?

A. Yes.

Q. Okay. Acis continued to receive servicing fees after November 1st, 2017, correct?

A. Yes. I mean, the CLOs paid quarterly. So it would have received -- yeah, I mean -- your question is did it received fees after November? Yes. I mean, the CLOs kept paying. So yes.

Q. And did Acis remit any servicing fees to Highland after November 1st, 2017?

A. I don't recall.

Q. The participation agreement, remember, referred to a potential new CLO issuance by Acis. Do you remember that?

A. Yes. There was a...

Q. And in fact, in April 2017 a new Acis CLO was issued, correct?

A. I don't recall. What was the name of the --

Q. It's Acis CLO seven.

A. Okay. Okay.

Q. And so do you remember that that launched in the spring of 2017?

A. Vaguely.

Q. Okay.

MR. MORRIS: Let's mark this the next Exhibit 12, a portfolio management agreement for Acis seven.

(Exhibit 12 marked.)

Q. (BY MR. MORRIS) This is 12. Okay. Have you seen this document before, sir?

A. I may have. If I did, I just don't remember.

Q. And if you go to the page ending in Bates-stamped 7089, you will see Mr. Dondero signed on behalf of Acis CLO Management, LLC, correct?

A. Yes.

Q. Okay. So here it is April 2017, Mr. Terry's been gone for ten months. And under Mr. Dondero's direction, Acis is launching a brand-new CLO, correct?

A. Yes.

Q. And he wouldn't have done that if he didn't believe the Acis CLO Management, LLC couldn't perform its obligations as the portfolio manager, correct?

A. Yes.

Q. You don't recall any discussions before April 20, 2017, where anybody expressed a concern regarding Acis' ability to perform?

A. I didn't -- we have a team of folks that put together CLOs. They source the CLOs. They put together the warehouses. I'm not involved in any of that, so...

But I don't remember discussions being directed towards myself.

Q. Do you know if Acis Seven had a -- had to make a risk retention payment?

A. I don't recall. But again, it's part of the rules. So, I mean, presumably an entity made that -- you are not going to issue a CLO without the risk retention of that percentage being retained by somebody.

Q. Do you have a recollection as to how the risk retention amount was funded?

A. I don't remember.

Q. Do you remember that Highland actually loaned Acis $3 million for the purpose of making the risk retention payment in connection with the launch of Acis seven?

A. I don't remember. But if that's what happened, that's what happened.

Q. Mr. Dondero used Highland to make loans to affiliates from time to time. We know that, right?

A. Yes.

Q. And did Mr. Dondero cause Highland to make loans to Acis from time to time?

A. I don't recall loans between Acis and Highland. You know, if you said that -- if Highland loaned Acis the $3 million, I don't recall there being a flurry of loans between Highland and Acis.

Q. Do you remember that Acis just used the money that it received on May 31, 2017, to repay Highland for the loan that Highland had just made so it could make its risk retention payment? That doesn't ring a bell?

A. No. This is seven years ago.

Q. Okay. In late 2017 and early 2018, Acis was looking to reset certain of the CLOs, correct?

A. Late '17, late '18, yes.

Q. Okay. Do you have an understanding of what a reset is?

A. Yeah. You're -- yes.

Q. What's your understanding of a reset?

A. You are basically resetting the cap structure in the underlying CLO.

Q. And why was Acis looking to reset the CLOs in late 2017, early 2018?

A. From what I recall, it was Acis 2013-3. So I think it had hit -- you know, it -- there was a time, a

life of a CLO and you can extend that life by doing a reset.

Q. Okay. And was it -- do you know if it was contemplated that a new entity would replace Acis as the portfolio manager for those CLOs that were successfully reset?

A. Are you saying -- and can you go back to your timeline? Are you saying at the time of the reset in 2017?

Q. Yeah. When -- in late 2017, early 2018, when the concept of resets was being discussed, was a decision made that an entity other than Acis would serve as the portfolio manager for the reset CLOs?

A. I don't recall the reset of Acis 2013-3 was a reset with Acis Capital being the manager.

Q. And when did that take place; do you remember?

A. It was like January of '18, early '18.

Q. So your recollection is that with the reset of Acis 2013 CLO, Acis was going to remain as the portfolio manager?

A. That's what I generally remember. But, again, this was six years ago. So there may be a document that refutes that but that's what I generally remember.

Q. Did you look at any documents to prepare for your testimony today on the topic of resets?

A. No. I looked -- I looked at the documents that were in the topics. I don't recall the resets being -- but I generally am aware of resets.

Q. Can you take Exhibit 1 out? It's the first exhibit.

A. Yeah. Okay.

Q. And the last topic is Topic 12, on page three.

A. Uh-huh.

Q. Can you tell me what documents you looked at to prepare yourself to answer questions about Topic 12?

A. I didn't look at any documents. I am generally aware of the resets that occurred, but I didn't look at any documents.

Q. So you didn't look at any documents and you didn't talk to anybody other than counsel, correct?

A. Just counsel.

Q. And you weren't directly involved in the resets, correct? You had no personal direct involvement in any of the issues concerning the resets, correct?

A. I -- we have -- there was a team at Highland Capital that managed that process.

Q. Were you part of that team?

A. I was not.

Q. So, again, you had no personal knowledge about any of the issues surrounding the proposed resets in

late 2017 or early 2018, correct?

A. I'm aware of the resets that did occur, the potential resets.

Q. What resets occurred?

A. Well, there's the Acis 2013-3, right? That was -- the reset -- they reset in and it went to market and there was a -- like an article the day before and publication, and then that's when Josh Terry filed the involuntary, like, you know, the day that it was supposed to reset.

Q. But it didn't reset, correct?

A. No. The -- yeah, but there -- that was the attempted reset, right? So that reset was occurring but it didn't -- it wasn't finalized because of the involuntary bankruptcy.

And there was -- there were other reset attempts by investors, I think one in April, April -- end of April of 2018, another like mid-June. These are 45-day resets. So, again, they're 45 days.

But the investors were trying to reset these. Again, with Acis in bankruptcy, right. The investors wanted to reset these.

MR. MORRIS: All right. Can we take a break now?

MR. AIGEN: Yes.

THE VIDEOGRAPHER: Off the record. The time is 2:37.

(Break taken from 2:37 p.m. to 2:51 p.m.)

THE VIDEOGRAPHER: Back on the record. The time is 2:51.

MR. MORRIS: Okay. Let's mark as the next exhibit, it's 13, the Assignment and Transfer Agreement. It was previously marked Exhibit D in a different deposition.

(Exhibit 13 marked.)

Q. (BY MR. MORRIS) Mr. Waterhouse, do you recall that the arbitration panel issued its final award in favor of Mr. Terry and awarded him damages of $8 million on October 20, 2017?

A. I'm aware of it.

Q. Okay. Did the award come as a surprise to you?

MR. AIGEN: Objection; form.

A. I didn't think of it either way. I wasn't close to the case. I mean, I -- I'm not a lawyer. I don't know. You know, Josh did not treat me well at my time at Highland. So -- but I didn't have a dog in the fight. He was just a very abusive person, abusive towards me and things like that.

Q. (BY MR. MORRIS) The trial was in September, right, of 2017?

A. I don't recall.

Q. And you are part of the senior management team at Highland at the time, right?

A. Yes.

Q. Were people talking about the case, was the senior management team talking about how the case was going?

A. I mean, they may have. I wasn't really talking to them. I mean, I don't really talk to lawyers and say, hey, how's this going or how's that going. And unless someone --

Q. Okay.

A. -- really offers their view, kind of like near a water cooler, you know, I'm not really -- you know, I think I have testified before, I like to go to work. I like to do a good job. I like to come home. I like to see my family and my kids.

Q. Amen. Me too. That's all I want to do myself, to be honest with you.

A. So I mean --

Q. But around the water cooler, I mean, did anybody give you any indication as to how they thought the case was going?

A. Not that -- I mean, I just remember, hey, we have arguments. These guys have arguments as far as --

it's being heard.

Q. Was there any reaction when the award was rendered on October 20th? Did anybody talk about it?

A. Yeah. When the award was rendered. It's like, I remember, you know, I remember it's -- I remember learning at some point that Josh Terry won and I thought -- you said the amount was $8 million. I thought it was like 6. You know, it was a seven-figure amount.

Q. And was anybody -- did anybody express any emotion at the rendering of the award? Did anybody react at all?

MR. AIGEN: Objection; form.

A. I mean, I think there was disappointment that he -- that Josh Terry won. I mean, I don't remember, you know, people cussing or yelling or -- you know, it wasn't like an emotional lash-out. People weren't happy. But I wouldn't say it was -- there was very disappointment is what I recall.

Q. (BY MR. MORRIS) Do you recall any discussion at any time in September, October 2017, about transferring assets away from Acis so that Josh would be unable to collect on his judgment?

A. I don't recall the time frame. I don't.

Q. Do you recall the substance of what I

described, just not when the conversations took place?

A. I really don't recall, you know, conversations around Josh or what Josh would get, you know, things like that. I think he was entitled to what he was entitled to.

Q. Well, he had judgment against Acis, correct?

A. Yes.

Q. Okay. Did anybody give any instruction or direction to transfer assets from Acis to other entities in October 2017?

A. I don't recall assets leaving Acis at that time. I mean, I don't remember cash moving or Acis -- I don't remember Acis having other, you know, other items of value on its balance sheet, probably just the cash. I don't remember that just leaving.

So I don't remember those conversations being had.

Q. Are you aware that Josh filed the involuntary against Acis because Acis had no assets to satisfy the arbitration award and judgment he obtained?

A. No. I thought -- my understanding was that Josh filed the involuntary when that Acis 2013 was being reset. So, again, when it was being reset into a new -- my recollection, it was being reset into a new manager. And that reset is when Josh filed the involuntary.

Q. And as the CFO of Acis, you have no recollection of any transfers occurring in the fourth quarter of 2017, any transfer of assets, any assets out of Acis to other Highland affiliates?

A. We have billions of dollars of AUM at Highland. Acis was just one part of it. I don't remember every transfer that occurred.

Q. I'm not asking you to remember any particular transfer.

I'm asking you if you have a recollection of that in the fourth quarter of 2017, transactions were undertaken to transfer Acis' assets to other Highland entities?

A. I don't remember those -- I don't remember even generally that happening.

Q. Do you recall that the day before the arbitration award was rendered, Highland created Highland CLO Management, LLC?

A. I wasn't aware at that time.

Q. Are you aware today that Highland caused an entity called Highland CLO Management, LLC to be formed in Delaware?

A. I didn't remember that until you showed me -- you know, you showed me the entity names earlier or, yeah. Again, I don't recall the entity's date of

formation. There's all sorts of entities at Highland that we have gone through and I mean -- I'm not aware of specifics.

Q. Did you know before today that an entity called Highland CLO Management, LLC existed?

A. I may have known at one time but I just don't remember.

Q. So is it fair to say that you also don't know why the entity was formed?

A. I can speculate but I don't know.

Q. No. Do you know who authorized the creation of that entity?

A. I don't.

Q. Did you have any discussions with anyone at any time concerning the formation of HCLOM, LLC?

A. I don't recall any discussions. I mean, typically -- the lawyers are the ones that are involved in entity formation and things of that sort. I'm typically not in -- you know, in my role at Highland and Acis I'm typically not involved in those types of discussions.

Q. Do you know if HCLOM, LLC ever managed any of the Acis CLOs?

A. Not that I'm aware.

Q. Going back to the transfer agreement, do you

know why this agreement was entered into at this time?

A. I mean, it's --

MR. AIGEN: Are you asking him why it was entered or why it was entered on that specific date?

MR. MORRIS: At this time, as of November 3rd, 2017.

A. November 3rd, 2017, I mean, I don't recall the events of exactly why it was entered as of November 3rd, 2017. But, you know, just that there were issues at Acis and, you know, there are new entities being formed and this was part of -- this assignment and transfer agreement was part of the issues that Acis was facing.

Q. (BY MR. MORRIS) Well, other than the adverse judgment entered against it, what other issues was Acis facing at this time?

A. I mean, I think we talked about Highland wasn't willing to provide support to Acis as well. So it was facing -- I mean, you know, without employees it's not able to perform its duties.

Q. Okay. So we've got the adverse judgment and Highland said it wouldn't support it anymore, right?

A. Yes.

Q. Anything else?

A. That's what I recall generally.

Q. Okay. So Mr. Dondero with his Highland hat

told Mr. Dondero with his Acis' hat that he wasn't going to support Acis any longer?

MR. AIGEN: Objection; form.

Q. (BY MR. MORRIS) Do I have that right?

A. Highland made that determination that it wouldn't support Acis on a go-forward bases at some point.

Q. Okay.

A. You know --

Q. All right. Other than the adverse judgment -- withdrawn.

Other than the adverse arbitration award that was entered into against Acis' and Highland's decision that it would no longer support Acis, were there any other issues that Acis was confronting in the fourth quarter of 2017?

A. Not that I can recall.

Q. And is it your testimony on behalf of HCLOM that those are the two reasons why the assignment and transfer agreement was entered into?

A. Yeah. I mean, that's what I -- yes. That's what I generally remember from an HCLOM prospective. I mean, could there be something else that I don't remember? But that's what generally was going on at the time.

Q. Okay. And who made the decision to enter into this agreement?

A. I don't -- well, we can see who executed it.

Q. Right.

A. It looks like Jim did. Looks like Jim and the new director of HCLOM.

Q. So Jim did it both on behalf of Highland and Acis and Mr. Cullinane did it on behalf of HCLOM, correct?

A. Yes.

Q. Do you know why Dondero entered into this agreement on behalf of Acis and Highland?

A. Yes, generally. I mean, if Mr. Dondero sees, right, that the manager of the Acis CLOs is not going to be Acis Capital Management going forward, then to preserve the planning that's going on, he would have to sign and transfer the fees.

Q. And the reason that Acis wasn't going to be the manager of the CLOs is because Highland said that it would no longer support Acis, correct?

A. Highland would not support Acis, but also Acis didn't have the wherewithal for -- to make its obligations to Mr. Terry.

Q. All right. What was the purpose of the agreement; do you know?

A. The purpose of Exhibit 13?

Q. Yes, sir.

A. To transfer the participation interest. Transfer -- I'm sorry. The interest and the promissory note.

Q. Is that the only purpose of the agreement was to transfer the promissory note?

A. Well, and the interest too.

Q. Which interest are you referring to?

A. The CLO participation interest.

Q. That's the servicing fees we referred to earlier?

A. Yes.

Q. Was it anticipated that HCLOM would succeed Acis as the manager of the CLOs?

A. That was my understanding.

Q. And it was only as the manager of the CLOs that HCLOM would have been entitled to receive the servicing fees that are the subject of the participation interest, correct?

A. Yes. For -- HCLOM would only get the -- it had to become the manager, right, of the Acis deals to receive the servicing fees to then in turn remit the participation interest to Highland. That was it.

Q. Do you know if this agreement was the subject

of any negotiations?

A. I don't know.

Q. Do you know what role, if any, Mr. Cullinane played in the drafting or negotiation of this document?

A. I wasn't involved. I don't know.

Q. Did you ever ask anybody who the -- and he was the person acting on behalf of HCLOM at the time, correct?

A. He's the director of HCLOM, yes.

Q. Did you do any diligence at all to try to figure out what his intent and his motivation was in signing this agreement on behalf of HCLOM?

A. At the time of execution?

Q. At any time.

A. Documents like this are typically handled by the attorneys. So I would assume the attorneys would have hashed any of that out or anything like that.

Q. But in preparation for today's deposition as HCLOM's representative, you didn't make any effort to speak with Mr. Cullinane to determine what he was thinking when he entered into this agreement on behalf of HCLOM, correct?

A. I did not.

Q. Are you aware of any demands or requests Mr. Cullinane made on behalf of HCLOM with respect to

this agreement?

A. I'm not aware.

Q. Okay. If we look at the agreement, the third recital says, "HCM has notified Acis that HCM is unwilling to continue to provide support personnel and other critical services to Acis with respect to the CLOs."

Do you see that?

A. Yes.

Q. Okay. Who made that decision on behalf of Highland that Highland was unwilling to continue to provide support personnel and critical services to Acis?

A. I mean, that would be Mr. Dondero.

Q. Do you know the reasons for the decision -- withdrawn.

Did he ever tell you what his reasoning was for that decision?

A. I'm trying to -- talking about in November. I mean, I don't know if it was related -- I mean, again, this is in November 2017. I don't know. There is an -- you know, Josh Terry has an award that's I think public, from my understanding and you're managing assets at the time with a very public dispute. You have investors that aren't happy about it.

So I think my general understanding was

it's best to move on from -- you know, you want a clean manager to manage these assets. You don't -- on a go-forward bases.

Q. What's the bases for your recollection that the award was public as of November 3rd, 2017?

A. I don't know. Just -- that's what I kind of generally remember. I thought it was like a, you know, something that was known.

Q. Do you recall seeing any articles in the press prior to November 3rd about the arbitration award?

A. I don't recall seeing it in the press. Like, you know, when there's decisions made in court cases, right, those remain -- you know, like those are published by the Court, things like that.

So, again, this is -- this happened seven years ago. I kind of -- I thought that was part of the caliculus. Sort of like, hey, you know, the investors don't want this, right?

You got to -- you have to move to a different manager or otherwise, you know, the business is that -- you just -- it doesn't look good for the business.

Q. But Mr. Dondero was in control of Acis before and after the arbitration award, correct?

A. Yes.

Q. So there was no change in control with the issuance of the arbitration award, correct?

A. There was not.

Q. Was there a -- did you perceive that there was a loss of confidence in Mr. Dondero?

A. No.

Q. Mr. Dondero was the face of Acis at this time, correct? He was the leader of Acis, correct?

A. Yeah. Yes. He was the control -- but there was a team, a CLO team, right? That -- yeah, but -- Mr. Dondero is always kind of the head, right? So he's the head of all these entities. There's a CLO team there that is, you know, interfacing on a day-to-day bases.

So there's -- to answer your question, yeah, Mr. Dondero was there. There's a team of people still managing the Acis deals. Jim can't do it all by himself.

Q. Right. And that team was the exact same as it had been since Mr. Terry left Acis in June of 2016, correct?

A. I believe so. I don't remember anyone leaving afterwards but -- again, it could be. It was so long ago.

Q. So, in fact, the only thing that happened to

Acis between June 1, 2016, and the date of entry of this agreement is, number one, Mr. Terry left, correct?

A. He did, yes.

Q. And Mr. Terry's departure didn't cause any problems for Acis, correct?

A. I -- look, I think whenever there is portfolio manager turnover and there is -- I mean, there are perceptions in the market, right, of what people -- when you invest your own money, you want to know who the manager is. Josh was the day-to-day person. I mean, you know, it could have upset some of the investors. I don't know.

Q. Well, Mr. Dondero certainly had enough confidence in the Acis' brands to enter into two different sets of sub-advisory and shared services agreements after Mr. Terry left, correct? We have looked at those.

A. Yes.

Q. And Mr. Dondero certainly had enough confidence in Acis and the Acis' brand to launch the Acis Seven CLO in the spring of 2017, correct?

A. Yes.

Q. Okay. So is it fair to say that notwithstanding Mr. Terry's termination -- oh, one more thing. Mr. -- Highland sued Mr. Terry in the fall of

2016, correct?

A. I don't remember the dates, so...

Q. It was a public litigation, right? And then Mr. Terry forced it into arbitration. Do you remember that?

A. Vaguely.

Q. So notwithstanding Mr. Terry's departure and the public litigation that Highland itself commenced, Mr. Dondero was still confident enough in the Acis' brand to both enter into new restated and amended shared services agreements and sub-advisory agreements and launch a new CLO under the Acis' brand, correct?

A. Yes.

Q. So is it anything other than the arbitration award that caused the entry into this assignment and transfer disagreement?

A. Yeah, I don't know. What I generally remember was that the Acis' brand at that time was -- the award was not a positive for the Acis' brand. And the decision was made to therefore, you know, kind of shift things to a new manager.

Q. Okay. Do you know who on behalf of Highland provided the notification referred to in the third whereas clause?

A. I don't know who did that.

Q. Do you know who received the notification on behalf of Acis?

A. I don't.

Q. But you would agree that Mr. Dondero was the control person for both entities at this time, correct?

A. Yes.

Q. At the time, do you recall whether Acis was in default under the shared services agreement?

A. I don't remember.

Q. At the time, do you recall if Acis was in default under the sub-advisory agreement?

A. I don't remember.

Q. At the time, do you recall if Acis was in default under any agreement with anybody in the world?

A. I don't remember.

Q. Did Highland ever send a notice of default to Acis for failure to pay for services rendered under any agreement that it had with Acis?

A. I don't know. You would have to ask the attorneys.

Q. Okay. As the accountant, are you aware -- withdrawn.

As the chief financial officer of Highland, are you aware as you sit here right now of Acis failing to pay Highland any monies due and owing, other than the

participation fees?

A. I don't -- I don't know -- this was seven years ago. I don't remember. There could have been some outstanding bills. I don't remember.

Q. All right. But your speculation aside, you have no recollection of that, correct?

A. Yeah. Without documents, it's like -- I don't know.

Q. The next whereas clause says that, quote, "Acis has determined that the effect of the notification is that it cannot fulfill its duties as the portfolio manager of the CLOs."

Do you see that?

A. Yes.

Q. So Highland is the one who gave the notification and as a result of Highland's notification, Acis determined that it couldn't fulfill its duties, correct?

A. Yeah. I guess, if Highland notified Acis that it's not going to provide support and then -- then turn around and says, yeah, Acis has determined the effect of the notification is that it cannot fulfill its duties as portfolio manager of the CLOs.

Q. Okay. And Mr. Dondero is the person on behalf of Highland who made the decision not to continue to

provide support to Acis, correct?

A. Yes.

Q. And was Mr. Dondero also the person who made the decision on behalf of Acis that Acis could no longer fulfill its duties as portfolio manager as a direct consequence of the decision he made on behalf of Highland not to provide support?

A. Yeah. Yes. It was the portfolio manager and also I think the fees it was going to incur and, like I said, the brand was damaged at that point.

Q. Okay. Was there any damage to the brand other than the issuance of the arbitration award?

A. I generally recall that as being, you know, again, as kind of -- that was pretty much it. I'm trying to remember if there was any other -- I'm not -- I mean, I just --

Q. So as you sit here today, you can't remember any cause of the alleged damage to the Acis' brand other than the issuance of the arbitration award, correct?

A. Yeah. I can't -- there may have been other factors. Again, I'm not talking to the investors. Where I sit, that's my general understanding.

Q. Okay. There are other entities that provide similar shared services and sub-advisory services other than Highland, correct?

A. Are you saying there's this other third-party servicing entities?

Q. Yeah.

A. Yes.

Q. In fact, Brigade is one, right? Brigade wound up providing the same services to Acis that Highland used to provide to Acis, correct?

A. Yes. Yes. I mean, there are other CLO servicers.

Q. Is it fair to say Mr. Dondero made a determination on behalf of Acis that the Acis CLOs would not be managed -- withdrawn.

Do you know if Acis ever considered finding a service provider other than Highland before it determined that it couldn't fulfill its duties?

A. No.

Q. Are you aware that under the shared services agreement and the sub-advisory agreement, unless Acis consented, then Highland could not terminate their provision of services unless and until a replacement was found?

A. I don't remember that.

Q. But that's actually what happened, right?

A. Yeah. I mean, it's in this document. It says Highland is not going to provide services. Right.

Q. But Highland did continue to provide services, notwithstanding Mr. Dondero's statement to the contrary, correct?

A. Yes.

Q. Okay. Did Acis ever consider suing Highland for breach of contract?

A. I don't know.

Q. Is it fair to say that Acis simply accepted Highland's notification and said, okay, we're done?

A. Yeah.

Q. Again, notwithstanding the notification, Highland continued to provide services to Acis and Acis continued to perform until Mr. Phalen was appointed the Chapter 11 Trustee, correct?

A. Yes. I mean, if you are -- if a successor manager is going to take over the existing Acis deals, you still have to continue to provide support. Otherwise, those deals are going to fall apart.

Even if you telegraphed your intent to not provide support, you are still going to provide support until the transfer is effectuated.

Q. Can you turn to paragraph four of this agreement? Do you know that -- what paragraph four relates to?

A. The expense support paragraph?

Q. Yes.

A. It looks like when -- you are transferring from one manager to another manager, right? And I think this agreement is contemplating that there were some expenses that will still be in Acis' name, right?

But then HCLOM, I think the intent was going to receive fees, right? So then you are saying HCLOM shall promptly pay to Acis or Acis with a request to Acis' creditors the amount of such shortfall.

Right in the middle of that, HCLOM's obligations -- this paragraph two -- exceed greater than 2 million of Acis' legal expenses --

THE COURT REPORTER: You are going to have to either slow down for me or read in your head.

THE WITNESS: Okay.

A. Or greater than 1 million of Acis' administrative expenses in the aggregate. I guess these are all defined.

I think that's -- I think what the attorney is trying to -- you know, you are moving from Acis to HCLOM, HCLOM was going to receive fees. There may not be anything in Acis to pay some of these expenses.

I think that HCLOM owes to Acis for whatever reason. And so that's what this -- that's what this pair is trying to do.

Q. Did you have any involvement in the drafting of this section?

A. I don't remember, really.

Q. Do you remember participating in any discussions concerning expense support?

A. No.

Q. As the HCLOM corporate representative today, is it your understanding that HCLOM owed Highland any obligations or had any duties under this agreement?

MR. AIGEN: Objection; form.

Q. (BY MR. MORRIS) I'm not asking for a legal conclusion. As a matter of fact, is it, you know, did HCLOM have any responsibilities to Highland after this agreement?

A. Responsibilities to Highland?

Q. Yes.

A. I'm not aware of any.

Q. Okay. So it's your testimony as HCLOM's representative, that you're not aware of any obligation that HCLOM undertook to Highland under this agreement?

A. Yeah. I mean, HCLOM, the purpose of this agreement is to assign and transfer the note and assume our participation interest.

I mean, those are -- the note would then be owed from Highland to HCLOM and the Acis fees from the

Acis CLOs to HCLOM. I just don't see how HCLOM, you're asking, would have an obligation to Highland.

Q. Well, the expectation was that HCLOM would succeed Acis, including the right to receive the servicing fees, right?

A. Right. And then HCLOM would then remit the fees to Highland, right? And that -- that's -- because they're going to step into Acis' shoes, under this -- that agreement, right?

So then HCLOM will have the obligation under the CLO participation interest agreement to remit, you know, that 20 bases points over to Highland.

Q. And is it fair to say that the reason Highland agreed to transfer the note to HCLOM is because HCLOM was agreeing to become the new portfolio manager for the Acis CLOs and would share in the servicing fees after that happened?

A. Yeah. My general recollection is to preserve the planning and -- and you change the collateral manager. So you just assign over all the agreements to preserve the planning.

Q. Okay. So --

A. Yeah, that's my general recollection.

Q. Okay. The reason Highland agreed to transfer the note to HCLOM is because the parties intended and

expected HCLOM to succeed Acis as the portfolio manager of the Acis CLO and reap the benefits in the form of the servicing fees, which it would share with Highland, correct?

A. I mean, it -- I just view it as there's a note between Acis and Highland and there's a CLO participation agreement. And that each agreement is moving to HCLOM as successor manager to preserve the tax planning that was effectuated Acis, you would preserve that at HCLOM.

So I guess, my view isn't, well, you moved the note because you're getting a new manager. It's just you had the planning set up at Acis. Now you have the planning set up at HCLOM.

Q. So you move the two of them in tandem, right?

MR. AIGEN: Objection; form.

Q. (BY MR. MORRIS) That's what this agreement does, isn't it?

A. Yeah. I mean, yeah. I mean, both -- both agreements were -- yeah, I mean, both -- they were -- both of them were moved over, just like they were --

Q. Could you think of any reason why Highland would give HCLOM the note, assign the -- I mean, Highland isn't even the one signing the note, right? It's Acis.

Can you think of why Acis would assign the note to HCLOM if it wasn't also assigning the obligation to become the portfolio manager?

A. I mean, if you are saying would the Acis that are -- be -- if HCLOM got the CLO participation interest and then the Acis note wouldn't move over, again, that wasn't part of the planning. So I just don't see that as the tax planning.

To me, they are -- you know, the planning contemplated the sale of the CLO participation interest and a note to the CLO manager. So if HCLOM is the successor manager, it just -- those -- those agreements move as well.

Q. All right. But under the note, Highland agreed originally to pay Acis money, correct?

A. Yes.

Q. What did Highland receive in consideration of the agreement to pay money?

A. Again, we talked about there was tax benefits of this transaction. There was cash management benefits of this transaction. So that's what Highland is --

Q. Did it not also agree to issue the note because it was going to obtain its participation interest in the servicing fees? Was that not a reason to give the note?

A. So we're saying when Highland initially entered

into the note with Acis, it entered into the -- again, it entered into the note with Acis as part of the deferral.

You know, it's -- the tax planning would have been, hey, pay participation interest and Highland just keep that, right? So the tax planning was you pay a portion of your CLO fees, Highland, right?

But those -- that transaction, that -- like I said earlier, that note irrespective of what fees you would receive -- let's say the fees went to zero. That note between Highland and Acis was a real bona fide note subject to risk, subject to -- you know, again, subject to the payment streams that Highland agreed to pay Acis, the fixed payment stream.

Q. Again, notwithstanding that transfer agreement, Highland continued to provide services to Acis under both the sub-advisory agreement and the shared services agreement, correct?

A. Yes.

Q. Okay. In fact, Highland wound up filing proofs of claim in the Acis bankruptcy case, correct?

A. Highland filed proofs of claim for -- are you asking me the question of -- I'm sorry. I don't understand what --

Q. Are you aware that Highland filed proofs of

claim against Acis in the Acis bankruptcy case for unpaid fees under the shared services and sub-advisory agreement?

A. Obviously, I was involved. I don't -- there was so much going on at the time, John, I don't recall.

Q. Okay.

MR. MORRIS: Let's mark as the next exhibit, which is 14, a proof of claim from the Highland bankruptcy case that was marked as Claim Number 27.

(Exhibit 14 marked.)

MR. MORRIS: Good stapler you have there.

MR. AIGEN: Right. I can't believe it is still going.

MR. MORRIS: Okay. Very good.

Q. (BY MR. MORRIS) All right. Mr. Waterhouse, do you see this is a proof of claim that was filed by Highland in the Acis bankruptcy?

A. In the Acis bankruptcy, yes. I see this. This is the Acis bankruptcy.

Q. Right.

A. Okay.

Q. And if you look at the second page, the bases for the claim is the sub-advisory services and the shared services agreements in Number 8 there.

A. Yes.

Q. And the claim is for over $4.6 million. Do you see that?

A. I do.

Q. And it was signed by Mr. Ellington on August 1, 2018. Do you see that?

A. I do.

Q. Okay. And so does that refresh your recollection that Highland filed an unsecured proof of claim against Acis in the Acis bankruptcy for unpaid fees under the shared services agreement and the sub-advisory agreement?

A. I don't recall even -- as I was saying, I'm not aware that this happened but obviously it did. I was -- I had pretty much zero involvement in the Acis bankruptcy.

Q. Well, as the Highland CFO, were you aware in 2018 that Highland was carrying a receivable from Acis in excess of four and a half million dollars?

A. I don't recall, but if it's on the books, it's on the books.

Q. Are you aware that Highland also filed an administrative claim in the Acis bankruptcy?

A. I had zero involvement in the Acis bankruptcy.

Q. All right. So you are not aware of it?

A. I just...

MR. MORRIS: Let's mark as the next exhibit which is --

THE COURT REPORTER: 15.

MR. MORRIS: -- 15.

(Exhibit 15 marked.)

Q. (BY MR. MORRIS) HCLOM's Combined Discovery Responses and Objections. I need a copy of that. We'll come back to it. Instead, let's go back to -- let's see if we can get side-by-side Exhibit 4, which is the acknowledgment and waiver and the assignment and transfer agreement, which is Exhibit 13.

Okay. So the assignment and transfer agreement is signed as of November 3rd, 2017, right?

A. Yes.

Q. And if you look at Section 1 and 2 of that agreement, Acis was required to promptly provide notice to the controlling class of each CLO and subsequent to the delivery of the notices each of Acis and HCLOM was required to promptly pursue an appointment for each CLO, correct?

A. Yes.

Q. Okay. And those things never happened, correct?

A. No. I mean, we talked about the resets, right? They were working with the existing investors in the

Acis CLOs about a successor manager. There was a reset on the table, as we discussed, Acis 2013-3, that got nixed because of the bankruptcy.

There were subsequent reset attempts, right? But it was all stopped because of the bankruptcy. As there was a TRO from what I --

Q. Well, so look at Exhibit 4. That's the acknowledgment and waiver. That's where HCLOM agreed that those things never happened and never would happen and it's dated January 19, 2018, before the Acis bankruptcy is even filed. Isn't that correct?

A. Well, I think this acknowledgment and waiver just says we have to promptly provide notice. But again, we talked about this. I think this is just waiving the notice provision, but they're talking to the investors of the CLO in definitely January 2018, Acis 2013-3.

So my interpretation is that they -- whoever drafted this is saying we don't have to provide you the notice -- yeah. There's a notice provision and we're just waiving that.

Q. But that's because HCLOM, Limited will never become the successor manager, correct? That's what this is saying?

A. I don't think they -- the Acis 2013 reset, what

I remember, was that at the end of January. Right? This is January 19th. So again, I think that CLO went to market and -- at the end of January.

Q. And who was marketing that reset? Was that Mizuho?

A. Our CLO team was working with a third -- you know, a counterparty. I don't remember the counterparty but Hunter Covitz, the CLO team, was working on that reset as --

Q. And if the reset was successful, do you know who the portfolio manager was going to be?

A. It's my understanding, HCLOM.

Q. HCLOM, LLC or HCLOM, Ltd.?

A. My understanding is HCLOM, Ltd.

Q. And what's the bases for that understanding?

A. Yeah, just kind of -- just general knowledge of being in there.

Q. Even though this agreement, this very agreement that HCLOM signed says that each applicable CLO issuer will appoint Highland CLO Management, LLC?

A. Yeah. I mean, that's what this document says. It was just my general understanding that HCLOM was going to be the successor management.

I don't recall the interface between how Highland CLO Management, LLC or maybe -- again, I wasn't

involved in drafting these documents. I'm not -- or notice provisions under the attorneys.

I mean, the attorneys could be contemplating it goes to, you know, again to HCLOM. Maybe there's a subsidiary of HCLOM. I don't know.

Q. But you have said multiple times today that seven or eight years ago is a long time and that you don't remember, correct?

A. Yeah. I mean, you are --

Q. Just let me finish.

Is that correct?

A. Yes.

Q. And you did not look at one single document to prepare for the topic on resets, correct?

A. That's correct.

Q. And so all you are doing here today is going on your memory of what you think happened seven or eight years ago, correct?

A. Yes. I'm doing that for a lot of things.

Q. Okay. And do you think -- how do you explain the fact that Mr. Dondero and HCLOM signed an agreement that says that CLO Management, LLC will be appointed as the new collateral manager of the CLOs and not HCLOM, Limited? How do you explain that?

A. No. I think I said earlier, I mean, it could

be just an oversight. It could be a typo. Could be when we went through expense report in para four. When we read the -- parsed this. Did you see HCLOM is referred to as HCOLM, H-C-O-L-M, instead of H-C-L-O-M?

These things are very close to each other. Just as an attorney messed this up, it could have easily messed this up too.

Q. So that's your testimony, that that's the speculation, that this is a typo? Is that HCLOM's explanation for this document is that it's a typo?

A. What I'm saying is, I don't know for sure and I have testified to that.

Q. Do you understand that indeed the reason, you know, C follows -- D follows C, correct?

A. Yes.

Q. And C says that "In order to comply with the U.S. Risk Retention Rules, in connection with each such reset transaction, each applicable CLO issuer will appoint Highland CLO Management, LLC as the collateral manager of such CLO."

Have I read that accurately?

A. Yes.

Q. Okay. And the very next sentence says, "Therefore."

And what does therefore mean to you?

That's a consequence, right? Is that a fair way to read therefore?

A. Yes.

Q. As a consequence of the decision to appoint Highland CLO Management, LLC, quote, "None of the notices have been, nor will be delivered pursuant to the transfer agreement and none of the appointments have been, nor will be made pursuant to the transfer agreement."

Have I read that in substance correctly?

A. Yes.

Q. So is it fair as HCLOM's corporate representative today to say that D is the effect of C? There's a cause and effect there?

MR. AIGEN: Objection; form.

A. I mean, it's saying that in order to comply with each -- you know, each reset transaction, it's saying none of the notices have been nor will be delivered. I mean, it's --

Q. (BY MR. MORRIS) It's because -- the reason the notices have not and will not be delivered is because a different entity has been designated to be the portfolio manager or the collateral manager, correct?

A. I don't know that, but...

Q. Okay. You're HCLOM's corporate representative

today, right? And this is one of the ancillary agreements, right?

A. I mean.

Q. Is that correct?

A. Correct.

Q. You understood that before you walked in the room today, that I would be asking you questions about this document in your capacity as HCLOM's corporate representative, correct?

A. Correct.

Q. And you didn't talk to anybody who signed this document about whether or not there was a typo or what it meant, correct?

A. Correct.

Q. And you don't have any -- and you weren't involved in the drafting of this document, correct?

A. I was not.

Q. You didn't have any input into the terms of the document, correct?

A. Not that I recall.

Q. And you didn't look at any of the reset documents, correct?

A. I did not.

Q. So you don't know whether HCLOM, Ltd. or HCLOM, LLC is identified as the prospective portfolio manager

of the reset Acis CLOs, correct?

A. I don't. I don't know.

Q. We talked earlier that Highland owed a payment under the note as of May 31, 2018. Do you remember that?

A. Yes.

Q. Okay. And I think you acknowledged at the time that Highland didn't make that payment, right?

A. Yes.

Q. And instead of making the payment, a forbearance agreement was entered into; is that right?

A. Yes.

Q. Let's mark as the next exhibit which is 15, the forbearance agreement dated as of May 31, 2018.

(Exhibit 15 marked.)

Q. (BY MR. MORRIS) Now, you signed this document, right?

A. I did.

Q. Is that your electronic signature or is that your wet signature, if you know?

A. I really don't know.

Q. Do you remember the circumstances surrounding your execution of this document?

A. Not really.

Q. Do you know why Highland didn't make the

payment that was due on May 18 -- withdrawn.

Do you know why Highland didn't make the payment that was due on May 31, 2018?

A. I don't recall.

Q. Do you know if Mr. Dondero made the determination not to make the payment at that time?

A. I don't remember.

Q. Did you discuss with anyone whether Highland should make the payment that was due on May 31, 2018?

A. I don't recall.

Q. Did HCLOM ever demand the payment?

A. Not that I recall.

Q. Do you know if HCLOM ever declared a default under the note for failure to make the payment that was due on May 31, 2018?

A. I don't believe it did.

Q. Do you know if HCLOM ever exercised any remedies arising from Highland's failure to make the payment that was due on May 31, 2018?

A. I'm not aware of any.

Q. Instead, the forbearance agreement was entered, correct?

A. A forbearance agreement was entered into.

Q. Okay. And did you review this document before you signed it?

A. I don't remember signing this document. So I don't even -- I may have. I may not have.

Q. This is another one of the ancillary agreements that was identified in the 30(b)(6) notice, correct?

A. Yes.

Q. What did you do to prepare yourself to answer questions about this agreement?

A. Just read through the agreement.

Q. You never spoke with Mr. Cullinane about this agreement, right, because you never spoke to him at any time, correct?

A. Correct.

Q. Do you recall discussing this document with anybody before you signed it?

A. I don't recall.

Q. Do you recall who asked you to sign it?

A. I don't.

Q. Do you recall where the idea of a forbearance agreement originated?

A. I don't.

Q. What was the benefit to HCLOM from entering into this forbearance agreement -- withdrawn.

Do you know why HCLOM entered into this forbearance agreement?

A. It's my general understanding that everything

that was going on with the Acis bankruptcy and the litigation there, the forbearance agreement was entered into to kind of let things settle in the Acis bankruptcy.

Q. Is it HCLOM's position that Highland had an obligation to pay on the note regardless of whether or not it received any benefits in connection with the transfer agreement?

A. Yes.

Q. Okay. So then what does the Acis bankruptcy have to do with anything? You mentioned the Acis bankruptcy and wanting to let things, you know, settle down. How does the Acis bankruptcy have any impact on Highland's obligation to pay HCLOM under the note?

A. I don't know. That's what I generally remember.

Q. HCLOM was relieved of the obligation to make the HCM stabilization fees, correct?

A. HCLOM was, yes.

Q. But HCLOM -- everybody knew that HCLOM wasn't receiving any fees under the portfolio management agreement, correct?

A. Yes.

Q. So there's no benefit to HCLOM from being relieved of an obligation it didn't have, fair?

A. There's no benefit to HCLOM -- I mean, yeah. HCLOM didn't have any assets.

Q. Right. And it didn't have any -- it wasn't receiving anything which would be defined as the HCM stabilization fees, correct?

A. Correct. Yeah. I mean, HCLOM never received -- it didn't have any assets; it wasn't getting any.

Q. And everybody knew that, right, at this time?

A. I mean, yes. There were people at HCLOM or Highland that knew about this.

Q. What was the benefit to HCLOM from entering into this forbearance agreement?

A. I mean, it's working with the investors. It's working with Highland to preserve that relationship with Highland. It's working to -- the CLO fees I think were still, you know, trying to be reset or moved over at some point. So I mean it's HCLOM's benefit to, you said, hasn't received anything, to work with Highland and kind of preserve that relationship.

Q. What investors are you referring to?

A. The investors in the CLOs.

Q. Why do the investors in the CLO care if Highland pays HCLOM under the note?

A. I mean, the investors care about entering into

new agreements with HCLOM as manager of the CLO. What I'm referring to is HCLOM entered into forbearance while all that's going to be worked out with Highland to preserve its relationship with Highland.

Q. So HCLOM did this as a solid to Highland; that's the benefit that it got?

MR. AIGEN: Objection; form.

A. I mean, you know, there's -- people work things out. There are work-outs. There are things that happen like that. I mean, it's -- if you get in a loan work-out situation, yeah, things like that happen.

Q. (BY MR. MORRIS) But usually the lender gets something in return, right? I'm not familiar with lenders agreeing to forebear and getting nothing in return and I'm still struggling to identify what -- I'm still struggling to hear from you if you can identify, as HCLOM's corporate representative today, what exactly HCLOM got in exchange for not getting paid.

A. Again, it's preservation of relationship, things like that.

Q. Okay. Any other things like that?

A. No.

Q. Did Mr. Dondero ever tell Mr. Cullinane that if HCLOM pressed for the payment under the notes, HCLOM can forget about being a CLO manager in the future?

A. You would have to ask Mr. Dondero.

Q. Did you ever hear that?

A. I didn't.

Q. Do you think the relationship would have been damaged if HCLOM asked for what it now contends it was entitled to under the note?

A. I mean, that's my understanding.

Q. Who did you get that understanding from?

A. Just being in the environment, being in -- it's -- if you are going to forebear something, right, with Highland -- what is HCLOM getting? HCLOM didn't receive cash. So, again, you are looking at this saying to enter into the forbearance agreement, right, what is it getting? It is getting a promise to pay in another year. And so it's preserving that relationship and kind of kicking the timetable out. So that's just kind of my bases just reading the document.

Q. Is it fair to say that there's a quid pro quo in this document that Highland won't ask for the HCM stabilization fees and HCLOM won't ask for the stabilization payments?

A. I mean, it's saying in one, HCM agrees it will not demand payment. Right? And then it says HCLOM agrees it will not demand payment of the stabilization payments for a period of one year.

So it's saying Highland agrees it will not demand payment of stabilization fees for a year, kicks it a year, and then HCLOM is saying that they won't demand payment for a year as well.

Q. Let's look at the next document which is the other forbearance agreement dated a year later.

(Exhibit 16 marked.)

Q. (BY MR. MORRIS) And you have seen this document before, sir?

A. Yes.

Q. And you signed it now on behalf of both HCLOM and Highland, correct?

A. Yes.

Q. By this time, the Acis's plan had been confirmed, correct?

A. I don't remember when it was confirmed, but...

Q. Do you remember it was in the summer of 2018?

A. Okay. So, yeah.

Q. So there's no more Acis resets going on in May of 2019, correct?

A. Yeah, I don't think there are.

Q. And you signed this document on behalf of HCLOM, correct?

A. Yes.

Q. Do you remember the circumstances that led you

to sign this document in May of 2019 on behalf of both Highland and HCLOM?

A. I don't I mean absolutely. I think HCLOM -- when I reviewed this document, I looked at it and said, oh, wow, I signed on behalf of both entities.

Q. Yeah.

A. But, no, I don't recall.

Q. Is it fair to say that as of May 2019, there's no chance that HCLOM is ever going to be the portfolio manager for Acis, any Acis CLO?

A. The Acis bankruptcy was confirmed. If all that went to Brigade, then yeah. None of the Acis deals would have been able to go to HCLOM.

Q. Was there any business being contemplated with HCLOM in the first half of 2019?

A. The CLO group is always trying to want CLOs and do deals. I don't remember specifically.

Q. Do you remember generally? Do you remember HCLOM ever being identified -- let me finish -- do you remember HCLOM, Ltd. ever being identified as a portfolio manager in 2019?

A. I don't recall. Again, I don't recall, but there's a CLO team at Highland and it's responsible for that, but I don't recall.

Q. What benefit was there to HCLOM from entering

into this amended-and-restated forbearance agreement?

A. The only thing I can think of is for -- again, to preserve that relationship as well.

Q. To preserve it for what?

A. For future fees or things like that.

Q. But you are not aware of any attempt being made by anybody in 2019 to install HCLOM, Ltd. as a portfolio manager that would generate fees, correct?

A. I don't recall, but I'm not saying there weren't efforts that were ongoing.

Q. But you have no reason to believe that there were any efforts ongoing; it's pure speculation, correct?

A. There is a team at Highland that is responsible for managing the CLOs. They routinely were, again, coming up with new CLOs, talking to investors. Just because I'm not aware of it doesn't mean that it wasn't going on in the background.

Q. Okay. You weren't a member of the team, right?

A. I wasn't.

Q. You had no personal knowledge of anything you are speculating about, correct?

A. I wasn't -- I wasn't a member of the Highland CLO team. I typically never engaged in any type of marketing or I never talked to CLO investors, anything

like that. So that's part of that team and that's the unique thing about Highland is it was a CLO manager and there was a team of folks and that's how it grew up.

Q. And in fact, you have no personal knowledge of any discussion or attempt by anybody in the world after January 19, 2018, to install HCLOM, Ltd. as the portfolio manager of the CLO, correct?

A. I'm not aware of any, but that doesn't mean they weren't going on in the background.

MR. MORRIS: I'm going to move to strike everything after "I'm not aware of any."

Q. (BY MR. MORRIS) Do you recall anybody explaining to you why the amended-and-restated forbearance agreement was needed?

A. I don't remember.

Q. Do you know why Mr. Cullinane didn't sign this document?

A. No.

Q. Do you know who's handwriting it is that put your name and your titles on this document?

A. I do.

Q. Who is that?

A. Kristin.

Q. Kristin Hendrix?

A. Uh-huh.

Q. Did she explain to you what this document was?
A. I can speculate, but I don't remember.
Q. I appreciate the lack of speculation.
MR. MORRIS: Let's take a short break. I'm really near the end. I have one or two documents left maybe.
THE VIDEOGRAPHER: Off the record. The time is 4:12.
(Break taken from 4:12 p.m. to 4:25 p.m.)
THE VIDEOGRAPHER: Back on the record. The time is 4:25.
Q. (BY MR. MORRIS) I have just a few more minutes, Mr. Waterhouse. Thank you for your patience. Let's go to what we'll mark as Exhibit 17, which is HCLOM, Limited's response to Highland's objection.
(Exhibit 17 marked.)
Q. (BY MR. MORRIS) Do you see this document, sir?
A. Yes.
Q. And have you read it before?
A. Yes.
Q. And do you see that it was prepared in April of 2023?
A. Uh-huh.
Q. As HCLOM's corporate representative today, are you aware of any mistakes in this document?

A. I'm not aware.

Q. Are you aware of any amendments needed to fully and accurately set forth HCLOM's factual and legal bases for responding to the claimed objection?

A. I'm not aware.

Q. So HCLOM doesn't intend to amend this in any way; is that correct?

MR. AIGEN: Objection; form.

A. Not that I'm aware of.

Q. (BY MR. MORRIS) There's a section in here starting on page eight concerning the Debtor's position taken in this case in the Acis bankruptcy case. Do you see that?

A. Which paragraph?

Q. It's the heading that's above 33.

A. Yeah.

Q. Do you see that section of this brief?

A. Uh-huh.

Q. As HCLOM's corporate representative, are you aware of any factors that are relevant to the position described in Heading C that are not described in this document?

MR. AIGEN: Objection; form.

A. I'm not aware.

Q. (BY MR. MORRIS) Let's mark as the next

Exhibit 18, a document that is labeled HCLOM's Combined Discovery Responses and Objections.

(Exhibit 18 marked.)

Q. (BY MR. MORRIS) Do you know what this document is, sir?

A. Yes.

Q. What is this document?

A. It's Highland's Combined Discovery Responses and Objections.

Q. If you look at page ten, you will see it's dated August 23, 2024. Do you see that?

A. August 23, 2024, yes.

Q. Did you personally review this document at any time before August 23, 2024?

A. I did not.

Q. So is it fair to say that this document doesn't reflect any comments or -- withdrawn.

Is it fair to say, then, that you did not have an opportunity to amend this document before it was served on me?

A. Yes. I mean, I didn't review it as of -- I read it later.

Q. Okay. You read it in accordance with the last page, the verification on or about September 11, 2024, correct?

A. Yes.

Q. In looking at the verification, it says that -- towards the bottom, quote, "Based on my personal knowledge and/or knowledge obtained from other persons believed to have personal knowledge, HCLOM's answers to the Debtor's interrogatories are true."

Have I read that correctly?

A. Yes.

Q. Can you identify what other persons you are referring to there with personal knowledge?

A. I didn't talk to anybody.

Q. Well, but it says that you did.

MR. AIGEN: Objection; form.

Q. (BY MR. MORRIS) It says, quote, you obtained knowledge from, quote, "From other persons believed to have personal knowledge."

Is that just not accurate?

A. Yeah. I mean, I prepped with Deborah and Michael.

Q. And in verifying these interrogatories answers, you did not obtain any knowledge from other persons believed to have personal knowledge, correct?

A. Yeah. I just read through this document.

Q. Okay. So would it be more accurate to amend that statement to say, "Based on my personal knowledge

and/or discussions with counsel, Highland's answers to the Debtor's interrogatories are true"?

MR. AIGEN: Objection; form.

A. Sure.

Q. (BY MR. MORRIS) That would be more accurate because you did not, in fact, speak with anybody that you believed had personal knowledge, correct?

A. True.

Q. And you have no reason to believe that the lawyers you spoke with have personal knowledge regarding any of the facts of these interrogatory responses, correct?

A. Correct.

Q. Are the responses set forth in this document accurate today to the best of your knowledge?

A. Yes.

Q. Are you aware of any responses that need to be amended or modified in any way to make them more accurate?

A. I'm not aware.

Q. Can you turn to Response Interrogatory Number 1, which is on the second page of the document.

Do you understand that HCLOM was asked to identify each thing of value that HCLOM provided for Highland's benefit in exchange for the transfer of the

note? That's what the interrogatory asked, right?

A. Correct. Yeah.

Q. Does the answer to Interrogatory Number 1 accurately describe what HCLOM contends is, quote, "each thing of value" that HCLOM provided for Highland's benefit in exchange for the transfer of the note?

A. Yes. I mean, this seems fine.

Q. I'm looking at Interrogatory Number 2. That asks HCLOM to identify the person who negotiated the assignment on behalf of each party thereto. Do you see that?

A. Yes.

Q. HCLOM states that Mr. Surgent and Mr. Cournoyer drafted the terms of the assignment. Do you see that?

A. Uh-huh.

Q. Do you know if anybody instructed them to do so?

A. I'm not aware.

Q. Do you have any reason to believe that Mr. Surgent and Mr. Cournoyer drafted the terms of the assignment without instruction or direction?

A. I wasn't -- I don't know.

Q. Did you make any effort to ascertain the voracity of the statement concerning Mr. Surgent and Mr. Cournoyer before signing the verification?

A. No. I took what counsel provided as correct.

Q. Then it says that Mr. Dondero executed the assignment on behalf of Acis and Highland. Do you see that?

A. Uh-huh.

Q. And you can see that from the document, correct?

A. (Moving head up and down.)

Q. And you can also --

A. Yes.

Q. And you can also see that Mr. Cullinane executed on behalf of HCLOM, correct?

A. Uh-huh.

Q. Okay. But this interrogatory response doesn't identify the person who negotiated the assignment on behalf of each party thereto, correct?

A. Correct.

Q. Is that because the assignment wasn't the subject of any negotiations?

A. I don't know.

Q. You don't know if it was the subject of negotiations?

A. I don't know, yeah.

Q. And you didn't speak with anybody who might have personal knowledge as to whether or not the

document is the subject of negotiations, correct?

A. Yes.

Q. Interrogatory Number 8 asks when HCLOM first disclosed the existence of the agreement to Mr. Terry or his counsel. Do you see that?

A. Uh-huh.

Q. And the answer is that -- there's an objection because Highland was actually the party that made the disclosure. Do you see that?

A. Yes.

Q. Do you know who on behalf of Highland made the disclosure?

A. I don't.

Q. Did you ever ask anybody who made that disclosure?

A. No.

Q. Do you know when the disclosure was made?

A. I don't.

Q. Do you know if it was before or after Acis filed for bankruptcy?

A. I don't know.

Q. Do you know anything about Highland's disclosure of the assignment to Acis or Mr. Terry?

A. I don't.

Q. If you flip a few pages there are Request for

Admission. Do you see that?

A. Uh-huh.

Q. The first Request for Admission says, "Admit that HCLOM did not provide anything of value for Highland's benefit in exchange for the transfer of the note."

Do you see that? And HCLOM has denied it?

A. I'm sorry. What page are you --

Q. It's page seven. Take your time. I know we're all anxious to finish.

A. Yes, I see that.

Q. Okay. Do you see that Acis denied -- withdrawn.

Do you see that HCLOM denied the first Request for Admission?

A. Yes.

Q. Do you know the bases for the denial?

A. I don't.

Q. Can you identify anything that HCLOM provided for Highland's benefit in exchange for the transfer of the note?

MR. AIGEN: Objection; form.

A. It kind of goes along with the forbearance. You are preserving -- as a successor manager you are preserving that relationship. You are trying to reset

the CLOs at the time, so...

Q. (BY MR. MORRIS) But HCLOM is receiving the note?

A. Yeah.

Q. So I'm asking you what, if anything, HCLOM gave to -- withdrawn.

The request to admit had asked HCLOM to identify -- withdrawn.

The request to admit asks HCLOM to admit that it didn't give anything of value to Highland in exchange for the note, correct? And it was denied?

A. Correct.

Q. So does that mean that HCLOM contends that it gave something of value for Highland's benefit in exchange for the transfer of the note?

MR. AIGEN: Objection; form.

A. Based on the denial, it's saying it did not provide -- sorry.

Q. (BY MR. MORRIS) Take your time. It's late and it's a double-negative.

A. Admit that HCLOM did not provide. So we're denying. So HCLOM did provide value for Highland's benefit in exchange for transfer of the note.

Q. Exactly. And now I'm asking you what it actually provided of value to Highland's benefit.

Is it just what's in response to Interrogatory Number 1?

A. I --

Q. Because Interrogatory Number 1 asks HCLOM to identify anything of value. So can we just incorporate by reference? Can we say the denial is based on response to Interrogatory Number 1?

A. I -- I view -- my view is that HCLOM, again, is working -- again, working with Highland, become successor manager. As part of that, it's preserving that relationship. It's preserving the tax planning. You know, to me that's the benefit HCLOM is providing to Highland.

Q. The relationship is between and among the same people; isn't that right?

A. They are the same people, but as we established, they're different entities.

Q. But the same people are making the same decisions on behalf of both entities, correct?

A. Yeah. I mean the same individuals are involved, yes.

Q. And we looked at the roster of HCLOM's officers earlier, right?

A. Right.

Q. And it's you and Mr. Dondero and Mr. Ellington,

correct?

A. Yes.

Q. Who were the same leadership at Highland, correct?

A. Yes.

Q. And are you worried about preserving the relationship with yourself?

A. I view this more as the -- you have a separate entity. This is just my view and then there are -- you are trying to respect the formalities. Right? So, yes, I understand that they're same players here but -- or the same individuals but, you know -- that's it.

Q. Just try and summarize here. HCLOM and Highland were at all times controlled by the same people, correct?

A. Yes.

Q. And at all times the owners of HCLOM -- withdrawn.

And at all times the beneficial owners of HCLOM and Highland were the same, correct?

A. Yes. Up until 2022.

Q. Up until 2022.

MR. MORRIS: All right. I have no further questions. Thank you very much.

MR. AIGEN: Okay.

THE COURT REPORTER: Before we go off the record, do you want a copy of the transcript?

MR. AIGEN: Yeah. Can you get us a rough quickly?

THE COURT REPORTER: Yes. I'll send rough drafts out today. The final is being rushed for tomorrow. Do you need a rush?

MR. AIGEN: I don't need the final that quickly. Thursday is fine for me.

THE VIDEOGRAPHER: This deposition is off the record at 4:44 p.m.

(Proceedings concluded at 4:44 p.m. CST)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	)	
	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.	)	Case No. 19-34054-sgj11
Reorganized Debtor.	)	

REPORTER'S CERTIFICATION
DEPOSITION OF FRANK WATERHOUSE
SEPTEMBER 24, 2024

I, Christy Cortopassi, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, FRANK WATERHOUSE, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the original deposition was delivered to Mr. John Morris;

That the amount of time used by each party at the deposition is as follows:

Mr. John Morris.....05:11
Mr. Michael P. Aigen.....00:00

I further certify that pursuant to FRCP No. 30(f)(i) that the signature of the deponent:

_____ was requested by the deponent or a party

before the completion of the deposition and that the signature is to be returned within 30 days from date of receipt of the transcript. If returned, the attached Changes and Signature Page contains any changes and the reasons therefor;

__X__ was not requested by the deponent or a party before the completion of the deposition.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me this 25th of September, 2024.

Christy Cortopassi

Christy Cortopassi, Texas CSR 6222
Expiration Date: 10/31/2026

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EXHIBIT 4

PACHULSKI STANG ZIEHL & JONES LLP
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John A. Morris (NY Bar No. 2405397) (*admitted pro hac vice*)
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Counsel for Highland Capital Management, L.P.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	§	
	§	Case No. 19-34054-sgj11
Reorganized Debtor.	§	
	§	

HIGHLAND CAPITAL MANAGEMENT, L.P.'S AMENDED NOTICE OF RULE 30(b)(6) DEPOSITION TO HIGHLAND CLO MANAGEMENT, LTD.

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, made applicable herein pursuant to Federal Rules of Bankruptcy Procedure 7030 and 9014, Highland Capital Management, L.P. ("Highland"), the reorganized debtor in the above-captioned chapter 11 case (the "Bankruptcy Case"), shall take the deposition of Frank Waterhouse, individually and in his capacity as the corporate representative of Highland CLO

[1] The Reorganized Debtor's last four digits of its taxpayer identification number are (8357). The headquarters and service address for the above-captioned Reorganized Debtor is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

PENGAD 800-631-6989
EXHIBIT
1

Management, Ltd. ("HCLOM"), with respect to the topics described in **Exhibit A** below and in connection with Highland's Objection (as defined in Exhibit A below), on **Monday, September 16, 2024**, commencing at **10:00 a.m. Central Time**, or at such other day and time as Highland may agree in writing. The deposition will be taken under oath before a notary public or other person authorized by law to administer oaths and shall take place in person at the offices of **Stinson LLP, 2200 Ross Avenue, Suite 2900, Dallas, Texas**. The deposition will be recorded by videographic and stenographic means for all purposes in this matter, including trial.

Dated: September 3, 2024

PACHULSKI STANG ZIEHL & JONES LLP
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-and-

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Counsel for Highland Capital Management, L.P.

EXHIBIT A

DEFINITIONS

1. "Acis" refers to Acis Capital Management, L.P.

2. "Ancillary Agreements" refers to, individually and collectively, the agreements Highland identified in response to Interrogatory No. 5 served by HCLOM in this contested matter (*i.e.*, (a) the *Forbearance Agreement*, dated as of May 31, 2018, entered into by and between Highland and HCLOM; (b) the *Amended and Restated Forbearance Agreement*, dated as of May 31, 2019, entered into by and between Highland and HCLOM; (c) the *Acknowledgement and Waiver*, dated as of January 19, 2018, entered into by and among Highland, Acis, and HCLOM; and (d) the *Agreement*, dated as of January 10, 2018, entered into by and among Acis and Highland).

3. "Appointment" has the meaning ascribed to that term in ¶2 of the Assignment.

4. "Assignment" refers to that certain *Assignment and Transfer Agreement* dated as of November 3, 2017, and executed by Highland, Acis, and HCLOM.

5. "Cancellation Agreement" refers to that certain *Payment Cancellation Agreement*, dated as of May 10, 2018, prepared for execution by Highland and HCLOM.

6. "CLOs" refers, individually and collectively, to the collateralized loan obligation issuances listed in Schedule A of the Purchase Agreement.

7. "Communications" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise) and includes all oral and written communications of any nature, type or kind including, but not limited to, any ESI (and any attachments thereto), Documents, telephone conversations, text messages, discussions, meetings, facsimiles, e-mails,

pagers, memoranda, and any other medium through which any information is conveyed or transmitted.

8. "Concerning" means and includes relating to, constituting, defining, evidencing, mentioning, containing, describing, discussing, embodying, reflecting, edifying, analyzing, stating, referring to, dealing with, or in any way pertaining to the subject matter.

9. "Discovery Responses" means *Highland CLO Management, Ltd.'s Combined Discovery Responses and Objections* dated and served on August 23, 2024.

10. "Note" refers to that certain Promissory Note dated October 7, 2016, in the original principal amount of $12,666,446 by Highland in favor of Acis.

11. "Objection" refers to *Highland Capital Management, L.P.'s Objection to Scheduled Claims 3.65 and 3.66 of Highland CLO Management, Ltd.* filed at Docket No. 3657.

12. "Purchase Agreement" refers to that certain *Agreement for Purchase and Sale of CLO Participation Interests* dated October 7, 2016.

13. "Response" refers to the *Response of Highland CLO Management, Ltd. to Highland Capital Management, L.P.'s Objection to Scheduled Claims 3.65 and 3.66 of Highland CLO Management, Ltd.* filed at Docket No. 3715.

14. "Scheduled Claims" refers to scheduled claims 3.65 and 3.66 (individually and together) included in Exhibit 2 to the *Notice of Filing of Debtor's Amended Schedules* filed at Docket No. 1082.

15. "Servicer Fees" has the meaning ascribed to that term in the Recitals contained in the Assignment.

16. "Successor Manager" has the meaning ascribed to that term in the Recitals contained in the Assignment.

17. "You" or "Your" refers to HCLOM, and any person or entity authorized to act on behalf of HCLOM.

TOPICS

Topic No. 1:

The Purchase Agreement, including (a) the purpose of the Purchase Agreement; (b) the drafting, negotiation (if any), terms and conditions of the Purchase Agreement; (c) the timing of the execution of the Purchase Agreement; (d) the performance of the parties' obligations under the Purchase Agreement; (e) the representations, warranties and assurances of the seller and purchaser under the Purchase Agreement; and (f) Communications Concerning the Purchase Agreement.

Topic No. 2:

The Note, including (a) the purpose of the Note; (b) the drafting and negotiation (if any) of the Note; (c) the conditions precedent, events of default, and remedies under the Note; (d) the performance of obligations under the Note; and (e) Communications Concerning the Note.

Topic No. 3:

The Assignment, including (a) the purpose of the Assignment; (b) the drafting, negotiation (if any), terms and conditions of the Assignment; (c) the timing of the execution of the Assignment; (d) Your obligations under the Assignment; (e) Your performance of any obligations under the Assignment; (f) any contracts or agreements that You entered into in order to fulfill Your obligations and duties under the Assignment; (g) the authority of each person to execute the Assignment; and (h) Communications Concerning the Assignment.

Topic No. 4:

Each Ancillary Agreement, including (a) the purpose of each Ancillary Agreement; (b) the drafting, negotiation (if any), terms and conditions of each Ancillary Agreement; (c) the timing of the execution of each Ancillary Agreement; (d) the performance of each parties' obligations

under each Ancillary Agreement; (e) the authority of each person to execute each Ancillary Agreement; and (f) Communications Concerning each Ancillary Agreement.

Topic No. 5:

The Cancellation Agreement, including (a) the purpose of the Cancellation Agreement;, (b) the drafting, negotiation (if any), terms and conditions of the Cancellation Agreement; (c) the decision not to execute the Cancellation Agreement (including the reasons for the decision and the person(s) who made that decision); and (d) Communications Concerning the Cancellation Agreement.

Topic No. 6:

The formation and operation of HCLOM, including (a) the purpose(s) for which HCLOM was formed; (b) the decision to form HCLOM, including the timing and the person(s) who made the decision to form HCLOM; (c) the identification, appointment and/or selection of HCLOM's officers and directors; (d) business conducted in the name of HCLOM; and (e) the direct and/or indirect ownership of HCLOM at all times since formation and the timing and reasons for all ownership changes.

Topic No. 7:

Any consideration (*i.e.*, anything of value) that You provided to Acis in exchange for the Assignment.

Topic No. 8:

Any consideration (*i.e.*, anything of value) that You provided to Highland in exchange for the Note.

Topic No. 9:

The Response, including (a) HCLOM's statement that the Assignment "contemplated that the controlling class of each of the Acis-managed CLOs would provide notice to replace ACIS

with HCLOM" as set forth in paragraph 26 of the Response; (b) HCLOM's statements that (i) the "controlling classes of the Acis CLOs issued optional redemptions attempting to effectuate the process of designating HCLOM as the manager of the Acis CLOs" and (ii) the Bankruptcy "Court entered a temporary restraining order, and then a plan injunction in the Acis Bankruptcy Case" and that "[a]s a result, HCLOM was never appointed the manager of the CLOs" as set forth in paragraphs 27 and 28 of the Response; (c) Highland's alleged unwillingness "to continue providing support personnel and other critical services to Acis with respect to the CLOs," as set forth in paragraph 53 of the Response; and (d) the *in pari delicto* defense asserted in paragraph 56 of the Response.

Topic No. 10:

Your Discovery Responses.

Topic No. 11:

The Scheduled Claims.

Topic No. 12:

Any attempted "re-set" or refinancing of the CLOs after June 9, 2016 (whether with Guggenheim Securities, BNP Paribas, Mizuho, Goldman Sachs or otherwise), and all communications concerning any such attempt(s).

EXHIBIT 5

HIGHLAND CLO MANAGEMENT LTD.

(the "**Company**")

WRITTEN RESOLUTIONS OF THE SUBSCRIBER TO THE COMPANY'S MEMORANDUM OF ASSOCIATION

It is resolved:

1 Incorporation of the Company

That the incorporation of the Company and terms of the memorandum and articles of association of the Company be fully ratified, confirmed, approved and adopted.

2 Appointment of Sole Director

That the following person be appointed sole director of the Company, to hold office in accordance with the articles of association of the Company:

Name

Summit Management Limited

3 Issue of Share

3.1 That one share of par value US$1.00 in the Company be issued at par to Maples Corporate Services Limited ("**MCS**") as the subscriber to the memorandum and articles of association of the Company, consideration having been received by, or on behalf of, the Company;

3.2 That such share be repurchased by the Company at par and then cancelled immediately after the allotment and issuance of further shares in the Company; and

3.3 That the Register of Members be updated accordingly but that no certificate in respect of such share be issued at this time.

Maples Corporate Services Limited

acting by:

Meghan Wylie

Date: 27 October 2017

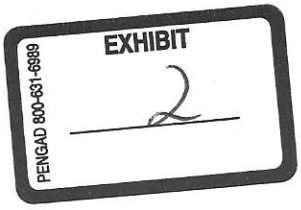


EXHIBIT 6

HIGHLAND CLO MANAGEMENT LTD.

(the "**Company**")

WRITTEN RESOLUTIONS OF THE SOLE DIRECTOR OF THE COMPANY

It is resolved:

1 **Appointment of Officers**

THAT each of the following be appointed to the respective office(s) set opposite their name, each to hold office until their successor shall be appointed or their earlier removal from, or vacation of, office (each an "**Appointment**"):

Name	**Title**
James Dondero	President
Scott Ellington	Secretary
Mark Okada	Executive Vice President
Frank Waterhouse	Treasurer
Trey Parker	Assistant Secretary

2 **THAT** each Appointment be duly approved by the Director in accordance with the terms of the memorandum and articles of association of the Company and that Maples Corporate Services Limited, in its capacity as registered office, be instructed to make the necessary filings as may be required and to make such updates as may be required to reflect the Appointments on the Company's register of directors and Officers.

John Cullinane
for and on behalf of
Summit Management Limited
Director
Date: 7 February 2018

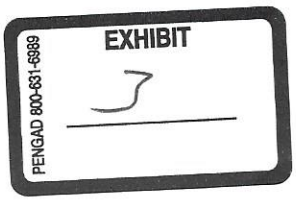


EXHIBIT 7

ACKNOWLEDGEMENT AND WAIVER

This Acknowledgement and Waiver (this "**Acknowledgement and Waiver**") is made by the undersigned Highland Capital Management, L.P., a Delaware limited partnership ("**HCM**"), and Highland CLO Management, Ltd., a Cayman Islands exempted company ("**HCLOM**") as of January 19, 2018.

Reference is hereby made to that certain Assignment and Transfer Agreement (the "**Transfer Agreement**"), dated as of November 3, 2017, by and between Acis Capital Management, L.P., a Delaware limited partnership ("**Acis**"), HCM and HCLOM. Capitalized terms used but not defined herein shall have the meanings set forth in the Transfer Agreement.

Pursuant to Sections 1 and 2 of the Transfer Agreement, Acis was required to promptly provide Notice to the Controlling Class of each CLO, and subsequent to the delivery of the Notices, each of Acis and HCLOM was required to promptly pursue an Appointment for each CLO.

Each of HCM and HCLOM hereby (i) acknowledge that (a) it is intended for each CLO to be "reset", (b) each such "reset" transaction will need to comply with the federal interagency credit risk retention rules, codified at 17 C.F.R. Part 246 thereunder (the "**U.S. Risk Retention Rules**"), (c) in order to comply with the U.S. Risk Retention Rules, in connection with each such "reset" transaction, each applicable CLO issuer will appoint Highland CLO Management, LLC, a Delaware limited liability company, as the collateral manager of such CLO and (d) therefore, none of the Notices have been nor will be delivered pursuant to Section 1 of the Transfer Agreement and none of the Appointments have been nor will be made pursuant to Section 2 of the Transfer Agreement, and (ii) waive any breach of Sections 1 or 2 of the Transfer Agreement, as applicable.

[*Signature Page Follows*.]

IN WITNESS WHEREOF, each of the undersigned have executed this Acknowledgement and Waiver as of the date first written above.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its General Partner

By: _____
Name: James Dondero
Title: President

HIGHLAND CLO MANAGEMENT, LTD.

_____
For and on behalf of Summit Management Limited, its Director

ACKNOWLEDGED AND ACCEPTED:

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC, its General Partner

By: _____
Name: James Dondero
Title: President

IN WITNESS WHEREOF, each of the undersigned have executed this Acknowledgement and Waiver as of the date first written above.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its General Partner

By: _____
Name: James Dondero
Title: President

HIGHLAND CLO MANAGEMENT, LTD.

_____
For and on behalf of Summit Management Limited, its Director

ACKNOWLEDGED AND ACCEPTED:

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC, its General Partner

By: _____
Name: James Dondero
Title: President

EXHIBIT 8

CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
ENTERED
THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed April 13, 2018

United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	§	
	§	
ACIS CAPITAL MANAGEMENT, L.P.,	§	**CASE NO. 18-30264-SGJ-7**
	§	
Alleged Debtor.	§	

IN RE:	§	
	§	
ACIS CAPITAL MANAGEMENT GP, L.L.C.,	§	**CASE NO. 18-30265-SGJ-7**
	§	
Alleged Debtor.	§	

FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF ORDERS FOR RELIEF ISSUED AFTER TRIAL ON CONTESTED INVOLUNTARY BANKRUPTCY PETITIONS

Joshua N. Terry (the "Petitioning Creditor" or "Mr. Terry") filed involuntary bankruptcy petitions (the "Involuntary Petitions") against each of the two above-referenced related

EXHIBIT
5
PENGAD 800-631-6989

companies (the "Alleged Debtors") on January 30, 2018.[1] The Involuntary Petitions were contested, and the court held a multi-day trial (the "Trial") spanning March 21, 22, 23, 27, and March 29, 2018.[2] This constitutes the court's findings of fact, conclusions of law and ruling, pursuant to Fed. Rs. Bankr. Proc. 7052 and 9014.[3] As explained below, the court has decided that Orders for Relief are legally required and appropriate as to each of the Alleged Debtors.

I. FINDINGS OF FACT

A. Introduction.

1. The Alleged Debtors—Acis Capital Management, L.P. ("Acis LP"), a Delaware limited partnership, and ACIS Capital Management GP, L.L.C. ("Acis GP/LLC"), a Delaware limited liability company—are two entities in the mega-organizational structure of a company that is known as Highland Capital Management, L.P. ("Highland").

2. Highland is a Dallas, Texas-based company that is a Registered Investment Advisor. Highland was founded in 1993 (changing its original name from "Protective Asset Management" to Highland in 1997) by James D. Dondero ("Mr. Dondero"), originally with a

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[1] Exhs. 50 & 51.

[2] Shortly after the Involuntary Petitions were filed, the court held hearings on February 6-7, 2018, on the Petitioning Creditor's Emergency Motion to Abrogate or Modify 11 U.S.C. § 303(f), Prohibit Transfer of Assets, and Import, Inter Alia, 11 U.S.C. § 363 [DE # 3] (the "303(f) Motion") and the Alleged Debtors' Emergency Motion to Seek Emergency Hearing on the Alleged Debtors' Motion to Dismiss Involuntary Petitions and Request for Award of Fees, Costs, and Damages [DE # 9] (the "Emergency Motion to Set Hearing on Motion to Dismiss"). The court ultimately granted the 303(f) Motion and denied the Emergency Motion to Set Hearing on Motion to Dismiss. Both the Petitioning Creditor and the Alleged Debtors have proposed that the court should consider the evidence it heard at the hearings held on February 6-7, 2018, in determining whether it should enter orders for relief. The court has, accordingly, considered such evidence in this ruling.

[3] Bankruptcy subject matter jurisdiction exists in this contested matter, pursuant to 28 U.S.C. § 1334(b). This is a core proceeding over which the bankruptcy court may exercise subject matter jurisdiction, pursuant to 28 U.S.C. §§ 157(b)(2)(A) and (O) and the Standing Order of Reference of Bankruptcy Cases and Proceedings (Misc. Rule No. 33), for the Northern District of Texas, dated August 3, 1984. This bankruptcy court has Constitutional authority to issue a final order or judgment in this matter, as it arises under a bankruptcy statute—11 U.S.C. § 303. Venue is proper in this district, pursuant to 28 U.S.C. § 1409(a), as the Alleged Debtors have their business headquarters in this district.

75% ownership interest, and Mark K. Akada ("Mr. Akada"), originally with a 25% ownership interest.[4]

3. Both Mr. Dondero and Mr. Akada provided witness testimony at the Trial on the Involuntary Petitions, and their names are mentioned numerous times herein—since they were generally the subject of significant evidence and argument presented at the Trial. Mr. Dondero is the chief executive officer for Highland and Mr. Akada is the chief investment officer. Mr. Dondero is also the president of each of the two Alleged Debtors.

4. Highland, through its organizational structure of approximately 2,000 separate business entities, manages approximately $14-$15 billion of investor capital in vehicles ranging from: collateral loan obligation funds ("CLOs"); private equity funds; and mutual funds.

5. Highland's CLO business was front-and-center at the Trial on the Involuntary Petitions. The Alleged Debtor, Acis LP, for approximately the past seven years, has been the vehicle through which Highland's CLO business has been managed.

6. The Petitioning Creditor, Mr. Terry, became an employee of Highland in the year 2005, starting as a portfolio analyst, promoting to a loan trader, then ultimately becoming the portfolio manager for (and 25% limited partner in) Highland's CLO business—specifically, Mr. Terry was the human being who was acting for the CLO manager, Acis LP.

7. Mr. Terry was highly successful in his role in the CLO business, managing billions of dollars of assets during his tenure, but Mr. Terry and Mr. Dondero had a bitter parting of ways on June 9, 2016. Specifically, Mr. Terry's employment was terminated on that date (for

[4] Mr. Dondero testified at the Trial that, three years ago, Messrs. Dondero and Akada sold their interests in Highland to a charitable remainder trust in exchange for a 15 year note receivable.

reasons that have been highly disputed) and his 25% limited partnership interest in Acis LP was deemed forfeited without any payment of consideration to him.

8. In September 2016, Highland sued Mr. Terry in the 162nd Judicial District Court of Dallas County, Texas ("State Court 1") for breach of fiduciary duty/self-dealing, disparagement, breach of contract, and various other causes of action and theories. Mr. Terry asserted his own claims against Highland, and also claims against the two Alleged Debtors, Mr. Dondero, and others and demanded arbitration. On September 28, 2016, State Court 1 stayed the litigation and ordered the parties to arbitrate. The parties participated in ten days of arbitration in September 2017 before JAMS. On October 20, 2017, Mr. Terry obtained an Arbitration Award (herein so called),[5] jointly and severally against both of the Alleged Debtors in the amount of $7,949,749.15, plus post-award interest at the legal rate, which was based on theories of breach of contract and breach of fiduciary duties.

9. There are still claims pending between and among the Petitioning Creditor, Highland, and others (not including the Alleged Debtors) in State Court 1.

10. A Final Judgment (herein so called) confirming the Arbitration Award was entered by the 44th Judicial District Court of Dallas County, Texas ("State Court 2") on December 18, 2017, in the same amount as that contained in the Arbitration Award—$7,949,749.15.[6]

11. Mr. Terry began pursuing post-judgment discovery soon after obtaining his Arbitration Award and even more so after entry of the Final Judgment. Mr. Terry undertook a UCC search on November 8, 2017, to investigate whether there were any liens on the Alleged

[5] Exh. 1.

[6] Exh. 105.

Debtors' assets (none appeared).[7] Mr. Terry also pursued a garnishment of an Acis LP bank account (at a time when there was only around $2,000 in the account). Mr. Terry's counsel deposed Highland's General Counsel Scott Ellington (who sat for the deposition as a representative of Acis, LP) on January 26, 2018, and asked numerous questions about: (a) how many creditors the Alleged Debtors had, [8] and (b) whether Acis LP was able to pay its debts as they became due,[9] but did not receive meaningful answers.

12. Mr. Terry requested a temporary restraining order ("TRO") from State Court 2, on January 24, 2018, after discovering certain transactions and transfers involving Acis LP's interests, that he believed were pursued without any legitimate business purpose and with the purpose of denuding Acis LP of its assets and to make it judgment proof. Most particularly, it appeared as though Highland was engaged in a scheme to transfer certain fee-generating CLO management contracts of Acis LP away from it and into a Cayman Island affiliate of Highland.[10] At a January 24, 2018 hearing on the request for a TRO, Acis LP agreed and State Court 2 ordered that, between that hearing and a later hearing on a request for a temporary injunction, no CLO management contracts would be transferred away from Acis LP and that no monies would be diverted from it.[11]

13. Then, on January 29, 2018, the Controller of and CPA for Highland (David Klos) submitted a Declaration to State Court 2 concerning the net worth of the Alleged Debtors, stating

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[7] Exh. 84.

[8] Exh. 25, pp. 7-9.

[9] *Id.* at pp. 102-04.

[10] Exh. 27.

[11] Exh. 28.

that Acis GP/LLC had a net worth of $0 and that Acis LP might have a net worth, at best, of $990,141.[12] Mr. Terry thought this was preposterous—given the management fees that Acis LP was entitled to and the receivables that should be owing to it. Mr. Terry believes that the collateral management agreements on which Acis LP receives management fees have a present value of $30 million (about $6 million for each of the five CLOs which Acis LP has been managing).

14. On January 29, 2018, the Alleged Debtors filed a motion for leave to post a supersedeas bond in the amount of **$495,070.50** with State Court 2 (purportedly half of the net worth of the two Alleged Debtors—as stated in the David Klos Declaration), so that they could suspend enforcement of the Final Judgment while they appealed it.[13] Although there is a very stringent standard for appealing an Arbitration Award, the Alleged Debtors apparently believe they have an argument that State Court 2 lacked the subject matter jurisdiction to confirm the Arbitration Award (a motion to vacate the Final Judgment based on this argument has previously been denied by State Court 2).[14]

15. Meanwhile, Mr. Terry was learning of more transactions and transfers involving Acis LP's assets and interests. On January 29, 2018, Mr. Terry filed supplemental pleadings with State Court 2, alleging that further shenanigans (*i.e.,* transfers and transactions that would amount to fraudulent transfers) were underway at Acis LP and seeking a receiver.[15] Also, at

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[12] Exh. 26.

[13] Exh. 73.

[14] *See* DE # 35, in Case No. 18-30264 and DE # 34 in Case No. 18-30265. Unless otherwise noted, references to "DE #" herein refer to the docket entry number at which a pleading appears in the docket maintained with the Bankruptcy Clerk in the Acis Capital Management L.P. bankruptcy case (Case No. 18-30264).

[15] Exhs. 28-31.

some point, in the weeks leading up to this, an Acis LP lawyer represented to Mr. Terry's counsel that the Alleged Debtors were "judgment proof."[16]

16. At approximately 11:57 p.m. on January 30, 2018 (on the evening before a scheduled temporary injunction hearing in State Court 2—at which time State Court 2 presumably might have considered the Alleged Debtors' request to post the $495,070.50 supersedeas bond to stay enforcement of the Final Judgment), Mr. Terry filed the Involuntary Petitions, as a sole petitioning creditor, against both Acis LP and Acis GP/LLC.

17. For purposes of this Trial (and this Trial only), the Alleged Debtors do not dispute that Mr. Terry has standing to be a petitioning creditor pursuant to Bankruptcy Code section 303(b)—in other words, they do not dispute that Mr. Terry is a holder of a claim against the Alleged Debtors that is not contingent as to liability or the subject of a bona fide dispute as to liability or amount and that aggregates at least $15,775 in unsecured amount. However, the Alleged Debtors argue that: (a) the Alleged Debtors have ***12 or more creditors*** and, thus, three or more petitioning creditors were required to prosecute the Involuntary Petitions pursuant to Bankruptcy Code section 303(b)(1); (b) the Petitioning Creditor did not establish, pursuant to Bankruptcy Code section 303(h)(1), that the Alleged Debtors are not ***generally paying their debts as such debts become due*** unless such debts are the subject of a bona fide dispute as to liability or amount; (c) regardless of whether the Petitioning Creditor has met the statutory tests in sections 303(b)(1) and (h)(1), the Petitioning Creditor has acted in ***bad faith***—which serves as an equitable basis for dismissal of the Involuntary Petitions; and (d) if the court disagrees with the Alleged Debtors and determines that the section 303(b) and (h) statutory tests are met, and also determines that the Petitioning Creditor has not acted in bad faith, the court should

[16] Exh. 27 (exhibit 3 thereto).

nevertheless ***abstain*** in this matter, pursuant to Bankruptcy Code ***section 305***, since this is essentially a two-party dispute and the interests of creditors and the debtor would be better served by dismissal.

18. The Petitioning Creditor argues that he has met the statutory tests of sections 303(b) and (h) but, even if he has not, there is a ***"special circumstances"*** exception to the section 303 statutory requirements, whenever a petitioning creditor establishes fraud, trick, scheme, artifice or the like on the part of an alleged debtor—which "special circumstances," Mr. Terry alleges, have been established here. Moreover, the Petitioning Creditor argues that the facts here ***do not warrant section 305 abstention*** because the interests of creditors and the Alleged Debtors would not be better served by dismissal.

19. As further explained below, the court finds and concludes that the Petitioning Creditor has met his burden of proving by a preponderance of the evidence that the statutory tests of sections 303(b) and (h) are met here. Thus, the court does not need to reach the question of whether there is a ***"special circumstances"*** exception to the section 303 statutory requirements, whenever a petitioning creditor establishes fraud, trick, scheme, artifice or the like on the part of an alleged debtor, and—if so—whether the exception is applicable here.[17]

20. Moreover, the Alleged Debtors have not shown by a preponderance of the evidence that the Petitioning Creditor acted in bad faith, such that the Involuntary Petitions should be dismissed.

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[17] *See e.g., In re Norriss Bros. Lumber Co.*, 133 B.R. 599 (Bankr. N.D. Tex. 1991); *In re Moss*, 249 B.R. 411 (Bankr. N.D. Tex. 2000); *In re Smith*, 415 B.R. 222 (Bankr. N.D. Tex. 2009).

21. Finally, the Alleged Debtors also have ***not shown facts here that warrant section 305 abstention*** because they have not shown that the interests of creditors and the Alleged Debtors would be better served by dismissal.

B. The CLO Business: Understanding the Alleged Debtors' Business Operations, Structure, and What Creditors and Interest Holders They Actually Have.

22. Highland set up its first CLO in the year 1996. Highland was one of the early participants in the CLO industry.

23. The Alleged Debtors were formed in 2011 to be the new "brand" or face of the Highland CLO business, after Highland's name had suffered some negative publicity in the marketplace.

24. Acis LP has acted as the portfolio manager of Highland's CLOs since 2011. Acis LP currently has a contractual right to CLO portfolio management fees on five CLOs[18] which were referred to at the Trial as CLO 2013-1; CLO 2014-3; CLO 2014-4; CLO 2014-5; and CLO 2016-6. CLOs typically have an 8-12 year life. Thus, there are still several years of life left on these CLOs (since the oldest one was established in the year 2013).

25. The key "players" in and features with regard to the Highland CLOs, during the time period relevant to the issues adjudicated at the Trial, have been:

(a) <u>The CLO manager.</u> As mentioned earlier, the CLO manager is the Alleged Debtor, Acis LP. Acis LP, has collateral management agreements (hereinafter, the "CLO Collateral Management Agreements") with the CLOs (which CLOs were set up as special purpose entities) and, pursuant thereto, receives

[18] There is still another Highland CLO (CLO 2017-7), set up in April 2017, as to which Acis LP's contractual right to manage was terminated shortly before the Petition Date, as will be further described herein.

management fees[19] from the CLOs in exchange for managing the pool of assets within the CLOs and communicating with investors in the CLOs.[20] As mentioned earlier, Mr. Terry was the human being that performed the management function at Acis LP until Highland fired him on June 9, 2016 and also terminated his limited partnership interest in Acis LP. Mr. Terry, and all employees who have ever provided services to the CLO manager, are Highland employees—which were provided to Acis LP through shared and sub-advisory services agreements—as further explained below. Thus, to be clear, Acis LP has always essentially subcontracted its CLO managerial function out to Highland.

(b) The pool of assets. Within each CLO that the CLO manager manages is a basket of loans that the CLO manager purchases. The basket of loans typically consists of approximately 200 loans-payable (or portions of loans payable), on which large well-known companies typically are the makers/obligors (and which loans, collectively, provide a variable rate of interest).[21] The CLO manager can typically decide to buy and sell different loans to go into the pool of assets, with certain restrictions, during a four or five year reinvestment time period.

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[19] These fees typically include "senior fees" (*e.g.*, 15 basis points); additional "subordinate fees" (*e.g.*, 25 basis points) if the CLOs are passing certain tests; and perhaps even an "incentive fee" beyond a certain hurdle rate (*e.g.*, after the equity in the CLO received an internal rate of return of 10%, the CLO manager would get 15% of the excess). Exh. 82, p. 59, lines 14-25.

[20] *See*, as an example, Exh. 3 (the collateral management agreement between Acis LP and CLO 2014-3). Note that the document is entitled "Portfolio Management Agreement" but, to avoid confusion with other similarly titled documents and to highlight the true nature of the agreement, the court uses the defined term "CLO Collateral Management Agreement," which terminology the lawyers also sometimes used at the Trial.

[21] Exh. 8.

(c) The CLO investors (*i.e.,* CLO note holders). These may be any number of persons or entities, including pension funds, life insurance companies, or others who decide to invest in the CLOs and contribute capital to fund the purchase of a CLO's loan pool, and, in return, receive fixed rate notes payable—the ratings on which can range anywhere from Triple-A to Single-B, depending upon the risk option the investor chooses. There are typically five or six traunches of notes issued by the CLO (with the top AAA-rated traunche being the least risky and the bottom traunche being the most risky) and—to be clear—the CLO itself (again, in each case, the CLO is a special purpose vehicle) is the obligor. As the CLO manager receives income from the pool of loans in the CLO, he distributes that income to the CLO investors, in accordance with their note indentures,[22] starting with the top traunche of notes and then down to the other traunches. The top traunche of notes (AAA-rated) is considered the "controlling" class and a majority of holders in this class can terminate the CLO manager (*i.e.,* Acis LP) for cause on 45 days' notice, although all parties seem to agree this would be a rare event.

(d) The CLO equity holder. The CLO equity holder actually is a holder of subordinated notes issued by the CLOs (*i.e.,* the bottom traunche of notes on which the CLO special purpose entity is obligated), and has voting rights and is itself a capital provider, but it takes the most risk and receives the very last cash

[22] The indenture trustee on the CLO notes may actually operate as a payment agent in some cases, for purposes of making the quarterly note payments to holders.

flow from the CLOs. It, in certain ways, controls the CLO vehicle[23]—for example, by virtue of having the ability to make a redemption call after a certain "no-call" period—which would force a liquidation of the basket of loans in the CLO, with the proceeds paying down the traunches of notes, starting at the top with the Triple A's). Note that, until recently, a separate entity known as Acis Loan Funding, Ltd. ("ALF"), which was incorporated under the laws of the island nation of Guernsey,[24] was the CLO equity holder. To be clear, ***ALF was essentially the equity owner in the CLO special purpose entities—not the equity owner of Acis LP***. Acis LP was a party to a separate portfolio management agreement with ALF (hereinafter, the "ALF Portfolio Management Agreement"—not to be confused with the CLO Collateral Management Agreements that Acis LP separately has with the special purpose CLOs). No fees were paid from ALF to Acis LP pursuant to the ALF Portfolio Management Agreement (rather, fees are only paid to Acis LP on the CLO Collateral Management Agreements). The complicated structure of the CLO business—all parties seemed to agree—has been developed, among other reasons, to comply with "risk-retention requirements" imposed by the U.S. Congress's massive Dodd-Frank financial reform legislation[25] enacted in year 2010, in response to the financial crisis and recession that first began in 2008.

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[23] The top traunche of AAA notes also has certain control—such as the ability to terminate the portfolio manager for cause, on notice.

[24] Guernsey is located in the English Channel. ALF was created in August 2015.

[25] Simply put, one of the results of the Dodd-Frank legislation (*i.e.*, the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, H.R. 4173, 124 Stat. 1376-2223, 111th Congress, effective July 21, 2010), which was implemented over a period of several years, was that, ***subsequent to December 2016***, managers of securitizations needed to retain at least a 5% interest in that securitization. Thus, if a $400 million CLO were to be

(e) The Equity Owners of ALF. Until recently (*i.e.*, until October 24, 2017—four days after the Arbitration Award), Acis LP itself, as required for a CLO manager, had a 15% indirect ownership in ALF, in order to be regulatory compliant.[26] The parties sometimes refer to ALF (and the web of ownership between it and Acis LP) as the "risk retention structure."[27] The evidence at the Trial revealed that ALF (which has recently been renamed), now, has three equity owners: (i) a 49% equity owner that is a charitable fund (*i.e.*, a donor advised fund or "DAF") that was seeded with contributions from Highland, is managed/advised by Highland, and whose independent trustee is a long-time friend of Highland's chief executive officer, Mr. Dondero; (ii) 2% is owned by Highland employees; and (iii) finally, ALF ***may*** be 49% owned by a third-party institutional investor based in Boston that Highland believed it was required to keep anonymous at the Trial. Not only is the court unaware of who this independent third-party is, but the evidence seems to suggest that it may have acquired its interest fairly recently or may have simply committed to invest recently.[28]

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issued, the CLO manager would need to retain at least 5% or $20 million of the assets in the CLO (which 5% could be either all at the equity level or vertically, up and down the note traunches). There are multiple ways to accomplish this 5% retention (*i.e.*, with either the CLO manager directly investing in at least 5% of the CLO or doing it through a controlled subsidiary). This particular rule was announced in ***December 2014*** and the SEC thereafter issued a no action letter stating that ***if a CLO was issued prior to December 2014***, then any refinancing of such CLO that happens within four years can be done without risk retention in place. Resets of any CLO (*i.e.*, changes in terms and maturity—as opposed to mere changes in interest rates), on the other hand, must have risk retention in place. ***Four of Acis LP's current CLOs were issued prior to December 2014***. Thus, these four CLOs are still technically able to do a refinancing without a risk retention structure in place. In any event, by early-to-middle 2017, Acis LP was risk retention compliant. Exh. 82, pp. 65-69 & 75. That was recently changed—on October 24, 2017—four days after the Arbitration Award—as later explained herein.

[26] *See* n.23, *supra*.

[27] *See* Demonstrative Aid No. 3.

[28] *See* Exh. 173, which seems to suggest that the only equity owners of ALF just prior to October 24, 2017 were Acis LP and the DAF, until Acis LP's interest in ALF was sold back to ALF on October 24, 2017. *See also* Exh. 82, p. 162, lines 2-7.

(f) The underwriter for the CLO notes. As with any publicly traded notes, there is an underwriter for the CLO notes which solicits investors for the CLO notes (examples given at the Trial: Mizuho Securities USA, LLC; Merrill Lynch; JP Morgan Chase).[29] The CLO notes are traded on the Over-the-Counter Market.

(g) The independent indenture trustee for the CLO notes. As also with any issuance of publicly traded notes, there is an indenture trustee (example given at the Trial: U.S. Bank).[30]

26. Mr. Terry, the Petitioning Creditor, as earlier mentioned, began working for Highland in 2005 until his employment was terminated on June 9, 2016.

27. Acis LP and Acis GP/LLC have never had any employees. Rather, all employees that work for any of the Highland family of companies (including Mr. Terry) have, almost without exception, been employees of Highland itself. Highland has approximately 150 employees in the United States. Highland provides employees to entities in the organizational structure, such as Acis LP and Acis GP/LLC, through both the mechanism of: (a) a Shared Services Agreement (herein so called),[31] which provides "back office" personnel—such as human resources, accounting, legal and information technology to the Highland family of companies; and (b) a Sub-Advisory Agreement (herein so called),[32] which provides "front office" personnel to entities—such as the managers of investments like Mr. Terry. The evidence indicated that this is typical in the CLO industry to have such agreements. The court notes that

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[29] *See* Exh. 193.

[30] *See* Exh. 7.

[31] Exhs. 17, 99, 179 & 5.

[32] Exhs. 18, 178 & 4.

all iterations of the Shared Services Agreements and Sub-Advisory Agreements between Acis LP and Highland were signed by Mr. Dondero both as President of Acis LP and as President of the General Partner of Highland.

28. Because Acis LP essentially subcontracts out all of its functions to Highland pursuant to the Shared Services Agreement and the Sub-Advisory Agreement, Acis LP has very few vendors or creditors. Rather Highland incurs expenses and essentially bills them to Acis LP through these two agreements.[33] In other words, Highland is one of Acis LP's largest and most frequent creditor.

29. The evidence reflected that at all times Mr. Dondero has been the President of both of the Alleged Debtors, and there have been, at all times, very few, if any, other officers. It appears that the only other officer of Acis GP/LLC that ever existed was Frank Waterhouse, Treasurer.[34] It also appears that the only other officer of Acis LP that ever existed was Frank Waterhouse, Treasurer, Mr. Terry as Portfolio Manager, and someone named Patrick Boyce as Secretary at one time.[35]

30. Mr. Dondero testified that he has decision making authority for the Alleged Debtors but usually delegates that authority to Highland's in-house lawyers, Scott Ellington (General Counsel, Chief Legal Officer, and Partner of Highland) and Isaac Leventon (Assistant General Counsel of Highland) and is rarely involved in "nitty gritty negotiations." Sometimes instructions will come to him from the compliance group headed up by Chief Compliance Officer Thomas Surgent. Additionally, he testified that he signs hundreds of documents per

[33] Exh. 83, pp. 228 (line 8)-230 (line 14).

[34] *See, e.g.*, Exh. 10 & Exh. 173, p.3

[35] Exhs. 14 & 15.

week, and much of what he signs is on advice of counsel and he sometimes even delegates to his assistant the authority to sign his name. As set forth above, Mr. Ellington (who ***did not*** testify at the Trial)[36] and Mr. Leventon (who ***did*** testify at the Trial) are not officers, directors, or employees of the Alleged Debtors. Mr. Leventon is designated to be the representative for the Alleged Debtors (and testified as a Rule 30(b)(6) witness during pre-Trial discovery)—he explained that this representative-authority derives from the Shared Services Agreement. Mr. Leventon testified that he takes his instructions generally through his direct supervisor, Mr. Ellington, although Highland partners can ask him to perform legal services for any of Highland's 2,000 entities.

C. Transfers and Transactions Involving the Alleged Debtors Since the Litigation with Mr. Terry Commenced—and Especially After the Arbitration Award.

31. Below is a listing of some (but not necessarily all) of the transfers and transactions that the Alleged Debtors, Highland, and related parties undertook ***after*** the litigation with Mr. Terry commenced.

(a) Acis LP's Sale to Highland of a "Participation Interest" in its CLO Cash Flow Stream. On October 7, 2016 (approximately one month after the litigation arose among Mr. Terry, Highland, and the Alleged Debtors), Acis LP sold to Highland a participation interest in its expected future cash flow from the CLO Collateral Management Agreements—specifically, it sold a portion of the cash flow it expected to earn from November 2016 to August 2019 (not the full life of the CLOs), for $666,655 cash, plus a $12,666,446 note payable from Highland to

[36] Mr. Ellington did testify at a hearing in the bankruptcy court on February 6, 2018—which the parties asked this court to take judicial notice of—and also provided deposition testimony that was submitted into evidence. *See* Exh. 25.

Acis LP (hereinafter, the "Acis LP Note Receivable from Highland"). Mr. Dondero signed the purchase and sale agreement for both purchaser and seller.[37] Mr. Dondero signed the Acis LP Note Receivable from Highland, which accrued interest at 3% per annum. It appears that the $666,665 cash down payment was actually paid, and a payment required on the Acis LP Note Receivable from Highland of $3,370,694 on May 31, 2017, was actually made. The Acis LP Note Receivable from Highland was payable in three installments, with a $5,286,243 payment required on May 31, 2018, and a $4,677,690 payment required on May 31, 2019. When viewed in complete isolation, this transaction does not necessarily appear problematic. Although there was evidence that Acis LP had been managing the five CLOs for about $10 million per year of fees, some of the recitals in the purchase and sale agreement suggest that there may have been a sound business reason for the transaction and the arbitration panel,[38] viewing this transaction in isolation, did not think it was necessarily problematic or actionable. In any event, Highland is adamant it was a net neutral transaction.

(b) Transfer of Acis LP's interest in ALF. Recall that ALF was the entity that held equity (*i.e.,* the subordinated notes) in the CLO special purpose vehicles, and held voting rights and was a capital provider to the overall risk retention structure supporting the CLOs. And Acis LP, in turn, held a 15% indirect interest in ALF. On October 24, 2017 (***four days after the Arbitration Award***), Acis, LP entered into an agreement with ALF whereby ALF acquired back the shares that Acis LP

[37] Exhs. 14 & 15.

[38] Exh. 1, p. 18.

indirectly held in ALF (966,679 shares) for the sum of $991,180.13.[39] No credible business justification was offered for this transaction, other than mostly uncorroborated (and self-serving) statements from Highland witnesses that Acis LP was "toxic" in the market place (due to the litigation with Mr. Terry) and this was a step in the process of extricating Acis LP from the CLO business.[40] The court finds the testimony about Acis LP's toxicity in the marketplace to not be credible or at all convincing. For one thing, a new CLO (Acis CLO 2017-7, Ltd.) was closed on April 10, 2017 with Acis LP as the portfolio manager. Moreover, Acis LP subcontracts all of its CLO management function to Highland—and there was no evidence to suggest that anyone in the marketplace at this juncture differentiates between Acis LP (whose president is Mr. Dondero) and Highland (whose president is Mr. Dondero). ***In any event, the October 24, 2017 transaction had the highly consequential effect of making Acis LP "noncompliant" or unable to continue serving as a CLO manager for regulatory purposes for any new CLOs or reset CLOs (or for a refinancing of any of the Highland CLOs that had been created after December 2014)[41] because aspects of the federal Dodd Frank legislation require CLO managers to have "skin in the game" with regard to the CLOs they manage (i.e., they must retain at least 5% of CLOs they manage).*** Mr. Akada, who testified that he had been involved with the CLO business from the beginning and that the CLO team

[39] Exh. 173.

[40] There were also a few hearsay-laden emails offered, that the court did not find probative. Exhs, 19-22.

[41] *See* n.23 *supra*.

reported to him (including Mr. Terry before his termination), testified that he had no knowledge of this particular transaction. The document effectuating this transaction was signed by Frank Waterhouse, Treasurer for and on behalf of Acis LP, acting by its general partner, Acis GP/LLC.[42]

(c) ALF Next Decides to Jettison Acis, LP as its Portfolio Manager and Replace it with a new Highland Cayman Island Entity. On October 27, 2017 (seven days after the Arbitration Award), ALF—having purchased back the ownership interest that Acis LP had in it, just three days earlier—decided that it would no longer use Acis LP as its portfolio manager and entered into a new portfolio management agreement to supersede and replace the ALF Portfolio Management Agreement. Specifically, on October 27, 2017, ALF entered into a new Portfolio Management Agreement with a Cayman Island entity called Highland HCF Advisor, Ltd., replacing Acis LP in its role with ALF.[43] This agreement appears to have been further solidified in a second portfolio management agreement dated November 15, 2017.[44]

(d) The Acis LP Note Receivable from Highland is Transferred from Acis LP to Yet Another Highland Cayman Island Entity. On November 3, 2017 (10 days after the Arbitration Award), Acis LP assigned and transferred its interests in the Acis LP Note Receivable from Highland—which at that point had a balance owing of over $9.5 million—to a Highland Cayman Island entity known as Highland CLO

[42] Exh. 173, p. 3.

[43] Exh. 43.

[44] Exh. 168.

Management Ltd. which apparently was created sometime recently to be the new collateral manager of the CLOs (in other words, the new Acis LP).[45] The Assignment and Transfer Agreement memorializing this transaction is signed by Mr. Dondero for Acis LP and Mr. Dondero for Highland and some undecipherable name for Highland CLO Management Ltd.[46] The document recites that (i) Highland is no longer willing to continue providing support services to Acis LP, (ii) Acis LP, therefore, can no longer fulfill its duties as a collateral manager, and (iii) Highland CLO Management Ltd. agrees to step into the collateral manager role if Acis LP will assign to it the Acis LP Note Receivable from Highland. One more thing: since Acis LP was expected to potentially incur future legal and accounting/administrative fees, and might not have the ability to pay them when due, ***Highland CLO Management Ltd.*** agreed to reimburse Acis LP (or pays its vendors directly) up to $2 million of future legal expenses and up to $1 million of future accounting/administrative expenses.[47]

(e) Various Additional Transactions that further Transitioned CLO Management and Fees Away from Acis LP to Highland Cayman Island Entity. On December 19, 2017—just one day after the Arbitration Award was confirmed with the entry of the Final Judgment—the vehicle that can most easily be described as the Acis LP "risk retention structure" (necessitated by federal Dodd Frank law) was transferred away from Acis LP and into the ownership of Highland CLO

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[45] Exh. 16.

[46] *Id.* at p.6.

[47] *Id.* at pp. 1 & 2.

Holdings, Ltd. (yet another Cayman Island entity, incorporated on October 27, 2017[48]).

(f) In addition to transferring Acis LP's interest in the Acis LP risk retention structure on December 19, 2017, Acis LP also transferred its contractual right to receive management fees for Acis CLO 2017-7, Ltd. (which had just closed April 10, 2017), which Mr. Terry credibly testified had a combined value of $5 million, to Highland CLO Holdings, Ltd., another Cayman entity, purportedly in exchange for forgiveness of a $2.8 million receivable that was owed to Highland under the most recent iteration of the Shared Services Agreement and Sub-Advisory Agreement for CLO-7.[49] In conjunction with this transfer, Highland CLO Holdings, Ltd. then entered into new Shared Services and Sub-Advisory Agreements with Highland.[50]

(g) Change of Equity Owners of the Alleged Debtors. When Acis LP was first formed, it was owned by one general partner (Acis GP/LLC, with a .1% interest) and it had three limited partners: (a) Dugaboy Investment Trust (a Dondero family trust of which either Mr. Dondero or his sister, Nancy Dondero, have been the Trustee at all relevant times) with a 59.9% interest; (b) Mr. Terry with a 25% interest; and (c) Mr. Akada with a 15% interest. When Acis GP/LLC was formed

[48] Exh. 157.

[49] *See* Ex. 45 (the Transfer Document); *see also* Exh. 4 (the March 17, 2017 Third Amended and Restated Sub-Advisory Agreement between Acis LP and Highland); Exh. 5 (the March 17, 2017 4th Amended & Restated Shared Services Agreement between Acis LP and Highland); Exh. 165 (March 17, 2017 Staff and Services Agreement between Acis CLO Management, LLC and Acis LP); Exh. 166 (March 17, 2017 Master Sub-Advisory Agreement between Acis CLO Management, LLC and Acis LP).

[50] *See* Exhs. 161 & 162.

(*i.e.*, the .1% owner of Acis LP), its sole member was the Dugaboy Investment Trust. After Mr. Terry was terminated by Highland, his 25% limited partnership interest in Acis LP was forfeited and divided among the two remaining limited partners: Mr. Akada (increasing his interest by 10% up to 25%), and Dugaboy Investment Trust (increasing its interest by 15% up to 74.9%). But, more importantly, on the day after entry of Mr. Terry's Final Judgment (*i.e.*, on December 18, 2017), both Mr. Akada and Dugaboy Investment Trust conveyed their entire limited partnership interests in Acis LP—25% and 74.9%, respectively—to a Cayman Island entity called Neutra, Ltd., a Cayman Islands exempted company. Dugaboy Investment Trust also conveyed its 100% membership interest in Acis GP/LLC to Neutra, Ltd. Mr. Akada testified that he did this on advice of counsel. He also did not dispute that he had made millions of dollars of equity dividends from his equity investment in Acis LP in recent years[51]—which he conveyed away for no consideration on December 18, 2017.

(h) The Intended Reset of Acis CLO 2014-3. With all of the above maneuverings having been accomplished, Highland was posed to do a reset on Acis CLO 2014-3 in February 2018 (until Mr. Terry filed the Involuntary Petitions). The investment bank Mizuho Securities USA, LLC was engaged November 15, 2017[52] and a final offering circular was issued in January 2018[53]—contemplating a reset of Acis CLO 20-14-3 with the recently created Highland CLO Management Ltd.

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[51] Exh. 23, p.3.

[52] Exh. 104.

[53] Exh. 31.

Identified as the new portfolio manager, rather than Acis LP. The act of implementing a reset on the CLO was not in itself suspect. However, the reset would, of course, have the effect of depriving Acis LP from a valuable asset—an agreement that could realistically be expected to provide millions of dollars of future collateral management fees—coincidentally (or not) just after Mr. Terry obtained his large judgment.

D. Findings Regarding Credibility of Witnesses.

32. The court found the testimony of Mr. Terry to be very credible. He was very familiar with the financial condition of the Alleged Debtors, since he presided over the business of the Alleged Debtors from their inception until June 9, 2016, and has also closely followed publicly available information regarding the companies since his termination. Mr. Terry credibly testified that the Alleged Debtors have never had a significant number of creditors, since most of the Alleged Debtors' vendors are engaged by and send their invoices to Highland, and Highland simply obtains reimbursement from the Alleged Debtors (and other entities in the Highland family), as its in-house lawyers determine is appropriate, through the Shared Services Agreement and Sub-Advisory Agreement. Thus, Highland should at all times be the Alleged Debtors' main creditor. The court finds that Mr. Terry had a good faith belief that the Alleged Debtors had only a handful of creditors (maybe four or so) besides him and Highland. The court also finds that Mr. Terry—at the time he filed the Involuntary Petitions—had a good faith belief that the Alleged Debtors and those controlling them were engaged in an orchestrated, sophisticated effort to denude the Alleged Debtors of their assets and value (*i.e.*, transferring assets and rights for

less than reasonably equivalent value), which started with intensity after issuance of the Arbitration Award (if not sooner).[54]

33. The court found the testimony of almost all of the witnesses for the Alleged Debtors to be of questionable reliability and, oftentimes, there seemed to be an effort to convey plausible deniability. For example, sometimes business decisions concerning the Alleged Debtors were said to have been made by a "collective," and other times the in-house Highland lawyers (who, of course, are not themselves officers or employees of Acis LP and Acis GP/LLC) stressed that Mr. Dondero (the president and manager of the two entities) had ultimate decision making authority for them. Meanwhile, Mr. Dondero testified that, while he has decision making authority at Acis LP, he usually delegates to Highland's in-house lawyers Scott Ellington and Isaac Leventon. He testified that he signs hundreds of documents per week and often must rely on information of others when signing. Additionally, Mr. Dondero (again, the President of each of the Alleged Debtors) testified that he had never even read the Arbitration Award. While Mr. Dondero is the chief executive of a multi-billion dollar international investment company, and naturally has widespread responsibilities and must delegate to and rely upon others including lawyers, this court simply does not believe that he never read the Arbitration Award. The court perceived the animosity between Mr. Dondero and Mr. Terry to be rather enormous and Mr. Dondero even testified (as did others) that the litigation with Mr. Terry was hurting Acis LP and Highland in the CLO marketplace (*i.e.,* no investors or underwriters wanting to be associated

[54] The court also found that the deposition testimony of Brian Shaw and Rahkee Patel (counsel for Mr. Terry) was also credible and did not demonstrate any bad faith on their parts in filing the Involuntary Petitions on behalf of Mr. Terry.

with the Acis brand).[55] If that were the case, it strains credulity to suggest Mr. Dondero never even read the Arbitration Award.

34. As mentioned earlier, in December 2017, Acis GP/LLC became 100% owned by a Cayman Island entity known as Neutra, Ltd. (whose beneficial owner is a Dondero family trust) and Acis LP became 99.9% owned by Neutra, Ltd. The directors of Acis GP/LLC and Acis LP are provided to it now by an entity known as "Maples Fiduciary Services"—another Cayman Island entity, but the Highland Assistant General Counsel could not remember the names of those directors provided to Acis GP/LLC and Acis LP, except for perhaps one. Mr. Dondero, when questioned about some of the recent transactions pertaining to Acis LP, testified that there were tax reasons—tax lawyers recommended the recent transactions and transfers. No tax lawyers testified. Mr. Dondero also testified that certain transactions were at the directive of the Thomas Surgent group (the Highland chief compliance officer). Neither Mr. Surgent nor anyone else from the compliance group testified.

35. Meanwhile, Mr. Akada, who, while testifying, seemed like a generally lovely person and seemed as knowledgeable as a human being could possibly be on the topic of CLOs generally, had no idea if he was an officer or director of the Alleged Debtors, nor did he know whom its officers were. He could not testify as to the meaning of certain transactions in which Acis LP had engaged in during recent weeks and said that he signed certain documents on advice of counsel. He also could not even testify as to whether Highland was opposing the Involuntary Petitions.

36. Again, there was a lot of plausible deniability at Trial as to the "whos" and "whys" for the recent maneuverings involving the Alleged Debtors assets and rights in the weeks

[55] No such investors or underwriters provided testimony.

since the Arbitration Award. The one thing that the court was wholly convinced of was that conflicts of interest among Highland and the Alleged Debtors abound, and no one is looking out for the interests of the Alleged Debtors as a fiduciary should.

E. Evidence Regarding the Number of Creditors of the Alleged Debtors.[56]

37. The Alleged Debtors do not dispute Mr. Terry's claim for the purposes of counting creditors under section 303(b) of the Bankruptcy Code. However, Mr. Terry asserts that the Alleged Debtors have fewer than 12 creditors, and the Alleged Debtors dispute this fact. Specifically, the Alleged Debtors initially filed on January 31, 2018, a Notice of List of Creditors Pursuant to Fed. R. Bankr. P. 1003(b) signed by Mr. Dondero listing 18 creditors (the "Original Notice of Creditors").[57] The Alleged Debtors subsequently filed on February 5, 2018, a First Amended Notice of List of Creditors Pursuant to Fed. R. Bankr. P. 1003(b) signed by Mr. Leventon listing 19 creditors (the "First Amended Notice of Creditors").[58] Finally, the Alleged Debtors filed on March 6, 2018, a Second Amended Notice of List of Creditors Pursuant to Fed. R. Bank. P. 1003(b) signed by Mr. Leventon listing 20 creditors (the "Second Amended List of Creditors").[59] The following chart summarizes the name, amount, and nature of the 20 creditors listed by the Alleged Debtors in their Second Amended List of Creditors.

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[56] The court notes that neither Mr. Terry nor the Alleged Debtors attempted to differentiate between the creditors of Acis GP/LLC versus the creditors of Acis LP, but rather presented evidence regarding the collective number of creditors for both of the Alleged Debtors. This seems legally appropriate, since Acis LP is the entity that incurred most of the debt, and ACIS GP/LLC would be liable on such debt as the general partner of Acis LP.

[57] *See* DE # 7 in Case No. 18-30264 & DE # 7 in Case No. 18-30265.

[58] *See* DE # 17 in Case No. 18-30264 & DE # 16 in Case No. 18-30265.

[59] *See* DE # 39 in Case No. 18-30264 & DE # 38 in Case No. 18-30265.

Creditor No.	Creditor Name	Nature of Claim	Total Indebtedness[60]
1	Andrews Kurth	Legal Fees	$211,088.13
2	Case Anywhere, LLC	Law Firm Vendor	$417.20
3	CSI Global Deposition Services	Law Firm Vendor	$38,452.56
4	David Langford	Court Reporter/Law Firm Vendor	$550
5	Drexel Limited	Fee Rebate	$6,359.96
6	Elite Document Technology	Data Hosting/Law Firm Vendor	$199.72
7	Highfield Equities, Inc.	Fee Rebate	$2,510.04
8	Highland Capital Management, L.P.	Advisory and Participation Fees	$2,770,731.00
9	JAMS, Inc.	Law Firm Vendor	$1,352.27
10	Jones Day	Legal Fees	$368.75
11	Joshua Terry	Judgment Creditor	$8,060,827.84
12	KPMG LLP	Auditor Fees	$34,000
13	Lackey Hershman LLP	Legal Fees	$236,977.54
14	McKool Smith, P.C.	Legal Fees	$70,082.18
15	Reid Collins & Tsai LLP	Legal Fees	$17,383.75
16	Stanton Advisors LLC	Testifying Expert Fees/Law Firm Vendor	$10,000
17	Stanton Law Firm	Legal Fees	$88,133.99
18	The TASA Group. Inc.	Testifying Expert Fees/Law Firm Vendor	$14,530.54
19	CT Corporation	Report Filing Representation	$517.12
20	David Simek	Expense Reimbursement	$1,233.19

38. First, the court believes it necessary to remove certain insider creditor claims, which are required not to be counted pursuant to section 303(b)(2) of the Bankruptcy Code.[61] This would clearly include Highland (the Alleged Debtors do not dispute this).

[60] The dollar amounts listed here are based upon the amounts listed in the Second Amended List of Creditors.

[61] *In re Moss*, 249 B.R. 411, 419 n. 6 (Bankr. N.D. Tex. 2000).

39. Additionally, there were certain creditors that filed sworn statements saying they were not creditors of the Alleged Debtors or were subsequently removed from the creditor list by agreement of the Alleged Debtors. These creditors would include Case Anywhere, CSI Global Deposition Services,[62] Elite Document Technology, JAMS, Inc.,[63] Stanton Advisors LLC,[64] and the TASA Group, Inc..[65] Thus, the updated chart now shows 13 creditors of the Alleged Debtors.

Creditor No.	Creditor Name	Nature of Claim	Total Indebtedness
1	Andrews Kurth	Legal Fees	$211,088.13
~~2~~	~~Case Anywhere, LLC~~	~~Law Firm Vendor~~	~~$417.20~~
~~3~~	~~CSI Global Deposition Services~~	~~Law Firm Vendor~~	~~$38,452.56~~
4	David Langford	Court Reporter/Law Firm Vendor	$550
5	Drexel Limited	Fee Rebate	$6,359.96
~~6~~	~~Elite Document Technology~~	~~Data Hosting/Law Firm Vendor~~	~~$199.72~~
7	Highfield Equities, Inc.	Fee Rebate	$2,510.04
~~8~~	~~Highland Capital Management, L.P.~~	~~Advisory and Participation Fees~~	~~$2,770,731.00~~
~~9~~	~~JAMS, Inc.~~	~~Law Firm Vendor~~	~~$1,352.27~~
10	Jones Day	Legal Fees	$368.75
11	Joshua Terry	Judgment Creditor	$8,060,827.84
12	KPMG LLP	Auditor Fees	$34,000
13	Lackey Hershman LLP	Legal Fees	$236,977.54
14	McKool Smith, P.C.	Legal Fees	$70,082.18
15	Reid Collins & Tsai LLP	Legal Fees	$17,383.75

[62] CSI Global Deposition Services was removed as a creditor by the agreement of the Alleged Debtors.

[63] JAMS, Inc. was removed as a creditor by agreement of the Alleged Debtors.

[64] Stanton Advisors LLC was removed as a creditor by agreement of the Alleged Debtors.

[65] *See* Exh. 40B, Exh. 186, Exh. 92, and Exh. 94.

~~16~~	~~Stanton Advisors LLC~~	~~Testifying Expert Fees/Law Firm Vendor~~	~~$10,000~~
17	Stanton Law Firm	Legal Fees	$88,133.99
~~18~~	~~The TASA Group. Inc.~~	~~Testifying Expert Fees/Law Firm Vendor~~	~~$14,530.54~~
19	CT Corporation	Report Filing Representation	$517.12
20	David Simek	Expense Reimbursement	$1,233.19

40. Next, the court finds that there are certain creditors included in the "Law Firm Vendor" category (*e.g.*, experts, data hosting, document managers, court reporters) that are really creditors of the individual law firms and/or Highland, and that these law firm vendor creditors should not be considered creditors of the Alleged Debtors. For these, there was no evidence of a direct contractual obligation on the part of either the Alleged Debtors or Highland—although the court certainly understands that, when the law firms would retain vendors, they would bill these to either the Alleged Debtors or Highland as an expense to be reimbursed. Most of these were already eliminated with agreement of the Alleged Debtors but, from the remaining list of creditors, this would include David Langford (a Dallas County court reporter).[66] To be clear, while the individual law firm creditors may ultimately have a right to reimbursement for these vendor expenses from Highland (who may then potentially have a right to reimbursement from the Alleged Debtors via the Shared Services and Sub-Advisory Agreements), the court does not find this vendor to have a claim ***directly*** against the Alleged Debtors for purposes of section 303(b) of the Bankruptcy Code.

[66] *See* Exh. 40D, Exh. 187, Exh. 40O.

41. Next, as to the Stanton Law Firm, the court finds that this creditor should also be removed from the pool of creditors that "count," for section 303(b) purposes, since this claim appears to be the subject of a "bona fide dispute as to liability or amount,"[67] based on the evidence presented at the Trial. First, there was no engagement letter between either of the Alleged Debtors and the Stanton Law Firm produced.[68] Second, the heavily redacted invoice of the Stanton Law Firm dated October 18, 2016 shows only that it was relating to the "Joshua Terry Matter" and that it was billed to Highland.[69] Third, the Responses and Objections to Mr. Terry's Notice of Intention to Take Depositions by Written Questions sent to the Stanton Law Firm[70] provides the following responses:

> **Question No. 11**: What is the total amount of debt Acis Capital Management L.P. to the Firm. is liable to the Firm.
>
> **Answer**: Acis Capital Management L.P.'s debt to the Firm is unknown at this time.
>
> **Question No. 12**: What is the total amount of debt Acis Capital Management GP, LLC is liable for to the firm?
>
> **Answer**: Acis Capital Management GP, LLC to the Firm is unknown at this time.
>
> **Question No. 13**: Is any other party also liable for the debt of Acis Capital Management L.P. to the Firm? If so, please state the liable party and portion of Acis Capital Management L.P. debt the other party is liable for to the Firm.

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[67] *See Credit Union Liquidity Servs., L.L.C. v. Green Hills Dev. Co., L.L.C. (In re Green Hills Dev. Co., L.L.C.)*, 741 F.3d 651, 655 (5th Cir. 2014) (a claimholder does not have standing to file a petition under section 303(b) if its claim is "the subject of a bona fide dispute as to liability or amount"); *In re Smith*, 415 B.R. 222, 237 (Bankr. N.D. Tex. 2009) (only "a holder of a claim ... that is not contingent as to liability or the subject of a bona fide dispute as to liability or amount" is counted in determining the number of creditors necessary to file an involuntary petition).

[68] Rather, there is only an engagement letter between Lackey Hershman LLP (acting on behalf of its client, Highland) and Stanton Advisors LLC to act as an expert in the Terry litigation. *See* Exh. 144. As previously noted, the claim of Stanton Advisors LLC was removed from the creditor list by agreement of the Alleged Debtors.

[69] *See* Exh. 40R.

[70] The court notes that these responses were actually signed by James Michael Stanton, attorney for Stanton LLP. *See* Exh. 139.

> **Answer**: Whether any other party is also liable to the firm for the debt of Acis Capital Management, L.P. is unknown at this time.
>
> **Question No. 14**: Is any other party also liable for the debt of Acis Capital Management GP, LLC to Firm? If so, please state the liable party and portion of Acis Capital Management GP, LLC debt the other party is liable for to the Firm.
>
> **Answer**: Whether any other party is also liable for the debt of Acis Capital Management GP, LLC is unknown at this time. . . .
>
> **Question No. 21**: Does the Firm currently represent Acis Capital Management, L.P.? If so, please state the representation.
>
> **Answer**: Based on Acis's assertion that this question calls for information protected by the attorney-client privilege, the Firm cannot answer this question at this time.
>
> **Question No. 22**: Does the Firm currently represent Acis Capital Management GP, LLC? If so, please state the representation?
>
> **Answer**: Based on Acis's assertion that this question calls for information protected by the attorney-client privilege, the Firm cannot answer this question at this time. . . .[71]

The court finds that this evidence demonstrates that the claim of the Stanton Law Firm is the subject of a bona fide dispute as to either liability or amount and should not be counted since there is no real way of even knowing who the Stanton Law Firm was engaged by and, thus, whether the Alleged Debtors are even responsible for these alleged legal fees. The court would also specifically refer to the testimony of Mr. Leventon, the in-house lawyer employed by Highland who was in charge of allocating all of the bills that came into Highland's legal invoicing system, where he described a process in which all legal bills relating to the "Terry Matter" would automatically be assigned to the Alleged Debtors, without any real regard to whether the particular law firm had even been engaged by the Alleged Debtors or if whether the

[71] *See* Exhibit 139.

representation was actually relating to one of the other parties in the Terry litigation (*e.g.*, Highland, Mr. Dondero, etc.). Accordingly, the court finds that there is a bona fide dispute as to whether the Alleged Debtors are actually liable for the Stanton Law Firm legal fees and that they should not be counted as a creditor for purposes of section 303(b) of the Bankruptcy Code.[72]

42. Thus, it appears, at most, that there are 11 creditors[73] of the Alleged Debtors as set forth in the chart below:

Creditor No.	Creditor Name	Nature of Claim	Total Indebtedness
1	Andrews Kurth	Legal Fees	$211,088.13
~~2~~	~~Case Anywhere, LLC~~	~~Law Firm Vendor~~	~~$417.20~~
~~3~~	~~CSI Global Deposition Services~~	~~Law Firm Vendor~~	~~$38,452.56~~
~~4~~	~~David Langford~~	~~Court Reporter/Law Firm Vendor~~	~~$550~~
5	Drexel Limited	Fee Rebate	$6,359.96
~~6~~	~~Elite Document Technology~~	~~Data Hosting/Law Firm Vendor~~	~~$199.72~~
7	Highfield Equities, Inc.	Fee Rebate	$2,510.04
~~8~~	~~Highland Capital Management, L.P.~~	~~Advisory and Participation Fees~~	~~$2,770,731.00~~
~~9~~	~~JAMS, Inc.~~	~~Law Firm Vendor~~	~~$1,352.27~~
10	Jones Day	Legal Fees	$368.75

[72] *See also In re CorrLine Int'l, LLC*, 516 B.R. 106, 152 (Bankr. S.D. Tex. 2014) (bankruptcy court found that creditors contained in the alleged debtor's list of creditors with uncertain or unknown amounts could not be counted towards the numerosity requirement of section 303(b)).

[73] The court notes that, in all likelihood, the list of creditors that should be tallied for purposes of section 303(b) may actually be less than 11, because certain of the remaining creditors (*i.e.*, Drexel Limited, Highfield Equities, Inc., Lackey Hershman LLP, and David Simek) received payments during the 90 days preceding the Petition Date—and, thus, arguably should not be counted as creditors pursuant to section 303(b) of the Bankruptcy Code (which instructs that transferees of voidable transfers should not be counted). *See, e.g.*, Exh. 124 & Exh. 131. Additionally, certain of the remaining law firm creditors that are owed legal fees are also creditors of Highland and Highland-affiliates, not just the Alleged Debtors. To elaborate, many of these law firm creditors were employed to represent not only the Alleged Debtors, but also Highland and Highland-affiliates, so there may be an actual dispute as to the allocation of these legal fees among Highland and the Alleged Debtors (thus there could be bona fide disputes as to the amounts allocated by Highland's in-house lawyers to the Alleged Debtors). *See, e.g.*, Ex. 123 (McKool Smith, P.C. engagement letter referencing representation of numerous parties) & Exhibit 90 (Reid Collins & Tsai's Answers and Objections to Mr. Terry's Deposition by Written Questions, questions 13 & 14, stating that based upon allocation determinations to be made by Highland, other individuals may be liable for the full amount of the debt including Acis LP, Highland, Mr. Dondero, and Mr. Okada).

11	Joshua Terry	Judgment Creditor	$8,060,827.84
12	KPMG LLP	Auditor Fees	$34,000
13	Lackey Hershman LLP	Legal Fees[74]	$236,977.54
14	McKool Smith, P.C.	Legal Fees	$70,082.18
15	Reid Collins & Tsai LLP	Legal Fees	$17,383.75
~~16~~	~~Stanton Advisors LLC~~	~~Testifying Expert Fees/Law Firm Vendor~~	~~$10,000~~
~~17~~	~~Stanton Law Firm~~	~~Legal Fees~~	~~$88,133.99~~
~~18~~	~~The TASA Group. Inc.~~	~~Testifying Expert Fees/Law Firm Vendor~~	~~$14,530.54~~
19	CT Corporation	Report Filing Representation	$517.12
20	David Simek	Expense Reimbursement	$1,233.19

43. Finally, on the topic of creditor numerosity, the court further finds that the evidence strongly suggested hurried manufacturing of creditors on the part of the Alleged Debtors and Highland, in order to bolster an argument that having a sole petitioning creditor was legally inadequate in this case.[75] For example, the Klos Declaration and other information, that was provided to State Court 2 and in discovery, only days before the Involuntary Petitions were filed,

[74] Mr. Terry has also argued that certain of the law firm creditors (McKool Smith, P.C., Lackey Hershman, LLP, and Reid Collins & Tsai) are "insiders" that must be excluded from the creditor list pursuant to section 303(b) of the Bankruptcy Code. While there may be some support in case law for such an argument, Mr. Terry would ultimately need to show by a preponderance of the evidence that the law firms exercised such control or influence over the Alleged Debtors as to render their transactions not at arm's length. *See In re CorrLine Intern., LLC*, 516 B.R. 106, 157-58 (Bankr. S.D. Tex. 2014) (citing to *Kepler v. Schmalbach (In re Lemanski)*, 56 B.R. 981, 983 (Bankr.W.D.Wis.1986)). *See also In re Holloway*, 955 F.2d 1008, 1011 (5th Cir. 1992) (in evaluating whether insider status existed for purposes of evaluating alleged fraudulent conveyance court considered (1) the closeness of the relationship between the transferee and the debtor; and (2) whether the transactions between the transferee and the debtor were conducted at arm's length). Because there was no evidence suggesting abuse or control by these law firm creditors, nor was there any evidence that would suggest that their dealings with the Alleged Debtors were anything but arm's length, the court finds that these law firm creditors should not be excluded from the creditor list as "insiders" pursuant to section 303(b) of the Bankruptcy Code.

[75] *See* the Original Notice of Creditors, the First Amended Notice of Creditors, and the Second Amended Notice of Creditors.

seemed to show only a small number of creditors of Acis LP—Mr. Terry credibly testified that he thought there were less than 12 creditors based on his review of such information, as well as his understanding of the Alleged Debtors' business. Yet, only a few days later, the Alleged Debtors filed their Original Notice of Creditors, which showed 18 creditors, which was amended twice to add another creditor and then yet another. This simply does not jive in the court's mind and supports this court's belief that the Alleged Debtors were scurrying to determine which Highland creditors might cogently be painted as Acis LP creditors—so as to preclude Mr. Terry from being able to file the Involuntary Petitions as the single, petitioning creditor.

F. Evidence Regarding Whether the Alleged Debtors are Generally Not Paying Debts as They Become Due (Unless Such Debts are the Subject of a Bona Fide Dispute as to Liability or Amount).

44. The evidence submitted reflects that, for the 11 creditors identified above, 9 out of 11 have unpaid invoices that were more than 90 days old. The remaining 2 of the 11 were McKool Smith, P.C. (current counsel for the Alleged Debtors) and the Petitioning Creditor.[76] The court makes findings with regard to each of the 11 creditors below—focusing specifically on whether the Alleged Debtors have been paying these creditors as their debts have become due.

45. First, with regard to Andrews Kurth & Kenyon ("AKK"), the evidence reflected that out of the $211,088.13 allegedly owed by Acis LP to AKK, the great majority of it—$173,448.42—was invoiced on November 16, 2016[77] (more than 14 months before the Petition Date). Other, smaller amounts were invoiced on a monthly basis in each of the months August 2017, September 2017, October 2017, November 2017, and December 2017. Although requested in discovery, no engagement letter for AKK was produced and AKK represented in

[76] Exhs. 40 & 54.

[77] Exh. 40.

written discovery that, to its knowledge, none existed.[78] The court notes anecdotally that AKK's invoices (although allegedly related to Acis LP legal matters) were addressed to Highland.[79] In any event, AKK represented that both the Alleged Debtors and Highland are jointly and severally liable for the fees owed to it.[80] AKK also represented that, to its knowledge, the amounts owing to it by Acis LP and Highland are not disputed.[81] AKK also represented that it has not provided legal work on a contingency basis for the Alleged Debtors or Highland.[82] The court makes a logical inference that AKK expected timely payment of its invoices—the largest of which was dated more than 14 months prior to the Petition Date—and, thus, it has generally not been paid timely.

46. Next, with regard to Drexel Limited, the Petitioning Creditor concedes that its $6,359.96 indebtedness (which is a fee rebate owing to it) is not past-due.

47. Next, with regard to Highfield Equities, Inc., the Petitioning Creditor concedes that its $2,510.04 indebtedness (which is also a fee rebate owing to it) is not past-due.

48. Next, with regard to the Jones Day law firm, the $368.75 indebtedness owed to it is well more than 90 days old. Specifically, there is a six-and-a-half-month old invoice dated July 19, 2017 invoice in the amount of $118.75, and two five-month old invoices dated August 30, 2017 (both in the amount of $150).[83] The court makes a logical inference that Jones Day

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[78] Exh. 98, Requests 1-2.

[79] Exh. 98, pp. AKK000061-AKK000060.

[80] Exh. 98, Question 13.

[81] Exh. 98, Questions 52-55.

[82] Exh. 98, Questions 73-75.

[83] Exh. 40K.

expected timely payment of its invoices prior to the Petition Date and, thus, it has generally not been paid timely.

49. Next with regard to the Petitioning Creditor, Mr. Terry, the court notes that his liquidated claim in the amount of $8,060,827.84 first arose with the final Arbitration Award on October 20, 2017 (although such award was not confirmed by State Court 2 until December 18, 2017). The judgment was unstayed as of the January 30, 2018 Petition Date, although the Alleged Debtors state that they still desire to appeal it—as difficult as that is in the situation of an arbitration award. The court makes a logical inference that the Alleged Debtors had, on the Petition Date, no intention of paying this claim any time soon based on their conduct after the Arbitration Award—although the Arbitration Award had only been in existence for three-and-a-half months as of the Petition Date. The cash in the Alleged Debtors' bank accounts is wholly insufficient to cover the Arbitration Award and, meanwhile, corporate transactions have been ongoing to ensure that no cash streams will be coming into Acis LP in the future in the same way that they have in the past. Thus, this court finds that this large claim, as of the Petition Date, was not being paid timely.

50. Next with regard to KPMG LLP, the $34,000 indebtedness owed to it was for the service of auditing Acis LP's financial statements, pursuant to an engagement letter with it dated March 1, 2017.[84] KPMG's engagement letter reflected a $40,000 flat fee was agreed to by Acis LP for the service, of which 40% was due October 2017 (*i.e.,* $16,000), with another 45% was due in January 2018 ($18,000), and the remaining 15% would be due at the time that a final bill was sent. Acis LP has only paid $6,000 of the agreed upon amount—meaning $28,000 was overdue as of the January 30, 2018 Petition Date (with $10,000 of that being four months past

[84] Exh. 40M.

due). The court makes a logical inference that KPMG LLP expected payment of its audit fees in accordance with its engagement letter and, thus, it has generally not been paid timely.

51. Next with regard to Lackey Hershman LLP, the $236,977.54 indebtedness owed to it was for legal services provided to the Alleged Debtors and Highland in connection with the arbitration and litigation with Mr. Terry. No engagement letter was provided, but the invoices for their services are all directed to Highland.[85] The evidence reflected that three invoices had not been paid as of the Petition Date: an October 31, 2017 invoice in the amount of $56,909.53; a November 30, 2017 invoice setting forth new fees in the amount of $84,789.83; and a December 31, 2017 invoice setting forth new fees in the amount of $95,278.18.[86] The court makes a logical inference that Lackey Hershman LLP expected prompt payment on its invoices (if nothing else, the statement on its invoice indicating "Total now due")[87] and, thus, it has generally not been paid timely.

52. Next with regard to Reid Collins & Tsai LLP, the $17,383.75 indebtedness owed to it was billed in an invoice dated August 31, 2017, indicating an August 31, 2017 "Due Date" (five months before the Petition Date).[88] Although requested in discovery, no engagement letter for this firm was produced and Reid Collins & Tsai LLP in fact represented in written discovery that none existed.[89] Moreover, written discovery propounded on the law firm indicated that, while Acis LP was liable on this debt, other parties including Acis GP/LLC, Highland, Mr.

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[85] Demonstrative Aid No. 1 (Lackey Hershman tab).

[86] Exh. 40, p. 3.

[87] Demonstrative Aid No. 1 (Lackey Hershman tab).

[88] Exh. 40P; Exh. 130, pp. 7-8.

[89] Exh. 90, Requests 1 & 2; Ex. 130, Requests 1 & 2.

Dondero, the Dugaboy Trust, and Mr. Akada might also be liable for the full amount of the debt—subject to Highland's allocation determinations.[90] Based on this evidence, the court makes a logical inference that Reid Collins & Tsai LLP generally has not been paid timely.

53. Next with regard to CT Corporation and the $517.12 indebtedness that the Alleged Debtors represent is owed, CT Corporation asserts that $4,074.84 is, in fact, owed to it by Acis LP and Acis GP/LLC.[91] CT Corporation also believes Highland has liability for the Alleged Debtors' indebtedness.[92] CT Corporation also believes the amount owed to it is undisputed.[93] CT Corporation further represents that its invoices are due upon receipt.[94] CT Corporation produced several invoices in discovery, all showing due upon receipt, and one was dated as far back as December 31, 2016 (in the amount of $932).[95] Based on this evidence, the court makes a logical inference that CT Corporation expected prompt payment on its invoices and, thus, has not been paid timely.

54. Next with regard to David Simek, the Petitioning Creditor concedes that his $1,233.19 indebtedness (which is apparently an expense reimbursement relating to some consulting) is not past-due.

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[90] Exh. 90, Questions 13 & 14; Exh. 130, Questions 13-14.

[91] Exh. 143, Questions 12 & 13.

[92] *Id.* at Question 14.

[93] *Id.* at Questions 22 & 23.

[94] *Id.* at Question 30.

[95] *Id.* at p. 8; Exh. 40T.

55. In summary, the evidence reflects that the creditors of the Alleged Debtors are generally not being paid timely (except for perhaps four that are relatively insignificant and which may also be able to look to Highland for payment).[96]

56. Further on the topic of timeliness, Mr. Leventon (Highland's in-house Assistant General Counsel) testified that 96% of bills submitted get paid more than 90 days after they are submitted, that approximately 70% of bills are later than 120 days after they are submitted, and some are even later than 150 days. Mr. Leventon testified that this was a result of Acis LP receiving cash on a quarterly basis from the CLOs. He further elaborated and testified that, for example, if Acis LP got cash on say February 1st, and it received a legal bill on that same day, that he would probably not approve it and allocate it until say February 8th. By that time, Acis LP would have already used up all its cash, and that particular creditor would need to wait until the next quarterly payment was received in order to be paid. He further testified that he explained this to law firms before their engagements and that, if they wanted the business, they would need to understand the process. There are several things the court finds problematic about this testimony. First, no testimony was offered showing that this was, in fact, the understanding of the law firms or other creditors, and, moreover, none of the engagement letters or invoices submitted into evidence reflect such payment terms. Without this additional evidence, the court believes that the Alleged Debtors' testimony regarding how it paid invoices was mostly self-serving and did not support a finding that the Alleged Debtors were generally paying their debts

[96] Courts have also held that a debtor is generally not paying its debts as they become due when a debtor is found to have been transferring assets so as to avoid paying creditors. *See, e.g., In re Moss*, 249 B.R. 411, 423 (Bankr. N.D. Tex. 2000) (bankruptcy court determined that an alleged debtor was not paying its debts as they came due when the alleged debtor "attempted to delay creditors through the transfers of assets she has made," concluding that "[the alleged debtor's] overall conduct of her financial affairs has been poor"). This court has also found that there may have been significant transfers of the Alleged Debtors' assets prior to the filing of the Involuntary Petitions to potentially avoid paying creditors (*i.e.*, Mr. Terry) and this may provide further support for the court's finding that the Alleged Debtors are generally not paying their debts as they become due under section 303(h).

as they became due.[97] Second, to the extent Mr. Leventon's testimony demonstrates that creditors of the Alleged Debtors expected to be paid on a quarterly basis (at the latest), certain of the remaining 11 creditors have debts that are significantly older than four months (*i.e.*, CT Corporation, Jones Day, AKK, and possibly even Reid Collins & Tsai LLP). Third, the Financial Statements of Acis LP submitted into evidence do not support the notion that the cash balances at Acis LP were only sufficient enough to pay vendors once every quarter.[98] For example, the balance sheet for January 31, 2017 shows a cash balance in Acis LP bank accounts of $1,061,663.19; the balance sheet for February 28, 2017 shows a cash balance in Acis LP bank accounts of $905,212.36; the balance sheet for March 31, 2017 shows a cash balance in Acis LP bank accounts of $525,626.59; the balance sheet for April 30, 2017 shows a cash balance in Acis LP bank accounts of $117,885.96; the balance sheet for May 31, 2017 shows a cash balance in Acis LP bank accounts of $62,733.31; the balance sheet for June 30, 2017 shows a cash balance in Acis LP bank accounts of $10,329.15; the balance sheet for July 31, 2017 shows a cash balance in Acis LP bank accounts of $701,904.39; the balance sheet for August 31, 2017 shows a cash balance in Acis LP bank accounts of $332,847.05.[99] In summary, while there may be cash fluctuations with Acis LP, there is not a clear pattern of Acis LP being only able to pay vendors once every quarter.

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[97] *See In re Trans-High Corp.*, 3 B.R. 1, 2-3 (Bankr. S.D.N.Y. 1980) (bankruptcy court found that evidence showing that the petitioning creditor gave the debtor generous terms of payment (90 days) which were substantially better than the terms set forth in the actual writings between the parties supported finding that the alleged debtors were generally paying debts as they became due and that the involuntary petition must be dismissed).

[98] Exh. 147.

[99] *Id.*

II. Conclusions of Law

Section 303 of the Bankruptcy Code sets forth the various requirements for initiating an involuntary bankruptcy case. First, pursuant to section 303(b) of the Bankruptcy Code, an involuntary case may be filed against a person by the filing with the bankruptcy court of a petition under Chapter 7—

> (1) by three or more entities, each of which is either a holder of a claim against such person that is not contingent as to liability or the subject of a bona fide dispute as to liability or amount ... [that] aggregate at least $15,775 more than the value of any lien on property of the debtor securing such claims held by the holders of such claims;
>
> (2) if there are fewer than 12 such holders, excluding any employee or insider of such person and any transferee of a transfer that is voidable under section 544, 545, 547, 548, 549, or 724(a) of this title, by one or more of such holders that hold in the aggregate at least $15,775 of such claims . . .[100]

Thus, if there are twelve or more eligible creditors holding qualified claims on the Petition Date, three or more entities must participate in the involuntary filing and must hold unsecured claims aggregating $15,775.00. If there are less than twelve creditors, a single creditor with an unsecured claim of $15,775.00 may file the involuntary petition. To the extent a bankruptcy court finds that the requisite number of petitioning creditors have commenced the involuntary case, the court shall order relief against the debtor under the chapter under which the petition was filed only if "the debtor is generally not paying such debtor's debts as such debts become due unless such debts are the subject of a bona fide dispute as to liability or amount."[101]

Here, as noted earlier, the Alleged Debtors have made four arguments as to why an order for relief should not be entered against the Alleged Debtors: (1) the Alleged Debtors have 12 or

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[100] 11 U.S.C.A § 303(b) (West 2018).

[101] 11 U.S.C.A § 303(h) (West 2018).

more creditors, and, thus, with Mr. Terry being the sole petitioning creditor, the Involuntary Petitions were not commenced by the requisite number of creditors; (2) the Alleged Debtors are generally paying their debts as they become due; (3) the Involuntary Petitions were filed in bad faith by Mr. Terry; (4) the interests of creditors and the debtors would be better served by dismissal and the court should abstain pursuant to section 305 of the Bankruptcy Code.

A. Have the Requisite Number of Creditors Commenced the Involuntary Proceedings?

Pursuant to section 303(b)(2) of the Bankruptcy Code, a sole petitioning creditor holding at least $15,775 in claims can initiate an involuntary bankruptcy case so long as the alleged debtors have fewer than 12 creditors. After the Second Amended List of Creditors was filed, Mr. Terry had the burden, by a preponderance of the evidence, of showing that the Alleged Debtors actually had less than 12 qualified creditors.[102] Here, the court has found that the Alleged Debtors have, ***at most***, 11 qualified creditors.[103] Accordingly, Mr. Terry has met his burden of showing that the Alleged Debtors have less than 12 creditors for section 303(b) purposes, and that he, as the sole petitioning creditor, was permitted to file the Involuntary Petitions. While Mr. Terry has made additional arguments as to why certain of these 11 creditors should not be counted as creditors for purposes of section 303(b) of the Bankruptcy Code, the court does not believe it necessary to address these arguments at this time.[104]

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[102] *See In re Moss*, 249 B.R. 411, 419 n. 6 (Bankr. N.D. Tex. 2000); *In re Smith*, 415 B.R. 222, 229 (Bankr. N.D. Tex. 2009).

[103] To be clear, the court believes that even on these 11, there are likely bona fide disputes as to the liability or amount that ***Acis LP*** has—as opposed to the liability or amount that Highland or other insiders bear responsbility.

[104] Moreover, as previously stated, since the court has determined there are fewer than 12 creditors, the court need not address whether there is a "special circumstances" exception to the statutory requirements of section 303, in situations where an alleged debtor may have engaged in fraud, schemes, or artifice to thwart a creditor or creditors. *See, e.g., In re Norriss Bros. Lumber Co.*, 133 B.R. 599 (Bankr. N.D. Tex. 1991); *In re Moss*, 249 B.R. 411 (Bankr. N.D. Tex. 2000); *In re Smith*, 415 B.R. 222 (Bankr. N.D. Tex. 2009).

B. Are the Alleged Debtors Generally Paying Their Debts as They Become Due?

Section 303(h) of the Bankruptcy Code requires that a court shall enter order for relief in an involuntary case "if … (1) the debtor is generally not paying such debtor's debts as such debts become due unless such debts are the subject of a bona fide dispute as to liability or amount . . . ."[105] Again, the burden is on the Petitioning Creditor to prove this element by a preponderance of the evidence.[106] The determination is made as of the filing date of the Involuntary Petitions.[107] In determining whether an alleged debtor is generally paying its debts as they come due, courts typically look to four factors: (i) the number of unpaid claims; (ii) the amount of such claims; (iii) the materiality of the non-payments; and (iv) the nature of the debtor's overall conduct in its financial affairs.[108] No one factor is more meritorious than another; what is most relevant depends on the facts of each case.[109] Courts typically hold that "generally not paying debts" includes regularly missing a significant number of payments ***or*** regularly missing payments which are significant in amount in relation to the size of the debtor's operation.[110]

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[105] 11 U.S.C.A § 303(h) (West 2018).

[106] *See Norris v. Johnson (In re Norris)*, No. 96-30146, 1997 WL 256808, at *3-*4 (5th Cir. Apr. 11, 1997) (unpublished).

[107] *Subway Equip. Leasing Corp. v. Sims (In re Sims)*, 994 F.2d 210, 222 (5th Cir. 1993).

[108] *See, e.g., In re Moss*, 249 B.R. 411, 422 (Bankr. N.D. Tex. 2000) (citing *In re Norris*, 183 B.R. 437, 456-57 (Bankr. W.D. La. 1995)).

[109] *In re Bates*, 545 B.R. 183, 186 (Bankr. W.D. Tex. 2016) (also noting that petitioning creditors' counsel consistently argued that the final prong—overall conduct in financial affairs—should be afforded more weight than the other factors, and the court found no authority to support this assertion).

[110] *See, e.g., In re All Media Props., Inc.*, 5 B.R. 126, 143 (Bankr. S.D. Tex. 1980). See also *Concrete Pumping Serv., Inc. v. King Constr. Co. (In re Concrete Pumping Serv., Inc.)*, 943 F.2d 627, 630 (6th Cir.1991) (a debtor was not paying his debts as they became due where the debtor was in default on 100% of its debt to only one creditor); *Knighthead Master Fund, L.P. v. Vitro Packaging, LLC (In re Vitro Asset Corp.)*, No. 3:11–CV–2603–D (N.D.Tex. Aug. 28, 2012) (district court found error in bankruptcy court ruling that the debtors were generally paying their debts as they became due, where bankruptcy court had relied on the fact that the alleged debtors had a significant number of third-party creditors/trade vendors, which had been continually paid, even though the unpaid debts to the petitioning creditors far exceeded the paid debts in terms of dollar amount; petitioning creditors were holders of promissory notes that were guaranteed by the alleged debtors, as to which the primary obligor and alleged

Furthermore, any debt which the alleged debtor is not current on as of the petition date should be considered as a debt not being paid as it became due.[111]

Here, the court concludes that the creditors of the Alleged Debtors—what few there are—are generally not being paid as their debts have become due (except for perhaps four[112] that are relatively insignificant and which may also be able to look to Highland for payment). Mr. Terry has met his burden by a preponderance of the evidence as to section 303(h) of the Bankruptcy Code.

C. With the Section 303 Statutory Requirements Being Met by the Petitioning Creditor, Should the Court, Nonetheless, Dismiss the Involuntary Petitions Because They Were Filed in Bad Faith?

Despite Mr. Terry meeting the necessary statutory requirements for this court to enter orders for relief as to the Alleged Debtors pursuant to section 303 of the Bankruptcy Code, the Alleged Debtors have argued that the Involuntary Petitions must, nonetheless, be dismissed because they were filed in "bad faith" by Mr. Terry. As support for this argument, the Alleged Debtors rely primarily on the Third Circuit's decision in *In re Forever Green Athletic Fields, Inc.*, 804 F.3d 328 (3d Cir. 2015). While the court certainly acknowledges that authority exists in other circuits that suggests that dismissal of an involuntary bankruptcy case may be appropriate—even when section 303's statutory requirements have been met—based upon an

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debtors had ceased making interest payments; the unpaid debts represented 99.9% of the total dollar amount of debt of each of the alleged debtors); *Crown Heights Jewish Cmty. Council, Inc. v. Fischer (In re Fischer)*, 202 B.R. 341, 350–51 (E.D.N.Y. 1996) (even though the debtor only had two outstanding debts, the total dollar amount failed to establish that, in terms of dollar amounts, the debtor was paying anywhere close to 50% of his liabilities, so he was not generally paying his debts as they became due); *In re Smith*, 415 B.R. 222, 231 (Bankr. N.D. Tex. 2009) (while the debtor was paying small recurring debts, he was not paying 99 percent of his debts in the aggregate amount and thus was not generally paying his debts as they became due).

[111] *In re Bates*, 545 B.R. 183, 188 (Bankr. W.D. Tex. 2016).

[112] Those four are: Drexel Limited ($6,359.96); Highfield Equities ($2,510.04); David Simek ($1,233.19); and McKool Smith ($70,082.18).

independent finding of "bad faith," the court need not ultimately decide the efficacy or applicability of such authority, because the court does not believe that the evidence demonstrated any "bad faith" on the part of Mr. Terry (or his counsel) in filing the Involuntary Petitions. Indeed, the evidence suggested that Mr. Terry and his counsel filed the Involuntary Petitions out of a legitimate concern that Highland was dismantling and denuding Acis LP of all of its assets and value and that a bankruptcy filing was the most effective and efficient way to preserve value for the Acis LP creditors. The court concludes that Mr. Terry was wholly justified in pursuing the Involuntary Petitions.

D. Should This Court, Nonetheless, Abstain and Dismiss the Involuntary Petitions Pursuant to Section 305 of the Bankruptcy Code?

Section 305(a)(1) of the Bankruptcy Code provides that:

> (a) The court, after notice and a hearing, may dismiss a case under this title, or may suspend all proceedings in a case under this title, at any time if—
> (1) the interests of creditors and the debtor would be better served by such dismissal or suspension; . . .[113]

Courts construing section 305(a)(1) of the Bankruptcy Code have found that abstention in a properly filed bankruptcy case is an ***extraordinary remedy***.[114] Moreover, granting an abstention motion pursuant to section 305(a)(1) of the Bankruptcy Code requires more than a simple balancing of harm to the debtor and creditors; rather, the interests of ***both*** the ***debtor*** and its ***creditors*** must be served by granting the request to abstain.[115] The moving party bears the

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[113] 11 U.S.C.A. § 305(a)(1) (West 2018).

[114] *In re AMC Investors, LLC*, 406 B.R. 478, 487 (Bankr. D. Del. 2009); *see also In re Compania de Alimentos Fargo, S.A.*, 376 B.R. 427, 434 (Bankr. S.D.N.Y. 2007); *In re 801 S. Wells St. Ltd. P'ship*, 192 B.R. 718, 726 (Bankr. N.D. Ill. 1996).

[115] *In re Smith*, 415 B.R. 222, 238-39 (Bankr. N.D. Tex. 2009) (citing to *AMC Investors, LLC*, 406 B.R. at 488).

burden to demonstrate that dismissal benefits the debtor and its creditors.[116] Courts must look to the individual facts of each case to determine whether abstention is appropriate.[117]

Case law has set forth a litany of factors to be considered by the court to gauge the overall best interests of the creditors and the debtor for section 305(a)(1) purposes:

> (1) the economy and efficiency of administration;
> (2) whether another forum is available to protect the interests of both parties or there is already a pending proceeding in state court;
> (3) whether federal proceedings are necessary to reach a just and equitable solution;
> (4) whether there is an alternative means of achieving an equitable distribution of assets;
> (5) whether the debtor and the creditors are able to work out a less expensive out-of-court arrangement which better serves all interests in the case;
> (6) whether a non-federal insolvency has proceeded so far in those proceedings that it would be costly and time consuming to start afresh with the federal bankruptcy process; and
> (7) the purpose for which bankruptcy jurisdiction has been sought.[118]

While all factors are considered, not all are given equal weight in every case and the court should not conduct a strict balancing.[119]

i. Factor 1: The Economy and Efficiency of Administration.

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[116] *In re Monitor Single Lift I, Ltd.*, 381 B.R. 455, 462-63 (Bankr. S.D.N.Y. 2008).

[117] *In re Spade*, 258 B.R. 221, 231 (Bankr. D. Colo. 2001).

[118] *Monitor Single Lift I, Ltd.*, 381 B.R. at 464-65 (citing to *In re Paper I Partners, L.P.*, 283 B.R. 661, 679 (Bankr. S.D.N.Y. 2002)); *see also Smith*, 415 B.R. at 239; *AMC Investors, LLC*, 406 B.R. at 488; *In re Euro-American Lodging Corp.*, 357 B.R. 700, 729 (Bankr. S.D.N.Y. 2007); *but see Spade*, 258 B.R. at 231-32 (Bankr. D. Colo. 2001) (applied a four criteria test in evaluating section 305 abstention which included: (1) the motivation of the parties who sought bankruptcy jurisdiction; (2) whether another forum was available to protect the interests of both parties or there was already a pending proceeding in state court; (3) the economy and efficiency of administration; and (4) the prejudice to the parties). The Alleged Debtors cite to the case of *In re Murray*, 543 B.R. 484 (Bankr. S.D.N.Y. 2016), in particular, as support for why this court should abstain under section 305(a) of the Bankruptcy Code and dismiss the Involuntary Petitions. However, in *Murray*, Judge Gerber was analyzing dismissal of an involuntary proceeding pursuant to section 707 of the Bankruptcy Code, more specifically for "cause," and not based upon abstention under section 305(a) of the Bankruptcy Code. Thus, the court is not convinced *Murray* is relevant to this court's section 305 abstention analysis.

[119] *In re TPG Troy, LLC*, 492 B.R. 150, 160 (Bankr. S.D.N.Y. 2013) (citing *Monitor Single Lift*, 381 B.R. at 464).

The economy and efficiency of administering a case in the bankruptcy court is routinely evaluated in considering abstention under section 305 of the Bankruptcy Code. Here, the evidence suggests that the most economical and efficient forum for these parties to resolve their disputes is the bankruptcy court. The court heard ample evidence that the Alleged Debtors are already, essentially, in the process of being liquidated by Highland. This is not a situation where an ably-functioning, going-concern business is being foisted in disruptive fashion into a bankruptcy.[120] Because of the fact that the Alleged Debtors are already in the process of being liquidated, the bankruptcy court (and not a state court) is the most efficient and economical forum to complete this liquidation and distribute whatever assets remain to creditors in accordance with the distribution scheme set forth in the Bankruptcy Code and with the oversight of a neutral third-party trustee. Thus, with the bankruptcy court being the more economic and efficient forum for administering this case, this factor goes against abstention.

ii. *Factors 2, 3, 4, 5, and 6: Whether Another Forum is Available to Protect the Interests of Both Parties or There is Already a Pending Proceeding in State Court; Whether Federal Proceedings are Necessary to Reach a Just and Equitable Solution; Whether There is an Alternative Means of Achieving an Equitable Distribution of Assets; Whether the Debtor and the Creditors are Able to Work Out a Less Expensive Out-of-Court Arrangement Which Better Serves All Interests in the Case; and Whether a Non-Federal Insolvency Has Proceeded so Far in Those Proceedings That it Would Be Costly and Time Consuming to Start Afresh With the Federal Bankruptcy Process.*

[120] *See, e.g., In re The Ceiling Fan Distrib., Inc.*, 37 B.R. 701 (Bankr. M.D. La. 1983) (noting that while the dissection of a living business may not properly be the business of a bankruptcy court, the division of a "carcass" and the reclamation of pre-petition gouging may well be); *In re Bos*, 561 B.R. 868, 898-99 (Bankr. N.D. Fla. 2016) (citing as one of the reasons to abstain under section 305 of the Bankruptcy Code the fact that entities and subsidiaries under the alleged debtor's umbrella were still operating successful businesses and had employed more than 500 people); *but see Remex Elecs. Ltd. v. Axl Indus., Inc. (In re Axl Indus., Inc.)*, 127 B.R. 482, 484-86 (S.D. Fla. 1991) (in affirming the bankruptcy court's decision to dismiss an involuntary bankruptcy case, the district court also found that "the interests of a defunct business enterprise would be little affected by the pendency of a bankruptcy proceeding," which the district court believed favored abstention).

The court believes that factors 2-6 should be grouped together for purposes of its abstention analysis, since all of these factors specifically touch on the availability of an alternative forum to achieve an ***equitable*** distribution.[121] By way of example, where bringing a case into the bankruptcy court would simply add an additional layer of expense to the resolution of a two-party dispute and another forum already provides a suitable place to resolve the dispute, some courts have found that abstention is the more appropriate choice since keeping the case would transform the bankruptcy process into a collection device.[122] Here, the Alleged Debtors have repeatedly argued that, because there is already pending state court litigation involving Mr. Terry, Highland, and the Alleged Debtors, these cases should be dismissed and the parties should go back to state court to resolve their issues. The court does not agree for several reasons.

First, it is worth noting that this court has already heard multiple days of evidence in this case (including almost five days just for the Trial) and would certainly not be "starting afresh" by any means if things go forward in the bankruptcy court. Additionally, while the Alleged Debtors have argued that a significant amount of attorney's fees have already been spent litigating this case in state court (which they believe supports abstention), the court surmises that these fees have not been wasted dollars, as the money expended by the parties developed discovery of facts that could assist a bankruptcy trustee in pursuing avoidance actions that may be viable and might lead to value that could pay creditors' claims.[123]

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[121] *See, e.g., In re Monitor Single Lift I, Ltd.*, 381 B.R. 455, 460-70 (Bankr. S.D.N.Y. 2008).

[122] *AMC Investors, LLC*, 406 B.R. at 488; *see also Axl Indus., Inc.*, 127 B.R. at 484-86.

[123] *See, e.g., The Ceiling Fan Distributor, Inc.*, 37 B.R. at 703 (the court noted that, despite there being significant legal expenses in the state court, such expenses were not wasted since the legal work done to date would be quite helpful to a trustee).

Second, this court heard considerable evidence involving potentially voidable transfers that may have occurred involving the Alleged Debtors and Highland/Highland-affiliates and, while the state court certainly provides a forum for eventually bringing fraudulent transfer claims, the court also heard evidence that none of these claims have actually been brought in the state court.[124] Moreover, to the extent fraudulent transfer claims were to be pursued in state court and were successful, the state court would still need the ability to reach the assets of alleged fraudulent transfer recipients (which, in this situation, include certain Highland-affiliates located in the Cayman Islands). The bankruptcy court has concerns whether a state court process could efficiently accomplish this task.[125] Similarly, it is worth noting that, while a request for a receiver was filed in the state court by Mr. Terry, such request had not yet been heard and decided by the state court. Thus, at the present time, it does not appear that there is an alternative forum to address the pertinent issues in this case, without the necessity of significant, additional steps being taken by the parties in the state court.

Third, this court believes that a federal bankruptcy proceeding is necessary in order to achieve an equitable result in this case. Specifically, the court heard evidence from the Alleged Debtors that, if this court chose to abstain and dismiss the Involuntary Petitions, the Alleged Debtors would ultimately pay all of their creditors in full, except for Mr. Terry. This clearly demonstrates how keeping the case in the bankruptcy court is necessary to allow an equitable

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[124] *See, e.g., In re Texas EMC Mgmt., LLC,* Nos. 11-40008 & 11-40017, 2012 WL 627844, at *3 (Bankr. S.D. Tex. 2012) (noting that one of the reasons abstention was proper under section 305 of the Bankruptcy Code was because the issues to be litigated amongst the parties were already joined in the state court litigation); *Spade*, 258 B.R. at 236 (court held that one of the reasons abstention was warranted under section 305 of the Bankruptcy Code was because the petitioning creditors had already filed and had pending a "collection case" in the state court).

[125] *See, e.g.*, *Smith*, 415 B.R. at 239 (the bankruptcy court held that there "are remedies under the Bankruptcy Code that are not available to Rhodes under state law, due to Mr. Smith's transfer of the majority of his assets to the Cook Island Trust," and "federal proceedings may be necessary to reach a just and equitable solution").

distribution to ***all creditors***, including Mr. Terry. Additionally, a federal bankruptcy court has certain tools available to it that are not available to a state court such as the ability to invalidate potential *ipso facto* clauses in contracts pursuant to section 365 of the Bankruptcy Code, sell assets free and clear of liens, claims and encumbrances pursuant to section 363 of the Bankruptcy Code, and impose the automatic stay pursuant to section 362 of the Bankruptcy Code. These are all useful tools available to the Alleged Debtors in a bankruptcy case that would be lost if this court were to ultimately abstain.

Finally, there was more than enough evidence showing the acrimonious and bitter relationship that exists between Mr. Terry and Mr. Dondero. Thus, the availability of an out-of-court arrangement being obtained in this case is, in this court's mind, slim to none.

In summation, the court finds that all of the factors above support this case staying with the bankruptcy court.

iii. Factor 7: The Purpose for Which Bankruptcy Jurisdiction Has Been Sought.

The Alleged Debtors have repeatedly argued that Mr. Terry filed this case in bad faith and as a litigation tactic to gain some sort of advantage in the state court proceedings. The court has already found above that these cases were not filed in bad faith and that Mr. Terry has met the necessary statutory requirements of section 303 of the Bankruptcy Code. Moreover, it is worth noting that at least one court has stated that the filing of an involuntary bankruptcy petition is always a "litigation tactic," but whether the filing is inappropriate for abstention purposes is a fact-dependent determination.[126] Here, the facts show that there was no inappropriateness

[126] *In re Marciano*, 459 B.R. 27, 50 (B.A.P. 9th Cir. 2011) (noting that while the filing of the involuntary bankruptcy was a litigation tactic, the bankruptcy court did not abuse its discretion in denying the alleged debtor's motion to dismiss based upon the bankruptcy court's primary concern that the issue of equality of distribution would not effectively be dealt with in another forum).

behind Mr. Terry's decision to file the Involuntary Petitions. Specifically, Mr. Terry repeatedly and credibly testified that the purpose for filing the Involuntary Petitions was to ensure that creditors (including him) were treated fairly and received an equal distribution from the Alleged Debtors' assets, not to gain some sort of advantage in the state court. This testimony was absolutely consistent with additional evidence showing that, since the entry of the arbitration award, there has been a calculated effort (largely by Highland) to effectively liquidate the Alleged Debtors. Unlike the bankruptcy court in *In re Selectron Mgmt. Corp.*,[127] which had no evidence or "smoking gun" showing that steps were being taken by the alleged debtor to evade payment on the petitioning creditor's judgment, thereby necessitating abstention, this court has heard ample evidence showing that the Alleged Debtors, with the aid of Highland, were transferring assets away from the Alleged Debtors, so that Mr. Terry would have nowhere to look at the end of the day.

In light of the court's analysis of all the seven factors above, the Alleged Debtors have not credibly shown how both the Alleged Debtors and the creditors are better served outside of bankruptcy. If this matter were to remain outside of bankruptcy, there seems to be a legitimate prospect that the Alleged Debtors and Highland will continue dismantling the Alleged Debtors, to the detriment of Acis LP creditors. Abstention would fly in the face of fundamental fairness and the principles underlying the Bankruptcy Code.

Beyond just addressing the factors above, the Alleged Debtors have also argued that, if this court were to not abstain under section 305 of the Bankruptcy Code, there would be

[127] *In re Selectron Mgmt. Corp.*, No. 10-75320-DTE, 2010 WL 3811863, at *6-7 (Bankr. E.D.N.Y. Sept. 27, 2010); *see also In re White Nile Software, Inc.*, No. 08–33325–SGJ–11, 2008 WL 5213393, at *4 (Bankr. N.D. Tex. Sept. 16, 2008) (finding that where the filing of a voluntary chapter 11 did not appear to be about insuring a distribution to creditors or winding down or giving a soft landing to a business or avoiding dismantling and dissipation of valuable assets or preserving avoidance actions, but rather was about changing the forum of ongoing litigation between the parties, abstention under section 305 was proper).

significant harm to the "equity" of the Alleged Debtors. Specifically, the Alleged Debtors have argued that, if this court were to enter orders for relief, the equity would be forced to "call" and ultimately liquidate CLO 2014-3 (and perhaps all of the CLOs Acis LP manages), resulting in substantial losses to the equity on their investments. First, to be clear, the current equity of the Alleged Debtors is being held by a Highland-affiliate called Neutra, Ltd., which actually only became the equity of the Alleged Debtors on December 19, 2017. But this is not the "equity" being referred to by the Alleged Debtors in its argument. Rather, the so-called "equity," about which the Alleged Debtors seemed so concerned, is actually ***certain parties that own the equity of the entity that owns the equity in the CLOs***—which includes (a) an unnamed third-party investor out of Boston (49%),[128] (b) a charitable foundation managed by a Highland-affiliate (49%), and (c) Highland employees (2%). However, abstention under section 305 of the Bankruptcy Code does not require this court to look at what is in the best interests of these third-parties (who are not current creditors or interest holders of the Alleged Debtors), but rather what is in the best interests of the Alleged Debtors and the creditors. Accordingly, the Alleged Debtors' effort to argue potential harm to these parties is misplaced for purposes of evaluating abstention under section 305 of the Bankruptcy Code, and, if anything, further highlights who the Alleged Debtors are really out to protect—Highland and Highland-affiliates. Moreover, the court would note that, even if there were to be a "call" and liquidation of CLO 2014-3, thereby ending the Alleged Debtors' right to receive future management fees, there would still be potential assets for a chapter 7 trustee to administer such as chapter 5 causes of action (which include fraudulent transfers) as well as the Alleged Debtors' contingent claim for approximately

[128] Notably, this entity never appeared at the Trial or filed papers stating that it would be harmed by entry of orders for relief in these cases.

$3 million in expense reimbursement owing by Highland CLO Management Ltd., as part of the November 3, 2017 transfer of the Acis LP Note Receivable from Highland. Thus, even if the so-called doomsday scenario of an equity call on CLO 2014-3 (or other CLOs) were to happen, there is still a potential benefit to creditors if this court chooses not to abstain.

III. CONCLUSION

In conclusion, these involuntary proceedings were appropriately filed under section 303, and orders for relief will be issued forthwith. This court declines to exercise its discretion to abstain, because a chapter 7 trustee appears necessary to halt the post-Arbitration Award transactions and transfers of value out of Acis LP, as discussed above. A chapter 7 trustee appears necessary to resolve the inherent conflicts of interest between the Alleged Debtors and Highland. A chapter 7 trustee will have tools available to preserve value that a state court receiver will not have. The bankruptcy court is single handedly the most efficient place to administer property of the estate for creditors. This is not just a two party dispute between Mr. Terry and the Alleged Debtors, and even if it were, dismissal or abstention is clearly not warranted.

###END OF FINDINGS OF FACT AND CONCLUSIONS OF LAW###

EXHIBIT 9

CONSENT OF THE SOLE MEMBER
OF
ACIS CAPITAL MANAGEMENT GP, LLC

Dated June 10, 2016

THE UNDERSIGNED sole member (the "***Member***") of Acis Capital Management GP, LLC, a Delaware limited liability company (the "***Company***") and the general partner of Acis Capital Management, L.P., a Delaware limited partnership (the "***Partnership***"), acting pursuant to the Delaware Limited Liability Company Act and the Limited Liability Company Agreement of the Company, does hereby waive the requirements of notice, including without limitation, any specific requirement of prior notice for taking actions by written consent and of a meeting, and does hereby adopt the following resolutions by written consent:

WHEREAS, pursuant to an Organizational Consent of the Sole Member of the Company dated to be effective as of January 21, 2011 (the "***Organizational Consent***"), the Company has elect certain individuals to whom it has delegated the powers necessary to manage all day-to-day ordinary course operations of the Company and the Partnership ("***Officers***");

WHEREAS, pursuant to the Organizational Consent, Mr. Josh Terry was elected to serve as Portfolio Manager of the Company; and

WHEREAS, now the Company desires to removed Mr. Terry as Portfolio Manager of the Company.

NOW, THEREFORE, BE IT

RESOLVED, that Mr. Josh Terry is hereby removed as Portfolio Manager of the Company;

RESOLVED FURTHER, that the remaining Officers listed below shall continue to serve in the capacity as set forth below until their successors shall have been duly elected and qualified, or until their earlier resignation or removal:

Name	Office
James Dondero	President
Frank Waterhouse	Treasurer

RESOLVED FURTHER, that any persons elected to the office of the Company in the past but not listed above are hereby removed from the office of the Company and their authority hereby revoked;

FURTHER RESOLVED, that the Officers be, and they hereby are, authorized, empowered and directed, in the name and behalf of the Company and the Partnership, to do and perform all acts and deeds, to execute and deliver all documents, instruments and other agreements, to waive any and all conditions and do all things necessary or helpful to carry out and comply with the terms and provisions of the foregoing resolutions;



IN WITNESS WHEREOF, the undersigned have executed this Consent to be effective as of the date first set forth above.

SOLE MEMBER:

THE DUGABOY INVESTMENT TRUST

By: _____
Name: Nancy Dondero
Title: Trustee

EXHIBIT 10

EXECUTION VERSION

SECOND AMENDED AND RESTATED
SUB-ADVISORY AGREEMENT

This **SECOND AMENDED AND RESTATED SUB-ADVISORY AGREEMENT** by and among **Acis Capital Management, L.P.**, a Delaware Limited Partnership ("***Investment Manager***"), and **Highland Capital Management, L.P.**, a Delaware limited partnership ("***Sub-Advisor***"), is made this 29th day of July, 2016 to be effective January 1, 2016.

WHEREAS, one or more funds and/or accounts (collectively, the "***Accounts***") has retained Investment Manager to render investment management services to the Accounts pursuant to an investment or collateral management agreement and each such agreement authorizes Investment Manager to engage a sub-advisor to assist Investment Manager with its responsibilities with respect to the investment management of such Accounts;

WHEREAS, Investment Manager retained Sub-Advisor to furnish certain services to the Accounts in accordance with the Amended and Restated Sub-Advisory Agreement between the parties hereto effective January 1, 2011 (as amended by the Amendment to Amended and Restated Sub-Advisory Agreement between the parties hereto dated July 1, 2011, the "***Original Agreement***"); and

WHEREAS, the parties hereto now desire to amend and restate the Original Agreement.

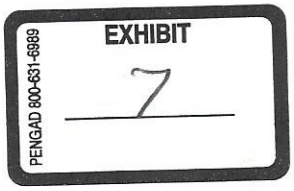
NOW THEREFORE, in consideration of the promises and mutual covenants herein contained, it is agreed between Investment Manager and Sub-Advisor, and the Original Agreement is hereby amended, restated and replaced in its entirety, as follows:

1. Appointment. Investment Manager hereby appoints Sub-Advisor, to act as sub-advisor of Investment Manager to provide Services (defined below) to the Accounts for the periods and on the terms set forth in this Agreement. Sub-Advisor accepts such appointment and agrees to furnish the Services for the compensation herein provided.

2. Sub-Advisor Duties. Subject to the supervision and direction of Investment Manager, Sub-Advisor will provide (i) the shared services described in the Third Amended and Restated Shared Services Agreement attached hereto as **Exhibit A** (the "***Shared Services***"), investment research and analysis and (ii) will conduct a continuous program of evaluation, investment, sales, and reinvestment support with respect to each Account's assets. All services provided by Sub-Advisor herein other than the Shared Services shall be collectively referred to herein as the "***Advisory Services***."

In performing the Advisory Services, Sub-Advisor:

(a) will conform with (1) the Advisers Act and all rules and regulations thereunder, and releases and interpretations related thereto, (2) all other applicable federal and state laws and regulations, (3) any applicable written procedures, policies and guidelines adopted by the applicable Account or, except as expressly provided in Section 2 to the contrary, Investment Manager and furnished to Sub-Advisor, and (4) the Account's objectives, policies and restrictions as stated in the Account's Indenture, Management Agreement, Partnership Agreement, Bye-laws, and/or other governing documents, as applicable, each as supplemented or amended from time to time, as furnished to Sub-Advisor (such governing document, the "***Applicable Restrictions***"). Until Investment Manager delivers any supplements or amendments to Sub-Advisor, Sub-Advisor shall be fully protected in relying on the Applicable Restrictions previously furnished by Investment Manager to Sub-Advisor. In providing the Services in accordance with the requirements of this Section 2, Sub-Advisor shall be entitled to receive and act upon



advice of counsel to the Accounts, to Investment Manager or to Sub-Advisor that is also acceptable to Investment Manager.

(b) as directed by Investment Manager, may assist Investment Manager with the decisions of Investment Manager to buy and sell securities and other investments for the Accounts, for broker-dealer and futures commission merchant ("***FCM***") selection, and for negotiation of commission rates. Sub-Advisor acknowledges that the Services will be provided with the goal of supporting Investment Manager with Investment Manager's obligation to obtain the best execution for the Accounts, taking into account the factors and subject to the limitations specified in the Applicable Restrictions, as they may be amended or supplemented from time to time and furnished to Sub-Advisor. Sub-Advisor is further authorized to place orders on behalf of the Accounts through Sub-Advisor if such orders are directed by Investment Manager and Sub-Advisor is registered as a broker or dealer with the SEC or as a FCM with the Commodities Futures Trading Commission ("***CFTC***"), through any of its affiliates that are brokers or dealers or FCMs or such other entities which provide similar services in foreign countries, or through such brokers and dealers that also provide research or statistical research and material, or other services to the Accounts or Sub-Advisor. Such allocation shall be in such amounts and proportions as Investment Manager's Allocation Committee shall determine consistent with the above standards, and, upon request, Sub-Advisor will report on said orders to Investment Manager, indicating the brokers, dealers or FCMs to which such orders have been made. If directed by Investment Manager, Sub-Advisor is authorized to open brokerage accounts on behalf of the Accounts in accordance with Account procedures.

(c) may, to the extent permitted by applicable laws and regulations, but shall not be obligated to, aggregate the securities to be so sold or purchased with those of its other clients where such aggregation is not inconsistent with the policies set forth in the Applicable Restrictions as furnished to Sub-Advisor. In such event, allocation of the securities so purchased or sold, as well as the expenses incurred in the transaction, will be made by the Allocations Committee of Investment Manager in a manner that is fair and equitable over time.

(d) will, in connection with the purchase and sale of securities for the Accounts, as directed by Investment Manager, arrange for the transmission to the custodian and recordkeeping agent for the Accounts, on a daily basis, such confirmation(s), trade tickets, and other documents and information, including, but not limited to, CUSIP, SEDOL, or other numbers that identify securities to be purchased or sold on behalf of the Accounts, as may be reasonably necessary to enable the custodian and recordkeeping agent to perform its administrative and recordkeeping responsibilities with respect to the Accounts, and with respect to Account securities to be purchased or sold through the Depository Trust Company, will arrange for the automatic transmission of the confirmation of such trades to the applicable Account's custodian and recordkeeping agent, and, if required, Investment Manager. Sub-Advisor agrees to comply with such rules, procedures and time frames as Investment Manager or applicable Account's custodian may reasonably set or provide with respect to the clearance and settlement of transactions for an Account, including but not limited to submission of trade tickets; provided that the custodian follows Loan Syndication and Trading Association or other standardized clearance and settlement guidelines. Any Account assets shall be delivered directly to the applicable Account's custodian, or in the case of loans, copies of sufficient documentation as Investment Manager or custodian may agree from time to time, to demonstrate the purchase, ownership or sale, as applicable, of loans.

(e) will provide reasonable assistance to Investment Manager, custodian or recordkeeping agent for the Accounts in determining or confirming, consistent with the procedures and policies stated in the Applicable Restrictions, the value of any Account securities or other assets of the Accounts for which Investment Manager, custodian or recordkeeping agent seeks assistance from Sub-Advisor or identifies for review by Sub-Advisor. Such reasonable assistance shall include (but is not limited to): (i) designating and providing timely access, on an as-needed basis and upon the reasonable

request of Investment Manager or custodian, to one or more employees of Sub-Advisor who are knowledgeable about the security/issuer, its financial condition, trading and/or other relevant factors for valuation; (ii) notifying Investment Manager in the event any Account security's value does not appear to reflect corporate actions, news, significant events or such security otherwise requires review to determine if fair valuation is necessary under the applicable Account's procedures; (iii) applying to the Account's assets the procedures of Sub-Advisor used for valuing the assets held by other accounts under management of Sub-Advisor and notifying Investment Manager of the valuation of such assets determined under such procedures, including in the event that the application of such procedures would result in a determination of fair value with respect to any asset held by the Accounts where a market quotation is not readily available or is deemed to be unreliable with respect to such asset; (iv) upon the request of Investment Manager or custodian, assisting in obtaining bids and offers or quotes from broker/dealers or market-makers with respect to securities held by the Accounts; (v) at the request of Investment Manager verifying pricing and providing fair valuations or recommendations for fair valuations in accordance with the Accounts' valuation procedures, as they may be amended from time to time; and (vi) maintaining adequate records and written backup information with respect to the securities valuation services provided hereunder, and providing such information to Investment Manager or the Accounts upon request. Such records shall be deemed to be Account records.

(f) will maintain and preserve such records related to each Account's as required by Investment Manager and under the Advisers Act. Sub-Advisor will make available to the Accounts and Investment Manager promptly upon request, any Account's records and ledgers maintained by Sub-Advisor (which shall not include the records and ledgers maintained by the custodian and recordkeeping agent for the Accounts), as are necessary to assist the Accounts and Investment Manager in complying with requirements of the Advisers Act, as well as other applicable laws, and will furnish to regulatory authorities having the requisite authority any information or reports in connection with such services which may be requested in order to ascertain whether the operations of the Accounts are being conducted in a manner consistent with applicable laws and regulations.

(g) will regularly provide such reports or certifications that Investment Manager may reasonably request from time to time.

(h) will maintain or adopt a written Code of Ethics complying with the requirements of Rule 204A-l under the Advisers Act and will provide Investment Manager and the Accounts with a copy of the Code of Ethics, together with evidence of its adoption. Upon written request of the Investment Manager, Sub-Advisor shall permit representatives of Investment Manager and the Accounts to examine the reports (or summaries of the reports) required to be made under the Code of Ethics and other records evidencing enforcement of the Code of Ethics.

(i) will provide to Investment Manager a copy of Sub-Advisor's Form ADV, and any supplements or amendments thereto, as filed with the SEC, on an annual basis (or more frequently if requested by Investment Manager) including any portion which contains disclosure of legal or regulatory actions. Sub-Advisor represents and warrants that it is a duly registered Investment Manager under the Advisers Act and will notify Investment Manager immediately if any action is brought by any regulatory body which would affect that registration. Sub-Advisor will provide a list of persons whom Sub-Advisor wishes to have authorized to give written and/or oral instructions to Custodians of assets for the Accounts.

(j) if requested by Investment Manager, will assist with the preparation and filing of Schedule 13G and Form 13F with respect to the assets of the Accounts.

(k) will not permit any employee of Sub-Advisor to have any material involvement with the Accounts if such employee has:

(i) been, within the last ten (10) years, convicted of or acknowledged commission of any felony or misdemeanor (a) involving the purchase or sale of any security, (b) involving embezzlement, fraudulent conversion, or misappropriation of funds or securities, (c) involving sections 1341, 1342 or 1343 of Title 18 of the U.S. Code, or (d) arising out of such person's conduct as an underwriter, broker, dealer, investment manager, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee or officer or director of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act;

(ii) been permanently or temporarily enjoined by reason of any misconduct, by order, judgment, or decree of any court of competent jurisdiction, from acting as an underwriter, broker, dealer, investment manager, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security.

(l) will not disclose or use any records or information obtained pursuant to this Agreement (excluding investment research and investment advice) in any manner whatsoever except as expressly authorized in this Agreement or in the ordinary course of business in connection with placing orders for the purchase and sale of securities or obtaining investment licenses in various countries or the opening of custody accounts and dealing with settlement agents in various countries, and will keep confidential any information obtained pursuant to the Agreement, and disclose such information only if the Accounts have authorized such disclosure, or if such disclosure is required by applicable federal or state law or regulations or regulatory authorities having the requisite authority. Investment Manager will not disclose or use any records or information with respect to Sub-Advisor obtained pursuant to this Agreement, in any manner whatsoever except as expressly authorized in this Agreement, and will keep confidential any information obtained pursuant to this Agreement, and disclose such information only as expressly authorized in this Agreement, if the applicable Accounts have authorized such disclosure, or if such disclosure is required by applicable federal or state law or regulations or regulatory authorities having the requisite authority.

(m) Sub-Advisor represents and warrants that it shall maintain a compliance program in accordance with the requirements of Rule 206(4)-7 under the Advisers Act, and shall provide the Accounts with reasonable access to information regarding Sub-Advisor's compliance program, which access shall include on-site visits with Sub-Advisor as may be reasonably requested from time to time. Sub-Advisor agrees to provide certifications as may be reasonably requested by the Accounts related to the design and implementation of Sub-Advisor's compliance program.

(n) will notify Investment Manager promptly in the event that, in the judgment of Sub-Advisor, Account activity becomes disruptive to the ability of Sub-Advisor to effectively provide the Services.

(o) will provide assistance as may be reasonably requested by Investment Manager in connection with compliance by the Accounts with any current or future legal and regulatory requirements related to the services provided by Sub-Advisor hereunder.

(p) will provide such certifications to the Accounts as the Accounts or Investment Manager may reasonably request related to the services provided by Sub-Advisor hereunder,

including (but not limited to) certifications of compliance with Account procedures, the Applicable Restrictions, and applicable securities regulations,

(q) will process any paperwork reasonably requested for any security held within the portfolio managed by Sub-Advisor during its management at the direction of Investment Manager, as Investment Manager may direct from time to time.

(r) will provide reasonable assistance to Investment Manager with respect to any annual audit of the Accounts' financial statements, including, but not limited to: (i) providing broker contacts as needed for obtaining trade confirmations (in particular with respect to investments in loans (including participations and assignments) and all derivatives, including swaps); (ii) providing copies of all documentation relating to investments in loans (including participations and assignments) and derivative contracts, within a reasonable time after the execution of such documentation; (iii) providing assistance in obtaining trade confirmations in the event an Account or its independent registered public accounting firm is unable to obtain such confirmations directly from the brokers; and (iv) obtaining market quotations for investments (including investments in loans (including participations and assignments) and derivatives) that are not readily ascertainable in the event an Account or its independent registered public accounting firm is unable to obtain such market quotations through independent means.

3. Disclosure about Sub-Advisor and Accounts. Sub-Advisor has reviewed the current Applicable Restrictions and agrees to promptly review future amendments to the Applicable Restrictions provided to it by Investment Manager, including any supplements thereto, which relate to Sub-Advisor or the Accounts. Sub-Advisor further agrees to notify Investment Manager promptly of any fact known to Sub-Advisor respecting or relating to Sub-Advisor that could materially and adversely impact Sub-Advisor's ability to provide the Services. Sub-Advisor further agrees to notify Investment Manager promptly in the event that Sub-Advisor becomes aware that the disclosures in the Applicable Restrictions are inconsistent in any material respect with the manner in which Sub-Advisor is providing the Services. In addition, Sub-Advisor agrees to comply with Investment Manager's reasonable request for information regarding the personnel of Sub-Advisor who are responsible for provision of the Services.

4. Expenses. All expenses borne by Sub-Advisor on behalf of or for the benefit of any of the Accounts in accordance with the Applicable Restrictions shall be reimbursed by the applicable Accounts on the same basis that such expenses would otherwise have been reimbursed had they been borne by Investment Manager.

5. Compensation. The compensation for the Shared Services shall be set forth in the Shared Services Agreement attached hereto as **Exhibit A**, as amended from time to time. For the Services provided and the expenses borne by Sub-Advisor pursuant to this Agreement, Investment Manager will pay to Sub-Advisor a fee in accordance with **Schedule A** attached to this Agreement, as such schedule may be amended by the parties from time to time to reflect the then fair market value of the Services.

6. Seed Money. Investment Manager agrees that Sub-Advisor shall not be responsible for providing money for the initial capitalization of any of the Accounts.

7. Compliance.

(a) Sub-Advisor agrees that it shall immediately notify Investment Manager and the Accounts in the event that the SEC, CFTC, or any banking or other regulatory body has censured Sub-Advisor; placed limitations upon its activities, functions or operations; suspended or revoked its registration, if any, or ability to serve as an investment adviser; or has commenced proceedings or an investigation that can reasonably be expected to result in any of these actions.

(b) Investment Manager agrees that it shall immediately notify Sub-Advisor in the event that the SEC has censured Investment Manager or any of the Accounts; placed limitations upon any of their activities, functions, or operations; denied, suspended or revoked Investment Manager's registration as an investment adviser; or has commenced proceedings or an investigation that may result in any of these actions.

8. Independent Contractor. Sub-Advisor shall for all purposes herein be deemed to be an independent contractor and shall, unless otherwise expressly provided herein or authorized by Investment Manager from time to time, have no authority to act for or represent Investment Manager in any way or otherwise be deemed its agent.

9. Books and Records. Sub-Advisor hereby agrees that all records which it maintains for the Accounts are the property of the Accounts and further agrees to surrender promptly to Investment Manager any of such records upon Investment Manager's request, although Sub-Advisor may, at its own expense, make and retain a copy of such records.

10. Cooperation. Each party to this Agreement agrees to cooperate with each other party and with all appropriate governmental authorities having the requisite jurisdiction (including, but not limited to, the SEC and state insurance authorities) in connection with any investigation or inquiry relating to this Agreement or the Accounts.

11. Responsibility and Control. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED THAT INVESTMENT MANAGER IS SOLELY RESPONSIBLE FOR ALL DECISIONS RELATED TO THE MANAGEMENT OF THE ACCOUNTS AND SUB-ADVISOR'S SERVICES ARE BEING PROVIDED HEREUNDER MERELY TO SUPPORT AND ASSIST INVESTMENT MANAGER IN THE PERFORMANCE OF ITS DUTIES AND IN NO EVENT SHALL ANY OF THE PROVISIONS HEREOF BE CONSTRUED AS A DELEGATION OF ANY DUTIES OF INVESTMENT MANAGER TO SUB-ADVISOR. In furtherance of the foregoing, Investment Manager reserves the right to direct, approve or disapprove any action hereunder taken on their behalf by Sub-Advisor, provided, however, that Sub-Advisor shall not be liable for any losses to the Accounts resulting from any Account's direction, or from an Account's disapproval of any action proposed to be taken by Sub-Advisor.

12. Services Not Exclusive. It is understood that the services of Sub-Advisor and its employees are not exclusive, and nothing in this Agreement shall prevent Sub-Advisor (or its employees or affiliates) from providing similar services to other clients, including investment companies (whether or not their investment objectives and policies are similar to those of the Accounts) or from engaging in other activities.

13. Liability. Except as may otherwise be required under applicable law, Investment Manager agrees that Sub-Advisor, any affiliated person of Sub-Advisor, and each person, if any, who, within the meaning of Section 15 of the 1933 Act, controls Sub-Advisor, shall not be liable for, or subject to any damages, expenses, or losses in connection with, any act or omission connected with or arising out of any services rendered under this Agreement, except by reason of willful misfeasance, bad faith, or gross negligence in the performance of Sub-Advisor's duties, or by reason of reckless disregard of Sub-Advisor's obligations and duties under this Agreement.

14. Duration and Termination. (a) Subject to Section 14(b), this Agreement shall become effective as of the date of execution first written above, and shall continue in effect for 10 years and continue thereafter on an annual basis with respect to each Account unless notice of termination is provided at least 60 days prior to the date of renewal.

Subject to Section 14(b), this Agreement may be terminated with respect to any Accounts:

(i) by Sub-Advisor at any time, without the payment of any penalty, upon sixty (60) days' prior written notice to Investment Manager and the Accounts; and

(ii) by Investment Manager at any time, without the payment of any penalty, upon sixty (60) days' prior written notice to Sub-Advisor and the Accounts.

(b) In the event of any proposed termination of this Agreement while services are being rendered hereunder with respect to one or more Accounts, the effectiveness of such termination shall be conditioned on either (i) Investment Manager confirming, in a manner reasonably satisfactory to such Accounts, that the termination of this Agreement would not cause an Adverse Account Event (as defined below), or (ii) the continued provision of the Advisory Services on substantially the terms provided herein until such time as a replacement provider or providers of the Advisory Services can be engaged by Investment Manager on terms that would not cause an Adverse Account Event. As used herein, "***Adverse Account Event***" means (i) any event that would constitute a violation of the Applicable Restrictions of an Account, (ii) any event that would result in a material adverse deviation from the standard of services rendered to an Account immediately prior to such event, or (iii) in the case of any Account that is an issuer of structured finance securities under an indenture with notes rated by S&P or Moody's, the failure to receive rating agency confirmation consistent with the terms of such indenture that the termination of this Agreement would not cause either S&P or Moody's to effect a withdrawal, reduction, suspension or other adverse action with respect to any then current rating of any class of notes of such Account issued under such indenture. In the event Investment Manager relies on clause (ii) above to avoid termination of this Agreement, Investment Manager agrees to use its commercially reasonable efforts to procure such replacement Advisory Services as soon as reasonably practicable following Sub-Advisor's notice of its desire to terminate this Agreement.

15. Notices. All notices and other communications hereunder shall be in writing sent by facsimile first, if practicable, but shall only be deemed given if delivered in person or by messenger, cable, certified mail with return receipt, or by a reputable overnight delivery service which provides evidence of receipt to the parties at the following addresses (or at such other address or number for a party as shall be specified by like notice):

A. if to Sub-Advisor, to:

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, TX 75201
Facsimile transmission number: 972-628-4147
Attention: General Counsel

B. if to Investment Manager, to:

Acis Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, TX 75201
Facsimile transmission number: 972-628-4147
Attention: Acis Capital Management

16. Miscellaneous.

(a) This Agreement shall be governed by the laws of Texas, without regard to the conflict of law principles thereof.

(b) The captions of this Agreement are included for convenience only and in no way define or limit any of the provisions hereof or otherwise affect their construction or effect.

(c) This Agreement may only be assigned by any party to any affiliate of such party with prior written consent of the other parties.

(d) If any provision of this Agreement shall be held or made invalid by a court decision, statute, rule, or otherwise, the remainder of this Agreement shall not be affected thereby, and to this extent, the provisions of this Agreement shall be deemed to be severable. To the extent that any provision of this Agreement shall be held or made invalid by a court decision, statute, rule or otherwise with regard to any party hereunder, such provisions with respect to other parties hereto shall not be affected thereby.

(e) This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all such counterparts shall together constitute one and the same Agreement.

(f) Notwithstanding anything contained in this Agreement or the Annexes hereto to the contrary, in the event there is an unresolved legal dispute between the parties and/or any of their respective officers, directors, partners, employees, agents, affiliates or other representatives that involves legal rights or remedies arising from this Agreement, the parties agree to submit their dispute to binding arbitration under the authority of the Federal Arbitration Act; provided, however, that the parties or such applicable affiliate thereof may pursue a temporary restraining order and/or preliminary injunctive relief in connection with any confidentiality covenants or agreements binding on the other parties hereto, with related expedited discovery for the parties, in a court of law, and, thereafter, require arbitration of all issues of final relief. The Arbitration will be conducted by the American Arbitration Association, or another, mutually agreeable arbitration service. The arbitrator(s) shall be duly licensed to practice law in the State of Texas. The discovery process shall be limited to the following: Each side shall be permitted no more than (i) two party depositions of six hours each. Each deposition is to be taken pursuant to the Texas Rules of Civil Procedure; (ii) one non-party deposition of six hours; (iii) twenty-five interrogatories; (iv) twenty-five requests for admission; (v) ten requests for production. In response, the producing party shall not be obligated to produce in excess of 5,000 total pages of documents. The total pages of documents shall include electronic documents; (vi) one request for disclosure pursuant to the Texas Rules of Civil Procedure. Any discovery not specifically provided for in this paragraph, whether to parties or non-parties, shall not be permitted. The arbitrator(s) shall be required to state in a written opinion all facts and conclusions of law relied upon to support any decision rendered. No arbitrator will have authority to render a decision that contains an outcome determinative error of state or federal law, or to fashion a cause of action or remedy not otherwise provided for under applicable state or federal law. Any dispute over whether the arbitrator(s) has failed to comply with the foregoing will be resolved by summary judgment in a court of law. In all other respects, the arbitration process will be conducted in accordance with the American Arbitration Association's dispute resolution rules or other mutually agreeable, arbitration service rules. The party initiating arbitration shall pay all arbitration costs and arbitrator's fees, subject to a final arbitration award on who should bear costs and fees. All proceedings shall be conducted in Dallas, Texas, or another mutually agreeable site. Each party shall bear its own attorneys fees, costs and expenses, including any costs of experts, witnesses and/or travel, subject to a final arbitration award on who should bear costs and fees. The duty to arbitrate described above shall survive the termination of this Agreement. Except as otherwise provided above, the parties hereby waive trial in a court of law or by jury. All other

rights, remedies, statutes of limitation and defenses applicable to claims asserted in a court of law will apply in the arbitration.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the day and year first written above.

INVESTMENT MANAGER:

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC,
its general partner

By:_____
Name: James Dondero
Title: President

SUB-ADVISOR:

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its general partner

By:_____
Name: James Dondero
Title: President

Schedule A

Fee Schedule

Effective: January 1, 2016

Investment Manager will pay to Sub-Advisor a fee for its Services for the Accounts (as defined in the Agreement) in an amount equal to the aggregate management fees that would be received by Investment Manager for such Accounts if such management fees were calculated in exact conformity with the calculation of management fees for such Accounts, except that the management fee rates applied in such calculation were replaced by the fee rate of 20 bps. Such fees shall be payable promptly (or at such time as is otherwise agreed by the parties) following Investment Manager's receipt of management fees for such Accounts, it being understood that none of the foregoing shall prohibit Investment Manager from waiving or entering into side letters with respect to management fees for such Accounts; provided that any such waived or reduced amounts shall not be recognized for purposes of calculating the fees payable by Investment Manager hereunder. Notwithstanding the foregoing, the parties may agree to a different allocation from that set forth above during any period in order to reflect the then current fair market value of the Services rendered.

EXHIBIT A

THIRD AMENDED AND RESTATED SHARED SERVICES AGREEMENT

(See Attached)

EXECUTION VERSION

THIRD AMENDED AND RESTATED SHARED SERVICES AGREEMENT

This Third Amended and Restated Shared Services Agreement (this "***Agreement***") by and among Highland Capital Management, L.P., a Delaware limited partnership ("***HCMLP***"), and Acis Capital Management, L.P., a Delaware limited partnership ("***Acis***"), and any affiliate of Acis that becomes a party hereto, is dated effective as of January 1, 2016 (the "***Effective Date***"). Each of the signatories hereto is individually a "***Party***" and collectively the "***Parties***".

RECITALS

WHEREAS, the Parties entered into that certain Second Amended and Restaed Shared Services Agreement dated January 1, 2015 (the "***Prior Agreement***"); and

WHEREAS, the Parties now desire to amend and restate the Prior Agreement in its entirety as set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and conditions contained herein, the Parties agree, intending to be legally bound, that the Prior Agreement is amended and restated in its entirety to read as follows:

ARTICLE I
DEFINITIONS

"***Actual Cost***" means, with respect to any period hereunder, one hundred percent (100%) of the actual costs and expenses caused by, incurred or otherwise arising from or relating to (i) the Shared Services and (ii) the Shared Assets, in each case during such period.

"***Affiliate***" means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified Person. The term "***control***" (including, with correlative meanings, the terms "***controlled by***" and "***under common control with***") means the possession of the power to direct the management and policies of the referenced Person, whether through ownership interests, by contract or otherwise.

"***Agreement***" has the meaning set forth in the preamble.

"***Allocation Percentage***" has the meaning set forth in Section 4.01.

"***Annual Revenue***" means for any fiscal year the aggregate revenue of HCMLP or Acis, as applicable, on a consolidated basis as reflected on its audited financial statements for such fiscal year.

"***Applicable Margin***" shall mean an additional amount equal to 5% of all costs allocated by Service Provider to the other parties hereto under Article IV Sections 4.01(a) and 4.01(b); provided that the parties may agree on a different margin percentage as to any allocation item or items to the extent the above margin percentage, together with the allocated cost of such item or service, would not reflect an arm's length value of the particular service or item allocated.

"***Change***" has the meaning set forth in Section 2.02(a).

"***Change Request***" has the meaning set forth in Section 2.02(b).

"***Code***" means the Internal Revenue Code of 1986, as amended, and the related regulations and published interpretations.

"***Effective Date***" has the meaning set forth in the preamble.

"***Governmental Entity***" means any government or any regulatory agency, bureau, board, commission, court, department, official, political subdivision, tribunal or other instrumentality of any government, whether federal, state or local, domestic or foreign.

"***Indemnified Party***" has the meaning set forth in Section 8.03.

"***Indemnifying Party***" has the meaning set forth in Section 8.03.

"***Liabilities***" means any cost, liability, indebtedness, obligation, co-obligation, commitment, expense, claim, deficiency, guaranty or endorsement of or by any Person of any nature (whether direct or indirect, known or unknown, absolute or contingent, liquidated or unliquidated, due or to become due, accrued or unaccrued, matured or unmatured).

"***Loss***" means any cost, damage, disbursement, expense, liability, loss, obligation, penalty or settlement, including interest or other carrying costs, legal, accounting and other professional fees and expenses incurred in the investigation, collection, prosecution and defense of claims and amounts paid in settlement, that may be imposed on or otherwise incurred or suffered by the referenced Person; provided, however, that the term "***Loss***" will not be deemed to include any special, exemplary or punitive damages, except to the extent such damages are incurred as a result of third party claims.

"***New Shared Service***" has the meaning set forth in Section 2.03.

"***Notice of Claim***" has the meaning set forth in Section 8.03.

"***Party***" or "***Parties***" has the meaning set forth in the preamble.

"***Person***" means an association, a corporation, an individual, a partnership, a limited liability company, a trust or any other entity or organization, including a Governmental Entity.

"***Quarterly Report***" has the meaning set forth in Section 5.01.

"***Recipient***" means Acis and any of Acis' direct or indirect Subsidiaries or managed funds or accounts in their capacity as a recipient of the Shared Services and/or Shared Assets.

"***Service Provider***" means any of HCMLP and its direct or indirect Subsidiaries in its capacity as a provider of Shared Services or Shared Assets.

"***Service Standards***" has the meaning set forth in Section 6.01.

"***Shared Assets***" shall have the meaning set forth in Section 3.03.

"***Shared Services***" shall have the meaning set forth in Section 2.01.

"***Shared Services and Employees Agreement***" has the meaning set forth in the recitals.

"***Subsidiary***" means, with respect to any Person, any Person in which such Person has a direct or indirect equity ownership interest in excess of 50%.

"***Tax***" or "***Taxes***" means: (i) all state and local sales, use, value-added, gross receipts, foreign, privilege, utility, infrastructure maintenance, property, federal excise and similar levies, duties and other similar tax-like charges lawfully levied by a duly constituted taxing authority against or upon the Shared Services and the Shared Assets; and (ii) tax-related surcharges or fees that are related to the Shared Services and the Shared Assets identified and authorized by applicable tariffs.

"***Term***" has the meaning set forth in Section 7.01.

ARTICLE II
SHARED SERVICES

Section 2.01 Services. During the Term, Service Provider will provide Recipient with Shared Services, each as described more fully on **Annex A** attached hereto, the "***Shared Services***")

Section 2.02 Changes to the Shared Services.

(a) During the Term, the Parties may agree to modify the terms and conditions of a Service Provider's performance of any Shared Service in order to reflect new procedures, processes or other methods of providing such Shared Service, including modifying the applicable fees for such Shared Service to reflect the then current fair market value of such service (a "***Change***"). The Parties will negotiate in good faith the terms upon which a Service Provider would be willing to provide such New Shared Service to Recipient.

(b) The Party requesting a Change will deliver a description of the Change requested (a "***Change Request***") and no Party receiving a Change Request may unreasonably withhold, condition or delay its consent to the proposed Change.

(c) Notwithstanding any provision of this Agreement to the contrary, a Service Provider may make: (i) Changes to the process of performing a particular Shared Service that do not adversely affect the benefits to Recipient of Service Provider's provision or quality of such Shared Service in any material respect or increase Recipient's cost for such Shared Service; (ii) emergency Changes on a temporary and short-term basis; and/or (iii) Changes to a particular Shared Service in order to comply with applicable law or regulatory requirements, in each case without obtaining the prior consent of Recipient. A Service Provider will notify Recipient in writing of any such Change as follows: in the case of clauses (i) and (iii) above, prior to the implementation of such Change, and, in the case of clause (ii) above, as soon as reasonably practicable thereafter.

Section 2.03 New Shared Services. The Parties may, from time to time during the Term of this Agreement, negotiate in good faith for Shared Services not otherwise specifically listed in Section 2.01 (a "***New Shared Service***"). Any agreement between the Parties on the terms for a New Shared Service must be in accordance with the provisions of Article IV and Article V hereof, will be deemed to be an amendment to this Agreement and such New Shared Service will then be a "***Shared Service***" for all purposes of this Agreement.

Section 2.04 Subcontractors. Nothing in this Agreement will prevent Service Provider from, upon notice to Recipient, using subcontractors, hired with due care, to perform all or any part of a Shared Service hereunder. A Service Provider will remain fully responsible for the performance of its obligations under this Agreement in accordance with its terms, including any obligations it performs through subcontractors, and a Service Provider will be solely responsible for payments due to its subcontractors.

ARTICLE III
SHARED ASSETS

Section 3.01 Shared IP Rights. Each Service Provider hereby grants to Recipient a non-exclusive right and license to use the intellectual property and other rights granted or licensed, directly or indirectly, to such Service Provider (the "***Shared IP Rights***") pursuant to third party intellectual property Agreements ("***Third Party IP Agreements***"), provided that the rights granted to Recipient hereunder are subject to the terms and conditions of the applicable Third Party IP Agreement, and that such rights shall terminate, as applicable, upon the expiration or termination of the applicable Third Party IP Agreement. Recipient shall be licensed to use the Shared IP Rights only for so long as it remains an Affiliate of HCMLP. In consideration of the foregoing licenses, Recipient agrees to take such further actions as a Service Provider deems to be necessary or desirable to comply with its obligations under the Third Party IP Agreements.

Section 3.02 Other Shared Assets. Subject to Section 3.01, each Service Provider hereby grants Recipient the right, license or permission, as applicable, to use and access the benefits under the agreements, contracts and licenses that such Service Provider will purchase, acquire, become a party or beneficiary to or license on behalf of Recipient (the "***Future Shared Assets***" and collectively with the Shared IP Rights, the "***Shared Assets***").

ARTICLE IV
COST ALLOCATION

Section 4.01 Actual Cost Allocation Formula. The Actual Cost of any item relating to any Shared Services or Shared Assets shall be allocated based on the Allocation Percentage. For purposes of this Agreement, "***Allocation Percentage***" means:

(a) To the extent 100% of such item is demonstrably attributable to the Acis, 100% of the Actual Cost of such item shall be allocated to Acis;

(b) To the extent a specific percentage of use of such item can be determined (e.g., 70% for HCMLP and 30% for Acis), that specific percentage of the Actual Cost of such item will be allocated to HCMLP or Acis, as applicable; and

(c) All other portions of the Actual Cost of any item that cannot be allocated pursuant to clause (a) or (b) above is agreed to be allocated between HCMLP and Acis in proportion to the fee earning assets managed by Acis. It is agreed in good faith between both parties that Actual Cost shall be calculated as follows: for each fund included within Annex B, Actual Cost shall be calculated in exact conformity with the calculation of management fees for such funds, except that the management fee rates applied in the calculation will be replaced by the fee rates described in Annex B. For avoidance of doubt, the calculation will apply to any form of management fees, except for incentive fees earned from any fund and subordinated management fees for collateralized loan obligation (CLO) funds.

For the avoidance of doubt, Acis shall separately reimburse HCMLP for the actual costs and expenses caused by, incurred or otherwise arising from or relating to business development services that are borne by HCMLP on behalf of or for the benefit of Acis.

Section 4.02 Non-Cash Cost Allocation. The actual, fully burdened cost of any item relating to any Shared Services or Shared Assets that does not result in a direct, out of pocket cash expense may be allocated to HCMLP and Acis for financial statement purposes only, without any corresponding cash reimbursement required, in accordance with generally accepted accounting principles, based on the Allocation Percentage principles described in Section 4.01 hereof.

ARTICLE V
PAYMENT OF COST AND REVENUE SHARE; TAXES

Section 5.01 Quarterly Statements. Within sixty (60) days following the end of each calendar quarter during the Term (or at such time as may be otherwise agreed by the parties), each Service Provider shall furnish the other Parties hereto with a written statement with respect to the Actual Cost paid by it in respect of Shared Services and Shared Assets provided by it, in each case, during such period, setting forth (i) the cost allocation in accordance with Article IV hereof together with the Applicable Margin on such allocated amounts, and (ii) any amounts paid pursuant to Section 5.02 hereof, together with such other data and information necessary to complete the items described in Section 5.03 hereof (hereinafter referred to as the "***Quarterly Report***").

Section 5.02 Settlement Payments. At any time during the Term, any Party may make payment of the amounts that are allocable to such Party together with the Applicable Margin related thereto, regardless of whether an invoice pursuant to Section 5.03 hereof has been issued with respect to such amounts.

Section 5.03 Determination and Payment of Cost and Revenue Share.

(a) Within ten (10) days of the submission of the Quarterly Report described in Section 5.02 hereof (or at such other time as may be agreed by the parties), the Parties shall (i) agree on the cost share of each of the Parties and Applicable Margin as calculated pursuant to the provisions of this Agreement; and (ii) prepare and issue invoices for the cost share and Applicable Margin payments that are payable by any of the Parties.

(b) Within ten (10) days of preparation of the agreement and the issuance of the invoice described in Section 5.03(a) (or at such other time as may be agreed by the parties), the Parties shall promptly make payment of the amounts that are set forth on such cost allocation invoice.

Section 5.04 Taxes.

(b) Recipient is responsible for and will pay all Taxes applicable to the Shared Services and the Shared Assets, provided to Recipient, provided, that such payments by Recipient to Service Provider will be made in the most tax-efficient manner and provided further, that Service Provider will not be subject to any liability for Taxes applicable to the Shared Services and the Shared Assets as a result of such payment by Recipient. Service Provider will collect such Tax from Recipient in the same manner it collects such Taxes from other customers in the ordinary course of Service Provider's business, but in no event prior to the time it invoices Recipient for the Shared Services and Shared Assets, costs for which such Taxes are levied. Recipient may provide Service Provider with a certificate evidencing its exemption from payment of or liability for such Taxes.

(c) Service Provider will reimburse Recipient for any Taxes collected from Recipient and refunded to Service Provider. In the event a Tax is assessed against Service Provider that is solely the responsibility of Recipient and Recipient desires to protest such assessment, Recipient will submit to Service Provider a statement of the issues and arguments requesting that Service Provider grant Recipient the authority to prosecute the protest in Service Provider's name. Service Provider's authorization will not be unreasonably withheld. Recipient will finance, manage, control and determine the strategy for such protest while keeping Service Provider reasonably informed of the proceedings. However, the authorization will be periodically reviewed by Service Provider to determine any adverse impact on Service Provider, and Service Provider will have the right to reasonably withdraw such authority at any time. Upon notice by Service Provider that it is so withdrawing such authority, Recipient will expeditiously terminate all

proceedings. Any adverse consequences suffered by Recipient as a result of the withdrawal will be submitted to arbitration pursuant to Section 9.14. Any contest for Taxes brought by Recipient may not result in any lien attaching to any property or rights of Service Provider or otherwise jeopardize Service Provider's interests or rights in any of its property. Recipient agrees to indemnify Service Provider for all Losses that Service Provider incurs as a result of any such contest by Recipient.

(d) The provisions of this Section 5.04 will govern the treatment of all Taxes arising as a result of or in connection with this Agreement notwithstanding any other Article of this Agreement to the contrary.

ARTICLE VI
SERVICE PROVIDER RESPONSIBILITIES

Section 6.01 Service Provider General Obligations. In providing the Services, the Service Provider:

(a) will conform with (1) any applicable written procedures, policies and guidelines adopted by the applicable Recipient and furnished to the Service Provider, and (2) the Recipient's objectives, policies and restrictions as stated in the Recipient's Indenture, Management Agreement, Partnership Agreement, Bye-laws, and/or other governing documents, as applicable, each as supplemented or amended from time to time, as furnished to the Service Provider (such governing document, the "***Applicable Restrictions***"). Until the Recipient delivers any supplements or amendments to the Service Provider, the Service Provider shall be fully protected in relying on the Applicable Restrictions previously furnished by the Recipient to the Service Provider. In providing the services in accordance with the requirements of this Section, the Service Provider shall be entitled to receive and act upon advice of counsel to the Recipient, or to the Service Provider that is also acceptable to the Recipient; and

(b) will provide the Shared Assets, or the Services, as applicable, to Recipient on a non-discriminatory basis and will use commercially reasonable efforts to provide the Shared Assets, or the Services, as applicable, in the same manner as if it were providing such services and assets on its own account. Service Provider will use its commercially reasonable efforts to conduct its duties hereunder in a lawful manner in compliance with applicable laws, statutes, rules and regulations and in accordance with the service standards. The standards set forth in this Section 6.01 are referred to in this Agreement as the "***Service Standards***."

Section 6.02 Books and Records; Access to Information. Service Provider will keep and maintain books and records on behalf of Recipient in accordance with past practices and internal control procedures. Recipient will have the right, at any time and from time to time upon reasonable prior notice to Service Provider, to inspect and copy (at its expense) during normal business hours at the offices of Service Provider the books and records relating to the Shared Services and Shared Assets, with respect to Service Provider's performance of its obligations hereunder. This inspection right will include the ability of Recipient's financial auditors to review such books and records in the ordinary course of performing standard financial auditing services for Recipient (but subject to Service Provider imposing reasonable access restrictions to Service Provider's and its Affiliates' proprietary information and such financial auditors executing appropriate confidentiality agreements reasonably acceptable to Service Provider). Service Provider will promptly respond to any reasonable requests for information or access.

Section 6.03 Return of Property and Equipment. Upon expiration or termination of this Agreement, Service Provider will be obligated to return to Recipient, as soon as is reasonably practicable, any equipment or other property or materials of Recipient that is in Service Provider's control or possession.

ARTICLE VII
TERM AND TERMINATION

Section 7.01 Term. The term of this Agreement will commence as of the Effective Date and will continue in full force and effect until the first anniversary of the Effective Date (the "***Term***"), unless terminated earlier in accordance with Section 7.02. The Term shall automatically renew for successive one year periods unless sooner terminated under Section 7.02.

Section 7.02 Termination.

(a) Subject to Section 7.02(b), either Party may terminate this Agreement upon at least 30 days advance written notice at any time prior to the expiration of the Term.

(b) In the event of any proposed termination of this Agreement while services are being rendered hereunder with respect to any Recipient, the effectiveness of such termination shall be conditioned on either (i) Acis or HCMLP, as applicable, confirming, in a manner reasonably satisfactory to each such Recipient, that the termination of this Agreement would not cause an Adverse Account Event (as defined below), or (ii) the continued provision of the Shared Services and Shared Assets, and/or Investment Services, as applicable, on substantially the terms provided herein until such time as a replacement provider or providers of the Shared Services and Shared Assets, or Investment Services, can be engaged by Acis or HCMLP, as applicable, on terms that would not cause an Adverse Account Event. As used herein, "***Adverse Account Event***" means (i) any event that would constitute a violation of any of the Applicable Restrictions, (ii) any event that would result in a material adverse deviation from the Service Standards rendered to the Recipient immediately prior to such event, or (iii) in the case of any Recipient that is an issuer of structured finance securities under an indenture with notes rated by S&P or Moody's, the failure to receive rating agency confirmation consistent with the terms of such indenture that the termination of this Agreement would not cause either S&P or Moody's to effect a withdrawal, reduction, suspension or other adverse action with respect to any then current rating of any class of notes of such Recipient issued under such indenture. In the event Acis or HCMLP relies on clause (ii) above to avoid termination of this Agreement, such party agrees to use its commercially reasonable efforts to procure such replacement Shared Services and Shared Assets, or Investment Services, as applicable, as soon as reasonably practicable following the Service Provider's notice of its desire to terminate this Agreement.

ARTICLE VIII
LIMITED WARRANTY; LIMITATION ON LIABILITY; INDEMNIFICATION

Section 8.01 Limited Warranty. Service Provider will perform the Shared Services hereunder in accordance with the Service Standards. Except as specifically provided in this Agreement, Service Provider makes no express or implied representations, warranties or guarantees relating to its performance of the Shared Services and the granting of the Shared Assets under this Agreement, including any warranty of merchantability, fitness, quality, non-infringement of third party rights, suitability or adequacy of the Shared Services and the Shared Assets for any purpose or use or purpose. Service Provider will (to the extent possible and subject to Service Provider's contractual obligations) pass through the benefits of any express warranties received from third parties relating to any Shared Service and Shared Asset, and will (at Recipient's expense) assist Recipient with any warranty claims related thereto.

Section 8.02 Indemnification. Subject to the limitations of liability set forth in Section 8.04, Service Provider and Recipient will indemnify and hold each other harmless against all Losses resulting from: (i) such Party's performance or failure to perform, in any material manner, any of its obligations under this Agreement; (ii) the breach by such Party, in any material manner, of any representation, warranty,

covenant or agreement contained herein; (iii) loss of or damage to tangible real or tangible personal property (including damage to their property), in any material manner, in each case to the extent that such Loss was proximately caused by any negligent or willful act or omission by the Party from whom indemnity is sought, its agents, employees or subcontractors, in connection with the provision or receipt of the Shared Services or the Shared Assets; (iv) such Party's use of the Shared Services and Shared Assets; (v) the breach by such Party of the license granted in Section 3.01; or (vi) the breach by such party of the Third Party IP Agreements.

Section 8.03 Notice and Procedures. A Party seeking indemnification pursuant to Section 8.02 (the "***Indemnified Party***") will give prompt written notice in reasonable detail (the "***Notice of Claim***") to the indemnifying Party (the "***Indemnifying Party***") stating the basis of any claim for which indemnification is being sought hereunder within thirty (30) days after its knowledge thereof; provided, however, that the Indemnified Party's failure to provide any such notice to the Indemnifying Party will not relieve the Indemnifying Party of or from any of its obligations hereunder, except to the extent that the Indemnifying Party suffers prejudice as a result of such failure. If the facts giving rise to such indemnification involve an actual or threatened claim by or against a third party:

(a) the Parties will cooperate in the prosecution or defense of such claim and will furnish such records, information and testimony and attend to such proceedings as may be reasonably requested in connection therewith; and

(b) the Indemnified Party will make no settlement of any claim that would give rise to liability on the part of the Indemnifying Party without the latter's prior written consent which will not be unreasonably withheld or delayed, and the Indemnifying Party will not be liable for the amount of any settlement affected without its prior written consent.

Section 8.04 Consequential Damages. Except with respect to a Party's fraud or willful misconduct, and except with respect to damages sought by a third party in connection with a third party claim, none of the Parties, or their Affiliates, will be liable to the other Parties, or their Affiliates, for any damages other than direct damages. Each Party agrees that it is not entitled to recover and agrees to waive any claim with respect to, and will not seek, consequential, punitive or any other special damages as to any matter under, relating to or arising out of the transactions contemplated by this Agreement, except with respect to such claims and damages arising directly out of a Party's fraud or willful misconduct, or with respect to damages sought by third parties in connection with third party claims.

ARTICLE IX
MISCELLANEOUS

Section 9.01 No Partnership or Joint Venture; Independent Contractor. Nothing contained in this Agreement will constitute or be construed to be or create a partnership or joint venture between or among HCMLP or Acis or their respective successors or assigns. The Parties understand and agree that, with the exception of the procurement by Service Provider of licenses or other rights on behalf of Recipient pursuant to Section 3.01, this Agreement does not make any of them an agent or legal representative of the other for any purpose whatsoever. With the exception of the procurement by Service Provider of licenses or other rights on behalf of Recipient pursuant to Section 3.01, no Party is granted, by this Agreement or otherwise, any right or authority to assume or create any obligation or responsibilities, express or implied, on behalf of or in the name of any other Party, or to bind any other Party in any manner whatsoever. The Parties expressly acknowledge that Service Provider is an independent contractor with respect to Recipient in all respects, including with respect to the provision of the Shared Services.

Section 9.02 Amendments; Waivers. Except as expressly provided herein, this Agreement may be amended only by agreement in writing of all Parties. No waiver of any provision nor consent to any exception to the terms of this Agreement or any agreement contemplated hereby will be effective unless in writing and signed by all of the Parties affected and then only to the specific purpose, extent and instance so provided. No failure on the part of any Party to exercise or delay in exercising any right hereunder will be deemed a waiver thereof, nor will any single or partial exercise preclude any further or other exercise of such or any other right.

Section 9.03 Schedules and Exhibits; Integration. Each Schedule and Exhibit delivered pursuant to the terms of this Agreement must be in writing and will constitute a part of this Agreement, although schedules need not be attached to each copy of this Agreement. This Agreement, together with such Schedules and Exhibits constitutes the entire agreement among the Parties pertaining to the subject matter hereof and supersedes all prior agreements and understandings of the Parties in connection therewith.

Section 9.04 Further Assurances. Each Party will take such actions as any other Party may reasonably request or as may be necessary or appropriate to consummate or implement the transactions contemplated by this Agreement or to evidence such events or matters.

Section 9.05 Governing Law. This Agreement and the legal relations between the Parties will be governed by and construed in accordance with the laws of the State of Texas applicable to contracts made and performed in such State and without regard to conflicts of law doctrines unless certain matters are preempted by federal law.

Section 9.06 Assignment. Except as otherwise provided hereunder, neither this Agreement nor any rights or obligations hereunder are assignable by one Party without the express prior written consent of the other Parties.

Section 9.07 Headings. The descriptive headings of the Articles, Sections and subsections of this Agreement are for convenience only and do not constitute a part of this Agreement.

Section 9.08 Counterparts. This Agreement and any amendment hereto or any other agreement delivered pursuant hereto may be executed in one or more counterparts and by different Parties in separate counterparts. All counterparts will constitute one and the same agreement and will become effective when one or more counterparts have been signed by each Party and delivered to the other Parties.

Section 9.09 Successors and Assigns; No Third Party Beneficiaries. This Agreement is binding upon and will inure to the benefit of each Party and its successors or assigns, and nothing in this Agreement, express or implied, is intended to confer upon any other Person or Governmental Entity any rights or remedies of any nature whatsoever under or by reason of this Agreement.

Section 9.10 Notices. All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given: (i)immediately when personally delivered; (ii) when received by first class mail, return receipt requested; (iii) one day after being sent for overnight delivery by Federal Express or other overnight delivery service; or (iv) when receipt is acknowledged, either electronically or otherwise, if sent by facsimile, telecopy or other electronic transmission device. Notices, demands and communications to the other Parties will, unless another address is specified by such Parties in writing, be sent to the addresses indicated below:

If to HCMLP, addressed to:

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Attention: General Counsel
Fax: (972) 628-4147

If to Acis, addressed to:

Acis Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Attention: General Counsel
Fax: (972)628-4147

Section 9.11 Expenses. Except as otherwise provided herein, the Parties will each pay their own expenses incident to the negotiation, preparation and performance of this Agreement, including the fees, expenses and disbursements of their respective investment bankers, accountants and counsel.

Section 9.12 Waiver. No failure on the part of any Party to exercise or delay in exercising any right hereunder will be deemed a waiver thereof, nor will any single or partial exercise preclude any further or other exercise of such or any other right.

Section 9.13 Severability. If any provision of this Agreement is held to be unenforceable for any reason, it will be adjusted rather than voided, if possible, to achieve the intent of the Parties. All other provisions of this Agreement will be deemed valid and enforceable to the extent possible.

Section 9.14 Arbitration; Jurisdiction. Notwithstanding anything contained in this Agreement or the Annexes hereto to the contrary, in the event there is an unresolved legal dispute between the parties and/or any of their respective officers, directors, partners, employees, agents, affiliates or other representatives that involves legal rights or remedies arising from this Agreement, the parties agree to submit their dispute to binding arbitration under the authority of the Federal Arbitration Act; provided, however, that either party or such applicable affiliate thereof may pursue a temporary restraining order and/or preliminary injunctive relief in connection with confidentiality covenants or agreements binding on the other party, with related expedited discovery for the parties, in a court of law, and, thereafter, require arbitration of all issues of final relief. The arbitration will be conducted by the American Arbitration Association, or another, mutually agreeable arbitration service. The arbitrator(s) shall be duly licensed to practice law in the State of Texas. The discovery process shall be limited to the following: Each side shall be permitted no more than (i) two party depositions of six hours each (each deposition is to be taken pursuant to the Texas Rules of Civil Procedure); (ii) one non-party deposition of six hours; (iii) twenty-five interrogatories; (iv) twenty-five requests for admission; (v) ten requests for production, provided, that, in response, the producing party shall not be obligated to produce in excess of 5,000 total pages of documents, which shall include electronic documents; and (vi) one request for disclosure pursuant to the Texas Rules of Civil Procedure. Any discovery not specifically provided for in this paragraph, whether to parties or non-parties, shall not be permitted. The arbitrator(s) shall be required to state in a written opinion all facts and conclusions of law relied upon to support any decision rendered. No arbitrator will have authority to render a decision that contains an outcome determinative error of state or federal law, or to fashion a cause of action or remedy not otherwise provided for under applicable state or federal law. Any dispute over whether the arbitrator(s) has failed to comply with the foregoing will be resolved by summary judgment in a court of law. In all other respects, the arbitration process will be conducted in accordance with the

American Arbitration Association's dispute resolution rules or other mutually agreeable, arbitration service rules. The party initiating arbitration shall pay all arbitration costs and arbitrator's fees, subject to a final arbitration award on who should bear costs and fees. All proceedings shall be conducted in Dallas, Texas, or another mutually agreeable site. Each party shall bear its own attorneys fees, costs and expenses, including any costs of experts, witnesses and/or travel, subject to a final arbitration award on who should bear costs and fees. The duty to arbitrate described above shall survive the termination of this Agreement. Except as otherwise provided above, the parties hereby waive trial in a court of law or by jury. All other rights, remedies, statutes of limitation and defenses applicable to claims asserted in a court of law will apply in the arbitration.

Section 9.15 General Rules of Construction. For all purposes of this Agreement and the Exhibits and Schedules delivered pursuant to this Agreement: (i) the terms defined in Article I have the meanings assigned to them in Article I and include the plural as well as the singular; (ii) all accounting terms not otherwise defined herein have the meanings assigned under GAAP; (iii) all references in this Agreement to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of the body of this Agreement; (iv) pronouns of either gender or neuter will include, as appropriate, the other pronoun forms; (v) the words "herein,""hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision; (vi) "or" is not exclusive; (vii) "including" and "includes" will be deemed to be followed by "but not limited to" and "but is not limited to, "respectively; (viii) any definition of or reference to any law, agreement, instrument or other document herein will be construed as referring to such law, agreement, instrument or other document as from time to time amended, supplemented or otherwise modified; and (ix) any definition of or reference to any statute will be construed as referring also to any rules and regulations promulgated thereunder.

IN WITNESS HEREOF, each of the Parties has caused this Agreement to be executed by its duly authorized officers as of the day and year first above written.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its general partner

By:_____
Name: James Dondero
Title: President

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC,
its general partner

By:_____
Name: James Dondero
Title: President

Annex A

Shared Services

Finance and Accounting
- Book keeping
- Cash management
- Financial reporting
- Accounts payable
- Accounts receivable
- Expense reimbursement
- Vendor management
- Tax preparation and filing
- CLO surveillance and monitoring
- Administrative assistance

Facilities
- Equipment and Office Supplies
- General Overhead
- Rent & Parking

Human Resources
- Payroll services
- Health insurance
- Employee benefits

Marketing and Public Relations
- Business Development
- Investor relations
- Investor due diligence
- Public relations

Legal
- In-house litigation support
- Compliance & Compliance Systems
- Document review and preparation

IT
- System infrastructure support
- Website management
- Email and Hardware support

Operations and Production
- Middle office services
- Procurement
- Trade settlement

Annex B

4.01(c) Fee Schedule – Acis Funds

Fund	Annualized Shared Service Fee Rate (bps)
Acis CLO 2013-1, Ltd.	15
Acis CLO 2013-2, Ltd.	15
Acis CLO 2014-3, Ltd.	15
Acis CLO 2014-4, Ltd.	15
Acis CLO 2014-5, Ltd.	15
Acis CLO 2015-6, Ltd.	15
Hewitt's Island CLO, Ltd.	15
Endurance Investments Holdings, Ltd.	15
Acis CLO Value Fund II	15
BayVK R2 Lux S.A.	15

Additionally, for advised funds (including CLO's, hedge funds or any other advised accounts) following the Effective Date which are managed by Acis, Acis will pay HCMLP an annualized shared service fee at a rate of 15 basis points per year.

EXHIBIT 11

EXECUTION VERSION

FOURTH AMENDED AND RESTATED SHARED SERVICES AGREEMENT

by and between

ACIS CAPITAL MANAGEMENT, L.P.

and

HIGHLAND CAPITAL MANAGEMENT, L.P.

Dated March 17, 2017

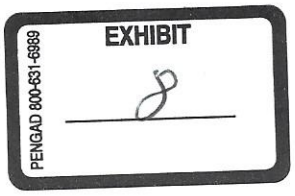


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FOURTH AMENDED AND RESTATED SHARED SERVICES AGREEMENT

This Fourth Amended and Restated Shared Services Agreement (as amended, modified, waived, supplemented or restated from time to time in accordance with the terms hereof, this "Agreement"), dated as of March 17, 2017, is entered into by and between Acis Capital Management, L.P., a Delaware limited partnership, as the management company hereunder (in such capacity, the "Management Company"), and Highland Capital Management, L.P., a Delaware limited partnership ("Highland"), as the staff and services provider hereunder (in such capacity, the "Staff and Services Provider" and together with the Management Company, the "Parties").

RECITALS

WHEREAS, the Parties entered into that certain Third Amended and Restated Shared Services Agreement dated effective January 1, 2016 (the "Existing Agreement");

WHEREAS, the Staff and Services Provider is a registered investment adviser under the Investment Advisers Act of 1940, as amended (the "Advisers Act");

WHEREAS, the Staff and Services Provider and the Management Company are engaged in the business of providing investment management services;

WHEREAS, the Staff and Services Provider is hereby being retained to provide certain back- and middle-office services and administrative, infrastructure and other services to assist the Management Company in conducting its business, and the Staff and Services Provider is willing to make such services available to the Management Company on the terms and conditions hereof;

WHEREAS, the Management Company may employ certain individuals to perform portfolio selection and asset management functions for the Management Company, and certain of these individuals may also be employed simultaneously by the Staff and Services Provider during their employment with the Management Company;

WHEREAS, each Person employed by both the Management Company and the Staff and Services Provider as described above (each, a "Shared Employee") is and shall be identified on the books and records of each of the Management Company and the Staff and Services Provider (as amended, modified, supplemented or restated from time to time); and

WHEREAS, the Parties now desire to amend and restate the Existing Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree that the Existing Agreement is hereby amended, restated and replaced in its entirety as follows.

ARTICLE I

DEFINITIONS

Section 1.01 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Advisers Act" shall have the meaning set forth in the Recitals to this Agreement.

"Advisory Restriction" shall have the meaning set forth in Section 5.01(b).

"Affiliate" shall mean with respect to a Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the first Person. The term "control" means (i) the legal or beneficial ownership of securities representing a majority of the voting power of any person or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether by contract or otherwise.

"Agreement" shall have the meaning set forth in the Preamble to this Agreement.

"Applicable Asset Criteria and Concentrations" means any applicable eligibility criteria, portfolio concentration limits and other similar criteria or limits which the Management Company instructs in writing to the Staff and Services Provider in respect of the Portfolio or one or more CLOs or Accounts, as such criteria or limits may be modified, amended or supplemented from time to time in writing by the Management Company;

"Applicable Law" shall mean, with respect to any Person or property of such Person, any action, code, consent decree, constitution, decree, directive, enactment, finding, guideline, law, injunction, interpretation, judgment, order, ordinance, policy statement, proclamation, formal guidance, promulgation, regulation, requirement, rule, rule of law, rule of public policy, settlement agreement, statute, writ, or any particular section, part or provision thereof, including the Risk Retention Rules, of any Governmental Authority to which the Person in question is subject or by which it or any of its property is bound.

"CLO or Account" shall mean a collateralized loan obligation transaction, including any type of short-term or long-term warehouse or repurchase facility in connection therewith, or a fund or account advised by the Management Company, as applicable.

"Covered Person" shall mean the Staff and Services Provider, any of its Affiliates, and any of their respective managers, members, principals, partners, directors, officers, shareholders, employees and agents (but shall not include the Management Company, its subsidiaries or member(s) and any managers, members, principals, partners, directors, officers, shareholders, employees and agents of the Management Company or its subsidiaries or member(s) (in their capacity as such)).

"Governmental Authority" shall mean (i) any government or quasi-governmental authority or political subdivision thereof, whether national, state, county, municipal or regional, whether U.S. or non-U.S.; (ii) any agency, regulator, arbitrator, board, body, branch, bureau, commission,

corporation, department, master, mediator, panel, referee, system or instrumentality of any such government, political subdivision or other government or quasi-government entity, whether non-U.S. or U.S.; and (iii) any court, whether U.S. or non-U.S.

"Highland" shall have the meaning set forth in the preamble to this Agreement.

"Indebtedness" shall mean: (a) all indebtedness for borrowed money and all other obligations, contingent or otherwise, with respect to surety bonds, guarantees of borrowed money, letters of credit and bankers' acceptances whether or not matured, and hedges and other derivative contracts and financial instruments; (b) all obligations evidenced by notes, bonds, debentures, or similar instruments, or incurred under bank guaranty or letter of credit facilities or credit agreements; (c) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to any property of the Management Company or any subsidiary; (d) with respect to the Management Company, all indebtedness relating to the acquisition by the EU Originator Series of a collateral obligation that failed to settle (including any ineligible or defaulted collateral obligation) into a CLO; (e) all capital lease obligations; (f) all indebtedness guaranteed by such Person or any of its subsidiaries; (g) all capital lease obligations; (h) all indebtedness guaranteed by such Person or any of its subsidiaries.

"Management Company" shall have the meaning set forth in the preamble to this Agreement.

"Operating Guidelines" means any operating guidelines attached to any portfolio management agreement, investment management agreement or similar agreement entered into between the Management Company and a CLO or Account.

"Parties" shall have the meaning set forth in the preamble to this Agreement.

"Portfolio" means the Management Company's portfolio of collateral loan obligations, debt securities (including equity investments or subordinated securities in a CLO such as a Retention Interest), other similar obligations, preferred return notes, financial instruments, securities or other assets held directly or indirectly by, or on behalf of, the Management Company from time to time;

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Staff and Services Fee" shall have the meaning set forth in Section 3.01 of this Agreement.

"Staff and Services Provider" shall have the meaning set forth in the preamble to this Agreement.

"Shared Employee" shall have the meaning set forth in the Recitals to this Agreement.

Section 1.02 Interpretation. The following rules apply to the use of defined terms and the interpretation of this Agreement: (i) the singular includes the plural and the plural includes the singular; (ii) "or" is not exclusive (unless preceded by "either") and "include" and "including" are

not limiting; (iii) unless the context otherwise requires, references to agreements shall be deemed to mean and include such agreements as the same may be amended, supplemented, waived and otherwise modified from time to time; (iv) a reference to a law includes any amendment or modification to such law and any rules or regulations issued thereunder or any law enacted in substitution or replacement therefor; (v) a reference to a Person includes its successors and assigns; (vi) a reference to a Section without further reference is to the relevant Section of this Agreement; (vii) the headings of the Sections and subsections are for convenience and shall not affect the meaning of this Agreement; (viii) "writing", "written" and comparable terms refer to printing, typing, lithography and other shall mean of reproducing words in a visible form (including telefacsimile and electronic mail); (ix) "hereof", "herein", "hereunder" and comparable terms refer to the entire instrument in which such terms are used and not to any particular article, section or other subdivision thereof or attachment thereto; and (x) references to any gender include any other gender, masculine, feminine or neuter, as the context requires.

ARTICLE II

SERVICES

Section 2.01 General Authority. Highland is hereby appointed as Staff and Services Provider for the purpose of providing such services and assistance as the Management Company may request from time to time to, and to make available the Shared Employees to, the Management Company in accordance with and subject to the provisions of this Agreement and the Staff and Services Provider hereby accepts such appointment. The Staff and Services Provider hereby agrees to such engagement during the term hereof and to render the services described herein for the compensation provided herein, subject to the limitations contained herein.

Section 2.02 Provision of Services. Without limiting the generality of Section 2.1 and subject to Section 2.4 (Applicable Asset Criteria and Concentrations) below, the Staff and Services Provider hereby agrees, from the date hereof, to provide the following back- and middle-office services and administrative, infrastructure and other services to the Management Company.

(a) *Back- and Middle-Office*: Assistance and advice with respect to back- and middle-office functions including, but not limited to, accounting, payments, operations, technology and finance;

(b) *Legal/Compliance/Risk Analysis*. Assistance and advice with respect to legal issues, compliance support and implementation and general risk analysis;

(c) *Management of Collateral Obligations and CLOs and Accounts*. Assistance and advice with respect to (i) the adherence to Operating Guidelines by the Management Company, and (ii) performing any obligations of the Management Company under or in connection with any back- and middle-office function set forth in any portfolio management agreement, investment management agreement or similar agreement in effect between the Management Company and any CLO or Account from time to time.

(d) *Valuation*. Advice relating to the appointment of suitable third parties to provide valuations on assets comprising the Portfolio and including, but not limited to, such

valuations required to facilitate the preparation of financial statements by the Management Company or the provision of valuations in connection with, or preparation of reports otherwise relating to, a CLO or Account for which the Management Company serves as portfolio manager or investment manager or in a similar capacity;

(e) *Execution and Documentation.* Assistance relating to the negotiation of the terms of, and the execution and delivery by the Management Company of, any and all documents which the Management Company considers to be necessary in connection with the acquisition and disposition of an asset in the Portfolio by the Management Company or a CLO or Account managed by the Management Company, CLO transactions involving the Management Company, and any other rights and obligations of the Management Company;

(f) *Marketing.* Provide access to marketing team representatives to assist with the marketing of the Management Company and any specified CLOs or Accounts managed by the Management Company conditional on the Management Company's agreement that any incentive compensation related to such marketing shall be borne by the Management Company;

(g) *Reporting.* Assistance relating to any reporting the Management Company is required to make in relation to the Portfolio or any CLO or Account, including reports relating to (i) purchases, sales, liquidations, acquisitions, disposals, substitutions and exchanges of assets in the Portfolio, (ii) the requirements of an applicable regulator, or (iii) other type of reporting which the Management Company and Staff and Services Provider may agree from time to time;

(h) *Administrative Services.* The provision of office space, information technology services and equipment, infrastructure and other related services requested or utilized by the Management Company from time to time;

(i) *Shared Employees.* The provision of Shared Employees and such additional human capital as may be mutually agreed by the Management Company and the Staff and Services Provider in accordance with the provisions of Section 2.03 hereof;

(j) *Ancillary Services.* Assistance and advice on all things ancillary or incidental to the foregoing; and

(k) *Other.* Assistance and advice relating to such other back- and middle-office services in connection with the day-to-day business of the Management Company as the Management Company and the Staff and Services Provider may from time to time agree.

For the avoidance of doubt, none of the services contemplated hereunder shall constitute investment advisory services, and the Staff & Services Provider shall not provide any advice to the Management Company or perform any duties on behalf of the Management Company, other than the back- and middle-office services contemplated herein, with respect to (a) the general management of the Management Company, its business or activities, (b) the initiation or structuring of any CLO or Account or similar securitization, (c) the substantive investment management decisions with respect to any CLO or Account or any related collateral obligations or securitization, (d) the actual selection of any collateral obligation or assets by the Management Company, (e) binding recommendations as to any disposal of or amendment to any Collateral Obligation or (f) any similar functions.

Section 2.03 Shared Employees.

(a) The Staff and Services Provider hereby agrees and consents that each Shared Employee shall be employed by the Management Company, and the Management Company hereby agrees and consents that each Shared Employee shall be employed by the Staff and Services Provider. The name, location and such other matters as the Parties desire to reflect with respect to each Shared Employee shall be identified on the books and records of each of the Management Company and the Staff and Services Provider, which may be amended in writing from time to time by the Parties to add or remove any Shared Employee to reflect the employment (or lack thereof) of such employee. Except as may otherwise separately be agreed in writing between the applicable Shared Employee and the Management Company and/or the Staff and Services Provider, in each of their discretion, each Shared Employee is an at-will employee and no guaranteed employment or other employment arrangement is agreed or implied by this Agreement with respect to any Shared Employee, and for avoidance of doubt this Agreement shall not amend, limit, constrain or modify in any way the employment arrangements as between any Shared Employee and the Staff and Services Provider or as between any Shared Employee and the Management Company, it being understood that the Management Company may enter into a short-form employment agreement with any Shared Employee memorializing such Shared Employee's status as an employee of the Management Company. If at any time any Shared Employee (or any other person employed by the Staff and Services provider who also provides services to the Management Company) shall be terminated from employment with the Staff and Services Provider or otherwise resigns or is removed from employment with the Staff and Services Provider, then such person may only serve as a separate direct employee of the Management Company upon the approval of the Management Company. The Staff and Services Provider shall ensure that the Management Company has sufficient access to the Shared Employees so that the Shared Employees spend adequate time to provide the services required hereunder. The Staff and Services Provider may also employ the services of persons other than the Specified Persons as it deems fit in its sole discretion

(b) Notwithstanding that the Shared Employees shall be employed by both the Staff and Services Provider and the Management Company, the Parties acknowledge and agree that any and all salary and benefits of each Shared Employee shall be paid exclusively by the Staff and Services Provider and shall not be paid or borne by the Management Company and no additional amounts in connection therewith shall be due from the Management Company to the Staff and Services Provider.

(c) To the extent that a Shared Employee participates in the rendering of services to the Management Company's clients, the Shared Employee shall be subject to the oversight and control of the Management Company and such services shall be provided by the Shared Employee exclusively in his or her capacity as a "supervised person" of, or "person associated with", the Management Company (as such terms are defined in Sections 202(a)(25) and 202(a)(17), respectively, of the Advisers Act).

(d) Each Party may continue to oversee, supervise and manage the services of each Shared Employee in order to (1) ensure compliance with the Party's compliance policies and procedures, (2) ensure compliance with regulations applicable to the Party and (3) protect the interests of the Party and its clients; *provided* that Staff and Services Provider shall (A) cooperate

with the Management Company's supervisory efforts and (B) make periodic reports to the Management Company regarding the adherence of Shared Employees to Applicable Law, including but not limited to the 1940 Act, the Advisers Act and the United States Commodity Exchange Act of 1936, as amended, in performing the services hereunder.

(e) Where a Shared Employee provides services hereunder through both Parties, the Parties shall cooperate to ensure that all such services are performed consistently with Applicable Law and relevant compliance controls and procedures designed to prevent, among other things, breaches in information security or the communication of confidential, proprietary or material non-public information.

(f) The Staff and Services Provider shall ensure that each Shared Employee has any registrations, qualifications and/or licenses necessary to provide the services hereunder.

(g) The Parties will cooperate to ensure that information about the Shared Employees is adequately and appropriately disclosed to clients, investors (and potential investors), investment banks operating as initial purchaser or placement agent with respect to any CLO or Account, and regulators, as applicable. To facilitate such disclosure, the Staff and Services Provider agrees to provide, or cause to be provided, to the Management Company such information as is deemed by the Management Company to be necessary or appropriate with respect to the Staff and Services Provider and the Shared Employees (including, but not limited to, biographical information about each Shared Employee).

(h) The Parties shall cooperate to ensure that, when so required, each has adopted a Code of Ethics meeting the requirements of the Advisers Act ("Code of Ethics") that is consistent with applicable law and which is substantially similar to the other Party's Code of Ethics.

(i) The Staff and Services Provider shall make reasonably available for use by the Management Company, including through Shared Employees providing services pursuant to this Agreement, any relevant intellectual property and systems necessary for the provision of the services hereunder.

(j) The Staff and Services Provider shall require that each Shared Employee:

(i) certify that he or she is subject to, and has been provided with, a copy of each Party's Code of Ethics and will make such reports, and seek prior clearance for such actions and activities, as may be required under the Codes of Ethics;

(ii) be subject to the supervision and oversight of each Party's officers and directors, including without limitation its Chief Compliance Officer ("CCO"), which CCO may be the same Person, with respect to the services provided to that Party or its clients;

(iii) provide services hereunder and take actions hereunder only as approved by the Management Company;

(iv) provide any information requested by a Party, as necessary to comply with applicable disclosure or regulatory obligations;

(v) to the extent authorized to transact on behalf of the Management Company or a CLO or Account, take reasonable steps to ensure that any such transaction is consistent with any policies and procedures that may be established by the Parties and all Applicable Asset Criteria and Concentrations; and

(vi) act, at all times, in a manner consistent with the fiduciary duties and standard of care owed by the Management Company to its members and direct or indirect investors or to a CLO or Account as well as clients of Staff and Services Provider by seeking to ensure that, among other things, information about any investment advisory or trading activity applicable to a particular client or group of clients is not used to benefit the Shared Employee, any Party or any other client or group of clients in contravention of such fiduciary duties or standard of care.

(k) Unless specifically authorized to do so, or appointed as an officer or authorized person of the Management Company with such authority, no Shared Employee may contract on behalf or in the name of the Management Company, acting as principal.

Section 2.04 Applicable Asset Criteria and Concentrations. The Management Company will promptly inform the Staff and Services Provider in writing of any Applicable Asset Criteria and Concentrations to which it agrees from time to time and the Staff and Services Provider shall take such Applicable Asset Criteria and Concentrations into account when providing assistance and advice in accordance with Section 2.2 above and any other assistance or advice provided in accordance with this Agreement.

Section 2.05 Compliance with Management Company Policies and Procedures. The Management Company will from time to time provide the Staff and Services Provider and the Shared Employees with any policy and procedure documentation which it establishes internally and to which it is bound to adhere in conducting its business pursuant to regulation, contract or otherwise. Subject to any other limitations in this Agreement, the Staff and Services Provider will use reasonable efforts to ensure any services it and the Shared Employees provide pursuant to this Agreement complies with or takes account of such internal policies and procedures.

Section 2.06 Authority. The Staff and Services Provider's scope of assistance and advice hereunder is limited to the services specifically provided for in this Agreement. The Staff and Services Provider shall not assume or be deemed to assume any rights or obligations of the Management Company under any other document or agreement to which the Management Company is a party. Notwithstanding any other express or implied provision to the contrary in this Agreement, the activities of the Staff and Services Provider pursuant to this Agreement shall be subject to the overall policies of the Management Company, as notified to the Staff and Services Provider from time to time. The Staff and Services Provider shall not have any duties or obligations to the Management Company unless those duties and obligations are specifically provided for in this Agreement (or in any amendment, modification or novation hereto or hereof to which the Staff and Services Provider is a party).

Section 2.07 Third Parties.

(a) The Staff and Services Provider may employ third parties, including its affiliates, to render advice, provide assistance and to perform any of its duties under this Agreement; *provided* that notwithstanding the employment of third parties for any such purpose, the Staff and Services Provider shall not be relieved of any of its obligations or liabilities under this Agreement.

(b) In providing services hereunder, the Staff and Services Provider may rely in good faith upon and will incur no liability for relying upon advice of nationally recognized counsel (which may be counsel for the Management Company, a CLO or Account or any Affiliate of the foregoing), accountants or other advisers as the Staff and Services Provider determines, in its sole discretion, is reasonably appropriate in connection with the services provided by the Staff and Services Provider under this Agreement.

Section 2.08 Management Company to Cooperate with the Staff and Services Provider. In furtherance of the Staff and Services Provider's obligations under this Agreement the Management Company shall cooperate with, provide to, and fully inform the Staff and Services Provider of, any and all documents and information the Staff and Services Provider reasonably requires to perform its obligations under this Agreement.

Section 2.09 Power of Attorney. If the Management Company considers it necessary for the provision by the Staff and Services Provider of the assistance and advice under this Agreement (after consultation with the Staff and Services Provider), it may appoint the Staff and Services Provider as its true and lawful agent and attorney, with full power and authority in its name to sign, execute, certify, swear to, acknowledge, deliver, file, receive and record any and all documents that the Staff and Services Provider reasonably deems appropriate or necessary in connection with the execution and settlement of acquisitions of assets as directed by the Management Company and the Staff and Services Provider's powers and duties hereunder (which for the avoidance of doubt shall in no way involve the discretion and/or authority of the Management Company with respect to investments). Any such power shall be revocable in the sole discretion of the Management Company.

ARTICLE III

CONSIDERATION AND EXPENSES

Section 3.01 Consideration. As compensation for its performance of its obligations as Staff and Services Provider under this Agreement, the Staff and Services Provider will be entitled to receive the Staff and Services Fee payable thereto. The "Staff and Services Fee" shall be payable in accordance with Appendix A attached hereto, as such appendix may be amended by the Parties from time to time.

From time to time, the Management Company may enter into shared services agreements with certain management companies on similar terms to this Agreement. Promptly following the receipt of any fees pursuant to such shared services agreements, the Management Company shall pay 100% of such fees to the Staff and Services Provider.

Section 3.03 Costs and Expenses. Each party shall bear its own expenses; *provided* that the Management Company shall reimburse the Staff and Services Provider for any and all costs and expenses that may be borne properly by the Management Company.

Section 3.04 Deferral. Notwithstanding anything to the contrary contained herein, if on any date the Management Company determines that it would not have sufficient funds available to it to make a payment of Indebtedness, it shall have the right to defer any all and amounts payable to the Staff and Services Provider pursuant to this Agreement, including any fees and expenses; *provided* that the Management Company shall promptly pay all such amounts on the first date thereafter that sufficient amounts exist to make payment thereof.

ARTICLE IV

REPRESENTATIONS AND COVENANTS

Section 4.01 Representations. Each of the Parties hereto represents and warrants that:

(a) It has full power and authority to execute and deliver, and to perform its obligations under, this Agreement;

(b) this Agreement has been duly authorized, executed and delivered by it and constitutes its valid and binding, obligation, enforceable in accordance with its terms except as the enforceability hereof may be subject to (i) bankruptcy, insolvency, reorganization moratorium, receivership, conservatorship or other similar laws now or hereafter in effect relating to creditors' rights and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding, in equity or at law);

(c) no consent, approval, authorization or order of or declaration or filing with any Governmental Authority is required for the execution of this Agreement or the performance by it of its duties hereunder, except such as have been duly made or obtained; and

(d) neither the execution and delivery of this Agreement nor the fulfillment of the terms hereof conflicts with or results in a breach or violation of any of the terms or provisions of, or constitutes a default under, (i) its constituting and organizational documents; or (ii) the terms of any material indenture, contract, lease, mortgage, deed of trust, note, agreement or other evidence of indebtedness or other material agreement, obligation, condition, covenant or instrument to which it is a party or by which it is bound.

ARTICLE V

COVENANTS

Section 5.01 Compliance; Advisory Restrictions.

(a) The Staff and Services Provider shall reasonably cooperate with the Management Company in connection with the Management Company's compliance with its policies and procedures relating to oversight of the Staff and Services Provider. Specifically, the Staff and Services Provider agrees that it will provide the Management Company with reasonable

access to information relating to the performance of Staff and Services Provider's obligations under this Agreement.

(b) This Agreement is not intended to and shall not constitute an assignment, pledge or transfer of any portfolio management agreement or any part thereof. It is the express intention of the parties hereto that this Agreement and all services performed hereunder comply in all respects with all (a) applicable contractual provisions and restrictions contained in each portfolio management agreement, investment management agreement or similar agreement and each document contemplated thereby; and (b) Applicable Laws (collectively, the "Advisory Restrictions"). If any provision of this Agreement is determined to be in violation of any Advisory Restriction, then the services to be provided under this Agreement shall automatically be limited without action by any person or entity, reduced or modified to the extent necessary and appropriate to be enforceable to the maximum extent permitted by such Advisory Restriction.

Section 5.02 Records; Confidentiality.

The Staff and Services Provider shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Management Company and its accountants and other agents at any time during normal business hours and upon not less than three (3) Business Days' prior notice; *provided* that the Staff and Services Provider shall not be obligated to provide access to any non-public information if it in good faith determines that the disclosure of such information would violate any applicable law, regulation or contractual arrangement.

The Staff and Services Provider shall follow its customary procedures to keep confidential any and all information obtained in connection with the services rendered hereunder that is either (a) of a type that would ordinarily be considered proprietary or confidential, such as information concerning the composition of assets, rates of return, credit quality, structure or ownership of securities, or (b) designated as confidential obtained in connection with the services rendered by the Staff and Services Provider hereunder and shall not disclose any such information to non-affiliated third parties, except (i) with the prior written consent of the Management Company, (ii) such information as a rating agency shall reasonably request in connection with its rating of notes issued by a CLO or supplying credit estimates on any obligation included in the Portfolio, (iii) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions on behalf of the Management Company or any CLO or Account for which the Management Company serves as portfolio manager or investment manager or in a similar capacity, (iv) as required by (A) Applicable Law or (B) the rules or regulations of any self-regulating organization, body or official having jurisdiction over the Staff and Services Provider or any of its Affiliates, (v) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (vi) such information as shall have been publicly disclosed other than in known violation of this Agreement or shall have been obtained by the Staff and Services Provider on a non-confidential basis, (vii) such information as is necessary or appropriate to disclose so that the Staff and Services Provider may perform its duties hereunder, (viii) as expressly permitted in the final offering memorandum or any definitive transaction documents relating to any CLO or Account, (ix) information relating to performance of the Portfolio as may be used by the Staff and Services Provider in the ordinary course of its business or (xx) such

information as is routinely disclosed to the trustee, custodian or collateral administrator of any CLO or Account in connection with such trustee's, custodian's or collateral administrator's performance of its obligations under the transaction documents related to such CLO or Account. Notwithstanding the foregoing, it is agreed that the Staff and Services Provider may disclose without the consent of any Person (1) that it is serving as staff and services provider to the Management Company, (2) the nature, aggregate principal amount and overall performance of the Portfolio, (3) the amount of earnings on the Portfolio, (4) such other information about the Management Company, the Portfolio and the CLOs or Accounts as is customarily disclosed by staff and services providers to management vehicles similar to the Management Company, and (5) the United States federal income tax treatment and United States federal income tax structure of the transactions contemplated by this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them relating to such United States federal income tax treatment and United States income tax structure. This authorization to disclose the U.S. tax treatment and tax structure does not permit disclosure of information identifying the Staff and Services Provider, the Management Vehicles, the CLOs or Accounts or any other party to the transactions contemplated by this Agreement (except to the extent such information is relevant to U.S. tax structure or tax treatment of such transactions).

ARTICLE VI

EXCULPATION AND INDEMNIFICATION

Section 6.01 Standard of Care. Except as otherwise expressly provided herein, each Covered Person shall discharge its duties under this Agreement with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. To the extent not inconsistent with the foregoing, each Covered Person shall follow its customary standards, policies and procedures in performing its duties hereunder. No Covered Person shall deal with the income or assets of the Management Company in such Covered Person's own interest or for its own account. Each Covered Person in its respective sole and absolute discretion may separately engage or invest in any other business ventures, including those that may be in competition with the Management Company, and the Management Company will not have any rights in or to such ventures or the income or profits derived therefrom

Section 6.02 Exculpation. To the fullest extent permitted by law, no Covered Person will be liable to the Management Company, any Member, or any shareholder, partner or member thereof, for (i) any acts or omissions by such Covered Person arising out of or in connection with the conduct of the business of the Management Company or its General Partner, or any investment made or held by the Management Company or its General Partner, unless such act or omission was made in bad faith or is determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, to be the result of gross negligence or to constitute fraud or willful misconduct (as interpreted under the laws of the State of Delaware) (each, a "Disabling Conduct") on the part of such Covered Person, (ii) any act or omission of any Investor, (iii) any mistake, gross negligence, misconduct or bad faith of any employee, broker, administrator or other agent or representative of such Covered Person, *provided* that such employee, broker, administrator or agent was selected, engaged or retained by or on behalf of such Covered Person with reasonable care, or (iv) any consequential (including loss of profit), indirect, special or punitive damages. To

the extent that, at law or in equity, any Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the Management Company or any Member, no Covered Person acting under this Agreement shall be liable to the Management Company or to any such Member for its good-faith reliance on the provisions of this Agreement.

To the fullest extent permitted by law, no Covered Person shall have any personal liability to the Management Company or any Member solely by reason of any change in U.S. federal, state or local or foreign income tax laws, or in interpretations thereof, as they apply to the Management Company or the Members, whether the change occurs through legislative, judicial or administrative action.

Any Covered Person in its sole and absolute discretion may consult legal counsel, accountants or other advisers selected by it, and any act or omission taken, or made in good faith by such Person on behalf of the Management Company or in furtherance of the business of the Management Company in good-faith reliance on and in accordance with the advice of such counsel, accountants or other advisers shall be full justification for the act or omission, and to the fullest extent permitted by applicable law, no Covered Person shall be liable to the Management Company or any Member in so acting or omitting to act if such counsel, accountants or other advisers were selected, engaged or retained with reasonable care.

Section 6.03 Indemnification by the Management Company. The Management Company shall and hereby does, to the fullest extent permitted by applicable law, indemnify and hold harmless any Covered Person from and against any and all claims, demands, liabilities, costs, expenses, damages, losses, suits, proceedings, judgments, assessments, actions and other liabilities, whether judicial, administrative, investigative or otherwise, of whatever nature, known or unknown, liquidated or unliquidated ("Claims"), that may accrue to or be incurred by any Covered Person, or in which any Covered Person may become involved, as a party or otherwise, or with which any Covered Person may be threatened, relating to or arising out of the investment or other activities of the Management Company or its General Partner, or activities undertaken in connection with the Management Company or its General Partner, or otherwise relating to or arising out of this Agreement, including amounts paid in satisfaction of judgments, in compromise or as fines or penalties, and attorneys' fees and expenses incurred in connection with the preparation for or defense or disposition of any investigation, action, suit, arbitration or other proceeding (a "Proceeding"), whether civil or criminal (all of such Claims, amounts and expenses referred to therein are referred to collectively as "Damages"), except to the extent that it shall have been determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, that such Damages arose primarily from Disabling Conduct of such Covered Person. The termination of any Proceeding by settlement, judgment, order, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that any Damages relating to such settlement, judgment, order, conviction or plea of nolo contendere or its equivalent or otherwise relating to such Proceeding arose primarily from Disabling Conduct of any Covered Persons.

Expenses (including attorneys' fees) incurred by a Covered Person in defense or settlement of any Claim that may be subject to a right of indemnification hereunder may be advanced by the Management Company prior to the final disposition thereof upon receipt of a written undertaking by or on behalf of the Covered Person to repay the amount advanced to the extent that it shall be

determined ultimately by a court of competent jurisdiction that the Covered Person is not entitled to be indemnified hereunder. The right of any Covered Persons to the indemnification provided herein shall be cumulative of, and in addition to, any and all rights to which the Covered Person may otherwise be entitled by contract or as a matter of law or equity and shall be extended to the Covered Person's successors, assigns and legal representatives. Any judgments against the Management Company and/or any Covered Persons in respect of which such Covered Person is entitled to indemnification shall first be satisfied from the assets of the Management Company, including Drawdowns, before such Covered Person is responsible therefor.

Notwithstanding any provision of this Agreement to the contrary, the provisions of this Section 6.03 shall not be construed so as to provide for the indemnification of any Covered Person for any liability (including liability under Federal securities laws which, under certain circumstances, impose liability even on persons that act in good faith), to the extent (but only to the extent) that such indemnification would be in violation of applicable law, but shall be construed so as to effectuate the provisions of this Section 6.03 to the fullest extent permitted by law.

Section 6.04 Other Sources of Recovery etc. The indemnification rights set forth in Section 6.03 are in addition to, and shall not exclude, limit or otherwise adversely affect, any other indemnification or similar rights to which any Covered Person may be entitled. If and to the extent that other sources of recovery (including proceeds of any applicable policies of insurance or indemnification from any Person in which any of the CLOs or Accounts has an investment) are available to any Covered Person, such Covered Person shall use reasonable efforts to obtain recovery from such other sources before the Company shall be required to make any payment in respect of its indemnification obligations hereunder; *provided* that, if such other recovery is not available without delay, the Covered Person shall be entitled to such payment by the Management Company and the Management Company shall be entitled to reimbursement out of such other recovery when and if obtained.

Section 6.05 Rights of Heirs, Successors and Assigns. The indemnification rights provided by Section 6.03 shall inure to the benefit of the heirs, executors, administrators, successors and assigns of each Covered Person.

Section 6.06 Reliance. A Covered Person shall incur no liability to the Management Company or any Member in acting upon any signature or writing reasonably believed by him, her or it to be genuine, and may rely in good faith on a certificate signed by an officer of any Person in order to ascertain any fact with respect to such Person or within such Person's knowledge. Each Covered Person may act directly or through his, her or its agents or attorneys.

ARTICLE VII

TERMINATION

Section 7.01 Termination. Either Party may terminate this Agreement at any time upon at least thirty (30) days' written notice to the other.

ARTICLE VIII

MISCELLANEOUS

Section 8.01 Amendments. This Agreement may not be amended or modified except by an instrument in writing signed by each Party.

Section 8.02 Assignment and Delegation.

(a) Neither Party may assign, pledge, grant or otherwise encumber or transfer all or any part of its rights or responsibilities under this Agreement, in whole or in part, except (i) as provided in clauses (b) and (c) of this Section 8.02, without the prior written consent of the other Party and (ii) in accordance with Applicable Law.

(b) Except as otherwise provided in this Section 8.02, the Staff and Services Provider may not assign its rights or responsibilities under this Agreement unless (i) the Management Company consents in writing thereto and (ii) such assignment is made in accordance with Applicable Law.

(c) The Staff and Services Provider may, without satisfying any of the conditions of Section 8.02(a) other than clause (ii) thereof, (1) assign any of its rights or obligations under this Agreement to an Affiliate; *provided* that such Affiliate (i) has demonstrated ability, whether as an entity or by its principals and employees, to professionally and competently perform duties similar to those imposed upon the Staff and Services Provider pursuant to this Agreement and (ii) has the legal right and capacity to act as Staff and Services Provider under this Agreement, or (2) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity; *provided* that, at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Staff and Services Provider under this Agreement generally (whether by operation of law or by contract) and the other entity is a continuation of the Staff and Services Provider in another corporate or similar form and has substantially the same staff; *provided further* that the Staff and Services Provider shall deliver ten (10) Business Days' prior notice to the Management Company of any assignment or combination made pursuant to this sentence. Upon the execution and delivery of any such assignment by the assignee, the Staff and Services Provider will be released from further obligations pursuant to this Agreement except to the extent expressly provided herein.

Section 8.03 Non-Recourse; Non-Petition.

(a) The Staff and Services Provider agrees that the payment of all amounts to which it is entitled pursuant to this Agreement shall be payable by the Management Company only to the extent of assets held in the Portfolio.

(b) Notwithstanding anything to the contrary contained herein, the liability of the Management Company to the Staff and Services Provider hereunder is limited in recourse to the Portfolio, and if the proceeds of the Portfolio following the liquidation thereof are insufficient to meet the obligations of the Management Company hereunder in full, the Management Company shall have no further liability in respect of any such outstanding obligations, and such obligations

and all claims of the Staff and Services Provider or any other Person against the Management Company hereunder shall thereupon extinguish and not thereafter revive. The Staff and Services Provider accepts that the obligations of the Management Company hereunder are the corporate obligations of the Management Company and are not the obligations of any employee, member, officer, director or administrator of the Management Company and no action may be taken against any such Person in relation to the obligations of the Management Company hereunder.

(c) Notwithstanding anything to the contrary contained herein, any Staff and Services Provider agrees not to institute against, or join any other Person in instituting against, the Management Company any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under United States federal or state bankruptcy laws, or similar laws until at least one year and one day (or, if longer, the then applicable preference period plus one day) after the payment in full all amounts payable in respect of any Indebtedness incurred to finance any portion of the Portfolio; *provided* that nothing in this provision shall preclude, or be deemed to stop, the Staff and Services Provider from taking any action prior to the expiration of the aforementioned one year and one day period (or, if longer, the applicable preference period then in effect plus one day) in (i) any case or proceeding voluntarily filed or commenced by the Management Company, or (ii) any involuntary insolvency proceeding filed or commenced against the Management Company by a Person other than the Staff and Services Provider.

(d) The Management Company hereby acknowledges and agrees that the Staff and Services Provider's obligations hereunder shall be solely the corporate obligations of the Staff and Services Provider, and are not the obligations of any employee, member, officer, director or administrator of the Staff and Services Provider and no action may be taken against any such Person in relation to the obligations of the Staff and Services Provider hereunder.

(e) The provisions of this Section 8.03 shall survive termination of this Agreement for any reason whatsoever.

Section 8.04 Governing Law.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas. The Parties unconditionally and irrevocably consent to the exclusive jurisdiction of the courts located in the State of Texas and waive any objection with respect thereto, for the purpose of any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

(b) The Parties irrevocably agree for the benefit of each other that the courts of the State of Texas and the United States District Court located in the Northern District of Texas in Dallas are to have exclusive jurisdiction to settle any disputes (whether contractual or non-contractual) which may arise out of or in connection with this Agreement and that accordingly any action arising out of or in connection therewith (together referred to as "Proceedings") may be brought in such courts. The Parties irrevocably submit to the jurisdiction of such courts and waive any objection which they may have now or hereafter to the laying of the venue of any Proceedings in any such court and any claim that any Proceedings have been brought in an inconvenient forum

and further irrevocably agree that a judgment in any Proceedings brought in such courts shall be conclusive and binding upon the Parties and may be enforced in the courts of any other jurisdiction.

Section 8.05 WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR ITS ENTERING INTO THIS AGREEMENT.

Section 8.06 Severability. The provisions of this Agreement are independent of and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties.

Section 8.07 No Waiver. The performance of any condition or obligation imposed upon any Party may be waived only upon the written consent of the Parties. Such waiver shall be limited to the terms thereof and shall not constitute a waiver of any other condition or obligation of the other Party. Any failure by any Party to enforce any provision shall not constitute a waiver of that or any other provision or this Agreement.

Section 8.08 Counterparts. This Agreement may be executed in any number of counterparts by facsimile or other written or electronic form of communication, each of which shall be deemed to be an original as against any Party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the Parties reflected hereon as the signatories.

Section 8.09 Third Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their permitted assigns and nothing herein express or implied shall give or be construed to give to any Person, other than the Parties hereto and such permitted assigns, any legal or equitable rights hereunder. For avoidance of doubt, this Agreement is not for the benefit or and is not enforceable by any Shared Employee, CLO or Account or any investor (directly or indirectly) in the Management Company.

Section 8.10 No Partnership or Joint Venture. Nothing set forth in this Agreement shall constitute, or be construed to create, an employment relationship, a partnership or a joint venture between the Parties. Except as expressly provided herein or in any other written agreement between the Parties, no Party has any authority, express or implied, to bind or to incur liabilities on behalf of, or in the name of, any other Party.

Section 8.11 Independent Contractor. Notwithstanding anything to the contrary, the Staff and Services Provider shall be deemed to be an independent contractor and, except as

expressly provided or authorized herein, shall have no authority to act for or represent the Management Company or any CLO or Account in which the Management Company acts as portfolio manager or investment manager or in a similar capacity in any manner or otherwise be deemed an agent of the Management Company or any CLO or Account in which the Management Company acts as portfolio manager or investment manager or in a similar capacity.

Section 8.12 Written Disclosure Statement. The Management Company acknowledges receipt of Part 2 of the Staff and Services Provider's Form ADV, as required by Rule 204-3 under the Advisers Act, on or before the date of execution of this Agreement.

Section 8.13 Headings. The descriptive headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 8.14 Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, between the Parties with respect to such subject matter.

Section 8.15 Notices. Any notice or demand to any Party to be given, made or served for any purposes under this Agreement shall be given, made or served by sending the same by overnight mail or email transmission or by delivering it by hand as follows:

(a) If to the Management Company:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

(b) If to the Staff and Services Provider:

Highland Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

or to such other address or email address as shall have been notified to the other Parties.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
as the Sub-Advisor

By: Strand Advisors, Inc., its General Partner

By:_____
Name: James Dondero
Title: President

ACIS CAPITAL MANAGEMENT, L.P.,
as the Management Company

By: Acis Capital Management GP, LLC, its General Partner

By:_____
Name: James Dondero
Title: President

Appendix A

The Management Company shall pay to the Staff and Services Provider a Staff and Services Fee for the services for the CLOs or Accounts in an amount equal to the aggregate management fees that would be received by the Management Company for such CLOs or Accounts if such management fees were calculated in exact conformity with the calculation of management fees for such CLOs or Accounts, except that the management fee rates applied in such calculation were replaced by the fee rate set forth in the following table. Such fees shall be payable promptly (or at such time as is otherwise agreed by the parties) following the Management Company's receipt of management fees for such CLOs or Accounts, it being understood that none of the foregoing shall prohibit the Management Company from waiving or entering into side letters with respect to management fees for such CLOs or Accounts; provided that any such waived or reduced amounts shall not be recognized for purposes of calculating the fees payable by the Management Company hereunder. Notwithstanding the foregoing, the parties may agree to a different allocation from that set forth during any period in order to reflect the then current fair market value of the Services rendered.

[*Remainder of Page Intentionally Left Blank.*]

Issuer / Borrower / Fund / Account	Management Agreement	Related Agreements	Date of Management Agreement	Annualized Staff and Services Fee Rate (bps)
Hewett's Island CLO I-R, Ltd.	Management Agreement	Indenture	November 20, 2007	15
Acis CLO 2013-1 Ltd.	Portfolio Management Agreement	Indenture	March 18, 2013	15
Acis CLO 2013-2 Ltd.	Portfolio Management Agreement	Indenture	October 3, 2013	15
Acis CLO 2014-3 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	February 25, 2014	15
Acis CLO 2014-4 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	June 5, 2014	15
Acis CLO 2014-5 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	November 18, 2014	15
Acis CLO 2015-6 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	April 16, 2015	15
BayVK R2 Lux S.A., SICAV-FIS	Agreement for the Outsourcing of the Asset Management	Service Level Agreement	February 27, 2015	15
Acis Loan Funding, Ltd.	Portfolio Management Agreement		August 10, 2015	0

EXHIBIT 12

EXECUTION VERSION

THIRD AMENDED AND RESTATED SUB-ADVISORY AGREEMENT

by and between

ACIS CAPITAL MANAGEMENT, L.P.

and

HIGHLAND CAPITAL MANAGEMENT, L.P.

Dated March 17, 2017

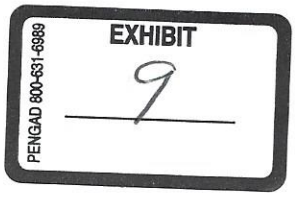


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THIRD AMENDED AND RESTATED
SUB-ADVISORY AGREEMENT

This Third Amended and Restated Sub-Advisory Agreement (as amended, modified, waived, supplemented or restated from time to time in accordance with the terms hereof, this "Agreement"), dated as of March 17, 2017, is entered into by and between Acis Capital Management, L.P., a Delaware limited partnership, as the management company hereunder (in such capacity, the "Management Company"), and Highland Capital Management, L.P., a Delaware limited partnership ("Highland"), as the sub-advisor hereunder (in such capacity, the "Sub-Advisor" and together with the Management Company, the "Parties").

RECITALS

WHEREAS, the Parties entered into that certain Second Amended and Restated Sub-Advisory Agreement dated July 29, 2016 to be effective January 1, 2016 (the "Existing Agreement");

WHEREAS, the Management Company from time to time has entered and will enter into portfolio management agreements, investment management agreements and/or similar agreements (each such agreement as amended, modified, waived, supplemented or restated, subject in each case to the requirements of Section 8, a "Management Agreement") and related indentures, credit agreements, collateral administration agreements, service agreements or other agreements (each such agreement as amended, modified, waived, supplemented or restated, subject in each case to the requirements of Section 8, a "Related Agreement"), in each case as set forth on Appendix A hereto, as amended from time to time, pursuant to which the Management Company has agreed to provide portfolio and/or investment management services to certain funds and accounts and to certain collateralized loan obligation issuers and to borrowers in certain short-term or long-term warehouse or repurchase facilities in connection therewith (any such transaction, a "Transaction", any fund, account, issuer, warehouse borrower or repurchase agreement seller in respect of any such Transaction, an "Account", and the assets collateralizing each such Transaction and/or comprising the portfolio of such Account, a "Portfolio");

WHEREAS, the Management Company and the Sub-Advisor desire to enter into this Agreement in order to permit the Sub-Advisor to provide certain limited services to assist the Management Company in performing certain obligations under the Management Agreements and Related Agreements;

WHEREAS, the Parties now desire to amend and restate the Existing Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, and the receipt of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree that the Existing Agreement is hereby amended, restated and replaced in its entirety as follows.

1. Appointment; Limited Scope of Services.

(a) Highland is hereby appointed as Sub-Advisor to the Management Company for the purpose of assisting the Management Company in managing the Portfolios of each Account

pursuant to the related Management Agreement and Related Agreements, in each case that have been included in the scope of this Agreement pursuant to the provisions of Section 8, subject to the terms set forth herein and subject to the supervision of the Management Company, and Highland hereby accepts such appointment.

(b) Without limiting the generality of the foregoing, the Sub-Advisor shall, during the term and subject to the provisions of this Agreement:

(i) make recommendations to the Management Company in its capacity as portfolio manager, investment manager or any similar capacity for any applicable Account as to the general composition and allocation of the Portfolio with respect to such Account among various types of securities, the nature and timing of the changes therein and the manner of implementing such changes, including recommendations as to the specific loans and other assets to be purchased, retained or sold by any such Account;

(ii) place orders with respect to, and arrange for, any investment by or on behalf of such Account (including executing and delivering all documents relating to such Account's investments on behalf of such Account or the Management Company, as applicable), upon receiving a proper instruction from the Management Company;

(iii) identify, evaluate, recommend to the Management Company, in its capacity as portfolio manager for such Account, and, if applicable, negotiate the structure and/or terms of investment opportunities within the specific investment strategy of the Management Company for such Account;

(iv) assist the Management Company in its capacity as portfolio manager for such Account in performing due diligence on prospective Portfolio investments by such Account;

(v) provide information to the Management Company in its capacity as portfolio manager for such Account regarding any investments to facilitate the monitoring and servicing of such investments and, if requested by the Management Company, provide information to assist in monitoring and servicing other investments by such Account

(vi) assist and advise the Management Company in its capacity as portfolio manager for such Account with respect to credit functions including, but not limited to, credit analysis and market research and analysis; and

(vii) assist the Management Company in performing any of its other obligations or duties as portfolio manager for such Account.

The foregoing responsibilities and obligations are collectively referred to herein as the "Services."

Notwithstanding the foregoing, all investment decisions will ultimately be the responsibility of, and will be made by and at the sole discretion of, the Management Company. Furthermore, the

parties acknowledge and agree that the Sub-Advisor shall be required to provide only the services expressly described in this Section 1(b), and shall have no responsibility hereunder to provide any other services to the Management Company or any Transaction, including, but not limited to, administrative, management or similar services.

(c) The Sub-Advisor agrees during the term hereof to furnish the Services on the terms and conditions set forth herein and subject to the limitations contained herein. The Sub-Advisor agrees that, in performing the Services, it will comply with all applicable obligations of the Management Company set forth in the Management Agreements and the Related Agreements. In addition, with respect to any obligation that would be part of the Services but for the fact that the relevant Management Agreement or Related Agreement does not permit such obligation to be delegated by the Management Company to the Sub-Advisor, the Sub-Advisor, upon request in writing by the Management Company, shall work in good faith with the Management Company and shall use commercially reasonable efforts to assist the Management Company in satisfying all such obligations.

2. Compensation.

(a) As compensation for its performance of its obligations as Sub-Advisor under this Agreement in respect of any Transaction, the Sub-Advisor will be entitled to receive the Sub-Advisory Fee payable thereto. The "Sub-Advisory Fee" shall be payable in accordance with Appendix A attached hereto, as such appendix may be amended by the Parties from time to time.

(b) Each party shall bear its own expenses; *provided* that the Management Company shall reimburse the Sub-Advisor for any and all costs and expenses that are properly Company Expenses or that may be borne by the Management Company under the Management Company LLC Agreement.

(c) Notwithstanding anything to the contrary contained herein, if on any date the Management Company determines that it would not have sufficient funds available to it to make a payment of Indebtedness, it shall have the right to defer any and all amounts payable to the Sub-Advisor pursuant to this Agreement, including any fees and expenses; *provided* that the Management Company shall promptly pay all such amounts on the first date thereafter that sufficient amounts exist to make payment thereof.

(d) From time to time, the Management Company may enter into sub-advisory agreements with certain management companies on similar terms to this Agreement. Promptly following the receipt of any fees pursuant to such sub-advisory agreements, the Management Company shall pay 100% of such fees to the Sub-Advisor.

3. Representations and Warranties.

(a) Each of the Management Company and the Sub-Advisor represents and warrants, as to itself only, that:

(i) it has full power and authority to execute and deliver, and to perform its obligations under, this Agreement;

(ii) this Agreement has been duly authorized, executed and delivered by it and constitutes its valid and binding, obligation, enforceable in accordance with its terms except as the enforceability hereof may be subject to (i) bankruptcy, insolvency, reorganization moratorium, receivership, conservatorship or other similar laws now or hereafter in effect relating to creditors' rights and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding, in equity or at law);

(iii) no consent, approval, authorization or order of or declaration or filing with any government, governmental instrumentality or court or other person or entity is required for the execution of this Agreement or the performance by it of its duties hereunder, except such as have been duly made or obtained; and

(iv) neither the execution and delivery of this Agreement nor the fulfillment of the terms hereof conflicts with or results in a breach or violation of any of the terms or provisions of, or constitutes a default under, (A) its constituting and organizational documents; (B) the terms of any material indenture, contract, lease, mortgage, deed of trust, note, agreement or other evidence of indebtedness or other material agreement, obligation, condition, covenant or instrument to which it is a party or by which it is bound; (C) any statute applicable to it; or (D) any law, decree, order, rule or regulation applicable to it of any court or regulatory, administrative or governmental agency, body of authority or arbitration having or asserting jurisdiction over it or its properties, which, in the case of clauses (B) through (D) above, would have a material adverse effect upon the performance of its duties hereunder.

(b) The Sub-Advisor represents and warrants to the Management Company that it is a registered investment adviser under the Investment Advisers Act of 1940, as amended (the "Advisers Act").

(c) The Management Company acknowledges that it has received Part 2 of Highland Capital Management, L.P.'s Form ADV filed with the Securities and Exchange Commission. The Sub-Advisor will provide to the Management Company an updated copy of Part 2 of its Form ADV promptly upon any amendment to such Form ADV being filed with the Securities and Exchange Commission.

4. Standard of Care; Liability; Indemnification.

(a) Sub-Advisor Standard of Care. Subject to the terms and provisions of this Agreement, the Management Agreements and/or the Related Agreements, as applicable, the Sub-Advisor will perform its obligations hereunder and under the Management Agreements and/or the Related Agreements in good faith with reasonable care using a degree of skill and attention no less than that which the Sub-Advisor uses with respect to comparable assets that it manages for others and, without limiting the foregoing, in a manner which the Sub-Advisor reasonably believes to be consistent with the practices and procedures followed by institutional managers of national standing relating to assets of the nature and character of the Portfolios, in each case except as expressly provided otherwise under this Agreement, the Management Agreements and/or the

Related Agreements. To the extent not inconsistent with the foregoing, the Sub-Advisor will follow its customary standards, policies and procedures in performing its duties hereunder, under the Management Agreements and/or under the Related Agreements.

(b) Exculpation. To the fullest extent permitted by law, none of the Sub-Advisor, any of its affiliates, and any of their respective managers, members, principals, partners, directors, officers, shareholders, employees and agents (but shall not include the Management Company, its subsidiaries or member(s) and any managers, members, principals, partners, directors, officers, shareholders, employees and agents of the Management Company or its subsidiaries or member(s) (in their capacity as such)) (each a "Covered Person") will be liable to the Management Company, any Member, any shareholder, partner or member thereof, any Account (or any other adviser, agent or representative thereof), or to any holder of notes, securities or other indebtedness issued by any Account (collectively, the "Management Company Related Parties"), for (i) any acts or omissions by such Covered Person arising out of or in connection with the provision of the Services hereunder, for any losses that may be sustained in the purchase, holding or sale of any security or debt obligation by any Account, or as a result of any activities of the Sub-Advisor, the Management Company or any other adviser to or agent of the Account or any other sub-advisor appointed by the Management Company to provide portfolio management services to any other delegatee of the Management Company or any other person or entity, unless such act or omission was made in bad faith or is determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, to be the result of gross negligence or to constitute fraud or willful misconduct (as interpreted under the laws of the State of Delaware) (each, a "Disabling Conduct") on the part of such Covered Person, (ii) any mistake, gross negligence, misconduct or bad faith of any employee, broker, administrator or other agent or representative of the Sub-Advisor, *provided* that such employee, broker, administrator or agent was selected, engaged or retained by or on behalf of the Sub-Advisor with reasonable care, or (iii) any consequential (including loss of profit), indirect, special or punitive damages. To the extent that, at law or in equity, any Covered Person has duties (including fiduciary duties) and liabilities relating thereto to any Management Company Related Party, no Covered Person acting under this Agreement shall be liable to such Management Company Related Party for its good-faith reliance on the provisions of this Agreement.

To the fullest extent permitted by law, no Covered Person shall have any personal liability to any Management Company Related Party solely by reason of any change in U.S. federal, state or local or foreign income tax laws, or in interpretations thereof, as they apply to any such Management Company Related Party, whether the change occurs through legislative, judicial or administrative action.

Any Covered Person in its sole and absolute discretion may consult legal counsel, accountants or other advisers selected by it, and any act or omission taken, or made in good faith by such Person on behalf of the Management Company or in furtherance of the business of the Management Company in good-faith reliance on and in accordance with the advice of such counsel, accountants or other advisers shall be full justification for the act or omission, and to the fullest extent permitted by applicable law, no Covered Person shall be liable to any Management Company Related Party in so acting or omitting to act if such counsel, accountants or other advisers were selected, engaged or retained with reasonable care

(c) Indemnification. The Management Company shall and hereby does, to the fullest extent permitted by applicable law, indemnify and hold harmless any Covered Person from and against any and all claims, demands, liabilities, costs, expenses, damages, losses, suits, proceedings, judgments, assessments, actions and other liabilities, whether judicial, administrative, investigative or otherwise, of whatever nature, known or unknown, liquidated or unliquidated ("Claims"), that may accrue to or be incurred by any Covered Person, or in which any Covered Person may become involved, as a party or otherwise, or with which any Covered Person may be threatened, relating to or arising out of the Services, the activities of the Management Company Related Parties, or activities undertaken in connection with the Management Company Related Parties, or otherwise relating to or arising out of this Agreement, any Management Agreement and/or the Related Documents, including amounts paid in satisfaction of judgments, in compromise or as fines or penalties, and attorneys' fees and expenses incurred in connection with the preparation for or defense or disposition of any investigation, action, suit, arbitration or other proceeding (a "Proceeding"), whether civil or criminal (all of such Claims, amounts and expenses referred to therein are referred to collectively as "Damages"), except to the extent that it shall have been determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, that such Damages arose primarily from Disabling Conduct of such Covered Person. The termination of any Proceeding by settlement, judgment, order, conviction or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that any Damages relating to such settlement, judgment, order, conviction or plea of nolo contendere or its equivalent or otherwise relating to such Proceeding arose primarily from Disabling Conduct of any Covered Persons.

Expenses (including attorneys' fees) incurred by a Covered Person in defense or settlement of any Claim that may be subject to a right of indemnification hereunder may be advanced by the Management Company prior to the final disposition thereof upon receipt of a written undertaking by or on behalf of the Covered Person to repay the amount advanced to the extent that it shall be determined ultimately by a court of competent jurisdiction that the Covered Person is not entitled to be indemnified hereunder. The right of any Covered Persons to the indemnification provided herein shall be cumulative of, and in addition to, any and all rights to which the Covered Person may otherwise be entitled by contract or as a matter of law or equity and shall be extended to the Covered Person's successors, assigns and legal representatives. Any judgments against the Management Company and/or any Covered Persons in respect of which such Covered Person is entitled to indemnification shall first be satisfied from the assets of the Management Company, including Drawdowns, before such Covered Person is responsible therefor.

Notwithstanding any provision of this Agreement to the contrary, the provisions of this Section 4(c) shall not be construed so as to provide for the indemnification of any Covered Person for any liability (including liability under Federal securities laws which, under certain circumstances, impose liability even on persons that act in good faith), to the extent (but only to the extent) that such indemnification would be in violation of applicable law, but shall be construed so as to effectuate the provisions of this Section 4(c) to the fullest extent permitted by law

(d) Other Sources of Recovery etc. The indemnification rights set forth in Section 4(c) are in addition to, and shall not exclude, limit or otherwise adversely affect, any other indemnification or similar rights to which any Covered Person may be entitled. If and to the extent that other sources of recovery (including proceeds of any applicable policies of insurance or

indemnification from any Person in which any of the Transactions has an investment) are available to any Covered Person, such Covered Person shall use reasonable efforts to obtain recovery from such other sources before the Company shall be required to make any payment in respect of its indemnification obligations hereunder; *provided* that, if such other recovery is not available without delay, the Covered Person shall be entitled to such payment by the Management Company and the Management Company shall be entitled to reimbursement out of such other recovery when and if obtained

(e) Rights of Heirs, Successors and Assigns. The indemnification rights provided by Section 4(c) shall inure to the benefit of the heirs, executors, administrators, successors and assigns of each Covered Person

(f) Reliance. A Covered Person shall incur no liability to any Management Company Related Party in acting upon any signature or writing reasonably believed by him, her or it to be genuine, and may rely in good faith on a certificate signed by an officer of any Person in order to ascertain any fact with respect to such Person or within such Person's knowledge. Each Covered Person may act directly or through his, her or its agents or attorneys.

(g) Rights Under Management Agreements and Related Agreements. The Management Company will ensure that the Sub-Advisor is provided substantially similar indemnification and exculpation rights as are afforded to the Management Company in its role as portfolio manager under any future Management Agreement or Related Agreement encompassed within the Services hereunder, and it is expressly acknowledged by the Parties that the Sub-Advisor may not consent to including a Management Agreement and the related Transaction and Related Agreements within the scope of this Agreement pursuant to Section 8 if such indemnification and exculpation rights are not reasonably acceptable to it.

5. Limitations on Employment of the Sub-Advisor; Conflicts of Interest.

(a) The services of the Sub-Advisor to the Management Company are not exclusive, and the Sub-Advisor may engage in any other business or render similar or different services to others including, without limitation, the direct or indirect sponsorship or management of other Transactions, investment-based accounts or commingled pools of capital, however structured, having investment objectives similar to those of the Management Company or the Accounts. Moreover, nothing in this Agreement shall limit or restrict the right of any manager, partner, officer or employee of the Sub-Advisor to engage in any other business or to devote his or her time and attention in part to any other business, whether of a similar or dissimilar nature to the Management Company or any Account, or to receive any fees or compensation in connection therewith.

(b) So long as this Agreement or any extension, renewal or amendment of this Agreement remains in effect, the Sub-Advisor shall be the only portfolio management sub-advisor for the Management Company. The Sub-Advisor assumes no responsibility under this Agreement other than to render the services called for hereunder. It is understood that directors, officers, employees, members and managers of the Management Company are or may become interested in the Sub-Advisor and its Affiliates as directors, officers, employees, partners, stockholders, members, managers or otherwise, and that the Sub-Advisor and directors, officers, employees,

partners, stockholders, members and managers of the Sub-Advisor and its Affiliates are or may become similarly interested in the Management Company as members or otherwise.

(c) The Management Company acknowledges that various potential and actual conflicts of interest may exist with respect to the Sub-Advisor as described in the Sub-Advisor's Form ADV Part 2A and as described in Appendix B hereto, and the Management Company expressly acknowledges and agrees to the provisions contained in such Appendix B, as amended from time to time with mutual consent of the Parties.

6. Termination; Survival.

(a) This Agreement may be terminated, in its entirety or with respect to any Management Agreement, at any time without payment of penalty, by the Management Company upon 30 days' prior written notice to the Sub-Advisor.

(b) This Agreement shall terminate automatically with respect to any Management Agreement on the date on which (i) such Management Agreement has been terminated (and, if required thereunder, a successor portfolio manager has been appointed and accepted) or discharged; or (ii) the Management Company is no longer acting as portfolio manager, investment manager or in a similar capacity (whether due to removal, resignation or assignment) under such Management Agreement and the Related Agreements. Upon the termination of this Agreement with respect to any Management Agreement the Management Company shall provide prompt notice thereof to the Sub-Advisor, and Appendix A hereto shall be deemed to be amended by deleting such Management Agreement and the Related Agreements related thereto.

(c) All accrued and unpaid financial and indemnification obligations with respect to any conduct or events occurring prior to the effective date of the termination of this Agreement shall survive the termination of this Agreement.

7. Cooperation with Management Company. The Sub-Advisor shall reasonably cooperate with the Management Company in connection with the Management Company's compliance with its policies and procedures relating to oversight of the Sub-Advisor. Specifically, the Sub-Advisor agrees that it will provide the Management Company with reasonable access to information relating to the performance of Sub-Advisor's obligations under this Agreement.

8. Management Agreements and Related Agreements. The Sub-Advisor's duty to provide Services in connection with any Management Agreement shall not commence until (a) Appendix A to this Agreement has been amended by mutual agreement of the Parties to include such Management Agreement and the related Account, fund and/or account and Related Agreements and (b) the Sub-Advisor acknowledges receipt of such Management Agreement and each Related Agreement. The Sub-Advisor shall not be bound to comply with any amendment, modification, supplement or waiver to any Management Agreement or any Related Agreement until it has received a copy thereof from the Management Company. No amendment, modification, supplement or waiver to any Management Agreement or Related Agreement that, when applied to the obligations and rights of the Management Company under such Management Agreement or Related Agreement, affects (i) the obligations or rights of the Sub-Advisor hereunder; (ii) the amount of priority of any fees or other amounts payable to the Sub-Advisor hereunder; or (iii) any

definitions relating to the matters covered in clause (i) or (ii) above, will apply to the Sub-Advisor under this Agreement unless in each such case the Sub-Advisor has consented thereto in writing (such consent not to be unreasonably withheld or delayed unless the Sub-Advisor determines in its reasonable judgment that such amendment, modification, supplement or waiver could have a material adverse effect on the Sub-Advisor).

9. Amendments; Assignments.

(a) Neither Party may assign, pledge, grant or otherwise encumber or transfer all or any part of its rights or responsibilities under this Agreement, in whole or in part, except (i) as provided in clauses (b) and (c) of this Section 9, without the prior written consent of the other Party and (ii) in accordance with the Advisers Act and other applicable law.

(b) Except as otherwise provided in this Section 9, the Sub-Advisor may not assign its rights or responsibilities under this Agreement unless (i) the Management Company consents in writing thereto and (ii) such assignment is made in accordance with the Advisers Act and other applicable law.

(c) The Sub-Advisor may, without satisfying any of the conditions of Section 9(a) other than clause (ii) thereof (so long as such assignment does not constitute an assignment within the meaning of Section 202(a)(1) of the Advisers Act), (1) assign any of its rights or obligations under this Agreement to an affiliate; *provided* that such affiliate (i) has demonstrated ability, whether as an entity or by its principals and employees, to professionally and competently perform duties similar to those imposed upon the Sub-Advisor pursuant to this Agreement and (ii) has the legal right and capacity to act as Sub-Advisor under this Agreement, or (2) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity; *provided* that, at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Sub-Advisor under this Agreement generally (whether by operation of law or by contract) and the other entity is a continuation of the Sub-Advisor in another corporate or similar form and has substantially the same staff; provided, further, that the Sub-Advisor shall deliver ten (10) Business Days' prior notice to the Management Company of any assignment or combination made pursuant to this sentence. Upon the execution and delivery of any such assignment by the assignee, the Sub-Advisor will be released from further obligations pursuant to this Agreement except to the extent expressly provided herein.

10. Advisory Restrictions. This Agreement is not intended to and shall not constitute an assignment, pledge or transfer of any Management Agreement or any part thereof. It is the express intention of the parties hereto that (i) the Services are limited in scope; and (ii) this Agreement complies in all respects with all applicable (A) contractual provisions and restrictions contained in each Management Agreement and each Related Agreement and (B) laws, rules and regulations (collectively, the "Advisory Restrictions"). If any provision of this Agreement is determined to be in violation of any Advisory Restriction, then the Services to be provided under this Agreement shall automatically without action by any person or entity be limited, reduced or modified to the extent necessary and appropriate to be enforceable to the maximum extent permitted by such Advisory Restriction.

11. Records; Confidentiality.

(a) The Sub-Advisor shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Management Company and its accountants and other agents at any time during normal business hours and upon not less than three (3) Business Days' prior notice; provided, that the Sub-Advisor shall not be obligated to provide access to any non-public information if it in good faith determines that the disclosure of such information would violate any applicable law, regulation or contractual arrangement.

(b) The Sub-Advisor shall follow its customary procedures to keep confidential any and all information obtained in connection with the services rendered hereunder that is either (a) of a type that would ordinarily be considered proprietary or confidential, such as information concerning the composition of assets, rates of return, credit quality, structure or ownership of securities, or (b) designated as confidential obtained in connection with the services rendered by the Sub-Advisor hereunder and shall not disclose any such information to non-affiliated third parties except (i) with the prior written consent of the Management Company, (ii) such information as a rating agency shall reasonably request in connection with its rating of notes issued in connection with a Transaction or supplying credit estimates on any obligation included in the Portfolios, (iii) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions on behalf of the Management Company or any Account for which the Management Company serves as portfolio manager, (iv) as required by (A) applicable law or (B) the rules or regulations of any self-regulating organization, body or official having jurisdiction over the Sub-Advisor or any of its affiliates, (v) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (vi) such information as shall have been publicly disclosed other than in known violation of this Agreement or shall have been obtained by the Sub-Advisor on a non-confidential basis, (vii) such information as is necessary or appropriate to disclose so that the Sub-Advisor may perform its duties hereunder, (viii) as expressly permitted in the final offering memorandum or any definitive transaction documents relating to any Transaction, or (ix) information relating to performance of the Portfolios as may be used by the Sub-Advisor in the ordinary course of its business. Notwithstanding the foregoing, it is agreed that the Sub-Advisor may disclose without the consent of any Person (1) that it is serving as Sub-Advisor to the Management Company and each Account, (2) the nature, aggregate principal amount and overall performance of the Portfolios, (3) the amount of earnings on the Portfolios, (4) such other information about the Management Company, the Portfolios and the Transactions as is customarily disclosed by Sub-Advisors to management vehicles similar to the Management Company, and (5) the United States federal income tax treatment and United States federal income tax structure of the transactions contemplated by this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them relating to such United States federal income tax treatment and United States income tax structure. This authorization to disclose the U.S. tax treatment and tax structure does not permit disclosure of information identifying the Sub-Advisor, the Management Company, the Accounts or any other party to the transactions contemplated by this Agreement (except to the extent such information is relevant to U.S. tax structure or tax treatment of such transactions).

12. Notice. Any notice or demand to any party to this Agreement to be given, made or served for any purposes under this Agreement shall be given, made or served by sending the same by overnight mail, facsimile or email transmission or by delivering it by hand as follows (or to such other address, email address or facsimile number as shall have been notified to the other parties hereto):

(a) If to the Management Company:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

(b) If to the Sub-Advisor:

Highland Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

13. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas. The parties unconditionally and irrevocably consent to the exclusive jurisdiction of the courts located in the State of Texas and waive any objection with respect thereto, for the purpose of any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

14. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR ITS ENTERING INTO THIS AGREEMENT.

15. Severability. The provisions of this Agreement are independent of and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties.

16. No Waiver. The performance of any condition or obligation imposed upon any party hereunder may be waived only upon the written consent of the parties hereto. Such waiver shall be limited to the terms thereof and shall not constitute a waiver of any other condition or obligation of the other party under this Agreement. Any failure by any party to this Agreement to enforce any provision shall not constitute a waiver of that or any other provision or this Agreement.

17. Counterparts. This Agreement may be executed in any number of counterparts by facsimile or other written form of communication, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

18. Third Party Beneficiaries. Nothing in this Agreement will be construed to give any person or entity other than the parties to this Agreement, the Accounts and any person or entity with indemnification rights hereunder any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement. Except as provided in the foregoing sentence, this Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Agreement and their successors and assigns.

19. No Partnership or Joint Venture. Nothing set forth in this Agreement shall constitute, or be construed to create, an employment relationship, a partnership or a joint venture between the parties. Except as expressly provided herein or in any other written agreement between the parties, no party has any authority, express or implied, to bind or to incur liabilities on behalf of, or in the name of, any other party.

20. Entire Agreement. This Agreement, together with each Management Agreement and Related Agreement, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, between the parties with respect to such subject matter.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
as the Sub-Advisor

By: Strand Advisors, Inc., its General Partner

By:_____
Name: James Dondero
Title: President

ACIS CAPITAL MANAGEMENT, L.P.,
as the Management Company

By: Acis Capital Management GP, LLC, its General Partner

By:_____
Name: James Dondero
Title: President

Appendix A

The Management Company shall pay to the Sub-Advisor a Sub-Advisory Fee for the Services for the Accounts in an amount equal to the aggregate management fees that would be received by the Management Company for such Accounts if such management fees were calculated in exact conformity with the calculation of management fees for such Accounts, except that the management fee rates applied in such calculation were replaced by the fee rate set forth in the following table. Such fees shall be payable promptly (or at such time as is otherwise agreed by the parties) following the Management Company's receipt of management fees for such Accounts, it being understood that none of the foregoing shall prohibit the Management Company from waiving or entering into side letters with respect to management fees for such Accounts; provided that any such waived or reduced amounts shall not be recognized for purposes of calculating the fees payable by the Management Company hereunder. Notwithstanding the foregoing, the parties may agree to a different allocation from that set forth during any period in order to reflect the then current fair market value of the Services rendered.

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Issuer / Borrower / Fund / Account	Management Agreement	Related Agreements	Date of Management Agreement	Annualized Sub-Advisory Fee Rate (bps)
Hewett's Island CLO I-R, Ltd.	Management Agreement	Indenture	November 20, 2007	20
Acis CLO 2013-1 Ltd.	Portfolio Management Agreement	Indenture	March 18, 2013	20
Acis CLO 2013-2 Ltd.	Portfolio Management Agreement	Indenture	October 3, 2013	20
Acis CLO 2014-3 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	February 25, 2014	20
Acis CLO 2014-4 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	June 5, 2014	20
Acis CLO 2014-5 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	November 18, 2014	20
Acis CLO 2015-6 Ltd.	Portfolio Management Agreement	Indenture Collateral Administration Agreement	April 16, 2015	20
BayVK R2 Lux S.A., SICAV-FIS	Agreement for the Outsourcing of the Asset Management	Service Level Agreement	February 27, 2015	20
Acis Loan Funding, Ltd.	Portfolio Management Agreement		August 10, 2015	0

APPENDIX B

Purchase and Sale Transactions; Brokerage

The Management Company acknowledges and agrees that the Sub-Advisor or any of its affiliates may acquire or sell obligations or securities, for its own account or for the accounts of its customers, without either requiring or precluding the acquisition or sale of such obligations or securities for the account of any Account. Such investments may be the same or different from those made by or on behalf of the Management Company or the Accounts.

Additional Activities of the Sub-Advisor

Nothing herein shall prevent the Sub-Advisor or any of its clients, its partners, its members, funds or other investment accounts managed by it or any of its affiliates, or their employees and their affiliates (collectively, the "Related Entities"), from engaging in other businesses, or from rendering services of any kind to the Management Company, its affiliates, any Account or any other Person or entity regardless of whether such business is in competition with the Management Company, its affiliates, such Account or otherwise. Without limiting the generality of the Sub-Advisor and its Related Entities may:

(a) serve as managers or directors (whether supervisory or managing), officers, employees, partners, agents, nominees or signatories for the Management Company or any affiliate thereof, or for any obligor or issuer in respect of any of the Portfolio Assets or any affiliate thereof, to the extent permitted by their respective organizational documents and underlying instruments, as from time to time amended, or by any resolutions duly adopted by the Management Company, any Account, their respective affiliates or any obligor or issuer in respect of any of the Portfolio Assets (or any affiliate thereof) pursuant to their respective organizational documents;

(b) receive fees for services of whatever nature rendered to the obligor or issuer in respect of any of the Portfolio Assets or any affiliate thereof;

(c) be retained to provide services unrelated to this Agreement to the Management Company, any Account or their respective affiliates and be paid therefor, on an arm's-length basis;

(d) be a secured or unsecured creditor of, or hold a debt obligation of or equity interest in, the Management Company, any Account or any affiliate thereof or any obligor or issuer of any Portfolio Asset or any affiliate thereof;

(e) sell any Portfolio Asset to, or purchase or acquire any Portfolio Asset from, any Account while acting in the capacity of principal or agent; *provided, however*, that any such sale or purchase effected by the Sub-Advisor shall be subject to applicable law and any applicable provisions of this Agreement, the related Management Agreement and Related Agreements, as applicable;

(f) underwrite, arrange, structure, originate, syndicate, act as a distributor of or make a market in any Portfolio Asset;

(g) serve as a member of any "creditors' board", "creditors' committee" or similar creditor group with respect to any Portfolio Asset; or

(h) act as portfolio manager, portfolio manager, investment manager and/or investment adviser or sub-advisor in collateralized bond obligation vehicles, collateralized loan obligation vehicles and other similar warehousing, financing or other investment vehicles.

As a result, such individuals may possess information relating to obligors and issuers of Portfolio Assets that is (a) not known to or (b) known but restricted as to its use by the individuals at the Sub-Advisor responsible for monitoring the Portfolio Assets and performing the Services under this Agreement. Each of such ownership and other relationships may result in securities laws restrictions on transactions in such securities by the Management Company and/or any Account and otherwise create conflicts of interest for the Management Company and/or any Account. The Management Company acknowledges and agrees that, in all such instances, the Sub-Advisor and its affiliates may in their discretion make investment recommendations and decisions that may be the same as or different from those made by the Management Company with respect to the investments of any Account and they have no duty, in making or managing such investments, to act in a way that is favorable to any Account.

The Management Company acknowledges that there are generally no ethical screens or information barriers between the Sub-Advisor and certain of its affiliates of the type that many firms implement to separate Persons who make investment decisions from others who might possess applicable material, non-public information that could influence such decisions. The officers or affiliates of the Sub-Advisor may possess information relating to obligors or issuers of Portfolio Assets that is not known to the individuals at the Sub-Advisor responsible for providing the Services under this Agreement. As a result, the Sub-Advisor may from time to time come into possession of material nonpublic information that limits the ability of the Sub-Advisor to effect a transaction for the Management Company and/or any Account, and the Management Company and/or such Account's investments may be constrained as a consequence of the Sub-Advisor's inability to use such information for advisory purposes or otherwise to effect transactions that otherwise may have been initiated on behalf of its clients, including the Management Company and/or such Account.

Unless the Sub-Advisor determines in its sole discretion that such Transaction complies with the conflicts of interest provisions set forth in the applicable Management Agreement and Related Agreements, he Sub-Advisor will not direct any Account to acquire or sell loans or securities entered into or issued by (i) Persons of which the Sub-Advisor, any of its affiliates or any of its officers, directors or employees are directors or officers, (ii) Persons of which the Sub-Advisor or any of its respective affiliates act as principal or (iii) Persons about which the Sub-Advisor or any of its affiliates have material non-public information which the Sub-Advisor deems would prohibit it from advising as to the trading of such securities in accordance with applicable law.

It is understood that the Sub-Advisor and any of its affiliates may engage in any other business and furnish investment management and advisory services to others, including Persons which may have investment policies similar to those followed by the Management Company with respect to the Portfolio Assets and which may own securities or obligations of the same class, or which are of the same type, as the Portfolio Assets or other securities or obligations of the obligors or issuers of the Portfolio Assets. The Sub-Advisor and its affiliates will be free, in their sole discretion, to

make recommendations to others, or effect transactions on behalf of themselves or for others, which may be the same as or different from those effected with respect to the Collateral. Nothing in this Agreement, in the Management Agreements or in the Related Agreements shall prevent the Sub-Advisor or any of its affiliates, acting either as principal or agent on behalf of others, from buying or selling, or from recommending to or directing any other account to buy or sell, at any time, securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those directed by the Sub-Advisor to be purchased or sold on behalf of an Account. It is understood that, to the extent permitted by applicable law, the Sub-Advisor, its Related Entities, or any of their owners, directors, managers, officers, stockholders, members, partners, partnership committee members, employees, agents or affiliates or the other Covered Persons or any member of their families or a Person or entity advised by the Sub-Advisor may have an interest in a particular transaction or in securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same issuer, as those that may be owned or acquired by an Account. The Management Company agrees that, in the course of providing the Services, the Sub-Advisor may consider its relationships with other clients (including obligors and issuers) and its affiliates.

The Management Company agrees that neither the Sub-Advisor nor any of its affiliates is under any obligation to offer any investment opportunity of which they become aware to the Management Company or any Account or to account to the Management Company or any Account for (or share with the Management Company or any Account or inform the Management Company or any Account of) any such transaction or any benefit received by them from any such transaction. The Management Company understands that the Sub-Advisor and/or its affiliates may have, for their own accounts or for the accounts of others, portfolios with substantially the same portfolio criteria as are applicable to the Accounts. Furthermore, the Sub-Advisor and/or its affiliates may make an investment on behalf of any client or on their own behalf without offering the investment opportunity or making any investment on behalf of the Management Company or any Account and, accordingly, investment opportunities may not be allocated among all such clients. The Management Company acknowledges that affirmative obligations may arise in the future, whereby the Sub-Advisor and/or its affiliates are obligated to offer certain investments to clients before or without the Sub-Advisor offering those investments to the Management Company or any Account.

The Management Company acknowledges that the Sub-Advisor and its affiliates may make and/or hold investments in an obligor's or issuer's obligations or securities that may be *pari passu*, senior or junior in ranking to an investment in such obligor's or issuer's obligations or securities made and/or held by the Management Company or any Account, or in which partners, security holders, members, officers, directors, agents or employees of the Sub-Advisor and its affiliates serve on boards of directors, or otherwise have ongoing relationships or otherwise have interests different from or adverse to those of the Management Company and the Accounts.

Defined Terms

For purposes of this Appendix B, the following defined terms shall have the meanings set forth below:

"Portfolio" shall mean, with respect to any Account and/or Transaction, the assets held by or in the name of the Account or any subsidiary of the Account in respect of such Transaction,

whether or not for the benefit of the related secured parties, securing the obligations of such Account.

"Portfolio Asset" shall mean any loan, eligible investment or other asset contained in the Portfolio.

"Transaction" shall mean any action taken by the Sub-Advisor on behalf of any Account with respect to the Portfolio, including, without limitation, (i) selecting the Portfolio Assets to be acquired by the Account, (ii) investing and reinvesting the Portfolio, (iii) amending, waiving and/or taking any other action commensurate with managing the Portfolio and (iv) instructing the Account with respect to any acquisition, disposition or tender of a Portfolio Asset or other assets received in respect thereof in the open market or otherwise by the Account.

EXHIBIT 13

AGREEMENT FOR PURCHASE AND SALE OF CLO PARTICIPATION INTERESTS

By and between

Acis Capital Management, L.P.

and

Highland Capital Management, L.P.

Dated as of

October 7, 2016



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THIS AGREEMENT FOR PURCHASE AND SALE OF CLO PARTICIPATION INTERESTS (this "Agreement"), dated as of the 7th day of October, 2016, is entered into by and between ACIS CAPITAL MANAGEMENT, L.P., a Delaware limited partnership (the "Seller"), and HIGHLAND CAPITAL MANAGEMENT, L.P., a Delaware limited partnership (the "Purchaser").

RECITALS

Whereas, the Seller is the owner of certain rights to receive senior and subordinated management fees (the "Servicer Fees"), as described in Schedule A, attributable to the collateralized loan obligation issuances also listed in Schedule A (the "CLOs");

Whereas, all of the reinvestment periods of the CLOs will have expired by August 2019;

Whereas, the Seller operates an investment management business focused on sponsoring and managing collateralized loan obligations ("CLO Investments");

Whereas, Seller has recently engaged an investment bank to actively market a new CLO to prospective investors and Seller currently is uncertain as to the likelihood of success and timing of securing new investors;

Whereas, recent European and U.S. regulatory rules require sponsors of newly issued CLO investments, such as Seller, to retain during the life of the CLO, a five percent ownership interest in the equity or capital structure of the CLO (the "Risk Retention Amount");

Whereas, in order to fund the Risk Retention Amount, Seller has undertaken a joint venture with another entity to originate and sponsor new CLO investments, pursuant to which Seller is obligated to contribute fifty-one percent of the Risk Retention Amount;

Whereas, Seller has typically paid overhead expenses first with its revenue, then made an annual distribution of excess cash to the partners of Seller;

Whereas, Seller has determined to stop making annual distributions of excess cash to Seller's partners while efforts are underway to form new CLOs;

Whereas, cash flows from the Servicer Fees are unpredictable and unstable;

Whereas, Seller has determined that obtaining a guaranteed fixed amount of cash flow from Buyer is a prudent business decision in order to facilitate Seller's compliance with its

obligation to contribute funds toward the Risk Retention Amount to the joint venture entity;

Whereas, the Purchaser acknowledges it is a sophisticated investor and, in particular, has a knowledge and understanding of CLO Investments;

Whereas, the Purchaser acknowledges that it understands the inherent risk in the timing and amount of the payment of the Servicer Fees by the trustees of the respective CLOs; and

Whereas, the Purchaser acknowledges that it has undertaken all the necessary due diligence to feel comfortable in determining the inherent risks of purchasing such Servicer Fees from the Seller.

AGREEMENT

Now, therefore, in consideration of the premises and mutual agreements set forth herein, and in consideration of the mutual representations, warranties and covenants contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. Sale and Purchase of Acis Participation Interests.

Subject to and upon the terms and conditions set forth in this Agreement, the Seller hereby sells to the Purchaser, and the Purchaser hereby purchases from the Seller, participation interests in the Servicer Fees (the "ACIS Participation Interests") in an amount equal to (A) the total Servicer Fees paid to Seller by each of the CLOs beginning in November 2016 and ending August 2019 (each, with respect to both a particular CLO payor and a particular payment date, a "Servicer Fee Payment," and in the aggregate for a particular payment date the "Aggregate Servicer Fee Payment") less (B) the Servicer Fee Retention Amount with respect to each CLO, as shown on Schedule A.

Purchase Price; Additional Documents; Termination.

1.1 In consideration of the sale of the Acis Participation Interests to the Purchaser, the Purchaser shall (a) pay to the Seller an amount equal to **$666,655.00** in cash (the "Cash Purchase Price"), and (b) deliver to the Seller a promissory note (the "Note"), duly executed by the Purchaser and substantially in the form of Exhibit 1, with an initial principal balance of **$12,666,446.00** (the Cash Purchase Price and the delivery of such Note, collectively, the "Purchase Price").

1.2 The Purchaser shall pay the Cash Purchase Price to the Seller by wire transfer of immediately available funds to an account designated in writing by the Seller.

1.3 The parties acknowledge and agree that the Purchase Price reflects the arm's-length value of the Acis Participation Interests as of the date of this Agreement as determined by mutually agreed appraisal methods.

1.4 Notwithstanding any other provision of this Agreement, to the extent that the sale and purchase of the Acis Participation Interests hereunder shall require the consent or approval of another party or any governmental authority, the consummation of the transactions contemplated by this Agreement shall not constitute an assignment or an attempted assignment with respect to the Servicer Fees if such assignment or attempted assignment would constitute a breach or violation with respect to the terms of the governing CLO agreements (the "CLO Documents"). Each of the parties hereto shall use its commercially reasonable efforts to obtain any such consent or approval. If such consent or approval is not obtained, each party agrees to cooperate with the other party in any reasonable manner necessary or desirable to provide the Purchaser the benefits of the Acis Participation Interests.

1.5 In the event that any governmental entity commences a formal regulatory proceeding against Seller and within 90 days thereof (or later, but solely in the event of removal of Seller by order of such governmental entity), Seller is terminated or otherwise removed as manager of one or more of the CLOs and such governmental action results in the seizure or forfeiture of Servicer Fees, then the outstanding principal of the Note shall be reduced in proportion to the reduction in Servicer Fees resulting from such termination or seizure.

2. Representations and Warranties of the Seller.

The Seller represents and warrants to the Purchaser that each of the following representations and warranties is true and correct as of the date of this Agreement:

2.1 Organization and Authority of the Seller. The Seller is a limited partnership, duly formed, validly existing and in good standing under the laws of the State of Delaware and has requisite power and authority to enter into this Agreement and

any other agreements entered into in connection herewith and to perform its obligations hereunder and thereunder.

2.2 Title to the Acis Participation Interests. The Seller owns good and valid title to, and is the sole record and beneficial owner of, the Servicer Fees, free and clear of any and all mortgages, liens, pledges, charges, adverse rights or claims, security interests, restrictions on use and/or transfer or encumbrances of any kind (collectively, "Liens"), except as provided herein and in the CLO Documents and agreements governing the CLOs. Other than as provided in the CLO Documents, the Acis Participation Interests are not subject to any rights of first refusal or other rights to purchase such Acis Participation Interests.

2.3 Due Authorization and Enforceability. All action on the part of the Seller necessary for the authorization, execution and delivery of this Agreement and any other agreements entered into in connection herewith and the performance by the Seller of its obligations hereunder and thereunder has been taken. This Agreement and any other agreements entered into in connection herewith constitute the valid and legally binding obligations of the Seller, enforceable in accordance with their terms, except as may be limited by (a) applicable bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights generally and (b) the effect of rules of law governing the availability of equitable remedies.

2.4 Consents. Except as may be required under the CLO Documents, no consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority or any third party is required by the Seller in connection with the consummation of the transactions contemplated by this Agreement or any other agreements entered into in connection herewith.

2.5 Non-Contravention. Other than with respect to any consents required under the CLO Documents, the execution, delivery and performance of this Agreement and any other agreements entered into in connection herewith and the consummation of the transactions contemplated hereby and thereby will not result in (a) a

violation or default, or be in conflict with or constitute a default, under the Seller's organizational documents, or any agreement or contract that the Seller is party to or that its assets are bound by, (b) a violation of any statute, law, regulation or order; provided, however, that with respect to any statute, law, regulation or order applicable to any of the CLO Documents the foregoing is limited to the knowledge of the Seller, or (c) the creation of any Lien upon any asset of, or the loss of any right or asset by, the Seller that would not reasonably be expected to cause a material adverse effect on the Seller.

3. Representations and Warranties of the Purchaser.

The Purchaser represents and warrants to the Seller that each of the following representations and warranties is true and correct as of the date of this Agreement:

3.1 Organization and Authority of the Purchaser. The Purchaser is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Delaware and has requisite power and authority to enter into this Agreement and any other agreements entered into in connection herewith and to perform its obligations hereunder and thereunder.

3.2 Due Authorization and Enforceability. All action on the part of the Purchaser necessary for the authorization, execution and delivery of this Agreement and any other agreements entered into in connection herewith and the performance by the Purchaser of its obligations hereunder and thereunder has been taken. This Agreement and any other agreements entered into in connection herewith constitute the valid and legally binding obligations of the Purchaser, enforceable in accordance with their terms, except as may be limited by (a) applicable bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights generally and (b) the effect of rules of law governing the availability of equitable remedies.

3.3 Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority or any third party is required by the Purchaser in

connection with the consummation of the transactions contemplated by this Agreement or any other agreements entered into in connection herewith.

3.4 Non-Contravention. The execution, delivery and performance of this Agreement and any other agreements entered into in connection herewith and the consummation of the transactions contemplated hereby and thereby will not result in (a) a violation or default, or be in conflict with or constitute a default, under the Purchaser's organizational documents, or any agreement or contract that the Purchaser is party to or that its assets are bound by, (b) a violation of any statute, law, regulation or order, or (c) the creation of any Lien upon any asset of, or the loss of any right or asset by the Purchaser.

3.5 Information Concerning the Acis Participation Interests. The Purchaser (a) has received and had the opportunity to review information with respect to the Seller, the Acis Participation Interests, the CLOs, and the CLO Documents, (b) is familiar with the Seller, the CLOs and the CLO Documents, and (c) has been afforded the opportunity to ask questions of and received satisfactory answers concerning the Seller, the CLOs and the CLO Documents and has asked any questions the Purchaser desires to ask and all such questions have been answered to the full satisfaction of the Purchaser. The Purchaser understands that the purchase and/or receipt of the Acis Participation Interests involves various risks and that the Purchaser may lose some or all of its investment due to economic conditions that could negatively impact the CLOs and/or the Seller and/or for other unforeseen reasons. The Purchaser acknowledges and agrees that no representations or warranties have been made to the Purchaser by the Seller, or any person acting on the Seller's behalf, as to the tax consequences of this investment, or as to profits, losses or cash flow that may be received or sustained as a result of this investment. All documents, records and books pertaining to a proposed investment in and/or receipt of the Acis Participation Interests which the Purchaser has requested have been made available to the Purchaser.

3.6 Acknowledgments of the Purchaser. Subject to Section 1.5, the Purchaser acknowledges and agrees that: (a) except as provided in Section 1.5, should the

Seller's rights with respect to the Servicer Fees be terminated, such termination shall not affect the Purchaser's obligations under the Note; (b) except as provided in Section 1.5, the Seller may exercise all of its legal rights and remedies to enforce the Purchaser's obligations under the Note even if the Acis Participation Interests are not paid, in full or part, by the CLO trustees for any reason, including the termination of the Seller as the manager, a hostile buyout of such CLO, or any other reason (other than as a result of the Seller breaching its covenants under this Agreement or as a result of fraud or by willful misconduct of the Seller); and (c) Purchaser has had the opportunity to consult with its own legal counsel with respect to the purchase of the Acis Participation Interests. The Purchaser understands such actions could negatively impact the timing and amount of payment of such Acis Participation Interests during the pendency of such dispute by the trustee of such CLO. The Purchaser bears the sole risk with respect to non-payment of the Acis Participation Interests (other than as a result of the Seller breaching its covenants under this Agreement or as a result of the fraud or willful misconduct of the Seller).

3.7 No additional Representations. The Purchaser has relied solely upon its investigation and analysis and the representations and warranties of the Seller set forth in this Agreement and the Purchaser acknowledges that, other than as set forth in this Agreement, the Seller does not make any other representation or warranty, either express or implied.

4. Covenants.

4.1 Payments on the Acis Participation Interests. The Seller agrees to promptly remit, or cause to be promptly remitted, to the Purchaser the cash received with respect to the Acis Participation Interests. If the Seller is required at any time to return to any person, any portion of the payments made to the Seller pursuant to the Servicer Fees, then the Purchaser shall, on demand of the Seller, forthwith return to the Seller any such payments transferred to the Purchaser by the Seller but without interest or penalty on such payments.

4.2 Actions With Respect to Servicer Fees. Notwithstanding anything else contained in this Agreement, the Seller shall not, without the Purchaser's written consent, and other than as required by the CLO Documents, take or omit to take any action which would (a) postpone any date fixed for any payment under the CLO Documents of the Servicer Fees; (b) amend the CLO Documents so as to materially and adversely affect the payment of the Servicer Fees; or (c) release any material claim of the Seller under the CLO Documents that relates to the Servicer Fees.

4.3 Reporting. Seller shall provide Purchaser a detailed certification of any Servicer Fees received from the CLOs within forty-five (45) business days of the date such Servicer Fees are received by the Seller.

5. Miscellaneous.

5.1 Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties; provided, however, that no party hereto may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other parties hereto.

5.2 Terms Confidential. The parties agree that they will keep the terms, amounts and facts of this Agreement completely confidential, and that they will not hereafter disclose any information concerning this Agreement to anyone except their respective attorneys or accountants. Notwithstanding the foregoing prohibition, the parties shall not be prohibited from disclosing the terms, amounts and facts of this Agreement or this Agreement itself as may be requested by governmental entities or required by law.

5.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to the principles thereof relating to conflicts of law.

5.4 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.5 Headings. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to articles, sections, paragraphs, exhibits and schedules shall, unless otherwise provided, refer to articles, sections and paragraphs hereof and exhibits and schedules attached hereto, all of which exhibits and schedules are incorporated herein by reference.

5.6 Notices. All notices, demands and requests required or permitted to be given hereunder shall be in writing and shall be delivered by hand or sent by telecopy (with confirmed transmission), or sent, postage prepaid, by registered, certified or express mail, or reputable overnight courier service, and shall be deemed given when so delivered by hand, or confirmed after telecopying, or if mailed, three (3) business days after mailing (one (1) business day in the case of express mail or overnight courier service), as follows (or to such other address or telecopy number as a party shall specify by notice as provided herein to the other party hereto):

(i) if to the Purchaser:

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Attention: Frank Waterhouse
Telephone: 972-628-4100
Facsimile: 972-628-4147

with copies to:

Hunton & Williams LLP
1145 Ross Avenue, Suite 3700
Dallas, Texas 75202
Attention: Alexander McGeoch
Telephone: 214-979-3041
Facsimile: 214-979-3938

(ii) if to the Seller:

Acis Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Facsimile: 972-628-4147

5.7 Specific Performance. The Seller and the Purchaser agree that the rights created by this Agreement are unique and that the loss of any such rights is not susceptible to monetary quantification. Consequently, the Seller and the Purchaser agree that an action for specific performance (including for temporary and/or permanent injunctive relief) of the obligations created by this Agreement is a proper remedy for the breach of the provisions of this Agreement, and the Purchaser shall be entitled to such relief without the necessity of proving actual damages or posting a bond.

5.8 Costs, Expenses. The Seller and the Purchaser shall each pay their own costs, fees and expenses in connection with this Agreement and the transactions contemplated herein. The Seller will pay any and all transfer, recording, sales, use or similar taxes and fees in connection with the consummation of the transaction contemplated herein. If any party is forced to institute legal proceedings to enforce its rights in accordance with the provisions of this Agreement, the prevailing party shall be entitled to recover its reasonable expenses, including attorneys' fees and expenses, in connection with any such action.

5.9 Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Seller and the Purchaser.

5.10 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such

provision(s) were so excluded and shall be enforceable in accordance with its terms.

5.11 Entire Agreement. This Agreement, together with all exhibits and schedules hereto, constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, correspondence, agreements, understandings, duties or obligations between the parties with respect to the subject matter hereof.

5.12 Further Assurances. From and after the date of this Agreement, upon the reasonable request of the Purchaser, the Seller shall execute and deliver such instruments, documents or other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement.

5.13 Construction. The parties acknowledge that each has had the advice of independent counsel selected by it in connection with the terms of this Agreement. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

5.14 Arbitration. Any disputes or controversies arising out of or related to this Agreement that are not resolved by the parties shall be resolved by arbitration under the administration of the American Arbitration Association ("AAA"). The Seller and the Purchaser will seek to agree on an arbitrator. If the parties cannot agree, each of the Seller and the Purchaser will appoint an arbitrator, and such arbitrators will select a third arbitrator to serve as the sole arbitrator to determine the dispute. Such dispute or controversy shall be resolved pursuant to the rules of the AAA with the findings and any award by such arbitrator being final and binding upon all parties. Judgment on any award or finding rendered by the arbitrator may be entered in any court of proper jurisdiction. The location of any such arbitration proceedings shall be in the greater Dallas, Texas metropolitan

area or such other location as mutually agreed by the parties. Each party shall bear its own costs related to any dispute or controversy arising out of or related to this agreement. The parties agree any dispute or controversy arising out of or related to this Agreement shall be kept confidential between the relevant arbitrators, the parties, and their appointed counsel and agents.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first set forth above.

THE PURCHASER:

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its General Partner

By: _____
Name: James Dondero
Title: President

THE SELLER:

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC, its General Partner

By: _____
Name: James Dondero
Title: President

Schedule A

Participation Interests

CLO Issuer	Total Servicer Fee	Servicer Fee Retention Amount	Acis Participation Interests
Acis CLO 2013-1, Ltd.	50 bps	20 bps	30 bps
Acis CLO 2014-3, Ltd.	40 bps	20 bps	20 bps
Acis CLO 2014-4, Ltd.	40 bps	20 bps	20 bps
Acis CLO 2014-5, Ltd.	40 bps	20 bps	20 bps
Acis CLO 2015-6, Ltd.	40 bps	20 bps	20 bps

Exhibit 1

PROMISSORY NOTE

$12,666,446

October __, 2016

FOR VALUE RECEIVED, the undersigned, Highland Capital Management, L.P., a Delaware limited partnership ("Maker"), hereby promises to pay to the order of Acis Capital Management, L.P., a Delaware limited partnership ("Payee"), at its office at 300 Crescent Court, Suite 700, Dallas, Texas 75201 in lawful money of the United States of America, the principal sum of TWELVE MILLION SIX HUNDRED SIXTY-SIX THOUSAND FOUR HUNDRED FORTY-SIX DOLLARS ($12,666,446), together with interest on the outstanding principal balance thereof from day to day remaining at the rate of three percent (3%) per annum, as provided herein.

Payments

THE UNPAID PRINCIPAL HEREOF, TOGETHER WITH ALL ACCRUED AND UNPAID INTEREST THEREON, SHALL AUTOMATICALLY BE DUE AND PAYABLE IN FULL, WITHOUT NECESSITY OF DEMAND OR NOTICE, ACCORDING TO THE AMORTIZATION TABLE ATTACHED HERETO AS EXHIBIT A.

All past due principal and interest shall bear interest from and after the date when due at a rate equal to the rate equal to the lesser of (a) eighteen percent (18.0%) per annum or (b) the Maximum Rate (as defined herein).

Interest on the indebtedness evidenced by this Note shall be computed on the basis of a year of 360 days and the actual number of days elapsed (including the first day but excluding the last day) unless such calculation would result in a rate that exceeds the maximum rate allowed by applicable law (such rate, the "Maximum Rate") in which case interest shall be calculated on the basis of a year of 365 or 366 days, as the case may be. If the regularly scheduled due date for any payment under this Note is not a Business Day, the due date for such payment shall be the next succeeding Business Day, and payment made on such succeeding Business Day shall have the same force and effect as if made on the regularly scheduled due date. "Business Day" means a day, other than a Saturday, Sunday or legal holiday, on which a bank in Dallas, Texas is open for business.

Maker shall have the right to prepay this Note, in whole or in part, at any time and from time to time without premium or penalty. Amounts borrowed and repaid hereunder may not be reborrowed.

Conditions Precedent

This Note shall not become effective and Payee shall have no obligation to make the advance hereunder until Payee has received each of the following in form and substance acceptable to Payee:

(a) this Note executed by Maker;

(b) the Agreement for Purchase and Sale of CLO Participation Interests dated of even date herewith (the "Purchase Agreement"), by and between Maker and Payee, and copies of all agreements, documents and instruments executed or delivered in connection therewith and evidence that all conditions to the effectiveness of the Purchase Agreement have been or will be fulfilled contemporaneously with the initial advance under this Note;

(c) evidence that the execution, delivery and performance by Maker of this Note and all other documents and instruments related to this Note have been duly authorized by, or on behalf of, Maker; and

(d) such other agreements, documents, information, and other assurances as Payee may reasonably request.

Events of Default

Maker shall be in default under this Note upon the occurrence of any of the following events or conditions (each, an "Event of Default"):

(a) the failure of Maker to make any payment required to be made under this Note when such payment becomes due;

(b) Maker defaults in the performance of any obligation, covenant, or agreement now or hereafter made or owed by Maker to Payee, whether under this Note or any related document;

(c) any representation or warranty made by Maker to Payee in connection with this Note or any document executed or delivered in connection therewith, is false or misleading in any material respect when made;

(d) Maker shall commence a voluntary proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official for it or a substantial part of its property or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it or shall make a general assignment for the benefit of creditors or shall generally fail to pay its debts as they become due or shall take any corporate action to authorize any of the foregoing;

(e) any involuntary proceeding shall be commenced against Maker seeking liquidation, reorganization, or other relief with respect to it or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official for it or a substantial part of its property, in each case, that results in the entry of an order for any such relief or appointment that has not been vacated, discharged or stayed or bonded pending appeal within 60 days from the entry thereof;

(f) any lien, attachment, sequestration or similar proceeding against any of Maker's assets or properties other than liens in favor of Payee;

(g) any event or condition occurs that results in any indebtedness of Maker becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time, or both) the holder of such indebtedness to cause any of such indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; or

(h) the validity or enforceability of this Note shall be contested or challenged by Maker.

Remedies

Should an Event of Default exist, Payee may but without any obligation to do so, at its option and at any time, and without presentment, demand, or protest, notice of default, dishonor, demand, non-payment, or protest, notice of intent to accelerate all or any part of the advances hereunder, notice of acceleration of all or any part of the indebtedness evidenced by this Note, or notice of any other kind, all of which Maker hereby expressly waives, except for any notice required by applicable statute which cannot be waived: (a) terminate Payee's commitment to make any advances under this Note; (b) declare the indebtedness evidenced by this Note, or any part thereof, immediately due and payable, whereupon the same shall be due and payable (provided, however, that upon the occurrence of any event described in clause (e) of the definition of "Event of Default", such indebtedness shall become immediately due and payable in full without demand or acceleration); (c) reduce any claim to judgment; (d) to the maximum extent permitted under applicable laws, set-off and apply any and all deposits, funds, or assets at any time held and any and all other indebtedness at any time owing by Payee to or for the credit or the account of Maker against any and all obligations, whether or not Payee exercises any other right or remedy hereunder and whether or not such obligations are then matured; (e) may cure any Event of Default, or event of nonperformance under this Note and/or (f) exercise any and all rights and remedies afforded by this Note, or by law or equity or otherwise, as Payee deems appropriate. No failure or delay of the holder hereof to exercise any of its rights or remedies shall not constitute a waiver thereof.

If the holder hereof incurs any costs or expenses in any attempt to enforce payment of all or any part of this Note, or if this Note is placed in the hands of an attorney for collection, Maker agrees to pay all such costs fees and expenses incurred, including without limitation, reasonable attorneys' fees.

Miscellaneous

It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply with the applicable law of the State of Texas governing the maximum rate or amount of interest payable on or in connection with the indebtedness under this Note (or applicable United States federal law to the extent that it permits Payee to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If such law is ever judicially interpreted so as to render usurious any amount contracted for, charged, taken, reserved or received with respect to this Note, or if any payment by Maker results in Maker having paid any interest in excess of the amount that is permitted by such law, then it is Maker's and Payee's express intent that all excess amounts theretofore collected by Payee be credited on the principal balance hereof (or, if the principal balance has been or would thereby be paid in full, refunded to Maker), and the provisions of this Note shall immediately be deemed reformed and the amounts thereafter collectible thereunder reduced, without the necessity of the execution of any new documents, so as to comply with all such applicable laws, but so as to permit the recovery of the fullest amount otherwise called for thereunder. All sums paid or agreed to be paid to Payee for the use, forbearance or detention of money and other indebtedness evidenced by this Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the applicable usury ceiling provided by such applicable law. Notwithstanding any provision contained herein to the contrary, the total amount of interest that Maker is obligated to pay and Payee is entitled to receive with respect to this Note shall not exceed the amount calculated on a simple (i.e., non-compounded) interest basis at the maximum rate allowed by applicable law on principal amounts actually advanced hereunder to or for the account of Maker.

MAKER AND EACH SURETY, GUARANTOR, ENDORSER, AND OTHER PARTY EVER LIABLE FOR PAYMENT OF ANY SUMS OF MONEY PAYABLE ON THIS NOTE JOINTLY AND SEVERALLY WAIVE NOTICE, PRESENTMENT, DEMAND FOR PAYMENT, PROTEST, NOTICE OF PROTEST AND NON-PAYMENT OR DISHONOR, NOTICE OF ACCELERATION, NOTICE OF INTENT TO ACCELERATE, NOTICE OF INTENT TO DEMAND, DILIGENCE IN COLLECTING, GRACE, AND ALL OTHER FORMALITIES OF ANY KIND, AND CONSENT TO ALL EXTENSIONS WITHOUT NOTICE FOR ANY PERIOD OR PERIODS OF TIME AND PARTIAL PAYMENTS,

BEFORE OR AFTER MATURITY, AND ANY IMPAIRMENT OF ANY COLLATERAL SECURING THIS NOTE, ALL WITHOUT PREJUDICE TO THE HOLDER. Without limiting the foregoing, any notice or demand upon Maker in connection with this Note shall be in writing and shall become effective (a) upon personal delivery, (b) three (3) days after it shall have been mailed by United States mail, first class, certified or registered, with postage prepaid or (c) when properly transmitted by telecopy, in each case addressed to Maker's address for notice specified in connection with its signature below.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. THIS NOTE IS PERFORMABLE IN DALLAS COUNTY, TEXAS. ANY ACTION OR PROCEEDING UNDER OR IN CONNECTION WITH THIS NOTE AGAINST MAKER OR ANY OTHER PARTY EVER LIABLE FOR PAYMENT OF ANY SUMS OF MONEY PAYABLE ON THIS NOTE MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT IN DALLAS COUNTY, TEXAS. MAKER AND EACH SUCH OTHER PARTY HEREBY IRREVOCABLY (I) SUBMITS TO THE NONEXCLUSIVE JURISDICTION OF SUCH COURTS AND (II) WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH ACTION OR PROCEEDING BROUGHT IN SUCH COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL AFFECT THE RIGHT OF PAYEE TO BRING ANY ACTION OR PROCEEDING AGAINST MAKER OR ANY OTHER PARTY LIABLE HEREUNDER OR WITH RESPECT TO ANY COLLATERAL IN ANY STATE OR FEDERAL COURT IN ANY OTHER JURISDICTION. ANY ACTION OR PROCEEDING BY MAKER OR ANY OTHER PARTY LIABLE HEREUNDER AGAINST PAYEE SHALL BE BROUGHT ONLY IN A COURT LOCATED IN DALLAS COUNTY, TEXAS.

MAKER AND PAYEE EACH IRREVOCABLY WAIVES ITS RIGHT TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY KIND BROUGHT BY EITHER AGAINST THE OTHER, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. MAKER AND PAYEE EACH AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT ITS RIGHT TO A TRIAL BY JURY IS WAIVED AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS NOTE OR ANY PROVISION HEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS NOTE, WHETHER OR NOT SPECIFICALLY SET FORTH THEREIN.

This Note embodies the final, entire agreement of Maker and Payee with respect to the indebtedness evidenced hereby and supersedes any and all prior commitments, agreements, representations and understandings, whether written or oral, relating thereto and may not be contradicted or varied by evidence of prior, contemporaneous or subsequent oral agreements or discussions of Maker and Payee. There are no oral agreements between Maker and Payee.

Signed effective as of the date of this Note.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its general partner

By: _____
Name: _____
Title: _____

Maker's address for notice:

HIGHLAND CAPITAL MANAGEMENT, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Attention: Frank Waterhouse
Fax: 972-628-4147

EXHIBIT A

Amortization Schedule

Interest Rate	3.0%				
Payment Date	Beg Principal	Interest	Principal	Payment	End Principal
10/7/2016	12,666,446				12,666,446
5/31/2017	12,666,446	245,694	3,125,000	3,370,694	9,541,446
5/31/2018	9,541,446	286,243	5,000,000	5,286,243	4,541,446
5/31/2019	4,541,446	136,243	4,541,446	4,677,690	-

EXHIBIT 14

PROMISSORY NOTE

$12,666,446 October 7, 2016

FOR VALUE RECEIVED, the undersigned, Highland Capital Management, L.P., a Delaware limited partnership ("Maker"), hereby promises to pay to the order of Acis Capital Management, L.P., a Delaware limited partnership ("Payee"), at its office at 300 Crescent Court, Suite 700, Dallas, Texas 75201 in lawful money of the United States of America, the principal sum of TWELVE MILLION SIX HUNDRED SIXTY-SIX THOUSAND FOUR HUNDRED FORTY-SIX DOLLARS ($12,666,446), together with interest on the outstanding principal balance thereof from day to day remaining at the rate of three percent (3%) per annum, as provided herein.

Payments

THE UNPAID PRINCIPAL HEREOF, TOGETHER WITH ALL ACCRUED AND UNPAID INTEREST THEREON, SHALL AUTOMATICALLY BE DUE AND PAYABLE IN FULL, WITHOUT NECESSITY OF DEMAND OR NOTICE, ACCORDING TO THE AMORTIZATION TABLE ATTACHED HERETO AS EXHIBIT A.

All past due principal and interest shall bear interest from and after the date when due at a rate equal to the rate equal to the lesser of (a) eighteen percent (18.0%) per annum or (b) the Maximum Rate (as defined herein).

Interest on the indebtedness evidenced by this Note shall be computed on the basis of a year of 360 days and the actual number of days elapsed (including the first day but excluding the last day) unless such calculation would result in a rate that exceeds the maximum rate allowed by applicable law (such rate, the "Maximum Rate") in which case interest shall be calculated on the basis of a year of 365 or 366 days, as the case may be. If the regularly scheduled due date for any payment under this Note is not a Business Day, the due date for such payment shall be the next succeeding Business Day, and payment made on such succeeding Business Day shall have the same force and effect as if made on the regularly scheduled due date. "Business Day" means a day, other than a Saturday, Sunday or legal holiday, on which a bank in Dallas, Texas is open for business.

Maker shall have the right to prepay this Note, in whole or in part, at any time and from time to time without premium or penalty. Amounts borrowed and repaid hereunder may not be reborrowed.

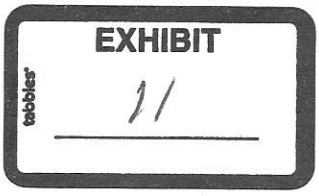
Conditions Precedent

This Note shall not become effective and Payee shall have no obligation to make the advance hereunder until Payee has received each of the following in form and substance acceptable to Payee:

(a) this Note executed by Maker;

(b) the Agreement for Purchase and Sale of CLO Participation Interests dated of even date herewith (the "Purchase Agreement"), by and between Maker and Acis Capital Management, LP, a Delaware limited partnership ("Highland"), and copies of all agreements, documents and instruments executed or delivered in connection therewith and evidence that all conditions to the effectiveness of the Purchase Agreement have been or will be fulfilled contemporaneously with the initial advance under this Note;

(c) evidence that the execution, delivery and performance by Maker of this Note and all other documents and instruments related to this Note have been duly authorized by, or on behalf of, Maker;



(d) true and correct copies of the organizational documents of Maker; and

(e) such other agreements, documents, information, and other assurances as Payee may reasonably request.

Events of Default

Maker shall be in default under this Note upon the occurrence of any of the following events or conditions (each, an "Event of Default"):

(a) the failure of Maker to make any payment required to be made under this Note when such payment becomes due;

(b) Maker defaults in the performance of any obligation, covenant, or agreement now or hereafter made or owed by Maker to Payee, whether under this Note or any related document;

(c) any representation or warranty made by Maker to Payee in connection with this Note or any document executed or delivered in connection therewith, is false or misleading in any material respect when made;

(d) Maker shall commence a voluntary proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official for it or a substantial part of its property or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it or shall make a general assignment for the benefit of creditors or shall generally fail to pay its debts as they become due or shall take any corporate action to authorize any of the foregoing;

(e) any involuntary proceeding shall be commenced against Maker seeking liquidation, reorganization, or other relief with respect to it or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official for it or a substantial part of its property;

(f) any lien, attachment, sequestration or similar proceeding against any of Maker's assets or properties other than liens in favor of Payee and liens in favor of Highland;

(g) any event or condition occurs that results in any indebtedness of Maker becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time, or both) the holder of such indebtedness to cause any of such indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; or

(i) the validity or enforceability of this Note shall be contested or challenged by Maker.

Remedies

Should an Event of Default exist, Payee may but without any obligation to do so, at its option and at any time, and without presentment, demand, or protest, notice of default, dishonor, demand, non-payment, or protest, notice of intent to accelerate all or any part of the advances hereunder, notice of acceleration of all or any part of the indebtedness evidenced by this Note, or notice of any other kind, all of which Maker hereby expressly waives, except for any notice required by applicable statute which cannot be waived: (a) terminate Payee's commitment to make any advances under this Note; (b) declare the indebtedness evidenced by this Note, or any part thereof, immediately due and payable, whereupon the same shall be due and payable (provided, however, that upon the occurrence of any event described in clause (e) of the definition of "Event of Default", such indebtedness shall become immediately due and payable in full without demand or acceleration); (c) reduce any claim to judgment; (d) to the maximum extent permitted under applicable laws, set-off and apply any and all deposits, funds, or assets at any time held and any and all other indebtedness at any time owing by Payee to or for the credit or the account of Maker against any and all obligations, whether or not Payee exercises any other right or remedy hereunder and whether or not such obligations are then matured; (e) may cure any Event of Default, or event of nonperformance under this Note and/or (f) exercise any and all rights and remedies afforded by this Note, or by law or equity or otherwise, as Payee deems appropriate. No failure or delay of the holder hereof to exercise any of its rights or remedies shall not constitute a waiver thereof.

If the holder hereof incurs any costs or expenses in any attempt to enforce payment of all or any part of this Note, or if this Note is placed in the hands of an attorney for collection, Maker agrees to pay all such costs fees and expenses incurred, including without limitation, reasonable attorneys' fees.

Miscellaneous

It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply with the applicable law of the State of Texas governing the maximum rate or amount of interest payable on or in connection with the indebtedness under this Note (or applicable United States federal law to the extent that it permits Payee to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If such law is ever judicially interpreted so as to render usurious any amount contracted for, charged, taken, reserved or received with respect to this Note, or if any payment by Maker results in Maker having paid any interest in excess of the amount that is permitted by such law, then it is Maker's and Payee's express intent that all excess amounts theretofore collected by Payee be credited on the principal balance hereof (or, if the principal balance has been or would thereby be paid in full, refunded to Maker), and the provisions of this Note shall immediately be deemed reformed and the amounts thereafter collectible thereunder reduced, without the necessity of the execution of any new documents, so as to comply with all such applicable laws, but so as to permit the recovery of the fullest amount otherwise called for thereunder. All sums paid or agreed to be paid to Payee for the use, forbearance or detention of money and other indebtedness evidenced by this Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the applicable usury ceiling provided by such applicable law. Notwithstanding any provision contained herein to the contrary, the total amount of interest that Maker is obligated to pay and Payee is entitled to receive with respect to this Note shall not exceed the amount calculated on a simple (i.e., non-compounded) interest basis at the maximum rate allowed by applicable law on principal amounts actually advanced hereunder to or for the account of Maker.

MAKER AND EACH SURETY, GUARANTOR, ENDORSER, AND OTHER PARTY EVER LIABLE FOR PAYMENT OF ANY SUMS OF MONEY PAYABLE ON THIS NOTE JOINTLY AND SEVERALLY WAIVE NOTICE, PRESENTMENT, DEMAND FOR PAYMENT, PROTEST, NOTICE OF PROTEST AND NON-PAYMENT OR DISHONOR, NOTICE OF ACCELERATION, NOTICE OF INTENT TO ACCELERATE, NOTICE OF INTENT TO DEMAND, DILIGENCE IN COLLECTING, GRACE, AND ALL OTHER FORMALITIES OF ANY KIND, AND CONSENT TO ALL EXTENSIONS WITHOUT NOTICE FOR ANY PERIOD OR PERIODS OF TIME AND PARTIAL PAYMENTS,

BEFORE OR AFTER MATURITY, AND ANY IMPAIRMENT OF ANY COLLATERAL SECURING THIS NOTE, ALL WITHOUT PREJUDICE TO THE HOLDER. Without limiting the foregoing, any notice or demand upon Maker in connection with this Note shall be in writing and shall become effective (a) upon personal delivery, (b) three (3) days after it shall have been mailed by United States mail, first class, certified or registered, with postage prepaid or (c) when properly transmitted by telecopy, in each case addressed to Maker's address for notice specified in connection with its signature below.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. THIS NOTE IS PERFORMABLE IN DALLAS COUNTY, TEXAS. ANY ACTION OR PROCEEDING UNDER OR IN CONNECTION WITH THIS NOTE AGAINST MAKER OR ANY OTHER PARTY EVER LIABLE FOR PAYMENT OF ANY SUMS OF MONEY PAYABLE ON THIS NOTE MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT IN DALLAS COUNTY, TEXAS. MAKER AND EACH SUCH OTHER PARTY HEREBY IRREVOCABLY (I) SUBMITS TO THE NONEXCLUSIVE JURISDICTION OF SUCH COURTS AND (II) WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH ACTION OR PROCEEDING BROUGHT IN SUCH COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL AFFECT THE RIGHT OF PAYEE TO BRING ANY ACTION OR PROCEEDING AGAINST MAKER OR ANY OTHER PARTY LIABLE HEREUNDER OR WITH RESPECT TO ANY COLLATERAL IN ANY STATE OR FEDERAL COURT IN ANY OTHER JURISDICTION. ANY ACTION OR PROCEEDING BY MAKER OR ANY OTHER PARTY LIABLE HEREUNDER AGAINST PAYEE SHALL BE BROUGHT ONLY IN A COURT LOCATED IN DALLAS COUNTY, TEXAS.

MAKER AND PAYEE EACH IRREVOCABLY WAIVES ITS RIGHT TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY KIND BROUGHT BY EITHER AGAINST THE OTHER, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. MAKER AND PAYEE EACH AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT ITS RIGHT TO A TRIAL BY JURY IS WAIVED AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS NOTE OR ANY PROVISION HEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS NOTE, WHETHER OR NOT SPECIFICALLY SET FORTH THEREIN.

This Note embodies the final, entire agreement of Maker and Payee with respect to the indebtedness evidenced hereby and supersedes any and all prior commitments, agreements, representations and understandings, whether written or oral, relating thereto and may not be contradicted or varied by evidence of prior, contemporaneous or subsequent oral agreements or discussions of Maker and Payee. There are no oral agreements between Maker and Payee.

Signed effective as of the date of this Note.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., general partner

By: _____
Name: James Dondero
Title: President

Maker's address for notice:

HIGHLAND CAPITAL MANAGEMENT, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Attention: Frank Waterhouse
Fax: 972-628-4147

EXHIBIT A

Amortization Schedule

Interest Rate	3.0%				
Payment Date	Beg Principal	Interest	Principal	Payment	End Principal
10/7/2016	12,666,446				12,666,446
5/31/2017	12,666,446	245,694	3,125,000	3,370,694	9,541,446
5/31/2018	9,541,446	286,243	5,000,000	5,286,243	4,541,446
5/31/2019	4,541,446	136,243	4,541,446	4,677,690	-

EXHIBIT 15

EXECUTION VERSION

PORTFOLIO MANAGEMENT AGREEMENT

between

ACIS CLO 2017-7 LTD.

and

ACIS CLO MANAGEMENT, LLC

Dated as of April 20, 2017



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PORTFOLIO MANAGEMENT AGREEMENT

This Portfolio Management Agreement (this "Agreement"), dated as of April 20, 2017, is entered into by and between ACIS CLO 2017-7 Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands, with its registered office located at P.O. Box 1093, Queensgate House, Grand Cayman, KY1-1102, Cayman Islands (together with successors and assigns permitted hereunder, the "Issuer"), and Acis CLO Management, LLC, with its principal offices located at 300 Crescent Court, Suite 700, Dallas, TX 75201, as portfolio manager (together with successors and assigns permitted hereunder, in such capacity, the "Portfolio Manager").

WITNESSETH:

WHEREAS, the Issuer intends to issue the Secured Debt and the Subordinated Notes (each, as defined in the Indenture) pursuant to an indenture dated as of April 20, 2017 (as amended, supplemented or modified from time to time, the "Indenture"), among the Issuer, ACIS CLO 2017-7 LLC, as co-issuer (the "Co-Issuer"), and U.S. Bank National Association, as trustee (together with any successor trustee permitted under the Indenture, the "Trustee");

WHEREAS, the Issuer intends to pledge certain Collateral Obligations, certain Eligible Investments (each, as defined in the Indenture) and certain other assets (all as set forth in the Indenture) (collectively, the "Assets") to the Trustee as security for the Secured Notes;

WHEREAS, the Issuer wishes to enter into this Agreement, pursuant to which the Portfolio Manager agrees to perform, on behalf of the Issuer, certain duties with respect to the Assets securing the Secured Notes in the manner and on the terms set forth herein and to provide such additional services as are consistent with the terms of this Agreement and the Indenture; and

WHEREAS, the Portfolio Manager has the capacity to provide the services required hereby and is prepared to perform such services upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, the parties hereto agree as follows:

1. Definitions.

Terms used herein and not defined below shall have the meanings set forth in the Indenture.

"Actions" shall have the meaning provided in Section 11(a).

"Affiliate" means, with respect to a Person, (i) any other Person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such Person or (ii) any other Person who is a director, Officer, employee or general partner

(a) of such Person, (b) of any subsidiary or parent company of such Person or (c) of any Person described in clause (i) above. For the purposes of this definition, control of a Person shall mean the power, direct or indirect, (x) to vote more than 50% of the securities having ordinary voting power for the election of directors of such Persons, or (y) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise. For purposes of this definition, the management of an account by one Person for the benefit of any other Person shall not constitute "control" of such other Person and no entity shall be deemed an Affiliate of the Issuer or the Co-Issuer solely because the Administrator or its Affiliates serve as administrator or share trustee for such entity.

"Affiliate Transaction" shall have the meaning set forth in Section 6(a).

"Agreement" shall mean this portfolio management agreement, as amended from time to time.

"Attorneys" shall have the meaning provided in Section 33.

"Board of Directors" shall mean the directors of the Issuer duly appointed pursuant to the Governing Instruments of the Issuer in accordance with Cayman Islands law or any subsequent directors who are duly appointed according to the Articles of Association.

"Confidential Information" shall have the meaning provided in Section 7.

"Exit Date" shall have the meaning provided in Section 9(c).

"Expenses" shall have the meaning provided in Section 11(a).

"Force Majeure Event" shall have the meaning assigned to such term in Section 11(l).

"Governing Instruments" shall mean the memorandum, articles or certificate of incorporation or association and by-laws, if applicable, in the case of a corporation, the partnership agreement, in the case of a partnership, or the limited liability company agreement, in the case of a limited liability company.

"Indemnified Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Indemnifying Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Independent Review Party" shall have the meaning set forth in Section 6(b).

"Investment Advisers Act" means the Investment Advisers Act of 1940, as amended.

"Issuer Documents" shall have the meaning provided in Section 17(a)(i).

"Liabilities" shall have the meaning provided in Section 11(a).

"Manager Documents" shall have the meaning provided in Section 17(b).

"Manager Related Party" means each of the Portfolio Manager, its Affiliates and their respective shareholders, partners, members, managers, directors, officers, trustees, incorporators, employees, representatives and agents.

"OFAC" shall have the meaning provided in Section 17(a)(viii).

"OFAC Programs" shall have the meaning provided in Section 17(a)(viii).

"Offer" shall mean, with respect to any security, (i) any offer by the obligor or issuer of such security or by any other Person made to all of the holders of such security to purchase or otherwise acquire such security (other than pursuant to any redemption in accordance with the terms of the related Underlying Instruments) or to convert or exchange such security into or for cash, securities or any other type of consideration or (ii) any solicitation by the obligor or issuer of such security or any other Person to amend, modify or waive any provision of such security or any related Underlying Instrument.

"Offering Memorandum" shall have the meaning provided in Section 11(a).

"Person" means any individual, partnership, corporation, limited liability company, trust or other entity.

"Related Entities" shall mean, with respect to the Portfolio Manager, its clients, its partners, its members, funds or other investment accounts managed by it or any of its Affiliates, or their employees and their Affiliates.

"Responsible Officer" shall mean any officer, authorized person or employee of the Portfolio Manager set forth on the list provided by the Portfolio Manager to the Issuer and the Trustee which list shall include any portfolio manager having day-to-day responsibility for the performance of the Portfolio Manager under the Portfolio Management Agreement, as such list may be amended from time to time.

"Section 28(e)" shall have the meaning provided in Section 4(a).

"Service Agreements" shall mean, collectively, the Sub-Advisory Agreement and the Staff and Services Agreement.

"Staff and Services Agreement" shall mean that certain Staff and Services Agreement dated March 17, 2017 between the Portfolio Manager and Acis Capital Management, L.P. (as amended, supplemented or modified from time to time).

"Sub-Advisory Agreement" shall mean that certain Master Sub-Advisory Agreement dated March 17, 2017 between the Portfolio Manager and Acis Capital Management, L.P. (as amended, supplemented or modified from time to time).

"Tax Advice" shall mean written advice from Dechert LLP or an opinion of other tax counsel of nationally recognized standing in the United States experienced in transactions of the type being addressed that (i) is based on knowledge by the person giving the advice of all relevant facts and circumstances of the Issuer and transaction (which are described in the advice or opinion, as applicable, or in a written description referred to in the advice or opinion, as applicable, which may be provided by the Issuer or Portfolio Manager), and (ii) is intended by the person rendering the advice to be relied upon by the Issuer in determining whether to enter into the transaction.

"Trading Restrictions" shall mean the Trading Restrictions set forth in Schedule 1.

2. Engagement.

Commencing on the date hereof, the Issuer hereby engages and retains the Portfolio Manager to provide the investment advisory and related services described below, for the period and on the terms and conditions set forth herein. The Portfolio Manager hereby accepts such engagement and agrees, for the period and on the terms and conditions set forth herein, to provide, or to make satisfactory arrangements for the provision of, the investment advisory and related services described below, for the period and on the terms and conditions set forth herein.

3. General Duties of the Portfolio Manager.

The Portfolio Manager shall provide services to the Issuer as follows:

(a) Subject to and in accordance with the terms of the Indenture and this Agreement, the Portfolio Manager agrees to supervise and direct the investment and reinvestment of the Assets, and shall perform on behalf of the Issuer the duties that have been specifically delegated to the Portfolio Manager in this Agreement and in the Indenture (and the Portfolio Manager shall have no obligation to perform any other duties under this Agreement and the Indenture) and, to the extent necessary or appropriate to perform such duties, the Portfolio Manager shall have the power to execute and deliver all necessary and appropriate documents and instruments, and to take all other actions, on behalf of the Issuer with respect thereto, it being understood that the Portfolio Manager shall have no obligation to perform duties to be performed by third parties not under the control of the Portfolio Manager or its Affiliates.

(b) The Portfolio Manager shall comply with all the terms and conditions of the Indenture affecting the duties and functions that have been delegated to it thereunder and hereunder and (without in any way limiting Section 11 of this Agreement) shall perform its obligations hereunder and thereunder in good faith and with reasonable care, using a degree of skill and attention no less than that which the Portfolio Manager (i) exercises with respect to comparable assets that it manages for itself and

(ii) exercises with respect to comparable assets that it manages for others, and in a manner consistent with practices and procedures followed by institutional managers of national standing relating to assets of the nature and character of the Assets, except as expressly provided otherwise in this Agreement and/or the Indenture. To the extent not inconsistent with the foregoing, the Portfolio Manager shall follow its customary standards, policies and procedures in performing its duties under the Indenture and hereunder (including those duties of the Issuer under the Indenture which the Portfolio Manager has agreed hereunder to perform on the Issuer's behalf). The Portfolio Manager shall not be bound to follow any amendment to the Indenture, however, until it has received written notice thereof and until it has received a copy of the amendment from the Issuer or the Trustee; *provided* that with respect to any amendment to the Indenture which would (i) increase the duties or liabilities of the Portfolio Manager or adversely change the economic consequences to the Portfolio Manager, (ii) modify the restrictions on the purchases or sales of Collateral Obligations under Article 12 of the Indenture or the Investment Criteria, (iii) expand or restrict the Portfolio Manager's discretion or (iv) modify the restrictions on and procedures for resales and other transfers of Subordinated Notes, except as set forth in Section 8.1(vi) of the Indenture, the Portfolio Manager shall not be bound thereby unless the Portfolio Manager shall have consented thereto in writing, such consent to not be unreasonably withheld or delayed. The Issuer agrees that it will not permit any such amendment to the Indenture to become effective unless the Portfolio Manager has been given prior written notice of such amendment and consented thereto in writing and that it will give prior written notice of any other amendment to the Indenture to the Portfolio Manager.

(c) The Portfolio Manager shall (i) determine consistent with the applicable provisions of the Indenture, when Principal Proceeds shall be applied to effect a Special Redemption of the Secured Notes, (ii) select all Collateral Obligations and Eligible Investments which shall be acquired by the Issuer and pledged to the Trustee pursuant to the Indenture and (iii) facilitate the acquisition, settlement and sale of Collateral Obligations by the Issuer. In providing services to the Issuer hereunder, the Portfolio Manager shall take into consideration the interests of the Holders as a whole. The Portfolio Manager shall have no obligation to perform any duties other than as expressly specified herein, or in the provisions of the Indenture applicable to the Portfolio Manager, and the Portfolio Manager shall be subject to no implicit obligations of any kind.

(d) Subject to any applicable terms of the Collateral Administration Agreement, the Portfolio Manager shall monitor the Assets, on behalf of the Issuer, on an ongoing basis and provide (or cause to be provided) to the Issuer all reports, schedules and other data reasonably available to the Portfolio Manager that the Issuer is required to prepare, deliver or furnish, or cause to be prepared, delivered or furnished, under the Indenture, in the form and containing all information required thereby and in sufficient time for the Issuer to review such required reports, schedules and data and to deliver them to the parties entitled thereto under the Indenture. The Portfolio Manager shall, on behalf of the Issuer, be responsible for obtaining to the extent practicable any information concerning whether a Collateral Obligation has become a Defaulted Obligation. Pursuant to the terms of the Collateral Administration Agreement, the Collateral Administrator is

required to provide drafts of certain reports, schedules and calculations to the Portfolio Manager regarding the Collateral Obligations. The obligation of the Portfolio Manager to furnish such information is subject to the Portfolio Manager's timely receipt of necessary reports and the appropriate information from the Person responsible for the delivery of or preparation of such reports and such information (including without limitation, the Obligors of the Collateral Obligations, the Rating Agency, the Trustee and the Collateral Administrator) and to any confidentiality restrictions with respect thereto. The Portfolio Manager shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing reasonably believed by it to be genuine and to have been signed or sent by a Person that the Portfolio Manager has no reason to believe is not duly authorized. The Portfolio Manager also may rely upon any statement made to it orally or by telephone and made by a Person the Portfolio Manager has no reason to believe is not duly authorized, and shall not incur any liability for relying thereon. The Portfolio Manager is entitled to rely on any other information furnished to it by third parties that it reasonably believes in good faith to be genuine.

(e) At the direction of 66 2/3% of the Aggregate Outstanding Amount of the Junior Subordinated Notes, the Portfolio Manager may direct an Optional Redemption (including a Refinancing) under the Indenture on behalf of the Issuer.

(f) The Portfolio Manager may, in its sole discretion subject to and in accordance with the provisions of the Indenture and this Agreement, direct the Issuer and/or the Trustee to take the following actions with respect to a Collateral Obligation, Eligible Investment or other Asset:

(i) retain such Collateral Obligation, Eligible Investment or other Asset;

(ii) dispose of such Collateral Obligation, Eligible Investment or other Asset in the open market or otherwise;

(iii) acquire, as security for the Secured Notes in substitution for or in addition to any one or more Collateral Obligations or Eligible Investments included in the Assets, one or more additional Collateral Obligations or Eligible Investments;

(iv) if applicable, tender such Collateral Obligation, Eligible Investment or other Asset pursuant to an Offer;

(v) if applicable, consent to or refuse to consent to any proposed amendment, modification, restructuring, exchange or waiver pursuant to an Offer;

(vi) retain or dispose of any securities or other property (if other than cash) received pursuant to an Offer;

(vii) waive any default with respect to any Defaulted Obligation or other Asset;

(viii) vote to accelerate the maturity of any Defaulted Obligation or other Asset;

(ix) participate in a committee or group formed by creditors of an issuer or a borrower under a Collateral Obligation, Eligible Investment, Equity Security or asset held by any ETB Subsidiary;

(x) negotiate, modify or amend any loan for the Issuer as authorized by the Indenture in accordance with a Refinancing;

(xi) exercise any other rights or remedies with respect to a Collateral Obligation, Eligible Investment or other Asset as provided in the related Underlying Instruments or take any other action consistent with the terms of the Indenture; and

(xii) to make loans to ETB Subsidiaries.

(g) Notwithstanding anything to the contrary in this Agreement, none of the services performed by the Portfolio Manager shall result in or be construed as resulting in an obligation to perform any of the following:

(i) the Portfolio Manager acting repeatedly or continuously as an intermediary in securities for the Issuer;

(ii) the Portfolio Manager providing investment banking services to the Issuer; or

(iii) the Portfolio Manager having direct contact with, or actively soliciting or finding, outside investors to (x) invest in the Issuer or (y) make co-investments in securities of portfolio companies with the Issuer.

(h) The Portfolio Manager hereby agrees to the following:

(i) The Portfolio Manager agrees not to institute against the Issuer, the Co-Issuer or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings or other proceedings under U.S. federal or state bankruptcy or similar laws, or the similar laws of the Cayman Islands or other applicable jurisdiction until the payment in full of all Notes issued under the Indenture and the expiration of a period equal to one year, or, if longer, the applicable preference period, and a day following such payment. Nothing in this Section 3(h)(i) shall preclude, or be deemed to stop, the Portfolio Manager (i) from taking any action prior to the expiration of the aforementioned period in (A) any case or Proceeding voluntarily filed or commenced by the Issuer, the Co-Issuer or any ETB Subsidiary or (B) any involuntary insolvency Proceeding filed or commenced by a Person other than the

Portfolio Manager, or (ii) from commencing against the Issuer, the Co-Issuer, any ETB Subsidiary or any of their respective properties any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceeding. The provisions of this Section 3(h)(i) shall survive termination of this Agreement.

(ii) The Portfolio Manager shall cause any purchase or sale of any Collateral Obligation to be conducted on arm's length terms or in the manner contemplated by Section 6, if applicable.

(iii) In providing services hereunder, the Portfolio Manager may employ third parties, including its Affiliates, to render advice (including investment advice), to provide services to arrange for trade execution and otherwise provide assistance to the Issuer, and to perform any of the Portfolio Manager's duties under this Agreement; *provided* that the Portfolio Manager shall not be relieved of any of its duties hereunder regardless of the performance of any services by third parties. Notwithstanding the foregoing, this Agreement, and any obligations or duties of the Portfolio Manager under this Agreement, can be delegated by the Portfolio Manager, in whole or in part, to any entity that (i) is controlled by any of James Dondero or Mark Okada and (ii) is one in which any of James Dondero or Mark Okada is involved in the day-to-day management and operations (and in any such case pursuant to an instrument of delegation in form and substance satisfactory to the Issuer), with the prior written consent of the Issuer and, notwithstanding any such consent, no delegation of obligations or duties by the Portfolio Manager (including, without limitation, to an entity described above) shall relieve the Portfolio Manager from any of its duties or any liability under this Agreement.

(i) From and after the occurrence and continuance of an Event of Default, the Portfolio Manager will continue to perform and be bound by the provisions of this Agreement and the Indenture. Subject to the terms and conditions of the Indenture, the Trustee will be entitled to rely and be protected in relying upon all actions and omissions to act of the Portfolio Manager thereafter as fully as if no Event of Default had occurred.

4. Brokerage.

(a) The Portfolio Manager will seek to obtain the best execution (but shall have no obligation to obtain the best prices and execution) for all orders placed with respect to the Assets, in a manner permitted by law and in a manner it believes to be in the best interests of the Issuer. Subject to the preceding sentence, the Portfolio Manager may, in the allocation of business, select brokers and/or dealers with whom to effect trades on behalf of the Issuer and may open cash trading accounts with such brokers and dealers (*provided* that none of the Assets may be credited to, held in or subject to the lien of the broker or dealer with respect to any such account). In addition, subject to the first sentence of this paragraph, the Portfolio Manager may, in the allocation of business, take into consideration research and other brokerage services furnished to the Portfolio

Manager or its Affiliates by brokers and dealers which are not Affiliates of the Portfolio Manager; *provided* that the Portfolio Manager in good faith believes that the compensation for such services rendered by such brokers and dealers complies with the requirements of Section 28(e) of the Securities Exchange Act of 1934, as amended ("Section 28(e)"), or in the case of principal or fixed income transactions for which the "safe harbor" of Section 28(e) is not available, the amount of the spread charged is reasonable in relation to the value of the research and other brokerage services provided. Such services may be used by the Portfolio Manager or its Affiliates in connection with its other advisory activities or investment operations. The Portfolio Manager may aggregate sales and purchase orders of securities placed with respect to the Assets with similar orders being made simultaneously for other accounts managed by the Portfolio Manager or with accounts of the Affiliates of the Portfolio Manager, if in the Portfolio Manager's reasonable business judgment such aggregation shall result in an overall economic benefit to the Issuer, taking into consideration the advantageous selling or purchase price, brokerage commission or other expenses, as well as the availability of such securities on any other basis. In accounting for such aggregated order price, commissions and other expenses may be apportioned on a weighted average basis. When a transaction with respect to the Assets occurs as part of any aggregate sales or purchase orders, the objective of the Portfolio Manager shall be to allocate the executions among the accounts in an equitable manner the Portfolio Manager believes, in its reasonable business judgment, to be appropriate and in accordance with (x) its internal conflicts of interest and allocation policies and (y) any applicable requirements of the Investment Advisers Act.

(b) The Issuer acknowledges and agrees that (i) the determination by the Portfolio Manager of any benefit to the Issuer will be subjective and will represent the Portfolio Manager's evaluation at the time that the Issuer will be benefited by relatively better purchase or sales prices, lower brokerage commissions, lower transaction costs and expenses and beneficial timing of transactions or any combination of any of these and/or other factors and (ii) the Portfolio Manager shall be fully protected with respect to any such determination to the extent the Portfolio Manager acts in accordance with Section 3(b).

(c) Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and (d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect client cross-transactions where the Portfolio Manager causes a transaction with respect to the Assets to be effected between the Issuer and another account advised by it or any of its Affiliates; *provided* that, if and to the extent required by the Investment Advisers Act, such authorization is terminable prior to the initiation of such cross-transaction at the Issuer's option without penalty. Such termination shall be effective upon receipt by the Portfolio Manager of written notice from the Issuer. Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and (d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect transactions, including principal transactions, where the Issuer may invest in securities of obligors or issuers in which the Portfolio Manager and/or its Affiliates have a debt, equity or participation interest, in each case in accordance with applicable law.

(d) The Issuer acknowledges and agrees that the Portfolio Manager or any of its Affiliates may acquire or sell obligations or securities, for its own account or for the accounts of its customers, without either requiring or precluding the acquisition or sale of such obligations or securities for the account of the Issuer. Such investments may be the same or different from those made on behalf of the Issuer. If, in light of market conditions and investment objectives, the Portfolio Manager determines that it would be advisable to purchase the same item of Collateral Obligation both for the Issuer, and either the proprietary account of the Portfolio Manager or any Affiliate of the Portfolio Manager or another client of the Portfolio Manager, the Portfolio Manager shall allocate such investment opportunities across such entities for which such opportunities are appropriate, consistent with (i) its internal conflicts of interest and allocation policies and (ii) any applicable requirements of the Investment Advisers Act. The Issuer agrees that, in the course of managing the Collateral Obligations held by the Issuer, the Portfolio Manager may consider its relationships with other clients (including obligors and issuers) and its Affiliates. The Portfolio Manager may decline to make a particular investment for the Issuer in view of such relationships.

5. Additional Activities of the Portfolio Manager.

(a) Nothing herein shall prevent the Portfolio Manager or any of its Related Entities from engaging in other businesses, or from rendering services of any kind to the Issuer and its Affiliates (other than those services that would violate the Portfolio Manager's covenants under this Agreement), the Trustee, the Holders, the Placement Agent or any other Person to the extent permitted by applicable law, regardless of whether such business is in competition with the Issuer or otherwise. Without limiting the generality of the foregoing, the Portfolio Manager, its Related Entities and the directors, officers, employees and agents of the Portfolio Manager and its Related Entities may, subject to any limits specified in the Indenture:

(i) serve as directors (whether supervisory or managing), officers, partners, employees, agents, nominees or signatories, and receive arm's length fees in connection with such service, for the Issuer or its Affiliates, or for any obligor or issuer in respect of the Collateral Obligations, Equity Securities or Eligible Investments or any affiliate thereof, to the extent permitted by their Governing Instruments, as from time to time amended, or by any resolutions duly adopted by the Issuer, its Affiliates or any obligor or issuer in respect of any of the Collateral Obligations, Eligible Investments or Equity Securities (or any Affiliate thereof) pursuant to their respective Governing Instruments, and neither the Holders of the Notes nor the Issuer shall have the right to any such fees; *provided* that, in the reasonable business judgment of the Portfolio Manager, such activity will not have a material adverse effect on any item of the Assets;

(ii) receive fees or other compensation from third parties (including Persons in which the Issuer has made or proposes to make an investment) in connection with any business activities of the Portfolio Manager and its Affiliates and which are not related to the use of the Issuer's capital (which fees or other compensation shall be for the benefit of the Portfolio Manager's own

account); *provided* that, in the reasonable business judgment of the Portfolio Manager, such activities will not have a material adverse effect on any item of the Assets; and

(iii) be a secured or unsecured creditor of, or hold an equity interest in, or own or hold notes issued by, the Issuer, its Affiliates or any obligor or issuer of any obligation included in the Assets, subject to the Portfolio Manager's obligations in Section 8 hereof.

As a result, such individuals may possess information relating to obligors and issuers of Collateral Obligations that is (a) not known to or (b) known but restricted as to its use by the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations of the Portfolio Manager under this Agreement. Each of such ownership and other relationships may result in securities laws restrictions on transactions in such securities by the Issuer and otherwise create conflicts of interest for the Issuer. The Issuer acknowledges and agrees that, in all such instances, the Portfolio Manager and its Affiliates may in their discretion make investment recommendations and decisions that may be the same as or different from those made with respect to the Issuer's investments and they have no duty, in making or managing such investments, to act in a way that is favorable to the Issuer.

The Issuer acknowledges that there are generally no ethical screens or information barriers among the Portfolio Manager and certain of its Affiliates of the type that many firms implement to separate Persons who make investment decisions from others who might possess material, non-public information that could influence such decisions. The officers or Affiliates of the Portfolio Manager may possess information relating to obligors or issuers of Collateral Obligations that is not known to the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations under this Agreement. As a result, the Portfolio Manager may from time to time come into possession of material nonpublic information that limits the ability of the Portfolio Manager to effect a transaction for the Issuer, and the Issuer's investments may be constrained as a consequence of the Portfolio Manager's inability to use such information for advisory purposes or otherwise to effect transactions that otherwise may have been initiated on behalf of its clients, including the Issuer.

(b) It is understood that the Portfolio Manager and any of its Affiliates may engage in any other business and furnish investment management and advisory services to others, including Persons which may have investment policies similar to those followed by the Portfolio Manager with respect to the Assets and which may own securities or obligations of the same class, or which are of the same type, as the Collateral Obligations or the Eligible Investments or other securities or obligations of the obligors or issuers of the Collateral Obligations or the Eligible Investments. The Portfolio Manager will be free, in its sole discretion, to make recommendations to others or effect transactions on behalf of itself or for others, which may be the same as or different from those effected with respect to the Assets. Nothing in the Indenture and this Agreement shall prevent the Portfolio Manager or any of its Affiliates, acting either as principal or agent on behalf of others, from buying or selling, or from recommending to or directing

any other account to buy or sell, at any time, securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those directed by the Portfolio Manager to be purchased or sold on behalf of the Issuer. It is understood that, to the extent permitted by applicable law, the Portfolio Manager, its Affiliates or Related Entities, or any of their directors, managers, officers, stockholders, members, partners, partnership committee members, personnel, employees, agents or affiliates or any member of their families or a Person or entity advised by the Portfolio Manager or any of its Affiliates may have an interest in a particular transaction or in securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those whose purchase or sale the Portfolio Manager may direct hereunder.

(c) The Portfolio Manager shall not be obligated to pursue any particular investment strategy or opportunity with respect to the Assets.

(d) The Issuer acknowledges that the Portfolio Manager and its Affiliates may make and/or hold an investment in an obligor's or issuer's securities that may be pari passu, senior or junior in ranking to an investment in such obligor's or issuer's securities made and/or held by the Issuer or in which partners, security holders, members, officers, directors, agents or employees of the Portfolio Manager and its Affiliates serve on boards of directors or otherwise have ongoing relationships.

6. Conflicts of Interest.

(a) Subject to compliance with applicable laws and regulations and subject to this Agreement and the Indenture, the Portfolio Manager may direct the Collateral Agent to acquire a Collateral Obligation from, or sell a Collateral Obligation, Equity Security, Eligible Investment or asset held by any ETB Subsidiary to, the Portfolio Manager, any of its Affiliates or any account or portfolio for which the Portfolio Manager or any of its Affiliates serve as investment advisor for fair market value. The Portfolio Manager may obtain the Issuer's written consent through the Independent Review Party as provided herein if any such transaction requires the consent of the Issuer under Section 206(3) of the Investment Advisers Act (any such transaction, an "Affiliate Transaction"). The Issuer hereby acknowledges that the Portfolio Manager, its Affiliates or accounts advised or sub-advised by the Portfolio Manager or its Affiliates or their respective advised accounts (collectively, the "Portfolio Manager Affiliates") will purchase on the Closing Date, $21,250,000 of the Class D Notes, all of the Class E Notes, all of the Senior Subordinated Notes and all of the Junior Subordinated Notes (the "Portfolio Manager Notes"). The Issuer further acknowledges and agrees that no Portfolio Manager Affiliate is under any obligation to retain any Portfolio Manager Notes, and may sell all or a portion of such Portfolio Manager Notes at any time. In addition, the Issuer acknowledges that the Portfolio Manager Affiliates may acquire and subsequently sell other Notes after the Closing Date. In certain circumstances, the interests of the Issuer and/or the Holders or beneficial owners of the Notes with respect to matters as to which the Portfolio Manager is advising the Issuer may conflict with the interests of the Portfolio Manager Affiliates or its Related Entities. The Issuer hereby acknowledges that various potential and actual conflicts of interest may exist with respect

to the Portfolio Manager as described above and as described in the final offering memorandum relating to the Notes; *provided* that nothing in this Section 6 shall be construed as altering the duties of the Portfolio Manager referred to herein.

(b) At the written request of the Portfolio Manager, the Issuer shall establish a conflicts review board or appoint an independent third party to act on behalf of the Issuer (such board or party, an "Independent Review Party") with respect to Affiliate Transactions. Decisions of any Independent Review Party shall be binding on the Portfolio Manager, the Issuer, and Holders of the Debt.

(c) Any Independent Review Party (i) shall either (A) be the Issuer's Board of Directors, (B) be an established financial institution or other financial company with experience in assessing the merits of transactions similar to the Affiliate Transactions or (C) be a review board comprised of one or more individuals selected by the Issuer (or at the request of the Issuer, selected by the Portfolio Manager), (ii) shall be required to assess the merits of the Affiliate Transaction and either grant or withhold consent to such transaction in its sole judgment and (iii) shall not be (A) affiliated with the Portfolio Manager (other than as a Holder or as a passive investor in the Issuer or an Affiliate of the Issuer) or (B) (other than the Issuer's Board of Directors) involved in the daily management and control of the Issuer.

(d) The Issuer (i) shall be responsible for any fees relating to the services provided by any Independent Review Party and shall reimburse members of any Independent Review Party for their out-of-pocket expenses and (ii) may indemnify members of such Independent Review Party to the maximum extent permitted by law, subject to terms and conditions satisfactory to the Portfolio Manager.

7. Records; Confidentiality.

The Portfolio Manager shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Issuer, the Trustee, the Holders, and the Independent accountants appointed by the Portfolio Manager on behalf of the Issuer pursuant to Article 10 of the Indenture at any time during normal business hours and upon not less than three Business Days' prior notice. The Portfolio Manager shall keep confidential any and all information that is either (i) of a type that would ordinarily be considered proprietary or confidential or (ii) designated as confidential (collectively "Confidential Information") obtained in connection with the services rendered hereunder and shall not disclose any such Confidential Information to non-affiliated third parties (excluding any Holders and beneficial owners of Notes to the extent required by the terms of the Indenture) except (a) with the prior written consent of the Issuer, (b) such Confidential Information as the Rating Agency shall reasonably request in connection with its rating of the Secured Notes or supplying credit estimates on any obligation included in the Assets, (c) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions with respect to the Assets on behalf of the Issuer, (d) as required by (i) applicable law, regulation, court order, or a request by a governmental regulatory agency with jurisdiction over the

Portfolio Manager or any of its Affiliates, (ii) the rules or regulations of any stock exchange or self-regulating organization, body or official having jurisdiction over the Portfolio Manager or any of its Affiliates or (iii) the Irish Stock Exchange, (e) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (f) such Confidential Information as shall have been publicly available or disclosed other than in known violation of this Agreement or the provisions of the Indenture or shall have been obtained by the Portfolio Manager on a non-confidential basis, (g) such Confidential Information as is necessary or appropriate to disclose so that the Portfolio Manager may perform its duties hereunder, under the Indenture or the related documents or (h) general performance information which may be used by the Portfolio Manager or its Affiliates in connection with their marketing activities. Notwithstanding the foregoing, it is agreed that the Portfolio Manager may disclose (a) that it is serving as portfolio manager of the Issuer, (b) the nature, aggregate principal amount and overall performance of the Issuer's assets, (c) the amount of earnings on the Assets, (d) such other Confidential Information about the Issuer, the Assets and the Notes as is customarily disclosed by managers of collateralized loan obligations and (e) each of its respective employees, representatives or other agents may disclose to any and all Persons, without limitation of any kind, the United States federal income tax treatment and United States federal income tax structure of the transactions contemplated by the Indenture, this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them relating to such United States federal income tax treatment and United States income tax structure. For purposes of this Section 7, the Holders and beneficial owners of the Notes shall not be considered "non-affiliated third parties."

8. Obligations of Portfolio Manager.

In accordance with the performance standard set forth in Section 3(b), the Portfolio Manager shall use commercially reasonable efforts to ensure that no action is taken by it, and shall not intentionally or with reckless disregard take any action, which would (a) materially and adversely affect the status of the Issuer for purposes of Cayman Islands law, United States federal or state law, or other law known to the Portfolio Manager to be applicable to the Issuer, (b) not be permitted by the Issuer's Governing Instruments, (c) violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer, including, without limitation, actions which would violate any Cayman Islands law, United States federal, state or other applicable securities law that is known by the Portfolio Manager to be applicable to it and, in each case, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer or have a material adverse effect on the ability of the Portfolio Manager to perform its obligations hereunder or under the Indenture, (d) require registration of the Issuer, the Co-Issuer or the pool of Assets as an "investment company" under Section 8 of the Investment Company Act, (e) cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise cause the Issuer to be subject to U.S. federal or state income tax on a net basis; *provided* that it shall not be a violation of this clause (e) for the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis as a result of an action taken either (i) in compliance with the Trading Restrictions

attached hereto as Schedule 1 or (ii) in reliance upon Tax Advice to the effect that, under the relevant facts and circumstances with respect to such action, the Issuer's contemplated action "will" not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis, so long as (in respect of either (i) or (ii)) (x) there has been no material change in U.S. federal income tax law or the interpretation thereof that is relevant to such action since the date of such Tax Advice or the date hereof, as applicable; and (y) the Portfolio Manager does not have actual knowledge that such action, when considered in the light of the other activities of the Issuer, would cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes; or (f) knowingly and willfully adversely affect the interests of the Holders in the Assets in any material respect (other than (i) as expressly permitted hereunder or under the Indenture or (ii) in connection with any action taken in the ordinary course of business of the Portfolio Manager in accordance with its fiduciary duties to its clients). In furtherance of the foregoing clause (e), the Portfolio Manager shall at all times comply with the Trading Restrictions set forth in Schedule 1, except with respect to actions taken in compliance with clause (e)(ii). If the Portfolio Manager is ordered by the Board of Directors of the Issuer or the requisite Holders or beneficial owners of Notes to take any action which would, or could reasonably be expected to, in each case in its reasonable business judgment, have any such consequences, the Portfolio Manager shall promptly notify the Issuer that such action would, or could reasonably be expected to, in each case in its reasonable business judgment, have one or more of the consequences set forth above and shall not take such action unless the Board of Directors of the Issuer then request the Portfolio Manager to do so and at least a Majority of both the Controlling Class and the Subordinated Notes (voting separately by Class) have consented thereto in writing. Notwithstanding any such request, the Portfolio Manager shall not take such action unless (1) arrangements satisfactory to it are made to insure or indemnify the Portfolio Manager, Affiliates of the Portfolio Manager and members, shareholders, partners, directors, managers, officers or employees of the Portfolio Manager or such Affiliates from any liability and expense it may incur as a result of such action and (2) if the Portfolio Manager so requests in respect of a question of law, the Issuer delivers to the Portfolio Manager an opinion of a nationally recognized law firm (from outside counsel satisfactory to the Portfolio Manager) that the action so requested does not violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer or over the Portfolio Manager. Neither the Portfolio Manager nor its Affiliates, shareholders, partners, directors, members, managers, officers or employees shall be liable to the Issuer or any other Person, except as provided in Section 11. Notwithstanding anything contained in this Agreement to the contrary, any indemnification or insurance by the Issuer provided for in this Section 8 or Section 11 shall be payable out of the Assets in accordance with the Priority of Payments, and the Portfolio Manager may take into account such Priority of Payments in determining whether any proposed indemnity arrangements contemplated by this Section 8 are satisfactory. The Portfolio Manager will comply in all material respects with requirements of the U.S. Risk Retention Rules applicable to it in connection with the performance of its duties under this Agreement and the Indenture, in each case, except in such instances in which (i) such requirement, order, writ, injunction or decree is

being contested in good faith by appropriate proceedings diligently conducted or (ii) failure to comply therewith would not have a Material Adverse Effect on the Issuer or a material adverse effect on the ability of the Portfolio Manager to perform its obligations hereunder or under the Indenture.

9. Compensation.

(a) The Issuer shall pay to the Portfolio Manager, for services rendered under this Agreement, on each Payment Date, the Senior Management Fee. Accrued and unpaid Senior Management Fees shall be paid as set forth in Article 11 of the Indenture.

(b) The Portfolio Manager shall pay (without reimbursement by the Issuer) its general overhead expenses, including (i) all costs and expenses on account of salaries, wages, bonuses and other employee benefits of the Portfolio Manager and (ii) all occupational expenses, including rent, taxes and utilities, of the Portfolio Manager. The Issuer shall pay or reimburse the Portfolio Manager (at closing in the case of clause (i) below) for its payment of any and all reasonable costs and expenses incurred on behalf of the Issuer, including, without limitation: (i) the costs and expenses of the Portfolio Manager incurred in connection with the negotiation and preparation of this Agreement and all other agreements and matters related to the issuance of the Debt; (ii) any transfer fees necessary to register any Collateral Obligation in accordance with the Indenture; (iii) any costs, fees and expenses in connection with the acquisition, management or disposition of Assets or otherwise in connection with the Notes or the Issuer (including (a) investment related travel, communications and related expenses, (b) loan processing fees, legal fees and expenses and other expenses of professionals retained by the Portfolio Manager on behalf of the Issuer and (c) amounts in connection with the termination, cancellation or abandonment of a potential acquisition or disposition of any Assets that is not consummated); (iv) any and all costs and expenses incurred in connection with the carrying or management of the Assets; (v) any and all costs and expenses incurred in connection with the Notes and other indebtedness of the Issuer; (vi) any and all attorneys', accountants', rating agencies', consultants', brokers' and other professionals' fees and disbursements relating to Issuer matters (including in house attorneys' and accountants' services provided by or on behalf of the Portfolio Manager to the Issuer as may be reasonably allocated to the Issuer); (vii) any and all taxes and governmental charges that may be incurred or payable by the Issuer or any ETB Subsidiary; (viii) any and all insurance premiums or expenses incurred in connection with the activities of the Issuer by the Portfolio Manager; (ix) any and all costs, fees and expenses incurred in connection with the rating of the Debt or obtaining ratings or credit estimates on Collateral Obligations, and communications with the Rating Agency (including (a) any expenses related to compliance with Rule 17g-5 of the Securities Exchange Act of 1934, as amended, and (b) any fees, expenses or other amounts payable to the Rating Agency); (x) any and all costs, fees and expenses incurred in connection with the Portfolio Manager's communications with the Holders (including charges related to annual meetings) and costs and expenses for services to the Issuer in respect of the Assets relating to asset pricing and rating services and specialty database software licensing and development fees; (xi) any and all costs and expenses incurred by the Portfolio Manager

in connection with the establishment of any ETB Subsidiary (*provided* that such costs and expenses are directly attributable to the establishment of such ETB Subsidiary), and (xii) any and all expenses incurred to comply with any law or regulation related to the activities of the Issuer, any ETB Subsidiary and the Portfolio Manager. Other than as stated above, the Issuer will bear, and will pay directly in accordance with the Indenture, all other costs and expenses incurred by it or on its behalf in connection with the organization, operation or liquidation of the Issuer.

(c) Upon the effectiveness of any termination of this Agreement or any removal or resignation of the Portfolio Manager hereunder, all Senior Management Fees accrued but not paid prior to the effective date of such termination, removal, resignation or assignment, as the case may be (the "Exit Date"), shall continue to be payable to the exiting Portfolio Manager on Payment Dates occurring after the Exit Date.

(d) Notwithstanding anything contained herein to the contrary, the obligations of the Issuer are limited recourse obligations payable solely from Assets granted to the Trustee pursuant to the Granting Clauses of the Indenture in accordance with the Priority of Payments and, following realization of the Assets and reduction thereof to zero, all obligations of the Issuer and any claims against the Issuer under this Agreement shall be extinguished and shall not thereafter revive. No recourse shall be had for the payment of any amount owing in respect of this Agreement against any other asset of the Issuer or against any officer, director, employee, shareholder or incorporator of the Issuer. The provisions of this Section 9(d) shall survive termination of this Agreement.

10. Benefit of the Agreement.

The Portfolio Manager agrees that its obligations hereunder in accordance with the terms of this Agreement and the terms of the Indenture applicable to it shall be enforceable by the Issuer and by the Trustee on behalf of the Holders, as provided in the Indenture. The Portfolio Manager agrees and consents to the provisions contained in Section 15.1 of the Indenture.

11. Limits of Portfolio Manager Responsibility.

(a) Subject to Section 8, the Portfolio Manager assumes no responsibility under this Agreement other than to render the services called for hereunder and under the terms of the Indenture applicable to it and affecting the duties and functions that have been delegated to it thereunder and hereunder in good faith and, subject to the standard of conduct described in the next succeeding sentence. The Portfolio Manager shall not be responsible for any action or inaction of the Co-Issuers or the Collateral Agent in declining to follow any advice, recommendation or direction of the Portfolio Manager including as set forth in Section 8. Neither the Portfolio Manager nor any of its directors, managers, officers, stockholders, members, partners, partnership committee members, personnel, employees, agents or Affiliates will be liable to the Co-Issuers, the Collateral Agent, the Trustee, the Holders of the Debt, the Placement Agent or any other Person for any act, omission, error of judgment, mistake of law, or for any claim, loss, liability, damage, judgments, assessments, settlement, cost, or other expense

(including attorneys' fees and expenses and court costs) arising out of any investment, or for any other act taken by or recommended by or omission arising out of or in connection with the performance by the Portfolio Manager, its directors, managers, officers, stockholders, members, personnel, partners, partnership committee members, employees, agents or Affiliates under this Agreement or the terms of the Indenture applicable to the Portfolio Manager, incurred as a result of actions taken or recommended or for any omissions of the Portfolio Manager, or for any decrease in the value of the Collateral Obligations, except that the Portfolio Manager shall be liable (i) by reason of acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance of its obligations hereunder or the terms of the Indenture applicable to the Portfolio Manager or, (ii) with respect to the information concerning the Portfolio Manager included in the Offering Memorandum dated April 18, 2017 (the "Offering Memorandum") under the headings "*Risk Factors—Risks Relating to the Portfolio Manager*" and the sub-headings thereunder, "*Risk Factors—Risks Relating to the Issuer and its Service Providers—The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager*" (the "Portfolio Manager Information") as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Portfolio Manager shall not be liable for any consequential, punitive, exemplary or treble damages or lost profits hereunder or under the Indenture. The Issuer (the Issuer in such case, the "Indemnifying Party") shall indemnify and hold harmless the Portfolio Manager, its directors, managers, officers, stockholders, members, partners, partnership committee members, agents, personnel and employees and its Affiliates and their directors, managers, officers, stockholders, members, partners, partnership committee members, agents, personnel and employees (each, an "Indemnified Party") from and against any and all losses, claims, damages, judgments, assessments, costs or other liabilities (other than losses in the value of a Collateral Obligation or Eligible Investment incurred by the Portfolio Manager or any of its Affiliates in connection with a transaction in which it elects to acquire a Collateral Obligation or an Eligible Investment from the Issuer as principal) (collectively, "Liabilities"), and will promptly reimburse each such Indemnified Party for all reasonable fees and expenses (including reasonable fees and expenses of counsel) as such fees and expenses (collectively, the "Expenses") are incurred in investigating, preparing, pursuing or defending any claim, action, proceeding or investigation with respect to any pending or threatened litigation (collectively, the "Actions"), caused by, or arising out of or in connection with the Assets or business of the Issuer or any ETB Subsidiary or otherwise relating to the Indenture or this Agreement, and/or any action taken by, or any failure to act by, such Indemnified Party; *provided* that the Portfolio Manager shall not be indemnified for any Liabilities or Expenses (x) it incurs as a result of any acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance by the Portfolio Manager of its obligations hereunder or the terms of the Indenture applicable to the Portfolio Manager, or (y) it incurs with respect to the Portfolio Manager Information as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the

circumstances under which they were made, not misleading. Notwithstanding anything contained herein to the contrary, the obligations of the Issuer under this Section 11 are limited recourse obligations of the Issuer payable solely out of the Assets in accordance with the Priority of Payments. The Indemnified Parties are not required to consult with, or obtain the consent of, the Issuer with respect to any settlement, negotiation or other act of the Indemnified Parties in connection with any Action.

(b) The Portfolio Manager shall indemnify and hold harmless (the Portfolio Manager in such case, the "Indemnifying Party") the Issuer (the Issuer in such case, the "Indemnified Party") from and against any and all expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) arising directly out of any information described in Section 11(a)(ii) above, as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided* that the Portfolio Manager shall not be liable for any special, indirect, consequential, punitive, exemplary or treble damages or lost profits.

(c) The Indemnified Party shall promptly notify the Indemnifying Party if the Indemnified Party receives a complaint, claim, compulsory process or other notice of any losses or damages giving rise to a claim for indemnification under this Section 11, but failure so to notify the Indemnifying Party or to comply with paragraph (d) below shall not relieve such Indemnifying Party from its obligations under this Section 11 unless and to the extent that such Indemnifying Party did not otherwise learn of such action or proceeding and to the extent such failure results in the forfeiture by the Indemnifying Party of material rights and defenses.

(d) With respect to any claim made or threatened against an Indemnified Party, or compulsory process or request served upon such Indemnified Party for which such Indemnified Party is or may be entitled to indemnification under this Section 11, such Indemnified Party shall:

(i) at the Indemnifying Party's expense, provide the Indemnifying Party such information and cooperation with respect to such claim as the Indemnifying Party may reasonably require, including, but not limited to, making appropriate personnel available to the Indemnifying Party at such reasonable times as the Indemnifying Party may request;

(ii) at the Indemnifying Party's expense, cooperate and take all such steps as the Indemnifying Party may reasonably request to preserve and protect any defense to such claim;

(iii) in the event suit is brought with respect to such claim, upon reasonable prior notice, afford to the Indemnifying Party the right, which the Indemnifying Party may exercise in its sole discretion and at its expense, (A) to participate in the investigation, defense and settlement of such claim, and, (B) to the extent that it shall wish, to assume the defense thereof, with counsel

satisfactory to such Indemnified Party (who shall not, except with the consent of the Indemnified Party, be counsel to the Indemnifying Party), and, after notice from the Indemnifying Party to such Indemnified Party of its election so to assume the defense thereof, the Indemnifying Party shall not be liable to such Indemnified Party under such subsection for any legal fees and expenses of other counsel or any other expenses, in each case subsequently incurred by such Indemnified Party, in connection with the defense thereof other than reasonable costs of investigation, except that, if such Indemnified Party reasonably determines that counsel selected by the Indemnifying Party has a conflict of interest, such Indemnifying Party shall pay the reasonable fees and disbursements of one additional counsel selected by the Indemnified Party (in addition to any local counsel) separate from its own counsel for all Indemnified Parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances; and

(iv) neither incur any material expense to defend against nor make any admission with respect thereto, nor permit a default or consent to the entry of any judgment in respect thereof, in each case without the prior written consent of the Indemnifying Party; *provided* that the Indemnifying Party shall have advised such Indemnified Party that such Indemnified Party is entitled to be indemnified hereunder with respect to such claim.

(e) No Indemnified Party shall, without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, settle or compromise any claim giving rise to a claim for indemnity hereunder, or permit a default or consent to the entry of any judgment in respect thereof; *provided* that if the Indemnified Party is the Portfolio Manager or an Affiliate or a Related Entity of the Portfolio Manager or of an Affiliate thereof, such Indemnified Party shall not be required to seek or obtain such consent if it determines in good faith that the Indemnifying Party is unlikely to have sufficient funds available to indemnify it in full, taking into account the Priority of Payments.

(f) No Indemnifying Party shall, without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, settle or compromise or consent to the entry of any judgment with respect to any claim giving rise to a claim for indemnity hereunder if such settlement includes a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party.

(g) If the indemnification provided for in this Section 11 is unavailable to an Indemnified Party in respect of any claims or liabilities referred to herein, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such claims or liabilities in such proportion as is appropriate to reflect the relative benefits received by, and the relative fault of, the Indemnifying Party, on the one hand, and the Indemnified Parties, on the other hand, as well as any other relevant equitable considerations.

(h) The required indemnification provided by this Section 11 shall be in addition to any rights to which an Indemnified Party may otherwise be entitled by contract or as a matter of law, and shall extend to each of its or his or her heirs, successors and assigns. The provisions of this Section 11 shall continue to afford protection to each Indemnified Party regardless of whether such Indemnified Party remains in the position or capacity pursuant to which such Indemnified Party became entitled to indemnification under this Section 11.

(i) United States federal securities laws impose liabilities under certain circumstances on persons who act in good faith and nothing herein shall constitute a waiver or limitation of any rights which the Issuer or any Holder of Notes may have under any applicable federal securities laws.

(j) Notwithstanding anything in this Agreement to the contrary, the Portfolio Manager's obligations hereunder will be solely the obligations of the Portfolio Manager, and the Issuer will not have any recourse to any Manager Related Party other than the Portfolio Manager, with respect to any claims, losses, damages, liabilities, indemnities or other obligations in connection with any transactions contemplated hereby.

(k) The Portfolio Manager shall not be liable for any act or omission of the custodian, any sub-custodian, prime broker or other Person appointed by the Issuer. Any compensation to any such Person for its services to the Issuer shall be the obligation of the Issuer and not the Portfolio Manager.

(l) The Portfolio Manager shall not be responsible for any liability resulting from any failure by the Portfolio Manager to fulfill its duties under this Agreement if such liability or failure shall be caused by or directly or indirectly due to a Force Majeure Event, *provided* that the Portfolio Manager shall use commercially reasonable efforts to minimize the effect of the same. As used herein, the term "Force Majeure Event" means such an operation of the forces of nature as reasonable foresight and ability could not foresee or reasonably provide against including but not limited to, acts of god, flood, war (whether declared or undeclared), terrorism, fire, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services contemplated by this Agreement, inability to obtain material, equipment, or communications or computer facilities, or the failure of equipment or interruption of communications or computer facilities, and other causes beyond a party's control whether or not of the same class or kind as specifically named above.

(m) The Portfolio Manager shall be entitled to conclusively rely in good faith, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, facsimile, email, telex or teletype message, statement (which may be made orally or by telephone), order or other document or communication reasonably believed by it to be genuine and correct and to have been signed, sent or made by a Person that the Portfolio Manager has no reason to

believe is not duly authorized and upon the advice and statements of independent accountants.

(n) The Portfolio Manager may consult with outside legal counsel of nationally recognized standing in the United States experienced in such matters as to questions of law pertaining to the performance of its duties hereunder and the advice or opinion of such counsel on any such question shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with the advice or opinion of such counsel; *provided* that the Portfolio Manager may take actions not permitted by the Trading Restrictions only in compliance with Section 8.

12. No Partnership or Joint Venture.

The Issuer and the Portfolio Manager are not partners or joint venturers with each other and nothing herein shall be construed to make them such partners or joint venturers or impose any liability as such on either of them. The Portfolio Manager's relation to the Issuer shall be deemed to be that of an independent contractor.

13. Term; Termination.

(a) This Agreement shall commence as of the date first set forth above and shall continue in force and effect until the first of the following occurs: (i) the payment in full of the Notes and the termination of the Indenture in accordance with its terms; (ii) the liquidation of the Assets and the final distribution of the proceeds of such liquidation to the Holders; or (iii) the termination of this Agreement in accordance with subsections (b) of this Section 13 or Section 15 of this Agreement.

(b) Notwithstanding any other provision hereof to the contrary but subject to the provisions of clause (e) below, this Agreement may be terminated without cause by the Portfolio Manager, and the Portfolio Manager may resign, upon 90 days' (or such shorter notice as is acceptable to the Issuer) written notice to the Issuer; *provided* that the Portfolio Manager shall have the right to resign immediately upon the effectiveness of any material change in applicable law or regulations which renders the performance by the Portfolio Manager of its duties hereunder or under the Indenture to be a violation of such law or regulation.

(c) Notwithstanding the provisions of clause (b) above, no resignation or removal of the Portfolio Manager or termination of this Agreement pursuant to such clause shall be effective until the date as of which a successor Portfolio Manager shall have been appointed and approved in accordance with Section 13(e) and has accepted all of the Portfolio Manager's duties and obligations pursuant to this Agreement in writing and has assumed such duties and obligations.

(d) If this Agreement is terminated pursuant to this Section 13, neither party shall have any further liability or obligation to the other, except as provided in Section 3(h)(i), Sections 9(c) and (d) and Sections 11 and 16 of this Agreement.

(e) Any termination, removal or resignation of the Portfolio Manager while any Notes are Outstanding will be effective only upon (a) the appointment by the Issuer, (x) at the direction of a Majority of the Subordinated Notes, with the consent of a Majority of the Controlling Class, of a successor Portfolio Manager and (y) if the Controlling Class does not consent to such appointment within 30 days, at the direction of a Majority of the Controlling Class, with the consent of a Majority of the Subordinated Notes, in each case, that is an established institution which (i) has demonstrated an ability to professionally and competently perform duties reasonably comparable to those imposed upon the Portfolio Manager hereunder, (ii) is legally qualified and has the capacity to act as successor to the Portfolio Manager under this Agreement in the assumption of all of the responsibilities, duties and obligations of the Portfolio Manager hereunder and under the terms of the Indenture applicable to the Portfolio Manager, (iii) satisfies the Moody's Rating Condition, (iv) shall not cause the Issuer or the Co-Issuer or the pool of collateral to become required to register under the provisions of the Investment Company Act and (v) shall not result in the imposition of any entity-level or withholding tax on the Issuer or the payments to the Holders or cause any other material adverse tax consequences to the Issuer and (b) written acceptance of appointment by such successor Portfolio Manager. The Issuer shall use its commercially reasonable efforts to appoint a successor Portfolio Manager to assume the duties and obligations of the removed or resigning Portfolio Manager. The Issuer, the Trustee and the successor Portfolio Manager shall take such action (or cause the outgoing Portfolio Manager to take such action) consistent with this Agreement and the terms of the Indenture applicable to the Portfolio Manager, as shall be necessary to effectuate any such succession. In the event that the successor manager has not been appointed or has not assumed the duties of the Portfolio Manager in writing within an additional 30 day period after the Controlling Class has failed to consent to or nominate a successor Portfolio Manager to which the Subordinated Notes have failed to consent, any of the Portfolio Manager, a Majority of the Controlling Class or a Majority of the Subordinated Notes may petition a court of competent jurisdiction for the appointment of a successor Portfolio Manager, which appointment will not require the consent of, or be subject to the approval or disapproval of, the Issuer or any Holder (so long as such court appointed successor meets the requirements of clauses (a)(i) through (v) above).

(f) In the event of removal of the Portfolio Manager pursuant to this Agreement by the Issuer or, to the extent so provided in the Indenture, by the Trustee, the Issuer shall have all of the rights and remedies available with respect thereto at law or equity, and, without limiting the foregoing, the Issuer or, to the extent so provided in the Indenture, the Trustee may by notice in writing to the Portfolio Manager as provided under this Agreement terminate all the rights and obligations of the Portfolio Manager under this Agreement (except those that survive termination pursuant to Section 13(d) above). Upon resignation or removal of the Portfolio Manager in accordance with this Section 13 or Section 15 of this Agreement, as applicable, and upon acceptance by a successor Portfolio Manager of appointment, all authority and power of the Portfolio Manager under this Agreement and the Indenture, whether with respect to the Assets or otherwise, shall automatically and without further action by any Person pass to and be vested in the successor Portfolio Manager.

(g) Any successor Portfolio Manager shall agree, as condition precedent to assuming the obligations of the Portfolio Manager hereunder, that, in the event the initial Portfolio Manager determines at any time (based on advice of nationally recognized counsel experienced in such matters) that it is necessary or advisable under the applicable requirements under Section 15G of the Exchange Act of 1934 and the applicable rules and regulations thereunder (the "U.S. Risk Retention Requirements") to transfer the eligible horizontal residual interest retained by for purposes of the U.S. Retention Requirements (the "U.S. Retention Interest") (or cause the U.S. Retention Holder to transfer the U.S. Retention Interest) to the successor Portfolio Manager, such successor Portfolio Manager shall acquire such U.S. Retention Interest from the initial Portfolio Manager and/or the U.S. Retention Holder on an arm's-length basis.

(h) For so long as Acis CLO Management, LLC or an Affiliate of Acis CLO Management, LLC is the Portfolio Manager, the Issuer and the Co-Issuer will be permitted to use the "Acis" name; *provided* that, if the Portfolio Manager ceases to be Acis CLO Management, LLC or an Affiliate of Acis CLO Management, LLC, the Issuer shall use commercially reasonable efforts to change its name to remove all reference to the name "Acis" therefrom. In addition, the Portfolio Manager, without the consent of the Issuer, may change the name of the Portfolio Manager.

14. Delegation; Assignments.

(a) Except as provided herein, the Portfolio Manager may not assign its rights or responsibilities hereunder without the written consent of the Issuer, a Majority of the Subordinated Notes (*provided* that failure to object within 45 days of written notice of assignment will constitute consent) and a Majority of the Controlling Class and satisfaction of the Moody's Rating Condition. Notwithstanding the foregoing, the Portfolio Manager may, (i) with the consent of a Majority of the Controlling Class and without satisfaction of the S&P Rating Condition or the consent of any other Class, assign any of its rights or obligations hereunder to an Affiliate; *provided* that such Affiliate (A) has demonstrated ability, whether as an entity or by its personnel, to professionally and competently perform duties similar to those imposed upon the Portfolio Manager pursuant to this Agreement, (B) has the legal right and capacity to act as Portfolio Manager hereunder and (C) shall not cause the Issuer or the pool of collateral to become required to register under the provisions of the Investment Company Act, or (ii) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity and, (A) at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Portfolio Manager hereunder generally and the other entity is solely a continuation of the Portfolio Manager in another corporate or similar form and has substantially the same staff and (B) such action does not cause the Issuer to be subject to tax in any jurisdiction outside of its jurisdiction of incorporation; *provided* that the Portfolio Manager shall deliver prior notice to the Rating Agencies of any assignment, delegation or combination made pursuant to this sentence.

(b) Notwithstanding the foregoing to the extent that applicable law requires the consent of the Issuer to any "assignment" (as defined in the Investment Advisers Act) of this Agreement to any Person, in whole or in part, by the Portfolio Manager, such requirement may be satisfied with respect to the Issuer and all holders (i) by obtaining consent to such assignment on behalf of the Issuer from any of the following persons as determined by the Portfolio Manager: (A) one or more directors of the Issuer independent from the Portfolio Manager, (B) the Independent Review Party, or (C) an advisory committee established by the Portfolio Manager; or (ii) in any other manner that is permitted pursuant to then applicable law. Any assignment consented to by the Issuer and such Holders shall bind the assignee hereunder in the same manner as the Portfolio Manager is bound. In addition, the assignee shall execute and deliver to the Issuer and the Trustee a counterpart of this Agreement naming such assignee as Portfolio Manager. Upon the execution and delivery of such a counterpart by the assignee, the Portfolio Manager shall be released from further obligations pursuant to this Agreement, except with respect to its obligations arising under Section 11 of this Agreement prior to such assignment and except with respect to its obligations under Section 3(h)(i) and Section 16 hereof.

(c) This Agreement shall not be assigned by the Issuer without the prior written consent of the Portfolio Manager, and unless the S&P Rating Condition has been satisfied in connection with such assignment, except in the case of assignment by the Issuer to (i) an entity which is a successor to the Issuer permitted under the Indenture, in which case such successor organization shall be bound hereunder and by the terms of said assignment in the same manner as the Issuer is bound thereunder or (ii) the Trustee as contemplated by the Granting Clause of the Indenture. In the event of any assignment by the Issuer, the Issuer shall use its commercially reasonable efforts to cause its successor to execute and deliver to the Portfolio Manager such documents as the Portfolio Manager shall consider reasonably necessary to effect fully such assignment.

15. Termination by the Issuer for Cause.

This Agreement may be terminated, and the Portfolio Manager may be removed for cause by a Majority of the Controlling Class upon 30 days' prior written notice to the Portfolio Manager. For purposes of determining whether the holders of the required percentage of relevant principal amount of the Debt have given notice of removal of the Portfolio Manager for cause, Notes owned or controlled by the Portfolio Manager or any Affiliate thereof or an account or fund managed on a discretionary basis by the Portfolio Manager or its affiliates will be disregarded and deemed to be not outstanding. No such termination or removal shall be effective until the date as of which a successor Portfolio Manager shall have agreed in writing to assume all of the Portfolio Manager's duties and obligations pursuant to this Agreement and as specified in the Indenture. For purposes of determining "cause" with respect to any such termination of this Agreement or removal of the Portfolio Manager, such term includes any one of the following events:

(a) the Portfolio Manager willfully violates, or takes any action that it knows breaches, any material provision of this Agreement or the Indenture applicable to it in bad faith (not including a willful and intentional breach that results from a good faith

dispute regarding reasonable alternative courses of action or interpretation of instructions);

(b) the Portfolio Manager breaches in any respect any provision of this Agreement or any terms of the Indenture applicable to it (other than as covered by clause (a) and it being understood that failure to meet any Coverage Test, any Concentration Limitation, Interest Reinvestment Test or the Collateral Quality Test is not such a violation) (except for any such violations or breaches that have not had, or could not, either individually or in the aggregate, reasonably be expected to have, a material adverse effect on the Issuer) and fails to cure such breach within 30 days of a Responsible Officer receiving notice of such breach, unless, if such breach is remediable, the Portfolio Manager has taken action that the Portfolio Manager believes in good faith will remedy such breach, and such action does remedy such breach, within 60 days after a Responsible Officer receives notice thereof;

(c) the Portfolio Manager is wound up or dissolved or there is appointed over it or a substantial portion of its assets a receiver, administrator, administrative receiver, trustee or similar officer; or the Portfolio Manager (i) ceases to be able to, or admits in writing its inability to, pay its debts as they become due and payable, or makes a general assignment for the benefit of, or enters into any composition or arrangement with, its creditors generally; (ii) applies for or consents (by admission of material allegations of a petition or otherwise) to the appointment of a receiver, trustee, assignee, custodian, liquidator or sequestrator (or other similar official) of the Portfolio Manager or of any substantial part of its properties or assets, or authorizes such an application or consent, or proceedings seeking such appointment are commenced without such authorization, consent or application against the Portfolio Manager and continue undismissed for 60 days; (iii) authorizes or files a voluntary petition in bankruptcy, or applies for or consents (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, arrangement, readjustment of debt, insolvency or dissolution, or authorizes such application or consent, or proceedings to such end are instituted against the Portfolio Manager without such authorization, application or consent and are approved as properly instituted and remain undismissed for 60 days or result in adjudication of bankruptcy or insolvency; or (iv) permits or suffers all or any substantial part of its properties or assets to be sequestered or attached by court order and the order remains undismissed for 60 days;

(d) the occurrence of an Event of Default under the Indenture that consists of a default in the payment of principal or interest on the Secured Debt when due and payable and results primarily from any material breach by the Portfolio Manager of its duties hereunder or under the Indenture, which breach or default is not cured within any applicable cure period;

(e) the occurrence of an act by the Portfolio Manager that constitutes fraud or criminal activity in the performance of its obligations under this Agreement (as determined pursuant to a final adjudication by a court of competent jurisdiction), or the Portfolio Manager being indicted for a criminal offense materially related to its business of providing asset management services;

(f) any senior executive officer of the Portfolio Manager (in the performance of his or her investment management duties) is convicted for a criminal offense materially related to the business of the Portfolio Manager providing asset management services and continues to have responsibility for the performance by the Portfolio Manager hereunder for a period of 10 days after such conviction; or

(g) the inability of the Portfolio Manager to perform its duties hereunder in accordance with the standard of care specified herein due to the termination of the Service Agreements, unless the Portfolio Manager believes in good faith that it will be able to either (i) secure reasonably equivalent substitute services to those that were performed for the Portfolio Manager under the Service Agreements or (ii) perform its duties hereunder in accordance with the applicable standard of care without engaging a third-party service provider, in each case, within 30 days, and the Portfolio Manager is in fact able to secure such services or perform such duties within such 30-day period.

If any of the events specified in the definition of "cause" in this Section 15 shall occur, the Portfolio Manager shall give prompt written notice thereof to the Issuer, the Rating Agencies, each Holder of Debt, the Trustee and the Collateral Agent upon the Portfolio Manager's becoming aware of the occurrence of such event. A Majority of the Controlling Class may waive any event described in (a), (b), (d), (e), (f) or (g) above as a basis for termination of this Agreement and removal of the Portfolio Manager under this Section 15.

16. Action Upon Termination.

(a) From and after the effective date of the termination of the Portfolio Manager's duties and obligations pursuant to this Agreement or resignation or removal of the Portfolio Manager hereunder, the Portfolio Manager shall not be entitled to compensation for further services hereunder, but shall be paid all compensation accrued to the date of termination, as provided in Section 9 hereof, and shall be entitled to receive any amounts owing under Section 11 hereof. Upon such termination, resignation or removal, the Portfolio Manager shall as soon as practicable:

(i) deliver to the Issuer all property and documents of the Trustee or the Issuer or otherwise relating to the Assets then in the custody of the Portfolio Manager; and

(ii) deliver to the Trustee an accounting with respect to the books and records delivered to the Trustee or the successor Portfolio Manager appointed pursuant to Section 13(e) hereof.

Notwithstanding such termination, resignation or removal, the Portfolio Manager shall remain liable to the extent set forth herein (but subject to Section 11 hereof) for its liabilities hereunder arising prior to termination and for any expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) in respect of or arising out of a breach of the representations and warranties made by the Portfolio

Manager in Section 17(b) hereof or from any failure of the Portfolio Manager to comply with the provisions of this Section 16.

(b) The Portfolio Manager agrees that, notwithstanding any termination, it shall reasonably cooperate in any Proceeding arising in connection with this Agreement, the Indenture or any of the Assets (excluding any such Proceeding in which claims are asserted against the Portfolio Manager or any Affiliate of the Portfolio Manager) upon receipt of appropriate indemnification and expense reimbursement.

17. Representations and Warranties.

(a) The Issuer hereby represents and warrants to the Portfolio Manager as follows:

(i) The Issuer has been duly incorporated and is validly existing under the laws of the Cayman Islands, has the full corporate power and authority to own its assets and the securities proposed to be owned by it and included in the Assets and to transact the business in which it is presently engaged and is duly qualified under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of its obligations under this Agreement, the Indenture, the Collateral Administration Agreement or the Notes (collectively, the "Issuer Documents") would require, such qualification, except for failures to be so qualified, authorized or licensed that would not in the aggregate have a material adverse effect on the business, operations, assets or financial condition of the Issuer.

(ii) The Issuer has the necessary corporate power and authority to execute, deliver and perform each of the Issuer Documents and all obligations required thereunder, and has taken all necessary action to authorize each of the Issuer Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Issuer Documents and the performance of all obligations imposed upon it hereunder and thereunder. No consent of any other Person including, without limitation, shareholders and creditors of the Issuer, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority, other than those that may be required under state securities or "blue sky" laws and those that have been or shall be obtained in connection with the Indenture and the issuance of the Notes, is required by the Issuer in connection with the Issuer Documents or the execution, delivery, performance, validity or enforceability of the Issuer Documents or the obligations imposed upon it hereunder or thereunder. This Agreement constitutes, and each instrument or document required hereunder, when executed and delivered hereunder, shall constitute, the legally valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms, subject, as to enforcement, to (a) the effect of bankruptcy, insolvency, or similar laws affecting generally the enforcement of creditors' rights, as such laws would apply in the event of any bankruptcy, receivership, insolvency or similar event applicable to

the Issuer and (b) general equitable principles (whether enforceability of such principles is considered in a proceeding at law or in equity).

(iii) The execution, delivery and performance of this Agreement and the Collateral Administration Agreement and the documents and instruments required hereunder and thereunder do not violate any provision of any existing law or regulation binding on the Issuer, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Issuer, or the Governing Instruments of, or any securities issued by, the Issuer or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Issuer is a party or by which the Issuer or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer, and do not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking (other than the lien of the Indenture).

(iv) The Issuer is not required to register as an "investment company" under the Investment Company Act.

(v) The Issuer is not in violation of its Governing Instruments or in breach or violation of or in default under the Indenture or any other contract or agreement to which it is a party or by which it or any of its assets may be bound, or any applicable statute or any rule, regulation or order (including, without limitation, any anti-money laundering statute or related rule, regulation or order) of any court, government agency or body having jurisdiction over the Issuer or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of this Agreement or the performance by the Issuer of its duties hereunder or under the Collateral Administration Agreement.

(vi) True and complete copies of the Indenture and the Issuer's Governing Instruments have been delivered to the Portfolio Manager.

(vii) The Issuer is a "qualified client" as such term is defined under the Investment Advisers Act.

(viii) The Issuer understands that the rules and regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") prohibit, among other things, the engagement in transactions with, and the provision of services to, certain countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <http://www.treas.gov/ofac>. In addition, the programs administered by OFAC ("OFAC Programs") prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists. To the best of its knowledge, none of:

(1) the Issuer; (2) any person controlling or controlled by the Issuer; (3) any person having a beneficial interest in the Issuer; or (4) any person for whom the Issuer is acting as agent or nominee in connection with this investment is a country, territory, individual or entity named on an OFAC list, or is a person or entity prohibited under the OFAC Programs.

(ix) The Issuer has received and had an opportunity to review a current copy of Part 2 of the Form ADV of Acis CLO Management, LLC, at least forty-eight hours prior to its entering into this Agreement.

The Issuer agrees to deliver a true and complete copy of each amendment to the documents referred to in Section 17(a)(v) above to the Portfolio Manager as promptly as practicable after its adoption or execution.

(b) The Portfolio Manager hereby represents and warrants to the Issuer as follows:

(i) The Portfolio Manager is a limited partnership duly organized and validly existing and in good standing under the laws of the State of Delaware and has full power and authority to own its assets and to transact the business in which it is currently engaged and is duly qualified and in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of this Agreement or the Collateral Administration Agreement (together with this Agreement, the "Manager Documents") would require such qualification, except for those jurisdictions in which the failure to be so qualified, authorized or licensed would not have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or on the ability of the Portfolio Manager to perform its obligations under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager; the Portfolio Manager is registered as an investment adviser under the Investment Advisers Act.

(ii) The Portfolio Manager has full power and authority to execute, deliver and perform each of the Manager Documents and all obligations required hereunder and under the provisions of the Indenture applicable to the Portfolio Manager, and has taken all necessary action to authorize each of the Manager Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Manager Documents and all obligations required hereunder and thereunder and under the terms of the Indenture applicable to the Portfolio Manager. No consent of any other Person, including, without limitation, creditors of the Portfolio Manager, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by the Portfolio Manager in connection with the Manager Documents or the execution, delivery, performance, validity or enforceability of the Manager Documents or the obligations required hereunder and thereunder or under the

terms of the Indenture applicable to the Portfolio Manager. Each of the Manager Documents has been, and each instrument and document required hereunder and thereunder or under the terms of the Indenture shall be, executed and delivered by a duly authorized officer of the Portfolio Manager, and each of the Manager Documents constitutes, and each instrument and document required hereunder and thereunder or under the terms of the Indenture when executed and delivered by the Portfolio Manager hereunder or thereunder or under the terms of the Indenture shall constitute, the valid and legally binding obligations of the Portfolio Manager enforceable against the Portfolio Manager in accordance with their terms, subject to (a) the effect of bankruptcy, insolvency or similar laws affecting generally the enforcement of creditors' rights and (b) general equitable principles.

(iii) The execution, delivery and performance of the Manager Documents and the terms of the Indenture applicable to the Portfolio Manager and the documents and instruments required hereunder or thereunder or under the terms of the Indenture shall not violate any provision of any existing law or regulation binding on the Portfolio Manager, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Portfolio Manager, or the Governing Instruments of, or any securities issued by the Portfolio Manager or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Portfolio Manager is a party or by which the Portfolio Manager or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its obligations under the Manager Documents, and shall not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking, the existence of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its obligations under the Manager Documents.

(iv) There is no charge, investigation, action, suit or proceeding before or by any court pending or, to the best knowledge of the Portfolio Manager, threatened that, if determined adversely to the Portfolio Manager, would have a material adverse effect upon the performance by the Portfolio Manager of its duties under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager hereunder.

(v) The Portfolio Manager is authorized to carry on its business in the United States and in all other jurisdictions necessary to the performance of its obligations under the Manager Documents and the Indenture applicable to the Portfolio Manager.

(vi) The Portfolio Manager is not in violation of its Governing Instruments or in breach or violation of or in default under any contract or agreement to which it is a party or by which it or any of its property may be bound, or any applicable statute or any rule, regulation or order of any court, government agency or body having jurisdiction over the Portfolio Manager or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of the Manager Documents or the provisions of the Indenture applicable to the Portfolio Manager, or the performance by the Portfolio Manager of its duties hereunder or thereunder.

(vii) The Portfolio Manager Information, as of the respective dates of the Offering Memorandum and as of the Closing Date, is true in all material respects and does not omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

18. Notices.

Unless expressly provided otherwise herein, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing (including by facsimile) and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of registered or certified mail, postage prepaid, return receipt requested, or, in the case of facsimile notice, when received in legible form, addressed as set forth below:

(a) If to the Issuer:

ACIS CLO 2017-7 Ltd.
c/o MaplesFS Limited
P.O. Box 1093
Boundary Hall, Cricket Square
Grand Cayman, KY1-1102
Cayman Islands
Attention: The Directors

with a copy to:

Acis CLO Management, LLC
300 Crescent Court
Suite 700
Dallas, TX 75201
Facsimile: 972-628-4155

(b) If to the Portfolio Manager:

Acis CLO Management, LLC
300 Crescent Court
Suite 700
Dallas, TX 75201
Facsimile: 972-628-4155

(c) If to the Trustee:

U.S. Bank National Association
190 S. LaSalle Street, 8th Floor
Chicago, IL 60603
Re: ACIS CLO 2017-7 LTD.
Email: ACIS.CLO.2017.07@USBANK.COM

Any party may alter the address or telecopy number to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 18 for the giving of notice.

19. Binding Nature of Agreement; Successors and Assigns.

Subject to Section 14 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided herein.

20. Entire Agreement.

This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

21. Amendment.

This Agreement may not be modified or amended other than by an agreement in writing executed by the parties hereto and (other than in respect of a modification or amendment of the type that may be made to the Indenture without Holder consent) (i) the consent of a Majority of the Subordinated Notes, (ii) the consent of a Majority of the Controlling Class and (iii) notice to the Rating Agencies. Notwithstanding the foregoing, the parties hereto, without the consent of any Holders and without satisfaction of the Moody's Rating Condition, may amend or modify any provision of this agreement to (i) reflect a change that is of an inconsequential nature, (ii) correct inconsistencies, typographical or other errors, defects or ambiguities, (iii) conform this Agreement to the Offering Memorandum or the Indenture (as it may be amended from time to time) or (iv) reflect a change that is necessary or desirable to satisfy any requirements, conditions or

guidelines contained in any opinion, directive, order, ruling or regulation (including ERISA, the Code, the Investment Advisers Act and the Investment Company Act) of any U.S. federal or state agency or contained in any U.S. federal or state statute. In addition, Schedule 1 may be amended or modified by the parties hereto without the consent of any Holder in accordance with Tax Advice.

22. Conflict with the Indenture.

In the event that this Agreement requires any action to be taken with respect to any matter and the Indenture requires that a different action be taken with respect to such matter, and such actions are mutually exclusive, the provisions of the Indenture (as in effect on the date hereof or as amended or supplemented, with the consent of the Portfolio Manager if such consent is required by Section 3(b)) in respect thereof shall control.

23. Priority of Payments.

The Portfolio Manager agrees that the payment of all amounts to which it is entitled pursuant to this Agreement shall be subordinated to the extent set forth in, and the Portfolio Manager agrees to be bound by the provisions of, Article 11 and Section 15.1 of the Indenture as if the Portfolio Manager were a party to the Indenture and each of the Portfolio Manager and Issuer hereby consents to the assignment of this Agreement as provided in Section 15.1 of the Indenture.

24. Governing Law; Jury Trial.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PROVISIONS THEREOF). EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH OF THE PARTIES HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR SUCH PARTIES ENTERING INTO THIS AGREEMENT.

25. Indulgences Not Waivers.

Neither the failure nor any delay on the part of any party hereto to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with

respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

26. Titles Not to Affect Interpretation.

The titles of Sections and subsections of this Agreement are for convenience only, and they neither form a part of this Agreement nor are they to be used in the construction or interpretation hereof.

27. Execution in Counterparts.

This Agreement may be executed in any number of counterparts by facsimile or other written form of communication, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

28. Provisions Separable.

To the fullest extent permitted by law, in case any provision in this Agreement shall be invalid, illegal or unenforceable as written, such provision shall be construed in the manner most closely resembling the apparent intent of the parties with respect to such provision so as to be valid, legal and enforceable; *provided* that, if there is no basis for such a construction, to the fullest extent permitted by law, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability and, unless the ineffectiveness of such provision destroys the basis of the bargain for one of the parties to this Agreement, the validity, legality and enforceability of the remaining provisions hereof or thereof shall not in any way be affected or impaired thereby.

29. Number and Gender.

Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

30. Jurisdiction and Venue.

The parties to this Agreement irrevocably submit to the non-exclusive jurisdiction of any New York state or federal court sitting in the Borough of Manhattan in The City of New York in any action or proceeding arising out of or relating to this Agreement, the Notes or the Indenture, and the parties irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such New York state or federal court. The parties to this Agreement irrevocably waive, to the fullest extent they may legally do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. The parties to this Agreement irrevocably consent to the service of any and all process in any action or proceeding by the mailing or delivery of copies of such process to it in accordance with Section 18. The parties agree that a final judgment in

any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

31. Third Party Beneficiaries.

Other than as provided below, no party, including any Holder of Notes, is a third party beneficiary of this Agreement. The parties hereby acknowledges and agrees that the Trustee will be a third-party beneficiary of this Agreement.

32. Miscellaneous.

(a) With respect to any Defaulted Obligation, the Portfolio Manager, on behalf of the Issuer, may instruct the agent or the trustee for such Defaulted Obligation to enforce the Issuer's rights under the Underlying Instruments governing such Defaulted Obligation and under any applicable law, rule or regulation in any manner permitted under the Indenture that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer. In the event any Offer is made with respect to any Collateral Obligation or Equity Security, the Portfolio Manager, on behalf of the Issuer, may take such action as is permitted by the Indenture and that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer.

(b) Without prejudice to Section 15(f) hereof, any corporation, partnership or limited liability company into which the Portfolio Manager may be merged or converted or with which it may be consolidated, or any corporation, partnership or limited liability company resulting from any merger, conversion or consolidation to which the Portfolio Manager shall be a party, or any corporation, partnership or limited liability company succeeding to all or substantially all of the collateral management business of the Portfolio Manager, shall be the successor to the Portfolio Manager without any further action by the Portfolio Manager, the Co-Issuers, the Trustee, the Holders or any other Person or entity; *provided* that the Portfolio Manager shall give prompt written notice to the Rating Agency upon any such occurrence.

(c) Notwithstanding anything herein or in the Indenture to the contrary, with respect to any report, information, communication, request, demand, authorization, direction, notice, consent or waiver to be given to the Rating Agency by the Issuer, the Issuer shall instead provide such information to the Portfolio Manager, and the Portfolio Manager shall then provide such information as well as any information related to the transaction requested by the Rating Agency directly from the Portfolio Manager to the Rating Agency via the website established on behalf of the Issuer for purposes of Rule 17g-5 under the Exchange Act.

(d) If the Issuer shall receive any written or oral communication from the Rating Agency (or any of its respective officers, directors or employees) with respect to the transactions contemplated hereby or in any way relating to the Notes, the Issuer agrees to refrain from communicating with the Rating Agency and to promptly (and, in any event, within one Business Day) notify the Portfolio Manager of such

communication. The Issuer agrees to coordinate with the Portfolio Manager with respect to any communication to the Rating Agency and further agrees that in no event shall it engage in any oral or written communication with respect to the transactions contemplated hereby or in any way relating to the Notes with the Rating Agency (or any of its respective officers, directors or employees) without the participation of the Portfolio Manager.

33. Power of Attorney.

The Issuer hereby makes, constitutes and appoints each of Hunter Covitz and Mark Okada, with full power of substitution, as its true and lawful agent and attorney-in-fact (each an "Attorney" and together the "Attorneys"), jointly and severally with full power and authority in its name, place and stead, in accordance with the terms of this Agreement and the Indenture (a) to prepare, sign and deliver tax documentation, transfer documentation and all other documentation in connection with the acquisition and sale by the Issuer of Collateral Obligations and (b) to (i) vote in its discretion any securities, instruments or obligations included in the Assets, (ii) execute proxies, waivers, consents and other instruments with respect to such Collateral Obligations, (iii) endorse, transfer or deliver such securities, instruments and obligations, (iv) participate in or consent (or decline to consent) to any modification, work-out, restructuring, bankruptcy proceeding, class action, plan of reorganization, merger, combination, consolidation, liquidation or similar plan or transaction with regard to such Collateral Obligations and (v) take any other action specified in Section 3 of this Agreement. This grant of power of attorney will expire (a), with respect to each Attorney (and to each substitute appointed by such Attorney), when such Attorney ceases to be an officer or employee of Acis CLO Management, LLC or an Affiliate thereof, acting on behalf of Acis CLO Management, LLC or (b) upon (x) termination of this Agreement in accordance with its terms or (y) any assignment by the Portfolio Manager of its obligations under this Agreement in accordance with Section 14 hereof.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

Portfolio Manager:

ACIS CLO MANAGEMENT, LLC

By:_____
Name: James Dondero
Title: President

Signatures Continue on Next Page

Signatures Continued from Previous Page

Issuer:

ACIS CLO 2017-7 LTD., Executed as a Deed

By: _____

Name: Wendy Ebanks
Title: Director

Witness: _____

SCHEDULE 1

TRADING RESTRICTIONS

The Issuer (and the Portfolio Manager and the Independent Investment Professional acting on behalf of the Issuer) and any other person acting on behalf or at the direction of the Issuer, and any Affiliate of the Issuer, will comply with all of the provisions set forth in this Schedule 1 (the "Trading Restrictions") unless, with respect to a particular transaction, the Portfolio Manager shall have received Tax Advice in compliance with Section 8 of this Agreement. For purposes of these Trading Restrictions, a "Collateral Obligation" shall include any "Assets" as defined in the Indenture.

The Issuer shall acquire, hold, lend and dispose of Collateral Obligations only for its own account, and shall acquire and hold its Collateral Obligations solely for investment with the expectation and intention of realizing a profit from income earned on the Collateral Obligations and/or any increase in their value during the interval of time between acquisition and disposition thereof.

Notwithstanding any other provision of these Trading Restrictions, the Issuer shall not (each of the following, a "Prohibited Activity"):

(i) act as, or engage in any activities customarily undertaken by, an agent, arranger, or structuring agent with respect to, or negotiate the terms of, any Collateral Obligation or otherwise; *provided* that, notwithstanding the foregoing, after the date on which the Issuer has acquired a Collateral Obligation, the Issuer may exercise any voting or other rights available to a holder of a Collateral Obligation under the terms of the Collateral Obligation, and may accept or reject any amendment or modification of the terms of that Collateral Obligation if (w) the amendment or modification is proposed by the obligor under that Collateral Obligation and does not require or provide for any advance of additional funds, the Collateral Obligation is not an Affiliate Collateral Obligation (as defined below), neither the Issuer nor the Portfolio Manager, nor any Affiliate of either, has participated directly or indirectly in the negotiation of the amendment or modification, and the Issuer is not the largest holder of the Collateral Obligation, or (x) the modification does not require or provide for any advance of additional funds by the Issuer and would not constitute a Significant Modification (for purposes of this clause, "Significant Modification" means any amendment, supplement or modification that involves (1) a change in interest rate or yield of the Collateral Obligation, (2) a change in the stated maturity or the timing of any material payment on the Collateral Obligation (including deferral of an interest payment), (3) a change in the obligor of the Collateral Obligation or (4) a change in the collateral or security for the Collateral Obligation, including the addition or deletion of a co-obligor or guarantor, all within the meaning of United States Department of the Treasury regulation section 1.1001-3), or (y) in the reasonable judgment of the Portfolio Manager, the obligor is in financial distress, the obligor was not in financial distress on the date on which the Issuer acquired such Collateral Obligation and such change in terms is desirable to protect the Issuer's investment, or (z) the Issuer has received Tax Advice that the Issuer's involvement in such amendment, supplement or modification of the terms of that

Collateral Obligation will not cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes;

(ii) act as, hold itself out as, represent to others that it is, or engage in any activities customarily undertaken by, a dealer, middleman, market maker, retailer or wholesaler in any property, or hold as inventory for purposes of resale to customers, any property owned by the Issuer;

(iii) perform services, or hold itself out as willing to perform services, for any person, or have or seek customers;

(iv) register as a broker-dealer under the laws of any country or political subdivision thereof, or register as, or become subject to regulatory supervision or other legal requirements under the laws of any country or political subdivision thereof as, a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business;

(v) take any action causing it to be treated as a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business for purposes of any tax, securities law or other filing or submission made to any governmental authority, any application made to a rating agency, or qualification for any exemption from tax, securities law or any other legal requirements;

(vi) hold itself out to the public as a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business, or hold itself out to the public, through advertising or otherwise, as originating loans or making a market in loans or other assets;

(vii) establish a branch, agency or other place of business within the United States; provided, that entering into this Agreement and the appointment of the Portfolio Manager as described herein shall not be construed as a violation of this clause (vii);

(viii) make any tax election which would cause it to be subject to United States federal, state or local income or franchise tax;

(ix) buy any security in order to earn a dealer spread or dealer mark-up over its cost; or

(x) buy any security with an expectation or intention of restructuring or entering into a workout of such security.

For purposes of this Schedule 1, "dealer" means: (a) a merchant of securities with an established place of business who in the ordinary course of business is engaged as a merchant in purchasing securities and selling them to customers with a view to the gains and profits that may be derived therefrom, and (b) a person that regularly offers to enter into, assume, offset, assign or otherwise terminate positions in derivatives with customers in the ordinary course of a trade or business, including regularly holding itself out, in the

ordinary course of its trade or business, as being willing and able to enter into either side of a derivative transaction.

Requirements With Respect to Collateral Obligations.

The Issuer may acquire Collateral Obligations only by assignment or participation, and may not execute any credit agreement whereby Collateral Obligations are issued. The Issuer shall not acquire any Collateral Obligation, or enter into any understanding, arrangement, forward sale agreement or commitment with any person to acquire any Collateral Obligation (a "Commitment"), in each case (i) prior to 48 hours after the completion of the issuance and funding of such Collateral Obligation, other than as otherwise permitted under "Forward Purchase Commitments" below, or (ii) if the Issuer would own more than 50 percent of the loan, obligation, issue, class or tranche that includes the Collateral Obligation or, if the loan, obligation, issue, class or tranche that includes that Collateral Obligation is part of a larger credit facility, more than 25 percent of that entire credit facility. In the case of any Collateral Obligation that is amended or modified in a manner that constitutes a Significant Modification after issuance and funding of such Collateral Obligation and before acquisition by the Issuer of such Collateral Obligation, any seasoning requirement set forth herein shall be computed and applied with respect to the date of such Significant Modification.

The Issuer shall not have any contractual relationship with the borrower or issuer with respect to a Collateral Obligation until the Issuer actually closes the acquisition of that Collateral Obligation. On the funding date of the Collateral Obligation, the documents relating to the Collateral Obligation shall not list the Issuer as a lender or otherwise as a party to any document relating to the issuance of the Collateral Obligation. The Issuer shall not be a signatory on any lending agreement or any other document relating to the issuance of the Collateral Obligation.

The Issuer shall not have any communications or negotiations with the borrower or issuer of any Collateral Obligation (directly or indirectly through the seller of such Collateral Obligation, the agent, negotiator, originator or structuror thereof, or any other person) prior to the completion of the issuance and funding thereof, in connection with the issuance or funding of such Collateral Obligation or commitments with respect thereto, or the Issuer's acquisition of such Collateral Obligation or the Issuer's Commitment with respect thereto, in each case, except as otherwise permitted under "Forward Purchase Commitments" below. For the avoidance of doubt, (i) the Issuer, or the Portfolio Manager or the Independent Investment Professional acting on its behalf, may, however, undertake customary due diligence communications with an issuer or obligor of any Collateral Obligation that would be reasonably necessary in order for an investor or trader to make a reasonably informed decision to acquire any such Collateral Obligation for its own account, and (ii) nothing contained herein shall prohibit expressions of interest or providing comments as to mistakes or inconsistencies in documents relating to any Collateral Obligation by the Issuer, or by the Portfolio Manager or the Independent Investment Professional acting on its behalf.

The Issuer shall not be entitled to earn or receive from any person any premium, fee, commission or other compensation for services, whether or not denominated as received for services, in connection with acquiring or disposing of a Collateral Obligation, or entering into a commitment to acquire or dispose of a Collateral Obligation, including without limitation, in each case, any amount that is attributable or otherwise determined by reference to the amount of any origination, underwriting or similar profit or related or similar fees for services earned by an underwriter, placement agent, lender, arranger, agent or other similar person in connection with the issuance or funding of a Collateral Obligation. In furtherance and not in limitation of the immediately preceding sentence, the Issuer shall not be entitled to earn or receive directly from any person any separately stated premium, fee or commission that is compensation for services or that is based upon or otherwise determined by reference to the amount of any such services. For the avoidance of doubt, the foregoing prohibition against earning or receiving fees and similar amounts shall not apply to (i) any compensation paid other than for a Prohibited Activity pursuant to the terms of any Collateral Obligation (e.g., a prepayment fee or commitment fee), (ii) any amendment or waiver fee, or (iii) any discount in the price paid by the Issuer for a Collateral Obligation from the price paid by the seller of the Collateral Obligation where such discount is attributable to the time value of money, credit quality of the related borrower, market conditions, or terms and conditions of the Collateral Obligation.

Additional Requirements With Respect to Affiliate Collateral Obligations.

Except as provided below, the Portfolio Manager shall not cause the Issuer to purchase any Collateral Obligation of any borrower or issuer with respect to which the Issuer, Portfolio Manager or any of their Affiliates:

(i) acted as an underwriter, financial advisory, placement or other agent, arranger, negotiator or structuror in connection with the issuance or origination of such Collateral Obligation,

(ii) was an agent, negotiator, structuring agent, bridge loan provider (where a bridge loan is repaid by any Collateral Obligation) or member of the original lending syndicate with respect to such Collateral Obligation, or

(iii) earned or received any compensation relating to the origination of such Collateral Obligation (each such Collateral Obligation, an "Affiliate Collateral Obligation").

The Portfolio Manager on behalf of the Issuer shall be permitted to cause the Issuer to purchase Affiliate Collateral Obligations, *provided* that the following conditions are met:

(I) at least 30 days shall have passed since the issuance and funding of such Affiliate Collateral Obligation and the holder of the Collateral Obligation did not identify the obligation or security as intended for sale to the Issuer within 30 days of its issuance;

(II) following such 30-day period, the Independent Investment Professional shall have approved the purchase by the Issuer of such Affiliate Collateral Obligation after a review of the terms and conditions thereof and a determination that such transaction shall be effected on an arm's length basis and that the purchase price represents fair market value (x) by reference to dealer quotes or the price paid by an unrelated secondary buyer in a material contemporaneous sale on substantially the same terms, or (y) to the extent there is no independent sale or the price paid in such sale is not readily ascertainable, by reference to the fair market value price at which an unrelated independent secondary market acquirer would acquire such Affiliate Collateral Obligation in an arm's length transaction;

(III) the Portfolio Manager or its Affiliate, as the case may be, originated the Collateral Obligation in the ordinary course of its business and not in contemplation of its acquisition by the Issuer; and

(IV) the Issuer may not purchase any Affiliate Collateral Obligation having a greater principal amount than the principal amount of such Affiliate Collateral Obligation held following such purchase by the Portfolio Manager and its Affiliates (excluding the Issuer).

Maintenance of Separate and Independent Status.

At the written request of the Portfolio Manager, the Issuer shall establish a conflicts review board or appoint an independent third party to act on behalf of the Issuer (such board or party, an "Independent Investment Professional") with respect to transactions involving any Affiliate Collateral Obligation. Any Independent Investment Professional (i) shall either (A) be an established financial institution or other financial company with experience in assessing the merits of transactions similar to the transactions involving any Affiliate Collateral Obligation or (B) be a review board comprised of one or more individuals selected by the Issuer (or at the request of the Issuer, selected by the Portfolio Manager), (ii) shall be required to assess the merits of the transaction involving any Affiliate Collateral Obligation and either grant or withhold consent to such transaction in its sole judgment and (iii) shall not be (A) affiliated with the Portfolio Manager (other than as a holder or as a passive investor in the Issuer or an Affiliate of the Issuer) or (B) involved in the daily management and control of the Issuer.

Neither the Independent Investment Professional nor any of the employees or personnel performing duties of the Portfolio Manager on behalf of the Issuer relating to the purchase of Affiliate Collateral Obligations shall be directly or indirectly involved in any origination or underwriting activities with respect to any Collateral Obligation, or have access to any files, records, or other information that is not available to independent unrelated secondary market acquirers concerning the origination or underwriting of any such Collateral Obligation. In addition, neither the Independent Investment Professional nor any of the employees or personnel performing duties of the Portfolio Manager on behalf of the Issuer relating to the purchase of Affiliate Collateral Obligations shall be a party to any discussions or meetings relating to origination or underwriting activities with respect to any Affiliate Collateral Obligation. No employee or personnel of the Portfolio

Manager who is involved in any origination or underwriting activities with respect to any Affiliate Collateral Obligation shall have any direct or indirect influence over the decision making process of the Issuer or the Independent Investment Professional with respect to the acquisition or disposition of any Affiliate Collateral Obligation on behalf of the Issuer, but no such employee or personnel shall be prohibited from making recommendations to the Independent Investment Professional. However, in all cases the decision whether to invest in an Affiliate Collateral Obligation or to sell a Collateral Obligation to the Portfolio Manager or one of its Affiliates shall be an independent decision by the Independent Investment Professional.

Revolving Collateral Obligations, Delayed Drawdown Collateral Obligations and Letter of Credit Facilities.

Neither the Issuer nor the Portfolio Manager acting on the Issuer's behalf shall acquire an interest (including by means of participation) in a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation or a letter of credit facility unless:

(i) such interest is acquired in the secondary market, the acquisition of such interest will not cause the Issuer to hold more than 25 percent of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation or letter of credit facility, and taken together with the aggregate principal amount of other such interests held by the Issuer does not exceed 15% of the aggregate principal amount of all Collateral Obligations held by the Issuer;

(ii) with respect to any Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation:

(a) neither the Issuer, the Portfolio Manager acting on behalf of the Issuer, nor the Independent Investment Professional acting on behalf of the Issuer has participated in the negotiation of the terms of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation;

(b) the terms of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation are fixed as of the date of the Issuer's acquisition thereof and do not provide the Issuer any discretion as to whether to make advances under such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation;

(c) more than a *de minimis* amount of such Collateral Obligation has been funded, or such loan is associated with a term loan to such borrower which has been fully funded; and

(d) the Issuer does not acquire any interest in a Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation which is not associated with a term loan prior to 60 days after the issuance thereof, and all such interests combined shall not exceed 10% of the aggregate principal amount of all assets held by the Issuer; and

(iii) with respect to any letter of credit facility:

(a) (I) such letter of credit facility has been fully funded by the original lender, and such lender has completed all of its obligations with respect to that letter of credit facility (such that the letter of credit facility does not constitute to any extent a Delayed Drawdown Collateral Obligation), at least 48 hours before the Issuer committed to acquire such letter of credit facility; and

(II) the lead or agent lender or bank or other withholding agent with respect to such letter of credit will deduct and withhold all applicable withholding taxes on all payments made to the Issuer with respect to such letter of credit facility that are subject to withholding tax imposed by the United States; or

(b) (I) such letter of credit facility is associated with a term loan to such borrower which has been fully funded;

(II) all terms of such letter of credit facility were fully negotiated and final no later than the time at which the terms of the related loan were fully negotiated and final;

(III) the Issuer, or the Portfolio Manager acting on behalf of the Issuer, holds the same proportionate interest in such letter of credit facility as the proportionate interest it holds in the term loan(s) associated with such letter of credit facility; and

(IV) the lead or agent lender or bank or other withholding agent with respect to such letter of credit will deduct and withhold all applicable withholding taxes on all payments made to the Issuer with respect to such letter of credit facility that are subject to withholding tax imposed by the United States.

Forward Purchase Commitments.

The Issuer shall not have nor make any Commitment to acquire a Collateral Obligation from a seller before completion of the closing, full funding and seasoning (except, with respect to funding, in the case of a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation) of the Collateral Obligation, except as permitted in the following provisions.

If a Commitment is made to acquire a Collateral Obligation, other than an Affiliate Collateral Obligation, from a seller before completion of the closing and full funding of the Collateral Obligation by such seller (the "Original Lender"), such commitment shall only be made pursuant to a forward sale agreement at an agreed price (a "Forward Purchase Commitment"). Any Forward Purchase Commitment with any Original Lender in respect of a Collateral Obligation (other than a Broadly Syndicated Collateral Obligation) may only be made after such Original Lender has delivered its own commitment to acquire its own interest in that Collateral Obligation and after all material terms of the Collateral Obligation have been agreed to.

In the process of making or negotiating to make a Forward Purchase Commitment, the Issuer shall not negotiate with respect to any term of the Collateral Obligation to which the Forward Purchase Commitment relates. The Issuer is not prevented from negotiating the terms of the Forward Purchase Commitment, including the price at which the Issuer shall acquire the Collateral Obligation to which the Forward Purchase Commitment relates.

Except in the case of a Broadly Syndicated Collateral Obligation, if the Issuer enters into a Forward Purchase Commitment to acquire a Collateral Obligation, the Issuer's obligation under the Forward Purchase Commitment shall be conditioned on there being, as of the time the Issuer is to acquire the Collateral Obligation, no material adverse change in the condition of the borrower or issuer, the Collateral Obligation or the financial markets, and in all other respects, the Forward Purchase Commitment may only be conditional to the extent the related counterparty's own commitment in the origination process and funding of the Collateral Obligation is delayed, reduced or eliminated; *provided* that, notwithstanding the foregoing, a Forward Purchase Commitment shall not be required to be conditioned on the absence of a material adverse change if (y) the Issuer enters into the Forward Purchase Commitment no sooner than 48 hours after the Original Lender has delivered its own commitment with respect to the related Collateral Obligation and after all material terms of the Collateral Obligation have been agreed to, and (z) the Issuer's Commitment is documented in a form for secondary market purchases that is substantially similar to that used for commitments given by all other persons who will acquire an interest in the Collateral Obligation from the Original Lender (including as to the absence of a material adverse change condition). In the event of any delayed, reduced or eliminated funding, the Issuer shall not receive any premium, fee, or other compensation in connection with having entered into the Forward Purchase Commitment, other than commitment fees or fees in the nature of commitment fees that are customarily paid in connection with such delays, reductions or eliminations of funding of Collateral Obligations of the type permitted to be purchased by the Issuer.

The Issuer shall not have any contractual relationship with the borrower or issuer with respect to a Collateral Obligation that will be subject to a Forward Purchase Commitment until the Issuer actually closes the acquisition of that Collateral Obligation. On the funding date of the Collateral Obligation, the documents relating to the Collateral Obligation shall not list the Issuer as a lender or otherwise as a party to any document relating to the issuance of the Collateral Obligation. The Issuer shall not be a signatory on any lending agreement or any other document relating to the issuance of the Collateral Obligation.

The Issuer shall not enter into any Forward Purchase Commitment in respect of any Affiliate Collateral Obligation. The Issuer, or Portfolio Manager or the Independent Investment Professional acting on its behalf, may, however, undertake customary due diligence communications with an issuer or obligor of an Affiliate Collateral Obligation or any other Collateral Obligation that would be reasonably necessary in order for an investor or trader to make a reasonably informed decision to acquire any such Collateral Obligation for its own account.

For the avoidance of doubt, except as provided above with respect to Forward Purchase Commitments, the Issuer may enter into a Commitment with respect to a Collateral Obligation only when the Collateral Obligation is funded and at least 48 hours have thereafter elapsed.

For purposes of these guidelines, a "Broadly Syndicated Collateral Obligation" shall mean a Collateral Obligation that: (i) is marketed and sold pursuant to a "customary underwriting"; (ii) is acquired in a "permissible fund acquisition"; and (iii) constitutes a "syndicated loan," each as defined below.

(i) Customary Underwriting. A Collateral Obligation is marketed and sold pursuant to a "customary underwriting" if the Portfolio Manager reasonably believes that the underwriting of the Collateral Obligation includes the following features:

(a) A bank or a syndicate of banks (the "lead bank") negotiates the terms of the Collateral Obligation with the issuer or the borrower;

(b) The lead bank assists the issuer or borrower compile a "confidential information memorandum," a "bank book" or a similar written document to be used in connection with soliciting loan sales, that describes the material terms of the Collateral Obligation and of the issuer or the borrower (a "Bank Book"). For the avoidance of doubt, a Bank Book, once initially provided and disseminated, may be updated to reflect changes to the material terms through supplements or through data postings on Bloomberg, Intralinks or Fintrac;

(c) The lead bank markets or seeks buyers for the Collateral Obligation from a wide (although potentially targeted) group;

(d) The lead bank effectuates its underwriting process through soliciting indications of interest or orders, making loan allocations or similar procedures;

(e) The lead bank is paid or compensated by the issuer or the borrower in respect of its underwriting, arranging, placement or for other similar services; and

(f) The lead bank is free to sell or allocate such Collateral Obligation to the highest bidder (or to allocate the Collateral Obligation based on other criteria determined in its sole discretion), even after (I) a "soft circling" process has occurred, (II) indications of interest have been provided and (III) preliminary allocations have been communicated to investors.

(ii) Permissible Fund Acquisition. A Collateral Obligation is acquired in a "permissible fund acquisition" if the following criteria are satisfied:

(a) Neither the Portfolio Manager, the Issuer nor any Affiliates thereof provided any underwriting, placement, arranging, structuring or other similar

services on behalf of any lending entity or any intermediary in connection with the issuance or origination of such Collateral Obligation;

(b) The Commitment is entered into (x) after receipt of the Bank Book (including any supplements thereto) and (y) at a time when the material terms of such Collateral Obligation (other than interest rate and pricing) have been fully negotiated, it being understood that the interest rate and pricing of the Collateral Obligation might not be finalized until just prior to execution and funding;

(c) The Portfolio Manager has no reason to believe that the Collateral Obligation would not be executed on the same terms regardless of whether the Commitment was made;

(d) The Commitment is provided pursuant to typical allocation procedures and the lead bank for such Commitment has acknowledged that the lead bank is not acting as the agent of the Issuer for this purpose;

(e) The Commitment relates to a purchase of less than 5% of the face amount of the respective tranche of which the Collateral Obligation forms a part;

(f) The Issuer, together with any related or commonly managed or advised parties, purchases less than 15% of the face amount of the respective tranche of which the Collateral Obligation forms a part;

(g) Each Commitment is independently agreed upon (and there is no ongoing understanding or arrangement by which the Issuer has agreed to provide funds to the lead bank or issuers or borrowers) although the Issuer may purchase different tranche of loans offered contemporaneously; and

(h) To the best of its knowledge, the Issuer provides its Commitment at the same time as commitments are provided by the majority of the lending syndicate.

(iii) Syndicated Loan. A Collateral Obligation constitutes a "syndicated loan" if the following criteria are satisfied:

(a) The aggregate size of the Collateral Obligation facility (including undrawn commitments) is at least $100 million;

(b) The Issuer and the Portfolio Manager reasonably believe that the lead bank is acting in the ordinary course of its trade or business of originating and syndicating loans; and

(c) The Collateral Obligation is considered by the market to be a broadly syndicated loan offered to typical institutional non-bank investors.

Equity Restrictions.

The Issuer shall not acquire (whether as part of a "unit" with a Collateral Obligation, in exchange for a Collateral Obligation, or otherwise) any asset that is treated for U.S. federal income tax purposes as:

(i) an equity interest in a partnership, a trust or a disregarded entity (unless all of the assets of such trust or disregarded entity would otherwise qualify either as Collateral Obligations hereunder or as equity interests in entities taxable as corporations for U.S. federal income tax purposes that are not ineligible to be acquired by the Issuer under clause (iv) below);

(ii) a residual interest in a "REMIC" (as such term is defined in the Code);

(iii) an ownership interest in a "FASIT" (as such term is defined in the Code); or

(iv) any asset that constitutes a "United States real property interest" ("USRPI"), including certain interests in a "United States real property holding corporation" ("USRPHC") (as such terms are defined in the Code), except that, if otherwise permitted under the Indenture, the Issuer may acquire and/or hold an interest in a USRPHC under circumstances where the USRPHC may not be liquidated, and stock of the USRPHC may not be sold, unless prior to such liquidation or sale all USRPI held by the USRPHC have been sold and all U.S. federal income taxes payable by the USRPHC have been paid, and the Issuer reasonably believes, at the time of the acquisition of the interest in the USRPHC, that the USRPHC will be liquidated or the stock of the USRPHC will be sold (in each case, in accordance with the restrictions in this clause (iv)) prior to the liquidation of the Issuer.

Synthetic Securities.

The Issuer shall not acquire or enter into any swap transaction or security, which swap transaction or security provides for payments associated with either (i) payments of interest and/or principal on a reference obligation or (ii) the credit performance of a reference obligation.

EXHIBIT 16

ASSIGNMENT AND TRANSFER AGREEMENT

THIS AGREEMENT FOR ASSIGNMENT AND TRANSFER OF PROMISSORY NOTE (this "***Agreement***"), dated as of November 3, 2017, is entered into by and between ACIS CAPITAL MANAGEMENT, L.P., a Delaware limited partnership ("***Acis***"), HIGHLAND CAPITAL MANAGEMENT, L.P., a Delaware limited partnership ("***HCM***") and HIGHLAND CLO MANAGEMENT, LTD., a Cayman Islands exempted company ("***HCLOM***", and together with HCM and Acis, the "***Parties***"). Capitalized terms used herein but not defined have the meanings ascribed thereto in the Agreement for Purchase and Sale of CLO Participation Interests between Acis and HCM dated as of October 7, 2016 (the "***Purchase Agreement***" and the promissory note therein, the "***Note***").

RECITALS

Whereas, Acis is portfolio manager to certain collateralized loan obligations listed in Schedule A of the Purchase Agreement and is entitled to fee compensation in connection therewith as set forth therein (the "***CLOs***", the governing documents thereof, the "***CLO Documents***" and such fees, the "***Servicer Fees***");

Whereas, Acis and HCM entered into the Purchase Agreement, whereby Acis sold a portion of its future Servicer Fees to HCM in exchange for cash flows from HCM, in each case as set forth in the Note (such future Servicer Fees identified to be paid to HCM pursuant to the Purchase Agreement, the "***HCM Stabilization Fees***" and such cash flows from HCM, the "***Stabilization Payments***");

Whereas, HCM has notified Acis that HCM is unwilling to continue to provide support personnel and other critical services to Acis with respect to the CLOs (the "***Notification***");

Whereas, Acis has determined that the effect of the Notification is that it cannot fulfill its duties as portfolio manager of the CLOs, and in order to ensure the continued operation of such CLOs and protection for its stakeholders, it must assign its rights as portfolio manager in the CLOs to a qualified successor portfolio manager pursuant to the CLO Documents (a "***Successor Manager***");

Whereas, HCLOM, a qualified Successor Manager, irrevocably commits to be appointed as Successor Manager in consideration of Acis assigning to it the Note, subject to the conditions set forth in the CLO Documents and pursuant to the terms herein;

Whereas, Acis is expected to incur significant costs and expenses related to ongoing claims and litigation to which Acis is either a party or is otherwise obligated with respect to such costs and expenses (the "Acis Legal Expenses"); and

Whereas, Acis also is expected to have ongoing accounting and administrative expenses (the "Acis Administrative Expenses" and together with the Acis Legal Expenses, the "Acis Expenses").



1



Confidential

AGREEMENT

Now, therefore, in consideration of the promises and mutual agreements set forth herein, and in consideration of the mutual representations, warranties and covenants herein, and intending to be legally bound hereby, the Parties agree as follows:

1. **Succession**. Acis shall promptly provide the Controlling Class (as defined in each of the CLO Indentures) with notice requesting the appointment of HCLOM as Portfolio Manager pursuant to the requirements of the CLO Documents (each, a "***Notice***" and the period between the Notice and an Appointment (as such term is defined below), the "***Post-Notice Period***").

2. **Successor Manager.** Subsequent to the Notices, each of Acis and HCLOM shall promptly pursue Successor Manager appointment of HCLOM in respect of each CLO, including but not limited to achieving all conditions precedent required by the CLO Documents in such respect (consummation of HCLOM's appointment as Portfolio Manager of a given CLO, an "***Appointment***").

3. **Assignment and Transfer of the Promissory Note; Stabilization Payments.**

   a. Effective immediately upon execution of this Agreement by the Parties, all right, title and interest of Acis under the Note, including the right to any and all Stabilization Payments not yet paid to Acis, are hereby irrevocably assigned and transferred by Acis to HCLOM, it being understood that from the date of such assignment, HCLOM shall become the "Payee" thereunder.
   b. For so long as Acis shall receive Servicer Fees following the date hereof, Acis shall remit to HCM the HCM Stabilization Fees pursuant to the Note Purchase Agreement.
   c. For so long as HCLOM receives any Servicer Fees following any Appointment, then HCLOM shall remit to HCM any portion of such fees that would otherwise have constituted HCM Stabilization Fees pursuant to the Note Purchase Agreement if Acis was the recipient of such fees.
   d. HCLOM shall sign a joinder to Note Purchase Agreement upon HCM's written notice thereof.

4. **Expense Support**. In the event Acis delivers written notice to HCLOM that Acis is unable to pay when due any Acis Expenses, then HCLOM shall promptly pay to Acis, or at Acis' written request, to Acis' creditors, the amount of such shortfall, provided that in no event shall HCOLM's obligations under this paragraph exceed greater than $2 million of Acis Legal Expenses in the aggregate, or greater than $1 million of Acis Administrative Expenses in the aggregate.

5. **Indemnity**. Acis shall and hereby does, to the fullest extent permitted by applicable law, advance, indemnify and hold harmless any Covered Person from and against any and all claims, demands, liabilities, costs, expenses, damages, losses, suits, proceedings, judgments, assessments, actions and other liabilities, whether judicial, administrative, investigative or otherwise, of whatever nature, known or unknown, liquidated or

unliquidated ("***Claims***"), that my accrue to or be incurred by any Covered Person, or in which any Covered Person may be threatened, relating to this Agreement, including amounts paid in satisfaction of judgments, in compromise or as fines or penalties, and attorneys' fees and expenses incurred in connection with the preparation for or defense or disposition of any investigation, action, suit, arbitration or other proceeding (a "***Proceeding***"), whether civil or criminal (all of such Claims, amounts and expenses referred to therein are referred to collectively as "***Damages***"), except to the extent that it shall have been determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, that such Damages arose primarily from fraud, bad faith or willful misconduct of such Covered Person. The termination of any Proceeding by settlement, judgment, order, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that any Damages relating to such settlement, judgment, order, conviction or plea of nolo contendere or its equivalent or otherwise relating to such Proceeding arose primarily from fraud, bad faith or willful misconduct of any Covered Persons. "***Covered Person***" means each of HCLOM and HCM, as well as each and every one of their affiliates (other than Acis), and all of HCLOM's and HCM's respective managers, members, principals, partners, directors, officers, shareholders, employees and agents.

6. **Miscellaneous**.

a. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties, provided however that no party hereto may assign or transfer any of its rights or obligation hereunder without the prior written consent of the other parties hereto.

b. No Third Party Beneficiaries. For the avoidance of doubt, this Agreement is not intended to and does not confer any right to any person or entity other than the Parties hereto.

c. Terms Confidential. The Parties agree that they will keep the terms, amounts, and facts of this Agreement completely confidential, and that they will not hereafter disclose any information concerning this Agreement to anyone except their respective attorneys or accountants. Notwithstanding the foregoing prohibition, the Parties shall not be prohibited from disclosing the terms, amounts and facts of this Agreement or this Agreement itself as may be requested by governmental entities or required by law.

d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Cayman Islands, with exclusive jurisdiction in the courts of George Town, Grand Cayman.

e. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

f. Headings. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to articles, sections, paragraphs, exhibits and schedules shall, unless otherwise provided, refer to articles, sections and paragraphs hereof and exhibits and schedules attached hereto, all of which exhibits and schedules are incorporated herein by reference.

g. Notices. All notices, demands and requests required or permitted to be given hereunder shall be in writing and shall be delivered by hand or sent by telecopy (with confirmed transmission), or sent, postage prepaid, by registered, certified or express mail, or reputable overnight courier service, and shall be deemed given when so delivered by hand, or confirmed after telecopying, or if mailed, three (3) business days after mailing (one (1) business day in the case of express mail or overnight courier service), as follows (or to such other address or telecopy number as a party shall specify by notice as provided herein to the other party hereto):

i. If to Acis:
Acis Capital Management, LP
300 Crescent Court, Suite 700
Dallas, Texas 75201
Facsimile: 972-628-4147

ii. If to HCM:
Highland Capital Management, LP
300 Crescent Court, Suite 700
Dallas, Texas 75201
Facsimile: 972-628-4147

iii. If to HCLOM:
Highland CLO Management, Ltd.
PO Box 309
Ugland House
Grand Cayman KY1-1104
Cayman Islands

h. Specific Performance. The Parties agree that the rights created by this Agreement are unique and that the loss of any such rights is not susceptible to monetary quantification. Consequently, the Parties agree that an action for specific performance, including for temporary and/or injunctive relief) of the obligations created by this Agreement is a proper remedy for the breach of the provisions of this Agreement, and HCM shall be

entitled to such relief without the necessity of proving actual damages or posting a bond.

i. Costs, Expenses. The Parties shall each pay their own costs, fees and expenses in connection

j. Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Seller and the Purchaser.

k. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision(s) were so excluded and shall be enforceable in accordance with its terms.

l. Entire Agreement. This Agreement, together with all exhibits and schedules hereto, constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, correspondence, agreements, understandings, duties or obligations between the parties with respect to the subject matter hereof.

m. Further Assurances. From and after the date of this Agreement, upon the reasonable request of the Purchaser, the Seller shall execute and deliver such instruments, documents or other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of November 3, 2017.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its General Partner

By: _____

Name: James Dondero

Title: President

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC, its General Partner

By: _____

Name: James Dondero

Title: President

HIGHLAND CLO MANAGEMENT, LTD.

_____

For and on behalf of Summit Management, Limited

Director

EXHIBIT 17

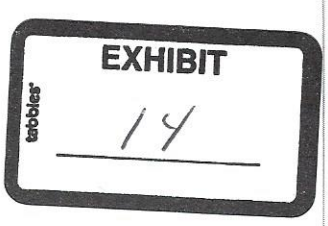
Fill in this information to identify the case:

Debtor 1 Acis Capital Management, L.P.

Debtor 2 (Spouse, if filing) _____

United States Bankruptcy Court for the: Northern District of Texas

Case number 18-30264-sgj11



Official Form 410

Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) **that you received.**

Part 1: Identify the Claim

1. Who is the current creditor?

Highland Capital Management, L.P.
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. Has this claim been acquired from someone else?

☑ No
☐ Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?

Holland O'Neil, Foley Gardere, Foley & Lardner
Name

2021 McKinney Ave, Suite 1600
Number Street

Dallas TX 75201
City State ZIP Code

Contact phone 214-999-3000

Contact email honeil@foley.com

Where should payments to the creditor be sent? (if different)

Scott Ellington, Highland Capital Management
Name

300 Crescent Court, Suite 700
Number Street

Dallas TX 75201
City State ZIP Code

Contact phone _____

Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

_ _

4. Does this claim amend one already filed?

☑ No
☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?

☑ No
☐ Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. **Do you have any number you use to identify the debtor?**
☑ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ ____ ____ ____

7. **How much is the claim?** $ 4,672,140.38 **Does this amount include interest or other charges?**
☑ No
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. **What is the basis of the claim?**
Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
Sub-Advisory Services and Shared Services

9. **Is all or part of the claim secured?**
☑ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: $_____
Amount of the claim that is secured: $_____
Amount of the claim that is unsecured: $_____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: $_____
Annual Interest Rate (when case was filed)_____%
☐ Fixed
☐ Variable

10. **Is this claim based on a lease?**
☑ No
☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**
☑ No
☐ Yes. Identify the property: _____

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?** A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.	☐ No ☑ Yes. *Check one:*	**Amount entitled to priority**
	☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$
	☐ Up to $2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$
	☐ Wages, salaries, or commissions (up to $12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$
	☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$
	☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$
	☑ Other. Specify subsection of 11 U.S.C. § 507(a)(3) that applies.	$ 2,049,564.35

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☑ I am the creditor.
☐ I am the creditor's attorney or authorized agent.
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 08/01/2018
MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name: Scott Ellington
First name Middle name Last name

Title: General Counsel

Company: Highland Capital Management, L.P.
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: 300 Crescent Court, Suite 700
Number Street

Dallas TX 75201
City State ZIP Code

Contact phone _____ Email _____

***In re Acis Capital Management, L.P.*- Case No. 18-30264**
***In re Acis Capital Management, G.P.*- Case No. 18-30265**
United States Bankruptcy Court for the Northern District of Texas

EXHIBIT A TO PROOF OF CLAIM

1. Claimant: Highland Capital Management, L.P. ("**Highland**") maintains its business at 300 Crescent Court, Suite 700, Dallas, Texas 75201. Highland files its proof of claim (the "**Claim**") pursuant to 11 U.S.C. §§ 105(a), 501, and 502(f) and the Federal Rules of Bankruptcy Procedure 3002 and 3003. Prior to the Involuntary Petition Date (defined below), Highland provided sub-advisory and shared services to the Debtors (defined below). Highland has provided portfolio management and advisory services to the Debtors pursuant to that certain Third Amended and Restated Sub-Advisory Agreement by and between the Debtors and Highland dated March 17, 2017 ("**Sub-Advisory Agreement**") (**Exhibit 1**). Specifically, Highland has acted as an investment manager and has identified, evaluated, and recommended investments to investment vehicles advised or sub-advised by the Debtors. Highland has also provided the Debtors with back and middle office services pursuant to that certain Fourth Amended and Restated Shared Services Agreement by and between the Debtors and Highland dated March 17, 2017 ("**Shared Services Agreement**") (**Exhibit 2**). Highland has provided the Debtors with all of the employees and staff necessary to manage the portfolios. Highland continued to provide the same sub-advisory and shared services to the Debtors throughout the Gap Period (defined below). To date, Highland continues to provide such services.

2. Debtors: Acis Capital Management, L.P. and Acis Capital Management, G.P. (the "**Debtors**"). The Debtors' cases have been consolidated under case number 18-30264 in the United States Bankruptcy Court for the Northern District of Texas. Highland provides the service at the following address: 300 Crescent Court, Suite 700, Dallas, Texas 75201.

3. Indebtedness: Because the Debtors were put into bankruptcy involuntarily, the amount included in the proof of claim accounts for pre-petition claims as well as Gap Claims (defined below).

a. Pre-Petition: Joshua Terry, the petitioning creditor, filed the involuntary petition on January 30, 2018 (the "**Petition Date**"). As of the Petition Date, the outstanding indebtedness owing from the Debtors to Highland was as set forth below by account number:

Invoice	Type	Balance
A1-A7; BVK[1]	Sub-Advisory	$1,605,362.41
A1-A7; BVK	Shared Services	$1,017,213.62
	Totals	**$2,622,576.03**

b. Gap Period: When a debtor files bankruptcy, the order for relief is typically entered on the date the petition is filed. However, an involuntary bankruptcy case diverges from the simultaneous entry of an order for relief in that an order for relief is entered at a later date than when a petition is filed. This creates a period of time, referred to as the "gap period", where the debtor may accrue post-petition but pre-order for relief debt. Pursuant to Section 502(f) of the Bankruptcy Code:

> In an involuntary case, a claim arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee and order for relief shall be determined as of the date such claim arises, and shall be allowed under subsection (a), (b), or (c) of this section…the same as if such claim had arisen before the date of the filing of the petition.

11 U.S.C. 502(f).

[1] A1-A7 and BVK account for the following vehicles: Acis CLO 2013-1, Ltd.; Acis CLO 2013-2, Ltd.; Acis CLO 2014-3, Ltd.; Acis CLO 2014-4, Ltd.; Acis CLO 2014-5, Ltd.; Acis CLO 2015-6, Ltd.; Acis CLO 2017-7, Ltd.; BayVK R2 Lux S.A., SICAV-FIS.

Claims arising during the gap period are entitled to priority treatment under section 507(a)(3). The Court entered the Order for Relief on April 13, 2018 ("**Order for Relief Date**"). Highland continued to provide services to the Debtors from January 30, 2018 to April 13, 2018 ("**Gap Period**"). The outstanding balance owed from the Debtors to Highland for the sub-advisory and shared services during the Gap Period is set forth below (and shall be referred to as the "**Gap Claim**"):

Account No.	Type	Balance
A1-A7; BVK	Sub-Advisory	$1,170,147.06
A1-A7; BVK	Shared Services	$879,417.29
	Totals	**$2,049,564.35**

c. Reservation of Rights as to Administrative Claim: Highland has provided uninterrupted sub-advisory and shared services since the Order for Relief Date. Highland reserves its rights to seek allowance of its administrative claims.

d. Indemnity Claims: Highland has contingent claims for indemnification pursuant to Section 6.03 of the Shared Services Agreement and Section 4(c) of the Sub-Advisory Agreement. According to Section 6.03 of the Shared Services Agreement and Section 4(c) of the Sub-Advisory Agreement, "the Management Company [Debtors] hereby does, to the fullest extent permitted by applicable law, indemnify and hold harmless Covered Person [Highland and its representatives] from…any and all claims, demands, liabilities, costs…suits, proceedings, judgments, assessments, actions…of whatever nature, known or unknown, liquidated, or unliquidated...arising out of the investment or other activities of the Management Company." Highland reserves such contractual indemnification right.

4. Reservation of Rights; Other Rights: The Claims described in this Attachment are legal, binding, enforceable, allowed, and not subject to any offset, defense, claim, counterclaim or any other diminution of any type, kind or nature, whatsoever; provided, however, the Chapter 11 Trustee alleges that he may offset Highland's Claims and recover from Highland through his current adversary proceeding against Highland (Adversary Proceeding 18-03212). Highland disputes such contention, and believes all Claims sought herein are recoverable despite the Chapter 11 Trustee's allegations. No portion of the Claims or any funds previously paid to Highland are subject to impairment, avoidance, subordination, or disallowance pursuant to the Bankruptcy Code (including, without limitation, Bankruptcy Code § 502) or applicable non-bankruptcy law. Highland expressly reserves the right in the future to assert any and all claims that it may have, including, without limitation, imposition of a constructive trust, equitable lien, security interest, subrogation, marshaling, or other legal or equitable remedies to which it may be entitled. The filing of this proof of claim is not to be construed as an election of remedies. Highland further reserves the rights (a) to amend, modify or supplement this proof of claim, including any exhibit, schedule or annex, or to file an amended proof of claim for the purpose of modifying or liquidating the amount of any interest, fees, costs and expenses accrued or incurred subsequent to the Petition Date or any contingent or unliquidated claims or rights of Highland set forth herein; (b) file additional proofs of claim; and (c) against third parties.

5. Notices: All notices to Highland are to be sent to:

Highland Capital Management, L.P.
Attn: David Klos
300 Crescent Court
Suite 700
Dallas, Texas 75201

with copies to:

Foley Gardere
Foley & Lardner, LLP
c/o Holland O'Neil
2021 McKinney Avenue, Suite 1600
Dallas, TX 75201

6. Payments: All payments and distributions to Highland with respect to this proof of claim are to be made as follows:

Highland Capital Management, L.P.
Attn: David Klos
300 Crescent Court
Suite 700
Dallas, Texas 75201
Re: *In re Acis Capital Management, L.P.*

7. Miscellaneous: This proof of claim is filed under compulsion of the bar date established in this bankruptcy case solely out of an abundance of caution to protect Highland from forfeiture of its claim within this bankruptcy proceeding. The amounts set forth in this proof of claim shall not be construed as an admission by Highland as to the amounts due and owing outside of this bankruptcy proceeding. The filing of this proof of claim is **not:** (a) a waiver or release of and/or Highland's rights or remedies against any person, entity or property; (b) a consent by Highland to entry of final judgment by this Court in any core proceeding commenced in this bankruptcy case, consistent with the United States Supreme Court's holding in *Stern v. Marshall*, 131 S. Ct. 2594 (2011); (c) a waiver of the right to move to withdraw the reference or otherwise challenge the jurisdiction of this Court; (d) a waiver of the right to a jury trial; (e) an election of a remedy which waives or otherwise affects any other remedy; or (f) a waiver of the right to assert a different or enhanced classification of priority for its Claim in respect of the other claims asserted in this bankruptcy case.

EXHIBIT 18

FORBEARANCE AGREEMENT

This FORBEARANCE AGREEMENT (this "***Agreement***"), dated as of May 31, 2018, is entered into by and between Highland Capital Management, L.P., a Delaware limited partnership ("***HCM***") and Highland CLO Management, Ltd., a Cayman Islands exempted company ("***HCLOM***", and together with HCM, the "***Parties***"). Capitalized terms used herein but not defined have the meaning ascribed thereto in the Agreement for Assignment and Transfer of Promissory Note dated as of November 3, 2017 between HCM, HCLOM, and Acis Capital Management, L.P ("***Acis***") (the "***Assignment Agreement***").

RECITALS

Whereas, Acis and HCM entered into an Agreement for Purchase and Sale of CLO Participation Interests between Acis and HCM dated as of October 7, 2016 (the "***Purchase Agreement***" and the promissory note therein, the "***Note***");

Whereas, as portfolio manager of certain collateralized loan obligations listed in Schedule A of the Purchase Agreement (the "***CLOs***"), Acis was entitled to fee compensation in connection therewith as set forth therein (the "***Servicer Fees***");

Whereas, pursuant to the Purchase Agreement, Acis sold a portion of its future Servicer Fees to HCM in exchange for cash flows from HCM, in each case as set forth in the Note (such future Servicer Fees identified to be paid to HCM pursuant to the Purchase Agreement, the "***HCM Stabilization Fees***" and such cash flows from HCM, the "***Stabilization Payment***");

Whereas, pursuant to the Assignment Agreement, Acis assigned all right, title and interest of Acis under the Note, including the right to any and all Stabilization Payments not yet paid to Acis to HCLOM; and

Whereas, for so long as HCLOM receives any Servicer Fees following the Assignment, HCLOM is required to remit to HCM any portion of such fees that would otherwise have constituted HCM Stabilization Fees pursuant to the Note as if Acis was the recipient of such fees.

AGREEMENT

Now, therefore, in consideration of the promises and mutual agreements set forth herein, and in consideration of the mutual representations, warranties and covenants herein, and intending to be legally bound hereby, the Parties agree as follows:

1. **Forbearance of HCM Stabilization Fees**. HCM agrees that it will not demand payment of the HCM Stabilization Fees for a period of one (1) year and hereby releases HCLOM from paying HCM any HCM Stabilization Fees for a period of one (1) year pursuant to the Assignment Agreement and Purchase Agreement.
2. **Forbearance of Stabilization Payments**. HCLOM agrees that it will not demand payment of the Stabilization Payments for a period of one (1) year and hereby releases HCM from

EXHIBIT
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paying HCLOM any Stabilization Payments for a period of one (1) year pursuant to the Assignment Agreement and Purchase Agreement.

3. **Miscellaneous**.

a. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties, provided however that no party hereto may assign or transfer any of its rights or obligation hereunder without the prior written consent of the other parties hereto.

b. No Third Party Beneficiaries. For the avoidance of doubt, this Agreement is not intended to and does not confer any right to any person or entity other than the Parties hereto.

c. Terms Confidential. The Parties agree that they will keep the terms, amounts, and facts of this Agreement completely confidential, and that they will not hereafter disclose any information concerning this Agreement to anyone except their respective attorneys or accountants. Notwithstanding the foregoing prohibition, the Parties shall not be prohibited from disclosing the terms, amounts and facts of this Agreement or this Agreement itself as may be requested by governmental entities or required by law.

d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of Texas, with exclusive jurisdiction in the courts of Dallas, Texas.

e. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

f. Headings. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to articles, sections, paragraphs, exhibits and schedules shall, unless otherwise provided, refer to articles, sections and paragraphs hereof and exhibits and schedules attached hereto, all of which exhibits and schedules are incorporated herein by reference.

g. Costs, Expenses. The Parties shall each pay their own costs, fees and expenses in connection with this Agreement.

h. Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Parties.

i. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision(s) were so excluded and shall be enforceable in accordance with its terms.

j. Entire Agreement. This Agreement, together with all exhibits and schedules hereto, constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, correspondence, agreements, understandings, duties or obligations between the parties with respect to the subject matter hereof.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of May 31, 2018.

HIGHLAND CAPITAL MANAGEMENT, L.P.
By: Strand Advisors, Inc., its General Partner

By: _____
Name: _____
Title: _____

HIGHLAND CLO MANAGEMENT, LTD.

_____
~~For and on behalf of Summit Management, Limited~~
John Cullinane
Director

EXHIBIT 19

AMENDED AND RESTATED FORBEARANCE AGREEMENT

This AMENDED AND RESTATED FORBEARANCE AGREEMENT (this "***Amendment***"), dated as of May 31, 2019, is entered into by and between Highland Capital Management, L.P., a Delaware limited partnership ("***HCM***") and Highland CLO Management, Ltd., a Cayman Islands exempted company ("***HCLOM***", and together with HCM, the "***Parties***"). Capitalized terms used herein but not defined have the meaning ascribed thereto in the Agreement for Assignment and Transfer of Promissory Note dated as of November 3, 2017 between HCM, HCLOM, and Acis Capital Management. L.P ("***Acis***") (the "***Assignment Agreement***").

RECITALS

Whereas, Acis and HCM entered into an Agreement for Purchase and Sale of CLO Participation Interests between Acis and HCM dated as of October 7, 2016 (the "***Purchase Agreement***" and the promissory note therein, the "***Note***");

Whereas, as portfolio manager of certain collateralized loan obligations listed in Schedule A of the Purchase Agreement (the "***CLOs***"), Acis was entitled to fee compensation in connection therewith as set forth therein (the "***Servicer Fees***");

Whereas, pursuant to the Purchase Agreement, Acis sold a portion of its future Servicer Fees to HCM in exchange for cash flows from HCM, in each case as set forth in the Note (such future Servicer Fees identified to be paid to HCM pursuant to the Purchase Agreement, the "***HCM Stabilization Fees***" and such cash flows from HCM, the "***Stabilization Payment***");

Whereas, pursuant to the Assignment Agreement, Acis assigned all right, title and interest of Acis under the Note, including the right to any and all Stabilization Payments not yet paid to Acis to HCLOM;

Whereas, for so long as HCLOM receives any Servicer Fees following the Assignment, HCLOM is required to remit to HCM any portion of such fees that would otherwise have constituted HCM Stabilization Fees pursuant to the Note as if Acis was the recipient of such fees;

Whereas, HCM and HCLOM are party to that certain Forbearance Agreement, dated May 31, 2018 (the "***Forbearance Agreement***"); and

Whereas, HCM and HCLOM wish to extend the forbearance under the Forbearance Agreement for an additional year.

AGREEMENT

Now, therefore, in consideration of the promises and mutual agreements set forth herein, and in consideration of the mutual representations, warranties and covenants herein, and intending to be legally bound hereby, the Parties agree as follows:

1. **Forbearance of HCM Stabilization Fees**. HCM agrees that it will not demand payment of the HCM Stabilization Fees for a period of an additional one (1) year and hereby



releases HCLOM from paying HCM any HCM Stabilization Fees for a period of one (1) year pursuant to the Assignment Agreement and Purchase Agreement.

2. **Forbearance of Stabilization Payments**. HCLOM agrees that it will not demand payment of the Stabilization Payments for a period of an additional one (1) year and hereby releases HCM from paying HCLOM any Stabilization Payments for a period of one (1) year pursuant to the Assignment Agreement and Purchase Agreement.

3. **Miscellaneous**.

   a. Successors and Assigns. The terms and conditions of this Amendment shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties, provided however that no party hereto may assign or transfer any of its rights or obligation hereunder without the prior written consent of the other parties hereto.

   b. No Third Party Beneficiaries. For the avoidance of doubt this Amendment is not intended to and does not confer any right to any person or entity other than the Parties hereto.

   c. Terms Confidential. The Parties agree that they will keep the terms, amounts, and facts of this Amendment completely confidential, and that they will not hereafter disclose any information concerning this Amendment to anyone except their respective attorneys or accountants. Notwithstanding the foregoing prohibition, the Parties shall not be prohibited from disclosing the terms, amounts and facts of this Amendment or this Amendment itself as may be requested by governmental entities or required by law.

   d. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of Texas, with exclusive jurisdiction in the courts of Dallas, Texas.

   e. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

   f. Headings. The headings and captions used in this Amendment are used for convenience only and are not to be considered in construing or interpreting this Amendment . All references in this Amendment to articles, sections, paragraphs, exhibits and schedules shall, unless otherwise provided, refer to articles, sections and paragraphs hereof and exhibits and schedules attached hereto, all of which exhibits and schedules are incorporated herein by reference.

   g. Costs. Expenses. The Parties shall each pay their own costs, fees and expenses in connection with this Amendment.

   h. Amendments and Waivers. Any term of this Amendment may be amended and the observance of any term of this Amendment may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent or the Parties.

i. Severability. If one or more provisions of this Amendment are held to be unenforceable under applicable law, such provision(s) shall be excluded from this Amendment and the balance of this Amendment shall be interpreted as if such provision(s) were so excluded and shall be enforceable in accordance with its terms.

j. Entire Agreement. This Amendment , together with all exhibits and schedules hereto, constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, correspondence, agreements, understandings, duties or obligations between the parties with respect to the subject matter hereof.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Amendment effective as of May 31, 2019.

HIGHLAND CAPITAL MANAGEMENT, L.P.
By: Strand Advisors, Inc., its General Partner

By: _____

Name: Frank Waterhouse

Title: Chief Financial Officer

HIGHLAND CLO MANAGEMENT, LTD.

By: _____

Name: Frank Waterhouse

Title: Treasurer

EXHIBIT 20

STINSON LLP
Deborah Deitsch-Perez
Michael P. Aigen
2200 Ross Avenue, Suite 2900
Dallas, Texas 75201
Telephone: (214) 560-2201
Facsimile: (214) 560-2203
Email: deborah.deitschperez@stinson.com
Email: michael.aigen@stinson.com

Counsel for Highland CLO Management, Ltd.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.	Case No. 19-34054 (sgj)
Reorganized Debtor.	



RESPONSE OF HIGHLAND CLO MANAGEMENT, LTD. TO HIGHLAND CAPITAL MANAGEMENT, L.P.'S OBJECTION TO SCHEDULED CLAIMS 3.65 AND 3.66 OF HIGHLAND CLO MANAGEMENT, LTD.

Highland CLO Management, Ltd. ("HCLOM"), by and through its undersigned attorneys, hereby submits this response to *Highland Capital Management, L.P.'s Objection to Scheduled Claims 3.65 and 3.66 of Highland CLO Management, Ltd.* [Docket No. 3657] (the "Objection"). In support of its response, HCLOM states the following:

I. INTRODUCTION

1. In the Objection, reorganized debtor Highland Capital Management, L.P. ("HCMLP" or the "Debtor") seeks to expunge the undisputed, non-contingent, liquidated claims it scheduled for HCLOM for a promissory note [the "Note"] and related interest. Although



HCMLP asserts that there was a prior material breach of contract under the Note and other documents and asserts that such prior material breach is both itself a defense and gives rise to a failure of consideration, these allegations are inconsistent with the language of the Note, the underlying facts, and, importantly, positions the Debtor has successfully taken elsewhere in this bankruptcy proceeding.

II. FACTUAL BACKGROUND

2. On October 16, 2019 (the "Petition Date"), HCMLP filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101 – 1532 in the United States Bankruptcy Court for the District of Delaware.

3. Pursuant to an *Order Transferring Venue of this Case to the United States Bankruptcy Court for the Northern District of Texas*, the resulting bankruptcy case was transferred to this Court on December 4, 2019.

4. On December 13, 2019, the Debtor filed its schedule of liabilities. The schedule of creditors who have unsecured claims included a claim for "Interest payable" in the amount of $599,187.26, and a claim for "Note payable" in the amount of $9,541,446.00. The schedule incorrectly listed the promissory note principal and interest as payable to Highland CLO Holdco.[1]

5. James P. Seery, Jr. was engaged as Chief Executive Office and Chief Restructuring Office ("CEO/CRO") for the Debtor effective as of March 15, 2020.

6. The Debtor filed amended schedules on September 22, 2020 (the "Amended Schedules"), correcting the claimant name to HCLOM, but leaving the amounts the same.[2]

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[1] *See* Official Form 206Sum, dated December 13, 2019 ("Original Schedules"), Dkt. 247 in Case No. 19-34054-sgj-11. Schedule E/F, §§ 3.64 and 3.65, annexed hereto as Exhibit 1 ("Ex. 1") at App. 0027.

[2] Notice of Filing of Debtor's Amended Schedules, dated September 22, 2020, Dkt. 1082 in Case No. 19-34054-sgj-11, Schedule E/F, §§ 3.65 and 3.66 (the "HCLOM Scheduled Claims"), annexed hereto as Exhibit 2 ("Ex. 2") at App. 0105.

7. The Amended Schedules did not list the HCLOM Scheduled Claims as disputed, contingent or unliquidated. Mr. Seery, in his role as CEO/CRO for the Debtor, signed the Amended Schedules under penalty of perjury.

8. The Debtor's note principal and interest obligations to HCLOM arose under a Promissory Note in the original principal amount of $12,666,446 with HCMLP as the maker, and Acis Capital Management, L.P. ("Acis") as the payee. [3]

9. The Note originated as part of a transaction in October 2016 whereby Acis agreed to pay fifty percent (50%) of its collateralized loan obligation ("CLO") servicing fees over a period of years to the Debtor pursuant to an Agreement for Purchase and Sale of CLO Participation Interests (the "CLO Participation Agreement"), and in exchange the Debtor promised to pay Acis the principal amount of the Note over a period of three years. [4]

10. The Debtor was to make principal amortization payments under the Note in May of each of the three scheduled payment years, and Acis was to pay the Debtor its portion of the CLO servicing fees on a quarterly basis (the "Servicer Fees").[5]

11. The Note was assigned to HCLOM pursuant to an Assignment and Transfer Agreement between Acis, HCMLP and HCLOM dated November 3, 2017 (the "Note Transfer Agreement").[6]

12. Following execution of the Note Transfer Agreement, an involuntary bankruptcy petition was filed against Acis in this Court on January 30, 2018, leading to the entry of an order

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[3] Promissory Note from Highland Capital Management, L.P. to Acis Capital Management, L.P. in the amount of $12,666,446, dated October 2016, Dkt. 3695-3 in Case No. 19-34054-sgj-11, annexed hereto as Exhibit 3 ("Ex. 3") at App. 0115-0120.
[4] *Id.* at Exhibit A, Amortization Schedule, App.0120.
[5] Agreement for Purchase and Sale of CLO Participation Interests by and between Acis Capital Management, L.P. and Highland Capital Management, L.P., dated October 7, 2016, annexed hereto as Exhibit 4 ("Ex. 4") at App.0122-0135.
[6] Agreement for Assignment and Transfer of Promissory Note between Acis Capital Management, L.P. and Highland Capital Management, L.P., dated October 7, 2016, Dkt. 3695-3 in Case No. 19-34054-sgj-11, annexed hereto as Exhibit 5 ("Ex. 5") at App.0137-0142.

for relief on April 16, 2018 in *In re Acis Capital Management, L.P. and Acis Capital Management GP, LLC*, Case No. 18-30264 (the "Acis Bankruptcy Case").

III. LEGAL STANDARD

13. The Debtor listed the HCLOM Scheduled Claims on the Amended Schedules and did not schedule them as disputed, contingent, or unliquidated. As a result, the HCLOM Scheduled Claims constitute prima facie evidence of the validity and amount of the claims pursuant to Federal Rule of Bankruptcy Procedure 3003(b)(1).

14. Once such prima facie evidence is established, the claimant will prevail unless a party objecting to a claim produces evidence to rebut at least one of the allegations that is essential to the claim's legal sufficiency. *See In re Fidelity Holding Co., Ltd.*, 837 F.2d 696, 698 (5th Cir. 1988); *McGee v. O'Connor (In re O'Connor)*, 153 F.3d 258, 260 (5th Cir. 1988).

15. If the objecting party rebuts the presumption of validity, the claim is not *per se* denied. *In re Armstrong*, 320 B.R. 97, 104 (Bankr. N.D. Tex. 2005). Rather, "[t]he claimant may still establish the claim's validity at an evidentiary hearing." *In re Today's Destiny, Inc.*, 2008 WL 5479109 at *4 (Bankr. S.D. Tex. Nov. 26. 2008). At this point the burden shifts back to the claimant to prove its claim by a preponderance of the evidence. *In re Armstrong*, 347 B.R. 581, 583 (Bankr. N.D. Tex. 2006).

IV. RESPONSE

A. No Alleged Breaches of the CLO Participation Agreement and/or the Note Excuse the Debtor's Performance under the Note.

16. The Debtor first argues that Acis's breaches of contract excuse the Debtor's performance under the Note. In doing so, it alleges breaches of the CLO Participation Agreement by "HCLOM and/or Acis." Objection, ¶¶ 36 – 47.

17. However, HCLOM is not a party to the CLO Participation Agreement, and could not breach it.

18. Further, although the Note was made as consideration for the CLO Participation Agreement, the Debtor's liability on the Note contains no provision conditioning the Debtor's payment obligations on performance by Acis of its obligations under the CLO Participation Agreement.[7]

19. In fact, the plain language of the Note states the opposite. The "Note embodies the final, entire agreement between Maker [Debtor] and Payee [Acis] with respect to the indebtedness evidenced hereby" and does not incorporate the CLO Participation Agreement by reference.[8]

20. Courts are tasked with construing a contract by looking at the langue of the parties' agreement. *Barrow-Shaver Res. Co. v. Carrizo Oil & Gas Inc.*, 590 S.W. 3d 471, 479 (Tex. 2019). The court must "give effect to the parties' intentions, as express in their agreement" unless the "plain, grammatical meaning would clearly defeat the parties' intentions." *Id.* (internal citations omitted).

21. In claiming that alleged breaches of contract by Acis excuse the Debtor's performance under the Note, the Debtor cites to cases holding that in certain circumstances multiple documents can be deemed to be part of one instrument. However, this concept cannot be stretched to replace the parties' intentions when preparing the documents.

> Where appropriate, "a court may determine, as a matter of law," that multiple separate contracts, documents, and agreements "were part of a single, unified instrument." In determining whether multiple agreements are part and parcel of a unified instrument, a court may consider whether each written agreement and instrument was "a necessary part of the same transaction." But when construing multiple documents together, courts must do so with caution, bearing in mind that tethering documents to each other is "simply a device for ascertaining and giving effect to the intention of the parties and cannot be applied arbitrarily and without regard to the realities of the situation."

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[7] Ex. 3, p. 4, at App.0118.
[8] *Id.*

Rieder v. Woods, 603 S.W.3d 86, 94–95 (Tex. 2020).

22. Here, the CLO Participation Agreement states that

> [E]xcept as provided in Section 1.5, the Seller [Acis] may exercise all of its legal rights under and remedies to enforce the Purchaser's [Debtor's] obligations under the Note even if the Acis Participation Interests are not paid, in full or in part, by the CLO Trustee for any reason… The Purchaser bears the sole risk with respect to non-payment of the Acis Participation Interests (other than as a result of the Seller breaching its covenants under this Agreement or as a result of the fraud or willful misconduct of the Seller).[9]

The only exception, § 1.5, contemplates Acis failing to pay the Participation Interests/Servicer Fees as a result of regulatory proceeding against Acis, which did not occur.[10]

23. In furtherance of its efforts to tie the Note to the CLO Participation Agreement, the Debtor cites the provision in the CLO Participation Agreement stating that the Note shall not be payable until "all conditions to the effectiveness of the Purchase Agreement have been or will be fulfilled contemporaneously with the initial advance under this Note." Objection at ¶ 15. While "initial advance" is not defined in the Note, the Debtor was obligated to pay Acis an initial amount of $666,655 under the CLO Participation Agreement.[11] There is no dispute that the Debtor made that payment and that the conditions precedent for the Note to become effective were met.

24. The Debtor also made further payments to Acis on the Note, additional evidence that the Debtor was performing under the Note and that the conditions precedent was satisfied.[12] While HCLOM requires discovery to obtain the complete payment history, the Debtor's schedules show that $9,541,446 25 remains owed on the original Note balance of $12,666,446. *Compare* Ex. 1 with the Amended Schedules at Schedule E/F §3.66. This reflects that the Debtor made a principal pay down of $3,125,000 prior to the Petition Date. According to Ex. 1 at Exhibit A

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[9] Ex. 4, § 3.6, at App.0127-0128.
[10] *Id.*, § 1.5, at App. 0124.
[11] *Id.*, § 1.1, at App.0123.
[12] October 20, 2021, Hr'g Tr., 191:8-12, annexed hereto as Exhibit 6 ("Ex. 6") at App.0334.

thereto, the Amortization Schedule shows that a principal payment was due May 31, 2017, in the amount of $3,125,000.[13]

B. HCLOM Did Not Breach the Note Transfer Agreement, Nor Would Any Alleged Breach Excuse the Debtor's Performance under the Note.

25. The Debtor then argues that HCLOM breached the Note Transfer Agreement, thus excusing the Debtor from performing under the Note. However, HCLOM acted to perform under the Note Transfer Agreement.

26. HCLOM "irrevocably commits" in the Note Transfer Agreement to be appointed as successor manager.[14] The Note Transfer Agreement contemplated that the controlling class of each of the Acis-managed CLOs would provide a notice to replace Acis with HCLOM as the manager of the CLOs.[15]

27. The controlling classes of the Acis CLOs issued optional redemptions attempting to effectuate the process of designating HCLOM as the manager of the Acis CLOs.[16] However, this Court entered a temporary restraining order, and then a plan injunction in the Acis Bankruptcy Case, preventing the Notices from being effectuated.[17]

28. As a result, HCLOM never was appointed as the manager of the CLOs.

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[13] The Amended Schedules also reflect a balance of $599,187.26 in unpaid interest on the Note. *See* Ex. 2, Schedule E/F §3.65, at App.0105.
[14] Ex. 5 at App.0137.
[15] *Id.*, § 1, at App. 0138.
[16] Acis CLO Notices of Optional Redemption dated April 30, 2018, Dkt. 3695-2 in Case No. 19-34054-sgj-11, annexed hereto as Exhibit 7 ("Ex. 7") at App.0401-0412.
[17] *See* Ex Parte Temporary Restraining Order, dated June 21, 2018, Dkt. 310 in Case No. 18-30264-sgj-11, annexed hereto as Exhibit 8 ("Ex. 8") at App.0418; Agreed Extension of Temporary Restraining Order, dated June 29, 2018, Dkt. 354 in Case No. 18-30264-sgj-11, annexed hereto as Exhibit 9 ("Ex. 9") at App. 0424; Bench Ruling and Memorandum of Law in Support of: (1) Final Approval of Disclosure Statement; and (B) Confirmation of Chapter 11 Trustee's Third Amended Joint Plan, dated January 31, 2019, Dkt.827 in Case No. 18-30264-sgj-11, annexed hereto as Exhibit 10 ("Ex. 10") at App. 0430-0476; Findings of Fact, Conclusions of Law, and Order Granting Final Approval of Disclosure Statement and Confirming the Third Amended Joint Plan for Acis Capital Management, L.P. and Acis Capital Management GP, LLC, as Modified, dated January 31, 2019, Dkt. 829 in Case No. 18-30264-sgj-11, annexed hereto as Exhibit 11 ("Ex. 11") at App.0512.

29. Prior to HCLOM becoming the manager, Acis continued to be responsible for paying the Servicer Fees due to the Debtor under the CLO Participation Agreement.[18] The Note Transfer Agreement is clear that only when HCLOM became the replacement manager of the CLOs and started to receive fees would HCLOM be obligated to remit a portion of the Servicer Fees to the Debtor.[19]

30. HCLOM never received any of the Servicer Fees contemplated under the Note Transfer Agreement §3(c). Instead, Acis at all times continued to receive such Servicer Fees.

31. Therefore, HCLOM was under no obligation to remit any Servicer Fees to the Debtor, and could not breach the Note Transfer Agreement by failing to do so.

32. Nor would any alleged breach of the Note Transfer Agreement excuse the Debtor's obligation to perform under the Note. Under the Note Transfer Agreement, the Note was transferred from Acis to HCLOM "effective immediately upon execution" of the agreement and was not conditional.[20]

C. The Debtor's Allegations in the Objection Are Inconsistent with the Debtor's Positions Taken in this Case and the Acis Bankruptcy Case.

33. The Debtor's claims in the Objection that is has no obligation to perform under the Note stand in stark contrast to the positions it has taken and testimony it has provided both in this case and in the Acis Bankruptcy Case.

34. In the Acis Bankruptcy Case adversary proceeding, *Acis Capital Management, L.P. and Acis Capital Management GP, LLC v. Highland Capital Management, L.P., et al.*, Adversary

[18] *See* Ex. 5, §3(b), at App.0138..
[19] *Id.*, §3(c), at App.0138.
[20] *Id.*, §3(a), at App.0138.

Proceeding No. 18-03078 (the "Acis Adversary Proceeding"), Acis asserted claims against both the Debtor and HCLOM for fraudulent transfer with respect to the Note.[21]

35. The Debtor moved to dismiss these claims, but did not assert a defense that the Note was either invalid or subject to set off because of prior material breach.[22]

36. After the Debtor filed for bankruptcy, Acis incorporated the Acis Complaint into its proof of claim filed in this case designated as Claim No. 23 in the Claims Register maintained by the Debtor's noticing and claims agent (the "Acis POC").[23]

37. In its objection to the Acis POC ("Acis Claim Objection), the Debtor stated that "Not only did the Debtor not receive the Note, it remains liable!"[24] The Debtor continued that "Debtor did not receive the Note, and indeed remains liable on the Note."[25]

38. The Debtor enumerated five separate grounds for objecting to the Note-related claims in the Acis Complaint, but never argued that Debtor was not liable on the Note for failure of consideration or prior material breach.[26] Notably, the Debtor's objection was filed in June 2020, well after the Independent Board has assumed control of the Debtor from previous management and Mr. Seery stepped in as CEO/CRO.

39. Subsequently, the Debtor reached a settlement of a $23 million allowed claim amount on the Acis POC, which was documented in a settlement agreement (the "Acis Settlement

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[21] Second Amended Complaint (Including Claim Objections and Objections to Administrative Expense Claim), dated June 20, 2019, Dkt. 157 in Case No. 18-03078-sgj, annexed hereto as Exhibit 12 ("Ex. 12") at App.0708-0815.
[22] Highland Capital's Partial Motion to Dismiss the Second Amended Complaint and Brief in Support, dated July 22, 2019, Dkt. 171 in Case No. 18-03078-sgj, annexed hereto as Exhibit 13 ("Ex. 13") at App.0817-0849.
[23] Acis Proof of Claim #23 in Case No. 18-30264-sgj-11, dated December 31, 2019, annexed hereto as Exhibit 14 ("Ex. 14") at App. 0851-0964
[24] Debtor Objection to Acis Claim, dated June 23, 2020, Dkt. 771 in Case No. 19-34054-sgj-11, annexed hereto as Exhibit 15 ("Ex. 15"), ¶ 58, at App.1001.
[25] *Id.*, ¶ 58(a), at App.1002.
[26] *Id.*, ¶ 58(c)(1-5), at App.1002.

Agreement").[27] As part of this settlement, Acis specifically disclaimed and released all claims for payment with respect to the Note (the "Acis Release").[28] . Acis further agreed to withdraw its claims against the Debtor-controlled defendants.[29]

40. Consistent with the Acis Settlement Agreement, on November 3, 2020, Acis moved to voluntarily dismiss all claims against HCLOM in the Acis Adversary Proceeding, which was promptly approved by this Court.[30]

41. In obtaining the Court's approval of the Acis Settlement Agreement, Mr. Seery specifically addressed the Debtor's liability on the Note. When asked to explain the basis for the settlement, Mr. Seery testified:

> Some of them [the Acis claims], we looked at and we thought those were actually, if we could get that settlement as part of it, it would be a pretty straightforward trade. So with respect to an intercompany note that's about $10 million, it was arguably (inaudible) transferred from -- from Acis, it was transferred -- its claim was it was transferred to Highland. Highland paid on the note. It was actually transferred to an entity that Highland owns and controls. That transfer was done without consideration, was about $10 million. We would have been liable on that note.
>
> We now believe that, for example, that one, we had very little defense on other than a technical defense, and that we would have – we'd have -- not going to have any liability on it because we effectively owe it to ourself, and now we believe it can be recharacterized or should have been recharacterized as equity in the first instance.[31]

Mr. Seery continued "In addition, as I mentioned, of the total amount, we think that the note was one that we actually owe, and we owe it to somebody, but now we owe it to ourselves. So of the

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[27] Order Approving Debtor's Settlement with (A) Acis Capital Management, L.P. and Acis Capital Management GP, LLC (Claim No. 23) (B) Joshua N. Terry and Jennifer G. Terry (Claim No. 156, and (C) Acis Capital management, L.P. (Claim No. 159) and Authorizing Actions Consistent Therewith, dated October 20, 2020, Dkt.1302 in Case No. 19-34054-sgj-11, annexed hereto as Exhibit 16 ("Ex. 16"), p. 6, at App.1037-1044.

[28] *Id.*, at App.1046-1055; and at App. 1047 (Acis Release releasing, among other claims, all debts, liabilities, and obligations against any Debtor-controlled party, which included HCLOM).

[29] *Id.*, § 2, at App.1049.

[30] Acis Motion to Dismiss Less than All Defendants, dated November 3, 2010, Dkt. 215 in Case No. 18-03078-sgj, annexed hereto as Exhibit 17 ("Ex. 17"), at App.1057-1060; Order Dismissing Less than All Defendants, dated November 6, 2020, Dkt. 216 in Case No. 18-03078-sgj, annexed hereto as Exhibit 18 ("Ex. 18"), at App.1062-1063.

[31] Ex. 6, 191:6-21, at App.0334.

total settlement amount, $10 million really is self-funding because we're not going to have to pay that obligation."[32]

42. In addition to providing evidence that the Debtor believes its performance is required under the Note, to the extent that this Court relied on Mr. Seery's testimony in approving the settlement with Acis, the contract positions in the Objection should be barred by the doctrine of judicial estoppel. "In order for judicial estoppel to apply, three requirements must be satisfied: (1) the party's position must be clearly inconsistent with the position previously taken by the party; (2) the court must have accepted the previous position; and (3) the previous position (or non-disclosure) must not have been inadvertent." *In re Tex. Rangers Baseball Partners*, 521 B.R. 134, 173 (Bankr. N.D. Tex. 2014); citing *In re Superior Crewboats Inc.*, 374 F. 330, 335 (5th Cir. 2004).

43. As Mr. Seery expressed above, the Debtor owed on the Note, but Mr. Seery understood that the Note was transferred to "an entity that Highland owns and controls," so the Debtor could effectively wipe out the Note obligation as a result of the settlement.

44. However, Mr. Seery either misapprehended or misstated the structure of HCLOM, in which the Debtor then held controlling, but not economic, interest. Any inadvertence in understanding the nature of the Debtor's interest in HCLOM was not inadvertence in its belief that it was liable under the Note. Apparently believing that the Debtor effectively owned the Note, Mr. Seery freely admitted that the Note was payable.

45. Mr. Seery knew or should have known that the Debtor did not have an economic interest in HCLOM. The declaration in support of the Debtor's first day motions addressed the

[32] *Id.*, 196:25-197:4, at App.0339-0340.

Note. Specifically, the Debtor stated that, as of the Petition Date, "[t]he Debtor's obligations under the CLO Purchase Agreement and CLO Note are unsecured."[33]

46. The Debtor further stated that Acis had assigned the Note to HCLOM in November 2017, and that "the Debtor does not have any beneficial ownership interest in HCLOM."[34] It concluded that "[a]s of the Petition Date, the aggregate principal balance of the CLO Note was approximately $9.5 million."[35]

47. Subsequent to the Acis settlement, the Debtor and Mr. Seery further confirmed that the Note was a valid liability of the Debtor owed to HCLOM. As explained above, the Debtor's original schedules filed prior to the installation of the Independent Board incorrectly recorded the Note principal and interest as payable to a similarly named affiliate called Highland CLO Holdco.[36]

48. The Debtor executed the Settlement Agreement with Acis on September 9, 2020,[37] and thirteen days later, the Debtor filed the Amended Schedules properly reflecting that the Note principal and interest were owed to HCLOM.[38] Mr. Seery signed the Debtor's Amended Schedules under penalty of perjury.

49. Neither HCLOM nor any other party took any action to prompt the Debtor to make this amendment to its schedules, so this amendment appears to be the Debtor's independent belief about its own liability on the Note. As of the date of this Response, the Debtor has not amended its Schedules to remove this liability. At all times, from its First Day declaration to its current schedules, the Debtor readily admitted that it owed this liability.

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[33] Declaration of Frank Waterhouse in Support of First Day Motions, dated December 4, 2019, Dkt. 11 in Case No. 19-34054-sgj-11, annexed hereto as Exhibit 19 ("Ex. 19"), at App.1065-1108.
[34] *Id.*, ¶ 18, at App. 1071.
[35] *Id.*, ¶ 20, at App.1072.
[36] Ex. 1, Schedule E/F §§3.65 and 3.66, at App.0027.
[37] Ex. 16 at App. 1037, 1043-1044
[38] Ex. 2, Schedule E/F §§3.65 and 3.66, at App.0105.

D. The Debtor's Arguments about Failure of Consideration for the Note Are Inconsistent and Unavailing.

50. The Debtor also tries to argue that the Note is unenforceable due to a failure of consideration. When there is a written agreement between parties, the "written contract presumes that there was consideration for its execution." *Gooch v. Am. Sling Co.*, 902 S.W.2d 181, 185 (Tex. App.—Fort Worth 1995, no writ) (citing *Wright v. Robert & St. John Motor Co.*, 122 Tex. 278, 282, 58 S.W.2d 67, 69 (1933); *Hargis v. Radio Corp. of Am.*, 539 S.W.2d 230, 232 (Tex. Civ. App.—Austin 1976, no writ)).

51. Under Texas law, failure of consideration is recognized as an affirmative defense to an action on a written agreement. *See Nat'l Bank of Commerce v. Williams*, 125 Tex. 619, 84 S.W.2d 691, 692 (Tex. 1935). As such, the burden is on the Debtor to prove a failure of consideration.

52. There was no failure of consideration under the CLO Participation Agreement, to which HCLOM is not a party. As the Debtor admits in the Objection, "Highland and Acis appeared to perform their respective obligations under the [CLO Participation] Agreement through early November 2017." Objection at ¶ 2.

53. Nor was there a failure of consideration under the Note Transfer Agreement. The Note Transfer Agreement came about after the Debtor informed Acis that it was "unwilling to continue providing support personnel and other critical services to Acis with respect to the CLOs."[39] As explained above, HCLOM irrevocably agreed to step in as successor manager and Acis and HCLOM took efforts to effectuate the transfer as promised.

[39] Ex. 5, p. 1, at App.0137.

54. Any subsequent failure by Acis to transfer the Servicer Fees to HCMLP was not a failure by HCLOM, and such underlying claims have been released in the Debtor's settlement with Acis.

55. Additionally, Debtor has no standing to object to the Note Transfer Agreement. As a matter of law, the Debtor is not permitted to object to failure of consideration for a contract if the Debtor was not a party to that specific contract. *Berger v. Berger*, 578 S.W.2d 547, 549 (Tex. Civ. App. – Houston [1st Dist.] 1979, no writ) (holding a grantor was the only person who could set aside a deed for failure of consideration); *see also Lopez v. Morales*, No. 04-09-00476-CV, 2010 WL 3332318, at *3 (Tex. Civ. App. – San Antonio 2010, no pet.) (holding a grandson did not have standing to assert a claim for failure of consideration on behalf his grandfather when the grandson was not a party to the deed).

56. Even if payment on the Note is deemed an undeserved windfall, then it is a windfall received by Acis and allowed to occur by the Debtor and its counsel. Similarly, as asserted by the Debtor against Acis in the Acis Claim Objection, any claim by HCMLP against its alleged co-conspirators would be barred by *in pari delicto*, as HCMLP was a least equally culpable in all of the conduct it alleges."[40]

57. Texas courts refer to the doctrine of *in pari delicto* as the "unlawful acts rule." *Rico v. Flores*, 481 F.3d 234, 241 (5th Cir. 2007). It is an equitable affirmative defense which bars a party from asserting an action where the party itself has engaged in substantially equal wrongdoing or criminal conduct. *Id.* at 242. Although it is an open question in the Fifth Circuit *whether in pari delicto* can be asserted against a trustee or reorganized debtor, there is support for doing so.

[40] Ex. 15, ¶ 69, at App.1010.

See Osherow v. York, No. 5:17-CV-483-DAE, 2019 U.S. Dist. LEXIS 200382, at *16-17 (W.D. Tex. Aug. 5, 2019).

58. The same lawyers that signed the Objection in February 2023 signed the Acis Claim Objection in June 2020. The Debtor's First Day Declaration, which they also helped prepare, put them on notice of the issues surrounding the Note. The same lawyers assisted in negotiating the settlement of the Acis POC and sponsored Mr. Seery's testimony at the Acis 9019 hearing that the Note was a valid obligation of the Debtor.

59. The underlying facts and law are the same now as they were then, as are the persons making the arguments for the Debtor. If the Debtor is correct in its currently asserted arguments, then the Debtor's management and professionals permitted a windfall payment to Acis and the objection should be denied under the doctrine of *in pari delicto*.

E. The Debtor Has No Right to Setoff or Recoupment Against HCLOM.

60. Finally, the Debtor argues in the alternative that if its performance under the Note is not excused, its obligations are subject to setoff and recoupment.

61. As the Debtor noted in the Objection, recoupment requires that "(1) some type of overpayment must have been made, and (2) both the creditor's claim and the amount owed the debtor must arise from a single transaction." Objection, at ¶ 59 (citing *Sommers v. Concepción*, 20 S.W.3d 27, 35 (Tex. App. 2000)).

62. No overpayment has been made by the Debtor. As the Debtor admits in the Objection, "Highland and Acis appeared to perform their respective obligations under the [CLO Participation] Agreement through early November 2017." Objection at ¶ 2.

63. Nor did the Scheduled HCLOM Claims and HCMLP's alleged right to Servicer Fees arise from a single transaction. Any amounts owed to the Debtor arose under the CLO

Participation Agreement and the Scheduled HCLOM Claims arose under the Note, which was assigned to HCLOM over a year later pursuant to the Note Transfer Agreement.

64. Setoff is similarly unavailable to the Debtor. "In order for one demand to be set off against another, there must be mutuality." *F.D.I.C. v. Projects American Corp.*, 828 S.W.2d 771, 772 (Tex. App. - Texarkana1992, writ denied). "Mutuality of demand exists where debts are owing between the same parties in the same right or capacity." *Id.*

65. Here there is no mutuality. HCLOM had no obligation to pay the Debtor under the Note Transfer Agreement. Any right of the Debtor to be paid is against Acis, and such claims were unequivocally released in the Acis settlement.

WHEREFORE, HCLOM respectfully requests that this Court enter an Order (i) overruling the Objection; (ii) allowing the HCLOM Scheduled Claims; and (iii) granting such other and further relief as this Court may deem equitable and proper.

Dated April 3, 2023

Respectfully submitted,

STINSON LLP

/s/ Deborah Deitsch-Perez

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 3, 2023, a true and correct copy of this document was served electronically via the Court's CM/ECF system to the parties registered or otherwise entitled to receive electronic notices in this case.

/s/ Deborah Deitsch-Perez
Deborah Deitsch-Perez

EXHIBIT 21

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,[1]	)	Case No. 19-34054-sgj11
Debtor.	)	

HIGHLAND CLO MANAGEMENT, LTD.'S
COMBINED DISCOVERY RESPONSES AND OBJECTIONS

Highland CLO Management, Ltd. ("HCLOM"), by and through its attorneys, hereby submits its (1) Answers and Objections to Highland Capital Management, L.P.'S Interrogatories Directed to Highland CLO Management, Ltd.; (2) Responses and Objections to Highland Capital Management, L.P.'S Requests for the Production of Documents Directed to Highland CLO Management, Ltd.; and (3) Responses and Objections to Highland Capital Management, L.P.'s Requests for Admission Directed to Highland CLO Management, Ltd., as follows:

[1] The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



INTERROGATORIES

Interrogatory No. 1:

Identify each thing of value that HCLOM provided for Highland's benefit in exchange for the transfer of the Note.

Answer to Interrogatory No. 1:

HCLOM objects to this Interrogatory to the extent is assumes that HCLOM was obligated to provide Highland anything of value in exchange for Acis transferring the Note to HCLOM. Subject to and without waiving such objection, after Highland informed Acis that it was "unwilling to continue providing support personnel and other critical services to Acis with respect to the CLOs", HCLOM irrevocably committed in the Assignment to be appointed as successor manager and then took steps to effectuate the transfer as promised.

Interrogatory No. 2:

Identify the person who negotiated the Assignment on behalf of each party thereto.

Answer to Interrogatory No. 2:

HCLOM objects to this Interrogatory to the extent that the information is more readily available to Highland. Subject to and without waiving such objection, HCLOM states that Thomas Surgent and Tim Cournoyer, current employees of Highland, drafted the terms of the Assignment and James Dondero executed the Assignment on behalf of Acis and Highland, and John Cullinane executed on behalf of HCLOM.

Interrogatory No. 3:

For each obligation or duty that You had under the Assignment, identify each one that You fulfilled.

Answer to Interrogatory No. 3:

HCLOM objects to this Interrogatory to the extent that it calls for a legal conclusion.

Interrogatory No. 4:

Identify the date on which You became the Successor Manager.

Answer to Interrogatory No. 4:

HLCOM did not become Successor Manager to the CLOs.

Interrogatory No. 5:

Identify the date on which You first began to manage any of the CLOs.

Answer to Interrogatory No. 5:

HCLOM did not manage the CLOs.

Interrogatory No. 6:

Identify all Servicer Fees that You transferred or remitted to Highland, including the amount(s) and date(s) of each transfer or remittance.

Answer to Interrogatory No. 6:

HCLOM did not transfer or remit Servicer Fees to Highland.

Interrogatory No. 7:

Identify all Ultimate Beneficial Owners at the time of the Assignment and each such owner's percentage of direct or indirect economic ownership.

Answer to Interrogatory No. 7:

HCLOM objects to this Interrogatory to the extent that Highland has better access to such information. Subject to and without waiving such objection, based on the information obtained from Highland, the Ultimate Beneficial Owners were The Dugaboy Investment Trust (75%) and Mark Okada (25%).

Interrogatory No. 8:

Identify the date that You first disclosed the existence of the Assignment to Josh Terry or his counsel (if You cannot identify the precise date, then identify the month and year when You first disclosed the existence of the Agreement to Josh Terry or his counsel).

Answer to Interrogatory No. 8:

HCLOM objects to this Interrogatory to the extent that it assumes that HCLOM was the party that first disclosed the existence of the Assignment to Josh Terry or his counsel, when in fact it was Highland who made such disclosure. After Highland made such disclosure to Josh Terry or his counsel, HCLOM no longer could "disclose" to Mr. Terry or his counsel what they already knew.

Interrogatory No. 9:

Identify all Stabilization Payments that would have been paid to Highland in 2018 and 2019 if You had become the Successor Manager and managed the CLOs in those years.

Answer to Interrogatory No. 9:

HCLOM incorporates by reference the Assignment and the Agreement for Purchase and Sale of CLO Participation Interests dated as of October 7, 2016 by and between Acis and Highland, and states that it took all actions as required by those two documents regarding Stabilization Payments, and otherwise the documents speak for themselves.

Interrogatory No. 10:

Identify each witness that You intend to call at trial in this proceeding.

Answer to Interrogatory No. 10:

Jim Dondero

Frank Waterhouse

David Klos

James Seery

DOCUMENT REQUESTS

Request No. 1:

All Documents and Communications Concerning the Scheduled Claims.

Response to Request No. 1:

HCLOM will produce all responsive documents, if any, at a mutually agreeable time and place.

Request No. 2:

All Documents and Communications Concerning any consideration (*i.e.*, anything of value) that You provided to HCMLP in exchange for the Note.

Response to Request No. 2:

HCLOM will produce all responsive documents, if any, at a mutually agreeable time and place.

Request No. 3:

All Documents and Communications concerning Your performance of any obligation under the Assignment.

Response to Request No. 3:

HCLOM will produce all responsive documents, if any, at a mutually agreeable time and place.

Request No. 4:

All Documents and Communications Concerning the Assignment, including the drafting and negotiation of the Assignment.

Response to Request No. 4:

HCLOM will produce all responsive documents, if any, at a mutually agreeable time and place.

Request No. 5:

All Documents and Communications Concerning the Debtor's unwillingness "to continue providing support personnel and other critical services to Acis with respect to the CLOs," as alleged in paragraph 53 of the Response.

Response to Request No. 5:

HCLOM will produce all responsive documents, if any, at a mutually agreeable time and place.

Request No. 6:

All Documents and Communications Concerning the *in pari delicto* defense asserted to in paragraph 56 of the Response.

Response to Request No. 6:

HCLOM will produce all responsive documents, if any, at a mutually agreeable time and place.

Request No. 7:

All Communications with John Cullinane Concerning (a) the Appointment, (b) the Assignment, (c) the Note, or (d) the Scheduled Claims.

Response to Request No. 7:

HCLOM will produce all responsive documents, if any, at a mutually agreeable time and place.

Request No. 8:

All Documents and Communications Concerning the formation of HCLOM.

Response to Request No. 8:

HCLOM will produce all responsive documents, if any, at a mutually agreeable time and place.

Request No. 9:

All Documents and Communications Concerning any contracts or agreements that You entered into in order to fulfill Your obligations and duties under the Assignment.

Response to Request No. 9:

HCLOM will produce all responsive documents, if any, at a mutually agreeable time and place.

Request No. 10:

All Documents You intend to offer into evidence during the hearing on the Objection and in support of the Schedule Claims.

Response to Request No. 10:

HCLOM objects to this Request to the extent it is inconsistent with the Scheduling Order and the relevant rules. Subject to this objection, HCLOM responds as follows: HCLOM will produce all responsive documents, if any, at a mutually agreeable time and place.

REQUESTS FOR ADMISSION

Request for Admission No. 1:

Admit that HCLOM did not provide anything of value for Highland's benefit in exchange for the transfer of the Note.

Answer to Request No. 1:

Deny.

Request for Admission 2:

Admit that HCLOM never became a Successor Manager.

Answer to Request No. 2:

Admit.

Request For Admission No. 3:

Admit that HCLOM never obtained an Appointment.

Answer to Request No. 3:

Admit.

Request For Admission No. 4:

Admit that HCLOM never managed the CLOs.

Answer to Request No. 4:

Admit.

Request For Admission No. 5:

Admit that Acis has solely managed the CLOs since November 3, 2017.

Answer to Request No. 5:

HCLOM is without information sufficient to admit or deny, and therefore denies.

Request For Admission No. 6:

Admit that You never transferred or remitted any Servicer Fees to Highland.

Answer to Request No. 6:

Admit.

Request For Admission No. 7:

Admit that James Dondero controlled Highland and Acis at the time the Assignment was executed.

Answer to Request No. 7:

HCLOM objects to this Request's use of the term "controlled" as vague. HCLOM admits James Dondero was the President of Highland's general partner Strand Advisors,

Inc. and was the President of Acis's general partner Acis Capital Management GP, LLC at the time the Assignment was executed.

Request For Admission No. 8:

Admit that James Dondero authorized Highland to send the Notification to Acis.

Answer to Request No. 8:

HCLOM is without sufficient information to admit or deny, and therefore denies.

Request For Admission No. 9:

Admit that, if HCLOM had become the Successor Manager, HCLOM intended to rely upon on Highland's employees and resources to manage the CLOs.

Answer to Request No. 9:

Admit.

Request For Admission No. 10:

Admit that HCLOM was not a registered investment advisor at any time during the period January 1, 2016 through December 31, 2023.

Answer to Request No. 10:

HCLOM objects that such information is more readily available to Highland via its Chief Compliance Officer Thomas Surgent who was responsible at the time for registering HCLOM as a relying advisor of Highland. Subject to and without waiving such objection, HCLOM is without sufficient information to admit or deny, and therefore denies.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P.,	)	Case No. 19-34054-sgj11
Debtor.	)	

VERIFICATION OF HIGHLAND CLO MANAGEMENT, LTD.'S INTERROGATORY ANSWERS

I, Frank Waterhouse, am authorized and capable of making this declaration on behalf of HCLOM. I have read the interrogatories propounded to HCLOM by Debtor Highland Capital Management, L.P., and the answers to those interrogatories served on counsel for Debtor on August 23, 2024. I am familiar with the contents of both. Based on my personal knowledge and/or knowledge obtained from other persons believed to have personal knowledge, HCLOM's answers to the Debtor's interrogatories are true. Therefore, I declare under penalty of perjury that the answers are true and correct.

HIGHLAND CLO MANAGEMENT, LTD.

By: FRANK WATERHOUSE

Title: REPRESENTATIVE

Date: 9-11-24

EXHIBIT 22

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	)Chapter 11
	)
HIGHLAND CAPITAL MANAGEMENT, L.P.	)Case No. 19-34054-sgj11
	)
Reorganized Debtor.	)

ORAL AND VIDEOTAPED DEPOSITION
DAVID KLOS
SEPTEMBER 25, 2024

ORAL AND VIDEOTAPED DEPOSITION OF DAVID KLOS, produced as a witness at the instance of the Highland CLO Management, LTD. and duly sworn, was taken in the above-styled and numbered cause on the 25th day of September, 2024, from 9:28 a.m. to 2:47 p.m., before Katharene McCulley, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Stinson, LLP, 2200 Ross Avenue, Suite 2900, Dallas, Texas 75201, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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ALSO PRESENT: Miranda Glover - Videographer

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PROCEEDINGS

VIDEOGRAPHER: We are on the record for the videotaped deposition of David Klos. In the matter of Highland Capital Management, LP, filed in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division. Today is September 25th, 2024. The time is 9:27 a.m. We are located at Stinson, LLP, 2200 Ross Avenue in Dallas, Texas. The videographer is Miranda Glover. The certified shorthand reporter is Katharene McCulley, both representing Veritext Legal Solutions.

Will counsel state their appearances.

MR. AIGEN: Michael Aigen from Stinson representing Highland CLO Management, Ltd.

MR. MORRIS: And John Morris, Pachulski Stang Ziehl & Jones. I am counsel to Highland Capital Management, LP, and I'm here to represent the witness today, David Klos.

DAVID KLOS,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

Q (By Mr. Aigen) Can you state your full name, please?

A David Kelly Klos.

Q Good morning, Mr. Klos. You've been deposed

before; is that correct?

A Yes.

Q Approximately, how many times?

A A few, approximately five, plus or minus.

Q Is it fair to say that you understand the process and what's going to happen today?

A Yeah, I think generally.

Q Okay. I won't go through all of the rules and the procedure today, but a few sort of ground rules, as you just did, you understand that you need to answer the questions audibly rather than with a shake or nod of the head, correct?

A I understand. I'll -- I'll try to -- I'll try to do that.

Q And I will do my best to make my questions as clear as possible, but that will not happen sometimes. And if you don't understand a question, I would ask that you let me know that you don't understand a question; is that fair?

A That's fair.

Q Okay. And if you don't tell me that you don't understand the question, I'm going to presume that you understand the question; is that fair?

A That's fair.

Q Okay. Can you tell me, generally, how you

prepared for today's deposition?

A It's a little bit broad because of -- I was part of, you know, helping work through document production, discussing with our 30(b)(6) witness, so it's hard to say how much of that bleeds into my own preparation. It's certainly a component. But, I'd -- I'd say I had several calls with -- with counsel in the lead up to this. And -- and again, some of that is kind of preparing me and some of it is more just generally, you know, getting an understanding of -- of where we are.

Q Okay. And by "counsel," are you referring to Mr. Morris?

A Yes.

Q Okay. Anyone else?

A No.

Q Okay. And by 30(b)(6) witness, you're referring to Mr. Seery?

A Yes.

Q Okay. So, other than Mr. Serry and Mr. Morris, is there anyone else that you talked to to prepare for today's deposition?

A We had several conference calls with other members of the Highland team, in addition to Mr. Serry and Mr. Morris.

Q Okay. Who would that be?
A That would be some combination, maybe not necessarily every call, but some combination of Tim Cournoyer, Matthew Gray and Thomas Surgent.
Q Not Kristin Hendrix?
A I don't believe so.
Q Did you review any documents to prepare for your deposition today?
A Yes.
Q Generally, tell me what documents you reviewed.
A Generally, I would say the -- the purchase and sale agreement from October of 2016, excuse me, the assignment -- I'm going to butcher the name of the agreement, but the assignment and transfer from early November. The -- I think it's the acknowledgment and waiver from January, and the -- the two forbearance agreements from approximately May of 2018 and May of 2019.
Q Okay. Other than agreements, did you review any e-mails --
A Yes.
Q -- in your preparation?
A Yes, I did.
Q Tell me about the e-mails that you reviewed in preparation for the deposition.

MR. MORRIS: Objection to the form of the question.

A I reviewed primarily my own in-box from -- from that time period. When I say "that time period," from call it middle part of 2016 up until really middle part of 2018, primarily. And -- and also, I think as part of our production, there were some other e-mails that were circulated that I had a chance to review.

Q (By Mr. Aigen) And what were those e-mails?

A I don't remember specifically.

Q Generally.

A E-mails that were part of our production that seemed in some way or another pertinent to -- to the -- to this matter.

Q And what topics were they related to within this matter?

A I -- I can't think of any specifically.

Q Okay. Other than e-mails and the agreements that you referenced earlier, do you remember any other types of documents that you looked at in preparation for the deposition?

A Yes, I -- I'm -- I'm sure I looked at other -- other documents that were part of our production. So, maybe CLO documents, formation documents that -- things of that nature, kind of -- those types of things.

Q Okay. Did you look at any pleadings or discovery in preparation for the deposition?

MR. MORRIS: Objection to the form of the question.

A Yes.

Q (By Mr. Aigen) All right. Tell me what you reviewed with respect to pleadings or discovery.

A I'm not sure I understand what you mean by "pleadings" and "discovery." Could you just be more specific?

Q Well, did you review any legal pleadings in preparation for today's deposition, filings in this case or the bankruptcy?

A Yes.

Q Tell me which pleadings you remember reviewing.

A I would have reviewed -- sorry, can you ask the question again?

Q Let me -- I might be a little more specific to help. For instance, there was an objection that Highland filed to the claim at issue in this case, and then there was a response by HCLOM. Are those documents that you reviewed in preparation?

A I think I reviewed those documents some time ago. I -- I don't know that I'm really sharp on those. I certainly, I think, skimmed those, but I don't -- I

don't know that I have a facile, you know, feel for every -- every word in the document.

Q Any other pleadings that you remember reading in preparation for the deposition other than those?

A I reviewed my own deposition testimony in the Acis -- I think it's Acis versus Dondero matter. I reviewed trial testimony that I'd given, I think, back in 2018. Frankly, I don't recall who the exact parties were to that, but I reviewed those -- those -- those transcripts.

Q Okay. And the deposition you're referring to, that's one that was in the last couple of months?

A I believe it was March -- March, April, February, that -- that time range of '24.

Q Switching topics here a little bit. I just want to go over background very quickly. Where do you currently work?

A Highland Capital Management, LP.

Q Okay. And if I refer to that entity as "Highland" or "Highland Capital" throughout this deposition, you'll know what I'm talking about?

A Yeah. I'll assume if you refer to "Highland" or "Highland Capital," that you're referring to HCMLP or Highland Capital Management, LP. I'll use those interchangeably.

Q Okay. Thank you. Okay. What is your current position there?

A I'm the CFO and COO.

Q And generally, what are your duties and responsibilities as CFO and COO?

A It's -- it's a broad set of responsibilities, but -- but, generally, I have oversight over the accounting function for the -- the entities that are part of what I'll colloquially refer to as the bankruptcy estate. I oversee an accountant that is the internal fund accountant for the funds that we manage.

And then kind of from an operational perspective, just managing certain members of the team and dealing with what I'd call kind of routine operational issues, like, you know, contracts with some of our vendors that -- that we have, and then being -- being a -- a resource for Jim Seery, our -- our CEO.

Q And my next question was going to be, who do you report to as CFO and COO?

A Jim Seery.

Q When did you first start at Highlands?

A March of 2009.

Q Okay. And what was your position at that point?

A Senior valuation analyst.

Q And we'll move forward to sort of the relevant time period here. So, in let's say in October 2016, what was your position then?

A I'm actually not certain. I was either assistant controller or controller.

Q Okay. Is it fair to say at one point you were assistant controller and at some point you became controller at Highlands?

A That's fair.

Q Okay. Can you generally tell me what your duties were as assistant controller and controller to the extent that they differed?

A I -- I would -- I'd characterize those roles as functionally the same. My job didn't change all that much between those two roles. But, at that time, I reported to Frank Waterhouse, who was the -- the then CFO, and similarly, have a focus on the -- the corporate accounting entities, accounting for Highland Capital Management, LP, and certain other entities. I believe, at that time, I was also the -- at that point the head of valuation, so I had a small valuation department that -- that ran up to me.

Q And I think I probably misheard you. When you described Frank Waterhouse, did you say CEO or CFO?

A CFO.

Q Okay. I'm just making sure. I think I misheard. And at some point after October 2016, did your position at Highland eventually change?

A Well, notwithstanding the assistant controller, controller distinction, it -- it next changed in approximately April of 2020 when I became the chief accounting officer.

Q Okay. And how did your duties and responsibilities change at that point?

A That was a larger shift. That was really taking over the fund accounting responsibilities for both the -- what I'll refer to as the institutional funds as well as the retail funds, the 1940 Act registered funds. And taking over oversight of the operations team, maybe another department or two that I'm missing. And that was a -- a shift away from the corporate team. I was still loosely involved. I'd still attend calls occasionally, but my responsibilities shifted, and I wasn't as involved in what I'll refer to as the corporate accounting group.

Q Okay. And at some point in time Highland filed for bankruptcy; is that correct?

A Yes.

Q Do you know the approximate date of that?

A October 15th or 16th of 2019.

Q So, I just want to talk a little bit about the time period, let's say from October 2016 until the filing of the bankruptcy.

A You said '16. Did you mean --

Q Yeah.

A Oh, oh, okay, October of '16 until the filing?

Q Yeah, until the bankruptcy. Just during that time period, can you tell me did you report to Mr. Waterhouse directly during that whole time period?

A Yes.

Q Okay. And during that time period, approximately, how many people reported to you?

A Directly or indirectly?

Q Directly.

A Directly, I believe two, two or three.

Q Who were those two or three people?

A I think it was probably three. But, at -- at -- it would have been Kristin Hendrix, Sean Fox, maybe for part of it, but maybe not the whole -- the whole part. I'm just not sure. And then somebody from the valuation team. I think we might have had a few different bodies in that role. And so, I'm -- I'm not certain who it would have been at that time, but let's just call did a valuation person.

Q Okay. And who is Jim Dondero?

A Jim Dondero is the -- is -- is many things, but he is --

Q Let me rephrase that. During that time period, what was he with respect to Highlands?

A At that time, he was -- I believe he was the president of -- of -- of Highland, and -- and he was the -- the sole owner of Highland's general partner.

Q And that's Strand?

A Yeah, Strand Advisors, Inc., I believe.

Q Okay. Was he also CEO of Highland during that time period?

A I'm not sure.

Q Okay. But, you generally knew him as the president during that time period?

A I don't know that I even knew him as the president, he's -- he was -- he was -- he was the big boss.

Q And I know you told me before that you reported directly to Mr. Waterhouse during that time period. I want to just ask you generally about conversations with Mr. Dondero during that time period. So, did you report directly to Mr. Dondero at all during that time period?

A No.

Q Okay. Fair to say that you had conversations with Mr. Dondero during that time period?

A Fair.

Q Okay. At a high level, tell me what would generally be the reasons that you would talk to Mr. Dondero if you didn't directly report to him?

A The most frequent reason I would talk to Mr. Dondero was with respect to the Highland Select account, which was frequently experiencing margin calls and liquidity issues. So, part of my duties at that time, which I didn't -- didn't delve into earlier, were monitoring that -- that select portfolio. And you know, to the extent that there were margin calls or other events that would require updating Mr. Dondero, I would -- I would make those updates to him directly.

Q How often would you say you talked to Mr. Dondero in this timeframe?

MR. MORRIS: Objection to the form of the question.

A Very hard to say, because it wasn't -- it wasn't a standing weekly meeting or something like that, so I might talk to him, you know, eight times in a week, and then I might not talk to him for three weeks kind of -- kind of thing.

Q (By Mr. Aigen) And you worked in the same office; is that correct?

A That's correct.

Q Changing topics a little bit here. Are you familiar with a company called Acis Capital Management, LP?

A Yes.

Q Okay. And if I refer to that as "Acis," will that work for you?

A That will be fine.

Q Can you tell me what Acis is?

MR. MORRIS: Objection to the form of the question.

A Acis is a -- well, I don't know what it is right now, but --

MR. MORRIS: That's my objection.

Q (By Mr. Aigen) Intentionally vague question.

A Could you just restate that for me?

Q Let's start to the beginning, then. Do you know approximately when Acis was formed?

A Approximately, 2010 or 2011.

Q Do you know why it was formed?

A My understanding is that it was set up really as a compensation vehicle for Josh Terry.

Q Why was a compensation vehicle needed for Josh Terry?

A I don't know.

Q And who is Josh Terry?

A Josh Terry is a former Highland employee. He was -- had various roles, but he was the -- the -- I think of him as the head of structured products for a time, that's Highland's CLO business.

Q Okay.

A And he was a senior -- senior employee, and I believe at some point he was a partner at Highland as well.

Q Okay. And -- and I apologize, but you are the first person I'm deposing in this case, so you have to go through some background questions. You used the term "CLO" before. Can you explain what a CLO is?

A Sure. CLO stands for Collateralized Loan Obligation. It's a investment vehicle where the CLO borrows a significant amount of money. And that borrowing is divided up into several tranches. It uses that money to invest in loans, hence, the name collateralized loan obligation.

And the -- the idea behind a CLO is that those -- those loans that are purchased, are going to be accruing more interest than the -- than the debt that has been borrowed. And -- and as a result, overtime, the -- the debt holders will all be paid back and then there will be a healthy return to the residual equity holders, who also put up money at the outset of the

deal.

Q Okay. What connection, if any, did -- did Acis have with the CLO industry?

A So, Acis was a -- was the -- the named CLO manager. Again, I'm not sure if that's the exact -- might be the portfolio manager, collateral manager, something along those lines. So, Acis would serve as the -- as the manager of those CLOs, making recommendations and purchasing loans on behalf of those CLOs.

Q Okay. And when I originally asked about Acis, I believe the term you used was it was -- it was set up as a compensation vehicle. Can you tell me about how it either turned from a compensation vehicle into a CLO manager or how those two sort of acted together?

A Sure. So, Highland Cap -- Highland, Highland Capital Management, LP, had previously issued CLOs pre-financial crisis. Post financial crisis, it's my understanding that the -- the market for new CLOs was slow to recover. Obviously, this was an area that was hit hard by the crisis. And so, post crisis, new CLOs were going to be launched under the -- the Acis brand. And so, Acis's mandate was to launch new CLOs, and -- and it -- it did that starting around 2013, really with its -- with its first one.

That being said, Acis didn't have employees of its own. So it -- it was really the people of Highland that were providing the services to the CLOs, but there were -- there were contracts in place between Acis and Highland to compensate Highland for the services it was providing with respect to those CLOs.

Q Between the time Acis was formed, and I believe you said 2010, 2011 period, and when it started managing CLOs in 2013, did it do anything?

A It -- yes, it -- there was a CLO that wasn't actually launched by Acis, but it was basically -- I'll be imprecise here. It was essentially acquired by Acis. It was a CLO called Hewett's Island that had been previously managed by another CLO manager. So, Acis stepped in to the management shoes of -- as the portfolio manager for that CLO, and then it launched its first -- Acis launched its first CLO in 2013.

Q When Acis was first formed, are you aware of who owned it?

A Generally, yes.

Q Who?

A I would refer to the limited partnership agreement from that time, but I believe the founding partner group was -- was the Dugaboy Investment Trust, Mark Okada, in his individual capacity, and Josh Terry.

Q Do you know whether the ownership of Acis ever changed?
A I believe it did.
Q Okay. And at some point Acis was in bankruptcy; is that correct?
A Yes.
Q Okay. For now I just want to talk about pre-bankruptcy.
A Sure.
Q So, prior to the bankruptcy, can you tell me if you have any knowledge of how the ownership structure of Acis changed?
A The only change I'm aware of -- and I don't honestly know the -- whether it was effective or exactly what happened in the -- in the time period. But, after Josh Terry terminated at Highland, the -- he -- he was dropped as -- from the founding partner group of Acis. So, you know, the -- the ownership of Acis became just Dugaboy -- the Dugaboy Investment Trust and -- and Mark Okada.
Q Okay. And prior to the Acis bankruptcy, you're not aware of any other changes to the Acis ownership structure; is that correct?
A None that I can think of.
Q What's your understanding as to who controlled

Acis prior to the Acis bankruptcy?

A Jim Dondero.

Q And what was his connection to Acis?

A He was -- I'm not -- I'm not -- I'm not certain from a legal perspective.

Q Do you know whether he had any formal relationship or connection to Acis?

A I -- I believe he did. I -- I believe he was an officer of Acis's general partner.

Q And my next question was going to be, do you know who any of the officers of Acis were prior to the bankruptcy?

A Prior to the bankruptcy, I know there were officers of the general partner. I know Jim Dondero was one of those. I believe Frank Waterhouse was another. After that, I'm not sure.

Q Okay. To your understanding, though, that from the formation of Acis, at least until the Acis bankruptcy, that Acis was controlled by Mr. Dondero; is that correct?

A Yes.

Q Is there anyone else that controlled Acis, other than Mr. Dondero during that time period?

A I would -- I think you could argue that in some ways Josh Terry controlled from the standpoint that he

was the portfolio manager of various Acis deals. I mean, ultimately, the buck stopped with Jim Dondero, but he did -- Josh Terry exercised I -- I suppose a modicum of control.

Q Was he an officer of Acis?

A I believe he was, but I'm not certain.

Q Okay.

A Don't know.

Q And you said -- I apologize if I'm misquoting you here. But, that it was set up as a compensation vehicle for Mr. Terry. Is that unusual to have a whole entity set up as a compensation vehicle for one individual in Highlands?

A No, not entirely.

Q Okay. Can you just give me a little context as to why a compensation vehicle was set up for Mr. Terry?

MR. MORRIS: Objection to the form of the question.

A I believe it was set up to effectively incentivize him to -- to grow the CLO business and -- and launch new CLOs. So, there was -- there -- there would be a relationship between his ability to get CLOs launched and how much he would get paid, you know, via -- via his partnership interest.

Q (By Mr. Aigen) Okay. Narrow down the timeframe

here a little bit. I just want to talk about the -- I guess what we would say the relevant time period to this case, starting October 2016, let's say until the Highland bankruptcy in 2019. What was Highland's relationship with Acis?

MR. MORRIS: Objection to the form of the question. You can answer.

A As a -- Highland was a contractual counter-party to shared services and sub-advisory agreements. Highland made one or more loans to Acis during that time period. And Highland had a, you know, relationship via the participation agreement and note from October of 2016.

Q (By Mr. Aigen) Okay. Did Highland ever have any ownership interest in Acis?

A No.

Q Okay. And two of the agreements you mentioned before, a shared service agreement and a sub-advisory agreement, let's talk about the shared services agreement first. Can you tell me just generally what the purpose of the shared service agreement was between Highland and Acis?

A Yes. Generally, shared services agreement is for provision of back and middle office services. So, that's things like accounting, tax, IT, kind of behind

the scenes type -- type roles that are, you know, nevertheless integral to -- to an investment advisor.

Q And then the sub-advisory agreement, what's the purpose of the sub-advisory agreement between Highland and Acis?

A So, that is for the provision of what I would colloquially refer to as front office services, so investment advice.

Q And you mentioned before -- sorry. When I asked you about the relationship, you mentioned that it was a lender and then you also mentioned the note that we're going to discuss today that's at issue here. And we'll get into the note that's at issue in this litigation. But, other than that note, are you aware of any other loans or lending relationship between Highland and Acis?

A I'm -- I'm certain that Highland loaned Acis funds in April of 2017.

Q And that was pursuant to a written note; is that correct?

A I'm not certain, but I believe it was a promissory note.

Q Other than that promissory note, are you aware of any other loans, other than that note and the one at issue in this case?

A None that I can think of off the top of my head, but not precluding the possibility that one could have existed.

Q And I don't need to get into details on it. But, do you know generally why the loan was made from Highland to Acis in April of 2017?

A Yes, it was made to Acis to enable Acis to be able to effectively seed or provide equity capital to launch a CLO that was called -- again, I'm going -- I'm going to butcher the name, but Acis 2017-7.

Q Okay. And is that generally referred to as Acis 7?

A Yes.

Q And did Acis ever have any employees?

A No. Let me clarify that. It -- it may have nominally had dual employees like that technically were a dual employee of Acis and Highland. But, in terms of who paid their paycheck, it was always Highland.

Q And were these employees of Highland that did work for Acis? Was that work done through the two agreements you discussed before, the shared services agreement and the sub-advisory agreement?

A Sorry. Can you just repeat that again? I just -- I kind of missed it.

Q So, Highland was providing employees to do work

for Acis; is that correct?

A Yes.

Q And I assume at least some of those employees were doing that work as part of the shared services agreement and the sub-advisory agreement; is that correct?

MR. MORRIS: Objection to the form of the question.

A Yes. But, with the qualifier that -- I don't know how many people at Highland even knew of the existence of shared services and sub-advisory, so people were doing what their direct report asked them to do. So, I don't know that people were caught up in the distinction of is this a Highland thing or is this an Acis thing. They're -- people are just doing their jobs.

Q (By Mr. Aigen) Fair enough. Do you have an understanding as to whether all the work that Highland employees were doing for Acis, was that pursuant to those two agreements or was there work outside of those two agreements?

A I -- I just don't know.

Q Okay. Approximately, how many employees of Highland did work for Acis?

MR. MORRIS: Objection to the form of the

question.

A I don't know that I could answer that. It's -- it's too -- it's -- it's too squishy. When you say "work for Acis," it's -- I think under the broadest definition, it could be a huge number. And on a very narrow definition, it could be a small number.

Q (By Mr. Aigen) Okay. Let's start with a narrow definition, or I'll try to narrow or define it a bit. How many employees of Highland did what you would term significant work for Acis?

MR. MORRIS: Objection to the form of the question.

A Could you clarify time period?

Q (By Mr. Aigen) And I'll be able to rephrase that. Again, I'm -- I'm talking about -- let's talk about the -- the -- the period from October 2016 on to the Highland bankruptcy. Can you tell me who the -- what Highland employees did the most work for Acis?

A The -- the type of employees that did the most work were the -- the credit research team at Highland, which I would guess was somewhere between -- I'm setting a wide goal post here, but probably between five and 20 people. The structured products team, which is a smaller team consisting of, call it, two to four people, that was really the thrust of the investment side of the

equation.

On the back office side, you could have as many as -- you could probably argue as many as 30 or 40 people spending some time. I don't think you would have people spending the majority of their time, maybe some of the operations people that are just closing, settling loans. But, it would really -- it would be -- it's a really hard question to answer on the back office side, because -- because they're -- they're providing services to a large number of entities in the complex and this is one of many.

Q Okay. Would you say Mr. Terry did the majority of his work with respect to Acis during this time period?

A I would say probably the majority, not -- not the entirety.

Q Yeah. Is there anyone else at Highland that you think during that time period was spending the majority of their time with respect to Acis work?

A I would say Hunter Covitz, and then I don't recall the exact time period when -- when people would come and go. But, there were -- there was at least one other person at various times in that structured products group that was in my opinion probably mostly focused on Acis.

Q And that structured product team that you said there were two to four people in, does that include Mr. Covitz an Mr. Terry?

A Yes.

Q And who else had worked on that team?

A I don't know the -- the exact time period. It's hard to remember when people were coming and going, but there was -- there was an individual named Alexey Dronov who worked on that team.

Q Can you spell the last name?

A It's D -- excuse me, D R O N O V, I believe, Russian. And then there was an individual named Neil Desai, D E S A I. Those are the two that stand out to me. Oh, you know, there was another individual named David Owens.

Q Can you generally explain how Acis made money?

A Acis made money pursuant to -- again, using the term loosely, management agreements with -- with the CLOs, so it would provide the advisory services to the CLO and collect a fee pursuant to portfolio management agreements and the indentures of the applicable CLOs.

Q Okay. Other than collecting management fees from CLOs, did Acis make any money in any other way that you're aware of?

A It -- Acis also managed -- it -- it generated

most of its revenue via CLOs. It was also the manager of a small hedge fund. It was also the manager of a -- a separate account, at least one separate account, where the strategy was -- was basically trading CLO paper -- third-party CLO paper for -- for an investor who -- that was the mandate.

Q Do you have an approximate amount or percentage as to what the revenue for Acis was for these non-CLO type businesses?

A Certainly less than half. I would -- hard to say, it's going to ebb and flow with time a little bit, but I would -- I would venture to guess probably somewhere in the 10 to 25 percent range.

Q And I'll narrow down the timeframe as needed. But, generally, how much money did -- how much revenue did Acis make a year?

A I need you to narrow down the time period, because it was -- that was a changing number.

Q Okay. You said it started -- well, when did it start bringing in revenue, 2013?

A No, it started earning revenue in, I believe, 2011. It might have been 2010 with that -- with that Hewett's Island CLO.

Q Between 2010 and 2016, just generally at a high level, can you tell me how much revenue Acis was making?

A It would have ramped from somewhere in the hundred thousand or hundreds of thousands range, all the way up to 2016, north of $10 million. I don't know that that -- I don't know that that was a straight stair-step, but that's -- that's where it ended up. And it would have been more than 10 -- more than 10, less than 20.

Q Okay. Narrowing down the time period a little, let's talk again from what I'll call sort of the relevant time period for today, from October 2016 until the Acis bankruptcy in January of 2018. Roughly, what revenues was Acis bringing in during that time period?

A Sorry. Can you give me the start?

Q And just to put it into context, we'll get into the relevant agreements that you talked about earlier. But, you're aware that one of the issues in this case are a promissory note that was entered into October of 2016. Does that sound right?

A Yes.

Q So, I'm using that as sort of the start to the relevant timeframe today.

A Okay.

Q So, around that timeframe, October 2016 to the Acis bankruptcy, can you tell me what sort of revenues Acis was making?

A I don't know with specificity. But, in that timeframe, it would have been -- I would -- I believe it was somewhere in the 10 to $15 million range, annualized.

Q Do you have any understanding as to when that money came into Acis? Was it then -- what was done with it? Was it distributed to owners, used for expenses?

MR. MORRIS: Objection to the form of the question.

A From October of '16 to 2018, the -- the three main uses of funds that it received would have been paying Highland -- Highland Capital Management, LP, sub-advisory fees, paying Highland Capital Management, LP, shared services fees, and making payments pursuant to the -- I'll call it the participation agreement from October of 2016. There would have been other uses, but those would be -- I -- I would expect that those would be the three biggest buckets.

Q (By Mr. Aigen) And I don't think I asked you this. But, generally, what was your role with respect to Acis in, let's say, the October '16 through 2018 timeframe?

MR. MORRIS: Objection to the form of the question.

A So, at that time -- again, whether I was the

assistant controller or the controller, notwithstanding, there were a number of affiliate advisors that my group did the accounting for. So, my group, being Kristin Hendrix, who reported directly to me, and then, you know, more of a junior accountant and an AP person. And those individuals would, you know, support us -- a large swath of different entities, Acis being one of those, and that -- that group, you know, rolled up to me who rolled up to Frank. And so, you know, I would be involved in, you know, basically overseeing Kristin and her team's work and closing -- you know, closing financials and -- and doing the accounting for those entities tease.

Q (By Mr. Aigen) And at some point Acis was filed into bankruptcy; is that correct?

A That's correct. You know, the mechanics of how it was filed, but Acis was -- was in bankruptcy at some point, yes.

Q Do you know why it was put into bankruptcy?

A I believe there was an involuntary, you know, petition by Mr. Terry in late January of 2018.

Q Did you have any knowledge that Acis would be filed into bankruptcy prior to the actual filing?

A No.

Q It's not anything that you discussed with

anyone prior to the bankruptcy?

A Not that I remember.

Q So, you just discussed with me sort of your role with respect to Acis. Once Acis was filed into bankruptcy, is it fair to say that your role changed with respect to Acis?

A In some ways, yes, and in some ways, no.

Q During that period, once Acis was in bankruptcy, can you generally describe for me what role you had, if any, with respect to Acis?

A Well, for one, I was -- I was, I guess, called on to assist in the preparation of things like SOFAs and schedules and -- basically, I had a lot more touch points with legal than I've had previously had. So, when there were questions, I -- I don't know that I necessarily had a great picture of what was going on. But, when -- but, I was getting a lot more, you know, questions and giving more assistance to our legal department, who was coming to me with -- with -- with questions, that would have been I'd say the biggest change.

Q And in October of 2019, Highland filed for bankruptcy; is that correct?

A Yes.

Q Okay. So, I want to generally just ask you

about the time period. After the Highland bankruptcy, can you just tell me generally what work you did with respect to Acis?

A With respect to Acis, after 2019, after Highland filed?

Q Uh-huh.

A I didn't do any work for Acis. Acis was under different control.

Q If I said "for Acis," I apologize. I meant related to Acis.

A Related to Acis, okay. Related to Acis, I -- I don't really remember. I'm -- I'm sure I might have gotten inquiries from legal from time to time, but fairly minimal.

Q Okay.

MR. MORRIS: What's that airport out there?

MR. AIGEN: Love.

THE WITNESS: Love Field.

A And I should -- should clarify that I've been -- I was called as a witness in a 30(b)(6) witness in the Acis versus -- I think it's Acis versus Dondero, litigation that seems to be going on. And so, again, that seems to be a touch point that comes up from time to time. The specifics of which I -- it's just too much

of a blur.

Q (By Mr. Aigen) Okay. And let me -- so, you did some work with respect to the Acis verse Dondero lawsuit that you just talked about, and you've done some work related to the claims at issue today.

A Yes.

Q Related -- and that relates to Acis to some degree; is that correct?

A Yes.

Q Other than that, since the Highland bankruptcy, do you have any recollection of doing any other work related to Acis?

A The only other thing I can think of off the top of my head, and maybe I've done other things, but it would be kind of ministerial type work. I know there have been -- there have been exceptionally minor questions that have come up in one capacity or another that -- I couldn't get -- I couldn't tell you the specifics, other than that they're not consequential.

Q A couple of follow-up questions on the -- the two agreements we talked about before, the shared service agreement and the sub-advisory agreement. Let's start with the shared services agreement. Were you involved at all with the negotiation or execution of that agreement?

A I -- well --

MR. MORRIS: Objection to the form of the question.

A That -- the shared services agreement had several amendments. So, which -- which agreement are we talking about?

Q (By Mr. Aigen) The original one.

A I -- I don't recall having any involvement in that one.

Q Do you recall having any involvement with any of the amendments or restatements of the shared services agreement?

A Not significant involvement. I might have -- I might have reviewed them prior to execution, but certainly not involved in the negotiation or the terms.

Q Who would have been involved with that, with respect to the original shared services agreement?

MR. MORRIS: Objection to the form of the question.

A I -- I have no personal knowledge, but I would assume it would be some combination of Mr. Dondero, Mr. Terry and Mr. Okada.

Q (By Mr. Aigen) Okay. And what about for the restatements or amendments of that agreement, same people?

A Same answer. And again, I don't have any specific recollection or -- of that.

Q Okay. Okay. And with respect to the sub-advisory agreement, did you have any role with respect to the negotiation of that agreement?

A Same answer.

Q Okay. And were the same people involved with that one?

A Yes, I -- I assume. Again, I don't -- I don't know, but I -- I assume so.

(Exhibit 1 marked.)

MR. AIGEN: We can cover that up. It will just get confusing later.

Q (By Mr. Aigen) I've handed you what's been marked as Exhibit 1. You can flip through that. And my first question is going to be hopefully an easy one, just do you recognize this document?

A I believe so.

Q Okay. Can you identify this document for the record, please?

A This -- this appears to be the Agreement for Purchase and Sale of CLO Participation Interests, whereby, you know, Acis sold a stream of fees in exchange for cash on the note.

Q Okay. And is this the agreement you referred

to before when you said you were going to sort of mess up the name?

A I don't know, maybe, maybe.

Q That's all right. If you turn to -- toward the back, I guess the second to the last page, there's a couple of signatures on that. Do you recognize those signatures?

A Just so we're clear, I'm at the bottom. I'm on R018138?

Q Correct.

A Okay. Yeah, I recognize those signatures.

Q Whose signatures are those?

A That's Jim Dondero's.

Q Okay. And when I asked you if you recognized this, it sounded like you weren't completely sure, and I -- so, I just want to pin this down. Was this one of the agreements that you reviewed in preparation for the deposition?

A Yes.

Q Okay. And I know you didn't read through this word for word. But, is there some reason you might be hesitant about whether this is the same document?

A No, no particular reason.

Q Okay. If you look at the top of the first -- well, actually let me ask you a different question. It

does have this rather cumbersome name here. Do you have a certain term or a certain name for this document that you usually use? I want to make sure we are using the same terminology here.

A I would probably most often refer to this as the participation agreement.

Q I will try to use that term. Is it your understanding that the participation agreement was entered on or about October 7th, 2017?

A Yes.

Q Okay. And are you familiar with this agreement?

A Generally familiar.

Q Okay. And I know you said you reviewed it in preparation for this deposition. Had you seen it before that?

A Yes.

Q Okay. Would you have seen it on or about October 7th, 2016 or in that timeframe?

A Yes. Yeah, on or around that time.

Q Or, you're familiar with this document in 2016 and 2017?

A Generally, yeah.

Q Okay. And I know you touched on this, so I apologize for asking again. But, what was the purpose

of this document?

A So, this -- this document -- the purpose of it was for Acis to take effectively a portion of their revenue and give it to Highland, for lack of a better word. And in consideration, Acis was going to receive up front cash as well as a note.

Q And how much was the up front cash? And let me -- I don't want to make this a guessing game for you. Let's point -- go to Page 2 and look at the bottom, that may help a little bit. And let me ask you --

A Yep. Yes. So, the up-front cash for -- for all of the -- for all of the religious folks out there, sorry, but the -- the original up front cash was 666,655.

Q And the note you referenced before, was that in the 12,666,446 amount referenced right below that?

A Yes, that's -- that's the -- the original face of the note. Should have known we'd been -- we'd -- we'd be here later with all those sixes.

Q Do you have any understanding as to who negotiated this agreement?

MR. MORRIS: Objection to the form of the question.

A I -- I don't know whether this was really negotiated in the first place.

Q (By Mr. Aigen) Okay. Can you -- let's take a step back then. Can you give me the context as to how this agreement was entered into? Whose idea it was?

MR. MORRIS: Objection to the form of the question.

A I believe the idea for this agreement originated with an individual named Mark Patrick, who was a tax -- tax attorney. This was a transaction that I think he had been kicking for awhile. And you know, I think he was the main -- main driver in terms of being able to sell Jim Dondero on the benefits of entering into the transaction.

Q (By Mr. Aigen) Do you recall whether you had any conversations with Mr. Patrick at or around the time this agreement was entered into?

A I'm sure I did.

Q Okay. So, if I ask you what your basis was, that it was Mr. Patrick who came up with this idea, it would be through firsthand experience you had in conversations with Mr. Patrick?

A Firsthand experience as well as, you know, review of some of our document production.

Q If the agreement was entered into -- the date on it is October 7th, 2016. Do you have any idea how long before that, the idea for this agreement first came

up?

A I think the idea for this agreement was probably first quarter of 2016, not certain, but --

Q Okay. So, during that time period, I want to talk a little bit about the idea when it first came up, which I know you're not certain, but let's say first quarter of 2016 until the time the agreement was entered into, can you tell me generally who worked on the preparation of this agreement?

MR. MORRIS: Objection to the form of the question.

A I don't know how much work was done from -- first of all, I don't know when the idea popped into someone's head, so it's hard to put a start date on that. But, in terms of the -- what I would call the -- the -- the harder work or the -- the work to bring it to fruition, it would have been in the August -- maybe as early as August, September and early October timeframe would have been the lion share of the work.

Q (By Mr. Aigen) And who was working on it at that time period?

A Mainly, Mark Patrick, outside counsel, which I believe was Hunton & Williams, and I don't know the extent to which the Highland legal team might have been involved in drafting. They may have, I'm not certain.

And then I would have been involved from the standpoint of kind of putting together some of the numbers in the back.

Q You say "in the back," are you referring to Schedule A?

A No, no, and thank you for clarifying that.

Q Let me ask you a different question, maybe get into this. What work did you do related to this agreement prior to it be being entered into?

A So, yes -- so -- so, I had an understanding that -- of the basic mechanic transaction, which was going to be a portion of the fees in exchange for cash and a note. So, that the main exercise that -- that I did was reach out to -- I think it was Hunter Covitz. I'm not certain, but I believe it was Hunter Covitz, with respect to a projection of the fees that would be coming off of the various Acis CLOs over a discreet period of time. And then compiling that information and, you know, assessing how much -- how much cash we were expecting to come in during that time on those fees.

Q Okay. This agreement where -- to use your words, it was an exchange of fees in exchange for a note, is that a structure type of agreement that Highland had done with other companies prior to this

timeframe?

A Hard -- hard to answer. The notion of seller financing, which is effectively what this -- what this was, was certainly something I had seen from time to time. I don't know if I'd seen it exactly like this. But, the idea of, you know, cash -- cash plus a note in exchange for something, I'd seen that before.

Q Let me narrow it down a little bit. You said that the purpose of this was more Mark Patrick was doing it for some sort of tax reason; is that correct?

A That's my understanding.

Q If I narrow down the previous question to have you seen another situation where Highland for tax reasons created a similar structure, did that happen?

A Yes.

Q At a high level, tell me about that.

A There was a similar -- a very similar transaction to -- to this one. I don't know the time period. It was -- that was a long time ago, maybe 2012, 2013, 2014-ish, where similar -- similar structure but with Highland as the seller, and with an entity owner -- I'm not sure if it was owned or controlled, but an entity related to Mark Okada as the buyer.

Q Do you remember the name of that entity?

A I'm not certain.

Q Did you do any work related to that transaction?

A Similar. Getting a -- getting a fee projection from the CLO team and putting it into a spreadsheet.

Q This was also related to a CLO?

A Many CLOs, but these were CLOs that were managed by Highland.

Q And I don't really need to get into that transaction. But, can you just tell me what happened with it? Was the note eventually paid off or --

A Yeah, that -- that transaction was -- I don't know how to put it other than it kind of went the way that it was expected to go, which Highland -- Highland earned fees, turn the fees over, Okada had -- or Okada's entity had notes that it needed to pay, paid the notes with interest and, you know, everyone moved on.

Q Okay. Do you know approximately when everyone moved -- what year we're talking about?

A I'm not sure.

Q After October 2016?

A No, no, before, that transaction was -- was prior to this one.

Q Okay. You mentioned Hunton Williams before. Do you remember which lawyers there provided tax advice related to this transaction?

A The one that I recall specifically was Alex McGeoch. I don't know how to say his last name.

Q Do you know how to spell it?

A McGeoch, I think it's M C capital G E O C H.

Q We'll refer to him as "Alex" for purposes of today.

A Sounds good.

MR. MORRIS: You can find it on page --

MR. AIGEN: Oh, yeah, that's right.

MR. MORRIS: -- ending in Bates No. 18134, it's capital M, lower case C, capital G, E O C H.

Q (By Mr. Aigen) And for the record, the witness spelled it correctly.

A Get a lollipop.

Q Are you aware of any other lawyers, other than Alex, that provided tax advice on this transaction?

A Not specifically, but I'm sure he had help on that transaction.

Q Did you have conversations with any of the Hunton lawyers related to this transaction?

A I may have, but I'm not certain.

Q Okay. You have no recollection of any conversations with Hunton lawyers regarding this transaction?

A Not specifically, no.

Q Okay. Would Mr. Patrick have conferred with the tax lawyers at Hunton regarding this transaction?

A Yes, I think he would have been the primary point of contact.

Q Okay. Anyone else at Highland that you can think of that would have been talking with the Hunton lawyers?

A It's speculation, but potentially someone from the legal team at Highland, you know, looking at the document.

Q Okay. I was going to make an -- an assumption, but let me just ask the question. Are you -- do you consider yourself to be an expert on taxes?

A No, no, no, I don't.

Q All right. I recognize that you're not telling me you're expert on taxes. But, at a high level, do you have an understanding as to what the potential tax benefits were that they were trying to get as a result of this transaction?

A Yes, I have a general understanding.

Q Okay. Give me your general understanding as to what the tax benefits were that the parties were trying to achieve from this transaction.

A So, the -- the tax benefits wouldn't accrue to the parties themselves, because the parties themselves

are pass-throughs, but it would -- it would accrue to their -- you know, someone up the ownership chain. But, the -- the -- the transaction was really a ordinary to capital gain treatment, and so basically turning fees that are ordinary income taxed at the -- at the ordinary rate, which at the time would have been, I think, high 30s percent, not certain if that's exactly right. And converting that to capital gain treatment, which at the time would have been low 20s percent.

Q Okay. And do you happen to have any understanding as to how it converted ordinary to capital gains?

A A very general understanding.

Q Give me your high level general understanding.

A So, basically turning -- turning the fee stream into almost a capital asset that can be bought or sold. And so, the -- with the sale of proceeds, not really having any basis in the -- like tax basis in the -- in the fees, but being able to sell a future fee stream for a dollar amount. And then as you receive the proceeds from that sale, treating it as a capital asset that will get capital gain treatment for tax purposes.

Q Okay. Did you specifically at that time have an understanding that this would provide a better tax treatment, or were you relying on other people to

provide those sort of conclusions?

A That's what I -- that's what I heard, that's what I understood. I don't know that I independently knew that, but that's -- that's certainly my -- was my understanding at the time.

Q Okay. And when you mentioned before that the tax benefit would flow to the owners, were we talking about -- well, let me take a step back.

Who are the parties to this Exhibit 1 participation agreement?

A The parties are Acis Capital Management, LP, as seller, and Highland Capital Management, LP, as purchaser.

Q Okay. So, when you stated before that the tax benefits would flow to the owners, were you talking about the owners of Acis, Highland or both?

A This was targeted for the owners of Acis.

Q Okay. Let me try to get the other side out of the way then. Are you aware of any tax benefits that were intended to Highland or its owners as a result of the transactional in Exhibit 1?

A Not specifically, no.

Q Okay. So, with respect to the benefits to Acis or the intended benefits as a result of this agreement, it's fair to say that that tax benefit was supposed to

go to Acis's owners, not Acis itself?

A Maybe splitting hairs a little bit. The -- the -- the capital gain would be recorded at -- at Acis Capital Management and then passed through to its owners.

Q Okay. And at the time this was entered into, who do you believe the owners were of Acis that would be potentially receiving this tax benefit?

A It would have been Dugaboy and Okada. And I should clarify, I believe that was the intent. I don't know if that's actually what happened, but I -- I believe that was the intent.

Q Well, let's close out on that then. Are you aware of whether any of these intended tax benefits were actually received?

A I believe they were with respect to tax year 2016. After that point, I -- I don't know.

Q Is there any particular reason why you knew for 2016 but not after that period?

A Yes.

Q Why?

A Because I've -- I've had a chance to review the tax return for Acis for 2016 and see that they took the treatment that I expected them to take. And then after that point, for 2017 and 2018, I just don't have access

to that information.

Q When did you review these tax documents?

A At some point in preparation for either producing materials or my own deposition, however you want to --

Q Within the last six months?

A Yes.

Q Okay. Do you know whether those tax documents were produced in this case?

A I believe they were.

Q Okay. Do you know why you didn't review the '17 and '18 tax returns?

A Because Highland wasn't in control of Acis anymore.

Q Do you know whether those tax documents exist?

A I don't know. I presume they do.

Q Prior to Exhibit 1 being entered into, can you tell me who you had conversations with about the potential tax benefits related to the agreement?

A I don't have a specific recollection. My -- my assumption would -- would have been that it would have been Mark Patrick and Frank.

Q Okay. You don't remember having any conversations with Dondero about tax benefits with respect to this transaction prior to it being entered

into?

A Not specifically, it's possible that I did, but I don't -- I don't have a recollection.

Q And when I asked those questions, I was asking about prior to the agreement. Let me just ask to sort of finish that line of questioning. After the agreement when Exhibit 1 was entered into, did you have any discussions with anyone about the intended tax benefits of this transaction?

A And what's the time period?

Q Let's go from 2016 until Highland stopped having any control of Acis.

A So, to put a finer point on that, Highland didn't have any control over Acis at some point in 2018, middle -- middle part of 2018. I'm sure -- actually, I'm not sure. I -- it's -- it's very possible that I would have had discussions with people that were part of the Acis, Terry litigation team, people from our -- our -- Highland's internal legal and litigation team, very possible. I don't have a specific recollection of it, though.

Q Okay. Have you ever had any conversations about the tax benefits of this transaction with Mr. Dondero?

A It's possible, but I don't have a recollection.

Q Okay. When I asked you who you talked to about the tax benefits, you told me Mr. Patrick and Mr. Waterhouse. So, at a high level, can you generally tell me what conversation you had with them about the tax benefits of this transaction?

A No, because I don't remember the specifics of that -- that conversation or those conversations. I just -- and I don't know that I had them, but I presume that I did.

Q Okay. Well, why do you presume that you did?

A Well, for -- for one, with -- with Mr. Patrick, that -- there certainly would have been a conversation in order to, you know, model the cash flows with -- you know, requesting the cash flows from Hunter Covitz. So, someone would have had to have told me to do that. And then Frank was my boss at the time, so I'm -- I'm certain I would have at the very least kept him in the loop on something like that, or -- or alternatively, just it would have come up in natural discussion.

Q Prior to the agreement being entered into, do you know whether you had any conversations with anyone about whether -- in order for the tax benefits to be obtained, the payments on the note needed to be de-linked from the payments of the fees?

A Not a specific recollection.

Q And you say not specific, so following up on that, generally, do you remember discussing that with anyone prior to the transaction?

A I -- I always -- my impression was always that they were -- that they were linked. This is a very circular transaction happening over a three-year period where money was going to slosh from one side to the other, back to the other and so forth. And at the end, there wasn't really going to be anything -- there -- there's -- the pie has not been made bigger or smaller from this transaction, but there have been created tax benefits. So, I -- I -- I think I had that understanding.

Q And I know you used the word "linked" after I did, but I want to make sure we're kind of using the same terminology. When you say that your understanding was that the payments would be linked, what do you mean by that?

A That the consideration for the fees was -- was the note, and the consideration for the note was the fees. So, if, you know, Acis had obligation to turnover the fees, Highland -- and if -- and if that was -- and if that was completed, then Highland would be paying on the note. And so, they were -- I don't know how to use a word other than "linked." They were always linked in

my mind.

It's just a -- it's just a timing issue, really, because you have -- you have one that's paying four times a year versus another that's paying one time a year. And other than that, it's really just money kind of switching bank accounts.

Q Okay. So, prior to the transaction being entered -- entered into, you never had any conversations with anyone about the fact that the payments needed to be de-linked in order to get the tax incentives or advantages; is that correct?

A I -- I don't have any recollection of that.

Q Okay. And I asked you about prior to the agreement. Since the agreement was entered into, are you -- did you ever have any conversations with anyone about the idea that the payments needed to be de-linked in order to obtain tax advantages?

A It's possible, but I don't remember.

Q Okay. You stated before that you had an understanding that the payments were linked; is that correct?

A Yes.

Q Okay. Other than the words in the agreement, is that understanding coming from anywhere else?

A I -- I suppose intuition or just -- it's kind

of -- it's kind of obvious on its face that no one entered into this if they didn't have certainty that the other party is going to perform.

Q So, you never had any conversations with anyone about whether the payments needed to be linked or de-linked in order to obtain tax advantages?

A I don't have a specific recollection.

Q And again, just to follow-up, you said "specific." Generally, do you remember having any conversations on that topic?

A I -- I don't -- no, I don't recall any. But -- but, I wouldn't foreclose on the possibility that I did, you know.

Q And I know you're not a tax expert. But, sitting here today, do you have an understanding as to whether the payments needed to be linked or de-linked in order to obtain a tax advantage?

A I don't have a, I suppose, an expert opinion. I have, again, an intuition that they don't -- or that they -- that they don't need to be.

Q That's your --

A I -- I might have said that -- that wrong. I -- I -- I should stop talking.

Q Let -- let me try to rephrase that.

A Yeah.

Q Is it your understanding that the payments did not need to be de-linked in order to obtain the intended tax advantages of this plan?

A Sorry, I -- that was like a triple negative. I --

Q Sorry. Is it your understanding that the payments did not need to be linked in order to obtain the tax advantages that were intended by this plan?

A I don't know that I had a specific understanding of the -- the tax treatment.

Q And that's all I'm trying to get at is whether you have any understanding on that, do you?

MR. MORRIS: Objection to the form of the question.

Q (By Mr. Aigen) Let me rephrase. Let me rephrase. At the time the transaction was entered into, do you believe that you had an understanding as to whether the payments needed to be linked or de-linked to achieve the tax advantages?

A I'm not sure.

Q Okay. Sitting here today, do you have an understanding as to whether the payments needed to be linked or de-linked to achieve the tax advantages?

A Yeah, I don't know that I have a great understanding.

Q Okay. And again, you said not "a great understanding," do you have any understanding?

A We're -- we're -- we're kind of splitting hairs, I -- I -- no.

Q Okay. And I don't want to get into conversations you had with counsel here today. But, other than conversations with counsel, do you remember having any conversations with anyone about whether the payments needed to be de-linked or linked in order to obtain tax advantages?

A I don't think so.

Q Okay. If Mr. Waterhouse testified yesterday that he was involved with discussions with Mr. Dondero about the de-linking or linking topic, would you have any reason to agree or disagree that those conversations occurred?

A I don't have any personal knowledge to know whether they did or did not.

Q Okay. Fair to say, you weren't involved in any of those discussions; is that correct?

A Most likely, but it's possible. I -- I don't know.

Q You can finish. Sorry.

A No, that was it.

Q And you don't remember anyone telling you about

any conversations that Mr. Dondero had with respect to whether payments needed to be linked or de-linked; is that correct?

A No, no specific recollection.

Q And I know you touched on this, but going back to the agreement, what's your understanding as to what obligations Acis had under the agreement?

A My basic understanding -- and then I would certainly, you know, refer back to the document, that's -- that's going to be the -- the -- the real answer. But, my understanding was that in a very general sense, they had the obligation to turnover the fees as they were -- as described in the agreement. So, when they received fees, you -- you turnover whatever you're supposed to turnover.

Q Okay. And when you say "fees," what type of fees are you talking about?

A Management fee -- management fees, I think they're referred to as servicing fees. I'm kind of using those interchangeably, but fee revenue that's being earned from the subject CLOs.

Q Yeah.

A And a portion of it -- it wasn't the entire -- the entire fee but a portion of each of those fees.

Q And the -- the portion that was supposed to be

turned over is reflected on Schedule A; is that correct?

A Yes.

Q Okay. And again, this is just a terminology question. I have seen fees referred to as servicing fees and management fees, which term do you like to use?

A I -- I use them interchangeably.

Q Okay. And at a high level, what obligations did Highland have under the participation agreement?

A I'm not certain, aside from whatever is in the document.

Q Okay. Is it your understanding that Highland had to make payments under the agreement?

A I -- I'm -- I'm not certain if that's -- I know that the note is a -- is its own document, so I'm not sure -- I'm not sure.

Q Okay. If we turn to the purchase price, the paragraph we looked at before in Section 1.1 that describes an initial payment and the note; do you see that in there?

A We're looking at Section 1.1?

Q Correct.

A Yep, I see that.

Q Okay. Other than the payment and the note referenced in here, are you -- do you have an understanding that Highland had any other obligations

under this agreement?

A None specifically, but I refer back to the document.

Q Okay. Is it your understanding that Acis performed all of its obligation under the participation agreement?

MR. MORRIS: Objection to the form of the question.

A No, that's not my understanding.

Q (By Mr. Aigen) Okay. So, there are certain things that you believe Acis was required to do under the participation agreement, but it did not do; is that correct?

A That's correct.

Q Okay. We'll get into that in a second. But, let me ask about Highlands. Do you believe that Highland was required to do anything under this agreement that it didn't do?

A I'm not sure.

Q Okay. Tell me, generally, what was Acis required to do under this agreement that it did not do?

MR. MORRIS: Objection to the form of the question.

A Like I said, the -- the document should speak for itself, and I wouldn't -- I wouldn't venture to say

that this is an all encompassing list. But, the -- the fact -- the fact of the matter is Acis turned over the fees from end of 2016 until end of 2017. And then after that point, it didn't, notwithstanding that there were -- there were fees, you know, in 2018 and 2019, the -- the fee stream I believe went to August of 2019.

Q (By Mr. Aigen) And when you say "fees," you're talking about the management or servicing fees we referenced before?

A The portion -- yeah, the portion that they were to turnover.

Q What's your understanding as to what management or servicing fees Acis received but didn't turnover to Highland as required by the agreement?

A Everything after November 1st, 2017, 1st or 2nd.

Q When you say "November 1st, 2017," you're talking about fees that were received by Acis after November 1st, 2017; is that correct?

A Can you just clarify that?

Q Well, let me ask you. When you said "November 1st, 2017," what are you referring to?

A What I'm referring to is on November 1st, 2017 Acis received fees from various CLOs. And I don't know if it was the same day, maybe the next day, turned over

those fees pursuant to the participation agreement. That -- that did not happen -- that did not happen again after that point, with the limited exception of there was a -- there was -- there were funds sent in January of 2018 that were then sent back to Acis.

Q Going back to November 1st, so, on November 1st, the fees that Acis received were sent to Highland, that was the last date they did that properly?

A Correct, the portion of the fees, yeah.

Q And tell me about the January 2018 fees that were sent back to Acis.

A So, there was a -- there was a -- it's a little bit confusing, because there's a number of CLOs -- it's always confusing, of course. There were a number of CLOs that were subject to this agreement. Most of them paid -- they all paid quarterly. Most of them paid on the 1st of February, May, August, November. There was one of the CLOs that paid on a certain -- slightly different cycle, and that one paid in -- in -- I believe it was the 18th. I could be off by a day or two -- of January, April, July, October.

So, there were fees received in January of 2018 by Acis. Acis then swept all of its cash over to Highland, save for two small wires that went out to a third-party. And then, you know, approximately a week

later, Highland sent all of that money back.

Q Why?

A As directed by legal.

Q Do you know why?

A No, I don't know.

Q Okay. So, sitting here now, you have no idea why those fees were sent back?

A I could speculate.

Q What's your speculation?

A I would -- I would speculate that, for lack of a better term, things were heating up in the Terry litigation, and the optics of sending all the money to Highland was viewed negatively. And there would have been, you know, a push to send those funds back to Acis. But, that's -- again, that's total speculation.

Q Do you know the approximate amount of those fees that were sent back?

A It was between 600 and 650,000.

Q Okay. And I -- I apologize, I think you gave me the date. But, you said starting on November 2017 -- well, on November 2 -- November 1st, 2017, Acis still properly performed and sent those fees; is that correct, that was the last date?

MR. MORRIS: Objection to the form of the question.

A Yeah. Yes, with the caveat that it could have been the 1st or the 2nd, but it -- it -- but, it -- it did on one of those dates.

Q (By Mr. Aigen) So, starting after that date, what was the time period that Acis received fees but did not send them to Highland as they were supposed to do under the agreement?

A Everything after that date.

Q Do you know when it received fees up until that it did not send to Highland that it was supposed to?

A So, certainly, January of 2018, and then I don't know the specifics around the timing of when it eventually got fees for -- you know, through the end of 2019.

Q So, is it fair to say that the fees that Acis was supposed to send to Highland but did not were in the 2018, 2019 timeframe?

A Yes.

Q And just to sort of put a cap on that, are there any fees that Acis received in 2020 or after that it was supposed to send to Highland under the agreement?

A No. And -- and just to put a finer point on 20 -- 2019, it would have stopped in August of 2019.

Q Why did it stop in August of 2019?

A That was just the -- looked to the agreement,

that was the period in which the fees were going to be sent.

Q Do you know the approximate amount of the fees that Acis received in '18 and '19 that it did not send to Highland that it was required to under the agreement?

A Not off the top of my head.

Q We're talking about more then a million dollars?

A Yeah, yes.

Q More than 10 million?

A No.

Q More than five million?

A Don't know.

Q Okay. Are those amounts reflected in documents that you've seen?

A If I can -- probably more than five, I'm not certain.

Q Okay. Is that amount reflected in documents that you've reviewed?

A Yes.

Q Okay. Reviewed in preparation for this deposition?

A Yes.

Q Was that in spreadsheets produced by Highland?

A That was in trustee reports that I -- that I

reviewed in preparation.

Q When you say "trustee reports," what is a trustee report?

A Yeah, sorry. So, each of the CLOs has a -- has its own trustee, and they -- those trustees produce reports every time there's a payment made out of the CLOs. And so, it describes the fees, among other things, that are -- that are being paid out on each of the payment dates. And so, you know, I've had a chance to review those trustee reports, and I know that they're part of the production.

Q Okay. To get to the total, whatever it is, between five and $10 million, was that a number you saw in one document, or did you have to add up all of the different numbers from the different trustee reports?

A I had to add them up.

Q It's fair to say, then, that you haven't seen one document that has the total number of the amount of fees that were received by Acis and not sent to Highland; is that fair to say?

A No, I don't believe so.

Q Okay. And again, not trying to trick you, just trying to see if I'm missing any documents. So, is it fair to say that all of the money that Acis received that it did not send to Highland under the agreement

were received after Acis was placed into bankruptcy?

MR. MORRIS: I'm sorry, can I have that question read back?

MR. AIGEN: Let me rephrase it.

Q (By Mr. Aigen) Was there any money that Acis received that it did not send to Highland under this agreement that it received prior to the Acis bankruptcy?

A Yes.

Q Tell me about that money.

A That was the -- the January -- the -- the January amount that we were discussing before, and it -- it sent it, but then it sent it back.

Q Okay.

A But, sorry, I need to be much more clear on that. Acis sent it to Highland and then Highland sent it back.

Q Okay. Was it sent from Acis to Highland prior to the Acis bankruptcy?

A Yes.

Q So, the Acis bankruptcy was at the end of January of 2018; is that correct?

A That's correct.

Q Okay. And do you know whether that money was received in 2018 or prior to 2018 for -- from Acis?

A In 2018.

Q Okay. So, Acis received it in 20 -- in January of 2018 and sent it to Highland in 2018 in January; is that correct?

A Yes.

Q Okay. And is it your understanding that Highland then sent it back to Acis prior to the bankruptcy in January of 2018?

A Yes.

Q Okay. Do you know who would have been involved in the decision to send it back?

MR. MORRIS: Objection to the form of the question.

A I -- I don't know with 100 percent certainty, but I would certainly -- I would strongly speculate that it would have been Scott Ellington and Isaac Leventon.

Q (By Mr. Aigen) Okay. Are you aware of any money that was received by Acis where they didn't send the fees to Highland under this agreement prior to the Acis bankruptcy?

A Other than the January of '18?

Q Well, but that agreement Acis did send it to Highland, it was just returned; is that correct?

A Yes, that's correct.

Q Okay. So, let me ask, are you aware of any money that Acis received where it didn't send the fees

to Highland prior to the Acis bankruptcy?

A No, but with the caveat that Highland sent some of it back.

Q Fair enough. Did you have any involvement at all in -- well, let me rephrase that.

Do you have any idea why Acis did not make payments to Highland under the participation agreement after its bankruptcy?

A I don't -- I don't know.

Q You've never entered into discussions with anyone about that?

A I may have. I don't -- I'm not sure.

Q Okay. Do you have any understanding as to whether Acis was prevented from sending those fees as a result of something in the bankruptcy?

A I -- I don't know.

Q Okay.

A Sorry, if I could interrupt. Could I get a bathroom break the next few minutes or find a natural stopping point.

Q Yeah, yeah, let's take one now. Anytime you need a break, let me know.

VIDEOGRAPHER: We're off the record at 10:57.

(Break taken.)

VIDEOGRAPHER: We are back on the record at 11:07.

Q (By Mr. Aigen) Mr. Klos, before the break, we were talking about fees received by Acis after its bankruptcy that it did not send to Highland. Do you remember that?

A Yes, generally.

Q I have some follow-up questions about those. I think I might have already asked this, and I apologize. But, do you know why Acis did not forward those fees to Highland?

MR. MORRIS: Objection to the form of the question.

A I don't know specifically, but I'm -- I'm under the understanding that Highland and Acis and Josh Terry have been in lengthy protracted litigation for along time. So, I would -- I would surmise that that has something to do with it.

Q (By Mr. Aigen) Okay. Did you ever have any conversations with anyone about why Acis didn't send the -- the payments owed to Highland under the agreement after its bankruptcy?

A Not that I can specifically remember.

Q Generally?

A No, not generally.

Q Okay. Do you know whether Highland made any demands for those payments that Acis received after the bankruptcy but didn't send to Highland?

A I don't know.

Q Did you do any work related to money that came into Acis but they didn't send, such as trying to figure out how much it was or anything like that?

A Not that I can remember.

Q Are you aware as to whether those fees that weren't sent were subject to the litigation and the Acis bankruptcy between Acis and Highland?

A I don't know.

Q Okay. Did you have any involvement with that -- well, bad question, because you said you don't know.

Are you aware as to whether there were any settlement agreements with respect to the payments that Acis received but didn't forward to Highland under the participation agreement?

A I'm not sure.

Q Okay. Are you aware that there was a settlement between Acis and Highland in the bankruptcy?

A Yes.

Q Okay. At a high level, can you tell me if you had any role with respect to that settlement?

A No role that I can -- can remember.

Q Do you have any understanding as to whether the payments we're talking about are part of that settlement in any way?

A Don't remember.

Q Are you aware of any conversations that anyone had with respect to the payments that Acis received after the bankruptcy that it didn't send to Highland under the agreement?

A No specific awareness.

Q General?

A Just that I'm -- I'm certain there were negotiations between Highland and Acis principals about the terms of the agreement. I don't know the nature of those, but I -- I assume that those happened.

Q And you weren't part of any of those discussions?

A No, I wasn't.

Q Okay. Do you know the approximate total amount of fees that Highland did receive from Acis under the participation agreement?

A Yeah, I could probably do the math, be, you know, around six million, plus or minus.

Q And that would have been in the time period from October 7th, 2016 until November 1st, 2017?

A Correct.
Q Okay.
A 1st or 2nd, I just don't know if it was paid on that day.
Q Approximately, when are those payments made? Are we talking annually, quarterly?
A Quarterly.
Q So, if the agreement was entered into October 7th, 2016, do you know when the quarterly payments would have been made?
A Yes. So, there would have been one approximately October 18th of 2016. There would have a payment approximately November 1st or 2nd of 2016. And then there would have been payments throughout '17, so that would have been January of '17, February of '17, April of '17, May of '17, July of '17, August of '17, October of '17 and November of '17.
Q What dictated when those payments were made?
A That was when they were paid by the CLOs. They're -- they're quarterly -- it's a quarterly waterfall to use the general term.
Q And although they're quarterly, they're not receiving them quarterly, because they were receiving -- "they" meaning Acis, was receiving payments from different times from the different CLOs; is that fair to

say?

MR. MORRIS: Objection to the form.

A So, as I was explaining, there's -- there's I think five CLOs at issue. One of those pays quarterly on the 18th of January, April, July, October. The other four pay on 1st of February, May, August, November. So, that's just the timing of when those -- those -- those deals paid. And you know, they pay on a business day. So, if the 1st falls on a weekend, it's the following business day. That -- that -- that's why I'm hedging a little bit on the specific date.

Q (By Mr. Aigen) Fair enough. And I know we touched on this before, but the participation agreement, in general, is this something that you would have seen at or about the time it was executed in October of 2016?

A I don't have a specific recollection, but I -- I assume that I would have.

Q Okay. Would the terms of this effected your job responsibilities?

MR. MORRIS: Objection to the form of the question.

Q (By Mr. Aigen) In other words, why -- why would you have seen it at the time it was being entered into?

A Would have seen it in -- you know, maybe for other reasons, but certainly in conjunction with the

accounting at the Highland and the Acis entities.

Q Okay. So, you testified that you may have seen it at the time it was entered into, and obviously, you've reviewed it recently as part of this litigation. Do you know whether it was a document that you would have reviewed in the middle?

MR. MORRIS: Objection to the form of the question.

Q (By Mr. Aigen) For instance, an agreement was entered into in October of 2016. So, between 2016 and let's say 2019, was there any reason you would have gone and had to review this document?

MR. MORRIS: Objection to the form of the question.

A I don't have a specific recollection, but I assume that I would have looked at it around the time of the Acis bankruptcy. It's possible that I would have looked at it at certain intervening periods, but I don't have a specific recollection.

Q (By Mr. Aigen) Okay. Fair enough. Can you take a look at, starting on Page 6 of the agreement, it's Section 3.6, Acknowledgments of the Purchaser, and it goes on to Page 7.

A Okay.

Q And I'll give you a second just to read that

paragraph as it's kind of long, so I won't bother reading it into the record.

A Okay. (Witness complies.) Sorry, I'm not --

Q You don't have to read it out loud.

A I'm not going to be like referring back to Section 1.5.

Q If I ask you --

A It might be more timely to just ask -- ask the question and I'll try to --

Q Okay. Are you familiar with provision 3.6 in this agreement?

A Generally, familiar, I'm sure I've read it at some point in the fast.

Q At a high level, what's your understanding of what the -- what the purpose of Section 3.6 is with respect to this agreement?

A It looks like its acknowledgment to the purchaser. Outside of that, I would just let the document speak for itself.

Q Okay. Have you ever had any conversations with anyone about what Section 3.6 means?

A It's possible, probable that I've discussed this with counsel or Jim Seery.

Q Do you remember any conversations with Mr. Seery about Section 3.6?

A Not independent of Mr. Morris.

Q And I assume you don't want to tell me about those conversations with Mr. Morris?

MR. MORRIS: I'm going to direct him not to tell whether he wants to or not.

Q (By Mr. Aigen) Other than conversations where Mr. Morris was present, do you remember ever having any other conversations with anyone about Section 3.6?

A No, not that I can remember.

Q Were you familiar with Section 3.6 prior to let's say the Highland bankruptcy?

A I don't know.

Q Okay. You don't remember having any conversations about it prior to the Highland bankruptcy?

A No, I don't remember.

Q Okay. And it says acknowledgment of the purchaser, the purchaser is Highland; is that correct?

A Yes, that's correct.

Q Okay. And I don't really want to spend a lot of time going into detail on this, but under subsection A, it says, should the seller's right with respect to the servicer fees be terminated. Do you see that?

A Yes, I see that.

Q Do you know whether the servicer fees were ever terminated?

A Caveat that I don't know what's -- except what's provided in Section 1.5, just don't know what that -- is in reference to. But, I -- I don't -- I'm sorry to do this, but can you ask the question again?

Q Okay. With respect to that clause, which reads: Except as provided in Section 1.5, should the -- shall the seller's rights with respect to the servicer fees be terminated.

So, my question is just, do you know whether the servicer fees were actually terminated at any point in time?

A I don't -- I don't know. I don't believe that they -- that they were. Although, it's possible that some of them might have been terminated through the -- through the wind down of the CLOs themselves.

Q Do you have any idea what the purpose of this Section 3.6 is with respect to this agreement?

A Not -- not beyond the -- the text of the -- of the paragraph.

Q Okay. Do you understand the text of this paragraph to be saying that if the servicer fees are not made from Acis to Highland, then Highland still has to make payments under the note, except for certain exceptions that are set forth here?

MR. MORRIS: Objection to the form of the

question.

A Yeah, I just don't know. To me, that's -- that's for the -- the legal eagles.

Q (By Mr. Aigen) Fair enough. If you go a few lines down -- well, to be exact, seven lines down on Page 7, there's a parenthetical, and I'll just read that into the record. It says: Other than a result of the seller reaching its covenants under this agreement or as a result of fraud or by willful misconduct of the seller.

Do you see that?

A I see that.

Q Did you ever have any discussions with anyone about that part of this agreement?

A Yeah, I think I've had discussions with counsel.

Q Mr. Morris?

A Yes.

Q Okay. Have you ever had any conversations with anyone other than Mr. Morris about that provision?

A Possibly, but never not in the presence of Mr. Morris.

Q Okay. Do you have any understanding as to whether seller breached its covenants under this agreement or there was fraud or willful misconduct as

referenced in this parenthetical?

MR. MORRIS: Objection to the form of the question.

A So, in terms of making a conclusion about fraud or willful misconduct, you know, I think that's just a function of -- it's more of a legal conclusion. I don't know that I could -- I don't know if I could make that conclusion. But, I think -- you know, it's possible the seller breached its covenants in terms of not turning over its fees, and it's possible that there's fraud or willful misconduct of the seller.

Q (By Mr. Aigen) Okay. And because you said it's possible, I just have some follow-ups. Do you have an understanding, sitting here today, that the seller breached its covenants with respect to this agreement?

A Not other than just in the general sense that I -- I know that Acis didn't turnover funds from 2018 to 2019. And it's possible there could be other covenants breached, but that's the -- that's the one that sticks out in my mind.

Q Did you have any conversations with anyone other than Mr. Morris about whether not turning over those payments was a breach of covenants?

A Outside of conversations with Mr. Morris, no, I -- I don't believe so.

Q Okay. And you never had any conversations with anyone about what potentially would be a breach of these covenants before the Highland bankruptcy?

MR. MORRIS: Objection to the form of the question.

A Before the Highland bankruptcy, no, I don't believe I would have had any of those conversations. Although, I suppose it's possible in connection with the Acis bankruptcy, but I -- I have no recollection.

Q (By Mr. Aigen) Okay. It references fraud or willful misconduct of the seller. Sitting here today, do you have any understanding as to whether there was any fraud or willful misconduct of the seller as referenced in this document?

A Again, there's -- it calls for a legal conclusion that I don't know that I can -- I can make. But, you know, I -- I -- I do believe that there were assets taken out of Acis that were -- that were -- that were Acis assets, and, you know, effectively sent -- sent to other parties.

Q Can you give me a little more detail on that? What assets you're talking about and what timeframe?

A So, the main -- the main assets being the -- the note that we're talking about here. I'll call it the participation note. Hopefully, everyone knows what

that -- what that means. There was an indirect interest that Acis had in 2017-7, which was actually -- you know, we talked about -- we touched on it earlier. That was the money that Acis borrowed from Highland to make that investment. And so, that asset was -- was taken out of Acis in the November, December 2017 time period.

And then there was a portfolio management agreement that was -- that was moved under a new advisor, again, in the November -- I believe in the November 2017 timeframe. Could have been December, but I believe it was November.

Q Okay. Do you have an understanding as to whether these actions that you've just described would be considered fraud under this agreement?

A Not specifically. Again, that's kind of not my conclusion to make, but -- so, no.

Q Are you aware of whether anyone made any false misrepresentations to anyone with respect to this agreement?

A Not that I can think of right now.

Q And more specifically, let's talk about Mr. Dondero. Do you know whether Mr. Dondero made any misrepresentations to anyone about this agreement?

MR. MORRIS: Objection to the form of the question.

A It -- it's -- it's just too broad. I just -- I don't know.

Q (By Mr. Aigen) Okay. And it has the term "willful misconduct." Let me ask you, do you have any understanding as to what "willful misconduct" means?

A Hard to define it without using the words. But, it's a -- in my very lay -- lay terms, non -- non-lawyer terms, you know, an intentionally bad act.

Q Have you ever had any discussions with anyone about willful misconduct and what that means under this agreement?

A I'm sure I have.

Q Anyone other than lawyers, other than Mr. Morris?

A No, not that I can think of. And I -- and I should -- I started answering that question before you said about this agreement. I -- I think it's probably the same answer more generally, but anyways continue.

Q Sitting here today, are you aware of any misrepresentations that anyone made with respect to any of the issues in this case?

MR. MORRIS: Objection to the form of the question.

A I think there have been conflicting representations.

Q (By Mr. Aigen) And what are you referring to there?

A I -- I think that some of the positions that were taken in the Acis bankruptcy and maybe in the Acis and Dondero saga are contradictory to some of the positions in this case.

Q Okay. At a high level, can you tell me what you're referring to?

A Interrogatories and deposition or trial transcripts.

Q What were the topics that you're talking about?

A The participation agreement.

Q And what specifically about it?

A That they were paired all -- all intended to wash and -- and very much linked.

Q Okay. Other than the linking issue that we already discussed, were there any other areas that you've seen someone make what you call misrepresentations about issues related to this case?

A Not that I can specifically think of off the top of my head.

Q Okay. And just, I guess, go back to what we were talking about, I -- I believe I asked you, did you have any conversations with anyone about whether the payment terms were linked or de-linked and you said no;

is that fair to say?

A There's -- there's none that I can remember.

Q Okay. But, then, you -- is it fair to say that you saw some pleadings or litigation documents that reference that topic?

MR. MORRIS: Objection to the form of the question.

A Yes.

Q (By Mr. Aigen) Okay. What were you referring to before? What -- what sort of documents? Where did you see this?

A Trial or deposition transcripts.

Q Okay. Other than trial or deposition testimony, is it fair to say that you don't know of any other conversations that anyone had about whether the payments needed to be linked or de-linked?

A Conversations, no, and I -- and I should have -- I should have added the interrogatories. I mentioned that before, but, conversations, I -- I don't know.

Q Okay. And all of the documents you've seen were related to litigation; is that correct?

A I believe so, but not 100 percent certain.

Q In other words, you testified before that you didn't have any conversations with anyone about whether

the payments needed to be linked or de-linked. So, let me just ask this question: Have you ever seen any documents about the topic about whether the payments need to be linked or de-linked?

A I believe I have.

Q What documents did you see?

A Deposition transcripts, trial transcripts, interrogatories.

Q All documents related to litigation; is that fair to say?

A Yeah, to the best of my knowledge.

Q Okay. No documents from the 2016, '17, '18 timeframe; is that fair to say?

A I -- I don't know.

Q When you say "I don't know," is that because you don't know if there are documents other than the litigation documents that discussed it, or you don't know the timeframe of the litigation documents?

A That's a mouthful. The -- could you -- I was a little confused by the question. So, if you could ask again, that would be great.

Q Let me go back to the other question. Other than documents related to -- or that were part of litigation, have you seen any documents that ever discussed or referenced the topic of whether the

payments needed to be linked or de-linked to get tax advantages?

A None that come to mind.

Q Take a look at Section 1.5 of that agreement. And it talks about -- well, it starts off, in the event that any governmental entity commences a formal regulatory proceeding against seller, and then it goes on. Let me just first ask you. Are you -- are you familiar with Section 1.5?

A Again, I'm sure I've read it at some point in the past. Familiar, I don't know.

Q My question is simply, do you have any understanding as to whether 1.5 was triggered because a government entity commenced a formal regulatory proceeding against seller as described in this?

A Yeah -- sorry, I shouldn't say "yeah." To my knowledge, that -- that hasn't -- that hasn't or didn't occur, but I'm -- I'm not certain.

Q Okay. And you've never had any conversations with Mr. Dondero about the participation agreement; is that correct?

MR. MORRIS: Objection to the form of the question?

A It's -- it's very possible I have. I -- none that I remember. Thank you.

(Exhibit 2 marked.)

Q (By Mr. Aigen) Okay. Okay. I've just handed you a document that's been marked as Exhibit 2. It's Bates labeled HCLOM8535, and is titled, Promissory Note.

My first question is, simply, do you recognize this document?

A Yes.

Q Okay. Can you identify it for the record?

A It's a promissory note between Highland Capital Management as maker and Acis Capital Management as payee.

Q Okay. And does this appear to be the note that we've talked about today that is referenced in the participation agreement?

A It -- it does.

Q Okay. And if you turn to the second to last page, there's a signature there on 8539. And my question is simply going to be, do you recognize that signature?

A 8539, yes.

Q Okay. Whose signature is that?

A Jim Dondero's.

Q Okay. What role, if any, did you have with respect to the preparation of this promissory note?

A So, this was a note that was attached to the

purchase and sale agreement. And to the best of my recollection, my involvement would have been probably -- I don't have a specific recollection, but would have been doing the math on this amortization schedule, basically, how much interest would have accrued between October 7th of 2016 and May 31st of 2017, and so on and so forth. And -- and preparing the schedule and giving it to someone to put it as Exhibit A.

Q Okay. Do you remember doing anything else with respect to the preparation of this promissory note?

A Not that I remember.

Q Do you know who specifically drafted this promissory note?

A No.

Q Okay. Do you know whether it was negotiated in any way?

A No.

Q Do you know if Hunton & Williams was involved in the preparation of this note?

A I don't know. If I would speculate, I would speculate probably, but not certain.

Q And why was this promissory note entered into, if you know?

A It was entered into in connection with the purchase and sale agreement as part of the consideration

for the -- for the fees.

Q And how do you know that?

A I know that probably for a number of reasons, but one reason being that it's the note that's referred to in the agreement.

Q And if it's easier to refer to the end of this document, you can. I just want to generally ask you, what payments do you understand were made pursuant to the promissory note?

A There was one payment -- one cash payment made on May 31st of 2017. Again, I'll hedge a little bit, maybe it was the day before kind of thing, but -- and that would have been for the full amount of the principal as well as the interest. So, 3,125,000 in principal, $245,694 of interest. I'm not sure if that was made as one payment or two payments, but those two amounts would have been paid to Acis.

Q Okay. Did you have any role with respect to that payment being made?

A Probably.

Q What role would that have been?

A I was part of -- I guess, you could call it the treasury cycle. So, it's possible that I might have approved that payment, or I might have clicked the button to, you know, send the funds from one place to

the other. And certainly would have been aware of it from a -- I guess more from a budgeting and forecasting perspective that the payment was coming and would be made. Because, again, at that time, everything was -- was happening according to Hoyle.

Q Do you have a recollection as to who specifically would have approved that payment?

A No specific recollection. But, it -- that would either have been a Dondero or -- or Frank, or just as simple as someone like me or someone like Kristin flagging for Frank that, oh, this -- this payment is going to be -- is going to be due on this date. And then -- but, again, who -- who actually gave the thumbs up, I have no recollection of.

Q Okay. Sitting here today, are you aware of any typos or anything that was wrong about this document?

A No.

Q Okay.

A I hope not.

Q You didn't draft it, though?

A The document, no.

Q Okay.

A To be clear, I -- I most likely did draft Exhibit A, if you -- if you want to call that --

Q And there's no mistakes in Exhibit A?

A If you want to call that -- that -- that drafting.

Q Okay. You are not aware of any mistakes in Exhibit A?

A I'm not aware of any.

Q Okay. On the first page, you can see there's a section toward the bottom that says, conditions precedent. Do you see that?

A I see that.

Q Okay. And I will read the sentence under that into the record. It says: This note shall not become effective and payee shall have no obligation to make the advance hereunder until payee has received each of the following in form and substance acceptable to payee.

Do you see that?

A I see that.

Q Okay. Are you familiar with that clause? Is that something you've read before?

A I'm sure I read it before.

Q Okay. What's the purpose of that clause?

MR. MORRIS: Objection to the form of the question.

A Sorry, I got to --

Q (By Mr. Aigen) Let me ask maybe a background question before that. Do you know who that's referring

to when it says "payee"?

A That's what -- that's what I was just actually looking to. So, payee is Acis Capital Management, LP.

Q Okay. And your understanding that that's referring to payee, is that just coming from reading the first paragraph of the agreement or something else?

A From the first paragraph of the agreement, I -- I know that to be true as well, so...

Q Okay.

A (Witness reviews document.) Oh, sorry.

Q Okay.

A I was done.

Q Have you ever had any conversations with anyone about that clause that I just read to you?

A None that I can specifically remember.

Q Okay. What advance by payee is this referring to?

MR. MORRIS: Objection to the form of the question.

A I'm not sure what it's referring to.

Q (By Mr. Aigen) Okay. Are you aware of any advances contemplated by the promissory note by payee?

MR. MORRIS: Objection to the form of the question.

A I -- I don't know.

Q (By Mr. Aigen) Is it possible the payee should say payor and it's talking about the payment under the note?

MR. MORRIS: Objection to the form of the question.

A I have -- I have no idea.

Q (By Mr. Aigen) Okay. So, you have no reason to believe the advance it's talking about here under conditions precedent is a payment that was supposed to be made under the participation agreement; is that fair to say?

A I have -- I have no idea.

Q And in paragraph B, right under that, if you can take a second and read through that. Well, I'll give you my question before. At the very end of it, there's a reference to initial advance. And similarly, I'm just going to ask you if you have any understanding to what initial advance that's talking about?

A Yeah, I'm not sure what that's referring to.

MR. MORRIS: I'm sorry, where were you, Michael?

MR. AIGEN: Right here, John (indicating.)

MR. MORRIS: Oh, okay, thank you.

Q (By Mr. Aigen) You have no reason to believe that that initial advance refers to the $665,000 payment

that we discussed earlier under the participation agreement?

A I don't know, but I don't know that the 666,000 appears anywhere in this document.

Q Okay. Fair to say that as part of your responsibilities, you've read lots of promissory notes?

A That's -- that's an understatement.

Q Is it unusual for there to be a term in a promissory note like this that you don't understand?

A I -- I don't know.

MR. MORRIS: Objection to the form of the question.

Q (By Mr. Aigen) Okay. So, does it surprise you that they're using terms in this promissory note, like advance, and you don't know what it's referring to?

A I don't know if it's surprising. Most of the promissory notes I've seen have been drafted by legal, and 99 percent of it is -- doesn't affect me. So, I don't -- I don't know that I'm focused on every, you know, word and comma.

Q On the second page, it refers to events of default. Do you see that?

A I see that.

Q Do you have a general understanding as to what the purpose of this section is?

A Generally to, I suppose, reflect the parties' agreement of which events constitute an event of default.

Q Would you agree that this section contemplates what happens if the maker, meaning Highland, defaults; is that correct?

A It appears to be.

Q Okay. And there's nothing in here that contemplates what would happen if payee, meaning Acis, defaults; is that correct?

A I don't -- I don't see anything in this section.

Q And would you agree that that's because the payee or Acis has no obligations under this note?

A I -- I don't know what obligations it has under the note.

Q Okay. If you could turn to the remedy section on the next page, and I'll let you read as much as you need to in that section, but I'll give you my question ahead of time. About six lines down, it starts with subsection A, and it refers to -- it says, terminate payee's commitment to make any advances under the note.

MR. MORRIS: I apologize, where are you, Michael?

MR. AIGEN: Here you go.

MR. MORRIS: What page?

MR. AIGEN: Under remedies -- three, four, five -- six lines down, under remedies on --

MR. MORRIS: Ah, okay.

Q (By Mr. Aigen) So, again, my question is just going to be, do you know what this is referring to when it says, advances under this note?

A Same answer. I'm not sure what "advances under this note" is referring to.

Q And payee is not making any under advances under this note; is that correct?

A Yeah, it's terminate payees commitment to make any advances under this note.

Q But, only payor is making advances under this note; is that correct?

MR. MORRIS: Objection to the form of the question.

A I don't know who payor is.

Q (By Mr. Aigen) Oh, I apologize. Maker.

A Correct, there's -- I -- I don't see "maker" referred to in this section.

Q Okay.

A I -- actually, there's -- there's an instance of it, but it seems to apply to something else.

Q What are you referring to, just so I know?

A I'm just -- I'm looking for the word "maker".
Q Oh, okay.
A And I'm seeing it under part D and I'm seeing it in the next paragraph.
Q Okay.
A But, doesn't seem to apply to the part A.
Q But, the advance it's talking about in this section is talking about a potential advance by payee, meaning Acis; is that correct?
MR. MORRIS: Objection to the form of the question.
A Yes, it's -- Acis is -- Acis is payee -- yeah, could you -- could you repeat it one more time?
Q (By Mr. Aigen) Okay. When it's talking about, within subsection A, advances under the note, it's talking about advances made by payee, correct?
A That's -- that's correct, that's how I read it.
Q And since we don't know about any advances by payee under this note, is it possible that that was supposed to refer to maker instead of payee?
MR. MORRIS: Objection to the form of the question.
A I have no idea.
Q (By Mr. Aigen) You never had any discussions with anyone as to what advances this was referring to?

A I don't believe so.

Q Okay. Do you have an understanding as to whether Acis failed to comply with any provisions of this promissory note?

MR. MORRIS: Objection to the form of the question.

A I don't know. And I'm frankly not certain what obligations Acis had under this promissory note, so it's hard to speculate as to what they could have not performed.

Q (By Mr. Aigen) Good answer. Let me ask you that then. Are you aware of any obligations that Acis has under the promissory note?

A Not other than what's in the four corners of the document.

Q Okay. Are you aware of any references in this note to the participation agreement?

A Not other than what's in the document.

Q Okay. So, if we go outside of the document, let me ask you, did you ever have any conversations with anyone about the promissory note being linked to the participation agreement?

MR. MORRIS: Objection, asked and answered.

A It would be -- it would be the same answer, I

don't recall specific conversations.

Q (By Mr. Aigen) Okay. Have you ever seen any memos or writings that discuss the potential tax advantages of the structure of these transactions?

A I don't know. It's possible.

Q Okay. When we talked about before that there was potential tax advantages of this transaction, what's your basis for that? If you don't remember seeing documents, was it from conversation?

MR. MORRIS: Objection, asked and answered.

A A combination of conversations and documents.

Q (By Mr. Aigen) Okay. As best as you can, can you tell me what documents might have informed you about anything related to tax advantages related to this transaction?

A Like I said, I don't remember specific documents, but it's possible that I read a memo at some point or I saw a memo. So, it's -- it's possible that it was documents. As I said before, there was a similar transaction that Highland had done in recent years. So, I was generally aware of the mechanics of the transaction and how -- how the benefits would be conveyed to seller, so that -- that was, I suppose, my basis.

MR. AIGEN: Okay. I am going to switch topics now. Do we want to do lunch break or keep going for a little bit?

MR. MORRIS: You know, I have a got a call at 12:30 --

MR. AIGEN: You want to go until --

MR. MORRIS: So, I'd like to keep going if we can.

THE WITNESS: Can I do a real quick bathroom, like a two minute?

MR. AIGEN: Of course. Let's go off the record.

VIDEOGRAPHER: We're off the record at 11:47.

(Break taken.)

VIDEOGRAPHER: We're back on the record at 11:51.

Q (By Mr. Aigen) All right. Mr. Klos, changing topics a little bit. Are you familiar with an entity called Highland CLO Management, LTD?

A Yes.

Q Okay. I heard people refer it as HCLOM or H C L O M. Is there a certain way you refer to it?

A I usually refer to it as HCLOM, LTD.

Q Okay. And there's another HCLOM entity called

HCLOM, LLC; is that correct?

A Correct. And it's, you know, spelled out the same way, Highland CLO Management, LLC.

Q Yes. Purpose of this, I'm going to refer to it as either HCLOM or H C L O M, and I'm only referring to the LTD for now. I will ask some separate questions later about LLC, and I will be specific about that at that point --

A Perfect.

Q -- if that works.

Okay. Approximately, when was HCLOM formed?

A October 27th, 2017.

Q Why was it formed?

MR. MORRIS: Objection to the form of the question.

A I don't have any personal knowledge, but I believe that it was formed to take assignment of the -- the note that we've been discussing, the participation note, as I've been describing it.

Q (By Mr. Aigen) Okay. And you said you don't have any personal knowledge. So, what would be your basis for believing it to be the purpose was to take assignment?

A I don't think it's ever done anything else other than that.

Q Have you ever had any conversations with anyone about the purpose of HCLOM being formed?

A No, I'm sure I discussed with counsel, but nothing -- nothing outside of that.

Q Okay. Were you involved in any way with HCLOM's formation?

A No.

Q Okay. Do you know who would have been involved with its creation?

MR. MORRIS: Objection to the form of the question.

A I -- I believe -- when you say involved in, there's -- I don't know who -- I think who would have directed that versus who would have coordinated with counsel to -- to form it are probably two different answers, if you could clarify.

Q (By Mr. Aigen) Okay. Let's start with, who directed it, the idea of forming HCLOM?

MR. MORRIS: Objection to the form of the question.

A So, no -- no personal knowledge, but I -- I believe that to be either or both Jim Dondero or Scott Ellington.

Q (By Mr. Aigen) Okay. And do you have any idea who would have done the work to actually set it up and

create it?

A I -- I think that would have been a combination of JP Sevilla, possibly Helen Kim, who was a paralegal, and possibly others, but those would be the -- the two I would expect.

Q Okay.

A And they would have been asking counsel, but -- so there would have been outside counsel used to help form it. I don't recall who that was.

Q Do you know whether it was set up as a U.S. or a foreign entity?

A It was set up as a Cayman entity.

Q Do you have any understanding as to why it was set up as a Cayman entity?

A No personal knowledge. I -- I believe it was set up as a Cayman entity, most likely to obfuscate ultimate ownership.

Q Why do you believe that?

A That seems to be consistent with everything else that happened over that time period.

Q With respect to other entities that were being set up as --

A With respect -- with respect -- I'm sorry to -- I'm sorry to step on you. With respect to other entities that were formed at that time and other

assignments and transfers that occurred over that time, the formation of the -- the trust above the entity that's called Neutra, there seemed to be a significant number of steps taken to obfuscate ownership.

Q Okay. And again, I don't want to put words in your mouth, so I'm going to unfortunately be a little repetitive. Again, what was -- what did you say was the purpose or reason that they were creating HCLOM?

A So, I don't know or have personal knowledge, but it -- it seems to me that the purpose was to take receipt of this note.

Q And that's the note we previously talked about?

A Yes, the -- the participation note (indicating). Sorry for the parentheses.

Q And other than counsel here, you've never had any conversations about why HCLOM was set up that you remember?

A Not -- not other than with -- with counsel present.

Q And what -- what did HCLOM do?

MR. MORRIS: Objection to the form of the question.

A I don't believe HCLOM has ever done anything from a -- from an operational standpoint. I'm sure it's -- there -- there have been, you know, corporate --

corporate actions and signatures on documents, but I -- I don't believe it's ever done anything.

Q Okay. Are you aware of any revenue that HCLOM has ever made?

A No.

Q Are you aware of any expenses that HCLOM has ever paid?

A There are likely expenses that have been incurred that were paid by Highland.

Q Did HCLOM ever have any employees?

A No, not that I'm aware. I have no idea in the last couple of years.

Q Fair enough. What relationship, if any, did Highland have with HCLOM?

A Relationship is a little broad, but I'll -- I'll do my best. So, it -- it Highland employees formed the entity or worked with counsel to form the entity, Highland paid for whatever set up expenses were incurred as part of that. And then Highland has had indirect ownership in the entity at various points in time, economic ownership. And then it's also had voting control over the entity at various points in time.

Q Did Highland enter into any written agreements with HCLOM?

MR. MORRIS: Objection to the form of the

question.

A The -- I believe it's -- I'm not certain. It might be an exhibit, but I -- I believe it's a party to the assignment and transfer agreement from November 3rd of 2017. Beyond that, I'm -- I'm not thinking of any, it's possible it could be.

Q (By Mr. Aigen) You're not aware of any shared service agreements or advisory agreements or any similar written agreements between Highland and HCLOM?

A Correct.

Q Do you know who the officers were of HCLOM at any time?

A The officers I don't know if I know the full slate, but it was a very similar officer list to the Highland officer list. So I believe it was Mr. Dondero, Frank Waterhouse, I believe Scott Ellington, may be one or two more, but I'm not certain.

Q Okay. Are you aware of any change in the officers of HCLOM at any time?

A I believe there was a period where there were officers, so there were officers that were put on a slate.

Q Was that just at the beginning when it was first formed?

A It was a little after -- after it was formed, I

think it was in early '18.

Q But there were no officers and then no officers, and then different officers, it was just no officers and then the officers you talked about?

A I believe that's right. I guess I -- I would refer to our production because I'm not totally facile, but that's my -- that's my basic understanding.

Q As far as you know, Mr. Dondero was the only president of HCLOM; is that correct?

A I don't know if he was the president of HCLOM. I believe he was on the officer slate, I don't know what his corporate title was or officer title.

Q Are you aware of who the directors were of HCLOM at any time?

A Yes.

Q Who?

A I might get this flipped, but I believe there was -- there was a period where there was an individual named John Cullinane, and then the firm he works for is -- I'm going to get the name wrong, it's Summit, I think it's Summit Investment Management, it has Summit in the name. So at one point it was Summit and then at one point it was Cullinane, I forget if those are flipped. And I believe there was a second director added at some point whose name escapes me.

Q Okay. So Summit, an entity, was the actual director, is that fair to say?
A I believe that's correct for some period of time.
Q Okay. Have you ever had any conversations with John Cullinane?
A I think I talked to him once.
Q Anything about the events related to this case?
A No.
Q When HCLOM was first formed, do you have an understanding as to who owned it?
A Can you clarify now or then?
Q When it was first formed?
A Oh, I don't -- I don't know.
MR. MORRIS: I'm sorry, I think you guys may be talking past each other.
Q (By Mr. Aigen) My question is, when HCLOM was first created, do you have an understanding as to who the owners were of HCLOM?
A No. I -- and to be a little bit more specific, I -- I don't know that I knew that HCLOM was formed when it was formed.
Q Okay. Do you have any understanding as to who the owners of HCLOM were at any time?
MR. MORRIS: May I help?

MR. AIGEN: Sure.

MR. MORRIS: I think -- I think he may be confused as to the time line for which you're asking about his knowledge, as opposed to the time line of ownership. Those are two different things.

MR. AIGEN: Okay.

Q (By Mr. Aigen) I'm not asking when you learned things. I'm just asking generally, let's start with who the owners were of HCLOM. So --

MR. MORRIS: Does that help?

THE WITNESS: That does help because you're exactly right.

Q (By Mr. Aigen) Yeah. So tell me who the owners were of HCLOM at any period that you knew who the owners were?

A Sure. So, the -- when the entity was formed, there was an initial share that was directed by Highland under -- it was like Maples Service Corp., I might have that entity name wrong, but it was basically just a single issued share. And then when ownership was actually divvied out, I suppose, to an actual entity, it was transferred to an entity called Neutra, LTD, which is another Cayman entity.

And -- and I should clarify, as part of that, that was when the -- called the AB structure was

set up where there was an economic owner. And then there was a voting owner. And so, Highland Capital Management had the -- the vote. And the ownership of the entity itself ran up to Neutra.

MR. MORRIS: That's N E U T R A.

THE WITNESS: Correct, sorry.

A (Continuing) And I'm not sure, I don't recall off the top of my head whether that was 99 percent economic ownership or if it was 100 percent.

Q (By Mr. Aigen) For Neutra?

A For Neutra, yeah.

Q And that ownership structure you just talked about, did that change at some point that you're aware of?

A Not that I could think of; however, there were other changes in ownership further up the chain.

Q What are you referring to there?

A So Neutra was owned by an entity called Pollock, LTD.

Q How do you spell that?

A Like Jackson Pollock. And Pollock transferred its interest in Neutra to an entity domiciled in the British Virgin Islands called Highland CLO Assets Holdings Limited, I believe.

Q Okay. Other than the ownership change higher

up that you talked about, are you aware of any other ownership change with HCLOM after the ownership structure you just discussed with me?

A At some point there was a trust placed between two of the entities in the structure, I don't recall the name of that trust.

Q Do you know which two entities?

A Between which two entities? I believe it was between Neutra and Highland CLO Assets Holdings Limited, but I'm not 100 percent certain on that.

Q And how is Neutra --

A Sorry, there was one other change that I recall which was at some point in 2022 or 2023 Highland, I don't recall the mechanics of how it lost its voting shares, but its voting shares were -- were no longer.

Q And was that part of the Highland bankruptcy?

A Generally, yeah.

Q After Highland lost its voting shares in 2022 or '23, did Highland have any sort of interest at all in HCLOM?

MR. MORRIS: Objection to the form of the question.

A I struggle with "interest." I mean, we -- we, Highland, have -- have, you know, funds that are reserved for the claim. So in that sense we have a --

we have skin in the game with respect to HCLOM, but other than that I can't think of anything.

Q (By Mr. Aigen) That makes sense. Let me reask that and say after this 2022-23 time where Highland lost its voting shares, did it retain any economic interest or ownership interest or control interest in HCLOM?

A No, I don't believe so.

Q The Neutra entity you talked about, does that have any relationship to Jim at all?

MR. MORRIS: Objection to the form of the question.

A Jim Dondero.

Q (By Mr. Aigen) Yes. Sorry.

A Sorry, yes.

Q How is Jim Dondero related to Neutra?

A It's possible that there are other ways, but as I understand it, he's the lifetime beneficiary of Dugaboy Investment Trust, which is the 75 percent owner of Highland CLO Assets Holdings Limited, which is the sole owner of Neutra LTD.

Q And you talked about the ownership structure, how it was -- there's initial share that was directed to Highland, is that correct, initially?

A Initial share of directed to Maples.

Q Oh, Maples.

A Yeah.
Q And then at some point it was -- Neutra was brought in; is that correct?
A (Witness nods head.)
Q Do you know approximately when that was?
A I think early February 2018.
Q Do you know why that was?
A It seems like -- again, I don't have personal knowledge of this, but the -- the only conclusion that I can reach from having prepared is that it was done to, you know, purposely move assets away from Highland and further out of the reach of Josh Terry.
Q And why do you believe that?
A Because I can't think of any other logical explanation for it.
Q How would moving it to Neutra affect Josh Terry?
A Moving it to Neutra puts it away from Highland. And given that Highland -- that Josh was involved in litigation with Highland, it seems like that was probably like an extra step removed from -- from Highland.
Q When it went to Neutra, did it come from Highland or did it come from Maples?
A I think legally speaking it came from Maples,

but at the direction of Highland.

Q So prior going to Neutra, was Maples the sole owner of HCLOM?

MR. MORRIS: Objection to the form of the --

A I don't know legally, yeah, not my bailiwick.

Q (By Mr. Aigen) Okay. After it got transferred from Maples and Neutra came in, what affect did that have on Highlands' ownership of HCLOM?

A Sorry, could you do that again.

Q Well, let me try to rephrase it. Describe for me Highlands ownership interest in HCLOM, if any, after Neutra was involved?

A So, prior to Neutra being transferred to what I'll call the BVI entity, Highland was indirectly the sole economic owner of HCLOM. And then after that transfer, it either had no or -- I believe it had no economic interest, or maybe small.

Q And the transfer you're referring there is the transfer to Highland CLO Asset Holdings Limited?

A Correct.

Q And so --

A And -- and I should clarify to, the voting interest is consistent throughout, but that's a -- that's a noneconomic.

Q Okay. Is it fair to say that once there was this transfer to Highlands CLO Asset Holdings Limited, Highland no longer held a economic interest in HCLOM?

A That's a mouthful, but I think that's correct.

Q And when approximately did that occur?

A That transfer to -- you're talking about the transfer to the BVI entity?

Q To Highland CLO Asset Holdings Limited, that the BVI entity?

A Yes, yes, that happened December 20th, 2017.

Q 2017?

A Yes.

Q Okay. I may have some of this mixed up because I thought that occurred after Neutra was involved, but then I thought you told me Neutra came in in February of 2018.

A So Highland controlling the share through Maples issues shares in February to Neutra. So it's a little -- it's a little wonky in terms of the order.

Q But at that point Highland didn't have a economic interest, is that correct, when it issued it to Maples?

A I don't know from a legal standpoint it formed the entity. I don't know the status when it's under that Maple kind of placeholder, for lack of a better

term.

Q Fair enough. During this whole 2017, '18 period, all these little transactions you talked about, during that time period, were you involved in these ownership change transactions at all?

A No.

Q Okay. Do you know who generally would have been handling there?

MR. MORRIS: Objection to the form of the question.

A Again, I don't have a personal knowledge, but the team that I understood to be working on that consisted of mainly JP Sevilla, Isaac Leventon, and likely a couple of others, but I don't know.

Q (By Mr. Aigen) Were these changes in ownership interest in HCLOM that you just talked about something you were aware of at the time or just something you dealt with and learned about later?

A Learned about later.

Q Okay. Approximately, when did you learn or what were the -- what was the context?

A Middle of January 2018.

Q Of 2018. And that was a result of the Acis bankruptcy?

A No.

Q What was the context that you learned and had to deal with this stuff?

A I don't have a super fresh recollection of it, but I -- I remember having some, I guess, kind of getting wind of the fact that there were transfers that had happened towards the end of the year. And being the accountant who's trying to close the books for year end, I had conversation with Isaac about, hey, what -- I've heard there are some -- there have been some transfers, can I get the documentation for that. And then I think he followed up within a couple of days. I don't know if he provided all the documentation of those transfers, but he provided certainly a great deal.

Q Okay. And I may be missing all these dates, but is it accurate to say that Highland hasn't had an economic interest in HCLOM since December 20, 2017?

MR. MORRIS: Objection -- withdrawn.

A I'm not sure. And the reason I say that is because of the -- the -- the Maples piece.

Q (By Mr. Aigen) Okay. And you're not sure if Highland retained some sort of economic ownership through the Maples piece, is that the issue?

A Correct, because Highland was issuing -- Highland created it, Highland set it up, it's being basically held -- I'm using the wrong term, but

effectively held in escrow for however Highland wants to direct it. So, that's what's giving me some pause.

Q Okay. Sitting here today, are you aware of any economic interest that Highland had in HCLOM after the December 20th, 2017 transaction we talked about?

A With the same caveat, yeah, I think certainly post February of 2018, no.

Q Okay. And you talked about in the 2022-23 time frame, Highland lost its voting shares in HCLOM; is that correct?

A Sometime in the '22-23 -- I think it's '22, but I'm not sure.

Q Can you give me the context about what you're referring to there?

A Well, I don't remember the specifics of -- of how it was mechanically done, but it was -- I think it was untenable for Highland to be the voting -- the voting interest in HCLOM with no economic interest and all the litigation going back and forth with Highland and Dondero. So again, I don't recall the mechanics, but mechanically it was -- it was made such that the -- the vote would effectively go back to either Dondero or some designee that he had.

Q Okay. Who set up that transaction?

A I think that was done amongst counsel, outside

counsel and --

Q For who?

A I'm not -- I'm not sure.

Q Do you know if it was Dondero side doing this or Highland side doing this?

MR. MORRIS: Objection to the form of the question.

A It would have been Highland's, you know, internal counsel working with outside counsel to help effectuate that. And I believe there was coordination at the time with the Dondero side about who would you like to be put into this role. And so maybe -- maybe overstepping to say it was one-sided because I think there was conversation, but I think it's fair to say that Highland was driving that process.

Q (By Mr. Aigen) Okay. And I think originally you used the word that they lost their voting rights, is it fair to say that this was an agreement between Highland side and Jim side, or was one side forcing the other side to do it?

A I just don't even recall the mechanics of it to get into that specificity.

Q And was this an agreement that was approved by the bankruptcy court?

A I don't know if it was done via an agreement.

Q Have you ever seen an agreement papering up that transaction?

A Probably, but I don't -- I don't even know if it was an agreement. And then I don't -- whatever it was, whether it was an agreement or something else, I'm sure I've seen it, I'm sure it came across my e-mail at some point --

Q Okay.

A -- but I don't have a specific recollection.

Q Let me just ask, other than counsel -- other than conversations with counsel, have you had any conversations with anyone about this --

A Not that I can remember.

Q -- don't want to use the term transaction, it might be a transaction, but this time where Highland loss it's voting rights in HCLOM?

A Not that I can remember, but I'm sure I had conversations.

Q Who do you think they would have been with?

A Most likely with Tim Cournoyer from our legal team.

Q Was there a time within Highland, we're talking about after the bankruptcy, where there was some confusion as to whether Highland still held a economic interest in HCLOM?

A Could you ask it -- could you ask it again, I missed the beginning?

Q Was there some time period where Highland, I'm talking about in the bankruptcy, that there was some confusion about whether Highland held a economic ownership in HCLOM?

MR. MORRIS: Objection to the form of the question.

A I think there was -- there were -- there were periods of confusion.

Q (By Mr. Aigen) Okay. And tell me about that?

A Well, the -- the piece that I am most familiar with is that there was a -- the paralegal at the Highland team who was -- had the impossible task of keeping track of entities in the Highland structure --

Q Is that Helen?

A Yes.

Q Helen Kim?

A Helen Kim. And so, she would -- she would keep track of those entities, and she -- she was fantastic at her job, she was very, very good. But, she -- she would keep track of the entities and periodically send out lists of -- of those entities, which, you know, would be used by other people in the organization for various purposes. And there's definitely some confusion in some

of those spreadsheets with respect to who actually owns this thing and, you know, from -- from that -- that time period of 2018, 2019.

Q Okay. Was there some point in time where you remember people at Highland realizing, oh, we don't actually have a economic interest in HCLOM when they originally thought they did?

A I -- I couldn't tell you the specific time or remember a specific time, but at some point came to that understanding.

Q Okay. Do you know what year was that?

A Probably -- probably 2021.

Q And tell me about that, were you involved in any of these conversations?

A Possible, but I don't remember.

Q How do you know that this sort of, for lack of better words, revelation came that people at Highland learned that they did not have a economic interest in HCLOM when they originally thought they might have?

A I think -- I think it most likely came about around the time of post-confirmation, sometime between post-confirmation and call it end of '21 or early '22 where the -- the focus shifted to, all right, let's -- let's work through and bang through all of the schedules and any -- any loose-end claims that are -- that are out

there. And so I -- I suspect that as part of that process, you know, in digging into the scheduled claims and the other proof of claims that were out there, people really dug in and got a really better understanding.

Q Do you have any idea who was the one who discovered that Highland did not have this ownership interest in HCLOM?

A No.

Q Do you know when you learned that?

A No.

Q Okay. Do you have any understanding as to what -- I know you don't know the person, but what someone reviewed or saw that led Highland to the conclusion that it did not have an economic interest in HCLOM?

A No personal knowledge, but I -- but I assume one or more people reviewed the corporate docs and the share registers, and things of that nature to determine that -- precisely what had happened and when it had happened, but I don't know when that occurred.

MR. MORRIS: Finish up in just three minutes?

MR. AIGEN: Yeah.

MR. MORRIS: It's 12:22.

Q (By Mr. Aigen) What are the significance of the Class A shares of HCLOM?

MR. MORRIS: Objection to the form of the question.

A I don't know which shares are the Class A shares.

Q (By Mr. Aigen) Is it your understanding that there are Class A and Class B shares?

A I'm not -- I'm sure there's two classes, I'm just not sure what they are.

Q And is it your understanding that one is voting interest and one is non-voting?

A Generally, one is voting, one is economic, as I would probably phrase it.

Q Okay. And we've gone through all the different owners, the economic owners of HCLOM, is there any other changes or anything that you know about that you didn't tell me about them with respect to that?

A None that I can remember.

Q Okay. Maybe we can do this in two minutes, but can you tell me generally who had the controlling interest in HCLOM when it was formed and how that changed, if it did?

A I don't know how to define "controlling interest."

Q Okay. Well, let's say who had an interest in HCLOM separate and apart from the economic interest?

MR. MORRIS: Objection to the form of the question.

A I'm not certain, but I believe it would have been Highland Capital Management LP via the voting shares. I'm not certain if it held those, but I -- I think it most likely did.

Q (By Mr. Aigen) Okay. Well, we talked about before how in either 2022 or '23 Highland lost its voting shares in HCLOM?

A Yes, and I should have clarified, I think that's directly, but maybe it was indirectly.

Q If it was indirectly, do you know who it would have been through, what entity?

A No.

Q Prior to this loss of its voting shares, do you know anyone else other than Highland or its entity that may have held its voting shares in that would have held the voting shares in HCLOM?

A I suppose maybe Maples during that period before the -- I think it's an A/B structure -- before that A/B structure was set up, so maybe, maybe during that time period, but I couldn't make that conclusion. Afterwards, I can't think of any.

MR. AIGEN: Okay. Now is a good time to take a lunch break.

VIDEOGRAPHER: We're off the record at 12:24.

(Break taken.)

VIDEOGRAPHER: We are back on the record at 1:22.

Q (By Mr. Aigen) Prior to the break, I just want to finish this topic up, we were talking a little bit about the fact that at some point people at Highland thought that it had a economic ownership interest in HCLOM and then it turned out that they learned that they didn't, do you remember that?

A Generally.

Q I think I asked you, but I don't remember, do you remember the approximate date where people at Highland realized that they had made is this mistake?

A No.

Q Okay. Do you know how it was discovered?

A No.

Q Okay. Do you know who would know that?

A I don't know.

Q Okay. To put it into context, at that time period, again, I know you don't know exactly when, was it your understanding at that time, did you have also

hold this erroneous belief that Highland had an ownership interest in HCLOM?

A I am not sure. I'm not sure when I came to my current understanding.

Q And that's -- I was asking the prior questions about Highlands and now I'm just seeing if I got any difference answer so I'm asking about you. So, do you remember a time period when you realized you had a mistaken belief about Highland having a economic interest in HCLOM?

MR. MORRIS: Hey, Frank, still has that belief, he's your 30(b)(6) witness.

A I'm not sure. I'm not sure.

Q (By Mr. Aigen) Is it accurate to say sitting here today that Highland does not have a economic ownership interest in HCLOM?

A Yes, that's correct.

Q Okay. Do you know who currently owns a economic interest in HCLOM?

A Well, Dubaboy -- Dugaboy Investment Trust and Mark Okada through the structure.

Q And do you know who has the controlling or voting interest we talked about before?

MR. MORRIS: Are you asking today?

MR. AIGEN: Yes.

A I'm -- I'm not certain, but it -- I believe it's a person or entity that -- that was designated.

Q (By Mr. Aigen) Okay. And are you familiar with a similarly named entity called Highland CLO Management LLC?

A Am I familiar?

Q Yeah, have you ever heard of it?

A Yeah, I've heard of it.

Q If I referred to it as HCLOM LLC, will that work for today?

A That would be great.

Q Okay. And what is HCLOM LLC?

A HCLOM LLC is -- well, I don't know what it is today. I don't -- I don't believe it is today, but when it was formed, it was intended to be the -- the Highland risk retention vehicle. So new CLO's that would have been launched after its formation would have been managed by Highland CLO Management LLC.

Any Acis deals that were going to be reset or refinanced were going to be reset under Highland CLO Management LLC or HCLOM LLC. And it was effectively going to be a mirror of a similar structure that existed under Acis previously, with a very similar sounding name Acis CLO Management LLC.

Q You used a term "risk retention vehicle" in

referring to HCLOM LLC, but then you used the term manager, is that -- are those different terms?

A Yes.

Q What's the difference between HCLOM LLC being a risk retention vehicle and HCLOM LLC being a manager?

A So, there was a -- there was a expected regime change around the time that went to managers of CLO's having more skin in the game and actually putting up their own capital in -- in CLO's that they launched. And so, prior to that point, and I'll get my dates wrong a little bit, but, you know, prior to the 2015, 2016 time period, there wasn't a requirement for managers to have skin in the game. There was a series of regulation, which I'm not familiar with enough to speak eloquently about it, but that was coming through at that time that required managers to have some skin in the game. And so, there were structures put in place by CLO managers like Highland or like an Acis to ensure their compliance with risk retention when that regime became effective. But then ultimately, that -- the rules around risk retention ultimately got reversed I believe in 2018.

Q Okay.

A And then I think the second part was about the -- the portfolio manager role and that's -- that's

just the very basic role of being the manager for the CLO's, making investment decisions on behalf of the CLO's and earning a fee.

Q Okay. So an entity can be a manager of the CLO or it could be the risk retention vehicle or it could be both; is that fair to say?

A I think that's fair to say. I'm not -- I'm not 100 percent certain. Risk retention vehicle, I don't -- I don't exactly know what that means the way you're using it, but so I should qualify it that way.

Q And I was just trying to use the term you were using.

So approximately when was HCLOM LLC formed?

A I believe it was formed in early October of 2017.

Q And do you have an understanding as to who owned it when it was formed?

A I don't -- I don't recall.

Q Okay. Or who owned it later?

A I don't recall.

Q Or do you know its officers were, its directors at any point in time?

A I'm not sure that it had directors, it may have. In terms of officers, I think it was the same slate as the Highland slate, but I'm not -- I'm not

certain.

Q Did it have any employees?

A No.

Q Okay. Whose idea was it to create this entity?

A I don't know.

Q What role, if any, did you have with respect to creating this entity?

A None.

Q Okay. What role did you have, if any, with respect to this entity at all?

A I -- I think ultimately the accounting for -- when we say that entity, it's one entity out of a structure of probably six or seven entities. So the accounting for probably not all, but for some of those entities would have fallen under my -- under my group.

Q And what are the other entities, I don't mean the names, but what -- when you say that group, are you talking about HCLOM related entities or something different?

A HCLOM LLC related entities.

Q Okay. That being the case, to the best you can, can you tell me the names of these other entities or just describe how they're related?

A I may get the names slightly wrong, but there was Highland CLO Intermediate Holdings 1, Highland

Intermediate Holdings 2, Highland CLO Management LP, and I believe one or two more that are escaping me.

Q Okay. And just so I have this right, was HCLOM LLC formed to be the risk retention vehicle or the manager of Acis CLO's or both?

A It was meant to be the -- the manager of CLO's launched perspectively. And it was going to be fulfilling that role in a risk retention compliant way.

Q Was there any specific reason that HCLOM, the other entity, couldn't do that and the HCLOM LLC needed to be created?

A Well, HCLOM LLC was created before HCLOM LTD.

And as to the rest of the question, can you ask it again?

Q Okay. And we're kind of getting something we're going to get into, but is it your understanding that at some point an agreement was entered where it was contemplated that HCLOM would replace Acis as manager?

A I believe that's contemplated in the assignment agreement.

Q So given that that was contemplated, why was there this other entity created, HCLOM LLC, that also appears to have been contemplated to be the manager of Acis CLO's?

A I -- I don't think it was created with that

purpose in mind.

Q Okay. Explain how I'm incorrect or what was the purpose?

A Well, I -- I think the purpose was to take the note. The purpose of HCLOM LLC seems to have been done with good intentions of actually being the successor manager and perspective manager for new CLO's in a way that would have been risk retention compliant. And so, it took a series of steps to make that happen. And I'm not aware of any of those steps being taken at HCLOM LTD. Whether it could have taken those steps, I don't know.

Q Do you have any understanding as to whether there was anything preventing HCLOM LTD from becoming the manager like HCLOM LLC was intended to be?

A I'm not certain one way or the other.

Q But it's your understanding or your belief that these two separate entities were created so one could take the note and the other one could manage; is that correct?

MR. MORRIS: Objection to the form of the question.

A The two entities were formed it seems like -- it seems to me that the HCLOM LLC entity was formed to be the manager perspectively. And there -- there

doesn't seem to be a good reason for HCLOM LTD to be formed other than to take the assignment of the note.

Q (By Mr. Aigen) Okay. And let me -- I'm probably assuming answers to my question which isn't a good idea, so let me just ask generally, why were there two different HCLOM entities formed?

MR. MORRIS: Objection to the form.

A I don't have personal knowledge into that, but -- but again, it -- it seems to me like one was formed to take the note and the other was formed to have a valid business purpose.

Q (By Mr. Aigen) And what's the basis for that belief?

A For one, lack of evidence to the contrary. And then No. 2 would be, all the actions that HCLOM LLC actually, you know, did undertake through Highland. Because again, there were no employees, but there were -- there were things at -- things like engaging bankers to launch new CLO's, having written shared services and sub-advisory agreements with Highland, and actually taking the reset of Acis 2014-3 all the way to the finish line with respect to -- with respect to that reset under HCLOM LLC.

Q Okay. Did you ever have any discussions with anyone about the reasons why two HCLOM entities were

created?

A Not that I can remember.

Q Is it correct that you were characterizing this as your speculation why they were created and you don't have firsthand knowledge as to why two different HCLOM entities were created?

A I think that's fair.

Q Okay. So you said -- you gave me two different reasons, one was the lack of evidence to the contrary and one were the actions that LLC took. The second one I think is easier to start with. The actions that HCLOM LLC took, is it fair that what you were referring to, it took actions that would allow it to become a manager of CLO's, is that what you're referring to?

A Yes.

Q Are you referring to anything else other than HCLOM LLC taking actions that would allow it to become a manager?

A Not that I can think of.

Q And then the other one, lack of evidence to the contrary. What are you referring to when you say that there's a lack of evidence to contrary?

A Just that this is more with respect HCLOM LTD -- sorry, for the LLC's and LTDs -- I -- I haven't seen any evidence of HCLOM LTD really doing anything.

Q Okay. Can you give me some examples of what you haven't seen evidence of actions that it took?

A It's kind of phrased in the negative, so can I put it in terms of the --

Q You can compare it to the other entity.

A So some of the things that HCLOM LLC did were -- well, first of all, before HCLOM LLC was even a thing, new issued CLO's as well as resets were contemplated to be under Acis CLO Management LLC because it already had a risk retention compliant structure and it actually launched a CLO within that structure. So I guess that's a starting point.

But at some time it seems in early October, there's a decision made to continue all the activities that were planned for H- -- Acis CLO Management at Highland CLO Management LLC. And so in terms of engaging with a bank to organize and launch new CLO's, as well as resets of existing CLO's, that's all being contemplated to occur at HCLOM LLC. And so there are engagement letters either negotiated or signed at that time. There is written shared services and sub-advisory agreements entered into, I don't remember the specific timing of those, but it did occur.

And when it came to actually taking these to the finish line, which was, as best as I can tell,

ongoing throughout October, November, December into January, that was entirely done through really the CLO team that's leading that charge, but on behalf of Highland CLO Management LLC.

Q And do you have any personal knowledge as to why HCLOM LTD did not take any of those actions?

A No personal knowledge.

Q Have you ever had any discussions with anyone about why HCLOM LTD did not take those actions?

A Other than rank speculation with counsel, no.

Q The fact that HCLOM LTD did not take those actions, is that something that you were aware of back when all this was happening, or just something that you learned recently as part of all this litigation?

A More recently as part of the litigation.

Q Were you aware that there were two different HCLOM entities in the 2017 time frame, 2017, 2018?

A I'm not sure. I think -- I think by 2018 I was.

Q So back when you were aware in 2018, what was your understanding as to why there were two HCLOM entities?

A I have no recollection.

Q Are you aware of anything that would -- would have prevented HCLOM LTD from becoming the manager and

taking all these actions that HCLOM LLC did?

A Not that I can articulate, but I believe there probably were some, but I'm not sure specifically what.

Q So one difference between the entities is that the LLC is a US entities and LTD is a foreign entity; is that correct?

A Yes, that's right.

Q Do you know if that was one of the differences that may have stopped LTD from being able to take these steps?

A It may have been, but I don't know.

Q Sitting here today, can you identify any hurdles or anything that would have prevented HCLOM LTD to take these steps to become the manager?

A I can't identify any. It doesn't preclude that there could be, but I couldn't identify.

Q I understand. And to sort of paraphrase your words, your speculation is that HCLOM LTD was created to take the note, is that a fair description of how you testified?

A It seems that way based on -- I can't come up with another conclusion.

Q Okay. And when you say "to take the note" what do you mean?

A To take assignment of the note.

Q Okay. Have you ever had any conversations with anyone other than counsel about the fact that HCLOM LTD may have been created for the purposes of taking the note?

A I don't -- I don't think so.

Q Okay. Is it your belief that HCLOM LTD was not created to become the successor manager for the Asic CLOs?

A I'm not sure if I perfectly understand the question, but I can answer in the sense that I haven't seen evidence that it was created for that purpose, other than the actual assignment agreement.

Q Okay. At the time of the assignment, you were aware that other assignment agreement was entered into; is that correct?

A I became aware at some point, I'm not sure when.

Q At that point in time, did you have a belief that HCLOM LTD was being created to take over the management of the Acis CLOs?

A I don't know. I don't know when I found out, so --

Q And that's what I'm just trying to pin down a little bit, at some point between then and now, you formed the belief that HCLOM LTD was formed to take the

note and not to manage the CLO's; is that correct?

A Yeah, at some point.

Q Approximately, when did you form that belief; sometime recently in the bankruptcy or back in the day when you -- prior to the bankruptcy?

A Recently, in the last six months.

Q Okay. And what did you see or who did you talk to that led you to that conclusion?

MR. MORRIS: Objection, asked and answered about four times.

A Yes.

MR. MORRIS: You can answer.

A So, through review of documents and preparation for this deposition.

Q (By Mr. Aigen) Okay. But is there any information you saw in preparation that led to you to this conclusion that you didn't have access to back in 2017 and 2018?

A I'm not sure what I had access to in 2017 and 2018.

Q Well, was there any newly discovered information that you discovered in preparation that led you to this belief?

A I'm not sure if I knew or if I could have known, but being able to see the time line of when

entities were formed, when like, for example, an engagement letter, I wouldn't have -- in the moment, is it possible that I could have known that Highland was -- or Highland CLO Management LLC was signing up with Mizuho to be the banker, possibly. But, until spending the time to look at what happened and when it happened, it didn't really paint as clear -- that's when I got more clarity to the picture.

Q So did you see anything in 2017 or 2018 that would have led you to believe that HCLOM LLC was the entity that was attempting to become the manager?

A Yes, I -- I think I would have seen -- I would have been on e-mail communications at some point between October and January where I'm seeing that HCLOM LLC is going to be the successor manager, is going to be the manager to these reset CLOs. I'm certain I would have been on e-mails to that effect.

Q Did you ever say to anyone, well, why isn't HCLOM LTD doing this instead of HCLOM LLC?

A I don't know.

Q Do you remember having any discussions with anyone about the fact that it was supposed to be HCLOM LTD, but instead it looked to be HCLOM LLC that was doing it back in 2017 or '18?

A I don't remember any.

Q Okay. So is there any specific reason that you now have this opinion that something nefarious was going on with trying to take the note, but you didn't hold that opinion back in 2017 and '18?

MR. MORRIS: Objection to the form of the question.

A I don't think I had a basis in 2017, 2018 to be able to make that kind of a conclusion. Whereas, I feel like I do now.

Q (By Mr. Aigen) And can you point me to any specific information that you have now that allows you to make the conclusion that you did not have back in 2017 or '18?

MR. MORRIS: Objection, asked and answered.

A Just the -- the documents that I've had a chance to review in preparation for the deposition.

Q (By Mr. Aigen) But were there any specific documents that you reviewed that helped you reach that conclusion that you did not have access to back in '17 and '18?

MR. MORRIS: Objection to the form of the question?

A I don't know what I had access to in 2017 or '18, that's the hard part.

Q (By Mr. Aigen) Are HCLOM LLC and HCLOM LTD connected in any way, do they have any common ownership or does one own the other?

A That's a little broad. You know, ultimately they're -- they were controlled by Dondero. But in terms of a economic ownership of one owning the other, no.

(Exhibit 3 marked.)

Q (By Mr. Aigen) Okay. I've just -- I've just handed you what's been marked as Exhibit 3. This is a document entitled Assignment and Transfer Agreement and it is Bates labeled -- from other litigation, it's Bates labeled Acis 50 through 55.

A Okay.

Q And my simple question is just going to start with, do you recognize needs this document?

A Yes.

Q Okay. Can you identify this document for the record?

A It's the Assignment and Transfer Agreement by in between Acis Capital Management LP, Highland Capital Management LP, and Highland CLO Management LTD.

Q And is this the assignment agreement we've generally talked about throughout this deposition?

A Yes.

Q Do you prefer a shorter name for this, assignment and/or transfer agreement?

A How about the November transfer agreement.

Q Okay. There are times throughout this deposition where you uses the term "assignment," fair to say this is the document you were talking about?

A Not necessarily. In some cases, yes, but there might be some other instances where I was referring to something else.

Q Okay. There's no other document you know of where the note that we talked about was being transferred to another company, is there; this is the only assignment of that note?

A Correct.

Q Okay. Did you have any role with respect to the preparation of this document?

A I had no role with respect to the preparation of this document. I don't believe I did, but I'll clarify, I think I had some surreptitious involvement because I know that I was asked at this time, you know, how -- with money sloshing back and forth, who was ahead, who was behind. And I know I was asked at this time who's ahead and who's behind, and how much are they behind. And it was, well, Acis is behind by $3 million. And then lo and below, there's $3 million of expense

support, so in that sense, if you want call that being involved then.

Q Is that something you actually remember or you just know that happened because you've being reviewing documents for the deposition?

A I vaguely remember it, but I think there's an e-mail to that effect of just asking me where we stand.

Q Do you have any idea who was responsible for drafting this document?

A Not specifically.

Q Generally?

A It -- it would have been some combination of JP Sevilla, Isaac, Tim Cournoyer, maybe others, but I would expect that one -- one of those would have been involved in the drafting.

Q And those were all internal Highland lawyers that you just named?

A That's correct. And I don't know to what extent that they used outside counsel, but they may have.

Q Other than what you just told me about, who was behind and how much, do you remember having any conversations with anyone about Exhibit 3 prior to it being drafted?

A No.

Q Okay. What's your understanding as to who the parties are to this agreement?

A Per -- per the document, Highland CLO Management LTD, Acis Capital Management LP, and Highland Capital Management LP are the parties.

Q And do you have an understanding as to what the purpose of this document was?

A Yeah, basic understanding.

Q Can you tell me that understanding, please?

A So, the -- the purpose is to -- I guess to put it in more lay terms, is to have HCLOM undertake to be the successor manager and remit fees over to Highland and effectively step into Acis's shoes. And also step into Acis's shoes with respect to receipt of principal interest payments on the note. With the -- with the added quirk that there's this concept of expense support where HCLOM is agreeing to -- is agreeing to do the things that it talks about in paragraph 4.

Q You referred to that as a "quirk", I'm just curious why you used that language?

A Just because this wouldn't be something that I would -- that would be customary, I suppose, in a assignment and transfer agreement based on my experience.

Q Do you know why clause 4, Expense Support, was

include in this agreement?

A Yeah, I believe it was included because Highland was ahead by about three million at that time, and that was -- I don't know this for a fact, but I strongly suspect that this was to somewhat inoculate against the defense that, you know, material asset value is being stripped out of Acis.

Q Okay. And that's why they were three million ahead, that's why the number in this add up to three million, the two million plus the one million?

A That's correct.

Q Have you ever had any conversations with anyone other than counsel about the purpose or intent of this expense support clause?

A I'm sure I had conversations with Isaac back in 2018 or 2019, but I don't -- I don't remember the nature of those.

Q Prior to this agreement being entered into, do you remember having any conversations with anyone about why this agreement was being used?

A I'm sorry, prior to when?

Q The agreement being entered into.

A No.

Q Okay. After it was entered into, did you have any conversations with anyone other than counsel about

why this agreement was being used?

A Not that I can think of.

Q Have you ever had any conversations with Mr. Dondero about this agreement?

A I don't believe so.

Q Have you ever had any conversations with Mr. Waterhouse about this agreement?

A Not that I can remember, but very possible.

Q None that you remember?

A None that I remember specifically.

Q Any conversations with Mr. Serry about this document outside the presence of counsel?

A None that I can think of.

Q What's your understanding as to what responsibilities Acis had under this agreement, if any?

A I'm not sure that I really have an understanding other than just what's contained in the document.

Q Okay. And what understanding do you have, if any, as to what Highland's responsibilities were under this agreement?

A Same answer.

Q Okay. And what's your understanding, if any, as to what HCLOM's responsibilities were under this agreement?

A Same answer.
Q And just so we have the record, can you give me that answer?
A Sure, I'm I'll probably butcher it, but the HCLOM responsibilities?
Q Yes.
A Let's see. Looks like HCLOM -- yeah, caveating that the whole agreement applies, HCLOM is going to -- it -- really the -- the big two are, as I see it, is Section 3.C where it's undertaking to remit servicer fees. And then section 4 where it's offering to pay expense support to Acis. There may be other things in here, but those are the two that stick out.
Q With respect to 3.C, remitting servicer fees, do you believe that HCLOM failed to remit any servicer fees that it was supposed to remit to Highland?
A I don't believe HCLOM received any servicer fees.
Q Is it fair to say, then, that it's not your belief that HCLOM failed to comply with section 3.C?
MR. MORRIS: Objection to the form of the question.
A Yeah, I would -- I'd say 3.C looks almost inapplicable just from the standpoint of what is -- what is envisioned to happen never happened.

Q (By Mr. Aigen) And then Section 4 that you mentioned before, the offer to pay expense support, did HCLOM fail to do anything with respect to Section 4 that it was supposed to do under this agreement?

A I believe it may have. I -- I know Acis made demands from time to time with respect to expenses.

And I should go back to Section 2 as well, that's another undertaking of HCLOM where it says it will promptly pursue successor manager appointment. So, you know, again, I'd rely on the whole document, not just the parts I cherrypicked, but clearly there's an undertaking envisioned in Section 2.

Q Okay. I just want to finish up what you said about Section 4, do you have any specific recollection about demands that Acis may have made that implicated Section 4 here?

A No -- no recollection, but I believe I've seen that as part of the preparation.

Q What sort of demands; for reimbursement?

A Correct.

Q Do you know roughly what sort of money we're talking about?

A I don't remember.

Q Do you remember when approximately?

A No, not specifically.

Q Okay. And then Section 2, you mentioned that it talks about probably pursuing to get appointed as manager; is that correct?

A Pursue successor manager appointment.

Q Okay. And it's your understanding that HCLOM did not promptly pursue successor management appointment, is that correct, is that understanding?

A That's correct.

Q Okay. And tell me why not?

MR. MORRIS: Objection to the form of the question.

Q (By Mr. Aigen) Actually, what do they not do that leads you to the belief that they did not seek successor manager appointment?

A I'm not sure what steps would have been involved in that pursuit, but I don't believe they did anything. So whatever they had to do, they didn't do.

Q So when you say they don't believe they did anything, do you have firsthand knowledge or personal knowledge as to what they did or didn't do with respect to becoming manager?

A No personal knowledge, I just haven't seen any -- in my preparation, I haven't seen any evidence of them having done something.

Q Okay. So sitting here today, you have no

firsthand knowledge as to whether HCLOM took any steps to become successor manager; is that fair to say?

A Well, I -- I -- I think I have a basis to say that they didn't from having done the work that I've done to prepare. But, I -- I suppose I couldn't foreclose that possibility entirely. Just, I don't know what I haven't seen, I guess.

Q Let me ask you, what have you seen that would support the conclusion that HCLOM did not pursue successor manager appointment?

A It's kind of proving a negative. It's -- it's the fact that I haven't seen anything.

Q Fair enough. So there's nothing specific we can point to that you've seen that would lead to the conclusion that HCLOM did not seek appointment as successor manager?

MR. MORRIS: You have.

A Well, the -- let me -- one thing I've seen is the things that HCLOM LLC did during that time. So seeing these things, these entities formed at approximately the same time, LLC's first, and seeing all the things LLC did do effectively at the same time HCLOM LTD, I think it's theoretically, should have been doing and not seeing any evidence of LTD doing anything, leads me to believe that they didn't do anything.

Q (By Mr. Aigen) Okay. Let me ask you about just a couple of the recitals on the first --

A You know, and actually --

Q Oh, sorry.

A -- another document that -- that comes to my mind is the acknowledgment and waiver from January where again, it's the parties acknowledging -- the parties being, I believe, HCLOM LTD and Highland Capital Management LP -- that HCLOM LTD is never going to be the successor manager and it's going to be this company called LLC.

Q We'll get to that. Turn to the first page because I have a couple of quick questions. There's fourth recital that says or starts, Whereas, Acis has determined that the effective notification is that it cannot fulfill its duties of the portfolio manager of the CLO's, do you see that "whereas" clause?

A I do.

Q Do you have any reason to disagree or agree with that "whereas" clause?

A So I'm not aware -- I'm not aware of the notification. I've seen this document, but I don't have any knowledge of that notification having actually occurred.

And then, on -- as far as the -- the beef

of it, has Acis has determined that it cannot fulfill its duties as portfolio manager, I think that's undermined a little bit by the fact that it continued to fulfill its duties as portfolio manager from this point forward, you know, into 2018 until it lost control of the CLO's.

Q And why did it continue to act as manager after the -- this agreement was entered into?

MR. MORRIS: Objection to the form of the question.

A It was -- Acis was still the manager of the CLO's.

Q (By Mr. Aigen) I apologize if I asked this before, but do you have an understanding as to whether Acis failed to do anything that it was supposed to do under the assignment transfer agreement?

A I don't believe that Acis promptly provided the controlling class with notice requesting appointment of HCLOM. It may have, but I don't believe it did.

Q Why do you not believe it did --

MR. MORRIS: Hold on let him finish.

A Well, I was going to move on to the next thing. I don't believe Acis pursued -- in Section 2, I don't believe Acis pursued successor manager appointment of HCLOM as described in the agreement.

I think that Acis certainly didn't remit servicer fees after the end of -- after the date of this agreement with -- you know, with the -- I guess you could -- you could split hairs on the January payment where they sent it, but then Highland sends it back and then it's probably all under the same control. But then certainly didn't send anymore fees after the bankruptcy, after, you know, January of 2018, after that point.

So, it's -- those are the things that jump out, there may be others.

Q (By Mr. Aigen) What do you believe that HCLOM could have done to become successor manager that it did not do?

A I -- I just don't know. I -- I don't know what the steps involved in that with any level of detail.

Q Do you know if the ability of HCLOM to be successor manager was affected by Acis's bankruptcy or the temporary restraining order being entered?

A I don't know if it was affected, but by that -- but by the time Acis was put into bankruptcy, everything was under LLC anyways.

Q What do you mean by that?

A Every -- all resets, new issued CLOs were contemplated to be under HCLOM LLC, you know, well prior to the bankruptcy.

Q And I think you said it was all done, but then you said something about contemplated. So let me ask you, when were these resets issued with HCLOM LLC with respect to the Acis bankruptcy?

A Sorry, you got to do that again.

Q Let me ask it easier maybe. When were these resets completed with HCLOM LLC that you referred to?

MR. MORRIS: Objection to the form of the question.

A None were completed. One was, you know, at the altar in late January, and that was going to be under HCLOM LLC.

Q (By Mr. Aigen) And how do you know it was going to be under LLC and not LTD?

A Because the entities were formed, cash was funded, bank accounts were set up, agreements were entered into. It was -- it was ready to price.

Q And at that point in time, did you have any discussions with anyone about why it was being done through LLC not LTD?

A Not that I remember.

Q Okay. But you were aware that it was contemplated that is it would be through LTD, is that correct, at that time?

MR. MORRIS: Objection to the form of the

question.

A I don't know -- I don't know what I knew at the time. I think people were charging forward with there's going to be a new Acis reset under LLC, and that's what people were working towards.

Q (By Mr. Aigen) Changing topics a little bit here. You're aware that there was litigation between Highland and Acis; is that correct?

A Generally speaking, yes.

Q And you're aware at some point they reached a settlement; is that fair to say?

A Yes.

Q And just so I can determine how much we get into this, what -- what knowledge do you have related to the litigation between Acis and Highland that lead to the settlement?

MR. MORRIS: Objection to the form of the question.

A I really need you to be more specific, it's too broad.

Q (By Mr. Aigen) Do you have an understanding of any of the claims asserted by Acis against Highland?

A Very rough understanding.

Q Give your me rough understanding?

A Really that Highland was, you know, involved in

an effort to deprive Josh Terry of his arbitration award that he had received from Acis. And that, you know, Highland took steps to deprive him of that -- that award. Beyond that, I don't really -- couldn't go into the specifics.

Q And is it your understanding that one of these efforts included the transfer of the note as part of Exhibit 3?

A I'm not sure exactly.

Q And I guess that's what I wanted to get into, do you have any knowledge related to what role the note and the transfer had with respect to the litigation between Acis and Highland?

MR. MORRIS: Objection to the form of the question.

A I think it was a part of it, but I don't know how big of a part or how big of an issue, if it was a small issue, a big issue, an almost nothing issue.

Q (By Mr. Aigen) Okay. You're aware that within that litigation, Highland never took the position that the note was unenforceable, right?

A I'm not sure if I'm facile with the exact position that Highland took.

Q But is that consistent with your understanding?

MR. MORRIS: Objection to the form of the

question.

A I'm not sure.

Q (By Mr. Aigen) You just don't know?

A Yeah, I'm not sure.

Q Okay. Are you aware of anything, any new evidence that was discovered that would have led Highland to change its position with respect to the enforceability of the note?

MR. MORRIS: Objection to the form of the question.

A You said new information?

Q (By Mr. Aigen) Or any information?

A Yeah, I mean, I think it wasn't until doing the deeper dive into the scheduled claims and other miscellaneous proof of claims that -- I don't think it was until that point.

Q And what do you mean by that?

A I just don't know that anyone had looked at it with that amount of specificity.

Q When you say looked at it with respect to the scheduled claims, are you referring to the claims in the Highland bankruptcy related to the note?

A Yes.

Q Okay. And it's your understanding that the schedule originally listed the payee under the note as

someone other than HCLOM; is that correct?

A Yes, the original schedules, yes.

Q And do you remember who the payee was under the original schedules?

A I believe it was scheduled as Highland CLO -- Highland CLO Hold Co, I think, I'm not certain on that, but I think that was the entity that was list.

Q And at some point it was discovered that that was a mistake and it was amended, and HCLOM was listed at the payee; is that correct?

A I don't have personal knowledge of that, but I believe that to be correct, yea.

Q Okay. Do you have any knowledge as to how that error was made or why it was -- or how it was discovered?

A No personal knowledge or recollection. I -- I know that there was a -- a schedule of the note -- note amortization schedule that had at the top Highland -- I think it was Highland CLO Holdings Limited at the top of it. So total speculation, but I think whoever was probably putting together the schedules, saw that, picked up that entity, maybe there was like a text limitation in the software or whatever, again total speculation. And so, they started shortened "Holdings" to "Hold Co," but again that's just a total -- that's a

total guess.

Q Is there any connection between the Highland CLO entity that you mentioned and the Highland CLO Hold Co?

A I don't believe Highland CLO Hold Co is a thing.

Q Oh, okay. Sitting here today, you have no reason to believe it's an actual entity?

A I haven't seen it, I'm not aware.

Q Have you ever had any -- well, you testified that this is sort of your assumptions on what happened, have you ever had any conversations with anyone other than counsel on how that mistake was made or how it was discovered?

A No. Not that I can remember.

Q And that was two question, let me get into the second one. Do you have any knowledge as to how that mistake was discovered?

A Oh, how that was discovered? No.

Q When did you first find out about this mistake, was it after or before the amended schedule was filed?

A Oh, I think -- I think after, quite a bit after.

Q So you weren't involved in filing of the amended schedules?

A No.

Q Who would have been? Other than lawyers?

A Yeah, I'm -- I'm sure lawyers, possibly DSI the financial advisor, possibly internal people at Highland, Highland legal team.

Q And sitting here today, you don't know who discovered that mistake?

A No.

Q Did you ever have any conversations with Mr. Serry about whether Highland would be liable on the note? That's of counsel.

A I don't believe so outside of with counsel.

Q Okay. Are you aware of whether Mr. Serry testified in the Acis bankruptcy that Highland would be liable on the note?

MR. MORRIS: Objection to the form of the question.

A I don't have a specific recollection of that.

Q (By Mr. Aigen) Generally?

A I -- I -- I believe he may have testified to that effect.

Q Do you believe that's still Highland's position today that it is liable on that note?

A I don't believe Highland's position is that we're liable on the note, no.

Q So what changed between Mr. Serry testifying to that and the position currently today?

MR. MORRIS: Objection to the form of the question.

A I'm not sure and don't have personal knowledge, but I believe he was under the impression that HCLOM was owned 100 percent by Highland, so it was -- the whole thing was kind of moot.

Q (By Mr. Aigen) Did you ever have any conversations with anyone about that?

A I'm sure it's come up with Mr. Serry and with counsel at times, but I couldn't pinpoint anything for you.

Q Have you ever seen anything in writing about Mr. Serry's mistaken belief that HCLOM was owned by Highland?

A Not that I can recall.

Q Okay. Are you aware of anything that Mr. Serry may have learned sometime in between telling the Acis bankruptcy court that Highland would be liable on the note and today where Highland is taking the position that it is not liable on the note?

A Not specifically, but you know, I think he's had a chance to review many of the same documents that I've had a chance to review just as part of my

preparation and I'm sure his preparation.

Q Okay. And what is it that you believe that he would have learned that led to that change?

MR. MORRIS: Objection to the form of the question.

A Well, for starters, that Highland CLO Management isn't a wholly owned subsidiary of Highland, but also just the more granularity around the transfers and the transactions that occurred between, you know, call it November -- October, October, November of 2017 and early part of 2018.

And to be clear, I don't -- I don't know when he became aware of those things, if that was through this production or earlier, I -- you'd have to ask him.

Q (By Mr. Aigen) And -- and those things we're referring to, I believe, as what you earlier testified about the LLC vs. LTD difference, is that what you're referring to?

A Among other things.

Q Okay. And again, I don't like to put words in your mouth, but you had some information back in 2017 and '18, but you came to the conclusion sometime as part of the litigation going on that LTD was never actually trying to become the successor manager; is that correct?

A I'm not sure what information I had access to in 2017, 2018.

Q Again, I already asked you that part, I'm trying to ask something new here. Did you come to that conclusion from your review of documents or did someone bring that conclusion to you and you said, oh, yes I agree?

MR. MORRIS: Objection to the form of the question.

A I think I've reached that conclusion independently. If other people agree with that, you know, possible. I don't know who brought it to who, but I think I could have reached that conclusion independently and I think I probably did, but I'm not sure.

Q (By Mr. Aigen) And that sitting here today, you can't tell me whether you independently reached that conclusion or someone brought it to you; is that fair to say?

A I don't know. I don't know.

Q Just don't remember?

A Don't remember.

Q Do you remember discussing the conclusion with anyone other than counsel?

A Not specifically.

Q Okay. Take a look at some those other agreements that you've referenced throughout today.

MR. AIGEN: Let's mark these two. They go chronologically. Thank you.

(Exhibit 4 and Exhibit 5 marked.)

Q (By Mr. Aigen) Okay. I've just handed you two documents that may or may not be related, we'll figure that out, Exhibit 4 and Exhibit 5. Exhibit 4 is titled Payment Cancellation Agreement and it's Bates labeled HCLOM8893. And document five -- or Exhibit 5 is titled Forbearance Agreement and it's Bates labeled HCLOM9462.

Can you -- are you familiar with these two documents?

A Generally, I've seen them both.

Q Okay. They are dated 2017, 2018, do you believe you saw them back in that time period or is it just something you've seen recently?

A Sorry, I'm thrown off because I think there's a typo in the -- in the date. So, I believe this payment cancellation agreement -- so first of all, I don't believe this was ever executed so this was a draft. But I believe this was drafted around early May of 2018, not '17, so I think that's probably a typo.

Q Okay. Let's just start with Exhibit 4, the Payment Cancellation Agreement that as you indicated is

unsigned, and you've never seen assigned version of that, correct?

A No.

Q Do you know generally why this agreement was being drafted?

A Yes. Generally, this was, you know, post Acis bankruptcy April -- April, May, you know, I think the -- I think the view at the time was the whole -- the whole participation transaction, both legs, both the -- both the note and the servicer fees should just completely go away and disappear. So, you know, cancel the future payments on the note. Cancel the future -- any obligations that anybody has to remit servicer fees, and -- and everyone just walks away.

Q Okay. Do you have any personal knowledge of that?

A I believe so, but not that I recall very specifically. I know that I was on e-mail communications at the time and I was talking to Isaac and Stephanie, Isaac Leventon, Stephanie Vitiello, you know, about this concept around that time.

Q You've seen specific e-mails where the purpose of the Payment Cancellation Agreement being to make the other agreements go away was actually discussed?

A I'm not certain, I don't have --

Q Okay. We'll ask the easier question. Do you have any specific recollection of conversation about the purpose of the Payment Cancellation Agreement to make the other agreements go away?

A No specific recollection.

Q Generally?

A No, just that there were conversations.

Q Okay. And you -- who -- who would you have had those conversations with?

MR. MORRIS: Objection to the form of the question.

A Either Isaac Leventon or Stephanie Vitiello; probably Isaac, but I'm not sure.

Q (By Mr. Aigen) And you believe there are also e-mails on the purpose of the Payment Cancellation Agreement being to have the other agreements go away; is that correct?

A I don't know if there's e-mails on the -- on the purpose, there may be, but I'm not -- I'm not sure.

Q Do you know why the Payment Cancellation Agreement was never entered into?

A I believe it was stopped by Scott Ellington.

Q Why do you believe that?

A Based on review of e-mails from that time period.

Q Okay. And these were e-mails that were produced in this case?

A As far as I know.

Q What do you remember seeing in an e-mail that led you to the belief that Scott Ellington stopped this from going forward?

A I believe there was an e-mail, I forget who it was from, I believe it from Isaac to Scott saying, Scott, here's the Payment Cancellation Agreement. We're -- FYI, we're going to get this executed. And Scott may be replying something to the effect of, let's talk about this, or something like, let's take it offline. And then the Payment Cancellation Agreement is no more.

Q Other than that e-mail you just talked about, is there any other reason to believe that Mr. Ellington stopped the Payment Cancellation Agreement from happening?

A None that I can think of.

Q Okay. Do you know why Mr. Ellington or anyone else stopped the Payment Cancellation Agreement from being executed?

A No.

Q It's nothing you've ever discussed with anyone?

A (Shakes head.)

Q The other agreement --

A Sorry, sorry, for the nonverbal.

Q Exhibit 5, that's the Forbearance Agreement, similar questions about that one. Do you know why that was entered into?

A I think that one was at my request. So, this was going to be the -- you know, the note was going to be cancelled, there was a payment that was going to be coming up on May 31st, 2018. And so, I think I was thinking about this in the context of Highland's situation, you know, we should have some sort of a forbearance in place. If it's not going to be cancelled, the parties should at least agree nothing is going to happen under this. So, I don't know if I suggested forbearance, but the idea there needs to be something to reflect that Highland is not making this payment on May 31st of 2018. So that was, I think, put back into Stephanie's and Isaac's lap, and you know this document was born.

Q Did someone tell you prior to you coming up with that idea that they were not going to make the payment on 5-31-2018?

A I -- I don't know if someone told me. I -- could you ask the question again, I'm sorry?

Q Yeah, so, you came up with this idea based on

the fact --

A If I could -- I don't necessarily agree with the premise of the question. I don't know that I came up with the idea of this agreement. I just knew that there was something that needed to be done, and so I certainly communicated that to Issac and Stephanie.

Q Is it fair to say that something needed to be done because a payment due date was coming up, but it was your belief that the payment was not going to be made?

A Yes.

Q Why did you believe the payment was not going to be made?

A Well, I -- I knew that Highland hadn't received any servicer fees in the last five months, so I -- I don't know for certain, but I assume at that time I would have, in my head, thought, all right, this whole -- this whole transaction is just unwinding. So, I think that would be the main basis.

Q Okay. Did you have any conversations with anyone prior to this agreement being entered into about whether Highland is going to make the upcoming note payment?

A I -- I don't know. I may have, not that I specifically remember. But, it would have been -- it

would have been -- it would have been obvious to me or to Frank, my boss, that Highland would not be making this payment.

Q Why would it be obvious, because the servicer payment weren't being made?

A Correct.

Q And that's -- sorry?

A In addition, I -- frankly, sitting here today, I don't know what Highland's liquidity situation was. Highland may not have even had the money to make that payment. I'm not saying that was the situation, but it's very possible.

Q Well, sitting here today, is one of the reasons that you believe that Highland wouldn't make the payment because of Highland's liquidity decision, or was it because of the servicer fees, or both?

A I think probably the servicer fees would be the -- would be the main thing, but I'm just -- what I'm saying is, there may been other -- there may have been other things, I'm just speculating.

Q So you came to a conclusion on your own that Highland wouldn't make the next note payment because it hadn't been receiving the servicer fees; is that correct?

A I don't know that I came to that conclusion on

my own. I may have, I may have not.

Q Okay. But do you have a specific remem- -- recollection of coming to that conclusion prior to the Forbearance Agreement being executed?

A No.

Q Okay. And I guess what I'm getting at, is it possible someone just said draft the Forbearance Agreement, or do you have a specific recollection that you realized that the payment was not going to be made, so we had to do something?

A I don't have a recollection one way or the other. So we're all in the same office, I'm sure I had conversations with Isaac, with Stephanie, with people on my accounting team, with Frank, I just don't remember what conversations and when and with who.

Q Fair enough. So sitting here today, do you have any recollection as to whether you believed that Highland wasn't going to make the next note payment because it hadn't received servicer fees at that time period?

A I think I could safely say that I believed that Highland wasn't going to make the payment, just period, full stop. The because, I -- I'm not as certain on that.

Q Okay. Do you have a recollection that Highland

was not going to make the fees or you're just saying that because a forbearance agreement was entered into so it must be the case?

MR. MORRIS: Objection asked and answered about five times already, but you can answer.

A Yeah, I -- I -- I knew that it wasn't going to be, I don't know how else I can frame it, but I -- I was certain it wouldn't be paid at that time.

Q (By Mr. Aigen) And I guess I -- I don't -- why were you certain it wouldn't be paid, did anyone else tell you that?

A I -- I don't know.

Q Okay. Is it fair to say that you don't remember whether you came up with that conclusion yourself or someone else told you?

MR. MORRIS: Objection asked and answered.

A I think that's fair.

Q (By Mr. Aigen) Fair to say you certainly don't remember any discussions prior to the Forbearance Agreement with anyone about whether Highland would make the next payment?

A Not that I can remember.

MR. AIGEN: Let's mark this one 6. Thank you.

(Exhibit 6 marked.)

Q (By Mr. Aigen) I've handed you what's been marked as Exhibit 6, labeled HCLOM9466 and this document is titled Amended and Restated Forbearance Agreement, do you see this?

A I see it.

Q Okay. Did you have any role with respect to the preparation of this document?

A Exceptionally limited.

Q And what would your role have been?

A I don't have a recollection, but from having reviewed e-mails, I -- I believe I sent an e-mail to Kirsten Hendricks sometime -- let's call it, sometime between April and May of 2019, saying here's a copy of the amended and restated -- here's a copy of the Forbearance Agreement from last year which I can only surmise was my way of telling her, hey, you -- you deal with legal this year because I don't see any other e-mails about it, at least e-mails from me, so I think I had her take it and run with it.

Q And was -- this agreement was entered into because another payment was coming up on the note; is that fair to say?

A Yeah, yeah, well, I think it's -- it's -- there's another payment -- you know, there's another scheduled payment under the original schedule. And then

there's also the previous year where I think we'd extended it out for a year, so I don't know which of those reasons trumps the other, but those are the two reasons that I can think of.

Q Do you know why those payments weren't going to be made at this time and this agreement was needed?

A Same -- same reason, Highland hasn't gotten anything at this point in 18 months or 17 months whatever.

Q But you never had any conversation with anyone about that; is that fair to say?

A Not that I can specifically remember.

Q Do you know who would have made the decision at the time of Exhibit 6 to not make the payment on the note?

A No, I'm not sure. You know, I think ultimately if that payment was going to be made, that would have been a decision that would have had to come from Mr. Dondero. I don't know if that conversation ever took place or not, but it would have had to come from him.

Q But you don't know whose decision it was to not make the payment; is that correct?

A No, not specifically.

Q And same question with respect to Exhibit 5 and

the payment that was contemplated in there, do you have any idea as to who would have made the decision to not make the payment at issue in that Forbearance Agreement?

MR. MORRIS: Objection to the form of the question.

A No personal knowledge. But again, kind of in the inverse, the decision to make the payment would have come from Frank or Jim, and if from Frank, from Frank via Jim.

Q (By Mr. Aigen) But you have no personal knowledge on that?

A Correct.

MR. AIGEN: Let's mark this one.

(Exhibit 7 marked.)

Q (By Mr. Aigen) All right. I just handed you what is Exhibit 7, HCLOM13277 and this document is called Acknowledgement and Waiver. Do you recognize this document?

A Yes, I've seen it.

Q Okay. Is this a document that you've only seen in preparation for this litigation deposition or was this a document that you saw back in the day?

MR. MORRIS: Objection to the form of the question.

A I believe that -- I believe that I'm aware of

this through the -- the preparation for this deposition and this litigation. It's possible that I was aware of it beforehand, but I don't -- I don't think I was, I may have been, but I don't think so.

Q (By Mr. Aigen) Did you have any role with respect to this document's preparation?

A No, I don't believe so.

Q Do you have any understanding as to what the purpose of this document was?

A You know, again, none other than what's in the four corners of the agreement.

Q Okay. You don't -- you've never had any discussions with anyone about this document or what's contained in it other than with counsel?

A Correct.

Q So this -- is it your understanding that this document contemplates using HCLOM LLC instead of HCLOM LTD as the successor manager?

A I'm not sure, but at least in looking at you know item C of the one, two, three, fourth paragraph, it talks about that in connection with each reset, Each applicable CLO issuer will appoint Highland CLO Management LLC a Delaware Limited Liability Company as the collateral manager, so it appears that this is contemplating LLC as the manager.

Q And in subparagraph C, it says, in order to comply with the US Risk Retention Rules, those are the regulations and rules you talked about earlier with me?

A Yes.

Q Do you know whether there was something about HCLOM LTD that made it necessary to use HCLOM LLC with respect to the US Risk Retention Rules?

A Not that I could articulate.

Q At the end of this it talks about, none of the appointments have been made nor will be made pursuant to Section 2 of the transfer agreement, do you see that?

A Yes.

Q Is that anything that you're aware of in the 2018 time frame?

A I don't think so. Again, I'm not -- I'm not sure when I became aware of this agreement, so yeah, so I'm not sure.

Q Well, what about the idea that Highland CLO LTD would not be made successor manager or seek appointment, is that something you're aware of in the 2018 time frame or just something you became aware of --

A I'm pretty sure I would have been aware of that because I would have seen e-mail traffic about moving forward resets with HCLOM LLC at that time. So independent of this document, I think I would have that

understanding.

MR. AIGEN: And hopefully the last one.

(Exhibit 8 marked.)

Q (By Mr. Aigen) Okay. I've handed you what's been marked Exhibit 8. It is labeled Agreement and it's Bates labeled HCLOM --

MR. MORRIS: Creative.

Q (By Mr. Aigen) -- 13413. Do you know who came up with the name "Agreement"?

A No, no, I don't.

MR. MORRIS: I did.

Q (By Mr. Aigen) Are you familiar with this document?

A Generally, again, I've seen it.

Q Is it just something you've seen in preparation for this litigation or something that you saw back in 2018?

A I think I saw this in real time.

Q Okay. What was the purpose of this document, if you know?

A I don't know or recall with certainty, but I could -- I could speculate.

Q What do you think it was for?

A I think the purpose of this agreement was likely to make sure that Highland was getting credit for

expenses that it was paying on Acis's behalf. And netting those payments off of future -- any sort of future obligations that Highland would have to Acis or to anybody.

Q Do you know why that would have been needed and why they would have to paper it up into a document like this?

A Not sure.

Q You don't remember having any conversations about anyone about this agreement?

A I don't remember having any, I'm sure I did.

Q Was there anything unusual about putting an agreement like this in writing as opposed to what Highland usually does?

A Hard to say. It's not -- it's not completely unheard of. I'd say more often than not these types of expenses would just -- there would just be an invoice or something, and the other side would reimburse the other. But I'm sure there were probably instances over the year where some things were papered up a little more formally like this.

Q Sitting here today, do you know why there was a need to create this and make it more formal?

A I don't know, I don't -- nor do I have a recollection, but my assumption again is that there was

a known specter of litigation with -- with Terry involving Acis, so probably better to have a more formalized record of -- of this type of thing.

Q Do you have any idea who at Highland would have been involved in drafting this or coming up with the idea of this?

A I think Tim Cournoyer drafted this one.

Q Why do you think that?

A Because I'm pretty sure I've seen an e-mail to that effect.

MR. AIGEN: Why don't we take a break and I hopefully I can wrap this up.

MR. MORRIS: Great.

VIDEOGRAPHER: We're off the record at 2:39.

(Break taken.)

VIDEOGRAPHER: We are back on the record at 2:46.

MR. AIGEN: I have no more questions, thank you for your time, Mr. Klos.

MR. MORRIS: It was less than a half an hour, good call.

VIDEOGRAPHER: We are off the record at 2:47.

(Proceedings concluded at 2:47 p.m.)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	)Chapter 11
	)
HIGHLAND CAPITAL MANAGEMENT, L.P.	)Case No. 19-34054-sgj11
	)
Reorganized Debtor.	)

REPORTER'S CERTIFICATE
ORAL AND VIDEOTAPED DEPOSITION OF DAVID KLOS
SEPTEMBER 25, 2024

I, Katharene McCulley, Certified Shorthand Reporter in and for the State of Texas, hereby certify pursuant to the Rules and/or agreement of the parties present on the following:

That the witness, DAVID KLOS, was duly sworn and that the transcript of the deposition is a true record of the testimony given by the witness;

That $_____ is the charge for the record of the testimony given by the witness after said witness was duly sworn by me.

I further certify that pursuant to FRCP Rule 30(f)(1) that the signature of the deponent:

_____ was requested by the deponent or a party before the completion of the deposition and is to be returned within 30 days from date of receipt of the

transcript. If returned, the attached Changes and Signature Page contains any changes and the reasons therefor;

__xx_____ was not requested by the deponent or a party before the completion of the deposition.

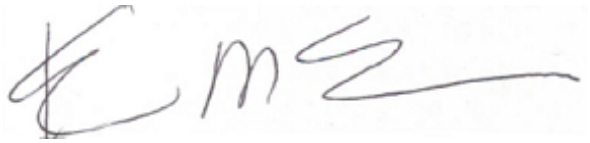
That the original deposition transcript, or a copy thereof together with copies of all exhibits, for safekeeping and use at trial, was delivered to the attorney or party who asked the first question appearing in the transcript, pursuant to Rule 30(f) of the Texas Rules of Federal Court.

That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes all parties of record:

Michael Aigen (3h59m)
Attorney for Highland Capital Management, Ltd.
John Morris (0h0m)
Attorney for Highland Capital Management, LP

I further certify that I am neither counsel for, related to, nor employed by any of the parties in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of this action.

Certified to by me on this 2nd day of October, 2024.



Katharene McCulley, CSR
Texas CSR 3206
Expiration: 10/31/2024
Firm No. 571
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300 Throckmorton Street
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Fort Worth, Texas 76102
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Highland Capital Management Llp v.

David Klos (#6908328)

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David Klos Date

Highland Capital Management Llp v.

David Klos (#6908328)

ACKNOWLEDGEMENT OF DEPONENT

I, David Klos, do hereby declare that I have read the foregoing transcript, I have made any corrections, additions, or changes I deemed necessary as noted above to be appended hereto, and that the same is a true, correct and complete transcript of the testimony given by me.

_____ _____

David Klos Date

*If notary is required

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_____ DAY OF _____, 20___.

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted

fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.

EXHIBIT 23

PAYMENT CANCELLATION AGREEMENT

This PAYMENT CANCELLATION AGREEMENT (this "***Agreement***"), dated as of May 10, 2017, is entered into by and between Highland Capital Management, L.P., a Delaware limited partnership ("***HCM***") and Highland CLO Management, Ltd., a Cayman Islands exempted company ("***HCLOM***", and together with HCM, the "***Parties***"). Capitalized terms used herein but not defined have the meaning ascribed thereto in the Agreement for Assignment and Transfer of Promissory Note dated as of November 3, 2017 between HCM, HCLOM, and Acis Capital Management, L.P ("***Acis***") (the "***Assignment Agreement***").

RECITALS

Whereas, Acis and HCM entered into an Agreement for Purchase and Sale of CLO Participation Interests between Acis and HCM dated as of October 7, 2016 (the "***Purchase Agreement***" and the promissory note therein, the "***Note***");

Whereas, as portfolio manager of certain collateralized loan obligations listed in Schedule A of the Purchase Agreement (the "***CLOs***"), Acis was entitled to fee compensation in connection therewith as set forth therein (the "***Servicer Fees***");

Whereas, pursuant to the Purchase Agreement, Acis sold a portion of its future Servicer Fees to HCM in exchange for cash flows from HCM, in each case as set forth in the Note (such future Servicer Fees identified to be paid to HCM pursuant to the Purchase Agreement, the "***HCM Stabilization Fees***" and such cash flows from HCM, the "***Stabilization Payment***");

Whereas, pursuant to the Assignment Agreement, Acis assigned its rights as portfolio manager of the CLOs, and therefore its rights to the Servicer Fees, to HCLOM;

Whereas, pursuant to the Assignment Agreement, Acis assigned all right, title and interest of Acis under the Note, including the right to any and all Stabilization Payments not yet paid to Acis to HCLOM; and

Whereas, for so long as HCLOM receives any Servicer Fees following the Assignment, HCLOM is required to remit to HCM any portion of such fees that would otherwise have constituted HCM Stabilization Fees pursuant to the Note as if Acis was the recipient of such fees.

AGREEMENT

Now, therefore, in consideration of the promises and mutual agreements set forth herein, and in consideration of the mutual representations, warranties and covenants herein, and intending to be legally bound hereby, the Parties agree as follows:

1. **Cancellation of HCM Stabilization Fees**. HCM agrees that it will not demand payment of the HCM Stabilization Fees and hereby releases HCLOM from paying HCM any HCM Stabilization Fees pursuant to the Assignment Agreement and Purchase Agreement.



2. **Cancellation of Stabilization Payments**. HCLOM agrees that it will not demand payment of the Stabilization Payments and hereby releases HCM from paying HCLOM any Stabilization Payments pursuant to the Assignment Agreement and Purchase Agreement.

3. **Miscellaneous**.

   a. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties, provided however that no party hereto may assign or transfer any of its rights or obligation hereunder without the prior written consent of the other parties hereto.

   b. No Third Party Beneficiaries. For the avoidance of doubt, this Agreement is not intended to and does not confer any right to any person or entity other than the Parties hereto.

   c. Terms Confidential. The Parties agree that they will keep the terms, amounts, and facts of this Agreement completely confidential, and that they will not hereafter disclose any information concerning this Agreement to anyone except their respective attorneys or accountants. Notwithstanding the foregoing prohibition, the Parties shall not be prohibited from disclosing the terms, amounts and facts of this Agreement or this Agreement itself as may be requested by governmental entities or required by law.

   d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of Texas, with exclusive jurisdiction in the courts of Dallas, Texas.

   e. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

   f. Headings. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to articles, sections, paragraphs, exhibits and schedules shall, unless otherwise provided, refer to articles, sections and paragraphs hereof and exhibits and schedules attached hereto, all of which exhibits and schedules are incorporated herein by reference.

   g. Costs, Expenses. The Parties shall each pay their own costs, fees and expenses in connection with this Agreement.

   h. Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Parties.

i. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision(s) were so excluded and shall be enforceable in accordance with its terms.

j. Entire Agreement. This Agreement, together with all exhibits and schedules hereto, constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, correspondence, agreements, understandings, duties or obligations between the parties with respect to the subject matter hereof.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of May 10, 2018.

HIGHLAND CAPITAL MANAGEMENT, L.P.
By: Strand Advisors, Inc., its General Partner

By:

Name
Title

HIGHLAND CLO MANAGEMENT, LTD.

For and on behalf of Summit Management, Limited

Director

EXHIBIT 24

AGREEMENT

THIS AGREEMENT (this "***Agreement***"), dated January 10, 2018, is entered into by and among Acis Capital Management, L.P., a Delaware limited partnership ("***Acis***"), and Highland Capital Management, L.P., a Delaware limited partnership ("***Highland***", and together with Acis, the "***Parties***").

RECITALS

WHEREAS, Acis is responsible or has otherwise agreed to pay the following invoices for legal services rendered by Maples and Calder (collectively, the "***Legal Expenses***"):

Acis CLO Value Fund II Investment Team Assets, Ltd.	$2,453.66
Acis CLO Value Fund II (Cayman), L.P.	$7,656.70
Acis CLO Value Master Fund II, L.P.	$6,437.19
Acis CLO Value Fund II GP, LLC	$3,146.34
TOTAL:	**$19,693.89**

WHEREAS, as of the date hereof, an interest payment is due and payable by Highland to Acis in the aggregate amount of $122,339.64 (the "***Outstanding Interest Amount***") pursuant to that certain Promissory Note, dated October 7, 2016, delivered by Highland to Acis in the original principal amount of $12,666,446;

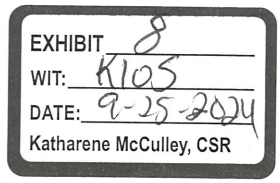
WHEREAS, Highland desires to pay the Legal Expenses on behalf of Acis in exchange for a dollar-for-dollar reduction in the Outstanding Interest Amount on the terms set forth herein.

NOW, THEREFORE, in consideration of the promises and mutual agreements set forth herein, and in consideration of the mutual representations, warranties and covenants herein, intending the by legally bound hereby, the Parties agree as follows:

AGREEMENT

1. On the date hereof, Highland shall pay the Legal Expenses on behalf of Acis, and the Parties hereby agree that the Outstanding Interest Amount is hereby reduced by the amount of the Legal Expenses.

2. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties, provided however that no party hereto may assign or transfer any of its rights or obligation hereunder without the prior written consent of the other parties hereto.



3. No Third Party Beneficiaries. For the avoidance of doubt, this Agreement is not intended to and does not confer any right to any person or entity other than the Parties hereto.

4. Terms Confidential. The Parties agree that they will keep the terms, amounts, and facts of this Agreement completely confidential, and that they will not hereafter disclose any information concerning this Agreement to anyone except their respective attorneys or accountants. Notwithstanding the foregoing prohibition, the Parties shall not be prohibited from disclosing the terms, amounts and facts of this Agreement or this Agreement itself as may be requested by governmental entities or required by law.

5. Governing Law. This Agreement and all matters relating to this Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas (without giving effect to the choice of law principles thereof). Any action based on or arising out of this Agreement or the transactions contemplated hereby shall be brought and maintained exclusively in any court of the State of Texas or any federal court of the United States, in each case located in Dallas County, Texas. Each of the Parties hereby expressly and irrevocably submits to the jurisdiction of such courts for the purposes of any such action and expressly and irrevocably waives, to the fullest extent permitted by law, any objection which it may have or hereafter may have to the laying of venue of any such action brought in any such court and any claim that any such action has been brought in an inconvenient forum.

6. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7. Headings. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to articles, sections, paragraphs, exhibits and schedules shall, unless otherwise provided, refer to articles, sections and paragraphs hereof and exhibits and schedules attached hereto, all of which exhibits and schedules are incorporated herein by reference.

8. Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of both Parties.

9. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision(s) were so excluded and shall be enforceable in accordance with its terms.

10. Entire Agreement. This Agreement, together with all exhibits and schedules hereto, constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, correspondence, agreements, understandings, duties or obligations between the parties with respect to the subject matter hereof.

11. Further Assurances. From and after the date of this Agreement, upon the reasonable request of the Purchaser, the Seller shall execute and deliver such instruments, documents or other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first written above.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Stand Advisors, Inc., its General Partner

By: _____
Name: Frank Waterhouse
Title: Treasurer

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC, its General Partner

By: _____
Name: Frank Waterhouse
Title: Treasurer

EXHIBIT 25

FILED
DALLAS COUNTY
9/12/2016 4:54:58 PM
FELICIA PITRE
DISTRICT CLERK

CAUSE NO. DC-16-11396

HIGHLAND CAPITAL MANAGEMENT, LP,	§	IN THE DISTRICT COURT
Plaintiff,	§	
v.	§	OF DALLAS COUNTY, TEXAS
JOSHUA N. TERRY,	§	
Defendant.	§	162nd JUDICIAL DISTRICT

DEFENDANT'S MOTION TO COMPEL ARBITRATION AND FOR SANCTIONS

Defendant Joshua N. Terry ("Terry") files this Motion to Compel Arbitration and For Sanctions against Plaintiff Highland Capital Management, L.P. ("Highland"), with reference to the Original Petition and Application For Injunctive Relief (the "Petition") filed by Highland, and in support shows the Court the following:

SUMMARY OF MOTION

1. Highland and Jim Dondero are desperate because they fear Terry will expose the fraudulent culture that Dondero increasingly promoted at Highland in recent months; a culture where Dondero attempts to pilfer Highland's outside investors, the very investors the firm is supposed to serve. What happened is simple: First, Dondero fired Terry the same *day* Terry stood up for Highland's outside investors and refused Dondero's self-dealing, and *illegal*, demand. Second, Dondero and his companies owe Terry millions of dollars under the parties' partnership agreement. Instead of doing the right thing and paying his long-time partner the millions he is owed, Dondero engages in a smear campaign in an attempt to avoid paying Terry what he is contractually owed.

2. Dondero's motive is to harm something that Dondero does not have: a reputation for honesty and integrity that Terry earned over his career. Psychologists call that projection. Terry is proud of his decision to stand up for the investors he represented, and he would do it all

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over again, despite the mudslinging, lies, and scorched-earth litigation tactics he and his young family now face. Someone must stop Dondero. When one reads the myriad of falsehoods contained in Highland's Petition, it should consider the source: one of the most litigious asset managers in the country, the same firm three arbitrators recently ruled committed "willful misconduct" by defrauding its outside investors – exactly what Dondero fired Terry for trying to stop. And this is not Dondero's first foray into a partnership dispute – Dondero has run off almost every partner he ever had; Terry is just the latest.

3. Terry will answer Highland's empty lies in this forum with overwhelming evidence refuting the misstatements and slander, and he could throw in the sordid details of life at Highland and of Dondero in particular. But it will not surprise those who know Terry that he will take the high ground, stick to the facts, and not stoop to Dondero and Highland's level. Terry will pursue his claims in a professional and thoughtful way, based on facts, in the forum to which the parties agreed – binding arbitration before JAMS.

RELEVANT FACTS

A. Terry works his way up at Highland and leads the ascendency of Acis.

4. Terry was a long-time employee and partner with Highland. He was arguably the third-highest ranking employee at Highland before his wrongful termination. Terry managed over half of Highland's $17 billion of assets under management, and developed a market-beating investment performance track record for Highland and its affiliates' investors.

5. In 2011, Terry, Dondero and Mark Okada ("Okada") formed Acis Capital Management, L.P. ("Acis") as an SEC-registered investment adviser to raise money from third-party investors to manage and invest in Collateralized Loan Obligations ("CLOs"). Terry had a 25% partnership interest in Acis; Dondero and Okada owned the rest. Terry served as Co-Founder and Portfolio Manager of Acis, and was responsible for growing the business, managing its funds on behalf of its investors, and issuing and managing new CLOs. Acis was a resounding success

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due to Terry's hard work and management, and Acis grew to $3.7 billion in assets under management by May 2016. As a result of Terry's efforts over the years, over $100 million of value has accrued to Dondero and Okada.

6. The Acis limited partnership agreement is attached as **Exhibit 1** (the "LPA"), and it provides Dondero's motivation for making up these salacious lies about Terry: If Terry is terminated for "cause," Acis does not owe Terry millions of dollars in compensation. Ex. 1, §4.04. So, Dondero saw his opportunity to avoid paying yet another of his partners; all he would need to do is to fabricate lies about Terry and malign him in the public eye.

7. Partnership fights are old hat for Dondero. In just the past five years, Dondero ran off all of the four senior partners who occupied or were intended to occupy Terry's former corner office at Highland. It seems as though Dondero takes joy in shirking his contractual obligations to his partners. Dondero's main problem against Terry, however, is that Terry has *overwhelming* and *compelling* evidence to refute the falsehoods Highland alleges. The truth hurts.

B. Dondero changes his priorities from managing other people's money, to managing his own.

8. Dondero recently tired of managing other people's money and told Terry on several occasions that investors have given him "too much aggravation." Instead of the inconvenience of dealing with investors that could pull their money from Highland at any time they become unhappy, Dondero stated that he wants to "get more towards permanent capital…we got to build [our platform companies]…there is no aggravation, no clients, no customer service, no whatever…"

9. Dondero's "platform companies" (the "Dondero Companies") are two business that he controls through Highland's ownership. These two companies were originally owned almost wholly by Highland's investors. Dondero has consolidated control of these companies by purchasing equity back from his investors over the years at "Jim friendly" prices. Two sets of his

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investors sued Dondero recently for his self-dealing on the repurchase of one of the two Dondero Companies.

10. As Dondero consolidated control of the two Dondero Companies, the CLOs—which were once a lender to the Dondero Companies when they were previously owned by Highland's fund investors—now became a lender *to* Dondero.

C. Dondero's recent financial difficulties drive him to demand illegal transactions for his personal gain.

11. Dondero has experienced recent personal financial trouble, which includes numerous margin calls in the past year, not paying his 2014 or 2015 taxes on time, and having to borrow from his own bank against his large gun collection (allegedly one of the world's largest). Dondero's personal cash shortage motivated his unethical justification to fraudulently borrow from his investors. As Dondero's improper requests on Terry increased, Terry took precautionary measures to accurately document many of them. Terry did so to protect the investors, his young family, and his reputation. It is a good thing he did – that documentation completely refutes the false allegations in Highland's Petition.

12. As just one example of Dondero's increasingly desperate personal financial situation, Okada, the co-founder of Highland, stated on February 10, 2016, "Dude are you aware Jim hasn't paid any taxes in the past year? And he took out a loan from NexBank to pay them but then he got caught up in one of the leverage situations he did with American [Airlines] and a couple of other stocks and he doesn't have the money until March 31 to actually do this. So he's put a lien on his assets…but if some clerk there decides to put the lien on, it would be a PR nightmare. I was just in his office yelling at him, 'I approved the loan at the bank so you could pay your taxes but you never paid your taxes.'"

13. Dondero's personal cash shortage worsened in late 2015 and early 2016, and his requests of Terry became increasingly more unreasonable. In February 2016, when Terry

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recommended that Highland sell assets in an older CLO because it was the right thing for its investors, Dondero instead responded by saying:

- "Is there a chance we can expand some of the [Dondero Company 1] loan and *shove* it in there?" (emphasis added).
- "Instead of having a distribution to the equity … I'd rather not have any distribution if I could have $10 million more of liquidity at [Dondero Company 1]."

Terry rejected Dondero's illegal ideas. Dondero responded by asking if the CLO owned Dondero Company 2's loan:

- Dondero said "maybe we can extend [the Dondero Company 2 loan]. It's the same *trick* … I could use the liquidity."

14. Importantly, Dondero even admitted in February 2016 that "I know [CLO investors] won't like it if you have notes outstanding and you extend loans to portfolio companies."

15. In April 2016, Dondero's personal cash situation worsened as he finally had to pay his 2014 taxes. Frank Waterhouse, Highland's CFO, described Dondero's tax situation as "freaking crazy." Waterhouse went on to state that "[i]f you don't pay by this date then it gets assigned to a collector…that's when they do a public lien and all of this stuff…*you can just kiss this place goodbye*."

D. Dondero fires Terry on the same *day* Terry refuses Dondero's illegal scheme.

16. Dondero wrongfully fired Terry for refusing to approve a transaction that Highland's Chief Compliance Officer ("CCO"), Thomas Surgent ("Surgent"), described as "Highland doesn't have the money for something, let's borrow it from the CLOs. That's effectively what we are doing here." Dondero needed cash to fund his purchase of a South American manufacturer, which he intended to convert to a condom manufacturer (the "Dondero Scheme"). At Dondero's direction, Highland's private equity team entered into a binding contract to buy the South American manufacturer. Just one problem: Highland did not have the money to pay for it.

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17. Highland's outside CLO and mutual fund investors were due repayment of certain loans to a company controlled by Dondero. But Dondero saw this as an opportunity to get the liquidity he needed to fund his purchase of the South American manufacturer. *Instead of repaying these obligations to the outside investors on time, Dondero pushed to extend the loans and almost fully draw on a revolving credit facility so he could purchase the South American manufacturer for himself.* The Dondero Scheme was an audacious conflict-of-interest; and it was illegal.

18. On May 24, 2016, Terry went to Dondero's office after he learned about the proposed transaction. Terry wanted to help Dondero understand why the Dondero Scheme was not the right thing for Highland's CLO investors and why it would present regulatory issues. Terry told Dondero, among other things:

- "I know the investors want their money back, and I am extending it, and we didn't even pursue a refi process, how can I explain that to investors?"
- "I have fiduciary liability."
- "If the SEC came in and looked at it and wanted to talk to the portfolio manager for the CLOs, and they asked me 'why did you think this was a good idea for the investors in [CLO 1] or [CLO 2], especially the ones going past their maturity date…?'"

Dondero responded to Terry's concerns for the investors—to whom Terry owed fiduciary duties—by saying:

- "Let's just think about who these *jackasses* are. Are they buying any of your new deals? […] But none of them are. Anyway I don't have a lot of sensitivity towards them…"
- "[The loan] will be paid off before [the SEC] have time to look at it."

19. Dondero refused to further discuss Terry's concerns with the Dondero Scheme, and instead threatened to disband the Highland Conflicts Committee that was set up to stop exactly the type of illegal transactions Dondero advocated. Dondero wanted the money from the CLO investors for his South American manufacturer, and it did not matter to him if he had to do so on the backs of the CLO investors.

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20. Terry immediately attempted to discuss Dondero's response with Highland's CCO, Surgent, the person at Highland whose job it was to ensure compliance with the law. Surgent was gone for the day, so Terry called him on his cell phone and left him a voicemail.

21. The next morning, on May 25, 2016, Terry went to Surgent's office to tell him about his meeting with Dondero and the compliance concerns it raised. In the meeting:

- Surgent described the Dondero Scheme as "pretty crazy."
- Surgent contrasted Terry's view of compliance as compared to the Dondero Scheme, saying "**with *you* it's like common f*cking sense. *You* come in, you say 'this is what I want to do,' you tell me in advance, you're like 'these are all the aspects of it, can we do this, let's talk about it, and you get whether there are issues … On this f*cking transaction? Holy f*ck."**
- Surgent also said, "And by the way, if that just gets through that way, Jim will be happy, now because he will be 'great we got it done.' But if it comes on the regulatory radar … that's like … that's like … *I am not going into what the exposure is on that transaction*."
- Surgent later expressed fear for his job in this conversation, saying, "I know there will probably come a day when [Dondero] will view me as no longer whatever and all I can do is the best I can and protect the firm and hopefully still keep everyone happy."

22. In this conversation on May 25, 2016, Surgent admitted that Dondero's demands were getting increasingly worse in recent months with regard to conflicts-riddled transactions. Surgent stated:

- "I feel like we are regressing … I know everyone is pushing offense and we have stalled on fundraising … and everyone is trying to get paid and justify their existence … but we are in a f*cking environment where … and this is your point, the regulators are not f*cking around, they will come and they will f*cking bring the heat."

23. Other senior partners were also initially opposed to the Dondero Scheme for obvious reasons:

- Okada told Terry it was not his problem and Terry needed to inform Dondero of his fiduciary liability on the transaction even if Dondero gets mad.
- Trey Parker, Highland's Partner and Head of Credit Research, expressed to Terry "if anything ever were to go bad, it would bite you in the ass," and agreed the

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Dondero Scheme was not the right thing to do.

- The team working on the Dondero Scheme told Terry that Dondero's demand "puts you in a bad position, I totally get that."

24. However, after Dondero returned from a week and a half vacation in Paris on June 6, 2016, he called Okada and told him he was pissed off over the status of the Dondero Scheme and called him an idiot. Dondero then put pressure on Surgent and Parker to coerce Terry into approving the Dondero Scheme. Yet Terry consistently stood his ground and continued to refuse Dondero's illegal demand, even while acknowledging the increasing threat of retaliation from Dondero.

25. At 1:00 p.m. on June 9, 2016, because of Terry's opposition to the Dondero Scheme, the Highland Conflicts Committee voted to approve an alternative transaction to the Dondero Scheme.

26. At 5:00 p.m. that same day, Terry went to Dondero's office to discuss the outcome of the vote. Before Terry could begin the discussion, Dondero told Terry he needed to "work on an exit" because "I can't go through another [Conflicts Committee] process like that again with you" and "I need my senior guys to be more deferential to me." The following morning, Dondero emailed Terry "Do not come to the office anymore."

E. Dondero and Highland retaliate and manufacture reasons to deny Terry his benefits under the LPA.

27. Terry has overwhelming evidence that in the 12 business days leading up to his termination, he expressed to Dondero, Surgent, Okada, Parker and other senior members of Highland on more than 50 occasions that the Dondero Scheme was wrong for Highland's investors, more than 50 times that it presented fiduciary and regulatory risks, and more than fifteen times that he was fearful that Dondero would retaliate against him for standing up for the CLO investors and refusing the Dondero Scheme.

28. The day Dondero fired Terry, Dondero said it was because of the process on the

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Dondero Scheme and his alleged lack of deference to Dondero. But thereafter, Highland took weeks to come up with additional excuses—*other* than the Dondero Scheme—of why Dondero fired Terry on the same day Terry refused to approve the Dondero Scheme. It took weeks for Highland to concoct excuses so that Dondero could do what he always does to his partners – refuse to pay them what they are owed, regardless of the contracts at issue.

29. Consider that the Petition is signed by Highland's longtime employment lawyer, Marc Katz, who just a week before Dondero fired Terry referred a family friend to Terry for a job. It seems odd that Highland's top employment lawyer would refer a family friend to Terry just days before Terry was fired for the alleged widespread wrongdoing that Highland now alleges well after firing Terry.

30. Mr. Katz did not know anything because there was nothing to know – the allegations are not true. Highland manufactured the allegations, after the fact, to cover up Dondero's wrongdoing, to smear Terry and harm his family, and to deny Terry the money he is owed.

31. Also consider that the day before Terry's wrongful termination, Highland's Head of Human Resources, Brian Collins, laughed and joked with Terry while separately working through another employee's resignation. Again, that is not behavior that is consistent with suspecting Terry was alleged to be engaged in widespread wrongdoing.

32. Clearly Highland's Human Resources department and lead employment attorney were not aware of Dondero's intentions to terminate Terry. No one knew. And that is because Dondero fired Terry solely for refusing Dondero's illegal transaction – the Dondero Scheme.

(i) Surgent is not credible.

33. Surgent is a lawyer and CCO on whom Highland relies for most of its allegations in the Petition (it references him 16 times). But Surgent is one of Dondero's malleable "yes men" who is scared of Dondero and is scared for his job. Surgent has serious credibility issues, as a

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three-arbitrator AAA panel in New York concluded recently when it found Highland engaged in "willful misconduct" in defrauding its outside investors to the tune of over seven million dollars:

> [13] We know of no justification for Highland's having provided the Houlihan valuation to Cornerstone, which in this context was adverse to Highland. Highland's compliance officer, Mr. Surgent suggested that providing the valuation to Cornerstone was necessary to avoid "insider trading" liability. We found this justification, to put it mildly, far-fetched.

Final Award, AAA Case No. 13-20-1300-1808; *Redeemer Committee of Highland Strategies Fund v. Highland Capital Management, L.P.* Not only is Surgent not credible, but his statements to Terry leading up to Terry's wrongful termination paint the exact opposite picture than Highland's Petition. As previously stated, days before his termination, Surgent went out of his way to describe how careful and thoughtful Terry was to comply with the law. That is not something anyone says to a person you believe is engaged in widespread wrongdoing. Highland's problem this time is that Terry has the evidence to refute Highland's lies.

(ii) The amendment Highland complains about was requested by an outside investor, it actually created value for investors, and Terry did not self-deal.

34. Highland claims that Terry self-dealt because he "personally cashed out nearly $700,000.00 invested [in a fund] far earlier than he otherwise would be able to do so." It is unclear how this constitutes self-dealing, since the payment was a repayment of a loan owed to Terry, Okada received a similar amount, and four other Highland employees were repaid their loans. If Terry self-dealt, why did Highland not take action against him at the time of the alleged self-dealing, and why did Highland not pursue Okada and others? It did not do so because this is an after-the-fact excuse to not pay Terry what he is owed.

35. Highland also left out many other relevant facts that interfere with their false narrative, including but not limited to:

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- The purpose of the fund amendment was to improve Highland's ability to raise additional capital for the fund. Therefore, it *reduced* fees paid by investors and improved other terms – a benefit for investors.

- The fund increased in value after Terry's loan was repaid, which accrued to the benefit of outside investors rather than Terry, Okada or other Highland employees.

- Terry worked with Surgent to ensure all facts were disclosed to all investors in the fund at all times, especially the Highland employees' necessary capital withdrawal.

- Terry has proof that the asset contribution and amendment were actually Dondero's idea to grow the fund in October 2015, and that both Dondero and Surgent were extensively involved throughout the entire process.

36. On January 4, 2016, Dondero said this to Terry about the proposed amendment which would eliminate the dividend, among other things:

- "On every twist and turn on this, you have been properly focused on what you believe the market and the customer wants."

- "So going back to the dividend or no dividend in [Acis CLO Value Fund]. To make a long story longer. I think you defer to what you think sells best. […] I don't think anyone will give a rat's ass."

- Terry responded, "A scheduled [dividend]…it's awkward, right?"

- Dondero then responded, "It's a bit awkward, but in the big scheme of things, structure the fund in a way that you think sells best."

37. Highland also conveniently omits that the "client" who "invest[ed] tens of millions into the Fund" on December 31, 2015 is Dondero's own Donor Advised Fund which he manages, and that the asset contribution was *Dondero's idea* in October 2015 to help scale the size of the fund. The Donor Advised Fund nor any other investor suffered any loss— in fact, CLO Value Fund was leading the market and up over 12% year-to-date through May 31, 2016—and Terry always ensured Dondero, Surgent, and the many lawyers at Highland were involved in each and every step taken along the way. As Surgent himself stated, "with [Terry] it's like common f*cking sense. [Terry] come[s] in, [Terry] say[s] 'this is what I want to do,' [Terry] tell[s] me in advance,

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[Terry is] like 'these are all the aspects of it, can we do this, let's talk about it, and you get whether there are issues …'"

(iii) Terry did not have a sexual relationship with any of his subordinates or the junior lawyer at the center of Highland's made-up self-dealing story.

38. Dondero and Highland's disregard for the truth knows no bounds. Highland's allegations in this regard are patently false, and Terry looks forward to bringing forth evidence to refute the allegations, including the sworn testimony of the "junior lawyer" with whom Highland claims Terry had a relationship. It did not happen. And Terry will not stoop to Dondero's level by discussing in detail Dondero and other high-level executives at Highland and its affiliates in the "sexual relationship" context.

39. As for the alleged sexual harassment, Terry disputes he sexually harassed any person at Highland, or for that matter anywhere else during his lifetime, and the lack of any previous notice to Terry, written or otherwise, belies this allegation. Consider the report from Highland's Human Resource Department from March 2016 regarding Terry's formal performance review:

- Terry's colleagues described Terry as "Pleasant to work with," "Good communication," "Very good [Portfolio Manager], "Technically Very Sound," "Has high expectations" and "Extremely involved, extremely smart."

(iv) Terry did not misappropriate Highland's confidential information.

40. Highland is trying a play out of its playbook with another former partner with whom Highland has engaged protracted litigation: accuse the partner of failing to return confidential information. Terry has gone over and above his obligations under his Employment Agreement. Highland actually *resisted* Terry's attempt to return company property in order to manufacture a dubious argument against Terry.

41. Terry offered to cooperate in returning Highland's company property *within hours* of his formal termination notice, and asked in writing how to best coordinate it.

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42. Highland ignored Terry's offer, and instead waited five days to send him a letter claiming Terry was in breach of his Employment Agreement for not returning company property immediately. It is impossible for Terry to have been more diligent in his return of company property, and the facts will bear that out.

43. Additionally, Marc Katz, Highland's counsel, suggested to Terry's counsel that he should obtain a forensic image of his electronic devices.

44. Terry then spent approximately $10,000.00 of his own money for an outside vendor to create forensic images of every computer in his household, in addition to his iPhone and iPad. Terry used an industry-standard third party to do so, as well as an industry-standard protocol to create images, delete all of Highland's company property off of his computers and electronic devices, and return copies of all company files to Highland. The outside vendor locked the forensic images in a safe and maintains a meticulous chain-of-custody until the conclusion of this dispute.

45. No employee in the history of Highland has willingly gone to greater lengths and expense than Terry to return Highland's company property. Now Highland complains that Terry complied with Highland's attorney's request. Highland actually went to great lengths to *resist* Terry's efforts, and it did so in order to manufacture claims against Terry.

46. Additionally, Highland refused to return all of Terry's personal property, including notes on years' worth of charity work that Terry provided, and which he wants to continue to provide in his spare time. Instead, Highland contacted a charity in an attempt to remove Terry as a board member. The charity refused because they value Terry's hard work and abilities. Highland then sent Terry a letter demanding he resign from the charity board anyway.

F. Terry follows the appropriate mediation/arbitration dispute resolution procedures called for in LPA.

47. Shortly after his termination, Terry was the *first* party to demand contractual mediation pursuant to the terms of the LPA. The LPA is signed by Highland's 75% owner,

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Dondero; its 25% owner, Mark Okada; and Terry. The parties agreed to attend a contractually-mandated mediation which occurred at JAMS before retired U.S. Magistrate Judge Jeff Kaplan on September 7, 2016.

48. Minutes after the mediation concluded, Highland filed its Petition in an effort to malign Terry in public. Highland could not do so in arbitration because arbitrations are confidential.

49. Terry, Dondero, Okada and Highland (and others) are subject to mandatory arbitration pursuant to the LPA, excerpts of which are provided below:

> Section 6.12 Dispute Resolution. The following procedures shall be used to resolve any controversy or claim ("***Dispute***") arising out of, relating to or in connection with the Agreement or otherwise involving the Partnership, its Partners and/or any GP Party. If any of these provisions are determined to be invalid or unenforceable, the remaining provisions shall remain in effect and binding on the parties to the fullest extent permitted by law.
>
> (a) Mediation.
>
> (i) Any Dispute shall be submitted to mediation by written notice to the other party or parties. In the mediation process, the parties will try to resolve their differences voluntarily with the aid of an impartial mediator, who will attempt to facilitate negotiations. The mediator will be selected by agreement of the parties. If the parties cannot agree on a mediator, a mediator shall be designated by JAMS/Endispute at the request of a party using, if necessary, strike and rank procedures then in effect.
>
> (ii) The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute.

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(iii) The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings.

(iv) Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties.

(b) Arbitration.

(i) If a Dispute has not been resolved within 90 days after the written notice beginning the mediation process (or a longer period, if the parties agree to extend the mediation), the mediation shall terminate and the dispute will be settled by arbitration. A party who files a suit in court regarding a Dispute rather than in arbitration waives its claim and must pay all attorney's fees and costs incurred by the other party in seeking to have such suit dismissed. Under no circumstances will a party maintain its right to pursue his/her/its Dispute if that party initiates a judicial suit instead of complying with the mediation and arbitration provisions herein. The arbitration will be conducted through JAMS/Endispute in accordance with the procedures in this document and the commercial dispute arbitration rules then in effect ("***Arbitration Rules***"). In the event of a conflict, the provisions of this document will control.

The LPA was signed effective January 21, 2011 well *after* the March 2, 2009 Employment Agreement on which the Petition relies.

ARGUMENT & AUTHORITY

A. Motion to Compel Arbitration.

50. Highland is bound to arbitrate any dispute between Highland and Terry under the LPA. §16.12 ("The following procedures shall be used to resolve any controversy or claim ("Dispute") arising out of, relating to or in connection with the Agreement or otherwise involving the Partnership, its Partners and/or any *GP Party*") (emphasis added). "GP Party" is defined as Acis GP, "any director, officer, employee, agent, or representative or other Affiliate of [Acis GP]." *Id*. §4.01(h). The definition of "Affiliate" under the LPA

> means any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting Securities, by contract or otherwise."

Id. §2.01. Last, the term "Person" means "an individual or a corporation, partnership, trust, estate,

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unincorporated organization, association, or other entity." *Id*.

51. Highland is a "GP Party" because it is an "Affiliate" under the terms of the LPA (a partnership this is controlled by Dondero). Highland's own Petition calls Acis "an SEC registered investment adviser *affiliated* with Highland." Petition ¶12 (emphasis added). Thus, it is bound by the arbitration agreement contained in the LPA. There is no real question that Highland is "controlled" by Dondero, and thus this suit is subject to mandatory arbitration pursuant to the clear intent of the LPA.

52. The arbitration provision in the LPA is governed by the Federal Arbitration Act (the "FAA"). The FAA is liberally construed to effectuate "the federal policy favoring arbitration, and ambiguities as to the scope of the arbitration clause itself resolved in favor of arbitration." *Volt Info. Sci., Inc. v. Bd. Tr. of Leland Stanford Junior Univ.*, 489 U.S. 468, 478 (1989); *see also In re FirstMerit Bank, N.A.*, 52 S.W.3d 749, 754 (Tex. 2001). "In construing an arbitration agreement within the coverage of the FAA, 'as with any other contract, the parties' intentions control, but those intentions are generously construed as to issues of arbitrability.'" *Id*. at 475 (*quoting Mitsubishi Motors Corp. v. Soler Chrysler–Plymouth, Inc.*, 473 U.S. 614, 626 (1985)).

53. Both the Texas Supreme Court and the Fifth Circuit have similarly held that "the question of who is actually bound by an arbitration agreement is ultimately a function of the intent of the parties, as expressed by the terms of the agreement." *In re Rubiola*, 334 S.W.3d 220, 224 (Tex. 2011) (internal quotations and changes omitted) (*quoting Bridas S.A.P.I.C. v. Gov't of Turkmenistan*, 345 F.3d 347, 355, 358 (5th Cir.2003). "Once the trial court concludes that the arbitration agreement encompasses the claims, and that the party opposing arbitration has failed to prove its defenses, the trial court has no discretion but to compel arbitration and stay its own proceedings." *In re FirstMerit,* 52 S.W.3d at 754.

54. The intent of the parties—that Highland agreed to be bound by the LPA—is clear from the plain text of the LPA. This Court need not even "generously construe[]" the LPA because

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Highland's intent is manifest.

55. The Court has no discretion but to compel this suit to arbitration, and stay these proceedings, because the dispute is subject to the LPA's mandatory arbitration clause.[1]

B. Motion for Sanctions.

(i) Chapter 10.

56. By signing the petition, counsel for Highland swore that to the best of his knowledge the Petition, among other things:

(a) Was not brought for an improper purpose, including to harass or to cause unnecessary delay or needlessly increase the costs of litigation;

(b) That each claim or legal contention is warranted by existing law or for the non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(c) That each allegation or factual contention in the motion has evidentiary support.

TEX. CIV. PRAC. & REM. CODE § 10.001. Courts may award the prevailing party with an award of its reasonable expenses and attorneys' fees. *Id.* at § 10.002(c).

57. Highland, with its large team of in-house and outside lawyers, is well aware that it is bound by the arbitration provision in the LPA. Nevertheless, it filed this suit. It did so for an improper purpose, including to harass and embarrass Terry, and to needlessly increase the costs of litigation. Moreover, many of the claims, including but not limited to Highland's claim that Terry had a sexual relationship with a "junior attorney," have no evidentiary support.

58. Highland's claim that it needs a declaratory judgment to relieve it of liability under the Employment Agreement is also baseless. The Employment Agreement provides as follows:

[1] The governing documents of CLO Value Fund also have a mandatory arbitration provision.

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consideration for the Executive's release of claims at the time of termination. In the event the Executive declines to sign the separation agreement and release, he/she shall not be entitled to any severance, and the Company will have no further liability or obligation to the Executive under this Agreement or in connection with his/her employment or termination.

59. Any benefits under the Employment Agreement are predicated on the employee executing the release, and Highland does not, and cannot in good faith, allege that Terry agreed to do so. Consequently, Highland's request for declaratory relief is not warranted by existing law or the non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law. Highland's Petition violates Chapter 10 of the Texas Civil Practice and Remedies Code, and Terry requests the Court award him his attorneys' fees and costs reasonably incurred in compelling arbitration.

CONCLUSION

60. Dondero has a checkered and unsavory reputation for good reason – this filing is further proof of that. It is unfortunate that he and Highland, once again, took the path of lies and deceit in order to shirk their contractual obligations. Another former partner, another lawsuit. Highland filed the Petition for in improper purpose—to malign Terry and increase the costs of litigation—in the face of a binding arbitration provision. The LPA is clear, and it requires arbitration of this dispute consistent with the federal and state policy in favor of arbitration. The Court should compel arbitration and stay this proceeding, sanction Highland for its improper filing, and grant Terry such other relief to which he is entitled.

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Respectfully submitted,

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ATTORNEYS FOR DEFENDANT JOSHUA N. TERRY

CERTIFICATE OF CONFERENCE

On the 12th day of September, 20 16, a conference with Plaintiff's counsel was held concerning the relief sought by this Motion. No agreement was reached, therefore, this Motion is presented to the Court for determination.

for
ROGGE DUNN

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing instrument was served on all counsel of record on the 12th day of September, 20 16 as follows:

Marc Katz
ANDREWS KURTH
1717 Main St., Suite 3700
Dallas, Texas 75201,
marckatz@andrewskurth.com

☒ **VIA ECF**
☐ **VIA OVERNIGHT**
☐ **VIA REGULAR MAIL**
☐ **VIA HAND DELIVERY**
☐ **VIA FAX:**
☐ **VIA EMAIL:**

BRIAN P. SHAW

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EXECUTION COPY

AMENDED AND RESTATED

AGREEMENT OF LIMITED PARTNERSHIP

OF

ACIS CAPITAL MANAGEMENT, L.P.

Dated to be effective as of January 21, 2011

THE PARTNERSHIP INTERESTS REPRESENTED BY THIS LIMITED PARTNERSHIP AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OP 1933 OR UNDER ANY STATE SECURITIES ACTS IN RELIANCE UPON EXEMPTIONS UNDER THOSE ACTS. THE SALE OR OTHER DISPOSITION OF THE PARTNERSHIP INTERESTS IS PROHIBITED UNLESS THAT SALE OR DISPOSITION IS MADE IN COMPLIANCE WITH ALL SUCH APPLICABLE ACTS. ADDITIONAL RESTRICTIONS ON TRANSFER OF THE PARTNERSHIP INTERESTS ARE SET FORTH IN THIS AGREEMENT.

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AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF
ACIS CAPITAL MANAGEMENT, L.P.

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AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP
OF
ACIS CAPITAL MANAGEMENT, L.P.

THIS AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP (the "***Agreement***") of Acis Capital Management, L.P., a Delaware limited partnership (the "***Partnership***"), is entered into to be effective as of 21st day of January, 2011 (the "***Effective Date***") by and among Acis Capital Management GP, LLC, a Delaware corporation as General Partner (the "***General Partner***"), and any Person hereinafter admitted as a Limited Partner. Certain terms used in this Agreement are defined in Article 2.

WHEREAS, the Original Agreement of Limited Partnership of the Partnership was entered into effective January 21, 2011 (the "***Original Agreement***");

WHEREAS, effective on the Effective Date, Highland Capital Management Services, Inc. transferred its interest in the Partnership in-kind to James D. Dondero and Mark K. Okada and James D. Dondero contributed his interest into The Dugaboy Investment Trust;

WHEREAS, the current Partners of the Partnership now desire to amend and restate the Original Agreement to, among other things, reflect the current ownership of the Partners, including admitting Joshua N. Terry as a Limited Partner and to make the other changes reflected herein.

NOW, THEREFORE, the Original Agreement is hereby amended and restated in its entirety to read as follows:

ARTICLE 1 ORGANIZATION

Section 1.01 Formation. Subject to the provisions of this Agreement, the Partners hereby form the Partnership as a limited partnership pursuant to the provisions of the Delaware Act. Except as expressly provided herein, the rights and obligations of the Partners and the administration and termination of the Partnership shall be governed by the Delaware Act.

Section 1.02 Name. The name of the Partnership shall be, and the business of the Partnership shall be conducted under the name of, Acis Capital Management, L.P. The General Partner, in its sole and unfettered discretion, may change the name of the Partnership at any time and from time to time and shall provide Limited Partners with written notice of such name change within twenty (20) days after such name change.

Section 1.03 Purpose. The purpose and business of the Partnership shall be the conduct of any business or activity that may lawfully be conducted by a limited partnership organized pursuant to the Delaware Act. Any or all of the foregoing activities may be conducted directly by the Partnership or indirectly through another partnership, joint venture, or other arrangement.

Section 1.04 Term. The Partnership was formed as a limited partnership on May 27, 2010, and shall continue until terminated pursuant to this Agreement.

Section 1.05 Partnership Offices; Addresses of Partners.

(a) Partnership Offices. The registered office of the Partnership in the State of Delaware shall be 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware

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19801, and its registered agent for service of process on the Partnership at that registered office shall be The Corporate Trust Company, or such other registered office or registered agent as the General Partner may from time to time designate. The principal office of the Partnership shall be Two Galleria Tower, 13455 Noel Road, Suite 800, Dallas, Texas 75240, or such other place as the General Partner may from time to time designate. The Partnership may maintain offices at such other place or places as the General Partner deems advisable.

(b) Addresses of Partners. The address of the General Partner is Two Galleria Tower, 13455 Noel Road, Suite 800, Dallas, Texas 75240. The address of each Limited Partner shall be the address of that Limited Partner appearing on the books and records of the Partnership. Each Limited Partner agrees to provide the General Partner with prompt written notice of any change in his/her/its address.

ARTICLE 2 DEFINITIONS

Section 2.01 Definitions. The following definitions shall apply to the terms used in this Agreement, unless otherwise clearly indicated to the contrary in this Agreement:

"***Adjusted Capital Account Deficit***" means, with respect to any Partner, the deficit balance, if any, in the Capital Account of that Partner as of the end of the relevant Fiscal Year, or other relevant period, giving effect to all adjustments previously made thereto pursuant to Section 3.07 and further adjusted as follows: (i) credit to that Capital Account, any amounts which that Partner is obligated or deemed obligated to restore pursuant to any provision of this Agreement or pursuant to Treasury Regulations Section 1.704-1(b)(2)(ii)(c); (ii) debit to that Capital Account, the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6); and (iii) to the extent required under the Treasury Regulations, credit to that Capital Account (A) that Partner's share of "minimum gain" and (B) that Partner's share of "partner nonrecourse debt minimum gain." (Each Partner's share of the minimum gain and partner nonrecourse debt minimum gain shall be determined under Treasury Regulations Sections 1.704-2(g) and 1.704-2(i)(5), respectively.)

"***Affiliate***" means any Person that directly or indirectly controls, is controlled by, or is under common control with the Person in question. As used in this definition, the term "*control*" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting Securities, by contract or otherwise.

"***Affiliate Employer***" means any Affiliate of the Partnership which is the employer of a Limited Partner or Profits Interest Partner.

"***Agreement***" means this Agreement of Limited Partnership, as it may be amended, supplemented, or restated from time to time.

"***Aliens***" means (i) with respect to individuals, persons who are not citizens of the United States and (ii) with respect to entities such as corporations, partnerships, limited liability companies, trusts, estates, and associations, any such entity that is organized under the laws of a government or state that is not the United States or any state within the United States.

"***Applicable Entities***" means the Partnership and its Affiliates.

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"***Business Day***" means Monday through Friday of each week, except that a legal holiday recognized as such by the government of the United States or the State of Texas shall not be regarded as a Business Day.

"***Capital Account***" means the capital account maintained for a Partner pursuant to Section 3.07(a).

"***Capital Contribution***" means, with respect to any Partner, the amount of money or property contributed to the Partnership with respect to the interest in the Partnership held by that Person.

"***Cash Equivalents***" shall mean cash and any of the following: (i) readily marketable direct obligations of the Government of the United States or any agency or instrumentality thereof or obligations unconditionally guaranteed by the full faith and credit of the Government of the United States, or (ii) insured certificates of deposit of or time or demand deposits with (A) any commercial bank that is a member of the Federal Reserve System, the parent of which issues commercial paper rated at least P-1 (or the equivalent grade) by Moody's or A-1 (or the then equivalent grade) by S&P, is organized under the laws of the United States or any State thereof, and the long term unsecured debt of which is rated A-2 or better by Moody's and A or better by S&P or (B) any commercial bank organized under the laws of any OECD member country (as of the effective date of this Agreement).

"***Cause***" means conduct by the Partner, in his capacity as a Partner or an employee of an Affiliate Employer amounting to (i) the Partner's conviction or plea of *nolo contendere* for any criminal offense or commission by the Partner of any act that the Partnership or Affiliate Employer considers damaging to or tending to discredit any of the Applicable Entities; (ii) dishonesty, fraud, willful misconduct, unlawful discrimination, breach of contract, bad faith or theft on the part of the Partner that is injurious to any of the Applicable Entities; (iii) the Partner's using for his or her own benefit any confidential or proprietary information of any of the Applicable Entities, or willfully or negligently divulging any such information to third parties without the prior written consent of the Partnership or Affiliate Employer; (iv) a breach or violation of the terms of this Agreement or other agreement to which the Partner and any of the Applicable Entities are party in any manner that adversely affects any of the Applicable Entities; (v) gross inattention to duty or any other willful, reckless or grossly negligent act (omission to act) by the Partner, which, in good faith judgment of the Partnership or Affiliate Employer, injures any of the Applicable Entities; (vi) a breach of fiduciary duties under applicable law; or (vii) the Partner's commission or participation in any illegal act in the course of his/her employment with the Partnership or Affiliate Employer, including violation of any statute or regulation. Any determination of whether a Partner should be terminated for Cause pursuant to this Agreement shall be made in the reasonable discretion of the Partnership, shall be made in good faith and shall be binding upon all parties affected thereby.

"***Certificate of Limited Partnership***" means the Certificate of Limited Partnership filed with the Secretary of State of Delaware on May 27, 2010 by the General Partner, and as same may be amended, supplemented or restated from time to time.

"***Code***" means the Internal Revenue Code of 1986, as amended and in effect from time to time.

"***Communications Act***" means the Communications Act of 1934, as amended.

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"***Delaware Act***" means the Delaware Revised Uniform Limited Partnership Act, Part IV, Title C, Chapter 17 of the Delaware Corporation Law Annotated, as it may be amended, supplemented or restated from time to time, and any successor to that Act.

"***Disability***" shall mean that (i) such Person cannot perform the essential functions of his position due to any mental or physical impairment, with or without reasonable accommodation, or (ii) such Person is prevented from committing the time necessary to perform the essential functions of his position because of the need to care for his spouse or other member of his immediate family due to such individual's mental or physical impairment. Each Person agrees to submit to appropriate medical examinations and authorize his physicians to release medical information necessary to determine whether such Person is Disabled.

"***FCC***" means the Federal Communications Commission of the United States.

"***FCC Regulated Entities***" means (i) any radio or television broadcast company or (ii) any company that operates a daily newspaper as defined in Note 6 to Section 73.3555 of Title 47 of the United States Code of Federal Regulations.

"***FCC Rules***" means the FCC's broadcast ownership rules as set forth in Section 73.3555 of Title 47 of the United States Code of Federal Regulations.

"***Fiscal Year***" has the meaning set forth in Section 3.11(b).

"***Founding Partner Group***" means, collectively, Acis Capital Management GP, LLC, The Dugaboy Investment Trust, Mark K. Okada and Joshua N. Terry.

"GAAP" means Generally Accepted Accounting Principles in the United States.

"***General Partner***" means any Person who (i) is referred to as such in the first paragraph of this Agreement, or has become a General Partner pursuant to the terms of this Agreement; and (ii) has not ceased to be a General Partner pursuant to the terms of this Agreement.

"***Limited Partner***" means any Person who (i) is referred to as such in Exhibit A to this Agreement, or has become a Limited Partner pursuant to the terms of this Agreement, and (ii) has not ceased to be a Limited Partner pursuant to the terms of this Agreement.

"***Liquidator***" has the meaning set forth in Section 5.03.

"***Losses***" means, for each Fiscal Year, the losses and deductions of the Partnership determined in accordance with accounting principles consistently applied from year to year employed under the Partnership's method of accounting and as reported, separately or in the aggregate, as appropriate, on the Partnership's information tax return filed for federal income tax purposes, plus any expenditures described in Code Section 705(a)(2)(B).

"***Majority Interest***" means the owners of more than fifty percent (50%) of the Percentage Interests of Limited Partners.

"***Net Available Cash***" means the aggregate amount of freely available cash and Cash Equivalents owned by the Partnership that would be reported on the balance sheet of the Partnership on such date in accordance with GAAP, less (a) any cash or Cash Equivalents that is

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pledged, encumbered or otherwise owed by the Partnership to any Person; and (b) any other reasonable reserve created by the General Partner in connection with any expected expenses or liabilities of the Partnership (actual, contingent or otherwise), which may include, but shall not be limited to, a 10% holdback to be applied to reserve for any necessary adjustments following the Partnership's annual audit.

"***New Issues***" means Securities that are considered to be "new issues," as defined in the Conduct Rules of the National Association of Securities Dealers, Inc.

"***Nonrecourse Deduction***" has the meaning set forth in Treasury Regulations Section 1.704-2(b)(1), as computed under Treasury Regulations Section 1.704-2(c).

"***Nonrecourse Liability***" has the meaning set forth in Treasury Regulations Section 1.704-2(b)(3).

"***Partner***" means a General Partner or a Limited Partner.

"***Partner Nonrecourse Debt***" has the meaning set forth in Treasury Regulations Section 1.704-2(b)(4).

"***Partner Nonrecourse Deductions***" has the meaning set forth in Treasury Regulations Section 1.704-2(i)(2).

"***Partner Nonrecourse Debt Minimum Gain***" has the meaning set forth in Treasury Regulations Section 1.704-2(i)(5).

"***Partnership***" means Acis Capital Management, L.P., the Delaware limited partnership established pursuant to this Agreement.

"***Partnership Interest***" means the interest acquired by a Partner in the Partnership including, without limitation, that Partner's right: (a) to an allocable share of the Profits, Losses, deductions, and credits of the Partnership; (b) to a distributive share of the assets of the Partnership; (c) if a Limited Partner, to vote on those matters described in this Agreement; and (d) if the General Partner, to manage and operate the Partnership.

"***Partnership Minimum Gain***" has the meaning set forth in Treasury Regulations Section 1.704-2(d).

"***Percentage Interest***" means the percentage set forth opposite each Partner's name on Exhibit A, as such Exhibit may be amended from time to time in accordance with this Agreement.

"***Person***" means an individual or a corporation, partnership, trust, estate, unincorporated organization, association, or other entity.

"***Portfolio Company***" means a Person (other than an individual) in which the Partnership holds an economic or voting interest, directly or indirectly.

"***Profits***" means, for each Fiscal Year, the income and gains of the Partnership determined in accordance with accounting principles consistently applied from year to year employed under the Partnership's method of accounting and as reported, separately or in the

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aggregate, as appropriate, on the Partnership's information tax return filed for federal income tax purposes, plus any income described in Code Section 705(a)(1)(B).

"***Profits Interest Partner***" means any Person who is issued a Partnership Interest that is treated as a "profits interest" for federal income tax purposes.

"***Record Date***" means the date established by the General Partner for determining the identity of Limited Partners entitled to vote or give consent to Partnership action or entitled to exercise rights in respect of any other lawful action of Limited Partners.

"***Removal Event***" has the meaning set forth in Section 4.04.

"***Securities***" means the following: (i) securities of any kind (including, without limitation, "***securities***" as that term is defined in Section 2(a)(1) of the Securities Act; (ii) commodities of any kind (as that term is defined by the U.S. Securities Laws and the rules and regulations promulgated thereunder); (iii) any contracts for future or forward delivery of any security, commodity or currency; (iv) any contracts based on any securities or group of securities, commodities or currencies; (v) any options on any contracts referred to in clauses (iii) or (iv); or (vi) any evidences of indebtedness (including participations in or assignments of bank loans or trade credit claims). The items set forth in clauses (i) through (vi) herein include, but are not limited to, capital stock, common stock, preferred stock, convertible securities, reorganization certificates, subscriptions, warrants, rights, options, puts, calls, bonds, mutual fund interests, debentures, notes, certificates of deposit, letters of credit, bankers acceptances, trust receipts and other securities of any corporation or other entity, whether readily marketable or not, rights and options, whether granted or written by the Partnership, treasury bills, bonds and notes, any securities or obligations issued or guaranteed by the United States or any foreign country or any state or possession of the United States or any foreign country or any political subdivision or agency or instrumentality of any of the foregoing, and derivatives of any of the foregoing.

"***Securities Act***" means the Securities Act of 1933, as amended, and any successor to such statute.

"***Substitute Limited Partner***" has the meaning set forth in Section 4.06(a).

"***Transfer***" or derivations thereof, of a Partnership Interest means, as a noun, the transfer, sale, assignment, exchange, pledge, hypothecation or other disposition of a Partnership Interest, or any part thereof, directly or indirectly, and as a verb, voluntarily or involuntarily to transfer, sell, assign, exchange, pledge, hypothecate or otherwise dispose of.

"***Treasury Regulations***" means the Department of Treasury Regulations promulgated under the Code, as amended and in effect (including corresponding provisions of succeeding regulations).

Section 2.02 Other Definitions. All terms used in this Agreement that are not defined in this Article 2 have the meanings contained elsewhere in this Agreement.

ARTICLE 3 FINANCIAL MATTERS

Section 3.01 Capital Contributions.

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(a) Initial Capital Contributions. The initial Capital Contribution of each Partner shall be set forth in the books and records of the Partnership.

(b) Additional Capital Contributions. No additional Capital Contributions shall be required unless consented to by the Partners; provided that, if the General Partner determines additional Capital Contributions are needed and one or more Partners do not consent to funding their pro rata share of such capital, then the amount of the shortfall may be funded: *first*, pro rata by the Partners willing to fund such contributions; *second*, if such contributions are insufficient, then through one or more loan from the Partner(s) or Affiliates thereof (which may include the General Partner and/or it Affiliates) willing to loan such funds on commercially reasonable terms (as determined by the General Partner); and *third*, if such loans are insufficient, through third party financing as determined by the General Partner.

Section 3.02 Allocations of Profits and Losses.

(a) Allocations of Profits. Except as provided in Sections 3.04, 3.05, and 3.06, Profits for any Fiscal Year will be allocated to the Partners as follows:

(i) First, to the Partners until cumulative Profits allocated under this Section 3.02(a)(i) for all prior periods equal the cumulative Losses allocated to the Partners under Section 3.02(b)(iii) for all prior periods in the inverse order in which such Losses were allocated; and

(ii) Next, to the Partners until cumulative Profits allocated under this Section 3.02(a)(ii) for all prior periods equal the cumulative Losses allocated to the Partners under Section 3.02(b)(ii) for all prior periods in the inverse order in which such Losses were allocated; and

(iii) Then, to all Partners in proportion to their respective Percentage Interests.

(b) Allocations of Losses. Except as provided in Sections 3.04, 3.05, and 3.06, Losses for any Fiscal Year will be will be allocated as follows:

(i) First, to the Partners until cumulative Losses allocated under this Section 3.02(b)(i) for all prior periods equal the cumulative Profits allocated to the Partners under Section 3.02(a)(iii) for all prior periods in the inverse order in which such Profits were allocated; and

(ii) Next, to the Partners in proportion to their respective positive Capital Account balances until the aggregate Capital Account balances of the Partners (excluding any negative Capital Account balances) equal zero; provided, however, losses shall be deemed to first reduce amounts that were last allocated to the Capital Accounts of the Partners; and

(iii) Then, to all Partners in proportion to their respective Percentage Interests.

(c) Limitation on Loss Allocations. If any allocation of Losses would cause a Partner to have an Adjusted Capital Account Deficit, those Losses instead shall be allocated to the General Partner.

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Section 3.03 Allocations on Transfers. Taxable items of the Partnership attributable to a Partnership Interest that has been Transferred (including the simultaneous decrease in the Partnership Interest of existing Partners resulting from the admission of a new Partner) shall be allocated between the transferor and the transferee as follows: (i) for the months before the Transfer, to the transferor; (ii) for the months after the Transfer, to the transferee; and (iii) for the month of the Transfer, to the transferee if the Transfer occurs on or before the fifteenth (15th) day of the month and to the transferor if the Transfer occurs thereafter. For purposes of the above allocation, taxable items of the Partnership shall be allocated equally among the months of the Fiscal Year without regard to the operations of the Partnership during those months. Distributions of assets of the Partnership with respect to a Partnership Interest shall be made only to the Persons who, according to the records of the Partnership, are the owners, on the actual date of distribution, of the Partnership Interests with respect to which the distributions are made. No liability shall result from making distributions in accordance with the provisions of the preceding sentence, whether or not the General Partner or the Partnership has knowledge or notice of a Transfer or purported Transfer of ownership of a Partnership Interest.

Section 3.04 Special Allocations. If the requisite stated conditions or facts are present, the following special allocations shall be made in the following order:

(a) Partnership Minimum Gain Chargeback. Notwithstanding any other provision of this Article 3, if there is a net decrease in Partnership Minimum Gain during any taxable year or other period for which allocations are made, prior to any other allocation under this Agreement, each Partner shall be specially allocated items of Partnership income and gain for that period (and, if necessary, subsequent periods) in proportion to, and to the extent of, an amount equal to that Partner's share of the net decrease in Partnership Minimum Gain during that year determined in accordance with Treasury Regulations Section 1.704-2(g)(2). The items to be allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(g). This Section 3.04(a) is intended to comply with the partnership minimum gain chargeback requirements of the Treasury Regulations and shall be subject to all exceptions provided therein.

(b) Partner Nonrecourse Debt Minimum Gain Chargeback. Notwithstanding any other provision of this Article 3 (other than Section 3.04(a)), if there is a net decrease in Partner Nonrecourse Debt Minimum Gain with respect to a Partner Nonrecourse Debt during any taxable year or other period for which allocations are made, any Partner with a share of such Partner Nonrecourse Debt Minimum Gain as of the beginning of the year shall be specially allocated items of Partnership income and gain for that period (and, if necessary, subsequent periods in an amount equal to that Partner's share of the net decrease in the Partner Nonrecourse Debt Minimum Gain during that year determined in accordance with Treasury Regulations Section 1.704-2(g)(2). The items to be so allocated shall be determined in accordance with Treasury Regulations Section 1.704-2(g). This Section 3.04(b) is intended to comply with the partner nonrecourse debt minimum gain chargeback requirements of the Treasury Regulations, shall be interpreted consistently with the Treasury Regulations and shall be subject to all exceptions provided therein.

(c) Qualified Income Offset. If a Partner unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (d)(5) or (d)(6), then items of Partnership income and gain shall be specially allocated to each such Partner in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Adjusted Capital Account Deficit of the Partner as quickly as possible; provided, however, an allocation pursuant to this Section 3.04(c) shall be made if and only to the extent that the Partner would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article 3 have been tentatively made without considering this Section 3.04(c).

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(d) Gross Income Allocation. If a Partner has a deficit Capital Account at the end of any Fiscal Year of the Partnership that exceeds the sum of (i) the amount the Partner is obligated to restore, and (ii) the amount the Partner is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), then each such Partner shall be specially allocated items of income and gain of the Partnership in the amount of the excess as quickly as possible; provided, however, an allocation pursuant to this Section 3.04(d) shall be made if and only to the extent that the Partner would have a deficit Capital Account in excess of that sum after all other allocations provided for in this Article 3 have been tentatively made without considering Section 3.04(c) or 3.04(d).

(e) Nonrecourse Deductions. Nonrecourse Deductions for any taxable year or other period for which allocations are made shall be allocated among the Partners in accordance with their Percentage Interests.

(f) Partner Nonrecourse Deductions. Notwithstanding anything to the contrary in this Agreement, any Partner Nonrecourse Deductions for any taxable year or other period for which allocations are made will be allocated to the Partner who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which the Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any asset of the Partnership under Code Section 734(b) or Code Section 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of the adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) and that gain or loss shall be specially allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to that Section of the Treasury Regulations.

Section 3.05 Curative Allocations. The "***Basic Regulatory Allocations***" consist of (i) the allocations pursuant to Section 3.02(c), and (ii) the allocations pursuant to Sections 3.04. Notwithstanding any other provision of this Agreement, the Basic Regulatory Allocations shall be taken into account in allocating items of income, gain, loss and deduction among the Partners so that, to the extent possible, the net amount of the allocations of other items and the Basic Regulatory Allocations to each Partner shall be equal to the net amount that would have been allocated to each such Partner if the Basic Regulatory Allocations had not occurred. For purposes of applying the foregoing sentence, allocations pursuant to this Section 3.05 shall be made only with respect to allocations pursuant to Section 3.04(g) to the extent that it can reasonably be determined that those allocations will otherwise be inconsistent with the economic agreement among the parties to this Agreement.

Section 3.06 Allocations of Built-in Items. In accordance with Code Sections 704(b) and 704(c) and the Treasury Regulations thereunder, income, gain, loss and deduction with respect to property actually or constructively contributed to the capital of the Partnership shall, solely for tax purposes, be allocated among the Partners so as to take account of any variation at the time of the contribution between the tax basis of the property to the Partnership and the fair market value of that property. Except as otherwise provided herein, any elections or other decisions relating to those allocations shall be made by the General Partner in any manner that reasonably reflects the purpose and intent of this Agreement. Allocations of income, gain, loss and deduction pursuant to this Section 3.06 are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, the Capital Account of any Partner or the share of Profits, Losses, other tax items or distributions of any Partner pursuant to any provision of this Agreement.

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Section 3.07 Capital Accounts.

(a) Maintenance of Capital Accounts. The Partnership shall establish and maintain a separate capital account ("***Capital Account***") for each Partner in accordance with the rules of Treasury Regulations Section 1.704-1(b)(2)(iv) and in accordance with the provisions set forth in this Section 3.07.

(i) The Capital Account balance of each Partner shall be credited (increased) by (A) the amount of cash contributed by that Partner to the capital of the Partnership, (B) the fair market value of property contributed by that Partner to the capital of the Partnership (net of liabilities secured by that contributed property that the Partnership assumes or takes subject to under Code Section 752), and (C) that Partner's allocable share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Sections 3.04 and 3.05; and

(ii) The Capital Account balance of each Partner shall be debited (decreased) by (A) the amount of cash distributed to that Partner by the Partnership, (B) the fair market value of property distributed to that Partner by the Partnership (net of liabilities secured by that distributed property that such Partner assumes or takes subject to under Code Section 752), (C) that Partner's allocable share of expenditures of the Partnership described in Code Section 705(a)(2)(B), and (D) that Partner's allocable share of Losses and any items in the nature of expenses or losses which are specially allocated pursuant to Sections 3.02, 3.04 and 3.05.

The provisions of this Section 3.07 and the other provisions of this Agreement relating to the maintenance of Capital Accounts have been included in this Agreement to comply with Code Section 704(b) and the Treasury Regulations promulgated thereunder and will be interpreted and applied in a manner consistent with those provisions. The General Partner may modify the manner in which the Capital Accounts are maintained under this Section 3.07 in order to comply with those provisions, as well as upon the occurrence of events that might otherwise cause this Agreement not to comply with those provisions.

(b) Negative Capital Accounts. If any Partner has a deficit balance in its Capital Account, that Partner shall have no obligation to restore that negative balance or to make any Capital Contribution by reason thereof, and that negative balance shall not be considered an asset of the Partnership or of any Partner.

(c) Interest. No interest shall be paid by the Partnership on Capital Contributions or on balances in Capital Accounts.

(d) No Withdrawal. No Partner shall be entitled to withdraw any part of his/her/its Capital Contribution or his/her/its Capital Account or to receive any distribution from the Partnership, except as provided in Section 3.09 and Articles 4 and 5.

(e) Loans From Partners. Loans by a Partner to the Partnership shall not be considered Capital Contributions.

Section 3.08 Distributive Share for Tax Purposes. Items of Partnership gain or loss recognized for federal income tax purposes and arising from Securities will be allocated among the Partners in accordance with the methods set forth in Treasury Regulations Section 1.704-3(e)(3) promulgated under Code Section 704(c). All other items of income, deduction, gain, loss or credit that are recognized for federal income tax purposes will be allocated to the Partners pro rata in accordance with the allocations of Profits and Losses hereunder. Notwithstanding the foregoing, the General Partner will (i) as to each New Issue, specially allocate to the Partners who were allocated New Issue Profit from that New Issue any short-term capital gains realized during the Fiscal Year upon the disposition of such New

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Issue during that Fiscal Year, and (ii) specially allocate items of gain (or loss) to Partners who withdraw capital during any Fiscal Year in a manner designed to ensure that each withdrawing Partner is allocated gain (or loss) in an amount equal to the difference between that Partner's Capital Account balance (or portion thereof being withdrawn) at the time of the withdrawal and the tax basis for his/her/ its Partnership Interest at that time (or proportionate amount thereof); provided, however, that the General Partner may, without the consent of any other Partner, (a) alter the allocation of any item of taxable income, gain, loss, deduction or credit in any specific instance where the General Partner determines such alteration to be necessary or appropriate to avoid a materially inequitable result (e.g., where the allocation would create an inappropriate tax liability); provided that if such alteration has a material adverse effect on any particular Partner, the consent of such Partner shall be required; and/or (b) adopt whatever other method of allocating tax items as the General Partner determines is necessary or appropriate in order to be consistent with the spirit and intent of the Treasury Regulations under Code Sections 704(b) and 704(c).

Section 3.09 Distributions.

(a) General. All Net Available Cash as of each calendar year end shall be distributed to the Partners as soon as practicable following each such year end. The General Partner may also make interim distributions of Net Available Cash at any time during the year to the extent the General Partner determines such distribution is advisable or appropriate. Except to the extent Sections 5.03 or 5.04 are applicable, all distributions pursuant to this Section 3.09 shall generally be made in proportion to the Partners' Capital Accounts (and such distributions shall be allocated against increases in Capital Accounts in proportion in which they occurred); provided, however, the General Partner may make a disproportionate distribution to a Partner to the extent that Partner has (or is anticipated to have by the end of the current Fiscal Year) a sufficient positive balance in his/her/its Capital Account therefor; provided that the consent of the Partners not receiving such distribution shall first be required. Distributions shall be deemed to first reduce amounts that were first added to the Capital Accounts of the Partners (i.e., a first-in, first-out approach).

(b) Tax Distributions. The General Partner shall promptly declare and make cash distributions pursuant hereto to the Partners to allow the federal and state income tax attributable to the Partnership's taxable income that is passed through the Partnership to the Partners to be paid by such Partners (a "***Tax Distribution***"). To satisfy this requirement, the Partnership shall pay to each Partner on or before April 14 of each Fiscal Year, an amount at least equal to the product of (i) the sum of the Partnership's positive taxable income attributed to that Partner during the prior Fiscal Year (including without limitation, the taxable income attributable to the special allocation of Profits constituting the Reallocation Amount) multiplied by (ii) the sum of the highest federal and state individual income tax rates imposed on any Partner in effect that prior Fiscal Year. Any Tax Distribution to a Partner shall reduce the amount that Partner is otherwise entitled to receive on its next distribution pursuant to Section 3.09(a).

(c) Payments Not Deemed Distributions. Any amounts paid pursuant to Sections 4.01(e) or 4.01(h) shall not be deemed to be distributions for purposes of this Agreement.

(d) Withheld Amounts. Notwithstanding any other provision of this Section 3.09 to the contrary, each Partner hereby authorizes the Partnership to withhold and to pay over, or otherwise pay, any withholding or other taxes payable by the Partnership with respect to that Partner as a result of that Partner's participation in the Partnership. If and to the extent that the Partnership shall be required to withhold or pay any such taxes, that Partner shall be deemed for all purposes of this Agreement to have received a payment from the Partnership as of the time that withholding or tax is paid, which payment shall be deemed to be a distribution with respect to that Partner's Partnership Interest to the extent that the Partner (or any successor to that Partner's Partnership Interest) is then entitled to receive a distribution.

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To the extent that the aggregate of such payments to a Partner for any period exceeds the distributions to which that Partner is entitled for that period, the amount of such excess shall be considered a loan from the Partnership to that Partner. Such loan shall bear interest (which interest shall be treated as an item of income to the Partnership) at the "***Applicable Federal Rate***" (as defined in the Code), as determined hereunder from time to time, until discharged by that Partner by repayment, which may be made in the sole and unfettered discretion of the General Partner out of distributions to which that Partner would otherwise be subsequently entitled. Any withholdings authorized by this Section 3.09(d) shall be made at the maximum applicable statutory rate under the applicable tax law unless the General Partner shall have received an opinion of counsel or other evidence satisfactory to the General Partner to the effect that a lower rate is applicable, or that no withholding is applicable.

Section 3.10 Compensation and Reimbursement of General Partner.

(a) Compensation. The General Partner and any Affiliate of the General Partner shall receive no compensation from the Partnership for services rendered pursuant to this Agreement or any other agreements unless approved by a Majority Interest; provided, however, that the aggregate annual expenses of the Partnership, inclusive of such compensation, may not exceed 20% of Revenues without the consent of all of the members of the Founding Partner Group.

(b) Reimbursement for Expenses. Subject to Section 3.10(a), in addition to amounts paid under other Sections of this Agreement, the General Partner and its Affiliates shall be reimbursed for all reasonable expenses, disbursements, and advances incurred or made, and all fees, deposits, and other sums paid in connection with the organization and operation of the Partnership, the qualification of the Partnership to do business, and all related matters.

Section 3.11 Books, Records, Accounting, and Reports.

(a) Records and Accounting. The General Partner shall keep or cause to be kept appropriate books and records with respect to the Partnership's business, which shall at all times be kept at the principal office of the Partnership or such other office as the General Partner may designate for such purpose. The books of the Partnership shall be maintained for financial reporting purposes on the accrual basis or on a cash basis, as the General Partner shall determine in accordance with generally accepted accounting principles and applicable law. Such books and records shall be available for inspection by any Partner upon reasonable notice to the extent required under the Delaware Act.

(b) Fiscal Year. The fiscal year of the Partnership shall be the calendar year unless otherwise determined by the General Partner in its sole and unfettered discretion.

(c) Reports.

(i) As soon as reasonably practicable after the end of each Fiscal Year, the General Partner shall cause to be mailed to each Partner reports containing financial statements of the Partnership for that Fiscal Year, presented on cash or accrual basis, including a balance sheet and statement of income and, if the General Partner shall so determine, such statements may be audited by a firm of independent public accountants selected by the General Partner.

(ii) As soon as reasonably practicable after the end of each fiscal month of the Partnership, the Partnership shall cause to be mailed to each Partner the monthly investor reporting and any other any other investor reports and financial statements for funds which the Partnership serves as investment manager.

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(d) Other Information. The General Partner may release information concerning the operations of the Partnership to any financial institution or other Person that has loaned or may loan funds to the Partnership or the General Partner or any of its Affiliates, and may release such information to any other Person for reasons reasonably related to the business and operations of the Partnership or as required by law or regulation of any regulatory body.

Section 3.12 Tax Matters.

(a) Tax Returns. The General Partner shall arrange for the preparation and timely filing of all returns of Partnership income, gain, loss, deduction, credit and other items necessary for federal, state and local income tax purposes. The General Partner shall deliver to each Partner as copy of his/her/its IRS Form K-1 as soon as practicable after the end of the Fiscal Year, but in no event later than October 1. The classification, realization, and recognition of income, gain, loss, deduction, credit and other items shall be on the cash or accrual method of accounting for federal income tax purposes, as the General Partner shall determine in its sole and unfettered discretion. The General Partner in its sole and unfettered discretion may pay state and local income taxes attributable to operations of the Partnership and treat such taxes as an expense of the Partnership.

(b) Tax Elections. Except as otherwise provided herein, the General Partner shall, in its sole and unfettered discretion, determine whether to make any available tax election.

(c) Tax Controversies. Subject to the provisions hereof, the General Partner is designated the Tax Matters Partner (as defined in Code Section 6231), and is authorized and required to represent the Partnership, at the Partnership's expense, in connection with all examinations of the Partnership's affairs by tax authorities, including resulting administrative and judicial proceedings, and to expend Partnership funds for professional services and costs associated therewith. Each Partner agrees to cooperate with the General Partner in connection with such proceedings.

(d) Taxation as a Partnership. No election shall be made by the Partnership or any Partner for the Partnership to be excluded from the application of any of the provisions of Subchapter K, Chapter I of Subtitle A of the Code or from any similar provisions of any state tax laws.

ARTICLE 4 RIGHTS AND OBLIGATIONS OF PARTNERS

Section 4.01 Rights and Obligations of the General Partner. In addition to the rights and obligations set forth elsewhere in this Agreement, the General Partner shall have the following rights and obligations:

(a) Management. The General Partner shall conduct, direct, and exercise full control of over all activities of the Partnership. Except as otherwise expressly provided in this Agreement, all management powers over the business and affairs of the Partnership shall be exclusively vested in the General Partner, and Limited Partners shall have no right of control over the business and affairs of the Partnership. In addition to the powers now or hereafter granted to a general partner of a limited partnership under applicable law or that are granted to the General Partner under any provision of this Agreement, the General Partner shall have full power and authority to do all things deemed necessary or desirable by it to conduct the business of the Partnership, including, without limitation: (i) the determination of the activities in which the Partnership will participate; (ii) the performance of any and all acts necessary or appropriate to the operation of any business of the Partnership (including, without limitation, purchasing and selling any asset, any debt instruments, any equity interests, any commercial paper, any note receivables and any other obligations); (iii) the procuring and maintaining of such insurance as may be available in such amounts and covering such risks as are deemed appropriate by the

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General Partner; (iv) the acquisition, disposition, sale, mortgage, pledge, encumbrance, hyphothecation, or exchange of any or all of the assets of the Partnership or any merger, acquisition, partnership or venture involving the Partnership; (v) the execution and delivery on behalf of, and in the name of the Partnership, deeds, deeds of trust, notes, leases, subleases, mortgages, bills of sale and any and all other contracts or instruments necessary or incidental to the conduct of the Partnership's business; (vi) the making of any expenditures, the borrowing of money, the guaranteeing of indebtedness and other liabilities, the issuance of evidences of indebtedness, and the incurrence of any obligations it deems necessary or advisable for the conduct of the activities of the Partnership, including, without limitation, the payment of compensation and reimbursement to the General Partner and its Affiliates pursuant to Section 3.10; (vii) the use of the assets of the Partnership (including, without limitation, cash on hand) for any Partnership purpose on any terms it sees fit, including, without limitation, the financing of operations of the Partnership, the lending of funds to other Persons, and the repayment of obligations of the Partnership; (viii) the negotiation, execution, and performance of any contracts that it considers desirable, useful, or necessary to the conduct of the business or operations of the Partnership or the implementation of the General Partner's powers under this Agreement; (ix) the distribution of Partnership cash or other assets in accordance with the terms of this Agreement; (x) the selection, hiring and dismissal of employees, attorneys, accountants, consultants, contractors, agents and representatives and the determination of their compensation and other terms of employment or hiring; (xi) the formation of any further limited or general partnerships, joint ventures, or other relationships that it deems desirable and the contribution to such partnerships, ventures, or relationships of assets and properties of the Partnership; and (xii) the control of any matters affecting the rights and obligations of the Partnership, including, without limitation, the conduct of any litigation, the incurring of legal expenses, and the settlement of claims and suits.

(b) Certificate of Limited Partnership. The General Partner caused the Certificate of Limited Partnership of the Partnership to be filed with the Secretary of State of Delaware as required by the Delaware Act and shall cause to be filed such other certificates or documents (including, without limitation, copies, amendments, or restatements of this Agreement) as may be determined by the General Partner to be reasonable and necessary or appropriate for the formation, qualification, or registration and operation of a limited partnership (or a partnership in which Limited Partners have limited liability) in the State of Delaware and in any other state where the Partnership may elect to do business.

(c) Reliance by Third Parties. Notwithstanding any other provision of this Agreement to the contrary, no lender or purchaser or other Person, including any purchaser of property from the Partnership or any other Person dealing with the Partnership, shall be required to verify any representation by the General Partner as to its authority to encumber, sell, or otherwise use any assess or properties of the Partnership, and any such lender, purchaser, or other Person shall be entitled to rely exclusively on such representations and shall be entitled to deal with the General Partner as if it were the sole party in interest therein, both legally and beneficially. Each Limited Partner hereby waives any and all defenses or other remedies that may be available against any such lender, purchaser, or other Person to contest, negate, or disaffirm any action of the General Partner in connection with any such sale or financing. In no event shall any Person dealing with the General Partner or the General Partner's representative with respect to any business or property of the Partnership be obligated to ascertain that the terms of this Agreement have been complied with, and each such Person shall be entitled to rely on the assumptions that the Partnership has been duly formed and is validly in existence. In no event shall any such Person be obligated to inquire into the necessity or expedience of any act or action of the General Partner or the General Partner's representative, and every contract, agreement, deed, mortgage, security agreement, promissory note, or other instrument or document executed by the General Partner or the General Partner's representative with respect to any business or property of the Partnership shall be conclusive evidence in favor of any and every Person relying thereon or claiming thereunder that (i), at the time of the execution and delivery thereof, this Agreement was in full force and effect; (ii) such

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instrument or document was duly executed in accordance with the terms and provisions of this Agreement and is binding upon the Partnership; and (iii) the General Partner or the General Partner's representative was duly authorized and empowered to execute and deliver any and every such instrument or document for and on behalf of the Partnership.

(d) Partnership Funds. The funds of the Partnership shall be deposited in such account or accounts as are designated by the General Partner. All withdrawals from or charges against such accounts shall be made by the General Partner or by its representatives. Funds of the Partnership may be invested as determined by the General Partner in accordance with the terms and provisions of this Agreement.

(e) Loans to or from Partners; Contracts with Affiliates; Joint Ventures.

(i) The General Partner, any Affiliate of the General Partner or, as provided below, any Limited Partner may lend to the Partnership funds needed by the Partnership for such periods of time as the General Partner may determine. The Partnership must offer these loans to each Partner pro rata based on the Partnership Interests at the time of the loan. The Partnership shall reimburse the General Partner, its Affiliate or the Limited Partners, as the case may be, for any costs incurred by the General Partner, that Affiliate or Limited Partners in connection with the borrowing of funds obtained by the General Partner, that Affiliate or Limited Partners and loaned to the Partnership.

(ii) The General Partner, any of its Affiliates, and with the consent of the General Partner, any other Partner, may enter into an agreement with the Partnership to render services, including management services, for the Partnership. Any service rendered for the Partnership by the General Partner, any Affiliate thereof or any other Partner as provided above shall be on arms length terms that are fair and reasonable to the Partnership and shall be subject to Section 3.10(a) hereof.

(iii) The Partnership may Transfer any assets to joint ventures or other partnerships in which it is or thereby becomes a participant upon terms and subject to such conditions consistent with applicable law; provided that any financial benefit from or financial interest in such venture(s) or partnership(s) that are received by General Partner or any Affiliate thereof shall be shared by all the members of the Founding Partners Group pro rata.

(f) Outside Activities Conflicts of Interest. The General Partner, any Affiliate thereof and any director, officer, employee, agent, or representative of the General Partner, or any Affiliate thereof shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership, including, without limitation, business interests and activities in direct competition with the Partnership. Neither the Partnership nor any of the Partners shall have any rights by virtue of this Agreement or the partnership relationship created hereby in any business ventures of the General Partner, any Affiliate thereof, or any director, officer, employee, agent, or representative of either the General Partner or any Affiliate thereof. The other Partners may continue to engage in business activities for Affiliates of the Partnership, but in no event shall any such Partner engage in any activities that are competitive with the Partnership or any Applicable Entity so long as such person remains a Partner of the Partnership.

(g) Resolution of Conflicts of Interest. Unless otherwise expressly provided in this Agreement or any other agreement contemplated herein, whenever a conflict of interest exists or arises between the General Partner or any of its Affiliates, on the one hand, and the Partnership or any Limited Partner, on the other hand, any action taken by the General Partner shall be resolved by the General

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Partner in its good faith discretion, and may not be challenged by any Limited Partner absent of bad faith by the General Partner.

(h) Indemnification. The Partnership shall indemnify and hold harmless the General Partner, any director, officer, employee, agent, or representative or other Affiliate of the General Partner (collectively, the "***GP Party***") against all liabilities, losses, and damages incurred by any of them by reason of any act performed or omitted to be performed in the name of or on behalf of the Partnership, or in connection with the Partnership's business, including, without limitation, attorneys' fees and any amounts expended in the settlement of any claims or liabilities, losses, or damages, to the fullest extent permitted by the Delaware Act; provided, however, the Partnership shall have no obligation to indemnify and hold harmless a GP Party for any action or inaction that constitutes gross negligence or willful or wanton misconduct. The Partnership shall also indemnify and hold harmless any Limited Partner, employee, agent, or representative of the Partnership, any Person who is or was serving at the request of the Partnership acting through the General Partner as a director, officer, partner, trustee, employee, agent, or representative of another corporation, partnership, joint venture, trust, or other enterprise, and any other Person to the extent determined by the General Partner in its sole and unfettered discretion, provided that, in each case the General Partner may condition such indemnification on the agreement of such indemnitee to confidentiality, non-prosecution, non-disparagement and cooperation covenants in form and substance reasonably satisfactory to the General Partner and, provided further that, in no event shall such indemnification exceed the indemnification permitted by the Delaware Act. Notwithstanding anything to the contrary in this Section 4.01(h) or elsewhere in this Agreement, no amendment to the Delaware Act after the date of this Agreement shall reduce or limit in any manner the indemnification provided for or permitted by this Section 4.01(h) unless such reduction or limitation is mandated by such amendment for limited partnerships formed prior to the enactment of such amendment. In no event shall Limited Partners be subject to personal liability by reason of the indemnification provisions of this Agreement.

(i) Liability of General Partner.

(i) Neither the General Partner nor its directors, officers, employees, agents, or representatives shall be liable to the Partnership or any Limited Partner for errors in judgment or for any acts or omissions that do not constitute gross negligence or willful or wanton misconduct.

(ii) The General Partner may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its directors, officers, employees, agents, or representatives, and the General Partner shall not be responsible for any misconduct or negligence on the part of any agent or representative appointed by the General Partner.

(j) Reliance by General Partner.

(i) The General Partner may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(ii) The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, and other consultants and advisers selected by it, and any opinion of any such Person as to matters which the General Partner believes to be within such Person's professional or expert competence shall be full and complete

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authorization and protection in respect of any action taken or suffered or omitted by the General Partner hereunder in good faith and in accordance with such opinion.

(k) Officers. The General Partner may, from time to time, designate one or more Persons to be officers of the Company. No officer need be a Partner. Any officers so designated shall have such authority and perform such duties as the General Partner may, from time to time, delegate to them. The General Partner may assign titles to particular officers, including, without limitation, president, vice president, secretary, assistant secretary, treasurer and assistant treasurer. Each officer shall hold office until such Person's successor shall be duly designated and shall qualify or until such Person's death or until such Person shall resign or shall have been removed in the manner hereinafter provided. Any number of offices may be held by the same Person. The salaries or other compensation, if any, of the officers and agents of the Partnership shall be fixed from time to time by the General Partner. Any officer may be removed as such, either with or without cause, by the General Partner whenever in the General Partner's judgment the best interests of the Partnership will be served thereby. Any vacancy occurring in any office of the Partnership may be filled by the General Partner.

Section 4.02 Rights and Obligations of Limited Partners. In addition to the rights and obligations of Limited Partners set forth elsewhere in this Agreement, Limited Partners shall have the following rights and obligations:

(a) Limitation of Liability. Limited Partners shall have no liability under this Agreement except as provided herein or under the Delaware Act.

(b) Management of Business. No Limited Partner shall take part in the control (within the meaning of the Delaware Act) of the Partnership's business, transact any business in the Partnership's name, or have the power to sign documents for or otherwise bind the Partnership other than as specifically set forth in this Agreement.

(c) Return of Capital. No Limited Partner shall be entitled to the withdrawal or return of its Capital Contribution except to the extent, if any, that distributions made pursuant to this Agreement or upon termination of the Partnership may be considered as such by law and then only to the extent provided for in this Agreement.

Section 4.03 Transfer of Partnership Interests.

(a) Transfer. No Partnership Interest shall be Transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Section 4.03. Any Transfer or purported Transfer of any Partnership Interest not made in accordance with this Section 4.03 shall be null and void. An alleged transferee shall have no right to require any information or account of the Partnership's transactions or to inspect the Partnership's books. The Partnership shall be entitled to treat the alleged transferor of a Partnership Interest as the absolute owner thereof in all respects, and shall incur no liability to any alleged transferee for distributions to the Partner owning that Partnership Interest of record or for allocations of Profits, Losses, deductions or credits or for transmittal of reports and notices required to be given to holders of Partnership Interests.

(b) Transfers by General Partner and its Affiliates. The General Partner and any of its Affiliates may Transfer all or any portion of their Partnership Interest to any Person and in such an event may "drag" along all other Partner(s) who, if so elected by the Transferring Partners, shall be required to sell their Partnership Interest on the same terms as the Transferring Partners. In addition, each other Partner shall have the right to "tag along" a pro rata share of their Partnership Interest in any Transfers of all or any portion of the Partnership Interest(s) of the General Partner or of any of its

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Affiliates, other than transfers (i) to Affiliates, (ii) pursuant to James Dondero's estate plan or (iii) otherwise to trusts or vehicles established for estate planning purposes. Any Transfer by the General Partner or its Affiliates of its Partnership Interest under this Section 4.03(b) to an Affiliate of the General Partner or its Affiliates or any other Person shall not constitute a withdrawal of the General Partner or its Affiliates under Section 4.05(a), Section 5.01(b), or any other provision of this Agreement. If any such Transfer is deemed to constitute a withdrawal under such provisions or otherwise and results in the dissolution of the Partnership under this Agreement or the laws of any jurisdiction to which the Partnership of this Agreement is subject, the Partners hereby unanimously consent to the reconstitution and continuation of the Partnership immediately following such dissolution, pursuant to Section 5.02.

(c) Transfers by Limited Partners. Except as provided above, the Partnership Interest of a Limited Partner may not be Transferred, encumbered, participated or pledged without the consent of the General Partner (which consent may be withheld in the sole and unfettered discretion of the General Partner except to trusts or similar vehicles for estate planning purposes, which shall be permitted without consent).

(d) Distributions and Allocations in Respect of Transferred Partnership Interests. If any Partnership Interest is Transferred during any Fiscal Year in compliance with the provisions of Article 4, Profits, Losses, and all other items attributable to the Transferred interest for that period shall be divided and allocated between the transferor and the transferee by taking into account their varying interests during the period in accordance with Code Section 706(d), using any conventions permitted by law and selected by the General Partner. All distributions on or before the date of that Transfer shall be made to the transferor. Solely for purposes of making such allocations and distributions, the Partnership shall recognize that Transfer not later than the end of the calendar month during which it is given notice of that Transfer; provided, however, if the Partnership does not receive a notice stating the date that Partnership Interest was Transferred and such other information as the General Partner may reasonably require within thirty (30) days after the end of the Fiscal Year during which the Transfer occurs, then all of such items shall be allocated, and all distributions shall be made, to the person who, according to the books and records of the Partnership, on the last day of the Fiscal Year during which the Transfer occurs, was the owner of the Partnership Interest. Neither the Partnership nor any Partner shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 4.03(d), whether or not any Partner or the Partnership has knowledge of any Transfer of ownership of any Partnership Interest.

Section 4.04 Resignation or Removal of Limited Partners. Upon the resignation, death, Disability or termination of employment with the Partnership or any Affiliate Employer (for any reason whatsoever) (as such event, a "***Removal Event***") of any Limited Partner, the Partnership Interest of such Limited Partner shall automatically be forfeited to the Partnership and such Limited Partner shall be entitled to receive in consideration of such interest an amount equal to (i) 100% such Limited Partner's Percentage Interest of all Net Available Cash through the first year end following the Removal Event, (ii) 66 2/3% of such Limited Partner's Percentage Interest of all Net Available Cash through the second year end following such Removal Event, (iii) 33 1/3% of such Limited Partner's Percentage Interest of Net Available Cash through the third year end following such Removal Event, and (iv) to the extent that the Partnership acquired investment assets during the tenure of the departing Partner that are still owned by the Partnership as of the Removal Event, such departing Limited Partner shall receive (without duplication of any Net Available Cash distributed pursuant to clauses (i) through (iii) above) either (A) a pro rata in-kind distribution of such assets or (B) its pro rata share (based on the departing Limited Partner's Percentage Interest immediately preceding the Removal Event) of all future distributions and liquidation proceeds from such asset(s) if and when received by the Partnership, net of any applicable taxes and expenses; provided, that if the basis of such Removal Event was termination of employment with the Partnership or any Affiliate Employer for Cause or if the Limited Partner competes in any way

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with the Partnership at any time during which any payments would otherwise be owed under this paragraph, such partner shall automatically forfeit its right to any further compensation or consideration for its Partnership Interest. Following any Removal Event, Joshua Terry shall have the non-exclusive right (without limiting the right of the General Partner and its control persons, as applicable, to use each such track record) to use the performance "track record" of each advised account of the Partnership covering the period for which Joshua Terry was named a Portfolio Manager (or more senior management title) with respect to such account prior to such Removal Event.

Section 4.05 Issuances of Partnership Interests to New and Existing Partners.

(a) Issuance of Partnership Interests to New Limited Partners. The General Partner may admit one or more additional Persons as Limited Partners *("**Additional Limited Partners**")* to the Partnership at such times and upon such terms as it deems appropriate in its sole and unfettered discretion. Upon the admission of any Additional Limited Partner, the Percentage Interest of all Partners (other than the General Partner in the event the Percentage Interest of the General Partner is less than or equal to 0.01) diluted pro rata. The General Partner shall also specify whether such Limited Partner is limited to being a "Profits Interest Partner" for purposes of this Agreement. No Person may be admitted to the Partnership as a Limited Partner until he/she/it executes an Addendum to this Agreement in the form attached as Exhibit B (which may be modified by the General Partner in its sole and unfettered discretion).

(b) Issuance of an Additional Partnership Interest to an Existing Partner. The General Partner may not issue an additional Partnership Interest to any member of the Founding Partner Group without the consent of all of the members of the Founding Partner Group. Upon the issuance of an additional Partnership Interest to an existing Partner, the Percentage Interest of all Partners (other than the General Partner in the event the Percentage Interest of the General Partner is less than or equal to 0.01) shall be diluted pro rata. Any additional Partnership Interest shall be subject to all the terms and conditions of this Agreement.

Section 4.06 Withdrawal of General Partner.

(a) Option. In the event of the withdrawal of the General Partner from the Partnership, the departing General Partner (the "***Departing Partner***") shall, at the option of its successor (if any) exercisable prior to the effective date of the departure of that Departing Partner, promptly receive from its successor in exchange for its Partnership Interest as the General Partner, an amount equal to (i) 100% such General Partner's Percentage Interest of all Net Available Cash through the first year end following its departure, (ii) 66 2/3% of such General Partner's Percentage Interest of all Net Available Cash through the second year end following its departure, (iii) 33 1/3% of such General Partner's Percentage Interest of Net Available Cash through the third year end following its departure, and (iv) to the extent that the Partnership acquired investment assets during the tenure of the departing Partner that are still owned by the Partnership as of its departure, such departing General Partner shall receive (without duplication of any Net Available Cash distributed pursuant to clauses (i) through (iii) above) either (A) a pro rata in-kind distribution of such assets or (B) its pro rata share (based on the departing General Partner's Percentage Interest immediately preceding its departure) of all future distributions and liquidation proceeds from such asset(s) if and when received by the Partnership, net of any applicable taxes and expenses.

(b) Conversion. If the successor to a Departing Partner does not exercise the option described in Section 4.06(a), the Partnership Interest of the Departing Partner as the General Partner of the Partnership shall be converted into a Partnership Interest as a Limited Partner.

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(c) Capital Contribution. If the successor to a Departing Partner does not exercise the option described in Section 4.06(a), its successor shall, at the effective date of its admission to the Partnership, contribute to the capital of the Partnership cash or property or other consideration such that its Capital Account, after giving effect to that contribution, shall be equal to one percent (1%) of the total Capital Account balances at that date.

Section 4.07 Admission of Substitute Limited Partners and Successor General Partner.

(a) Admission of Substitute Limited Partners. A transferee (which may be the heir or legatee of a Limited Partner) or assignee of a Limited Partner's Partnership Interest shall be entitled to receive only the distributive share of the Partnership's Profits, Losses, deductions, and credits attributable to that Partnership Interest. To become a substitute Limited Partner (a "***Substitute Limited Partner***"), that transferee or assignee shall (i) obtain the consent of the General Partner (which consent may be withheld in the sole and unfettered discretion of the General Partner), and (ii) execute an Addendum to this Agreement in the form attached as Exhibit B (which may be modified by the General Partner in its sole and unfettered discretion). Upon admission of a Substitute Limited Partner, that Limited Partner shall be subject to all of the restrictions applicable to, shall assume all of the obligations of, and shall attain the status of a Limited Partner under and pursuant to this Agreement with respect to the Partnership Interest held by that Limited Partner; provided, that, without the unanimous consent of the Founding Partner Group, no substitute partner shall be part of the Founding Partner Group unless such substitute partner is an affiliate or estate planning entity of a transferring member of the Founding Partner Group.

(b) Admission of Successor General Partner. A successor General Partner selected pursuant to Section 5.02 or the transferee of or successor to all of the Partnership Interest of the General Partner pursuant to Section 4.03(b) shall be admitted to the Partnership as the General Partner, effective as of the date of the withdrawal or removal of the predecessor General Partner or the date of Transfer of that predecessor's Partnership Interest.

(c) Action by General Partner. In connection with the admission of any substitute Limited Partner or successor General Partner or any additional Limited Partner, the General Partner shall have the authority to take all such actions reasonably necessary or advisable in connection therewith, including the amendment of Exhibit A and the execution and filing with appropriate authorities of any necessary documentation.

Section 4.08 Business Opportunities. In the event that the Partnership recapitalizes, distributes or otherwise transfers any of its business units, business interests or assets to a new entity that will be primarily owned by one or more members of the Founding Partner Group, each of the Limited Partners shall receive a proportionate share of that entity, subject to identical terms and conditions as are provided to the members of the Founding Partner Group, unless that Limited Partner agrees to receive a different percentage interest in that entity.

Section 4.09 FCC Matters.

(a) The Partners acknowledge that the Partnership will invest, directly or indirectly, in one or more FCC Regulated Entities, and intend that the Limited Partners (except for any Limited Partner that serves as an officer of the Partnership) not be attributed with an ownership interest in any such FCC Regulated Entities for purposes of the FCC Rules to the extent possible. Notwithstanding any provision of this Agreement to the contrary, for so long as the Partnership has a direct or indirect investment in any FCC Regulated Entity, no Limited Partner (except for any Limited Partner that serves as an officer of the Partnership) and no officer, director, partner or other official of any such Limited Partner that is not an individual shall:

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(i) act as an employee of, or provide services to, the Partnership, or any Portfolio Company that is an FCC Regulated Entity, if such Limited Partner's functions directly or indirectly relate to the FCC-regulated enterprises of the Partnership or such Portfolio Company;

(ii) serve, in any material capacity, as an independent contractor or agent with respect to the FCC-regulated enterprises of the Partnership or any Portfolio Company that is an FCC Regulated Entity;

(iii) communicate with the General Partner or any Portfolio Company that is an FCC Regulated Entity on matters pertaining to the day-to-day operations of the business of any such FCC Regulated Entity;

(iv) vote to admit any additional general partners of the Partnership unless such vote may be vetoed by the General Partner;

(v) vote on the removal of the General Partner unless the General Partner is (a) subject to bankruptcy proceedings, (b) adjudicated insane or incompetent by a court of competent jurisdiction, or (c) otherwise removed for cause, where cause is defined as malfeasance, criminal conduct or wanton or willful neglect, as determined by a neutral arbiter;

(vi) perform any services for the Partnership or any Portfolio Company that is an FCC Regulated Entity materially relating to the FCC-regulated enterprises of the Partnership or any such FCC Regulated Entity, other than acting as lender or surety; or

(vii) become actively involved, directly or indirectly, in the management or operation of any Portfolio Company that is an FCC Regulated Entity.

(b) To enable the Partnership to invest in FCC Regulated Entities consistent with the requirements of the Communications Act and the rules, regulations and policies of the FCC, each Limited Partner will provide the General Partner, upon request, the following information:

(i) information regarding the percentage of its equity ownership owned, controlled or voted by Aliens, and the number and percentage of its partners, shareholders or members that are Aliens;

(ii) all other information that the General Partner requires to make necessary filings with, or other submissions to, the FCC; and

(iii) all other information that the General Partner reasonably deems necessary, advisable or convenient in order to enable the Partnership to make, manage and dispose of actual or potential investments.

(c) Each Limited Partner will provide the General Partner with prompt notice if any information provided by such Limited Partner pursuant to this Section 4.09(b) is no longer true and complete. In addition, no Limited Partner will take any action that such Limited Partner knows would cause a violation by the Partnership of the Communications Act or the rules, regulations or policies of the FCC. In the event that the General Partner determines that the continued participation by a Limited Partner in an investment in the Partnership at a time when the Partnership has made an investment in any FCC Regulated Entity would cause the Partnership or such FCC Regulated Entity to be in violation of the Communications Act or the rules, regulations or policies of the FCC or would prevent the Partnership

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from making an investment that the General Partner believes to be in the best interest of the Partnership, then such Limited Partner will, at the request of the General Partner, transfer its entire interest in the Partnership (or such portion thereof as the General Partner deems necessary to avoid or prevent such violation) in accordance with Section 4.03.

ARTICLE 5 DISSOLUTION AND WINDING UP

Section 5.01 Dissolution. Subject to Section 5.02, the Partnership shall be dissolved upon:

(a) The death of James Dondero or the withdrawal, bankruptcy, or dissolution of the General Partner or any Affiliate thereof that holds a Partnership Interest, or any other event that results in its ceasing to be a Partner (other than by reason of a Transfer pursuant to Section 4.03(b));

(b) An election to dissolve the Partnership by the General Partner that is approved by the affirmative vote of all members of the Founding Partner Group;

(c) Any other event that, under the Delaware Act, would cause its dissolution; or

(d) A sale of all or substantially all of the assets of the Partnership that results in the liquidation of operating assets, the material shrinking of operations and personnel and the failure to redeploy the proceeds within twelve (12) months into other activities and investments.

For purposes of this Section 5.01, the bankruptcy of the General Partner shall be deemed to have occurred when the General Partner: (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary bankruptcy petition; (iii) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceeding: (iv) files a petition or answer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the General Partner in a proceeding of the type described in clauses (i) through (iv) of this paragraph; (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the General Partner or of all or any substantial part of the General Partner's properties; or (vii) one hundred twenty (120) days expire after the date of the commencement of a proceeding against the General Partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law if the proceeding has not been previously dismissed, or ninety (90) days expire after the date of the appointment, without the General Partner's consent or acquiescence, of a trustee, receiver, or liquidator of the General Partner or of all or any substantial part of the General Partner's properties if the appointment has not previously been vacated or stayed, or ninety (90) days expire after the date of expiration of a stay, if the appointment has not previously been vacated.

Section 5.02 Continuation of the Partnership. Upon the occurrence of an event described in Section 5.01(a), the Partnership shall be deemed to be dissolved and reconstituted if a majority in interest of the remaining members of the Founding Partner Group (calculated as of percentage of the total partnership interest held by the remaining members of the Founding Member Group) elect to continue the Partnership within ninety (90) days of that event. If no election to continue the Partnership is made within ninety (90) days of that event, the Partnership shall conduct only activities necessary to wind up its affairs. If an election to continue the Partnership is made upon the occurrence of an event described in Section 5.01(a), then:

(a) Within that ninety (90)-day period a successor General Partner shall be selected by a majority in interest of the remaining member(s) of the Founding Partner Group;

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(b) The Partnership shall be deemed to be reconstituted and shall continue until the end of the term for which it is formed unless earlier dissolved in accordance with this Article 5;

(c) The interest of the former General Partner shall be converted to an interest as a Limited Partner; and

(d) All reasonable steps shall be taken to amend or restate this Agreement and the Certificate of Limited Partnership, and the successor General Partner may for this purpose amend this Agreement and the Certificate of Limited Partnership, as appropriate, without the consent of any Partner.

Section 5.03 Liquidation. Upon dissolution of the Partnership, unless the Partnership is continued under Section 5.02, the General Partner or, in the event the General Partner has been dissolved, becomes bankrupt (as defined in Section 5.01), or withdraws from the Partnership, a liquidator or liquidating committee selected by a Majority Interest, shall be the Liquidator. The Liquidator (if other than the General Partner) shall be entitled to receive such compensation for its services as may be approved by a Majority Interest. The Liquidator shall agree not to resign at any time without fifteen (15) days' prior written notice and (if other than the General Partner) may be removed at any time, with or without cause, by notice of removal approved by a Majority Interest. Upon dissolution, removal, or resignation of the Liquidator, a successor and substitute Liquidator (who shall have and succeed to all rights, powers, and duties of the original Liquidator) shall within thirty (30) days thereafter be selected by a Majority Interest. The right to appoint a successor or substitute Liquidator in the manner provided herein shall be recurring and continuing for so long as the functions and services of the Liquidator are authorized to continue under the provisions hereof, and every reference herein to the Liquidator shall be deemed to refer also to any such successor or substitute Liquidator appointed in the manner provided herein. Except as expressly provided in this Article 5, the Liquidator appointed in the manner provided herein shall have and may exercise, without further authorization or consent of any of the parties hereto, all of the powers conferred upon the General Partner under the terms of this Agreement (but subject to all of the applicable limitations, contractual and otherwise, upon the exercise of such powers) to the extent necessary or desirable in the good faith judgment of the Liquidator to carry out the duties and functions of the Liquidator hereunder for and during such period of time as shall be reasonably required in the good faith judgment of the Liquidator to complete the winding up and liquidation of the Partnership as provided herein. The Liquidator shall liquidate the assets of the Partnership and apply and distribute the proceeds of such liquidation in the following order of priority, unless otherwise required by mandatory provisions of applicable law:

(a) To the payment of the expenses of the terminating transactions including, without limitation, brokerage commission, legal fees, accounting fees and closing costs;

(b) To the payment of creditors of the Partnership, including Partners, in order of priority provided by law;

(c) To the Partners and assignees to the extent of, and in proportion to, the positive balances in their respective Capital Accounts as provided in Treasury Regulations Section 1.704-1(b)(2)(ii)(b)(2); provided, however, the Liquidator may place in escrow a reserve of cash or other assets of the Partnership for contingent liabilities in an amount determined by the Liquidator to be appropriate for such purposes; and

(d) To the Partners (other than the Profits Interest Partners) in proportion to their respective Percentage Interests.

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Section 5.04 Distribution in Kind. Notwithstanding the provisions of Section 5.03 that require the liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein, if on dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss to the Partners and assignees, the Liquidator may defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (other than those to Partners) and/or may distribute to the Partners and assignees, in lieu of cash, as tenants in common and in accordance with the provisions of Section 5.03, undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any joint operating agreements or other agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using an independent third party for determining the valuation of such property.

Section 5.05 Cancellation of Certificate of Limited Partnership. Upon the completion of the distribution of Partnership property as provided in Sections 5.03 and 5.04, the Partnership shall be terminated, and the Liquidator (or the General Partner and Limited Partners if necessary) shall cause the cancellation of the Certificate of Limited Partnership in the State of Delaware and of all qualifications and registrations of the Partnership as a foreign limited partnership in jurisdictions other than the State of Delaware and shall take such other actions as may be necessary to terminate the Partnership.

Section 5.06 Return of Capital. The General Partner shall not be personally liable for the return of the Capital Contributions of Limited Partners, or any portion thereof, it being expressly understood that any such return shall be made solely from Partnership assets.

Section 5.07 Waiver of Partition. Each Partner hereby waives any rights to partition of the Partnership property.

ARTICLE 6 GENERAL PROVISIONS

Section 6.01 Amendments to Agreement. The General Partner may amend this Agreement without the consent of any Partner to the extent such amendment does not adversely affect the rights of the non-consenting Partners. To the extent the Partnership or the General Partner requests, in writing, the waiver or consent of one or more Limited Partners, any Limited Partners with respect to whom receipt of such notice is confirmed but that do not respond in writing within 15 days shall be deemed to have consented to such request. In no event shall any provision of this Agreement be amended or waived in a manner that adversely affects the rights or obligations of any Partner Affiliated with James Dondero or any estate planning trust or other vehicle established by James Dondero without the express written consent of James Dondero.

Section 6.02 Addresses and Notices. Any notice, demand, request, or report required or permitted to be given or made to a Partner under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by United States registered or certified mail to the Partner at his/her/its address as shown on the records of the Partnership, regardless of any claim of any Person who may have an interest in any Partnership Interest by reason of an assignment or otherwise.

Section 6.03 Titles and Captions. All article and section titles and captions in the Agreement are for convenience only, shall not be deemed part of this Agreement, and in no way shall define, limit, extend, or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to "Articles," "Sections" and "Exhibits" are to "Articles," "Sections" and "Exhibits" of this Agreement. All Exhibits hereto are incorporated herein by reference.

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Section 6.04 Pronouns and Plurals. Whenever the context may require, any pronoun used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns, pronouns, and verbs shall include the plural and vice versa.

Section 6.05 Further Action. The parties shall execute all documents, provide all information, and take or refrain from taking all actions as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 6.06 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives, and permitted assigns.

Section 6.07 Integration. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

Section 6.08 Creditors. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Partnership.

Section 6.09 Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement, or condition.

Section 6.10 Counterparts. This agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart.

Section 6.11 Applicable Law. Subject to Section 6.12, this Agreement shall be construed in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law.

Section 6.12 Dispute Resolution. The following procedures shall be used to resolve any controversy or claim ("***Dispute***") arising out of, relating to or in connection with the Agreement or otherwise involving the Partnership, its Partners and/or any GP Party. If any of these provisions are determined to be invalid or unenforceable, the remaining provisions shall remain in effect and binding on the parties to the fullest extent permitted by law.

(a) Mediation.

(i) Any Dispute shall be submitted to mediation by written notice to the other party or parties. In the mediation process, the parties will try to resolve their differences voluntarily with the aid of an impartial mediator, who will attempt to facilitate negotiations. The mediator will be selected by agreement of the parties. If the parties cannot agree on a mediator, a mediator shall be designated by JAMS/Endispute at the request of a party using, if necessary, strike and rank procedures then in effect.

(ii) The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute.

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(iii) The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings.

(iv) Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties.

(b) Arbitration.

(i) If a Dispute has not been resolved within 90 days after the written notice beginning the mediation process (or a longer period, if the parties agree to extend the mediation), the mediation shall terminate and the dispute will be settled by arbitration. A party who files a suit in court regarding a Dispute rather than in arbitration waives its claim and must pay all attorney's fees and costs incurred by the other party in seeking to have such suit dismissed. Under no circumstances will a party maintain its right to pursue his/her/its Dispute if that party initiates a judicial suit instead of complying with the mediation and arbitration provisions herein. The arbitration will be conducted through JAMS/Endispute in accordance with the procedures in this document and the commercial dispute arbitration rules then in effect ("***Arbitration Rules***"). In the event of a conflict, the provisions of this document will control.

(ii) The arbitration will be conducted before a panel of three arbitrators, regardless of the size of the dispute, to be selected as provided in the Arbitration Rules. Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation, or enforceability of these procedures, including any contention that all or part of these procedures are invalid or unenforceable, shall be governed by the Federal Arbitration Act ("***FAA***"), and resolved by the arbitrators. Under no circumstances will a state arbitration act preclude application of the FAA, including any choice of law provisions in this agreement, or any other agreement. No potential arbitrator may serve on the panel unless he or she has agreed in writing to abide and be bound by these procedures.

(iii) The arbitrators may not award non-monetary or equitable relief of any sort. They shall have no power to award punitive damages or any other damages not measured by the prevailing party's actual damages, and the parties expressly waive their right to obtain such damages in arbitration or any in other forum. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitrators have power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction. The arbitrator(s) shall be required to state in a written opinion all facts and conclusions of law relied upon to support any decision rendered. Any dispute over whether the arbitrator(s) has failed to comply with the foregoing will be resolved by summary judgment in a court of law.

(iv) The parties involved in arbitration shall split all arbitration costs and arbitrator's fees, subject to a final arbitration award on who should bear costs and fees. All proceedings shall be conducted in Dallas, Texas, or another mutually agreeable site. Each party shall bear its own attorneys fees, costs and expenses, including any costs of experts, witnesses and/or travel, subject to a final arbitration award on who should bear costs and fees. The duty to arbitrate described above shall survive the termination of this Agreement. This provision is intended to supersede any rights under Texas Civil Practices and Remedies Code § 38.001(8), which rights the parties expressly waive.

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(v) Only limited discovery will be allowed in connection with the arbitration unless the arbitration panel, upon a showing of substantial need, expressly authorizes it. In any event, there shall be no more than (1) two party depositions of six hours each. Each deposition is to be taken pursuant to the Texas Rules of Civil Procedure; (2) one non-party deposition of six hours; (3) twenty-five interrogatories; (4) twenty-five requests for admission; (5) ten requests for production. In response, the producing party shall not be obligated to produce in excess of 5,000 total pages of documents. The total pages of documents shall include electronic documents; and (6) one request for disclosure pursuant to the Texas Rules of Civil Procedure. Any discovery not specifically provided for in this paragraph, whether to parties or non-parties, shall not be permitted.

(vi) All aspects of the arbitration shall be treated as confidential, including its institution and/or settlement. Neither the parties nor the arbitrators may disclose the existence, content or results of the arbitration, except as necessary to comply with legal or regulatory requirements. Before making any such disclosure, a party shall give written notice to all other parties and shall afford such parties a reasonable opportunity to protect their interests. In the event a party who recovered monies by settlement, award by the arbitration panel, or otherwise in connection with the Dispute violates this confidentiality term, he, she, or it shall refund all such sums recovered. The parties expressly intend to waive the right to retain any monies received through settlement, award by the arbitration panel, or otherwise in connection with the Dispute in the event that that party violates the aforementioned confidentiality term.

(vii) The result of the arbitration will be binding on the parties, and judgment on the arbitrators' award may be entered in any court having jurisdiction. In addition, the Partnership or such applicable affiliate thereof may also pursue a restraining order and/or other injunctive relief in a court of law, if such remedy is deemed appropriate by the arbitrators.

Section 6.13 Invalidity of Provisions. If any provision of this Agreement is declared or found to be illegal, unenforceable, or void, in whole or in part, then the parties shall be relieved of all obligations arising under that provision, but only to the extent that it is illegal, unenforceable, or void, it being the intent and agreement of the parties that this Agreement shall be deemed amended by modifying that provision to the extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substituting therefor another provision that is legal and enforceable and achieves the same objectives.

[Remainder of Page Intentionally Left Blank.
Signature Page Follows.]

THIS DOCUMENT IS A CONFIDENTIAL FILING. ACCESS IS PROHIBITED EXCEPT AS AUTHORIZED BY COURT ORDER.

HCLOM00269422

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement to be effective as of the date and year first written above.

GENERAL PARTNER:

ACIS CAPITAL MANAGEMENT GP, LLC,
a Delaware limited liability partnership

By:_____
James D. Dondero, President

LIMITED PARTNERS:

THE DUGABOY INVESTMENT TRUST

By:_____
Name: James D. Dondero
Title: Trustee

_____
MARK K. OKADA

_____
JOSHUA N. TERRY

THIS DOCUMENT IS A CONFIDENTIAL FILING. ACCESS IS PROHIBITED EXCEPT AS AUTHORIZED BY COURT ORDER.

SPOUSE'S AGREEMENT

Reference is made to that certain Agreement of Limited Partnership of Acis Capital Management, L.P. (the "***Agreement***"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 21st day of January, 2011.
to be effective

PARTNER:



MARK K. OKADA

SPOUSE OF PARTNER:



PAMELA OKADA

THIS DOCUMENT IS A CONFIDENTIAL FILING. ACCESS IS PROHIBITED EXCEPT AS AUTHORIZED BY COURT ORDER.

SPOUSE'S AGREEMENT

Reference is made to that certain Agreement of Limited Partnership of Acis Capital Management, L.P. (the "***Agreement***"). In consideration of the terms of the Agreement, in consideration of the Partnership's allowing the undersigned Partner to become a Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms of the Agreement as though parties thereto.

Executed as of the 21st day of January, 2011.
to be effective

PARTNER:

JOSHUA N. TERRY

SPOUSE OF PARTNER:

JENNIFER TERRY

THIS DOCUMENT IS A CONFIDENTIAL FILING. ACCESS IS PROHIBITED EXCEPT AS AUTHORIZED BY COURT ORDER.

EXHIBIT A

Partnership Percentage Interests

General Partner	**Ownership Percentage**
Acis Capital Management GP, LLC	0.1%
Limited Partners	
The Dugaboy Investment Trust	59.9%
Mark K. Okada	15.0%
Joshua N. Terry	25.0%
Total	**100.0%**

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HCLOM00269426

EXHIBIT B

ADDENDUM
TO THE
AGREEMENT OF LIMITED PARTNERSHIP
OF
ACIS CAPITAL MANAGEMENT, L.P.

THIS ADDENDUM (this "***Addendum***") to that certain Agreement of Limited Partnership of Acis Capital Management, L,P., dated to be effective as of _____, 2011, as amended from time to time (the "***Agreement***"), is made and entered into as of _____ day of _____, 20__, by and between Acis Capital Management GP, LLC, as the sole General Partner (the "***General Partner***") of Acis Capital Management, L.P. (the "***Partnership***"), and _____ (except as otherwise provided herein, all capitalized terms used herein shall have the meanings set forth in the Agreement).

RECITALS:

WHEREAS, the General Partner, in its sole and unfettered discretion, and without the consent of any Limited Partner, has the authority under (i) Section 4.05 of the Agreement to admit Additional Limited Partners, (ii) Section 4.07 of the Agreement to admit Substitute Limited Partners and (iii) Section 6.01 of the Agreement to amend the Agreement;

WHEREAS, the General Partner desires to admit _____ as a Limited Partner holding a _____% Percentage Interest in the Partnership as of the date hereof; provided, that such Limited Partner shall be limited to being a "Profits Interest Partner" for purposes of the Agreement (such interest, the "***Subject Interest***")

WHEREAS, desires to become a Limited Partner and be bound by the terms and conditions of the Agreement; and

WHEREAS, the General Partner desires to amend the Agreement to add as a party thereto.

AGREEMENT:

RESOLVED, as a condition to receiving the Subject Interest in the Partnership, acknowledges and agrees that he/she/it (i) has received and read a copy of the Agreement, and (ii) shall be bound by the terms and conditions of the Agreement; and be it

FURTHER RESOLVED, the General Partner hereby amends the Agreement to add _____ as a Limited Partner being a Profits Interest Partner, and the General Partner shall attached this Addendum to the Agreement and make it a part thereof; and be it

FURTHER RESOLVED, this Addendum may be executed in any number of counterparts, all of which together shall constitute one Addendum binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart.

THIS DOCUMENT IS A CONFIDENTIAL FILING. ACCESS IS PROHIBITED EXCEPT AS AUTHORIZED BY COURT ORDER.

HCLOM00269427

IN WITNESS WHEREOF, the undersigned have executed this Addendum as of the day and year above written.

GENERAL PARTNER:

ACIS CAPITAL MANAGEMENT GP, LLC

By:_____
Name: _____
Title:_____

NEW LIMITED PARTNER:

_____

AGREED AND ACCEPTED:

In consideration of the terms of this Addendum and the Agreement, in consideration of the Partnership's allowing the above signed Person to become a Limited Partner of the Partnership, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned shall be bound by the terms and conditions of the Agreement as though a party thereto.

SPOUSE OF NEW LIMITED PARTNER:

_____

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HCLOM00269428

EXHIBIT 26

October 20, 2017

VIA EMAIL AND FIRST CLASS MAIL

NOTICE TO ALL PARTIES
(Please See Service List)

Re: ***Terry, Joshua N. vs. Highland Capital Management, LP., et al.***
JAMS Ref. No.: 1310022713

Dear Counsel:

Enclosed please find the **Final Award** executed by the arbitrator.

Please feel free to contact me should you have any questions.

Thank you,

Judy E. Stephenson
Senior Case Manager
jstephenson@jamsadr.com

Enclosure

JAMS

TERRY, JOSHUA N.	§	
	§	
Claimant,	§	
	§	
v.	§	**JAMS ARBITRATION NO. 1310022713**
	§	
HIGHLAND CAPITAL MANAGEMENT, LP, ACIS CAPITAL MANAGEMENT, LP, ACIS CAPITAL MANAGEMENT GP, LLC, DONDERO JAMES D. as TRUSTEE/THE DUGABOY INVESTMENT TRUST and OKADA, MARK K.	§	
	§	
Respondents.	§	

FINAL AWARD

Parties and Counsel: The parties are identified in the caption and are represented as follows:

Brain P. Shaw
Rogge Dunn
Clouse Dunn LLP
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Email: rogge@clousedunn.com
Counsel for Claimant, Joshua N. Terry

Paul B. Lackey
Jamie R. Welton
Bruce E. Bagelman
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3102 Oak Lawn Avenue, Suite 777
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Phone: 214-560-2201; Fax: 214-560-2203
Email: pbl@lhlaw.net
Email: jrw@lhlaw.net

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AND

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Phone: 214-659-4400; Fax: 214-659-4401
Email: marckatz@andrewskurth.com
Email: robhoffman@andrewskurth.com
Counsel for Respondents, Highland Capital Management, LP, ACIS Capital Management, LP, ACIS Capital Management GP, LLC, Dondero, James D. as Trustee/The Dugaboy Investment Trust, and Okada, Mark K.

Arbitrator:

Hon. Harlan Martin
Hon. Glen M. Ashworth (Ret.)
Hon. Mark Whittington (Ret.)
JAMS
8401 N. Central Expressway, Suite 610
Dallas, Texas 75225
Telephone: 214-744-5267; Fax: 214-720-6010

Case Manager:

Judy Stephenson
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HEARING

In accordance with the Parties' agreement to arbitrate and Court Order, disputes between Claimant, Joshua N. Terry ("Terry") and Highland Capital Management, LP, ("Highland"), ACIS

Capital Management, LP ("ACIS"), ACIS Capital Management GP, LLC ("ACIS GP"), James Dondero, as Trustee of the Dugaboy Investment Trust ("Trust"), and Mark K. Okada ("Okada"), all Respondents were submitted to binding arbitration before JAMS. The Arbitration Panel members are the Hon. Glen M. Ashworth (Ret.), the Hon. Mark Whittington (Ret.) and the Hon. Harlan Martin (Former), serving as Chairman of the Panel.

The arbitration hearing was conducted in Dallas, Texas on the dates of September 2, 3, 6, 7, 8, 11, 12, 13, 14 and 15, 2017, with additional briefing submitted thereafter. The briefing was closed and the hearing was complete on September 28, 2017.

PROCEDURAL BACKGROUND

In Cause No. DC-16-11396, styled Highland Capital Management, LP vs. Joshua N. Terry, the 162nd Judicial District Court stayed the litigation and Ordered the parties to arbitration.

The Panel has previously dismissed all claims stated by Terry against Jams Dondero, individually. James Dondero is not an appropriate party to this proceeding and did not obligate himself to the Parties' arbitration agreement.

The Panel has previously dismissed Terry's claims for Declaratory Judgment relief.

The Panel has previously dismissed Terry's claims for Exemplary Damages, as same are an excluded remedy by the terms of the Parties' arbitration agreement.

The Panel has previously denied Respondents' Motion to Disqualify Clouse Dunn and ruled that the firm is not disqualified to represent Terry.

The Panel has declined to entertain any request for injunctive relief.

REMAINING CLAIMS STATED BY PARTIES

Terry states claims against Highland for Sabine Pilot wrongful termination and seeks damages for deferred compensation, unpaid wages, future wages and reimbursement of benefits not paid. Terry states claims against ACIS, ACIS GP and Highland for reputational damages, resulting from statements published in the pending District Court litigation and a press release to Law 360.

Terry states claims against ACIS, ACIS GP, Trust and Okada for breach of contract and seeks damages for amounts due under the terms of the ACIS LPA and damages resulting from overcharging expenses and withholding of retirement assets.

Terry states claims against ACIS and ACIS GP for fraud.

Terry states claims against ACIS GP for breach of fiduciary duty.

Terry states claims against ACIS, ACIS GP and Highland for conversion of assets, fraudulent transfer of ACIS assets, recovery of his attorney's fees and costs, together with pre and post award interest.

Highland states claims against Terry, "subject to, and without waiver of its contention that Highland is not a party to a valid arbitration agreement with Terry and its claims against him are not arbitrable or within the scope of any applicable arbitration agreement, which contentions remain fully reserved." With this reservation, Highland states claims against Terry for breach of employment agreement, theft/theft of trade secrets, breach of fiduciary duty/self-dealing and recovery of its attorneys' fees and costs together with pre and post award interest.

BACKGROUND FACTS

Terry began his employment with Highland in 2005. During the ensuing years he achieved remarkable success and ultimately became Highland's most productive portfolio manager and had direct responsibility for more than ten billion dollars of assets under his management.

In 2011, Terry, James Dondero and Okada formed ACIS as a registered investment advisor to raise money from third-party investors to invest in collateralized loan obligations, (CLOs). ACIS earns a fee for managing the loans.

As the general partner of ACIS, ACIS GP owned .1%. As limited partners of ACIS, Trust owned 59.9%; Okada owned 15% and Terry owned 25%.

James Dondero owned 100% of Trust and was an officer of ACIS GP, and in fact made or approved the financial strategies and decisions of ACIS. While Okada was less active, Terry was responsible for the day-to-day management of ACIS. Terry managed well, attracted significant investors and grew ACIS assets under his management from nothing to three billion seven hundred million dollars in less than six years.

Prior to 2016, Terry enjoyed a good relationship with Dondero. Terry had never been criticized, written up or disciplined during his eleven years of employment with Highland. Terry had been paid millions of dollars in Highland salary, bonuses and ACIS profit distributions, as he had produced many more millions for Highland and his ACIS partners.

Thereafter, tensions arose between Terry and Dondero which were centered in Dondero's plans to have Trussway Holdings, Inc. acquire Targa, a Brazilian latex manufacturer, out of bankruptcy. Trussway is a Highland affiliated company controlled by Dondero. The plan was to have Highland managed CLOs loan Trussway approximately seventeen million dollars so

Trussway could loan a Highland affiliated Brazilian entity the money to acquire Targa and have Trussway use its cash to acquire its own equity to effectively increase Highland's ownership in Trussway.

At this time, Trussway's only lenders were the Highland CLOs and it owed the Highland CLOs approximately fifty six million dollars in Trussway notes coming due on May 31, 2016. Trussway did not have the money to pay the notes. Trussway did have more than twenty three million dollars still available on its revolver note (credit line), with the Highland CLOs. Dondero's plan was to extend the notes then due within days and finance Trussway's acquisition of Targa by drawing down the revolver funds. Dondero's plan was to not pay any of the CLOSs' notes until such time as Trussway could be refinanced or sold.

All of the Highland CLOs lending to Trussway were "pre-crisis" 2009, CLOs. One of the CLOs, Pamco-Cayman, had matured years before and its notes were in technical default. Another, Vahalla was maturing within four months.

Terry was opposed to Dondero's plan and saw a need to vigorously oppose the plan. Terry was the portfolio manager of these Highland CLOs and was convinced it would be a breach of his fiduciary duty to allow the Pamco-Cayman and Vahalla notes to be extended, as they were past or near maturity. Terry's opposition escalated at the May 2016 Conflicts Committee meeting and having been told that outside counsel had approved the transaction, Terry was sure they could not know all of the facts. Terry then informed outside counsel of "the facts" and his opposition to Dondero's plan. Outside counsel was in agreement with Terry and thereafter, on June 9, 2016, the Conflicts Committee approved the Trussway/Targa Transaction, but with the Pamco-Cayman and Vahalla notes being paid off and not extended. Thus, less cash was available to Dondero to fund his plan.

On June 9, 2016, following the Conflicts Committee meeting, Dondero told Terry that "he had lost all trust in him"; that "he could not go through another conflicts process with him"; and "it was best that Terry work with Surgent, Highland's Chief Compliance Officer (CCO), on an exit or transition out of Highland." The next day, Dondero emailed Terry and told him to focus on a "clean break scenario" and not come back to the office. On June 13, 2106, Terry received an email from Highland's Human Resources (H/R) director advising that he had been terminated for cause, but that Highland was "willing to consider the separation package previously offered", presumably referring to CCO Surgent's email of June 10, 2106, wherein he acknowledges that, "We are in agreement that we would like the termination of this relationship to be amicable." On June 13, 2016, Terry communicates with Dondero protesting his termination and demanding he be paid by Highland and ACIS. Thereafter, Highland's outside counsel sent a letter to Terry's counsel, demanding the return of all Highland related documents in the possession of Terry. Terry's counsel responds and reminds Highland's counsel of Terry's prior offer to return appropriate documents to Highland, and suggests a protocol for managing the electronically stored documents and electronic devices in possession of ESI, a third party forensics vendor, and demands redemption of Terry's and his wife's retirement account investments in ACIS CLO Value Fund II (CLOVF). Terry first requested redemption of these retirement account investments on June 20, 2016.

Thereafter, on June 27, 2016, Terry returns documents to Highland and continues to await an agreement on ESI return protocols. However, on July 27, 2016, Highland's counsel rejects the proposed ESI return protocols and does not suggest alternate protocols. In the same e-mail string, Highland's counsel responds to Terry's request for redemption of the retirement investments in CLOVF, advising that; "we do not contest that Mr. Terry has submitted a request

for redemption in full of all of his accounts. However, please note that those accounts do not have any value." On September 1, 2016, the CCO, for the first time, memos Terry's "compliance file" with allegations of Terry's breach of fiduciary duty, self-dealing and material compliance violations regarding the CLOVF. This memo alleges an investor loss in the CLOVF attributed solely to Terry's actions and that Highland in part offset such loss against "Mr. Terry's" remaining interest in the CLOVF, "in accordance with Section 3.5(c) of the Agreement of Limited Partnership." Thus, Terry's and his wife's retirement investment in the CLOVF was swept by Highland or others and "those accounts have no value," as stated in Highland's counsel's email of July 27, 2016.

On September 7, 2016, the Parties mediated their dispute, but did not settle. The next day Highland filed suit against Terry alleging the same facts which the CCO alleged in his September 1, 2016 memo, and alleging Terry had a sexual relationship with a number of his subordinates, and alleging that Terry made disparaging/disrespectful remarks about Dondero. Highland's suit stated claims for breach of employment agreement, breach of fiduciary duty/self-dealing, violation of the Texas Uniform Trade Secrets Act and sought declaratory relief that Terry was terminated for cause.

On September 12, 2106, Highland files its Application for Temporary Restraining Order and Motion to Disqualify Terry's attorneys, and Terry files his Motion to Compel Arbitration. On September 28, 2106, the Court issued its Order compelling the Parties to arbitration and Ordered the litigation (Cause No. DC-16-11396, 162nd Judicial District Court) stayed pending a Final Award in Arbitration.

ANALYSIS OF FACTS AND CLAIMS

The Panel first addresses Terry's claims for breach of contract stated against ACIS and ACIS GP and breach of fiduciary duty stated against ACIS GP.

The evidence establishes that Highland terminated Terry's employment on June 9, 2016. The ACIS Limited Partnership Agreement (LPA), Section 4.04 requires that, "upon the resignation, death, disability or termination of employment with the Partnership or any Affiliate Employer (for any reason whatsoever) (as such event, a 'Removal Event') of any Limited Partner, the Partnership Interest of such Limited Partner shall automatically be forfeited to the Partnership and such Limited Partner shall be entitled to receive in consideration of such interest an amount equal to (i) 100% of such Limited Partners Percentage Interest of all Net Available Cash through the first year end following the Removal Event, (ii) 66 2/3% of such Limited Partner's Percentage Interest of all Net Available Cash through the second year end following such Removal Event, (iii) 33 1/3% of such limited Partner's Percentage Interest of Net Available Cash through the third year end following such Removal Event…; provided, that if the basis of such Removal Event was termination of employment with the Partnership or any Affiliate Employer for cause…such partner shall automatically forfeit its right to any further compensation or consideration for its Partnership Interest."

Because Highland stated that Terry was terminated for cause, ACIS and ACIS GP invoked the provided clause and deemed all of Terry's limited partnership interest and entitlement to payout as forfeit. Thus, ACIS and ACIS GP claim to owe Terry nothing for his 25% limited partnership interest in ACIS, as Terry claims he is contractually owed twelve million nine hundred and eight two thousand dollars for his 25% limited partnership interest in ACIS.

The evidence establishes that ACIS and ACIS GP did not just simply rely on Highland's statement of terminating Terry for cause. ACIS and ACIS GP became part of Highland's and

Dondero's efforts to construct a pretext of "for cause" termination so Terry could be denied the value of his limited partnership interest in ACIS. ACIS and ACIS GP knowingly and willingly pretextually characterized Terry's termination from Highland as a "for cause" termination to deny Terry the value of his limited partnership interest, all in contractual breach of the ACIS LPA and in breach of fiduciary duty to Terry as its limited partner. ACIS and ACIS GP have no employees. All who act for ACIS and ACIS GP are officers or employees of Highland and perform multiple roles.

The evidence establishes that Highland's termination of Terry was, in fact, pre-textual, without basis of cause and only because Dondero wanted him gone. Terry's opposition to Dondero's Trussway/Targa plan was not self-dealing and not a breach of fiduciary duty. Terry's opposition to Dondero's plan to not pay investors and extend past due and near due notes was appropriate and was ultimately accepted by all to be the correct approach to complete the Trussway/Targa acquisition. Dondero was simply angry and realized Terry was not a "yes man" willing to let Dondero have his wrongheaded way, so Dondero fired Terry on the spot and later sought to characterize Terry's termination of employment as "for cause."

Respondents' offer to prove that Terry's termination was "for cause" is not persuasive. The contrasts between the true facts and their temporal relationship to Terry's termination, as those "facts" are characterized by Respondents as a predicate for his "for cause" termination, are not credible. The CCO's memo to Terry's file of September 1, 2016 was the first documentation of his alleged breach of fiduciary duty or self-dealing as a justification for his "for cause" termination.

There is no credible evidence that anyone ever discussed any prior sexual relationship between Terry and a co-worker, other than Terry in a "father/son" talk with Dondero in January 2015. That admitted relationship had ended months earlier, was not significant to Dondero and he told Terry there was no need to report the relationship to Human Resources. Respondents alleged

other sexual relationships between Terry and co-workers which are denied by Terry. One is alleged to have occurred in 2011, but there is no credible evidence that it even occurred. It is simply not credible that a rumored relationship four years prior was any motivation for or could be any justification for Terry's "for cause" termination. Respondents' allegation that Terry had a sexual relationship with a Highland junior attorney is most offensive, as the relationship did not occur and was denied by both Terry and the junior attorney. This allegation was based solely on someone's fantasy related to costumes they wore at an office Halloween party and their common attendance at a business conference. It is not credible that a sophisticated CCO and H/R director would reasonably rely on such as a basis for Terry's "for cause" termination and resulting forfeiture of the value of his limited partnership interest in ACIS. The evidence establishes that Terry did not have a sexual relationship with the junior attorney, and the Respondents or others, in good faith, could not have reasonably believed he did.

The Panel is persuaded that the Respondents, feeling need to find motive for the junior attorney's assistance of Terry and her involvement in the CLOVF restructure, sponsored these allegations to support their claims that Terry was seeking the restructure of the CLOVF out of self-interest and in breach of his fiduciary duties, and establish the motives of the junior attorney in "knowingly" facilitating Terry's alleged breach of duty. This is a pretextual construct of the CCO and is simply not credible.

The proposed restructure of the CLOVF began in early 2015 and was always known by Dondero, Highland's legal department and CCO. The CLOVF was small, only had a few investors, was subject to investor redemption requests, had been co-opted to be supported by Highland employee's investment of their retirement accounts and not structured in a way to attract a target

group of investors. The proposal was to restructure the CLOVF to make it more "hedge fund like", and grow the CLOVF with new investors.

The CLOVF routinely paid profit distributions to its investors. This is not "hedge fund like" because profits were distributed rather than retained to be reinvested for growth. The two primary investors, referred to as Rampart and Kyser did not require routine distributions and sought growth. Highland employees had access to investing in the CLOVF by investing in its ITA retirement accounts, which were basically IRAs. Employee investors who wished to invest more in their ITA retirement accounts were required to invest in the CLOVF's interest bearing notes at a ratio of 80% notes to support 20% investment in their ITA retirement accounts. If the CLOVF was to no longer distribute profits to accomplish "hedge fund like" reinvestment for growth, no distributions would be available to pay interest on the employee investment notes and the notes would need to be paid off. If there was no longer a vehicle to support aggressive employee investment in the CLOVF (the four to one ratio), the ITA did not need to continue to exist. The employee's retirement accounts could simply be redeemed or transferred to other IRAs.

Terry was the portfolio manager of the CLOVF and its third largest investor. Like other investors, Terry had rights to redeem his investment, but he did not seek to redeem and continued to invest in CLOVF notes and he and his wife continued to invest their retirement funds in the ITA. Nonetheless, Respondents allege that a dichotomy of interest led Terry to lie and scheme to have his investment in the CLOVF paid while others were encouraged to invest. This is the substance of Respondents' allegations of Terry's self-dealing and breach of fiduciary duty, supporting both their allegations of "for cause" termination and Highland's claims for damages and offset in the District Court suit. As noted, these claims were never documented or disclosed to Terry prior to the CCO's memo of September 1, 2016, and Highland's District Court suit.

As noted, the proposed restructure of CLOVF began in early 2015 and continued for a year thereafter. The business purpose of the restructure was well known to Dondero and the CCO. As early as the fall of 2015, Dondero and Terry were discussing the appropriateness of continuing the CLOVF without new investors. Dondero did not want to close the CLOVF and suggested that the DAF would become a major investor. The DAF (Donor Advised Fund), CLO Hold Co is the Parties' reference to a group of charitable foundations which were invested in Highland managed CLOs. The DAF's trustee is a Highland employee and Dondero's former college roommate. Apparently, Dondero knew he could direct the DAF's investment in the CLOVF and support its continuation. Dondero and the Highland CCO were aware of the planned restructure and its consequential effect on the ITA and the employee investor notes supporting the employee's retirement investments in the ITA. By December 2015, Dondero approves the restructure plan, payment of employee investor notes and the windup of the ITA. The Highland CCO expresses concern that Rampart's and Kyser's written approval is necessary for the CLOVF to stop paying profit distributions. Later the necessary approval is documented, apparently to the CCO's satisfaction, and the restructure plan proceeds. The DAF contributes sixteen million six hundred thousand dollars of Highland managed assets to the CLOVF, employee investor notes are paid and the ITA is wound up by the end of April 2016.

Following Terry's termination and later notice of "for cause" termination, Terry requested redemption of his and his wife's remaining investments in the CLOVF. Five weeks later, on July 27, 2016, he is advised that his investment has no value. Apparently, when the ITA was wound up in late April, Terry's and his wife's retirement investments were somehow re-characterized as Terry's capital account in the ACIS CLO Value Master Fund II, L.P. or his capital account in the CLOVF.

On or about July 19, 2106, Highland rescinded the DAF contributions to the CLOVF and returned the contributed assets to the DAF. Respondents state this rescission was necessary because they had "recently discovered (a) conflict of interest regarding an ex-employee." However, the Rescission Agreement itself recites that, "the Parties have each determined that it is in their respective best interests of each of the Parties to rescind and cancel the Contribution."

Incident to the rescission, the CLOVF returned all of the contributed assets to the DAF and paid in cash or transfer of additional assets the total value of seven hundred and eight thousand dollars, "to make the DAF whole", and economically in the same position as before its contribution to the CLOVF.

The "recently discovered conflict of interest" is the CCO's recent epiphany that Terry must have lied when he advised that the CLOVF investors Rampart and Kyser "requested" that distributions be terminated to accommodate reinvestment growth. The CCO's testimony that he called these investors and confirmed this lie is not persuasive and begs credibility. The only documented evidence are the investors written approvals which the CCO required.

The July 27, 2016 advice that Terry's and his wife's retirement accounts had no value is only accurate because the value was taken and used to pay the DAF following the rescission. In the District Court suit, Highland states a claim for damages and offset for the additional value paid to the DAF. Respondents' witness testified that the retirement fund's value was in Terry's capital account and it was swept pursuant to Section 3.5(c) of the ACIS CLO Value Master Fund II, L.P.'s limited partnership agreement.

Terry is a limited partner in the CLOVF and the CLOVF is a limited partner in the ACIS CLO Value Master Fund II (CLOVMF) but the evidence does not show Terry to be a partner in the CLOVMF. Assuming that Terry is a partner, as referenced in Section 3.5(c), Respondents' claimed

authority to sweep the accounts in satisfaction of or offset of damage or loss is directly dependent upon a nexus in causation between the alleged damage or loss and the conduct of Terry.

The evidence establishes that the CCO's claims of "recently discovered conflict of interest" is yet another construct and pretext to support Respondents' denial of limited partnership value based on a "for cause" termination and was not in fact the reason for the DAF rescission. It would make little difference to Highland which of its CLOs managed the DAF investments. Dondero simply reconsidered his decision to support the continuation of the CLOVF with Highland managed funds and realized, that in fact, as Terry had advised, the fund would be too small to manage without significant investors. The CLOVF was ultimately closed out because Dondero did not see benefit to its continuation. The evidence establishes that no conduct of Terry was a cause of damage or loss to the CLOVMF or the CLOVF.

Section 3.10(a) of the ACIS LPA limits compensation and reimbursement of expenses payable to the General Partner and any Affiliate of the General Partner to an amount not to exceed 20% of Revenues without the consent of all members of the Founding Partner Group. There is no dispute that Terry is a member of the Founding Partner Group. There is no evidence that Terry offered written consent to any expenses paid by ACIS in excess of 20% of Revenues. It is undisputed that ACIS habitually paid more than 20% of Revenues to Highland for providing ACIS with overhead and administration. Respondents' evidence and arguments that Terry waived or consented to ACIS's payment of excess expenses is not persuasive. At most, Terry accepted his ACIS distributions without regard to the expenses paid to Highland. This is not consent contemplated by the ACIS LPA. Highland is owned 75% by Dondero and 25% by Okada and Terry is not a partner in Highland. Terry had no reason to consent to excess expenses being paid to Highland. Additionally, the ACIS LPA has an express waiver clause at Section 6.09 which states,

"Waiver. No failure by any party to insist upon strict performance of any covenant, duty, agreement, or condition of this Agreement or exercise of any right or remedy consequent upon breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement, or condition."

The evidence establishes that Terry did not consent to ACIS payments of expenses in excess of 20% of Revenue and Terry has not waived his right to claim damages directly resulting from ACIS' and ACIS GP's breach of contract and breach of fiduciary duty. Clearly ACIS and ACIS GP ignored Terry's contractual rights and ACIS GP as a general partner has a fiduciary duty not to benefit itself or another at the expense of its limited partner, as they ignore and breach the terms of the partnership agreement and diminish Terry's distributions.

The Panel next addresses Terry's claim for conversion of the ITA retirement accounts stated against Highland, ACIS and ACIS GP.

Without again reciting the convoluted structure and history of the ITA retirement accounts in issue, it is established that there is no remaining value to the accounts because its value was swept and used by Highland or CLOVF to pay the DAF incident to the DAF rescission. It is noted that Respondents argue and offer to prove that Terry has no standing to state a claim for conversion of three of the five accounts because his wife is the trustee and owner of those three accounts. She is the trustee and owner of those accounts. Yet those accounts too were swept to pay the DAF and construct a pretextual damage and offset claim for having paid the DAF. While this establishes conversion of the accounts to the damage of Terry and his wife, the converters (CLOVF, CLOVMF, ACIS CLO VF GP), are not parties to this arbitration. The claims for breach of contract and conversion and damages should be stated against those parties or others, elsewhere.

The Panel next addresses Terry's claims for reputational damages and fraudulent transfer stated against Highland, ACIS and ACIS GP.

The evidence establishes that Highland and not ACIS or ACIS GP was the publisher of any false or defamatory statements. Whether those statements in pleadings or press release to Law360 are actionable against Highland is a matter deferred for the District Court suit. Terry's claims for reputational damages stated against ACIS or ACIS GP are not proved.

Terry states a claim against Highland, ACIS and ACIS GP for the fraudulent transfer or conveyance of assets under the Texas Fraudulent Transfer Act. In October 2016, ACIS sold to Highland a participation interest in ACIS's Service Fees (management fees) which ACIS would receive between November 2016 and through August 2019. This sale of a participation interest represents near one-half of ACIS revenues during the covered period. Highland is to pay, in cash and promissory note with interest at 3%, ACIS a total of thirteen million three hundred and thirty three thousand dollars, plus interest for the participation interest. Highland's payment is scheduled as follows:

- October 7, 2016 - $666,655.00 – cash at closing
- May 31, 2017 - $3,370,694.00 – principal and interest
- May 31, 2018 - $5,286,243.00 – principal and interest
- May 31, 2019 - $4,677,690.00 – principal and interest

The transactional documents recite business purpose and reasonable consideration for the sale. Terry offers no evidence that ACIS did not receive reasonable equivalent value in the transaction or that ACIS made the transfer with "actual intent to hinder, delay or defraud." Terry has not proved a claim for fraudulent transfer or conveyance.

The Panel next addresses Terry's claims for wrongful termination and resulting damages stated against Highland.

Terry's employment with Highland was "At Will" and he could have been terminated for any reason other than an unlawful reason. Terry did not prove that the sole reason for his termination was his refusal to commit an illegal act, as is required under Sabine Pilot. The evidence establishes that Dondero terminated Terry because he was angry with Terry's opposition to his Trussway/Targa acquisition plan and he wanted Terry gone. "At Will" employment contemplates that if the boss wishes, one's employment is terminated and the termination is not actionably wrongful. Even as an "At Will" employee, Terry may have claims for damages against Highland for his unpaid severance, unused vacation, deferred compensation and unreimbursed expenses, but these claims are a matter deferred for the District Court suit. Terry's claims stated against Highland for Sabine Pilot wrongful termination are not proved.

Although Trust and Okada are limited partners in ACIS and are named as Respondents in this arbitration, Terry has failed to offer any evidence of actionable claims against Trust or Okada. All claims stated by Terry in this arbitration against Trust or Okada are not proved.

The Panel next addresses Highland's claims for breach of employment agreement, theft/theft of trade secrets and breach of fiduciary duty stated against Terry.

Although Highland is a party to the District Court suit Ordered to arbitration, Highland is not a party to an arbitration agreement and has stated claims against Terry with the above noted reservation, "subject to and without waiver." To the extent these claims are stated in this Arbitration in affirmative avoidance of Terry's claims stated against ACIS and ACIS GP they are addressed in this Award.

The evidence does not establish that Terry breached his employment agreement or any fiduciary duty to Highland, ACIS or ACIS GP or that Terry self-dealt in anyway. On the contrary, Terry's actions in opposing Dondero's Trussway/Targa acquisition plan and his efforts to restructure

the CLOVF were reasonable and appropriate and as his portfolio manager duties required. These claims are not proved and are not an affirmative defense or avoidance available to ACIS or ACIS GP.

The evidence does not establish that Terry is guilty of theft or theft of trade secrets. Respondents offered no evidence of a trade secret or a protectable trade secret interest in the documents in issue. Although Highland's claim for turnover is overreaching, it was heard in this Arbitration at Respondents' insistence and the record and all evidence admitted in that preliminary hearing was offered and admitted in the final hearing. This claim is not proved and is not an affirmative defense or avoidance available to ACIS or ACIS GP. Otherwise, the Panel issues its turnover decision in this Award.

The evidence does not establish that any disparaging remarks of Terry were ever communicated to Dondero prior to Terry's termination or that the alleged remarks could have been a reason for Terry's "for cause" termination. All of Respondents' alleged bases of "for cause" termination of Terry's employment are not proved and none are an affirmative defense or avoidance available to ACIS or ACIS GP.

ANALYSIS OF TERRY'S DAMAGES

The Panel only addresses proved claims stated against appropriate Parties to this Arbitration.

Terry has proved his claims stated against ACIS and ACIS GP for breach of contract and claims stated against ACIS GP for breach of fiduciary duty incident to their payment of excess expenses to Highland and their wrongful forfeiture of Terry's contractual right to be paid for his ACIS limited partnership interest.

The evidence establishes that ACIS and ACIS GP paid excess expenses to Highland during the years of 2013, 2014, 2015 and January through May 2016. These expenses paid exceeded the 20% of Revenues cap stated in Section 3.10(a) of the ACIS LPA. The payment of these excess expenses reduced Terry's ACIS partnership distributions during this period. Had excess expenses not been paid and only the contractually capped expenses had been paid, Terry would have received additional ACIS profits distributions of $1,755,481.00 for his 25% partnership interest in ACIS.

The best evidence of the value of the Section 4.04 limited partnership payout is Terry's June 13, 2016 calculations, which he communicated to Dondero within days of his termination. Terry was the portfolio manager of ACIS and as such was most aware of ACIS's financial performance and expected performance within the payout period. The calculations do not include an assumed growth rate of ACIS revenues and are not burdened by Highland's after termination manipulations of ACIS managed assets or ACIS revenues.

The evidence establishes that Terry's ACIS limited partnership payout upon termination had a total value of $5,688,351.00.

Because ACIS and ACIS GP breached the ACIS LPA and ACIS GP breached its fiduciary duty in June 2016 when they repudiated their obligations to their limited partner, Terry's contractual entitlement to payout under the ACIS LPA is liquidated, accelerated and is now fully due.

Additionally, Terry is entitled to pre-award interest at the rate of five percent (5%) per annum from the date of commencement of this Arbitration, September 20, 2016, until entry of Final Award in the amount of $372,192.00.00.

FINDINGS AND CONCLUSIONS

Based upon the Parties' offers of proof, evidence submitted and argument of counsel, the following facts and conclusions are found by these Arbitrators to be established by the evidence to be true and necessary to this Award. To the extent these findings and conclusions differ from any Parties' position that is the result of these Arbitrators determinations as to credibility, relevance, burden of proof considerations, and the weighing of the evidence, both oral and written.

The Arbitration Panel finds and concludes as follows:

1. This dispute is arbitrable pursuant to the Parties' agreement to arbitrate and prior Court Order in Cause No. DC-16-11396, 162nd Judicial District Court, Dallas County, Texas.
2. The Arbitration panel has jurisdiction to resolve all disputes presented and not deferred to the 162nd District Court.
3. JAMS Comprehensive Arbitration Rules and Procedures govern the resolution of this dispute with the law of the States of Texas and Delaware.
4. Prior to his termination on June 9, 2016, Terry was an at will employee of Highland and a 25% limited partner in ACIS.
5. Highland's termination of Terry's employment was not, in fact, "for cause." Highland's stated "for cause" termination of Terry's employment was, in fact, pretextual and for purpose of denying Terry benefits of employment payable at his termination and as a basis for the forfeiture of the value of Terry's limited partnership interest in ACIS.

6. ACIS and ACIS GP knowingly and willingly invoked Highland's false pretext of "for cause" termination to deny Terry the value of his 25% limited partnership in ACIS.
7. ACIS and ACIS GP paid Highland expenses in excess of the contractual limit imposed by Section 3.10(a) of the ACIS LPA.
8. ACIS and ACIS GP wrongfully denied Terry his contractual rights to payment for his limited partnership interest in ACIS and are liable for and owe Terry for same.
9. In breach of contract and fiduciary duties, ACIS and ACIS GP are liable to and owe Terry his ACIS profits distributions which were payable but for the wrongful payment of excess expenses to Highland.
10. ACIS GP's actions were willful and wanton breaches of their fiduciary duties to Terry as their limited partner.
11. All claims stated by Highland, "subject to and without waiver" against Terry are not proved and as such none are an affirmative defense or avoidance of Terry's claims stated against ACIS and ACIS GP.
12. All claims stated by Terry against Trust and Okada are not proved and are denied.
13. All claims stated by Terry against ACIS and ACIS GP for fraudulent transfer or conveyance are not proved and are denied.
14. Terry's fraud claims stated against ACIS and ACIS GP are not proved and are denied.
15. All claims, not denied or awarded, are deferred to the 162nd District Court, Dallas County, Texas or other appropriate venue.

16. ACIS's and ACIS GP's breaches of contract and ACIS GP's breach of fiduciary duties have injured Terry and resulted in damages, together with pre-award interest in the total amount of Seven Million Eight Hundred Sixteen Thousand Twenty-Four Dollars and No/100 ($7,816,024.00).
17. The Parties' agreement to arbitrate does not allow the award of prevailing party attorneys' fees. All claims for attorneys' fees are denied.
18. The Parties' agreement to arbitrate allows the Panel discretion to award the prevailing party costs of arbitration. Terry is entitled to recover his JAMS arbitration cots.
19. Terry is awarded One Hundred Thirty Three Thousand, Seven Hundred Twenty Five and 15/100 Dollars ($133,725.15) for his JAMS arbitration costs.
20. Terry is entitled to recover post-award interest on all amounts awarded herein.

AWARD

TURNOVER:

Claimant, Joshua N. Terry may retain: all recordings of conversations to which he is a party; all agreements to which he is a signatory; all "track record" documents regarding his performance; all documents in the public domain; all documents relating to his investment in or ownership of any Highland affiliated entity; all personal notes or memoranda derived from conversations to which he is a party; all notes or memoranda prepared for and offered to his attorneys.

Except for attorney work product, claimant's attorneys Clouse Dunn LLP may retain copies of all documents which were admitted into evidence in this Arbitration until five business days following the latter of, issuance of this Final Award or final confirmation of this Final Award, no longer subject to appeal. At such time, Clouse Dunn LLP shall turnover these documents to Respondents' attorneys and verify the destruction of electronically formatted documents turned over.

Otherwise, Claimant, Terry, shall turnover all documents, not subject to his awarded right of retention, related to Highland affiliated entities within five business days of entry of this Final Award.

MONETARY AWARD:

Claimant, Joshua N. Terry is Awarded and shall have and recover jointly and severally against Respondents, ACIS Capital Management, LP and ACIS Capital Management GP, LLC, the total sum of Seven Million, Nine Hundred Forty Nine Thousand, Seven Hundred Forty Nine and 15/100 Dollars ($7,949,749.15).

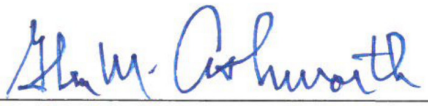
All sums payable by the terms of this Final Award shall accrue post-award interest at the legal rate until fully paid.

All claims for relief, not awarded herein or deferred to the Court, are denied.



Hon. Harlan Martin
Panel Chair

Dated: October 20, 2017



Hon. Glen M. Ashworth (Ret.)
Arbitrator

Dated: October 20, 2017



Hon. Mark Whittington (Ret.)
Arbitrator

Dated: October 20, 2017

PROOF OF SERVICE BY EMAIL & U.S. MAIL

Re: Terry, Joshua N. vs. Highland Capital Management, LP., et al.
Reference No. 1310022713

I, Judy Stephenson, not a party to the within action, hereby declare that on October 20, 2017, I served the attached Cover Letter, Final Award and Proof of Service on the parties in the within action by Email and by depositing true copies thereof enclosed in sealed envelopes with postage thereon fully prepaid, in the United States Mail, at Dallas, TEXAS, addressed as follows:

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Parties Represented:
ACIS Capital Management GP, LLC
ACIS Capital Management, LP
Highland Capital Management, LP
James D. Dondero as trustee/The Dugaboy Inve
Mark K. Okada

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Parties Represented:
ACIS Capital Management GP, LLC
ACIS Capital Management, LP
Highland Capital Management, LP
James D. Dondero as trustee/The Dugaboy Inve
Mark K. Okada

I declare under penalty of perjury the foregoing to be true and correct. Executed at Dallas, TEXAS on October 20, 2017.

Judy Stephenson

Judy Stephenson
jstephenson@jamsadr.com

EXHIBIT 27

STANDARD CUSTODIAL TERMS FOR HIGHLAND CLO MANAGEMENT, LLC

dated as of January 19, 2018

by and between

HIGHLAND CLO MANAGEMENT, LLC
(*"Company"*)

and

U.S. BANK NATIONAL ASSOCIATION
(*"Custodian"*)

STANDARD CUSTODIAL TERMS

Highland CLO Management, LLC, a Delaware series limited liability company (the "*Company*"), acting on behalf of the separate series of the Company set forth on Schedule A attached hereto (each, a "*Series*"), hereby engages U.S. Bank National Association, a national banking association, to act as custodian for each Series (in its capacity as custodian or any successor or permitted assign acting in such capacity, the *"Custodian"*) and provide the custodial services set forth in these Standard Custodial Terms (the "*Standard Terms*"). The Standard Terms are set forth below.

WHEREAS, the Company desires to engage the Custodian to act as custodian for each Series with respect to the Accounts (as defined below), and in that regard the Company desires to engage the Custodian to provide the custodial services specifically set forth in these Standard Terms, upon and subject to the terms of these Standard Terms; and

WHEREAS, the Custodian is willing to act in such capacity as custodian for each Series under and subject to the terms of these Standard Terms;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

SECTION 1. DEFINITIONS.

Section 1.1. The following words have these meanings as used in these Standard Terms:

"Accounts" shall mean, for each Series, the Interest Cash Account, the Principal Cash Account and the Custodial Account.

"Agreement" means this Custodial Account Agreement.

"Authorized Person" shall have the meaning assigned in Section 3.8(a).

"Bond" means a debt security (other than a Loan) issued by a corporation, limited liability company, partnership or trust.

"Business Day" means any day that is not a Saturday or Sunday and is not a legal holiday or a day on which banking institutions generally are authorized or obligated by law or regulations to remain closed in New York, New York, or Houston, Texas.

"Cash Account" shall have the meaning set forth in Section 2.2(b).

"Certificated Loan" shall have the meaning set forth in Section 3.1(b).

"Company" has the meaning set forth in the first paragraph of these Standard Terms.

"Custodial Account" shall, for each Series, have the meaning set forth in Section 2.2(a).

"Custodial Assets" means, with respect to each Series, the (i) cash, Bonds, Loans and Securities delivered to the Custodian by each Series (or the Company on its behalf) pursuant to the terms of these Standard Terms for credit to the Custodial Account of such Series, and (ii) all Proceeds thereof received by the Custodian, including any dividends in kind (*e.g.,* non-cash dividends).

"Custodial Assets Database" shall have the meaning set forth in Section 5.

"Custodian" has the meaning set forth in the first paragraph of these Standard Terms.

"Delivery Date" means such date or dates on which Custodial Assets may be delivered to the Custodian from time to time pursuant to the terms of these Standard Terms (it being hereby expressly acknowledged that there may be more than one Delivery Date).

"Eligible Investments" means any investment that at the time of its acquisition is one or more of the following:

(a) direct obligations of, or obligations fully guaranteed by, the United States of America or certain agencies thereof in each case backed by the full faith and credit of the United States;

(b) (i) demand and time deposits in, certificates of deposit of, bankers' acceptances issued by, or federal funds sold by, any depository institution or trust company incorporated under the laws of the United States of America or any state thereof and subject to supervision and examination by federal and/or state banking authorities (including the Custodian), *provided* that the short-term deposit rating of such institution at the time of such acquisition or contractual commitment providing for such investment has a credit rating of "P-1" or better by any nationally recognized rating agency, and (ii) any other demand or time deposit or certificate of deposit that is fully insured by the Bank Insurance Fund or the Savings Association Insurance Fund administered by the FDIC;

(c) commercial paper having at the time of such acquisition therein a credit rating of "P-1" or better by any nationally recognized rating agency;

(d) repurchase agreements with respect to the assets specified above, issued by any bank (which may include the Custodian) or any corporation or broker-dealer the long-term debt obligations of which are rated "AA" (or its equivalent) or better by any nationally recognized rating agency; and

(e) any money market funds (whether U.S. or non-U.S.) denominated in U.S. Dollars and rated at least "AAA" (or its equivalent) by any nationally recognized rating agency.

"Instrument" shall have the meaning set forth in Section 3.1(b).

"Interest Cash Account" shall, for each Series, have the meaning set forth in Section 2.2(b).

"Federal Reserve Bank Book-Entry System" means a depository and securities transfer system operated by the Federal Reserve Bank of the United States on which are eligible to be held all United States Government direct obligation bills, notes and bonds.

"*Financing Documents"* means any instruments, securities, credit agreements and/or other agreements or documents related to a Loan.

"*Loan*" means obligation for the payment or repayment of borrowed money that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement.

"*Loan Assignment Agreement"* shall have the meaning set forth in Section 3.1(b).

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof) unincorporated organization, or any government or agency or political subdivision thereof.

"Principal Cash Account" shall have the meaning set forth in Section 2.2(b).

"Proceeding" means any suit in equity, action at law or other judicial or administrative proceeding.

"Proceeds" means, collectively for each Series, (i) all distributions, earnings, dividends and other payments paid on the Custodial Assets of such Series by or on behalf of the issuer or obligor thereof, or applicable paying agent or administrative agent, and received by the Custodian during the term hereof, and (ii) the net proceeds of the sale or other disposition of the Custodial Assets of such Series pursuant to the terms of these Standard Terms and received by the Custodian during the term hereof (and any Reinvestment Earnings from investment of the foregoing, as defined in Section 3.4(b) hereof).

"Proper Instructions" means instructions received by the Custodian, in form acceptable to it, from the Company or any Person duly authorized by the Company in any of the following forms acceptable to the Custodian:

(a) in writing signed by an Authorized Person (and delivered by hand, by mail, by overnight courier or by telecopier); or

(b) an electronic mail (or other electronic communication) from an Authorized Person; or

(c) in a communication utilizing access codes effected between electro mechanical or electronic devices; or

(d) in connection with any purchase, acquisition, sale, disposition or other transfer of a Custodial Asset, a trade ticket, confirmation of trade, instruction to post or to commit to the trade or similar instrument or document or other written instruction provided by an Authorized Person, including by electronic mail or other electronic communication; or

(e) such other means as may be agreed upon from time to time by the Custodian and the party giving such instructions.

"Securities System" means the Federal Reserve Bank Book Entry System, a clearing agency which acts as a securities depository, including The Depository Trust Company, or another book entry system for the central handling of securities.

"Security" means any security, equity interest, subordinated note or other similar asset.

"*Series*" has the meaning set forth in the first paragraph of these Standard Terms.

"Street Name" means the form of registration in which the securities are held by a broker who is delivering the securities to another broker for the purposes of sale, it being an accepted custom in the United States securities industry that a security in Street Name is in proper form for delivery to a buyer and that a security may be re-registered by a buyer in the ordinary course.

"*Uncertificated Loan"* shall have the meaning set forth in Section 3.1(b).

Section 1.2. In these Standard Terms unless the contrary intention appears:

(a) a reference to these Standard Terms or another instrument refers to such agreement or instrument as the same may be amended, modified or otherwise rewritten from time to time;

(b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

(c) the singular includes the plural and vice versa;

(d) a reference to a Person includes a reference to the Person's executors, administrators, successors and permitted assigns;

(e) an agreement, representation or warranty in favor of two or more Persons is for the benefit of them jointly and severally;

(f) an agreement, representation or warranty on the part of two or more Persons binds them jointly and severally; and

(g) a reference to any accounting term is to be interpreted in accordance with generally accepted principles and practices in the United States, consistently applied, unless otherwise instructed by the Company.

Section 1.3. Headings are inserted for convenience and do not affect the interpretation of these Standard Terms.

SECTION 2. APPOINTMENT OF CUSTODIAN AND DESIGNATION OF ACCOUNTS.

Section 2.1. Appointment of Custodian. (a) The Company hereby appoints the Custodian as the custodian of the Custodial Assets and Proceeds of each Series pursuant to these Standard Terms, and in such capacity appoints the Custodian to act as custodial agent on behalf of such Series with respect thereto. All Custodial Assets and Proceeds delivered to the Custodian shall be held and maintained in accordance with these Standard Terms. The Custodian shall not be responsible for any property held, owned or received by the Company and not delivered to the Custodian pursuant to the terms of these Standard Terms. At the time of each delivery of Custodial Assets to the Custodian by or on behalf of a Series, the Company agrees that it shall expressly identify the same to the Custodian as Custodial Assets being delivered under these Standard Terms and identify the Series to which such Custodial Assets relate.

(b) The Custodian accepts its appointment as custodian for each Series hereunder, and agrees to receive and hold, as custodian for each Series pursuant to the terms of these Standard Terms, the Custodial Assets delivered and identified to it by each Series (or the Company on its behalf) on each Delivery Date and any Proceeds received from time to time therefrom.

Section 2.2. Establishment of Accounts. (a) For each Series, there shall be established at the Custodian the securities account listed on Schedule B hereto to which the Custodian shall deposit and hold the Custodial Assets received by it on behalf of such Series (and any Proceeds received by it from time to time in the form of dividends in kind) as directed by the Company in writing pursuant to these Standard Terms, which account shall be designated the "Custodial Account" (the *"Custodial Account"*) for such Series.

(b) For each Series, there shall be established at the Custodian the accounts listed on Schedule B hereto to which the Custodian shall deposit and hold any cash Proceeds received by it from time to time from or with respect to the Custodial Assets owned by such Series as directed by the Company in writing, which accounts shall be designated the "Interest Cash Account" (the *"Interest Cash Account"*) and the "Principal Cash Account" (the *"Principal Cash Account"* and, together with the Interest Cash Account, the "*Cash Account"*) for such Series.

(c) Subject to the terms of these Standard Terms, the Accounts shall be established for each Series and under the complete control and dominion of such Series, and such Series shall be

entitled to make deposits, withdrawals, transfers and payments to and from the Accounts from time to time as it may determine. Custodial Assets held in the Custodial Account may be withdrawn by the related Series from time to time pursuant to Section 3.2 below. Amounts held in the Cash Account from time to time may be withdrawn by the related Series upon receipt of Proper Instructions therefor, and may be invested upon and pursuant to specific direction of the related Series in the form of Proper Instructions, pursuant to Section 3.4 below. Any Account may include for administrative or ministerial purposes subaccounts thereof.

SECTION 3. CUSTODIAL DUTIES.

Section 3.1. Holding Custodial Assets. (a) For each Series, the Custodian shall hold and segregate for the account of such Series, all Custodial Assets received by it pursuant to these Standard Terms other than Custodial Assets which are held in a Securities System and shall properly account for all Custodial Assets held in a Securities System and identify the same on its books and records as held for the account of the related Series.

(b) It is hereby expressly acknowledged that (a)(i) certain Loans may be acquired by a Series from time to time which are evidenced by, or accompanied by delivery of, an instrument (an "*Instrument*"), as that term is defined in Section 9-102(a)(4a) of the UCC (any such Loan, a "*Certificated Loan*"), (ii) certain Loans may be acquired by a Series from time to time which are not evidenced by, or accompanied by delivery of, an Instrument (any such Loan, an "*Uncertificated Loan*"), and such Loans may instead be evidenced solely by delivery to the Custodian of a facsimile or electronic copy of an assignment agreement ("*Loan Assignment Agreement*") in favor of the related Series as assignee or, in respect of any Loan acquired as a participation interest, a participation agreement ("*Participation Agreement"*) in favor of the related Series as the participant, (iii) for Uncertificated Loans (A) any such Loan Assignment Agreement (and the registration of the related Uncertificated Loans on the books and records of the applicable obligor or bank agent) shall be registered in the name of the related Series (or its nominee) or (B) any such Participation Agreement (and the registration of the related Uncertificated Loan on the books and records of the participating lender (or, if applicable, other party responsible for maintaining a participant register)) shall be registered in the name of the related Series (or its nominee) and (iv) any duty on the part of the Custodian with respect to any Loan shall be limited to the exercise of reasonable care by the Custodian in the physical custody of any such Instrument, in the case of a Certificated Loan, or any such Loan Assignment Agreement or Participation Agreement, in the case of an Uncertificated Loan, which has been delivered to it in accordance with the terms herein, and (b) nothing herein shall require the Custodian to treat as a financial asset (within the meaning of Section 8-102(a)(9) of the UCC) any such Uncertificated Loan or other asset in the nature of a general intangible (as defined in Section 9-102(a)(42) of the UCC) or to "maintain" a sufficient quantity thereof. The Custodian has no obligation to examine or determine the validity, sufficiency, marketability or enforceability of any Instrument, Loan Assignment Agreement, Participation Agreement or other Financing Document (and shall have no responsibility for the genuineness or completeness thereof), or for a Series' title to any related Loan. The Custodian may assume the genuineness of each such Instrument, Loan Assignment Agreement or Participation Agreement it may receive and the genuineness and due authority of any signatures appearing thereon, and shall be entitled

to assume that each such Instrument, Loan Assignment Agreement or Participation Agreement, as the case may be, it may receive is what it purports to be. If an original Instrument is or shall be or becomes available with respect to any Uncertificated Loan, it shall be the sole responsibility of the related Series to make or cause delivery thereof to the Custodian, and the Custodian shall not be under any obligation at any time to determine whether any such original Instrument has been or is required to be issued or made available in respect of any Uncertificated Loan or to compel or cause delivery thereof to the Custodian. Except as expressly provided above, the Custodian is not under any duty to hold custody of any Financing Document.

Section 3.2. Release of Custodial Assets. The Custodian shall release and deliver Custodial Assets of a Series held by the Custodian from time to time upon receipt of Proper Instructions (which shall, among other things, specify the Custodial Assets to be released, with such delivery and other information as may be necessary to enable the Custodian to perform and which may, in the case of Custodial Assets which are Loans, consist of a trade ticket provided by an Authorized Person); provided, that, except to the extent a Series provides instructions to the contrary, Proper Instructions shall be deemed to have been provided in the following cases:

(i) upon a sale of such Custodial Assets by or on behalf of the Company as directed by Proper Instructions:

(A) delivery in accordance with the customary or established practices and procedures in the jurisdiction or market where the transactions occur, including, without limitation, delivery to the purchaser thereof or to a dealer therefor (or an agent of such purchaser or dealer) against expectation of receiving same day payment; or

(B) in the case of a sale effected through a Securities System, in accordance with the rules governing the operations of the Securities System;

(ii) delivery of Custodial Assets that are the subject of a repurchase agreement upon the receipt of payment under such repurchase agreement;

(iii) delivery of Custodial Assets to the depositary agent in connection with tender or other similar offers for such Custodial Assets;

(iv) delivery of Custodial Assets to the issuer thereof or its agent when such Custodial Assets are called, redeemed, retired or otherwise become payable and, unless otherwise directed by Proper Instructions, the cash or other consideration is to be delivered to the Custodian;

(v) delivery of Custodial Assets to an issuer thereof, or its agent, for transfer into the name of the Custodian or for exchange for a different number of bonds, certificates or other evidence representing the same aggregate face amount or number of units;

(vi) delivery of Custodial Assets to brokers, clearing banks or other clearing agents for examination in accordance with "street delivery" custom;

(vii) delivery of Custodial Assets for exchange or conversion pursuant to any plan of merger, consolidation, recapitalization, reorganization or readjustment of the securities of the issuer of such securities, or pursuant to any deposit agreement and, unless otherwise directed by Proper Instructions, the new securities and cash, if any, are to be delivered to the Custodian; and

(viii) in the case of warrants, rights or similar securities, the surrender thereof in the exercise of such warrants, rights or similar securities or the surrender of interim receipts or temporary securities for definitive securities and, unless otherwise directed by Proper Instructions, the new securities and/or cash, if any, are to be delivered to the Custodian.

Section 3.3. Registration of Custodial Assets. Custodial Assets held by the Custodian (other than bearer securities or securities held in a Securities System) shall be registered in the name of the applicable Series or its nominee; provided, however, that Bonds or Securities held in definitive form may be held in Street Name with the consent of the Custodian. Securities held in a Securities System shall be maintained in Street Name or other good deliverable form. Each Series, or the Company on its behalf, shall instruct each issuer or obligor (or related paying agent, administrative agent or other agent of such issuer or obligor) of a Custodial Asset to (i) except with respect to bearer securities or securities held in a Securities System, register the Company on its books and records as the legal owner of such Custodial Asset, (ii) deliver any certificated security or instrument evidencing such Custodial Asset to the Custodian, appropriately completed and reflecting such ownership, for safekeeping by the Custodian on behalf of the related Series, (iii) make all payments in respect of such Custodial Asset to the Cash Account and (iv) deliver all notices and other communications in respect of such Custodial Asset to the Custodian at its address for notices pursuant to these Standard Terms.

Section 3.4. Bank Accounts, and Management of Cash. (a) Cash Proceeds from the Custodial Assets of a Series received by the Custodian from time to time in respect of amounts which constitute interest payments or other payments in respect of income on the Custodial Assets shall be credited to the Interest Cash Account for such Series. Cash Proceeds from the Custodial Assets of a Series received by the Custodian from time to time in respect of amounts which constitute principal payments on the Custodial Assets shall be credited to the Principal Cash Account for such Series. The Custodian shall be entitled to request and receive Proper Instructions in respect of any determination regarding whether any Proceeds received by the Custodian should be deposited into the Interest Cash Account or Principal Cash Account.

(b) Amounts held in the Cash Accounts shall remain uninvested, except to the extent that the related Series provides a Proper Instruction to invest the amounts in the Cash Account for such Series in Eligible Investments. Any such investments shall be subject to availability and the Custodian's then applicable transaction charges (which shall be at the Company's expense). Funds may be commingled for purpose of investment, provided however that the Custodian shall

properly account for the allocation of such investments to the related Account. The Custodian shall have no liability for any loss incurred on any such investment. In no instance will the Custodian have any obligation to provide investment advice to the Company or any Series. Any earnings from such investment of amounts held in the Cash Account from time to time (collectively, *"Reinvestment Earnings"*) shall be redeposited in the Interest Cash Account (and may be reinvested at the written direction of an Authorized Person on behalf of the Company or the related Series). Eligible Investments may include, without limitation, those investments issued by or made with the Custodian or for which the Custodian or affiliate of the Custodian provides services and receives compensation. The Custodian shall have no liability for any losses on any investments made as described herein.

(c) In the event that a Series shall at any time request a withdrawal of amounts from the Cash Account, the Custodian shall be entitled to liquidate, and shall have no liability for any loss incurred as a result of the liquidation of, any investment of the funds credited to such account as needed to provide necessary liquidity.

(d) Each Series is solely responsible for directing the Custodian with respect to deposits to, withdrawals from and transfers to or from the Accounts of such Series. Without limiting the generality of the foregoing, the Custodian has no responsibility for compliance with any restrictions, covenants, limitations or obligations to which the Company or a Series may be subject or for which it may have obligations to third-parties in respect of the Accounts, and the Custodian shall have no liability for the acts or omissions of any other Person or for the application or misapplication of any funds by another Person or by the Custodian at the direction of the related Series. Each Series (or the Company on its behalf) shall be solely responsible for properly instructing all applicable payors to make all appropriate payments to the Custodian for deposit to the Accounts of each Series, and for properly instructing the Custodian with respect to the allocation or application of all such deposits.

(e) Subject to the terms of these Standard Terms, which shall control in the event of any inconsistency, each Account shall otherwise be subject to the Custodian's standard terms and conditions applicable to such Account, as amended from time to time, and the Custodian is authorized to follow its usual operating procedures in connection with such Account; and the terms of these Standard Terms and operation of the Accounts shall be subject to the requirements and provisions of applicable law and regulation governing such Account, including without limitation with respect to any account adjustments, returned deposit items, chargebacks and overdrafts associated with the Account. Without limiting the generality of the foregoing, and notwithstanding any term of these Standard Terms to the contrary, the Custodian shall be responsible only for funds actually received, and it shall not be obligated to credit or remit payment on any payment item received for deposit to an Account (and any credit given in such respect shall be deemed to be provisional), unless and until settlement of the item is or becomes final.

Section 3.5. No Foreign Exchange. Except as otherwise agreed in writing by the Company and the Custodian, the Company shall not engage in any foreign exchange transactions

or otherwise trade in non-U.S. Custodial Assets or Custodial Assets not denominated in U.S. Dollars.

Section 3.6. Payment of Moneys. Upon receipt of Proper Instructions, which may be standing instructions, the Custodian shall pay out from the Cash Account of a Series moneys on deposit therein in the following cases:

(i) upon the purchase of Custodial Assets for such Series pursuant to such Proper Instruction; and such purchase may, unless and except to the extent otherwise directed by Proper Instructions, be carried out by the Custodian;

(A) in accordance with the customary or established practices and procedures in the jurisdiction or market where the transactions occur, including, without limitation, delivering money to the seller thereof or to a dealer therefor (or any agent for such seller or dealer) against expectation of same day delivery of such securities; or

(B) in the case of a purchase effected through a Securities System, in accordance with the rules governing the operation of such Securities System; and

(ii) for any other purpose directed by such Series upon receipt of Proper Instructions specifying the amount of such payment, and naming the Person or Persons to whom such payment is to be made.

Section 3.7. Proxies. The Custodian will, with respect to Custodial Assets held through a Securities System or otherwise held in Street Name, cause to be made available to the Company (on behalf of each Series) proxies received by the Custodian in respect of such Custodial Assets. The related Series may respond to such proxies, or may provide Proper Instructions to the Custodian to respond to such Proxies on its behalf. In order for the Custodian to act, it must receive Proper Instructions no later than the deadline applicable to responses for corporate actions for the bank serving as Custodian. In the absence of such Proper Instructions, or in the event that such Proper Instructions are not received in a timely fashion, the Custodian shall be under no duty to act with regard to such proxies.

Section 3.8. Proper Instructions. (a) The Company shall be entitled to provide Proper Instructions on behalf of each Series for all purposes under these Standard Terms. The Company shall provide an incumbency certificate to the Custodian, in the form acceptable to it, specifying the names, titles, contact information (including email addresses) and specimen signatures of persons authorized to give Proper Instructions (collectively, *"Authorized Persons"*, and each is an *"Authorized Person"*) which certificate shall be signed by an officer or duly authorized agent of the Company or by another Authorized Person previously certified to the Custodian. Each Proper Instruction given by an Authorized Person shall be deemed for all purposes to have been given by and on behalf of the Company and the related Series. The Custodian shall be entitled to conclusively rely upon the identity and authority of such persons and contact information thereof until it receives written notice from the Company to the contrary. Notwithstanding the

foregoing, any Authorized Person whose incumbency as such has been certified by an officer of the Company and who is also an officer of the Company may at any time revoke the authority to give Proper Instructions of any Authorized Person who is not an officer of the Company, and any such person whose authority is so revoked may not thereafter be or become an Authorized Person.

(b) The Custodian shall have no obligation to act in accordance with purported instructions to the extent that they conflict with applicable law or regulations. The Custodian shall not be liable for any loss resulting from a reasonable delay while it obtains clarification of any Proper Instructions.

Section 3.9. Actions Permitted Without Proper Instructions. The Custodian shall be entitled, without express Proper Instructions from the Company or any Series, to:

(a) pay itself from the Cash Account of a Series, whether or not in receipt of express direction or Proper Instruction from such Series, any amounts due and payable to it pursuant to Sections 6(b), 8.4 or 8.7 hereunder, in each case, to the extent that the Custodian provides a written invoice in advance together with reasonable supporting documentation with respect to such amounts to the Company;

(b) surrender Custodial Assets in temporary form for Custodial Assets in definitive form; and

(c) in general attend to all nondiscretionary details in connection with the sale, exchange, substitution, purchase, transfer and other dealings with the securities and property held or to be held in the Accounts.

Section 3.10. Evidence of Authority. The Custodian shall be protected in acting upon any Proper Instructions, certificate, instrument or paper believed by it to be genuine and to have been properly executed or otherwise given by or on behalf of a Series (or the Company on its behalf) by an Authorized Person. The Custodian may receive and accept a certificate signed by any Authorized Person as conclusive evidence of:

(a) the authority of any person to act in accordance with such certificate; or

(b) any determination by the Company as described in such certificate,

and such certificate may be considered as in full force and effect until receipt by the Custodian of written notice to the contrary from an Authorized Person of the Company.

Section 3.11. Receipt of Communications. Any communication received by the Custodian on a day which is not a Business Day or after 2:00 p.m. (Central Time) (or such other time as is agreed by the Company and the Custodian from time to time) on a Business Day will be deemed to have been received on the next Business Day (but in the case of communications so received after 2:00 p.m. (Central Time) on a Business Day the Custodian will use reasonable

efforts to process such communications as soon as possible after receipt. For the avoidance of doubt, in no instance shall the Custodian be obligated to provide services on any day that is not a Business Day.

SECTION 4. REPORTING.

Section 4.1. Reporting. (a) For each Business Day, the Custodian shall make available to the Company on a daily basis a report of (i) all deposits to and withdrawals from the Cash Account for each Series for the prior Business Day, and the outstanding balance as of the end of such prior Business Day, and (ii) a report of settled trades of Custodial Assets of a Series for such prior Business Day. The Company shall in a timely manner provide to the Custodian such information, documents and other items with respect to the Custodial Assets as necessary and/or appropriate or as requested by the Custodian in order to enable the Custodian to perform its duties hereunder.

(b) The Custodian shall have no duty or obligation to undertake any market valuation of the Custodial Assets under any circumstance.

(c) In the event of any discrepancy between any report provided by the Custodian to the Company and any information contained in the books or records of the Company, the Company shall promptly notify the Custodian thereof and the parties shall cooperate to diligently resolve the discrepancy.

SECTION 5. CUSTODIAL ASSETS DATABASE.

The Company acknowledges that any data and information held by the Custodian from time to time concerning the Custodial Assets and to which the Company may be given access (without herein implying any obligation or agreement by the Custodian to maintain or provide access to any particular information or database) from time to time at the election of the Custodian (the *"Custodial Assets Database"*) is unaudited and the Custodian does not independently verify the accuracy of information it receives from third parties concerning the Custodial Assets (whether from the Company, from others at the Company's behest or on its behalf, or from issuers or obligors of the Custodial Assets or their agents) prior to its inclusion in the Custodial Assets Database. The Custodian will not be liable to the Company or any other Person for any loss or damage arising out of or in connection with the relationship established by these Standard Terms as a result of inaccuracies in any such third-party provided information contained in the Custodial Assets Database.

SECTION 6. COMPENSATION OF CUSTODIAN.

(a) The Custodian shall be entitled to compensation from the Company for its services as set forth in a separate fee letter between the Company and the Custodian.

(b) The Company agrees to pay or reimburse to the Custodian upon its request from time to time all reasonable costs, disbursements, advances and expenses (including without limitation reasonable fees and expenses of legal counsel) incurred, and any disbursements and advances made (including without limitation any account overdraft resulting from any settlement or assumed settlement, provisional credit, reclaimed payment or claw-back, or the like), in connection with the preparation or execution of these Standard Terms, or in connection with the transactions contemplated hereby or the administration of these Standard Terms or performance by the Custodian of its duties and services under these Standard Terms, from time to time (including without limitation costs and expenses of any action by the Custodian to collect any amounts owing to it under these Standard Terms, so long as the Custodian is awarded all or a part of such costs or expenses).

SECTION 7. DEPOSIT IN SECURITIES SYSTEMS.

The Custodian may deposit and/or maintain Custodial Assets in a Securities System in accordance with applicable Federal Reserve Board and Securities and Exchange Commission rules and regulations, if any, and subject to the following provisions:

Section 7.1. The Custodian may keep domestic Custodial Assets in a Securities System *provided* that such Custodial Assets are represented by a corresponding position in a financial asset maintained in an account (*"Participant Account"*) of the Custodian in the Securities System which shall not include any assets of the Custodian other than assets held by it as a fiduciary, custodian or otherwise for customers.

Section 7.2. The records of the Custodian with respect to Custodial Assets which are maintained in a Securities System shall identify by book-entry those securities belonging to the related Series.

Section 7.3. Anything to the contrary in these Standard Terms notwithstanding, the Custodian shall have no liability under or pursuant to these Standard Terms or the custodial arrangement established hereby for any direct loss, damage, cost, expense, liability or claim to the Company or any Series resulting from use of the Securities System except for such loss, damage, cost, expense, liability or claim resulting directly from the gross negligence or willful misconduct of the Custodian.

SECTION 8. RESPONSIBILITY OF CUSTODIAN.

Section 8.1. General Duties. The Custodian shall have no duties, obligations or responsibilities under these Standard Terms or with respect to the Custodial Assets, the Accounts or the Proceeds except for such duties as are expressly and specifically set forth in these Standard Terms as duties on its part to be performed or observed, and the duties and obligations of the Custodian shall be determined solely by the express provisions of these Standard Terms. No implied covenants, duties, obligations or responsibilities shall be read into these Standard Terms against, or on the part of, the Custodian.

Section 8.2. Instructions. (a) The Custodian shall be entitled to refrain from taking any action unless it has such instruction (in the form of Proper Instructions) from the related Series as the Custodian reasonably deems necessary, and shall be entitled to require, upon written notice to such Series (or the Company on its behalf), that Proper Instructions to it be in writing. The Custodian shall have no liability for any action (or forbearance from action) taken in good faith in accordance with a Proper Instruction of a Series (or the Company on its behalf). For the avoidance of doubt, a trade ticket provided to the Custodian by an Authorized Person in respect of an acquisition or disposition of a Loan shall constitute a Proper Instruction to effect such acquisition or disposition.

(b) Whenever the Custodian is entitled or required to receive or obtain any report, opinion, notice of other information pursuant to or as contemplated by these Standard Terms, it shall be entitled to receive the same in writing, in form, content and medium reasonably acceptable to it; and whenever any report or other information is required to be produced or distributed by the Custodian shall be in form, content and medium reasonably acceptable to it.

(c) The Company agrees that it shall respond promptly to all inquiries and requests of the Custodian as may be reasonably necessary to enable the Custodian to perform its duties hereunder.

Section 8.3. General Standards of Care. Notwithstanding any terms herein contained to the contrary, the acceptance by the Custodian of its appointment hereunder is expressly subject to the following terms, which shall govern and apply to each of the terms and provisions of these Standard Terms (whether or not so stated therein):

(a) The Custodian shall not be responsible for the title, validity or genuineness, including good deliverable form of any property or evidence of title thereto received by it or delivered by it pursuant to these Standard Terms.

(b) The Custodian may rely on and shall be protected in acting or refraining from acting upon any written notice Proper Instruction, statement, certificate, request, waiver, consent, opinion, report, receipt or other paper or document furnished to it (including without limitation any of the foregoing provided to it by telecopier or electronic means), not only as to its due execution and validity, but also as to the truth and accuracy of any information therein contained, which it in good faith believes to be genuine and signed or presented by the proper person (which in the case of any instruction from or on behalf of the Company or a Series shall be an Authorized Person); and the Custodian shall be entitled to presume the genuineness and due authority of any signature appearing thereon. The Custodian shall not be bound to make any independent investigation into the facts or matters stated in any such notice, instruction, statement, certificate, statement, request, waiver, consent, opinion, report, receipt or other paper or document.

(c) The Custodian shall not be liable to anyone for any error of judgment, or for any act done or step taken or omitted to be taken by it (or any of its directors, officers

of employees), or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, unless such action constitutes fraud, gross negligence, bad faith or willful misconduct on its part. Except as provided in the immediately preceding sentence, the Custodian shall not be liable for any action taken by it in good faith and believed by it to be within powers conferred upon it, or taken by it pursuant to any direction or instruction by which it is governed hereunder, or omitted to be taken by it by reason of the lack of direction or instruction required hereby for such action.

(d) In no event shall the Custodian be liable for any punitive, indirect, special or consequential damages (including, without limitation, lost profits) whether or not it has been advised of the likelihood of such damages.

(e) The Custodian may consult with, and obtain advice from, nationally recognized legal counsel selected in good faith with respect to any question as to any of the provisions hereof or its duties hereunder, or any matter relating hereto, and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Custodian in good faith in reliance upon the opinion or advice of such counsel, and the reasonable cost of such services shall be reimbursed pursuant to Section 6(b) above.

(f) The Custodian shall not be deemed to have notice of any fact, claim or demand with respect hereto unless actually known by an officer working in its corporate trust office and charged with responsibility for administering these Standard Terms or unless (and then only to the extent received) in writing by the Custodian at its corporate trust office and specifically referencing these Standard Terms.

(g) No provision of these Standard Terms shall require the Custodian to expend or risk its own funds, or to take any action (or forbearance from action) hereunder which might in its judgment involve any expense or any financial or other liability unless it shall be furnished with acceptable indemnification. Nothing herein shall be construed to obligate the Custodian to (i) undertake any collection actions on behalf of a Series against any issuer or obligor (or agents thereof) of a Custodial Asset or (ii) commence, prosecute or defend legal proceedings in any instance, whether on behalf of a Series on its own behalf or otherwise, with respect to any matter arising hereunder or relating to these Standard Terms or the services contemplated hereby.

(h) The permissive right of the Custodian to take any action hereunder shall not be construed as duty.

(i) The Custodian may act or exercise its duties or powers hereunder through agents, subcustodians or attorneys, and the Custodian shall not be liable or responsible for the actions or omissions of any such party appointed with reasonable due care; provided, further, that in the event of any act or omission on the part of an agent, subscustodian or attorney appointed by the Custodian as described above which

materially harms the Company, the Custodian shall reasonably cooperate with the Company in connection with the exercise of any remedies against such agent, subscustodian or attorney.

(j) All reasonable costs and risks of shipment shall be borne exclusively by the Company.

(k) The Custodian has no responsibility to verify or determine whether any purchase or sale of a Custodial Asset satisfies any transfer restrictions applicable to it, including any transfer restriction imposed by applicable law.

(l) The Custodian shall have no responsibility for performing or monitoring the performance of any anti-money laundering procedures undertaken by the Company or a Series and shall have no liability for any violation of any anti-money laundering rules or regulations by the Company or a Series.

(m) Nothing herein shall obligate the Custodian to review or examine the terms of any underlying instrument, certificate, credit agreement, indenture, loan agreement, promissory note, or other Financing Document evidencing or governing any Custodial Asset, whether for purposes of performing any of its duties hereunder or otherwise.

(n) Except as otherwise agreed in writing, the Custodian shall have no obligation to take any action to preserve, protect, enforce or exercise any rights in the Custodial Assets, or under or in respect of the related underlying documents, or to perform any obligations of the Company or a Series thereunder.

(o) Notwithstanding any other provision of these Standard Terms, the Custodian shall have no duty or obligation under these Standard Terms to inquire into, and shall not be liable for, the legality of the Custodial Assets, the purchase, transfer or sale of any Custodial Assets, the sufficiency of the amount to be received, or the authority of the Company or a Series to effect any such purchase, transfer or sale.

Section 8.4. Indemnity. The Company agrees to indemnify, defend and hold harmless the Custodian against any and all claims, losses, liabilities, damages or expenses (including, but not limited to, reasonable attorneys' fees, court costs and costs of investigation) of any kind or nature whatsoever arising out of its provision of custody services under these Standard Terms that may be imposed upon, incurred by or asserted against the Custodian; *provided, however,* that this Section 8.4 shall not relieve the Custodian from liability for the Custodian's fraud, gross negligence, bad faith or willful misconduct in performing its duties hereunder. The Custodian shall have and is hereby granted a continuing lien upon and security interest in, and right of setoff against, the Accounts, and any funds (and investments in which such funds may be invested) held therein or credit thereto from time to time, whether now held or hereafter required, and all proceeds thereof, to secure the payment of any amounts that may be owing to the Custodian under or pursuant to the terms of these Standard Terms, whether now existing or hereafter

arising. The provisions of this Section 8.4 shall survive the resignation or removal of the Custodian and the termination of these Standard Terms.

Section 8.5. Force Majeure. Without prejudice to the generality of the foregoing, the Custodian shall not be liable for any damage or loss resulting from or caused by events or circumstances beyond its reasonable control including nationalization, expropriation, currency restrictions, the interruption, disruption or suspension of the normal procedures and practices of any securities market, power, mechanical, communications or other technological failures or interruptions, fires, floods, earthquakes or other natural disasters, civil or military disturbances, acts of war or terrorism, riots, revolution, acts of God, work stoppages, strikes or national disasters of any kind.

Section 8.6. Disputes. If any dispute or conflicting claim is made by any person with respect to securities or other property held for a Series, the Custodian shall be entitled to refuse to act until either (a) such dispute or conflicting claim has been finally determined by a court of competent jurisdiction or settled by agreement between conflicting parties, and the Custodian has received written evidence satisfactory to it of such determination or agreement; or (b) the Custodian has received an indemnity, security or both satisfactory to it and sufficient to hold it harmless from and against any and all loss, liability and expense which the Custodian may incur as a result of its actions. The Custodian shall notify the Company if any such dispute or conflicting claim is made by any person other than the Company.

Section 8.7. Advances. Under no circumstances shall the Custodian have any responsibility, duty or obligation to advance its own funds to or for the benefit of a Series. Notwithstanding the foregoing, if the Custodian at any time or times in connection with these Standard Terms or the administration of the Account, advances funds in connection with the settlement of any payment item, returned deposit item or investment, provisional credit or overdraft, then any funds (or investments thereof) at any time held in or credited to any Account hereunder shall be security therefore and shall be subject to a lien and right of setoff thereon in favor of the Custodian (in addition to any rights or charge of, set off or similar rights it may have under applicable law), and the Custodian shall be entitled to utilize available cash (and dispose of investments in which such cash may be invested pursuant to the terms hereof) immediately to make itself whole in respect thereof.

Section 8.8. Patriot Act. To help fight the funding of terrorism and money laundering activities, the Custodian shall be entitled to obtain, verify, and record information that identifies individuals or entities that establish a relationship or open an account with the Custodian. The Custodian shall be entitled to ask for the name, address, tax identification number and other information that will allow the Custodian to identify the individual or entity who is establishing the relationship or opening the account. The Custodian may also ask for formation documents such as articles of incorporation, an offering memorandum, or other identifying documents to be provided.

SECTION 9. SECURITY CODES.

If the Custodian issues to the Company or a Series, security codes, passwords or test keys in order that the Custodian may verify that certain transmissions of information, including Proper Instructions, have been originated by the Company or a Series, the Company and each Series shall, safeguard any security codes, passwords, test keys or other security devices which the Custodian shall make available.

SECTION 10. TAXES.

For tax reporting purposes, any investment interest or income received by the Custodian from investment (or reinvestment) of funds on deposit in the Cash Account for a Series shall be reported as allocable to such Series, to the extent reporting is required. The Company shall provide, or cause each Series to provide, the Custodian with a properly completed and signed Internal Revenue Service Form W-9 or W-8BEN, as applicable (or applicable successor form). Each Series agrees (i) that the Custodian shall be entitled to withhold or deduct from any payments required to be made pursuant to these Standard Terms the amount of any taxes, charges or other withholding required to be so withheld or deducted under applicable law, and (ii) to promptly to provide the Custodian, upon request, with any and all such information as may from time to time be required by the Custodian to comply with all applicable laws, including information required by the Custodian to determine the amount of any applicable withholding or other tax. In the event the Custodian withholds any amounts inadequately because of information incorrectly supplied to the Custodian a Series, the Company hereby agrees to indemnify and reimburse the Custodian for any such amount owing. The Custodian shall have no responsibility or liability for any obligations now or hereafter imposed on the Company or a Series (or the Custodian as custodian of the Series), by the tax law of the United States (or any other applicable jurisdiction) or any state or political subdivision thereof. The Custodian shall be kept indemnified by and be without liability to the Company for such obligations including taxes, withholding, certification and reporting requirements, claims for exemption or refund, additions for late payment interest, penalties and other expenses (including legal expenses) that may be assessed against the Company or a Series (or the Custodian as custodian of the Series).

SECTION 11. EFFECTIVE PERIOD, TERMINATION AND ADDITIONAL PARTIES.

Section 11.1. These Standard Terms shall become effective as of its due execution and delivery by the Custodian and the Company. These Standard Terms shall continue in full force and effect until terminated as hereinafter provided. These Standard Terms may be terminated by the Custodian or the Company pursuant to Section 11.2.

Section 11.2. These Standard Terms shall terminate upon the earlier of the effective date of termination specified in any written notice of termination given by either party to the other not later than forty five (45) days prior to the effective date of such termination specified therein unless a different period is agreed to in writing by the parties; *provided* that, in each case, all Custodial Assets and Proceeds shall have been delivered to the related Series or as it otherwise instructs (subject to Section 11.4 below).

Section 11.3. The Custodian may resign at any time under these Standard Terms by providing at least forty-five (45) days advance written notice to the Company unless a different period is agreed to in writing by the parties.

Section 11.4. Prior to the effective date of termination of these Standard Terms, or the effective date of the resignation (or removal) of the Custodian, as the case may be, the Company shall give Proper Instruction to the Custodian to cause the Custodial Assets and Proceeds then held by the Custodian hereunder to be delivered to the Company, or its designee, or a successor custodian hereunder; and if the Company shall fail or be unable to do so on a timely basis, the Custodian shall be entitled (but not obligated) to petition a court of competent jurisdiction (at the Company's expense) for such instruction.

Section 11.5. (a) Upon termination of these Standard Terms or resignation (or removal) of the Custodian, the Company shall pay to the Custodian such compensation as may be due as of the date of such termination or resignation (or removal) and shall likewise reimburse the Custodian for its reasonable costs, expenses and disbursements. All indemnifications under these Standard Terms shall survive the termination of these Standard Terms, or any resignation or removal of the Custodian.

(b) If Custodial Assets, Proceeds or any other property remain in the possession of the Custodian after the date of termination hereof or the date of resignation (or removal) of the Custodian, as the case may be, owing to failure of a Series to give Proper Instructions to the Custodian for delivery thereof, as referred to in Section 11.4, the Custodian shall be entitled to fair compensation for its services during such period as the Custodian retains possession of such Custodial Assets, funds and other property and the provisions of these Standard Terms relating to the duties and obligations of the Custodian shall remain in full force and effect during such period.

SECTION 12. REPRESENTATIONS AND WARRANTIES.

(a) The Company represents and warrants to the Custodian that:

(i) it has the power and authority to enter into and perform its obligations under these Standard Terms, and it has duly authorized and executed these Standard Terms so as to constitute its valid and binding obligation;

(ii) in giving any instructions which purport to be "Proper Instructions" under these Standard Terms, the Company will act in accordance with the provisions of its applicable organizational documents and any applicable laws and regulations; and

(iii) the execution and delivery by the Company of these Standard Terms and the performance by the Company of the related obligations hereunder (including, without limitation, the indemnity provided to the Custodian hereunder) (i) do not and will not (x) contravene any of the terms of the Company's articles of formation, bylaws or other agreements or documents of formation that govern the affairs and the conduct of the

Company's business, or (y) conflict with or result in any breach or contravention of, or the creation of any lien or other subordination under, or require any payment to be made under (A) any contractual obligation to which the Company is a party or affecting the Company or the properties or assets of the Company or (B) any order, injunction, writ or decree of any governmental authority or any arbitral award to which the Company or its property is subject, or (z) violate any law.

(b) The Custodian hereby represents and warrants to the Company that it has the power and authority to enter into and perform its obligations under these Standard Terms, and it has duly authorized and executed these Standard Terms so as to constitute its valid and binding obligations.

(c) The Company hereby represents and warrants to the Custodian that (i) the aggregate interest in any class of interests any benefit plan investors (as such term is interpreted under The Employment Retirement Income Security Act of 1974, as amended; *"ERISA"*) for whose benefit or account the Account is held shall not at any time equal or exceed 25% of the outstanding shares of such class without the prior written consent of the Custodian and (ii) the Company shall not, without the prior written consent of the Custodian, permit the portfolio of Custodial Assets or the Accounts to be deemed assets of an employee benefit plan which is subject to ERISA. The Company acknowledges and agrees that the Custodian shall not grant its consent in either of the foregoing circumstances unless and until the Company has entered into such amendments to these Standard Terms and has provided such assurances and indemnities to the Custodian, as the Custodian reasonably may require to be assured that it will not be subject to ERISA liability. If for any reason the Company breaches or otherwise fails to comply with the provisions of this Section, these Standard Terms and the custodial arrangement provided for hereunder may be terminated immediately by the Custodian.

SECTION 13. PARTIES IN INTEREST; NO THIRD PARTY BENEFIT.

These Standard Terms shall be binding upon and inure to the benefit of the Company and the Custodian and their respective successors. These Standard Terms is not intended for, and shall not be construed to be intended for, the benefit of any third parties and may not be relied upon or enforced by any third parties.

SECTION 14. NOTICES.

Any Proper Instructions shall be given to the following address (or such other address as either party may subsequently designate by written notice to the other party), and otherwise any notices, approvals and other communications hereunder shall be sufficient if made in writing and given to the parties at the following address (or such other address as either of them may subsequently designate by notice to the other), given by (i) certified or registered mail, postage prepaid, (ii) recognized courier or delivery service, (iii) confirmed telecopier or telex with a duplicate sent on the same day by first class mail, postage prepaid or (iv) electronic mail:

(a) if to the Company, to Highland CLO Management, LLC

300 Crescent Court, Suite 700
Dallas, TX 75201
Fax: 972-628-4147
Email: I-Operations@hcmlp.com

with a copy to

Highland Capital Management, L.P. [ ]
300 Crescent Court, Suite 700
Dallas, TX 75201
Fax: 972-628-4147
Email: LegalNotices@hcmlp.com
Attention: General Counsel

(b) if to the Custodian, to

U.S. Bank National Association
190 S. LaSalle Street, Floor 8
Chicago, IL 60603
Attn: Global Corporate Trust Services—
Highland CLO Management, LLC
Email: taylor.potts@usbank.com

The Custodian agrees to accept and act upon Proper Instructions sent by unsecured email, facsimile transmission or other similar unsecured electronic methods; provided however, that the Custodian has been provided with an incumbency certificate in accordance with Section 3.8. If the Company elects to give the Custodian email or facsimile instructions (or instructions by a similar electronic method) and the Custodian in its discretion elects to act upon such instructions, the Custodian's reasonable understanding of such instructions shall be deemed controlling. The Custodian shall not be liable for any losses, costs or expenses arising directly or indirectly from the Custodian's reliance upon and compliance with such instructions notwithstanding such instructions conflicting with or being inconsistent with a subsequent written instruction. The Company agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Custodian, including without limitation the risk of the Custodian acting on unauthorized instructions, and the risk of interception and misuse by third parties, and acknowledges and agrees that there may be more secure methods of transmitting such instructions than the method(s) selected by it and agrees that the security procedures (if any) to be followed in connection with its transmission of such instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

For the avoidance of doubt, any obligation on the part of the Custodian to provide notice to a Series may be satisfied by providing such notice to the Company.

SECTION 15. CONFIDENTIALITY

The parties hereto agree that each shall treat confidentially the terms and conditions of these Standard Terms and all information provided by each party to the other party regarding its

business and operations. All confidential information provided by a party hereto shall be used by any other party hereto solely for the purpose of rendering services pursuant to these Standard Terms and, except for the purposes set forth in or contemplated by these Standard Terms, shall not be disclosed to any third party without the prior written consent of the party (which may include Proper Instructions from the Company) providing the information. The foregoing shall not be applicable to any information that is (i) publicly available when provided or thereafter becomes publicly available, other than through a breach of these Standard Terms, (ii) independently derived by either party hereto without the use of any information provided by the other party hereto in connection with these Standard Terms, or (iii) required in any legal or regulatory proceeding, investigation, audit, examination, subpoena, civil investigative demand or other similar process, or required by operation of law or regulation; *provided*, *further*, that each party hereto may disclose on a confidential basis any such information to its agents, attorneys and auditors in connection with these Standard Terms. The provisions of this Section 15 shall survive the termination of these Standard Terms.

SECTION 16. CHOICE OF LAW AND JURISDICTION.

These Standard Terms shall be construed, and the provisions thereof interpreted under and in accordance with and governed by the laws of The State of New York for all purposes (without regard to its choice of law provisions). All actions and proceedings relating to or arising from, directly or indirectly, these Standard Terms may be brought in New York State or U.S. federal courts located within the City of New York, State of New York and the Company and the Custodian hereby submit to personal jurisdiction of such courts for such actions or proceedings. The Company and the Custodian each hereby waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury and any objection to laying of venue in such courts on grounds of forum nonconveniens in respect of any claim based upon, arising out of or in connection with these Standard Terms. No actions or proceedings relating to or arising from, directly or indirectly, these Standard Terms shall be brought in a forum outside of the United States of America.

SECTION 17. ENTIRE AGREEMENT AND COUNTERPARTS.

(a) These Standard Terms constitutes the complete and exclusive agreement of the parties with regard to the matters addressed herein and supersedes and terminates as of the date hereof, all prior agreements or understandings, oral or written between the parties to these Standard Terms relating to such matters.

(b) These Standard Terms may be executed in any number of counterparts and all counterparts taken together shall constitute one instrument.

SECTION 18. AMENDMENT; WAIVER.

(a) These Standard Terms may not be amended except by an express written instrument duly executed by each of the Company and the Custodian.

(b) In no instance shall any delay or failure to act be deemed to be or effective as a waiver of any right, power or term hereunder, unless and except to the extent such waiver is set forth in an expressly written instrument signed by the party against whom it is to be charged.

SECTION 19. SUCCESSOR AND ASSIGNS.

(a) The covenants and agreements set forth herein shall be binding upon and inure to the benefit of each of the parties and their respective successors and permitted assigns. The Company shall not be permitted to assign its rights under these Standard Terms without the written consent of the Custodian.

(b) Any corporation or association into which either party may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Custodian or the Company, as applicable, shall be a party, or any corporation or association to which the such Person transfers all or substantially all of its corporate trust business, shall be the successor of the Custodian or the Company, as applicable, hereunder, and shall succeed to all of the rights, powers and duties of the Custodian or the Company, as applicable, hereunder, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

SECTION 20. SEVERABILITY.

The terms of these Standard Terms are hereby declared to be severable, such that if any term hereof is determined to be invalid or unenforceable, such determination shall not affect the remaining terms.

SECTION 21. REQUEST FOR INSTRUCTIONS.

If, in performing its duties under these Standard Terms, the Custodian is required to decide between alternative courses of action, the Custodian may (but shall not be obliged to) request written instructions from the related Series (or the Company on its behalf) as to the course of action desired by it. If the Custodian does not receive such instructions within two (2) days after it has requested them, the Custodian may, but shall be under no duty to, take or refrain from taking any such courses of action. The Custodian shall act in accordance with instructions received from the related Series or the Company in response to such request after such two-day period except to the extent it has already taken, or committed itself to take, action inconsistent with such instructions.

SECTION 22. OTHER BUSINESS.

Nothing herein shall prevent the Custodian or any of its affiliates from engaging in other business, or from entering into any other transaction or financial or other relationship with, or receiving fees from or from rendering services of any kind to the Company or any other Person. Nothing contained in these Standard Terms shall constitute the Company and/or the Custodian

(and/or any other Person) as members of any partnership, joint venture, association, syndicate, unincorporated business or similar assignment as a result of or by virtue of the engagement or relationship established by these Standard Terms.

SECTION 23. REPRODUCTION OF DOCUMENTS.

These Standard Terms and all schedules, exhibits, attachments and amendment hereto may be reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic or other similar process. The parties hereto each agree that any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding, whether or not the original is in existence and whether or not such reproduction was made by a party in the regular course of business, and that any enlargement, facsimile or further production shall likewise be admissible in evidence.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of the parties has caused these Standard Terms to be executed and delivered by a duly authorized officer, intending the same to take effect as of the date first above written.

HIGHLAND CLO MANAGEMENT, LLC, as Company

By: _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION, as Custodian

By: _____
Name:
Title:

[Signature Page to Highland CLO Management, LLC Custodial Account

IN WITNESS WHEREOF, each of the parties has caused these Standard Terms to be executed and delivered by a duly authorized officer, intending the same to take effect as of the date first above written.

HIGHLAND CLO MANAGEMENT, LLC, as Company

By:_____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION, as Custodian

By:_____
Name:
Title:

Taylor Potts
Assistant Vice President

[Signature Page to Highland CLO Management, LLC Custodial Account

SCHEDULE A

LIST OF SERIES

Highland CLO Management, LLC - Management Series

Highland CLO Management, LLC - EU Originator Series

Highland CLO Management, LLC - Risk Retention Series

SCHEDULE B

LIST OF ACCOUNTS

Highland CLO Management, LLC - Management Series

Account Name	Account Number
Custodial Account	190512-700
Interest Cash Account	190512-201
Principal Cash Account	190512-202

Highland CLO Management, LLC - EU Originator Series

Account Name	Account Number
Custodial Account	190512-701
Interest Cash Account	190512-203
Principal Cash Account	190512-204

Highland CLO Management, LLC - Risk Retention Series

Account Name	Account Number
Custodial Account	190512-702
Interest Cash Account	190512-205
Principal Cash Account	190512-206

EXHIBIT 28

HUNTON& WILLIAMS

HUNTON & WILLIAMS LLP
FOUNTAIN PLACE
1445 ROSS AVENUE
SUITE 3700
DALLAS, TEXAS 75202-2799

TEL 214 • 979 • 3000
FAX 214 • 880 • 0011

FILE NO: 73452.7

January 31, 2017

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

Acis Capital Management L.P.
300 Crescent Court, Suite 700
Dallas, TX 75201

Re: Sale of Certain CLO Participation Interests

Ladies and Gentlemen:

We are acting as special U.S. federal income tax counsel to Acis Capital Management L.P., a Delaware limited partnership ("ACIS"), in connection with ACIS's sale of certain participation interests in senior and subordinated management fees attributable to certain collateralized loan obligations to Highland Capital Management, L.P., a Delaware limited partnership ("Buyer"). The above-referenced sale will be referred to herein as the "Transaction." Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Transaction Document (as defined below).

I. Documents Reviewed

In rendering the opinion expressed below, we have examined originals or certified copies of the following:

(a) the Indenture dated as of March 18, 2013, by and among ACIS CLO 2013-1 LTD ("2013-1 LTD"), ACIS CLO 2013-1 LLC, as co-issuer ("2013-1 LLC" and together with 2013-1 LTD, "CLO 2013-1"), and US Bank, National Association, as trustee, ("US Bank"), as amended (the "CLO 2013-1 Indenture"), attached hereto as Exhibit A;

(b) the Portfolio Management Agreement, dated as of March 18, 2013, by and among 2013-1 LTD, as issuer, and ACIS as manager (the "CLO 2013-1 Portfolio Management Agreement"), attached hereto as Exhibit B;

(c) the Indenture dated as of February 25, 2014, by and among ACIS CLO 2014-3 LTD ("2014-3 LTD"), ACIS CLO 2014-3 LLC, as co-issuer ("2014-3 LLC" and together with 2014-3 LTD, "CLO 2014-3"), and US Bank, National Association, as trustee, ("US Bank") (the "CLO 2014-3 Indenture"), attached hereto as Exhibit C;

(d) the Portfolio Management Agreement, dated as of February 25, 2014, by and among 2014-3 LTD, as issuer, and ACIS as manager (the "CLO 2014-3 Portfolio Management Agreement"), attached hereto as Exhibit D;

(e) the Indenture dated as of June 5, 2014, by and among ACIS CLO 2014-4 LTD ("2014-4 LTD"), ACIS CLO 2014-4 LLC, as co-issuer ("2014-4 LLC" and together with 2014-4 LTD, "CLO 2014-4"), and US Bank, National Association, as trustee, ("US Bank") (the "CLO 2014-4 Indenture"), attached hereto as Exhibit E;

(f) the Portfolio Management Agreement, dated as of June 5, 2014, by and among 2014-4 LTD, as issuer, and ACIS as manager (the "CLO 2014-4 Portfolio Management Agreement"), attached hereto as Exhibit F;

(g) the Indenture dated as of November 18, 2014, by and among ACIS CLO 2014-5 LTD ("2014-5 LTD"), ACIS CLO 2014-5 LLC, as co-issuer ("2014-5 LLC" and together with 2014-5 LTD, "CLO 2014-5"), and US Bank, National Association, as trustee, ("US Bank") (the "CLO 2014-5 Indenture"), attached hereto as Exhibit G;

(h) the Portfolio Management Agreement, dated as of November 18, 2014, by and among 2014-5 LTD, as issuer, and ACIS as manager (the "CLO 2014-5 Portfolio Management Agreement"), attached hereto as Exhibit H;

(i) the Indenture dated as of April 16, 2015, by and among ACIS CLO 2015-6 LTD ("2015-6 LTD"), ACIS CLO 2015-6 LLC, as co-issuer ("2015-6 LLC" and together with 2015-6 LTD, "CLO 2015-6"), and US Bank, National Association, as trustee, ("US Bank") (the "CLO 2015-6 Indenture"), attached hereto as Exhibit I;

(j) the Portfolio Management Agreement, dated as of April 16, 2015, by and among 2015-6 LTD, as issuer, and ACIS as manager (the "CLO 2015-6 Portfolio Management Agreement"), attached hereto as Exhibit J;

(k) projections of Senior Management Fees and Subordinated Management fees for each of the ACIS CLOs, used to calculate the purchase price among the parties, attached as Exhibit K;

(l) the Agreement for Purchase and Sale of CLO Participation Interests by and between ACIS and Buyer dated October 7, 2016, attached hereto as Exhibit L the "Transaction Document");

(m) the executed Promissory Note between Buyer, as maker, and ACIS, as payee, dated October 7, 2016, attached hereto as Exhibit M; and

(n) bank statements of ACIS and Buyer evidencing the cash payment made upon execution of the Transaction Document, attached hereto as Exhibit N.

II. Facts

The following is a summary of our understanding of the facts, which is based on discussions with representatives of ACIS, the Certificate of Representations of ACIS, attached as Exhibit O, and review of the Transaction Document and certain other related documents furnished to us by you, including but not limited to Exhibits A - O. Our analysis and conclusion are based on this factual background and our conclusion could differ if the actual facts are not as stated herein.

ACIS is organized as a limited partnership under Delaware law. ACIS is a cash method taxpayer. ACIS is a registered investment advisor with the Securities and Exchange Commission and has approximately $3.5 billion of assets under management. Those assets primarily are held by various collateralized loan obligation ("CLO") special purpose entities sponsored and managed by ACIS.

ACIS has engaged an investment banking firm to market a new CLO on its behalf. Recent European and United States regulations require sponsors of newly formed CLOs to retain during the life of the CLO a five percent ownership interest (the "Risk Retention Amount"). To finance the acquisition of the Risk Retention Amount, ACIS has entered into a joint venture wherein it is required to fund 51 percent of the Risk Retention Amount and the joint venture partner is to fund the remaining 49 percent.

Given the instability of CLO management fee income streams, and ACIS's upcoming need to fund its portion of the Risk Retention Amount, ACIS's management has determined that it is prudent to sell a portion of its existing rights to CLO management income streams to: (i) raise cash through receipt of the Cash Purchase Proceeds; and (ii) stabilize annual cash flows by replacing uncertain cash flows from the income streams underlying the Participation Interests with the Note Purchase Proceeds, which consist of a promissory note that pays principal and interest on a predetermined schedule.[1] The Transaction will also provide cash to ACIS adequate to fund its obligation to acquire the Risk Retention Amount.

[1] The terms Cash Purchase Proceeds, Note Purchase Proceeds, and Participation Interests are defined below in Section II.E

A. The Portfolio Management Agreements

ACIS's only activity prior to the Transaction was to perform servicing and management functions for various CLOs and CLO-related commingled funds and separate accounts, including CLO 2013-1, CLO 2014-3, CLO 2014-4, CLO 2014-5 and CLO 2015-6 (the "ACIS CLOs"). Each of the ACIS CLOs is serviced and managed in accordance with its respective Portfolio Management Agreement.

ACIS was the named manager for each of the ACIS CLOs, which were sponsored by ACIS. Prior to the closing of the ACIS CLOs, ACIS was engaged as manager to select the proposed collateral for each of the ACIS CLOs and to manage the assets that were acquired to collateralize those CLOs (this pre-closing asset acquisition period is hereinafter referred to, with respect to any of the ACIS CLOs, as the "Warehouse Period").

Some of the assets of the ACIS CLOs were acquired during the Warehouse Period by the fund equity investor investing in a total return swap (a "TRS") with a national investment bank, the value of which was tied to loans an ACIS CLO intended to acquire. The investment bank actually acquired such loans (the "Reference Assets") to support its position as counterparty to the TRS. Under the terms of the TRS, the fund equity investor would post cash collateral equal to between 20 percent and 30 percent of the Reference Assets. Under the TRS, the investment bank was obligated to pay to the fund equity investor the amount of any interest earned on the Reference Assets plus any appreciation in the value of the Reference Assets and minus any depreciation. The Fund Equity Investors paid a negotiated interest rate to the investment bank based on the notional value of the Reference Assets. The fund equity investor possessed the risk of changes in asset value during the Warehouse Period.

Upon the closing of an ACIS CLO utilizing a TRS to finance the acquisition of loans during the Warehouse Period, the TRS was liquidated and the ACIS CLO would acquire the Reference Assets. The fund equity investor would then use the returned cash collateral to acquire the equity of that ACIS CLO. At all times during the Warehouse Period, the Fund Equity Investor – and not ACIS – possessed the risk of changes in value of the Reference Assets. The remainder of the assets of the ACIS CLOs were acquired when the CLO was "priced" and funded through the issuance of debt.

i. CLO 2013-1

ACIS entered into the CLO 2013-1 Portfolio Management Agreement on March 18, 2013. Pursuant to the CLO 2013-1 Portfolio Management Agreement, ACIS was entitled to three fees: (i) a Senior Management Fee payable from Interest Proceeds equal to a per annum rate of .20% of the Fee Basis Amount; (ii) a Subordinated Management Fee payable from Interest Proceeds equal to a per annum rate of .30% of the Fee Basis Amount after meeting applicable Coverage Tests; and (iii) an Incentive Management Fee equal to 20% of Interest

and Principal Proceeds provided the Incentive Management Fee Threshold[2] is met. It is our understanding that ACIS did not report any taxable income associated with acquiring the right to receive future Senior Management Fees, Subordinated Management Fees or incentive Management Fees with respect to CLO 2013-1.

iii. CLO 2014-3; CLO 2014-4; CLO 2014-5; and CLO 2015-6

ACIS entered into the CLO 2014-3 Portfolio Management Agreement on February 25, 2014, the CLO 2014-4 Portfolio Management Agreement on June 5, 2014, the CLO 2014-5 Portfolio Management Agreement on November 18, 2014, and the CLO 2015-6 Portfolio Management Agreement on April 16, 2015. Pursuant to each respective Portfolio Management Agreement, ACIS was entitled to three fees: (i) a Senior Management Fee[3] payable from Interest Proceeds equal to a per annum rate of .15% of the Fee Basis Amount; (ii) a Subordinated Management Fee payable from Interest Proceeds equal to a per annum rate of .25% of the Fee Basis Amount after meeting applicable Coverage Tests; and (iii) an Incentive Management Fee equal to 20% of Interest and Principal Proceeds provided the Incentive Management Fee Threshold[4] is met. It is our understanding that ACIS did not report any taxable income associated with acquiring the right to receive future Senior Management Fees, Subordinated Management Fees or Incentive Management Fees with respect to CLO 2014-3, CLO 2014-4, CLO 2014-5 or CLO 2015-6.

C. Duties of the Manager

i. The Warehouse Period

During the Warehouse Period, ACIS was responsible for performing due diligence with respect to potential collateral and acquiring and managing the assets that would comprise the respective portfolios that would collateralize the ACIS CLOs, which ACIS would service. In executing those duties, ACIS evaluated and selected the various assets that would be acquired by the relevant ACIS CLO.

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[2] The Subordinated Note Holders have to reach an aggregate IRR threshold of 12% under the CLO 2013-1 Portfolio Management Agreement for the manager to earn any Supplemental Management Fees.

[3] The CLO 2014-3 Indenture uses the term "Base Management Fee" in lieu of "Senior Management Fee," which is used in the other indentures.

[4] The Subordinated Note Holders have to reach an aggregate IRR threshold of 12% under each of the Portfolio Management Agreements for CLO 2014-3, CLO 2014-4, CLO 2014-5 and CLO 2015-6 for the manager to earn any Supplemental Management Fees.

ii. Ongoing Management Responsibilities

With respect to each CLO, ACIS, as manager, had responsibility for managing, administering and servicing the portfolio of assets in each of the CLOs and exercised operational and decision-making responsibility. ACIS also was responsible for (i) general accounting and reporting such as collecting payments and monitoring collateral value, (ii) evaluating the ongoing reinvestment of the assets during the Reinvestment Period, (iii) evaluating the ongoing viability of each investment, (iv) identifying replacement investments to the extent existing assets no longer met certain criteria or exceeded performance criteria, and (v) executing available remedies for defaulted or otherwise non-performing collateral. Relative to more actively traded CLOs, the CLOs serviced by ACIS are static after the Reinvestment Period absent a collateral defect or default. The assets of the CLOs consist primarily of senior loans and mezzanine loans, in each case secured by various types of collateral.

D. Termination Rights

Under each ACIS CLO's Portfolio Management Agreement, the manager can terminate the servicing arrangement at any time so long as the manager provides at least 90 days prior written notice. Additionally, the manager may be terminated by the CLO under each of the Portfolio Management Agreements with 30 days notice under the following conditions: (i) the manager willfully violates or breaches a material provision of the respective Portfolio Management Agreement or Indenture in bad faith; (ii) the manager breaches any other provision of the respective Portfolio Management Agreement or Indenture without timely curing such breach; (iii) the manager is wound up or dissolved or becomes insolvent; (iv) the manager commits fraud; (v) any senior manager of the manager is convicted of a criminal offense materially related to the manager's business; or (vi) the manager is unable to perform its duties.

E. Sale of Participation Interests

ACIS entered into the Transaction Document with Buyer on October 7, 2016, which conveys from ACIS to Buyer sixty percent of the Senior Management Fee and Subordinated Management Fee paid between November 2016 and August 2019 by CLO 2013-1 under the CLO 2013-1 Portfolio Management Agreement and the CLO 2013-1 Indenture. The Transaction Document also conveys from ACIS to Buyer fifty percent of the Senior Management Fees and Subordinated Management Fees paid between November 2016 and August 2019 by each of the other ACIS CLOs under their respective portfolio management agreements and indentures. With respect to each CLO, ACIS will retain rights to the remaining Senior Management Fees and Subordinated Management Fees, as well as all of the Incentive Management Fees (together the "Retained Fees"). Each of the interests in Senior Management Fees and Subordinated Management Fees conveyed to Buyer under the Transaction Document are referred to herein as the "Participation Interests."

The sale was effected by a partial sale for cash and a partial sale for a note. Upon closing, Buyer paid to ACIS $666,655 in cash (the "Cash Purchase Proceeds") and gave ACIS a promissory note for an additional $12,666,446 (the "Promissory Note" or "Note Purchase Proceeds," as the context requires). The Promissory Note matures on May 31, 2019 and accrues interest at a rate of 3 percent per annum. Principal and interest payments are payable on May 31st of each year beginning in 2017 through the Promissory Note's maturity in accordance with the amortization schedule included as an attachment to Exhibit M. The Promissory Note is unsecured and there are no partner-level guarantees. It is, however, recourse debt to Buyer, and Buyer has demonstrated its creditworthiness through a long history of business operations and its ownership of assets worth hundreds of millions of dollars. Buyer is an SEC-registered investment adviser which, together with its affiliates, has in excess of $15 billion of assets under management. In addition to its expertise in forming and managing CLOs, Buyer also specializes in credit strategies, such as credit hedge funds, long-only funds and separate accounts, and distressed and special situations private equity. Buyer also offers alternative investments, including emerging markets, long/short equities, and natural resources. Buyer's diversified client base includes public pension plans, foundations, endowments, corporations, financial institutions, fund of funds, governments, and high net-worth individuals. In excess of ninety-nine percent of Buyer's profits and losses are allocated to limited partnership interests in Buyer indirectly owned by an investment fund. Neither Buyer nor its parent investment fund has any ownership interest in ACIS.

III. Representations

In connection with the issuance of our opinion, you have directed us to rely on the representations listed below as stated in the Certificate of Representations of ACIS attached hereto as Exhibit O. You have represented that these statements are accurate and complete in all material respects. These representations are material to our opinion, are relied upon by us as a basis for our opinion, and our opinion is conditioned upon the initial and continuing accuracy of these representations. These representations are:

1. The summary of facts set forth in Part II above and Exhibits A - N hereto are accurate and complete in all material respects;

2. ACIS is and has been during all relevant times properly treated as a partnership for U.S. federal income tax purposes;

3. The Portfolio Management Agreements are in accord with market standard CLO cash and synthetic securitizations generally, and the obligations of ACIS under the Portfolio Management Agreements are consistent with industry standards and are substantially in accord with those of other similar CLOs;

4. Based on industry standards, the Retained Fees represents industry standard reasonable compensation for performing the services under the Portfolio Management Agreements. For this purpose, reasonable compensation means that, as of the relevant acquisition date, ACIS would not have paid (or required an upfront payment from a seller) to acquire the Portfolio Management Agreements if its servicing compensation consisted of only the Retained fees. The Retained Fees will not have more than a nominal value in relation to the expected costs of servicing the CLOs pursuant to the Portfolio Management Agreements;

5. ACIS has no intention to or reason to believe it will not fulfill the obligations related to the Portfolio Management Agreements and has no current intention to terminate the Portfolio Management Agreements or reason to believe that it will be terminated under the Portfolio Management Agreements;

6. During the Warehouse Period for each CLO, ACIS did not have the economic benefits and burdens of ownership of the assets acquired for the related CLOs;

7. For U.S. federal income tax purposes, any taxable gain or loss in respect of the sale of the Participation Interests will be calculated using a zero basis for such Participation Interests;

8. The parties to the Transaction believe and intend that the Promissory Note will be paid in accordance with its terms; and

9. For U.S. federal income tax purposes, any previously reported income in respect of fee payments received pursuant to the Participation Interests has been reported by ACIS as ordinary income.

IV. Conclusion

Subject in all respects to the detailed discussion below and the limitations set forth herein, and based in part on our reliance on the Certificate of Representations and the Exhibits provided to us, it is our opinion that, for U.S. federal income tax purposes, it is more likely than not that any gain recognized from the Transaction will be treated as capital gain to the extent allocable to Excess CLO Fees.[5]

V. Discussion and Analysis

A. Servicing Income as a Code Section 1286 Strip

[5] The term Excess CLO Fees is defined below in section V.A.vi.

i. Revenue Ruling 91-46

In Revenue Ruling 91-46 (the "Ruling"), the Internal Revenue Service (the "Service") stated its current position with respect to the characterization of residential mortgage servicing rights. The Ruling held that, if a taxpayer sells residential mortgage loans and retains a contract to service the mortgages in exchange for a portion of interest payments on the mortgages that exceeds reasonable compensation for the services to be performed, the mortgages constitute "stripped bonds" under section 1286 of the Internal Revenue Code of 1986, as amended (the "Code"). Accordingly, the taxpayer's right to receive interest amounts under the servicing contract in excess of reasonable compensation for the services performed constitutes a series of "stripped coupons."[6]

The taxpayer described in the Ruling was a mortgage company engaged in the business of originating and servicing residential mortgages. The mortgage company sold a pool of mortgages with a principal amount of $100 million and retained servicing rights in the pool. The mortgage company sold the pool of mortgages for $100 million to an agency in the business of purchasing residential mortgages and securitizing and selling interests in those mortgages ("Agency"). As part of the transaction, Agency entered into a servicing contract with the mortgage company to service the pool of mortgages after the transaction was complete. Under the servicing contract, the mortgage company was required to collect monthly mortgage payments and remit those payments to Agency, as well as to accumulate escrows for the payment of insurance and taxes, to disburse those funds as the payments were due, to maintain records relating to the mortgage pool, and to exercise remedies in respect of defaulted or otherwise non-performing mortgages.

The servicing contract provided that the mortgage company, as servicer, was entitled to receive fee amounts from interest payments collected on the mortgages. Annually, the mortgage company was entitled to a maximum annual fee of 1.25% of the outstanding principal balance of the mortgage pool, and a minimum annual fee of .25% of the outstanding principal balance of the mortgage pool. The Ruling referred to the minimum fee as "normal" servicing, and any amounts above the minimum fee as "excess" servicing. The Ruling explains that the present value of the amounts to be paid to the mortgage servicer that should be considered reasonable compensation for performing services under the servicing contract is less than the sum of the present value of the amounts that the mortgage company is entitled to receive as normal servicing and the present value of the income from other sources under the contract (*e.g.*, late fees paid by borrowers). The Service's approach to valuing the components of the mortgage servicing contract is significant in that the Ruling concludes that a so-called "normal servicing fee" can be expected to exceed the amount that would constitute "reasonable compensation" for performing the servicing function.

[6] Rev. Rul. 91-46, 1991-2 C.B. 358.

connection with such sale shall be remitted to the Non-Permitted ERISA Holder. The terms and conditions of any sale under this subsection shall be determined in the sole discretion of the Issuer, and the Issuer shall not be liable to any Person having an interest in the ERISA Limited Notes sold as a result of any such sale or the exercise of such discretion.

Section 2.13. Issuer Purchase of Secured Notes.

(a) Notwithstanding anything to the contrary in this Indenture, the Portfolio Manager, on behalf of the Issuer, may conduct purchases of the Secured Notes, in whole or in part, in accordance with, and subject to, the terms and conditions set forth in Section 2.13(b) below, by disbursing amounts in the Principal Collection Subaccount or the Interest Collection Subaccount for purchases of Secured Notes in accordance with the provisions described in this Section 2.13. The Trustee shall cancel in accordance with Section 2.10 any such purchased Secured Notes surrendered to it for cancellation or, in the case of any Global Notes, the Trustee shall decrease the Aggregate Outstanding Amount of such Global Notes in its records by the original principal amount of the purchased Secured Notes, and instruct DTC or its nominee, as the case may be, to conform its records.

(b) No purchases of the Secured Notes by, or on behalf of, the Issuer may occur without the consent of a Majority of the Subordinated Notes and unless each of the following conditions are satisfied:

(i) such purchases of Secured Notes shall occur in the following sequential order of priority: first, the Class A Notes until the Class A Notes are retired in full; second, the Class B Notes, until the Class B Notes are retired in full; third, the Class C Notes until the Class C Notes are retired in full; fourth, the Class D Notes, until the Class D Notes are retired in full; and fifth, the Class E Notes, until the Class E Notes are retired in full;

(ii) (1) each such purchase of Secured Notes of any Class shall be made pursuant to an offer made to all Holders of the Secured Notes of such Class, by notice to such Holders, which notice shall specify the purchase price (as a percentage of par) at which such purchase will be effected, the maximum amount of Principal Proceeds that will be used to effect such purchase and the length of the period during which such offer will be open for acceptance, (2) each such Holder shall have the right, but not the obligation, to accept such offer in accordance with its terms and (3) if the Aggregate Outstanding Amount of Notes of the relevant Class held by Holders who accept such offer exceeds the amount of Principal Proceeds specified in such offer, a portion of the Secured Notes of each accepting holder shall be purchased *pro rata* based on the respective principal amount held by each such holder;

(iii) each such purchase shall be effected only at prices discounted from par;

iii. Valuation of the Compensatory Component under Private Rulings

According to FSA 306, the compensatory component of a mortgage servicing contract generally represents the present value of the "reasonable compensation" that the servicer is expected to receive over the life of the contract less the present value of the expenses of providing the service and a reasonable allowance for profit.[11] The Service further stated that "the compensatory portion usually will represent a small part, if any, of the present value of the contract; therefore, it will represent a small part, if any, of the gain from the sale of the contract."

In order to calculate the value of the compensatory component according to the formula above, one must first determine the amount of "reasonable compensation" the servicer expects to receive under the servicing agreement as well as expected costs. In PLR 9410008[12], the Service defined "reasonable compensation" as a function of expected cost. According to PLR 9410008, reasonable compensation is based on the taxpayer's expected costs plus a reasonable allowance for profit, reduced by the expected value of the taxpayer's other income from servicing the portfolio (*e.g.*, interest earned on escrow funds, late payment fees, etc.). According to PLR 9410008, a reasonable allowance for profit is based on the facts and circumstances.

The formula in PLR 9410008 indicates that the portion of the servicing fees allocable to the compensatory component will only be enough to cover the servicer's expenses and to produce the amount of profit that a third party servicer would normally expect. This approach is consistent with the Service's expectation in FSA 306 that little or none of the purchase price would be allocable to the compensatory component of a servicing contract.

The presumption that the compensatory component of the stripped coupon should have little or no value is further supported by FSA 1999-1179,[13] which specifically states that to the extent normal servicing fees do not exceed the expected costs of servicing (including a reasonable profit), they should not be considered to have a positive value at that time. FSA 1999-1179 does not explicitly employ the net present value formula used in FSA 306, but its conclusion is consistent with the general principle that the compensatory component of a

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[10] *Id.*

[11] *Id.*

[12] PLR 9410008 (Dec. 13, 1993).

[13] FSA 1999-1179 (Dec. 14, 1992).

mortgage servicing contract should have little or no value in a sale to a third party. From an economic standpoint, if reasonable compensation equals expected costs plus an allowance for a reasonable profit, then the present value of such reasonable compensation should equal zero.

FSA 1999-1179 states that although a servicer's right to payment under a mortgage servicing contract is contingent on its performance of the service, "it is unlikely that the seller-servicer would jeopardize the servicing contract by providing the purchaser with cause to terminate the contract." Moreover, this FSA explains that since the servicing contracts generally provide that the servicer can be terminated without cause upon payment of a termination fee, that "characterization of the taxpayer's remaining interest in the mortgage, *i.e.*, the excess mortgage servicing rights, as a mere executory contract with the owner of the mortgages for the performance of future services, rather than a legally enforceable ownership interest is, in substance, incorrect. Indeed, the servicing rights are often transferred between servicers and frequently are hedged."

iv. Valuation of the Stripped Coupon

Investors commonly value a series of stripped coupons (referred to as an "interest strip") by calculating the present value of the expected cash flows from the interest strip. Adjustments for credit risk and interest rate risk typically are taken into account through adjustments to the discount rate used to calculate the present value. Fluctuations in the discount rate used by a taxpayer to calculate the value of an interest strip can have a significant effect on the calculated value. In FSA 1231, while acknowledging that the valuation of an interest strip could be calculated as the present value of expected cash flows, the Service refused to rule on an appropriate discount rate used for the purpose of valuing an interest strip.[14] The Service suggested that the determination of an appropriate discount rate is a factual question and that it should be determined by considering the duration of the cash flows (and the related exposure to interest rate risk) and any credit risk inherent in the cash flow stream.

v. Application of Code Section 1286 to Other Types of Servicing Contracts

The stripped coupon rules of Code section 1286 that were applied to residential mortgage servicing contracts are broad enough to cover analogous excess management and servicing fees in the CLO asset management context. None of Code section 1286, the Ruling, or any of the FSAs or private rulings indicate that the concept of excess servicing as an interest strip is limited to residential mortgage loans, or that the concept does not apply to the types of loans and bonds that comprise the assets of the CLOs. In both contexts the servicer or manager is entitled to a specified percentage of interest in the securitization vehicle's collateral that exceeds the actual cost of servicing or managing the collateral and reasonable

[14] FSA 1231 (Apr. 1, 1994).

compensation for the services provided. While the Ruling and most of the related private rulings only discuss residential mortgage servicing contracts, FSA 1999-1179 expanded the stripped coupon analysis by stating that the Ruling should be applied in "analogous circumstances" in addition to the mortgage servicing context.[15] Thus, the Ruling should apply to excess management and servicing fees received from the CLOs.

vi. Application of Authorities

The Portfolio Management Agreements are analogous to mortgage servicing contracts. In the context of the securitization of a pool of mortgages or other debt obligations, the collateral is transferred to an issuer. The issuer in turn issues a series of notes or certificates collateralized by the transferred assets. In the case of both residential mortgages and CLOs, the asset pool must be "serviced" and "managed." In the case of the CLOs, the collateral consists of loans and bonds to which the stripped coupon rules should apply. In addition, the activities of a mortgage servicer and a CLO servicer/manager have material similarities. Specifically, both service providers typically are responsible for performance of due diligence with respect to the transferred collateral, collection of payments with respect to the collateral, management of collateral performance, exercising rights and remedies with respect to the collateral and otherwise preserving and protecting the collateral, working out or selling non-performing or defaulted collateral, advancing payments or waiving fee rights in order to ensure payments to security holders. The servicers or managers receive a set fee that is paid from interest scheduled to be paid with respect to the collateral. In many cases, the fee paid is a basis point "strip" off of the interest paid to the issuer on the aggregate outstanding collateral balance. In addition, some servicers are paid an incentive fee or supplemental fee to the extent certain performance thresholds are met with respect to the collateral. In some cases, the fees paid to the servicer are in excess of the actual cost of performing the contracted services plus a reasonable profit allowance. The Service refers to this excess in the residential mortgage servicing context as the "excess servicing strip."[16]

Because the Portfolio Management Agreements are analogous to the mortgage servicing contracts, the stripped bond analysis found in the Ruling and related private rulings discussed above more likely than not applies to the Portfolio Management Agreements. Although the amount of labor required to service a CLO holding senior loans, mezzanine loans and high yield bonds may be less than that involved in residential mortgage servicing primarily because of differences in the volume of the obligations and the number of obligors being serviced, the primary objective is the same: the servicer is required to manage the portfolio of loans and other debt obligations and collect payment on behalf of the owner of the portfolio, as discussed above. In addition, in the residential mortgage servicing context and in

[15] FSA 1999-1179 (Dec. 14, 1992).

[16] *Id.*

connection with the ACIS CLOs, the servicer or manager is entitled to a specified interest rate strip off of the underlying loans or other debt obligations. The fees paid to a CLO servicer or manager in excess of the actual cost of performing the contracted services plus a reasonable profit allowance are referred to as "Excess CLO Fees." Therefore, the stripped bond analysis more likely than not would apply to the Portfolio Management Agreements, to which ACIS is a party.

vii. Character of Gain on Sale of Strip

In FSA 306, the Service advised that, to the extent the value of a mortgage servicing contract is attributable to a "stripped coupon," it should be considered a capital asset under Code section 1221. As stated above, there are three components to the value of a mortgage servicing contract under the Ruling: (i) a compensatory portion, representing "reasonable compensation," which is ordinary income; (ii) goodwill, which is capital; and (iii) an interest strip, which is capital. FSA 306 states that "substantially all, if not all, of the gain on the sale of mortgage servicing contracts in this case is capital." In making this determination, the Service specifically cited the Bisbee and Bankers Guarantee cases (discussed below) and stated that these cases were applicable only to the compensatory portion of the servicing contract. Accordingly, because Excess CLO Fees are closely analogous to excess servicing fees, the sale of Excess CLO Fees is more likely than not a sale of a capital asset resulting in capital gain or loss.

viii. Case Law on Mortgage Servicing Rights Prior to the Ruling

Prior to the issuance of the Ruling, several cases considered the proper treatment of gain recognized from the sale or termination of mortgage servicing rights. In Bisbee-Baldwin Corp. v. Tomlinson,[17] the taxpayer received a termination payment for cancellation of a contract under which the taxpayer was entitled to be paid an annual half percentage point fee for servicing mortgages. The court held the portion of the mortgage servicing rights that "represent the right to earn future income in the form of commissions for services rendered" was ordinary income." The court, however, characterized the portion of the proceeds from the sale that constituted payment for goodwill as capital gain. Similarly, the court in General Guaranty Mortgage Co. v. Tomlinson[18] held that gain received from termination of mortgage servicing contracts was ordinary to the extent received as a substitute for future income and otherwise was capital, such as for the sale of goodwill. In Bankers Guarantee Title v. U.S.,[19]

[17] 320 F.2d 929 (5th Cir. 1963).

[18] 335 F.2d 518 (5th Cir. 1964).

[19] 418 F.2d 1084 (6th Cir. 1969). *See also* Realty Loan Corp v. Commissioner, 478 F.2d 1049 (9th Cir. 1973) (proceeds from sale of right to future servicing fees treated as ordinary income).

the court allowed capital gain treatment on the portion of the sale of mortgage servicing rights that was attributable to goodwill, but denied capital gain treatment on the portion that was a substitute for the performance of services. Also, in U.S. v Woolsey,[20] proceeds of the sale of a management contract with a mutual insurance company were treated as ordinary because the proceeds represented "unrealized receivables" and the present value of the right to earn ordinary income in the future. The Woolsey court relied by analogy on the Bisbee-Baldwin court's treatment of mortgage servicing contract sales.

As noted above, all of these cases preceded by many years the development of securitization and the Service's refinement of its analysis with respect to the sale of mortgage servicing rights set forth in the Ruling and the various FSAs that followed the Ruling. In fact, certain of the FSAs specifically refer to the prior cases and limit the ordinary income analysis applied in decisions such as Bisbee-Baldwin and Bankers Guarantee to the portion of sales proceeds attributable to the compensatory portion of such contracts as distinct from proceeds attributable to excess servicing fees.

Importantly, these cases also pre-dated the enactment of Code section 1286 (and its predecessor section). Since the Service has followed the Ruling with an FSA holding that the profitable sale of mortgage servicing rights generates capital gains (except to the extent, if any, attributable to the compensatory component of the contracts), although the matter is not entirely clear, we do not believe that these earlier cases prevent tax treatment of any gains recognized from the Transaction as capital to the extent of Excess CLO Fees and goodwill. Instead, we believe that the prior case law as described above would be applied only to the compensatory portion of the gain.

B. Payment for Right to Earn Income

i. Application of U.S. v. Dresser Industries, Inc.

If the Service argues against the servicing strip analogy discussed above and argues that the CLO management and servicing rights are not analogous to mortgage servicing rights, then U.S. v. Dresser Industries, Inc.[21] is more likely than not the applicable precedent. Unlike in Bisbee and Bankers Guarantee, the court analyzed a taxpayer's gain on a sale back to an original patent holder of an exclusive license with respect to the patent as capital gain. In making its determination, the court distinguished the case from others in which only a portion of the rights were sold. Instead, the court concluded that when the totality of the rights are sold, the sale should be treated as the sale of a capital asset. The court distinguished between

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[20] 326 F.2d 287 (5th Cir. 1963).

[21] 324 F.2d 56 (5th Cir. 1963).

"the present sale of the future right to *earn* income and the present sale of the future right to *earned* income."[22] Specifically, the court noted that "[t]he only commercial value of any property is the present worth of future earnings or usefulness" and that the "[t]axpayer had an asset, a right, a property which would produce income. The fact that the income which *could* be earned would be ordinary income is immaterial; such would be true of the sale of all income-producing property."[23] Thus, the substitute for ordinary income doctrine is commonly limited to amounts paid for income that has already been earned.

ii. Additional Authorities Supporting Application of Dresser

Dresser was heavily cited and followed more recently in Lattera v. Commissioner.[24] The court denied capital gain treatment on the sale of rights to future lottery installments. Borrowing from securities law cases, the court adopted a "family resemblance test" which compared the sale of the asset in question (rights to lottery payments) to (i) assets that are known to result in capital gain (such as stocks, bonds, options, currency contracts, land, etc.) and (ii) assets that are known to not result in capital gain (such as rental and interest income).[25] The court also considered whether the sale was a horizontal or vertical carve-out. The court defined a horizontal carve-out as a division of a property interest in which a portion of an interest is retained (*e.g.*, payment right from a working interest in an oil lease or the sale of only several lottery installment payments). Unlike horizontal carve-outs, vertical carve-outs represent a more complete disposition of a property right. The court stated that horizontal carve-outs typically lead to ordinary income treatment while vertical carve-outs are more likely to receive capital gain treatment.[26] In reaching its holding, the court extensively cited Dresser, and noted that "all capital assets are substitutes for ordinary income." The court drew a distinction between rights to earned income and a right to earn income, and cited Dresser as support for the position that the substitute for ordinary income rules should not apply to the sale of a right to earn income.[27]

TAM 9443005 dealt with the sale of a cogeneration contract. The Service relied on the reasoning in Dresser, stating that "the fact that an asset may generate ordinary income in the future does not, of itself, mandate ordinary income treatment." Situations involving

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[22] *Id.* at 59.

[23] *Id.*

[24] 437 F.3d 399 (3rd Cir. 2006).

[25] *Id.* at 406.

[26] *Id.* at 407.

[27] *Id.* at 408.

purported property interest transfers that are really assignments of future ordinary income must be distinguished from situations involving the sale of a right or opportunity to earn future income, which are sales of capital assets. The Service stated that in making such a distinction, "courts evaluate the entire economics of the transaction"[28] and concluded that the asset was a capital asset.

(iii) Potential Characterization of Servicing Rights as Code Section 1231 Assets

In the event that the amounts received in exchange for the CLO servicing rights were determined not to constitute purchase price for an interest strip or for goodwill, they may represent purchase price for a Code section 1231 asset. In FSA 1999-1218 the Service considered whether certain mortgage servicing rights could be treated as Code section 1231 assets. In concluding that Code section 1231 should not be applicable to the servicing rights, the Service nevertheless recognized that it faced "some real hazards in arguing that section 1231 does not apply."

Generally, gain recognized upon the sale of a Code section 1231 asset will be treated as capital gain. In order to qualify as Code section 1231 property, an asset must be a depreciable asset used in a trade or business and held for more than one year. Additionally, the asset must not fall under certain excluded categories of property such as inventory.

This position provides an additional basis for capital gain treatment with respect to the Excess CLO Fees. Mortgage servicing rights may be depreciable under Code section 167(f)(3). Treating a portion of the CLO management rights as Code section 1231 assets would not be inconsistent with treating a different portion of the rights as stripped interest. Recognizing this possibility, Treasury regulation section 1.167(a)-14(d)(1) notes that "[m]ortgage servicing rights are not depreciable to the extent the rights are stripped coupons." Accordingly, ACIS may assert that Code section 1231 provides an alternative basis for treating its gain from the sale of the Excess CLO Fees as capital gain to the extent the Service were to challenge the application of the Ruling and the line of authority under Dresser.

C. Business Purpose and Economic Substance of Transaction

The economic substance and business purpose doctrines can apply to deny tax benefits from a transaction if the transaction lacks economic substance (i.e., it does not change the taxpayer's economic position aside from the claimed tax benefits) or the transaction was not

[28] TAM 9443005 (Oct. 28, 1994). The Service also applied the Dresser analysis in PLR 200919055 (May 8, 2009), PLR 200826026 (June 27, 2008) and FSA 1999-1179 (December 14, 1992).

entered into for a business purpose.[29] A transaction will be treated as having economic substance only if the transaction changes in a meaningful way (apart from federal income tax effects) the taxpayer's economic position, and the taxpayer has a substantial purpose (apart from federal income tax effects) for entering into such transaction.[30]

In ACM Partnership, the taxpayer formed a partnership with its financial advisor and a Netherlands Antilles subsidiary of the taxpayer's foreign bank with the goal of creating a loss that the taxpayer could carry back to offset a large taxable gain recognized in a prior tax year. The partnership sold assets in a contingent payment installment sale structured to cause the partnership to recognize a large gain in the year of sale which was allocated to the related foreign subsidiary and, therefore, not subject to tax. As a result of the contingent payment installment sale basis recovery rules, the initial gain was largely offset by losses in subsequent years. The partnership redeemed the interest of the foreign subsidiary prior to the partnership's recognition of such losses and allocated the losses to the taxpayer as planned. The Tax Court and the Third Circuit denied the allocation of the partnership losses to the taxpayer finding that the partnership was formed to create an artificial loss through manipulation and abuse of the tax laws.[31]

In Klamath, the taxpayers contributed funds advanced to them by a bank and associated liabilities to newly-formed limited liability companies treated as partnerships for tax purposes.[32] The taxpayers' utilized partnership tax basis rules to claim large tax losses when they withdrew from the partnerships 60 days later, although the taxpayers had not suffered an economic loss. The partnership conducted essentially no business and the taxpayer derived no profit from the use of the borrowed funds. The Fifth Circuit affirmed the district court's denial of the losses claimed, finding that the loan transaction lacked economic substance because it was structured such that the taxpayers had no reasonable possibility of profit.[33] The court explained that the loan transaction was structured to create substantial tax

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[29] *See, e.g.*, ACM Partnership v. Commissioner, 157 F.3d 231 (3rd Cir. 1998), *cert. denied*, 526 US 1017 (1999).

[30] IRC § 7701(o).

[31] *See* ACM Partnership. The Tax Court noted that this loss was a "phantom loss" that lacked economic substance. *See* ACM Partnership, TC Memo 1997-115. The Third Circuit upheld the Tax Court's determination that the transaction thus did not form the basis of a capital loss deduction.

[32] *See* Klamath Strategic Investment Fund v. U.S., 568 F.3d 537 (5th Cir. 2009).

[33] *Id.* The Third Circuit emphasized that merely professing a profit motive is insufficient to give rise to economic substance – the transaction itself must actually have economic substance. *Id.*

benefits but that the lender's funds were not, and were never intended to be, placed at risk in the investment business the partnership was purportedly organized to pursue.

Code Section 7701(o) provides that a transaction to which the economic substance doctrine is relevant, will be treated as having economic substance only if:

(a) the transaction changes in a meaningful way (apart from federal income tax effects) the taxpayer's economic position; and

(b) the taxpayer has a substantial purpose (apart from federal income tax effects) for entering into the transaction.

This conjunctive test requires that both the objective economic effect of the transaction on the taxpayer and the subjective motive of the taxpayer for engaging in the transaction must be considered to determine if the transaction has economic substance.

If the Service were to challenge ACIS's tax treatment of the Transaction under the economic substance and business purpose doctrines, ACIS would respond that the business purpose and economic substance of the Transaction were manifest in (i) ACIS's need to raise cash through receipt of the Cash Purchase Proceeds to meet its regulatory obligations as a CLO sponsor and its desire to stabilize annual cash flows by replacing uncertain cash flows from the Participation Interests with the Note Purchase Proceeds, which consist of a promissory note that pays principal and interest on a predetermined schedule, and (ii) the substantial risk undertaken by ACIS that its economic return from the CLOs would be diminished in exchange for the cash flow certainty the Transaction provided.[34] We believe that these facts would be sufficient to satisfy the economic substance and business purpose doctrines, including the conjunctive test of Code Section 7701(o).

VI. Qualifications

Our opinion is a limited scope opinion that addresses only the U.S. tax matters specifically addressed herein. Additional issues may exist that could affect the U.S. federal tax treatment of the Transaction or matters that are the subject of this opinion, and this opinion does not provide any conclusions with respect to such issues.

We have relied upon, and the conclusions expressed herein are conditioned upon, the

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[34] The substantial risk undertaken by ACIS in connection with the Participation Interests should be sufficient to cause the Transaction to have economic substance. Unlike the loan transactions in Klamath, ACIS bears actual risk in connection with the Transaction. *Cf.* 568 F.3d 537.

accuracy and completeness of the facts set forth herein and of the assumptions and representations in Part III herein as specifically represented in the Certificate of Representations of ACIS attached hereto as Exhibit O. Any material inaccuracy or incompleteness in the facts or representations or any changed circumstances subsequent to the date hereof may adversely affect the conclusions set forth herein.

Moreover, it is expressly assumed for purposes of the conclusions set forth herein that all transactions described herein were appropriately and timely documented, all necessary elections and administrative requirements noted herein have been or will be properly and timely effectuated, all payments were effectuated by an actual flow of funds to the relevant parties, and all actions will be undertaken strictly in accordance with the form required by such documents. Any variation in the assumptions from those set forth above or otherwise provided to us could affect the conclusions expressed herein.

The conclusions expressed herein relating to U.S. federal income tax are based upon the Code and its legislative history, the regulations promulgated thereunder, judicial decisions, and currently applicable administrative rulings and practices of the Service, all as in effect on the date hereof. We do not assume any obligation to update this opinion or to inform you of any changes to facts or law (even if such change may affect the legal analysis, legal conclusions or information in this opinion). There can be no assurance that subsequent legislative, judicial, or administrative developments would not amend, overrule, or revoke those authorities. Any such changes may or may not be retroactive with respect to transactions entered into or contemplated prior to the effective date thereof and could significantly alter the conclusions set forth herein. We assume no obligation to update or modify this opinion to reflect any developments that occur after the date hereof.

There are no binding authorities clearly dispositive of the issues we have considered in reaching the conclusions set forth herein. Therefore, although the conclusions expressed herein represent our best interpretation of existing law with respect to the proper treatment of the matters addressed herein, the conclusions are not free from doubt. Thus, there can be no assurance that the Service would not adopt one or more contrary positions, nor can there be any assurance that the Service would not prevail in court if the matter or matters contested were litigated.

In connection with the conclusions set forth herein, we examined copies or originals, certified or otherwise identified, of such documents and records as we have deemed necessary or advisable for such purposes. We have assumed that all signatures on all documents presented to us are genuine, that all documents submitted to us as originals are accurate originals thereof, that all certifications, representations, warranties set forth therein are true and complete, that all covenants set forth therein will be satisfied, that all information submitted to us was accurate and complete, and that all persons executing and delivering originals or copies of documents examined by us were competent to execute and deliver such documents.

We have prepared this opinion solely for the benefit of the addressees. Although the addressees may disclose this opinion to the Service and to any other person without limitation, no person other than the addressee may rely on our conclusions herein. Disclosure of this opinion may result in a waiver of the attorney-client privilege with respect to the subject matter of this opinion.

Very Truly Yours,

Hunton & Williams LLP

Hunton & Williams LLP

12180/04872/03352

EXHIBIT 29

EXHIBIT A

CLO 2013-1 INDENTURE

ACIS CLO 2013-1 LTD.
Issuer,

ACIS CLO 2013-1 LLC
Co-Issuer,

AND

U.S. BANK NATIONAL ASSOCIATION
as Trustee

INDENTURE

Dated as of March 18, 2013

COLLATERALIZED LOAN OBLIGATIONS

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INDENTURE, dated as of March 18, 2013, among Acis CLO 2013-1 Ltd., an exempted company incorporated in the Cayman Islands with limited liability (the "Issuer"), Acis CLO 2013-1 LLC, a limited-liability company organized under the laws of the State of Delaware (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers"), and U.S. Bank National Association, a national banking association, as trustee (herein, together with its permitted successors in the trusts hereunder, the "Trustee").

PRELIMINARY STATEMENT

The Co-Issuers are duly authorized to execute and deliver this Indenture to provide for the Notes issuable and governed by this Indenture and to secure the Secured Notes and other obligations secured under this Indenture. Except as otherwise provided herein, all covenants and agreements made by the Co-Issuers herein are for the benefit and security of the Secured Parties and the Trustee. The Co-Issuers are entering into this Indenture and the Trustee is accepting the trusts created hereby, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

All things necessary to make this Indenture a valid agreement of the Co-Issuers in accordance with the agreement's terms have been done.

GRANTING CLAUSES

The Issuer hereby Grants to the Trustee, for the benefit and security of the Holders of the Secured Notes, the Holders of the Combination Notes, the Trustee, each Hedge Counterparty, the Collateral Administrator and the Portfolio Manager (collectively, the "Secured Parties"), all of its right, title and interest in, to and under, in each case, whether now owned or existing, or hereafter acquired or arising, (a) the Collateral Obligations (listed, as of the Closing Date, in Schedule 1 to this Indenture) which the Issuer causes to be delivered to the Trustee (directly or through an intermediary or bailee) herewith and all payments thereon or with respect thereto, and all Collateral Obligations which are purchased, or otherwise acquired, by the Issuer in the future pursuant to the terms hereof and all payments thereon or with respect thereto, (b) the Issuer's interest in each of the Accounts, each Hedge Account (to the extent permitted by the applicable Hedge Agreement), any Eligible Investments purchased with funds on deposit therein, and all income from the investment of funds therein, (c) the Issuer's rights under the Portfolio Management Agreement as set forth in Article 15 hereof, the Hedge Agreements (provided, that there is no such Grant to the Trustee on behalf of any Hedge Counterparty in respect of its related Hedge Agreement), the Collateral Administration Agreement and the Placement Agency Agreement, (d) all Cash or Money delivered to the Trustee (or its bailee), (e) all accounts, chattel paper, deposit accounts, financial assets, general intangibles, instruments, investment property, letter-of-credit rights and other supporting obligations relating to the foregoing, (f) any other property otherwise delivered to the Trustee by or on behalf of the Issuer (whether or not constituting Collateral Obligations or Eligible Investments (including, without limitation, Equity Securities)), (g) the Issuer's rights in all assets owned by any ETB Subsidiary and the Issuer's rights under any agreement with any ETB Subsidiary and (h) all proceeds with respect to the foregoing; provided, that such Grants shall not include the $250 transaction fee paid to the Issuer in consideration of the issuance of the Secured Notes and Subordinated Notes, the funds attributable to the issue and allotment of the Issuer's ordinary shares and the Co-Issuer's

membership interests or the bank account in the Cayman Islands in which such funds are deposited (or any interest thereon) (or any funds deposited or credited thereto) (the assets referred to in (a) through (h) are collectively referred to as the "Assets"). Such Grants are made, however, to secure, in accordance with the priorities set forth in the Priority of Payments, the Secured Notes equally and ratably without prejudice, priority or distinction between any Secured Note and any other Secured Note by reason of difference in time of issuance, documentation governing the incurrence or otherwise, except as expressly provided in this Indenture, and to secure, in accordance with the priorities set forth in the Priority of Payments of this Indenture, (i) the payment of all amounts due on the Secured Notes in accordance with their terms, (ii) the payment of all other sums payable under this Indenture and other related transaction documents and (iii) compliance with the provisions of this Indenture (together, the "Secured Obligations"), all as provided in this Indenture. The foregoing Grant shall, for the purpose of determining the property subject to the lien of this Indenture, be deemed to include any securities and any investments granted to the Trustee by or on behalf of the Issuer, whether or not such securities or investments satisfy the criteria set forth in the definitions of "Collateral Obligation" or "Eligible Investments," as the case may be.

The Trustee acknowledges such Grants, accepts the trusts hereunder in accordance with the provisions hereof.

ARTICLE 1

Definitions

Section 1.1. Definitions. Except as otherwise specified herein or as the context may otherwise require, the following terms have the respective meanings set forth below for all purposes of this Indenture, and the definitions of such terms are equally applicable both to the singular and plural forms of such terms and to the masculine, feminine and neuter genders of such terms. The word "including" shall mean "including without limitation." All references in this Indenture to designated "Articles," "Sections," "Subsections" and other subdivisions are to the designated articles, sections, subsections and other subdivisions of this Indenture. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular article, section, subsection or other subdivision.

"17g-5 Site": The meaning specified in Section 10.10(f) (Reports to Rating Agencies and Additional Recipients; Rule 17g-5 Procedures).

"25% Limitation": The meaning specified in Section 2.6(c) (Registration, Registration of Transfer and Exchange).

"Acceleration Event": The meaning specified in Section 11.1(a)(iii) (Disbursements of Monies from Payment Account).

"Acceleration Priority of Payments": The meaning specified in Section 11.1(a)(iii) (Disbursement of Monies from Payment Account).

"Accountants' Report": A certificate of the firm or firms appointed by the Issuer pursuant to Section 10.9 (Reports by Independent Accountants).

"Accounts": (i) the Payment Account; (ii) the Collection Account; (iii) the Ramp-up Account; (iv) the Revolver Funding Account; (v) the Expense Reserve Account; (vi) the Custodial Account; (vii) the Interest Reserve Account; and (viii) each Hedge Account.

"Accredited Investor": An accredited investor as defined in Regulation D under the Securities Act.

"Act" and "Act of Holders": The meanings specified in Section 14.2 (Acts of Holders).

"Additional Notes Closing Date": The closing date for the issuance of any Additional Subordinated Notes pursuant to Section 2.4 (Additional Notes) as set forth in an indenture supplemental to this Indenture pursuant to Section 8.2(b) (Supplemental Indentures With Consent of Holders of Offered Securities).

"Additional Subordinated Notes": Any Subordinated Notes issued pursuant to Section 2.4 (Additional Notes).

"Adjusted Collateral Principal Amount": As of any date of determination:

(a) the Aggregate Principal Balance of the Collateral Obligations (other than (i) Defaulted Obligations, (ii) Deferring Securities and (iii) Discount Obligations) plus any Principal Financed Accrued Interest; plus

(b) without duplication, the amounts on deposit in the Accounts, excluding the Revolver Funding Account, (including Eligible Investments in such Accounts) representing Principal Proceeds; plus

(c) the lesser of the (i) S&P Collateral Value of each Deferring Security and (ii) Moody's Collateral Value of each Deferring Security; plus

(d) the lesser of (x) the Market Value of each Defaulted Obligation and (y) the lesser of (i) the S&P Recovery Amount for each Defaulted Obligation and (ii) the Moody's Recovery Amount for each Defaulted Obligation; provided that Defaulted Obligations that have constituted Defaulted Obligations for a period of at least 3 years shall be deemed to have a value of 0; plus

(e) the original purchase price (expressed as a percentage of par) multiplied by the current Principal Balance, excluding accrued interest, expressed as a dollar amount, of all Discount Obligations; minus

(f) the Excess CCC/Caa Adjustment Amount;

provided, that with respect to any Collateral Obligation that would be subject to more than one of clauses (c) through (f) of this definition of "Adjusted Collateral Principal Amount", such Collateral Obligation shall, for the purposes of this definition, be treated as belonging to the category of Collateral Obligations which results in the lowest Adjusted Collateral Principal Amount on any date of determination; provided, further, that the Aggregate

Principal Balance of any Deferring Security shall not include any deferred or capitalized interest for purposes of calculating the Adjusted Collateral Principal Amount. For the purposes of clause (a) above, Current Pay Obligations representing up to 5% of the Collateral Principal Amount shall be included in the calculation of the Aggregate Principal Balance of the Collateral Obligations.

"Administration Agreement": An agreement between the Administrator and the Issuer relating to the various administrative functions the Administrator will perform on behalf of the Issuer, including communications with shareholders and the general public, and the provision of certain clerical, administrative and other corporate services in the Cayman Islands, as amended from time to time.

"Administrative Expense Cap": An amount equal on any Payment Date (when taken together with any Administrative Expenses paid during the period since the preceding Payment Date or, in the case of the first Payment Date, the Closing Date (excluding Administrative Expenses paid by amounts in the Expense Reserve Account)) equal to the sum of (a) 0.035% per annum (prorated for the related Interest Accrual Period on the basis of a 360-day year consisting of twelve 30-day months) of the Fee Basis Amount, on the related Determination Date and (b) $175,000 per annum (prorated for the related Interest Accrual Period on the basis of a 360-day year consisting of twelve 30-day months); provided, however, that, if the amount of Administrative Expenses paid under the Administrative Expense Cap (including any excess applied in accordance with this proviso) on the three immediately preceding Payment Dates or during the related Collection Periods is less than the stated Administrative Expense Cap (without regard to any excess applied in accordance with this proviso) in the aggregate for such three preceding Payment Dates, the excess may be applied to the Administrative Expense Cap with respect to the then-current Payment Date; provided, further, that in respect of the first three Payment Dates from the Closing Date, such excess amount shall be calculated based on the Payment Dates preceding such Payment Date; provided further, that the Administrative Expense Cap shall not apply to the Petition Expense Amount or Petition Expenses (except as set forth in the Priority of Payments).

"Administrative Expenses": Fees, expenses (including indemnities) and other amounts due or accrued with respect to any Payment Date and payable in the following order by the Issuer, the Co-Issuer or any ETB Subsidiary: first pro rata to the Trustee pursuant to Section 6.7 (Trustee Compensation and Reimbursement) in each of its capacities hereunder and the Collateral Administrator for its fees and expenses under the Collateral Administration Agreement and then pro rata to (i) the Independent accountants, agents (other than the Portfolio Manager) and counsel of the Issuer and any ETB Subsidiary for fees and expenses and any taxes or government fees of any ETB Subsidiary; (ii) the Rating Agencies for fees and expenses (including surveillance fees) in connection with any rating of the Secured Notes or any Collateral Obligations; (iii) any Person in respect of Petition Expenses; (iv) the Portfolio Manager under this Indenture and the Portfolio Management Agreement, including, without limitation, reasonable expenses of the Portfolio Manager (including fees for its accountants, agents and counsel) incurred in connection with the purchase or sale of any Collateral Obligations (including amounts owed to any Independent Review Party (as defined in the Portfolio Management Agreement)), any other expenses incurred in connection with the Collateral Obligations and amounts payable pursuant to Sections 9(c) and 11 of the Portfolio Management

Agreement but excluding the Management Fees; (v) the Administrator pursuant to the Administration Agreement; and (vi) any other Person in respect of any other fees or expenses permitted under this Indenture and the documents delivered pursuant to or in connection with this Indenture (including the payment of facility rating fees and all legal and other fees and expenses incurred in connection with the purchase or sale of any Collateral Obligations and any other expenses incurred in connection with the Collateral Obligations) and the Offered Securities, including but not limited to, amounts owed to the Co-Issuer pursuant to Section 7.1 (Payment of Principal and Interest), any amounts due in respect of the listing of the Offered Securities on any stock exchange or trading system, any costs associated with producing Certificated Notes, any fees, taxes and expenses incurred in connection with complying with FATCA or the establishment and maintenance of any ETB Subsidiary (other than those amounts paid under clause (i)); provided, that amounts due in respect of actions taken on or before the Closing Date (or, at the Portfolio Manager's discretion, expenses incurred in connection with the acquisition of the initial portfolio of Collateral Obligations prior to the fourth Payment Date) shall not be payable as Administrative Expenses but shall be payable only from the Expense Reserve Account pursuant to Section 10.3(d) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account).

"Administrator": Appleby Trust (Cayman) Ltd. and any successor thereto.

"Affected": Any Class of Notes which becomes subject to a tax as a result of a Tax Event.

"Affiliate" or "Affiliated": With respect to a Person, (i) any other Person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such Person or (ii) any other Person who is a director, Officer or employee (a) of such Person, (b) of any subsidiary or parent company of such Person or (c) of any Person described in clause (i) above. For the purposes of this definition, control of a Person shall mean the power, direct or indirect, (i) to vote more than 50% of the securities having ordinary voting power for the election of directors of such Persons or (ii) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise. For purposes of this definition, the management of an account by one Person for the benefit of any other Person shall not constitute "control" of such other Person and no entity shall be deemed an Affiliate of the Issuer or the Co-Issuer solely because the Administrator or its Affiliates serve as administrator or share trustee for such entity.

"Agent Members": Members of, or participants in, DTC, Euroclear or Clearstream.

"Aggregate Excess Spread": As of any date of determination, an amount equal to the product of:

(a) LIBOR applicable to the Secured Notes during the Interest Accrual Period in which such date of determination occurs; multiplied by

(b) the amount (not less than zero) equal to (i) the Aggregate Principal Balance of the Collateral Obligations (excluding any non-cash interest) as of such date of determination minus (ii) the Target Initial Par Amount.

"Aggregate Maximum Notional Amount": The Class A-1 Maximum Notional Amount plus the Class B Maximum Notional Amount plus the Class C Maximum Notional Amount.

"Aggregate Outstanding Amount": With respect to any of the Notes as of any date, the aggregate unpaid principal amount of such Notes Outstanding (including any Deferred Interest previously added to the principal amount of any Class of Deferred Interest Notes that remains unpaid) on such date. Payments received on the Subordinated Notes shall not reduce the Aggregate Outstanding Amount of the Subordinated Notes prior to the Stated Maturity.

"Aggregate Principal Balance": When used with respect to all or a portion of the Collateral Obligations or the Pledged Obligations, the sum of the Principal Balances of all or of such portion of the Collateral Obligations or Pledged Obligations, respectively.

"Aggregate Weighted Average Life" : With respect to all Collateral Obligations as of any date of determination is a date equal to (A) the number of years following such date obtained by (i) summing the products obtained by multiplying the Weighted Average Life at such time of each Collateral Obligation *by* the Principal Balance of such Collateral Obligation and (ii) *dividing* such sum by the Aggregate Principal Balance at such time of all Collateral Obligations *plus* (B) such date of determination.

"Applicable Issuer" or "Applicable Issuers": With respect to the Co-Issued Notes of any Class, the Issuer or each of the Co-Issuers, as specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations) and with respect to the Issuer Notes, the Issuer only.

"Asset-Backed Commercial Paper": Commercial paper or other short-term obligations of a program that primarily issues externally rated commercial paper backed by assets or exposures held in a bankruptcy-remote, special purpose entity.

"Assets": The meaning assigned in the Granting Clauses hereof.

"Assumed Reinvestment Rate": LIBOR (as determined on the most recent Interest Determination Date relating to an Interest Accrual Period beginning on a Payment Date or the Closing Date, as applicable) minus 0.50% per annum; provided, that, if the calculation above results in an interest rate of less than zero, the Assumed Reinvestment Rate will be deemed to be zero for purposes of such calculation.

"Authenticating Agent": With respect to the Notes or a Class of the Notes, the Person designated by the Trustee to authenticate such Notes on behalf of the Trustee pursuant to Section 6.14 (Authenticating Agents) hereof.

"Authorized Officer": With respect to the Issuer or the Co-Issuer, any Officer or any other Person who is authorized to act for the Issuer or the Co-Issuer, as applicable, in matters relating to, and binding upon, the Issuer or the Co-Issuer. With respect to the Portfolio Manager,

any Officer, employee, partner, member or agent of the Portfolio Manager or any other Person who is authorized to act for the Portfolio Manager in matters relating to, and binding upon, the Portfolio Manager with respect to the subject matter of the request, certificate or order in question. With respect to the Collateral Administrator, any Officer, employee or agent of the Collateral Administrator who is authorized to act for the Collateral Administrator in matters relating to, and binding upon, the Collateral Administrator with respect to the subject matter of the request or certificate in question. With respect to the Trustee or any other bank or trust company acting as trustee of an express trust or as custodian, a Bank Officer. Each party may receive and accept a certification of the authority of any other party as conclusive evidence of the authority of any person to act, and such certification may be considered as in full force and effect until receipt from such other party of written notice to the contrary.

"Balance": On any date, with respect to Cash or Eligible Investments in any account, the aggregate (i) current balance of Cash, demand deposits, time deposits, certificates of deposit and federal funds; (ii) principal amount of interest-bearing corporate and government securities, money market accounts and repurchase obligations; and (iii) purchase price (but not greater than the face amount) of non-interest-bearing government and corporate securities and commercial paper.

"Bank": U.S. Bank National Association, a national banking association, in its individual capacity and not as Trustee, Collateral Administrator or any successor thereto.

"Bank Officer": When used with respect to the Trustee, any officer within the Corporate Office (or any successor group of the Trustee) including any vice president, assistant vice president or officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred at the Corporate Office because of his knowledge of and familiarity with the particular subject and in each case having direct responsibility for the administration of this Indenture.

"Bankruptcy Law": The federal Bankruptcy Code, Title 11 of the United States Code, as amended from time to time, the Companies Winding Up Rules and Part V of the Companies Law (2004 Revision) of the Cayman Islands, as amended from time to time.

"Benefit Plan Investor": Means (a) an employee benefit plan (as defined in Section 3(3) of Title I of ERISA) that is subject to the fiduciary responsibility provisions of Title I of ERISA, (b) a plan as defined in Section 4975(e)(1) of the Code that is subject to Section 4975 of the Code, (c) any entity whose underlying assets include "plan assets" by reason of such employee benefit plan's or plan's investment in the entity and (d) a "benefit plan investor" as such term is otherwise defined in any regulations promulgated by the U.S. Department of Labor or under Section 3(42) of ERISA.

"Break-even Rate Case": The cases the Portfolio Manager may select in connection with the definition of S&P Test Matrix, including the additional "Break-even Rate Cases" not included in the definition of S&P Test Matrix that the Portfolio Manager obtains from S&P as set forth in the definition of S&P CDO Monitor.

"Board of Directors": With respect to the Issuer, the directors of the Issuer duly appointed by the shareholders of the Issuer or the board of directors of the Issuer, and with respect to the Co-Issuer, the directors of the Co-Issuer duly appointed by the members of the Co-Issuer.

"Board Resolution": With respect to the Issuer, a resolution of the Board of Directors of the Issuer and, with respect to the Co-Issuer, a resolution of the Board of Directors of the Co-Issuer.

"Bond": A debt security (that is not a loan) that is issued by a corporation, limited liability company, partnership or trust.

"Bond Yield Change": The change in implied yield spread relative to the Merrill Lynch US High Yield Master II Index (Bloomberg Ticker: H0A0) or any other index based upon a nationally recognized index as calculated by the Portfolio Manager in its reasonable commercial judgment.

"Break Funding Amount": In the case of an Optional Redemption or Refinancing where the Redemption Date is not a Payment Date, an amount for each Secured Note being redeemed, if any, equal to the product of (x) the excess, if any, of (1) LIBOR for the current Interest Accrual Period over (2) LIBOR calculated as if the Redemption Date was a Payment Date beginning a new Interest Accrual Period; (y) the Outstanding principal amount of the Secured Note being redeemed and (z) times the number of days remaining in the current Interest Accrual Period as of the Redemption Date over 360.

"Bridge Loan": Any loan or other obligation that (x) is incurred in connection with a merger, acquisition, consolidation, or sale of all or substantially all of the assets of a Person or similar transaction and (y) by its terms, is required to be repaid within one year of the incurrence thereof with proceeds from additional borrowings or other refinancings (it being understood that any such loan or debt security that has a nominal maturity date of one year or less from the incurrence thereof but has a term-out or other provision whereby (automatically or at the sole option of the obligor thereof) the maturity of the indebtedness thereunder may be extended to a later date is not a Bridge Loan).

"Business Day": Any day other than (i) a Saturday or a Sunday or (ii) a day on which commercial banks are authorized or required by applicable law, regulation or executive order to close in New York, New York, London, England or in the city in which the Corporate Office of the Trustee is located or, for any final payment of principal, in the relevant place of presentation.

"Caa Collateral Obligation": A Collateral Obligation (other than a Defaulted Obligation or a Deferring Security) with a Moody's Rating of "Caa1" or lower.

"Calculation Agent": The meaning specified in Section 7.16 (Calculation Agent).

"Cash": Such coin or currency of the United States of America as at the time shall be legal tender for payment of all public and private debts.

"CCC Collateral Obligation": A Collateral Obligation (other than a Defaulted Obligation or a Deferring Security) with an S&P Rating of "CCC+" or lower.

"CCC/Caa Calculated Amount": With respect to any Collateral Obligation included in the CCC/Caa Excess, the lower of (x) an amount equal to 75% of the outstanding principal balance of such Collateral Obligation and (y) the Market Value of such Collateral Obligation (assuming such Market Value is expressed as a percentage of the principal balance of such Collateral Obligation as of the related Determination Date).

"CCC/Caa Par Reduction Amount": At any time, an amount equal to the excess, if any, of: (a) the Aggregate Principal Balance of all Collateral Obligations included in the CCC/Caa Excess at such time; *over* (b) the sum of the CCC/Caa Calculated Amounts of all Collateral Obligations included in the CCC/Caa Excess at such time.

"CCC/Caa Excess": The greater of: (i) the excess, if any, by which the Aggregate Principal Balance of Caa Collateral Obligations *exceeds* 7.5% of the Collateral Principal Amount and (ii) the excess, if any, by which the Aggregate Principal Balance of CCC Collateral Obligations *exceeds* 7.5% of the Collateral Principal Amount; provided, that, in determining which of the CCC Collateral Obligations and the Caa Collateral Obligations shall be included in the CCC/Caa Excess, the CCC Collateral Obligations and the Caa Collateral Obligations with the lowest Market Value (expressed as a percentage of par) shall be deemed to constitute such CCC/Caa Excess; provided, further, that, if the greater of clause (i) or (ii) above does not result in the larger Excess CCC/Caa Adjustment Amount, then the lesser of clause (i) or (ii) shall be applicable for purposes of this definition.

"CDO Liability Rating": The rating corresponding to the case or table selected in connection with the Weighted Average S&P Recovery Rate.

"Certificate of Authentication": The meaning specified in Section 2.1 (Forms Generally).

"Certificated Note": The meaning specified in Section 2.11(b) (Certificated Notes).

"Certificated Secured Notes": The meaning specified in Section 2.11(b) (Certificated Notes).

"Certificated Security": The meaning specified in Section 8-102(a)(4) of the UCC.

"Certificated Subordinated Note": The meaning specified in Section 2.2(b) (Forms of Notes) and Section 2.11(b) (Certificated Notes).

"CFTC": The Commodity Futures Trading Commission.

"Class": In the case of (1) the Class A Notes, all of the Class A-1 Notes and the Class A-2 Notes together as a single Class (except, in the case of a Refinancing, the Class A-1 Notes and the Class A-2 Notes shall be treated as separate classes), (2) the Class A-2 Notes, all

of the Class A-2A Notes and the Class A-2B Notes together as a single Class (except, in the case of a Refinancing, the Class A-2A Notes and the Class A-2B Notes shall be treated as separate Classes), (3) the Class X Notes, the Class A-1 Notes, the Class A-2A Notes, the Class A-2B Notes, the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes and the Class F Notes, all of the Secured Notes having the same Note Interest Rate, Stated Maturity and designation, (4) the Subordinated Notes, all of the Subordinated Notes and (5) the Combination Notes, all of the Combination Notes. Unless otherwise stated in this Indenture, the Class A Notes shall be treated as a single Class for voting and consent purposes. With respect to any exercise of voting rights, any Combination Notes that are entitled to vote on a matter shall vote with each Underlying Class except in connection with any supplemental indenture on Notes of any Underlying Class, in which case the Combination Notes shall vote only as a separate class.

"Class A Notes": Collectively, all of the Class A-1 Notes and the Class A-2 Notes together as a single Class (except, in the case of a Refinancing, the Class A-1 Notes and the Class A-2 Notes shall be treated as separate Classes).

"Class A-1 Maximum Notional Amount": Components of the Combination Notes representing up to $190,750,000 Class A-1 Notes.

"Class A-1 Notes": The Class A-1 Senior Secured Floating Rate Notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Class A-2 Notes": Collectively, all of the Class A-2A Notes and the Class A2-B Notes together as a single Class (except, in the case of a Refinancing, the Class A-2A Notes and the Class A-2B Notes shall be treated as separate Classes).

"Class A-2A Notes": The Class A-2A Senior Secured Floating Rate Notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Class A-2B Notes": The Class A-2B Senior Secured Floating Rate Notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Class A/B Coverage Tests": The Overcollateralization Ratio Test and the Interest Coverage Test applied respectively to the Class A Notes and the Class B Notes, collectively.

"Class B Maximum Notional Amount": Components of the Combination Notes representing up to $37,638,121 Class B Notes.

"Class B Notes": The Class B Senior Secured Floating Rate Notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Class Break-even Default Rate": With respect to each Class of Secured Notes, the maximum percentage of defaults, at any time, that the Current Portfolio or the Proposed

Portfolio, as applicable, can sustain, from time to time, through application of the S&P CDO Monitor, which, after giving effect to S&P's assumptions on recoveries, defaults and timing and to the Priority of Payments, will result in sufficient funds remaining for the payment of such Class of Notes in full. For purposes of determining the Class Break-even Default Rates on any date of determination, the Portfolio Manager will inform S&P which combination of cases from the S&P Test Matrix will be used, and the corresponding set of Class Break-even Default Rates from S&P will apply.

"Class C Coverage Tests": The Overcollateralization Ratio Test and the Interest Coverage Test, each as applied with respect to the Class C Notes.

"Class C Maximum Notional Amount": Components of the Combination Notes representing up to $23,787,293 Class C Notes.

"Class C Notes": The Class C Mezzanine Secured Deferrable Floating Rate Notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Class D Coverage Tests": The Overcollateralization Ratio Test and the Interest Coverage Test, each as applied with respect to the Class D Notes.

"Class D Notes": The Class D Mezzanine Secured Deferrable Floating Rate Notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Class Default Differential": With respect to each Class of Secured Notes, at any time, the rate calculated by subtracting the Class Scenario Default Rate for such Class of Notes at such time from the Class Break-even Default Rate for such Class of Notes at such time.

"Class E Coverage Tests": The Overcollateralization Ratio Test and the Interest Coverage Test, each as applied with respect to the Class E Notes.

"Class E Notes": The Class E Junior Secured Deferrable Floating Rate Notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Class F Notes": The Class F Junior Secured Deferrable Floating Rate Notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Class Scenario Default Rate": With respect to each Class of Secured Notes, at any time, an estimate of the cumulative default rate for the Current Portfolio or the Proposed Portfolio, as applicable, consistent with S&P's Initial Rating of such Class of Secured Notes, determined by application by the Portfolio Manager and the Collateral Administrator of the S&P CDO Monitor at such time.

"Class X Note Payment Amount": An amount equal to 25% of the original principal amount of the Class X Notes issued on the Closing Date, which shall be payable on

each Payment Date in accordance with Section 11.1(a)(i) (Disbursements of Monies from Payment Account).

"Class X Notes": The Class X Senior Secured Floating Rate Notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Clean-up Call Redemption": A redemption of the Notes in accordance with Section 9.6 (Clean-up Call Redemption).

"Clean-up Call Redemption Date": The meaning specified in Section 9.6 (Clean-up Call Redemption).

"Clean-up Call Redemption Price": A purchase price in Cash at least equal to the sum of (a) the Aggregate Outstanding Amount of the Secured Notes, plus (b) all unpaid interest on the Secured Notes accrued to the date of such redemption (including any interest accrued on Deferred Interest), plus (c) the aggregate of all other amounts owing by the Issuer on the date of such redemption that are payable in accordance with the Priority of Payments prior to distributions in respect of the Subordinated Notes, including any amounts payable in respect of any Hedge Agreement and all expenses incurred in connection with effecting the Clean-up Call Redemption; provided that, in connection with any Clean-Up Call Redemption of the Notes, Holders of 100% of the Aggregate Outstanding Amount of any Class of Secured Notes may elect to receive less than 100% of the Clean-up Call Redemption Price that would otherwise be payable to the Holders of such Class of Secured Notes.

"Clearing Agency": An organization registered as a "clearing agency" pursuant to Section 17A of the Exchange Act.

"Clearing Corporation": As the context may require, any or all of (i) Clearstream, (ii) DTC, (iii) Euroclear and (iv) any entity included within the meaning of "clearing corporation" under Section 8-102(a)(5) of the UCC.

"Clearing Corporation Security": Securities which are in the custody of or maintained on the books of a Clearing Corporation or a nominee subject to the control of a Clearing Corporation and, if they are Certificated Securities in registered form, properly endorsed to or registered in the name of the Clearing Corporation or such nominee.

"Clearstream": Clearstream Banking, société anonyme, a corporation organized under the laws of the Grand Duchy of Luxembourg.

"Closing Date": March 18, 2013.

"Code": The U.S. Internal Revenue Code of 1986, as amended.

"Co-Issued Notes": The Class X Notes, the Class A Notes, the Class B Notes, the Class C Notes, the Class D Notes and the Combination Notes.

"Co-Issuer": The Person named as such on the first page of this Indenture until a successor Person shall have become the Co-Issuer pursuant to the applicable provisions of this Indenture, and thereafter "Co-Issuer" shall mean such successor Person.

"Co-Issuers": The Issuer and the Co-Issuer.

"Collateral Administration Agreement": An agreement dated as of the Closing Date among the Issuer, the Portfolio Manager and the Collateral Administrator, as amended from time to time.

"Collateral Administrator": U.S. Bank National Association, in its capacity as such under the Collateral Administration Agreement, and any successor thereto.

"Collateral Interest Amount": As of any date of determination, without duplication, the sum of (i) the aggregate amount of Interest Proceeds in the Interest Collection Subaccount that have been received or that are expected to be received (other than Interest Proceeds expected to be received from Defaulted Obligations and Deferring Securities, but including Interest Proceeds actually received from Defaulted Obligations and Deferring Securities) during the Collection Period (and, if such Collection Period does not end on a Business Day, the next succeeding Business Day) in which such date of determination occurs and (ii) in the case of the Hedge Agreements, any net payments expected to be received by the Issuer on or before the immediately following Payment Date (other than any payments that would be classified as Principal Proceeds).

"Collateral Obligation": A debt obligation (including, but not limited to, interests in bank loans acquired by way of a sale or assignment, and high-yield debt securities), Participation Interest or Pre-funded Letter of Credit that as of the date of acquisition by the Issuer:

(i) is U.S. Dollar denominated and is neither convertible by the issuer thereof into, nor payable in, any other currency;

(ii) is not a Defaulted Obligation, Current Pay Obligation or a Credit Risk Obligation;

(iii) is not a lease;

(iv) has not deferred payment of any accrued, unpaid interest which would have otherwise been due and continues to remain unpaid and is not a Deferrable Security or a Partial Deferrable Security;

(v) provides for a fixed amount of principal payable in Cash on scheduled payment dates and/or at maturity and does not by its terms provide for earlier amortization or prepayment at a price of less than par;

(vi) does not constitute Margin Stock;

(vii) is not a Margin Loan;

(viii) has payments that do not subject the Issuer to withholding tax unless (i) the related obligor is required to make "gross-up" payments that cover the full amount of any such withholding tax on an after tax basis (for the avoidance of doubt, this clause shall not apply to commitment fees, letter of credit fees, Pre-funded Letter of Credit fees or similar fees) or (ii) such withholding is the result of the failure of Noteholders to provide the Issuer (or an authorized agent acting on behalf of the Issuer) with the Holder FATCA Information and such withholding is allocated amongst such non-complying Noteholders;

(ix) has a Moody's Rating and an S&P Rating and does not have an S&P Rating that is below "CCC-" or a Moody's Default Probability Rating that is below "Caa3";

(x) is not a debt obligation whose repayment is subject to substantial non-credit related risk as determined by the Portfolio Manager;

(xi) except for Delayed Drawdown Collateral Obligations and Revolving Collateral Obligations, is not an obligation pursuant to which any future advances or payments, other than Excepted Advances, to the borrower or the obligor thereof may be required to be made by the Issuer;

(xii) does not have an "f," "r," "p," "pi," "q," "t" or "sf" subscript assigned by S&P;

(xiii) is not a Related Obligation;

(xiv) is not subject to an Offer other than (a) an offer of publicly traded registered securities with equal or greater face value and similar terms issued in exchange for securities issued under Rule 144A or a loan or security that would otherwise qualify for purchase under the Investment Criteria or (b) a Permitted Offer;

(xv) is not a Structured Finance Obligation;

(xvi) is not a Synthetic Security;

(xvii) will not consist of a debt obligation of a single obligor where the total potential indebtedness of such obligor under all of its loan agreements, indentures and other underlying instruments is less than $250,000,000;

(xviii) will not require the Issuer, the Co-Issuer or the pool of Assets to be registered as an investment company under the Investment Company Act;

(xix) is not an Equity Security or attached with a warrant to purchase Equity Securities and does not provide for mandatory or optional conversion for Equity Securities; provided that a Collateral Obligation may be by its terms convertible into or exchangeable for an Equity Security if the convertible or exchangeable portion of such Collateral Obligation constitutes less than or equal to 2% of the portion of the Collateral Principal Amount represented by such Collateral Obligation;

(xx) is not a Bridge Loan;

(xxi) is not a Zero Coupon Obligation;

(xxii) is not a Step-up Obligation or a Step-down Obligation;

(xxiii) is not an Interest Only Security; and

(xxiv) it does not mature after the Stated Maturity of the Notes.

"Collateral Principal Amount": As of any date of determination, the sum of (a) the Aggregate Principal Balance of the Collateral Obligations (other than Defaulted Obligations) and (b) without duplication, the amounts on deposit in the Accounts, excluding the Revolver Funding Account, (including Eligible Investments in such Accounts) representing Principal Proceeds.

"Collateral Quality Test": A test satisfied if, as of any date of determination at, or subsequent to, the end of the Ramp-up Period (or, with respect to the test set forth in clause (v) below, as of or subsequent to any date of determination immediately succeeding receipt by the Issuer of written confirmation of S&P's Initial Ratings of the Secured Notes and which occurs during the Reinvestment Period), in the aggregate, the Collateral Obligations owned (or in relation to a proposed purchase of a Collateral Obligation, proposed to be owned) by the Issuer satisfy each of the tests set forth below, calculated in each case as required by Section 1.2 (Assumptions as to Pledged Obligations) herein:

(i) the Minimum Fixed Coupon Test;

(ii) the Minimum Floating Spread Test;

(iii) the Maximum Moody's Rating Factor Test;

(iv) the Moody's Diversity Test;

(v) the S&P CDO Monitor Test;

(vi) the Minimum Weighted Average Moody's Recovery Rate Test;

(vii) the Minimum Weighted Average S&P Recovery Rate Test; and

(viii) the Weighted Average Life Test.

"Collection Account": The non-interest bearing segregated trust account established pursuant to Section 10.2 (Collection Account), which includes the Principal Collection Subaccount and the Interest Collection Subaccount.

"Collection Period": With respect to any Payment Date, the period commencing immediately following the prior Collection Period (or on the Closing Date, in the case of the Collection Period relating to the first Payment Date) and ending on the 10th day of the month in which such Payment Date occurs or, in the case of (x) the final Collection Period preceding the latest Stated Maturity of any Class of Notes, (y) the final Collection Period preceding an

Optional Redemption or Clean-up Call Redemption or (z) the final Collection Period preceding final payment on the Notes following the liquidation of the Assets following an Event of Default, ending on the day preceding such Stated Maturity, Redemption Date or final payment, respectively.

"Combination Notes": The Senior Secured Deferrable Combination Notes composed of Components representing Class A-1 Notes, Class B Notes and Class C Notes (each such Class of Notes, an "Underlying Class").

"Combination Notes Table": The meaning specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Components": The Class A-1 Notes, the Class B Notes and the Class C Notes that represent the Underlying Classes of the Combination Notes.

"Concentration Limitations": Limitations satisfied, if as of any date of determination at or subsequent to, the end of the Ramp-up Period, in the aggregate, the Collateral Obligations owned (or in relation to a proposed purchase of a Collateral Obligation, proposed to be owned) by the Issuer comply with all of the requirements set forth below, calculated in each case as required by Section 1.2 (Assumptions as to Pledged Obligations) herein:

(i) all of the Collateral Obligations must be issued by Non-Emerging Market Obligors and the country of organization of such Obligor must either (x) be the United States or (y) have a country ceiling for foreign currency bonds rating of at least "Aa2" by Moody's;

(ii) no more than the percentage listed below of the Collateral Principal Amount may be issued by obligors Domiciled in the country or countries set forth opposite such percentage:

% Limit	Country or Countries
10.0%	All countries (in the aggregate) other than the United States;
10.0%	Canada;
10.0%	Any Tax Jurisdiction;
0%	All countries (in the aggregate) other than the United States, Canada and any Tax Jurisdiction;

(iii) the sum of the aggregate unfunded commitments under Delayed Drawdown Collateral Obligations that are available to be funded and the Aggregate Principal

Balance of Revolving Collateral Obligations may not be more than 15% of the Collateral Principal Amount;

(iv) the Moody's Counterparty Criteria are met;

(v) not less than 95% of the Collateral Principal Amount may consist of Senior Secured Loans;

(vi) not less than 95% of the Collateral Principal Amount may consist of floating rate Collateral Obligations;

(vii) not more than 10% of the Collateral Principal Amount may consist of Participation Interests;

(viii) not more than 5% of the Collateral Principal Amount may consist of Collateral Obligations that are Second Lien Loans;

(ix) [Reserved];

(x) [Reserved];

(xi) not more than 7.5% of the Collateral Principal Amount may consist of DIP Collateral Obligations and not more than 2% of the Collateral Principal Amount may consist of DIP Collateral Obligations issued by a single obligor;

(xii) [Reserved];

(xiii) not more than 2.0% of the Collateral Principal Amount may consist of obligations issued by a single obligor, except that up to 2.5% of the Collateral Principal Amount may consist of obligations issued by each of up to five other obligors (so long as Moody's has issued a non-credit estimate rating for such obligor);

(xiv) (a) not more than 5% of the Collateral Principal Amount may consist of Collateral Obligations with a Moody's Rating of "Caa1" or below and (b) not more than 5% of the Collateral Principal Amount may consist of Collateral Obligations with an S&P Rating of "CCC+" or below;

(xv) the Third Party Credit Exposure may not exceed 20% of the Collateral Principal Amount and the Third Party Credit Exposure with counterparties with a rating below "AA" by S&P may not exceed 5% of the Collateral Principal Amount; provided that no Third Party Credit Exposure is permitted with counterparties that do not have a long-term debt rating of at least "A" by S&P and a short-term debt rating of at least "A-1" by S&P (or a long-term debt rating of at least "A+" by S&P);

(xvi) not more than 10% of the Collateral Principal Amount may consist of Collateral Obligations with an S&P Rating derived from a Moody's Rating as set forth in clause (ii)(a) of the definition of the term "S&P Rating";

(xvii) not more than 10% of the Collateral Principal Amount may consist of Collateral Obligations with a Moody's Rating derived from an S&P Rating as provided in clauses (iv)(A)(1), (2) or (3) of the definition of the term "Moody's Derived Rating";

(xviii) not more than 10% of the Collateral Principal Amount may consist of Collateral Obligations that are issued by obligors that belong to any single S&P Industry Classification, except that up to two other S&P Industry Classifications may each represent up to 12% of the Collateral Principal Amount;

(xix) not more than 3% of the Collateral Principal Amount may consist of Pre-funded Letters of Credit;

(xx) [Reserved];

(xxi) not more than 50% of the Collateral Principal Amount may consist of Cov-Lite Loans;

(xxii) not more than 5% of the Collateral Principal Amount may consist of Collateral Obligations that are High Yield Bonds;

(xxiii) not more than 10% of the Collateral Principal Amount may consist of Collateral Obligations that are Discount Obligations;

(xxiv) not more than 5% of the Collateral Principal Amount may consist of Collateral Obligations that are Non-Quarterly Assets; and

(xxv) not more than 5% of the Collateral Principal Amount may consist of Collateral Obligations with warrants to purchase Equity Securities attached thereto.

"Confidential Information": The meaning specified in Section 14.13(b).

"Consenting Holder of the Subordinated Notes": With respect to any Payment Date, a Holder of Subordinated Notes that has consented by delivering an irrevocable written notice to the Paying Agent to a distribution of Equity Securities in lieu of payment of Interest Proceeds on such Payment Date.

"Controlling Class": The Class A Notes (voting as a single class), so long as any Class A Notes are Outstanding; then the Class B Notes, if there are no Class A Notes Outstanding; then the Class C Notes, if there are no Class A Notes or Class B Notes Outstanding; then the Class D Notes, if there are no Class A Notes, Class B Notes or Class C Notes Outstanding; then the Class E Notes, if there are no Class A Notes, Class B Notes, Class C Notes or Class D Notes Outstanding; then the Class F Notes, if there are no Class A Notes, Class B Notes, Class C Notes, Class D Notes or Class E Notes Outstanding; and then the Subordinated Notes, if there are no Class A Notes, Class B Notes, Class C Notes, Class D Notes, Class E Notes or Class F Notes Outstanding. For the avoidance of doubt, the Class X Notes shall not be the Controlling Class.

"Controlling Person": The meaning specified in Section 2.6(c) (Registration, Registration of Transfer and Exchange).

"Corporate Office": With respect to the Trustee, (x) for Note transfer purposes and presentment of the Notes, the corporate office of the Trustee located at 60 Livingston Avenue, St. Paul, MN 55107, Attn: Corporate Trust Services – Acis CLO 2013-1 and (y) for all other purposes, the corporate office of the Trustee located at 190 South LaSalle Street, 10th Floor, Chicago, IL 60603, Attn: Corporate Trust Services – ACIS CLO 2013-1, Fax: 312-332-8030, e-mail: ACIS.CLO.2013.01@usbank.com; and at or such other address as the Trustee may designate from time to time by notice to the Holders, the Portfolio Manager, any Hedge Counterparty and the Issuer or the principal corporate office of any successor Trustee.

"Coverage Tests": The Class A/B Coverage Tests, the Class C Coverage Tests, the Class D Coverage Tests and the Class E Coverage Tests.

"Cov-Lite Loan": A loan that (i) does not contain any financial covenants or (ii) requires the borrower to comply with one or more financial covenants only upon the occurrence of certain actions of the borrower including, but not limited to, a debt issuance, dividend payment, share purchase, merger, acquisition or divestiture (such covenant, an "Incurrence Covenant"), but contains no covenants requiring the borrower to comply with one or more financial covenants during each reporting period, whether or not it has taken any specified action (such covenant, a "Maintenance Covenant"); provided, that for all purposes other than the determination of the S&P Recovery Rate for such loan, a loan described in clause (i) or (ii) above which either contains a cross default provision to, or is pari passu with, another loan of the underlying obligor that requires the underlying obligor to comply with both an Incurrence Covenant and a Maintenance Covenant will be deemed not to be a Cov-Lite Loan.

"CPO": A Commodity Pool Operator.

"Credit Improved Criteria": The criteria that will be met with respect to any Collateral Obligation (i) if such Collateral Obligation is a loan, the Loan Pricing Change since the date of purchase by the Issuer has been a percentage point increase of 0.50% or more, (ii) if such Collateral Obligation is a loan, the spread over the applicable reference rate for such Collateral Obligation has been decreased in accordance with the Underlying Instruments with respect to such Collateral Obligation since the date of acquisition by (a) 0.25% or more (in the case of a loan with a spread (prior to such decrease) less than or equal to 2.00%), (b) 0.375% or more (in the case of a loan with a spread (prior to such decrease) greater than 2.00% but less than or equal to 4.00%) or (c) 0.50% or more (in the case of a loan with a spread (prior to such decrease) greater than 4.00%) due, in each case, to an improvement in the related borrower's financial ratios or financial results, (iii) if such Collateral Obligation is a bond, the Bond Yield Change since the date of purchase by the Issuer has been a percentage point decrease of 0.50% or more or (iv) if it has a projected cash flow interest coverage ratio (earnings before interest and taxes divided by cash interest expense as estimated by the Portfolio Manager) of the underlying borrower or other obligor of such Collateral Obligation that is expected to be more than 1.15 times the current year's projected cash flow interest coverage ratio.

"Credit Improved Obligation": Any Collateral Obligation which, in the Portfolio Manager's reasonable commercial judgment, has significantly improved in credit quality after it was acquired by the Issuer, which improvement may (but need not) be evidenced by one of the following: (a) such Collateral Obligation satisfies at least one of the Credit Improved Criteria, (b) such Collateral Obligation has been upgraded at least one rating sub-category by either Rating Agency or has been placed and remains on credit watch with positive implication by either Rating Agency, (c) the issuer of such Collateral Obligation has raised equity capital or other capital subordinated to the Collateral Obligation or (d) the issuer of such Collateral Obligation has, in the Portfolio Manager's reasonable commercial judgment, shown improved results or possesses less credit risk, in each case since such Collateral Obligation was acquired by the Issuer; provided, however, that during a Restricted Trading Period, a Collateral Obligation will qualify as a Credit Improved Obligation only if (i) it has been upgraded by any Rating Agency at least one rating sub category or has been placed and remains on a credit watch with positive implication by Moody's since it was acquired by the Issuer, (ii) at least one of the Credit Improved Criteria are satisfied with respect to such Collateral Obligation or (iii) at least a Majority of the Controlling Class vote to treat such Collateral Obligation as a Credit Improved Obligation.

"Credit Risk Criteria": The criteria that will be met with respect to any Collateral Obligation (i) if such Collateral Obligation is a loan, the Loan Pricing Change since the date of purchase by the Issuer has been a percentage point decrease of 0.50% or more, (ii) if such Collateral Obligation is a loan, the spread over the applicable reference rate for such Collateral Obligation has been increased in accordance with the Underlying Instruments with respect to such Collateral Obligation since the date of acquisition by (a) 0.25% or more (in the case of a loan with a spread (prior to such increase) less than or equal to 2.00%), (b) 0.375% or more (in the case of a loan with a spread (prior to such increase) greater than 2.00% but less than or equal to 4.00%) or (c) 0.50% or more (in the case of a loan with a spread (prior to such increase) greater than 4.00%) due, in each case, to a deterioration in the related borrower's financial ratios or financial results, (iii) in the case of a bond, the Bond Yield Change since the date of purchase by the Issuer has been a percentage point increase of 0.50% or more or (iv) if it has a projected cash flow interest coverage ratio (earnings before interest and taxes divided by cash interest expense as estimated by the Portfolio Manager) of the underlying borrower or other obligor of such Collateral Obligation of less than 1.00 or that is expected to be less than 0.85 times the current year's projected cash flow interest coverage ratio.

"Credit Risk Obligation": Any Collateral Obligation that, in the Portfolio Manager's reasonable commercial judgment, has a significant risk of declining in credit quality or price unrelated to general market conditions; provided, however, that during a Restricted Trading Period, a Collateral Obligation will qualify as a Credit Risk Obligation only if, (i) such Collateral Obligation has been downgraded by any Rating Agency at least one rating sub category or has been placed and remains on a credit watch with negative implication by Moody's since it was acquired by the Issuer, (ii) at least one of the Credit Risk Criteria are satisfied with respect to such Collateral Obligation or (iii) at least a Majority of the Controlling Class vote to treat such Collateral Obligation as a Credit Risk Obligation.

"Current Pay Obligation": A Collateral Obligation that would be a Defaulted Obligation but as to which (i) if the issuer of such Collateral Obligation is not subject to a

bankruptcy proceeding, all scheduled payments contractually due, including interest and principal payments (if any), were paid in cash and the Portfolio Manager reasonably expects that the next interest and contractual principal payment (if any) due will be paid in cash, (ii) if the issuer of such Collateral Obligation is subject to a bankruptcy proceeding, a bankruptcy court has authorized payment of all scheduled amounts due (other than principal amounts due as a result of any automatic acceleration of such Collateral Obligation pursuant to the Underlying Instruments because of the bankruptcy, receivership or similar proceeding of such obligor) on account of such Collateral Obligation and all such scheduled payments have been paid on a current basis in Cash, to the knowledge of the Portfolio Manager, (iii) for so long as Moody's is rating the Class X Notes, the Class A-1 Notes, the Class A-2A Notes or the Class A-2B Notes, either (x) the Moody's Rating of such Collateral Obligation is at least "B3", (y) the Moody's Rating of such Collateral Obligation is at least "Caa1," and the Market Value of such Collateral Obligation is at least 80% of the par value thereof or (z) the Moody's Rating of such Collateral Obligation is at least "Caa2," and the Market Value of such Collateral Obligation is at least 85% of the par value thereof and (iv) the Market Value of such Collateral Obligation is at least 80% of the par value thereof; provided that the Aggregate Principal Balance of all Collateral Obligations which constitute "Current Pay Obligations" may not exceed 5.0% of the Collateral Principal Amount; provided further, that in determining which of the Collateral Obligations will be included in the preceding proviso as Current Pay Obligations, the Collateral Obligations with the highest Market Value expressed as a percentage will be deemed to constitute Current Pay Obligations. If the Market Value of a Collateral Obligation is determined pursuant to clause (E) of the definition of Market Value, such Collateral Obligation cannot be a Current Pay Obligation.

"Current Portfolio": At any time, the then current portfolio of Collateral Obligations and Eligible Investments representing Principal Proceeds (determined in accordance with Section 1.2 (Assumptions as to Pledged Obligations) to the extent applicable), then held by the Issuer.

"Custodial Account": The non-interest bearing segregated custodial account established in the name of the Trustee pursuant to Section 10.3(b) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account).

"Custodian": The meaning specified in the first sentence of Section 3.3(a) (Custodianship; Delivery of Collateral Obligations and Eligible Investments) with respect to items of collateral referred to therein, and each entity with which an Account is maintained, as the context may require, each of which shall be a Securities Intermediary.

"Default": Any Event of Default or any occurrence that is, or with notice or the lapse of time or both would become, an Event of Default.

"Defaulted Obligation": Any debt obligation included in the Assets shall constitute a "Defaulted Obligation" if:

(a) a default as to the payment of principal and/or interest has occurred and is continuing with respect to such debt obligation (without regard to any grace period applicable thereto, or waiver thereof, after the passage (in the case of a default that in the Portfolio

Manager's judgment, as certified to the Trustee in writing, is not due to credit-related causes) of a three Business Day grace period);

(b) a default known to a Responsible Officer of the Portfolio Manager as to the payment of principal and/or interest has occurred and is continuing on another debt obligation of the same issuer which is senior or pari passu in right of payment to such debt obligation (without regard to any grace period applicable thereto, or waiver or forbearance thereof, after the passage (in the case of a default in the Portfolio Manager's judgment that is not due to credit-related causes) of five Business Days or seven calendar days, whichever is greater, but in no case beyond the passage of any grace period applicable thereto; provided, that both debt obligations are full recourse obligations);

(c) the issuer or others have instituted proceedings to have the issuer adjudicated as bankrupt or insolvent or placed into receivership and such proceedings have not been stayed or dismissed or such issuer has filed for protection under Chapter 11 of the United States Bankruptcy Code;

(d) (x) such Collateral Obligation has an S&P Rating of "CC" or lower or "SD" or had such rating before such rating was withdrawn or (y) the obligor of such debt obligation has a Moody's probability default rating (as published by Moody's) of "D" or "LD" or had such rating before such rating was withdrawn;

(e) the Portfolio Manager has in its reasonable commercial judgment otherwise declared such debt obligation to be a "Defaulted Obligation";

(f) such Collateral Obligation is a Participation Interest and (1) the related Selling Institution fails in any material respect in the performance of any of its payment obligations in accordance with the terms of such Participation Interest and such failure continues for seven Business Days or (2) the Selling Institution has an S&P rating of "CC" or lower or "SD" or a Moody's rating of "D" or "LD" or had either such rating before such rating was withdrawn;

(g) such debt obligation is pari passu in right of payment as to the payment of principal and/or interest to another debt obligation of the same issuer that would constitute a Defaulted Obligation under clause (d) above were such other debt obligation owned by the Issuer; provided, that both the debt obligation and such other debt obligation are full recourse obligations of the applicable issuer;

(h) such obligation is a Deferring Security; or

(i) the excess, if any, of Current Pay Obligations the Aggregate Principal Balance of which exceeds 5.0% of the Collateral Principal Amount;

provided, that a Collateral Obligation will not constitute a Defaulted Obligation pursuant to clauses (b) or (c) above if such Collateral Obligation is a DIP Collateral Obligation;

"Deferrable Cash-Pay Interest": As to any Partial Deferrable Security, the portion of interest required to be paid in cash (and not permitted to be added to the balance of such

Partial Deferrable Security or otherwise deferred and accrued) thereon pursuant to the terms of the related underlying instruments.

"Deferrable Security": A Collateral Obligation which by its terms permits the deferral of payment of any accrued or unpaid interest; provided that such loan or obligation shall not be a Partial Deferrable Security.

"Deferred Interest": With respect to any specified Class of Deferred Interest Notes, the meaning specified in Section 2.8(a) (Payment of Principal and Interest and Other Amounts; Principal and Interest Rights Preserved).

"Deferred Interest Notes": The Notes specified as such in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Deferring Security": A Deferrable Security that is deferring the payment of interest due thereon and has been so deferring the payment of interest due thereon (i) with respect to Collateral Obligations that have a Moody's Rating of at least "Baa3," for the shorter of two consecutive accrual periods or one year and (ii) with respect to Collateral Obligations that have a Moody's Rating of "Ba1" or below, for the shorter of one accrual period or six consecutive months, which deferred capitalized interest has not, as of the date of determination, been paid in Cash.

"Delayed Drawdown Collateral Obligation": A Collateral Obligation that (a) requires the Issuer to make one or more future advances to the borrower under the Underlying Instruments relating thereto, (b) specifies a maximum amount that can be borrowed on one or more borrowing dates and (c) does not permit the re-borrowing of any amount previously repaid by the borrower thereunder; but any such Collateral Obligation will be a Delayed Drawdown Collateral Obligation only until all commitments by the Issuer to make advances to the borrower expire or are terminated or reduced to zero. If a portion of a Pre-funded Letter of Credit is unfunded, such Pre-funded Letter of Credit will also constitute a Delayed Drawdown Collateral Obligation (to the extent of the unfunded amount) until the Issuer's obligations under such Pre-funded Letter of Credit are fully funded.

"Deliver" or "Delivered" or "Delivery": The taking of the following steps:

(i) in the case of each Certificated Security (other than a Clearing Corporation Security), Instrument or Participation Interest in which the underlying loan or Participation Interest is represented by an Instrument,

(a) causing the delivery of such Certificated Security or Instrument to the Custodian registered in the name of the Custodian or its affiliated nominee or endorsed to the Custodian or in blank,

(b) causing the Custodian to continuously indicate on its books and records that such Certificated Security or Instrument is credited to the applicable Account, and

(c) causing the Custodian to maintain continuous possession of such Certificated Security or Instrument;

(ii) in the case of each Uncertificated Security (other than a Clearing Corporation Security),

(a) causing such Uncertificated Security to be continuously registered on the books of the issuer thereof to the Custodian, and

(b) causing the Custodian to continuously indicate on its books and records that such Uncertificated Security is credited to the applicable Account;

(iii) in the case of each Clearing Corporation Security,

(a) causing the relevant Clearing Corporation to credit such Clearing Corporation Security to the securities account of the Custodian or a nominee, and

(b) causing the Custodian to continuously indicate on its books and records that such Clearing Corporation Security is credited to the applicable Account;

(iv) in the case of each security issued or guaranteed by the United States of America or agency or instrumentality thereof and that is maintained in book-entry records of a Federal Reserve Bank ("FRB") (each such security, a "Government Security"),

(a) causing the creation of a Security Entitlement to such Government Security by the credit of such Government Security to the securities account of the Custodian at such FRB, and

(b) causing the Custodian to continuously indicate on its books and records that such Government Security is credited to the applicable Account;

(v) in the case of each Security Entitlement not governed by clauses (i) through (iv) above,

(a) causing a Securities Intermediary (x) to indicate on its books and records that the underlying Financial Asset has been credited to the Custodian's securities account, (y) to receive a Financial Asset from a Securities Intermediary or to acquire the underlying Financial Asset for a Securities Intermediary, and in either case, accepting it for credit to the Custodian's securities account or (z) to become obligated under other law, regulation or rule to credit the underlying Financial Asset to a Security Intermediary's securities account,

(b) causing such Securities Intermediary to make entries on its books and records continuously identifying such Security Entitlement as belonging to the Custodian and continuously indicating on its books and records that such Security Entitlement is credited to the Custodian's securities account, and

(c) causing the Custodian to continuously indicate on its books and records that such Security Entitlement (or all rights and property of the Custodian representing such Security Entitlement) is credited to the applicable Account;

(vi) in the case of Cash or Money,

(a) causing the delivery of such Cash or Money to the Custodian,

(b) causing the Custodian to treat such Cash or Money as a Financial Asset maintained by such Custodian for credit to the applicable Account in accordance with the provisions of Article 8 of the UCC, and

(c) causing the Custodian to continuously indicate on its books and records that such Cash or Money is credited to the applicable Account; and

(vii) in the case of each general intangible (including any loan or Participation Interest in which neither the Participation Interest nor the loan is represented by an Instrument) or any other Asset the security interest in respect of which may be perfected under the UCC by filing a Financing Statement,

(a) causing the filing of a Financing Statement in the office of the Recorder of Deeds of the District of Columbia, Washington, DC, and

(b) causing the registration of the security interests granted under this Indenture in the Register of Mortgages and Charges of the Issuer at the Issuer's registered office in the Cayman Islands.

In addition, the Issuer will obtain any and all consents required by the underlying instruments relating to any such general intangibles for the transfer of ownership and/or pledge hereunder (except to the extent that the requirement for such consent is rendered ineffective under Section 9-406 of the UCC).

"Designated Principal Proceeds": A one time designation by the Portfolio Manager of up to $5,000,000 in Principal Proceeds as Interest Proceeds after the Effective Date and on or prior to the second Determination Date (but only if the Effective Date Overcollateralization Test would be satisfied after such designation).

"Determination Date": The last day of each Collection Period.

"DIP Collateral Obligation": A loan paying interest on a current basis made to a debtor-in-possession pursuant to Section 364 of the U.S. Bankruptcy Code having the priority allowed by either Section 364(c) or 364(d) of the U.S. Bankruptcy Code and secured by senior liens.

"Discount Obligation": Any Collateral Obligation that was purchased (as determined without averaging prices of purchases on different dates and treating each portion of a Collateral Obligation purchased on different dates as a separate Collateral Obligation) for less than (1) 85% of its Principal Balance, if such Collateral Obligation has a Moody's Rating lower than "B3," or (2) 80% of its Principal Balance, if such Collateral Obligation has a Moody's Rating of "B3" or higher; *provided* that

(i) such Collateral Obligation will cease to be a Discount Obligation at such time as the Market Value (expressed as a percentage of the par amount of such Collateral Obligation) determined for such Collateral Obligation on each day during any period of 30 consecutive days since the acquisition by the Issuer of such Collateral Obligation, equals or exceeds 90% of the Principal Balance of such Collateral Obligation;

(ii) any Collateral Obligation that would otherwise be considered a Discount Obligation, but that is purchased in accordance with the Eligibility Criteria with the proceeds of sale of a Collateral Obligation that was not a Discount Obligation at the time of its purchase, so long as such purchased Collateral Obligation:

(A) is purchased or committed to be purchased within 20 Business Days of such sale,

(B) is purchased at a purchase price (expressed as a percentage of the par amount of such Collateral Obligation) equal to or greater than the sale price of the sold Collateral Obligation,

(C) is purchased at a purchase price (expressed as a percentage of the par amount of such Collateral Obligation) not less than 65%; and

(D) has a Moody's Default Probability Rating equal to or greater than the Moody's Default Probability Rating of the sold Collateral Obligation.

Any Collateral Obligations described in clauses (A) through (D) above will not be considered to be Discount Obligations.

(iii) clause (ii) above in this proviso shall not apply to any such Collateral Obligation at any time on or after the acquisition by the Issuer of such Collateral Obligation if, as determined at the time of such acquisition, such application would result in:

(A) more than 5% of the Collateral Principal Amount consisting of Collateral Obligations to which such clause (ii) has been applied (or more than 2.5% of the Collateral Principal Amount consisting of Collateral Obligations to which such clause (ii) has been applied if the purchase price of the Collateral Obligation is less than 75% of the principal balance thereof) or

(B) the Aggregate Principal Balance of all Collateral Obligations to which such clause (ii) has been applied since the Closing Date being more than 10% of the Target Initial Par Amount.

"Distribution Report": The meaning specified in Section 10.7(b) (Accountings).

"Diversity Score": A single number that indicates collateral concentration in terms of both issuer and industry concentration, calculated as set forth in Schedule 4 hereto.

"Dollar" or "$": A dollar or other equivalent unit in such coin or currency of the United States of America as at the time shall be legal tender for all debts, public and private.

"Domicile": With respect to any issuer of, or obligor with respect to, a Collateral Obligation, its country of organization.

"DTC": The Depository Trust Company, its nominees, and their respective successors.

"Due Date": Each date on which any payment is due on a Pledged Obligation in accordance with its terms.

"Effective Date": The date on which each of the Effective Date Conditions are met.

"Effective Date Conditions": Means conditions that will be satisfied if the S&P Effective Date Rating Condition has been satisfied and the Initial Ratings of the Class X Notes and the Class A Notes are confirmed by Moody's (including by means of a deemed confirmation as set forth in the definition of Moody's Rating Condition or Section 7.18(c) (Ramp-up Period; Purchase of Additional Collateral Obligations), after the end of the Ramp-up Period.

"Effective Date Overcollateralization Test": A test that is satisfied if, on any date of determination, the ratio of (x) the Adjusted Collateral Principal Amount *divided* by (y) the Aggregate Outstanding Amount of all Notes is equal to or greater than the Target Initial Par Ratio.

"Effective Date Report": A report, compiled by the Collateral Administrator and provided to each Rating Agency, determined as of the end of the Ramp-up Period, containing (A) the information required in a Monthly Report and (B) a calculation with respect to whether the Target Initial Par Condition is satisfied.

"Eligible Investment Required Ratings": (a) With respect to Moody's, (i) a long-term credit rating of "Aa3" (not on credit watch for possible downgrade) or higher and a short-term credit rating of "P-1" (not on credit watch for possible downgrade) or (ii) if only a long-term credit rating from Moody's, such rating is "Aaa" or (iii) if only a short-term credit rating from Moody's is available, such rating is "P-1" (not on credit watch for possible downgrade) and (b) with respect to S&P, a long-term credit rating of "A" or higher and a short-term credit rating of "A-1" or higher (or, in the case of (x) an applicable obligation that does not have a short-term credit rating from S&P or does not have a short-term credit rating from S&P of "A-1" or higher, a long-term credit rating from S&P of at least "A+" and (y) any Eligible Investment with a maturity of longer than 91 days, a long-term credit rating of "AAA" from S&P).

"Eligible Investments": Any United States dollar denominated investment that, at the time it is Delivered to the Trustee (directly or through an intermediary or bailee), is one or more of the following obligations or securities:

(i) direct obligations of, and obligations the timely payment of principal and interest on which is fully and expressly guaranteed by, the United States of America or any agency or instrumentality of the United States of America the obligations of which are expressly

backed by the full faith and credit of the United States of America and such obligations meet the criteria set forth in clause (b) of the definition of Eligible Investment Required Ratings;

(ii) demand and time deposits in, certificates of deposit of, trust accounts with, bankers' acceptances issued by, or federal funds sold by any depository institution or trust company incorporated under the laws of the United States of America or any state thereof and subject to supervision and examination by federal and/or state banking authorities, so long as the commercial paper and/or the debt obligations of such depository institution or trust company (or, in the case of the principal depository institution in a holding company system, the commercial paper or debt obligations of such holding company) at the time of such investment or contractual commitment providing for such investment have the Eligible Investment Required Ratings;

(iii) unleveraged repurchase obligations with respect to (a) any security described in clause (i) above or (b) any other security issued or unconditionally guaranteed by an agency or instrumentality of the United States of America, in either case entered into with a depository institution or trust company (acting as principal) described in clause (ii) above or entered into with an entity (acting as principal) with, or whose parent company has, the Eligible Investment Required Ratings;

(iv) securities bearing interest or sold at a discount issued by any entity formed under the laws of the United States of America or any State thereof that have a credit rating of "Aaa" from Moody's and "AAA" from S&P at the time of such investment or contractual commitment providing for such investment;

(v) commercial paper or other short-term obligations (other than Asset-Backed Commercial Paper) with the Eligible Investment Required Ratings and that either bear interest or are sold at a discount from the face amount thereof and have a maturity of not more than 183 days from their date of issuance and such maturity is not extendable;

(vi) a Reinvestment Agreement issued by any bank (if treated as a deposit by such bank), or a Reinvestment Agreement issued by any insurance company or other corporation or entity, in each case with the Eligible Investment Required Ratings; and

(vii) non-U.S. money market funds which funds have, at all times, credit ratings of "Aaa-mf" by Moody's and "AAAm" or "AAAm-G" by S&P, respectively;

provided, that Eligible Investments purchased with funds in the Collection Account shall be held until maturity except as otherwise specifically provided herein and shall include only such obligations or securities, other than those referred to in clause (vii) above, as mature (or are putable at par to the issuer thereof) no later than the Business Day prior to the next Payment Date, unless such Eligible Investments are issued by the Bank in its capacity as a banking institution, in which event such Eligible Investments may mature on such Payment Date; and provided, however, that none of the foregoing obligations or securities shall constitute Eligible Investments if (a) such obligation or security has an "f," "r," "p," "pi," "q," "t" or "sf" subscript assigned by S&P, (b) all, or substantially all, of the remaining amounts payable thereunder consist of interest and not principal payments, (c) such obligation or security is subject to withholding tax unless (i) the issuer of the security is required to make "gross-up"

payments for the full amount of such foreign withholding tax or (ii) such withholding is solely the result of the failure of Noteholders to provide the Issuer (or its authorized agents) with the Holder FATCA Information and such withholding is allocated amongst such non-complying Noteholders, (d) such obligation or security is secured by real property or subject to an Offer (other than an Eligible Investments Permitted Offer), (e) such obligation or security is purchased at a price greater than 100% of the principal or face amount thereof, (f) in the Portfolio Manager's judgment, such obligation or security is subject to material non-credit related risks or (g) such obligation is a Structured Finance Obligation or Synthetic Security; provided, further, that each Eligible Investment, other than those referred to in clause (vii) above, must mature on the earlier of (A) 60 days following its acquisition or (B) the Business Day prior to the next Payment Date (subject to the limited exception set forth in the first proviso of this paragraph above). Eligible Investments may include, without limitation, those investments for which the Trustee or an Affiliate of the Trustee provides services and receives compensation.

"Eligible Investments Permitted Offer": An offer (i) pursuant to the terms of which the offeror offers to acquire Eligible Investments in exchange for consideration consisting solely of Cash and/or other Eligible Investments in an amount equal to or greater than the full face or principal amount of such Eligible Investment plus any accrued and unpaid interest and (ii) as to which the Portfolio Manager has determined in its judgment that the offeror has sufficient access to financing to consummate the offer.

"Entitlement Order": The meaning specified in Section 8-102(a)(8) of the UCC.

"Equity Security": Any security or debt obligation which at the time of acquisition, conversion or exchange does not satisfy the requirements of a Collateral Obligation and is not an Eligible Investment.

"ERISA": The United States Employee Retirement Income Security Act of 1974, as amended.

"ERISA Limited Notes": The Notes specified as such in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"ETB Subsidiary": The meaning specified in Section 7.4(b) (Existence of Co-Issuers).

"Euroclear": Euroclear Clearance System.

"Event of Default": The meaning specified in Section 5.1 (Events of Default).

"Excepted Advances": Customary advances made to protect or preserve rights against the borrower of or obligor under a Collateral Obligation or to indemnify an agent or representative for lenders pursuant to the Underlying Instrument.

"Excess CCC/Caa Adjustment Amount": As of any date of determination, an amount equal to the excess, if any, of (i) the Aggregate Principal Balance of all Collateral Obligations included in the CCC/Caa Excess, over (ii) the sum of the Market Values of all Collateral Obligations included in the CCC/Caa Excess.

"Excess Weighted Average Fixed Coupon": As of any date of determination, an amount equal to: (a) the excess, if any, of the Weighted Average Fixed Coupon over the Minimum Fixed Coupon multiplied by (b) an amount equal to (i) the Aggregate Principal Balance of all fixed rate Collateral Obligations divided by (ii) the Aggregate Principal Balance of all floating rate Collateral Obligations.

"Excess Weighted Average Floating Spread": As of any date of determination, an amount equal to: (a) the excess, if any, of the Weighted Average Floating Spread over the Minimum Floating Spread multiplied by an amount equal to the Aggregate Principal Balance of all floating rate Collateral Obligations as of such date of determination *divided by* (b) the Aggregate Principal Balance of all fixed rate Collateral Obligations.

"Exchange": The meaning specified in Section 13.4 (Exchange of Combination Notes).

"Exchange Act": The United States Securities Exchange Act of 1934, as amended.

"Exchange Notice": The meaning specified in Section 13.4 (Exchange of Combination Notes).

"Expense Reserve Account": The non-interest bearing segregated trust account established pursuant to Section 10.3(d) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account).

"FATCA": Sections 1471 through 1474 of the Code and any current or future regulations, published guidance or official interpretations thereof.

"Federal Reserve Board": The Board of Governors of the Federal Reserve System.

"Fee Basis Amount": As of any date of determination, the sum of (a) the Collateral Principal Amount (including all Collateral Obligations held by an ETB Subsidiary) and (b) the Aggregate Principal Amount of all Defaulted Obligations.

"Financial Asset": The meaning specified in Section 8-102(a)(9) of the UCC.

"Financing Statements": The meaning specified in Section 9-102(a)(39) of the UCC.

"Foreign Financial Institution": A non-U.S. entity that (i) accepts deposits in the ordinary course of a banking or similar business; (ii) as a substantial portion of its business, holds financial assets for the accounts of others; or (iii) is engaged (or holds itself out as being engaged) primarily in the business of investing, reinvesting, or trading in securities, partnership interests, commodities, or any interest (including a futures or forward contract or option) in such securities, partnership interests, or commodities.

"GAAP": The meaning specified in Section 6.3(j) (Certain Rights of the Trustee).

"Global Notes": Any Regulation S Global Notes or Rule 144A Global Notes.

"Global Rating Agency Condition": With respect to any action taken or to be taken by or on behalf of the Issuer, satisfaction of both the Moody's Rating Condition (to the extent applicable) and the S&P Rating Condition (to the extent applicable).

"Grant": To grant, bargain, sell, convey, assign, transfer, mortgage, pledge, create and grant a security interest in and right of setoff against, deposit, set over and confirm. A Grant of the Pledged Obligations, or of any other instrument, shall include all rights, powers and options (but none of the obligations) of the granting party thereunder, including, the immediate continuing right to claim for, collect, receive and receipt for principal and interest payments in respect of the Pledged Obligations, and all other Monies payable thereunder, to give and receive notices and other communications, to make waivers or other agreements, to exercise all rights and options, to bring Proceedings in the name of the granting party or otherwise, and generally to do and receive anything that the granting party is or may be entitled to do or receive thereunder or with respect thereto.

"Hedge Account": Any trust account established pursuant to Section 10.5 (Hedge Accounts).

"Hedge Agreements": Any interest rate cap, interest rate swap or similar swap agreement between the Issuer and any Hedge Counterparty, as amended from time to time, and any replacement agreement entered into pursuant to Section 15.2 (Assignment of Hedge Agreement).

"Hedge Counterparty": Any one or more institutions entering into or guaranteeing a Hedge Agreement with the Issuer.

"High-Yield Bonds": Below investment-grade corporate high-yield debt securities issued by Non-Emerging Market Obligors.

"Holder": With respect to any Note, the Person whose name appears on the Register as the registered holder of such Note.

"Holder FATCA Information": Information and documentation requested by the Issuer (or an authorized agent acting on behalf of the Issuer) to be provided by the Noteholder to the Issuer (or an authorized agent acting on behalf of the Issuer) that is required to enable the Issuer to comply with FATCA.

"Incentive Management Fee": A fee payable to the Portfolio Manager in arrears on each Payment Date (prorated for the related Interest Accrual Period) pursuant to Section 9 of the Portfolio Management Agreement and Section 11.1 (Disbursements of Monies from Payment Account) in amount equal to (1) 20% of the remaining Interest Proceeds, if any, available for payment pursuant to Section 11.1(a)(i)(Z) (Disbursements of Monies from Payment Account), (2) 20% of the remaining Principal Proceeds, if any, available for payment pursuant to Section 11.1(a)(ii)(N) (Disbursements of Monies from Payment Account) and (3) 20% of the remaining amounts, if any, available for payment pursuant to Section 11.1(a)(iii)(T) (Disbursements of Monies from Payment Account).

"Incentive Management Fee Threshold": The threshold that will be satisfied on any Payment Date if the Subordinated Notes have received an annualized internal rate of return (computed using the "XIRR" function in Microsoft® Excel or an equivalent function in another software package) of at least 12.0% on the Subordinated Notes Invested Amount (as defined in the Portfolio Management Agreement) as of the current Payment Date (after giving effect to all payments made or to be made on such Payment Date). The annualized rate of return will be calculated based on the distributions made on the Subordinated Notes issued on the Closing Date, and without taking into account distributions made on any additional Subordinated Notes issued after the Closing Date.

"Indenture": This instrument as originally executed and, if from time to time supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, as so supplemented or amended.

"Independent": As to any Person, any other Person (including, in the case of an accountant or lawyer, a firm of accountants or lawyers, and any member thereof, or an investment bank and any member thereof) who (i) does not have and is not committed to acquire any material direct or any material indirect financial interest in such Person or in any Affiliate of such Person and (ii) is not connected with such Person as an Officer, employee, promoter, underwriter, voting trustee, partner, director or Person performing similar functions. "Independent" when used with respect to any accountant may include an accountant who audits the books of such Person if in addition to satisfying the criteria set forth above the accountant is independent with respect to such Person within the meaning of Rule 101 of the Code of Professional Conduct of the American Institute of Certified Public Accountants.

"Index Maturity": With respect to any Class of Secured Notes, the period indicated with respect to such Class in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Information Agent": The Collateral Administrator.

"Initial Rating": With respect to any Class of Secured Notes, the rating or ratings, if any, indicated in Section 2.3 (Authorized Amount; Stated Maturity; Denominations). The Initial Rating by S&P of the Combination Note is with respect to the ultimate repayment of principal and interest at a rate of LIBOR plus 1.227% per annum by the Stated Maturity.

"Institutional Accredited Investor": An Accredited Investor under Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

"Instrument": The meaning specified in Section 9-102(a)(47) of the UCC.

"Interest Accrual Period": The period from and including the Closing Date to but excluding the first Payment Date, and each succeeding period from and including each Payment Date to but excluding the following Payment Date until the principal of the Secured Notes is paid or made available for payment.

"Interest Collection Subaccount": The meaning specified in Section 10.2(a) (Collection Account).

"Interest Coverage Ratio": With respect to any designated Class or Classes of Secured Notes, as of any date of determination, an amount, expressed as a percentage, equal to:

(a) (i) the Collateral Interest Amount as of such date of determination minus (ii) amounts payable (or expected as of the date of determination to be payable) on the following Payment Date as set forth in clauses (A) through (C) of Section 11.1(a)(i) (Disbursements of Monies from Payment Account); divided by

(b) (i) amounts payable (or expected as of the date of determination to be payable) on the following Payment Date as set forth in clause (D) and, with respect to the Deferred Interest Notes, clause (H) of Section 11.1(a)(i) (Disbursements of Monies from Payment Account) plus (ii) interest due and payable on the Secured Notes of such Class or Classes and each Priority Class and Pari Passu Class (excluding any Deferred Interest but including any interest on Deferred Interest with respect to any such Classes) on such Payment Date.

"Interest Coverage Test": A test that is satisfied with respect to any specified Class or Classes of Secured Notes if, as of any date of determination at, or subsequent to, the Determination Date with respect to the second Payment Date, the Interest Coverage Ratio for such Class or Classes is at least equal to the applicable Required Coverage Ratio for such Class or Classes.

"Interest Determination Date": The second London Banking Day preceding the first day of each Interest Accrual Period.

"Interest Only Security": Any obligation or security that does not provide in the related Underlying Instruments for the payment or repayment of a stated principal amount in one or more installments on or prior to its stated maturity.

"Interest Proceeds": With respect to any Collection Period or Determination Date, without duplication, the sum of: (i) all payments of interest received by the Issuer during the related Collection Period on the Collateral Obligations and Eligible Investments, including the accrued interest received in connection with a sale thereof during the related Collection Period, less (x) any such amount that represents Principal Financed Accrued Interest and (y) an amount designated by the Portfolio Manager in writing up to the amount of unpaid interest on the Collateral Obligations that accrued prior to the Closing Date and is owing to the Issuer and remains unpaid as of the Closing Date; (ii) all principal and interest payments on Eligible Investments purchased with Interest Proceeds; (iii) excluding amounts that comprise the Turbo Payment Amount, all amendment and waiver fees, late payment fees and other fees, except for any fee in connection with (a) the lengthening of the maturity of the related Collateral Obligation or (b) the reduction of the par of the related Collateral Obligation; (iv) any amounts deposited in the Interest Collection Subaccount of the Collection Account from the Expense Reserve Account pursuant to Section 10.3(d) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account); (v) commitment fees and other similar fees actually received by the Issuer during such Collection Period in respect of Revolving Collateral Obligations and Delayed Drawdown Collateral Obligations; (vi) any payment received with respect to any Hedge Agreement other than an upfront payment received upon entering into such

Hedge Agreement or a payment received as a result of the termination of such Hedge Agreement (for this purpose, any such payment received or to be received on a Payment Date will be deemed received in respect of the preceding Collection Period and included in the calculation of Interest Proceeds received in such Collection Period); (vii) any funds transferred from the Ramp-up Account to the Interest Collection Subaccount of the Collection Account designated as Interest Proceeds by the Portfolio Manager to the Trustee in writing pursuant to Section 10.3(c) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account); (viii) Principal Proceeds designated by the Portfolio Manager, on one occasion only, as Designated Principal Proceeds to be treated as Interest Proceeds after the Effective Date and on or prior to the second Determination Date and (ix) any amount deposited in the Interest Collection Subaccount of the Collection Account from the Interest Reserve Account pursuant to Section 10.3(f) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account);

provided that any amounts received in respect of any Defaulted Obligation will constitute Principal Proceeds (and not Interest Proceeds) until the aggregate of all collections in respect of such Defaulted Obligation since it became a Defaulted Obligation equals the outstanding Principal Balance of such Collateral Obligation when it became a Defaulted Obligation; provided, further, that any amounts received in respect of any Deferring Security will constitute Principal Proceeds (and not Interest Proceeds) until the aggregate of all collections in respect of such Deferring Security since it became a Deferring Security equals the outstanding Principal Balance of such Collateral Obligation (including any deferred or capitalized interest) when it became a Deferring Security, and thereafter any amounts received shall constitute Interest Proceeds. Any amounts received that comprise the Turbo Payment Amount shall constitute Principal Proceeds (and not Interest Proceeds).

With respect to any Payment Date, an amount equal to the Interest Proceeds due to the Consenting Holders of the Subordinated Notes that are paid in the form of Equity Securities in lieu of Cash pursuant to Section 11.1(a)(i) (Application of Moneys) will be treated for all purposes by the Issuer and the Trustee as Principal Proceeds.

"Interest Reinvestment Test": A test that will be satisfied on any Determination Date during the Reinvestment Period if the Adjusted Collateral Principal Amount *divided by* the Aggregate Outstanding Amount of the Secured Notes equals or exceeds 103.9%.

"Interest Reserve Account": The non-interest bearing segregated trust account established pursuant to Section 10.3(f) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account).

"Investment Company Act": The Investment Company Act of 1940, as amended from time to time.

"Investment Criteria": The criteria specified in Section 12.2(a) (Purchase of Additional Collateral Obligations).

"Investment Criteria Adjusted Balance": With respect to each Collateral Obligation, the Principal Balance of such Collateral Obligation; provided that for all purposes the Investment Criteria Adjusted Balance of any:

(i) Deferring Security will be the lesser of the (x) S&P Collateral Value of such Deferring Security and (y) Moody's Collateral Value of such Deferring Security;

(ii) Discount Obligation will be the original purchase price (expressed as a percentage of par) multiplied by the current principal balance, excluding accrued interest, expressed as a dollar amount;

(iii) CCC Collateral Obligations and Caa Collateral Obligations included in the CCC/Caa Excess will be the Market Value of such Collateral Obligation; and

(iv) Defaulted Obligation will be the lesser of (x) the Moody's Collateral Value of such Defaulted Obligations and (y) the S&P Collateral Value for such Defaulted Obligations; provided, that any such Defaulted Obligation that has constituted a Defaulted Obligation for a period of at least 3 years shall be deemed to have an Investment Criteria Adjusted Balance of zero;

provided further, that if any Collateral Obligation would be subject to more than one of clauses (i) through (iv) of this definition of "Investment Criteria Adjusted Balance," such Collateral Obligation shall, for the purposes of this definition, be treated as belonging to the clause that results in the lowest Investment Criteria Adjusted Balance.

"Irish Listing Agent": The meaning specified in Section 7.2 (Maintenance of Office or Agency).

"IRS": The U.S. Internal Revenue Service.

"IRS Agreement": An agreement entered into by a Foreign Financial Institution and the IRS pursuant to FATCA.

"Issuer": The Person named as such on the first page of this Indenture until a successor Person shall have become the Issuer pursuant to the applicable provisions of this Indenture, and thereafter "Issuer" shall mean such successor Person.

"Issuer Notes": The Class E Notes, the Class F Notes and the Subordinated Notes.

"Issuer Order" and "Issuer Request": A written order or request dated and signed in the name of the Issuer or the Co-Issuer by an Authorized Officer of the Issuer or the Co-Issuer, as applicable, or by the Portfolio Manager by an Authorized Officer thereof, on behalf of the Issuer.

"Junior Class": With respect to a particular Class of Notes, each Class of Notes that is subordinated to such Class, as indicated in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Knowledgeable Employee": The meaning set forth in Rule 3c-5 promulgated under the Investment Company Act.

"LIBOR": The meaning set forth in Exhibit G hereto, provided, that LIBOR for the Interest Accrual Period beginning on the Closing Date shall be 0.33110% for each Class of Notes.

"LIBOR Floor Obligation": As of any date of determination, a floating rate Collateral Obligation (a) the interest in respect of which is paid based on a London interbank offered rate and (b) that provides that such London interbank offered rate is (in effect) calculated as the greater of (i) a specified "floor" rate per annum and (ii) the London interbank offered rate for the applicable interest period for such Collateral Obligation.

"Loan Pricing Change": With respect to a loan, the change in price of such loan (expressed as a percentage of par) relative to the S&P/LSTA U.S. Leveraged Loan 100 Index or any other nationally recognized index as calculated by the Portfolio Manager in its reasonable commercial judgment.

"London Banking Day": A day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in London, England.

"Majority": With respect to any Class of Notes, the Holders of more than 50% of the Aggregate Outstanding Amount of the Notes of such Class.

"Management Fees": The Senior Management Fee, the Subordinated Management Fee and the Incentive Management Fee.

"Margin Loan": An extension of credit that is "purpose credit" within the meaning of Regulation U issued by the Federal Reserve Board.

"Margin Stock": "Margin Stock" as defined under Regulation U issued by the Federal Reserve Board, including any debt security which is by its terms convertible into "Margin Stock."

"Market Value": As of any date of determination for any Collateral Obligation and as determined by the Portfolio Manager in the following manner: (A) the average bid price value determined by an Independent pricing service; (B) if the price described in clause (A) is not available, the average of the bid side prices determined by three Independent broker-dealers active in the trading of such Collateral Obligation; (C) if a price or bid described in clause (A) or (B) is not available, the lowest of the bid side prices determined by two Independent broker-dealers active in the trading of such Collateral Obligation; (D) if a price or bid described in clause (A), (B) or (C) is not available and the Portfolio Manager is a Registered Investment Advisor, the bid side price determined by one Independent broker-dealer active in the trading of such Collateral Obligation; or (E) if a price or bid described in clause (A), (B), (C) or (D) is not available, then the lower of (a) the bid side price of such Collateral Obligation determined by the Portfolio Manager in a manner consistent with reasonable and customary market practice and (b) the greater of (i) 70% of the par value of such Collateral Obligation and (ii) the S&P Recovery Rate; provided, however, that (x) if the Market Value of any Collateral Obligation is

determined pursuant to clause (E) above, the Portfolio Manager will use commercially reasonable efforts to obtain the Market Value of such Collateral Obligation in accordance with subclauses (A) through (D) above and (y) if the Portfolio Manager is not a Registered Investment Adviser, the Market Value of any Collateral Obligation that cannot be obtained in accordance with subclauses (A) through (D) above within 30 days of the date on which its Market Value was determined pursuant to clause (E) above shall be deemed to be zero until determined in accordance with subclauses (A) through (D) above; provided, further, that any bid side price determined by the Portfolio Manager pursuant to clause (E)(a) above shall be used by the Portfolio Manager as the market value of such Collateral Obligation in all other portfolios it manages.

"Material Change": With respect to clause (ii)(b) of the definition of S&P Rating and Schedule 5, an event that occurs with respect to a Collateral Obligation upon the occurrence of any of the following (a) non-payment of interest or principal, (b) the rescheduling of any interest or principal, (c) any material covenant breach, (d) any restructuring of debt with respect to the obligor of such Collateral Obligation, (e) the addition of payment-in-kind terms, change in maturity date or any change in coupon rates and (f) the occurrence of the significant sale or acquisition of assets by the obligor.

"Maturity": With respect to any Note, the date on which the unpaid principal of such Note becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

"Maturity Amendment": As defined in Section 12.4 (Post-Reinvestment Period Amendment Proceeds).

"Maximum Moody's Rating Factor Test": A test that will be satisfied on any date of determination if the Weighted Average Moody's Rating Factor of the Collateral Obligations is less than or equal to the "Maximum Weighted Average Moody's Rating Factor" as determined in the applicable Minimum Diversity/Maximum Rating/Minimum Spread Matrix based upon the applicable "row/column combination" chosen by the Portfolio Manager (or the interpolating between two adjacent rows and/or two adjacent columns, as applicable) in accordance with Section 7.18(f) (Ramp-up Period; Purchase of Additional Collateral Obligations) plus the Rating Factor Adjustment Amount.

"Measurement Date": Means (i) any day on which a sale, a purchase or a default of a Collateral Obligation occurs, (ii) any Determination Date, (iii) the date as of which the information in any Monthly Report is calculated, (iv) with five Business Days prior notice, any Business Day requested by either Rating Agency and (v) the last day of the Ramp-up Period.

"Memorandum and Articles": The Issuer's Memorandum and Articles of Association, as they may be amended, revised or restated from time to time.

"Merging Entity": As defined in Section 7.10 (Co-Issuers May Consolidate, etc., Only on Certain Terms).

"Minimum Diversity/Maximum Rating/Minimum Spread Matrix": The following chart is used to determine which of the tables and "row/column combinations" are applicable for

purposes of determining compliance with the Moody's Diversity Test, the Maximum Moody's Rating Factor Test and the Minimum Floating Spread Test, as set forth in Section 7.18(f) (Ramp-up Period; Purchase of Additional Collateral Obligations). The number obtained for the applicable table and "row/column combinations" shall be the "Maximum Weighted Average Moody's Rating Factor".

Matrix							
	Minimum Diversity Score						
Minimum Weighted Average Spread	**40**	**45**	**50**	**55**	**60**	**65**	**70**
3.05%	2265	2335	2395	2480	2575	2645	2705
3.15%	2295	2355	2420	2510	2600	2680	2740
3.25%	2325	2385	2450	2545	2630	2710	2770
3.35%	2350	2420	2480	2570	2660	2740	2800
3.45%	2380	2450	2510	2600	2690	2770	2830
3.55%	2410	2475	2540	2630	2720	2800	2855
3.65%	2440	2500	2565	2660	2755	2825	2885
3.75%	2465	2530	2585	2690	2780	2855	2915
3.85%	2490	2560	2600	2720	2805	2885	2945
3.95%	2520	2590	2640	2750	2835	2915	2975
4.05%	2550	2610	2680	2780	2865	2940	3005
4.15%	2580	2635	2705	2800	2890	2970	3035
4.25%	2605	2665	2735	2825	2920	2995	3060
4.35%	2630	2700	2765	2855	2950	3025	3090
4.45%	2655	2730	2795	2885	2975	3055	3115
4.55%	2680	2750	2815	2910	3000	3080	3140
4.65%	2700	2775	2840	2940	3025	3105	3170
4.75%	2730	2800	2870	2965	3055	3130	3195
4.85%	2760	2830	2900	2995	3080	3160	3220
4.95%	2785	2860	2925	3020	3105	3185	3250
5.05%	2815	2890	2945	3040	3130	3210	3275

"Minimum Fixed Coupon": 7.25%.

"Minimum Fixed Coupon Test": A test that is satisfied on any date of determination if the Weighted Average Fixed Coupon plus the Excess Weighted Average Floating Spread equals or exceeds the Minimum Fixed Coupon.

"Minimum Floating Spread": As of any date of determination, the greater of (i) the number set forth in the column entitled "Minimum Weighted Average Spread" in the applicable table within the definition of Minimum Diversity/Maximum Rating/Minimum Spread Matrix based upon the applicable "row/column combination" chosen by the Portfolio Manager (or the interpolating between two adjacent rows and/or two adjacent columns, as applicable) in accordance with Section 7.18(f) (Ramp-up Period; Purchase of Additional Collateral Obligations) and (ii) the number set forth in the column entitled "Minimum Weighted Average Floating Spread" in the applicable S&P Test Matrix, in each case, as applicable on such date of determination.

"Minimum Floating Spread Test": A test that is satisfied on any date of determination if (a) the sum of (i) the Weighted Average Floating Spread and (ii) the Excess Weighted Average Fixed Coupon equals or exceeds (b) the Minimum Floating Spread.

"Minimum Weighted Average Moody's Recovery Rate": Means 44.0%.

"Minimum Weighted Average Moody's Recovery Rate Test": The test that will be satisfied on any date of determination if the Weighted Average Moody's Recovery Rate equals or exceeds the Minimum Weighted Average Moody's Recovery Rate.

"Minimum Weighted Average S&P Recovery Rate Test": For each Class of Secured Notes then Outstanding, a test that will be satisfied as of any Measurement Date if the Weighted Average S&P Recovery Rate equals or exceeds the S&P Recovery Rate determined by reference to the S&P Test Matrix based upon the applicable row/column combination chosen by the Portfolio Manager.

"Money": The meaning specified in Section 1-201(24) of the UCC.

"Monthly Report": The meaning specified in Section 10.7(a) (Accountings).

"Moody's": Moody's Investors Service, Inc., and its successors in interest.

"Moody's Collateral Value": As of any date of determination, with respect to any Defaulted Obligation or Deferring Security, the lesser of (i) the Moody's Recovery Amount of such Defaulted Obligation or Deferring Security as of such date and (ii) the Market Value of such Defaulted Obligation or Deferring Security as of such date.

"Moody's Counterparty Criteria": With respect to any Participation Interest proposed to be acquired by the Issuer or any Pre-funded Letter of Credit, criteria that will be met if immediately after giving effect to such acquisition, (x) the percentage of the Collateral Principal Amount that consists in the aggregate of Participation Interests and Pre-funded Letters of Credit with Selling Institutions that have the same or a lower Moody's credit rating does not exceed the "Aggregate Percentage Limit" set forth below for such Moody's credit rating and (y) the percentage of the Collateral Principal Amount that consists in the aggregate of Participation Interests and Pre-funded Letters of Credit with any single Selling Institution that has the same or lower Moody's credit rating does not exceed the "Individual Percentage Limit" set forth below for such Moody's credit rating:

Moody's Credit Rating of Selling Institution (at or below)	Aggregate Percentage Limit	Individual Percentage Limit
Aaa	20%	20%
Aa1	20%	10%
Aa2	20%	10%
Aa3	15%	10%
A1	10%	5%

A2* and "P-1" * and not on Watch for Possible Downgrade.	5%	5%
A2 but not "P-1"; Less than A2; or A2 and "P-1," but on Watch for Possible Downgrade	0%	0%

provided, that the Moody's Counterparty Criteria will be deemed satisfied in connection with the Issuer's acquisition of a Participation Interest or a Pre-funded Letter of Credit from a Selling Institution that meets the criteria in the last row of the table above if the Moody's Rating Condition has been satisfied.

"Moody's Default Probability Rating": With respect to any Collateral Obligation, the rating determined pursuant to Schedule 5 hereto.

"Moody's Derived Rating": With respect to any Collateral Obligation whose Moody's Rating or Moody's Default Probability Rating cannot otherwise be determined pursuant to the definitions thereof, the rating determined for such Collateral Obligation as set forth in Schedule 5 hereto.

"Moody's Diversity Test": A test that will be satisfied on any date of determination if the Diversity Score (rounded up to the nearest whole number) equals or exceeds the number set forth in the column entitled "Minimum Diversity Score" in the applicable Minimum Diversity/Maximum Rating/Minimum Spread Matrix based upon the applicable "row/column combination" chosen by the Portfolio Manager (with notice to the Collateral Administrator) (or the interpolating between two adjacent rows and/or two adjacent columns, as applicable) in accordance with Section 7.18(f) (Ramp-up Period; Purchase of Additional Collateral Obligations).

"Moody's Industry Classification": The industry classifications set forth in Schedule 2 hereto, as such industry classifications shall be updated at the option of the Portfolio Manager (with notice to the Collateral Administrator) if Moody's publishes revised industry classifications.

"Moody's Non-Senior Secured Loan": Any assignment of or Participation Interest in or other interest in a loan that is not a Moody's Senior Secured Loan.

"Moody's Outlook/Review Rules": For any Collateral Obligation that is placed on negative outlook or on review for upgrade or downgrade (A) the rating otherwise determined in accordance with the definition of Moody's Default Probability Rating, Moody's Derived Rating or Moody's Rating for the purposes of calculating Moody's Weighted Average Rating Factor shall be adjusted as follows: (i) for any Collateral Obligation that is placed on negative outlook, such rating shall be adjusted downward one notch, (ii) for any Collateral Obligation that is placed on review for possible downgrade, such rating shall be adjusted downward two notches and (iii) for any Collateral Obligation that is placed on review for possible upgrade, such rating

shall be adjusted upward one notch and (B) the rating otherwise determined in accordance with the definition of Moody's Default Probability Rating, Moody's Derived Rating or Moody's Rating for all other purposes shall be adjusted as follows: (i) for any Collateral Obligation that is placed on review for possible downgrade, such rating shall be adjusted downward one notch and (ii) for any Collateral Obligation that is placed on review for possible upgrade, such rating shall be adjusted upward one notch.

"Moody's Rating": With respect to any Collateral Obligation, the rating determined pursuant to Schedule 5 hereto.

"Moody's Rating Condition": With respect to any action taken or to be taken by or on behalf of the Issuer, a condition that is satisfied if Moody's has confirmed in writing (which confirmation may be in the form of a press release) to the Issuer, the Trustee and/or the Portfolio Manager that no immediate withdrawal or reduction with respect to its then-current rating by Moody's of the Class X Notes, the Class A-1 Notes, the Class A-2A Notes or the Class A-2B Notes will occur as a result of such action; *provided, that* the Moody's Rating Condition will (x) be satisfied if any Class of Secured Notes that receives a solicited rating requested by the Issuer from Moody's are not Outstanding or rated by Moody's or (y) not be required if Moody's makes a public announcement or informs the Issuer, the Portfolio Manager or the Trustee that (i) it believes satisfaction of the Moody's Rating Condition is not required with respect to the applicable action or (ii) its practice is not to give such confirmations.

"Moody's Rating Factor": For each Collateral Obligation, the "Moody's Rating Factor" is the number set forth in the table below opposite the Moody's Default Probability Rating of such Collateral Obligation.

Moody's Default Probability Rating	Moody's Rating Factor	Moody's Default Probability Rating	Moody's Rating Factor
Aaa	1	Ba1	940
Aa1	10	Ba2	1,350
Aa2	20	Ba3	1,766
Aa3	40	B1	2,220
A1	70	B2	2,720
A2	120	B3	3,490
A3	180	Caa1	4,770
Baa1	260	Caa2	6,500
Baa2	360	Caa3	8,070
Baa3	610	Ca or lower	10,000

For purposes of the Maximum Moody's Rating Factor Test, any Collateral Obligation issued or guaranteed by the United States government or any agency or instrumentality thereof is assigned a Moody's Rating Factor set forth opposite the then-current rating of full faith and credit obligations of the federal government of the United States.

"Moody's Recovery Amount": With respect to any Collateral Obligation which is a Defaulted Obligation or a Deferring Security, the amount equal to the product of (i) the

applicable Moody's Recovery Rate and (ii) the principal balance of such Defaulted Obligation or Deferring Security.

"Moody's Recovery Rate": With respect to any loan or Bond, as of any date of determination, will be the recovery rate determined in accordance with the following, in the following order of priority:

(a) if the loan or Bond has been specifically assigned a recovery rate by Moody's (for example, in connection with the assignment by Moody's of an estimated rating), such recovery rate;

(b) if the preceding clause does not apply to the loan or Bond (other than a DIP Collateral Obligation), as the case may be, and the loan is a Moody's Senior Secured Loan or a Moody's Non-Senior Secured Loan or, in the case of a Bond, the rate determined pursuant to the table below based on the number of rating subcategories difference between the loan's or Bond's Moody's Rating and its Moody's Default Probability Rating (for purposes of clarification, if the Moody's Rating is higher than the Moody's Default Probability Rating, the rating subcategories difference will be positive and if it is lower, negative):

Number of Moody's Ratings Subcategories Difference Between the Moody's Rating and the Moody's Default Probability Rating	**Moody's Senior Secured Loans**	**Moody's Non-Senior Secured Loans**	**Bonds**
+2 or more	60.0%	35.0%	35.0%
+1	50.0%	30.0%	30.0%
0	45.0%	25.0%	25.0%
-1	40.0%	10.0%	10.0%
-2	30.0%	5.0%	5.0%
-3 or less	20.0%	0.0%	0.0%

(c) if the loan is a DIP Collateral Obligation, 50%.

"Moody's Senior Secured Loan": The meaning specified in Schedule 5.

"Moody's Weighted Average Fixed Coupon": As of any date of determination, the number, expressed as a percentage (rounded up to the nearest 0.01%), equal to: (i) the aggregate sum, in respect of each fixed rate Collateral Obligation (excluding Deferring Securities), of an amount equal to the product of (a) the interest coupon of such Collateral Obligation multiplied by (b) the Principal Balance of such Collateral Obligation, divided by (ii) the Aggregate Principal Balance of all such fixed rate Collateral Obligations.

"Moody's Weighted Average Floating Spread": As of any date of determination, the number, expressed as a percentage (rounded up to the nearest 0.01%), obtained by

calculating the sum of: (w) in the case of each floating rate Collateral Obligation (excluding Deferring Securities, Revolving Collateral Obligations and Delayed Drawdown Collateral Obligations), the aggregate interest on such Collateral Obligation over LIBOR multiplied by the outstanding Principal Balance of such Collateral Obligation as of such date, (x) in the case of each Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation, (i) the commitment fee for such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation multiplied by the undrawn commitments of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation and (ii) the aggregate interest on such Collateral Obligation over LIBOR multiplied by the outstanding principal amount of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation (provided that letter of credit fees shall be excluded for all purposes), and (y) the Aggregate Excess Spread; and dividing such sum by the lesser of (i) the Target Initial Par Amount minus the Aggregate Principal Balance of all fixed rate Collateral Obligations as of such date of determination and (ii) the Aggregate Principal Balance of all such floating rate Collateral Obligations as of such date of determination. For purposes of the foregoing, (1) in the case of each floating rate Collateral Obligation that bears interest at a spread over an index other than a London interbank offered rate based index, the interest over LIBOR for such Collateral Obligation shall be equal to the excess of the sum of such spread and such index (or, in the case of a Pre-funded Letter of Credit, the applicable rate of interest on the deposited amount) over LIBOR calculated for the Secured Notes for the immediately preceding Interest Determination Date (which spread or excess may be expressed as a negative number), (2) LIBOR with respect to any floating rate Collateral Obligation that bears interest based on a spread over LIBOR shall be calculated in the same manner as it is calculated for payments on such Collateral Obligation, (3) the interest over the applicable index in respect of a floating rate Step-up Obligation shall be deemed to be its current interest spread over such index and the interest over the applicable index in respect of a floating rate Step-down Obligation shall be deemed to be the lowest possible interest spread over such index under the Underlying Instruments relating to such Step-down Obligation and (4) with respect to any LIBOR Floor Obligation, the interest over LIBOR for such Collateral Obligation shall be equal to the sum of (a) the applicable spread over LIBOR and (b) the excess, if any, of the specified "floor" rate relating to such Collateral Obligation over LIBOR calculated for the Secured Notes for the immediately preceding Interest Determination Date.

"Non-Call Period": The period from the Closing Date to but excluding the Payment Date in April 2015.

"Non-Compliant FFI": A Foreign Financial Institution that holds a debt or equity interest in the Issuer and that may be subject to U.S. federal income tax, including withholding tax, under FATCA as a result of not entering into an IRS Agreement.

"Non-Emerging Market Obligor": An Obligor that is Domiciled either in (x) the United States or (y) any country that has a country ceiling for foreign currency bonds of at least "Aa2" by Moody's and a foreign currency issuer credit rating of at least "AA" by S&P.

"Non-Permitted ERISA Holder": As defined in Section 2.12(d) (Notes Beneficially Owned by Persons Not QIB/QPs or in Violation of ERISA Representations).

"Non-Permitted Holder": As defined in Section 2.12(b) (Notes Beneficially Owned by Persons Not QIB/QPs or in Violation of ERISA Representations).

"Non-Quarterly Assets": Collateral Obligations (other than Deferrable Securities) that pay interest less frequently than quarterly, but no less frequently than annually.

"Note Interest Amount": With respect to any specified Class of Secured Notes and any Payment Date, the amount of interest for the next Interest Accrual Period payable in respect of each U.S. $100,000 principal amount of such Class of Secured Notes.

"Note Interest Rate": With respect to any specified Class of Secured Notes, the per annum interest rate payable on the Secured Notes of such Class with respect to each Interest Accrual Period equal to LIBOR for such Interest Accrual Period plus the spread specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations) with respect to such Notes. The Combination Notes will bear interest at the Note Interest Rates of the Underlying Classes.

"Note Payment Sequence": The application, in accordance with the Priority of Payments, of Interest Proceeds or Principal Proceeds, as applicable, in the following order:

(i) to the payment, *pro rata* based upon amounts due, of (1) principal of the Class X Notes, (2) principal of the Class A-1 Notes and (3) subject to Section 11.2 (Payments on the Class A-2 Notes and the Combination Notes), principal of the Class A-2 Notes until each is paid in full;

(ii) [RESERVED];

(iii) to the payment of principal of the Class B Notes until the Class B Notes have been paid in full;

(iv) to the payment of accrued and unpaid interest and any Deferred Interest on the Class C Notes until such amounts have been paid in full;

(v) to the payment of principal of the Class C Notes until the Class C Notes have been paid in full;

(vi) to the payment of accrued and unpaid interest and any Deferred Interest on the Class D Notes until such amounts have been paid in full;

(vii) to the payment of principal of the Class D Notes until the Class D Notes have been paid in full;

(viii) to the payment of accrued and unpaid interest and any Deferred Interest on the Class E Notes until such amounts have been paid in full;

(ix) to the payment of principal of the Class E Notes until the Class E Notes have been paid in full;

(x) to the payment of accrued and unpaid interest and any Deferred Interest on the Class F Notes until such amounts have been paid in full; and

(xi) to the payment of principal of the Class F Notes until the Class F Notes have been paid in full.

"Noteholder": With respect to any Note, the Person whose name appears on the Register as the registered holder of such Note.

"Noteholder Reporting Obligations": The meaning specified in Section 2.13(c) (Tax Purposes).

"Notes": Collectively, the Secured Notes and the Subordinated Notes authorized by, and authenticated and delivered under, this Indenture (as specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations)) or any supplemental indenture (and including any Additional Subordinated Notes issued hereunder pursuant to Section 2.4 (Additional Notes)).

"Obligor": The issuer of a Bond or the obligor or guarantor under a loan, as the case may be.

"Offer": As defined in Section 10.8(c) (Release of Securities).

"Offered Securities": The Notes.

"Offering": The offering of the Offered Securities pursuant to the Offering Circular.

"Offering Circular": The offering circular, dated March 12, 2013 relating to the Offered Securities, including the supplements thereto.

"Officer": With respect to the Issuer, the Co-Issuer and any corporation, any director, the Chairman of the Board of Directors, the President, any Vice President, the Secretary, an Assistant Secretary, the Treasurer or an Assistant Treasurer of such entity or any Person authorized by such entity; with respect to any partnership, any general partner thereof or any Person authorized by such entity; with respect to a limited liability company, any member thereof or any Person authorized by such entity; and with respect to the Trustee, any Bank Officer.

"offshore transaction": The meaning specified in Regulation S.

"Opinion of Counsel": A written opinion addressed to the Trustee and any Rating Agency requesting such opinion, in form and substance reasonably satisfactory to the Trustee and such Rating Agency, of a nationally recognized law firm (or, in the case of an opinion relating to the laws of the Cayman Islands, an attorney at law admitted to practice before the highest court of the Cayman Islands), which attorney may, except as otherwise expressly provided in this Indenture, be counsel for the Issuer or the Co-Issuer, as the case may be, and which firm or attorney, as the case may be, shall be reasonably satisfactory to the Trustee. Whenever an Opinion of Counsel is required hereunder, such Opinion of Counsel may rely on

opinions of other counsel who are so admitted and so satisfactory, which opinions of other counsel shall accompany such Opinion of Counsel and shall either be addressed to the Trustee and any Rating Agency requesting such opinion or shall state that the Trustee and such Rating Agency shall be entitled to rely thereon.

"Optional Redemption": A redemption of the Notes in accordance with Section 9.2 (Optional Redemption and Refinancing).

"Outstanding": With respect to the Notes of any specified Class, as of any date of determination, all of the Notes or all of the Notes of such Class, as the case may be, theretofore authenticated and delivered under this Indenture, except:

(i) Notes theretofore canceled by the Registrar or delivered to the Registrar for cancellation in accordance with Section 2.10 (Cancellation);

(ii) Notes or portions thereof for whose payment or redemption funds in the necessary amount have been theretofore irrevocably deposited with the Trustee or any Paying Agent in trust for the Holders of such Notes pursuant to Section 4.1(a)(ii) (Satisfaction and Discharge of Indenture); provided, that if such Notes or portions thereof are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(iii) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, unless proof satisfactory to the Trustee is presented that any such Notes are held by a "protected purchaser" (within the meaning of Section 8-303 of the UCC); and

(iv) Notes alleged to have been mutilated, destroyed, lost or stolen for which replacement Notes have been issued as provided in Section 2.7 (Mutilated, Defaced, Destroyed, Lost or Stolen Note);

provided, that in determining whether the Holders of the requisite Aggregate Outstanding Amount have given any request, demand, authorization, direction, notice, consent or waiver hereunder, (I) Notes owned by the Issuer, the Co-Issuer or any other obligor upon the Notes shall be disregarded and deemed not to be Outstanding and (only in the case of a vote to remove or replace the Portfolio Manager and not, for the avoidance of doubt, in the case of a vote to propose or approve a successor Portfolio Manager), Notes owned by the Portfolio Manager, any Affiliate of the Portfolio Manager or any accounts or funds managed by the Portfolio Manager or its Affiliates, shall be disregarded and deemed not to be Outstanding (it being understood that Notes owned by a fund or an account managed by the Portfolio Manager or its Affiliates will not be disregarded and will be deemed to be Outstanding if the voting rights with respect to such Notes are exercised by the fund or account or client or beneficiary of such fund or account and not by the Portfolio Manager or its Affiliate), except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes that an Authorized Officer of the Trustee actually knows to be so owned shall be so disregarded and (II) Notes so owned that have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the

satisfaction of the Trustee the pledgee's right so to act with respect to such Notes and that the pledgee is not the Issuer, the Co-Issuer, any other obligor upon the Notes, the Portfolio Manager or any Affiliate of the Portfolio Manager.

"Overcollateralization Ratio": With respect to any specified Class or Classes of Secured Notes (excluding the Class X Notes) as of any Measurement Date, an amount, expressed as a percentage, equal to: (i) the Adjusted Collateral Principal Amount divided by (ii) the Aggregate Outstanding Amount of the Secured Notes of such Class or Classes, and each Priority Class of Secured Notes (excluding the Class X Notes) and each Pari Passu Class of Secured Notes (other than the Class X Notes) (including all applicable Deferred Interest), in each case, if applicable.

"Overcollateralization Ratio Test": A test that is satisfied with respect to any Class or Classes of Secured Notes as of any date of determination at, or subsequent to, the Effective Date, if (i) the Overcollateralization Ratio for such Class or Classes is at least equal to the applicable Required Coverage Ratio for such Class or Classes or (ii) such Class or Classes of Secured Notes are no longer Outstanding. For the avoidance of doubt, the Class X Notes shall not be included for the purposes of calculating any Overcollateralization Ratio Test.

"Pari Passu Class": With respect to each Class of Notes, each Class of Notes that ranks pari passu with such Class, as indicated in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Partial Deferrable Security": Any Collateral Obligation with respect to which under the related Underlying Instruments (i) a portion of the interest due thereon is required to be paid in Cash on each payment date therefor and is not permitted to be deferred or capitalized (which portion will at least be equal to (A) in the case of floating rate assets, (x) LIBOR plus (y) 0.50% and (B) in the case of fixed rate assets, 4.00%) and (ii) the issuer thereof or obligor thereon may defer or capitalize the remaining portion of the interest due thereon. Any component of a Partial Deferrable Security that is paid "in kind" shall not be included for purposes of calculations related to the Minimum Floating Spread Test, the Weighted Average Fixed Coupon or the Weighted Average Floating Spread.

"Participation Interest": A participation interest in a loan that at the time of acquisition is represented by a contractual obligation of a Selling Institution that has at the time of acquisition (i) a long-term debt rating of at least "A" by S&P and a short-term debt rating of at least "A-1" by S&P or (ii) a long-term debt rating of at least "A+" by S&P. Such Selling Institution must directly hold or own the relevant portion of the loan underlying such participation interest, and the Issuer may not acquire a participation interest in a participation.

"Paying Agent": Any Person authorized by the Issuer to pay the principal of or interest on any Notes on behalf of the Issuer as specified in Section 7.2 (Maintenance of Office or Agency).

"Payment Account": The non-interest bearing segregated payment account established pursuant to Section 10.3(a) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account).

"Payment Date": The 18th day of January, April, July and October of each year, commencing on July 18, 2013 (or if such day is not a Business Day, the next succeeding Business Day).

"PBGC": The United States Pension Benefit Guaranty Corporation.

"Permissible Ratio": The ratio set forth under the heading "Permissible Ratio" in the Combination Notes Table; provided that, a Holder may round any of the fractional percentages set forth in this definition either up or down to the extent necessary to cause an Exchange to comply with the $1 integral multiple requirement.

"Permitted Offer": An offer (i) pursuant to the terms of which the offeror offers to acquire a debt obligation (including a Collateral Obligation) in exchange for consideration consisting solely of Cash, other Eligible Investments and/or other Collateral Obligations in an amount equal to or greater than the full face amount of such debt obligation plus any accrued and unpaid interest and (ii) as to which the Portfolio Manager has determined in its judgment that the offeror has sufficient access to financing to consummate the offer.

"Person": An individual, corporation (including a business trust), partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated association or government or any agency or political subdivision thereof.

"Petition Expense Amount": An aggregate sum (until the Notes are paid in full or until this Indenture is otherwise terminated, in which case it will equal zero) of $1,000,000.

"Petition Expenses": The costs and expenses (including, without limitation, fees and expenses of counsel to the Issuer) incurred by the Issuer in connection with its obligations described in Section 7.21 (Objection to Bankruptcy Proceeding); provided, that such amounts will be payable in accordance with the Priority of Payments as Administrative Expenses, applied first as Petition Expense Amount, and then subject to the Administrative Expense Cap as set forth in the Priority of Payments. Such Petition Expenses may only be paid to the extent such payment would not directly result in the failure to pay any principal or interest due on the Class X Notes, the Class A Notes, the Class B Notes or the Class C Notes.

"Placement Agency Agreement": The agreement dated as of March 18, 2013 by and among the Co-Issuers and the Placement Agents relating to the initial placement of the Notes.

"Placement Agents": GreensLedge Capital Markets LLC and Cantor Fitzgerald & Co. in their capacity as a placement agent under the Placement Agency Agreement.

"Plan": An employee benefit plan (as defined in Section 3(3) of ERISA that is subject to Title I of ERISA or a plan as defined in Section 4975(e)(1) of the Code that is subject to Section 4975 of the Code.

"Pledged Obligations": As of any date of determination, the Collateral Obligations, the Eligible Investments and any Equity Security which forms part of the Assets that have been Granted to the Trustee.

"Portfolio Management Agreement": The Portfolio Management Agreement, dated as of the Closing Date, between the Issuer and the Portfolio Manager relating to the Notes and the Assets, as amended from time to time, in accordance with the terms hereof and thereof.

"Portfolio Manager": Acis Capital Management, L.P., a Delaware limited partnership, until a successor Person shall have become the Portfolio Manager pursuant to the provisions of the Portfolio Management Agreement, and thereafter "Portfolio Manager" shall mean such successor Person.

"Post-Reinvestment Period Amendment Proceeds": As defined in Section 12.4 (Post-Reinvestment Period Amendment Proceeds).

"Pre-funded Letter of Credit": Any letter of credit facility that requires a lender party thereto to pre-fund in full its obligations thereunder, provided that any such lender (a) shall have no further funding obligation thereunder and (b) shall have a right to be reimbursed or repaid by the borrower its pro rata share of any draws on a letter of credit issued thereunder; provided, that the account into which the pre-funded amounts in respect of a letter of credit facility shall be deposited shall be a Pre-funded Letter of Credit Eligible Account at the time of such deposit.

"Pre-funded Letter of Credit Eligible Account": Either (a) a segregated trust account maintained with the corporate trust department of a federal depository institution or state-chartered depository institution subject to regulation regarding fiduciary funds on deposit similar to Title 12 of the Code of Federal Regulations Section 9.10(b), which, in either case, has corporate trust power, acting in its fiduciary capacity, which depository institution (x) has a long term senior unsecured debt rating of at least "Baa3" by Moody's and (y) to the extent any related trust account is holding cash, satisfies the ratings requirements specified in clause (b) or (b) an account maintained with an institution or trust company with (x) a long-term debt rating by S&P is at least "A" and whose short-term debt rating by S&P is at least "A-1" (or whose long-term debt rating is at least "A+" by S&P) and (y) a long-term senior unsecured debt rating of at least "A2" or a short-term credit rating of "P-1" by Moody's. If, in the case of clause (a) or (b), such institution's long-term debt rating or short-term credit rating falls below any such required rating, the assets held in the Pre-funded Letter of Credit Eligible Account shall be transferred within (x) 30 calendar days in the case of a failure to meet the required Moody's rating and (y) 60 calendar days in the case of a failure to meet the required S&P rating, in each case, to another institution that satisfies such rating requirements.

"Principal Balance": Subject to Section 1.2 (Assumptions as to Pledged Obligations), with respect to (a) any Pledged Obligation other than a Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation, as of any date of determination, the outstanding principal amount of such Pledged Obligation (excluding any capitalized interest) and (b) any Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation, as of any date of determination, the outstanding principal amount of such Revolving Collateral Obligation

or Delayed Drawdown Collateral Obligation, plus (except as expressly set forth in this Indenture) any undrawn commitments that have not been irrevocably reduced with respect to such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation; provided, that for all purposes the Principal Balance of any Equity Security or Interest Only Security shall be deemed to be zero.

"Principal Collection Subaccount": The meaning specified in Section 10.2(a) (Collection Account).

"Principal Financed Accrued Interest": With respect to any Collateral Obligation purchased during and after the Ramp-up Period, an amount equal to the amount of Principal Proceeds, if any, applied towards the purchase of accrued interest on such Collateral Obligation.

"Principal Proceeds": With respect to any Collection Period or Determination Date, all amounts received by the Issuer during the related Collection Period that do not constitute Interest Proceeds. For the avoidance of doubt, the proceeds from the issuance of Notes deposited in the Ramp-up Account and all Turbo Payment Amounts will be considered Principal Proceeds.

"Priority Class": With respect to any specified Class of Notes, each Class of Notes that ranks senior to such Class, as indicated in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Priority Hedge Termination Event": The occurrence of (i) the Issuer's failure to make required payments or deliveries pursuant to a Hedge Agreement, (ii) certain events of bankruptcy, dissolution or insolvency with respect to the Issuer, (iii) the merger of the Issuer with or into another entity where such surviving entity fails to assume all obligations of the Issuer, (iv) a change in law after the Closing Date which makes it unlawful for the Issuer to perform its obligations under a Hedge Agreement, (v) an "Additional Termination Event" (as defined in such Hedge Agreement) with respect to the Issuer, (vi) the liquidation of the Assets due to an Event of Default under this Indenture or (vii) any termination described in Section 15.2(b) (Assignment of Hedge Agreement) hereof.

"Priority of Payments": The meaning specified in Section 11.1(a) (Disbursements of Monies from Payment Account).

"Proceeding": Any suit in equity, action at law or other judicial or administrative proceeding.

"Proposed Portfolio": The portfolio of Collateral Obligations and Eligible Investments representing Principal Proceeds resulting from the proposed purchase, sale, maturity or other disposition of a Collateral Obligation or a proposed reinvestment in an additional Collateral Obligation, as the case may be.

"QIB/QP": Any Person that, at the time of its acquisition, purported acquisition or proposed acquisition of Notes is both a Qualified Institutional Buyer and a Qualified Purchaser.

"Qualified Institutional Buyer": The meaning specified in Rule 144A under the Securities Act.

"Qualified Purchaser": The meaning specified in Section 2(a)(51) of the Investment Company Act and Rule 2a51-2 under the Investment Company Act.

"Quarterly Report": As defined in Section 10.7(d) (Accountings).

"Ramp-up Account": The non-interest bearing segregated account established pursuant to Section 10.3(c) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account).

"Ramp-up Period": The period commencing on the Closing Date and ending upon the earlier to occur of (a) July 18, 2013 and (b) the date selected by the Portfolio Manager and upon which the Issuer has satisfied the Target Initial Par Condition.

"Rating": The Moody's Rating and/or S&P Rating, as applicable.

"Rating Agency": Each of Moody's and S&P or, with respect to Pledged Obligations generally, if at any time Moody's or S&P ceases to provide rating services with respect to debt obligations, any other nationally recognized investment rating agency selected by the Issuer (or the Portfolio Manager on behalf of the Issuer) and reasonably satisfactory to at least a Majority of each Class rated by Moody's and/or S&P, as applicable; provided, that in either case, each of Moody's and S&P shall be a Rating Agency for purposes of this Indenture for only so long as an Outstanding Class of Secured Notes is rated by it. In the event that at any time Moody's ceases to be a Rating Agency, references to rating categories of Moody's in this Indenture shall be deemed instead to be references to the equivalent categories of such other rating agency as of the most recent date on which such other rating agency and Moody's published ratings for the type of obligation in respect of which such alternative rating agency is used; provided, that the S&P Rating Condition shall be satisfied in order to refer to equivalent categories of any such alternative rating agency whose published ratings for the type of obligation are required. In the event that at any time S&P ceases to be a Rating Agency, references to rating categories of S&P in this Indenture shall be deemed instead to be references to the equivalent categories of such other rating agency as of the most recent date on which such other rating agency and S&P published ratings for the type of obligation in respect of which such alternative rating agency is used.

"Rating Factor Adjustment Amount": As of any date of determination, an amount equal to the product of (i) the Recovery Rate Excess Amount and (ii) 60.

"Recalcitrant Holder": A beneficial owner of Notes that fails to comply with the Noteholder Reporting Obligations and is thereafter designated by the Issuer or the Portfolio Manager on behalf of the Issuer (in either case in its sole discretion) as a Recalcitrant Holder.

"Record Date": As to any Payment Date, (x) the 15th day (whether or not a Business Day) in the case of Certificated Notes and (y) two Business Days in the case of Global Notes, in each case, prior to such Payment Date.

"Recovery Rate Excess Amount": As of any date of determination, an amount equal to the product of (I) the greater of (a) zero and (b) (i) the Weighted Average Moody's Recovery Rate as of such date of determination minus (ii) 44% and (II) 100; provided, that if as of such date of determination the Weighted Average Moody's Recovery Rate is (x) greater than or equal to 60%, then solely for the purpose of calculating the Recovery Rate Excess Amount, the Weighted Average Moody's Recovery Rate shall be deemed to equal 60% or (y) less than the Minimum Weighted Average Moody's Recovery Rate, then solely for the purpose of calculating the Recovery Rate Excess Amount, the Weighted Average Moody's Recovery Rate shall be deemed to equal the Minimum Weighted Average Moody's Recovery Rate.

"Redemption Date": The Business Day specified for the redemption of Notes pursuant to Sections 9.2 (Optional Redemption), 9.3 (Redemption Procedures), 9.4 (Notes Payable on Redemption Date) or 9.6 (Clean-up Call Redemption).

"Redemption Price": When used with respect to (i) any Class of Secured Notes, an amount equal to (a) 100% of the Aggregate Outstanding Amount of the Secured Notes to be redeemed *plus* (b) accrued and unpaid interest thereon (including, if applicable, interest on any accrued and unpaid Deferred Interest with respect to such Deferred Interest Notes) to the Redemption Date, provided that, if the date of such redemption is not on a Payment Date, any Secured Notes being redeemed shall receive the Break Funding Amount, if any and (ii) any Subordinated Note, its proportional share of the amount of the proceeds of the Assets (including proceeds created when the lien of this Indenture is released) remaining after giving effect to the redemption of the Secured Notes and payment in full of all expenses of the Co-Issuers; provided further, the Holders of 100% of the Aggregate Outstanding Amount of any Class of Secured Notes to be redeemed may elect to receive less than 100% of the Redemption Price that would otherwise be payable to the Holders of such Class of Secured Notes. With respect to any Combination Note, "Redemption Price" means an amount equal to its allocation of the Redemption Price for each Underlying Class.

"Reference Banks": The meaning specified in Exhibit G hereto.

"Refinancing": The meaning specified in Section 9.2 (Optional Redemption and Refinancing).

"Refinancing Proceeds": The meaning specified in Section 9.2 (Optional Redemption and Refinancing).

"Register" and "Registrar": The respective meanings specified in Section 2.6(a) (Registration, Registration of Transfer and Exchange).

"Registered Investment Adviser": An investment adviser registered under the Investment Advisers Act of 1940, as amended.

"Regulation S": Regulation S, as amended, under the Securities Act.

"Regulation S Global Note": The meaning specified in Section 2.2(b)(i) (Forms of Notes).

"Regulation S Global Secured Note": A Secured Note issued in the form of a Regulation S Global Note.

"Regulation S Global Subordinated Note": A Subordinated Note issued in the form of a Regulation S Global Note.

"Reinvestment Agreement": A guaranteed reinvestment agreement from a bank, insurance company or other corporation or entity; provided, however, that such agreement provides that it is terminable by the purchaser, without penalty, in the event that the rating assigned to such agreement by either Rating Agency is at any time lower than such agreement's Eligible Investment Required Rating.

"Reinvestment Period": The period from and including the Closing Date to and including the earliest of (i) the Payment Date in April 2017 or (ii) the date of the acceleration of the Maturity of any Class of Secured Notes pursuant to Section 5.2 (Acceleration of Maturity; Rescission and Annulment).

"Related Obligation": An obligation issued by the Portfolio Manager, any of its Affiliates that are investment funds or any other Person that is an investment fund whose investments are primarily managed by the Portfolio Manager or any such Affiliate.

"Required Coverage Ratio": With respect to a specified Class or Classes of Secured Notes and the related Interest Coverage Test or Overcollateralization Ratio Test as the case may be, as of any date of determination (with respect to the Interest Coverage Test, on and after the Determination Date with respect to the third Payment Date), the applicable percentage indicated below opposite such specified Class:

Class	Overcollateralization Ratio Test	Interest Coverage Ratio Test
A/B	122.5%	120.0%
C	112.3%	115.0%
D	108.0%	110.0%
E	105.1%	105.0%

"Responsible Officer": Any officer, authorized person or employee of the Portfolio Manager set forth on the list provided by the Portfolio Manager to the Issuer and the Trustee, which list shall include any portfolio manager having day-to-day responsibility for the performance of the Portfolio Manager under the Portfolio Management Agreement, as such list may be amended from time to time.

"Restricted Trading Period": means each day during any period in which either (i) the Moody's rating of the Class X Notes, the Class A-1 Notes, the Class A-2A Notes or the Class A-2B Notes are one or more sub-categories below its Initial Rating thereof or (ii) the Moody's rating of the Class X Notes, the Class A-1 Notes, the Class A-2A Notes or the Class A-2B Notes then Outstanding has been withdrawn and not reinstated; provided, that such period will not be a Restricted Trading Period (so long as the Moody's rating of the Class X Notes, the Class A-1 Notes, the Class A-2A Notes or the Class A-2B Notes has not been further

downgraded, withdrawn or put on watch) upon the direction of the holders of at least a Majority of the Controlling Class.

"Revolver Funding Account": The non-interest bearing segregated account established pursuant to Section 10.4 (The Revolver Funding Account).

"Revolving Collateral Obligation": Any Collateral Obligation (other than a Delayed Drawdown Collateral Obligation) that is a loan (including, without limitation, revolving loans, including funded and unfunded portions of revolving credit lines and letter of credit facilities, unfunded commitments under specific facilities and other similar loans and investments) that by its terms may require one or more future advances to be made to the borrower by the Issuer; provided, that any such Collateral Obligation will be a Revolving Collateral Obligation only until all commitments to make advances to the borrower expire or are terminated or irrevocably reduced to zero.

"Rule 144A": Rule 144A, as amended, under the Securities Act.

"Rule 144A Global Note": The meaning specified in Section 2.2(b)(ii) (Forms of Notes).

"Rule 144A Information": The meaning specified in Section 7.15 (Reporting).

"S&P": Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business and any successor or successors thereto.

"S&P CDO Monitor": The dynamic, analytical computer model available at www.structuredfinanceinterface.com with written instructions and assumptions to be applied when running such computer model, for the purpose of estimating the default risk of the Collateral Obligations, as the same may be modified by S&P from time to time. S&P will provide nine separate "Break-even Rate Cases" as described in the definition of the term "S&P Test Matrix" at the end of the Ramp-up Period. The Portfolio Manager may request additional input files for the S&P CDO Monitor with respect to additional Minimum Weighted Average Floating Spreads and "Break-even Rate Cases" not included in the definition of "S&P Test Matrix." Following receipt, the Portfolio Manager shall furnish to the Collateral Administrator such additional input files for the S&P CDO Monitor.

"S&P CDO Monitor Test": A test that will be satisfied on any date of determination following receipt by the Portfolio Manager and the Collateral Administrator of the input files for the S&P CDO Monitor if, with respect to each Class of Secured Notes, after giving effect to the sale of a Collateral Obligation or the purchase of a Collateral Obligation, as the case may be, either (x) the Class Default Differential with respect to such Class of Secured Notes is positive or (y) the Class Default Differential with respect to such Class of Secured Notes of the Proposed Portfolio is equal to or greater than the Class Default Differential with respect to such Class of Secured Notes of the Current Portfolio.

"S&P Collateral Value": With respect to any Defaulted Obligation or Deferring Security, the lesser of (i) the S&P Recovery Amount of such Defaulted Obligation or Deferring

Security as of the relevant Measurement Date and (ii) the Market Value of such Defaulted Obligation or Deferring Security as of the relevant Measurement Date.

"S&P Effective Date Rating Condition": A condition that is satisfied if, after the end of the Ramp-up Period, S&P has confirmed in writing to the Issuer (which confirmation may be in the form of an email to the Issuer or the Portfolio Manager or a press release), the Trustee and/or the Portfolio Manager its Initial Rating of each Class of Secured Notes; provided, that the S&P Effective Date Rating Condition will be deemed to be satisfied if S&P makes a public announcement or informs the Issuer, the Portfolio Manager or the Trustee in writing (including by means of email notification or a press release) that (i) it believes satisfaction of the S&P Effective Date Rating Condition is not required or (ii) its practice is not to give such confirmation.

"S&P Excel Default Model Input File": An electronic spreadsheet file in Microsoft Excel format to be provided to S&P by the Portfolio Manager or by the Collateral Administrator at the direction of the Portfolio Manager, which file shall include the balance of Cash and Eligible Investments in each Account and the following information (to the extent such information is available and is not confidential, unless the terms of such Collateral Obligation allow disclosure of such confidential information to S&P) with respect to each Collateral Obligation: (a) the name and country of domicile of the issuer thereof and the particular issue held by the Issuer, (b) the CUSIP, LoanX ID and/or other applicable identification number associated with such Collateral Obligation, (c) the par value of such Collateral Obligation, (d) the type of issue (including, by way of example, whether such Collateral Obligation is a bond, loan, a Cov-Lite Loan or a First-Lien Last-Out Loan), using such abbreviations as may be selected by the Collateral Administrator, (e) a description of the index or other applicable benchmark upon which the interest payable on such Collateral Obligation is based (including, by way of example, fixed rate, step-up rate, zero coupon and LIBOR) and, in the case of a LIBOR Floor Obligation, the specified "floor" rate per annum, (f) the coupon (in the case of a Collateral Obligation which bears interest at a fixed rate) or the spread over the applicable index (in the case of a Collateral Obligation which bears interest at a floating rate), (g) the S&P Industry Classification Group for such Collateral Obligation, (h) the stated maturity date of such Collateral Obligation, (i) the S&P Rating of such Collateral Obligation or the issuer thereof, as applicable, (j) the priority category of such Collateral Obligation used to determine the S&P Recovery Rate, if available, (k) the balance in Cash and Eligible Investments for each Account of the Issuer, (l) such other information as the Portfolio Manager may determine to include in such file and (m) the settlement date (or, if not yet settled, the anticipated settlement date and purchase price).

"S&P Industry Classification": The S&P Industry Classifications set forth in Schedule 3 hereto, and such industry classifications shall be updated at the option of the Portfolio Manager if S&P publishes revised industry classifications.

"S&P Rating": The S&P Rating of any Collateral Obligation, as of any date of determination, will be determined as follows:

(i) (a) if there is an issuer credit rating of the issuer of such Collateral Obligation by S&P as published by S&P, or the guarantor which meets the applicable S&P criteria and unconditionally and irrevocably guarantees such Collateral Obligation then the S&P

Rating shall be such rating (regardless of whether there is a published rating by S&P on the Collateral Obligations of such issuer held by the Issuer); provided, that private ratings (that is, ratings provided at the request of the obligor) may be used for purposes of this definition if the related obligor has consented to the disclosure thereof and a copy of such consent has been provided to S&P) or (b) if there is no issuer credit rating of the issuer by S&P but (i) there is a senior secured rating on any obligation or security of the issuer, then the S&P Rating of such Collateral Obligation shall be one sub-category below such rating; (ii) if clause (i) above does not apply but there is a senior unsecured rating on any obligation or security of the issuer, the S&P Rating of such Collateral Obligation shall equal such rating; and (iii) if neither clause (i) or (ii) above applies but there is a subordinated rating on any obligation or security of the issuer, then the S&P Rating of such Collateral Obligation shall be one sub-category above such rating if such rating is higher than "BB+," and shall be two sub-categories above such rating if such rating is "BB+" or lower;

(ii) if there is not a rating by S&P on the issuer or on an obligation of the issuer, then the S&P Rating may be determined pursuant to clauses (a) through (c) below:

(a) if an obligation of the issuer is not a DIP Collateral Obligation and is publicly rated by Moody's, then the S&P Rating will be determined in accordance with the methodologies for establishing the Moody's Rating set forth above except that the S&P Rating of such obligation will be (1) one sub-category below the S&P equivalent of the Moody's Rating if such Moody's Rating is "Baa3" or higher and (2) two sub-categories below the S&P equivalent of the Moody's Rating if such Moody's Rating is "Ba1" or lower;

(b) the Issuer or the Portfolio Manager on behalf of the Issuer (or an affiliate of the Portfolio Manager at the direction of the Portfolio Manager) may apply to S&P at CreditEstimates@standardandpoors.com on or prior to the acquisition of a Collateral Obligation for a credit estimate which shall be its S&P Rating and all "information" reasonably available to the Portfolio Manager must be submitted within 30 days of such acquisition; provided, that for a period of up to 90 days from the date of such acquisition, pending receipt from S&P of such estimate, such Collateral Obligation shall be deemed to have the S&P Rating that the Portfolio Manager reasonably believes (as certified in writing by the Portfolio Manager to the Trustee and the Collateral Administrator) will be the S&P credit estimate; provided, further, that, if no credit estimate is received by the Issuer or the Portfolio Manager within 90 days of such acquisition, the Portfolio Manager shall notify S&P and shall make a request for an extension to such credit assessment process. As used in this clause (ii)(b), "information" means S&P's "Credit Estimate Information Requirements" dated April 2011 and any other information S&P reasonably requests in order to produce a credit estimate for a particular asset. Upon the receipt of written consent from S&P to such extension, such Collateral Obligation shall continue to be deemed to have the S&P Rating that the Portfolio Manager reasonably believes (as certified in writing by the Portfolio Manager to the Trustee and the Collateral Administrator) will be the S&P credit estimate; provided, further, that if the Portfolio Manager fails to request an extension or if written consent from S&P to extend the credit assessment process past such 90-day period is not obtained, the S&P Rating of such Collateral Obligation shall be "CCC-"; provided, further, that such credit estimate shall

expire 12 months after the acquisition of such Collateral Obligation, following which such Collateral Obligation shall have an S&P Rating of "CCC-" unless, during such 12-month period, the Issuer applies for renewal thereof in accordance with Section 7.14(b) (Annual Rating Review), in which case such credit estimate shall continue to be the S&P Rating of such Collateral Obligation until S&P has confirmed or revised such credit estimate, upon which such confirmed or revised credit estimate shall be the S&P Rating of such Collateral Obligation; provided further that such confirmed or revised credit estimate shall expire on the next succeeding 12-month anniversary of the date of the acquisition of such Collateral Obligation and (when application is made for annual renewal in accordance with Section 7.14(b) (Annual Rating Review)) on each 12-month anniversary thereafter; or

(c) with respect to a Collateral Obligation that is not a Defaulted Obligation, the S&P Rating of such Collateral Obligation will at the election of the Issuer (at the direction of the Portfolio Manager) be "CCC-"; provided, that, the Issuer, or the Portfolio Manager on behalf of the Issuer, shall still provide the "information" with respect to such Collateral Obligation annually; provided, further, that the Issuer (at the direction of the Portfolio Manager) may only elect a "CCC-" rating if (w) the issuer of such Collateral Obligation and/or its affiliates are not subject to bankruptcy proceedings, (x) the issuer of such Collateral Obligation has not defaulted on any material obligation within the previous two years, (y) the issuer of such Collateral Obligation is current on interest and principal due on all material obligations and the Portfolio Manager believes it will remain current and (z) such Collateral Obligation is being paid current interest and principal and the Portfolio Manager believes that such payments will remain current; or

(iii) with respect to a DIP Collateral Obligation that has no issue rating by S&P or a Current Pay Obligation that is rated "CC," "D" or "SD" by S&P, the S&P Rating of such DIP Collateral Obligation or Current Pay Obligation, as applicable, will be, at the election of the Issuer (at the direction of the Portfolio Manager), "CCC-" or the S&P Rating determined pursuant to clause (ii)(b) above;

provided, that for purposes of the determination of the S&P Rating, (x) if the applicable rating assigned by S&P to an obligor or its obligations is on "credit watch positive" by S&P, such rating will be treated as being one sub-category above such assigned rating and (y) if the applicable rating assigned by S&P to an obligor or its obligations is on "credit watch negative" by S&P, such rating will be treated as being one sub-category below such assigned rating.

"S&P Rating Condition": With respect to any action taken or to be taken by or on behalf of the Issuer, a condition that is satisfied if S&P has confirmed in writing to the Issuer (which confirmation may be in the form of a press release), the Trustee and/or the Portfolio Manager that no immediate withdrawal or reduction with respect to its then-current rating by S&P of any Class of Secured Notes will occur as a result of such action; provided, that the S&P Rating Condition will be deemed to be satisfied if (x) no Class of Secured Notes Outstanding is rated by S&P or (y) if S&P makes a public announcement or informs the Issuer, the Portfolio Manager or the Trustee that (i) it believes satisfaction of the S&P Rating Condition is not required with respect to the applicable action or (ii) its practice is not to give such confirmations.

"S&P Recovery Amount": With respect to any Collateral Obligation which is a Defaulted Obligation or a Deferring Security, the amount equal to the product of (i) the recovery rate set forth in the column corresponding to the most senior Class of Notes then Outstanding of the applicable table for the relevant Collateral Obligation category under the definition of "Weighted Average S&P Recovery Rate" and (ii) the principal balance of such Defaulted Obligation or Deferring Security.

"S&P Recovery Rate": With respect to any category of Collateral Obligation, the corresponding "S&P Recovery Rate" designated in accordance with the methodology specified in the definition of the term "Weighted Average S&P Recovery Rate."

"S&P Selling Institution Percentage": With respect to any Participation Interest proposed to be entered into by the Issuer or any Pre-funded Letter of Credit, criteria that will be met if immediately after giving effect to such acquisition, (x) the percentage of the Collateral Principal Amount that consists in the aggregate of Participation Interests and Pre-funded Letters of Credit with Selling Institutions that have the same or a lower S&P credit rating does not exceed the "Aggregate Selling Institution Percentage" set forth below for such S&P credit rating and (y) the percentage of the Collateral Principal Amount that consists in the aggregate of Participation Interests and Pre-funded Letters of Credit with any single Selling Institution that have the same or a lower S&P credit rating does not exceed the "Individual Selling Institution Percentage" set forth below for such S&P credit rating:

Long-Term Senior Unsecured Debt Rating of Selling Institution S&P	Individual Selling Institution Percentage	Aggregate Selling Institution Percentage
AAA	20%	20%
AA+	10%	10%
AA	10%	10%
AA-	10%	10%
A+	5%	5%
A*	5%	5%
Below A**	0%	0%

* Applies only so long as the S&P short-term unsecured debt rating is "A-1."

** Also applies to institutions with an S&P long-term senior unsecured debt rating of "A" that do not also have an S&P short-term unsecured debt rating of at least "A-1."

"S&P Test Matrix": On the Closing Date, the Portfolio Manager, on behalf of the Issuer, shall elect and notify the Collateral Administrator which Minimum Weighted Average S&P Recovery Rate, Minimum Weighted Average Floating Spread and which "Break-even Rate Case" shall apply initially. Thereafter, the Portfolio Manager may elect to have a different case apply, provided that the Minimum Weighted Average S&P Recovery Rate, Minimum Weighted Average Floating Spread and a different "Break-even Rate Case" applicable to the case to which the Portfolio Manager wishes to change (with notice to the Collateral Administrator), are satisfied or, in the case of any tests that are not satisfied, will be closer to being satisfied. In no event will the Issuer or the Portfolio Manager be obliged to elect to have a different Minimum

Weighted Average S&P Recovery Rate, Minimum Weighted Average Floating Spread or "Break-even Rate Case" apply. For the avoidance of doubt, (i) once a Minimum Weighted Average Floating Spread and "Break-even Rate Case" have been elected by the Portfolio Manager (with notice to the Collateral Administrator), such elections shall apply in all cases to each table comprising this S&P Test Matrix unless and until changed as specified above, (ii) each table comprising this S&P Test Matrix shall apply only for so long as such Class of Notes remains Outstanding and (iii) the S&P Weighted Average Floating Spread must be used in calculating whether or not the Minimum Floating Spread Test per the tables below is passing.

Class A Notes

Minimum Weighted Average Floating Spread	Break-Even Rate Case 1	Break-Even Rate Case 2	Break-Even Rate Case 3	Break-Even Rate Case 4	Break-Even Rate Case 5	Break-Even Rate Case 6	Break-Even Rate Case 7	Break-Even Rate Case 8	Break-Even Rate Case 9
	Minimum Weighted Average S&P Recovery Rate								
3.05%	43.0%	44.0%	45.0%	46.0%	47.0%	48.0%	49.0%	50.0%	51.0%
3.15%	42.7%	43.7%	44.7%	45.7%	46.7%	47.7%	48.7%	49.7%	50.7%
3.25%	42.3%	43.3%	44.3%	45.3%	46.3%	47.3%	48.3%	49.3%	50.3%
3.35%	42.0%	43.0%	44.0%	45.0%	46.0%	47.0%	48.0%	49.0%	50.0%
3.45%	41.7%	42.7%	43.7%	44.7%	45.7%	46.7%	47.7%	48.7%	49.7%
3.55%	41.3%	42.3%	43.3%	44.3%	45.3%	46.3%	47.3%	48.3%	49.3%
3.65%	41.0%	42.0%	43.0%	44.0%	45.0%	46.0%	47.0%	48.0%	49.0%
3.75%	40.6%	41.6%	42.6%	43.6%	44.6%	45.6%	46.6%	47.6%	48.6%
3.85%	40.3%	41.3%	42.3%	43.3%	44.3%	45.3%	46.3%	47.3%	48.3%
3.95%	40.0%	41.0%	42.0%	43.0%	44.0%	45.0%	46.0%	47.0%	48.0%
4.05%	39.6%	40.6%	41.6%	42.6%	43.6%	44.6%	45.6%	46.6%	47.6%
4.15%	39.3%	40.3%	41.3%	42.3%	43.3%	44.3%	45.3%	46.3%	47.3%
4.25%	39.0%	40.0%	41.0%	42.0%	43.0%	44.0%	45.0%	46.0%	47.0%
4.35%	38.6%	39.6%	40.6%	41.6%	42.6%	43.6%	44.6%	45.6%	46.6%
4.45%	38.3%	39.3%	40.3%	41.3%	42.3%	43.3%	44.3%	45.3%	46.3%
4.55%	38.0%	39.0%	40.0%	41.0%	42.0%	43.0%	44.0%	45.0%	46.0%
4.65%	37.6%	38.6%	39.6%	40.6%	41.6%	42.6%	43.6%	44.6%	45.6%
4.75%	37.3%	38.3%	39.3%	40.3%	41.3%	42.3%	43.3%	44.3%	45.3%
4.85%	37.0%	38.0%	39.0%	40.0%	41.0%	42.0%	43.0%	44.0%	45.0%
4.95%	36.6%	37.6%	38.6%	39.6%	40.6%	41.6%	42.6%	43.6%	44.6%
5.05%	36.3%	37.3%	38.3%	39.3%	40.3%	41.3%	42.3%	43.3%	44.3%

Class B Notes

Minimum Weighted Average Floating Spread	Break-Even Rate Case 1	Break-Even Rate Case 2	Break-Even Rate Case 3	Break-Even Rate Case 4	Break-Even Rate Case 5	Break-Even Rate Case 6	Break-Even Rate Case 7	Break-Even Rate Case 8	Break-Even Rate Case 9
	Minimum Weighted Average S&P Recovery Rate								
3.05%	52.0%	53.0%	54.0%	55.0%	56.0%	57.0%	58.0%	59.0%	60.0%
3.15%	51.7%	52.7%	53.7%	54.7%	55.7%	56.7%	57.7%	58.7%	59.7%
3.25%	51.3%	52.3%	53.3%	54.3%	55.3%	56.3%	57.3%	58.3%	59.3%
3.35%	51.0%	52.0%	53.0%	54.0%	55.0%	56.0%	57.0%	58.0%	59.0%
3.45%	50.7%	51.7%	52.7%	53.7%	54.7%	55.7%	56.7%	57.7%	58.7%
3.55%	50.3%	51.3%	52.3%	53.3%	54.3%	55.3%	56.3%	57.3%	58.3%
3.65%	50.0%	51.0%	52.0%	53.0%	54.0%	55.0%	56.0%	57.0%	58.0%
3.75%	49.6%	50.6%	51.6%	52.6%	53.6%	54.6%	55.6%	56.6%	57.6%

Minimum Weighted Average Floating Spread	Break-Even Rate Case 1	Break-Even Rate Case 2	Break-Even Rate Case 3	Break-Even Rate Case 4	Break-Even Rate Case 5	Break-Even Rate Case 6	Break-Even Rate Case 7	Break-Even Rate Case 8	Break-Even Rate Case 9
	Minimum Weighted Average S&P Recovery Rate								
3.85%	49.3%	50.3%	51.3%	52.3%	53.3%	54.3%	55.3%	56.3%	57.3%
3.95%	49.0%	50.0%	51.0%	52.0%	53.0%	54.0%	55.0%	56.0%	57.0%
4.05%	48.6%	49.6%	50.6%	51.6%	52.6%	53.6%	54.6%	55.6%	56.6%
4.15%	48.3%	49.3%	50.3%	51.3%	52.3%	53.3%	54.3%	55.3%	56.3%
4.25%	48.0%	49.0%	50.0%	51.0%	52.0%	53.0%	54.0%	55.0%	56.0%
4.35%	47.6%	48.6%	49.6%	50.6%	51.6%	52.6%	53.6%	54.6%	55.6%
4.45%	47.3%	48.3%	49.3%	50.3%	51.3%	52.3%	53.3%	54.3%	55.3%
4.55%	47.0%	48.0%	49.0%	50.0%	51.0%	52.0%	53.0%	54.0%	55.0%
4.65%	46.6%	47.6%	48.6%	49.6%	50.6%	51.6%	52.6%	53.6%	54.6%
4.75%	46.3%	47.3%	48.3%	49.3%	50.3%	51.3%	52.3%	53.3%	54.3%
4.85%	46.0%	47.0%	48.0%	49.0%	50.0%	51.0%	52.0%	53.0%	54.0%
4.95%	45.6%	46.6%	47.6%	48.6%	49.6%	50.6%	51.6%	52.6%	53.6%
5.05%	45.3%	46.3%	47.3%	48.3%	49.3%	50.3%	51.3%	52.3%	53.3%

Class C Notes

Minimum Weighted Average Floating Spread	Break-Even Rate Case 1	Break-Even Rate Case 2	Break-Even Rate Case 3	Break-Even Rate Case 4	Break-Even Rate Case 5	Break-Even Rate Case 6	Break-Even Rate Case 7	Break-Even Rate Case 8	Break-Even Rate Case 9
	Minimum Weighted Average S&P Recovery Rate								
3.05%	59.0%	60.0%	61.0%	62.0%	63.0%	64.0%	65.0%	66.0%	67.0%
3.15%	58.5%	59.5%	60.5%	61.5%	62.5%	63.5%	64.5%	65.5%	66.5%
3.25%	58.0%	59.0%	60.0%	61.0%	62.0%	63.0%	64.0%	65.0%	66.0%
3.35%	57.5%	58.5%	59.5%	60.5%	61.5%	62.5%	63.5%	64.5%	65.5%
3.45%	57.0%	58.0%	59.0%	60.0%	61.0%	62.0%	63.0%	64.0%	65.0%
3.55%	56.5%	57.5%	58.5%	59.5%	60.5%	61.5%	62.5%	63.5%	64.5%
3.65%	56.0%	57.0%	58.0%	59.0%	60.0%	61.0%	62.0%	63.0%	64.0%
3.75%	55.5%	56.5%	57.5%	58.5%	59.5%	60.5%	61.5%	62.5%	63.5%
3.85%	55.0%	56.0%	57.0%	58.0%	59.0%	60.0%	61.0%	62.0%	63.0%
3.95%	54.5%	55.5%	56.5%	57.5%	58.5%	59.5%	60.5%	61.5%	62.5%
4.05%	54.0%	55.0%	56.0%	57.0%	58.0%	59.0%	60.0%	61.0%	62.0%
4.15%	53.5%	54.5%	55.5%	56.5%	57.5%	58.5%	59.5%	60.5%	61.5%
4.25%	53.0%	54.0%	55.0%	56.0%	57.0%	58.0%	59.0%	60.0%	61.0%
4.35%	52.5%	53.5%	54.5%	55.5%	56.5%	57.5%	58.5%	59.5%	60.5%
4.45%	52.0%	53.0%	54.0%	55.0%	56.0%	57.0%	58.0%	59.0%	60.0%
4.55%	51.5%	52.5%	53.5%	54.5%	55.5%	56.5%	57.5%	58.5%	59.5%
4.65%	51.0%	52.0%	53.0%	54.0%	55.0%	56.0%	57.0%	58.0%	59.0%
4.75%	50.5%	51.5%	52.5%	53.5%	54.5%	55.5%	56.5%	57.5%	58.5%
4.85%	50.0%	51.0%	52.0%	53.0%	54.0%	55.0%	56.0%	57.0%	58.0%
4.95%	49.5%	50.5%	51.5%	52.5%	53.5%	54.5%	55.5%	56.5%	57.5%
5.05%	49.0%	50.0%	51.0%	52.0%	53.0%	54.0%	55.0%	56.0%	57.0%

Class D Notes

Minimum Weighted Average Floating Spread	Break-Even Rate Case 1	Break-Even Rate Case 2	Break-Even Rate Case 3	Break-Even Rate Case 4	Break-Even Rate Case 5	Break-Even Rate Case 6	Break-Even Rate Case 7	Break-Even Rate Case 8	Break-Even Rate Case 9
	Minimum Weighted Average S&P Recovery Rate								
3.05%	65.5%	66.5%	67.5%	68.5%	69.5%	70.5%	71.5%	72.5%	73.5%

Minimum Weighted Average Floating Spread	Break-Even Rate Case 1	Break-Even Rate Case 2	Break-Even Rate Case 3	Break-Even Rate Case 4	Break-Even Rate Case 5	Break-Even Rate Case 6	Break-Even Rate Case 7	Break-Even Rate Case 8	Break-Even Rate Case 9
	Minimum Weighted Average S&P Recovery Rate								
3.15%	65.0%	66.0%	67.0%	68.0%	69.0%	70.0%	71.0%	72.0%	73.0%
3.25%	64.5%	65.5%	66.5%	67.5%	68.5%	69.5%	70.5%	71.5%	72.5%
3.35%	64.0%	65.0%	66.0%	67.0%	68.0%	69.0%	70.0%	71.0%	72.0%
3.45%	63.5%	64.5%	65.5%	66.5%	67.5%	68.5%	69.5%	70.5%	71.5%
3.55%	63.0%	64.0%	65.0%	66.0%	67.0%	68.0%	69.0%	70.0%	71.0%
3.65%	62.5%	63.5%	64.5%	65.5%	66.5%	67.5%	68.5%	69.5%	70.5%
3.75%	62.0%	63.0%	64.0%	65.0%	66.0%	67.0%	68.0%	69.0%	70.0%
3.85%	61.5%	62.5%	63.5%	64.5%	65.5%	66.5%	67.5%	68.5%	69.5%
3.95%	61.0%	62.0%	63.0%	64.0%	65.0%	66.0%	67.0%	68.0%	69.0%
4.05%	60.4%	61.4%	62.4%	63.4%	64.4%	65.4%	66.4%	67.4%	68.4%
4.15%	59.9%	60.9%	61.9%	62.9%	63.9%	64.9%	65.9%	66.9%	67.9%
4.25%	59.3%	60.3%	61.3%	62.3%	63.3%	64.3%	65.3%	66.3%	67.3%
4.35%	58.8%	59.8%	60.8%	61.8%	62.8%	63.8%	64.8%	65.8%	66.8%
4.45%	58.3%	59.3%	60.3%	61.3%	62.3%	63.3%	64.3%	65.3%	66.3%
4.55%	57.7%	58.7%	59.7%	60.7%	61.7%	62.7%	63.7%	64.7%	65.7%
4.65%	57.2%	58.2%	59.2%	60.2%	61.2%	62.2%	63.2%	64.2%	65.2%
4.75%	56.6%	57.6%	58.6%	59.6%	60.6%	61.6%	62.6%	63.6%	64.6%
4.85%	56.1%	57.1%	58.1%	59.1%	60.1%	61.1%	62.1%	63.1%	64.1%
4.95%	55.5%	56.5%	57.5%	58.5%	59.5%	60.5%	61.5%	62.5%	63.5%
5.05%	55.0%	56.0%	57.0%	58.0%	59.0%	60.0%	61.0%	62.0%	63.0%

Class E Notes

Minimum Weighted Average Floating Spread	Break-Even Rate Case 1	Break-Even Rate Case 2	Break-Even Rate Case 3	Break-Even Rate Case 4	Break-Even Rate Case 5	Break-Even Rate Case 6	Break-Even Rate Case 7	Break-Even Rate Case 8	Break-Even Rate Case 9
	Minimum Weighted Average S&P Recovery Rate								
3.05%	72.0%	73.0%	74.0%	75.0%	76.0%	77.0%	78.0%	79.0%	80.0%
3.15%	71.4%	72.4%	73.4%	74.4%	75.4%	76.4%	77.4%	78.4%	79.4%
3.25%	70.8%	71.8%	72.8%	73.8%	74.8%	75.8%	76.8%	77.8%	78.8%
3.35%	70.1%	71.1%	72.1%	73.1%	74.1%	75.1%	76.1%	77.1%	78.1%
3.45%	69.5%	70.5%	71.5%	72.5%	73.5%	74.5%	75.5%	76.5%	77.5%
3.55%	68.9%	69.9%	70.9%	71.9%	72.9%	73.9%	74.9%	75.9%	76.9%
3.65%	68.3%	69.3%	70.3%	71.3%	72.3%	73.3%	74.3%	75.3%	76.3%
3.75%	67.6%	68.6%	69.6%	70.6%	71.6%	72.6%	73.6%	74.6%	75.6%
3.85%	67.0%	68.0%	69.0%	70.0%	71.0%	72.0%	73.0%	74.0%	75.0%
3.95%	66.4%	67.4%	68.4%	69.4%	70.4%	71.4%	72.4%	73.4%	74.4%
4.05%	65.8%	66.8%	67.8%	68.8%	69.8%	70.8%	71.8%	72.8%	73.8%
4.15%	65.1%	66.1%	67.1%	68.1%	69.1%	70.1%	71.1%	72.1%	73.1%
4.25%	64.5%	65.5%	66.5%	67.5%	68.5%	69.5%	70.5%	71.5%	72.5%
4.35%	63.9%	64.9%	65.9%	66.9%	67.9%	68.9%	69.9%	70.9%	71.9%
4.45%	63.3%	64.3%	65.3%	66.3%	67.3%	68.3%	69.3%	70.3%	71.3%
4.55%	62.6%	63.6%	64.6%	65.6%	66.6%	67.6%	68.6%	69.6%	70.6%
4.65%	62.0%	63.0%	64.0%	65.0%	66.0%	67.0%	68.0%	69.0%	70.0%
4.75%	61.4%	62.4%	63.4%	64.4%	65.4%	66.4%	67.4%	68.4%	69.4%
4.85%	60.8%	61.8%	62.8%	63.8%	64.8%	65.8%	66.8%	67.8%	68.8%
4.95%	60.1%	61.1%	62.1%	63.1%	64.1%	65.1%	66.1%	67.1%	68.1%
5.05%	59.5%	60.5%	61.5%	62.5%	63.5%	64.5%	65.5%	66.5%	67.5%

Class F Notes

Minimum Weighted Average Floating Spread	Break-Even Rate Case 1	Break-Even Rate Case 2	Break-Even Rate Case 3	Break-Even Rate Case 4	Break-Even Rate Case 5	Break-Even Rate Case 6	Break-Even Rate Case 7	Break-Even Rate Case 8	Break-Even Rate Case 9
	Minimum Weighted Average S&P Recovery Rate								
3.05%	75.5%	76.5%	77.5%	78.5%	79.5%	80.5%	81.5%	82.5%	83.5%
3.15%	74.9%	75.9%	76.9%	77.9%	78.9%	79.9%	80.9%	81.9%	82.9%
3.25%	74.4%	75.4%	76.4%	77.4%	78.4%	79.4%	80.4%	81.4%	82.4%
3.35%	73.8%	74.8%	75.8%	76.8%	77.8%	78.8%	79.8%	80.8%	81.8%
3.45%	73.3%	74.3%	75.3%	76.3%	77.3%	78.3%	79.3%	80.3%	81.3%
3.55%	72.7%	73.7%	74.7%	75.7%	76.7%	77.7%	78.7%	79.7%	80.7%
3.65%	72.1%	73.1%	74.1%	75.1%	76.1%	77.1%	78.1%	79.1%	80.1%
3.75%	71.6%	72.6%	73.6%	74.6%	75.6%	76.6%	77.6%	78.6%	79.6%
3.85%	71.0%	72.0%	73.0%	74.0%	75.0%	76.0%	77.0%	78.0%	79.0%
3.95%	70.5%	71.5%	72.5%	73.5%	74.5%	75.5%	76.5%	77.5%	78.5%
4.05%	70.0%	71.0%	72.0%	73.0%	74.0%	75.0%	76.0%	77.0%	78.0%
4.15%	69.5%	70.5%	71.5%	72.5%	73.5%	74.5%	75.5%	76.5%	77.5%
4.25%	69.0%	70.0%	71.0%	72.0%	73.0%	74.0%	75.0%	76.0%	77.0%
4.35%	68.5%	69.5%	70.5%	71.5%	72.5%	73.5%	74.5%	75.5%	76.5%
4.45%	68.0%	69.0%	70.0%	71.0%	72.0%	73.0%	74.0%	75.0%	76.0%
4.55%	67.5%	68.5%	69.5%	70.5%	71.5%	72.5%	73.5%	74.5%	75.5%
4.65%	67.0%	68.0%	69.0%	70.0%	71.0%	72.0%	73.0%	74.0%	75.0%
4.75%	66.5%	67.5%	68.5%	69.5%	70.5%	71.5%	72.5%	73.5%	74.5%
4.85%	66.0%	67.0%	68.0%	69.0%	70.0%	71.0%	72.0%	73.0%	74.0%
4.95%	65.5%	66.5%	67.5%	68.5%	69.5%	70.5%	71.5%	72.5%	73.5%
5.05%	65.0%	66.0%	67.0%	68.0%	69.0%	70.0%	71.0%	72.0%	73.0%

"S&P Weighted Average Fixed Coupon": As of any date of determination, the number, expressed as a percentage (rounded up to the nearest 0.01%), equal to: (i) the aggregate sum, in respect of each fixed rate Collateral Obligation (excluding Deferring Securities), of an amount equal to the product of (a) the interest coupon of such Collateral Obligation multiplied by (b) the Principal Balance of such Collateral Obligation, divided by (ii) the Aggregate Principal Balance of all such fixed rate Collateral Obligations.

"S&P Weighted Average Floating Spread": As of any date of determination, the number, expressed as a percentage (rounded up to the nearest 0.01%), obtained by calculating the sum of: (w) in the case of each floating rate Collateral Obligation (excluding Deferring Securities, Revolving Collateral Obligations and Delayed Drawdown Collateral Obligations), the aggregate interest on such Collateral Obligation over LIBOR multiplied by the outstanding Principal Balance of such Collateral Obligation as of such date and (x) in the case of each Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation, (i) the commitment fee for such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation multiplied by the undrawn commitments of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation and (ii) the aggregate interest on such Collateral Obligation over LIBOR multiplied by the outstanding principal amount of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation (provided that letter of credit fees shall be excluded for all purposes), and dividing such sum by the Aggregate Principal Balance of all such floating rate Collateral Obligations as of such date of determination. For purposes of the foregoing, (1) in the case of each floating rate Collateral Obligation that bears interest at a spread over an index other than a London interbank offered rate based index, the interest over LIBOR for such Collateral Obligation shall be equal to the excess of the sum of such spread and such index (or, in the case of a Pre-funded Letter of Credit, the applicable rate of

interest on the deposited amount) over LIBOR calculated for the Secured Notes for the immediately preceding Interest Determination Date (which spread or excess may be expressed as a negative number), (2) LIBOR with respect to any floating rate Collateral Obligation that bears interest based on a spread over LIBOR shall be calculated in the same manner as it is calculated for payments on such Collateral Obligation, (3) with respect to any LIBOR Floor Obligation, the interest over LIBOR for such Collateral Obligation shall be equal to the sum of (a) the applicable spread over LIBOR and (b) the excess, if any, of the specified "floor" rate relating to such Collateral Obligation over LIBOR calculated for the Secured Notes for the immediately preceding Interest Determination Date and (4) the interest over the applicable index in respect of a floating rate Step-up Obligation shall be deemed to be its current interest spread over such index and the interest over the applicable index in respect of a floating rate Step-down Obligation shall be deemed to be the lowest possible interest spread over such index under the Underlying Instruments relating to such Step-down Obligation.

"Sale": The meaning specified in Section 5.17(a) (Sale of Assets).

"Sale Proceeds": All proceeds (excluding accrued interest, if any) received with respect to Assets as a result of sales of such Assets less any reasonable expenses incurred by the Portfolio Manager or the Trustee (other than amounts payable as Administrative Expenses) in connection with such sales. Sale Proceeds will include Principal Financed Accrued Interest received in respect of such sale.

"Schedule of Collateral Obligations": The schedule of Collateral Obligations attached as Schedule 1 hereto, which schedule shall include the issuer, principal balance, coupon/spread, the Stated Maturity, the Moody's Rating and the S&P Rating for each Collateral Obligation and the percentage of the aggregate commitment under each Revolving Collateral Obligation and Delayed Drawdown Collateral Obligation that is funded, as amended from time to time (without the consent of or any action on the part of any Person) to reflect the release of Collateral Obligations pursuant to Article 10 hereof, the inclusion of additional Collateral Obligations pursuant to Section 7.18 (Ramp-up Period; Purchase of Additional Collateral Obligations) hereof and the inclusion of additional Collateral Obligations as provided in Section 12.2 (Purchase of Additional Collateral Obligations) hereof.

"Scheduled Distribution": With respect to any Pledged Obligation, for each Due Date, the scheduled payment of principal and/or interest due on such Due Date with respect to such Pledged Obligation, determined in accordance with the assumptions specified in Section 1.2 (Assumptions as to Pledged Obligations) hereof.

"Second Lien Loan": Any assignment of or Participation Interest in or other interest in a loan (x) that is required to be secured by a valid and perfected second priority pledge of collateral (which (i) pledge may be subject to customary permitted liens, such as, but not limited to, tax liens and (ii) collateral is not secured solely by common stock or equity) and which has a senior (or, solely with respect to any related first lien indebtedness, subordinated) pre-petition priority (including pari passu with other obligations of the obligor) in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings and (y) with respect to which the Portfolio Manager determines in good faith that the value of the collateral securing the loan on or about the time of acquisition by the Issuer together with other

attributes of the issuer of such loan (including, without limitation, its general financial condition, ability to generate cash flow available for debt service, refinancing ability and other demands for that cash flow) is adequate to repay the principal balance of the loan in accordance with its terms and to repay the principal balance of all other loans of equal or greater seniority secured by a security interest in the same collateral.

"Secured Notes": The Class X Notes, the Class A Notes, the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes, the Class F Notes and the Combination Notes.

"Secured Obligations": The meaning specified in the Granting Clauses.

"Secured Parties": The meaning specified in the Granting Clauses.

"Securities Account Control Agreement": An agreement in substantially the form of Exhibit H hereto.

"Securities Act": The United States Securities Act of 1933, as amended.

"Securities Intermediary": As defined in Section 8-102(a)(14) of the UCC.

"Security Entitlement": The meaning specified in Section 8-102(a)(17) of the UCC.

"Selling Institution": The entity obligated to make payments to the Issuer under the terms of a Participation Interest (or the agent bank in connection with a Pre-funded Letter of Credit, as the context shall require) and, as to which the S&P Selling Institution Percentage Criteria and the Moody's Counterparty Criteria are met.

"Senior Management Fee": A fee payable to the Portfolio Manager in arrears on each Payment Date (prorated for the related Interest Accrual Period) pursuant to Section 9 of the Portfolio Management Agreement and Section 11.1 (Disbursements of Monies from Payment Account) in an amount equal to 0.20% per annum (calculated on the basis of a 360-day year consisting of twelve 30-day months) of the Fee Basis Amount at the beginning of the Collection Period relating to such Payment Date.

"Senior Notes": The Class X Notes, the Class A Notes and the Class B Notes.

"Senior Secured Bond": Any fixed interest rate bond that is secured by the pledge of collateral and has the most senior pre-petition priority (including *pari passu* with other obligations of the obligor, but subject to customary permitted liens, such as, but not limited to, any tax liens) in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings.

"Senior Secured Loan": An assignment of or Participation Interest in or other interest in a loan (x) that is required to be secured by a valid and perfected, first priority pledge of collateral (which (i) pledge may be subject to customary permitted liens, such as, but not limited to, tax liens and (ii) collateral is not secured solely by common stock or equity) and

which has a senior pre-petition priority (including pari passu with other obligations of the obligor) in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, (y) solely for purposes of calculating the Weighted Average S&P Recovery Rate, such loan cannot, by its terms, be subordinated to another obligation of the Obligor and the value of the collateral securing such loan, as determined by the Portfolio Manager in good faith, on or about the time of acquisition by the Issuer together with other attributes of the Obligor (including, without limitation, its general financial condition, ability to generate cash flow available for debt service, refinancing ability and other demands for that cash flow) is adequate to repay the Principal Balance of the loan in accordance with its terms and to repay the Principal Balance of all other loans of equal seniority secured by a security interest in the same collateral and (z) is not a First-Lien Last-Out Loan.

"Senior Secured Note": Any assignment of or Participation Interest in or other interest in a floating interest rate note (that is not in the form of an assignment of or participation interest in a loan) issued pursuant to an indenture or equivalent document by a corporation, partnership, limited liability company, trust or other person that is required to be secured by either a first or second priority perfected security interest or lien in or on specified collateral securing the Obligor's obligations under such note.

"Senior Unsecured Bond": Any bond (other than a Senior Secured Bond) that has the most senior pre-petition priority (including *pari passu* with other obligations of the obligor, but subject to customary permitted liens, such as, but not limited to, any tax liens) in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings.

"Special Redemption": As defined in Section 9.5 (Special Redemption).

"Special Redemption Amount": As defined in Section 9.5 (Special Redemption).

"Special Redemption Date": As defined in Section 9.5 (Special Redemption).

"Standby Investment": The US Bank National Association Money Market Fund.

"Stated Maturity": With respect to any security, the maturity date specified in such security or applicable Underlying Instrument; and with respect to the Notes of any Class, the date specified as such in Section 2.3 (Authorized Amount; Stated Maturity; Denominations). The Combination Notes will mature when the Underlying Classes are repaid in full in accordance with this Indenture.

"Step-down Obligation": An obligation or security which by the terms of the related Underlying Instruments provides for a decrease in the per annum interest rate on such obligation or security (other than by reason of any change in the applicable index or benchmark rate used to determine such interest rate) or in the spread over the applicable index or benchmark rate, solely as a function of the passage of time; provided, that an obligation or security providing for payment of a constant rate of interest at all times after the date of acquisition by the Issuer shall not constitute a Step-down Obligation.

"Step-up Obligation": An obligation or security which by the terms of the related Underlying Instruments provides for an increase in the per annum interest rate on such obligation

or security, or in the spread over the applicable index or benchmark rate, solely as a function of the passage of time; provided, that an obligation or security providing for payment of a constant rate of interest at all times after the date of acquisition by the Issuer shall not constitute a Step-up Obligation.

"Structured Finance Obligation": A non-recourse or limited-recourse debt obligation issued by a special purpose vehicle and secured solely by the assets thereof that is a mortgage backed security, an asset backed security, a collateralized bond obligation, a collateralized loan obligation, a repackaging of a bond (or a pool of bonds) of any of the foregoing or any similar securitization of an asset or a pool of assets (or any combination thereof).

"Subordinated Management Fee": A fee payable to the Portfolio Manager in arrears on each Payment Date (prorated for the related Interest Accrual Period) pursuant to Section 9 of the Portfolio Management Agreement and Section 11.1 (Disbursements of Monies from Payment Account) of this Indenture in an amount equal to 0.30% per annum (calculated on the basis of a 360-day year consisting of twelve 30-day months) of the Fee Basis Amount at the beginning of the Collection Period relating to such Payment Date. The Subordinated Management Fee is payable on each Payment Date only to the extent that sufficient Interest Proceeds or Principal Proceeds are available, and, to the extent any such Subordinated Management Fee is not paid on any Payment Date for any reason, such payment will be deferred and will accrue interest at LIBOR, compounded quarterly (calculated on the basis of a 360-day year consisting of twelve 30-day months).

"Subordinated Notes": The subordinated notes issued pursuant to this Indenture and having the characteristics specified in Section 2.3 (Authorized Amount; Stated Maturity; Denominations).

"Subsequent Delivery Date": A date fixed by the Portfolio Manager on behalf of the Issuer for the delivery of a Collateral Obligation to be pledged to the Trustee after the Closing Date.

"Successor Entity": As defined in Section 7.10 (Co-Issuers May Consolidate, etc., Only on Certain Terms).

"Synthetic Security": A security or swap transaction other than a Participation Interest or a Pre-funded Letter of Credit that has payments associated with either payments of interest and/or principal on a reference obligation or the credit performance of a reference obligation or payments on, or the return of, an equity interest.

"Target Balance": An amount equal to (a) the Target Initial Par Amount, minus (b) the amount of any principal payments made on the Notes of any Class, plus (c) the aggregate amount of Principal Proceeds that result from any additional issuance of Subordinated Notes.

"Target Initial Par Amount": With respect to the Collateral Obligations purchased by the Issuer or subject of binding agreements to purchase at the end of the Ramp-up Period, $500,000,000 in Aggregate Principal Balance of such Collateral Obligations.

"Target Initial Par Condition": A condition satisfied as of the end of the Ramp-up Period if the Issuer has purchased, or entered into binding commitments to purchase, Collateral Obligations, including Collateral Obligations acquired by the Issuer on or prior to the Closing Date, the Aggregate Principal Balance of which equals or exceeds the Target Initial Par Amount (not including the reduction in the Aggregate Principal Balance of any Collateral Obligation after the Closing Date as a result of prepayments, maturities or redemptions, unless such amounts have been reinvested in Collateral Obligations).

"Target Initial Par Ratio": A ratio that is determined by dividing (x) Target Initial Par Amount *by* (y) $469,750,000.

"Tax": Any present or future tax, levy, impost, duty, charge, assessment, deduction, withholding or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority other than a stamp, registration, documentation or similar tax.

"Tax Event": Any (1) new, or change to (a) a U.S. or non-U.S. tax statute, treaty, regulation, rule, ruling, practice, procedure or judicial decision or interpretation which results in any portion of any payment due from any issuer or obligor under any Collateral Obligation becoming properly subject to the imposition of U.S. or non-U.S. tax, which in the case of withholding tax is not compensated for by a "gross-up" provision under the terms of the Collateral Obligation or (b) a Cayman Islands law that results in Holders becoming properly subject to the imposition of Cayman Islands withholding tax unless the Issuer has changed its governing jurisdiction to a jurisdiction that does not impose withholding tax on holders of the Secured Notes within 90 days of becoming aware of such change in law and (2) tax arising under or as a result of FATCA as a result of or with respect to any payment due from any issuer or obligor under any Collateral Obligation, which is not compensated for by a "gross-up" provision under the terms of the Collateral Obligation, but only, in each case, (1) or (2), if such tax or taxes amount, in the aggregate, to at least $1,000,000, during any 12 month period.

"Tax Jurisdiction": The Bahamas, Bermuda, the British Virgin Islands, the Cayman Islands or the Channel Islands and any other tax advantaged jurisdiction as may be notified by Moody's to the Portfolio Manager from time to time; provided, that, in the case of each such tax jurisdiction, in the Portfolio Manager's good faith business judgment, a majority of the assets, revenues or operations supporting the related Collateral Obligation are directly or through subsidiaries located in the United States of America.

"Third Party Credit Exposure": As of any date of determination, the sum (without duplication) of the Principal Balance (or such lesser amount as may be determined by S&P) of each Collateral Obligation that consists of a Participation Interest or a Pre-funded Letter of Credit.

"Trading Plan": The meaning specified in Section 1.2(k) (Assumptions as to Pledged Obligations).

"Trading Plan Period": The meaning specified in Section 1.2(k) (Assumptions as to Pledged Obligations).

"Transfer Agent": The Person or Persons, which may be the Issuer, authorized by the Issuer to exchange or register the transfer of Notes.

"Trustee": As defined in the first sentence of this Indenture.

"Turbo Payment Amount": After the Reinvestment Period, and for so long as any Class C Notes remain Outstanding, as of any date of determination, the aggregate Post-Reinvestment Period Amendment Proceeds accumulated during the related Collection Period.

"UCC": The Uniform Commercial Code as in effect in the State of New York or, if different, the state of the United States that governs the perfection of the relevant security interest as amended from time to time.

"Uncertificated Security": The meaning specified in Section 8-102(a)(18) of the UCC.

"Underlying Instrument": The indenture or other agreement pursuant to which a Pledged Obligation has been issued or created and each other agreement that governs the terms of or secures the obligations represented by such Pledged Obligation or of which the holders of such Pledged Obligation are the beneficiaries.

"United States owned foreign entity": The meaning specified in Section 2.13(c) (Tax Purposes).

"Unregistered Securities": The meaning specified in Section 5.17(c) (Sale of Assets).

"U.S. Person": The meaning specified in Section 7701(a)(30) of the Code.

"U.S. person": The meaning specified in Regulation S.

"USD" and "$": The legal currency of the United States of America.

"Weighted Average Fixed Coupon": Each of the Moody's Weighted Average Fixed Coupon and the S&P Weighted Average Fixed Coupon, as applicable. In connection with the use of the defined term "Weighted Average Fixed Coupon" in any calculation, test or definition hereof, such calculation, test or definition shall be determined by reference to the definition of each of the Moody's Weighted Average Fixed Coupon and S&P Weighted Average Fixed Coupon separately.

"Weighted Average Floating Spread": Each of the Moody's Weighted Average Floating Spread and the S&P Weighted Average Floating Spread, as applicable. In connection with the use of the defined term "Weighted Average Floating Spread" in any calculation, test or definition hereof, such calculation, test or definition shall be determined by reference to the definition of each of the Moody's Weighted Average Floating Spread and S&P Weighted Average Floating Spread separately.

"Weighted Average Life": With respect to each Collateral Obligation as of any date of determination is an amount equal to (i) the sum of the products obtained by multiplying (A) the actual number of years (rounded to the nearest one hundredth thereof) from such date of determination to the respective dates of each successive scheduled distribution of principal of such Collateral Obligation and (B) the related amounts of the principal of such scheduled distribution; divided by (ii) the sum of the aggregate amount of all such scheduled distributions of principal of such Collateral Obligation.

"Weighted Average Life Test": A test that is satisfied if the Aggregate Weighted Average Life on such date of determination is not later than March 14, 2021.

"Weighted Average Moody's Rating Factor": The number (rounded up to the nearest whole number) equal to: (i) the sum of the products of (a) the Principal Balance of each Collateral Obligation (excluding Equity Securities) multiplied by (b) its Moody's Rating Factor, divided by (ii) the outstanding Principal Balance of all such Collateral Obligations.

"Weighted Average Moody's Recovery Rate": As of any date of determination, the number, expressed as a percentage, obtained by summing the product of the Moody's Recovery Rate on such date of determination of each Collateral Obligation and the Principal Balance of such Collateral Obligation, dividing such sum by the Aggregate Principal Balance of all such Collateral Obligations and rounding up to the first decimal place.

"Weighted Average S&P Recovery Rate": As of any date of determination, with respect to each Class of Notes then Outstanding with an Initial Rating corresponding to the rating in the applicable tables below, the fraction (expressed as a percentage) obtained by (a) summing the products obtained by multiplying (i) the Principal Balance of each Collateral Obligation by (ii) the S&P Recovery Rate as set forth in either the column corresponding to the Initial Rating of the relevant Class of Notes using the Tiered Recovery Rate Method table below or the column corresponding to the Initial Rating of the relevant Class of Notes using the Asset Assigned Recovery Rate Method table below, as applicable, (b) dividing such sum by the Aggregate Principal Balance of all Collateral Obligations and (c) rounding up to the nearest hundredth of a percent. For purposes of determining the Weighted Average S&P Recovery Rate, the S&P Recovery Rate for all Collateral Obligations will be determined by using the Asset Assigned Recovery Rate Method tables or, if the Asset Assigned Recovery Rate Method tables do not apply to such Collateral Obligation, the Tiered Recovery Rate Method tables; provided, however, that any other recovery rate proposed by the Portfolio Manager and consented to by S&P in writing or by email may be utilized on a case-by-case basis. The "Tiered Recovery Rate Method" means determining the Weighted Average S&P Recovery Rate by using the Tiered Recovery Rate Method tables. The "Asset Assigned Recovery Rate Method" means determining the Weighted Average S&P Recovery Rate by using the Asset Assigned Recovery Rate Method tables, except in the limited circumstances described below.

Tiered Recovery Rate Method

Table 1: S&P Tiered Recovery Rate Method Table (by Asset Class and CDO Liability Rating)[1]						
	CDO Liability Rating					
	AAA	AA	A	BBB	BB	B
	Senior Secured Loans[2]					
Group 1	50	55	59	63	75	79
Group 2	45	49	53	58	70	74
Group 3	39	42	46	49	60	63
Group 4	17	19	27	29	31	34
	Senior secured Cov-Lite Loans/Senior Secured Bonds					
Group 1	41	46	49	53	63	67
Group 2	37	41	44	49	59	62
Group 3	32	35	39	41	50	53
Group 4	17	19	27	29	31	34
	Mezzanine/Second-Lien Loans or Senior Secured Notes/Senior Unsecured Loans/Senior Unsecured Bonds/First-Lien Last-Out Loans[3]					
Group 1	18	20	23	26	29	31
Group 2	16	18	21	24	27	29
Group 3	13	16	18	21	23	25
Group 4	10	12	14	16	18	20
	Subordinated loans/subordinated bonds					
Group 1	8	8	8	8	8	8
Group 2	10	10	10	10	10	10
Group 3	9	9	9	9	9	9
Group 4	5	5	5	5	5	5

(1) Or, at the election of the Portfolio Manager, such higher rates as provided by S&P.

(2) DIP Collateral Obligations to be treated as Senior Secured Loans.

(3) In the case of second lien loans and First-Lien Last-Out Loans, the first 15% of the Collateral Principal Amount will be treated as senior unsecured loans and the excess over 15% as subordinated loans. Obligations secured primarily by equity or common stock not to be treated as Senior Secured Loans, but rather as senior unsecured loans. First-Lien Last-Out Loans not to be treated as Senior Secured Loans. "First-Lien Last-Out Loan" means a Senior Secured Loan that, prior to a default with respect to such loan, is entitled to receive payments *pari passu* with other Senior Secured Loans of the same obligor, but following a default becomes fully subordinated to other Senior Secured Loans of the same obligor and is not entitled to any payments until such other Senior Secured Loans are paid in full.

Table 2: S&P Country Groupings for S&P Recovery Rate			
Group 1	**Group 2**	**Group 3**	**Group 4**
Australia	Austria	Argentina	Kazakhstan
Denmark	Belgium	Brazil	Russia
Finland	Canada	Chile	Ukraine
Hong Kong	Germany	France	Others
Ireland	Israel	Greece	
The Netherlands	Japan	Italy	
New Zealand	Luxembourg	Mexico	
Norway	Portugal	South Korea	
Singapore	South Africa	Spain	
Sweden	Switzerland	Taiwan	
U.K.	U.S.	Turkey	
		United Arab Emirates	

Asset Assigned Recovery Rate Method

If available, the S&P Recovery Rate for Collateral Obligations shall be determined by reference to the table below and a list of debt securities with asset-by-asset current recovery ratings (each such recovery rate, an "Asset Assigned Recovery Rating") listed on the S&P website at "www.standardandpoors.com" or such other website address designated by S&P. For the avoidance of doubt, Asset Assigned Recovery Ratings are determined by reference to the recovery rating of the security and without regard to its characterization as senior secured, senior unsecured, mezzanine or subordinated (or any other designation of seniority or Domicile).

Table 3: S&P Recovery Rates for Collateral Obligations with S&P Asset Assigned Recovery Ratings						
CDO Liability Rating	**AAA**	**AA**	**A**	**BBB**	**BB**	**B**
Asset Assigned Recovery Rating	**S&P Recovery Rates (%)**					
1+	75	85	88	90	92	95
1	65	75	80	85	90	95
2	50	60	66	73	79	85
3	30	40	46	53	59	65
4	20	26	33	39	43	45
5	5	10	15	20	23	25
6	2	4	6	8	10	10

If the relevant Collateral Obligation has no Asset Assigned Recovery Rating from S&P, the S&P Recovery Rate of such Collateral Obligation shall be determined by reference to

the "Tiered Recovery Rate Method" tables; provided that, if the Collateral Obligation is either a senior unsecured debt security or a subordinated debt security with no Asset Assigned Recovery Rating designated but the issuer of such Collateral Obligation has an Asset Assigned Recovery Rating on senior secured debt obligations issued by it, the S&P Recovery Rate for such Collateral Obligation shall be derived from the Asset Assigned Recovery Rating of such senior secured debt obligations by reference to the tables set forth below or such other table(s) as directed by S&P upon request by the Portfolio Manager; provided further, that, if on any date of determination a Collateral Obligation does not have an Asset Assigned Recovery Rating, if on such date of determination S&P provides an Asset Assigned Recovery Rating estimate service, the Portfolio Manager may request from S&P such an estimate for such Collateral Obligation and, upon receipt of such credit estimate, the S&P Recovery Rate for such Collateral Obligation shall be derived by reference to such estimate.

Table 4: S&P Recovery Rates for Group 1 senior unsecured assets if senior secured asset has an Asset Assigned Recovery Rating

CDO Liability Rating	**AAA**	**AA**	**A**	**BBB**	**BB**	**B**
Asset Assigned Recovery Rating of senior secured asset	**S&P Recovery Rates (%)**					
1+	18	20	23	26	29	31
1	18	20	23	26	29	31
2	18	20	23	26	29	31
3	12	15	18	21	22	23
4	5	8	11	13	14	15
5	2	4	6	8	9	10
6	-	-	-	-	-	-

Table 5: S&P Recovery Rates for Group 2 senior unsecured assets if senior secured asset has an Asset Assigned Recovery Rating

CDO Liability Rating	**AAA**	**AA**	**A**	**BBB**	**BB**	**B**
Asset Assigned Recovery Rating of senior secured asset	**S&P Recovery Rates (%)**					
1+	16	18	21	24	27	29

1	16	18	21	24	27	29
2	16	18	21	24	27	29
3	10	13	15	18	19	20
4	5	5	5	5	5	5
5	2	2	2	2	2	2
6	-	-	-	-	-	-

Table 6: S&P Recovery Rates for Group 3 senior unsecured assets if senior secured asset has an Asset Assigned Recovery Rating						
CDO Liability Rating	**AAA**	**AA**	**A**	**BBB**	**BB**	**B**
Asset Assigned Recovery Rating of senior secured asset	**S&P Recovery Rates (%)**					
1+	13	16	18	21	23	25
1	13	16	18	21	23	25
2	13	16	18	21	23	25
3	8	11	13	15	16	17
4	5	5	5	5	5	5
5	2	2	2	2	2	2
6	-	-	-	-	-	-

Table 7: S&P Recovery Rates for Groups 1, 2 and 3 subordinated assets if senior secured asset has an Asset Assigned Recovery Rating						
CDO Liability Rating	**AAA**	**AA**	**A**	**BBB**	**BB**	**B**
Asset Assigned Recovery Rating of senior secured asset	**S&P Recovery Rates (%)**					
1+	8	8	8	8	8	8

1	8	8	8	8	8	8
2	8	8	8	8	8	8
3	5	5	5	5	5	5
4	2	2	2	2	2	2
5	-	-	-	-	-	-
6	-	-	-	-	-	-

"Zero Coupon Security": Any Collateral Obligation that at the time of purchase does not by its terms provide for the payment of cash interest; provided, that if, after such purchase, such Collateral Obligation provides for the payment of cash interest it shall cease to be a Zero Coupon Security.

Section 1.2. Assumptions as to Pledged Obligations. In connection with all calculations required to be made pursuant to this Indenture with respect to Scheduled Distributions on any Pledged Obligation, or any payments on any other assets included in the Assets, with respect to the sale of and reinvestment in Collateral Obligations, and with respect to the income that can be earned on Scheduled Distributions on such Pledged Obligations and on any other amounts that may be received for deposit in the Collection Account, the provisions set forth in this Section 1.2 (Assumptions as to Pledged Obligations) shall be applied. The provisions of this Section 1.2 shall be applicable to any determination or calculation, whether or not reference is specifically made to Section 1.2, unless some other method of calculation or determination is expressly specified in the particular provision.

(a) All calculations with respect to Scheduled Distributions on the Pledged Obligations securing the Notes shall be made on the basis of information as to the terms of each such Pledged Obligation and upon report of payments, if any, received on such Pledged Obligation that are furnished by or on behalf of the issuer of such Pledged Obligation and, to the extent they are not manifestly in error, such information or report may be conclusively relied upon in making such calculations.

(b) For purposes of calculating the Coverage Tests and the Interest Reinvestment Test, except as otherwise specified in the Coverage Tests or the Interest Reinvestment Test, as applicable, such calculations will not include scheduled interest and principal payments on Defaulted Obligations or payments (including under any Hedge Agreement) as to which the Portfolio Manager or the Issuer has actual knowledge that such payments will not be made unless or until such payments are actually made.

(c) For each Collection Period and as of any date of determination, the Scheduled Distribution on any Pledged Obligation (other than a Defaulted Obligation, which, except as otherwise provided herein, shall be assumed to have a Scheduled Distribution of zero) shall be the sum of (i) the total amount of payments and collections to be received during such Collection Period in respect of such Pledged Obligation (including the proceeds of the sale of

such Pledged Obligation received and, in the case of sales which have not yet settled, to be received during the Collection Period and not reinvested in additional Collateral Obligations or Eligible Investments or retained in the Collection Account for subsequent reinvestment pursuant to Section 12.2 (Purchase of Additional Collateral Obligations)) that, if paid as scheduled, will be available in the Collection Account at the end of the Collection Period and (ii) any such amounts received in prior Collection Periods that were not disbursed on a previous Payment Date.

(d) Each Scheduled Distribution receivable with respect to a Pledged Obligation shall be assumed to be received on the applicable Due Date, and each such Scheduled Distribution shall be assumed to be immediately deposited in the Collection Account to earn interest at the Assumed Reinvestment Rate. All such funds shall be assumed to continue to earn interest until the date on which they are required to be available in the Collection Account for application, in accordance with the terms hereof, to payments of principal of or interest on the Notes or other amounts payable pursuant to this Indenture. For purposes of the applicable determinations required by Section 10.7(b)(iii) (Accountings), Article 12 and the definition of "Interest Coverage Ratio," the expected interest on Secured Notes and floating rate Collateral Obligations will be calculated using the then-current interest rates applicable thereto.

(e) References in Section 11.1(a) (Disbursements of Monies from Payment Account) to calculations made on a "pro forma basis" shall mean such calculations after giving effect to all payments, in accordance with the Priority of Payments described herein, that precede (in priority of payment) or include the clause in which such calculation is made.

(f) For purposes of determining whether the Effective Date Overcollateralization Test has been satisfied, all calculations shall be made on a "pro forma basis" giving effect to any purchases and sales, and, for purposes of determining whether any Coverage Test or the Interest Reinvestment Test has been satisfied on any Determination Date for purposes of the Priority of Payments, all calculations shall be made on a "pro forma" basis after giving effect to any payments made through the applicable clause of the Priority of Payments.

(g) For purposes of calculating all Concentration Limitations, in both the numerator and the denominator of any component of the Concentration Limitations, Defaulted Obligations will be treated as having a Principal Balance equal to zero.

(h) If one or more Collateral Obligations included in the Assets would be deemed Current Pay Obligations but for the applicable percentage limitation in the definition thereof, the Portfolio Manager shall determine which such Collateral Obligations have the lowest Market Value expressed as a percentage and such Collateral Obligations with the lowest Market Value expressed as a percentage will be deemed Defaulted Obligations. Each such Defaulted Obligation will be treated as a Defaulted Obligation for all purposes until such time as the Aggregate Principal Balance of Current Pay Obligations would not exceed, on a pro forma basis including such Defaulted Obligation, the applicable percentage of the Collateral Principal Amount.

(i) Except as otherwise provided herein, Defaulted Obligations will not be included in the calculation of the Collateral Quality Test. Solely, for purposes of determining whether a Collateral Obligation satisfies the S&P CDO Monitor Test with respect to a purchase, additional Collateral Obligations purchased with proceeds from the sale of a Credit Risk Obligation, a Defaulted Obligation or an Equity Security shall not be included in the calculation of the S&P CDO Monitor Test.

(j) For purposes of calculating the Collateral Quality Test, DIP Collateral Obligations will be treated as having an S&P Recovery Rate equal to the recovery rate for Senior Secured Loans set forth in the definition of "Weighted Average S&P Recovery Rate."

(k) For purposes of calculating compliance with the Investment Criteria, the Portfolio Manager may elect to execute one or more Trading Plans (with notice to the Collateral Administrator, which notice shall include the identity of all sales and purchases forming part of such Trading Plan); provided that if a previous Trading Plan failed to comply with the Investment Criteria, the Portfolio Manager may not execute any further Trading Plans until the S&P Rating Condition is satisfied (and, following the satisfaction of the S&P Rating Condition, any number of additional Trading Plans may be executed subject to the other limitations in this Section 1.2(k) (Assumptions as to Pledged Obligations)). "Trading Plan" means, with respect to any proposed investment, a plan under which compliance with the Investment Criteria will be evaluated after giving effect to all sales and purchases proposed to be entered into within ten Business Days following the date of determination of such compliance (such period, the "Trading Plan Period"); provided that (i) the execution of a Trading Plan will not result in the averaging of the purchase price of a Collateral Obligation or Collateral Obligations purchased at separate times for purposes of any calculation made in connection with the Investment Criteria; (ii) no Trading Plan may be executed over a time period that includes a Determination Date; (iii) no Trading Plan may relate to the purchase of Collateral Obligations having an Aggregate Principal Balance in excess of 5.0% of the Collateral Principal Amount; (iv) only one Trading Plan may be outstanding at any time; (v) so long as the Investment Criteria are satisfied upon the expiry of the applicable Trading Plan Period, the failure of all of the terms and assumptions specified in such Trading Plan to be satisfied shall not be deemed to constitute a failure of such Trading Plan and (vi) the difference between the Collateral Obligation with the highest Weighted Average Life and the Collateral Obligation with the lowest Weighted Average Life, in each case, purchased in connection with a Trading Plan may not be greater than two years.

(l) For purposes of calculating the sale proceeds of a Collateral Obligation in purchase and sale transactions, sales proceeds will include any Principal Financed Accrued Interest received in respect of such sale.

(m) For purposes of calculating clauses (v) and (vi) of the Concentration Limitations, without duplication, the amounts on deposit in the Collection Account and the Ramp-up Account (including Eligible Investments therein) representing Principal Proceeds shall each be deemed to be a floating rate Collateral Obligation that is a Senior Secured Loan.

(n) Notwithstanding any other provision of this Indenture to the contrary, all monetary calculations under this Indenture shall be in U.S. Dollars.

(o) For all purposes of this Indenture, (i) a Senior Secured Note shall be deemed to be a Moody's Senior Secured Loan if such Senior Secured Note, if it were a loan, would meet the definition of Moody's Senior Secured Loan and (ii) a Senior Secured Note shall be deemed to be a Moody's Non-Senior Secured Loan if such Senior Secured Note, if it were a loan, would meet the definition of Moody's Non-Senior Secured Loan.

(p) If the Issuer (or the Portfolio Manager on behalf of the Issuer) is notified by the administrative agent or other withholding agent or otherwise for the syndicate of lenders in respect of any Revolving Collateral Obligation, Delayed Drawdown Collateral Obligation or Pre-funded Letter of Credit or other letter of credit that amounts associated therewith are subject to withholding tax imposed by any jurisdiction, the applicable Collateral Quality Test, the Coverage Tests and the Interest Reinvestment Test shall be calculated thereafter net of the full amount of such withholding tax unless the related obligor is required to make "gross-up" payments to the Issuer that cover the full amount of any such withholding tax on an after-tax basis pursuant to the underlying instruments with respect thereto.

(q) For all purposes (including calculation of the Coverage Tests, and the Interest Reinvestment Test), the Principal Balance of a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation will include all unfunded commitments that have not been irrevocably reduced or withdrawn.

(r) For purposes of calculating compliance with any tests, ratios, or calculations under this Indenture, the trade date (and not the settlement date) with respect to any acquisition or disposition of a Collateral Obligation or Eligible Investment shall be used to determine whether and when such acquisition or disposition has occurred.

(s) For reporting purposes and for purposes of calculating the Coverage Tests, the Investment Criteria and the requirements of Section 12.2(b) (Purchase of Additional Collateral Obligations), assets held by any ETB Subsidiary shall be treated as Equity Securities owned by the Issuer (and the equity interest in such ETB Subsidiary shall not be included in such calculation).

(t) For purposes of calculating the Weighted Average Fixed Coupon and Weighted Average Floating Spread, only the interest payable in cash, including Deferrable Cash-Pay Interest with respect to a Partial Deferrable Security, shall be included in such calculation.

ARTICLE 2

The Notes

Section 2.1. Forms Generally. The Notes and the Trustee's or Authenticating Agent's certificate of authentication thereon (the "Certificate of Authentication") shall be in substantially the forms required by this Article, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon, as may be consistent herewith, determined by the Authorized Officers of the Applicable Issuers executing such Notes as evidenced by their execution of such Notes. Any portion of the

text of any Note may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Note.

Section 2.2. Forms of Notes. (a) The forms of the Notes, including the forms of Certificated Secured Notes, Certificated Subordinated Notes, Regulation S Global Notes and Rule 144A Global Notes, shall be as set forth in the applicable part of Exhibit A hereto.

(b) Regulation S Global Notes and Rule 144A Global Notes. (i) The Secured Notes of each Class and the Subordinated Note sold to persons who are not U.S. persons in offshore transactions in reliance on Regulation S shall each be issued initially in the form of one permanent global note per Class in definitive, fully registered form without interest coupons substantially in the applicable form of Exhibit A1 or Exhibit A2 hereto (each, a "Regulation S Global Note") and shall be deposited on behalf of the subscribers for such Notes represented thereby with the Trustee as custodian for, and registered in the name of a nominee of, DTC for the respective accounts of Euroclear and Clearstream, duly executed by the Applicable Issuers and authenticated by the Trustee as hereinafter provided.

(ii) The Secured Notes of each Class sold to persons that are QIB/QPs shall each be issued initially in the form of one permanent global note per Class in definitive, fully registered form without interest coupons substantially in the applicable form of Exhibit A1 hereto (each, a "Rule 144A Global Note"), which shall be deposited on behalf of the subscribers for such Notes represented thereby with the Trustee as custodian for, and registered in the name of a nominee of, DTC, duly executed by the Applicable Issuers and authenticated by the Trustee as hereinafter provided. The Class E Notes sold to Institutional Accredited Investors shall be issued in the form of definitive, fully registered notes without coupons substantially in the form of Exhibit A4 (each, a "Certificated Class E Note") which shall be registered in the name of the beneficial owner or a nominee thereof, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. The Class F Notes sold to Institutional Accredited Investors shall be issued in the form of definitive, fully registered notes without coupons substantially in the form of Exhibit A4 (each, a "Certificated Class F Note") which shall be registered in the name of the beneficial owner or a nominee thereof, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. The Subordinated Notes (other than Regulation S Global Subordinated Notes) shall be issued in the form of definitive, fully registered notes without coupons substantially in the form of Exhibit A3 (each, a "Certificated Subordinated Note") which shall be registered in the name of the beneficial owner or a nominee thereof, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided.

(iii) The Aggregate Outstanding Amount of the Regulation S Global Notes and the Rule 144A Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee or DTC or its nominee, as the case may be, as hereinafter provided.

(c) Book Entry Provisions. This Section 2.2(c) (Forms of Notes) shall apply only to Global Notes deposited with or on behalf of DTC.

The provisions of the "Operating Procedures of the Euroclear System" of Euroclear and the "Terms and Conditions Governing Use of Participants" of Clearstream, respectively, will be applicable to the Global Notes insofar as interests in such Global Notes are held by the Agent Members of Euroclear or Clearstream, as the case may be.

Agent Members shall have no rights under this Indenture with respect to any Global Notes held on their behalf by the Trustee, as custodian for DTC and DTC may be treated by the Co-Issuers, the Trustee, and any agent of the Co-Issuers or the Trustee as the absolute owner of such Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Co-Issuers, the Trustee, or any agent of the Co-Issuers or the Trustee, from giving effect to any written certification, proxy or other authorization furnished by DTC or impair, as between DTC and its Agent Members, the operation of customary practices governing the exercise of the rights of a Holder of any Note.

(d) Certificated Securities. Except as provided in Section 2.11 (Certificated Notes) hereof, owners of beneficial interests in Global Notes will not be entitled to receive physical delivery of Certificated Notes.

Section 2.3. Authorized Amount; Stated Maturity; Denominations. The Aggregate Outstanding Amount of Secured Notes and the Subordinated Notes that may be authenticated and delivered under this Indenture is limited to $525,500,000 Aggregate Outstanding Amount of Notes, except for Deferred Interest with respect to the Deferred Interest Notes, Additional Subordinated Notes issued pursuant to Section 2.4 (Additional Notes) and Notes authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Notes pursuant to Section 2.6 (Registration, Registration of Transfer and Exchange), 2.7 (Mutilated, Defaced, Destroyed, Lost or Stolen Note) or 8.5 (Reference in Notes to Supplemental Indentures) and Notes issued pursuant to supplemental indentures in accordance with Article 8. The Aggregate Outstanding Amount of the Combination Notes may not exceed the Aggregate Maximum Notional Amount. The principal amount of each Underlying Class of a Combination Note is included in (and is not in addition to) the Aggregate Outstanding Amount of the related Class of Notes.

Such Notes shall be divided into the Classes, having the designations, original principal amounts and other characteristics as follows:

Offered Securities

Class Designation	X	A-1	A-2A	A-2B	B	C	D	E	F	Combination Notes[1]	Subordinated Notes[4]
Issuer(s)	Co-Issuers	Co-Issuers	Co-Issuers	Co-Issuers	Co-Issuers	Co-Issuers	Co-Issuers	Issuer	Issuer	Co-Issuers	Issuer
Original Principal Amount	$4,000,000	$190,750,000	$115,750,000	$10,250,000	$62,500,000	$39,500,000	$21,500,000	$19,500,000	$10,000,000	$193,000,000	$51,750,000
Stated Maturity	April 18, 2024	April 18, 2024	April 18, 2024	April 18, 2024	April 18, 2024	April 18, 2024	April 18, 2024	April 18, 2024	April 18, 2024	April 18, 2024[6]	April 18, 2024
Floating Rate Debt	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Index[2]	LIBOR	LIBOR	LIBOR	LIBOR	LIBOR	LIBOR	LIBOR	LIBOR	LIBOR	LIBOR[6]	N/A
Index Maturity	3 month	3 month	3 month	3 month	3 month	3 month	3 month	3 month	3 month	3 month[6]	N/A
Spread	1.00%	0.87%	1.25%	1.65%	1.95%	2.95%	4.50%	5.60%	6.50%	1.227%[6]	N/A
Initial Rating(s)[3]											
Moody's	Aaa (sf)	Aaa (sf)	Aaa (sf)	Aaa (sf)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
S&P	AAA (sf)	AAA (sf)	AAA (sf)	AAA (sf)	AA (sf)	A (sf)	BBB (sf)	BB (sf)	B (sf)	A (sf)	N/A
Ranking:											
Priority Classes	None	None [(5)]	None [(5)]	A-2B[(5)]	X, A-1, A-2	X, A-1, A-2, B	X, A-1, A-2, B, C	X, A-1, A-2, B, C, D	X, A-1, A-2, B, C, D, E	N/A	X, A-1, A-2, B, C, D, E, F
Pari Passu Classes	A-1, A-2	X, A-2	X, A-1	X, A-1	None	None	None	None	None	N/A	None
Junior Classes	B, C, D, E, F, Subordinated Notes	B, C, D, E, F, Subordinated Notes	A-2B, B, C, D, E, F, Subordinated Notes	B, C, D, E, F, Subordinated Notes	C, D, E, F, Subordinated Notes	D, E, F, Subordinated Notes	E, F, Subordinated Notes	Subordinated Notes, F	Subordinated Notes	N/A	None
Deferred Interest Notes	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	N/A
ERISA Limited Notes	No	No	No	No	No	No	No	Yes	Yes	No	Yes

(1) The Co-Issuers will issue Combination Notes with a maximum aggregate principal amount of up to U.S.$252,175,414 which maximum amount will be composed of Components representing up to U.S.$190,750,000 aggregate principal amount of Class A-1 Notes, up to U.S.$37,638,121 aggregate principal amount of Class B Notes and up to U.S.$23,787,293 aggregate principal amount of Class C Notes. The Combination Note will not bear interest at a stated rate, but will be entitled to receive interest with respect to the Underlying Classes. The ranking of the Combination Notes is determined by reference to the Underlying Classes. The Stated Maturity of the Combination Note is determined by reference to the Underlying Classes. Reference must be made to the Underlying Classes to determine whether a particular Component of the Combination Notes is a Deferrable Interest Note.

(2) For the definition of LIBOR, see Exhibit G.

(3) The Issuer will obtain initial ratings for the Class X Notes, the Class A-1 Notes and the Class A-2 Notes from both Moody's and S&P, and will obtain initial ratings for all Secured Notes from S&P.

(4) The Subordinated Notes do not bear interest at a stated rate but will receive distributions on each Payment Date in accordance with the Priority of Payments.

(5) The Class X Notes will be *pari passu* to the Class A-1 Notes and the Class A-2 Notes interest payments and in certain circumstances will be senior in right of principal payment to the Class A-1 Notes and the Class A-2 Notes. The Class A-1 Notes will be *pari passu* to the Class A-2 Notes. Interest payments on the Class A-2B Notes will be subordinated in all respects to interest payments on the Class A-2A Notes. Principal payments of the Class A-2B Notes will be subordinated in all respects to principal payments of the Class A-2A Notes.

(6) These represent the expected stated maturity, index, index maturity and interest to be paid on the Combination Note based on the stated maturity, index, index maturity and interest rates of the Underlying Classes. The Initial Rating by S&P of the Combination Note is with respect to the ultimate repayment of principal and interest at a rate of LIBOR plus 1.227% per annum by the Stated Maturity.

Combination Notes Table

Class	Aggregate Principal Amount (as of the Closing Date)	Permissible Ratio[1]	Aggregate Maximum Notional Amount
"Combination Notes"	$193,000,000 (representing Components of U.S.$145,988,657 Aggregate Outstanding Amount of Class A-1 Notes, U.S.$28,805,970 Aggregate Outstanding Amount of Class B Notes and U.S.$18,205,373 Aggregate Outstanding Amount of Class C Notes)	The Permissible Ratio on any date shall be the ratio of the then-current Aggregate Outstanding Amount of the Class A Notes: then-current Aggregate Outstanding Amount of the Class B Notes: and then-current Aggregate Outstanding Amount of the Class C Notes, respectively, divided by the sum of the then-current Aggregate Outstanding Amount of the Class A Notes, the Class B Notes and the Class C Notes. As of the Closing Date, the Permissible Ratio shall be 75.64179%: 14.92537%: 9.43284%	$252,175,414 (representing Components of up to U.S.$190,750,000 Aggregate Outstanding Amount of Class A-1 Notes, up to U.S.$37,638,121 Aggregate Outstanding Amount of Class B Notes and up to U.S.$ 23,787,293 Aggregate Outstanding Amount of Class C Notes)

[1] A Holder may round any of the fractional percentages set forth in this definition of Permissible Ratio either up or down to the extent necessary to cause an Exchange to comply with the $1 integral multiple requirement

The Notes (other than the Class A-1 Notes, the Class B Notes, the Class C Notes, the Class F Notes and the Combination Notes) shall be issuable in minimum denominations of $200,000 and integral multiples of $1,000 in excess thereof (except that up to 20 Certificated Subordinated Notes sold to U.S. persons that the Portfolio Manager has determined are Knowledgeable Employees may be issued in minimum denominations of $50,000). The Class A-1 Notes, the Class B Notes, the Class C Notes, the Class F Notes and the Combination Notes shall be issued in minimum denominations of $150,000 and integral multiples of $1 in excess thereof. Notes shall only be transferred or resold in compliance with the terms of the representation letter delivered by the initial purchaser of such Notes.

Section 2.4. Additional Notes. (a) At any time, the Applicable Issuers may issue Additional Subordinated Notes; provided, that the following conditions are met as certified to the Trustee by the Issuer:

(i) such issuance is approved by (x) the Holders of at least 66⅔% of the Aggregate Outstanding Amount of the Subordinated Notes, (y) the Portfolio Manager and (z) after the Effective Date only, at least a Majority of the Controlling Class;

(ii) such issuance may not exceed 100% of the original outstanding amount of the Subordinated Notes;

(iii) the terms of the Subordinated Notes issued must be identical to the respective terms of previously issued Subordinated Notes;

(iv) an opinion of tax counsel of nationally recognized standing in the United States experienced in such matters shall be delivered to the Trustee to the effect that (1) such issuance will not result in the Issuer becoming subject to U.S. federal income taxation with respect to its net income, (2) such issuance would not cause the holders or beneficial owners of Secured Notes previously issued to be deemed to have sold or exchanged such Notes under Section 1001 of the Code and (3) such issuance would not adversely affect the tax characterization of any Outstanding Notes that was characterized as debt at the time of issuance; provided, that such opinions described in clauses (2) and (3) shall not be required with respect to any Class if 100% of the Holders of such Class have consented to a waiver of such requirement; and

(v) after giving effect to the issuance of Additional Subordinated Notes, each Overcollateralization Ratio Test for each Class of Notes is satisfied.

(b) The Additional Subordinated Notes will rank pari passu in all respects with the initial Subordinated Notes.

(c) Any Additional Subordinated Notes issued pursuant to this Section 2.4 (Additional Notes) will, to the extent reasonably practicable, be offered first to Holders of the Subordinated Notes, in such amounts as are necessary to preserve their pro rata holdings of Subordinated Notes.

(d) Any Additional Subordinated Notes may be offered at prices that differ from the applicable initial offering price.

(e) The net proceeds of any Additional Subordinated Notes may be designated as Interest Proceeds or Principal Proceeds by the Portfolio Manager.

Section 2.5. Execution, Authentication, Delivery and Dating. The Notes shall be executed on behalf of each of the Applicable Issuers by one of their respective Authorized Officers. The signature of such Authorized Officer on the Notes may be manual or facsimile.

Notes bearing the manual or facsimile signatures of individuals who were at any time the Authorized Officers of the Issuer or the Co-Issuer, as applicable, shall bind the Issuer and the Co-Issuer, notwithstanding the fact that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Notes or did not hold such offices at the date of issuance of such Notes.

At any time and from time to time after the execution and delivery of this Indenture, the Issuer and the Co-Issuer may deliver Notes executed by the Applicable Issuers to the Trustee or the Authenticating Agent for authentication and the Trustee or the Authenticating

Agent, upon Issuer Order, shall authenticate and deliver such Notes as provided in this Indenture and not otherwise.

Each Note authenticated and delivered by the Trustee or the Authenticating Agent upon Issuer Order on the Closing Date shall be dated as of the Closing Date. All other Notes that are authenticated after the Closing Date for any other purpose under this Indenture shall be dated the date of their authentication.

Notes issued upon transfer, exchange or replacement of other Notes shall be issued in authorized denominations reflecting the original Aggregate Outstanding Amount of the Notes so transferred, exchanged or replaced, but shall represent only the current Outstanding principal amount of the Notes so transferred, exchanged or replaced. In the event that any Note is divided into more than one Note in accordance with this Article 2, the original principal amount of such Note shall be proportionately divided among the Notes delivered in exchange therefor and shall be deemed to be the original aggregate principal amount of such subsequently issued Notes.

No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose, unless there appears on such Note a Certificate of Authentication, substantially in the form provided for herein, executed by the Trustee or by the Authenticating Agent by the manual signature of one of their authorized signatories, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder.

Section 2.6. Registration, Registration of Transfer and Exchange. (a) The Issuer shall cause to be kept a register (the "Register") at the office of the Trustee in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration of Notes and the registration of transfers of Notes. The Trustee is hereby initially appointed "Registrar" for the purpose of registering Notes and transfers of such Notes with respect to the Register maintained in the United States as herein provided. Upon any resignation or removal of the Registrar, the Issuer shall promptly appoint a successor or, in the absence of such appointment, assume the duties of Registrar.

If a Person other than the Trustee is appointed by the Issuer as Registrar, the Issuer will give the Trustee prompt written notice of the appointment of a Registrar and of the location, and any change in the location, of the Register, and the Trustee shall have the right to inspect the Register at all reasonable times and to obtain copies thereof and the Trustee shall have the right to rely upon a certificate executed on behalf of the Registrar by an Officer thereof as to the names and addresses of the Holders of the Notes and the principal or face amounts and numbers of such Notes. Upon request at any time the Registrar shall provide to the Issuer, the Portfolio Manager, the Placement Agents or any Holder of Notes a current list of Holders as reflected in the Register.

Subject to this Section 2.6 (Registration, Registration of Transfer and Exchange), upon surrender for registration of transfer of any Notes at the office or agency of the Co-Issuers to be maintained as provided in Section 7.2 (Maintenance of Office or Agency), the Applicable Issuers shall execute, and the Trustee shall authenticate and deliver, in the name of the

designated transferee or transferees, one or more new Notes of any authorized denomination and of a like aggregate principal or face amount. The Trustee shall provide notice of any such transfer to the Placement Agents.

At the option of the Holder, Notes may be exchanged for Notes of like terms, in any authorized denominations and of like aggregate principal or face amount, upon surrender of the Notes to be exchanged at such office or agency. Whenever any Note is surrendered for exchange, the Applicable Issuers shall execute, and the Trustee shall authenticate and deliver, the Notes that the Holder making the exchange is entitled to receive.

All Notes issued and authenticated upon any registration of transfer or exchange of Notes shall be the valid obligations of the Issuer and, solely in the case of the Co-Issued Notes, the Co-Issuer, evidencing the same debt (to the extent they evidence debt), and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer or exchange.

Every Note presented or surrendered for registration of transfer or exchange shall be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Registrar duly executed by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made to a Holder for any registration of transfer or exchange of Notes, but the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith. The Trustee shall be permitted to request such evidence reasonably satisfactory to it documenting the identity and/or signature of the transferor and the transferee, with such signature guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in Securities Transfer Agents Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Exchange Act.

(b) No Note may be sold or transferred (including, without limitation, by pledge or hypothecation) unless such sale or transfer is exempt from the registration requirements of the Securities Act, is exempt from the registration requirements under applicable state securities laws and will not cause either of the Co-Issuers to become subject to the requirement that it register as an investment company under the Investment Company Act.

(c) (i) No transfer of any ERISA Limited Note will be effective, and the Trustee will not recognize any such transfer, if it would result in 25% or more of the value of any Class of ERISA Limited Notes being held by Benefit Plan Investors (the "25% Limitation"). For purposes of these calculations and all other calculations required by this subsection, any ERISA Limited Notes held by a Person (other than a Benefit Plan Investor) that has discretionary authority or control with respect to the assets of the Co-Issuers or that provides investment advice for a fee (direct or indirect) with respect to such assets (or any "affiliate" of such a Person (as defined in 29 C.F.R. Section 2510.3-101(f)(3)) (a "Controlling Person"), the Trustee, the Portfolio Manager, the Placement Agents and their respective affiliates shall be disregarded and not treated as being Outstanding. In addition, if any Holder of ERISA Limited Notes (a) informs the Trustee that as a result of a proposed transfer of interests in, or securities issued by, such

Holder, all or a specified portion of the ERISA Limited Notes owned by such Holder would be deemed to be held by a Benefit Plan Investor and (b) requests the Trustee to determine and notify such Holder whether the 25% Limitation would be exceeded after giving effect to such transfer, then the Trustee shall make such determination, subject to the last sentence of this clause (i), and notify such Holder accordingly. Each Holder of ERISA Limited Notes shall be required to covenant that it will inform the Trustee of any such transfer, will not permit any such transfer that would cause the 25% Limitation to be exceeded to become effective, and will notify the Trustee of the effectiveness of any transfer that is not prohibited by this paragraph. After it is notified of the effectiveness of any transfer pursuant to the foregoing sentence, the Trustee shall regard the ERISA Limited Notes held by such Holder (or specified portion thereof) as being held by a Benefit Plan Investor in future calculations of the 25% Limitation made pursuant to this Indenture unless subsequently notified by such Holder that such Notes (or specified portion thereof) would no longer be deemed to be held by Benefit Plan Investors. The Trustee shall be entitled to rely exclusively upon the information set forth in the face of the transfer certificates received pursuant to the terms of this Section 2.6 (Registration, Registration of Transfer and Exchange) and only Notes that a Bank Officer of the Trustee actually knows to be so held shall be so disregarded.

(d) The Trustee shall not be responsible for ascertaining whether any transfer complies with, or for otherwise monitoring or determining compliance with, the requirements or terms of the Securities Act, applicable state securities laws, ERISA, the Code or the Investment Company Act; except that if a certificate is specifically required by the terms of this Section 2.6 (Registration, Registration of Transfer and Exchange) to be provided to the Trustee by a prospective transferor or transferee, the Trustee shall be under a duty to receive and examine the same to determine whether it conforms substantially on its face to the applicable requirements of this Section 2.6 (Registration, Registration of Transfer and Exchange).

(e) For so long as any of the Notes are Outstanding, the Issuer shall not issue or permit the transfer of any shares of the Issuer to U.S. Persons and the Co-Issuer shall not issue or permit the transfer of any membership interests of the Co-Issuer to U.S. Persons.

(f) So long as a Global Note remains Outstanding and is held by or on behalf of DTC, transfers of such Global Note, in whole or in part, shall only be made in accordance with Section 2.2(b) (Forms of Notes) and this Section 2.6(f) (Registration, Registration of Transfer and Exchange). Subject to clauses (i), (ii) and (iii) of this Section 2.6(f) (Registration, Registration of Transfer and Exchange), transfers of a Global Note shall be limited to transfers of such Global Note in whole, but not in part, to nominees of DTC or to a successor DTC or such successor's nominee.

(i) Rule 144A Global Note to Regulation S Global Secured Note. If a holder of a beneficial interest in a Rule 144A Global Note deposited with DTC wishes at any time to exchange its interest in such Rule 144A Global Note for an interest in the corresponding Regulation S Global Secured Note, or to transfer its interest in such Rule 144A Global Note to a Person who wishes to take delivery thereof in the form of an interest in the corresponding Regulation S Global Secured Note, such holder, provided such holder or, in the case of a transfer, the transferee is not a U.S. person and is acquiring such interest in an offshore transaction, may, subject to the immediately

succeeding sentence and the rules and procedures of DTC, exchange or transfer, or cause the exchange or transfer of, such interest for an equivalent beneficial interest in the corresponding Regulation S Global Secured Note. Upon receipt by the Trustee or Registrar of (A) instructions given in accordance with DTC's procedures from an Agent Member directing the Trustee or Registrar to credit or cause to be credited a beneficial interest in the corresponding Regulation S Global Secured Note, but not less than the minimum denomination applicable to such holder's Notes, in an amount equal to the beneficial interest in the Rule 144A Global Note to be exchanged or transferred, (B) a written order given in accordance with DTC's procedures containing information regarding the participant account of DTC and the Euroclear or Clearstream account to be credited with such increase and (C) a certificate in the form of Exhibit B1 attached hereto given by the holder of such beneficial interest stating that the exchange or transfer of such interest has been made in compliance with the transfer restrictions applicable to the Global Notes, including that the holder or the transferee, as applicable, is not a U.S. person, and in an offshore transaction pursuant to and in accordance with Regulation S, then the Trustee or Registrar shall instruct DTC to reduce the principal amount of the Rule 144A Global Note and to increase the principal amount of the Regulation S Global Secured Note by the Aggregate Outstanding Amount of the beneficial interest in the Rule 144A Global Note to be exchanged or transferred, and to credit or cause to be credited to the securities account of the Person specified in such instructions a beneficial interest in the corresponding Regulation S Global Secured Note equal to the reduction in the principal amount of the Rule 144A Global Note.

(ii) Regulation S Global Secured Note to Rule 144A Global Note. If a holder of a beneficial interest in a Regulation S Global Secured Note deposited with DTC wishes at any time to exchange its interest in such Regulation S Global Secured Note for an interest in the corresponding Rule 144A Global Note or to transfer its interest in such Regulation S Global Secured Note to a Person who wishes to take delivery thereof in the form of an interest in the corresponding Rule 144A Global Note, such holder may, subject to the immediately succeeding sentence and the rules and procedures of Euroclear, Clearstream and/or DTC, as the case may be, exchange or transfer, or cause the exchange or transfer of, such interest for an equivalent beneficial interest in the corresponding Rule 144A Global Note. Upon receipt by the Trustee or Registrar of (A) instructions from Euroclear, Clearstream and/or DTC, as the case may be, directing the Trustee or Registrar to cause to be credited a beneficial interest in the corresponding Rule 144A Global Note in an amount equal to the beneficial interest in such Regulation S Global Secured Note, but not less than the minimum denomination applicable to such holder's Notes to be exchanged or transferred, such instructions to contain information regarding the participant account with DTC to be credited with such increase and (B) a certificate in the form of Exhibit B2 attached hereto given by the holder of such beneficial interest and stating, among other things, that, in the case of a transfer, the Person transferring such interest in such Regulation S Global Secured Note reasonably believes that the Person acquiring such interest in a Rule 144A Global Note is a Qualified Institutional Buyer, is obtaining such beneficial interest in a transaction meeting the requirements of Rule 144A and in accordance with any applicable securities laws of any state of the United States or any other jurisdiction, and is also a Qualified Purchaser, then the Trustee or Registrar will instruct DTC to reduce, or cause to be reduced, the

Regulation S Global Secured Note by the Aggregate Outstanding Amount of the beneficial interest in the Regulation S Global Secured Note to be transferred or exchanged and the Trustee or Registrar shall instruct DTC, concurrently with such reduction, to credit or cause to be credited to the securities account of the Person specified in such instructions a beneficial interest in the corresponding Rule 144A Global Note equal to the reduction in the principal amount of the Regulation S Global Secured Note.

(iii) Regulation S Global Subordinated Note to Certificated Subordinated Note. If a holder of a beneficial interest in a Regulation S Global Subordinated Note deposited with DTC wishes at any time to transfer its interest in such Regulation S Global Subordinated Note to a Person who wishes to take delivery thereof in the form of a Certificated Subordinated Note, such holder may, subject to the immediately succeeding sentence and the rules and procedures of Euroclear, Clearstream and/or DTC, as the case may be, transfer, or cause the transfer of, such interest for a Certificated Subordinated Note. Upon receipt by the Registrar of (A) certificates substantially in the form of Exhibits B4 and B6 attached hereto executed by the transferee and (B) appropriate instructions from DTC, if required, the Registrar will approve the instructions at DTC to reduce, or cause to be reduced, the Regulation S Global Subordinated Note by the Aggregate Outstanding Amount of the beneficial interest in the Regulation S Global Subordinated Note to be transferred, record the transfer in the Register in accordance with Section 2.6(a) (Registration, Registration of Transfer and Exchange) and upon execution by the Issuer and authentication and delivery by the Trustee, one or more corresponding Certificated Subordinated Notes, registered in the names specified in the instructions in clause (B) above, in principal amounts designated by the transferee (the aggregate of such principal amounts being equal to the Aggregate Outstanding Amount of the interest in such Regulation S Global Subordinated Notes transferred by the transferor), and in authorized denominations.

(iv) Other Exchanges. In the event that a Global Note is exchanged for Notes in definitive registered form without interest coupons pursuant to Section 2.11 (Certificated Notes) hereof, such Notes may be exchanged for one another only in accordance with such procedures as are substantially consistent with the provisions above (including certification requirements intended to insure that such transfers are made only to Holders who are Qualified Purchasers and comply with Rule 144A or are to persons who are not U.S. persons who are non-U.S. residents (as determined for purposes of the Investment Company Act), and otherwise comply with Regulation S under the Securities Act, as the case may be), and as may be from time to time adopted by the Co-Issuers and the Trustee.

(g) So long as a Certificated Note remains Outstanding, transfers of a Certificated Note, in whole or in part, shall only be made in accordance with this Section 2.6(g) (Registration, Registration of Transfer and Exchange).

(i) Transfer and Exchange of Certificated Secured Note to Certificated Secured Note. If a Holder of a Certificated Secured Note wishes at any time to transfer such Certificated Secured Note to a Person who wishes to take delivery thereof in the

form of one or more Certificated Secured Notes of the same Class, such Holder may transfer or cause the transfer of such Note as provided below. Upon receipt by the Trustee or the Registrar of (A) such Holder's Certificated Secured Note properly endorsed for assignment to the transferee and (B) a certificate in the form of Exhibit B3 attached hereto given by the transferee of such Certificated Secured Note, then the Registrar shall cancel such Certificated Secured Note in accordance with Section 2.10 (Cancellation), record the transfer in the Register in accordance with Section 2.6(a) (Registration, Registration of Transfer and Exchange) and upon execution by the Applicable Issuers authenticate and deliver one or more Certificated Secured Notes bearing the same designation as the Certificated Secured Notes endorsed for transfer, registered in the names specified in the assignment described in clause (A) above, in principal or face amounts designated by the transferee (the aggregate of such principal or face amounts being equal to the Aggregate Outstanding Amount of the Certificated Secured Notes surrendered by the transferor), and in authorized denominations. Certificated Secured Notes may be exchanged in the manner set forth in Section 2.6(g)(iv) (Registration, Registration of Transfer and Exchange).

(ii) Transfer and Exchange of Certificated Subordinated Note to Certificated Subordinated Note. Upon receipt by the Registrar of (A) a Holder's Certificated Subordinated Note properly endorsed for assignment to the transferee and (B) certificates substantially in the form of Exhibits B4 and B6 attached hereto (which may be in the form of a subscription agreement containing substantially the representations in Exhibits B4 and B6) given by the transferee of such Certificated Subordinated Note, then the Registrar shall cancel such Certificated Subordinated Note in accordance with Section 2.10 (Cancellation), record the transfer in the Register in accordance with Section 2.6(a) (Registration, Registration of Transfer and Exchange) and upon execution by the Issuer authenticate and deliver one or more Certificated Subordinated Notes bearing the same designation as the Certificated Subordinated Note endorsed for transfer, registered in the names specified in the assignment described in clause (A) above, in principal amounts designated by the transferee (the aggregate of such principal amounts being equal to the aggregate principal amount of the Certificated Subordinated Note surrendered by the transferor), and in authorized denominations. Certificated Subordinated Notes may be exchanged in the manner set forth in Section 2.6(g)(iv) (Registration, Registration of Transfer and Exchange).

(iii) Transfer of Certificated Subordinated Note to Regulation S Global Subordinated Note. If a holder of a Certificated Subordinated Note wishes at any time to transfer such Certificated Subordinated Note to a Person who wishes to take delivery thereof in the form of a beneficial interest in a Regulation S Global Subordinated Note, such holder may, subject to the rules and procedures of Euroclear, Clearstream and/or DTC, as the case may be, exchange or transfer, or cause the exchange or transfer of, such Certificated Subordinated Note for a beneficial interest in a Regulation S Global Subordinated Note. Upon receipt by the Registrar of (A) a holder's Certificated Subordinated Note properly endorsed for assignment to the transferee, (B) a certificate substantially in the form of Exhibit B5 attached hereto executed by the transferor, (C) instructions given in accordance with Euroclear, Clearstream or DTC's procedures, as the case may be, from an Agent Member to instruct DTC to cause to be credited a

beneficial interest in the Regulation S Global Subordinated Note in an amount equal to the Certificated Subordinated Note to be transferred or exchanged and (D) a written order given in accordance with DTC's procedures containing information regarding the participant's account at DTC and/or Euroclear or Clearstream to be credited with such increase, the Registrar shall cancel such Certificated Subordinated Note in accordance with Section 2.10 (Cancellation), record the transfer in the Register in accordance with Section 2.6(a) (Registration, Registration of Transfer and Exchange) and approve the instructions at DTC, concurrently with such cancellation, to credit or cause to be credited to the securities account of the Person specified in such instructions a beneficial interest in the Regulation S Global Subordinated Note equal to the principal amount of the Certificated Subordinated Note transferred or exchanged.

(iv) Exchange of Certificated Notes. If a Holder of one or more Certificated Notes wishes at any time to exchange such Certificated Notes for one or more Certificated Notes of the same Class of different principal amounts, such holder may exchange or cause the exchange of such Certificated Note for Certificated Notes bearing the same designation as the Certificated Notes endorsed for exchange. Upon receipt by the Applicable Issuers and the Trustee or the Registrar of (x) such Holder's Certificated Notes properly endorsed for such exchange and (y) written instructions from such Holder designating the number and principal or face amounts of the Certificated Notes to be issued (the aggregate of such principal or face amounts being equal to the aggregate principal or face amount of the Certificated Notes surrendered for exchange), then the Registrar shall cancel such Certificated Notes in accordance with Section 2.10 (Cancellation), record the exchange in the Register in accordance with Section 2.6(a) (Registration, Registration of Transfer and Exchange) and upon execution by the Applicable Issuers authenticate and deliver one or more Certificated Notes bearing the same designation as the Certificated Notes endorsed for exchange, registered in the same names as the Certificated Notes surrendered by such Holder, in different principal or face amounts designated by such Holder, and in authorized denominations.

(v) Transfer of Certificated Secured Notes to Regulation S Global Note or Rule 144A Global Note. If a Holder of a Certificated Secured Note wishes at any time to transfer such Certificated Secured Note to a Person who wishes to take delivery thereof in the form of a beneficial interest in a Regulation S Global Note or Rule 144A Global Note, such Holder may, subject to the rules and procedures of DTC, exchange or transfer, or cause the exchange or transfer of, such Certificated Secured Note for a beneficial interest in a Regulation S Global Note or Rule 144A Global Note, as applicable. Upon receipt by the Registrar of (A) a Holder's Certificated Secured Note properly endorsed for assignment to the transferee, (B) a certificate substantially in the form of Exhibit B3 attached hereto executed by the transferor, (C) instructions given in accordance with Euroclear, Clearstream or DTC's procedures, as the case may be, from an Agent Member to instruct DTC to cause to be credited a beneficial interest in the Regulation S Global Note or Rule 144A Global Note, as applicable, in an amount equal to the Certificated Secured Note to be transferred or exchanged and (D) a written order given in accordance with DTC's procedures containing information regarding the participant's account at DTC and/or Euroclear or Clearstream, as applicable, to be credited with such increase, the Registrar shall cancel such Certificated Secured Note in accordance with Section 2.10

(Cancellation), record the transfer in the Register in accordance with Section 2.6(a) (Registration, Registration of Transfer and Exchange) and approve the instructions at DTC, concurrently with such cancellation, to credit or cause to be credited to the securities account of the Person specified in such instructions a beneficial interest in the Regulation S Global Note or Rule 144A Global Note, as applicable, equal to the principal amount of the Certificated Secured Note transferred or exchanged

(h) If Notes are issued upon the transfer, exchange or replacement of Notes bearing the applicable legends set forth in the applicable part of Exhibit A hereto, and if a request is made to remove such applicable legend on such Notes, the Notes so issued shall bear such applicable legend, or such applicable legend shall not be removed, as the case may be, unless there is delivered to the Trustee and the Applicable Issuers such satisfactory evidence, which may include an Opinion of Counsel acceptable to them, as may be reasonably required by the Applicable Issuers (and which shall by its terms permit reliance by the Trustee), to the effect that neither such applicable legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of the Securities Act, the Investment Company Act, ERISA or the Code. Upon provision of such satisfactory evidence, the Trustee or its Authenticating Agent, at the written direction of the Applicable Issuers shall, after due execution by the Applicable Issuers authenticate and deliver Notes that do not bear such applicable legend.

(i) Each Person who becomes a beneficial owner of Notes of a Class represented by an interest in a Global Note will be deemed to have represented and agreed as follows:

(i) In connection with the purchase of such Notes: (A) none of the Co-Issuers, the Portfolio Manager, the Trustee, the Collateral Administrator, the Placement Agents or any of their respective Affiliates is acting as a fiduciary or financial or investment adviser for such beneficial owner; (B) such beneficial owner is not relying (for purposes of making any investment decision or otherwise) upon any advice, counsel or representations (whether written or oral) of the Co-Issuers, the Portfolio Manager, the Trustee, the Collateral Administrator or the Placement Agents other than any statements in the final offering circular for such Notes, and such beneficial owner has read and understands such final offering circular; (C) such beneficial owner has consulted with its own legal, regulatory, tax, business, investment, financial and accounting advisers to the extent it has deemed necessary and has made its own investment decisions (including decisions regarding the suitability of any transaction pursuant to this Indenture) based upon its own judgment and upon any advice from such advisers as it has deemed necessary and not upon any view expressed by the Co-Issuers, the Portfolio Manager, the Trustee, the Collateral Administrator or the Placement Agents; (D) such beneficial owner is either (1) (except in the case of the Subordinated Notes) both (x) a Qualified Institutional Buyer that is not a broker-dealer which owns and invests on a discretionary basis less than $25 million in securities of issuers that are not affiliated persons of the dealer and is not a plan referred to in paragraph (a)(1)(d) or (a)(1)(e) of Rule 144A or a trust fund referred to in paragraph (a)(1)(f) of Rule 144A that holds the assets of such a plan, if investment decisions with respect to the plan are made by beneficiaries of the plan and (y) either (i) a Qualified Purchaser or (ii) (in the case of the Subordinated Notes

only) a Knowledgeable Employee with respect to the Issuer; or corporations, partnerships, limited liability companies or other entities (other than trusts) each shareholder, partner, member or other equity owner of which is either a Knowledgeable Employee or a Qualified Purchaser or (2) not a U.S. person and is acquiring the Notes in an offshore transaction in reliance on the exemption from registration provided by Regulation S; (E) such beneficial owner is acquiring its interest in such Notes for its own account; (F) such beneficial owner was not formed for the purpose of investing in such Notes; (G) such beneficial owner understands that the Issuer may receive a list of participants holding interests in the Notes from one or more book-entry depositories; and (H) such beneficial owner will hold and transfer at least the minimum denomination of such Notes and provide notice of the relevant transfer restrictions to subsequent transferees; provided, that in the case of clauses (A), (B) and (C) above, the Portfolio Manager or an Affiliate of the Portfolio Manager has acted as financial and investment advisor to certain accounts for the benefit of certain beneficial owners of Notes managed by the Portfolio Manager or such Affiliate of the Portfolio Manager and in that capacity has provided, and in the future may provide, advice to such beneficial owners of Notes.

(ii) (a) In the case of the Secured Notes other than the Class E Notes and Class F Notes, on each day from the date on which such beneficial owner acquires its interest in such Secured Notes through and including the date on which such beneficial owner disposes of its interest in such Secured Notes that either (x) it is neither a Benefit Plan Investor nor a governmental, church, non-U.S. or other plan which is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Section 406 of ERISA or Section 4975 of the Code or (y) its acquisition, holding and disposition of such Secured Note will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code (or, in the case of a governmental, church, non-U.S. or other plan, a non-exempt violation of any substantially similar law) and (b) in the case of Class E Notes and Class F Notes, on each day from the date on which such beneficial owner acquires its interest in such Class E Note or Class F Note through and including the date on which such beneficial owner disposes of its interest in such Class E Note or Class F Note, that (1) it is not a Benefit Plan Investor and (2) if it is a governmental, church, non-U.S. or other plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of such Class E Note or Class F Note will not constitute or result in a non-exempt violation under any such substantially similar law. Any purported transfer of a Secured Note, or any interest therein to a purchaser or transferee that does not comply with the requirements specified in the applicable documents will be of no force and effect and shall be null and void ab initio.

Each purchaser of Regulation S Global Subordinated Notes from the Issuer in the initial offering will be required to represent and warrant, with certificates substantially in the form of Exhibit B4 hereto, with respect to each day it holds such Regulation S Global Subordinated Note or any beneficial interest therein, (1) whether or not the purchaser or transferee is a Benefit Plan Investor, (2) whether or not the purchaser or transferee is a Controlling Person and (3) (a) if it is a Benefit Plan Investor, its acquisition, holding and disposition of Regulation S Global Subordinated Notes will not constitute or result in a

non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code or (b) if it is a governmental, church, non-U.S. or other plan which is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of Regulation S Global Subordinated Notes will not constitute or result in a non-exempt violation under any such substantially similar law. Each purchaser from the Issuer in the initial offering of a Regulation S Global Subordinated Note that fails to provide the certification described in the prior sentence will be deemed to have represented and warranted, with respect to each day it holds such Regulation S Global Subordinated Note or any beneficial interest therein, that (1) such purchaser is not a Benefit Plan Investor or Controlling Person and (2) if the purchaser is a governmental, church, non-U.S. or other plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of Regulation S Global Subordinated Notes will not constitute or result in a non-exempt violation under any such substantially similar law. Such purchaser or transferee, as applicable, acknowledges that no Regulation S Global Subordinated Notes may be acquired by any purchaser or transferee, as applicable, that is a Benefit Plan Investor or Controlling Person if it would cause 25% or more of the value of the Subordinated Notes to be held by Benefit Plan Investors. Each purchaser or transferee of Regulation S Global Subordinated Notes from persons other than from the Issuer in the initial offering will be deemed to have represented and warranted, with respect to each day it holds such Regulation S Global Subordinated Note or any beneficial interest therein, that (1) such purchaser or transferee is not a Benefit Plan Investor or Controlling Person and (2) if the purchaser or transferee is a governmental, church, non-U.S. or other plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of Regulation S Global Subordinated Notes will not constitute or result in a non-exempt violation under any such substantially similar law. No Regulation S Global Subordinated Notes may be acquired from persons other than from the Issuer in the initial offering by Benefit Plan Investors or Controlling Persons. Any purported transfer of the Regulation S Global Subordinated Notes, or any interest therein, to a purchaser or transferee that does not comply with the requirements of this paragraph will be of no force and effect, shall be null and void ab initio and the Issuer will have the right to direct the purchaser to transfer the Subordinated Notes, or any interest therein, as applicable, to a person who meets the foregoing criteria.

(iii) Such beneficial owner understands that such Notes are being offered only in a transaction not involving any public offering in the United States within the meaning of the Securities Act, such Notes have not been and will not be registered under the Securities Act, and, if in the future such beneficial owner decides to offer, resell, pledge or otherwise transfer such Notes, such Notes may be offered, resold, pledged or otherwise transferred only in accordance with the provisions of this Indenture and the legend on such Notes. Such beneficial owner acknowledges that no representation has been made as to the availability of any exemption under the Securities Act or any state securities laws for resale of the Notes. Such beneficial owner understands that neither of the Co-Issuers has been registered under the Investment Company Act, and that the Co-Issuers are exempt from registration as such by virtue of Section 3(c)(7) of the Investment Company Act.

(iv) It is aware that, except as otherwise provided in this Indenture, the Notes being sold to it, if any, in reliance on Regulation S will be represented by one or more Regulation S Global Notes, and that beneficial interests therein may be held only through Euroclear or Clearstream.

(v) The holder will provide notice to each Person to whom it proposes to transfer any interest in the Notes of the transfer restrictions and representations set forth in this Section 2.6 (Registration, Registration of Transfer and Exchange), including the Exhibits referenced herein.

(j) Each Person who becomes an owner of a Certificated Subordinated Note will be required to make the representations and agreements set forth in Exhibit B4 and Exhibit B6.

(k) Any purported transfer of a Note not in accordance with this Section 2.6 (Registration, Registration of Transfer and Exchange) shall be null and void and shall not be given effect for any purpose whatsoever.

(l) To the extent required by the Issuer, as determined by the Issuer or the Portfolio Manager on behalf of the Issuer, the Issuer may, upon written notice to the Trustee, impose additional transfer restrictions on the Subordinated Notes to comply with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 and other similar laws or regulations, including, without limitation, requiring each transferee of a Subordinated Note to make representations to the Issuer in connection with such compliance.

(m) Each purchaser has read the summary of the U.S. federal income tax considerations under the heading "*Certain Tax Considerations*" in the Offering Circular. Each purchaser will treat the characterization of the Notes as debt or equity for U.S. tax purposes in a manner consistent with the treatment of such Notes by the Issuer as described under the heading "*Certain Tax Considerations*" in the Offering Circular and will take no action inconsistent with such treatment.

(n) Each purchaser understands that the Issuer may require certification acceptable to it (i) to permit the Issuer to make payments to it without, or at a reduced rate of, withholding or (ii) to enable the Issuer to qualify for a reduced rate of withholding in any jurisdiction from or through which the Issuer receives payments on its assets. Each purchaser agrees to provide any such certification that is requested by the Issuer.

(o) Each Holder and beneficial owner of a Note that is not a U.S. Person will make, or by acquiring such Note or an interest therein will be deemed to make, a representation to the effect that (a) either (i) it is not a bank (or an affiliate of a bank) extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business (within the meaning of Section 881(c)(3)(A) of the Code) or (ii) it is a Person that is eligible for benefits under an income tax treaty with the United States that eliminates U.S. federal income taxation of U.S. source interest not attributable to a permanent establishment in the United States and (b) it

is not purchasing the Note in order to reduce its U.S. federal income tax liability pursuant to a tax avoidance plan.

(p) Any holder may assign its voting rights to one or more assignees pursuant to agreements entered into between such holder and the assignees. Holders shall not assign voting rights to a person that has no right to cashflows from the applicable Notes (directly or indirectly) or retain voting rights when such holders have no remaining right to cashflow from the applicable Notes (directly or indirectly).

(q) Each purchaser has read the summary of the provisions related to no petitions for bankruptcy in "*Description of the Offered Securities – No Petitions for Bankruptcy*" in the Offering Circular. Each purchaser will not institute against, or join any other person in instituting against, either of the Issuers or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws until the date which is one year plus one day (or, if longer, the applicable preference period then in effect) after the payment in full of all Notes. Each purchaser understands that the foregoing restrictions are a material inducement for each holder and beneficial owner of the Notes to acquire such Notes and for the Issuer, the Co-Issuer and the Trustee to enter into this Indenture (in the case of the Issuer and the Co-Issuer) and the other applicable transaction documents and are an essential term of this Indenture and that any holder or beneficial owner of a Note, the Trustee, the Portfolio Manager or either of the Issuers may seek and obtain specific performance of such restrictions (including injunctive relief), including, without limitation, in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws.

(r) Each Holder and beneficial owner of a Note (including a Holder or beneficial owner of a Note that receives a definitive physical Note pursuant to the succeeding sentence) agrees to (i) provide the Issuer (or an authorized agent acting on behalf of the Issuer) with the Holder FATCA Information and (ii) permit the Issuer, the Portfolio Manager and Trustee (on behalf of the Issuer) to (w) share such information with the IRS or the relevant Cayman Islands tax authority, (x) compel or effect the sale of such Note if such holder or beneficial owner fails to sell such Notes within 30 days of notice from the Issuer, the Portfolio Manager or the Trustee of its failure to comply with the foregoing requirements, (y) assign to such Note a separate CUSIP number or numbers and (z) make other amendments to this Indenture to enable the Issuer to comply with FATCA. A clearing organization that holds a Note on behalf of a beneficial owner may convert such Note from a Global Note to a definitive physical Note, upon request from such beneficial owner or the Holder of such Note, if it is unable to obtain the Holder FATCA Information from such beneficial owner or the holder of such Note.

(s) Each purchaser, beneficial owner and subsequent transferee of a Combination Note or interest therein, by acceptance of such Combination Note or an interest in such Combination Note, will be deemed to have agreed that before any interest in a Combination Note may be exchanged for its ratable share of the Class A-1 Notes, the Class B Notes or the Class C Notes that comprise its Components, the Holder will be required to provide the Trustee with an Exchange Notice in the form of Exhibit B7.

Section 2.7. Mutilated, Defaced, Destroyed, Lost or Stolen Note. If (a) any mutilated or defaced Note is surrendered to a Transfer Agent, or if there shall be delivered to the Applicable Issuers, the Trustee and the relevant Transfer Agent evidence to their reasonable satisfaction of the destruction, loss or theft of any Note and (b) there is delivered to the Applicable Issuers, the Trustee and such Transfer Agent such security or indemnity as may be required by them to save each of them harmless (an unsecured indemnity agreement delivered to the Trustee by an institutional investor with a net worth of at least $200,000,000 being deemed sufficient to satisfy such security or indemnity requirement), then, in the absence of notice to the Applicable Issuers, the Trustee or such Transfer Agent that such Note has been acquired by a protected purchaser, the Applicable Issuers shall execute and, upon Issuer Order, the Trustee shall authenticate and deliver, in lieu of any such mutilated, defaced, destroyed, lost or stolen Note, a new Note, of like tenor (including the same date of issuance) and equal principal or face amount, registered in the same manner, dated the date of its authentication, bearing interest from the date to which interest has been paid on the mutilated, defaced, destroyed, lost or stolen Note and bearing a number not contemporaneously outstanding.

If, after delivery of such new Note, a protected purchaser of the predecessor Note presents for payment, transfer or exchange such predecessor Note, the Applicable Issuers, the Transfer Agent and the Trustee shall be entitled to recover such new Note from the Person to whom it was delivered or any Person taking therefrom, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Applicable Issuers, the Trustee and the Transfer Agent in connection therewith.

In case any such mutilated, defaced, destroyed, lost or stolen Note has become due and payable, the Applicable Issuers in their discretion may, instead of issuing a new Note pay such Note without requiring surrender thereof except that any mutilated or defaced Note shall be surrendered.

Upon the issuance of any new Note under this Section 2.7 (Mutilated, Defaced, Destroyed, Lost or Stolen Note), the Applicable Issuers may require the payment by the Holder thereof of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Note issued pursuant to this Section 2.7 (Mutilated, Defaced, Destroyed, Lost or Stolen Note) in lieu of any mutilated, defaced, destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Applicable Issuers and such new Note shall be entitled, subject to the second paragraph of this Section 2.7 (Mutilated, Defaced, Destroyed, Lost or Stolen Note), to all the benefits of this Indenture equally and proportionately with any and all other Notes of the same Class duly issued hereunder.

The provisions of this Section 2.7 (Mutilated, Defaced, Destroyed, Lost or Stolen Note) are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, defaced, destroyed, lost or stolen Notes.

Section 2.8. Payment of Principal and Interest and Other Amounts; Principal and Interest Rights Preserved. (a) Each Class of Secured Notes shall accrue interest during each

Interest Accrual Period at the applicable Note Interest Rate and such interest will be payable in arrears on each Payment Date on the Aggregate Outstanding Amount thereof on the first day of the related Interest Accrual Period (after giving effect to payments of principal thereof on such date), except as otherwise set forth below. Payment of interest on each Class of Secured Notes (and payments of Interest Proceeds to the Holders of the Subordinated Notes) will be subordinated to the payments of interest on the related Priority Classes. So long as any Priority Classes are Outstanding with respect to any Class of Deferred Interest Notes, any payment of interest due on such Class of Deferred Interest Notes which is not available to be paid ("Deferred Interest" with respect thereto) in accordance with the Priority of Payments on any Payment Date shall not be considered "due and payable" for the purposes of Section 5.1(a) (Events of Default) (and the failure to pay such interest shall not be an Event of Default) until the earliest of the Payment Date (i) on which such interest is available to be paid in accordance with the Priority of Payments, (ii) which is a Redemption Date with respect to such Class of Deferred Interest Notes and (iii) which is the Stated Maturity of such Class of Deferred Interest Notes. Deferred Interest on any Class of Deferred Interest Notes shall be added to the principal balance of such Class of Deferred Interest Notes and payable on the first Payment Date on which funds are available to be used for such purpose in accordance with the Priority of Payments, but in any event no later than the earlier of the Payment Date (i) which is the Redemption Date with respect to such Class of Deferred Interest Notes and (ii) which is the Stated Maturity of such Class of Deferred Interest Notes. Interest will cease to accrue on each Secured Note, or in the case of a partial repayment, on such part, from the date of repayment or the respective Stated Maturity, unless payment of principal is improperly withheld or unless default is otherwise made with respect to such payments of principal. To the extent lawful and enforceable, (x) interest on Deferred Interest with respect to any Class of Deferred Interest Notes shall accrue at the Note Interest Rate for such Class until paid as provided herein and (y) interest on the interest on any Class X Notes, the Class A-1 Notes, the Class A-2 Notes or the Class B Notes or, if no Class X Notes, Class A-1 Notes, Class A-2 Notes or Class B Notes are Outstanding, any Class C Note or, if no Class C Notes are Outstanding, any Class D Note or, if no Class D Notes are Outstanding, any Class E Notes or, if no Class E Notes are Outstanding, any Class F Notes that is not paid when due shall accrue at the Note Interest Rate for such Class until paid as provided herein.

(b) The principal of each Secured Note of each Class matures at par and is due and payable on the Payment Date which is the Stated Maturity for such Class of Secured Notes, unless the unpaid principal of such Secured Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise. Notwithstanding the foregoing, the payment of principal of each Class of Secured Notes (and payments of Principal Proceeds to the Holders of the Subordinated Notes) may only occur (other than amounts constituting Deferred Interest thereon which will be payable from Interest Proceeds pursuant to Section 11.1(a)(i) (Disbursements of Monies from Payment Account)) after principal on each Class of Notes that constitutes a Priority Class with respect to such Class has been paid in full and is subordinated to the payment on each Payment Date of the principal and interest due and payable on such Priority Class(es), and other amounts in accordance with the Priority of Payments, and any payment of principal of any Class of Secured Notes which is not paid, in accordance with the Priority of Payments, on any Payment Date (other than the Payment Date which is the Stated Maturity of such Class or any Redemption Date), shall not be considered "due and payable" for purposes of Section 5.1(a) (Events of Default) until the Payment Date on which such principal may be paid

in accordance with the Priority of Payments or all of the Priority Classes with respect to such Class have been paid in full.

(c) Principal payments on the Notes will be made in accordance with the Priority of Payments and Section 9.1 (Mandatory Redemption) hereof.

(d) As a condition to the payment of principal of and interest on any Secured Note or any payment on any Subordinated Note, without the imposition of withholding tax, the Paying Agent may require certification acceptable to it to enable the Issuer, the Co-Issuer, the Trustee and any Paying Agent to determine their duties and liabilities with respect to any taxes or other charges that they may be required to deduct or withhold from payments in respect of such Note under any present or future law or regulation of the United States and any other applicable jurisdiction, or any present or future law or regulation of any political subdivision thereof or taxing authority therein or to comply with any reporting or other requirements under any such law or regulation.

(e) Payments in respect of interest on and principal of any Secured Note and any payment with respect to any Subordinated Note shall be made by the Trustee in United States dollars to DTC or its designee with respect to a Global Note and to the Holder or its nominee with respect to a Certificated Note, by wire transfer, as directed by the Holder, in immediately available funds to a United States dollar account, as the case may be, maintained by DTC or its nominee with respect to a Global Note, and to the Holder or its designee with respect to a Certificated Note; provided, that in the case of a Certificated Note, the Holder thereof shall have provided written wiring instructions to the Trustee on or before the related Record Date; and provided, further, that if appropriate instructions for any such wire transfer are not received by the related Record Date, then such payment shall be made by check drawn on a U.S. bank mailed to the address of the Holder specified in the Register. Upon final payment due on the Maturity of a Note, the Holder thereof shall present and surrender such Note at the Corporate Office of the Trustee or at the office of any Paying Agent on or prior to such Maturity; provided, however, that if the Trustee and the Applicable Issuers shall have been furnished such security or indemnity as may be required by them to save each of them harmless and an undertaking thereafter to surrender such certificate, then, in the absence of notice to the Applicable Issuers or the Trustee that the applicable Note has been acquired by a protected purchaser, such final payment shall be made without presentation or surrender. None of the Co-Issuers, the Trustee, the Portfolio Manager, the Collateral Administrator nor any Paying Agent will have any responsibility or liability for any aspects of the records maintained by DTC, Euroclear, Clearstream or any of the Agent Members relating to or for payments made thereby on account of beneficial interests in a Global Note. In the case where any final payment of principal and interest is to be made on any Secured Note (other than on the Stated Maturity thereof) or any final payment is to be made on any Subordinated Note (other than on the Stated Maturity thereof), the Trustee, in the name and at the expense of the Applicable Issuers shall, not more than 30 nor less than 10 days prior to the date on which such payment is to be made, mail (by first class mail, postage prepaid) to the Persons entitled thereto at their addresses appearing on the Register a notice which shall specify the date on which such payment will be made, the amount of such payment per $100,000 original principal amount of Secured Notes, original principal amount of Subordinated Notes and the place where such Notes may be presented and surrendered for such payment.

(f) Payments of principal to Holders of the Secured Notes of each Class shall be made in the proportion that the Aggregate Outstanding Amount of the Debt of such Class registered in the name of each such Holder on the applicable Record Date bears to the Aggregate Outstanding Amount of all Notes of such Class on such Record Date. Payments to the Holders of the Subordinated Notes from Interest Proceeds and Principal Proceeds shall be made in the proportion that the Aggregate Outstanding Amount of the Subordinated Notes registered in the name of each such Holder on the applicable Record Date bears to the Aggregate Outstanding Amount of all Subordinated Notes on such Record Date.

(g) Interest accrued with respect to the Secured Notes shall be calculated on the basis of the actual number of days elapsed in the applicable Interest Accrual Period divided by 360.

(h) All reductions in the principal amount of a Note (or one or more predecessor Notes) effected by payments of installments of principal made on any Payment Date or Redemption Date shall be binding upon all future Holders of such Note and of any Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof, whether or not such payment is noted on such Note.

(i) Notwithstanding any other provision of this Indenture, the obligations of the Applicable Issuers under the Notes and this Indenture are limited recourse obligations of the Applicable Issuers payable solely from the Assets and following realization of the Assets, and application of the proceeds thereof in accordance with this Indenture, all obligations of and any claims against the Co-Issuers hereunder or in connection herewith after such realization shall be extinguished and shall not thereafter revive. No recourse shall be had against any Officer, director, partner, employee, shareholder, member, manager or incorporator of either the Co-Issuers, the Portfolio Manager or their respective successors or assigns for any amounts payable under the Notes or (except as otherwise provided herein or in the Portfolio Management Agreement) this Indenture. It is understood that the foregoing provisions of this paragraph (i) shall not (i) prevent recourse to the Assets for the sums due or to become due under any security, instrument or agreement which is part of the Assets or (ii) constitute a waiver, release or discharge of any indebtedness or obligation evidenced by the Notes or secured by this Indenture until such Assets have been realized. It is further understood that the foregoing provisions of this paragraph (i) shall not limit the right of any Person to name the Issuer or the Co-Issuer as a party defendant in any Proceeding or in the exercise of any other remedy under the Notes or this Indenture, so long as no judgment in the nature of a deficiency judgment or seeking personal liability shall be asked for or (if obtained) enforced against any such Person or entity. The Subordinated Notes are not secured hereunder.

(j) Subject to the foregoing provisions of this Section 2.8 (Payment of Principal and Interest and Other Amounts; Principal and Interest Rights Preserved), each Note delivered and upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights of unpaid interest and principal (or other applicable amount) that were carried by such other Note.

Section 2.9. Persons Deemed Owners. The Issuer, the Co-Issuer, the Trustee and any agent of the Co-Issuers or the Trustee may treat as the owner of such Note the Person in

whose name any Note is registered on the Register on the applicable Record Date for the purpose of receiving payments of principal of and interest on such Note and on any other date for all other purposes whatsoever (whether or not such Note is overdue), and neither the Issuer, the Co-Issuers nor the Trustee nor any agent of the Issuer, the Co-Issuers or the Trustee shall be affected by notice to the contrary.

Section 2.10. Cancellation. All Notes surrendered for payment, registration of transfer, exchange or redemption, or deemed lost or stolen, shall be promptly canceled by the Trustee and may not be reissued or resold. No Note may be surrendered (including any surrender in connection with any abandonment) except for payment as provided herein, or for registration of transfer, exchange or redemption in accordance with Article 9 hereof, or for replacement in connection with any Note deemed lost or stolen. Any such Notes shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee. No Notes shall be authenticated in lieu of or in exchange for any Notes canceled as provided in this Section 2.10 (Cancellation), except as expressly permitted hereunder. All canceled Notes held by the Trustee shall be destroyed or held by the Trustee in accordance with its standard retention policy unless the Co-Issuers shall direct by an Issuer Order that they be returned to it. Neither of the Co-Issuers may acquire or purchase any Notes (including any Notes surrendered or abandoned). The previous sentence shall not limit any Optional Redemption, Clean-up Call Redemption, Special Redemption or Mandatory Redemption pursuant to the terms of this Indenture.

Section 2.11. Certificated Notes. (a) A Global Note deposited with DTC pursuant to Section 2.2 (Forms of Notes) shall be transferred in the form of a Certificated Note to the beneficial owners thereof only if such transfer complies with Section 2.6 (Registration, Registration of Transfer and Exchange) and either (i) DTC notifies the Co-Issuers that it is unwilling or unable to continue as depository for such Global Note or (ii) if at any time DTC ceases to be a Clearing Agency registered under the Exchange Act and, in each case, a successor depository is not appointed by the Co-Issuers within 90 days after such notice. In addition, the owner of a beneficial interest in a Global Note will be entitled to receive a Certificated Note in exchange for such interest if an Event of Default has occurred and is continuing.

(b) Any Global Note that is transferable in the form of a Certificated Note to the beneficial owners thereof pursuant to this Section 2.11 (Certificated Notes) shall be surrendered by DTC to the Trustee's office located in the Borough of Manhattan, the City of New York to be so transferred, in whole or from time to time in part, without charge, and the Applicable Issuers shall execute and the Trustee shall authenticate and deliver, upon such transfer of each portion of such Global Note, an equal aggregate principal amount of definitive physical certificates (pursuant to the instructions of DTC) substantially in the form of Exhibit A3 or Exhibit A4 (each such Secured Note (including a Certificated Class E Note or a Certificated Class F Note) issued in definitive form, a "Certificated Secured Note" and, each such Subordinated Note issued in definitive form, a "Certificated Subordinated Note" and, collectively, the "Certificated Notes") in authorized denominations. Any Certificated Note delivered in exchange for an interest in a Global Note shall, except as otherwise provided by Section 2.6(h) (Registration, Registration of Transfer and Exchange), bear the legends set forth in the applicable Exhibit A and shall be subject to the transfer restrictions referred to in such legends.

(c) Subject to the provisions of paragraph (b) of this Section 2.11 (Certificated Notes), the Holder of a Global Note may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Notes.

(d) In the event of the occurrence of either of the events specified in subclauses (i) and (ii) of subsection (a) of this Section 2.11 (Certificated Notes), the Co-Issuers will promptly make available to the Trustee a reasonable supply of Certificated Notes in definitive, fully registered form without interest coupons.

(e) The Certificated Subordinated Notes issued pursuant to this Section 2.11 (Certificated Notes) shall be in substantially the same form as the Certificated Subordinated Notes issued pursuant to Section 2.2(b) (Forms of Notes) with such changes therein as the Issuer and Trustee shall agree.

(f) In the event that Certificated Notes are not so issued by the Issuer to such beneficial owners of interests in Global Notes as required by Section 2.11(a) (Certificated Notes), the Issuer expressly acknowledges that the beneficial owners shall be entitled to pursue any remedy that the Holders of a Global Note would be entitled to pursue in accordance with Article 5 of this Indenture (but only to the extent of such beneficial owner's interest in the Global Note) as if Certificated Notes had been issued.

Section 2.12. Notes Beneficially Owned by Persons Not QIB/QPs or in Violation of ERISA Representations. (a) Notwithstanding anything to the contrary elsewhere in this Indenture, (x) any transfer of a beneficial interest in any Secured Note (other than the Class E Notes and Class F Notes) to a U.S. person that is not a QIB/QP and that is not made pursuant to an applicable exemption under the Securities Act and the Investment Company Act, (y) any transfer of a beneficial interest in any Class E Note or Class F Note to a U.S. person that is not (i) a Qualified Institutional Buyer or an Institutional Accredited Investor and (ii) a Qualified Purchaser and that is not made pursuant to an applicable exemption under the Securities Act and the Investment Company Act and (z) any transfer of a beneficial interest in any Subordinated Note to a U.S. person that is not (i) a Qualified Institutional Buyer or an Accredited Investor and (ii) a Qualified Purchaser, a Knowledgeable Employee or a corporation, partnership, limited liability company or other entity (other than a trust) each shareholder, partner, member or other equity owner of which is either a Knowledgeable Employee or a Qualified Purchaser and that is not made pursuant to an applicable exemption under the Securities Act and the Investment Company Act shall be null and void and any such purported transfer of which the Issuer, the Co-Issuer or the Trustee shall have notice may be disregarded by the Issuer, the Co-Issuer and the Trustee for all purposes.

(b) If (A) (x) any U.S. person that is not a QIB/QP shall become the beneficial owner of an interest in any Secured Note (other than the Class E Notes and Class F Notes), (y) any U.S. person that is not (i) a Qualified Institutional Buyer or an Institutional Accredited Investor and (ii) a Qualified Purchaser shall become the beneficial owner of an interest in a Class E Note or a Class F Note and (z) any person that is not a Qualified Purchaser, a Knowledgeable Employee or a corporation, partnership, limited liability company or other entity (other than a trust) each shareholder, partner, member or other equity owner of which is either a

Knowledgeable Employee or a Qualified Purchaser shall become the beneficial owner of an interest in any Subordinated Note (any such person a "Non-Permitted Holder") or (B) any beneficial owner of an interest in any Note is designated as a Recalcitrant Holder or Non-Compliant FFI, the Issuer may (in its sole discretion), promptly after discovery (or after designation as a Recalcitrant Holder or Non-Compliant FFI) that such person is a Non-Permitted Holder, a Recalcitrant Holder or a Non-Compliant FFI by the Issuer, the Co-Issuer or the Trustee (and notice by the Trustee or the Co-Issuer to the Issuer, if either of them makes the discovery), send notice to such Non-Permitted Holder, Recalcitrant Holder or Non-Compliant FFI demanding that such Non-Permitted Holder, Recalcitrant Holder or Non-Compliant FFI transfer its interest in the Notes held by such person to a Person that is not a Non-Permitted Holder, Recalcitrant Holder or Non-Compliant FFI within 30 days of the date of such notice. If such Non-Permitted Holder, Recalcitrant Holder or Non-Compliant FFI fails to so transfer such Notes, the Issuer shall (1) have the right to compel such Holder to sell its interest in the Notes, (2) assign such Notes a separate CUSIP number or numbers and (3) have the right, without further notice to the Non-Permitted Holder, Recalcitrant Holder or Non-Compliant FFI, to sell such Notes or interest in such Notes to a purchaser selected by the Issuer that is a not a Non-Permitted Holder, Recalcitrant Holder or Non-Compliant FFI on such terms as the Issuer may choose. The Issuer, or the Portfolio Manager acting on behalf of the Issuer, may select the purchaser by soliciting one or more bids from one or more brokers or other market professionals that regularly deal in securities similar to the Notes, and selling such Notes to the highest such bidder. However, the Issuer or the Portfolio Manager acting on behalf of the Issuer may select a purchaser by any other means determined by it in its sole discretion. The Holder of each Note, the Non-Permitted Holder, Recalcitrant Holder or Non-Compliant FFI and each other Person in the chain of title from the Holder to the Non-Permitted Holder, Recalcitrant Holder or Non-Compliant FFI, by its acceptance of an interest in the Notes, agrees to cooperate with the Issuer and the Trustee to effect such transfers. The proceeds of such sale, net of any commissions, expenses and taxes due in connection with such sale shall be remitted to the Non-Permitted Holder, Recalcitrant Holder or Non-Compliant FFI. The terms and conditions of any sale under this subsection shall be determined in the sole discretion of the Issuer, and the Issuer shall not be liable to any Person having an interest in the Notes sold as a result of any such sale or the exercise of such discretion.

(c) Notwithstanding anything to the contrary elsewhere in this Indenture, any transfer of a beneficial interest in any ERISA Limited Note to a Person who has made or is deemed to have made an ERISA-related representation required by Section 2.6 (Registration, Registration of Transfer and Exchange) that is subsequently shown to be false or misleading shall be null and void and any such purported transfer of which the Issuer, the Co-Issuer or the Trustee shall have notice may be disregarded by the Issuer, the Co-Issuer and the Trustee for all purposes.

(d) If any Person shall become the beneficial owner of an interest in any ERISA Limited Note who has made or is deemed to have made an ERISA-related representation required by Section 2.6 (Registration, Registration of Transfer and Exchange) that is subsequently shown to be false or misleading or whose beneficial ownership otherwise causes a violation of the 25% Limitation (any such person a "Non-Permitted ERISA Holder"), the Issuer shall, promptly after discovery by the Issuer that such person is a Non-Permitted ERISA Holder (or upon notice by the Trustee to the Issuer if it makes the discovery), send notice to such

Non-Permitted ERISA Holder demanding that such Non-Permitted ERISA Holder transfer all or any portion of the ERISA Limited Notes held by such Person to a Person that is not a Non-Permitted ERISA Holder within 14 days of the date of such notice. If such Non-Permitted ERISA Holder fails to so transfer its ERISA Limited Notes the Issuer shall have the right, without further notice to the Non-Permitted ERISA Holder, to sell such ERISA Limited Notes or interest in such ERISA Limited Notes to a purchaser selected by the Issuer that is not a Non-Permitted ERISA Holder on such terms as the Issuer may choose. The Issuer may select the purchaser by soliciting one or more bids from one or more brokers or other market professionals that regularly deal in securities similar to the ERISA Limited Notes and selling such ERISA Limited Notes to the highest such bidder. However, the Issuer may select a purchaser by any other means determined by it in its sole discretion. The Holder of each ERISA Limited Note, the Non-Permitted ERISA Holder and each other Person in the chain of title from the Holder to the Non-Permitted ERISA Holder, by its acceptance of an interest in the ERISA Limited Notes agrees to cooperate with the Issuer and the Trustee to effect such transfers. The proceeds of such sale, net of any commissions, expenses and taxes due in connection with such sale shall be remitted to the Non-Permitted ERISA Holder. The terms and conditions of any sale under this subsection shall be determined in the sole discretion of the Issuer, and the Issuer shall not be liable to any Person having an interest in the ERISA Limited Notes sold as a result of any such sale or the exercise of such discretion.

Section 2.13. Tax Purposes. (a) Each Holder and each beneficial owner of a Secured Note by acceptance of such Secured Note, or its interest in such Secured Note, as the case may be, shall be deemed to have agreed to treat, and shall treat, such Secured Note as debt of the Issuer for U.S. federal income tax purposes except as otherwise required by law. Each Holder and each beneficial owner of a Subordinated Note by acceptance of such Subordinated Note or its interest in such Subordinated Note, as the case may be, shall be deemed to have agreed to treat, and shall treat, such Subordinated Note as equity in the Issuer for U.S. federal income tax purposes except as otherwise required by law.

(b) Each Holder and beneficial owner of a Note, by acceptance of such Note or its interest in such Note, shall be deemed to understand and acknowledge that failure to provide the Issuer, the Trustee or any Paying Agent with the applicable U.S. federal income tax certifications (generally, an Internal Revenue Service Form W-9 (or successor applicable form) in the case of a person that is a U.S. Person or an appropriate Internal Revenue Service Form W-8 (or successor applicable form) in the case of a person that is not a U.S. Person or the failure to meet its Noteholder Reporting Obligations may result in U.S. federal withholding (including back-up withholding) from payments in respect of such Note.

(c) Each purchaser, beneficial owner and subsequent transferee of a Note or interest therein, by acceptance of such Note or an interest in such Note, shall be deemed to have agreed (1) to provide the Issuer and Trustee (i) any information as is necessary (in the sole determination of the Issuer or the Trustee, as applicable) for the Issuer and the Trustee to determine whether such purchaser, beneficial owner or transferee is a United States person or a United States owned foreign entity (as described in Section 1471(d)(3) of the Code) ("United States owned foreign entity") and (ii) any additional information that the Issuer or its agent requests in connection with FATCA and (2) if it is a United States person or a United States owned foreign entity that is a Holder or beneficial owner of Notes or an interest therein (x) to

provide the Issuer and Trustee its name, address, U.S. taxpayer identification number and any other information requested (in connection with FATCA) by the Issuer or its agent upon request and (y) to update any such information provided in clause (x) promptly upon learning that any such information previously provided has become obsolete or incorrect or is otherwise required (such obligation, the "Noteholder Reporting Obligations"). Each purchaser and subsequent transferee of Notes will be required or deemed to acknowledge that the Issuer may provide such information and any other information concerning its investment in the Notes to the IRS. Each purchaser and subsequent transferee of Notes will be required or deemed to understand and acknowledge that the Issuer has the right, hereunder, to compel any beneficial owner of an interest in a Note that fails to comply with the foregoing requirements to sell its interest in such Note, or may sell such interest on behalf of such owner following the procedures and timeframe relating to Non-Permitted Holders specified in Section 2.12 (Notes Beneficially Owned by Persons Not QIB/QPs or in Violation of ERISA Representations). In addition, each purchaser and subsequent transferee of Notes will be required or deemed to understand and acknowledge that the Issuer has the right, hereunder, to withhold (without any gross-up) on any beneficial owner of an interest in a Note that fails to comply with the foregoing requirements.

Section 2.14. No Gross Up. The Issuer shall not be obligated to pay any additional amounts to the Holders or beneficial owners of the Notes as a result of any withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges imposed on payments in respect of the Notes.

ARTICLE 3

Conditions Precedent

Section 3.1. Conditions to Issuance of Notes on Closing Date. (a) The Notes to be issued on the Closing Date may be executed by the Applicable Issuers and delivered to the Trustee for authentication upon Issuer Order and thereupon the same shall be authenticated and delivered by the Trustee upon Issuer Order and upon receipt by the Trustee (or, with respect to the Accountants' Report specified in clause (xiv) below, the Collateral Administrator (upon its execution of an acknowledgement letter satisfactory to such accountants)) of the following:

(i) Officers' Certificates of the Co-Issuers Regarding Corporate Matters. An Officer's certificate of each of the Co-Issuers (A) evidencing the authorization by Board Resolution of the execution and delivery of this Indenture, and, in the case of the Issuer, the Portfolio Management Agreement, the Securities Account Control Agreement, the Placement Agency Agreement, the Collateral Administration Agreement, any Hedge Agreements and related transaction documents and in each case the execution, authentication and delivery of the Notes applied for by it and specifying the Stated Maturity, principal amount and Note Interest Rate of each Class of Secured Notes to be authenticated and delivered, the Stated Maturity and principal amount of Subordinated Notes to be authenticated and delivered and (B) certifying that (1) the attached copy of the Board Resolution is a true and complete copy thereof, (2) such resolutions have not been rescinded and are in full force and effect on and as of the Closing Date and (3) the Officers authorized to execute and deliver such documents hold the offices and have the signatures indicated thereon.

(ii) Governmental Approvals. From each of the Co-Issuers either (A) a certificate of the Applicable Issuer or other official document evidencing the due authorization, approval or consent of any governmental body or bodies, at the time having jurisdiction in the premises, together with an Opinion of Counsel of such Applicable Issuer that no other authorization, approval or consent of any governmental body is required for the valid issuance of the Notes applied for by it or (B) an Opinion of Counsel of the Applicable Issuer that no such authorization, approval or consent of any governmental body is required for the valid issuance of such Notes except as have been given.

(iii) U.S. Counsel Opinions. Opinions of White & Case LLP, special U.S. counsel to the Co-Issuers, Dechert LLP, counsel to the Portfolio Manager, and Seward & Kissel LLP, counsel to the Trustee, dated the Closing Date, substantially in the form of Exhibit C, Exhibit D, and Exhibit E attached hereto.

(iv) Cayman Counsel Opinion. An opinion of Appleby (Cayman) Ltd., Cayman Islands counsel to the Issuer, dated the Closing Date, substantially in the form of Exhibit F attached hereto.

(v) Officers' Certificates of Co-Issuers Regarding Indenture. An Officer's certificate of each of the Co-Issuers stating that the Applicable Issuer is not in default under this Indenture and that the issuance of the Offered Securities applied for by it will not result in a default or a breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any indenture or other agreement or instrument to which it is a party or by which it is bound, or any order of any court or administrative agency entered in any Proceeding to which it is a party or by which it may be bound or to which it may be subject; that all conditions precedent provided in this Indenture relating to the authentication and delivery of the Offered Securities applied for by it have been complied with; and that all expenses due or accrued with respect to the Offering or relating to actions taken on or in connection with the Closing Date have been paid or reserves therefor have been made. The Officer's certificate of the Issuer shall also state that all of its representations and warranties contained herein are true and correct as of the Closing Date.

(vi) Hedge Agreements. Executed copies of any Hedge Agreement entered into by the Issuer.

(vii) Portfolio Management Agreement and Collateral Administration Agreement. An executed counterpart of the Portfolio Management Agreement and the Collateral Administration Agreement.

(viii) Grant of Collateral Obligations. The Grant pursuant to the Granting Clause of this Indenture of all of the Issuer's right, title and interest in and to the Collateral Obligations pledged to the Trustee for inclusion in the Assets on the Closing Date securing the Notes and Delivery of such Collateral Obligations (including any promissory note and all other Underlying Instruments related thereto to the extent

received by the Issuer) as contemplated by Section 3.3 (Custodianship; Delivery of Collateral Obligations and Eligible Investments).

(ix) Certificate of the Issuer Regarding Assets. A certificate of an Authorized Officer of the Issuer, dated as of the Closing Date, to the effect that, in the case of each Collateral Obligation pledged to the Trustee for inclusion in the Assets, on the Closing Date and immediately prior to the Delivery thereof on the Closing Date:

(A) the Issuer is the owner of such Collateral Obligation free and clear of any liens, claims or encumbrances of any nature whatsoever except for (i) those which are being released on the Closing Date and (ii) those Granted pursuant to this Indenture;

(B) the Issuer has acquired its ownership in such Collateral Obligation in good faith without notice of any adverse claim, except as described in paragraph (A) above;

(C) the Issuer has not assigned, pledged or otherwise encumbered any interest in such Collateral Obligation (or, if any such interest has been assigned, pledged or otherwise encumbered, it has been released) other than interests Granted pursuant to this Indenture;

(D) the Issuer has full right to Grant a security interest in and assign and pledge such Collateral Obligation to the Trustee;

(E) the information set forth with respect to such Collateral Obligation in the Schedule of Collateral Obligations is correct;

(F) each Collateral Obligation included in the Assets satisfies the requirements of the definition of "Collateral Obligation" and of Section 3.1(a)(viii) (Conditions to Issuance of Notes on Closing Date); and

(G) upon Grant by the Issuer, the Trustee has a first priority perfected security interest in the Collateral Obligations and other Assets, except as permitted by this Indenture.

(x) Rating Letters. An Officer's certificate of the Issuer to the effect that attached thereto is a true and correct copy of a letter signed by each Rating Agency, as applicable, and confirming that each Class of Secured Notes has been assigned the applicable Initial Rating and that such ratings are in full force and effect on the Closing Date.

(xi) Accounts. A certificate evidencing the establishment of each of the Accounts.

(xii) Issuer Order for Deposit of Funds into Accounts. (a) An Issuer Order signed in the name of the Issuer by an Authorized Officer of the Issuer, dated as of the Closing Date, authorizing the deposit of $502,631,025 from the proceeds of the issuance

of the Notes into the Ramp-up Account for use pursuant to Section 7.18 (Ramp-up Period; Purchase of Additional Collateral Obligations) and 10.3(c) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account), (b) an Issuer Order signed in the name of the Issuer by an Authorized Officer of the Issuer, dated as of the Closing Date, authorizing the deposit of $2,100,000 from the proceeds of the issuance of the Notes into the Expense Reserve Account for use pursuant to Section 10.3(d) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account) and (c) an Issuer Order signed in the name of the Issuer by an Authorized Officer of the Issuer, dated as of the Closing Date, authorizing the deposit of $4,000,000 from the proceeds of the issuance of the Notes into the Interest Reserve Account for use pursuant to Section 10.3(f) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account).

(xiii) Irish Listing. An Officer's certificate of the Issuer to the effect that application has been made to the Irish Stock Exchange to admit the Notes to the Official List and to trade on the Global Exchange Market.

(xiv) Accountants' Report. An Accountants' Report (A) confirming the issuer, principal balance, coupon/spread, Stated Maturity, Moody's Default Probability Rating, Moody's Rating, S&P Rating and country of Domicile with respect to each Collateral Obligation set forth on the Schedule of Collateral Obligations attached hereto as Schedule 1 and the information provided by the Issuer with respect to every other asset included in the Assets, by reference to such sources as shall be specified therein, (B) confirming that the Aggregate Principal Balance of the Collateral Obligations which the Issuer has purchased or entered into binding agreements to purchase on or about the Closing Date is at least $250,000,000 and (C) specifying the procedures undertaken by them to review data and computations relating to the foregoing statement.

(xv) Other Documents. Such other documents as the Trustee may reasonably require; provided, that nothing in this clause (xv) shall imply or impose a duty on the part of the Trustee to require any other documents.

Section 3.2. Conditions to Issuance of Additional Notes. Additional Subordinated Notes to be issued on an Additional Notes Closing Date pursuant to Section 2.4 (Additional Notes) may be executed by the Applicable Issuers and delivered to the Trustee for authentication and thereupon the same shall be authenticated and delivered to the Issuer by the Trustee upon Issuer Order and upon receipt by the Trustee (or, with respect to the Accountants' Report specified in clause (vi) below, the Collateral Administrator (upon its execution of an acknowledgement letter satisfactory to such accountants)) of the following:

(i) Officers' Certificates of the Co-Issuers Regarding Corporate Matters. An Officer's certificate of each of the Co-Issuers (1) evidencing the authorization by Board Resolution of the execution and delivery of a supplemental indenture pursuant to Section 8.2(b) (Supplemental Indentures With Consent of Holders of Offered Securities) and the execution, authentication and delivery of the Additional Subordinated Notes applied for by it specifying the Stated Maturity and principal amount of the Subordinated

Notes to be authenticated and delivered and (2) certifying that (a) the attached copy of such Board Resolution is a true and complete copy thereof, (b) such resolutions have not been rescinded and are in full force and effect on and as of the Additional Notes Closing Date and (c) the Officers authorized to execute and deliver such documents hold the offices and have the signatures indicated thereon.

(ii) Governmental Approvals. From each of the Co-Issuers either (A) a certificate of the Applicable Issuer or other official document evidencing the due authorization, approval or consent of any governmental body or bodies, at the time having jurisdiction in the premises, together with an Opinion of Counsel of such Applicable Issuer that no other authorization, approval or consent of any governmental body is required for the valid issuance of such Additional Subordinated Notes or (B) an Opinion of Counsel of the Applicable Issuer that no such authorization, approval or consent of any governmental body is required for the valid issuance of such Additional Subordinated Notes except as have been given.

(iii) U.S. Counsel Opinions. Opinions of White & Case LLP, special U.S. counsel to the Co-Issuers, or other counsel acceptable to the Trustee, dated the Additional Notes Closing Date, substantially in the form of Exhibit C attached hereto, each with additions or deletions reflecting the additional issuance.

(iv) Cayman Counsel Opinion. An opinion of Appleby (Cayman) Ltd., Cayman Islands counsel to the Issuer, or other counsel acceptable to the Trustee, dated the Additional Notes Closing Date, substantially in the form of Exhibit F attached hereto.

(v) Officers' Certificates of Co-Issuers Regarding Indenture. An Officer's certificate of each Co-Issuer stating that the Applicable Issuer is not in default under this Indenture and that the issuance of the Additional Subordinated Notes applied for by it will not result in a default or a breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any indenture or other agreement or instrument to which it is a party or by which it is bound, or any order of any court or administrative agency entered in any Proceeding to which it is a party or by which it may be bound or to which it may be subject; that all conditions precedent provided in this Indenture and the supplemental indenture pursuant to Section 8.2(b) (Supplemental Indentures With Consent of Holders of Offered Securities) relating to the authentication and delivery of the Additional Subordinated Notes applied for have been complied with; and that all expenses due or accrued with respect to the Offering of the Additional Subordinated Notes or relating to actions taken on or in connection with the Additional Notes Closing Date have been paid or reserved. The Officer's certificate of the Issuer shall also state that all of its representations and warranties contained herein are true and correct as of the Additional Notes Closing Date.

(vi) Accountants' Report. An Accountants' Report (A) confirming the issuer, principal balance, coupon/spread, Stated Maturity, Moody's Default Probability Rating, Moody's Rating, S&P Rating and country of Domicile with respect to each Collateral Obligation pledged in connection with the issuance of such Additional Subordinated Notes and the information provided by the Issuer with respect to every other asset

included in the Assets, by reference to such sources as shall be specified therein, (B) provided, that any such issuance of Additional Subordinated Notes occurs after the Ramp-up Period, confirming that after giving effect to such pledge and the issuance of such Additional Subordinated Notes (1) the Coverage Tests are met, (2) in the aggregate, the Collateral Obligations comply with all of the requirements set forth in the Concentration Limitations and (3) the Collateral Quality Test (excluding the S&P CDO Monitor Test) is met and (C) specifying the procedures undertaken by them to review data and computations relating to the foregoing statement.

(vii) Grant of Collateral Obligations. The Grant pursuant to the Granting clause of this Indenture of all of the Issuer's right, title and interest in and to the additional Collateral Obligations pledged to the Trustee for inclusion in the Assets on the Additional Notes Closing Date, and Delivery of such additional Collateral Obligations (including any promissory note and all other Underlying Instruments related thereto to the extent received by the Issuer) as contemplated by Section 3.3 (Custodianship; Delivery of Collateral Obligations and Eligible Investments).

(viii) Certificate of the Issuer Regarding Assets. A certificate of an Authorized Officer of the Issuer, dated as of the Additional Notes Closing Date, to the effect that, in the case of each Collateral Obligation pledged to the Trustee for inclusion in the Assets on the Additional Notes Closing Date and immediately prior to the Delivery thereof on the Additional Notes Closing Date:

(A) the Issuer is the owner of such Collateral Obligation free and clear of any liens, claims or encumbrances of any nature whatsoever except for (i) those which are being released on the Additional Notes Closing Date or (ii) those Granted pursuant to this Indenture;

(B) the Issuer has acquired its ownership in such Collateral Obligation in good faith without notice of any adverse claim, except as described in paragraph (A) above;

(C) the Issuer has not assigned, pledged or otherwise encumbered any interest in such Collateral Obligation (or, if any such interest has been assigned, pledged or otherwise encumbered, it has been released) other than interests Granted pursuant to this Indenture;

(D) the Issuer has full right to Grant a security interest in and assign and pledge such Collateral Obligation to the Trustee;

(E) the information set forth with respect to such Collateral Obligation in the Schedule of Collateral Obligations is correct;

(F) the Collateral Obligations included in the Assets satisfy the requirements of the definition of "Collateral Obligations" and of Section 3.2(vii) (Conditions to Issuance of Additional Notes) and, if the Additional Notes Closing Date is subsequent to the Ramp-up Period, each component of the Concentration Limitations and the Collateral Quality Test; and

(G) upon Grant by the Issuer, the Trustee has a first priority perfected security interest in such Collateral Obligations and other Assets, except as permitted by this Indenture.

(ix) Rating Letters. An Officer's certificate of the Issuer to the effect that attached thereto is a true and correct copy of a letter signed by each Rating Agency, as applicable, and confirming that such Rating Agency's rating of the Secured Notes has not been lowered from the Initial Ratings and will not be lowered as a result of the issuance of the Additional Subordinated Notes.

(x) Irish Listing. If the Additional Subordinated Notes are of a Class of Notes listed on the Irish Stock Exchange, an Officer's certificate of the Issuer to the effect that attached thereto is a true and correct copy of written confirmation from the Irish Stock Exchange that such Additional Subordinated Notes have been admitted to listing on the Irish Stock Exchange.

(xi) Other Documents. Such other documents as the Trustee may reasonably require; provided, that nothing in this clause (xi) shall imply or impose a duty on the Trustee to so require any other documents.

Section 3.3. Custodianship; Delivery of Collateral Obligations and Eligible Investments. (a) The Issuer shall deliver or cause to be delivered to a custodian appointed by the Issuer, which shall be a Securities Intermediary (the "Custodian"), all Assets in accordance with the definition of "Deliver." Initially, the Custodian shall be U.S. Bank National Association. Any successor custodian shall be a state or national bank or trust company that is not an Affiliate of the Issuer or the Co-Issuer and has capital and surplus of at least U.S.$200,000,000 and is a Securities Intermediary and shall be subject to the requirements of Section 10.1 (Collection of Money). Subject to the limited right to relocate Pledged Obligations as provided in Section 7.5(b) (Protection of Assets), the Trustee or the Custodian, as applicable, shall hold (i) all Collateral Obligations, Eligible Investments, Cash and other investments purchased in accordance with this Indenture and (ii) any other property of the Issuer otherwise Delivered to the Trustee or the Custodian, as applicable, by or on behalf of the Issuer, in the relevant Account, established and maintained pursuant to Article 10; as to which in each case the Trustee shall have entered into an Agreement with the Custodian substantially in the form of Exhibit H providing, inter alia, that the establishment and maintenance of such Account will be governed by a law of a jurisdiction satisfactory to the Issuer and the Trustee.

(b) Each time that the Portfolio Manager on behalf of the Issuer directs or causes the acquisition of any Collateral Obligation, Eligible Investment, or other investments, the Portfolio Manager (on behalf of the Issuer) shall, if the Collateral Obligation, Eligible Investment, or other investment is required to be, but has not already been, transferred to the relevant Account, cause the Collateral Obligation, Eligible Investment, or other investment to be Delivered to the Custodian to be held in the Custodial Account (or in the case of any such investment that is not a Collateral Obligation, in the Account in which the funds used to purchase the investment are held in accordance with Article 10) for the benefit of the Trustee in accordance with this Indenture. The security interest of the Trustee in the funds or other property used in connection with such acquisition shall, immediately and without further action

on the part of the Trustee, be released. The security interest of the Trustee shall nevertheless come into existence and continue in the Collateral Obligation, Eligible Investment, or other investment so acquired, including all interests of the Issuer in to any contracts related to and proceeds of the Collateral Obligations, Eligible Investments, or other investments.

ARTICLE 4

Satisfaction and Discharge

Section 4.1. Satisfaction and Discharge of Indenture. This Indenture shall be discharged and shall cease to be of further effect except as to (i) rights of registration of transfer and exchange, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Notes, (iii) rights of Holders to receive payments of principal thereof and interest thereon, (iv) the rights and immunities of the Trustee hereunder and those obligations of the Trustee set forth in Section 4.2 (Application of Trust Money), (v) the rights, obligations and immunities of the Portfolio Manager hereunder and under the Portfolio Management Agreement, the rights, obligations and immunities of the Collateral Administrator under the Collateral Administration Agreement and (vi) the rights of Holders of Notes as beneficiaries hereof with respect to the property deposited with the Trustee and payable to all or any of them (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture) when:

(a) either:

(i) all Notes theretofore authenticated and delivered to Holders (other than (A) Notes which have been mutilated, defaced, destroyed, lost or stolen and which have been replaced or paid as provided in Section 2.7 (Mutilated, Defaced, Destroyed, Lost or Stolen Note) and (B) Notes for whose payment Money has theretofore irrevocably been deposited in trust and thereafter repaid to the Issuer or discharged from such trust, as provided in Section 7.3 (Money for Note Payments to be Held in Trust), have been delivered to the Trustee for cancellation; or

(ii) all Notes not theretofore delivered to the Trustee for cancellation (A) have become due and payable, (B) will become due and payable at their Stated Maturity within one year or (C) are to be called for redemption pursuant to Article 9 under an arrangement satisfactory to the Trustee for the giving of notice of redemption by the Applicable Issuers pursuant to Section 9.3 (Redemption Procedures), Section 9.6 (Clean-up Call Redemption) and the Issuer has irrevocably deposited or caused to be deposited with the Trustee, in trust for such purpose, Cash or non-callable direct obligations of the United States of America; provided, that the obligations are entitled to the full faith and credit of the United States of America or are debt obligations which are rated "Aaa" by Moody's and "AAA" by S&P, in an amount sufficient, as verified by a firm of Independent certified public accountants which are nationally recognized, to pay and discharge the entire indebtedness on such Notes not theretofore delivered to the Trustee for cancellation, for principal and interest to the date of such deposit (in the case of

Notes which have become due and payable), or to the respective Stated Maturity or the respective Redemption Date, as the case may be, and shall have Granted to the Trustee a valid perfected security interest in such Eligible Investment that is of first priority or free of any adverse claim, as applicable, and shall have furnished an Opinion of Counsel with respect thereto; provided, however, that this subsection (ii) shall not apply if an election to act in accordance with the provisions of Section 5.5(a) (Optional Preservation of Assets) shall have been made and not rescinded;

(b) the Issuer has paid or caused to be paid all other sums then due and payable hereunder (including any amounts then due and payable pursuant to the Hedge Agreements, the Collateral Administration Agreement and the Portfolio Management Agreement without regard to the Administrative Expense Cap) by the Issuer and no other amounts are scheduled to be due and payable by the Issuer; and

(c) the Co-Issuers have delivered to the Trustee Officers' certificates and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with;

provided, however, that in the case of clause (a)(ii) above, the Issuer has delivered to the Trustee an Opinion of Counsel of Independent U.S. tax counsel of nationally recognized standing in the United States experienced in such matters to the effect that the Holders of Secured Notes would recognize no income gain or loss for U.S. federal income tax purposes as a result of such deposit and satisfaction and discharge of this Indenture; provided, further, that, upon the final distribution of all proceeds of any liquidation of the Collateral Obligations, the Equity Securities and the Eligible Investments effected pursuant to Article 5, the requirements of clauses (a) and (b) above shall be deemed satisfied for the purposes of discharging this Indenture.

Notwithstanding the satisfaction and discharge of this Indenture, the rights and obligations of the Co-Issuers, the Trustee, the Portfolio Manager and, if applicable, the Holders, as the case may be, under Sections 2.8 (Payment of Principal and Interest and Other Amounts; Principal and Interest Rights Preserved), 4.2 (Application of Trust Money), 5.4(d) (Remedies), 5.9 (Unconditional Rights of Holders to Receive Principal and Interest), 5.18 (Action on the Notes), 6.6 (Money Held in Trust), 6.7(c) (Trustee Compensation and Reimbursement), 7.1 (Payment of Principal and Interest), 7.3 (Money for Note Payments to be Held in Trust), 13.1 (Subordination; Non-Petition), 14.13 (Confidential Information) and 14.14 (Liability of Co-Issuers) hereof shall survive.

Section 4.2. Application of Trust Money. All Monies deposited with the Trustee pursuant to Section 4.1 (Satisfaction and Discharge of Indenture) shall be held in trust and applied by it in accordance with the provisions of the Notes and this Indenture, including, without limitation, the Priority of Payments, to the payment of principal and interest (or other amounts with respect to the Subordinated Notes), either directly or through any Paying Agent, as the Trustee may determine; and such Money shall be held in a segregated account identified as being held in trust for the benefit of the Secured Parties.

Section 4.3. Repayment of Monies Held by Paying Agent. In connection with the satisfaction and discharge of this Indenture with respect to the Notes, all Monies then held by any Paying Agent other than the Trustee under the provisions of this Indenture shall, upon demand of the Co-Issuers, be paid to the Trustee to be held and applied pursuant to Section 7.3 (Money for Note Payments to be Held in Trust) hereof and in accordance with the Priority of Payments and thereupon such Paying Agent shall be released from all further liability with respect to such Monies.

ARTICLE 5

Remedies

Section 5.1. Events of Default. "Event of Default," wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) a default in the payment, when due and payable, of (i) any Class X Note Payment Amount or any interest on any Class X Note, Class A-1 Note, Class A-2 Note or Class B Note or, if there are no Class X Notes, Class A-1 Notes, Class A-2 Notes or Class B Notes Outstanding, any Class C Note or, if there are no Senior Notes or Class C Notes Outstanding, any Class D Note or, if there are no Co-Issued Notes Outstanding, any Class E Note or, if there are no Co-Issued Notes or Class E Notes Outstanding, any Class F Note, and the continuation of any such default for five Business Days or (ii) any principal, interest, or Deferred Interest on, or any Redemption Price in respect of, any Secured Note at its Stated Maturity or any Redemption Date; provided that, in each case, if such failure resulted solely from an administrative error or omission by the Trustee, the continuation of any such default for an additional five Business Days;

(b) unless legally required or permitted to withhold such amounts, the failure by the Issuer on any Payment Date to disburse amounts available in the Payment Account in accordance with the Priority of Payments (other than as provided in clause (a) above), which failure is incapable of remedy or, if capable of remedy, is not remedied within 30 days after notice of such failure has been given to the Issuer by the Trustee or to the Issuer, the Trustee and the Portfolio Manager by at least a Majority of the Controlling Class (or, if such failure can only be remedied on a Payment Date, is not remedied by the later of the 30 day period specified above and the next Payment Date); provided that, if such failure has not been remedied within the period specified above (or before the next Payment Date, as applicable) it shall not constitute an Event of Default if corrective action is instituted within such specified period (or before the next Payment Date, as applicable) and is diligently pursued until the failure has been remedied;

(c) either of the Co-Issuers or the Assets becomes an investment company required to be registered under the Investment Company Act;

(d) except as otherwise provided in this Section 5.1 (Events of Default), a default, in a material respect, in the performance, or breach, in a material respect, of any other material covenant or other agreement of the Issuer or the Co-Issuer in this Indenture (it being understood, without limiting the generality of the foregoing, that any failure to meet any Concentration Limitation, Collateral Quality Test or Coverage Test is not an Event of Default), or the failure of any material representation or warranty of the Issuer or the Co-Issuer made in this Indenture or in any certificate or other writing delivered pursuant hereto or in connection herewith to be correct in all material respects when the same shall have been made, and the continuation of such default, breach or failure for a period of 30 days after notice to the Applicable Issuers and the Portfolio Manager by registered or certified mail or overnight courier, by the Trustee, or to the Applicable Issuers, the Portfolio Manager and the Trustee by at least a Majority of the Controlling Class, specifying such default, breach or failure and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; provided, that if the Issuer or the Co-Issuer, as applicable (as notified to the Trustee by the Portfolio Manager in writing) has commenced curing such default, breach or failure during the 30 day period specified above, such default, breach or failure shall not constitute an Event of Default under this clause (d) unless it continues for a period of 45 days (rather than, and not in addition to, such 30 day period specified above) after notice to the Applicable Issuers and the Portfolio Manager by registered or certified mail or overnight courier;

(e) the entry of a decree or order by a court having competent jurisdiction adjudging the Issuer or the Co-Issuer as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Issuer or the Co-Issuer under the Bankruptcy Law or any other applicable law, or appointing a receiver, liquidator, assignee, or sequestrator (or other similar official) of the Issuer or the Co-Issuer or of any substantial part of its property, respectively, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of 60 consecutive days;

(f) the institution by the shareholders or members, as applicable, of the Issuer or the Co-Issuer of Proceedings to have the Issuer or Co-Issuer, as the case may be, adjudicated as bankrupt or insolvent, or the consent by the shareholders or members, as applicable, of the Issuer or the Co-Issuer to the institution of bankruptcy or insolvency Proceedings against the Issuer or Co-Issuer, or the filing by the Issuer or the Co-Issuer of a petition or answer or consent seeking reorganization or relief under the Bankruptcy Law or any other similar applicable law, or the consent by the Issuer or the Co-Issuer to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee or sequestrator (or other similar official) of the Issuer or the Co-Issuer or of any substantial part of its property, respectively, or the making by the Issuer or the Co-Issuer of an assignment for the benefit of creditors, or the taking of any action by the Issuer or the Co-Issuer in furtherance of any such action;

(g) on any Measurement Date prior to payment in full of the Class A Notes, failure of the percentage equivalent of a fraction, (i) the numerator of which is equal to (1) the Collateral Principal Amount *plus* (2) the aggregate Market Value of all Defaulted

Obligations on such date and (ii) the denominator of which is equal to the Aggregate Outstanding Amount of the Class A Notes, to equal or exceed 102.5%; or

(h) on any Measurement Date prior to payment in full of the Class A Notes, failure of the percentage equivalent of a fraction, (i) the numerator of which is equal to (1) the Collateral Principal Amount *plus* (2) the aggregate Market Value of all Defaulted Obligations on such date *minus* (3) the CCC/Caa Par Reduction Amount and (ii) the denominator of which is equal to the Aggregate Outstanding Amount of the Class A Notes, to equal or exceed 102.5%.

Upon obtaining knowledge of the occurrence of an Event of Default (in the case of the Trustee, subject to Section 6.1(d) (Certain Duties and Responsibilities of the Trustee) hereof), each of (i) the Co-Issuers, (ii) the Trustee and (iii) the Portfolio Manager shall notify each other of such Event of Default. Upon the occurrence of an Event of Default actually known to a Bank Officer of the Trustee, the Trustee shall promptly notify each Hedge Counterparty, the Noteholders (as their names appear on the Register), each Paying Agent, DTC, each of the Rating Agencies and the Irish Stock Exchange (for so long as any Class of Notes is listed on the Irish Stock Exchange and so long as the guidelines of such exchange so require) of such Event of Default in writing (unless such Event of Default has been waived as provided in Section 5.14 (Waiver of Past Defaults)).

Section 5.2. Acceleration of Maturity; Rescission and Annulment. (a) If an Event of Default occurs and is continuing (other than an Event of Default specified in Section 5.1(e), (f) or (h) (Events of Default)), the Trustee may, and shall, upon the written direction of at least a Majority of the Controlling Class, by notice to the Co-Issuers and each Rating Agency, declare the principal of all the Secured Notes to be immediately due and payable, and upon any such declaration such principal, together with all accrued and unpaid interest thereon, and other amounts payable hereunder, shall become immediately due and payable. If an Event of Default specified in Section 5.1(e) or (f) (Events of Default) occurs, all unpaid principal, together with all accrued and unpaid interest thereon, of all the Secured Notes, and other amounts payable hereunder, shall automatically become due and payable without any declaration or other act on the part of the Trustee or any Noteholder. If an Event of Default specified in Section 5.1(h) (Events of Default) occurs and is continuing, the Trustee may, and shall, upon the written direction of the Holders of at least a Majority of the Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes (voting separately by Class) by notice to the Co-Issuers and each Rating Agency, declare the principal of all the Secured Notes to be immediately due and payable, and upon any such declaration such principal, together with all accrued and unpaid interest thereon, and other amounts payable hereunder, shall become immediately due and payable.

(b) At any time after such a declaration of acceleration of maturity has been made and before a judgment or decree for payment of the Money due has been obtained by the Trustee as hereinafter provided in this Article 5, at least a Majority of the Controlling Class (or in the case of an acceleration as a result of an Event of Default specified in Section 5.1(h) (Events of Default), the Holders of at least a Majority of the Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes (voting separately by Class)) by written notice to the Issuer and the Trustee, may rescind and annul such declaration and its consequences if:

(i) The Issuer or the Co-Issuer has paid or deposited with the Trustee a sum sufficient to pay:

(A) all unpaid installments of interest and principal then due on the Secured Notes (other than as a result of such acceleration);

(B) to the extent that the payment of such interest is lawful, interest upon any Deferred Interest at the applicable Note Interest Rates; and

(C) all unpaid taxes and Administrative Expenses of the Co-Issuers and other sums paid or advanced by the Trustee hereunder and any other amounts then payable by the Co-Issuers hereunder prior to such Administrative Expenses; and

(ii) The Trustee has determined (based upon the information available to it) that all Events of Default, other than the nonpayment of the interest on or principal of the Secured Notes that have become due solely by such acceleration, have (A) been cured, and at least a Majority of the Controlling Class (or in the case of an acceleration as a result of an Event of Default specified in Section 5.1(h) (Events of Default), the Holders of at least a Majority of Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes (voting separately by Class)) by written notice to the Trustee has agreed with such determination (which agreement shall not be unreasonably withheld) or (B) been waived as provided in Section 5.14 (Waiver of Past Defaults).

No such rescission shall affect any subsequent Default or impair any right consequent thereon.

Section 5.3. Collection of Indebtedness and Suits for Enforcement by Trustee. The Applicable Issuers covenant that if a Default shall occur in respect of the payment of any principal of or interest when due and payable on any Secured Notes, the Applicable Issuers will, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holder of such Secured Note, the whole amount, if any, then due and payable on such Secured Note for principal and interest with interest upon the overdue principal and, to the extent that payments of such interest shall be legally enforceable, upon overdue installments of interest, at the applicable Note Interest Rate, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee and its agents and counsel.

If the Issuer or the Co-Issuer fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as agent for the Secured Parties, may, and shall upon written direction of at least a Majority of the Controlling Class, institute a Proceeding for the collection of the sums so due and unpaid, prosecute such Proceeding to judgment or final decree, and enforce the same against the Applicable Issuers or any other obligor upon the Secured Notes and collect the Monies adjudged or decreed to be payable in the manner provided by law out of the Assets.

If an Event of Default occurs and is continuing, the Trustee may in its discretion, and shall upon written direction of at least a Majority of the Controlling Class (and, if the action

of the Applicable Issuers pursuant to such written direction would have a material adverse effect on any Hedge Counterparty as determined by the Applicable Issuers, with the consent of such Hedge Counterparty), proceed to protect and enforce its rights and the rights of Holders of the Secured Notes by such appropriate Proceedings as the Trustee shall deem most effectual (if no such direction is received by the Trustee) or as the Trustee may be directed by at least a Majority of the Controlling Class, to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper remedy or legal or equitable right vested in the Trustee by this Indenture or by law.

In case there shall be pending Proceedings relative to the Issuer or the Co-Issuer or any other obligor upon the Secured Notes under the Bankruptcy Law or any other applicable bankruptcy, insolvency or other similar law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Issuer, the Co-Issuer or their respective property or such other obligor or its property, or in case of any other comparable Proceedings relative to the Issuer, the Co-Issuer or other obligor upon the Secured Notes, or the creditors or property of the Issuer, the Co-Issuer or such other obligor, the Trustee, regardless of whether the principal of any Secured Notes shall then be due and payable as therein expressed or by declaration or otherwise and regardless of whether the Trustee shall have made any demand pursuant to the provisions of this Section 5.3 (Collection of Indebtedness and Suits for Enforcement by Trustee), shall be entitled and empowered, by intervention in such Proceedings or otherwise:

(a) to file and prove a claim or claims for the whole amount of principal and interest owing and unpaid in respect of the Secured Notes upon direction by at least a Majority of the Controlling Class, and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee and each predecessor Trustee, and their respective agents, attorneys and counsel, and for reimbursement of all reasonable expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee, except as a result of negligence or willful misconduct) and of the Holders of the Secured Notes allowed in any Proceedings relative to the Issuer, the Co-Issuer or other obligor upon the Secured Notes or to the creditors or property of the Issuer, the Co-Issuer or such other obligor;

(b) unless prohibited by applicable law and regulations, to vote on behalf of the Holders of the Secured Notes, upon the direction of at least a Majority of the Controlling Class, in any election of a trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency Proceedings or person performing similar functions in comparable Proceedings; and

(c) to collect and receive any Monies or other property payable to or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Noteholders and of the Trustee on their behalf; and any trustee, receiver or liquidator, custodian or other similar official is hereby authorized by each of the Holders of the Secured Notes to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the Holders of the Secured Notes, to

pay to the Trustee such amounts as shall be sufficient to cover reasonable compensation to the Trustee, each predecessor Trustee and their respective agents, attorneys and counsel, and all other reasonable expenses and liabilities incurred, and all advances made, by the Trustee and each predecessor Trustee except as a result of negligence or willful misconduct.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Holder of the Secured Notes, any plan of reorganization, arrangement, adjustment or composition affecting the Secured Notes or any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder of the Secured Notes in any such Proceeding except, as aforesaid, to vote for the election of a trustee in bankruptcy or similar person.

In any Proceedings brought by the Trustee on behalf of the Holders of the Secured Notes (and any such Proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party), the Trustee shall be held to represent all the Holders of the Secured Notes.

Notwithstanding anything in this Section 5.3 (Collection of Indebtedness and Suits for Enforcement by Trustee) to the contrary, neither the Trustee nor any Holder may sell or liquidate the Assets or institute Proceedings in furtherance thereof pursuant to this Section 5.3 (Collection of Indebtedness and Suits for Enforcement by Trustee) except according to the provisions specified in Section 5.5(a) (Optional Preservation of Assets).

Section 5.4. Remedies. (a) If an Event of Default shall have occurred and be continuing, and the Secured Notes have been declared due and payable and such declaration and its consequences have not been rescinded and annulled, the Co-Issuers agree that the Trustee may, and shall, upon written direction of at least a Majority of the Controlling Class, to the extent permitted by applicable law, exercise one or more of the following rights, privileges and remedies:

(i) institute Proceedings for the collection of all amounts then payable on the Secured Notes or otherwise payable under this Indenture, whether by declaration or otherwise, enforce any judgment obtained, and collect from the Assets any Monies adjudged due;

(ii) sell or cause the sale of all or a portion of the Assets or rights or interests therein, at one or more public or private sales called and conducted in any manner permitted by law and in accordance with Section 5.17 (Sale of Assets) hereof;

(iii) institute Proceedings from time to time for the complete or partial foreclosure of this Indenture for the benefit of all Secured Parties with respect to the Assets;

(iv) exercise any remedies of a secured party under the UCC and take any other appropriate action to protect and enforce the rights and remedies of the Trustee and the Holders of the Secured Notes hereunder; and

(v) exercise any other rights and remedies that may be available at law or in equity;

provided, however, that the Trustee may not sell or liquidate the Assets or institute Proceedings in furtherance thereof pursuant to this Section 5.4 (Remedies) except according to the provisions specified in Section 5.5(a) (Optional Preservation of Assets).

The Trustee may, but need not, obtain (at the expense of the Co-Issuers) and rely upon an opinion of an Independent investment banking firm of national reputation with demonstrated capabilities in structuring and distributing securities similar to the Secured Notes, which may be either of the Placement Agents, as to the feasibility of any action proposed to be taken in accordance with this Section 5.4 (Remedies) and as to the sufficiency of the proceeds and other amounts receivable with respect to the Assets to make the required payments of principal of and interest on the Secured Notes, which opinion shall be conclusive evidence as to such feasibility or sufficiency.

(b) If an Event of Default as described in Section 5.1(d) (Events of Default) hereof shall have occurred and be continuing the Trustee may, and at the direction of the Holders of not less than 25% of the Aggregate Outstanding Amount of the Controlling Class shall, institute a Proceeding solely to compel performance of the covenant or agreement or to cure the representation or warranty, the breach of which gave rise to the Event of Default under such Section, and enforce any equitable decree or order arising from such Proceeding.

(c) Upon any sale, whether made under the power of sale hereby given or by virtue of judicial Proceedings, any Holder of Secured Notes may bid for and purchase the Assets or any part thereof and, upon compliance with the terms of sale, may hold, retain, possess or dispose of such property in its or their own absolute right without accountability; and any purchaser at any such sale may, in paying the purchase Money, deliver to the Trustee for cancellation any of the Class A Notes in lieu of Cash equal to the amount which shall, upon distribution of the net proceeds of such sale, be payable on the Class A Notes so delivered by such Holder (taking into account the Priority of Payments and Article 13). Said Notes, in case the amounts payable thereon shall be less than the amount due thereon, shall be returned to the Holders thereof after proper notation has been made thereon to show partial payment.

Upon any sale, whether made under the power of sale hereby given or by virtue of judicial Proceedings, the receipt of the Trustee, or of the Officer making a sale under judicial Proceedings, shall be a sufficient discharge to the purchaser or purchasers at any sale for its or their purchase Money, and such purchaser or purchasers shall not be obliged to see to the application thereof.

Any such sale, whether under any power of sale hereby given or by virtue of judicial Proceedings, shall bind the Co-Issuers, the Trustee and the Holders of the Secured Notes, shall operate to divest all right, title and interest whatsoever, either at law or in equity, of each of them in and to the property sold, and shall be a perpetual bar, both at law and in equity, against each of them and their successors and assigns, and against any and all Persons claiming through or under them.

(d) Notwithstanding any other provision of this Indenture, the Trustee may not, prior to the date which is one year plus one day (or if longer, any applicable preference period) after the payment in full of all Notes, institute against, or join any other Person in instituting against, the Issuer, the Co-Issuer or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation Proceedings, or other Proceedings under Cayman Islands, U.S. federal or State bankruptcy or similar laws. Nothing in this Section 5.4 (Remedies) shall preclude, or be deemed to stop, the Trustee (i) from taking any action prior to the expiration of the aforementioned period in (A) any case or Proceeding voluntarily filed or commenced by the Issuer, the Co-Issuer or any ETB Subsidiary or (B) any involuntary insolvency Proceeding filed or commenced by a Person other than the Trustee or (ii) from commencing against the Issuer, the Co-Issuer or any ETB Subsidiary or any of its properties any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation Proceeding.

Section 5.5. Optional Preservation of Assets. (a) Notwithstanding anything to the contrary herein, if an Event of Default shall have occurred and be continuing, the Trustee shall retain the Assets securing the Secured Notes intact, collect and cause the collection of the proceeds thereof and make and apply all payments and deposits and maintain all accounts in respect of the Assets and the Notes in accordance with the Priority of Payments and the provisions of Article 10 and Article 12 unless:

(i) the Trustee, in consultation with the Portfolio Manager (so long as no "cause" (as defined in the Portfolio Management Agreement) for the termination of the Portfolio Manager has occurred under the Portfolio Management Agreement) determines that the anticipated proceeds of a sale or liquidation of the Assets (after deducting the reasonable expenses of such sale or liquidation) would be sufficient to discharge in full the amounts then due (or, in the case of interest, accrued) and unpaid on the Secured Notes for principal and interest (including Deferred Interest), and all amounts payable prior to payment of principal on such Secured Notes (including amounts payable to any Hedge Counterparty upon liquidation of the Assets and all Administrative Expenses);

(ii) if an Event of Default described in Section 5.1(a), (d) or (g) has occurred and is continuing, the Holders of at least a Majority of the Controlling Class (without consent of any other Class of Notes) direct, subject to the provisions of this Indenture and in compliance with applicable law, such sale and liquidation; provided, that, this clause (ii) shall not apply in the case of an Event of Default described in Section 5.1(a) that arises solely from an acceleration of the Secured Notes due to an Event of Default in Section 5.1(b), (c), (e), (f) or (h);

(iii) if an Event of Default described in Section 5.1(b), (c), (e) or (f) has occurred and is continuing, the Holders of at least 66 2/3% of the Aggregate Outstanding Amount of each Class of Secured Notes (voting separately by Class) direct, subject to the provisions of this Indenture and in compliance with applicable law, such sale and liquidation of the Assets;

(iv) if an Event of Default described in Section 5.1(h) has occurred and is continuing, the Holders of at least a Majority of each Class of Secured Notes (voting

separately by Class) direct, subject to the provisions of this Indenture and in compliance with applicable law, such sale and liquidation of the Assets; or

(v) if an Event of Default described in Section 5.1(a), (b), (c), (d), (e), (f), (g) or (h) has occurred and is continuing and all of the Secured Notes has been repaid in full, the Holders of at least 66 2/3% of the Aggregate Outstanding Amount of the Subordinated Notes direct, subject to the provisions of this Indenture and in compliance with applicable law, such sale and liquidation.

The Trustee shall give written notice of the retention of the Assets to the Issuer with a copy to the Co-Issuer and the Portfolio Manager. So long as such Event of Default is continuing, any such retention pursuant to this Section 5.5(a) (Optional Preservation of Assets) may be rescinded at any time when the conditions specified in clause (i), (ii), (iii), (iv) or (v) exist.

(b) Nothing contained in Section 5.5(a) (Optional Preservation of Assets) shall be construed to require the Trustee to sell the Assets securing the Secured Notes if the conditions set forth in any of clauses (i) through (iv) of Section 5.5(a) (Optional Preservation of Assets) are not satisfied. Nothing contained in Section 5.5(a) (Optional Preservation of Assets) shall be construed to require the Trustee to preserve the Assets securing the Notes if prohibited by applicable law.

(c) In determining whether the condition specified in Section 5.5(a)(i) (Optional Preservation of Assets) exists, the Trustee shall obtain bid prices with respect to each security contained in the Assets from two nationally recognized dealers (as specified by the Portfolio Manager in writing) at the time making a market in such securities and shall compute the anticipated proceeds of sale or liquidation on the basis of the lower of such bid prices for each such security. For the purposes of making the determinations required pursuant to Section 5.5(a)(i) (Optional Preservation of Assets), the Trustee shall apply the standards set forth in Section 6.3(c)(i) or (ii) (Certain Rights of the Trustee). In addition, for the purposes of determining issues relating to the execution of a sale or liquidation of the Assets and the execution of a sale or other liquidation thereof in connection with a determination whether the condition specified in Section 5.5(a)(i) (Optional Preservation of Assets) exists, the Trustee may retain (at the Co-Issuers' expense) and rely on an opinion of an Independent investment banking firm of national reputation.

The Trustee shall deliver to the Noteholders, the Issuer and the Portfolio Manager a report stating the results of any determination required pursuant to Section 5.5(a)(i) (Optional Preservation of Assets) no later than 10 days after such determination is made. The Trustee shall make the determinations required by Section 5.5(a)(i) (Optional Preservation of Assets) at the request of at least a Majority of the Controlling Class at any time after the occurrence of an Event of Default during which the Trustee retains the Assets pursuant to Section 5.5(a)(i) (Optional Preservation of Assets); provided, that any such request made more frequently than once in any 90 day period shall be at the expense of such requesting party or parties.

Section 5.6. Trustee May Enforce Claims Without Possession of Notes. All rights of action and claims under this Indenture or under any of the Secured Notes may be

prosecuted and enforced by the Trustee without the possession of any of the Secured Notes or the production thereof in any trial or other Proceeding relating thereto, and any such action or Proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be applied as set forth in Section 5.7 (Application of Money Collected) hereof.

Section 5.7. Application of Money Collected. Any Money collected by the Trustee with respect to the Notes pursuant to this Article 5 and any Money that may then be held or thereafter received by the Trustee with respect to the Notes hereunder shall be applied in accordance with the provisions of Section 11.1 (Disbursements of Monies from Payment Account), at the date or dates fixed by the Trustee.

Section 5.8. Limitation on Suits. No Holder of any Note shall have any right to institute any Proceedings, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(a) such Holder has previously given to the Trustee written notice of an Event of Default;

(b) the Holders of not less than 25% of the then Aggregate Outstanding Amount of the Notes of the Controlling Class shall have made written request to the Trustee to institute Proceedings in respect of such Event of Default in its own name as Trustee hereunder and such Holder or Holders have offered to the Trustee indemnity reasonably satisfactory to it against the costs, expenses and liabilities to be incurred in compliance with such request;

(c) the Trustee for 30 days after its receipt of such notice, request and offer of indemnity has failed to institute any such Proceeding; and

(d) no direction inconsistent with such written request has been given to the Trustee during such 30 day period by at least a Majority of the Controlling Class; it being understood and intended that no one or more Holders of Notes shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other Holders of Notes of the same Class or to obtain or to seek to obtain priority or preference over any other Holders of the Notes of the same Class or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders of Notes of the same Class subject to and in accordance with the Priority of Payments.

In the event the Trustee shall receive conflicting or inconsistent requests and indemnity from two or more groups of Holders of the Controlling Class, each representing less than a Majority of the Controlling Class, the Trustee shall act at the direction of the group of Holders representing a greater percentage of the Controlling Class. If both groups represent the same percentage, the Trustee in its sole discretion may determine what action, if any, shall be taken, notwithstanding any other provisions of this Indenture. Notwithstanding anything to the contrary contained herein, Holders and beneficial owners of Notes may enforce the obligations

of other Holders and beneficial owners described in Section 13.1(d) (Subordination; Non-Petition).

Section 5.9. Unconditional Rights of Holders to Receive Principal and Interest. Subject to Section 2.8(i) (Payment of Principal and Interest and Other Amounts; Principal and Interest Rights Preserved), but notwithstanding any other provision in this Indenture, the Holders of any Secured Note shall have the right, which is absolute and unconditional, to receive payment of the principal of and interest on such Secured Note as such principal and interest become due and payable in accordance with the Priority of Payments and Section 13.1 (Subordination; Non-Petition), and, subject to the provisions of Section 5.8 (Limitation on Suits), to institute proceedings for the enforcement of any such payment, and such right shall not be impaired without the consent of such Holder. Holders of Secured Notes ranking junior to Notes still Outstanding shall have no right to institute proceedings for the enforcement of any such payment until such time as no Secured Note ranking senior to such Secured Note remains Outstanding, which right shall be subject to the provisions of Section 5.8 (Limitation on Suits), and shall not be impaired without the consent of any such Holder.

Section 5.10. Restoration of Rights and Remedies. If the Trustee or any Noteholder has instituted any Proceeding to enforce any right or remedy under this Indenture and such Proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or such Noteholder, then and in every such case the Co-Issuers, the Trustee or Noteholder shall, subject to any determination in such Proceeding, be restored severally and respectively to their former positions hereunder, and thereafter all rights and remedies of the Trustee and the Secured Parties shall continue as though no such Proceeding had been instituted.

Section 5.11. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Trustee or any Secured Party is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 5.12. Delay or Omission Not Waiver. No delay or omission of the Trustee or any Holder of Secured Notes to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein or of a subsequent Event of Default. Every right and remedy given by this Article 5 or by law to the Trustee or to the Holders of Secured Notes may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders of the Secured Notes, as the case may be.

Section 5.13. Control by Majority of Controlling Class. Notwithstanding any other provision of this Indenture, at least a Majority of the Controlling Class shall have the right following the occurrence, and during the continuance of, an Event of Default to cause the institution of and direct the time, method and place of conducting any Proceeding for any remedy available to the Trustee; provided, that:

(a) such direction shall not conflict with any rule of law or with any express provision of this Indenture;

(b) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction; provided, however, that subject to Section 6.1 (Certain Duties and Responsibilities of the Trustee), the Trustee need not take any action that it determines might involve it in liability (unless the Trustee has received the indemnity as set forth in (c) below);

(c) the Trustee shall have been provided with indemnity reasonably satisfactory to it; and

(d) notwithstanding the foregoing, any direction to the Trustee to undertake a Sale of the Assets shall be by the Holders of Notes secured thereby representing the requisite percentage of the Aggregate Outstanding Amount of Notes specified in Section 5.4 (Remedies) and/or 5.5 (Optional Preservation of Assets).

Section 5.14. Waiver of Past Defaults. Prior to the time a judgment or decree for payment of the Money due has been obtained by the Trustee, as provided in this Article 5, at least a Majority of the Controlling Class may on behalf of the Holders of all the Notes waive any past Default and its consequences, except a Default:

(a) in the payment of the principal of any Secured Note (which may be waived with the consent of each Holder of such Secured Note);

(b) in the payment of interest on the Notes of the Controlling Class (which may be waived with the consent of the Holders of 100% of the Controlling Class);

(c) in respect of a covenant or provision hereof that under Section 8.2 (Supplemental Indentures With Consent of Holders of Offered Securities) cannot be modified or amended without the waiver or consent of the Holder of each Outstanding Note adversely affected thereby (which may be waived with the consent of each such Holder); or

(d) in respect of a representation contained in Section 7.19 (Representations and Warranties Relating to Security Interests in the Assets) (which may be waived by at least a Majority of the Controlling Class if the S&P Rating Condition is satisfied).

In the case of any such waiver, the Co-Issuers, the Trustee and the Holders of the Notes shall be restored to their former positions and rights hereunder, respectively, but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereto. The Trustee shall promptly give written notice of any such waiver to S&P, Moody's, the Portfolio Manager and each Noteholder.

Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture, but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereto.

Section 5.15. Undertaking for Costs. All parties to this Indenture agree, and each Holder of any Note by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, or omitted by it as the Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 5.15 (Undertaking for Costs) shall not apply to any suit instituted by the Trustee, to any suit instituted by any Noteholder, or group of Noteholders, holding in the aggregate more than 10% in Aggregate Outstanding Amount of the Controlling Class, or to any suit instituted by any Noteholder for the enforcement of the payment of the principal of or interest on any Note on or after the applicable Stated Maturity (or, in the case of redemption, on or after the applicable Redemption Date). Such waiver shall not affect the rights of any Hedge Counterparty, which rights shall be governed by its respective Hedge Agreements.

Section 5.16. Waiver of Stay or Extension Laws. The Co-Issuers covenant (to the extent that they may lawfully do so) that they will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any valuation, appraisement, redemption or marshalling law or rights, in each case wherever enacted, now or at any time hereafter in force, which may affect the covenants, the performance of or any remedies under this Indenture; and the Co-Issuers (to the extent that they may lawfully do so) hereby expressly waive all benefit or advantage of any such law or rights, and covenant that they will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted or rights created.

Section 5.17. Sale of Assets. (a) The power to effect any sale (a "Sale") of any portion of the Assets pursuant to Sections 5.4 (Remedies) and 5.5 (Optional Preservation of Assets) shall not be exhausted by any one or more Sales as to any portion of such Assets remaining unsold, but shall continue unimpaired until the entire Assets shall have been sold or all amounts secured by the Assets shall have been paid. The Trustee may upon notice to the Noteholders and the Portfolio Manager, and shall, upon direction of at least a Majority of the Controlling Class, from time to time postpone any Sale by public announcement made at the time and place of such Sale. The Trustee hereby expressly waives its rights to any amount fixed by law as compensation for any Sale; provided, that the Trustee shall be authorized to deduct the reasonable costs, charges and expenses incurred by it in connection with such Sale from the proceeds thereof notwithstanding the provisions of Section 6.7 (Trustee Compensation and Reimbursement) hereof.

(b) The Trustee and the Portfolio Manager (and/or any of its Affiliates) may bid for and acquire any portion of the Assets in connection with a public Sale thereof, and the Trustee may pay all or part of the purchase price by crediting against amounts owing on the Secured Notes or other amounts secured by the Assets, all or part of the net proceeds of such Sale after deducting the reasonable costs, charges and expenses incurred by the Trustee in connection with such Sale notwithstanding the provisions of Section 6.7 (Trustee Compensation and Reimbursement) hereof. The Holder(s) of Subordinated Notes may bid for and acquire any

portion of the Assets in connection with a public or private Sale thereof. The Secured Notes need not be produced in order to complete any such Sale, or in order for the net proceeds of such Sale to be credited against amounts owing on the Notes. The Trustee may hold, lease, operate, manage or otherwise deal with any property so acquired in any manner permitted by law in accordance with this Indenture.

(c) If any portion of the Assets consists of securities issued without registration under the Securities Act ("Unregistered Securities"), the Trustee may seek an Opinion of Counsel.

(d) The Trustee shall execute and deliver an appropriate instrument of conveyance transferring its interest in any portion of the Assets in connection with a Sale thereof. In addition, the Trustee is hereby irrevocably appointed the agent and attorney in fact of the Issuer to transfer and convey its interest in any portion of the Assets in connection with a Sale thereof, and to take all action necessary to effect such Sale. No purchaser or transferee at such a sale shall be bound to ascertain the Trustee's authority, to inquire into the satisfaction of any conditions precedent or see to the application of any Monies.

Section 5.18. Action on the Notes. The Trustee's right to seek and recover judgment on the Notes or under this Indenture shall not be affected by the seeking or obtaining of or application for any other relief under or with respect to this Indenture. Neither the lien of this Indenture nor any rights or remedies of the Trustee or the Noteholders shall be impaired by the recovery of any judgment by the Trustee against the Issuer or by the levy of any execution under such judgment upon any portion of the Assets or upon any of the assets of the Issuer or the Co-Issuer.

ARTICLE 6

The Trustee

Section 6.1. Certain Duties and Responsibilities of the Trustee. (a) Except during the continuance of an Event of Default:

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; provided, however, that in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not, on their face, they substantially conform to the requirements of this Indenture and shall promptly in the case of an Officer's certificate furnished by the Portfolio Manager, notify the Portfolio Manager if such certificate or opinion does not conform.

(b) In case an Event of Default known to the Trustee has occurred and is continuing, the Trustee shall, prior to the receipt of directions, if any, from a Majority of the Controlling Class, exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this subsection shall not be construed to limit the effect of subsection (a) of this Section 6.1 (Certain Duties and Responsibilities of the Trustee);

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Bank Officer, unless it shall be proven that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Issuer or the Co-Issuer or the Portfolio Manager in accordance with this Indenture and/or a Majority (or such other percentage as may be required by the terms hereof) of the Controlling Class (or other Class if required or permitted by the terms hereof) relating to the time, method and place of conducting any Proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture;

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers contemplated hereunder, if it shall have reasonable grounds for believing that repayment of such funds or indemnity reasonably satisfactory to it against such risk or liability is not reasonably assured to it unless such risk or liability relates to incidental costs in connection with the performance of its ordinary services, under this Indenture; and

(v) in no event shall the Trustee be liable for special, punitive, indirect or consequential loss or damage (including lost profits) even if the Trustee has been advised of the likelihood of such damages and regardless of such action.

(d) For all purposes under this Indenture, the Trustee shall not be deemed to have notice or knowledge of any Event of Default described in Sections 5.1(c), (d), (e) or (f) (Events of Default) unless a Bank Officer assigned to and working in the Corporate Office has actual knowledge thereof or unless written notice of any event which is in fact such an Event of Default or Default is received by a Bank Officer at the Corporate Office, and such notice references the Notes generally, the Issuer, the Co-Issuer, the Assets or this Indenture. For purposes of determining the Trustee's responsibility and liability hereunder, whenever reference is made in this Indenture to such an Event of Default or a Default, such reference shall be construed to refer only to such an Event of Default or Default of which the Trustee is deemed to have notice as described in this Section 6.1 (Certain Duties and Responsibilities of the Trustee).

(e) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 6.1 (Certain Duties and Responsibilities of the Trustee) and Section 6.3 (Certain Rights of the Trustee).

Section 6.2. Representations and Warranties of the Bank. The Bank hereby represents and warrants as follows:

(a) Organization. The Bank has been duly organized and is validly existing as a national banking association under the laws of the United States and has the power to conduct its business and affairs as a trustee.

(b) Authorization; Binding Obligations. The Bank has the corporate power and authority to perform the duties and obligations of trustee under this Indenture. The Bank has taken all necessary corporate action to authorize the execution, delivery and performance of this Indenture, and all of the documents required to be executed by the Bank pursuant hereto. Upon execution and delivery by the Bank, this Indenture will constitute the legal, valid and binding obligation of the Bank enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights and remedies of creditors generally.

(c) Eligibility. The Bank is eligible under Section 6.8 (Corporate Trustee Required; Eligibility) hereof to serve as Trustee hereunder.

(d) No Conflict. Neither the execution, delivery and performance of this Indenture, nor the consummation of the transactions contemplated by this Indenture, (i) is prohibited by, or requires the Bank to obtain any consent, authorization, approval or registration under, any law, statute, rule, regulation, judgment, order, writ, injunction or decree that is binding upon the Bank or any of its properties or assets or (ii) will violate any provision of, result in any default or acceleration of any obligations under, result in the creation or imposition of any lien pursuant to, or require any consent under, any material agreement to which the Bank is a party.

(e) Other Capacities. To the extent that the Bank is acting as Registrar, Calculation Agent, Paying Agent, Authenticating Agent, Securities Intermediary or Custodian, the rights, privileges and indemnities set forth in this Article VI shall also apply to the Bank acting in each such capacity and shall be in addition to any other right, privilege and indemnities the Bank may have in such capacity.

Section 6.3. Certain Rights of the Trustee. Except as otherwise provided in Section 6.1 (Certain Duties and Responsibilities of the Trustee):

(a) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report (including, without limitation, an Accountants Report), notice, request, direction, consent, order, note or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request or direction of the Issuer or the Co-Issuer mentioned herein shall be sufficiently evidenced by an Issuer Request or Issuer Order, as the case may be;

(c) whenever in the administration of this Indenture the Trustee shall (i) deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, request and rely upon an Officer's certificate or (ii) be required to determine the value of any Assets or funds hereunder or the cash flows projected to be received therefrom, the Trustee may, in the absence of bad faith on its part, rely on reports of nationally recognized accountants, investment bankers or other persons qualified to provide the information required to make such determination, including nationally recognized dealers in securities of the type being valued and securities quotation services;

(d) as a condition to the taking or omitting of any action by it hereunder, the Trustee may consult with counsel and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in reliance thereon;

(e) the Trustee shall be under no obligation to exercise or to honor any of the rights or powers vested in it by this Indenture at the request or direction of any of the Noteholders pursuant to this Indenture, unless such Noteholders shall have offered to the Trustee security or indemnity reasonably satisfactory to it against the costs, expenses and liabilities which might reasonably be incurred by it in compliance with such request or direction;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report (including any Accountants' Report), notice, request, direction, consent, order, note or other paper or document, but the Trustee, in its discretion, may, and upon the written direction of at least a Majority of the Controlling Class shall, make such further inquiry or investigation into such facts or matters as it may see fit or as it shall be directed, and the Trustee shall be entitled, on reasonable prior notice to the Co-Issuers and the Portfolio Manager, to examine the books and records relating to the Notes and the Assets, personally or by agent or attorney, during the Co-Issuers' or the Portfolio Manager's normal business hours; provided, that the Trustee shall, and shall cause its agents to, hold in confidence all such information, except (i) to the extent disclosure may be required by law or by any regulatory or administrative authority and (ii) to the extent that the Trustee, in its sole judgment, may determine that such disclosure is consistent with its obligations hereunder;

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, nominees, custodians or attorneys; provided, that the Trustee shall not be responsible for any misconduct or negligence on the part of any non-Affiliated agent or non-Affiliated attorney appointed with due care by it hereunder;

(h) the Trustee shall not be liable for any action it takes or omits to take in good faith that it reasonably believes to be authorized or within its rights or powers hereunder;

(i) nothing herein shall be construed to impose an obligation on the part of the Trustee to recalculate, evaluate or verify any report, certificate or information received from the Issuer or Portfolio Manager (unless and except to the extent otherwise expressly set forth herein);

(j) to the extent any defined term hereunder, or any calculation required to be made or determined by the Trustee hereunder, is dependent upon or defined by reference to generally accepted accounting principles (as in effect in the United States) ("GAAP"), the Trustee shall be entitled to request and receive (and rely upon) instruction from the Issuer or the accountants identified in the Accountants' Report (and in the absence of its receipt of timely instruction therefrom, shall be entitled to obtain from an Independent accountant at the expense of the Issuer) as to the application of GAAP in such connection, in any instance;

(k) to the extent permitted by applicable law, the Trustee shall not be required to give any bond or surety in respect of the execution of this Indenture or otherwise;

(l) the Trustee shall not be deemed to have notice or knowledge of any matter unless a Bank Officer has actual knowledge thereof or unless written notice thereof is received by a Bank Officer at the Corporate Office and such notice references the Notes generally, the Issuer or this Indenture. Whenever reference is made in this Indenture to a Default or an Event of Default such reference shall, insofar as determining any liability on the part of the Trustee is concerned, be construed to refer only to a Default or an Event of Default of which the Trustee is deemed to have knowledge in accordance with this paragraph;

(m) the permissive right of the Trustee to take or refrain from taking any actions enumerated in this Indenture shall not be construed as a duty;

(n) the Trustee shall not be responsible for delays or failures in performance resulting from acts or circumstances beyond its control (such circumstances include but are not limited to acts of God, strikes, lockouts, riots, acts of war, loss or malfunctions of utilities, computer (hardware or software) or communications services);

(o) the Trustee shall have no liability for the acts or omissions of the Portfolio Manager, the Collateral Administrator, the Issuer or the Co-Issuer, any Paying Agent (other than the Trustee) or any Authenticating Agent (other than the Trustee) appointed under or pursuant to this Indenture;

(p) the Trustee or its Affiliates are permitted to receive additional compensation that could be deemed to be in the Trustee's economic self-interest for (i) serving as investment adviser, administrator, shareholder, servicing agent, custodian or sub-custodian with respect to certain of the Eligible Investments, (ii) using Affiliates to

effect transactions in certain Eligible Investments and (iii) effecting transactions in certain Eligible Investments;

(q) the Trustee is not responsible or liable for the preparation, filing, continuation or correctness of financing statements or the validity or perfection of any lien or security interest;

(r) in making or disposing of any investment permitted by this Indenture, the Trustee is authorized to deal with itself (in its individual capacity) or with any one or more of its Affiliates, whether it or such Affiliate is acting as a subagent of the Trustee or for any third person or dealing as principal for its own account. If otherwise qualified, obligations of the Bank or any of its Affiliates shall qualify as Eligible Investments hereunder;

(s) in order to comply with laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including those relating to the funding of terrorist activities and money laundering, the Trustee is required to obtain, verify and record certain information relating to individuals and entities which maintain a business relationship with the Trustee. Accordingly, each of the parties agrees to provide to the Trustee upon its request from time to time such party's complete name, address, tax identification number and such other identifying information together with copies of such party's constituting documentation, securities disclosure documentation and such other identifying documentation as may be available for such party; and

(t) Other Capacities. To the extent that the Trustee is acting as Registrar, Calculation Agent, Paying Agent, Authenticating Agent, Securities Intermediary, or Custodian, the rights, privileges and indemnities set forth in this Article VI shall also apply to the Trustee acting in each such capacity and shall be in addition to any other right, privilege and indemnities the Trustee may have in such capacity.

Section 6.4. Trustee Not Responsible for Recitals or Issuance of Notes. The recitals contained herein and in the Debt, other than the Certificate of Authentication thereon, shall be taken as the statements of the Applicable Issuers; and the Trustee assumes no responsibility for their correctness. The Trustee makes no representation as to the validity or sufficiency of this Indenture (except as may be made with respect to the validity of the Trustee's obligations hereunder), the Assets or the Notes. The Trustee shall not be accountable for the use or application by the Co-Issuers of the Notes or the proceeds thereof or any Money paid to the Co-Issuers pursuant to the provisions hereof.

Section 6.5. Trustee May Hold Notes. The Trustee, any Paying Agent, Registrar or any other agent of the Co-Issuers, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with the Co-Issuers or any of their Affiliates with the same rights it would have if it were not Trustee, Paying Agent, Registrar or such other agent.

Section 6.6. Money Held in Trust by the Trustee. Money held by the Trustee hereunder shall be held in trust to the extent required herein. The Trustee shall be under no liability for interest on any Money received or invested by it hereunder.

Section 6.7. Trustee Compensation and Reimbursement. (a) The Issuer agrees:

(i) to pay the Trustee on each Payment Date reasonable compensation for all services rendered by it hereunder as set forth in the fee letter dated June 19, 2012 (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(ii) to reimburse the Trustee in a timely manner upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including, without limitation, securities transaction charges and the reasonable compensation and expenses and disbursements of its agents and legal counsel and of any accounting firm or investment banking firm employed by the Trustee pursuant to any term of this Indenture, except any such expense, disbursement or advance as may be attributable to its negligence or willful misconduct) but with respect to securities transaction charges, only to the extent any such charges have not been waived during a Collection Period due to the Trustee's receipt of a payment from a financial institution with respect to certain Eligible Investments, as specified by the Portfolio Manager; and

(iii) to indemnify the Trustee and its Officers, directors, employees and agents for, and to hold them harmless against, any loss, liability or expense incurred without negligence or willful misconduct on their part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending themselves (including reasonable attorney's fees and costs) against any claim or liability in connection with the exercise or performance of any of their powers or duties hereunder and under any other transaction document.

(b) The Trustee shall receive amounts pursuant to this Section 6.7 (Trustee Compensation and Reimbursement) as provided in Sections 11.1(a)(i), (ii) and (iii) (Disbursements of Monies from Payment Account) but only to the extent that funds are available for the payment thereof. Subject to Section 6.9 (Resignation and Removal of the Trustee; Appointment of Successor), the Trustee shall continue to serve as Trustee under this Indenture notwithstanding the fact that the Trustee shall not have received amounts due it hereunder. No direction by the Noteholders or the Controlling Class shall affect the right of the Trustee to collect amounts owed to it under this Indenture. If on any date when a fee shall be payable to the Trustee pursuant to this Indenture insufficient funds are available for the payment thereof, any portion of a fee not so paid shall be deferred and payable on such later date on which a fee shall be payable and sufficient funds are available therefor.

(c) The Trustee hereby agrees not to cause the filing of a petition in bankruptcy for the non-payment to the Trustee of any amounts provided by this Section 6.7 (Trustee Compensation and Reimbursement) until at least one year and one day, or if longer the

applicable preference period then in effect, after the payment in full of all Notes issued under this Indenture.

(d) When the Trustee incurs expenses after the occurrence of a Default or an Event of Default under Sections 5.1(e) or (f) (Events of Default) the expenses are intended to constitute expenses of administration under the Bankruptcy Code or any other applicable federal or state bankruptcy, insolvency or similar law; provided that, without limiting the Trustee's rights under the Bankruptcy Code or any other applicable federal or state bankruptcy, insolvency or similar law, such expenses shall be subject to and payable only to the extent allowed under the Priority of Payments.

Section 6.8. Corporate Trustee Required; Eligibility. There shall at all times be a Trustee hereunder which shall be an Independent organization or entity organized and doing business under the laws of the United States of America or of any state thereof, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least $200,000,000, subject to supervision or examination by federal or state authority, having a rating of at least "Baa1" by Moody's and at least "BBB+" by S&P and having an office within the United States. If such organization or entity publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 6.8 (Corporate Trustee Required; Eligibility), the combined capital and surplus of such organization or entity shall be deemed to be its combined capital and surplus as set forth in its most recent published report of condition. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 6.8 (Corporate Trustee Required; Eligibility), it shall resign immediately in the manner and with the effect hereinafter specified in this Article 6.

Section 6.9. Resignation and Removal of the Trustee; Appointment of Successor Trustee. (a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article 6 shall become effective until the acceptance of appointment by the successor Trustee under Section 6.10 (Acceptance of Appointment by Successor Trustee).

(b) The Trustee may resign at any time by giving not less than 30 days written notice thereof to the Co-Issuers, the Portfolio Manager, the Holders of the Notes and each Rating Agency. Upon receiving such notice of resignation, the Co-Issuers shall promptly appoint a successor trustee or trustees satisfying the requirements of Section 6.8 (Corporate Trustee Required; Eligibility) by written instrument, in duplicate, executed by an Authorized Officer of the Issuer and an Authorized Officer of the Co-Issuer, one copy of which shall be delivered to the Trustee so resigning and one copy to the successor Trustee or Trustees, together with a copy to each Holder and the Portfolio Manager; provided, that such successor Trustee shall be appointed only upon the written consent of at least a Majority of the Controlling Class and the Portfolio Manager (such consent, in the case of the Portfolio Manager, not to be unreasonably withheld). If no successor Trustee shall have been appointed and an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee or any Holder, on behalf of himself and all others similarly situated, may petition any court of competent jurisdiction for the appointment of

a successor Trustee satisfying the requirements of Section 6.8 (Corporate Trustee Required; Eligibility).

(c) The Trustee may be removed at any time by written consent of the Portfolio Manager and Act of at least a Majority of the Controlling Class or, at any time when an Event of Default shall have occurred and be continuing by an Act of at least a Majority of the Controlling Class, delivered to the Trustee and to the Co-Issuers.

(d) If at any time:

(i) the Trustee shall cease to be eligible under Section 6.8 (Corporate Trustee Required; Eligibility) and shall fail to resign after written request therefor by the Co-Issuers or at least a Majority of the Controlling Class; or

(ii) the Trustee shall become incapable of acting or shall be adjudged as bankrupt or insolvent or a receiver or liquidator of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case (subject to Section 6.9(a) (Resignation and Removal of the Trustee; Appointment of Successor)), (A) the Co-Issuers, by Issuer Order, may remove the Trustee or (B) subject to Section 5.15 (Undertaking for Costs), any Holder may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(e) If the Trustee shall be removed or become incapable of acting, or if a vacancy shall occur in the office of the Trustee for any reason (other than resignation), the Co-Issuers, by Issuer Order, shall promptly appoint a successor Trustee. If the Co-Issuers shall fail to appoint a successor Trustee within 30 days after such removal or incapability or the occurrence of such vacancy, a successor Trustee may be appointed by at least a Majority of the Controlling Class by written instrument delivered to the Issuer and the retiring Trustee. The successor Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Trustee and supersede any successor Trustee proposed by the Co-Issuers. If no successor Trustee shall have been so appointed by the Co-Issuers or at least a Majority of the Controlling Class and shall have accepted appointment in the manner hereinafter provided, subject to Section 5.15 (Undertaking for Costs), the Trustee or any Holder may, on behalf of itself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(f) The Co-Issuers shall give prompt notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first class mail, postage prepaid, to the Portfolio Manager, to each Rating Agency and to the Holders of the Notes as their names and addresses appear in the Register. Each notice shall include the name of the successor Trustee and the address of its Corporate Office. If the Co-Issuers fail to mail such notice within ten days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be given at the expense of the Co-Issuers.

Section 6.10. Acceptance of Appointment by Successor Trustee. Every successor Trustee appointed hereunder shall meet the requirements of Section 6.8 (Corporate Trustee Required; Eligibility) and shall execute, acknowledge and deliver to the Co-Issuers and the retiring Trustee an instrument accepting such appointment. Upon delivery of the required instruments, the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts, duties and obligations of the retiring Trustee; but, on request of the Co-Issuers or at least a Majority of any Class of Secured Notes or the successor Trustee, such retiring Trustee shall, upon payment of its charges then unpaid, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee, and shall duly assign, transfer and deliver to such successor Trustee all property and Money held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Co-Issuers shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

Section 6.11. Merger, Conversion, Consolidation or Succession to Business of the Trustee. Any organization or entity into which the Trustee may be merged or converted or with which it may be consolidated, or any organization or entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any organization or entity succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such organization or entity shall be otherwise qualified and eligible under this Article 6, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any of the Notes has been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes.

Section 6.12. Co-Trustees. At any time or times, for the purpose of meeting the legal requirements of any jurisdiction in which any part of the Assets may at the time be located, the Co-Issuers and the Trustee shall have power to appoint one or more Persons to act as co-trustee (subject to the written approval of the Rating Agencies), jointly with the Trustee, of all or any part of the Assets, with the power to file proofs of claims and take such other actions pursuant to Section 5.6 (Trustee May Enforce Claims Without Possession of Notes) herein and to make such claims and enforce such rights of action on behalf of the Holders, as such Holders themselves may have the right to do, subject to the other provisions of this Section 6.12 (Co-Trustees).

The Co-Issuers shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint a co-trustee. If the Co-Issuers do not join in such appointment within 15 days after the receipt by them of a request to do so, the Trustee shall have the power to make such appointment.

Should any written instrument from the Co-Issuers be required by any co trustee so appointed, more fully confirming to such co-trustee such property, title, right or power, any and all such instruments shall, on request, be executed, acknowledged and delivered by the Co-Issuers. The Co-Issuers agree to pay (but only from and to the extent of the Assets), to the

extent funds are available therefor under Section 11.1(a)(i)(B) (Disbursements of Monies from Payment Account), for any reasonable fees and expenses in connection with such appointment.

Every co-trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms:

(a) the Notes shall be authenticated and delivered and all rights, powers, duties and obligations hereunder in respect of the custody of securities, Cash and other personal property held by, or required to be deposited or pledged with, the Trustee hereunder, shall be exercised solely by the Trustee;

(b) the rights, powers, duties and obligations hereby conferred or imposed upon the Trustee in respect of any property covered by the appointment of a co-trustee shall be conferred or imposed upon and exercised or performed by the Trustee or by the Trustee and such co-trustee jointly as shall be provided in the instrument appointing such co-trustee;

(c) the Trustee at any time, by an instrument in writing executed by it, with the concurrence of the Co-Issuers evidenced by an Issuer Order, may accept the resignation of or remove any co-trustee appointed under this Section 6.12 (Co-Trustees), and in case an Event of Default has occurred and is continuing, the Trustee shall have the power to accept the resignation of, or remove, any such co-trustee without the concurrence of the Co-Issuers. A successor to any co-trustee so resigned or removed may be appointed in the manner provided in this Section 6.12 (Co-Trustees);

(d) no co-trustee hereunder shall be personally liable by reason of any act or omission of the Trustee hereunder;

(e) the Trustee shall not be liable by reason of any act or omission of a co-trustee; and

(f) any Act of Holders delivered to the Trustee shall be deemed to have been delivered to each co-trustee.

Section 6.13. Withholding by the Trustee. If any withholding tax is imposed on the Issuer's payment (or allocations of income) under the Notes to any Holder, such tax shall reduce the amount otherwise distributable to such Holder. The Trustee is hereby authorized and directed to retain from amounts otherwise distributable to any Holder sufficient funds for the payment of any tax that is legally owed by the Issuer (but such authorization shall not prevent the Trustee from contesting any such tax in appropriate proceedings and withholding payment of such tax, if permitted by law, pending the outcome of such proceedings) or may be withheld because of a failure by a Holder to provide any information required under FATCA or as a result of such Holder's status as a Non-Compliant FFI and to timely remit such amounts to the appropriate taxing authority. The amount of any withholding tax imposed with respect to any Holder shall be treated as cash distributed to such Holder at the time it is withheld by the Trustee and remitted to the appropriate taxing authority. If there is a possibility that withholding tax is payable with respect to a distribution, the Trustee may in its sole discretion withhold such amounts in accordance with this Section 6.13 (Withholding). If any Holder wishes to apply for a

refund of any such withholding tax, the Trustee shall reasonably cooperate with such Holder in making such claim so long as such Holder agrees to reimburse the Trustee for any out-of-pocket expenses incurred. Nothing herein shall impose an obligation on the part of the Trustee to determine the amount of any tax or withholding obligation on the part of the Issuer or in respect of the Notes.

Section 6.14. Authenticating Agents. Upon the request of the Co-Issuers, the Trustee shall, and if the Trustee so chooses the Trustee may, appoint one or more Authenticating Agents with power to act on its behalf and subject to its direction in the authentication of Subordinated Notes in connection with issuance, transfers and exchanges under Sections 2.4 (Additional Notes), 2.5 (Execution, Authentication, Delivery and Dating), 2.6 (Registration, Registration of Transfer and Exchange), 2.7 (Mutilated, Defaced, Destroyed, Lost or Stolen Note) and 8.5 (Reference in Notes to Supplemental Indentures), as fully to all intents and purposes as though each such Authenticating Agent had been expressly authorized by such Sections to authenticate such Notes. For all purposes of this Indenture, the authentication of Notes by an Authenticating Agent pursuant to this Section 6.14 (Authenticating Agents) shall be deemed to be the authentication of Notes by the Trustee.

Any corporation into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate trust business of any Authenticating Agent, shall be the successor of such Authenticating Agent hereunder, without the execution or filing of any further act on the part of the parties hereto or such Authenticating Agent or such successor corporation.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee and the Issuer. The Trustee may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and the Co-Issuers. Upon receiving such notice of resignation or upon such a termination, the Trustee shall promptly appoint a successor Authenticating Agent and shall give written notice of such appointment to the Co-Issuers.

The Co-Issuers (or the Trustee if the Trustee shall have appointed the Authenticating Agent) agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services, and reimbursement for its reasonable expenses relating thereto, and the Trustee if it shall have paid such amounts shall be entitled to be reimbursed for such payments. The provisions of Sections 2.9 (Persons Deemed Owners), 6.4 (Not Responsible for Recitals or Issuance of Notes) and 6.5 (Trustee May Hold Notes) shall be applicable to any Authenticating Agent.

Section 6.15. Notice of Default by the Trustee. Promptly (and in no event later than five Business Days) after the occurrence of any Default actually known to a Bank Officer of the Trustee or after any declaration of acceleration has been made or delivered to the Trustee pursuant to Section 5.2 (Acceleration of Maturity; Rescission and Annulment), the Trustee shall provide to the Portfolio Manager, each Rating Agency, and all Noteholders, as their names and addresses appear on the Register, and the Irish Stock Exchange, for so long as any Class of Notes is listed on the Irish Stock Exchange and so long as the guidelines of such exchange so require,

notice of all Defaults hereunder known to the Trustee, unless such Default shall have been cured or waived.

Section 6.16. Certain Duties of the Trustee Related to Delayed Payment of Proceeds. In the event that in any month the Trustee shall not have received a payment with respect to any Pledged Obligation on its Due Date, (a) the Trustee shall promptly notify the Issuer and the Portfolio Manager in writing or electronically and (b) unless within three Business Days (or the end of the applicable grace period for such payment, if longer) after such notice such payment shall have been received by the Trustee, or the Issuer, in its absolute discretion (but only to the extent permitted by Section 10.2(a) (Collection Account)), shall have made provision for such payment satisfactory to the Trustee in accordance with Section 10.2(a) (Collection Account), the Trustee shall request the issuer of such Pledged Obligation, the Trustee under the related Underlying Instrument or paying agent designated by either of them, as the case may be, to make such payment as soon as practicable after such request but in no event later than three Business Days after the date of such request. In the event that such payment is not made within such time period, the Trustee, subject to the provisions of clause (iv) of Section 6.1(c) (Certain Duties and Responsibilities of the Trustee), shall take such action as the Portfolio Manager shall direct in writing. Any such action shall be without prejudice to any right to claim a Default or Event of Default under this Indenture. In the event that the Issuer or the Portfolio Manager requests a release of a Pledged Obligation and/or delivers an additional Collateral Obligation in connection with any such action under the Portfolio Management Agreement, such release and/or substitution shall be subject to Section 10.6 (Reinvestment of Funds in Accounts; Reports by Trustee) and Article 12 of this Indenture, as the case may be.

Section 6.17. Trustee Fiduciary for Secured Noteholders Only; Agent for each Hedge Counterparty and the Holders of the Subordinated Notes. With respect to the security interest created hereunder, the delivery of any item of Pledged Obligation to the Trustee is to the Trustee as representative of the Secured Noteholders and agent for each Hedge Counterparty and the Holders of the Subordinated Notes, in furtherance of the foregoing, the possession by the Trustee of any item of Pledged Obligation, the endorsement to or registration in the name of the Trustee of any item of Pledged Obligation (including, without limitation, as entitlement holder of the Custodial Account) are all undertaken by the Trustee in its capacity as representative of the Secured Noteholders and agent for each Hedge Counterparty and the Holders of the Subordinated Notes.

ARTICLE 7
Covenants

Section 7.1. Payment of Principal and Interest. The Applicable Issuers will duly and punctually pay the principal of and interest on the Secured Notes, in accordance with the terms of such Notes and this Indenture pursuant to the Priority of Payments. The Issuer will, to the extent legally permitted and to the extent funds are available pursuant to the Priority of Payments, duly and punctually pay all required distributions on the Subordinated Notes, in accordance with the Subordinated Notes and this Indenture.

The Issuer shall, subject to the Priority of Payments, reimburse the Co-Issuer for any amounts paid by the Co-Issuer pursuant to the terms of the Notes or this Indenture. The

Co-Issuer shall not reimburse the Issuer for any amounts paid by the Issuer pursuant to the terms of the Notes or this Indenture.

Amounts properly withheld under the Code or other applicable law by any Person from a payment to any Holder shall be considered as having been paid by the Applicable Issuers to such Holder for all purposes of this Indenture.

Section 7.2. Maintenance of Office or Agency. The Co-Issuers hereby appoint the Trustee as a Paying Agent for payments on the Notes. Notes may be surrendered for registration of transfer or exchange at the Corporate Office of the Trustee or its agent designated for purposes of surrender, transfer or exchange. As of the Closing Date, the Trustee designates the Corporate Office for such purpose, as the place where Notes may be surrendered for transfer and exchange. The Co-Issuers hereby appoint CT Corporation System, as agent upon whom process or demands may be served in any action arising out of or based on this Indenture or the transactions contemplated hereby.

The Co-Issuers may at any time and from time to time vary or terminate the appointment of any such agent or appoint any additional agents for any or all of such purposes; provided, however, that the Co-Issuers will maintain in the Borough of Manhattan, The City of New York, an office or agency where notices and demands to or upon the Co-Issuers in respect of such Notes and this Indenture may be served and, subject to any laws or regulations applicable thereto, an office or agency outside of the United States where Notes may be presented and surrendered for payment; and provided, further, that no paying agent shall be appointed in a jurisdiction which subjects payments on the Notes to withholding tax solely by reason of the location of the paying agent in such jurisdiction. The Co-Issuers hereby appoint, for so long as any Class of Notes is listed on the Irish Stock Exchange, McCann FitzGerald Listing Services Limited (the "Irish Listing Agent") as listing agent in Ireland with respect to the Notes. In the event that the Irish Listing Agent is replaced at any time during such period, notice of the appointment of any replacement will be published in the Companies Announcements Office of the Irish Stock Exchange as promptly as practicable after such appointment. The Co-Issuers shall at all times maintain a duplicate copy of the Register at the Corporate Office of the Trustee. The Co-Issuers shall give prompt written notice to the Trustee, each Rating Agency and the Holders of the appointment or termination of any such agent and of the location and any change in the location of any such office or agency.

If at any time the Co-Issuers shall fail to maintain any such required office or agency in the Borough of Manhattan, The City of New York, or outside the United States, or shall fail to furnish the Trustee with the address thereof, presentations and surrenders may be made (subject to the limitations described in the preceding paragraph) at and notices and demands may be served on the Co-Issuers, and Notes may be presented and surrendered for payment to the appropriate Paying Agent at its main office, and the Co-Issuers hereby appoint the same as their agent to receive such respective presentations, surrenders, notices and demands.

Section 7.3. Money for Note Payments to be Held in Trust. All payments of amounts due and payable with respect to any Notes that are to be made from amounts withdrawn from the Payment Account shall be made on behalf of the Applicable Issuers by the Trustee or a Paying Agent with respect to payments on the Notes.

When the Applicable Issuers shall have a Paying Agent that is not also the Registrar, they shall furnish, or cause the Registrar to furnish, no later than the fifth calendar day after each Record Date a list, if necessary, in such form as such Paying Agent may reasonably request, of the names and addresses of the Holders and of the certificate numbers of individual Notes held by each such Holder.

Whenever the Applicable Issuers shall have a Paying Agent other than the Trustee, they shall, on or before the Business Day next preceding each Payment Date or Redemption Date, as the case may be, direct the Trustee to deposit on such Payment Date with such Paying Agent, if necessary, an aggregate sum sufficient to pay the amounts then becoming due (to the extent funds are then available for such purpose in the Payment Account), such sum to be held in trust for the benefit of the Persons entitled thereto and (unless such Paying Agent is the Trustee) the Co-Issuers shall promptly notify the Trustee of its action or failure so to act. Any Monies deposited with a Paying Agent (other than the Trustee) in excess of an amount sufficient to pay the amounts then becoming due on the Notes with respect to which such deposit was made shall be paid over by such Paying Agent to the Trustee for application in accordance with Article 10.

The initial Paying Agent shall be as set forth in Section 7.2 (Maintenance of Office or Agency). Any additional or successor Paying Agents shall be appointed by Issuer Order with written notice thereof to the Trustee; provided, however, that so long as the Notes of any Class is rated by a Rating Agency, with respect to any additional or successor Paying Agent, either (i) such Paying Agent an Independent organization or entity organized and doing business under the laws of the United States of America or of any state thereof, having a combined capital and surplus of at least $200,000,000, subject to supervision or examination by federal or state authority, having a rating of at least "Baa1" by Moody's and at least "BBB+" by S&P and having an office within the United States or (ii) the Global Rating Agency Condition is satisfied. In the event that such successor Paying Agent ceases to have the required ratings specified above, the Co-Issuers shall promptly remove such Paying Agent and appoint a successor Paying Agent. The Co-Issuers shall not appoint any Paying Agent that is not, at the time of such appointment, a depository institution or trust company subject to supervision and examination by federal and/or state and/or national banking authorities. The Co-Issuers shall cause each Paying Agent other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee and if the Trustee acts as Paying Agent, it hereby so agrees), subject to the provisions of this Section 7.3 (Money for Note Payments to be Held in Trust), that such Paying Agent will:

(a) allocate all sums received for payment to the Holders of Notes for which it acts as Paying Agent on each Payment Date and any Redemption Date among such Holders in the proportion specified in the applicable report to the extent permitted by applicable law;

(b) hold all sums held by it for the payment of amounts due with respect to the Notes in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided and pay such sums to such Persons as herein provided;

(c) immediately resign as a Paying Agent and forthwith pay to the Trustee all sums held by it in trust for the payment of Notes if at any time it ceases to meet the standards set forth above required to be met by a Paying Agent at the time of its appointment;

(d) immediately give the Trustee notice of any default by the Issuer or the Co-Issuer (or any other obligor upon the Notes) in the making of any payment required to be made; and

(e) during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Co-Issuers may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Issuer Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Co-Issuers or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Co-Issuers or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such Money.

Except as otherwise required by applicable law, any Money deposited with the Trustee or any Paying Agent in trust for any payment on any Note and remaining unclaimed for two years after such amount has become due and payable shall be paid to the Applicable Issuers on Issuer Order; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Applicable Issuers for payment of such amounts and all liability of the Trustee or such Paying Agent with respect to such trust Money (but only to the extent of the amounts so paid to the Applicable Issuers) shall thereupon cease. The Trustee or such Paying Agent, before being required to make any such release of payment, may, but shall not be required to, adopt and employ, at the expense of the Applicable Issuers any reasonable means of notification of such release of payment, including, but not limited to, mailing notice of such release to Holders whose Notes have been called but have not been surrendered for redemption or whose right to or interest in Monies due and payable but not claimed is determinable from the records of any Paying Agent, at the last address of record of each such Holder.

Section 7.4. Existence of Co-Issuers. (a) The Issuer and the Co-Issuer shall, to the maximum extent permitted by applicable law, maintain in full force and effect their existence and rights as companies incorporated or organized under the laws of the Cayman Islands and the State of Delaware, respectively, and shall obtain and preserve their qualification to do business as foreign corporations in each jurisdiction in which such qualifications are or shall be necessary to protect the validity and enforceability of this Indenture, the Notes or any of the Assets; provided, however, that the Issuer shall be entitled to change its jurisdiction of incorporation from the Cayman Islands to any other jurisdiction reasonably selected by the Issuer so long as (i) the Issuer has received a legal opinion to the effect that such change is not disadvantageous in any material respect to the Holders, (ii) written notice of such change shall have been given by the Issuer to the Trustee (which shall provide notice to the Noteholders), the Portfolio Manager and each Rating Agency and (iii) on or prior to the 15th Business Day following receipt of such notice the Trustee shall not have received written notice from at least a

Majority of the Controlling Class objecting to such change; and provided, further, that the Issuer shall be entitled to take any action required by this Indenture within the United States notwithstanding any provision of this Indenture requiring the Issuer to take such action outside of the United States so long as prior to taking any such action the Issuer receives a legal opinion from nationally recognized legal counsel to the effect that it is not necessary to take such action outside of the United States or any political subdivision thereof in order to prevent the Issuer from becoming subject to U.S. federal, state or local income taxes on a net income basis or any material other taxes to which the Issuer would not otherwise be subject.

(b) The Issuer and the Co-Issuer shall (i) ensure that all corporate or other formalities regarding their respective existences (including, if required, holding regular board of directors' and shareholders' or members', or other similar, meetings) are followed, (ii) maintain their books and records separate from any other Person, (iii) maintain their accounts separate from those of any other Person, (iv) not commingle any of their assets with those of another Person, (v) maintain an arm's length relationship with their Affiliates, (vi) each maintain separate financial statements from those of any other Person, (vii) pay their liabilities out of their respective funds, (viii) each hold themselves out as a separate entity and (ix) take affirmative steps to correct any misunderstanding regarding their separate identity. Neither the Issuer nor the Co-Issuer shall take any action, or conduct its affairs in a manner, that is likely to result in its separate existence being ignored or in its assets and liabilities being substantively consolidated with any other Person in a bankruptcy, reorganization or other insolvency proceeding. Without limiting the foregoing, (i) the Issuer shall not have any subsidiaries (other than the Co-Issuer and any subsidiary that (x) meets the then-current general criteria of the Rating Agencies for bankruptcy remote entities and (y) is formed for the sole purpose of holding equity interests in "partnerships" (within the meaning of Section 7701(a)(2) of the Code), "grantor trusts" (within the meaning of the Code) or entities that are disregarded as separate from their owners for U.S. federal income tax purposes that are or may be engaged or deemed to be engaged in a trade or business in the United States (excluding, for the avoidance of doubt, any interest that is treated as a real property interest), in each case, promptly following the receipt thereof in a workout of a Defaulted Obligation or otherwise promptly after the acquisition thereof in connection with a workout of a Collateral Obligation (an "ETB Subsidiary")); (ii) the Co-Issuer shall not have any subsidiaries; and (iii) except to the extent contemplated in the Administration Agreement or the declaration of trust dated March 14, 2013, by Appleby Trust (Cayman) Ltd., the Issuer and the Co-Issuer shall not (A) have any employees (other than their respective directors), (B) except as contemplated by the Portfolio Management Agreement, the Memorandum and Articles or the Administration Agreement, engage in any transaction with any shareholder that would constitute a conflict of interest or (C) pay dividends other than in accordance with the terms of this Indenture and the Memorandum and Articles.

(c) The Issuer shall ensure that any ETB Subsidiary (i) is wholly owned by the Issuer, (ii) will not sell, transfer, exchange or otherwise dispose of, or pledge, mortgage, hypothecate or otherwise encumber (or permit such to occur or suffer such to exist), any part of its assets, except in compliance with the Issuer's rights and obligations under this Indenture and with such subsidiary's constituent documents, (iii) will not have any subsidiaries, (iv) will comply with the restrictions set forth in Section 7.8(a)(ix) and (x) (Negative Covenants), (v) will not incur or guarantee any indebtedness except indebtedness with respect to which the Issuer is the sole creditor and will not hold itself out as being liable of the debts of any other Person, (vi)

will include in its constituent documents a limitation on its business such that it may only engage in the acquisition of Equity Securities and the disposition of Equity Securities and the proceeds thereof to the Issuer (and activities ancillary thereto), (vii) will have at least one director that is Independent from the Portfolio Manager, (viii) will distribute (including by way of interest payment) 100% of the proceeds of the assets acquired by it (net of applicable taxes and expenses payable by such subsidiary) to the Issuer, (ix) will be treated as a corporation for U.S. federal income tax purposes and (x) will not acquire any real property or any ownership interest in real property. The Issuer shall provide prior notice to Moody's and S&P of the formation of any ETB Subsidiary and of the transfer of any Equity Security to an ETB Subsidiary.

Section 7.5. Protection of Assets. (a) The Portfolio Manager on behalf of the Issuer will cause the taking of such action within the Portfolio Manager's control as is reasonably necessary in order to maintain the perfection and priority of the security interest of the Trustee in the Assets. The Issuer shall from time to time execute and deliver all such supplements and amendments hereto and all such Financing Statements, continuation statements, instruments of further assurance and other instruments, and shall take such other action as may be necessary or advisable or desirable to secure the rights and remedies of the Holders of the Secured Notes hereunder and to:

(i) Grant more effectively all or any portion of the Assets;

(ii) maintain, preserve and perfect any Grant made or to be made by this Indenture including, without limitation, the first priority nature of the lien or carry out more effectively the purposes hereof;

(iii) perfect, publish notice of or protect the validity of any Grant made or to be made by this Indenture (including, without limitation, any and all actions necessary or desirable as a result of changes in law or regulations);

(iv) enforce any of the Pledged Obligations or other instruments or property included in the Assets;

(v) preserve and defend title to the Assets and the rights therein of the Trustee and the Holders of the Secured Notes against the claims of all Persons and parties; or

(vi) pay or cause to be paid any and all taxes levied or assessed upon all or any part of the Assets.

The Issuer hereby designates the Trustee as its agent and attorney in fact to prepare, execute and file any Financing Statement, continuation statement and all other instruments, and take all other actions, required pursuant to this Section 7.5 (Protection of Assets); provided that such designation shall not impose upon the Trustee any obligations under this Section 7.5 (Protection of Assets). The Issuer further authorizes the Trustee to file without the Issuer's signature a Financing Statement that names the Issuer as debtor and the Bank as secured party and that describes "all assets in which the debtor now or hereafter has rights" as the Assets in which the Trustee has a Grant.

(b) The Trustee shall not, except in accordance with Section 10.6 (Reinvestment of Funds in Accounts; Reports by Trustee) and Section 10.8 (Release of Securities) permit the removal of any portion of the Assets or transfer any such Assets from the Account to which it is credited, or cause or permit any change in the Delivery made pursuant to Section 3.3 (Custodianship; Delivery of Collateral Obligations and Eligible Investments) with respect to any Assets, if, after giving effect thereto, the jurisdiction governing the perfection of the Trustee's security interest in such Assets is different from the jurisdiction governing the perfection at the time of delivery of the most recent Opinion of Counsel pursuant to Section 7.6 (Opinions as to Assets) (or, if no Opinion of Counsel has yet been delivered pursuant to Section 7.6, the Opinion of Counsel delivered at the Closing Date pursuant to Section 3.1 (a)(iii)) (Conditions to Issuance of Notes on Closing Date) unless the Trustee shall have received an Opinion of Counsel to the effect that the lien and security interest created by this Indenture with respect to such property and the priority thereof will continue to be maintained after giving effect to such action or actions.

Section 7.6. Opinions as to Assets. On or before the 5th anniversary of the Closing Date and every 5th anniversary thereafter, the Issuer shall furnish to the Trustee, Moody's (so long as the Class X Notes, Class A-1 Notes or Class A-2 Notes are rated by Moody's) and S&P an Opinion of Counsel relating to the security interest granted by the Issuer to the Trustee , which opinion may be substantially in the form of Exhibit C attached hereto.

Section 7.7. Performance of Obligations. (a) The Co-Issuers, each as to itself, shall not take any action, and will use their best efforts not to permit any action to be taken by others, that would release any Person from any of such Person's covenants or obligations under any instrument included in the Assets, except in the case of enforcement action taken with respect to any Defaulted Obligation in accordance with the provisions hereof and actions by the Portfolio Manager under the Portfolio Management Agreement and in conformity with this Indenture or as otherwise required hereby.

(b) The Applicable Issuers may, with the prior written consent of at least a Majority of each Class of Secured Notes (except in the case of the Portfolio Management Agreement and the Collateral Administration Agreement, in which case no consent shall be required), contract with other Persons, including the Portfolio Manager, the Trustee and the Collateral Administrator for the performance of actions and obligations to be performed by the Applicable Issuers hereunder and under the Portfolio Management Agreement by such Persons. Notwithstanding any such arrangement, the Applicable Issuers shall remain primarily liable with respect thereto. In the event of such contract, the performance of such actions and obligations by such Persons shall be deemed to be performance of such actions and obligations by the Applicable Issuers; and the Applicable Issuers will punctually perform, and use their best efforts to cause the Portfolio Manager, the Trustee, the Collateral Administrator and such other Person to perform, all of their obligations and agreements contained in the Portfolio Management Agreement, this Indenture, the Collateral Administration Agreement or any such other agreement.

Section 7.8. Negative Covenants. (a) The Issuer will not and, with respect to clauses (ii), (iii), (iv), (vi), (vii), (viii), (ix) and (x) the Co-Issuer will not, in each case from and after the Closing Date:

(i) sell, transfer, exchange or otherwise dispose of, or pledge, mortgage, hypothecate or otherwise encumber (or permit such to occur or suffer such to exist), any part of the Assets, except as expressly permitted by this Indenture and the Portfolio Management Agreement;

(ii) claim any credit on, make any deduction from, or dispute the enforceability of payment of the principal or interest payable (or any other amount) in respect of the Notes (other than amounts withheld in accordance with the Code or in order to comply with FATCA or any applicable laws of the Cayman Islands or other applicable jurisdiction) or assert any claim against any present or future Holder of Notes, by reason of the payment of any taxes levied or assessed upon any part of the Assets;

(iii) (A) incur or assume or guarantee any indebtedness, other than the Notes and this Indenture and the transactions contemplated hereby (including, without limitation, as a result of a Refinancing) or (B)(1) issue any additional class of securities (except as provided in Section 2.4 (Additional Notes) and Article 8 (Supplemental Indentures) or (2) issue any additional shares, member interests or limited liability company interests, as the case may be;

(iv) (A) permit the validity or effectiveness of this Indenture or any Grant hereunder to be impaired, or permit the lien of this Indenture to be amended, hypothecated, subordinated, terminated or discharged, or permit any Person to be released from any covenants or obligations with respect to this Indenture or the Notes, except as may be permitted hereby or by the Portfolio Management Agreement, (B) except as permitted by this Indenture, permit any lien, charge, adverse claim, security interest, mortgage or other encumbrance (other than the lien of this Indenture) to be created on or extend to or otherwise arise upon or burden the Assets or any part thereof, any interest therein or the proceeds thereof or (C) except as permitted by this Indenture, take any action that would permit the lien of this Indenture not to constitute a valid first priority security interest in the Assets;

(v) amend the Portfolio Management Agreement except pursuant to the terms thereof and Article 15;

(vi) dissolve or liquidate in whole or in part, except as permitted hereunder or required by applicable law;

(vii) pay any distributions other than in accordance with the Priority of Payments;

(viii) permit the formation of any subsidiaries (other than the Co-Issuer and any ETB Subsidiary);

(ix) conduct business under any name other than its own;

(x) have any employees (other than directors to the extent they are employees);

(xi) sell, transfer, exchange or otherwise dispose of Assets, or enter into an agreement or commitment to do so or enter into or engage in any business with respect to any part of the Assets, except as expressly permitted by this Indenture or the Portfolio Management Agreement; and

(xii) at any time during or after the Reinvestment Period, execute, enter into, agree to or vote in favor of any amendment or modification extending or having the effect of extending the maturity of a Collateral Obligation if (x) (1) during the Reinvestment Period, either (A) the Weighted Average Life Test will not be satisfied immediately after giving effect to such amendment or modification or (B) if the Weighted Average Life Test was not be satisfied immediately prior to giving effect to such amendment or modification, the level of compliance with the Weighted Average Life Test will not be maintained or improved after giving effect to such amendment or modification or (2) after the Reinvestment Period, the Weighted Average Life Test will not be satisfied after giving effect to such amendment or modification (y) such amendment or modification would cause such Collateral Obligation to mature after the Stated Maturity of the Notes or (z) unless waived in writing by the Holders of at least a Majority of the Controlling Class, the then-current rating by Moody's of the Class A-1 Notes, the Class A-2A Notes or the Class A-2B Notes is below "Aa3".

(b) The Co-Issuer will not invest any of its assets in "securities" as such term is defined in the Investment Company Act, and will keep all of its assets in Cash.

(c) Notwithstanding anything to the contrary contained herein, the Issuer shall not, and shall use its best efforts to ensure that the Portfolio Manager acting on the Issuer's behalf does not, acquire any asset, conduct any activity or take any action if the acquisition or ownership of such asset, the conduct of such activity or the taking of such action, as the case may be, would cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis or income tax on a net income basis in any other jurisdiction. The requirements of this Section 7.8(c) (Negative Covenants) will be deemed to be satisfied if the requirements of Section 7.8(d) (Negative Covenants) below are satisfied.

(d) Notwithstanding anything to the contrary contained herein, the Issuer shall comply with all of the provisions set forth in Schedule 1 to the Portfolio Management Agreement, unless, with respect to a particular transaction, the Issuer, the Portfolio Manager and the Trustee shall have received an opinion or advice of White & Case LLP, Dechert LLP or other tax counsel of nationally recognized standing in the United States experienced in such matters to the effect that, under the relevant facts and circumstances with respect to such transaction, taking into account the Issuer's failure to comply with one or more of such provisions and assuming compliance with this Indenture and all other provisions in Schedule 1 to the Portfolio Management Agreement, the Issuer's contemplated activities will not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis. The provisions set forth in Schedule 1 to the Portfolio Management Agreement may be waived, amended, eliminated, modified or supplemented (without execution of a supplemental indenture) if the Issuer, the Portfolio Manager and the Trustee shall have received an opinion of White &

Case LLP, Dechert LLP or other tax counsel of nationally recognized standing in the United States experienced in such matters to the effect that, assuming compliance with this Indenture and taking into account the Issuer's compliance with such amended provisions or supplemental provisions or the Issuer's failure to comply with such provisions proposed to be waived, amended, eliminated, modified or supplemented, as the case may be, the Issuer's contemplated activities will not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis; provided, however, that written notice of any such amendment, elimination or supplementation of or to the provisions of Schedule 1 to the Portfolio Management Agreement pursuant to this clause (d) shall be provided to each Rating Agency then rating any Outstanding Class of Secured Notes within 60 days of any such amendment, elimination or supplementation. For the avoidance of doubt, in the event an opinion of White & Case LLP, Dechert LLP or other tax counsel as described above has been obtained in accordance with the terms hereof, no consent of any Noteholder or any other Person or satisfaction of any Global Rating Agency Condition shall be required in order to comply with this Section 7.8(d) (Negative Covenants) in connection with the failure to comply with or waiver, amendment, elimination, modification or supplementation of any provision of Schedule 1 to the Portfolio Management Agreement contemplated by such opinion of tax counsel. The Issuer shall only be liable (or otherwise held accountable pursuant to this Section 7.8(d)) for the failure to comply with the provisions set forth in Schedule 1 to the Portfolio Management Agreement to the extent that such non-compliance causes the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis.

(e) The Issuer, Co-Issuer and any ETB Subsidiary shall not be party to any agreements that provide for a future financial obligation on the part of the Issuer (including Hedge Agreements) without including customary "non-petition" and "limited recourse" provisions therein (and shall not amend or eliminate such provisions in any agreement to which it is party) without satisfaction of the Global Rating Agency Condition, except for (i) any agreements related to the purchase and sale of any Collateral Obligations or Eligible Investments which contain customary (as determined by the Portfolio Manager) purchase or sale terms or which are documented using customary (as determined by the Portfolio Manager) loan trading documentation and (ii) any IRS Agreement.

(f) The Issuer shall not acquire or hold any Collateral Obligation or Eligible Investment that is a debt obligation in bearer form unless the Collateral Obligation or Eligible Investment is not a "registration required obligation" under Section 163(f)(2)(A) of the Code.

Section 7.9. Statement as to Compliance. On or before March 14th in each calendar year commencing in 2014, or immediately if there has been a Default under this Indenture and prior to the issuance of any Additional Subordinated Notes pursuant to Section 2.4 (Additional Notes), the Issuer shall deliver to the Trustee (to be forwarded by the Trustee to each Noteholder making a written request therefor), the Portfolio Manager and each Rating Agency an Officer's certificate of the Issuer that, having made reasonable inquiries of the Portfolio Manager, and to the best of the knowledge, information and belief of the Issuer, there did not exist, as at a date not more than five days prior to the date of the certificate, nor had there existed at any time prior thereto since the date of the last certificate (if any), any Default hereunder or, if

such Default did then exist or had existed, specifying the same and the nature and status thereof, including actions undertaken to remedy the same, and that the Issuer has complied with all of its obligations under this Indenture or, if such is not the case, specifying those obligations with which it has not complied.

Section 7.10. Co-Issuers May Consolidate, etc., Only on Certain Terms. Neither the Issuer nor the Co-Issuer (the "Merging Entity") shall consolidate or merge with or into any other Person or transfer or convey all or substantially all of its assets to any Person, unless permitted by Cayman Islands law (in the case of the Issuer) or United States and Delaware law (in the case of the Co-Issuer) and unless:

(a) the Merging Entity shall be the surviving corporation, or the Person (if other than the Merging Entity) formed by such consolidation or into which the Merging Entity is merged or to which all or substantially all of the assets of the Merging Entity are transferred (the "Successor Entity") (A) if the Merging Entity is the Issuer, shall be a company organized and existing under the laws of the Cayman Islands or any other similar jurisdiction (e.g., having no entity-level tax) and (B) in any case shall expressly assume, by an indenture supplemental hereto, executed and delivered to the Trustee and each Holder, the due and punctual payment of the principal of and interest on all Secured Notes issued by the Merging Entity and the performance and observance of every covenant of this Indenture on its part to be performed or observed, all as provided herein;

(b) each Rating Agency shall have been notified in writing of such consolidation or merger and the Global Rating Agency Condition is satisfied with respect to the consummation of such transaction;

(c) if the Merging Entity is not the surviving corporation, the Successor Entity shall have agreed with the Trustee (i) to observe the same legal requirements for the recognition of such formed or surviving corporation as a legal entity separate and apart from any of its Affiliates as are applicable to the Merging Entity with respect to its Affiliates and (ii) not to consolidate or merge with or into any other Person or transfer or convey the Assets or all or substantially all of its assets to any other Person except in accordance with the provisions of this Section 7.10 (Co-Issuers May Consolidate, etc., Only on Certain Terms);

(d) if the Merging Entity is not the surviving corporation, the Successor Entity shall have delivered to the Trustee and each Rating Agency an Officer's certificate and an Opinion of Counsel each stating that such Person shall be duly organized, validly existing and in good standing in the jurisdiction in which such Person is organized; that such Person has sufficient power and authority to assume the obligations set forth in subsection (a) above and to execute and deliver an indenture supplemental hereto for the purpose of assuming such obligations; that such Person has duly authorized the execution, delivery and performance of an indenture supplemental hereto for the purpose of assuming such obligations and that such supplemental indenture is a valid, legal and binding obligation of such Person, enforceable in accordance with its terms, subject only to bankruptcy, reorganization, insolvency, moratorium and other laws affecting the enforcement of creditors' rights generally and to general principles of equity (regardless

of whether such enforceability is considered in a proceeding in equity or at law); if the Merging Entity is the Issuer, that, immediately following the event which causes such Successor Entity to become the successor to the Issuer, (i) such Successor Entity has title, free and clear of any lien, security interest or charge, other than the lien and security interest of this Indenture, to the Assets securing all of the Secured Notes and (ii) the Trustee continues to have a valid perfected first priority security interest in the Assets securing all of the Secured Notes; and in each case as to such other matters as the Trustee or any Noteholder may reasonably require;

(e) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing;

(f) the Merging Entity shall have notified each Rating Agency of such consolidation, merger, transfer or conveyance and shall have delivered to the Trustee and each Noteholder an Officer's certificate and an Opinion of Counsel each stating that such consolidation, merger, transfer or conveyance and such supplemental indenture comply with this Article 7 and that all conditions precedent in this Article 7 relating to such transaction have been complied with and that no adverse tax consequences will result therefrom to the Holders of the Notes (as compared to the tax consequences of not effecting the transaction);

(g) the Merging Entity shall have delivered to the Trustee an Opinion of Counsel stating that after giving effect to such transaction, neither of the Co-Issuers (or, if applicable, the Successor Entity) will be required to register as an investment company under the Investment Company Act; and

(h) after giving effect to such transaction, the outstanding stock (other than the Subordinated Notes) of the Merging Entity (or, if applicable, the Successor Entity) will not be beneficially owned within the meaning of the Investment Company Act by any U.S. Person.

Section 7.11. Successor Substituted. Upon any consolidation or merger, or transfer or conveyance of all or substantially all of the assets of the Issuer or the Co-Issuer, in accordance with Section 7.10 (Co-Issuers May Consolidate, etc., Only on Certain Terms) hereof in which the Merging Entity is not the surviving corporation, the Successor Entity shall succeed to, and be substituted for, and may exercise every right and power of, the Merging Entity under this Indenture with the same effect as if such Person had been named as the Issuer or the Co-Issuer, as the case may be, herein. In the event of any such consolidation, merger, transfer or conveyance, the Person named as the "Issuer" or the "Co-Issuer" in the first paragraph of this Indenture or any successor which shall theretofore have become such in the manner prescribed in this Article 7 may be dissolved, wound up and liquidated at any time thereafter, and such Person thereafter shall be released from its liabilities as obligor and maker on all the Notes and from its obligations under this Indenture.

Section 7.12. No Other Business. From and after the Closing Date, the Issuer shall not engage in any business or activity other than issuing and selling the Notes pursuant to this Indenture and acquiring, owning, holding, selling, lending, exchanging, redeeming,

pledging, contracting for the management of and otherwise dealing with Collateral Obligations and the other Assets in connection therewith (including, without limitation, establishing and maintaining any ETB Subsidiary) and entering into Hedge Agreements, the Collateral Administration Agreement, the Securities Account Control Agreement, the Portfolio Management Agreement and other agreements specifically contemplated by this Indenture and shall not engage in any activity that would cause the Issuer to be subject to U.S. federal or state income tax on a net income basis, and the Co-Issuer shall not engage in any business or activity other than issuing and selling the Notes to be issued by it pursuant to this Indenture and, with respect to the Issuer and the Co-Issuer, such other activities which are necessary, suitable or convenient to accomplish the foregoing or are incidental thereto or connected therewith or ancillary thereto. The Issuer and the Co-Issuer may amend, or permit the amendment of, their Memorandum and Articles and Certificate of Incorporation or By-laws, respectively, only if such amendment would satisfy the Global Rating Agency Condition; provided, that, without satisfying the Global Rating Agency Condition, the Issuer and Co-Issuer shall each change their names at the direction of the Portfolio Manager only if prior notice of such change is provided to each Hedge Counterparty and Moody's. Notwithstanding anything to the contrary in this Section 7.12 (No Other Business), the Issuer may take all actions necessary or advisable to comply with FATCA.

Section 7.13. Maintenance of Listing. To the extent such listing is not obtained on the Closing Date, the Issuer shall continue to use all reasonable efforts to obtain the listing of the Notes on the Irish Stock Exchange. Following such listing, so long as any Class of Notes remain Outstanding, the Co-Issuers shall use all reasonable efforts to maintain the listing of such Notes on the Irish Stock Exchange; provided, however, the Issuer will be permitted pursuant to a supplemental indenture under Section 8.1(xii) (Supplemental Indentures Without Consent of Holders of Offered Securities) to cause the Subordinated Notes (and any other Class of Notes that reasonably could be characterized as equity in the Issuer) to be de-listed from such exchange (and to not be listed on any other exchange) if the listing of such Class of Notes could reasonably be expected to cause the Issuer to be treated as a domestic corporation for U.S. federal income tax purposes.

Section 7.14. Annual Rating Review. (a) So long as any of the Secured Notes of any Class remain Outstanding, on or before March 14th in each year commencing in 2014, the Applicable Issuers shall obtain and pay for an annual review of the rating of each such Class of Secured Notes from each Rating Agency, as applicable. The Applicable Issuers shall promptly notify the Trustee and the Portfolio Manager in writing (and the Trustee shall promptly provide the Holders with a copy of such notice) if at any time the rating of any such Class of Secured Notes have been, or is known will be, changed or withdrawn.

(b) With respect to any Collateral Obligation which has a Moody's Rating derived as set forth in clause (i)(B) of the definition of the term "Moody's Rating," the Issuer shall obtain and pay for an annual review of each such Collateral Obligation. With respect to any Collateral Obligation which has a S&P Rating derived as set forth in clause (ii)(b) of the part of the definition of the term "S&P Rating," the Issuer shall obtain and pay for an annual review of each such Collateral Obligation.

Section 7.15. Reporting. At any time when the Co-Issuers are not subject to Section 13 or 15(d) of the Exchange Act and are not exempt from reporting pursuant to Rule 12g3-2(b) under the Exchange Act, upon the request of a Holder or beneficial owner of a Note, the Co-Issuers shall promptly furnish or cause to be furnished "Rule 144A Information" to such Holder or beneficial owner, to a prospective purchaser of such Note designated by such Holder, or to the Trustee for delivery to such Holder or beneficial owner or a prospective purchaser designated by such Holder or beneficial owner, as the case may be, in order to permit compliance by such Holder or beneficial owner of such Note with Rule 144A under the Securities Act in connection with the resale of such Note by such Holder or beneficial owner of such Note, respectively. "Rule 144A Information" shall be such information as is specified pursuant to Rule 144A(d)(4) under the Securities Act (or any successor provision thereto).

Section 7.16. Calculation Agent. (a) The Issuer hereby agrees that for so long as any Secured Notes remain Outstanding there will at all times be an agent appointed (which does not control or is not controlled or under common control with the Issuer or its Affiliates or the Portfolio Manager or its Affiliates) to calculate LIBOR in respect of each Interest Accrual Period in accordance with the terms of Exhibit G hereto (the "Calculation Agent"). The Issuer initially appoints the Trustee as Calculation Agent. The Calculation Agent may be removed by the Issuer or the Portfolio Manager, on behalf of the Issuer, at any time. If the Calculation Agent is unable or unwilling to act as such or is removed by the Issuer or the Portfolio Manager, on behalf of the Issuer, or if the Calculation Agent fails to determine any of the information required to be published in the Companies Announcements Office of the Irish Stock Exchange, as described in subsection (b), in respect of any Interest Accrual Period, the Issuer or the Portfolio Manager, on behalf of the Issuer, will promptly appoint a replacement Calculation Agent which does not control or is not controlled by or under common control with the Issuer or its Affiliates or the Portfolio Manager or its Affiliates. For so long as any Class of Notes is listed on the Irish Stock Exchange and the guidelines of such exchange so require, notice of the appointment of any replacement Calculation Agent shall be published in the Companies Announcements Office of the Irish Stock Exchange as promptly as practicable after such appointment. The Calculation Agent may not resign its duties without a successor having been duly appointed.

(b) The Calculation Agent shall be required to agree that, as soon as possible after 11:00 a.m. London time on each Interest Determination Date, but in no event later than 11:00 a.m. London time on the London Banking Day immediately following each Interest Determination Date, the Calculation Agent will calculate the Note Interest Rate for each Class of Secured Notes for the next Interest Accrual Period and the Note Interest Amount for each Class of Secured Notes (in each case, rounded to the nearest cent, with half a cent being rounded upward) for the next Interest Accrual Period, on the related Payment Date. At such time the Calculation Agent will communicate such rates and amounts to the Co-Issuers, the Trustee, each Paying Agent, the Portfolio Manager, Euroclear, Clearstream and, so long as any Class of Notes is listed thereon, the Companies Announcements Office of the Irish Stock Exchange by email to rates@ise.ie. In the latter case, such information will be published in the Companies Announcements Office of the Irish Stock Exchange as soon as possible after its determination. The Calculation Agent will also specify to the Co-Issuers the quotations upon which the foregoing rates and amounts are based, and in any event the Calculation Agent shall notify the Co-Issuers before 5:00 p.m. (London time) on every Interest Determination Date that either: (i) it has determined or is in the process of determining the Note Interest Rate and Note Interest

Amount for each Class of Secured Notes or (ii) it has not determined and is not in the process of determining any such Note Interest Rate or Note Interest Amount together with its reasons therefor. The Calculation Agent's determination of the foregoing rates and amounts for any Interest Accrual Period will (in the absence of manifest error) be final and binding upon all parties.

Section 7.17. Certain Tax Matters. (a) For U.S. federal income tax purposes, the Issuer shall treat the Secured Notes as debt of the Issuer and the Subordinated Notes as equity in the Issuer.

(b) The Issuer has not and shall not elect to be treated as a partnership for U.S. federal, state or local income or franchise tax purposes and shall make any election necessary to avoid classification as a partnership or disregarded entity for U.S. federal, state or local income or franchise tax purposes.

(c) The Issuer shall treat each purchase of Collateral Obligations as a "purchase" for tax accounting and reporting purposes.

(d) The Issuer and Co-Issuer shall file, or cause to be filed, any tax returns, including information tax returns, required by any governmental authority.

(e) The Issuer shall not file, or cause to be filed, any income or franchise tax return in the United States or any state thereof except with respect to any ETB Subsidiary or a return required by a tax imposed under Section 881 of the Code unless it shall have obtained an Opinion of Counsel prior to such filing that, under the laws of such jurisdiction, the Issuer is required to file such income or franchise tax return.

(f) If required to prevent the withholding and imposition of United States income tax on payments made to the Issuer, the Issuer shall deliver or cause to be delivered a U.S. Internal Revenue Service Form W-8BEN or applicable successor form certifying as to the non-U.S. Person status of the Issuer to each issuer or obligor of or counterparty with respect to an Asset at the time such Asset is purchased or entered into by the Issuer and thereafter prior to the obsolescence or expiration of such form.

(g) Upon the Trustee's receipt of a written request of a Holder of a Note or written request in the form of Exhibit I of a Person certifying that it is an owner of a beneficial interest in a Note for the information described in U.S. Treasury Regulations section 1.1275-3(b)(1)(i) that is applicable to such Note, the Issuer shall cause its Independent accountants to provide promptly to the Trustee and such requesting Holder or owner of a beneficial interest in such a Note all of such information.

(h) The Issuer shall use its reasonable commercial efforts to provide, or cause the Independent accountants to provide, within 180 days after the end of the Issuer's tax year, to each Holder of the Subordinated Notes (or any other Note that is required to be treated as equity for U.S. federal income tax purposes) and, upon written request therefor in the form of Exhibit I certifying that it is a holder of a beneficial interest in a Subordinated Note (or any other Note that is required to be treated as equity for U.S. federal income tax purposes), to such beneficial owner (or its designee), all information that a U.S. shareholder making a "qualified electing fund"

election (as defined in the Code) with respect to the Subordinated Note (or any other Note treated that is required to be as equity for U.S. federal income tax purposes) is required to obtain from the Issuer for U.S. federal income tax purposes, and a "PFIC Annual Information Statement" as described in U.S. Treasury Regulation Section 1.1295-1(g)(1) (or any successor Treasury Regulation), including all representations and statements required by such statement, and the Issuer will take or cause the accountants to take any other reasonable steps to facilitate such election by a Holder or beneficial owner of a Subordinated Note (or any other Note that is required to be treated as equity for U.S. federal income tax purposes).

(i) The Issuer will provide, or cause its Independent accountants to provide, to a Holder of a Subordinated Note (or any other Note that is required to be treated as equity for U.S. federal income tax purposes) upon written request and, upon written request therefor in the form of Exhibit I certifying that it is a holder of a beneficial interest in a Subordinated Note (or any other Note that is required to be treated as equity for U.S. federal income tax purposes), to such beneficial owner (or its designee), any information that such Holder or beneficial owner reasonably requests to assist such Holder or beneficial owner with regard to filing requirements that such Holder or beneficial owner is required to satisfy as a result of the controlled foreign corporation rules under the Code.

(j) Notwithstanding any contrary agreement or understanding, the Portfolio Manager, the Co-Issuers, the Trustee, the Collateral Administrator and the Holders and beneficial owners of the Notes (and each of their respective employees, representatives or other agents) may disclose to any and all Persons, without limitation of any kind, the tax treatment and tax structure of the transactions contemplated by this Indenture and all materials of any kind (including opinions or other tax analyses) that are provided to them relating to such tax treatment and tax structure. The foregoing provision shall apply from the beginning of discussions between the parties. For this purpose, the tax treatment of a transaction is the purported or claimed U.S. tax treatment of the transaction under applicable U.S. federal, state or local law, and the tax structure of a transaction is any fact that may be relevant to understanding the purported or claimed U.S. tax treatment of the transaction under applicable U.S. federal, state or local law.

(k) If the Issuer is aware that it has purchased an interest in a "reportable transaction" within the meaning of Section 6011 of the Code, and a Holder of a Subordinated Note (or any other Note that is required to be treated as equity for U.S. federal income tax purposes) requests in writing information about any such transactions in which the Issuer is an investor, the Issuer shall provide, or cause its Independent accountants to provide, such information it has reasonably available that is required to be obtained by such Holder under the Code as soon as practicable after such request.

Section 7.18. Ramp-up Period; Purchase of Additional Collateral Obligations. (a) The Issuer shall use its commercially reasonable efforts to satisfy the Target Initial Par Condition.

(b) During the Ramp-up Period, the Issuer shall use the following funds to purchase additional Collateral Obligations in the following order: (i) to pay for the principal portion of any Collateral Obligation, first, any amounts on deposit in the Ramp-up Account and

second, any Principal Proceeds on deposit in the Collection Account and (ii) to pay for accrued interest on any such Collateral Obligation, first, any amounts on deposit in the Ramp-up Account and second, any Principal Proceeds on deposit in the Collection Account. In addition, the Issuer shall use its commercially reasonable efforts to acquire such Collateral Obligations that will satisfy, as of the end of the Ramp-up Period, the Concentration Limitations, the Collateral Quality Test and each of the Overcollateralization Ratio Tests.

(c) Within 30 days after the end of the Ramp-up Period: (i) the Issuer shall cause the Collateral Administrator to compile and provide to each Rating Agency an Effective Date Report and, to S&P, the S&P Excel Default Model Input File, (ii) the Issuer shall provide to the Collateral Administrator (upon its execution of an acknowledgement letter satisfactory to such accountants) an Accountants' Report (A) setting forth the issuer, principal balance, coupon/spread, Stated Maturity, Moody's Default Probability Rating, Moody's Rating, S&P Rating and country of Domicile with respect to each Collateral Obligation as of the end of the Ramp-up Period and the information provided by the Issuer with respect to every other asset included in the Assets, by reference to such sources as shall be specified therein, (B) calculating as of the end of the Ramp-up Period (1) the Overcollateralization Ratio Tests, (2) the Concentration Limitations, (3) the Collateral Quality Test (excluding the S&P CDO Monitor Test), (4) the Effective Date Overcollateralization Test and (5) the Target Initial Par Condition (such items (1) through (5), the "Moody's Specified Tested Items"); and (C) specifying the procedures undertaken by them to review data and computations relating to the Accountants' Report and (iii) the Issuer shall request that S&P (such request shall be made to CDOEffectiveDatePortfolios@sandp.com) confirm that the S&P Effective Date Rating Condition is satisfied. If (x) the Issuer provides an Accountants' Report to the Collateral Administrator with the results of the Moody's Specified Tested Items, and the Collateral Administrator compares such results and based upon such comparison determines that such results are consistent with the results of the Moody's Specified Tested Items set forth in the Effective Date Report (for the avoidance of doubt, results that each indicate compliance with the Moody's Specified Tested Items will be considered consistent, even if the calculations are not identical), and (y) the Issuer causes the Collateral Administrator to provide to Moody's the Effective Date Report and the Effective Date Report confirms satisfaction of the Moody's Specified Tested Items, then a written confirmation from Moody's of its Initial Rating of the Class X Notes and the Class A Notes shall be deemed to have been provided.

(d) If, after the first Payment Date, the Effective Date Conditions have not been met, the Issuer may, in accordance with Section 10.2(f) (Collection Account), instruct the Trustee to (x) transfer amounts from the Interest Collection Subaccount to the Principal Collection Subaccount in an amount sufficient to satisfy the Effective Date Conditions (provided that the amount of such transfer would not result in the failure to pay interest due on any Senior Notes in accordance with the Priority of Payments) or (y) take such other action, including but not limited to a Special Redemption, sufficient to satisfy the Effective Date Conditions.

(e) The failure of the Issuer to satisfy the requirements of this Section 7.18 (Ramp-up Period; Purchase of Additional Collateral Obligations) will not constitute an Event of Default unless such failure constitutes an Event of Default under Section 5.1(d) (Events of Default) hereof and the Issuer, or the Portfolio Manager acting on behalf of the Issuer, has acted in bad faith. Of the proceeds of the issuance of the Notes which are not applied to pay for the

purchase of Collateral Obligations purchased by the Issuer on or before the Closing Date $502,631,025 shall be deposited in the Ramp-up Account on the Closing Date. At the direction of the Issuer (or the Portfolio Manager on behalf of the Issuer), the Trustee shall apply amounts held in the Ramp-up Account to purchase additional Collateral Obligations. If at the end of the Ramp-up Period, any amounts on deposit in the Ramp-up Account have not been applied to purchase Collateral Obligations, such amounts shall be applied as described in Section 10.3(c) (Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account).

(f) On and after the last day of the Ramp-up Period, the Portfolio Manager shall determine which "row/column combination" of which Minimum Diversity/Maximum Rating/Minimum Spread Matrix shall be applicable for purposes of determining compliance with the Moody's Diversity Test, the Maximum Moody's Rating Factor Test and the Minimum Floating Spread Test, and if such "row/column combination" and/or Minimum Diversity/Maximum Rating/Minimum Spread Matrix differs from the "row/column combination" and/or Minimum Diversity/Maximum Rating/Minimum Spread Matrix chosen to apply as of the Closing Date, the Portfolio Manager will so notify the Issuer, the Collateral Administrator and the Trustee. After the last day of the Ramp-up Period, at any time on written notice to the Issuer, the Trustee and the Collateral Administrator, the Portfolio Manager may elect a different "row/column combination" and/or Minimum Diversity/Maximum Rating/Minimum Spread Matrix to apply to the Collateral Obligations, provided that the Collateral Obligations comply with the Minimum Diversity/Maximum Rating/Minimum Spread Matrix and "row/column combination" to which the Portfolio Manager desires to change. If the Collateral Obligations cease to comply with the Minimum Diversity/Maximum Rating/Minimum Spread Matrix and "row/column combination" which the Portfolio Manager has elected to apply, the Portfolio Manager shall promptly select a Minimum Diversity/Maximum Rating/Minimum Spread Matrix and "row/column combination" with respect to which the Collateral Obligations comply (or which will not cause the Collateral Obligations to be further out of compliance with any Collateral Quality Test measured by reference to the Minimum Diversity/Maximum Rating/Minimum Spread Matrix). Notwithstanding the foregoing, the Portfolio Manager may elect at any time after the last day of the Ramp-up Period, in lieu of selecting a "row/column combination" of the Minimum Diversity/Maximum Rating/Minimum Spread Matrix, to interpolate between two adjacent rows and/or two adjacent columns, as applicable, on a straight-line basis and round the results to two decimal points.

Section 7.19. Representations Relating to Security Interests in the Assets. (a) The Issuer hereby represents and warrants that, as of the Closing Date (which representations and warranties shall survive the execution of this Indenture and be deemed to be repeated on each date on which an Asset is Granted to the Trustee hereunder), with respect to the Assets:

(i) The Issuer owns such Asset free and clear of any lien, claim or encumbrance of any person, other than such as are created under, or permitted by, this Indenture.

(ii) Other than the security interest Granted to the Trustee pursuant to this Indenture, except as permitted by this Indenture, the Issuer has not pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Assets. The Issuer

has not authorized the filing of and is not aware of any Financing Statements against the Issuer that include a description of collateral covering the Assets other than any Financing Statement relating to the security interest granted to the Trustee hereunder or that has been terminated; the Issuer is not aware of any judgment, PBGC liens or tax lien filings against the Issuer.

(iii) All Assets constitute Cash, accounts (as defined in Section 9-102(a)(2) of the UCC), Instruments, general intangibles (as defined in Section 9-102(a)(42) of the UCC), uncertificated securities (as defined in Section 8-102(a)(18) of the UCC), Certificated Securities or security entitlements to financial assets resulting from the crediting of financial assets to a "securities account" (as defined in Section 8-501(a) of the UCC).

(iv) All Accounts constitute "securities accounts" under Section 8-501(a) of the UCC.

(v) This Indenture creates a valid and continuing security interest (as defined in Section 1-201(37) of the UCC) in such Assets in favor of the Trustee, for the benefit and security of the Secured Parties, which security interest is prior to all other liens, claims and encumbrances (except as permitted otherwise in this Indenture), and is enforceable as such against creditors of and purchasers from the Issuer.

(b) The Issuer hereby represents and warrants that, as of the Closing Date (which representations and warranties shall survive the execution of this Indenture and be deemed to be repeated on each date on which an Asset is Granted to the Trustee hereunder), with respect to Assets that constitute Instruments:

(i) Either (x) the Issuer has caused or shall have caused, within ten days of the Closing Date, the filing of all appropriate Financing Statements in the proper office in the appropriate jurisdictions under applicable law in order to perfect the security interest in the Instruments granted to the Trustee, for the benefit and security of the Secured Parties, hereunder or (y)(A) all original executed copies of each promissory note or mortgage note that constitutes or evidences the Instruments have been delivered to the Trustee or the Issuer has received written acknowledgement from a custodian that such custodian is holding the mortgage notes or promissory notes that constitute evidence of the Instruments solely on behalf of the Trustee and for the benefit of the Secured Parties and (B) none of the Instruments that constitute or evidence the Assets has any marks or notations indicating that they have been pledged, assigned or otherwise conveyed to any Person other than the Trustee, for the benefit of the Secured Parties.

(ii) The Issuer has received all consents and approvals required by the terms of the Assets to the pledge hereunder to the Trustee of its interest and rights in the Assets.

(c) The Issuer hereby represents and warrants that, as of the Closing Date (which representations and warranties shall survive the execution of this Indenture and be deemed to be repeated on each date on which an Asset is Granted to the Trustee hereunder), with respect to the Assets that constitute Security Entitlements:

(i) All of such Assets have been and will have been credited to one of the Accounts which are securities accounts within the meaning of Section 8-501(a) of the UCC. The Custodian for each Account has agreed to treat all assets credited to such Accounts as "financial assets" within the meaning of Section 8-102(a)(9) the UCC.

(ii) The Issuer has received all consents and approvals required by the terms of the Assets to the pledge hereunder to the Trustee of its interest and rights in the Assets.

(iii) Either (x) the Issuer has caused or shall have caused, within ten days of the Closing Date, the filing of all appropriate Financing Statements in the proper office in the appropriate jurisdictions under applicable law in order to perfect the security interest granted to the Trustee, for the benefit and security of the Secured Parties, hereunder or (y)(A) the Issuer has delivered to the Trustee a fully executed Securities Account Control Agreement pursuant to which the Custodian has agreed to comply with all instructions originated by the Trustee relating to the Accounts without further consent by the Issuer or (B) the Issuer has taken all steps necessary to cause the Custodian to identify in its records the Trustee as the person having a security entitlement against the Custodian in each of the Accounts.

(iv) The Accounts are not in the name of any person other than the Issuer or the Trustee. The Issuer has not consented to the Custodian to comply with the entitlement order of any person other than the Trustee (and the Issuer prior to a notice of exclusive control being provided by the Trustee).

(d) The Issuer hereby represents and warrants that, as of the Closing Date (which representations and warranties shall survive the execution of this Indenture and be deemed to be repeated on each date on which an Asset is Granted to the Trustee hereunder), with respect to Assets that constitute general intangibles:

(i) The Issuer has caused or shall have caused, within ten days of the Closing Date, the filing of all appropriate Financing Statements in the proper filing office in the appropriate jurisdictions under applicable law in order to perfect the security interest in the Assets granted to the Trustee, for the benefit and security of the Secured Parties, hereunder.

(ii) The Issuer has received, or shall receive, all consents and approvals required by the terms of the Assets to the pledge hereunder to the Trustee of its interest and rights in the Assets.

(e) The Co-Issuers agree to notify the Rating Agencies promptly if they become aware of the breach of any of the representations and warranties contained in this Section 7.19.

Section 7.20. Pre-funded Letters of Credit. If the Issuer (or the Portfolio Manager on behalf of the Issuer) is notified by an administrative agent or other withholding agent for the syndicate of lenders or otherwise in respect of any Pre-funded Letter of Credit that the fees associated therewith are subject to withholding tax imposed by any jurisdiction, the Issuer shall permit the withholding of the full amount of withholding taxes due on such Pre-

funded Letter of Credit. Under such circumstances, Section 1.2(p) (Assumptions as to Pledged Obligations) shall apply.

Section 7.21. Objection to Bankruptcy Proceeding. So long as any of the Notes are Outstanding, the Issuer shall promptly object to the institution of any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other similar proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar law against it and take all necessary or advisable steps to cause the dismissal of any such proceeding; provided, that such obligation shall be subject to the availability of funds therefor.

ARTICLE 8

Supplemental Indentures

Section 8.1. Supplemental Indentures Without Consent of Holders of Offered Securities. Without the consent of the Holders of any Offered Securities, but with the written consent of the Portfolio Manager, the Co-Issuers, when authorized by Board Resolutions, at any time and from time to time subject to the requirement provided below in this Section 8.1 (Supplemental Indentures Without Consent of Holders of Offered Securities) with respect to the ratings of any Class of Secured Notes, may enter into one or more indentures supplemental hereto for any of the following purposes:

(i) to evidence the succession of another Person to the Issuer or the Co-Issuer and the assumption by any such successor Person of the covenants of the Issuer or the Co-Issuer herein and in the Notes;

(ii) to add to the covenants of the Co-Issuers or the Trustee for the benefit of the Secured Parties or to surrender any right or power herein conferred upon the Co-Issuers;

(iii) to convey, transfer, assign, mortgage or pledge any property to or with the Trustee or to add to the conditions, limitations or restrictions on the authorized amount, authentication and delivery of the Notes;

(iv) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee and to add to or change any of the provisions of this Indenture as shall be necessary to facilitate the administration of the trusts hereunder by more than one Trustee, pursuant to the requirements of Sections 6.9 (Resignation and Removal; Appointment of Successor), 6.10 (Acceptance of Appointment by Successor) and 6.12 (Co-Trustees) hereof;

(v) to correct or amplify the description of any property at any time subject to the lien of this Indenture, or to better assure, convey and confirm unto the Trustee any property subject or required to be subjected to the lien of this Indenture (including, without limitation, any and all actions necessary or desirable as a result of changes in law or regulations, whether pursuant to Section 7.5 (Protection of Assets) or otherwise) or to subject to the lien of this Indenture any additional property;

(vi) to modify the restrictions on and procedures for resales and other transfers of Notes to reflect any changes in applicable law or regulation (or the interpretation thereof) or to enable the Co-Issuers to rely upon any exemption from registration under the Securities Act or the Investment Company Act or to remove restrictions on resale and transfer to the extent not required thereunder;

(vii) at the direction of the Portfolio Manager, to change the name of the Issuer and the Co-Issuer, so long as prior notice of such change is provided to each Hedge Counterparty and Moody's;

(viii) to make such changes as shall be necessary or advisable in order for a Class of Notes to be listed on an exchange, including the Irish Stock Exchange;

(ix) subject to the approval of the Holders of at least a Majority of the Controlling Class (if such issuance of Additional Subordinated Notes occurs on or after the Effective Date) and the Portfolio Manager, to make such changes as shall be necessary to permit the Applicable Issuers to issue Additional Subordinated Notes of any one or more new classes, provided, that any such new classes of notes shall be subordinate in payment of principal and interest to all existing Classes of Secured Notes; provided, further, that no amendment to this Indenture that does not relate directly to the issuance of the Additional Subordinated Notes or the terms of such Additional Subordinated Notes may be effected under this clause (ix), but may be effected simultaneously under another clause of this Section 8.1 (Supplemental Indentures Without Consent of Holders of Offered Securities) or under Section 8.2 (Supplemental Indentures With Consent of Holders of Offered Securities), to the extent such other provision is available;

(x) to conform the provisions of this Indenture to the Offering Circular or, with the consent of the Holders of at least a Majority of the Controlling Class (such consent not to be unreasonably withheld, conditioned or delayed), to correct any inconsistency or cure any ambiguity, omission or errors in this Indenture;

(xi) with the consent of the Holders of at least a Majority of the Controlling Class, to accommodate, modify or amend existing and/or replacement Hedge Agreements;

(xii) to (x) take any action advisable to prevent the Co-Issuers, any ETB Subsidiary or the Trustee from becoming subject to withholding or other taxes (other than taxes with respect to the Issuer otherwise permitted under this Indenture and other than taxes imposed on amounts payable or paid to the Trustee as compensation), fees or assessments, to prevent the Co-Issuers from being treated as engaged in a U.S. trade or business or otherwise being subject to U.S. federal, state or local income tax on a net income basis, (y) take any action to allow the Co-Issuers to comply with FATCA or any rules or regulations promulgated thereunder (including providing for remedies against, or imposing penalties upon, any Noteholder who fails to deliver the Holder FATCA Information or is a Non-Compliant FFI) or (z) (A) issue a new Global Note or Global Notes in respect of, or issue one or more new sub-classes of, any Class of Notes to the

extent that the Issuer determines that one or more beneficial owners of Notes of such Class are Recalcitrant Holders or Non-Compliant FFIs; provided, that any sub-class of a Class of Notes issued pursuant to this clause (z) shall be issued on identical terms as the existing Notes of such Class and (B) provide for procedures under which beneficial owners of such Class that are not Recalcitrant Holders or Non-Compliant FFIs may take an interest in such new Global Note(s) or sub-class(es);

(xiii) with the consent of the Holders of at least a Majority of the Controlling Class, to evidence any waiver by any Rating Agency as to any requirement or condition, as applicable, of such Rating Agency set forth herein;

(xiv) with the consent of the Portfolio Manager and at least a Majority of the Controlling Class to modify the definitions of "Credit Improved Obligation," "Credit Risk Obligation," "Defaulted Obligation" or "Equity Security" or the restrictions on the sales of Collateral Obligations set forth in Section 12.1 (Sales of Collateral Obligations) in a manner not material and adverse to any Holders, subject to the notice and objection provisions set forth in the second succeeding paragraph;

(xv) to make changes necessary to issue replacement securities or undertake loans in connection with a Refinancing; provided, however, that no amendment to this Indenture that does not relate directly to the issuance of the replacement securities or loans or the terms of such replacement securities or loans may be effected under this clause (xv), but may be effected simultaneously under another clause of this Section 8.1 (Supplemental Indentures Without Consent of Holders of Offered Securities) or under Section 8.2 (Supplemental Indentures With Consent of Holders of Offered Securities), to the extent such other provision is available.

(xvi) to modify any provision to facilitate an exchange of one obligation for another obligation of the same Obligor that has substantially identical terms except transfer restrictions, including to effect any serial designation relating to the exchange;

(xvii) to modify or implement procedures necessary to comply with Rule 17g-5;

(xviii) to make such changes as shall be necessary or advisable in order for the Certificated Class E Notes and/or the Certificated Class F Notes to be held electronically through DTC or other clearing agencies in a manner similar to, and subject to the same procedures as, the Rule 144A Global Notes; or

(xix) to facilitate the issuance of combination notes with components consisting of existing Classes of Notes.

The Trustee shall join in the execution of any such supplemental indenture and to make any further appropriate agreements and stipulations which may be therein contained, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties, liabilities or immunities under this Indenture or otherwise, except to the extent required by law.

In the case of any supplemental indenture entered into pursuant to Section 8.1(xiv) (Supplemental Indentures Without Consent of Holders of Offered Securities), if the Holders of at least a Majority of the Notes of any other Class provide written notice to the Issuer and the Trustee that such Holders will be materially and adversely affected by any such proposed supplemental indenture (which notice shall (i) set forth the basis on which such Holder or Holders are materially and adversely affected thereby and (ii) provide evidence of such Holder's identity, including a guarantee by a member of a signature guarantee program of its signature with respect to such notice), the Co-Issuers and the Trustee shall not enter into such supplemental indenture (it being understood that any Holder that does not object to such proposed supplemental indenture in writing within 15 Business Days of delivery of such proposed supplemental indenture will be deemed to have consented to such proposed supplemental indenture). In addition, for so long as any Class of Notes is listed on the Irish Stock Exchange and the guidelines of such exchange shall so require, the Issuer shall notify the Irish Stock Exchange of any material modification of this Indenture.

Section 8.2. Supplemental Indentures With Consent of Holders of Offered Securities. (a) With the consent of (i) at least a Majority of each Class of Notes (voting separately by Class) materially and adversely affected thereby and (ii) without limiting clause (i) above, at least a Majority of the Controlling Class, if such supplemental indenture would modify the Weighted Average Life Test or extend the Reinvestment Period, the Trustee and the Co-Issuers may enter into a supplemental indenture to add any provisions to, or change in any manner or eliminate any of the provisions of, this Indenture or modify in any manner the rights of the Holders of the Secured Notes or the Holders of the Subordinated Notes, as applicable. Holders of the Combination Notes will vote with each Underlying Class, except in connection with any supplemental indenture that affects the Combination Notes in a materially adverse manner that is different from the effect of such supplemental indenture on the Notes of any Underlying Class, in which case they will vote only as a separate Class; provided, that, notwithstanding anything in this Indenture to the contrary, no such supplemental indenture shall, without the consent of each Holder of any Class materially and adversely affected thereby:

(i) change the Stated Maturity of the principal of any Class of Note or the due date of any installment of interest on any Secured Note, reduce the principal amount thereof or the rate of interest thereon or the Redemption Price with respect to any Offered Security, or change the earliest date on which Notes of any Class may be redeemed, change the provisions of this Indenture relating to the application of proceeds of any Assets to the payment of principal of or interest on Secured Notes or distributions on the Subordinated Notes or change any place where, or the coin or currency in which, Subordinated Notes or Secured Notes or the principal thereof or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the applicable Redemption Date); provided that, the consent of the Controlling Class shall not be required with respect to a supplemental indenture that reduces the rate of interest on a Class of Notes (unless such reduction is with respect to the Notes of the Controlling Class);

(ii) reduce the percentage of the Aggregate Outstanding Amount of Noteholders of each Class whose consent is required for the authorization of any such

supplemental indenture or for any waiver of compliance with certain provisions of this Indenture or certain defaults hereunder or their consequences provided for in this Indenture;

(iii) impair or adversely affect the Assets;

(iv) permit the creation of any lien ranking prior to or on a parity with the lien of this Indenture with respect to any part of the Assets or terminate such lien on any property at any time subject hereto or deprive the Holder of any Secured Note of the security afforded by the lien of this Indenture;

(v) reduce the percentage of the Aggregate Outstanding Amount of Noteholders, each Class of Secured Notes whose consent is required to request the Trustee to preserve the Assets or rescind the Trustee's election to preserve the Assets pursuant to Section 5.5 (Optional Preservation of Assets) or to sell or liquidate the Assets pursuant to Section 5.4 (Remedies) or 5.5 (Optional Preservation of Assets);

(vi) modify any of the provisions of this Article 8 (Supplemental Indentures), except to increase the percentage of Outstanding Secured Notes or Subordinated Notes the consent of the Holders of which is required for any such action or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Secured Note or Subordinated Note Outstanding and affected thereby;

(vii) modify the definition of the terms "Outstanding", "Controlling Class" or "Majority" or modify the Priority of Payments set forth in Section 11.1(a) (Disbursements of Monies from Payment Account) or the Note Payment Sequence;

(viii) modify any of the provisions of this Indenture in such a manner as to affect the calculation of the amount of any payment of the Redemption Price, interest or principal on any Secured Note, or any amount available for distribution to the Subordinated Notes or to affect the rights of the Holders of Secured Notes to the benefit of any provisions for the redemption of such Secured Notes contained herein; or

(ix) modify the provisions of this Indenture in such a manner as to affect the extent to which payments on the Underlying Class are made to the Holders of the Combination Notes or modifies the voting rights of Holders of the Combination Notes.

(b) Subject to Section 8.1, with the consent of the Holders of at least 66 2/3% of the Aggregate Outstanding Amount of the Subordinated Notes delivered to the Trustee and the Portfolio Manager, the Trustee and the Co-Issuers may enter into one or more indentures supplemental hereto to accommodate the issuance of Additional Subordinated Notes pursuant to Section 2.4 (Additional Notes).

(c) Not later than 20 Business Days prior to the execution of any proposed supplemental indenture pursuant to Sections 8.1 (Supplemental Indentures Without Consent of Holders of Offered Securities) and 8.2 (Supplemental Indentures With Consent of Holders of Offered Securities), the Trustee, at the expense of the Co-Issuers, shall deliver to the Noteholders

(and, upon receipt of a written request therefor in the form of Exhibit I certifying that it is a holder of a beneficial interest in a Note, any beneficial owner of a Note) and each Rating Agency (with respect to each Rating Agency, only for so long as any Outstanding Secured Notes are rated by such Rating Agency), a copy of such supplemental indenture. Unless otherwise notified in writing by at least a Majority of any Class of Notes that such Class would be materially and adversely affected by a supplemental indenture, the Trustee may conclusively rely upon an Opinion of Counsel (which may be supported as to factual (including financial and capital markets) matters by any relevant certificates (including certificates delivered by the Portfolio Manager) and/or documents) as to whether the interests of any Holder of Notes would be materially and adversely affected by any supplemental indenture or other modification or amendment of this Indenture. Except as set forth in the previous sentence, such determination shall be conclusive and binding on all present and future Holders. The Trustee shall not be liable for any such determination made in good faith and in reliance in good faith upon an Opinion of Counsel delivered to the Trustee as described in Section 8.3 (Execution of Supplemental Indentures) hereof. If such a determination cannot be made with respect to a Class or Classes of Notes, such Class or Classes of Notes will be treated as if they would be materially and adversely affected by such change.

(d) It shall not be necessary for any Act of Holders under this Section 8.2 (Supplemental Indentures With Consent of Holders of Offered Securities) to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act or consent shall approve the substance thereof.

(e) The Issuer shall not enter into any supplemental indenture which materially adversely affects any rights of any Hedge Counterparty under this Indenture without the prior written consent of such Hedge Counterparty.

(f) Promptly after the execution by the Co-Issuers and the Trustee of any supplemental indenture pursuant to Sections 8.1 (Supplemental Indentures Without Consent of Holders of Offered Securities) and 8.2 (Supplemental Indentures With Consent of Holders of Offered Securities), the Trustee at the expense of the Co-Issuers, shall deliver to the Noteholders (and, upon receipt of a written request therefor in the form of Exhibit I certifying that it is a holder of a beneficial interest in a Note, any beneficial owner of a Note), the Portfolio Manager and each Rating Agency a copy thereof. Any failure of the Trustee to deliver a copy of any supplemental indenture as provided herein, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

(g) With respect to any supplemental indenture that modifies or amends any component of the Minimum Diversity/Maximum Rating/Minimum Spread Matrix or the definitions related thereto, the following requirements must be satisfied prior to the execution of such supplemental indenture: (i) written consent to such supplemental indenture has been obtained from at least a Majority of the Controlling Class, such consent not to be unreasonably withheld, delayed or conditioned and (ii) the Moody's Rating Condition has been satisfied with respect to such supplemental indenture.

(h) Any supplemental indenture that amends or modifies the definitions of Concentration Limitations, Collateral Quality Tests, Collateral Obligations, Eligible Investments

or Investment Criteria shall be deemed to materially and adversely affect the rights and interests of the Holders of each Class of Notes for the purposes of this Article 8.

Section 8.3. Execution of Supplemental Indentures. In executing or accepting the additional trusts created by any supplemental indenture permitted by this Article 8 or the modifications thereby of the trusts created by this Indenture, the Trustee shall be entitled to receive, and (subject to Sections 6.1 (Certain Duties and Responsibilities of the Trustee), 6.3 (Certain Rights of Trustee) and Section 8.2(c) (Supplemental Indentures With Consent of Holders of Offered Securities) hereof) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Indenture and that all conditions precedent thereto have been satisfied. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise. The Portfolio Manager will be bound to follow any amendment or supplement to this Indenture of which it has received written notice from the time it has received a copy of such amendment from the Issuer or the Trustee; provided, however, that with respect to any amendment or supplement to this Indenture which would (i) increase the duties or liabilities of, or adversely change the economic consequences to the Portfolio Manager, (ii) modify the restrictions on the purchases or sales of Collateral Obligations described under Article 12 or the Investment Criteria, (iii) expand or restrict the Portfolio Manager's discretion or (iv) modify the restrictions on and procedures for resales and other transfers of Subordinated Notes, except as set forth in Section 8.1(vi) above, the Portfolio Manager shall not be bound thereby unless the Portfolio Manager shall have consented thereto in writing, such consent not to be unreasonably withheld or delayed. The Issuer shall promptly provide the Portfolio Manager with notice of any proposed supplemental indenture that would have the effect of modifying the restrictions on and procedures for resales and other transfers of Subordinated Notes (whether as set forth in Section 8.1(vi) above or otherwise). For so long as any Class of Notes is listed on the Irish Stock Exchange, the Issuer shall notify the Irish Stock Exchange of any material modification to this Indenture.

Section 8.4. Effect of Supplemental Indentures. Upon the execution of any supplemental indenture under this Article 8, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Notes theretofore and thereafter authenticated and delivered hereunder shall be bound thereby.

Section 8.5. Reference in Notes to Supplemental Indentures. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to this Article 8 may, and if required by the Issuer shall, bear a notice in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Applicable Issuers shall so determine, new Notes, so modified as to conform in the opinion of the Co-Issuers to any such supplemental indenture, may be prepared and executed by the Applicable Issuers and authenticated and delivered by the Trustee in exchange for Outstanding Notes.

ARTICLE 9

Redemption of Notes

Section 9.1. Mandatory Redemption. If a Coverage Test is not met on any Determination Date occurring subsequent to the Ramp-up Period (or, in the case of each Interest Coverage Test, at or subsequent to the Determination Date with respect to the second Payment Date), the Issuer shall apply available amounts in the Payment Account on the related Payment Date to make payments in accordance with the Note Payment Sequence to the extent necessary to achieve compliance with such Coverage Test, as applicable. The Combination Notes will be redeemed on any Payment Date in connection with a Mandatory Redemption to the extent that each Underlying Class is redeemed.

Section 9.2. Optional Redemption and Refinancing. The Secured Notes shall be redeemable by the Applicable Issuers, in whole, on any Business Day (x) after the end of the Non-Call Period and (y) during the Non-Call Period, only if a Tax Event has occurred. No Optional Redemption shall occur unless the Issuer has received written direction from Holders of at least (i) when no Tax Event has occurred or is ongoing, 66 2/3% of the Aggregate Outstanding Amount of the Subordinated Notes or (ii) when a Tax Event has occurred and is ongoing, 66 2/3% of the Aggregate Outstanding Amount of the Subordinated Notes or of the Aggregate Outstanding Amount of any Class of Secured Notes Affected by such Tax Event (provided that if the Tax Event that has occurred is with respect to any tax arising under or as a result of FATCA, then Holders that have not provided the Issuer (or an authorized agent acting on behalf of the Issuer) with the Holder FATCA Information (to the extent that the failure to provide the Holder FATCA Information was a cause of the tax arising under FATCA) shall not be considered in determining whether the Holders of at least 66 2/3% of the Aggregate Outstanding Amount of the applicable Class of Notes have directed a redemption of Secured Notes) provided to the Issuer, the Trustee and the Portfolio Manager not later than 30 days prior to the Business Day on which such redemption shall occur.

Upon receipt or delivery of a notice of redemption of the Secured Notes, the Portfolio Manager in its sole discretion will (except in the case of a Refinancing) direct the sale of all or part of the Collateral Obligations and other Assets in order that the proceeds from such sale and all other funds available for such purpose in the Collection Account and the Payment Account will be at least sufficient to pay the Redemption Price on all of the Secured Notes and to pay any applicable Management Fees, all Administrative Expenses (without limitation thereof by the Administrative Expense Cap) and other fees and expenses payable under the Priority of Payments (including, without limitation, any amounts due to the Hedge Counterparties), provided that, in the event that the Redemption Date is not a Payment Date, any applicable Management Fees, the Administrative Expenses and other fees and expenses payable pursuant to the Priority of Payments shall be calculated as of such Redemption Date. On the Redemption Date, proceeds available for an Optional Redemption will be applied to redeem the Secured Notes and pay other amounts and expenses in accordance with the Priority of Payments. If such sale, in the sole discretion of the Portfolio Manager, would not be sufficient to redeem all Secured Notes and to pay such applicable Management Fees, Administrative Expenses and other fees and expenses, the Secured Notes may not be redeemed. The Portfolio Manager, in its

discretion, may effect the sale of all or any part of the Collateral Obligations or other Assets through the sale of one or more participations in such Assets.

The Combination Notes shall be redeemed on any Redemption Date in connection with an Optional Redemption to the extent that each Underlying Class is redeemed by allocation of the Redemption Price of each Underlying Class. The Subordinated Notes may be redeemed, in whole but not in part, on any Business Day on or after the redemption or repayment of the Secured Notes, at the written direction of Holders of at least 66 2/3% of the Aggregate Outstanding Amount of the Subordinated Notes.

Any Class or Classes of Secured Notes may be redeemed in whole, but not in part, on any Business Day after the Non-Call Period from Refinancing Proceeds at the written direction of at least 66 2/3% of the Aggregate Outstanding Amount of the Subordinated Notes delivered to the Issuer and the Portfolio Manager (with a copy to the Trustee and the Rating Agencies). The Co-Issuers shall redeem such Class or Classes of Secured Notes on the applicable Redemption Date following receipt of such direction by obtaining a loan or an issuance of replacement securities, the terms of which loan or issuance will be negotiated by the Portfolio Manager on behalf of the Issuer, from one or more financial institutions or purchasers (a refinancing provided pursuant to such loan or issuance, a "Refinancing"). So long as the Combination Notes are Outstanding, the Underlying Classes may only be redeemed in connection with a Refinancing if all of the Underlying Classes will be redeemed on the same Redemption Date. The Combination Notes shall be redeemed on any Redemption Date in connection with a Refinancing to the extent that each Underlying Class is redeemed by allocation of the Redemption Price of each Underlying Class.

The Issuer shall not obtain a Refinancing of less than all Classes of Secured Notes unless the Portfolio Manager determines and certifies to the Trustee and the Issuer that: (i) the Global Rating Agency Condition has been satisfied with respect to any remaining Secured Notes that were not the subject of the Refinancing; (ii) the proceeds from the Refinancing (the "Refinancing Proceeds") (together with Interest Proceeds available in accordance with the Priority of Payments to pay the accrued interest portion of the applicable Redemption Price) will be at least sufficient to pay the Redemption Price of the Class or Classes of Secured Notes subject to Refinancing; (iii) the aggregate principal amount of any obligations providing the Refinancing is equal to the Aggregate Outstanding Amount of the Secured Notes being redeemed with the proceeds of such obligations plus an amount equal to the expenses in connection with such Refinancing (other than expenses to be paid by application of Section 11.1(a)(i)(W) (Disbursements of Monies from Payment Account); (iv) the stated maturity of the obligations providing the Refinancing is no earlier than the Stated Maturity of the Secured Notes being refinanced; (v) the Refinancing Proceeds will be used (to the extent necessary) to redeem the applicable Secured Notes; (vi) the agreements relating to the Refinancing contain limited-recourse and non-petition provisions equivalent to those applicable to the Secured Notes being redeemed, as set forth herein; (vii) the obligations providing the Refinancing are not senior in priority of payment, and do not have greater voting rights than, the Class of Secured Notes being redeemed; and (viii) the expenses in connection with the Refinancing have been paid or will be adequately provided for from (x) the proceeds of the Refinancing (except for expenses owed to persons that agree to be paid solely as Administrative Expenses payable in accordance with the

Priority of Payments) and/or (y) the application of Section 11.1(a)(i)(W) (Disbursements of Monies from Payment Account).

In addition to the foregoing restrictions, no replacement Class of Secured Notes shall be issued in connection with a Refinancing of less than all Classes of Secured Notes unless the Issuer causes to be delivered to the Trustee an Opinion of Counsel in form and substance satisfactory to the Trustee to the effect that the issuance of such Notes would not affect the U.S. Federal income tax treatment of the Secured Notes then Outstanding (including any resulting deemed exchange under Section 1001 of the Code).

In the case of a Refinancing upon a redemption of all Classes of Secured Notes, the Issuer shall not obtain such Refinancing unless (i) the Refinancing Proceeds and all other available funds will be at least sufficient to redeem simultaneously the Secured Notes, in whole but not in part, and to pay the other amounts included in the aggregate Redemption Price and all accrued and unpaid applicable Management Fees, Administrative Expenses (regardless of the Administrative Expense Cap), including the reasonable fees, costs, charges and expenses incurred by the Trustee and the Collateral Administrator (including reasonable attorneys' fees and expenses) in connection with such Refinancing, provided that, in the event that the Redemption Date is not a Payment Date, any applicable Management Fees, the Administrative Expenses and other fees and expenses payable pursuant to the Priority of Payments shall be calculated as of such Redemption Date, (ii) the Refinancing Proceeds and other available funds are used (to the extent necessary) to make such redemption and (iii) the agreements relating to the Refinancing contain limited recourse and non-petition provisions equivalent to those applicable to the Secured Notes being redeemed, as set forth herein.

Refinancing Proceeds shall not constitute Interest Proceeds or Principal Proceeds but will be applied directly on the related Redemption Date pursuant to this Indenture to redeem the Secured Notes being refinanced without regard to the Priority of Payments; provided, that to the extent that any Refinancing Proceeds are not applied to redeem the Secured Notes being refinanced or to pay expenses in connection with the Refinancing, such Refinancing Proceeds shall be treated as Principal Proceeds.

The Holders of the Notes shall not have any cause of action against any of the Co-Issuers, the Portfolio Manager or the Trustee for any failure to obtain a Refinancing. In the event that a Refinancing is obtained meeting the requirements specified above as certified by the Portfolio Manager, the Issuer and the Trustee shall amend this Indenture to the extent necessary to reflect the terms of the Refinancing and no further consent for such amendments shall be required from the Holders of Notes other than the consent of at least 66 2/3% of the Aggregate Outstanding Amount of the Subordinated Notes directing or consenting to the redemption.

In the event of any redemption pursuant to this Section 9.2 (Optional Redemption and Refinancing), the Issuer shall, at least 20 days prior to the Redemption Date (unless the Trustee shall agree to a shorter notice period), notify the Trustee in writing of such Redemption Date, the applicable Record Date, the principal amount of Notes to be redeemed on such Redemption Date and the applicable Redemption Price(s).

Section 9.3. Redemption Procedures. (a) In the event of any redemption pursuant to Section 9.2 (Optional Redemption and Refinancing), the written direction of the Holders of the Subordinated Notes set forth therein shall be provided to the Trustee, the Issuer and the Portfolio Manager not later than 30 days prior to the Business Day on which such redemption is to be made (which date shall be designated in such notice) and a notice of redemption shall be given by first class mail, postage prepaid, mailed not later than 10 Business Days prior to the applicable Redemption Date, to each applicable Holder of Notes, at such Holder's address in the Register and each Rating Agency. In addition, for so long as any Class of Notes is listed on the Irish Stock Exchange and so long as the guidelines of such exchange so require, notice of redemption pursuant to Section 9.2 (Optional Redemption and Refinancing) shall also be given to the Noteholders by publication in the Companies Announcements Office of the Irish Stock Exchange.

(b) All notices of redemption delivered pursuant to Section 9.3(a) (Redemption Procedures) shall state:

(i) the applicable Redemption Date;

(ii) the Redemption Price of the Notes to be redeemed;

(iii) that all of the Secured Notes are to be redeemed in full, in the case of an Optional Redemption, or listing the applicable Class of Notes that are to be redeemed, in the case of a Refinancing, and that interest on the Secured Notes shall cease to accrue on the Business Day specified in the notice;

(iv) the place or places where Notes are to be surrendered for payment of the Redemption Price, which shall be the office or agency of the Co-Issuers to be maintained as provided in Section 7.2 (Maintenance of Office or Agency); and

(v) whether the Subordinated Notes are to be redeemed in full on such Redemption Date and, if so, the place or places where the Subordinated Notes are to be surrendered for payment of the Redemption Price, which shall be the office or agency of the Co-Issuers to be maintained as provided in Section 7.2 (Maintenance of Office or Agency).

The Co-Issuers shall have the option to withdraw any such notice of redemption up to the Business Day immediately prior to the scheduled Redemption Date by written notice to the Trustee and the Portfolio Manager only if the Portfolio Manager shall be unable to deliver the sale agreement or agreements or certifications (described in Section 9.3(c) (Redemption Procedures)), in form satisfactory to the Trustee or is unable to effect the applicable Refinancing. If the Co-Issuers so withdraw any notice of redemption or is otherwise unable to complete any redemption of the Notes, the Sale Proceeds received from the sale of any Collateral Obligations and other Assets sold pursuant to Section 9.2 (Optional Redemption and Refinancing) may, during the Reinvestment Period at the Portfolio Manager's discretion, be reinvested in accordance with the Investment Criteria.

Notice of redemption shall be given by the Co-Issuers (so long as the Co-Issuers have received notice thereof) or, upon an Issuer Order, by the Trustee in the name and at the

expense of the Co-Issuers. Failure to give notice of redemption, or any defect therein, to any Holder of any Notes selected for redemption shall not impair or affect the validity of the redemption of any other Notes.

(c) In the event of any redemption pursuant to Section 9.2 (Optional Redemption and Refinancing), no Notes may be optionally redeemed (other than in connection with a Refinancing) unless (i) at least 10 Business Days before the scheduled Redemption Date the Portfolio Manager shall have furnished to the Trustee evidence, in form satisfactory to the Trustee, that the Portfolio Manager on behalf of the Issuer has entered into a binding agreement or agreements with a financial or other institution or institutions to sell to such institution, not later than the second Business Day preceding the scheduled Redemption Date in immediately available funds, all or part of the Collateral Obligations and/or the Hedge Agreements at a purchase price at least equal to an amount sufficient, together with the Eligible Investments maturing, redeemable (or putable to the issuer thereof at par) on or prior to the scheduled Redemption Date and any payments to be received in respect of the Hedge Agreements, to pay any applicable Management Fees, all Administrative Expenses and other fees and expenses payable in accordance with the Priority of Payments (without limitation thereof by the Administrative Expense Cap) prior to the payment of the principal of the Notes to be redeemed and redeem all of the Secured Notes on the scheduled Redemption Date at the applicable Redemption Price, provided that, in the event that the Redemption Date is not a Payment Date, any applicable Management Fees, the Administrative Expenses and other fees and expenses payable pursuant to the Priority of Payments shall be calculated as of such Redemption Date or (ii) prior to selling any Collateral Obligations and/or Eligible Investments, the Portfolio Manager shall certify to the Trustee that, in its judgment, the aggregate sum of (A) expected proceeds from Hedge Agreements and the sale of Eligible Investments and (B) the aggregate Market Value of all Collateral Obligations and other Assets shall exceed the sum of (x) the aggregate Redemption Prices of the Outstanding Secured Notes and (y) any applicable Management Fees, all Administrative Expenses and other fees and expenses payable under the Priority of Payments (without limitation thereof by the Administrative Expense Cap) prior to the redemption of the Notes, provided that, in the event that the Redemption Date is not a Payment Date, any applicable Management Fees, the Administrative Expenses and other fees and expenses payable pursuant to the Priority of Payments shall be calculated as of such Redemption Date. Any certification delivered pursuant to Section 9.3(c)(ii) (Redemption Procedures) shall include (1) the approximate prices of, and expected proceeds from, the sale of any Collateral Obligations, Eligible Investments and/or Hedge Agreements and (2) all calculations required by this Section 9.3(c) (Redemption Procedures). The Issuer shall deposit, or cause to be deposited, the funds required for an Optional Redemption in the Payment Account on or prior to the Redemption Date.

Section 9.4. Notes Payable on Redemption Date. (a) Notice of redemption pursuant to Section 9.3 (Redemption Procedures) having been given as aforesaid, the Notes to be redeemed shall, on the Redemption Date, subject to (i) Section 9.3(c) (Redemption Procedures) and (ii) the Co-Issuers' right to withdraw any notice of redemption pursuant to Section 9.3(b) (Redemption Procedures), become due and payable at the Redemption Price therein specified, and from and after the Redemption Date (unless the Issuer shall default in the payment of the Redemption Price and accrued interest) all such Secured Notes shall cease to bear interest on the Redemption Date. Upon final payment on a Note to be so redeemed, each Noteholder shall

present and surrender its Note at the place specified in the notice of redemption on or prior to such Redemption Date; provided, however, that if there is delivered to the Co-Issuers and the Trustee such security or indemnity as may be required by any of them to save such party harmless and an undertaking thereafter to surrender such Note, then, in the absence of notice to the Co-Issuers or the Trustee that the applicable Note has been acquired by a protected purchaser, such final payment shall be made without presentation or surrender. Payments of interest on Secured Notes so to be redeemed whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Secured Note, or one or more predecessor Notes, registered as such at the close of business on the relevant Record Date according to the terms and provisions of Section 2.8(e) (Payment of Principal and Interest and Other Amounts; Principal and Interest Rights Preserved).

(b) If any Secured Note called for redemption shall not be paid upon surrender thereof for redemption, the principal thereof shall, until paid, bear interest from the Redemption Date at the applicable Note Interest Rate for each successive Interest Accrual Period the Secured Note remains Outstanding; provided, that the reason for such non-payment is not the fault of such Noteholder.

Section 9.5. Special Redemption. The Secured Notes shall be subject to redemption in part on any Payment Date (A) during the Reinvestment Period, if the Portfolio Manager at its discretion notifies the Trustee that it has been unable, for a period of 20 consecutive Business Days, to identify additional Collateral Obligations that are deemed appropriate by the Portfolio Manager in its sole discretion and would meet the Investment Criteria in sufficient amounts to permit the investment or reinvestment of all or a portion of the funds then in the Collection Account that are to be invested in additional Collateral Obligations or (B) after the Ramp-up Period, if the Portfolio Manager notifies the Trustee that a redemption is required pursuant to Section 7.18(d) (Ramp-up Period; Purchase of Additional Collateral Obligations) (in each case, a "Special Redemption"). On the first Payment Date following the Collection Period in which such notice is given (and, in the case of clause (B) above, any subsequent Payment Date) (a "Special Redemption Date"), the amount in the Principal Collection Subaccount representing Principal Proceeds which (1) the Portfolio Manager has determined cannot be reinvested in additional Collateral Obligations or (2) must be applied to redeem the Secured Notes in accordance with Section 7.18(d) (Ramp-up Period; Purchase of Additional Collateral Obligations) (such amount, a "Special Redemption Amount"), as the case may be, will be available to be applied in accordance with the Priority of Payments under Section 11.1(a)(ii) (Disbursements of Monies from Payment Account). Notice of payments pursuant to this Section 9.5 (Special Redemption) shall be given by the Trustee first class mail, postage prepaid, mailed not less than three Business Days prior to the applicable Special Redemption Date to each Holder of Notes affected thereby at such Holder's address in the Register and to both Rating Agencies. Failure to give any such notice, or any defect therein, to any Holder selected for redemption shall not impair or affect the validity of the redemption or any other Notes. In addition, for so long as any Class of Notes is listed on the Irish Stock Exchange and so long as the guidelines of such exchange so require, notice of Special Redemption shall also be given by publication at the Companies Announcements Office of the Irish Stock Exchange. The Issuer shall deposit, or cause to be deposited, the funds required for a Special Redemption in the Payment Account on or prior to the Special Redemption Date. The

Combination Notes will be redeemed on any Payment Date in connection with a Special Redemption to the extent that each Underlying Class is redeemed.

Section 9.6. Clean-up Call Redemption. (a) The Notes are redeemable at the option of the Applicable Issuer(s) acting at the direction of the Portfolio Manager (which direction shall (x) be given so as to be received by the Issuer and the Trustee not later than twenty days prior to the proposed Clean-up Call Redemption Date and (y) include the Clean-up Call Redemption Date and the Clean-up Call Redemption Price of the Notes to be redeemed), in whole but not in part (a "Clean-up Call Redemption"), at the applicable Redemption Price, on any Business Day selected by the Portfolio Manager (such Business Day, the "Clean-up Call Redemption Date") which occurs on or after the Payment Date on which the Aggregate Principal Balance of the Collateral Obligations and Eligible Investments is less than or equal to 15% of the Target Initial Par Amount. In such event a notice of redemption shall be given by first class mail, postage prepaid, mailed not later than six Business Days prior to the applicable Clean-up Call Redemption Date, to each Holder of Notes, at such Holder's address in the Register and to each Rating Agency. Any such Clean-up Call Redemption may only be effected on a Payment Date and only from (a) the disposition proceeds of the Assets and (b) all other funds in the Accounts on the Payment Date relating to such redemption. A Clean-up Call Redemption may not occur unless the proceeds from the liquidation of the Assets and all other funds in the Accounts on the Payment Date relating to such redemption results in an amount at least equal to the Clean-up Call Redemption Price. The Combination Notes will be redeemed on any Clean-up Redemption Date in connection with a Clean-up Call Redemption to the extent that each Underlying Class is redeemed by allocation of the Clean-up Call Redemption Price of each Underlying Class.

(b) All notices of redemption delivered pursuant to Section 9.6(a) (Clean-up Call Redemption) shall state:

(i) the Clean-up Call Redemption Date;

(ii) the Clean-up Call Redemption Price of the Notes to be redeemed; and

(iii) that all of the Notes are to be redeemed in full and that interest on the Secured Notes shall cease to accrue on the Payment Date specified in the notice.

Notice of redemption shall be given by the Co-Issuers or, upon an Issuer Order, by the Trustee in the name and at the expense of the Co-Issuers. Failure to give notice of redemption, or any defect therein, to any Holder shall not impair or affect the validity of the redemption of any other Notes. In addition, for so long as any Class of Notes is listed on the Irish Stock Exchange and so long as the guidelines of such exchange so require, notice of Clean-up Call Redemption shall also be given by publication in the Companies Announcement Office of the Irish Stock Exchange.

(c) Any Clean-up Call Redemption is subject to (i) the purchase of the Assets by any Person(s) from the Issuer, on or prior to the fourth Business Day immediately preceding the Clean-up Call Redemption Date, for a purchase price in Cash at least equal to the Clean-up Call Redemption Price (less the amount of funds in the Accounts that are available to pay the

Clean-up Call Redemption Price) and (ii) the receipt by the Trustee from the Portfolio Manager, prior to such purchase, of a certification from the Portfolio Manager that the sum so received satisfies the requirements of clause (i). Upon receipt by the Trustee of the certification referred to in the preceding sentence, the Trustee (pursuant to written direction from the Portfolio Manager on behalf of the Issuer) and the Portfolio Manager, acting on behalf of the Issuer, shall take all commercially reasonable actions necessary to sell, assign and transfer the Assets to such Person(s) (which may be the Portfolio Manager or any of its Affiliates) upon payment in immediately available funds of the purchase price for such Assets. The Issuer shall deposit, or cause to be deposited, the funds required for a Clean-up Call Redemption in the Payment Account on or prior to the Clean-up Call Redemption Date. The Trustee shall deposit such payment into the Collection Account.

(d) Any notice of Clean-up Call Redemption may be withdrawn by the Issuer (or the Portfolio Manager on its behalf) up to the fourth Business Day prior to the scheduled Clean-up Call Redemption Date by written notice to the Trustee, the Rating Agencies and (if applicable) the Portfolio Manager only if amounts equal to the Clean-up Call Redemption Price (including funds in the Accounts available to pay the Clean-up Call Redemption Price) are not received in full in immediately available funds by the fourth Business Day immediately preceding the Clean-up Call Redemption Date. Notice of any such withdrawal of a notice of Clean-up Call Redemption shall be given by the Trustee at the expense of the Issuer to each Holder of Notes at such Holder's address in the Note Register by overnight courier guaranteeing next day delivery not later than the second Business Day prior to the scheduled Clean-up Call Redemption Date. The Trustee shall also arrange for notice of such withdrawal to be delivered to the Irish Stock Exchange so long as any Class of Notes is listed thereon and so long as the guidelines of such exchange so require.

(e) On the Clean-up Call Redemption Date, the Clean-up Call Redemption Price shall be distributed pursuant to the Priority of Payments.

(f) Notice of redemption pursuant to Section 9.6 (Clean-up Call Redemption) having been given as aforesaid, the Notes to be redeemed shall, on the Clean-up Call Redemption Date, subject to Section 9.6(c) (Clean-up Call Redemption) and the Co-Issuers' right to withdraw any notice of redemption pursuant to Section 9.6(d) (Clean-up Call Redemption), become due and payable at the Clean-up Call Redemption Price therein specified, and from and after the Clean-up Call Redemption Date (unless the Issuer shall default in the payment of the Clean-up Call Redemption Price and accrued interest) all the Secured Notes shall cease to bear interest on the Clean-up Call Redemption Date. Upon final payment on a Note to be so redeemed, the Holder shall present and surrender such Notes at the place specified in the notice of redemption on or prior to such Clean-up Call Redemption Date; provided, however, that if there is delivered to the Co-Issuers and the Trustee such security or indemnity as may be required by any of them to save such party harmless and an undertaking thereafter to surrender such Note, then, in the absence of notice to the Co-Issuers or the Trustee that the applicable Note has been acquired by a protected purchaser, such final payment shall be made without presentation or surrender.

If any Secured Note called for redemption pursuant to Section 9.6 (Clean-up Call Redemption) shall not be paid upon surrender thereof for redemption, the principal thereof shall,

until paid, bear interest from the Clean-up Call Redemption Date at the applicable Note Interest Rate for each successive Interest Accrual Period the Secured Note remains Outstanding; provided that the reason for such non-payment is not the fault of the Holder of such Secured Note.

ARTICLE 10

Accounts, Accountings and Releases

Section 10.1. Collection of Money. Except as otherwise expressly provided herein, the Trustee may demand payment or delivery of, and shall receive and collect, directly and without intervention or assistance of any fiscal agent or other intermediary, all Money and other property payable to or receivable by the Trustee pursuant to this Indenture, including all payments due on the Pledged Obligations, in accordance with the terms and conditions of such Pledged Obligations. The Trustee shall segregate and hold all such Money and property received by it in trust for the Holders of the Notes and shall apply it as provided in this Indenture.

Each Account shall be established and maintained with (a) a federal or state-chartered depository institution with (x) a long-term debt rating of at least "A" by S&P and a short-term debt rating of at least "A-1" by S&P or a long-term debt rating of at least "A+" by S&P and if such institution's long-term debt rating falls below "A" by S&P or its short-term rating falls below "A-1" by S&P (or its long-term rating falls below "A+" by S&P), the assets held in such Account shall be transferred within 60 calendar days to another institution that has a long-term debt rating of at least "A" by S&P and a short-term debt rating of at least "A-1" by S&P (or a long-term debt rating of at least "A+" by S&P) and (y) a long-term senior unsecured debt rating of at least "A2" or a short-term credit rating of "P-1" by Moody's or (b) in segregated non-interest bearing trust accounts with the corporate trust department of a federal or state-chartered deposit institution subject to regulations regarding fiduciary funds on deposit similar to Title 12 of the Code of Federal Regulation Section 9.10(b), which depository institution (x) has a long term senior unsecured debt rating of at least "Baa3" by Moody's and (y) to the extent any related trust account is holding cash, satisfies the ratings requirements specified in clause (a). If, in the case of either clause (a) or (b) above, such institution's long-term debt rating or short-term credit rating by Moody's falls below any such required rating, the assets held in the related Accounts shall be transferred within 30 calendar days to another institution that satisfies such rating requirements. The Trustee shall have the right to open subaccounts of any such Account as it deems necessary or appropriate for convenience of administration.

Section 10.2. Collection Account. (a) In accordance with this Indenture and the Securities Account Control Agreement, the Trustee shall, on or prior to the Closing Date, establish at the Custodian a segregated non-interest bearing trust account in the name "ACIS CLO 2013-1 Ltd., subject to the lien of the Trustee", which shall be designated as the Collection Account, which shall be held by the Custodian in accordance with the Securities Account Control Agreement. In addition, the Trustee shall maintain two segregated subaccounts within the Collection Account, one of which will be designated the "Interest Collection Subaccount," and one of which will be designated the "Principal Collection Subaccount." The Trustee shall from time to time deposit into the Interest Collection Subaccount, in addition to the deposits required pursuant to Section 10.6(a) (Reinvestment of Funds in Accounts; Reports by Trustee),

immediately upon receipt thereof (except for income earned on amounts deposited in the Ramp-up Account and, to the extent provided in Section 10.4(a) (the Revolver Funding Account), the subaccount of the Revolver Funding Account relating to Permitted Currencies) (i) any funds received by the Issuer after the Closing Date and deemed by the Portfolio Manager to be Interest Proceeds and (ii) all Interest Proceeds (unless simultaneously reinvested in additional Collateral Obligations in accordance with Article 12) received by the Trustee. The Trustee shall deposit immediately upon receipt thereof all other amounts remitted to the Collection Account into the Principal Collection Subaccount, including in addition to the deposits required pursuant to Section 10.6(a) (Reinvestment of Funds in Accounts; Reports by Trustee), (i) any funds received by the Issuer after the Closing Date and deemed by the Portfolio Manager to be Principal Proceeds, (ii) all Principal Proceeds (unless simultaneously reinvested in additional Collateral Obligations in accordance with Article 12 or in Eligible Investments) received by the Trustee, and (iii) all other funds received by the Trustee. All Monies deposited from time to time in the Collection Account pursuant to this Indenture shall be held by the Trustee as part of the Assets and shall be applied to the purposes herein provided. Subject to Section 10.2(d) (Collection Account), amounts in the Collection Account shall be reinvested pursuant to Section 10.6(a) (Reinvestment of Funds in Accounts; Reports by Trustee).

(b) The Trustee, within one Business Day after receipt of any distribution or other proceeds in respect of the Assets which are not Cash, shall so notify or cause to notify the Issuer and the Issuer shall, use its commercially reasonable efforts to, within five Business Days of receipt of such notice from the Trustee (or as soon as practicable thereafter), sell such distribution or other proceeds for Cash in an arm's length transaction to a Person which is not the Portfolio Manager or an Affiliate of the Issuer or the Portfolio Manager and deposit the proceeds thereof in the Collection Account; provided, however, that the Issuer (i) need not sell such distributions or other proceeds if it delivers an Issuer Order or an Officer's certificate to the Trustee certifying that such distributions or other proceeds constitute Collateral Obligations or Eligible Investments or (ii) may otherwise retain such distribution or other proceeds for up to two years from the date of receipt thereof if it delivers an Officer's certificate to the Trustee certifying that (x) it will sell such distribution within such two-year period and (y) retaining such distribution is not otherwise prohibited by this Indenture.

(c) At any time when reinvestment is permitted pursuant to Article 12, the Portfolio Manager on behalf of the Issuer may by Issuer Order direct the Trustee to, and upon receipt of such Issuer Order the Trustee shall, (x) withdraw funds on deposit in the Principal Collection Subaccount representing Principal Proceeds (together with accrued interest received with regard to any Collateral Obligation and Interest Proceeds but only to the extent used to pay for accrued interest on an additional Collateral Obligation) and reinvest (or invest, in the case of funds referred to in Section 7.18 (Ramp-up Period; Purchase of Additional Collateral Obligations)) such funds in additional Collateral Obligations or (y) withdraw funds in the Interest Collection Subaccount to exercise a warrant held in the Assets, in each case in accordance with the requirements of Article 12 and such Issuer Order; provided that, in the case of clause (y) above (i) funds on deposit in the Principal Collection Subaccount may be used to exercise warrants in Assets if the Effective Date Overcollateralization Test is satisfied as of the date such warrant is exercised and (ii) proceeds from the sale of securities obtained upon the exercise of such warrant may be treated as Interest Proceeds (up to the amount of Interest Proceeds used to exercise such warrant) or Principal Proceeds at the election of the Portfolio

Manager. At any time, the Portfolio Manager on behalf of the Issuer may by Issuer Order direct the Trustee to, and upon receipt of such Issuer Order the Trustee shall, withdraw funds on deposit in the Principal Collection Subaccount representing Principal Proceeds and transfer such funds to the Revolver Funding Account, to be used in accordance with Section 10.4 (The Revolver Funding Account).

(d) The Portfolio Manager on behalf of the Issuer may by Issuer Order direct the Trustee to, and upon receipt of such Issuer Order the Trustee shall, pay from amounts on deposit in the Collection Account on any Business Day during any Interest Accrual Period (i) from Interest Proceeds only, any amount required to exercise a warrant held in the Assets or right to acquire securities in accordance with the requirements of Article 12 and such Issuer Order; provided that, (x) Principal Proceeds may be used to exercise warrants in Assets if the Effective Date Overcollateralization Test is satisfied as of the date such warrant is exercised and (y) proceeds from the sale of securities obtained upon the exercise of such warrant may be treated as Interest Proceeds (up to the amount of Interest Proceeds used to exercise such warrant) or Principal Proceeds at the election of the Portfolio Manager and (ii) from Interest Proceeds only, any Administrative Expenses; provided, that the aggregate Administrative Expenses paid pursuant to this Section 10.2(d) (Collection Account) during any Collection Period shall not exceed the Administrative Expense Cap for the related Payment Date.

(e) The Trustee shall transfer to the Payment Account as applicable, from the Collection Account, for application pursuant to Section 11.1(a) (Disbursements of Monies from Payment Account), on or not later than the Business Day preceding each Payment Date, the amount set forth to be so transferred in the Distribution Report for such Payment Date.

(f) The Portfolio Manager on behalf of the Issuer may by Issuer Order direct the Trustee to, and upon receipt of such Issuer Order the Trustee shall, transfer from amounts on deposit in the Interest Collection Subaccount on any Business Day during any Interest Accrual Period to the Principal Collection Subaccount, amounts necessary for application pursuant to Section 7.18(d) (Ramp-up Period; Purchase of Additional Collateral Obligations) if, as of the end of the Ramp-up Period, any of the Effective Date Conditions have not been met.

Section 10.3. Payment Account; Custodial Account; Ramp-up Account; Expense Reserve Account; Interest Reserve Account.

(a) Payment Account. In accordance with this Indenture and the Securities Account Control Agreement, the Trustee shall, on or prior to the Closing Date, establish at the Custodian a segregated non-interest bearing trust account in the name "ACIS CLO 2013-1 Ltd., subject to the lien of the Trustee", which shall be designated as the Payment Account, which shall be held by the Custodian in accordance with the Securities Account Control Agreement. Except as provided in Section 11.1(a) (Disbursements of Monies from Payment Account), the only permitted withdrawal from or application of funds on deposit in, or otherwise to the credit of, the Payment Account shall be to pay amounts due and payable on the Notes in accordance with their terms and the provisions of this Indenture and, upon Issuer Order, to pay Administrative Expenses and other amounts specified herein, each in accordance with the Priority of Payments. The Co-Issuers shall not have any legal, equitable or beneficial interest in the Payment Account other than in accordance with the Priority of Payments.

(b) Custodial Account. In accordance with this Indenture and the Securities Account Control Agreement, the Trustee shall, on or prior to the Closing Date, establish at the Custodian a segregated non-interest bearing trust account in the name "ACIS CLO 2013-1 Ltd., subject to the lien of the Trustee", which shall be designated as the Custodial Account, which shall be held by the Custodian in accordance with the Securities Account Control Agreement. The only permitted withdrawals from the Custodial Account shall be in accordance with the provisions of this Indenture. The Trustee agrees to give the Co-Issuers immediate notice if (to the Trustee's actual knowledge) the Custodial Account or any assets or securities on deposit therein, or otherwise to the credit of the Custodial Account, shall become subject to any writ, order, judgment, warrant of attachment, execution or similar process.

(c) Ramp-up Account. The Trustee shall, on or prior to the Closing Date, establish at the Custodian a segregated non-interest bearing trust account in the name "ACIS CLO 2013-1 Ltd., subject to the lien of the Trustee", which shall be designated as the Ramp-up Account, which shall be held by the Custodian in accordance with the Securities Account Control Agreement. The Issuer shall direct the Trustee to deposit the amount specified in Section 3.1(a)(xii) (Conditions to Issuance of Notes on Closing Date) in the Ramp-up Account. In connection with any purchase of an additional Collateral Obligation, the Trustee will apply amounts held in the Ramp-up Account as provided by Section 7.18(b) (Ramp-up Period; Purchase of Additional Collateral Obligations). After the Effective Date, but prior to the second Determination Date, and after taking into account amounts to be transferred, up to $5,000,000 in Designated Principal Proceeds may be designated, on one occasion only, by the Portfolio Manager as Interest Proceeds (but only if the Effective Date Overcollateralization Test would be satisfied after such designation). Such Designated Principal Proceeds will be withdrawn from the Ramp-up Account and deposited into the Interest Collection Subaccount. On the first day after the end of the Ramp-up Period or upon the occurrence of an Event of Default (and excluding any proceeds that will be used to settle binding commitments entered into prior to that date), the Trustee will deposit any remaining amounts in the Ramp-up Account into the Principal Collection Subaccount as Principal Proceeds. Any income earned on amounts deposited in the Ramp-up Account will be deposited in the Ramp-up Account as it is paid.

(d) Expense Reserve Account. In accordance with this Indenture and the Securities Account Control Agreement, the Trustee shall, on or prior to the Closing Date, establish at the Custodian a segregated non-interest bearing trust account in the name "ACIS CLO 2013-1 Ltd., subject to the lien of the Trustee", which shall be designated as the Expense Reserve Account, which shall be held by the Custodian in accordance with the Securities Account Control Agreement. On any Business Day from the Closing Date to and including the Determination Date relating to the fourth Payment Date, the Trustee shall apply funds from the Expense Reserve Account, as directed by the Portfolio Manager, to pay expenses of the Co-Issuers incurred in connection with the establishment of the Co-Issuers, the structuring and consummation of the Offering, the issuance of the Offered Securities or the acquisition of the initial portfolio of Collateral Obligations prior to the fourth Payment Date or to the Collection Account as Principal Proceeds. By the Determination Date relating to the fourth Payment Date following the Closing Date, all funds in the Expense Reserve Account (after deducting any expenses paid on such Determination Date) will be deposited in the Collection Account as Interest Proceeds and/or Principal Proceeds (in the respective amounts directed by the Portfolio Manager in its discretion) and the Expense Reserve Account will be closed. Amounts in the

Expense Reserve Account may be invested at the direction of the Portfolio Manager in Eligible Investments and any income earned on amounts deposited in the Expense Reserve Account will be deposited in the Interest Collection Subaccount as Interest Proceeds as it is paid.

(e) [RESERVED].

(f) Interest Reserve Account. In accordance with this Indenture and the Securities Account Control Agreement, the Trustee shall, on or prior to the Closing Date, establish at the Custodian a segregated non-interest bearing trust account in the name "ACIS CLO 2013-1 Ltd., subject to the lien of the Trustee", which shall be designated as the Interest Reserve Account, which shall be held by the Custodian in accordance with the Securities Account Control Agreement. The Issuer shall direct the Trustee to deposit the amount specified in Section 3.1(a)(xii) (Conditions to Issuance of Notes on Closing Date) in the Interest Reserve Account. On any Business Day from the Closing Date to and including the Determination Date relating to the fourth Payment Date, the Trustee shall transfer funds from the Interest Reserve Account, as directed by the Portfolio Manager, to the Interest Collection Subaccount as Interest Proceeds and/or Principal Proceeds (in the respective amounts directed by the Portfolio Manager in its discretion). By the Determination Date relating to the fourth Payment Date following the Closing Date, all funds in the Interest Reserve Account (after deducting any transfer made on such Determination Date) will be deposited in the Collection Account as Interest Proceeds and/or Principal Proceeds (in the respective amounts directed by the Portfolio Manager in its discretion) and the Interest Reserve Account will be closed. Amounts in the Interest Reserve Account may be invested at the direction of the Portfolio Manager in Eligible Investments and any income earned on amounts deposited in the Interest Reserve Account will be deposited in the Interest Collection Subaccount as Interest Proceeds as it is paid.

Section 10.4. The Revolver Funding Account.

(a) Revolver Funding Account. Upon the purchase of any Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation, funds may be withdrawn first from the Ramp-up Account and then from the Collection Account, and deposited by the Trustee in a single, segregated non-interest bearing trust account maintained by the Issuer with the Custodian (the "Revolver Funding Account") subject to the lien of the Trustee. Upon initial purchase, funds deposited in the Revolver Funding Account in respect of any Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation will be treated as part of the purchase price therefor. Amounts in each subaccount of the Revolver Funding Account shall be invested in overnight funds that are Eligible Investments selected by the Portfolio Manager and earnings from all such investments will be deposited in the Interest Collection Subaccount as Interest Proceeds.

With respect to any Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation, upon the purchase of any such Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation, funds shall be deposited in the Revolver Funding Account such that the sum of the amount of funds on deposit in such account shall be equal to or greater than the sum of the unfunded funding obligations under all such Delayed Drawdown Collateral Obligations and Revolving Collateral Obligations then included in the Assets. If the Issuer receives proceeds with respect to any Delayed Drawdown Collateral Obligation or Revolving

Collateral Obligation that have any remaining unfunded obligations, the Issuer shall deposit all such proceeds into the Revolver Funding Account in an amount up to such unfunded obligations.

Any funds in the Revolver Funding Account (other than earnings from Eligible Investments therein) shall be available solely to cover any drawdowns on the Delayed Drawdown Collateral Obligations and Revolving Collateral Obligations; provided, that any excess of (A) the amounts on deposit in the Revolver Funding Account over (B) the sum of the unfunded funding obligations under all Delayed Drawdown Collateral Obligations and Revolving Collateral Obligations that are included in the Assets may be transferred by the Trustee (at the direction of the Portfolio Manager) from time to time as Principal Proceeds to the Principal Collection Subaccount.

Upon (a) the sale or maturity of a Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation or (b) the occurrence of an event of default with respect to any such Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation or any other event or circumstance which results in the irrevocable reduction of the undrawn commitments under such Delayed Drawdown Collateral Obligation or Revolving Collateral Obligation, any excess of (A) the amounts on deposit in the Revolver Funding Account over (B) the sum of the unfunded amounts of all Delayed Drawdown Collateral Obligations and Revolving Collateral Obligations that are included in the Assets shall be transferred (at the direction of the Portfolio Manager) by the Trustee as Principal Proceeds to the Principal Collection Subaccount.

Section 10.5. Hedge Accounts. If and to the extent that any Hedge Agreement requires the related Hedge Counterparty to secure its obligations thereunder, the Issuer shall, on or prior to the date such Hedge Agreement is entered into, establish a segregated, non-interest bearing trust account which shall be designated as a Hedge Account (each, a "Hedge Account"). The Trustee (as directed by the Portfolio Manager on behalf of the Issuer) shall deposit into each Hedge Account all amounts or collateral which are required to secure the obligations of the Hedge Counterparty in accordance with the terms of the related Hedge Agreement. Amounts or collateral in the Hedge Account shall be released to the Issuer or the related Hedge Counterparty only in accordance with this Section 10.5(c) (Hedge Accounts), the applicable Hedge Agreement and applicable law.

As directed by the Portfolio Manager in writing, in accordance with the applicable Hedge Agreement, amounts on deposit in a Hedge Account may be invested in Eligible Investments. Income received on amounts or collateral on deposit in each Hedge Account shall be applied, as directed by the Portfolio Manager, to the payment of any periodic amounts owed by the Hedge Counterparty to the Issuer on the date any such amounts are due. After application of any such amounts, any income then contained in such Hedge Account shall be withdrawn from such account and paid to the related Hedge Counterparty in accordance with the applicable Hedge Agreement as directed by the Portfolio Manager on behalf of the Issuer.

Upon the occurrence of any "event of default" or "termination event" (each as defined in the applicable Hedge Agreement) under the related Hedge Agreement, amounts contained in the related Hedge Account shall, as directed by the Portfolio Manager in writing, be withdrawn by the Trustee and applied toward the payment of any amounts payable by the related Hedge Counterparty to the Issuer in accordance with the terms of such Hedge Agreement. Any

excess amounts held in a Hedge Account after payment of all amounts owing from the related Hedge Counterparty to the Issuer shall be withdrawn from such Hedge Account and paid to the related Hedge Counterparty in accordance with the applicable Hedge Agreement, as directed by the Portfolio Manager on behalf of the Issuer.

Section 10.6. Reinvestment of Funds in Accounts; Reports by Trustee. (a) By Issuer Order (which may be in the form of standing instructions), the Issuer (or the Portfolio Manager on behalf of the Issuer) shall at all times direct the Trustee to, and, upon receipt of such Issuer Order, the Trustee shall, invest all funds on deposit in the Accounts and the Hedge Account as so directed in Eligible Investments having Stated Maturities no later than the Business Day preceding the next Payment Date (or such shorter maturities expressly provided herein). If prior to the occurrence of an Event of Default, the Issuer shall not have given any such investment directions, the Trustee shall seek instructions from the Portfolio Manager within three Business Days after transfer of any funds to such accounts. If the Trustee does not thereafter receive written instructions from the Portfolio Manager within five Business Days after transfer of such funds to such accounts, it shall invest and reinvest the funds held in such accounts, as fully as practicable, in the Standby Investment maturing no later than the Business Day immediately preceding the next Payment Date (or such shorter maturities expressly provided herein). If after the occurrence of an Event of Default, the Issuer shall not have given such investment directions to the Trustee for three consecutive days, the Trustee shall invest and reinvest such Monies as fully as practicable in the Standby Investment maturing not later than the earlier of (i) 30 days after the date of such investment (unless putable at par to the issuer thereof) or (ii) the Business Day immediately preceding the next Payment Date (or such shorter maturities expressly provided herein). Except to the extent expressly provided otherwise herein, all interest and other income from such investments shall be deposited in the Interest Collection Subaccount, any gain realized from such investments shall be credited to the Principal Collection Subaccount upon receipt, and any loss resulting from such investments shall be charged to the Principal Collection Subaccount. The Trustee shall not in any way be held liable by reason of any insufficiency of such accounts which results from any loss relating to any such investment, except with respect to investments in obligations of the Bank or any Affiliate thereof (if the Bank is then the Trustee).

(b) The Trustee agrees to give the Issuer immediate notice if any Account or any funds on deposit in any Account, or otherwise to the credit of an Account, shall become subject to any writ, order, judgment, warrant of attachment, execution or similar process. All Accounts shall remain at all times with the Trustee or a financial institution having a long-term debt rating of at least equal to "Baa1" by Moody's and having combined capital and surplus of at least $200,000,000 and shall be subject to the requirements of Section 10.1 (Collection of Money).

(c) The Trustee shall supply, in a timely fashion, to the Co-Issuers, each Rating Agency and the Portfolio Manager any information regularly maintained by the Trustee that the Co-Issuers, the Rating Agencies or the Portfolio Manager may from time to time request with respect to the Pledged Obligations, the Accounts and the other Assets and provide any other requested information reasonably available to the Trustee by reason of its acting as Trustee hereunder and required to be provided by Section 10.7 (Accountings) or to permit the Portfolio Manager to perform its obligations under the Portfolio Management Agreement. The Trustee

shall promptly forward to the Portfolio Manager copies of notices and other writings received by it from the issuer of any Collateral Obligation or from any Clearing Agency with respect to any Collateral Obligation which notices or writings advise the holders of such security of any rights that the holders might have with respect thereto (including, without limitation, requests to vote with respect to amendments or waivers and notices of prepayments and redemptions) as well as all periodic financial reports received from such issuer and Clearing Agencies with respect to such issuer.

Section 10.7. Accountings.

(a) Monthly. Not later than the 18th day of each month (or, if such day is not a Business Day on the next succeeding Business Day) beginning with April 2013, the Issuer shall compile and provide (or cause to be compiled and provided) (including, at the election of the Issuer, via appropriate electronic means acceptable to the recipient) to each Rating Agency, the Trustee, the Portfolio Manager, Intex Solutions, Inc. and the Placement Agents (upon receipt of written request therefor) a monthly report (each a "Monthly Report"). The Monthly Report shall contain the following information with respect to the Collateral Obligations and Eligible Investments included in the Assets, determined as of the close of business on the 10th day of the current month (for which purpose only, assets of any ETB Subsidiary in which the Issuer has a first priority perfected security interest shall be included as if such assets were owned by the Issuer):

(i) Aggregate Principal Balance of Collateral Obligations and Eligible Investments representing Principal Proceeds.

(ii) Adjusted Collateral Principal Amount of Collateral Obligations.

(iii) Collateral Principal Amount of Collateral Obligations.

(iv) A list of Collateral Obligations, including, with respect to each such Collateral Obligation, the following detailed information:

(A) The obligor thereon (including the issuer ticker, if any);

(B) The CUSIP or security identifier thereof;

(C) The Principal Balance thereof (other than any accrued interest that was purchased with Principal Proceeds (but excluding any capitalized interest));

(D) The percentage of the aggregate Collateral Principal Amount represented by such Collateral Obligation;

(E) The related interest rate or spread (in the case of a LIBOR Floor Obligation, indicating the spread both with and without giving effect to modifications relating to LIBOR Floor Obligations and the specified "floor" rate per annum for such LIBOR Floor Obligation);

(F) The stated maturity thereof;

(G) The related Moody's Industry;

(H) The related S&P Industry;

(I) The Moody's Rating, unless such rating is based on a credit estimate unpublished by Moody's (and, in the event of a downgrade or withdrawal of the applicable Moody's Rating, the prior rating and the date such Moody's Rating was changed);

(J) The Moody's Default Probability Rating;

(K) The S&P Rating, unless such rating is based on a credit estimate unpublished by S&P;

(L) The country of Domicile;

(M) An indication as to whether each such Collateral Obligation is (1) a Defaulted Obligation, (2) a Delayed Drawdown Collateral Obligation (including an indication of the principal amount of unfunded funding obligations thereunder), (3) a Revolving Collateral Obligation (including an indication of the principal amount of unfunded funding obligations thereunder), (4) a Senior Secured Loan, (5) a floating rate Collateral Obligation, (6) a Participation Interest (indicating the related Selling Institution and its ratings by each Rating Agency), (7) a Deferrable Security, (8) a Zero Coupon Security, (9) a Current Pay Obligation, (10) a DIP Collateral Obligation, (11) convertible into or exchangeable for equity securities, (12) a Discount Obligation (including its purchase price), (13) a Cov-Lite Loan, (14) a Pre-funded Letter of Credit, (15) a Bridge Loan, (16) a Non-Quarterly Asset or (17) a First-Lien Last-Out Loan;

(N) The Moody's Recovery Rate; and

(O) The S&P Recovery Rate.

(v) For each of the limitations and tests specified in the definitions of Concentration Limitations and Collateral Quality Test, (1) the result, (2) the related minimum or maximum test level and any calculation of such amount (calculated with and without the Rating Factor Adjustment Amount, the Excess Weighted Average Fixed Coupon, the Excess Weighted Average Floating Spread and the modifications to the Weighted Average Floating Spread calculation relating to LIBOR Floor Obligations (which calculation, with respect to the Minimum Floating Spread Test, will consist of the test level and the calculation of (x) the Weighted Average Floating Spread without giving effect to modifications relating to LIBOR Floor Obligations, (y) the Weighted Average Floating Spread giving effect to modifications relating to LIBOR Floor Obligations and (z) the calculated amount of the modifications relating to LIBOR Floor Obligations), as applicable) and (3) a determination as to whether such result satisfies the related test.

(vi) The calculation of each of the following:

(A) Each Interest Coverage Ratio (and setting forth each related Required Coverage Ratio); and

(B) Each Overcollateralization Ratio (and setting forth each related Required Coverage Ratio and the Overcollateralization Ratio required to pass the Interest Reinvestment Test).

(vii) For each Account, a schedule showing the beginning balance, each credit or debit specifying the nature, source and amount, and the ending balance.

(viii) A schedule showing for each of the following the beginning balance, the amount of Interest Proceeds received from the date of determination of the immediately preceding Monthly Report, and the ending balance for the current Measurement Date:

(A) Interest Proceeds from Collateral Obligations; and

(B) Interest Proceeds from Eligible Investments.

(ix) Purchases, prepayments, and sales:

(A) The identity, Principal Balance (other than any accrued interest that was purchased with Principal Proceeds (but excluding any capitalized interest)), Principal Proceeds and Interest Proceeds received, and date for (X) each Collateral Obligation that was released for sale or disposition pursuant to Section 12.1 (Sales of Collateral Obligations) during such month and (Y) for each prepayment or redemption of a Collateral Obligation, and in the case of (X), whether such Collateral Obligation was a Credit Risk Obligation or a Credit Improved Obligation, whether the sale of such Collateral Obligation was a discretionary sale and whether such sale of a Collateral Obligation was to an affiliate of the Portfolio Manager; and

(B) The identity, Principal Balance (other than any accrued interest that was purchased with Principal Proceeds (but excluding any capitalized interest)), and Principal Proceeds and Interest Proceeds expended to acquire each Collateral Obligation acquired pursuant to Section 12.2 (Purchase of Additional Collateral Obligations) during such month and whether such Collateral Obligation was obtained through a purchase from an affiliate of the Portfolio Manager.

(x) The identity of each Defaulted Obligation, the Moody's and S&P Collateral Value and Market Value of each such Defaulted Obligation and date of default thereof.

(xi) The identity of each Collateral Obligation with an S&P Rating of "CCC+" or below and/or a Moody's Rating of "Caa1" or below and the Market Value of each such Collateral Obligation included in the Excess CCC/Caa Adjustment Amount.

(xii) The identity of each Deferring Security, the Moody's and S&P Collateral Value and Market Value of each Deferring Security, and the date on which interest was last paid in full in cash thereon.

(xiii) For any Collateral Obligation, whether the rating of such Collateral Obligation has been upgraded, downgraded or put on credit watch by any Rating Agency since the date of the immediately preceding Monthly Report and such old and new rating or the implication of such credit watch.

(xiv) Whether the Issuer has been notified that the Class Break-even Default Rate has been modified.

(xv) The results of the S&P CDO Monitor Test, including the Class Default Differentials and the characteristics of the current portfolio.

(xvi) The identity of each Current Pay Obligation, the Market Value of each such Current Pay Obligation, the percentage of the Collateral Principal Amount comprised of Current Pay Obligations, the portfolio limitation for Current Pay Obligations expressed as a percentage of the Collateral Principal Amount and whether such limitation is satisfied.

(xvii) For each Hedge Agreement, a schedule showing (x) the notional balance thereof and (y) any amounts due to or from the Hedge Counterparty for such Hedge Agreement.

(xviii) Such other information as the Trustee, any Hedge Counterparty, any Rating Agency or the Portfolio Manager may reasonably request.

(xix) With respect to each Trading Plan commenced or completed since the date of determination of the immediately preceding Monthly Report or Distribution Report, as applicable, the obligor, rating, maturity, trade date and settlement status of each Collateral Obligation sold (or to be sold) and purchased (or to be purchased) pursuant thereto.

(xx) The identity of each ETB Subsidiary and the identity of each Equity Security, if any, held by each such ETB Subsidiary and the amount of Cash, if any, held by each such ETB Subsidiary.

(xxi) A list of the Eligible Investments, including, with respect to each such Eligible Investment, the obligor thereon, the stated maturity thereof and the S&P Rating thereof (unless such rating is based on a credit estimate unpublished by S&P).

(xxii) The S&P Weighted Average Floating Spread as of such date of determination.

(xxiii) Following the end of the Reinvestment Period, a schedule of all Collateral Obligations that the Issuer has purchased on a trade date basis but with respect to which the settlement date has not yet occurred.

Upon receipt of each Monthly Report, the Portfolio Manager shall (a) notify the Issuer (who shall notify S&P) if such Monthly Report indicates that the S&P CDO Monitor Test has not been satisfied as of the relevant Measurement Date and (b) compare the information contained in such Monthly Report to the information contained in its records with respect to the Assets and shall, within three Business Days after receipt of such Monthly Report, notify the Issuer, the Collateral Administrator, the Rating Agencies and the Trustee if the information contained in the Monthly Report does not conform to the information maintained by the Trustee with respect to the Assets. In the event that any discrepancy exists, the Trustee and the Issuer, or the Portfolio Manager on behalf of the Issuer, shall attempt to resolve the discrepancy. If such discrepancy cannot be promptly resolved, the Trustee shall within five Business Days cause the Independent accountants appointed by the Issuer pursuant to Section 10.9 (Reports by Independent Accountants) to review such Monthly Report and the Trustee's records to determine the cause of such discrepancy. If such review reveals an error in the Monthly Report or the Trustee's records, the Monthly Report or the Trustee's records shall be revised accordingly and, as so revised, shall be utilized in making all calculations pursuant to this Indenture and notice of any error in the Monthly Report shall be sent as soon as practicable by the Issuer to all recipients of such report. In addition, the Portfolio Manager or the Collateral Administrator at the direction of the Portfolio Manager shall deliver to S&P the S&P Excel Default Model Input File with each Monthly Report.

(b) Payment Date Accounting. The Issuer shall prepare or cause to be prepared a report (each a "Distribution Report"), determined as of the close of business on each Determination Date preceding a Payment Date, and shall deliver such Distribution Report (including, at the election of the Issuer, via appropriate electronic means acceptable to the recipient) to the Trustee, the Portfolio Manager, the Placement Agents, Intex Solutions, Inc., the Irish Listing Agent (so long as any Notes are listed on the Irish Stock Exchange) and each Rating Agency not later than the Business Day preceding the related Payment Date. The Distribution Report shall contain the following information:

(i) (a) the Aggregate Outstanding Amount of the Secured Notes of each Class at the beginning of the Interest Accrual Period and such amount as a percentage of the original Aggregate Outstanding Amount of the Secured Notes of such Class, the amount of principal payments to be made on the Secured Notes of each Class on the next Payment Date, the amount of any Deferred Interest on each Class of Deferred Interest Notes, and the Aggregate Outstanding Amount of the Secured Notes of each Class after giving effect to the principal payments, if any, on the next Payment Date and such amount as a percentage of the original Aggregate Outstanding Amount of the Secured Notes of such Class and (b) the Aggregate Outstanding Amount of the Subordinated Notes at the beginning of the Interest Accrual Period and such amount as a percentage of the original Aggregate Outstanding Amount of the Subordinated Notes, the amount of payments to be made on the Subordinated Notes in respect of Subordinated Note Redemption Price on the next Payment Date, and the Aggregate Outstanding Amount of the Subordinated Notes after giving effect to such payments, if any, on the next Payment Date and such amount as a percentage of the original Aggregate Outstanding Amount of the Subordinated Notes;

(ii) the Note Interest Rate and accrued interest for each applicable Class of Secured Notes for such Payment Date, the Aggregate Outstanding Amount of the Combination Notes and the Aggregate Outstanding Amount of the Components of the Combination Notes;

(iii) the amounts payable pursuant to each clause of Section 11.1(a)(i) (Disbursements of Monies from Payment Account), each clause of Section 11.1(a)(ii) (Disbursements of Monies from Payment Account) and, if applicable, each clause of Section 11.1(a)(iii) (Disbursements of Monies from Payment Account) on the related Payment Date;

(iv) for the Collection Account:

(A) the Balance on deposit in the Collection Account at the end of the related Collection Period (or, with respect to the Interest Collection Subaccount, the next Business Day);

(B) the amounts payable from the Collection Account to the Payment Account, in order to make payments pursuant to Section 11.1(a)(i) (Disbursements of Monies from Payment Account), Section 11.1(a)(ii) (Disbursements of Monies from Payment Account) and, if applicable, Section 11.1(a)(iii) (Disbursements of Monies from Payment Account) on the next Payment Date (net of amounts which the Portfolio Manager intends to re-invest in additional Collateral Obligations pursuant to Article 12); and

(C) the Balance remaining in the Collection Account immediately after all payments and deposits to be made on such Payment Date; and

(v) such other information as the Trustee, any Hedge Counterparty or the Portfolio Manager may reasonably request.

Each Distribution Report shall constitute instructions to the Trustee to withdraw funds from the Payment Account and pay or transfer such amounts set forth in such Distribution Report in the manner specified and in accordance with the priorities established in Section 11.1 (Disbursements of Monies from Payment Account).

(c) Interest Rate Notice. The Trustee shall deliver to each Holder of Secured Notes, no later than the sixth day after each Payment Date, a notice setting forth the Note Interest Rate for such Notes for the Interest Accrual Period preceding the next Payment Date. The Trustee shall also deliver to the Issuer and each Holder of Notes, no later than the sixth day after each Interest Determination Date, a notice setting forth LIBOR for the Interest Accrual Period following such Interest Determination Date.

(d) Quarterly Report. Forty-five days after the Determination Date relating to Monthly Reports occurring in March, June, September and December commencing in September 2013, respectively, the Portfolio Manager shall send to the Trustee, each Rating Agency and the Placement Agents a quarterly report describing such events as the Portfolio Manager deems significant relating to the Assets and the performance thereof (each a "Quarterly Report").

(e) Failure to Provide Accounting. If the Trustee shall not have received any accounting provided for in this Section 10.7 (Accountings) on the first Business Day after the date on which such accounting is due to the Trustee, the Trustee shall use all reasonable efforts to cause such accounting to be made by the applicable Payment Date. To the extent the Trustee is required to provide any information or reports pursuant to this Section 10.7 (Accountings) as a result of the failure of the Issuer to provide such information or reports, the Trustee shall be entitled to retain an Independent certified public accountant in connection therewith and the reasonable costs incurred by the Trustee for such Independent certified public accountant shall be reimbursed pursuant to Section 6.7 (Trustee Compensation and Reimbursement).

(f) Required Content of Certain Reports. Each Monthly Report and each Distribution Report sent to any Holder or beneficial owner of an interest in a Note shall contain, or be accompanied by, the following notices:

The Notes may be held or beneficially owned, as applicable, only by Persons that (a)(i) are not U.S. persons (within the meaning of Regulation S under the United States Securities Act of 1933, as amended) and are purchasing their beneficial interest in an offshore transaction or (ii) are either (A) Qualified Purchasers (as defined for purposes of Section 3(c)(7) of the Investment Company Act) ("Qualified Purchasers") or (B) (in the case of the Subordinated Notes only) Knowledgeable Employees (as defined in Rule 3c-5 under the Investment Company Act) ("Knowledgeable Employees") with respect to the Issuer or corporations, partnerships, limited liability companies or other entities (other than trusts) each shareholder, partner, member or other equity owner of which is either (x) a Knowledgeable Employee with respect to the Issuer or (y) a Qualified Purchaser that in the case of (A) and (B) are either (1) "institutional" accredited investors ("Accredited Investors") (in the case of the Class E Notes, the Class F Notes and the Subordinated Notes only) meeting the requirements of Rule 501(a)(1), (2), (3) or (7) under the Securities Act, who, in the case of Subordinated Notes only, if "individual" Accredited Investors, are also Knowledgeable Employees with respect to the Issuer or (2) qualified institutional buyers ("Qualified Institutional Buyers") within the meaning of Rule 144A under the Securities Act and (b) can make the representations set forth in Section 2.6 (Registration, Registration of Transfer and Exchange) of the Indenture or the appropriate Exhibit to the Indenture. Beneficial ownership interests in the Rule 144A Global Notes may be transferred only to a Person that is both a Qualified Institutional Buyer and a Qualified Purchaser and that can make the representations referred to in clause (b) of the preceding sentence. The Issuer has the right to compel any beneficial owner of an interest in Rule 144A Global Notes that does not meet the qualifications set forth in such clauses to sell its interest in such Notes, or may sell such interest on behalf of such owner, pursuant to Section 2.12 (Notes Beneficially Owned by Persons Not QIB/QPs or in Violation of ERISA Representations) of the Indenture.

Each Holder or beneficial owner receiving this report agrees to keep all non-public information herein confidential and not to use such information for any purpose other than its evaluation of its investment in the Offered Securities, provided, that any Holder or beneficial owner may provide such information on a confidential basis to any prospective purchaser of such Holder or beneficial owner's Offered Securities that is permitted by the terms of the Indenture to acquire such Holder or beneficial owner's Offered Securities and that agrees to keep such information confidential in accordance with the terms of the Indenture.

In addition, the Trustee shall deliver the foregoing notice under the name of the Issuer to DTC for forwarding to its participants on at least an annual basis with the heading "Important Reminder Notice."

(g) Irish Stock Exchange. So long as any Class of Notes is listed on the Irish Stock Exchange: (i) the Trustee will communicate to the Irish Stock Exchange the Aggregate Outstanding Amount of each such Class following each Payment Date and inform the Irish Stock Exchange if any such Class did not receive scheduled payments of principal or interest on such Payment Date; (ii) the Trustee will inform the Irish Stock Exchange if the Ratings assigned to such Secured Notes are reduced or withdrawn and such information will be published in the Companies Announcements Office of the Irish Stock Exchange and (iii) the Trustee will inform the Irish Stock Exchange, in advance, of the Note Interest Rate for each such Class (as applicable), as well as the exact date of the following Payment Date.

(h) Placement Agents Information. The Issuer and the Placement Agents, or any successor to the Placement Agents, may post the information contained in a Monthly Report, Quarterly Report or Distribution Report to a password-protected internet site accessible only to the Holders of the Notes and to the Portfolio Manager.

(i) Availability of Reports. The Trustee will make the Monthly Report, the Quarterly Report and the Distribution Report available via its internet website initially located at http://trustinvestorreporting.usbank.com on a password protected basis. The Trustee shall separately post the information required under Section 10.7(a)(xix) (Accountings) to its internet website promptly upon knowledge of the Issuer entering into a Trading Plan. Parties that are unable to use the above distribution option are entitled to have a paper copy mailed to them via first class mail by calling the customer service desk and indicating such. The Trustee shall have the right to change the way such statements are distributed in order to make such distribution more convenient and/or more accessible to the above parties and the Trustee shall provide timely and adequate notification to all above parties regarding any such changes. As a condition to access to the Trustee's internet website, the Trustee may require registration and the acceptance of a disclaimer. The Trustee will not be liable for the dissemination of information in accordance with this Indenture. The Trustee shall be entitled to rely on but shall not be responsible for the content or accuracy of any information provided in the information set forth in the Monthly Report, the Quarterly Report and the Distribution Report and may affix thereto any disclaimer it deems appropriate in its reasonable discretion. Each Noteholder that has previously provided evidence that it is the holder of a Note may at any time be requested by the Trustee or the Portfolio Manager to reconfirm that it continues to be the holder of a Note. If such evidence has not been provided by a Noteholder to the reasonable satisfaction of the Portfolio Manager within 45 days of any such request, such Noteholder will have no further right to obtain either the Monthly Report, the Distribution Report or the associated commentary. The Trustee shall provide each Rating Agency, the Portfolio Manager, the Placement Agents, each Holder (and, upon receipt of a written request therefor in the form of Exhibit I certifying that it is a holder of a beneficial interest in a Note, to any beneficial owner of a Note) and Intex Solutions, Inc. access to its internet website.

(j) Required Actions.

(i) DTC Actions. The Issuer will direct DTC to take the following steps in connection with the Global Notes:

(A) The Issuer will direct DTC to include the marker "3c7" in the DTC 20-character security descriptor and the 48-character additional descriptor for the Rule 144A Global Notes in order to indicate that sales are limited to Qualified Purchasers.

(B) The Issuer will direct DTC to cause each physical deliver order ticket that is delivered by DTC to purchasers to contain the 20-character security descriptor. The Issuer will direct DTC to cause each deliver order ticket that is delivered by DTC to purchasers in electronic form to contain a "3c7" indicator and a related user manual for participants. Such user manual will contain a description of the relevant restrictions imposed by Section 3(c)(7).

(C) On or prior to the Closing Date, the Issuer will instruct DTC to send a Section 3(c)(7) Notice to all DTC participants in connection with the offering of the Rule 144A Global Notes.

(D) In addition to the obligations of the Registrar set forth in Section 2.5 (Execution, Authentication, Delivery and Dating), the Issuer will from time to time (upon the request of the Trustee) make a request to DTC to deliver to the Issuer a list of all DTC participants holding an interest in the Rule 144A Global Notes.

(E) The Issuer will cause each CUSIP number obtained for a Global Note to have a fixed field containing "3c7" and "144A" indicators, as applicable, attached to such CUSIP number.

(ii) Bloomberg Screens, Etc. The Issuer will from time to time request all third-party vendors to include on screens maintained by such vendors appropriate legends regarding Rule 144A and Section 3(c)(7) under the Investment Company Act restrictions on the Global Notes. Without limiting the foregoing, the Issuer will cause the Placement Agents to request that each third-party vendor include the following legends on each screen containing information about the Notes :

(A) Bloomberg.

(w) "Iss'd Under 144A/3c7," to be stated in the "Note Box" on the bottom of the "Security Display" page describing the Global Notes;

(x) a flashing red indicator stating "See Other Available Information" located on the "Security Display" page;

(y) a link to an "Additional Security Information" page on such indicator stating that the Rule 144A Global Notes are being offered in reliance on the exception from registration under Rule 144A of the Securities Act of 1933 to persons that are both (i) "Qualified Institutional

Buyers" as defined in Rule 144A under the Securities Act and (ii) "Qualified Purchasers" as defined under Section 2(a)(51) of the Investment Company Act of 1940, as amended; and

(z) a statement on the "Disclaimer" page for the Global Notes that the Notes will not be and have not been registered under the Securities Act of 1933, as amended, that the Issuer has not been registered under the Investment Company Act of 1940, as amended, and that the Rule 144A Global Notes may only be offered or sold in accordance with Section 3(c)(7) of the Investment Company Act of 1940, as amended.

(B) Reuters.

(x) a "144A – 3c7" notation included in the security name field at the top of the Reuters Instrument Code screen;

(y) a <144A3c7Disclaimer> indicator appearing on the right side of the Reuters Instrument Code screen; and

(z) a link from such <144A3c7Disclaimer> indicator to a disclaimer screen containing the following language: "These Notes may be sold or transferred only to Persons who are both (i) Qualified Institutional Buyers, as defined in Rule 144A under the Securities Act and (ii) Qualified Purchasers, as defined under Section 3(c)(7) under the U.S. Investment Company Act of 1940."

(k) Trading Plans. Following notice or knowledge of such failure, the Issuer shall provide notice of any failed Trading Plan to Moody's and S&P.

Section 10.8. Release of Securities. (a) The Issuer may, by Issuer Order executed by an Authorized Officer of the Portfolio Manager, delivered to the Trustee at least two Business Days prior to the settlement date for any sale of a security certifying that the sale of such security is being made in accordance with Section 12.1 (Sales of Collateral Obligations) hereof and such sale complies with all applicable requirements of Section 12.1 (Sales of Collateral Obligations), direct the Trustee to release or cause to be released such security from the lien of this Indenture and, upon receipt of such Issuer Order, the Trustee shall deliver any such security, if in physical form, duly endorsed to the broker or purchaser designated in such Issuer Order or, if such security is a Clearing Corporation Security, cause an appropriate transfer thereof to be made, in each case against receipt of the sales price therefor as specified by the Portfolio Manager in such Issuer Order; provided, however, that the Trustee may deliver any such security in physical form for examination in accordance with street delivery custom. The Trustee shall, upon receipt of an Issuer Order, release from the lien of this Indenture any Collateral Obligation or other Asset being transferred to an ETB Subsidiary and deliver such Asset to be held by the ETB Subsidiary in exchange for the pledge of the equity interest in such ETB Subsidiary. Such Issuer Order shall be executed by an Authorized Officer of the Portfolio Manager, request release of a Collateral Obligation or other Asset, certify that such release is

permitted under this Indenture and request that the Trustee execute the agreements, releases or other documents releasing such Asset as presented to it by the Portfolio Manager.

(b) Subject to Article 12 hereof, the Trustee shall upon an Issuer Order (i) deliver any Pledged Obligation, and release or cause to be released such security from the lien of this Indenture, which is set for any mandatory call or redemption or payment in full to the appropriate paying agent on or before the date set for such call, redemption or payment, in each case against receipt of the call or redemption price or payment in full thereof and (ii) provide notice thereof to the Portfolio Manager.

(c) Upon receiving actual notice of any Offer (as defined below) or any request for a waiver, consent, amendment or other modification with respect to any Collateral Obligation, the Trustee on behalf of the Issuer shall notify the Portfolio Manager of any Collateral Obligation that is subject to a tender offer, voluntary redemption, exchange offer, conversion or other similar action (an "Offer") or such request. Unless the Notes have been accelerated following an Event of Default, the Portfolio Manager may direct (x) the Trustee to accept or participate in or decline or refuse to participate in such Offer and, in the case of acceptance or participation, to release from the lien of this Indenture such Collateral Obligation in accordance with the terms of the Offer against receipt of payment therefor or (y) the Issuer or the Trustee to agree to or otherwise act with respect to such consent, waiver, amendment or modification.

(d) As provided in Section 10.2(a) (Collection Account), the Trustee shall deposit any proceeds received by it from the disposition of a Pledged Obligation in the applicable subaccount of the Collection Account, unless simultaneously applied to the purchase of additional Collateral Obligations or Eligible Investments as permitted under and in accordance with the requirements of this Article 10 and Article 12.

(e) The Trustee shall, upon receipt of an Issuer Order at such time as there are no Secured Notes Outstanding and all obligations of the Co-Issuers hereunder in favor of the Holders of the Secured Notes and the Trustee have been satisfied, release any remaining Assets from the lien of this Indenture.

(f) Any security, Collateral Obligation or amounts that are released pursuant to Section 10.8(a), (b) or (c) (Release of Securities) shall be released from the lien of this Indenture.

Section 10.9. Reports by Independent Accountants. (a) At the Closing Date, the Issuer shall appoint one or more firms of Independent certified public accountants of recognized international reputation for purposes of reviewing and delivering the reports or certificates of such accountants required by this Indenture, which may be the firm of Independent certified public accountants that performs accounting services for the Issuer or the Portfolio Manager. The Issuer may remove any firm of Independent certified public accountants at any time without the consent of any Holder of Notes. Upon any resignation by such firm or removal of such firm by the Issuer, the Issuer (or the Portfolio Manager on behalf of the Issuer) shall promptly appoint by Issuer Order delivered to the Trustee and each Rating Agency a successor thereto that shall also be a firm of Independent certified public accountants of recognized

international reputation, which may be a firm of Independent certified public accountants that performs accounting services for the Issuer or the Portfolio Manager. If the Issuer shall fail to appoint a successor to a firm of Independent certified public accountants which has resigned within 30 days after such resignation, the Issuer shall promptly notify the Trustee of such failure in writing. If the Issuer shall not have appointed a successor within ten days thereafter, the Portfolio Manager shall promptly appoint a successor firm of Independent certified public accountants of recognized international reputation. The fees of such Independent certified public accountants and its successor shall be payable by the Issuer. By acceptance of their Notes, the Noteholders acknowledge and agree that: (i) neither the firm of Independent certified public accountants appointed by the Issuer hereunder nor the Trustee shall be liable for any claims, liabilities, and expenses arising out of or relating to such accountant's engagement, agreed-upon procedures or any report issued by such accountants under any such engagement and (ii) any report issued by such accountants under this Section 10.9(a) cannot be disseminated without the express consent of such accountants.

(b) On or before March 14th of each year commencing in 2014, the Issuer, or the Portfolio Manager on behalf of the Issuer, shall cause to be delivered to the Collateral Administrator (upon its execution of an acknowledgement letter satisfactory to such accountants), the Portfolio Manager and each Holder of the Notes (upon the Holder's (x) written request therefor and (y) execution of an acknowledgement letter satisfactory to such accountants), a statement from a firm of Independent certified public accountants for each Distribution Report received since the last statement (i) indicating that the calculations within those Distribution Reports (excluding the S&P CDO Monitor Test) have been performed in accordance with the applicable provisions of this Indenture and (ii) listing the Aggregate Principal Balance of the Pledged Obligations and the Aggregate Principal Balance of the Collateral Obligations securing the Secured Notes as of the immediately preceding Determination Dates; provided, however, that in the event of a conflict between such firm of Independent certified public accountants and the Issuer with respect to any matter in this Section 10.9 (Reports by Independent Accountants), the determination by such firm of Independent public accountants shall be conclusive. The reports by Independent certified public accountants referenced in this Section 10.9 (Reports by Independent Accountants) shall only be provided to parties (excluding the Issuer and Portfolio Manager) that have executed an acknowledgement letter satisfactory to the firm of Independent certified public accountants.

(c) Upon the written request of the Trustee, or any Holder or beneficial owner, the Issuer will use commercially reasonable efforts to cause the firm of Independent certified public accountants appointed pursuant to Section 10.9(a) (Reports by Independent Accountants) to provide such Holder or beneficial owner with all of the information required to be provided by the Issuer pursuant to Section 7.17(g), (h) or (i) (Certain Tax Matters) or assist the Issuer in the preparation thereof.

(d) Notwithstanding any provision of this Indenture to the contrary, each Person that does not sign and deliver to the Issuer's firm of Independent certified public accountants a written confirmation in the form provided by such firm of Independent certified public accountants indicating the procedures employed by such firm of Independent certified public accountants in connection with each report specified in Section 10.9(b) (Reports by Independent Accountants) and 12.1(e) (Sale of Collateral Obligations) and the Accountants'

Reports specified in 3.1(a)(xiv) (Conditions to Issuance of Notes on Closing Date), 3.2(vi) (Conditions to Issuance of Additional Notes) and 7.18(c) (Ramp-up Period; Purchase of Additional Collateral Obligations) are acceptable for its purposes and that it has taken responsibility for the sufficiency of such procedures will not be entitled to receive any such report or Accountants' Report and shall receive, to the extent it is otherwise entitled to receive any such report or Accountants' Report pursuant to this Indenture, a certificate of the Issuer in the form of Schedule 6 hereto in lieu thereof. In the event such firm requires the Trustee to agree to the procedures performed by such firm, the Issuer shall direct the Trustee in writing to so agree; it being understood and agreed that the Trustee will deliver such letter of agreement in conclusive reliance upon the direction of the Issuer, and the Trustee makes no independent inquiry or investigation as to, and shall have no obligation or liability in respect of, the sufficiency, validity or correctness of such procedures.

(e) The Trustee and the Collateral Administrator shall have no responsibility to the Issuer or the Secured Parties hereunder to make any inquiry or investigation as to, and shall have no obligation in respect of, the terms of any engagement of Independent accountants by the Issuer (or the Portfolio Manager on behalf of the Issuer); provided, however that the Trustee and the Collateral Administrator shall be authorized, upon receipt of an Issuer Order directing the same, to execute any acknowledgment or other agreement with the Independent accountants required for the Trustee and the Collateral Administrator to receive any of the reports or instructions provided for herein, which acknowledgment or agreement may include, among other things, (i) acknowledgements with respect to the sufficiency of the agreed upon procedures to be performed by the Independent accountants by the Issuer, (ii) releases of claims (on behalf of itself and the Noteholders) and other acknowledgments of limitations of liability in favor of the Independent accountants and (iii) restrictions or prohibitions on the disclosure of information or documents provided to it by such firm of Independent accountants (including to the Holders). It is understood and agreed that the Trustee and the Collateral Administrator will deliver such acknowledgement or other agreement in conclusive reliance on the foregoing direction of the Issuer, and the Trustee shall make no inquiry or investigation as to, and shall have no obligation in respect of, the sufficiency, validity or correctness of such procedures. Notwithstanding the foregoing, in no event shall the Trustee or the Collateral Administrator be required to execute any agreement in respect of the Independent accountants that the Trustee or the Collateral Administrator determines adversely affects it in its individual capacity.

Section 10.10. Reports to Rating Agencies and Additional Recipients; Rule 17g-5 Procedures. (a) In addition to the information and reports specifically required to be provided to each Rating Agency pursuant to the terms of this Indenture, the Issuer shall provide each Rating Agency with all information or reports delivered to the Trustee hereunder, and such additional information as either Rating Agency may from time to time reasonably request (including notification to Moody's and S&P of any modification of any loan document relating to a DIP Collateral Obligation or any release of collateral thereunder not permitted by such loan documentation and notification to S&P of any amendment with respect to any Collateral Obligation that is the subject of a rating estimate by S&P).

(b) The Trustee (without assuming any obligations to any such person, including for its failure to do so) shall make available to the persons identified on Schedule 7 (if any) (including by access to its password protected website) duplicate copies of all reports,

notices and statements that the Trustee is required to deliver to any Noteholder, at the address specified in Schedule 7.

(c) The Trustee shall, upon the written request of the Portfolio Manager, provide the Portfolio Manager with a list of all registered Holders of Notes. In addition, if so requested by the Portfolio Manager in writing, the Trustee shall request that DTC request the identity of its participants.

(d) The Issuer shall submit, or shall cause the Portfolio Manager to submit on its behalf, at least every twelve months (from the date of the last such credit estimate), a request to Moody's to perform a credit estimate on each Collateral Obligation with a credit estimate, together with the information reasonably required by Moody's to perform such credit estimate.

(e) If the Trustee or the Issuer receives confirmation of the S&P Rating Condition and/or the Moody's Rating Condition in connection with this Indenture or the transactions contemplated hereby, such Person shall promptly forward such confirmation to the other such Person and to the Portfolio Manager.

(f) (i) The Trustee shall notify the Portfolio Manager of the internet address of the website to which the Trustee posts Monthly Reports, Distribution Reports and any other reports relating to this Indenture, the Notes or the transactions contemplated hereby and thereby from time to time. The Information Agent shall maintain a password-protected website required pursuant to Rule 17g-5 (the "17g-5 Site") in accordance with the Collateral Administration Agreement.

(ii) If the Trustee responds to requests for information by or otherwise communicates with the Rating Agencies in relation to this Indenture, the Trustee agrees to (x) notify the Portfolio Manager of such communication within a reasonable time and (y) use commercially reasonable efforts to assist the Portfolio Manager in complying with Rule 17g-5 (including, but not limited to, providing copies of such communications and/or information provided to the Rating Agencies). The Trustee may, but shall not be obligated to engage in, or respond to, any oral communications from the Rating Agencies.

(g) If there is a Material Change with respect to a Collateral Obligation described in clause (ii)(b) of the definition of S&P Rating, the Issuer, or the Portfolio Manager on behalf of the Issuer, shall, upon notice or knowledge thereof, notify S&P and provide available information with respect thereto. S&P may, in its sole discretion, update its credit estimate of such Collateral Obligation; provided, that, such update shall not, unless so requested by the Issuer, be considered (x) a request for a credit estimate by the Issuer in accordance with or (y) in determining whether or not the Issuer has complied with, in each case, the annual credit estimate requirements set forth in this Indenture.

Section 10.11. Procedures Relating to the Establishment of Accounts Controlled by the Trustee. Notwithstanding anything else contained herein, the Trustee agrees that with respect to each of the Accounts and any Hedge Account, it will cause each Securities

Intermediary establishing such accounts to enter into a securities account control agreement and, if the Securities Intermediary is the Bank, in connection with the Accounts, cause the Bank to comply with the provisions of the Securities Account Control Agreement.

ARTICLE 11

Application of Monies

Section 11.1. Disbursements of Monies from Payment Account. (a) Notwithstanding any other provision in this Indenture, but subject to the other subsections of this Section 11.1 (Disbursements of Monies from Payment Account), on each Payment Date, the Trustee shall disburse amounts transferred from the Collection Account to the Payment Account pursuant to Section 10.2 (Collection Account) in accordance with the following priorities (the "Priority of Payments"); provided, that, unless an Acceleration Event has occurred and is continuing, (x) amounts transferred from the Interest Collection Subaccount shall be applied solely in accordance with Section 11.1(a)(i) (Disbursements of Monies from Payment Account); and (y) amounts transferred from the Principal Collection Subaccount shall be applied solely in accordance with Section 11.1(a)(ii) (Disbursements of Monies from Payment Account).

(i) On each Payment Date (other than Payment Dates on which the Acceleration Priority of Payments is applicable) and on each Redemption Date (to the extent such Redemption Date is not a Payment Date), Interest Proceeds on deposit in the Collection Account, to the extent received on or before the related Determination Date (or if such Determination Date is not a Business Day, the next succeeding Business Day) and that are transferred into the Payment Account, and, in the case of any Hedge Agreements, payments received on or before such Payment Date, shall be applied in the following order of priority:

(A) to the payment of taxes and governmental fees owing by the Issuer or the Co-Issuer if any;

(B) to the payment of the accrued and unpaid Administrative Expenses up to the Administrative Expense Cap in the order set forth in the definition of Administrative Expenses; provided, that the Petition Expense Amount may be applied pursuant to this clause (B) to the payment of Petition Expenses at the time that such Petition Expenses are incurred without regard to the Administrative Expense Cap and, if (but only after) the Petition Expense Amount is applied to the payment of Petition Expenses in full, Petition Expenses shall be paid together with other Administrative Expenses subject to the Administrative Expense Cap above; provided further, that the Petition Expenses paid pursuant to this clause (B) shall be paid in the order set forth in the definition of Administrative Expenses;

(C) to the payment of the Senior Management Fee to the Portfolio Manager;

(D) to the payment, *pro rata*, of any amounts due to any Hedge Counterparty under any Hedge Agreement other than amounts due as a result of the termination (or partial termination) of such Hedge Agreement;

(E) to the payment, *pro rata* based upon amounts due, of (1) accrued and unpaid interest on the Class X Notes, (2) the Class X Note Payment Amount, (3) accrued and unpaid interest on the Class A-1 Notes and (4) subject to Section 11.2 (Payments on the Class A-2 Notes and the Combination Notes), accrued and unpaid interest on the Class A-2 Notes, in each case, until such amounts have been paid in full;

(F) [RESERVED];

(G) to the payment of accrued and unpaid interest on the Class B Notes;

(H) to the payment, *pro rata*, of any amounts due to any Hedge Counterparty under any Hedge Agreement pursuant to an early termination (or partial termination) of any Hedge Agreement as a result of a Priority Hedge Termination Event;

(I) if either of the Class A/B Coverage Tests is not satisfied on the related Determination Date, to make payments in accordance with the Note Payment Sequence to the extent necessary to cause both Class A/B Coverage Tests to be met;

(J) to the payment of accrued and unpaid interest on the Class C Notes;

(K) if either of the Class C Coverage Tests is not satisfied on the related Determination Date, to make payments in accordance with the Note Payment Sequence to the extent necessary to cause both Class C Coverage Tests to be met;

(L) to the payment of any Deferred Interest on the Class C Notes (and interest accrued thereon);

(M) to the payment of accrued and unpaid interest on the Class D Notes;

(N) if either of the Class D Coverage Tests is not satisfied on the related Determination Date, to make payments in accordance with the Note Payment Sequence to the extent necessary to cause both Class D Coverage Tests to be met;

(O) to the payment of any Deferred Interest on the Class D Notes (and interest accrued thereon);

(P) to the payment of accrued and unpaid interest on the Class E Notes;

(Q) if either Class E Coverage Test is not satisfied on the related Determination Date, to make payments in accordance with the Note Payment Sequence to the extent necessary to cause both Class E Coverage Tests to be met;

(R) to the payment of any Deferred Interest on the Class E Notes (and interest accrued thereon);

(S) to the payment of accrued and unpaid interest on the Class F Notes;

(T) to the payment of any Deferred Interest on the Class F Notes (and interest accrued thereon);

(U) if the Effective Date Conditions have not been satisfied on or prior to such Payment Date, at the election of the Portfolio Manager, to (x) the payment of principal of the Secured Notes in accordance with the Note Payment Sequence or (y) purchase Collateral Obligations, in each case, in the amount necessary so that each Rating Agency will be able to confirm its Initial Rating on the Secured Notes (including by means of a deemed confirmation as set forth in the definitions of S&P Rating Condition or Moody's Rating Condition) or the Secured Notes are paid in full, as applicable;

(V) during the Reinvestment Period only, if the Interest Reinvestment Test is not satisfied on the related Determination Date, an amount equal to the lesser of (i) 75% of the Interest Proceeds remaining as of such Payment Date and (ii) an amount which would cause the Interest Reinvestment Test to be satisfied to the Collection Account as Principal Proceeds to purchase additional Collateral Obligations;

(W) (1) *first*, to the payment of any accrued and unpaid Subordinated Management Fee to the Portfolio Manager, together with accrued interest thereon, (2) *second*, to the payment of any Administrative Expenses not paid in full pursuant to clause (B) above due to the limitation contained therein and (3) *third*, to the payment of any expenses incurred in connection with a Refinancing;

(X) to the payment of any amounts due to any Hedge Counterparty under any Hedge Agreement pursuant to an early termination (or partial termination) of any Hedge Agreement not otherwise paid pursuant to clause (H) above;

(Y) to (1) *first*, unless each of the Effective Date Conditions has been satisfied, all remaining Interest Proceeds to the Interest Collection Subaccount as Interest Proceeds for distribution on the next subsequent Payment Date and (2) *second,* the Holders of the Subordinated Notes in an amount necessary (taking into account all payments made to the Holders of the Subordinated Notes on prior

Payment Dates) to cause the Incentive Management Fee Threshold to be satisfied; and

(Z) any remaining Interest Proceeds shall be paid as follows: (i) 20% of such remaining Interest Proceeds to the Portfolio Manager as the Incentive Management Fee and (ii) 80% of such remaining Interest Proceeds to the Holders of the Subordinated Notes.

provided that, in lieu of the payment of Interest Proceeds referred to under clause (Z) above, in whole or in part on any Payment Date, the Portfolio Manager, on behalf of the Issuer, shall have the right to direct the Trustee to distribute any Equity Securities pro rata to the Consenting Holders of the Subordinated Notes with respect to such Payment Date to the extent that the Market Value of such Equity Securities (determined by the Portfolio Manager as of the relevant Determination Date) is equal to or lower than the aggregate amount of Interest Proceeds that would otherwise be due and payable on such Payment Date to such Consenting Holders of the Subordinated Notes. Interest Proceeds in an amount equal to or greater than the Market Value of such Equity Securities (determined by the Portfolio Manager as of the relevant Determination Date) distributed to the Consenting Holders of the Subordinated Notes with respect to any such Payment Date shall be treated for all purposes by the Issuer and the Trustee as Principal Proceeds available for distribution in accordance with the Priority of Payments on the relevant Payment Date. The amount of Interest Proceeds available on the relevant Payment Date shall be reduced and the amount of Principal Proceeds available on the relevant Payment Date shall be increased accordingly.

(ii) On each Payment Date (other than Payment Dates on which the Acceleration Priority of Payments is applicable) and on each Redemption Date (to the extent such Redemption Date is not a Payment Date), Principal Proceeds on deposit in the Collection Account that are received on or before the related Determination Date and that are transferred to the Payment Account shall be applied, except for any Principal Proceeds that will be used to settle binding commitments (entered into prior to the Determination Date) for the purchase of Collateral Obligations, in the following order of priority:

(A) to pay the amounts referred to in clauses (A) through (G) of Section 11.1(a)(i) (Disbursements of Monies from Payment Account) (in the priority stated therein), but (a) only to the extent not paid in full thereunder and (b) subject to any applicable cap set forth therein; provided that, if the Senior Notes have been repaid in full, to pay the amounts referred to in Section 11.1(a)(i) (Disbursements of Monies from Payment Account) above, through and including full payment of accrued and unpaid interest on the Controlling Class;

(B) if any Overcollateralization Ratio Test or Interest Coverage Test is not satisfied as of the related Determination Date after giving effect to the application of the amounts referred to in clauses (H) through (Q) of Section 11.1(a)(i) (Disbursements of Monies from Payment Account), to make payments in accordance with the Note Payment Sequence to the extent necessary to cause each such test to be met;

(C) to make payments in accordance with the Note Payment Sequence in the amount of the Special Redemption Amount, if any;

(D) on any Redemption Date (other than a Redemption Date relating to a Refinancing), (1) *first*, to pay the Redemption Price of the Secured Notes in accordance with the Note Payment Sequence and (2) *second*, to the payments under clauses (W) and (X) of Section 11.1(a)(i) (Disbursements of Monies from Payment Account) (in the same order of priority specified thereunder, but only to the extent not paid in full thereunder and without regard to any cap thereunder);

(E) to the extent not paid in full after application of the amounts referred to under Section 11.1(a)(i) (Disbursements of Monies from Payment Account), to the payment of (1) *first*, accrued and unpaid interest on the Class C Notes and (2) *second*, any Deferred Interest on the Class C Notes (and interest thereon); provided, that after giving effect to such payments, each Overcollateralization Ratio Test and Interest Coverage Test will be satisfied on a pro forma basis;

(F) to the extent not paid in full after application of the amounts referred to under Section 11.1(a)(i) (Disbursements of Monies from Payment Account), to the payment of (1) *first*, accrued and unpaid interest on the Class D Notes and (2) *second*, any Deferred Interest on the Class D Notes (and interest thereon); provided, that after giving effect to such payments, each Overcollateralization Ratio Test and Interest Coverage Test will be satisfied on a pro forma basis;

(G) to the extent not paid in full after application of the amounts referred to under Section 11.1(a)(i) (Disbursements of Monies from Payment Account), to the payment of (1) *first*, accrued and unpaid interest on the Class E Notes and (2) *second*, any Deferred Interest on the Class E Notes (and interest accrued thereon); provided, that after giving effect to such payments, each Overcollateralization Ratio Test and Interest Coverage Test will be satisfied on a pro forma basis;

(H) to the extent not paid in full after application of the amounts referred to under Section 11.1(a)(i) (Disbursements of Monies from Payment Account), to the payment of (1) *first*, accrued and unpaid interest on the Class F Notes and (2) *second*, any Deferred Interest on the Class F Notes (and interest accrued thereon); provided, that after giving effect to such payments, each Overcollateralization Ratio Test and Interest Coverage Test will be satisfied on a pro forma basis;

(I) during the Reinvestment Period, at the discretion of the Portfolio Manager, to the Collection Account as Principal Proceeds to invest in Eligible Investments and/or additional Collateral Obligations; provided, however, if the then-current rating by Moody's of the Class A-1 Notes, the Class A-2A Notes or

the Class A-2B Notes is below "Aa3" such Principal Proceeds shall be used to make payments in accordance with the Note Payment Sequence;

(J) after the Reinvestment Period, to make payments in accordance with the Note Payment Sequence;

(K) after the Reinvestment Period, to (1) *first*, the payment of accrued but unpaid Subordinated Management Fees, together with accrued interest thereon, and (2) *second*, Administrative Expenses as referred to in Section 11.1(a)(i)(W)(2) (Disbursements of Monies from Payment Account) in the priority stated therein, but only to the extent not paid in full thereunder;

(L) after the Reinvestment Period, to the payment, *pro rata* of any amount due to any Hedge Counterparty as referred to in Section 11.1(a)(i)(X) (Disbursements of Monies from Payment Account), but only to the extent not paid in full thereunder;

(M) to the Holders of the Subordinated Notes in an amount necessary (taking into account all payments made to the Holders of Subordinated Notes on prior Payment Dates and all payments made under Section 11.1(a)(i)(Y) (Disbursements of Monies from Payment Account) on such Payment Date) to cause the Incentive Management Fee Threshold to be satisfied; and

(N) any remaining Principal Proceeds shall be paid as follows: (i) 20% of such remaining Principal Proceeds to the Portfolio Manager as the Incentive Management Fee and (ii) 80% of such remaining Principal Proceeds to the Holders of the Subordinated Notes.

(iii) Notwithstanding the provisions of Section 11.l(a)(i) and 11.1(a)(ii) (Disbursements of Monies from Payment Account), if declaration of acceleration of the maturity of the Secured Notes has occurred following an Event of Default and such acceleration has not been rescinded or annulled (an "Acceleration Event"), on each date or dates fixed by the Trustee, all proceeds in respect of the Assets will be applied in the following order of priority (the "Acceleration Priority of Payments"):

(A) to pay all amounts under clauses (A) through (D) of Section 11.1(a)(i) (Disbursements of Monies from Payment Account) above (only if the Trustee has begun liquidating Assets in accordance with Section 5.5 (Optional Preservation of Assets), such payments to be made without regard to the Administrative Expense Cap);

(B) to the payment, *pro rata* based upon interest due, of (1) accrued and unpaid interest on the Class X Notes, (2) accrued and unpaid interest on the Class A-1 Notes and (3) subject to Section 11.2 (Payments on the Class A-2 Notes and the Combination Notes), accrued and unpaid interest on the Class A-2 Notes, in each case, until such amounts have been paid in full;

(C) to the payment, *pro rata* based upon amounts due, of (1) principal of the Class X Notes, (2) principal of the Class A-1 Notes and (3) subject to Section 11.2 (Payments on the Class A-2 Notes and the Combination Notes), principal of the Class A-2 Notes, in each case, until such amount has been paid in full;

(D) [RESERVED];

(E) [RESERVED];

(F) to the payment of accrued and unpaid interest on the Class B Notes until such amounts have been paid in full;

(G) to the payment of principal of the Class B Notes until such amount has been paid in full;

(H) to the payment, *pro rata*, of any amounts due to any Hedge Counterparty or under any Hedge Agreement pursuant to an early termination (or partial termination) of any Hedge Agreement as a result of a Priority Hedge Termination Event;

(I) to the payment of accrued and unpaid interest and any Deferred Interest on the Class C Notes until such amounts have been paid in full;

(J) to the payment of principal of the Class C Notes until such amount has been paid in full;

(K) to the payment of accrued and unpaid interest and any Deferred Interest on the Class D Notes until such amounts have been paid in full;

(L) to the payment of principal of the Class D Notes until such amount has been paid in full;

(M) to the payment of accrued and unpaid interest and any Deferred Interest on the Class E Notes until such amounts have been paid in full;

(N) to the payment of principal of the Class E Notes until such amount has been paid in full;

(O) to the payment of accrued and unpaid interest and any Deferred Interest on the Class F Notes until such amounts have been paid in full;

(P) to the payment of principal of the Class F Notes until such amount has been paid in full;

(Q) (1) *first*, to the payment of any accrued and unpaid Subordinated Management Fee to the Portfolio Manager, together with accrued interest thereon and (2) *second*, to the payment of any Administrative Expenses not paid in full

pursuant to clause (A) above due to the limitation contained therein (in the priority stated therein);

(R) to the payment of any amounts due to any Hedge Counterparty under any Hedge Agreement pursuant to an early termination (or partial termination) of such Hedge Agreement not otherwise paid in full pursuant to clause (H) above;

(S) to the Holders of the Subordinated Notes in an amount necessary (taking into account all payments made to the Holders of Subordinated Notes on prior Payment Dates) to cause the Incentive Management Fee Threshold to be satisfied; and

(T) any remaining proceeds shall be paid as follows: (i) 20% of such remaining amounts to the Portfolio Manager as the Incentive Management Fee and (ii) 80% of such remaining amounts to the Holders of the Subordinated Notes.

On the Stated Maturity of the Notes, the Trustee shall pay the net proceeds from the liquidation of the Assets and all available Cash, after the payment of all fees, expenses, including the Trustee's fees and other Administrative Expenses, and interest and principal on the Secured Notes, to the Holders of the Subordinated Notes in final payment of such Subordinated Notes.

(b) If on any Payment Date the amount available in the Payment Account is insufficient to make the full amount of the disbursements required by the Distribution Report, the Trustee shall make the disbursements called for in the order and according to the priority set forth under Section 11.1(a) (Disbursements of Monies from Payment Account) above, subject to Section 13.1 (Subordination; Non-Petition), to the extent funds are available therefor.

(c) In connection with the application of funds to pay Administrative Expenses of the Issuer or the Co-Issuer, as the case may be, in accordance with Section 11.1(a)(i) (Disbursements of Monies from Payment Account), Section 11.1(a)(ii) (Disbursements of Monies from Payment Account) and Section 11.1(a)(iii) (Disbursements of Monies from Payment Account), the Trustee shall remit such funds, to the extent available, as directed and designated in an Issuer Order (which may be in the form of standing instructions) delivered to the Trustee no later than the Business Day prior to each Payment Date.

(d) In the event that the Hedge Counterparty defaults in the payment of its obligations to the Issuer under any Hedge Agreement on the date on which any payment is due thereunder, the Trustee at the direction of the Portfolio Manager shall make a demand on such Hedge Counterparty, or any guarantor, if applicable, demanding payment by 12:30 p.m., New York time, on such date. The Trustee shall give notice to the Holders of Notes, the Portfolio Manager and each Rating Agency if such Hedge Counterparty continues to fail to perform its obligations for two Business Days following a demand made by the Trustee on such Hedge Counterparty, and shall take such action with respect to such continuing failure as may be directed to be taken pursuant to Section 5.13 (Control by Majority of Controlling Class).

Section 11.2. Payments on the Class A-2 Notes and the Combination Notes. (a) All payments on the Class A-2 Notes shall be made in the following order of priority, (1) *first,* to the Class A-2A Notes and (2) *second,* to the Class A-2B Notes. Interest payments on the Class A-2B Notes will be subordinated in all respects to interest payments on the Class A-2A Notes. Principal payments of the Class A-2B Notes will be subordinated in all respects to principal payments of the Class A-2A Notes.

(b) The payment priority of each Component of the Combination Notes shall be in accordance with the priority of the respective Underlying Class in accordance with the Priority of Payments. On each date on which payments are made on any Underlying Class, a portion of such payments will be allocated to the Combination Notes in the proportion that the Aggregate Outstanding Amount of the related Component bears to the Aggregate Outstanding Amount of that Underlying Class as a whole (including the related Components). The Combination Notes will be entitled to no other payments. In particular, interest will not accrue or be payable on the Aggregate Outstanding Amount of the Combination Notes, except to the extent, if any, of interest on the related Component.

ARTICLE 12

Sale of Collateral Obligations; Purchase of Additional Collateral Obligations

Section 12.1. Sales of Collateral Obligations. Subject to the satisfaction of the conditions specified in Section 12.3 (Conditions Applicable to All Sale and Purchase Transactions) and provided, that no Event of Default has occurred and is continuing (except for sales pursuant to Sections 12.1(a), (b), (c), (d), (e), (g) and (h) (Sales of Collateral Obligations)), the Portfolio Manager on behalf of the Issuer may in writing direct the Trustee to sell and the Trustee (on behalf of the Issuer) shall sell in the manner directed by the Portfolio Manager any Collateral Obligation or Equity Security if such sale meets the requirements of any one of paragraphs (a) through (h) of this Section 12.1 (Sales of Collateral Obligations). For purposes of this Section 12.1 (Sales of Collateral Obligations), the Sale Proceeds of a Collateral Obligation sold by the Issuer shall include any Principal Financed Accrued Interest received in respect of such sale.

(a) Credit Risk Obligations. The Portfolio Manager may direct the Trustee to sell any Credit Risk Obligation at any time during or after the Reinvestment Period without restriction.

(b) Credit Improved Obligations. The Portfolio Manager may direct the Trustee to sell any Credit Improved Obligation at any time during or after the Reinvestment Period if either:

(i) during the Reinvestment Period, the Portfolio Manager reasonably believes prior to such sale that it will be able to enter into binding commitments to reinvest all or a portion of the proceeds of such sale, in compliance with the Investment Criteria, in one or more additional Collateral Obligations with an Aggregate Principal

Balance at least equal to the Investment Criteria Adjusted Balance of the sold Credit Improved Obligation within 20 Business Days of such sale; or

(ii) at any time, either (1) the Sale Proceeds from such sale are at least equal to the Investment Criteria Adjusted Balance of the sold Credit Improved Obligation or (2) after giving effect to such sale, the Aggregate Principal Balance of all Collateral Obligations (excluding the Collateral Obligation being sold but including, without duplication, the anticipated cash proceeds of such sale) plus, without duplication, the amounts on deposit in the Accounts (including Eligible Investments therein) representing Principal Proceeds, will be greater than (or equal to) the Target Balance.

(c) Defaulted Obligations. The Portfolio Manager may direct the Trustee to sell any Defaulted Obligation at any time during or after the Reinvestment Period without restriction.

(d) Equity Securities. The Portfolio Manager may direct the Trustee to sell any Equity Security or any asset held by any ETB Subsidiary at any time during or after the Reinvestment Period without restriction, and shall use its commercially reasonable efforts to effect the sale of any Equity Security within 45 days of receipt if such Equity Security constitutes Margin Stock, unless such sale is prohibited by applicable law, in which case such Equity Security shall be sold as soon as such sale is permitted by applicable law.

(e) Optional Redemption; Clean-up Call Redemption. After the Issuer has notified the Trustee of an Optional Redemption of the Notes in accordance with Section 9.2 (Optional Redemption and Refinancing) or a Clean-up Call Redemption in accordance with Section 9.6 (Clean-up Call Redemption), the Portfolio Manager shall (except in connection with a Refinancing) direct the Trustee to sell (which sale may be through participation) all or a portion of the Collateral Obligations if (i) the applicable requirements of Article 9 (including the certification requirements of Section 9.3(c)(ii) (Redemption Procedures)) are satisfied.

(f) Discretionary Sales. The Portfolio Manager may direct the Trustee to sell any Collateral Obligation at any time if (a) during or after the Reinvestment Period, and after giving effect to such sale, the Aggregate Principal Balance of all Collateral Obligations sold pursuant to this Section 12.1(f) (Sales of Collateral Obligations) during any 12 calendar month period is not greater than 25% of the Collateral Principal Amount as of the beginning of such 12 calendar month period; and (b) either:

(i) during the Reinvestment Period, the Portfolio Manager reasonably believes prior to such sale that it will be able to enter into binding commitments to reinvest all or a portion of the proceeds of such sale, in compliance with the Investment Criteria, in one or more additional Collateral Obligations with an Aggregate Principal Balance at least equal to the Investment Criteria Adjusted Balance of the sold Collateral Obligation within 20 Business Days of such sale; or

(ii) at any time, either (1) the Sale Proceeds from such sale are at least equal to the Investment Criteria Adjusted Balance of the sold Collateral Obligation or (2) the Effective Date Overcollateralization Test will be satisfied after giving effect to such sale.

(g) Mandatory Sales. The Portfolio Manager shall use its commercially reasonable efforts to effect the sale (regardless of price) of any Collateral Obligation that (i) no longer meets the criteria described in clause (viii) of the definition of "Collateral Obligation," within 18 months of the failure of such Collateral Obligation to meet any such criteria (unless (x) the Moody's Rating Condition is satisfied and (y) notice has been provided to S&P of the failure of such Collateral Obligation to meet such criteria) and (ii) no longer meets the criteria described in clause (vi) or (vii) of the definition of "Collateral Obligation," within 45 days of the failure of such Collateral Obligation to meet either such criteria. Notwithstanding anything in this Article 12 to the contrary, so long as any Secured Notes are Outstanding on the Stated Maturity of the Notes, the Portfolio Manager shall use its commercially reasonable efforts to effect the sale of all remaining Collateral Obligations, Eligible Investments and Equity Securities (including Equity Securities held by any ETB Subsidiary) upon the Stated Maturity of such Notes.

(h) Pre-funded Letters of Credit. If either the Issuer or the Portfolio Manager has actual knowledge that the account in which the funded amount in respect of a Pre-funded Letter of Credit owned by the Issuer is held has ceased to be a Pre-funded Letter of Credit Eligible Account, the Issuer (or the Portfolio Manager on its behalf) may sell such Pre-funded Letter of Credit within 60 days of the date on which the Issuer or the Portfolio Manager obtained actual knowledge that such account ceased to be a Pre-funded Letter of Credit Eligible Account.

Section 12.2. Purchase of Additional Collateral Obligations. On any date during the Reinvestment Period, the Portfolio Manager on behalf of the Issuer may direct the Trustee to invest Principal Proceeds and accrued interest received with respect to any Collateral Obligation to the extent used to pay for accrued interest on additional Collateral Obligations in additional Collateral Obligations, and the Trustee shall invest such proceeds, if each of the conditions specified in this Section 12.2 (Purchase of Additional Collateral Obligations) and Section 12.3 (Conditions Applicable to All Sale and Purchase Transactions) are met; provided that, for the avoidance of doubt, with respect to any Collateral Obligations for which the trade date has occurred during the Reinvestment Period and for which Principal Proceeds are available (including for this purpose, cash on deposit in the Collection Account as well as any Principal Proceeds that will be received by the Issuer from the sale of Collateral Obligations for which the trade date has already occurred but the settlement date has not yet occurred) are available but which settle after the end of the Reinvestment Period, the purchase of such Collateral Obligations shall be treated as a purchase made during the Reinvestment Period for purposes of this Section 12.2 (Purchase of Additional Collateral Obligations).

(a) Investment Criteria. No Collateral Obligation may be purchased unless each of the following conditions are satisfied as of the date the Portfolio Manager commits on behalf of the Issuer to make such purchase, in each case (subject to the provisions of Section 1.2(k) (Assumptions as to Pledged Obligations)) after giving effect to such purchase and all other sales or purchases previously or simultaneously committed to; provided that the conditions set forth in clauses (iii) through (v) below need only be satisfied with respect to purchases of Collateral Obligations occurring after the end of the Ramp-up Period:

(i) such obligation is a Collateral Obligation;

(ii) such obligation is not as of such date a Credit Risk Obligation as determined by the Portfolio Manager;

(iii) (A) each Coverage Test will be satisfied, or if not satisfied such Coverage Test will be maintained or improved and (B) if each Coverage Test is not satisfied, the proceeds of any sale of a Defaulted Obligation pursuant to Section 12.1(c) above shall not be reinvested in additional Collateral Obligations;

(iv) (A) in the case of an additional Collateral Obligation purchased with the proceeds from the sale of a Credit Risk Obligation or a Defaulted Obligation, either (1) the Aggregate Principal Balance of all additional Collateral Obligations purchased with the proceeds from such sale will at least equal the Sale Proceeds from such sale, (2) the Aggregate Principal Balance of the Collateral Obligations when such Credit Risk Obligation or Defaulted Obligation was sold will be maintained or increased following the purchase of such additional Collateral Obligation or (3) after giving effect to such sale, the Aggregate Principal Balance of all Collateral Obligations (excluding the Collateral Obligation being sold but including, without duplication, the anticipated cash proceeds of such sale) plus, without duplication, the amounts on deposit in the Accounts (including Eligible Investments therein) representing Principal Proceeds, will be greater than (or equal to) the Target Balance and (B) in the case of any other purchase of additional Collateral Obligations, either (1) the Aggregate Principal Balance of the Collateral Obligations when such Collateral Obligations were sold will be maintained or increased after giving effect to the purchase of such additional Collateral Obligations or (2) after giving effect to such sale, the Aggregate Principal Balance of all Collateral Obligations (excluding the Collateral Obligation being sold but including, without duplication, the anticipated cash proceeds of such sale) plus, without duplication, the amounts on deposit in the Accounts (including Eligible Investments therein) representing Principal Proceeds, will be greater than (or equal to) the Target Balance;

(v) either (A) each requirement or test, as the case may be, of the Concentration Limitations and the Collateral Quality Test will be satisfied or (B) if any such requirement or test was not satisfied immediately prior to such reinvestment, such requirement or test will be maintained or improved after giving effect to the reinvestment; and

(vi) the then-current rating by Moody's of the Class A-1 Notes, the Class A-2A Notes and the Class A-2B Notes is at least "Aa3", unless waived in writing by the Holders of at least a Majority of the Controlling Class.

(b) Reinvesting After the Reinvestment Period. For the avoidance of doubt, after the Reinvestment Period each of the Issuer and the Portfolio Manager may not invest in or purchase additional Collateral Obligations.

(c) Post-Reinvestment Period Settlement. Not later than the Business Day immediately following the end of the Reinvestment Period, the Portfolio Manager shall deliver to the Trustee a schedule of Collateral Obligations that the Issuer has purchased on a trade date basis but with respect to which the settlement date has not yet occurred and shall certify to the

Trustee that sufficient Principal Proceeds are available (including for this purpose, cash on deposit in the Collection Account as well as any Principal Proceeds that will be received by the Issuer from the sale of Collateral Obligations for which the trade date has already occurred but the settlement date has not yet occurred) to effect the settlement of such Collateral Obligations.

(d) Certification by Portfolio Manager. Not later than the Subsequent Delivery Date for any Collateral Obligation purchased after the end of the Ramp-up Period, the Portfolio Manager shall deliver to the Trustee an Officer's certificate of the Portfolio Manager certifying that such purchase complies with this Section 12.2 (Purchase of Additional Collateral Obligations) and Section 12.3 (Conditions Applicable to All Sale and Purchase Transactions).

(e) Purchase Following Sale of Credit Improved Obligations and Discretionary Sales. Following the sale of any Credit Improved Obligation pursuant to Section 12.1(b)(i) (Sales of Collateral Obligations) or any discretionary sale of a Collateral Obligation pursuant to Section 12.1(f)(i)(B) (Sales of Collateral Obligations), the Portfolio Manager shall use its reasonable efforts to purchase additional Collateral Obligations pursuant to this Section 12.2 (Purchase of Additional Collateral Obligations) within 20 Business Days after such sale.

(f) Investment in Eligible Investments. Cash on deposit in any Account or Hedge Account may be invested at any time in Eligible Investments in accordance with Article 10 (or, in the case of Hedge Accounts, collateral required to secure the obligations of the applicable Hedge Counterparty).

Section 12.3. Conditions Applicable to All Sale and Purchase Transactions. (a) Any transaction effected under this Article 12 or in connection with the acquisition of additional Collateral Obligations during the Ramp-up Period shall be conducted on an arm's length basis and, if effected with a Person Affiliated with the Portfolio Manager, shall be effected in accordance with the requirements of Section 6 of the Portfolio Management Agreement on terms no less favorable to the Issuer than would be the case if such Person were not so Affiliated, provided, that the Trustee shall have no responsibility to oversee compliance with this clause (a) by the other parties.

(b) Upon any acquisition of a Collateral Obligation pursuant to this Article 12, all of the Issuer's right, title and interest to the Pledged Obligation or Pledged Obligations shall be Granted to the Trustee pursuant to this Indenture, such Pledged Obligations shall be Delivered to the Trustee, and, if applicable, the Issuer shall receive the Pledged Obligation for which the Pledged Obligation was substituted. The Trustee shall also receive, not later than the Subsequent Delivery Date, an Officer's certificate of the Issuer containing the statements set forth in Section 3.1(a)(ix) (Conditions to Issuance of Notes on Closing Date).

Section 12.4. Post-Reinvestment Period Amendment Proceeds. After the Reinvestment Period, with respect to any amendment to a Collateral Obligation that the Issuer (or the Portfolio Manager on the Issuer's behalf) voted in favor of (including any amendment that includes an extension of the stated maturity of such Collateral Obligation (a "Maturity Amendment")), it is understood and agreed that, in accordance with the following sentence, certain of the fees related to such amendment and/or the coupon of such Collateral Obligation

shall comprise the Post-Reinvestment Period Amendment Proceeds (the "Post-Reinvestment Period Amendment Proceeds"). In the event that a Collateral Obligation is amended but such amendment is not a Maturity Amendment, then any economic benefit (such as a step-up in the coupon, an amendment fee, consent fee or any other related fee) actually received by the Issuer as a result of such amendment will comprise Post-Reinvestment Period Amendment Proceeds (as of the effective date of the related amendment or waiver) as certified in writing by the Portfolio Manager (in its reasonable business judgment) to the Issuer and the Trustee; provided, that, in the event such amendment is a Maturity Amendment, then the entire coupon received in respect of the related Collateral Obligation and any other related amendment fees will comprise Post-Reinvestment Period Amendment Proceeds. Following any amendment to a Collateral Obligation that the Issuer (or the Portfolio Manager on the Issuer's behalf) voted in favor of (including any Maturity Amendment), the Portfolio Manager shall certify to the Issuer and the Trustee (i) whether such amendment gives rise to any Post-Reinvestment Period Amendment Proceeds and (ii) the amount of any such Post-Reinvestment Period Amendment Proceeds. After the Reinvestment Period and for so long as any Class C Notes remain Outstanding, all Post-Reinvestment Period Amendment Proceeds will constitute the Turbo Payment Amount, which will be applied as Principal Proceeds in accordance with the Priority of Payments on the applicable Payment Date.

ARTICLE 13

Noteholders' Relations

Section 13.1. Subordination; Non-Petition. (a) Anything in this Indenture or the Notes to the contrary notwithstanding, the Holders of each Class of Notes that constitute a Junior Class agree for the benefit of the Holders of the Notes of each Priority Class with respect to such Junior Class that such Junior Class shall be subordinate and junior to the Notes of each such Priority Class to the extent and in the manner set forth in this Indenture.

(b) In the event that, notwithstanding the provisions of this Indenture, any Holder of Notes of any Junior Class shall have received any payment or distribution in respect of such Notes contrary to the provisions of this Indenture, then, unless and until each Priority Class with respect thereto shall have been paid in full in Cash or, to the extent a Majority of such Priority Class consents, other than in Cash in accordance with this Indenture, such payment or distribution shall be received and held in trust for the benefit of, and shall forthwith be paid over and delivered to, the Trustee, which shall pay and deliver the same to the Holders of the applicable Priority Class(es) in accordance with this Indenture; provided, however, that if any such payment or distribution is made other than in Cash, it shall be held by the Trustee as part of the Assets and subject in all respects to the provisions of this Indenture, including this Section 13.1 (Subordination; Non-Petition).

(c) Each Holder of Notes of any Junior Class agrees with all Holders of the applicable Priority Classes that such Holder of Junior Class Notes shall not demand, accept, or receive any payment or distribution in respect of such Notes in violation of the provisions of this Indenture including, without limitation, this Section 13.1 (Subordination; Non-Petition); provided, however, that after a Priority Class has been paid in full, the Holders of the related Junior Class or Classes shall be fully subrogated to the rights of the Holders of such Priority

Class. Nothing in this Section 13.1 (Subordination; Non-Petition) shall affect the obligation of the Issuer to pay Holders of any Junior Class of Notes.

(d) The Holders of each Class of Notes agree, for the benefit of all Holders of each Class of Notes, not to cause the filing of a petition in bankruptcy against the Issuer, the Co-Issuer or any ETB Subsidiary until the payment in full of the Notes and not before one year and a day, or if longer, the applicable preference period then in effect, has elapsed since such payment. The restrictions set forth in this Section 13.1(d) (Subordination; Non-Petition) are a material inducement for each holder and beneficial owner of the Notes to acquire such Notes and for the Issuer, the Co-Issuer and the Portfolio Manager to enter into this Indenture (in the case of the Issuer and the Co-Issuer) and the other applicable transaction documents and are an essential term of this Indenture. Any Holder or beneficial owner of a Note, the Portfolio Manager or either of the Issuers may seek and obtain specific performance of such restrictions (including injunctive relief), including, without limitation, in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws.

Section 13.2. Standard of Conduct. In exercising any of its or their voting rights, rights to direct and consent or any other rights as a Holder under this Indenture, a Holder or Holders shall not have any obligation or duty to any Person or to consider or take into account the interests of any Person and shall not be liable to any Person for any action taken by it or them or at its or their direction or any failure by it or them to act or to direct that an action be taken, without regard to whether such action or inaction benefits or adversely affects any Holder, the Issuer, or any other Person, except for any liability to which such Holder may be subject to the extent the same results from such Holder's taking or directing an action, or failing to take or direct an action, in bad faith or in violation of the express terms of this Indenture.

Section 13.3. Voting Rights of Holders of Combination Notes. The Holders of the Combination Notes will be treated as Holders of the Underlying Classes for purposes of any voting rights of such Underlying Classes, except in connection with any supplemental indenture that affects the Combination Notes in a materially adverse manner that is different from the effect of such supplemental indenture on Notes of any Underlying Class, in which case the Combination Notes will vote only as a separate Class.

Section 13.4. Sales and Exchanges of Combination Notes. At the written request of the Holder of a Combination Note (i) all or any portion of the Combination Notes may be exchanged for the Underlying Classes represented by such Combination Notes and (ii) all or any portion of the Class A-1 Notes, Class B Notes and Class C Notes representing Underlying Classes may be combined into Combination Notes, in each such case, proportionally in accordance with the Permissible Ratio (each such exchange or combination, an "Exchange"); provided that no Exchange will be permitted during the period commencing on a Record Date and ending on the related Payment Date; provided further that, if the Aggregate Outstanding Amount of the Combination Notes is less than $1,590,190, such Combination Notes will not be eligible to be Exchanged for the Underlying Classes represented by such Combination Notes. The Combination Notes may be sold to a transferee in accordance with this Indenture, proportionally in accordance with the Permissible Ratio.

If a Holder wishes to make an Exchange, the Holder must notify the Trustee and Collateral Administrator in writing no later than seven Business Days prior to the proposed effective date of such Exchange, which effective date must be at least one Business Day prior to the Record Date. The written notice (the "Exchange Notice") must set forth the following information: the CUSIP and ISIN numbers of each Note to be exchanged and each Note to be received in such Exchange, the calculations of the Permissible Ratio, the Aggregate Outstanding Amount and face amount of each Note to be exchanged and each Note to be received in such Exchange, the Holder's DTC participant number and the proposed effective date of such Exchange. After receiving the Exchange Notice, the Collateral Administrator shall confirm, and the Portfolio Manager shall verify, whether such proposed Exchange satisfies the Permissible Ratio and the requirements set forth above. Within three Business Days after receipt of the Exchange Notice, the Collateral Administrator shall notify the Holder, the Co-Issuers, the Trustee and the Portfolio Manager whether such proposed Exchange satisfies the requirements set forth in the Indenture. If the amounts set forth in the Exchange Notice do not consist of a Permissible Ratio and/or the resulting aggregate amounts of Combination Notes and/or Underlying Classes do not consist of the required minimum denominations and required integral multiples of $1, the Holder agrees to cooperate with the Co-Issuers, the Trustee, the Collateral Administrator and the Portfolio Manager to reallocate such impermissible integral multiples and reach appropriate allocations for each such Exchange. If any such reallocation cannot be promptly achieved, the Collateral Administrator shall within ten (10) Business Days notify the Holder that such Exchange has been rejected. If the Exchange has not been rejected, the holder will utilize the "deposit and withdrawal system" at DTC to effectuate such Exchange. A notice becomes irrevocable on the second Business Day prior to the proposed effective date of such Exchange. Each such Exchange shall be subject to the minimum denomination and integral multiples requirements with respect to the related Class of Notes and the transfer restrictions set forth in this Indenture. The Trustee shall promptly notify S&P upon the occurrence of any Exchange.

ARTICLE 14

Miscellaneous

Section 14.1. Form of Documents Delivered to Trustee. In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Officer of the Issuer, the Co-Issuer or the Portfolio Manager may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such Officer knows, or should know that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate of an Officer of the Issuer, Co-Issuer or the Portfolio Manager or Opinion of Counsel may be based, insofar as it relates to factual matters,

upon a certificate or opinion of, or representations by, the Issuer, the Co-Issuer, the Portfolio Manager or any other Person, stating that the information with respect to such factual matters is in the possession of the Issuer, the Co-Issuer, the Portfolio Manager or such other Person, unless such Officer of the Issuer, Co-Issuer or the Portfolio Manager or such counsel knows that the certificate or opinion or representations with respect to such matters are erroneous. Any Opinion of Counsel may also be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an Officer of the Portfolio Manager, the Issuer or the Co-Issuer, stating that the information with respect to such matters is in the possession of the Portfolio Manager, the Issuer or the Co-Issuer, unless such counsel knows that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Whenever in this Indenture it is provided that the absence of the occurrence and continuation of a Default or Event of Default is a condition precedent to the taking of any action by the Trustee at the request or direction of either Co-Issuer, then notwithstanding that the satisfaction of such condition is a condition precedent to such Co-Issuer's right to make such request or direction, the Trustee shall be protected in acting in accordance with such request or direction if it does not have knowledge of the occurrence and continuation of such Default or Event of Default as provided in Section 6.1(d) (Certain Duties and Responsibilities of Trustee).

Section 14.2. Acts of Holders. (a) Any request, demand, authorization, instruction, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in writing or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, to the Issuer. Such instrument or instruments (and the action or actions embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Co-Issuers, if made in the manner provided in this Section 14.2 (Acts of Holders).

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved in any manner which the Trustee deems sufficient.

(c) The principal amount or face amount, as the case may be, and registered numbers of Notes held by any Person, and the date of his holding the same, shall be proved by the Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Notes shall bind the Holder (and any transferee thereof) of such Note and of every Note issued upon the registration thereof or in exchange therefor or in

lieu thereof, in respect of anything done, omitted or suffered to be done by the Trustee or the Co-Issuers in reliance thereon, whether or not notation of such action is made upon such Note.

Section 14.3. Notices, etc., to the Trustee, the Co-Issuers, the Collateral Administrator, the Portfolio Manager, the Placement Agents, the Hedge Counterparty, the Paying Agent, the Administrator and each Rating Agency. (a) Any request, demand, authorization, instruction, direction, order, notice, consent, waiver or Act of Noteholders or other documents provided or permitted by this Indenture to be made upon, given or furnished to, or filed with:

(i) the Trustee shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to and mailed, by certified mail, return receipt requested, hand delivered, sent by overnight courier service guaranteeing next day delivery or by facsimile in legible form, to the Trustee addressed to such party at the Corporate Office, or at any other address previously furnished in writing to the other parties hereto by the Trustee;

(ii) the Co-Issuers shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, hand delivered, sent by overnight courier service or by facsimile in legible form, to the Issuer addressed to it at c/o Appleby Trust (Cayman) Ltd., Clifton House, 75 Fort Street, PO Box 1350, Grand Cayman KYI-1108, Cayman Islands, Attention: The Directors, facsimile no. (345) 949-4901, or to the Co-Issuer addressed to it at 850 Library Avenue, Suite 204, Newark, Delaware, 19711 or at any other address previously furnished in writing to the other parties hereto by the Issuer or the Co-Issuer, as the case may be, with a copy to the Portfolio Manager at its address below;

(iii) the Portfolio Manager shall be sufficient for every purpose hereunder if in writing and mailed, first class postage prepaid, hand delivered, sent by overnight courier service or by facsimile in legible form, to the Portfolio Manager addressed to it at Acis Capital Management, L.P., 300 Crescent Court, Dallas, TX 75201 or at any other address previously furnished in writing to the other parties hereto;

(iv) the Placement Agents shall be sufficient for every purpose hereunder if in writing and mailed, first class postage prepaid, hand delivered, sent by overnight courier service or by telecopy in legible form, addressed to GreensLedge Capital Markets LLC, 520 Madison Avenue, 32nd Floor, New York, New York 10022, facsimile no. 212-792-5270, Attention: CDO Group and Cantor Fitzgerald & Co., 110 East 59th Street, New York, NY 10022, or at any other address previously furnished in writing to the Co-Issuers and the Trustee by the Placement Agents;

(v) a Hedge Counterparty shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, hand delivered or sent by overnight courier service or by facsimile in legible form to such Hedge Counterparty addressed to it at the address specified in the relevant Hedge Agreement or at any other address previously furnished in writing to the Issuer and the Trustee by such Hedge Counterparty;

(vi) the Rating Agencies shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, hand delivered, sent by overnight courier service to each Rating Agency addressed to it at Moody's Investors Service, Inc., 7 World Trade Center at 250 Greenwich Street, New York, New York, 10007, Attention: CBO/CLO Monitoring or by email to cdomonitoring@moodys.com and Standard & Poor's, 55 Water Street, 41st Floor, New York, New York 10041-0003 or by facsimile in legible form to facsimile no. (212) 438-2655, Attention: Structured Credit Surveillance or by electronic copy to CDO_Surveillance@sandp.com and, solely with respect to S&P CDO Monitor requests, by email to: CDOMonitor@standardandpoors.com;

(vii) the Irish Listing Agent shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to and mailed, by certified mail, return receipt requested, hand delivered, sent by overnight courier service guaranteeing next day delivery or by facsimile in legible form, to the Irish Listing Agent (or, if to the Companies Announcements Office, by email to announcements@ise.ie (such notices to be sent in Microsoft Word format to the extent possible) addressed to it at McCann FitzGerald Listing Services Limited, Riverside One, Sir John Rogerson's Quay, Dublin 2, Ireland, or at any other address previously furnished in writing to the other parties hereto by the Irish Listing Agent except that notices of the Note Interest Rate for Secured Notes will be by email to rates@ise.ie or as otherwise required by the guidelines of the Irish Stock Exchange; and

(viii) the Administrator shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to and mailed, by certified mail, return receipt requested, hand delivered, sent by overnight courier service guaranteeing next day delivery or by facsimile in legible form, to the Administrator addressed to it at Appleby Trust (Cayman) Ltd., Clifton House, 75 Fort Street, PO Box 1350, Grand Cayman KYI-1108, Cayman Islands, Attention: ACIS CLO 2013-1 Ltd.

(b) In the event that any provision in this Indenture calls for any notice or document to be delivered simultaneously to the Trustee and any other person or entity, the Trustee's receipt of such notice or document shall entitle the Trustee to assume that such notice or document was delivered to such other person or entity unless otherwise expressly specified herein.

(c) Notwithstanding any provision of this Section 14.3 (Notices, etc., to the Trustee, the Co-Issuers, the Collateral Administrator, the Portfolio Manager, the Placement Agents, the Hedge Counterparty, the Paying Agent, the Administrator and each Rating Agency) to the contrary, any request, demand, authorization, direction, order, notice, consent, waiver or Act of Noteholders or other documents provided or permitted by this Indenture to be made upon, given or furnished to, or filed with any party specified in Section 14.3(a) (Notices, etc., to the Trustee, the Co-Issuers, the Collateral Administrator, the Portfolio Manager, the Placement Agents, the Hedge Counterparty, the Paying Agent, the Administrator and each Rating Agency) above shall be sufficient for every purpose hereunder if made, given or furnished by electronic mail to an e-mail address specified in Section 14.3(a) (Notices, etc., to the Trustee, the Co-Issuers, the Collateral Administrator, the Portfolio Manager, the Placement Agents, the Hedge

Counterparty, the Paying Agent, the Administrator and each Rating Agency) or provided to the notifying party in accordance therewith.

(d) The Bank (in each of its capacities) agrees to accept and act upon instructions or directions pursuant to this Indenture or any document executed in connection herewith sent by unsecured email, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Bank shall have received an incumbency certificate listing such person as a person designated to provide such instructions or directions, which incumbency certificate may be amended whenever a person is added or deleted from the listing. If such person elects to give the Bank email or facsimile instructions (or instructions by a similar electronic method) and the Bank in its discretion elects to act upon such instructions, the Bank's reasonable understanding of such instructions shall be deemed controlling. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions notwithstanding such instructions conflicting with or being inconsistent with a subsequent written instruction. Any person providing such instructions or directions agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Bank, including without limitation the risk of the Bank acting on unauthorized instructions, and the risk of interception and misuse by third parties and acknowledges and agrees that there may be more secure methods of transmitting such instructions than the method(s) selected by it and agrees that the security procedures (if any) to be followed in connection with its transmission of such instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

Section 14.4. Notices to Holders; Waiver. Except as otherwise expressly provided herein, where this Indenture provides for notice to Holders of any event,

(a) such notice shall be sufficiently given to Holders if in writing and mailed, first class postage prepaid, to each Holder affected by such event, at the address of such Holder as it appears in the Register not earlier than the earliest date and not later than the latest date, prescribed for the giving of such notice; and

(b) such notice shall be in the English language.

Such notices will be deemed to have been given on the date of such mailing.

Notwithstanding clause (a) above, a Holder may give the Trustee a written notice in a form acceptable to the Trustee that it is requesting that notices to it be given by facsimile transmissions and stating the facsimile number for such transmission. Thereafter, the Trustee shall give notices to such Holder by facsimile transmission; provided, that if such notice also requests that notices be given by mail, then such notice shall also be given by mail in accordance with clause (a) above.

Neither the failure to mail any notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. In case by reason of the suspension of regular mail service as a result of a strike, work stoppage or similar activity or by reason of any other cause it shall be impracticable to give such notice by mail of any event to Holders when such notice is required to be given pursuant to any provision

of this Indenture, then such notification to Holders as shall be made with the approval of the Trustee shall constitute a sufficient notification to such Holders for every purpose hereunder.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by any Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

So long as any Class of Notes is listed on the Irish Stock Exchange and the guidelines of such exchange so require, all notices to Holders of such Notes will be published at the Companies Announcements Office of the Irish Stock Exchange.

Section 14.5. Effect of Headings and Table of Contents. The Article and Section headings herein (including those used in cross-references herein) and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 14.6. Successors and Assigns. All covenants and agreements in this Indenture by the Co-Issuers shall bind their respective successors and assigns, whether so expressed or not.

Section 14.7. Separability. Except to the extent prohibited by applicable law, in case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 14.8. Benefits of Indenture. Nothing in this Indenture or in the Notes, expressed or implied, shall give to any Person, other than the parties hereto and their successors hereunder, the Portfolio Manager, the Holders of the Notes and (to the extent provided herein) the Collateral Administrator and the Administrator (solely in its capacity as such) and the other Secured Parties any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 14.9. Governing Law. THIS INDENTURE AND EACH NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

Section 14.10. Submission to Jurisdiction and Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE SUPREME COURT OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE NOTES OR THIS INDENTURE, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT.

EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS INDENTURE SHALL AFFECT ANY RIGHT THAT THE TRUSTEE OR ANY HOLDER OF NOTES MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS INDENTURE AGAINST THE CO-ISSUERS OR THEIR PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE IN ANY COURT REFERRED TO IN THE PREVIOUS PARAGRAPH. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) EACH PARTY (OTHER THAN THE CO-ISSUERS) TO THIS INDENTURE IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES HEREIN. EACH OF THE CO-ISSUERS IRREVOCABLY APPOINTS CT CORPORATION SYSTEM, AS ITS AUTHORIZED AGENT ON WHICH ANY AND ALL LEGAL PROCESS MAY BE SERVED IN ANY SUCH ACTION OR PROCEEDING. NOTHING IN THIS INDENTURE WILL AFFECT THE RIGHT OF ANY PARTY TO THIS INDENTURE TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

(e) EACH PARTY TO THIS INDENTURE HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY PROCEEDING.

Section 14.11. Counterparts. This instrument may be executed in any number of counterparts (including by facsimile or pdf), each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 14.12. Acts of Issuer. Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or performed by the Issuer shall be effective if given or performed by the Issuer or by the Portfolio Manager on the Issuer's behalf.

Section 14.13. Confidential Information. (a) The Trustee and each Holder of Notes will maintain the confidentiality of all Confidential Information in accordance with procedures adopted by the Trustee or such Holder in good faith to protect Confidential Information of third parties delivered to such Person; provided, that such Person may deliver or disclose Confidential Information to: (i) such Person's directors, trustees, officers, employees, agents, auditors, attorneys and affiliates who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 14.13 (Confidential

Information) and to the extent such disclosure is reasonably required for the administration of this Indenture, the matters contemplated hereby or the investment represented by the Notes; (ii) such Person's financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 14.13 (Confidential Information) and to the extent such disclosure is reasonably required for the administration of this Indenture, the matters contemplated hereby or the investment represented by the Notes; (iii) any other Holder; (iv) any Person of the type that would be, to such Person's knowledge, permitted to acquire Notes in accordance with the requirements of Section 2.6 (Registration, Registration of Transfer and Exchange) hereof to which such Person sells or offers to sell any such Note or any part thereof (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 14.13 (Confidential Information)); (v) any other Person from which such former Person offers to purchase any security of the Co-Issuers (if such other Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 14.13 (Confidential Information)); (vi) any Federal or state or other regulatory, governmental or judicial authority having jurisdiction over such Person; (vii) the National Association of Insurance Commissioners or any similar organization, or any nationally recognized rating agency that requires access to information about the investment portfolio of such Person, reinsurers and liquidity and credit providers that agree to hold confidential the Confidential Information substantially in accordance with this Section 14.13 (Confidential Information); (viii) Moody's (so long as any Class X Notes, Class A-1 Notes or Class A-2 Notes are rated by Moody's) or S&P; (ix) any other Person with the consent of the Co-Issuers and the Portfolio Manager; or (x) any other Person to which such delivery or disclosure may be necessary or appropriate (A) to effect compliance with any law, rule, regulation or order applicable to such Person, (B) in response to any subpoena or other legal process upon prior notice to the Co-Issuers (unless prohibited by applicable law, rule, order or decree or other requirement having the force of law), (C) in connection with any litigation to which such Person is a party upon prior notice to the Co-Issuers (unless prohibited by applicable law, rule, order or decree or other requirement having the force of law) or (D) if an Event of Default has occurred and is continuing, to the extent such Person may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under the Notes or this Indenture; and provided, further, however, that delivery to Holders by the Trustee of any report of information required by the terms of this Indenture to be provided to Holders shall not be a violation of this Section 14.13 (Confidential Information). Each Holder of Notes and each person who delivers a note owner certificate in substantially the form of Exhibit I hereto to the Trustee agrees, except as set forth in clauses (vi), (vii) and (x) above, that it shall use the Confidential Information for the sole purpose of making an investment in the Notes or administering its investment in the Notes; and that the Trustee shall neither be required nor authorized to disclose to Holders any Confidential Information in violation of this Section 14.13 (Confidential Information). In the event of any required disclosure of the Confidential Information by such Holder, such Holder agrees to use reasonable efforts to protect the confidentiality of the Confidential Information. Each Holder of a Note, by its acceptance of such Note will be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 14.13 (Confidential Information). Notwithstanding the foregoing, the Holders and beneficial owners of the Offered Securities (and each of their respective employees, representatives or other agents) may disclose to any and all Persons, without limitation of any

kind, the tax treatment and tax structure of the transactions contemplated by this Indenture and all materials of any kind (including opinions or other tax analyses) that are provided to them relating to such tax treatment and U.S. federal income tax structure.

(b) For the purposes of this Section 14.13 (Confidential Information), "Confidential Information" means information delivered to the Trustee or any Holder of Notes or on behalf of the Co-Issuers in connection with and relating to the transactions contemplated by or otherwise pursuant to this Indenture; provided, that such term does not include information that: (i) was publicly known or otherwise known to the Trustee or such Holder prior to the time of such disclosure; (ii) subsequently becomes publicly known through no act or omission by the Trustee, any Holder or any person acting on behalf of the Trustee or any Holder; (iii) otherwise is known or becomes known to the Trustee or any Holder other than (x) through disclosure by the Co-Issuers or (y) to the knowledge of the Trustee or a Holder, as the case may be, in each case after reasonable inquiry, as a result of the breach of a fiduciary duty to the Co-Issuers or a contractual duty to the Co-Issuers; or (iv) is allowed to be treated as non-confidential by consent of the Co-Issuers.

Section 14.14. Liability of Co-Issuers. Notwithstanding any other terms of this Indenture, the Notes or any other agreement entered into between, inter alia, the Co-Issuers or otherwise, neither of the Co-Issuers shall have any liability whatsoever to the other of the Co-Issuers under this Indenture, the Notes, any such agreement or otherwise and, without prejudice to the generality of the foregoing, neither of the Co-Issuers shall be entitled to take any action to enforce, or bring any action or proceeding, in respect of this Indenture, the Notes, any such agreement or otherwise against the other of the Co-Issuers. In particular, neither of the Co-Issuers nor any ETB Subsidiary shall be entitled to petition or take any other steps for the winding up or bankruptcy of the Issuer, the Co-Issuer or any ETB Subsidiary, as applicable, or shall have any claim in respect to any assets of the Issuer, the Co-Issuer or any ETB Subsidiary, as applicable.

ARTICLE 15

Assignment of Certain Agreements

Section 15.1. Assignment of Portfolio Management Agreement. (a) The Issuer hereby acknowledges that its Grant pursuant to the first Granting Clause hereof includes all of the Issuer's estate, right, title and interest in, to and under the Portfolio Management Agreement, including (i) the right to give all notices, consents and releases thereunder, (ii) the right to give all notices of termination and to take any legal action upon the breach of an obligation of the Portfolio Manager thereunder, including the commencement, conduct and consummation of proceedings at law or in equity, (iii) the right to receive all notices, accountings, consents, releases and statements thereunder and (iv) the right to do any and all other things whatsoever that the Issuer is or may be entitled to do thereunder; provided, however, that notwithstanding anything herein to the contrary, the Trustee shall not have the authority to exercise any of the rights set forth in (i) through (iv) above or that may otherwise arise as a result of the Grant until the occurrence of an Event of Default hereunder and such authority shall terminate at such time, if any, as such Event of Default is cured or waived.

(b) The assignment made hereby is executed as collateral security, and the execution and delivery hereby shall not in any way impair or diminish the obligations of the Issuer under the provisions of the Portfolio Management Agreement, nor shall any of the obligations contained in the Portfolio Management Agreement be imposed on the Trustee.

(c) Upon the retirement of the Notes, the payment of all amounts required to be paid pursuant to the Priority of Payments and the release of the Assets from the lien of this Indenture, this assignment and all rights herein assigned to the Trustee for the benefit of the Noteholders shall cease and terminate and all the estate, right, title and interest of the Trustee in, to and under the Portfolio Management Agreement shall revert to the Issuer and no further instrument or act shall be necessary to evidence such termination and reversion.

(d) The Issuer represents that the Issuer has not executed any other assignment of the Portfolio Management Agreement.

(e) The Issuer agrees that this assignment is irrevocable, and that it will not take any action which is inconsistent with this assignment or make any other assignment inconsistent herewith. The Issuer will, from time to time upon the request of the Trustee, execute all instruments of further assurance and all such supplemental instruments with respect to this assignment as the Trustee may reasonably specify.

Section 15.2. Assignment of Hedge Agreement. (a) After the Closing Date, the Issuer may enter into Hedge Agreements from time to time. Each Hedge Agreement shall be required to (x) satisfy the Global Rating Agency Condition, (y) contain appropriate limited recourse and non-petition provisions equivalent to those contained in this Indenture with respect to the Notes and (z) provide that any amounts payable to the related Hedge Counterparties thereunder will be subject to the Priority of Payments (including, without limitation, the Acceleration Priority of Payments). The Issuer shall not enter into a Hedge Agreement unless (x) it reasonably determines that such Hedge Agreement would not cause the Issuer or the Portfolio Manager to be required to register with the CFTC or that the Issuer and the Portfolio Manager would be eligible for an exemption to the requirement to register with the CFTC as a CPO or (y) with the consent of at least a Majority of the Subordinated Notes, the Portfolio Manager will register as a CPO and comply with the requirements of the CFTC. The Issuer shall assign any such Hedge Agreement to the Trustee pursuant to this Indenture. The Trustee shall, on behalf of the Issuer and in accordance with the Distribution Report, pay amounts due to the Hedge Counterparty under any Hedge Agreements on any Payment Date in accordance with Section 11.1 (Disbursements of Monies from Payment Account). The Issuer shall not enter into any Hedge Agreement unless such Hedge Agreement provides that any costs attributable to entering into a replacement Hedge Agreement which exceed the sum of the proceeds of the liquidation of any such Hedge Agreement shall be borne solely by the Hedge Counterparty; provided that such liquidation is not the result of a Priority Hedge Termination Event.

(b) The Trustee shall agree to any reduction in the notional amount of any Hedge Agreement proposed by the related Hedge Counterparty and agreed to by the Portfolio Manager, or any termination, replacement and/or other modification of a Hedge Agreement or any additional Hedge Agreement proposed by the Portfolio Manager; provided, that the Global Rating Agency Condition has been satisfied.

(c) If at any time a Hedge Agreement becomes subject to early termination due to the occurrence of an event of default or a termination event, the Issuer (or the Portfolio Manager on its behalf) and the Trustee (following an Event of Default) shall notify each Rating Agency and take such actions (following the expiration of any applicable grace period) to enforce the rights of the Issuer and the Trustee under such Hedge Agreement as may be permitted by the terms of such Hedge Agreement and consistent with the terms hereof, and may apply the proceeds of any such actions (including, without limitation, the proceeds of the liquidation of any collateral pledged by the Hedge Counterparty thereunder) to enter into a replacement Hedge Agreement on such terms as satisfy the Global Rating Agency Condition (unless such early termination is due to an additional termination event caused by an Optional Redemption). No Hedge Agreement entered into by the Issuer may include an additional termination event resulting from an Optional Redemption unless such additional termination event is not effective until the notice of such Optional Redemption given by the Co-Issuers has become irrevocable.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Indenture as of the date first written above.

ACIS CLO 2013-1 LTD., as Issuer

By:_____
Name:
Title:

ACIS CLO 2013-1 LLC, as Co-Issuer

By:_____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By:_____
Name:
Title:

SCHEDULE 1

LIST OF COLLATERAL OBLIGATIONS

SCHEDULE 2

MOODY'S INDUSTRY CLASSIFICATION GROUP LIST

CORP - Aerospace & Defense	1
CORP - Automotive	2
CORP - Banking, Finance, Insurance & Real Estate	3
CORP - Beverage, Food & Tobacco	4
CORP - Capital Equipment	5
CORP - Chemicals, Plastics, & Rubber	6
CORP - Construction & Building	7
CORP - Consumer goods: Durable	8
CORP - Consumer goods: Non-durable	9
CORP - Containers, Packaging & Glass	10
CORP - Energy: Electricity	11
CORP - Energy: Oil & Gas	12
CORP - Environmental Industries	13
CORP - Forest Products & Paper	14
CORP - Healthcare & Pharmaceuticals	15
CORP - High Tech Industries	16
CORP - Hotel, Gaming & Leisure	17
CORP - Media: Advertising, Printing & Publishing	18
CORP - Media: Broadcasting & Subscription	19
CORP - Media: Diversified & Production	20
CORP - Metals & Mining	21
CORP - Retail	22
CORP - Services: Business	23
CORP - Services: Consumer	24
CORP - Sovereign & Public Finance	25
CORP - Telecommunications	26
CORP - Transportation: Cargo	27
CORP - Transportation: Consumer	28
CORP - Utilities: Electric	29
CORP - Utilities: Oil & Gas	30
CORP - Utilities: Water	31
CORP - Wholesale	32

SCHEDULE 3

S&P INDUSTRY CLASSIFICATIONS

1. Aerospace & defense
2. Air transport
3. Automotive
4. Beverage & tobacco
5. Radio & television
7. Building & development
8. Business equipment & services
9. Cable & satellite television
10. Chemical & plastics
11. Clothing/textiles
12. Conglomerates
13. Containers & glass products
14. Cosmetics/toiletries
15. Drugs
16. Ecological services & equipment
17. Electronics/electrical
18. Equipment leasing
19. Farming/agriculture
20. Financial intermediaries
21. Food/drug retailers
22. Food products
23. Food service
24. Forest products
25. Health care
26. Home furnishings
27. Lodging & casinos
28. Industrial equipment
30. Leisure goods/activities/movies
31. Nonferrous metals/minerals
32. Oil & gas
33. Publishing
34. Rail industries
35. Retailers (except food & drug)
36. Steel
37. Surface transport
38. Telecommunications
39. Utilities
40. Mortgage REITs
41. Equity REITs and REOCs
42. Reserved corporate
43. Life insurance
44. Health insurance
45. Property & casualty insurance
46. Diversified insurance
47. Reserved corporate
48. Reserved corporate
49. Reserved corporate

SCHEDULE 4

DIVERSITY SCORE CALCULATION

The Diversity Score is calculated as follows:

(a) An "Issuer Par Amount" is calculated for each issuer of a Collateral Obligation, and is equal to the Aggregate Principal Balance of all the Collateral Obligations issued by that issuer and all affiliates.

(b) An "Average Par Amount" is calculated by summing the Issuer Par Amounts for all issuers, and dividing by the number of issuers.

(c) An "Equivalent Unit Score" is calculated for each issuer, and is equal to the lesser of (x) one and (y) the Issuer Par Amount for such issuer divided by the Average Par Amount.

(d) An "Aggregate Industry Equivalent Unit Score" is then calculated for each of the Moody's industry classification groups, shown on Schedule 2, and is equal to the sum of the Equivalent Unit Scores for each issuer in such industry classification group.

(e) An "Industry Diversity Score" is then established for each Moody's industry classification group, shown on Schedule 2, by reference to the following table for the related Aggregate Industry Equivalent Unit Score, provided, that if any Aggregate Industry Equivalent Unit Score falls between any two such scores, the applicable Industry Diversity Score will be the lower of the two Industry Diversity Scores:

Aggregate Industry Equivalent Unit Score	Industry Diversity Score	Aggregate Industry Equivalent Unit Score	Industry Diversity Score	Aggregate Industry Equivalent Unit Score	Industry Diversity Score	Aggregate Industry Equivalent Unit Score	Industry Diversity Score
0.0000	0.0000	5.0500	2.7000	10.1500	4.0200	15.2500	4.5300
0.0500	0.1000	5.1500	2.7333	10.2500	4.0300	15.3500	4.5400
0.1500	0.2000	5.2500	2.7667	10.3500	4.0400	15.4500	4.5500
0.2500	0.3000	5.3500	2.8000	10.4500	4.0500	15.5500	4.5600
0.3500	0.4000	5.4500	2.8333	10.5500	4.0600	15.6500	4.5700
0.4500	0.5000	5.5500	2.8667	10.6500	4.0700	15.7500	4.5800
0.5500	0.6000	5.6500	2.9000	10.7500	4.0800	15.8500	4.5900
0.6500	0.7000	5.7500	2.9333	10.8500	4.0900	15.9500	4.6000
0.7500	0.8000	5.8500	2.9667	10.9500	4.1000	16.0500	4.6100
0.8500	0.9000	5.9500	3.0000	11.0500	4.1100	16.1500	4.6200
0.9500	1.0000	6.0500	3.0250	11.1500	4.1200	16.2500	4.6300
1.0500	1.0500	6.1500	3.0500	11.2500	4.1300	16.3500	4.6400
1.1500	1.1000	6.2500	3.0750	11.3500	4.1400	16.4500	4.6500
1.2500	1.1500	6.3500	3.1000	11.4500	4.1500	16.5500	4.6600
1.3500	1.2000	6.4500	3.1250	11.5500	4.1600	16.6500	4.6700
1.4500	1.2500	6.5500	3.1500	11.6500	4.1700	16.7500	4.6800
1.5500	1.3000	6.6500	3.1750	11.7500	4.1800	16.8500	4.6900
1.6500	1.3500	6.7500	3.2000	11.8500	4.1900	16.9500	4.7000

Aggregate Industry Equivalent Unit Score	Industry Diversity Score	Aggregate Industry Equivalent Unit Score	Industry Diversity Score	Aggregate Industry Equivalent Unit Score	Industry Diversity Score	Aggregate Industry Equivalent Unit Score	Industry Diversity Score
1.7500	1.4000	6.8500	3.2250	11.9500	4.2000	17.0500	4.7100
1.8500	1.4500	6.9500	3.2500	12.0500	4.2100	17.1500	4.7200
1.9500	1.5000	7.0500	3.2750	12.1500	4.2200	17.2500	4.7300
2.0500	1.5500	7.1500	3.3000	12.2500	4.2300	17.3500	4.7400
2.1500	1.6000	7.2500	3.3250	12.3500	4.2400	17.4500	4.7500
2.2500	1.6500	7.3500	3.3500	12.4500	4.2500	17.5500	4.7600
2.3500	1.7000	7.4500	3.3750	12.5500	4.2600	17.6500	4.7700
2.4500	1.7500	7.5500	3.4000	12.6500	4.2700	17.7500	4.7800
2.5500	1.8000	7.6500	3.4250	12.7500	4.2800	17.8500	4.7900
2.6500	1.8500	7.7500	3.4500	12.8500	4.2900	17.9500	4.8000
2.7500	1.9000	7.8500	3.4750	12.9500	4.3000	18.0500	4.8100
2.8500	1.9500	7.9500	3.5000	13.0500	4.3100	18.1500	4.8200
2.9500	2.0000	8.0500	3.5250	13.1500	4.3200	18.2500	4.8300
3.0500	2.0333	8.1500	3.5500	13.2500	4.3300	18.3500	4.8400
3.1500	2.0667	8.2500	3.5750	13.3500	4.3400	18.4500	4.8500
3.2500	2.1000	8.3500	3.6000	13.4500	4.3500	18.5500	4.8600
3.3500	2.1333	8.4500	3.6250	13.5500	4.3600	18.6500	4.8700
3.4500	2.1667	8.5500	3.6500	13.6500	4.3700	18.7500	4.8800
3.5500	2.2000	8.6500	3.6750	13.7500	4.3800	18.8500	4.8900
3.6500	2.2333	8.7500	3.7000	13.8500	4.3900	18.9500	4.9000
3.7500	2.2667	8.8500	3.7250	13.9500	4.4000	19.0500	4.9100
3.8500	2.3000	8.9500	3.7500	14.0500	4.4100	19.1500	4.9200
3.9500	2.3333	9.0500	3.7750	14.1500	4.4200	19.2500	4.9300
4.0500	2.3667	9.1500	3.8000	14.2500	4.4300	19.3500	4.9400
4.1500	2.4000	9.2500	3.8250	14.3500	4.4400	19.4500	4.9500
4.2500	2.4333	9.3500	3.8500	14.4500	4.4500	19.5500	4.9600
4.3500	2.4667	9.4500	3.8750	14.5500	4.4600	19.6500	4.9700
4.4500	2.5000	9.5500	3.9000	14.6500	4.4700	19.7500	4.9800
4.5500	2.5333	9.6500	3.9250	14.7500	4.4800	19.8500	4.9900
4.6500	2.5667	9.7500	3.9500	14.8500	4.4900	19.9500	5.0000
4.7500	2.6000	9.8500	3.9750	14.9500	4.5000		
4.8500	2.6333	9.9500	4.0000	15.0500	4.5100		
4.9500	2.6667	10.0500	4.0100	15.1500	4.5200		

(f) The Diversity Score is then calculated by summing each of the Industry Diversity Scores for each Moody's industry classification group shown on Schedule 2.

(g) For purposes of calculating the Diversity Score, affiliated issuers in the same Industry are deemed to be a single issuer except as otherwise agreed to by Moody's.

SCHEDULE 5

MOODY'S RATING DEFINITIONS

MOODY'S DEFAULT PROBABILITY RATING

(i) With respect to a Collateral Obligation that is a Moody's Senior Secured Loan or Participation Interest in a Moody's Senior Secured Loan, if the obligor of such Collateral Obligation has a corporate family rating by Moody's, then such corporate family rating.

(ii) With respect to a Collateral Obligation that is a Moody's Senior Secured Loan or Participation Interest in a Moody's Senior Secured Loan, if not determined pursuant to clause (i) above, if such Collateral Obligation (A) is publicly rated by Moody's, such public rating or (B) is not publicly rated by Moody's but for which a rating or rating estimate has been assigned by Moody's upon the request of the Issuer, the Portfolio Manager or an affiliate of the Portfolio Manager, such rating or the rating estimate, as applicable.

(iii) With respect to a Collateral Obligation other than a DIP Collateral Obligation, if not determined pursuant to clause (i) or (ii) above, (A) (x) if such Collateral Obligation is publicly rated by Moody's, such public rating or, (y) if no such rating is available, if a rating or rating estimate has been assigned to such Collateral Obligation by Moody's upon the request of the Issuer, the Portfolio Manager or an affiliate of the Portfolio Manager, such rating or, in the case of a rating estimate, the applicable rating estimate for such obligation or (B) if neither clause (A)(x) or (y) is applicable, if the obligor of such Collateral Obligation has one or more senior unsecured obligations publicly rated by Moody's, then the Moody's public rating on any such obligation (or, if the Collateral Obligation is a Moody's Senior Secured Loan, the Moody's rating one subcategory higher than the Moody's public rating on any such senior unsecured obligation) as selected by the Portfolio Manager.

(iv) With respect to a Collateral Obligation other than a DIP Collateral Obligation, if not determined pursuant to clause (i), (ii) or (iii) above, the Moody's Derived Rating.

(v) With respect to a DIP Collateral Obligation, the rating assigned by clause (iv)(F) of the Moody's Derived Rating.

For purposes of calculating a Moody's Default Probability Rating, each applicable rating on credit watch by Moody's with positive or negative implication or on negative outlook at the time of calculation will be adjusted in accordance with the Moody's Outlook/Review Rules.

MOODY'S RATING

(i) With respect to a Collateral Obligation that (A) is publicly rated by Moody's, such public rating or (B) is not publicly rated by Moody's but for which a rating or rating estimate has been assigned by Moody's upon the request of the Issuer, the Portfolio

Manager or an affiliate of the Portfolio Manager, such rating or, in the case of a rating estimate, the applicable rating estimate for such obligation.

(ii) With respect to a Collateral Obligation that is a Moody's Senior Secured Loan or Participation Interest in a Moody's Senior Secured Loan, if not determined pursuant to clause (i) above, if the obligor of such Collateral Obligation has a corporate family rating by Moody's, then such corporate family rating.

(iii) With respect to a Collateral Obligation other than a DIP Collateral Obligation, if not determined pursuant to clause (i) or (ii) above, if the obligor of such Collateral Obligation has one or more senior unsecured obligations publicly rated by Moody's, then the Moody's public rating on any such obligation (or, if the Collateral Obligation is a Moody's Senior Secured Loan, the Moody's rating one subcategory higher than the Moody's public rating on any such senior unsecured obligation) as selected by the Portfolio Manager.

(iv) With respect to a Collateral Obligation other than a DIP Collateral Obligation, if not determined pursuant to clause (i), (ii) or (iii) above, the Moody's Derived Rating.

(v) With respect to a DIP Collateral Obligation, the facility rating (whether public or private) of such DIP Collateral Obligation rated by Moody's.

For purposes of calculating a Moody's Rating, each applicable rating on credit watch by Moody's with positive or negative implication or on negative outlook at the time of calculation will be adjusted in accordance with the Moody's Outlook/Review Rules.

MOODY'S DERIVED RATING

With respect to a Collateral Obligation whose Moody's Rating or Moody's Default Probability Rating cannot otherwise be determined pursuant to the definitions thereof, such Moody's Rating or Moody's Default Probability Rating shall be determined as set forth below.

(i) If the obligor of such Collateral Obligation has a long-term issuer rating by Moody's, then such long-term issuer rating.

(ii) If not determined pursuant to clause (i) above, if another obligation of the obligor is rated by Moody's, then by adjusting the rating of the related Moody's rated obligations of the related obligor by the number of rating sub-categories according to the table below:

Obligation Category of Rated Obligation	**Rating of Rated Obligation**	**Number of Subcategories Relative to Rated Obligation Rating**
Senior secured obligation	greater than or equal to B2	-1
Senior secured obligation	less than B2	-2
Subordinated obligation	greater than or equal to B3	+1
Subordinated obligation	less than B3	0

(iii) If not determined pursuant to clause (i) or (ii) above, if the obligor of such Collateral Obligation has a corporate family rating by Moody's, then one subcategory below such corporate family rating.

(iv) If not determined pursuant to clause (i), (ii) or (iii) above, then by using any one of the methods provided below:

(A) (1) if such Collateral Obligation is publicly rated by S&P:

Type of Collateral Obligation	Rating by S&P	Collateral Obligation Rated by S&P	Number of Subcategories Relative to Moody's Equivalent of Rating by S&P
Not Structured Finance Obligation	>BBB-	Not a loan or Participation Interest in loan	-1
Not Structured Finance Obligation	<BB+	Not a loan or Participation Interest in loan	-2
Not Structured Finance Obligation		loan or Participation Interest in loan	-2

(2) if such Collateral Obligation is not rated by S&P but another security or obligation of the obligor is publicly rated by S&P (a "parallel security"), then the rating of such parallel security will at the election of the Portfolio Manager be determined in accordance with the table set forth in subclause (A)(1) above, and the Moody's Rating or Moody's Default Probability Rating of such Collateral Obligation will be determined in accordance with the methodology set forth in clause (i) above (for such purposes treating the parallel security as if it were rated by Moody's at the rating determined pursuant to this subclause (A)(2)); or

(3) if such Collateral Obligation is not rated by S&P but there is a public issuer credit rating of the issuer of such Collateral Obligation by S&P as published by S&P, or the guarantor which unconditionally and irrevocably guarantees such Collateral Obligation, then such issuer credit rating will at the election of the Portfolio Manager be determined in

accordance with the table set forth in subclause (A)(1) above, and the Moody's Rating or Moody's Default Probability Rating of such Collateral Obligation will be determined in accordance with the methodology set forth in subclause (i) above; or

(4) if such Collateral Obligation is a DIP Collateral Obligation, no Moody's Rating or Moody's Default Probability Rating may be determined based on a rating by S&P or any other rating agency;

(B) if such Collateral Obligation is not rated by Moody's or S&P and no other security or obligation of the issuer of such Collateral Obligation is rated by Moody's or S&P, and if Moody's has been requested by the Issuer, the Portfolio Manager or an affiliate of the Portfolio Manager to assign a rating or rating estimate with respect to such Collateral Obligation but such rating or rating estimate has not been received, pending receipt of such estimate, (1) "B3" if the Portfolio Manager certifies to the Trustee (with a copy to the Collateral Administrator) that the Portfolio Manager believes that such estimate will be at least "B3" and if the Aggregate Principal Balance of Collateral Obligations determined pursuant to this clause (B) does not exceed 5% of the Collateral Principal Amount of all Collateral Obligations or (2) otherwise, "Caa1";

(C) if the obligor of such Collateral Obligation is a U.S. obligor and if such Collateral Obligation is a senior secured obligation of the obligor and (1) neither the obligor nor any of its Affiliates is subject to reorganization or bankruptcy proceedings, (2) no debt securities or obligations of the obligor are in default, (3) neither the obligor nor any of its Affiliates have defaulted on any debt during the past two years, (4) the obligor has been in existence for the past five years, (5) the obligor is current on any cumulative dividends, (6) the fixed-charge ratio for the obligor exceeds 125% for each of the past two fiscal years and for the most recent quarter, (7) the obligor had a net profit before tax in the past fiscal year and the most recent quarter and (8) the annual financial statements of the obligor are unqualified and certified by a firm of Independent accountants of national reputation, and quarterly statements are unaudited but signed by a corporate officer, "Caa1";

(D) if the obligor of such Collateral Obligation is a U.S. obligor and if such Collateral Obligation is a senior secured or senior unsecured obligation of the obligor and (1) neither the obligor nor any of its Affiliates is subject to reorganization or bankruptcy proceedings and (2) no debt security or obligation of the obligor has been in default during the past two years, "Caa3";

(E) if a debt security or obligation of the obligor has been in default during the past two years, "Ca"; or

(F) with respect to any DIP Collateral Obligation, one subcategory below the facility rating (whether public or private) of such DIP Collateral Obligation rated by Moody's.

For purposes of calculating a Moody's Derived Rating, each applicable rating calculated pursuant to clause (iv)(A)(1), (2) or (3) above using an S&P rating that is on credit watch by S&P with positive or negative implication or on negative outlook at the time of calculation will be adjusted in accordance with the Moody's Outlook/Review Rules, after giving effect to the determination of the rating in accordance with the provisions above.

With respect to rating estimates in the definition of Moody's Default Probability Rating, Moody's Rating and Moody's Derived Rating, if there is a Material Change with respect to such Collateral Obligation, the Issuer, or the Portfolio Manager on behalf of the Issuer, shall, upon notice or knowledge thereof, notify Moody's and provide available information with respect thereto. Moody's, in its sole discretion, may update its rating estimate of such Collateral Obligation; provided, that, such update shall not, unless so requested by the Issuer, be considered (x) a request for a credit estimate by the Issuer in accordance with or (y) in determining whether or not the Issuer has complied with, in each case, the annual credit estimate requirements set forth in this Indenture. Subject to the following paragraph, in the event Moody's updates the credit estimate of a Collateral Obligation pursuant to the previous sentence, such credit estimate will be used by the Issuer until such later date that it is updated by Moody's.

For purposes of the definitions of Moody's Default Probability Rating, Moody's Derived Rating and Moody's Rating, any credit estimate assigned by Moody's may be used for thirteen months from the date such estimate was issued by Moody's; *provided, that*, for purposes of any calculation under this Indenture, if Moody's fails to renew for any reason a credit estimate for a previously acquired Collateral Obligation thereunder on or before such thirteen month anniversary, then (1) before the fifteen month anniversary of such credit estimate, the Issuer shall downgrade such credit estimate by one sub-category, and use such downgraded credit estimate and (2) after the fifteen month anniversary of such credit estimate, such Collateral Obligation will be deemed to have a Moody's Rating of "Caa3".

MOODY'S SENIOR SECURED LOAN

(a) A loan that:

(i) is not (and cannot by its terms become) subordinate in right of payment to any other debt obligation of the Obligor of the loan;

(ii) is secured by a valid first priority perfected security interest or lien in, to or on specified collateral securing the Obligor's obligations under the loan; and

(iii) the value of the collateral securing the loan together with other attributes of the Obligor (including, without limitation, its general financial condition, ability to generate cash flow available for debt service and other demands for that cash flow) is adequate (in the commercially reasonable judgment of the Portfolio Manager) to repay the loan in accordance with its terms and to repay all other loans of equal seniority secured by a first lien or security interest in the same collateral);

or

(b) a loan that:

(i) is not (and cannot by its terms become) subordinate in right of payment to any other debt obligation of the Obligor of the loan, except that such loan can be subordinate with respect to the liquidation of such obligor or the collateral for such loan;

(ii) with respect to such liquidation, is secured by a valid perfected security interest or lien that is not a first priority in, to or on specified collateral securing the Obligor's obligations under the loan;

(iii) the value of the collateral securing the loan together with other attributes of the Obligor (including, without limitation, its general financial condition, ability to generate cash flow available for debt service and other demands for that cash flow) is adequate (in the commercially reasonable judgment of the Portfolio Manager) to repay the loan in accordance with its terms and to repay all other loans of equal or higher seniority secured in the same collateral); and

(iv) has a Moody's Rating determined pursuant to clause (i) of the definition thereof and such Moody's Rating is not lower than the loan's Moody's corporate family rating;

(c) and the loan is not:

(i) a DIP Collateral Obligation; or

(ii) a loan for which the security interest or lien (or the validity or effectiveness thereof) in substantially all of its collateral attaches, becomes effective, or otherwise "springs" into existence after the origination thereof.

SCHEDULE 6

CERTIFICATE OF ISSUER REGARDING ACCOUNTANTS' REPORTS AND CERTIFICATES
Section 10.9(d)

Pursuant to Section 10.9(d) of the Indenture, dated as of March 18, 2013 among Acis CLO 2013-1 Ltd., as Issuer, Acis CLO 2013-1 LLC, as Co-Issuer and U.S. Bank National Association, as Trustee, the undersigned, Acis CLO 2013-1 Ltd. does hereby certify that it has received a statement from a firm of Independent certified public accountants indicating that:

1. Such firm has reviewed each Distribution Report received since the last review and applicable information from the Trustee, including a complete and accurate electronic data file, a copy of the applicable Distribution Report and any assumptions needed to complete their procedures.

2. The calculations (other than the S&P CDO Monitor Test) within the Distribution Reports dated [ ], [ ], [ ] and [ ] have been performed in accordance with the applicable provisions of the Indenture, except as noted in Exhibit A to this certificate.

3. The Aggregate Principal Balance of the Pledged Obligations and the Aggregate Principal Balance of the Collateral Obligations securing the Secured Notes as of [ ], [ ], [ ] and [ ] were as follows:

Aggregate Principal Balance of the Pledged Obligations

[ ]$ XXX,XXX,XXX
[ ]$ XXX,XXX,XXX
[ ]$ XXX,XXX,XXX
[ ]$ XXX,XXX,XXX

Aggregate Principal Balance of the Collateral Obligations

[ ]$ XXX,XXX,XXX
[ ]$ XXX,XXX,XXX
[ ]$ XXX,XXX,XXX
[ ]$ XXX,XXX,XXX

The information and/or procedures not contained in the engagement letter between the Issuer and the firm of Independent certified public accountants are set forth in Exhibit B to this certificate and provided to the firm of Independent certified public accountants by the Portfolio Manager.

Dated: [ ]

ACIS CLO 2013-1 LTD.

By: _____
Name:
Title: Authorized Person

SCHEDULE 7

ADDITIONAL REPORT RECIPIENTS

N/A.

EXHIBIT A

ACIS CLO 2013-1 LTD.
DISTRIBUTION REPORT EXCEPTIONS

Description	Report Date	Dist Rpt Value	Accountant Value	Notes

EXHIBIT B

ACIS CLO 2013-1 LTD.
PORTFOLIO MANAGER INFORMATION/PROCEDURES

Description	Report Date	Notes

CERTIFICATE OF ACIS CLO 2013-1 LTD.
Section [3.1(a)(xiv)][3.2(vi)][7.18(c)][12.1(e)]

Pursuant to Section [3.1(a)(xiv)][3.2(vi)][7.18(c)][12.1(e)] of the Indenture, dated as of March 18, 2013 among Acis CLO 2013-1 Ltd., as Issuer, Acis CLO 2013-1 LLC, as Co-Issuer and U.S. Bank National Association, as Trustee, the undersigned, Acis CLO 2013-1 Ltd., does hereby certify that it has received an [Accountants' Report][report] from a firm of Independent certified public accountants:

[Applicable to Section 3.1(a)(xiv) certificates]

[(A) confirming the issuer, principal balance, coupon/spread, Stated Maturity, Moody's Default Probability Rating, Moody's Rating, S&P Rating and country of Domicile with respect to each Collateral Obligation set forth on the Schedule of Collateral Obligations attached to the Indenture as Schedule 1 and the information provided by the Issuer with respect to every other asset included in the Assets, by reference to the sources specified therein, except as specified in Exhibit A hereto,

(B) confirming that the Aggregate Principal Balance of the Collateral Obligations which the Issuer has purchased or entered into binding agreements to purchase on or about the Closing Date is at least $[ ]; and

(C) specifying the procedures undertaken by them to review data and computations relating to the above referenced statement]

[Applicable to Section 3.2(vi) certificates]

[(A) confirming the issuer, principal balance, coupon/spread, Stated Maturity, Moody's Default Probability Rating, Moody's Rating, S&P Rating and country of Domicile with respect to each Collateral Obligation pledged in connection with the issuance of the Additional Subordinated Notes and the information provided by the Issuer with respect to every other asset included in the Assets, by reference to the sources specified therein, except as specified in Exhibit A hereto,

(B) [Applicable if the issuance of Additional Subordinated Notes occurs after the Ramp-up Period] confirming that after giving effect to such pledge and the issuance of the Additional Subordinated Notes (1) the Coverage Tests are met, (2) in the aggregate, the Collateral Obligations comply with all of the requirements set forth in the Concentration Limitations and (3) the Collateral Quality Test (excluding the S&P CDO Monitor Test) is met, except as specified in Exhibit A hereto; and

(C) specifying the procedures undertaken by them to review data and computations relating to the above referenced statement.]

[Applicable to Section 7.18(c) certificates]

[(A) confirming the issuer, principal balance, coupon/spread, Stated Maturity, Moody's Default Probability Rating, Moody's Rating, S&P Rating and country of Domicile with

respect to each Collateral Obligation as of the end of the Ramp-up Period and the information provided by the Issuer with respect to every other asset included in the Assets, by reference to such sources as shall be specified therein, except as specified in Exhibit A hereto;]

[(B) confirming that as of the end of the Ramp-up Period (1) the Overcollateralization Ratio Tests were met, (2) the Collateral Obligations complied with all of the requirements of the Concentration Limitations, (3) the Collateral Quality Test (excluding the S&P CDO Monitor Test) was met, (4) the Effective Date Overcollateralization Test is satisfied and (5) the Target Initial Par Condition is satisfied, except as specified in Exhibit A hereto; and]

[(C) specifying the procedures undertaken by them to review data and computations relating to above referenced Accountants' Report]

[Applicable to Section 12.1(e) certificates]

[confirmed the calculations contained in the certificate furnished by the Portfolio Manager pursuant to Section 9.3(c), except as otherwise specified in Exhibit A hereto]

[Applicable to all certificates]

The information and/or procedures not contained in the engagement letter between the Issuer and the firm of Independent certified public accountants are set forth in Exhibit B to this certificate and provided to the firm of Independent certified public accountants by the Portfolio Manager.

Dated: [ ], [ ]

ACIS CLO 2013-1 LTD.

By: _____
Name:
Title: Authorized Person

EXHIBIT A

ACIS CLO 2013-1 LTD.
ACCOUNTANTS' CERTIFICATE EXCEPTIONS

Description	Issuer Value	Accountant Value	Notes

EXHIBIT B

ACIS CLO 2013-1 LTD.
PORTFOLIO MANAGER INFORMATION/PROCEDURES

Description	Report Date	Notes

EXHIBIT A

FORMS OF NOTES

EXHIBIT A1

FORM OF GLOBAL NOTE

[RULE 144A GLOBAL NOTE][REGULATION S GLOBAL SECURED NOTE]
representing
CLASS [X][A-1][A-2A][A-2B][B][C][D][E][F] [SENIOR][MEZZANINE][JUNIOR]
SECURED
[DEFERRABLE] FLOATING RATE NOTES DUE 2024

[This Note has not been and will not be registered under the Securities Act of 1933, as amended (the "Securities Act") or the securities laws of any state of the United States, and may be reoffered, resold, pledged or otherwise transferred only (A) to a "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act) in reliance on the exemption from Securities Act registration provided by such rule that is not a broker-dealer which owns and invests on a discretionary basis less than U.S.$25 million in securities of issuers that are not affiliated persons of the dealer and is not a plan referred to in paragraph (a)(1)(d) or (a)(1)(e) of Rule 144A or a trust fund referred to in paragraph (a)(1)(f) of Rule 144A that holds the assets of such plan, if investment decisions with respect to the plan are made by the beneficiaries of the plan or (B) to a person that is not a "U.S. person" (as defined in Regulation S under the Securities Act) and is acquiring this Note in reliance on the exemption from Securities Act registration provided by such regulation, and in each case in compliance with the certification and other requirements specified in the Indenture referred to herein and in compliance with any applicable securities law of any applicable jurisdiction. The Issuer has the right, under the Indenture, to compel any beneficial owner of an interest in this Note that is a U.S. person and is not a Qualified Purchaser and a Qualified Institutional Buyer to sell its interest in the Notes, or may sell such interest on behalf of such owner.][1]

[This Note has not been and will not be registered under the U.S. Securities Act of 1933, as amended (the "Securities Act"), or the securities laws of any state of the United States, and may be reoffered, resold, pledged or otherwise transferred only (a) (x) a "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act) in reliance on the exemption from Securities Act registration provided by such rule that is not a broker-dealer which owns and invests on a discretionary basis less than U.S.$25 million in securities of issuers that are not affiliated persons of the dealer and is not a plan referred to in paragraph (a)(1)(d) or (a)(1)(e) of Rule 144A or a trust fund referred to in paragraph (a)(1)(f) of Rule 144A that holds the assets of such a plan, if investment decisions with respect to the plan are made by the beneficiaries of the plan or (y) an "institutional" accredited investor (an entity defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act) that is a "Qualified Purchaser" (as defined for purposes of Section 3(c)(7) of the Investment Company Act) or (b) to a person that is not a "U.S. person" (as defined in Regulation S under the Securities Act) and is acquiring this Note in reliance on the exemption from Securities Act registration provided by such regulation, and in each case in compliance with the certification and other requirements specified in the Indenture referred to herein and in compliance with any applicable securities law of any applicable jurisdiction. The Issuer has the right, under the Indenture, to compel any beneficial owner of an

[1] Include for Class X, A, B, C and D Notes.

interest in this Note that is a U.S. person and does not comply with the foregoing restrictions to sell its interest in the Notes, or may sell such interest on behalf of such owner.][2]

[By its acquisition of Co-Issued Notes (the "ERISA Debt Securities"), each purchaser and subsequent transferee will be deemed to have represented and warranted or required to represent and warrant, as applicable, at the time of its acquisition and throughout the period it holds such ERISA Debt Security, that either (x) it is not an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that is subject to the fiduciary responsibility provisions of Title I of ERISA, a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), that is subject to Section 4975 of the Code, any entity whose underlying assets are deemed to include "plan assets" by reason of such employee benefit plan's or plan's investment in the entity, or a governmental, church, non-U.S. or other plan which is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code or (y) its acquisition, holding and disposition of the ERISA Debt Security will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code (or, in the case of a governmental, church, non-U.S. or other plan, a non-exempt violation of any substantially similar law). Any purported transfer of an ERISA Debt Security, or any interest therein, to a purchaser or transferee that does not comply with the requirements specified in the Indenture, this Note, the Offering Circular and any applicable transfer certification, as applicable, will be of no force and effect and shall be null and void ab initio.][3]

[Each purchaser and each subsequent transferee of this Note will be deemed to have represented and warranted, at the time of its acquisition and throughout the period that it holds such Note or any interest herein, that (1) it is not an "employee benefit plan" (as defined in Section 3(3) of Title I of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")) that is subject to the fiduciary responsibility provisions of Title I of ERISA, a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), that is subject to Section 4975 of the Code, any entity whose underlying assets are deemed to include "plan assets" by reason of such employee benefit plan's or plan's investment in the entity or a "benefit plan investor" as such term is otherwise defined in any regulations promulgated by the U.S. Department of Labor or under Section 3(42) of ERISA (collectively, "benefit plan investors") and (2) if it is a governmental, church, non-U.S. or other plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of this Note will not constitute or result in a non-exempt violation under any such substantially similar law. Any purported transfer of this Note, or any interest therein to a purchaser or transferee that does not comply with the requirements specified in the Indenture, this Note, the Offering Circular and any applicable transfer certification, as applicable, will be of no force and effect and shall be null and void ab initio.][4]

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[2] Include for Class E Notes and Class F Notes.
[3] Applicable only to the Co-Issued Notes.
[4] Applicable only to the Class E Notes and Class F Notes.

Any transfer, pledge or other use of this Note for value or otherwise by or to any person is wrongful since the registered owner hereof, Cede & Co., has an interest herein, unless the Note is presented by an authorized representative of the Depository Trust Company ("DTC"), New York, New York, to the Co-Issuers or their agent for registration of transfer, exchange or payment and any Note issued is registered in the name of Cede & Co., or of such other entity as is requested by an authorized representative of DTC (and any payment hereon is made to Cede & Co.).

Transfers of this Note shall be limited to transfers in whole, but not in part, to nominees of DTC or to a successor thereof or such successor's nominee and transfers of portions of this Note shall be limited to transfers made in accordance with the restrictions set forth in the Indenture referred to herein.

Principal of this Note is payable as set forth herein. Accordingly, the outstanding principal of this Note at any time may be less than the amount shown on the face hereof. Any person acquiring this Note may ascertain its current principal amount by inquiry of the Trustee.

The failure to provide the Issuer, the Trustee and any Paying Agent with the applicable U.S. federal income tax certifications (generally, an Internal Revenue Service form W-9 (or successor applicable form) in the case of a person that is a "United States person" within the meaning of Section 7701(a)(30) of the Internal Revenue Code of 1986 (the "Code") or an appropriate Internal Revenue Service form W-8 (or successor applicable form) in the case of a person that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code or the Holder FATCA Information) may result in the imposition of U.S. federal withholding tax or back-up withholding tax upon payments to the holder in respect of this Note.

The failure to provide the Issuer, the Trustee and any Paying Agent with any information reasonably requested by the Issuer or the Paying Agent to enable the Issuer or Paying Agent to comply with any reporting agreements with the IRS may result in the imposition of U.S. federal withholding upon payments to the holder in respect of this Note (and may cause the forced sale or transfer of such Note).

Each holder and beneficial owner of this Note (including a holder or beneficial owner of this Note that receives a definitive physical Note pursuant to the succeeding sentence) agrees to (i) provide the Issuer (or an authorized agent acting on behalf of the Issuer) with the Holder FATCA Information and (ii) permit the Issuer, the Portfolio Manager and Trustee (on behalf of the Issuer) to (w) share such information with the IRS or the relevant Cayman Islands tax authority, (x) compel or effect the sale of this Note if such holder or beneficial owner fails to sell its Notes within 30 days of notice from the Issuer, the Portfolio Manager or the Trustee of its failure to comply with the foregoing requirements, (y) assign to such Note a separate CUSIP number or numbers and (z) make other amendments to the Indenture to enable the Issuer to comply with FATCA. A clearing organization that holds this Note on behalf of a beneficial owner may convert this Note from a Global Note to a definitive physical Note, upon request from such beneficial owner or the holder of this Note, if it is unable to obtain the Holder FATCA Information from such beneficial owner or the holder of this Note.

Each Holder and beneficial owner of this Note, by acceptance of such Note, or its interest in such Note, as the case may be, shall be deemed to have agreed to treat, and shall treat, such Note as debt for U.S. federal income tax purposes.

[The Class [•] Notes represented by this certificate are being issued with original issue discount ("OID"), the issue price, total amount of OID, Issue Date and yield to maturity may be obtained by contacting the Trustee at 190 South LaSalle, Chicago, Illinois 60603.][5]

Each holder and beneficial owner of this Note that is not a "United States person" (as defined in Section 7701(a)(30) of the Code) will make, or by acquiring such Note or an interest therein will be deemed to make, a representation to the effect that (a) either (i) it is not a bank (or an affiliate of a bank) extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business (within the meaning of Section 881(c)(3)(a) of the Code), or (ii) it is a person that is eligible for benefits under an income tax treaty with the United States that eliminates U.S. federal income taxation of U.S. source interest not attributable to a permanent establishment in the United States and (b) it is not purchasing the Note in order to reduce its U.S. federal income tax liability pursuant to a tax avoidance plan.

Each holder and beneficial owner of this Note will not institute against, or join any other person in instituting against, either of the Issuers or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws until the date which is one year plus one day (or, if longer, the applicable preference period then in effect) after the payment in full of all Notes. Each holder and beneficial owner of this Note understands that the foregoing restrictions are a material inducement for each other holder and beneficial owner of the Notes to acquire such Notes and for the Issuer, the Co-Issuer and the Portfolio Manager to enter into the Indenture (in the case of the Issuer and the Co-Issuer) and the other applicable transaction documents and are an essential term of the Indenture and that any holder or beneficial owner of a Note, the Portfolio Manager or either of the Issuers may seek and obtain specific performance of such restrictions (including injunctive relief), including, without limitation, in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws.

[5] Legend to be included for any Secured Notes treated as issued with OID.

ACIS CLO 2013-1 LTD.
ACIS CLO 2013-1 LLC

[RULE 144A GLOBAL NOTE][REGULATION S GLOBAL SECURED NOTE]
representing
CLASS [X][A-1][A-2A][A-2B][B][C][D]|E] [SENIOR] [MEZZANINE] [JUNIOR] SECURED [DEFERRABLE]
FLOATING RATE NOTES DUE 2024

Up to U.S.$[__]

[R][S]-1
CUSIP No. [__]
[ISIN [__]]

ACIS CLO 2013-1 LTD., a company incorporated under the laws of the Cayman Islands (the "Issuer")[, and ACIS CLO 2013-1 LLC, a Delaware limited liability company (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers")], for value received, hereby promise[s] to pay to CEDE & CO. or registered assigns, upon presentation and surrender of this Note (except as otherwise permitted by the Indenture referred to below), the principal sum as indicated on Schedule A on the Payment Date in April 2024 (the "Stated Maturity") except as provided below and in the Indenture. The obligations of the [Co-Issuers][Issuer] under this Note and the Indenture are limited recourse obligations of the [Co-Issuers][Issuer] payable solely from the Assets in accordance with the Indenture, and following realization of the Assets in accordance with the Indenture, all claims of Noteholders shall be extinguished and shall not thereafter revive.

The [Co-Issuers promise] [Issuer promises] to pay interest, if any, on the 18th day of January, April, July and October in each year; commencing on July 18, 2013 (or if such day is not a Business Day, the next succeeding Business Day), at the rate equal to LIBOR plus [●]% per annum on the unpaid principal amount hereof until the principal hereof is paid or duly provided for. Interest shall be computed on the basis of the actual number of days elapsed in the applicable Interest Accrual Period divided by 360. The interest so payable on any Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Note (or one or more predecessor Notes) is registered at the close of business on the Record Date for such interest, which shall be the fifteenth day (whether or not a Business Day) prior to such Payment Date.

Interest will cease to accrue on each Class [X][A-1][A-2A][A-2B][B][C][D][E][F]Note, or in the case of a partial repayment, on such part, from the date of repayment or Stated Maturity unless payment of principal is improperly withheld or unless a default is otherwise made with respect to such payments. The principal of this Class [X][A-1][A-2A][A-2B][B][C][D][E][F] Note shall be payable on the first Payment Date on which funds are permitted to be used for such purpose in accordance with the Priority of Payments. The principal of each Class [[X][A-1][A-2A][A-2B][B][C][D][E][F] Note shall be payable no later than the Stated Maturity unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise.

[Any interest on the Class [C][D][E][F] Notes that is not paid when due by operation of the Priority of Payments will be deferred. Any interest so deferred will be added to the principal balance of the Class [C][D][E][F] Notes, and thereafter, interest will accrue on the aggregate outstanding principal amount of the Class [C][D][E][F] Notes, as so increased.][6]

Unless the Certificate of Authentication hereon has been executed by the Trustee or the Authenticating Agent by the manual signature of one of their authorized signatories, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

This Note is one of a duly authorized issue of Class [X][A-1][A-2A][A-2B][B][C][D][E][F] [Senior][Mezzanine][Junior] Secured [Deferrable] Floating Rate Notes due 2024 (the "Class [X][A-1][A-2A][A-2B][B][C][D][E][F] Notes" and, together with the other classes of Notes issued under the Indenture, the "Notes") issued and to be issued under an Indenture dated as of March 18, 2013 (the "Indenture") among the Co-Issuers and U.S. Bank National Association, as trustee (the "Trustee", which term includes any successor trustee as permitted under the Indenture). Reference is hereby made to the Indenture and all indentures supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Co-Issuers, the Trustee and the Holders of the Notes and the terms upon which the Notes are, and are to be, authenticated and delivered.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture.

Transfers of this [Rule 144A Global Note][Regulation S Global Secured Note] shall be limited to transfers of such Global Note in whole, but not in part, to a nominee of DTC or to a successor of DTC or such successor's nominee.

Interests in this [Rule 144A Global Note][Regulation S Global Secured Note] will be transferable in accordance with DTC's rules and procedures in use at such time, as set forth in the Indenture.

In the event Coverage Tests (other than the Interest Reinvestment Test) are not satisfied on any Determination Date occurring subsequent to the Ramp-up Period or the Interest Reinvestment Test is not satisfied on any Determination Date during the Reinvestment Period, or an Optional Redemption, a Refinancing, a Special Redemption or a Clean-Up Call Redemption occurs as set forth in the Indenture, this Note may be redeemed in whole or in part (as applicable) in the manner and with the effect provided in the Indenture.

The Issuer, the Co-Issuer, the Trustee, and any agent of the Co-Issuers or the Trustee may treat the Person in whose name this Note is registered as the owner of such Note on the Note Register on the applicable Record Date for the purpose of receiving payments of principal of and interest on such Note and on any other date for all other purposes whatsoever (whether or not such Note is overdue), and neither the Co-Issuers nor the Trustee nor any agent of the Issuer, the Co-Issuer or the Trustee shall be affected by notice to the contrary.

[6] Applicable only to Class C Notes, Class D Notes, Class E Notes and Class F Notes.

If an Event of Default shall occur and be continuing, the Class [X][A-1][A-2A][A-2B][B][C][D][E][F] Notes may become or be declared due and payable in the manner and with the effect provided in the Indenture.

Interests in this [Rule 144A Global Note][Regulation S Global Secured Note] may be exchanged for an interest in, or transferred to a transferee taking an interest in, the corresponding [Regulation S Global Note][Rule 144A Global Note] subject to the restrictions as set forth in the Indenture. This [Rule 144A Global Note][Regulation S Global Secured Note] is subject to mandatory exchange for Certificated Secured Notes under the limited circumstances set forth in the Indenture.

Upon redemption, exchange of or increase in any interest represented by this [Rule 144A Global Note] [Regulation S Global Secured Note], this [Rule 144A Global Note][Regulation S Global Secured Note] shall be endorsed on Schedule A hereto to reflect the reduction of or increase in the principal amount evidenced hereby.

[The Class [X][A-2A][A-2B][D][E] Notes will be issued in minimum denominations of $200,000 and integral multiples of $1,000 in excess thereof.] [The Class [A-1][B][C][F] Notes will be issued in minimum denominations of $150,000 and integral multiples of $1 in excess thereof.]

Title to Notes shall pass by registration in the Note Register kept by the Trustee, acting through its Corporate Office.

No service charge shall be made for registration of transfer or exchange of this Note, but the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

AS PROVIDED IN THE INDENTURE, THE INDENTURE AND THE NOTES SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the [Co-Issuers have][Issuer has] caused this Note to be duly executed.

Dated as of _____.

ACIS CLO 2013-1 LTD.

By:_____
Name:
Title:

ACIS CLO 2013-1 LLC

By:_____
Name: Donald J. Puglisi
Title: President

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By:_____
Authorized Signatory

SCHEDULE A

SCHEDULE OF EXCHANGES OR REDEMPTIONS

The following exchanges, redemptions of or increase in the whole or a part of the Notes represented by this [Rule 144A Global Note][Regulation S Global Secured Note] have been made:

Date exchange/redemption /increase made	Original principal amount of this Global Note	Part of principal amount of this Global Note exchanged/redeemed /increased	Remaining principal amount of this Global Note following such exchange/redemption /increase	Notation made by or on behalf of the Issuer
[__]	$[ ]			

EXHIBIT A2

FORM OF REGULATION S GLOBAL SUBORDINATED NOTE

REGULATION S GLOBAL SUBORDINATED NOTE
representing

SUBORDINATED NOTES DUE 2024

This Subordinated Note has not been and will not be registered under the U.S. Securities Act of 1933, as amended (the "Securities Act") or the securities laws of any state of the United States, and may be reoffered, resold, pledged or otherwise transferred only (a) (1) to a "Qualified Purchaser" (as defined for purposes of Section 3(c)(7) of the Investment Company Act), a Knowledgeable Employee (as defined in Rule 3c-5 under the Investment Company Act of 1940, as amended) with respect to the Issuer or an entity exclusively owned by Knowledgeable Employees and/or Qualified Purchasers that is (2) (x) a "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act) in reliance on the exemption from Securities Act registration provided by such rule or (y) an accredited investor (as defined in rule 501(a) under the Securities Act) who, if not an "institutional" accredited investor (an entity defined in rule 501(a)(1), (2), (3) or (7) under the Securities Act), is a Knowledgeable Employee with respect to the Issuer or (b) to a person that is not a "U.S. person" (as defined in Regulation S under the Securities Act) and is acquiring this Subordinated Note in reliance on the exemption from Securities Act registration provided by such regulation, and in each case in compliance with the certification and other requirements specified in the Indenture referred to herein and in compliance with any applicable securities law of any applicable jurisdiction. The Issuer has the right, under the Indenture, to compel any-beneficial owner of an interest in this Subordinated Note that is a U.S. person and does not comply with the foregoing restrictions to sell its interest in the Subordinated Notes, or may sell such interest on behalf of such owner.

Each purchaser of this Subordinated Note from the Issuer in the initial offering will be required to represent and warrant, with respect to each day it holds the Subordinated Note or any beneficial interest therein, in the form specified in the Indenture, this Note, the Offering Circular and any applicable transfer certification, as applicable, (unless otherwise agreed to by the Issuer) (1) whether or not it is (a) an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that is subject to the fiduciary responsibility provisions of Title I of ERISA, a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), that is subject to Section 4975 of the Code, any entity whose underlying assets include "plan assets" by reason of such employee benefit plan's or plan's investment in the entity or a "benefit plan investor" as such term is otherwise defined in any regulations promulgated by the U.S. Department of Labor or under Section 3(42) of ERISA (collectively, "Benefit Plan Investors") or (b) a person (other than a Benefit Plan Investor) who has discretionary authority or control with respect to the assets of the Issuer or any person who provides investment advice for a fee (direct or indirect) with respect to such assets, or any affiliate of such a person (a "Controlling Person") and (2) (a) if it is a Benefit Plan Investor, its acquisition, holding and disposition of a Subordinated Note will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code or (b) if it is a governmental, church, non-U.S. or other plan which is

subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of a Subordinated Note will not constitute or result in a non-exempt violation under any such substantially similar law. Each purchaser from the Issuer in the initial offering of a Subordinated Note that fails to provide the certification described in the prior sentence will be deemed to have represented and warranted, with respect to each day it holds such Subordinated Note or any beneficial interest therein, that (1) such purchaser is not a Benefit Plan Investor or Controlling Person and (2) if the purchaser is a governmental, church, non-U.S. or other plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of Subordinated Notes will not constitute or result in a non-exempt violation under any such substantially similar law. No transfer or purchase of this Subordinated Note will be effective if it would cause 25% or more of the value of the Subordinated Notes to be held by Benefit Plan Investors. Each purchaser or transferee of this Subordinated Note from persons other than from the Issuer in the initial offering will be deemed to have represented and warranted with respect to each day it holds such Regulation S Subordinated Global Note or any beneficial interest herein that (1) such purchaser or transferee is not a Benefit Plan Investor or Controlling Person and (2) if such purchaser or transferee is a governmental, church, non-U.S. or other plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of Regulation S Global Subordinated Note will not constitute or result in a non-exempt violation under any such substantially similar law. No Regulation S Global Subordinated Notes may be acquired from persons other than the Issuer or other than in the initial offering by Benefit Plan Investors or Controlling Persons. Each purchaser and transferee further understands and agrees that any purported transfer of the Subordinated Notes, or any interest therein, to a purchaser or transferee that does not comply with the requirements as specified in the Indenture, this Note, the Offering Circular and any applicable transfer certification, as applicable, will be of no force and effect, shall be null and void ab initio and the Issuer will have the right to direct the purchaser to transfer the Subordinated Notes, or any interest therein, as applicable, to a person who meets the foregoing criteria.

Any transfer, pledge or other use of this Note for value or otherwise by or to any person is wrongful since the registered owner hereof. Cede & Co., has an interest herein, unless the Note is presented by an authorized representative of the Depository Trust Company ("DTC"). New York, New York, to the Co-Issuers or their agent for registration of transfer, exchange or payment and any Note issued is registered in the name of Cede & Co. or of such other entity as is requested by an authorized representative of DTC (and any payment hereon is made to Cede & Co.)

Transfers of this Note shall be limited to transfers in whole, but not in part, to nominees of DTC or to a successor thereof or such successor's nominee and transfers of portions of this Note shall be limited to transfers made in accordance with the restrictions set forth in the Indenture referred to herein.

Distributions of Principal Proceeds and Interest Proceeds to the holder of the Subordinated Notes represented hereby are subordinate to the payment on each Payment Date of

principal of and interest on the Secured Notes of the Issuer and the payment of certain other amounts, to the extent and as described in the Indenture governing such Secured Notes.

The failure to provide the Issuer, the Trustee and any Paying Agent with the applicable U.S. federal income tax certifications (generally, an Internal Revenue Service Form W-9 (or successor applicable form) in the case of a person that is a "United States person" within the meaning of Section 7701(a)(30) of the Code or an appropriate Internal Revenue Service Form W-8 (or successor applicable form) in the case of a person that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code or the Holder FATCA Information) may result in the imposition of U.S. federal withholding tax or backup withholding tax upon payments to the holder in respect of this Subordinated Note.

The failure to provide the Issuer, the Trustee and any Paying Agent with any information reasonably requested by the Issuer or the Paying Agent to enable the Issuer or Paying Agent to comply with any reporting agreements with the IRS may result in the imposition of U.S. federal withholding upon payments to the holder in respect of this Note (and may cause the forced sale or transfer of such Note).

Each holder and beneficial owner of this Note (including a holder or beneficial owner of this Note that receives a definitive physical Note pursuant to the succeeding sentence) agrees to (i) provide the Issuer (or an authorized agent acting on behalf of the Issuer) with the Holder FATCA Information and (ii) permit the Issuer, and the Portfolio Manager and Trustee (on behalf of the Issuer) to (w) share such information with the IRS or the relevant Cayman Islands tax authority, (x) compel or effect the sale of this Note if such holder or beneficial owner fails to sell its Notes within 30 days of notice from the Issuer, the Portfolio Manager or the Trustee of its failure to comply with the foregoing requirements, (y) assign to such Note a separate CUSIP number or numbers and (z) make other amendments to the Indenture to enable the Issuer to comply with FATCA. A clearing organization that holds this Note on behalf of a beneficial owner may convert this Note from a Global Note to a definitive physical Note, upon request from such beneficial owner or the holder of this Note, if it is unable to obtain the Holder FATCA Information from such beneficial owner or the holder of this Note.

Each Holder and beneficial owner of this Note, by acceptance of such Note, or its interest in such Note, as the case may be, shall be deemed to have agreed to treat, and shall treat, such Note as equity for U.S. federal income tax purposes.

Each holder and beneficial owner of this Note that is not a "United States person" (as defined in Section 7701(a)(30) of the Code) will make, or by acquiring such Note or an interest therein will be deemed to make, a representation to the effect that (a) either (i) it is not a bank (or an affiliate of a bank) extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business (within the meaning of Section 881(c)(3)(a) of the Code), or (ii) it is a person that is eligible for benefits under an income tax treaty with the United States that eliminates U.S. federal income taxation of U.S. source interest not attributable to a permanent establishment in the United States and (b) it is not purchasing the Note in order to reduce its U.S. federal income tax liability pursuant to a tax avoidance plan.

Each holder and beneficial owner of this Note will not institute against, or join any other person in instituting against, either of the Issuers or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws until the date which is one year plus one day (or, if longer, the applicable preference period then in effect) after the payment in full of all Notes. Each holder and beneficial owner of this Note understands that the foregoing restrictions are a material inducement for each other holder and beneficial owner of the Notes to acquire such Notes and for the Issuer, the Co-Issuer and the Portfolio Manager to enter into the Indenture (in the case of the Issuer and the Co-Issuer) and the other applicable transaction documents and are an essential term of the Indenture and that any holder or beneficial owner of a Note, the Portfolio Manager or either of the Issuers may seek and obtain specific performance of such restrictions (including injunctive relief), including, without limitation, in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws.

ACIS CLO 2013-1 LTD.

REGULATION S GLOBAL SUBORDINATED NOTE
representing
SUBORDINATED NOTES DUE 2024

S-1
CUSIP No. [__] Up to US.$[__]
ISIN: [__]
Common Code: [__]

ACIS CLO 2013-1 LTD., a company incorporated under the laws of the Cayman Islands (the "Issuer"), for value received, hereby promises to pay to CEDE & CO., or registered assigns, upon presentation and surrender of this Note (except as otherwise permitted by the Indenture referred to below), the principal sum as indicated on Schedule A on the Payment Date in April 2024 (the "Stated Maturity") except as provided below and in the Indenture.

The obligations of the Issuer under this Note and the Indenture are limited recourse obligations of the Issuer payable solely from the Assets in accordance with the Indenture, and following realization of the Assets in accordance with the Indenture, all claims of Noteholders shall be extinguished and shall not thereafter revive. The Subordinated Notes represent unsecured, subordinated obligations of the Issuer and are not entitled to security under the Indenture.

The principal of each Subordinated Note shall be payable no later than the Stated Maturity unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise.

Payments of Interest Proceeds and Principal Proceeds to the Holders of the Subordinated Notes are subordinated to payments in respect of other classes of Notes as set forth in the Indenture and failure to pay such amounts will not constitute an Event of Default under the Indenture.

Unless the Certificate of Authentication hereon has been executed by the Trustee or the Authenticating Agent by the manual signature of one of their authorized signatories, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

This Note is one of a duly authorized issue of Subordinated Notes due 2024 (the "Subordinated Notes" and, together with the other classes of Notes issued under the Indenture, the "Notes") issued and to be issued under an Indenture dated as of March 18, 2013 (the "Indenture") among the Issuer, Acis CLO 2013-1 LLC and U.S. Bank National Association, as trustee (the "Trustee", which term includes any successor trustee as permitted under the Indenture). Reference is hereby made to the Indenture and all indentures supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer, the Trustee and the Holders of the Notes and the terms upon which the Notes are, and are to be, authenticated and delivered.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture.

The Subordinated Notes may be redeemed, in whole but not in part, on any Business Day on or after the redemption or repayment of the Secured Notes, at the written direction of Holders of at least 66 2/3% of the Aggregate Outstanding Amount of the Subordinated Notes. In addition, this Note is redeemable at the option of the Co-Issuers acting at the direction of the Portfolio Manager, in whole but not in part, on or after the Payment Date on which the Aggregate Principal Amount of the Collateral Obligations and Eligible Investments has been reduced to 15% or less of the Target Initial Par Amount.

Transfers of this Regulation S Global Subordinated Note shall be limited to transfers of such Global Note in whole, but not in part, to a nominee of the DTC or to a successor of the DTC or such successor's nominee.

Interests in this Regulation S Global Subordinated Note will be transferable in accordance with the DTC's rules and procedures in use at such time, and to transferees acquiring Certificated Subordinated Notes or to a transferee taking an interest in a Regulation S Global Subordinated Note, subject to and in accordance with the restrictions set forth in the Indenture.

The Issuer, the Trustee, and any agent of the Issuer or the Trustee may treat the Person in whose name this Note is registered as the owner of such Note on the Register on the applicable Record Date for the purpose of receiving payments of principal of and interest on such Note and on any other date for all other purposes whatsoever (whether or not such Note is overdue), and neither the Issuer nor the Trustee nor any agent of the Issuer or the Trustee shall be affected by notice to the contrary.

Interests in this Regulation S Global Subordinated Note may be exchanged for an interest in, or transferred to a transferee taking an interest in, the corresponding Certificated Subordinated Note, subject to the restrictions as set forth in the Indenture. This Regulation S Global Subordinated Note is subject to mandatory exchange for Certificated Subordinated Notes under the limited circumstances set forth in the Indenture.

Upon redemption, exchange of or increase in any interest represented by this Regulation S Global Subordinated Note, this Regulation S Global Subordinated Note shall be endorsed on Schedule A hereto to reflect the reduction of or increase in the principal amount evidenced hereby.

The Subordinated Notes will be issued in minimum denominations of $200,000 and integral multiples of $1,000 in excess thereof (except that up to 20 Certificated Subordinated Notes sold to U.S. persons that the Portfolio Manager has determined are Knowledgeable Employees may be issued in minimum denominations of $50,000).

Title to Notes shall pass by registration in the Register kept by the Trustee, acting through its Corporate Office.

No service charge shall be made for registration of transfer or exchange of this Note, but the Issuer or the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

AS PROVIDED IN THE INDENTURE, THE INDENTURE AND THE NOTES SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the Issuer has caused this Note to be duly executed.

Dated as of _____.

ACIS CLO 2013-1 LTD.

By:_____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By:_____
Authorized Signatory

SCHEDULE A

SCHEDULE OF EXCHANGES OR REDEMPTIONS

The following exchanges, redemptions of or increase in the whole or a part of the Notes represented by this Regulation S Global Subordinated Note have been made:

Date exchange/redemption /increase made	Original principal amount of this Regulation S Global Subordinated Note	Part of principal amount of this Regulation S Global Subordinated Note exchanged/re deemed /increased	Remaining principal amount of this Regulation S Global Subordinated Note following such exchange/redemption /increase	Notation made by or on behalf of the Issuer
[__]	$[__]			

EXHIBIT A3

FORM OF CERTIFICATED SUBORDINATED NOTE

CERTIFICATED SUBORDINATED NOTE
representing,

SUBORDINATED NOTES DUE 2024

This Subordinated Note has not been and will not be registered under the Securities Act of 1933, as amended (the "Securities Act") or the securities laws of any state of the United States, and may be reoffered, resold, pledged or otherwise transferred only (a)(1) to a "Qualified Purchaser" (as defined for purposes of Section 3(c)(7) of the Investment Company Act), a Knowledgeable Employee with respect to the Issuer or an entity exclusively owned by Knowledgeable Employees and/or Qualified Purchasers that is (2) (x) a "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act) in reliance on the exemption from Securities Act registration provided by such rule or (y) an accredited investor (as defined in rule 501(a) under the Securities Act) who, if not an "institutional" accredited investor (an entity defined in rule 501(a)(1), (2), (3) or (7) under the Securities Act), is a Knowledgeable Employee with respect to the Issuer or (b) to a person that is not a "U.S. person" (as defined in Regulation S under the Securities Act) and is acquiring this Subordinated Note in reliance on the exemption from Securities Act registration provided by such regulation, and in each case in compliance with the certification and other requirements specified in the Indenture referred to herein and in compliance with any applicable securities law of any applicable jurisdiction. The Issuer has the right, under the Indenture, to compel any beneficial owner of an interest in this Subordinated Note that is a U.S. person and does not comply with the foregoing restrictions to sell its interest in the Subordinated Notes, or may sell such interest on behalf of such owner.

Each purchaser of a Certificated Subordinated Note and each subsequent transferee will be required to represent and warrant, in the form specified in the Indenture, this Note, the Offering Circular and any applicable transfer certification, as applicable, with respect to each day it holds such Certificated Subordinated Note or any beneficial interest herein, (1) whether or not it is (a) an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that is subject to the fiduciary responsibility provisions of Title I of ERISA, a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), that is subject to Section 4975 of the Code, any entity whose underlying assets include "plan assets" by reason of such employee benefit plan's or plan's investment in the entity or a "benefit plan investor" as such term is otherwise defined in any regulations promulgated by the U.S. Department of Labor or under Section 3(42) of ERISA (collectively, "Benefit Plan Investors") or (b) a person (other than a Benefit Plan Investor) who has discretionary authority or control with respect to the assets of the Issuer or any person who provides investment advice for a fee (direct or indirect) with respect to such assets, or any affiliate of such a person (a "Controlling Person") and (2) (a) if it is a Benefit Plan Investor, its acquisition, holding and disposition of a Certificated Subordinated Note will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code or (b) if it is a governmental, church, non-U.S. or other plan which is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of

Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of a Certificated Subordinated Note will not constitute or result in a non-exempt violation under any such substantially similar law. No purchase or transfer of a Certificated Subordinated Note will be effective if it would cause 25% or more of the value of the Subordinated Notes to be held by Benefit Plan Investors. Each purchaser and transferee further understands and agrees that any purported transfer of the Certificated Subordinated Notes, or any interest therein, to a purchaser or transferee that does not comply with the requirements as specified in the Indenture, this Note, the Offering Circular and any applicable transfer certification, as applicable, will be of no force and effect, shall be null and void ab initio, and the Issuer will have the right to direct the purchaser to transfer the Certificated Subordinated Notes, or any interest therein, as applicable, to a person who meets the foregoing criteria.

Distributions of Principal Proceeds and Interest Proceeds to the holder of the Subordinated Notes represented hereby are subordinate to the payment on each Payment Date of principal of and interest on the Secured Notes of the Issuer and the payment of certain other amounts, to the extent and as described in the Indenture governing such Secured Notes.

The failure to provide the Issuer, the Trustee and any Paying Agent with the applicable U.S. federal income tax certifications (generally, an Internal Revenue Service Form W-9 (or successor applicable form) in the case of a person that is a "United States person" within the meaning of Section 7701(a)(30) of the Code or an appropriate Internal Revenue Service Form W-8 (or successor applicable form) in the case of a person that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code or the Holder FATCA Information) may result in the imposition of U.S. federal withholding tax or backup withholding tax upon payments to the holder in respect of this Subordinated Note.

The failure to provide the Issuer, the Trustee and any Paying Agent with any information reasonably requested by the Issuer or the Paying Agent to enable the Issuer or Paying Agent to comply with any reporting agreements with the U.S. Internal Revenue Service may result in the imposition of U.S. federal withholding upon payments to the holder in respect of this Note (and may cause the forced sale or transfer of such Note).

Each holder and beneficial owner of this Certificated Subordinated Note (including a holder or beneficial owner of this Note that receives a definitive physical Note pursuant to the succeeding sentence) agrees to (i) provide the Issuer (or an authorized agent acting on behalf of the Issuer) with the Holder FATCA Information and (ii) permit the Issuer, and the Portfolio Manager and Trustee (on behalf of the Issuer) to (w) share such information with the IRS or the relevant Cayman Islands tax authority, (x) compel or effect the sale of this Certificated Subordinated Note if such holder or beneficial owner fails to sell its Notes within 30 days of notice from the Issuer, the Portfolio Manager or the Trustee of its failure to comply with the foregoing requirements, (y) assign to such Note a separate CUSIP number or numbers and (z) make other amendments to the Indenture to enable the Issuer to comply with FATCA.

Each Holder and beneficial owner of this Note, by acceptance of such Note, or its interest in such Note, as the case may be, shall be deemed to have agreed to treat, and shall treat, such Note as equity for U.S. federal income tax purposes.

Each holder and beneficial owner of this Certificated Subordinated Note that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code will make, or by acquiring such Certificated Subordinated Note or an interest therein will be deemed to make, a representation to the effect that (a) either (i) it is not a bank (or an affiliate of a bank) extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business (as defined in Section 881(c)(3)(a) of the Code), or (ii) it is a person that is eligible for benefits under an income tax treaty with the United States that eliminates U.S. federal income taxation of U.S. source interest not attributable to a permanent establishment in the United States and (b) it is not purchasing the Certificated Subordinated Note in order to reduce its U.S. federal income tax liability pursuant to a tax avoidance plan.

Each holder and beneficial owner of this Note will not institute against, or join any other person in instituting against, either of the Issuers or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws until the date which is one year plus one day (or, if longer, the applicable preference period then in effect) after the payment in full of all Notes. Each holder and beneficial owner of this Note understands that the foregoing restrictions are a material inducement for each other holder and beneficial owner of the Notes to acquire such Notes and for the Issuer, the Co-Issuer and the Portfolio Manager to enter into the Indenture (in the case of the Issuer and the Co-Issuer) and the other applicable transaction documents and are an essential term of the Indenture and that any holder or beneficial owner of a Note, the Portfolio Manager or either of the Issuers may seek and obtain specific performance of such restrictions (including injunctive relief), including, without limitation, in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws.

ACIS CLO 2013-1 LTD.

CERTIFICATED SUBORDINATED NOTE
representing

SUBORDINATED NOTES DUE 2024

C-[__]
CUSIP No. [__] U.S.$[__]

ACIS CLO 2013-1 LTD., a company incorporated under the laws of the Cayman Islands (the "Issuer"), for value received, hereby promises to pay to [_____], or registered assigns, upon presentation and surrender of this Note (except as otherwise permitted by the Indenture referred to below), the principal sum of [_____] United States Dollars (U.S.$ [_____]) on the Payment Date in April 2024 (the "Stated Maturity") except as provided below and in the Indenture.

The obligations of the Issuer under this Note and the Indenture are limited recourse obligations of the Issuer payable solely from the Assets in accordance with the Indenture, and following realization of the Assets in accordance with the Indenture, all claims of Noteholders shall be extinguished and shall not thereafter revive. The Subordinated Notes represent unsecured, subordinated obligations of the Issuer and are not entitled to security under the Indenture.

The principal of each Subordinated Note shall be payable no later than the Stated Maturity unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise.

Payments of Interest Proceeds and Principal Proceeds to the Holders of the Subordinated Notes are subordinated to payments in respect of other classes of Notes as set forth in the Indenture and failure to pay such amounts will not constitute an Event of Default under the Indenture.

Unless the Certificate of Authentication hereon has been executed by the Trustee or the Authenticating Agent by the manual signature of one of their authorized signatories, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

This Note is one of a duly authorized issue of Subordinated Notes due 2024 (the "Subordinated Notes" and, together with the other classes of Notes issued under the Indenture, the "Notes") issued and to be issued under an Indenture dated as of March 18, 2013 (the "Indenture") among the Issuer, Acis CLO 2013-1 LLC and U.S. Bank National Association, as trustee (the "Trustee", which term includes any successor trustee as permitted under the Indenture). Reference is hereby made to the Indenture and all indentures supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Issuer, the Trustee and the Holders of the Notes and the terms upon which the Notes are, and are to be, authenticated and delivered.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture.

The Subordinated Notes may be redeemed, in whole but not in part, on any Business Day on or after the redemption or repayment of the Secured Notes, at the written direction of Holders of at least 66 2/3% of the Aggregate Outstanding Amount of the Subordinated Notes. In addition, this Note is redeemable at the option of the Co-Issuers acting at the direction of the Portfolio Manager, in whole but not in part, on or after the Payment Date on which the aggregate principal balance of the Collateral Obligations and Eligible Investments has been reduced to 15% or less of the Target Initial Par Amount.

The Issuer, the Trustee, and any agent of the Issuer or the Trustee may treat the Person in whose name this Note is registered as the owner of such Note on the Register on the applicable Record Date for the purpose of receiving payments of principal of and interest on such Note and on any other date for all other purposes whatsoever (whether or not such Note is overdue), and neither the Issuer nor the Trustee nor any agent of the Issuer or the Trustee shall be affected by notice to the contrary

Interests in this Certificated Subordinated Note may be exchanged for an interest in, or transferred to a transferee taking an interest in, the corresponding Regulation S Global Subordinated Note, subject to the restrictions as set forth in the Indenture.

The Subordinated Notes will be issued in minimum denominations of $200,000 and integral multiples of $1,000 in excess thereof (except that up to 20 Certificated Subordinated Notes sold to U.S. persons that the Portfolio Manager has determined are Knowledgeable Employees may be issued in minimum denominations of $50,000).

Title to Notes shall pass by registration in the Register kept by the Trustee, acting through its Corporate Office.

No service charge shall be made for registration of transfer or exchange of this Note, but the Issuer or the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

AS PROVIDED IN THE INDENTURE, THE INDENTURE AND THE NOTES SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the Issuer has caused this Note to be duly executed. Dated as of _____.

ACIS CLO 2013-1 LTD.

By:_____
Name:
Title:

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION, as
Trustee

By:_____
Authorized Signatory

ASSIGNMENT FORM

For value received _____

does hereby sell, assign, and transfer to

_____

_____
Please insert social security or
other identifying number of assignee

Please print or type name
and address, including zip code,
of assignee:

_____

_____

_____

_____

the within Note and docs hereby irrevocably constitute and appoint
_____ Attorney to transfer the Note on the books of the Trustee with full power of substitution in the premises.

Date: _____ Your Signature*

_____
(Sign exactly as your name appears
in the security)

* NOTE: The signature to this assignment must correspond with the name of the registered owner as it appears on the face of the within Note in every particular without alteration, enlargement or any change whatsoever. *Such signature must be guaranteed by an "eligible guarantor institution" "meeting the requirements of the Note Registrar, which requirements include membership or participation in Securities Transfer Agents Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Note Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended*.

EXHIBIT A4

FORM OF CERTIFICATED SECURED NOTE

CERTIFICATED SECURED NOTE
representing
CLASS [X][A-1][A-2A][A-2B][B][C][D][E][F] [SENIOR][MEZZANINE][JUNIOR]
SECURED
[DEFERRABLE] FLOATING RATE NOTES DUE 2024

[This Note has not been and will not be registered under the Securities Act of 1933, as amended (the "Securities Act") or the securities laws of any state of the United States, and may be reoffered, resold, pledged or otherwise transferred only (A) to a "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act) in reliance on the exemption from Securities Act registration provided by such rule that is not a broker-dealer which owns and invests on a discretionary basis less than U.S.$25 million in securities of issuers that are not affiliated persons of the dealer and is not a plan referred to in paragraph (a)(1)(d) or (a)(1)(e) of Rule 144A or a trust fund referred to in paragraph (a)(1)(f) of Rule 144A that holds the assets of such plan, if investment decisions with respect to the plan are made by the beneficiaries of the plan or (B) to a person that is not a "U.S. person" (as defined in Regulation S under the Securities Act) and is acquiring this Note in reliance on the exemption from Securities Act registration provided by such regulation, and in each case in compliance with the certification and other requirements specified in the Indenture referred to herein and in compliance with any applicable securities law of any applicable jurisdiction. The Issuer has the right, under the Indenture, to compel any beneficial owner of an interest in this Note that is a U.S. person and is not a Qualified Purchaser and a Qualified Institutional Buyer to sell its interest in the Notes, or may sell such interest on behalf of such owner.][7]

[This Note has not been and will not be registered under the U.S. Securities Act of 1933, as amended (the "Securities Act") or the securities laws of any state of the United States, and may be reoffered, resold, pledged or otherwise transferred only (a) (x) to a "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act) in reliance on the exemption from Securities Act registration provided by such rule that is not a broker-dealer which owns and invests on a discretionary basis less than U.S.$25 million in securities of issuers that are not affiliated persons of the dealer and is not a plan referred to in paragraph (a)(1)(d) or (a)(1)(e) of Rule 144A or a trust fund referred to in paragraph (a)(1)(f) of Rule 144A that holds the assets of such plan, if investment decisions with respect to the plan are made by the beneficiaries of the plan or (y) an "institutional" accredited investor (as defined in rule 501(a)(1), (2), (3) or (7) under the Securities Act) that is a "Qualified Purchaser" (as defined for purposes of Section 3(c)(7) of the Investment Company Act) or (b) to a person that is not a "U.S. person" (as defined in Regulation S under the Securities Act) and is acquiring this Note in reliance on the exemption from Securities Act registration provided by such regulation, and in each case in compliance with the certification and other requirements specified in the Indenture referred to herein and in compliance with any applicable securities law of any applicable jurisdiction. The Issuer has the right, under the Indenture, to compel any beneficial owner of an interest in this

[7] Include for Class X, A, B, C and D Notes.

Note that is a U.S. person and does not comply with the foregoing restrictions to sell its interest in the Notes, or may sell such interest on behalf of such owner.][8]

[By its acquisition of the Notes (the "ERISA Debt Securities"), each purchaser and subsequent transferee will be deemed to have represented and warranted or required to represent and warrant, as applicable, at the time of its acquisition and throughout the period it holds such ERISA Debt Security, that either (x) it is not an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that is subject to the fiduciary responsibility provisions of Title I of ERISA, a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), that is subject to Section 4975 of the Code, any entity whose underlying assets are deemed to include "plan assets" by reason of such employee benefit plan's or plan's investment in the entity, or a governmental, church, non-U.S. or other plan which is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code or (y) its acquisition, holding and disposition of the ERISA Debt Security will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code (or, in the case of a governmental, church, non-U.S. or other plan, a non-exempt violation of any substantially similar law). Any purported transfer of an ERISA Debt Security, or any interest therein, to a purchaser or transferee that does not comply with the requirements specified in the Indenture, this Note, the Offering Circular and any applicable transfer certification, as applicable, will be of no force and effect and shall be null and void ab initio.][9]

[Each purchaser and each subsequent transferee of this Note will be deemed to have represented and warranted, at the time of its acquisition and throughout the period that it holds such Note or any interest herein, that (1) it is not an "employee benefit plan" (as defined in Section 3(3) of Title I of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")) that is subject to the fiduciary responsibility provisions of Title I of ERISA, a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), that is subject to Section 4975 of the Code, any entity whose underlying assets are deemed to include "plan assets" by reason of such employee benefit plan's or plan's investment in the entity or a "benefit plan investor" as such term is otherwise defined in any regulations promulgated by the U.S. Department of Labor or under Section 3(42) of ERISA (collectively, "benefit plan investors") and (2) if it is a governmental, church, non-U.S. or other plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of this Note will not constitute or result in a non-exempt violation under any such substantially similar law. Any purported transfer of this Note, or any interest therein to a purchaser or transferee that does not comply with the requirements specified in the Indenture, this Note, the Offering Circular and any applicable transfer certification, as applicable, will be of no force and effect and shall be null and void ab initio.][10]

[8] Include for Class E Notes and Class F Notes.
[9] Applicable only to the Co-Issued Notes.
[10] Applicable only to the Class E Notes and Class F Notes.

Principal of this Note is payable as set forth herein. Accordingly, the outstanding principal of this Note at any time may be less than the amount shown on the face hereof. Any person acquiring this Note may ascertain its current principal amount by inquiry of the Trustee.

The failure to provide the Issuer, the Trustee and any Paying Agent with the applicable U.S. federal income tax certifications (generally, an Internal Revenue Service Form W-9 (or successor applicable form) in the case of a person that is a "United States person" within the meaning of Section 7701(a)(30) of the Internal Revenue Code of 1986 (the "Code") or an appropriate Internal Revenue Service Form W-8 (or successor applicable form) in the case of a person that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code or the Holder FATCA Information) may result in the imposition of U.S. federal withholding tax or back-up withholding tax upon payments to the holder in respect of this Note.

The failure to provide the Issuer, the Trustee and any Paying Agent with any information reasonably requested by the Issuer or the Paying Agent to enable the Issuer or Paying Agent to comply with any reporting agreements with the U.S. Internal Revenue Service may result in the imposition of U.S. federal withholding upon payments to the holder in respect of this Note (and may cause the forced sale or transfer of such Note).

Each holder and beneficial owner of this Note (including a holder or beneficial owner of this Note that receives a definitive physical Note pursuant to the succeeding sentence) agrees to (i) provide the Issuer (or an authorized agent acting on behalf of the Issuer) with the Holder FATCA Information and (ii) permit the Issuer, the Portfolio Manager and Trustee (on behalf of the Issuer) to (w) share such information with the IRS or the relevant Cayman Islands tax authority, (x) compel or effect the sale of this Note if such holder or beneficial owner fails to sell its Notes within 30 days of notice from the Issuer, the Portfolio Manager or the Trustee of its failure to comply with the foregoing requirements, (y) assign to such Note a separate CUSIP number or numbers and (z) make other amendments to the Indenture to enable the Issuer to comply with FATCA. A clearing organization that holds this Note on behalf of a beneficial owner may convert this Note from a Global Note to a definitive physical Note, upon request from such beneficial owner or the holder of this Note, if it is unable to obtain the Holder FATCA Information from such beneficial owner or the holder of this Note.

Each Holder and beneficial owner of this Note, by acceptance of such Note, or its interest in such Note, as the case may be, shall be deemed to have agreed to treat, and shall treat, such Note as debt for U.S. federal income tax purposes.

[The Class [•] Notes represented by this certificate are being issued with original issue discount ("OID"), the issue price, total amount of OID, Issue Date and yield to maturity may be obtained by contacting the Trustee at 190 South LaSalle, Chicago, Illinois 60603.][11]

Each holder and beneficial owner of this Note that is not a "United States person" (as defined in Section 7701(a)(30) of the Code) will make, or by acquiring such Note or an interest therein will be deemed to make, a representation to the effect that (a) either (i) it is not a bank (or an affiliate of a bank) extending credit pursuant to a loan agreement entered into in the

[11] Legend to be included for any Secured Notes treated as issued with OID.

ordinary course of its trade or business (within the meaning of Section 881(c)(3)(a) of the Code), or (ii) it is a person that is eligible for benefits under an income tax treaty with the United States that eliminates U.S. federal income taxation of U.S. source interest not attributable to a permanent establishment in the United States and (b) it is not purchasing the Note in order to reduce its U.S. federal income tax liability pursuant to a tax avoidance plan.

Each holder and beneficial owner of this Note will not institute against, or join any other person in instituting against, either of the Issuers or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws until the date which is one year plus one day (or, if longer, the applicable preference period then in effect) after the payment in full of all Notes. Each holder and beneficial owner of this Note understands that the foregoing restrictions are a material inducement for each other holder and beneficial owner of the Notes to acquire such Notes and for the Issuer, the Co-Issuer and the Portfolio Manager to enter into the Indenture (in the case of the Issuer and the Co-Issuer) and the other applicable transaction documents and are an essential term of the Indenture and that any holder or beneficial owner of a Note, the Portfolio Manager or either of the Issuers may seek and obtain specific performance of such restrictions (including injunctive relief), including, without limitation, in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws.

ACIS CLO 2013-1 LTD.
ACIS CLO 2013-1 LLC

CERTIFICATED SECURED NOTE
representing
CLASS [X][A-1][A-2A][A-2B][B][C][D][E][F] [SENIOR][MEZZANINE][JUNIOR]
SECURED
[DEFERRABLE] FLOATING RATE NOTES DUE 2024

U.S.$[__]

C-[__]
CUSIP No. [__]
ISIN[__]

ACIS CLO 2013-1 LTD., a company incorporated under the laws of the Cayman Islands (the "Issuer")[, and ACIS CLO 2013-1 LLC, a Delaware limited liability company (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers")], for value received, hereby promises] to pay to [_____] or registered assigns, upon presentation and surrender of this Note (except as otherwise permitted by the Indenture referred to below), the principal sum of [_____] United States Dollars (U.S.$[____]) in, April 2024 (the "Stated Maturity") except as provided below and in the Indenture. The obligations of the Co-Issuers][Issuer] under this Note and the Indenture are limited recourse obligations of the [Co-Issuers] [Issuer] payable solely from the Assets in accordance with the Indenture, and following realization of the Assets in accordance with the Indenture, all claims of Noteholders shall be extinguished and shall not thereafter revive.

The [Co-Issuers promise] [Issuer promises] to pay interest, if any, on the 18th day of January, April, July and October in each year; commencing on July 18, 2013 (or if such day is not a Business Day, the next succeeding Business Day), at the rate equal to LIBOR plus [●]% per annum on the unpaid principal amount hereof until the principal hereof is paid or duly provided for. Interest shall be computed on the basis of the actual number of days elapsed in the applicable Interest Accrual Period divided by 360. The interest so payable on any Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Note (or one or more predecessor Notes) is registered at the close of business on the Record Date for such interest, which shall be the fifteenth day (whether or not a Business Day) prior to such Payment Date.

Interest will cease to accrue on each Class [X][A-1][A-2A][A-2B][B][C][D][E][F] Note, or in the case of a partial repayment, on such part, from the date of repayment or Stated Maturity unless payment of principal is improperly withheld or unless a default is otherwise made with respect to such payments. The principal of this Class [X][A-1][A-2A][A-2B][B][C][D][E][F] Note shall be payable on the first Payment Date on which funds are permitted to be used for such purpose in accordance with the Priority of Payments. The principal of each Class [X][A-1][A-2A][A-2B][B][C][D][E][F] Note shall be payable no later than the Stated Maturity unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise.

[Any interest on the Class [C][D][E][F] Notes that is not paid when due by operation of the Priority of Payments will be deferred. Any interest so deferred will be added to the principal balance of the Class [C][D][E][F] Notes, and thereafter, interest will accrue on the aggregate outstanding principal amount of the Class [C][D][E][F] Notes, as so increased.][12]

Unless the Certificate of Authentication hereon has been executed by the Trustee or the Authenticating Agent by the manual signature of one of their authorized signatories, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

This Note is one of a duly authorized issue of Class [X][A-1][A-2A][A-2B][B][C][D][E][F] [Senior][Mezzanine] [Junior] Secured [Deferrable] Floating Rate Notes due 2024 (the "Class [X][A-1][A-2A][A-2B][B][C][D][E][F] Notes" and, together with the other classes of Notes issued under the Indenture, the "Notes") issued and to be issued under an Indenture dated as of March 18, 2013 (the "Indenture") among the Co-Issuers and U.S. Bank National Association, as trustee (the "Trustee", which term includes any successor trustee as permitted under the Indenture). Reference is hereby made to the Indenture and all indentures supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Co-Issuers, the Trustee and the Holders of the Notes and the terms upon which the Notes are, and are to be, authenticated and delivered.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture.

In the event Coverage Tests (other than the Interest Reinvestment Test) are not satisfied on any Determination Date occurring subsequent to the Ramp-up Period or the Interest Reinvestment Test is not satisfied on any Determination Date during the Reinvestment Period, or an Optional Redemption, a Refinancing, a Special Redemption or a Clean-Up Call Redemption occurs as set forth in the Indenture, this Note may be redeemed in whole or in part (as applicable) in the manner and with the effect provided in the Indenture.

The Issuer, the Co-Issuer, the Trustee, and any agent of the Co-Issuers or the Trustee may treat the Person in whose name this Note is registered as the owner of such Note on the Note Register on the applicable Record Date for the purpose of receiving payments of principal of and interest on such Note and on any other date for all other purposes whatsoever (whether or not such Note is overdue), and neither the Co-Issuers nor the Trustee nor any agent of the Issuer, the Co-Issuer or the Trustee shall be affected by notice to the contrary.

If an Event of Default shall occur and be continuing, the Class [X][A-1][A-2A][A-2B][B][C][D][E][F] Notes may become or be declared due and payable in the manner and with the effect provided in the Indenture.

[The Class [X][A-2A][A-2B][D][E] Notes will be issued in minimum denominations of $200,000 and integral multiples of $1,000 in excess thereof.] [The Class [A-

[12] Applicable only to Class C Notes, Class D Notes, Class E Notes and Class F Notes.

1][B][C][F] Notes will be issued in minimum denominations of $150,000 and integral multiples of $1 in excess thereof.]

Title to Notes shall pass by registration in the Note Register kept by the Trustee, acting through its Corporate Office.

No service charge shall be made for registration of transfer or exchange of this Note, but the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

AS PROVIDED IN THE INDENTURE, THE INDENTURE AND THE NOTES SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the [Co-Issuers have] [Issuer has] caused this Note to be duly executed.

Dated as of _____.

ACIS CLO 2013-1 LTD.

By:_____
Name:
Title:

ACIS CLO 2013-1 LLC

By:_____
Name: Donald J. Puglisi
Title: President

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By:_____
Authorized Signatory

ASSIGNMENT FORM

For value received _____

does hereby sell, assign, and transfer to

_____

_____
Please insert social security or
other identifying number of assignee

Please print or type name
and address, including zip code,
of assignee:

_____

_____

_____

_____

the within Note and docs hereby irrevocably constitute and appoint
_____ Attorney to transfer the Note on the books of the Trustee with full power of substitution in the premises.

Date: _____ Your Signature*

_____
(Sign exactly as your name appears
in the security)

*/ NOTE; The signature to this assignment must correspond with the name of the registered owner as it appears on the face of the within Note in every particular without alteration, enlargement or any change whatsoever. *Such signature must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Note Registrar, which requirements include membership or participation in Securities Transfer Agents Medallion Program ("STAMP") or such other "signature guarantee program" as may he determined by the Note Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended*.

EXHIBIT A5

FORM OF COMBINATION NOTE

[RULE 144A GLOBAL NOTE][REGULATION S GLOBAL SECURED NOTE]
[CERTIFICATED]
representing
COMBINATION NOTES

This Note has not been and will not be registered under the Securities Act of 1933, as amended (the "Securities Act") or the securities laws of any state of the United States, and may be reoffered, resold, pledged or otherwise transferred only (A) to a "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act) in reliance on the exemption from Securities Act registration provided by such rule that is not a broker-dealer which owns and invests on a discretionary basis less than U.S.$25 million in securities of issuers that are not affiliated persons of the dealer and is not a plan referred to in paragraph (a)(1)(d) or (a)(1)(e) of Rule 144A or a trust fund referred to in paragraph (a)(1)(f) of Rule 144A that holds the assets of such plan, if investment decisions with respect to the plan are made by the beneficiaries of the plan or (B) to a person that is not a "U.S. person" (as defined in Regulation S under the Securities Act) and is acquiring this Note in reliance on the exemption from Securities Act registration provided by such regulation, and in each case in compliance with the certification and other requirements specified in the Indenture referred to herein and in compliance with any applicable securities law of any applicable jurisdiction. The Issuer has the right, under the Indenture, to compel any beneficial owner of an interest in this Note that is a U.S. person and is not a Qualified Purchaser and a Qualified Institutional Buyer to sell its interest in the Notes, or may sell such interest on behalf of such owner.

By its acquisition of Co-Issued Notes (the "ERISA Debt Securities"), each purchaser and subsequent transferee will be deemed to have represented and warranted or required to represent and warrant, as applicable, at the time of its acquisition and throughout the period it holds such ERISA Debt Security, that either (x) it is not an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that is subject to the fiduciary responsibility provisions of Title I of ERISA, a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), that is subject to Section 4975 of the Code, any entity whose underlying assets are deemed to include "plan assets" by reason of such employee benefit plan's or plan's investment in the entity, or a governmental, church, non-U.S. or other plan which is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code or (y) its acquisition, holding and disposition of the ERISA Debt Security will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code (or, in the case of a governmental, church, non-U.S. or other plan, a non-exempt violation of any substantially similar law). Any purported transfer of an ERISA Debt Security, or any interest therein, to a purchaser or transferee that does not comply with the requirements specified in the Indenture, this Note, the Offering Circular and any

applicable transfer certification, as applicable, will be of no force and effect and shall be null and void ab initio.

[Any transfer, pledge or other use of this Note for value or otherwise by or to any person is wrongful since the registered owner hereof, Cede & Co., has an interest herein, unless the Note is presented by an authorized representative of the Depository Trust Company ("DTC"), New York, New York, to the Co-Issuers or their agent for registration of transfer, exchange or payment and any Note issued is registered in the name of Cede & Co., or of such other entity as is requested by an authorized representative of DTC (and any payment hereon is made to Cede & Co.).

Transfers of this Note shall be limited to transfers in whole, but not in part, to nominees of DTC or to a successor thereof or such successor's nominee and transfers of portions of this Note shall be limited to transfers made in accordance with the restrictions set forth in the Indenture referred to herein.][13]

Principal of this Note is payable as set forth herein. Accordingly, the outstanding principal of this Note at any time may be less than the amount shown on the face hereof. Any person acquiring this Note may ascertain its current principal amount by inquiry of the Trustee.

The failure to provide the Issuer, the Trustee and any Paying Agent with the applicable U.S. federal income tax certifications (generally, an Internal Revenue Service form W-9 (or successor applicable form) in the case of a person that is a "United States person" within the meaning of Section 7701(a)(30) of the Internal Revenue Code of 1986 (the "Code") or an appropriate Internal Revenue Service form W-8 (or successor applicable form) in the case of a person that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code or the Holder FATCA Information) may result in the imposition of U.S. federal withholding tax or back-up withholding tax upon payments to the holder in respect of this Note.

The failure to provide the Issuer, the Trustee and any Paying Agent with any information reasonably requested by the Issuer or the Paying Agent to enable the Issuer or Paying Agent to comply with any reporting agreements with the IRS may result in the imposition of U.S. federal withholding upon payments to the holder in respect of this Note (and may cause the forced sale or transfer of such Note).

Each holder and beneficial owner of this Note (including a holder or beneficial owner of this Note that receives a definitive physical Note pursuant to the succeeding sentence) agrees to (i) provide the Issuer (or an authorized agent acting on behalf of the Issuer) with the Holder FATCA Information and (ii) permit the Issuer, the Portfolio Manager and Trustee (on behalf of the Issuer) to (w) share such information with the IRS or the relevant Cayman Islands tax authority, (x) compel or effect the sale of this Note if such holder or beneficial owner fails to sell its Notes within 30 days of notice from the Issuer, the Portfolio Manager or the Trustee of its failure to comply with the foregoing requirements, (y) assign to such Note a separate CUSIP number or numbers and (z) make other amendments to the Indenture to enable the Issuer to comply with FATCA. A clearing organization that holds this Note on behalf of a beneficial

[13] Global Notes only.

owner may convert this Note from a Global Note to a definitive physical Note, upon request from such beneficial owner or the holder of this Note, if it is unable to obtain the Holder FATCA Information from such beneficial owner or the holder of this Note.

Each Holder and beneficial owner of this Note, by acceptance of such Note, or its interest in such Note, as the case may be, shall be deemed to have agreed to treat, and shall treat, such Note as debt for U.S. federal income tax purposes.

[The Class [A-1][B][C] Notes that relate to the Class [A-1][B][C] Note Component represented by this certificate are being issued with original issue discount ("OID"), the issue price, total amount of OID, Issue Date and yield to maturity may be obtained by contacting the Trustee at 190 South LaSalle, Chicago, Illinois 60603.][14]

Each holder and beneficial owner of this Note that is not a "United States person" (as defined in Section 7701(a)(30) of the Code) will make, or by acquiring such Note or an interest therein will be deemed to make, a representation to the effect that (a) either (i) it is not a bank (or an affiliate of a bank) extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business (within the meaning of Section 881(c)(3)(a) of the Code), or (ii) it is a person that is eligible for benefits under an income tax treaty with the United States that eliminates U.S. federal income taxation of U.S. source interest not attributable to a permanent establishment in the United States and (b) it is not purchasing the Note in order to reduce its U.S. federal income tax liability pursuant to a tax avoidance plan.

Each holder and beneficial owner of this Note will not institute against, or join any other person in instituting against, either of the Issuers or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws until the date which is one year plus one day (or, if longer, the applicable preference period then in effect) after the payment in full of all Notes. Each holder and beneficial owner of this Note understands that the foregoing restrictions are a material inducement for each other holder and beneficial owner of the Notes to acquire such Notes and for the Issuer, the Co-Issuer and the Portfolio Manager to enter into the Indenture (in the case of the Issuer and the Co-Issuer) and the other applicable transaction documents and are an essential term of the Indenture and that any holder or beneficial owner of a Note, the Portfolio Manager or either of the Issuers may seek and obtain specific performance of such restrictions (including injunctive relief), including, without limitation, in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws.

Each purchaser, beneficial owner and subsequent transferee of this Combination Note or interest therein, by acceptance of this Combination Note or an interest in this Combination Note, will be deemed to have agreed that before any interest in a Combination Note may be exchanged for its ratable share of the Class A-1 Notes, the Class B Notes or the Class C

[14] Legend to be included for any Combination Notes comprised of Class A-1 Note Components, Class B Note Components or Class C Note Components consisting of Class A-1 Notes, Class B Notes or Class C Notes treated as issued with OID.

Notes that comprise its Components, the Holder will be required to provide the Trustee with an Exchange Notice in the form attached to the Indenture.

ACIS CLO 2013-1 LTD.
ACIS CLO 2013-1 LLC

[RULE 144A GLOBAL NOTE][REGULATION S GLOBAL SECURED NOTE]
representing
COMBINATION NOTES

Up to U.S.$[__]

[R][S]-1
CUSIP No. [__]
[ISIN [__]]

ACIS CLO 2013-1 LTD., a company incorporated under the laws of the Cayman Islands (the "Issuer"), and ACIS CLO 2013-1 LLC, a Delaware limited liability company (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers"), for value received, hereby promise to pay to [CEDE & CO.][15] [HOLDER][16] or registered assigns, upon presentation and surrender of this Note (except as otherwise permitted by the Indenture referred to below), the principal sum of [up to][17] $[●] United States Dollars (U.S. $[●]]) comprised of (i) a Class A-1 Note Component consisting of an interest in U.S.$ [●] principal amount of Class A-1 Notes of the Co-Issuers (the "Class A-1 Note Component"), (ii) a Class B Note Component consisting of an interest in U.S.$ [●] principal amount of Class B Notes of the Co-Issuers (the "Class B Note Component") and (iii) a Class C Note Component consisting of an interest in U.S.$ [●] principal amount of Class C Notes of the Co-Issuers (the "Class C Note Component" and, together with the Class A-1 Note Component and the Class B Note Component, the "Components")[, or such other principal sum as is equal to the aggregate principal amount of the Combination Notes identified from time to time on the records of the Trustee and as indicated on Schedule A] [18]. The obligations of the Co-Issuers under this Note and the Indenture are limited recourse obligations of the Co-Issuers payable solely from the Assets in accordance with the Indenture, and following realization of the Assets in accordance with the Indenture, all claims of Noteholders shall be extinguished and shall not thereafter revive.

The Combination Notes will not themselves bear interest at a stated rate. On the 18th day of January, April, July and October in each year; commencing on July 18, 2013 (or if such day is not a Business Day, the next succeeding Business Day) the Co-Issuers promise to allocate a portion of all interest payments on the Aggregate Outstanding Amount of the Class A-1 Notes, the Class B Notes and the Class C Notes, respectively, to the Holders of the Combination Notes, in the proportion that the Aggregate Outstanding Amount of the Class A-1 Note Component bears to the Aggregate Outstanding Amount of the Class A-1 Notes as a whole (including the Class A-1 Note Component), that the Aggregate Outstanding Amount of the Class B Note Component bears to the Aggregate Outstanding Amount of the Class B Notes as a whole (including the Class B Note Component) and that the Aggregate Outstanding Amount of the Class C Note Component bears to the Aggregate Outstanding Amount of the Class C Notes as a

[15] Global Notes only.
[16] Certificated Notes only.
[17] Global Notes only.
[18] Global Notes only.

whole (including the Class C Note Component) at the rate equal to, with respect to the Class A-1 Notes, LIBOR plus 0.87% per annum, with respect to the Class B Notes, LIBOR plus 1.95% per annum and, with respect to the Class C Notes, LIBOR plus 2.95% per annum. Interest shall be computed on the basis of the actual number of days elapsed in the applicable Interest Accrual Period divided by 360. The interest so payable on any Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Note (or one or more predecessor Notes) is registered at the close of business on the Record Date for such interest, which shall be the fifteenth day (whether or not a Business Day) prior to such Payment Date.

Interest will cease to accrue on the Class A-1 Note Component, the Class B Note Component and the Class C Note Component, or in the case of a partial repayment, on such part, from the date of repayment or Stated Maturity unless payment of principal is improperly withheld or unless a default is otherwise made with respect to such payments. The principal of the Class A-1 Notes that relate to the Class A-1 Note Component, Class B Notes that relate to the Class B Note Component and Class C Notes that relate to the Class C Component shall be payable on the first Payment Date on which funds are permitted to be used for such purpose in accordance with the Priority of Payments. The principal of the Class A-1 Note Component, the Class B Note Component and the Class C Note Component shall be payable no later than the Stated Maturity unless the unpaid principal of such Note becomes due and payable at an earlier date by declaration of acceleration, call for redemption or otherwise.

Any interest on the Class C Notes that relate to the Class C Note Component that is not paid when due by operation of the Priority of Payments will be deferred. Any interest so deferred will be added to the principal balance of the Class C Notes that relate to the Class C Note Component, and thereafter, interest will accrue on the aggregate outstanding principal amount of the Class C Notes that relate to the Class C Note Component, as so increased.

The payment priority of each Component of the Combination Notes shall be in accordance with the priority of the respective Underlying Class in accordance with the Priority of Payments. On each date on which payments are made on any Underlying Class, a portion of such payments will be allocated to the Combination Notes in the proportion that the Aggregate Outstanding Amount of the related Component bears to the Aggregate Outstanding Amount of that Underlying Class as a whole (including the related Components). The Combination Notes will be entitled to no other payments. In particular, interest will not accrue or be payable on the Aggregate Outstanding Amount of the Combination Notes, except to the extent, if any, of interest on the related Component.

The Holders of the Combination Notes will be treated as Holders of the Underlying Classes for purposes of any voting rights of such Underlying Classes, except in connection with any supplemental indenture that affects the Combination Notes in a materially adverse manner that is different from the effect of such supplemental indenture on Notes of any Underlying Class, in which case the Combination Notes will vote only as a separate Class.

The Combination Notes will be redeemed (i) on any Payment Date in connection with a Mandatory Redemption or Special Redemption to the extent that each Underlying Class is redeemed, (ii) on any Redemption Date in connection with an Optional Redemption or Refinancing to the extent that each Underlying Class is redeemed by allocation of the

Redemption Price of each Underlying Class, (iii) on any Clean-up Redemption Date in connection with a Clean-up Call Redemption to the extent that each Underlying Class is redeemed by allocation of the Clean-up Call Redemption Price of each Underlying Class and (iv) to the extent the Underlying Classes are redeemed in accordance with the Priority of Payments or the Note Payment Sequence.

At the written request of the Holder of a Combination Note (i) all or any portion of the Combination Notes may be exchanged for the Underlying Classes represented by such Combination Notes and (ii) all or any portion of the Class A-1 Notes, Class B Notes and Class C Notes representing Underlying Classes may be combined into Combination Notes, in each such case, proportionally in accordance with the Permissible Ratio and in accordance with Section 13.4 of the Indenture.

This Combination Notes may be sold to a transferee in accordance with the Indenture, proportionally in accordance with the Permissible Ratio.

Unless the Certificate of Authentication hereon has been executed by the Trustee or the Authenticating Agent by the manual signature of one of their authorized signatories, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

This Note is one of a duly authorized issue of Combination Notes (the "Combination Notes" and, together with the other classes of Notes issued under the Indenture, the "Notes") issued and to be issued under an Indenture dated as of March 18, 2013 (the "Indenture") among the Co-Issuers and U.S. Bank National Association, as trustee (the "Trustee", which term includes any successor trustee as permitted under the Indenture). Reference is hereby made to the Indenture and all indentures supplemental thereto for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Co-Issuers, the Trustee and the Holders of the Notes and the terms upon which the Notes are, and are to be, authenticated and delivered.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture.

[Transfers of this [Rule 144A Global Note][Regulation S Global Secured Note] shall be limited to transfers of such Global Note in whole, but not in part, to a nominee of DTC or to a successor of DTC or such successor's nominee.

Interests in this [Rule 144A Global Note][Regulation S Global Secured Note] will be transferable in accordance with DTC's rules and procedures in use at such time, as set forth in the Indenture.][19]

The Issuer, the Co-Issuer, the Trustee, and any agent of the Co-Issuers or the Trustee may treat the Person in whose name this Note is registered as the owner of such Note on the Note Register on the applicable Record Date for the purpose of receiving payments of

[19] Global Notes only.

principal of and interest on such Note and on any other date for all other purposes whatsoever (whether or not such Note is overdue), and neither the Co-Issuers nor the Trustee nor any agent of the Issuer, the Co-Issuer or the Trustee shall be affected by notice to the contrary.

If an Event of Default shall occur and be continuing, the Combination Notes may become or be declared due and payable in the manner and with the effect provided in the Indenture.

[Interests in this [Rule 144A Global Note][Regulation S Global Secured Note] may be exchanged for an interest in, or transferred to a transferee taking an interest in, the corresponding [Regulation S Global Note][Rule 144A Global Note] subject to the restrictions as set forth in the Indenture. This [Rule 144A Global Note][Regulation S Global Secured Note] is subject to mandatory exchange for Certificated Secured Notes under the limited circumstances set forth in the Indenture.

Upon redemption, exchange of or increase in any interest represented by this [Rule 144A Global Note] [Regulation S Global Secured Note], this [Rule 144A Global Note][Regulation S Global Secured Note] shall be endorsed on Schedule A hereto to reflect the reduction of or increase in the principal amount evidenced hereby.][20]

The Combination Notes will be issued in minimum denominations of $150,000 and integral multiples of $1,000 in excess thereof.

Title to Notes shall pass by registration in the Note Register kept by the Trustee, acting through its Corporate Office.

No service charge shall be made for registration of transfer or exchange of this Note, but the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

AS PROVIDED IN THE INDENTURE, THE INDENTURE AND THE NOTES SHALL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED BY, THE LAWS OF THE STATE OF NEW YORK.

[20] Global Notes only.

IN WITNESS WHEREOF, the Co-Issuers have caused this Note to be duly executed.

Dated as of _____.

ACIS CLO 2013-1 LTD.

By:_____
Name:
Title:

ACIS CLO 2013-1 LLC

By:_____
Name: Donald J. Puglisi
Title: President

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By:_____
Authorized Signatory

[SCHEDULE A

SCHEDULE OF EXCHANGES OR REDEMPTIONS

The following exchanges, redemptions of or increase in the whole or a part of the Notes represented by this [Rule 144A Global Note][Regulation S Global Secured Note] have been made:

Date exchange/redemption /increase made	Original principal amount of this Global Note	Part of principal amount of this Global Note exchanged/redeemed /increased	Remaining principal amount of this Global Note following such exchange/redemption /increase	Notation made by or on behalf of the Issuer
[__]	$[ ]			

]21

21 Global Notes only.

EXHIBIT B

FORMS OF TRANSFER AND EXCHANGE CERTIFICATES

EXHIBIT B1

FORM OF TRANSFEROR CERTIFICATE FOR TRANSFER OF RULE 144A GLOBAL NOTE TO REGULATION S GLOBAL SECURED NOTE

U.S. Bank National Association
60 Livingston Avenue
St. Paul, MN 55107
Attn: Corporate Trust Services – ACIS CLO 2013-1

Re: ACIS CLO 2013-1 LTD. and ACIS CLO 2013-1 LLC
Class [X][A-1][A-2A][A-2B][B][C][D][E][F] [Combination] Notes [due 2024] (the "Notes")

Reference is hereby made to the Indenture dated as of March 18, 2013 (the "Indenture") among Acis CLO 2013-1 Ltd., as Issuer, Acis CLO 2013-1 LLC as Co-Issuer (and together with the Issuer, the "Co-Issuers") and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

This letter relates to U.S. $[_____] aggregate principal amount of Notes which are held in the form of a Rule 144A Global Note with the Depository in the name of [___] (the "Transferor") to effect the transfer of the Notes in exchange for an equivalent beneficial interest in a Regulation S Global Note.

In connection with such transfer, and in respect of such Notes, the Transferor does hereby certify that such Notes are being transferred to [_____] (the "Transferee") in accordance with the transfer restrictions set forth in the Indenture and the Offering Circular dated March 12, 2013, including the supplements thereto, relating to such Notes and that:

(a) the offer of the Notes was not made to a person in the United States:

(b) at the time the buy order was originated, the Transferee was outside the United States or the Transferor and any person acting on its behalf reasonably believed that the Transferee was outside the United States;

(c) no directed selling efforts have been made in contravention of the requirements of Rule 903 or 904 of Regulation S, as applicable;

(d) the transaction is not part of a plan or scheme to evade the registration requirements of the United States Securities Act of 1933, as amended (the "Securities Act"):

(e) the Transferee is not a U.S. person:

(f) solely with respect to the Class X Notes, the Class A-1 Notes, the Class A-2 Notes, the Class B Notes, the Class C Notes, the Class D Notes and the Combination Notes, either that (1) the Transferee is not an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that is subject to the fiduciary responsibility provisions of Title I of ERISA, a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), that is subject to Section 4975

of the Code, any entity whose underlying assets are deemed to include "plan assets" by reason of such employee benefit plan's or plan's investment in the entity, or a governmental, church, non-U.S. or other plan which is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code or (2) its acquisition, holding and disposition of the Notes will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code or, in the case of a governmental, church, non-U.S. or other plan, a non-exempt violation of any substantially similar law; and

(g) solely with respect to the Class E Notes and Class F Notes, (1) the Transferee is not a Benefit Plan Investor and (2) if it is a governmental, church, non-U.S. or other plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of such Class E Note or Class F Note will not constitute or result in a non-exempt violation under any such substantially similar law.

The Transferor understands that the Co-Issuers, the Trustee and their counsel will rely upon the accuracy and truth of the foregoing representations, and the Transferor hereby consents to such reliance.

(NAME OF TRANSFEROR)

By:_____
Name:
Title:

Dated: _____, _____

cc: Acis CLO 2013-1 Ltd. and Acis CLO 2013-1 LLC

EXHIBIT B2

FORM OF TRANSFEROR CERTIFICATE FOR TRANSFER OF REGULATION S GLOBAL SECURED NOTE TO RULE 144A GLOBAL NOTE

U.S. Bank National Association
60 Livingston Avenue
St. Paul, MN 55107
Attn: Corporate Trust Services – ACIS CLO 2013-1

Re: ACIS CLO 2013-1 LTD. and ACIS CLO 2013-1 LLC
Class [X][A-1][A-2A][A-2B][B][C][D][E][F] [Combination] Notes [due 2024] (the "Notes")

Reference is hereby made to the Indenture dated as of March 18, 2013 (the "Indenture") among Acis CLO 2013-1 Ltd. as Issuer, Acis CLO 2013-1 LLC, as Co-Issuer (and together with the Issuer, the "Co-Issuers") and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

This letter relates to U.S. $[_____] aggregate principal amount of Notes which are held in the form of a Regulation S Global Note in the name of [__] (the "Transferor") to effect the transfer of the Notes in exchange for an equivalent beneficial interest in a Rule 144A Global Note.

In connection with such transfer, and in respect of such Notes, the Transferor does hereby certify that such Notes are being transferred to [_____] (the "Transferee") in accordance with (i) the transfer restrictions set forth in the Indenture and the Offering Circular dated March 12, 2013, including the supplements thereto, relating to such Notes and (ii) Rule 144A under the United States Securities Act of 1933, as amended, and it reasonably believes that (a) the Transferee is purchasing the Notes for its own account or an account with respect to which the Transferee exercises sole investment discretion, (b) the Transferee and any such account is a QIB/QP or, solely with respect to the Class E Notes and Class F Notes, a (1) Qualified Purchaser and (2) either (x) a Qualified Institutional Buyer or (y) an Institutional Accredited Investor, in a transaction meeting the requirements of Rule 144A and in accordance with any applicable securities laws of any state of the United States or any other jurisdiction, (c) solely with respect to the Class X Notes, the Class A-1 Notes, the Class A-2 Notes, the Class B Notes, the Class C Notes, the Class D Notes and the Combination Notes, either that (1) the Transferee is not an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that is subject to the fiduciary responsibility provisions of Title I of ERISA, a "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), that is subject to Section 4975 of the Code, any entity whose underlying assets are deemed to include "plan assets" by reason of such employee benefit plan's or plan's investment in the entity, or a governmental, church, non-U.S. or other plan which is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code or (2) its acquisition, holding and disposition of the Notes will not constitute or result in a non-exempt prohibited

transaction under Section 406 of ERISA or Section 4975 of the Code or, in the case of a governmental, church, non-U.S. or other plan, a non-exempt violation of any substantially similar law and (d) solely with respect to the Class E Notes and Class F Notes, (1) the Transferee is not a Benefit Plan Investor and (2) if it is a governmental, church, non-U.S. or other plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of such Class E Notes or Class F Notes will not constitute or result in a non-exempt violation under any such substantially similar law.

The Transferor understands that the Co-Issuers, the Trustee and their counsel will rely upon the accuracy and truth of the foregoing representations, and the Transferor hereby consents to such reliance.

(NAME OF TRANSFEROR)

By:_____
Name:
Title:

Dated: _____,_____

cc: Acis CLO 2013-1 Ltd. and Acis CLO 2013-1 LLC

EXHIBIT B3

FORM OF TRANSFEREE CERTIFICATE FOR TRANSFER OF CERTIFICATED SECURED NOTE

U.S. Bank National Association
60 Livingston Avenue
St. Paul, MN 55107
Attn: Corporate Trust Services – ACIS CLO 2013-1

Re: Acis CLO 2013-1 Ltd.
Class [X][A-1][A-2A][A-2B][B][C][D][E][F] [Combination] Notes

Reference is hereby made to the Indenture, dated as of March 18, 2013, among Acis CLO 2013-1 Ltd., as issuer, Acis CLO 2013-1 LLC, as Co-Issuer, and U.S. Bank National Association, as Trustee (the "Indenture") Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

This letter relates to U.S.$[_____] aggregate principal amount of Notes, which are held in the form of one or more Certificated Secured Notes in the name of _____ (the "Transferor") to effect the transfer of the Certificated Secured Notes to _____ (the "Transferee"),

In connection with such request, and in respect of such Notes, the Transferee does hereby certify that the Certificated Secured Notes are being transferred (i) in accordance with the transfer restrictions set forth in the Indenture and (ii) pursuant to an exemption from registration under the United States Securities Act of 1933, as amended (the "Securities Act") and in accordance with any applicable securities laws of any state of the United States or any other jurisdiction.

In addition, the Transferee hereby represents, warrants and covenants for the benefit of the Issuer and its counsel that we are:

(a) (PLEASE CHECK ONLY ONE)

_____ a "qualified institutional buyer" as defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act");

_____ [an institutional "accredited investor" as defined in Rule 501(a)(1), (2), (3), (7) or (8) under the Securities Act; or][22]

_____ a person that is not a "U.S. person" as defined in Regulation S under the Securities Act, and are acquiring the Notes in an offshore transaction (as defined in Regulation S) in reliance on the exemption from Securities Act registration provided by Regulation S; and

[22] Class E Note and Class F Note only.

(d) acquiring the Certificated Secured Notes for our own account (and not for the account of any other Person) in a minimum denomination of $200,000 and in integral multiples of $1,000 in excess thereof (or (x) in the case of the Class A-1 Notes, the Class B Notes, the Class C Notes and the Class F Notes, $150,000 and in integral multiples of $1 in excess thereof or (y) in such other minimum denominations as the Issuer may agree on a case-by-case basis).

The Transferee further represents and warrants as follows:

1. It understands that the Certificated Secured Notes have not been and will not be registered under the Securities Act, and, if in the future it decides to offer, resell, pledge or otherwise transfer the Certificated Secured Notes, such Certificated Secured Notes may be offered, resold, pledged or otherwise transferred only in accordance with the provisions of the Indenture and the legends on such Certificated Secured Notes, including the requirement for written certifications. In particular, it understands that the Certificated Secured Notes may be transferred only to a person that is either (1) both (a) [either (x)] a qualified institutional buyer (as defined under Rule 144A under the Securities Act) that is not a broker-dealer which owns and invests on a discretionary basis less than U.S.$25 million in securities of issuers that are not affiliated persons of the dealer and is not a plan referred to in paragraph (a)(1)(d) or (a)(1)(e) of Rule 144A under the Securities Act or a trust fund referred to in paragraph (a)(1)(f) of Rule 144A under the Securities Act that holds the assets of such a plan, if investment decisions with respect to the plan are made by beneficiaries of the plan [or (y) an "institutional" accredited investor (an entity defined in rule 501(a)(1), (2), (3) or (7) under the Securities Act)][23] and (b) a "qualified purchaser" for purposes of Section 3(c)(7) of the Investment Company Act or (2) not a "U.S. person" as defined in Regulation S and is acquiring the Certificated Secured Notes in an offshore transaction (as defined in Regulation S) in reliance on the exemption from registration provided by Regulation S. It acknowledges that no representation is made as to the availability of any exemption under the Securities Act or any state securities laws for resale of the Certificated Secured Notes.

2. In connection with its purchase of the Certificated Secured Notes: (i) none of the Co-Issuers, the Placement Agents, the Trustee, the Collateral Administrator, the Portfolio Manager or any of their respective affiliates are acting as a fiduciary or financial or investment adviser for it; (ii) it is not relying (for purposes of making any investment decision or otherwise) on any written or oral advice, counsel or representations of the Co-Issuers, the Placement Agents, the Portfolio Manager, the Trustee, the Collateral Administrator or any of their respective affiliates other than any statements in the final offering circular for such Notes; (iii) it has read and understands the final offering circular for such Notes (including, without limitation, the descriptions therein of the structure of the transaction in which the Notes are being issued and the risks to purchasers of the Notes); (iv) it has consulted with its own legal, regulatory, tax, business, investment, financial and accounting advisers to the extent it has deemed necessary, and has made its own investment decisions (including decisions regarding the suitability of any transaction pursuant to the Indenture) based upon its own judgment and upon any advice from such advisers as it has deemed necessary and not upon any view expressed by the Co-Issuer, the Placement Agents, the Portfolio Manager, the Trustee, the Collateral Administrator or any of

[23] Include for Class E Note and Class F Note only.

their respective affiliates; (v) it will hold and transfer at least the minimum denomination of such Notes; (vi) it was not formed for the purpose of investing in the Notes; and (vii) it is a sophisticated investor and is purchasing the Notes with a full understanding of all of the terms, conditions and risks thereof, and it is capable of assuming and willing to assume those risks.

3. (i) It is either (1) both (a) a qualified institutional buyer (as defined under Rule 144A under the Securities Act) that is not a broker-dealer which owns and invests on a discretionary basis less than U.S.$25 million in securities of issuers that are not affiliated persons of the dealer and is not a plan referred to in paragraph (a)(1)(d) or (a)(1)(e) of Rule 144A under the Securities Act or a trust fund referred to in paragraph (a)(1)(f) of Rule 144A under the Securities Act that holds the assets of such a plan, if investment decisions with respect to the plan are made by beneficiaries of the plan and (b) a "qualified purchaser" for purposes of Section 3(c)(7) of the Investment Company Act or (2) not a "U.S. person" as defined in Regulation S and is acquiring the Certificated Secured Notes in an offshore transaction (as defined in Regulation S) in reliance on the exemption from registration provided by Regulation S thereunder; (ii) it is acquiring the Certificated Secured Notes as principal solely for its own account for investment and not with a view to the resale, distribution or other disposition thereof in violation of the Securities Act; (iii) it is not a (A) partnership, (B) common trust fund, or (C) special trust, pension, profit sharing or other retirement trust fund or plan in which the partners, beneficiaries or participants may designate the particular investments to be made: (iv) it agrees that it shall not hold any Certificated Secured Notes for the benefit of any other person, that it shall at all times be the sole beneficial owner thereof for purposes of the Investment Company Act and all other purposes and that it shall not sell participation interests in the Certificated Secured Notes or enter into any other arrangement pursuant to which any other person shall be entitled to a beneficial interest in the distributions on the Certificated Secured Notes; and (v) it will hold and transfer at least the minimum denomination of the Certificated Secured Notes and provide notice of the relevant transfer restrictions to subsequent transferees.

4. [It acknowledges and agrees that on each day from the date on which it acquires its interest in a Certificated Secured Note through and including the date on which it disposes of its interest in such Note, either that (A) it is not an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), that is subject to the fiduciary responsibility provisions of Title I of ERISA, a "plan" as defined in Section 4975(e)(l) of the Internal Revenue Code of 1986, as amended (the "Code"), that is subject to Section 4975 of the Code, any entity whose underlying assets are deemed to include "plan assets" by reason of such employee benefit plan's or plan's investment in the entity, or a governmental, church, non-U.S. or other plan which is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code or (B) its purchase, acquisition and disposition of a Certificated Secured Note, as applicable, will not constitute or result in a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code (or, in the case of a governmental, church, non-U.S. or other plan, a non-exempt violation under any substantially similar law). It acknowledges that any purported transfer of a Certificated Secured Note, or any interest therein, to a purchaser or transferee that does not comply with the requirements specified in the Indenture, the Certificated

Secured Note, the Offering Circular or any applicable transfer certification, as applicable, will be of no force and effect and shall be null and void ab initio.][24]

[It acknowledges and agrees that on each day from the date on which it acquires its interest in such [Class E Notes] [Class F Notes] through and including the date on which it disposes of its interest in such [Class E Notes] [Class F Notes], that (1) it is not a Benefit Plan Investor and (2) if it is a governmental, church, non-U.S. or other plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of such [Class E Notes] [Class F Notes] will not constitute or result in a non-exempt violation under any such substantially similar law.][25]

5. It will treat its Certificated Secured Note as debt of the Issuer for United States federal income tax purposes

6. It is [_____] (check if applicable) a "United States person" within the meaning of Section 7701(a)(30) of the Code, and a properly completed and signed Internal Revenue Service Form W-9 (or applicable successor form) is attached hereto; or [_____] (check if applicable) not a "United States person" within the meaning of Section 7701(a)(30) of the Code, and a properly completed and signed applicable Internal Revenue Service Form W-8 (or applicable successor form) is attached hereto. It understands and acknowledges that failure to provide the Issuer or the Trustee with the applicable United States federal income tax certifications (generally, an Internal Revenue Service Form W-9 (or successor applicable form) in the case of a person that is a "United States person" within the meaning of Section 7701(a)(30) of the Code or an applicable Internal Revenue Service Form W-8 (or successor applicable form) in the case of a person that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code) may result in United States federal back-up withholding from payments to it in respect of the Notes.

7. It agrees not to seek to commence in respect of the Issuer or the Co-Issuer, or cause the Issuer or Co-Issuer to commence, a bankruptcy proceeding before a year and a day has elapsed since the payment in full to the Holders of the Notes or, if longer, the applicable preference period then in effect.

8. To the extent required by the Issuer, as determined by the Issuer or the Portfolio Manager on behalf of the Issuer, the Issuer may, upon notice to the Trustee, impose additional transfer restrictions on the Notes to comply with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "USA Patriot Act") and other similar laws or regulations, including, without limitation, requiring each transferee of a Note to make representations to the Issuer in connection with such compliance.

The Transferee agrees to provide promptly such information and execute and deliver such documents as may be necessary to comply with any and all laws and regulations

[24] Applicable only to Co-issued Notes.
[25] Applicable only to Class E Notes and Class F Notes.

(including the USA Patriot Act) to which the Issuer may be subject. The Transferee understands and agrees that, in order to ensure compliance under applicable anti-money laundering laws and regulations, the Issuer may require a detailed verification of the identity of the Transferee. The Issuer reserves the right to request such information as is necessary to verify the identity of a Transferee. In the event of delay or failure by the Transferee to produce any information required for verification purposes, the Issuer may refuse to issue the Notes to the Transferee until proper information has been provided.

The Transferee covenants and agrees that it shall provide the Issuer with such information as the Issuer determines to be necessary or appropriate to (a) verify compliance with the anti-money laundering regulations of any applicable jurisdiction or (b) respond to requests for information concerning the identity of the Transferee from any governmental authority, self-regulatory organization or financial institution in connection with the Issuer's anti-money laundering compliance procedures.

9. The rules and regulations administered by the United States Treasury Department's Office of Foreign Assets Control ("OFAC") prohibit, among other things, the engagement in transactions with, and the provision of services to, certain countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at http://www.treas.gov/offices/enforcement/ofac/. In addition, the programs administered by OFAC ("OFAC Programs") prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists. The Transferee represents and warrants that, to the best of its knowledge, none of: (a) the Transferee; (b) any Person controlling or controlled by the Transferee; (c) if the Transferee is a privately held entity, any Person having a beneficial interest in the Transferee; (d) if the Transferee is not the beneficial owner of all of the Certificated Secured Notes, any Person having a beneficial interest in the Certificated Secured Notes; or (e) any Person for whom the Transferee is acting as agent or nominee in connection with this investment in the Certificated Secured Notes is a country, territory, individual or entity named on any OFAC list, or is a person or entity prohibited under the OFAC Programs.

10. It hereby agrees to provide the Issuer and Trustee (i) any information as is necessary (in the sole determination of the Issuer or the Trustee, as applicable) for the Issuer and the Trustee to determine whether it is a United States person as defined in Section 7701(a)(30) of the Code (a "United States person") or a United States owned foreign entity as described in Section 1471(d)(3) of the Code (a "United States owned foreign entity") and (ii) any additional information that the Issuer or its agent requests in connection with FATCA. If it is a United States person or a United States owned foreign entity that is a holder or beneficial owner of Notes or an interest therein, it also hereby agrees to be required to (x) provide the Issuer and Trustee its name, address, U.S. taxpayer identification number and any other information requested by the Issuer or its agent upon request and (y) update any such information provided in clause (x) promptly upon learning that any such information previously provided has become obsolete or incorrect or is otherwise required. It understands and acknowledges that the Issuer may provide such information and any other information concerning its investment in the Notes to the IRS. It understands and acknowledges that the Issuer has the right, under the Indenture, to compel any beneficial owner of an interest in the Notes that fails to comply with the foregoing requirements to sell its interest in such Notes, or may sell such interest on behalf of such owner.

11. Any funds to be used by it to purchase the Notes shall not directly or indirectly be derived from activities that may contravene applicable laws and regulations, including anti-money laundering laws and regulations

12. It is not a member of the public in the Cayman Islands.

13. It understands that the Issuer, the Trustee, the Placement Agents and their respective counsel will rely upon the accuracy and truth of the foregoing representations, and it hereby consents to such reliance.

14. It has read the summary of the U.S. federal income tax considerations under the heading "*Certain Tax Considerations*" in the Offering Circular. It agrees to treat the characterization of the Notes as debt or equity for U.S. tax purposes in a manner consistent with the treatment of such Notes by the Issuer as described under the heading "*Certain Tax Considerations*" in the Offering Circular and will take no action inconsistent with such treatment.

15. It has read the summary of the provisions related to no petitions for bankruptcy under the heading "*Description of the Offered Securities – No Petitions for Bankruptcy*" in the Offering Circular It will not institute against, or join any other person in instituting against, either of the Issuers or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws until the date which is one year plus one day (or, if longer, the applicable preference period then in effect) after the payment in full of all Notes. It understands that the foregoing restrictions are a material inducement for each holder and beneficial owner of the Notes to acquire such Notes and for the Issuer, the Co-Issuer and the Portfolio Manager to enter into the Indenture (in the case of the Issuer and the Co-Issuer) and the other applicable transaction documents and are an essential term of the Indenture and that any holder or beneficial owner of a Note, the Portfolio Manager or either of the Issuers may seek and obtain specific performance of such restrictions (including injunctive relief), including, without limitation, in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws.

16. It understands that the Issuer may require certification acceptable to it (i) to permit the Issuer to make payments to it without, or at a reduced rate of, withholding or (ii) to enable the Issuer to qualify for a reduced rate of withholding in any jurisdiction from or through which the Issuer receives payments on its assets. It agrees to provide any such certification that is requested by the Issuer.

17. If such purchaser is not a "United States person" (as defined in Section 7701(a)(30) of the Code) it makes a representation that (a) either (i) it is not a bank (or an affiliate of a bank) extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business (within the meaning of Section 881(c)(3)(A) of the Code), or (ii) it is a person that is eligible for benefits under an income tax treaty with the United States that eliminates U.S. federal income taxation of U.S. source interest not attributable to a permanent

establishment in the United States, and (b) it is not purchasing the Note in order to reduce its U.S. federal income tax liability pursuant to a tax avoidance plan.

18. The Transferee acknowledges that any purported transfer of a Secured Note, or any interest therein, to a purchaser or transferee that does not comply with the requirements specified in the Indenture, the Notes, the Offering Circular and any applicable transfer certification, as applicable, will be of no force and effect and shall be null and void *ab initio*

Name of Purchaser:

Dated:

By:_____
Name:
Title:

Amount of Notes: $_____

Taxpayer identification number:

Address for notices:

Wire transfer information for payments:

Bank:

Address:

Bank ABA#:

Account #:

Telephone:

FAO:

Facsimile:

Attention:

Attention:

Denominations of certificates (if more than one): Registered name:

cc: Acis CLO 2013-1 Ltd. and Acis CLO 2013-1 LLC

EXHIBIT B4

FORM OF SUBORDINATED NOTE ERISA CERTIFICATE

The purpose of this ERISA Certificate (this "Certificate") is, among other things, to (i) endeavor to ensure that less than 25% of the value of the Subordinated Notes issued by Acis CLO 2013-1 Ltd. (the "Issuer") is held by (a) an "employee benefit plan" (as defined in Section 3(3) of the United States Employee Retirement Income Security Act of 1974, as amended ("ERISA") that is subject to the fiduciary responsibility provisions of Title I of ERISA, (b) a "plan" as defined in Section 4975(e)(1) of the United States Internal Revenue Code of 1986, as amended (the "Code"), that is subject to Section 4975 of the Code, (e) any entity whose underlying assets include "plan assets" by reason of any such employee benefit plan's or plan's investment in the entity or (d) a "benefit plan investor" as defined in U.S. Department of Labor regulations or under Section 3(42) of ERISA (collectively, "Benefit Plan Investors") so that the Issuer will not be subject to the U.S. federal pension laws contained in ERISA and Section 4975 of the Code, (ii) obtain from you certain representations and agreements and (iii) provide you with certain related information with respect to your acquisition, holding or disposition of the Subordinated Notes. By signing this Certificate, you agree to be bound by its terms.

Please be aware that the information contained in this Certificate is not intended to constitute advice and the examples given below are not intended to be, and are not, comprehensive. You should contact your own counsel if you have any questions in completing this Certificate. Capitalized terms not defined in this Certificate shall have the meanings ascribed to them in the final offering circular of the Issuer or the Indenture.

Please review the information in this Certificate and check the box(es) that are applicable to you.

If a box is not checked, you are agreeing that the applicable Section does not, and will not, apply to you.

1. Employee Benefit Plans Subject to ERISA or the Code. We, or the entity on whose behalf we are acting, are an "employee benefit plan" within the meaning Section 3(3) of ERISA that is subject to the fiduciary responsibility provisions of Title I of ERISA or a "plan" within the meaning of Section 4975(e)(1) of the Code that is subject to Section 4975 of the Code. ☐

Examples: (i) tax qualified retirement plans such as pension, profit sharing and section 401 (k) plans, (ii) welfare benefit plans such as accident, life and medical plans, (iii) individual retirement accounts or "IRAs" and "Keogh" plans and (iv) certain tax-qualified educational and savings trusts.

2. Entity Holding Plan Assets by Reason of Plan Asset Regulations. We, or the entity on whose behalf we are acting, are an entity or fund whose underlying assets include "plan assets" by reason of the investment in such entity by an employee benefit plan or plan described in Section 1 above. ☐

Examples: (i) a hedge fund or other private investment vehicle where 25% or more of the value of any class of its equity is held by Benefit Plan Investors. (ii) an insurance company separate account and (iii) a bank collective trust fund.

ERISA and the regulations promulgated thereunder are technical. Accordingly, if you have any question regarding whether you may be an entity described in this Section 2, you should consult with your counsel.

If you check Box 2, please also complete Box A.

A. The maximum percentage of the entity's or fund's assets that we anticipate will constitute "plan assets" for purposes of conducting the 25% test under the Plan Asset Regulations is: ____%.

IF YOU CHECKED BOX 2 BUT DO NOT INCLUDE ANY PERCENTAGE IN THE BLANK SPACE, YOU WILL BE COUNTED AS IF YOU FILLED IN 100% IN THE BLANK SPACE.

3. Insurance Company General Account. We, or the entity on whose behalf we are acting, are an insurance company purchasing the Subordinated Notes with funds from our or their general account (i.e., the insurance company's corporate investment portfolio), the assets of which, in whole or in part, constitute "plan assets" for purposes of the U.S. Department of Labor's regulations set forth at 29 C.F.R. Section 2510.3-101, as effectively modified by Section 3(42) of ERISA (the "Plan Asset Regulations"). ☐

If you check Box 3, please also check either Box A or Box B.

A. We are not able to determine an exact percentage of the general account that constitutes "plan assets" but the maximum percentage of the general account that constitutes (or will constitute) "plan assets" for purposes of, the Plan Asset Regulations is less than 25%. ☐

B. The maximum percentage of the insurance company general account that will constitute "plan assets" for purposes of conducting the 25% test under the Plan Asset Regulations is: ____%. IF YOU CHECK THIS BOX B BUT DO NOT INCLUDE ANY PERCENTAGE IN THE BLANK SPACE, YOU WILL BE COUNTED AS IF YOU FILLED IN 100% IN THE BLANK SPACE. ☐

4. None of Sections (1) Through (3) Above Apply. We, or the entity on whose behalf we are acting, are a person that does not fall into any of the categories described in Sections (1) through (3) above. ☐

5. No Prohibited Transaction. If we checked any of the boxes in Sections (1) through (3) above, we represent, warrant and agree that our acquisition, holding and disposition of the Subordinated Notes do not and will not constitute or give rise to a non-exempt prohibited

transaction under Section 406 of ERISA or Section 4975 of the Code.

6. No Violation of Similar Law. If we are a governmental, church, non-U.S. or other plan subject to any federal, state, local or non-U.S. law substantially similar to Title I of ERISA or Section 4975 of the Code, we represent, warrant and agree that our acquisition, holding and disposition of the Subordinated Notes do not and will not constitute or give rise to a non-exempt violation of any such similar federal, state, local or non-U.S. law.

7. Controlling Person. We are, or we are acting on behalf of any of: (i) the Trustee, (ii) the Portfolio Manager, (iii) any person that has discretionary authority or control with respect to the assets of the Issuer, (iv) any person who provides financial or investment advice for a fee (direct or indirect) with respect to such assets or (v) any "affiliate" of any of the above persons. "Affiliate" shall have the meaning set forth in the Plan Asset Regulations. Any of the persons described in the first sentence of this Section (7) is referred to in this Certificate as a "Controlling Person." ☐

Note: We understand that, for purposes of determining whether Benefit Plan Investors hold less than 25% of the value of the Subordinated Notes, the value of any Subordinated Notes held by Controlling Persons (other than Benefit Plan Investors) are required to be disregarded.

8. Compelled Disposition. We acknowledge and agree that:

(i) if any representation that we made hereunder is subsequently shown to be false or misleading or our beneficial ownership otherwise causes Benefit Plan Investors to own 25% or more of the value of any class of equity in the Issuer, the Issuer shall, promptly after such discovery (or upon notice from the Trustee if a responsible officer of the Trustee makes the discovery (who, in each case, agrees to notify the Issuer of such discovery, if any)), send notice to us demanding that we transfer our interest to a person that is not a Non-Permitted ERISA Holder within 14 days of the date of such notice;

(ii) if we fail to transfer our Subordinated Notes, the Issuer shall have the right, without further notice to us, to sell our Subordinated Notes or our interest in the Subordinated Notes, to a purchaser selected by the Issuer that is not a Non-Permitted ERISA Holder on such terms as the Issuer may choose;

(iii) the Issuer may select the purchaser by soliciting one or more bids from one or more brokers or other market professionals that regularly deal in securities similar to the Subordinated Notes and selling such securities to the highest such bidder. However, the Issuer may select a purchaser by any other means determined by it in its sole discretion;

(iv) by our acceptance of an interest in the Subordinated Notes, we agree to cooperate with the Issuer to effect such transfers;

(v) the proceeds of such sale, net of any commissions, expenses and taxes due in connection with such sale shall be remitted to us; and

(vi) the terms and conditions of any sale under this subsection shall be determined in the sole discretion of the Issuer, and the Issuer shall not be liable to us, as a result of any such sale or the exercise of such discretion.

9. Required Notification. We hereby agree that we (a) will inform the Trustee of any proposed transfer by us of all or a specified portion of the Subordinated Notes owned by us to a transferee who would be deemed to be a Benefit Plan Investor or a Controlling Person or of any proposed change in our status under ERISA which would result in all or a portion of the Subordinated Notes owned by us and not previously so characterized being deemed to be held by a Benefit Plan Investor or a Controlling Person and (b) will not permit any such transfer or change of status that would cause Benefit Plan Investors to own 25% or more of the value of any class of equity in the Issuer to be exceeded to become effective. We hereby agree and acknowledge that after the Trustee effects any permitted transfer of Subordinated Notes owned by us to a Benefit Plan Investor or a Controlling Person or receives notice of any such permitted change of status, the Trustee shall include such Subordinated Notes in future calculations of this 25% limitation made pursuant hereto unless subsequently notified that such Subordinated Notes (or such portion), as applicable, would no longer be deemed to be held by Benefit Plan Investors or Controlling Persons.

10. Continuing Representation; Reliance. We acknowledge and agree that the representations contained in this Certificate shall be deemed made on each day from the date we make such representations through and including the date on which we dispose of our interests in the Subordinated Notes. We understand and agree that the information supplied in this Certificate will be used and relied upon by the Issuer, the trustee to determine that Benefit Plan Investors own or hold less than 25% of the value of the Subordinated Notes upon any subsequent transfer of the Subordinated Notes in accordance with the indenture.

11. Further Acknowledgement. We acknowledge and agree that (i) all of the assurances contained in this Certificate are for the benefit of the Issuer, the Trustee, the Placement Agents and the Portfolio Manager as third-party beneficiaries hereof, (ii) copies of this Certificate and any information contained herein may be provided to the Issuer, the Trustee, the Placement Agents, the Portfolio Manager, affiliates of any of the foregoing parties and to each of the foregoing parties' respective counsel for purposes of making the determinations described above and (iii) any acquisition or transfer of the Subordinated Notes by us that is not in accordance with the provisions of this Certificate shall be null and void from the beginning, and of no legal effect.

12. Future Transfer Requirements.

Transferee Letter and its Delivery. We acknowledge and agree that we may not transfer any Subordinated Notes to any person unless the Trustee has received a certificate substantially in the form of this Certificate. Any attempt to transfer in violation of this section will be null and void from the beginning, and of no legal effect.

Note: Unless you are notified otherwise, the name and address of the Trustee is as follows:

U.S. Bank National Association
60 Livingston Avenue
St. Paul, MN 55107
Attn: Corporate Trust Services – ACIS CLO 2013-1

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Certificate.

_____ [Insert Purchaser's Name]
By:
Name:
Title:

Dated:

This Certificate relates to $_____ of Subordinated Notes.

EXHIBIT B5

FORM OF TRANSFEROR CERTIFICATE FOR TRANSFER TO REGULATION S
GLOBAL SUBORDINATED NOTE

U.S. Bank National Association
60 Livingston Avenue
St. Paul, MN 55107
Attn: Corporate Trust Services – ACIS CLO 2013-1

Re: ACIS CLO 2013-1 LTD.
Subordinated Notes

Reference is hereby made to the Indenture dated as of March 18, 2013 (the "Indenture") among Acis CLO 2013-1 Ltd., as Issuer, Acis CLO 2013-1 LLC, as Co-Issuer (and together with the Issuer, the "Co-Issuers") and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

This letter relates to U.S. $[_____] aggregate principal amount of Subordinated Notes which are held in the form of a Certificated Subordinated Note by [__] (the "Transferor") to effect the transfer of the Subordinated Notes in exchange for an equivalent beneficial interest in a Regulation S Global Subordinated Note.

In connection with such transfer, and in respect of such Subordinated Notes, the Transferor does hereby certify that such Subordinated Notes are being transferred to _____ (the "Transferee") in accordance with the transfer restrictions set forth in the Indenture and the Offering Circular dated March 12, 2013, including the supplements thereto, relating to such Subordinated Notes and that:

(a) the offer of the Subordinated Notes was not made to a person in the United States;

(b) at the time the buy order was originated, the Transferee was outside the United States or the Transferor and any person acting on its behalf reasonably believed that the Transferee was outside the United States;

(c) no directed selling efforts have been made in contravention of the requirements of Rule 903 or 904 of Regulation S, as applicable;

(d) the transaction is not part of a plan or scheme to evade the registration requirements of the United States Securities Act of 1933, as amended (the "Securities Act");

(e) the Transferee is not a U.S. person;

(f) the Transferee is not a Benefit Plan Investor or Controlling Person; and

(g) if the Transferee is a governmental, church, non-U.S. or other plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the Code, its acquisition, holding and disposition of such Subordinated Notes will not constitute or result in a non-exempt violation under any such substantially similar law.

The Transferor understands that the Issuer, the Trustee and their counsel will rely upon the accuracy and truth of the foregoing representations, and the Transferor hereby consents to such reliance.

(NAME OF TRANSFEROR)

By:_____
Name:
Title:

Dated: _____, _____

cc: Acis CLO 2013-1 Ltd.

EXHIBIT B6

FORM OF TRANSFEREE CERTIFICATE FOR TRANSFER OF CERTIFICATED SUBORDINATED NOTE

U.S. Bank National Association
60 Livingston Avenue
St. Paul, MN 55107
Attn: Corporate Trust Services – ACIS CLO 2013-1

Re: Acis CLO 2013-1 Ltd.
Subordinated Notes

Reference is hereby made to the Indenture, dated as of March 18, 2013, among the Issuer, Acis CLO 2013-1 LLC, as co-issuer of the Co-Issued Notes, and U.S. Bank National Association, as Trustee (the "Indenture"). Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

This letter relates to ____ Aggregate Outstanding Amount of Subordinated Notes (the "Subordinated Notes"), which are held in the form of one or more certificated Subordinated Notes in the name of _____ (the "Transferor") to effect the transfer of the Certificated Subordinated Notes to _____ (the "Transferee").

In connection with such request, and in respect of such Subordinated Notes, the Transferee does hereby certify that the Subordinated Notes are being transferred (i) in accordance with the transfer restrictions set forth in the Indenture and (ii) pursuant to an exemption from registration under the United States Securities Act of 1933, as amended (the "Securities Act") and in accordance with any applicable securities laws of any state of the United States or any other jurisdiction.

In addition, the Transferee hereby represents, warrants and covenants for the benefit of the Issuer and its counsel that we are:

(a) (PLEASE CHECK ONLY ONE)

_____ a "qualified institutional buyer" as defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act");

_____ an institutional "accredited investor" as defined in Rule 501 (a)(l), (2), (3) or (7) under the Securities Act;

_____ an individual "accredited investor" as defined in Rule 501(a)(5), (6) or (8) under the Securities Act who, is also a "Knowledgeable Employee" with respect to the Issuer; or

_____ a person that is not a "U.S. person" as defined in Regulation S under the Securities Act, and are acquiring the Subordinated Notes in an offshore transaction (as defined in Regulation S) in reliance on the exemption from Securities Act registration provided by Regulation S; and

(b) acquiring the Certificated Subordinated Notes for our own account (and not for the account of any other Person) in a minimum denomination of $200,000 and in integral multiples of $1,000 in excess thereof (except that up to 20 Certificated Subordinated Notes sold to U.S. persons that the Portfolio Manager has determined are Knowledgeable Employees may be issued in minimum denominations of $50,000).

The Transferee further represents and warrants as follows:

1. It understands that the Certificated Subordinated Notes have not been and will not be registered under the Securities Act, and, if in the future it decides to offer, resell, pledge or otherwise transfer the Certificated Subordinated Notes, such Certificated Subordinated Notes may be offered, resold, pledged or otherwise transferred only in accordance with the provisions of the Indenture and the legends on such Certificated Subordinated Notes, including the requirement for written certifications. In particular, it understands that the Certificated Subordinated Notes may be transferred only to a person that is either (a) a "qualified purchaser" (as defined in the Investment Company Act of 1940, as amended (the "Investment Company Act")), (b) a "Knowledgeable Employee," as defined in Rule 3c-5 promulgated under the Investment Company Act, with respect to the Issuer or (c) a corporation, partnership, limited liability company or other entity (other than a trust) each shareholder, partner, member or other equity owner of which is either a Knowledgeable Employee or a Qualified Purchaser; and in the case of (a), (b) and (c) above that is either (i) a "qualified institutional buyer" as defined in Rule 144A under the Securities Act who purchases such Certificated Subordinated Notes in reliance on the exemption from Securities Act registration provided by Rule 144A thereunder (or, in the case of the initial investors in the Subordinated Notes, another exemption from the registration requirements of the Securities Act) or (ii) an "accredited investor" as defined in Rule 501(a) under the Securities Act who, if not an "institutional accredited investor" (an entity defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act) is also a "Knowledgeable Employee" with respect to the Issuer or (d) a person that is not a "U.S. person" as defined in Regulation S under the Securities Act, and is acquiring the Certificated Subordinated Notes in an offshore transaction (as defined in Regulation S thereunder) in reliance on the exemption from registration provided by Regulation S thereunder. It acknowledges that no representation is made as to the availability of any exemption under the Securities Act or any state securities laws for resale of the Certificated Subordinated Notes.

2. In connection with its purchase of the Certificated Subordinated Notes: (i) none of the Co-Issuers, the Placement Agents, the Trustee, the Collateral Administrator, the Portfolio Manager or any of their respective affiliates are acting as a fiduciary or financial or investment adviser for it; (ii) it is not relying (for purposes of making any investment decision or otherwise) on any written or oral advice, counsel or representations of the Co-Issuers, the Placement Agents, the Portfolio Manager, the Trustee, the Collateral Administrator or any of their respective affiliates other than any statements in the final offering circular for such Subordinated Notes; (iii) it has read and understands the final offering circular for such

Subordinated Notes (including, without limitation, the descriptions therein of the structure of the transaction in which the Certificated Subordinated Notes are being issued and the risks to purchasers of the Certificated Subordinated Notes); (iv) it has consulted with its own legal, regulatory, tax, business, investment, financial and accounting advisers to the extent it has deemed necessary, and has made its own investment decisions (including decisions regarding the suitability of any transaction pursuant to the Indenture) based upon its own judgment and upon any advice from such advisers as it has deemed necessary and not upon any view expressed by the Co-Issuer, the Placement Agents, the Portfolio Manager, the Trustee, the Collateral Administrator or any of their respective affiliates; (v) it will hold and transfer at least the minimum denomination of such Subordinated Notes; (vi) it was not formed for the purpose of investing in the Subordinated Notes; and (vii) it is a sophisticated investor and is purchasing the Certificated Subordinated Notes with a full understanding of all of the terms, conditions and risks thereof, and it is capable of assuming and willing to assume those risks.

3. (i) It is either (A) a "qualified purchaser" for purposes of Section 3(c)(7) of the Investment Company Act, (B) a "Knowledgeable Employee" with respect to the Issuer for purposes of Rule 3c-5 of the Investment Company Act or (C) a corporation, partnership, limited liability company or other entity (other than a trust) each shareholder, partner, member or other equity owner of which is either a Knowledgeable Employee or a Qualified Purchaser and in the case of (A), (B) and (C) above that is either (x) a "qualified institutional buyer" as defined in Rule 144A under the Securities Act who purchases such Certificated Subordinated Notes in reliance on the exemption from Securities Act registration provided by Rule 144A thereunder (or, in the case of the initial investors in the Subordinated Notes, another exemption from the registration requirements of the Securities Act) or (y) an "accredited investor" as defined in Rule 501(a) under the Securities Act who, if not an "institutional accredited investor" (an entity defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act) is also a "Knowledgeable Employee" with respect to the Issuer or (D) not a "U.S. person" as defined in Regulation S under the Securities Act and is acquiring the Certificated Subordinated Notes in an offshore transaction (as defined in Regulation S thereunder) in reliance on the exemption from registration provided by Regulation S thereunder; (ii) it is acquiring the Certificated Subordinated Notes as principal solely for its own account for investment and not with a view to the resale, distribution or other disposition thereof in violation of the Securities Act; (iii) it is not a (A) partnership, (B) common trust fund, or (C) special trust, pension, profit sharing or other retirement trust fund or plan in which the partners, beneficiaries or participants may designate the particular investments to be made; (iv) it agrees that it shall not hold any Certificated Subordinated Notes for the benefit of any other person, that it shall at all times be the sole beneficial owner thereof for purposes of the Investment Company Act and all other purposes and that it shall not sell participation interests in the Certificated Subordinated Notes or enter into any other arrangement pursuant to which any other person shall be entitled to a beneficial interest in the distributions on the Certificated Subordinated Notes; (v) it is acquiring its interest in the Certificated Subordinated Notes for its own account; and (vi) it will hold and transfer at least the minimum denomination of the Certificated Subordinated Notes and provide notice of the relevant transfer restrictions to subsequent transferees.

4. It acknowledges and agrees that all of the assurances given by it in the attached Subordinated Note ERISA Certificate are correct and are for the benefit of the Issuer, the Trustee, the Placement Agents and the Portfolio Manager. It agrees and acknowledges that

none of Issuer or the Trustee will recognize any transfer of the Subordinated Notes if such transfer may result in 25% or more of the value of the Subordinated Notes being held by Benefit Plan Investors.

5. It will treat its Certificated Subordinated Notes as equity of the Issuer for United States federal income tax purposes.

6. It is _____ (check if applicable) a "United States person" within the meaning of Section 770l(a)(30) of the Code, and a properly completed and signed Internal Revenue Service Form W-9 (or applicable successor form) is attached hereto; or _____ (check if applicable) not a "United States person" within the meaning of Section 7701(a)(30) of the Code, and a properly completed and signed applicable Internal Revenue Service Form W-8 (or applicable successor form) is attached hereto. It understands and acknowledges that failure to provide the Issuer or the Trustee with the applicable United States federal income tax certifications (generally, an Internal Revenue Service Form W-9 (or successor applicable form) in the case of a person that is a "United States person" within the meaning of Section 7701(a)(30) of the Code or an applicable Internal Revenue Service Form W-8 (or successor applicable form) in the case of a person that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code) may result in United States federal back-up withholding from payments to it in respect of the Subordinated Notes.

7. It agrees not to seek to commence in respect of the Issuer or the Co-Issuer, or cause the Issuer or Co-Issuer to commence, a bankruptcy proceeding before a year and a day has elapsed since the payment in full to the Holders of the Notes or, if longer, the applicable preference period then in effect.

8. To the extent required by the Issuer, as determined by the Issuer or the Portfolio Manager on behalf of the Issuer, the Issuer may, upon notice to the Trustee, impose additional transfer restrictions on the Subordinated Notes to comply with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "USA Patriot Act") and other similar laws or regulations, including, without limitation, requiring each transferee of a Subordinated Note to make representations to the Issuer in connection with such compliance.

The Transferee agrees to provide promptly such information and execute and deliver such documents as may be necessary to comply with any and all laws and regulations (including the USA Patriot Act) to which the Issuer may be subject. The Transferee understands and agrees that, in order to ensure compliance under applicable anti-money laundering laws and regulations, the Issuer may require a detailed verification of the identity of the Transferee. The Issuer reserves the right to request such information as is necessary to verify the identity of a Transferee. In the event of delay or failure by the Transferee to produce any information required for verification purposes, the Issuer may refuse to issue the Subordinated Notes to the Transferee until proper information has been provided.

The Transferee covenants and agrees that it shall provide the Issuer with such information as the Issuer determines to be necessary or appropriate to (a) verify compliance with the anti-money laundering regulations of any applicable jurisdiction or (b) respond to requests

for information concerning the identity of the Transferee from any governmental authority, self-regulatory organization or financial institution in connection with the Issuer's anti-money laundering compliance procedures.

9. The rules and regulations administered by the United States Treasury Department's Office of Foreign Assets Control ("OFAC") prohibit, among other things, the engagement in transactions with, and the provision of services to, certain countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at http://www.treas.gov/offices/enforcement/ofac/. In addition, the programs administered by OFAC ("OFAC Programs") prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists. The Transferee represents and warrants that, to the best of its knowledge, none of: (a) the Transferee; (b) any Person controlling or controlled by the Transferee; (c) if the Transferee is a privately held entity, any Person having a beneficial interest in the Transferee; (d) if the Transferee is not the beneficial owner of all of the Certificated Subordinated Notes, any Person having a beneficial interest in the Certificated Subordinated Notes; or (e) any Person for whom the Transferee is acting as agent or nominee in connection with this investment in the Certificated Subordinated Notes is a country, territory, individual or entity named on any OFAC list, or is a person or entity prohibited under the OFAC Programs.

10. It hereby agrees to provide the Issuer and Trustee (i) any information as is necessary (in the sole determination of the Issuer or the Trustee, as applicable) for the Issuer and the Trustee to determine whether it is a United States person as defined in Section 7701(a)(30) of the Code (a "United States person") or a United States owned foreign entity as described in Section 1471(d)(3) of the Code (a "United States owned foreign entity") and (ii) any additional information that the Issuer or its agent requests in connection with FATCA. If it is a United States person or a United States owned foreign entity that is a holder or beneficial owner of Subordinated Notes or an interest therein, it also hereby agrees to be required to (x) provide the Issuer and Trustee its name, address, U.S. taxpayer identification number and any other information requested by the Issuer or its agent upon request and (y) update any such information provided in clause (x) promptly upon learning that any such information previously provided has become obsolete or incorrect or is otherwise required. It understands and acknowledges that the Issuer may provide such information and any other information concerning its investment in the Subordinated Notes to the IRS. It understands and acknowledges that the Issuer has the right, under the Indenture, to compel any beneficial owner of an interest in the Subordinated Notes that fails to comply with the foregoing requirements to sell its interest in such Subordinated Notes, or may sell such interest on behalf of such owner.

11. Any funds to be used by it to purchase the Subordinated Notes shall not directly or indirectly be derived from activities that may contravene applicable laws and regulations, including anti-money laundering laws and regulations

12. It is not a member of the public in the Cayman Islands.

13. It understands that the Issuer, the Trustee, the Placement Agents and their respective counsel will rely upon the accuracy and truth of the foregoing representations, and it hereby consents to such reliance.

14. It has read the summary of the U.S. federal income tax considerations under the heading "*Certain Tax Considerations*" in the Offering Circular. It agrees to treat the characterization of the Notes as debt or equity for U.S. tax purposes in a manner consistent with the treatment of such Notes by the Issuer as described under the heading "*Certain Tax Considerations*" in the Offering Circular and will take no action inconsistent with such treatment.

15. It has read the summary of the provisions related to no petitions for bankruptcy under the heading "*Description of the Offered Securities – No Petitions for Bankruptcy*" in the Offering Circular. It will not institute against, or join any other person in instituting against, either of the Issuers or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws until the date which is one year plus one day (or, if longer, the applicable preference period then in effect) after the payment in full of all Notes. It understands that the foregoing restrictions are a material inducement for each holder and beneficial owner of the Notes to acquire such Notes and for the Issuer, the Co-Issuer and the Portfolio Manager to enter into the Indenture (in the case of the Issuer and the Co-Issuer) and the other applicable transaction documents and are an essential term of the Indenture and that any holder or beneficial owner of a Note, the Portfolio Manager or either of the Issuers may seek and obtain specific performance of such restrictions (including injunctive relief), including, without limitation, in any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under Cayman Islands law, United States federal or state bankruptcy law or similar laws.

16. It understands that the Issuer may require certification acceptable to it (i) to permit the Issuer to make payments to it without, or at a reduced rate of, withholding or (ii) to enable the Issuer to qualify for a reduced rate of withholding in any jurisdiction from or through which the Issuer receives payments on its assets. It agrees to provide any such certification that is requested by the Issuer.

17. If such purchaser is not a "United States person" (as defined in Section 7701(a)(30) of the Code) it makes a representation that (a) either (i) it is not a bank (or an affiliate of a bank) extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business (within the meaning of Section 881(c)(3)(A) of the Code), or (ii) it is a person that is eligible for benefits under an income tax treaty with the United States that eliminates U.S. federal income taxation of U.S. source interest not attributable to a permanent establishment in the United States, and (b) it is not purchasing the Note in order to reduce its U.S. federal income tax liability pursuant to a tax avoidance plan.

18. The Transferee acknowledges that any purported transfer of a Secured Note, or any interest therein, to a purchaser or transferee that does not comply with the requirements specified in the Indenture, the Notes, the Offering Circular and any applicable transfer certification, as applicable, will be of no force and effect and shall be null and void *ab initio*

Name of Purchaser:

Dated:

By:_____
Name:
Title:

Amount of Subordinated Notes: $_____

Taxpayer identification number:

Address for notices:

Wire transfer information for payments:

Bank:

Address:

Bank ABA#:

Account #:

Telephone:

FAO:

Facsimile:

Attention:

Attention:

Denominations of certificates (if more than one):
Registered name:

cc: Acis CLO 2013-1 Ltd.
c/o Appleby Trust (Cayman) Ltd.
Clifton House, 75 Fort Street
PO Box 1350
Grand Cayman KYI-1108, Cayman Islands

EXHIBIT B7

FORM OF EXCHANGE NOTICE

U.S. Bank National Association
60 Livingston Avenue
St. Paul, MN 55107
Attn: Corporate Trust Services – ACIS CLO 2013-1

Re: ACIS CLO 2013-1 LTD.
Combination Notes

Reference is hereby made to the Indenture dated as of March 18, 2013 (the "Indenture") among Acis CLO 2013-1 Ltd., as Issuer, Acis CLO 2013-1 LLC, as Co-Issuer (and together with the Issuer, the "Co-Issuers") and U.S. Bank National Association, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

[This letter relates to U.S. $[_____] aggregate principal amount of Combination Notes (the "Combination Notes") which are held in the form of [Rule 144A Global Securities][Regulation S Global Securities] (CUSIP [(CINS)] No._____). The undersigned hereby requests that the Trustee effect the exchange of its interest in such Combination Notes for its ratable share of the Class A-1 Notes, the Class B Notes and the Class C Notes] to be held in the form of [Rule 144A Global Securities][Regulation S Global Securities] (CUSIP [(CINS)] No._____, _____ and _____, respectively) that are allocated to and represented by the Class A-1 Note Component, the Class B Note Component and the Class C Component, in accordance with Section 13.4 of the Indenture.][26]

[This letter relates to U.S. $[_____] aggregate principal amount of Class A-1 Notes, U.S. $[_____] aggregate principal amount of Class B Notes and U.S. $[_____] aggregate principal amount of Class C Notes which are held in the form of [Rule 144A Global Securities][Regulation S Global Securities] (CUSIP [(CINS)] No._____, _____ and _____, respectively) and are collectively referred to as the "Exchange Notes". The undersigned hereby requests that the Trustee effect the exchange of its interest in such Exchange Notes for its ratable share of Combination Notes which to be held in the form of [Rule 144A Global Securities][Regulation S Global Securities] (CUSIP [CINS)] No._____), in accordance with Section 13.4 of the Indenture.][27]

In connection with such exchange, the undersigned does hereby certify that such Notes are being exchanged in accordance with the exchange restrictions set forth in the Indenture and the Offering Circular dated March 12, 2013, including the supplements thereto, relating to such Notes and further certify that:

[26] For exchange of Combination Notes for the Underlying Classes represented by such Notes.
[27] For the combination of Class A-1 Notes, Class B Notes and Class C Notes representing Underlying Classes into Combination Notes.

(a) the Permissible Ratio is [_____];

(b) the Aggregate Outstanding Amount and face amount of each Note to be exchanged and each Note to be received in such Exchange is [_____];

(c) the Holder's DTC participant number is [_____]; and

(d) the proposed effective date of the Exchange is [_____].

IN WITNESS WHEREOF, the undersigned has executed this Exchange Notice on the date set forth below.

(NAME OF HOLDER)

By:_____
Name:
Title:

Dated: _____, _____

cc: Acis CLO 2013-1 Ltd.

EXHIBIT C

FORMS OF WHITE & CASE LLP OPINIONS

EXHIBIT D

FORM OF DECHERT LLP OPINION

EXHIBIT E

FORM OF SEWARD & KISSEL LLP OPINION

EXHIBIT F

FORM OF APPLEBY (CAYMAN) LTD. OPINION

EXHIBIT G

CALCULATION OF LIBOR

LIBOR for any Interest Accrual Period will equal (a) the rate appearing on the Reuters Screen for deposits with a term of three months; provided, that LIBOR for the first Interest Accrual Period will be determined by interpolating linearly (and rounding to five decimal places) between (i) the rate appearing on the Reuters Screen for deposits with a term of 4 months and (ii) the rate appearing on the Reuters Screen for deposits with a term of 5 months or (b) if such rate is unavailable at the time LIBOR is to be determined, LIBOR shall be determined on the basis of the rates at which deposits in U.S. Dollars are offered by four major banks in the London market selected by the Calculation Agent (the "Reference Banks") at approximately 11:00 a.m., London time, on the Interest Determination Date to prime banks in the London interbank market for a period approximately equal to such period and an amount approximately equal to the Aggregate Outstanding Amount of the Secured Notes. The Calculation Agent will request the principal London office of each Reference Bank to provide a quotation of its rate. If at least two such quotations are provided, LIBOR shall be the arithmetic mean of such quotations (rounded upward to the next higher 1/100). If fewer than two quotations are provided as requested, LIBOR with respect to such Interest Accrual Period will be the arithmetic mean of the rates quoted by three major banks in New York, New York selected by the Calculation Agent at approximately 11:00 a.m., New York time, on such Interest Determination Date for loans in U.S. Dollars to leading European banks for a term approximately equal to such Interest Accrual Period and an amount approximately equal to the Aggregate Outstanding Amount of the Secured Notes. If the Calculation Agent is required but is unable to determine a rate in accordance with at least one of the procedures described above, LIBOR will be LIBOR as determined on the previous Interest Determination Date.

"Reuters Screen" means the rates for deposits in dollars which appear on the Reuters Screen LIBOR 01 Page (or such other page that may replace that page on such service for the purpose of displaying comparable rates) on the Bloomberg Financial Markets Commodities News as of 11:00 a.m., London time, on the Interest Determination Date.

EXHIBIT H

FORM OF SECURITIES ACCOUNT CONTROL AGREEMENT

EXHIBIT I

FORM OF NOTE OWNER CERTIFICATE

U.S. Bank National Association,
as Trustee
60 Livingston Avenue
St. Paul, MN 55107
Attn: Corporate Trust Services — Acis CLO 2013-1

Acis CLO 2013-1 Ltd.
c/o Appleby Trust (Cayman) Ltd.
Clifton House, 75 Fort Street
PO Box 1350
Grand Cayman KYI-1108, Cayman Islands

Acis CLO 2013-1 LLC
c/o Puglisi & Associates
850 Library Avenue, Ste. 204
Newark, DE 19711

Acis Capital Management, L.P.
300 Crescent Court
Dallas, Texas 75201

Re: Reports Prepared Pursuant to the Indenture, dated as of March 18, 2013, among ACIS CLO 2013-1 Ltd., Acis CLO 2013-1 LLC and U.S. Bank National Association, as Trustee (the "Indenture").

Ladies and Gentlemen:

The undersigned hereby certifies that it is the beneficial owner of U.S.$_____ in principal amount of the [Class X Senior Secured Floating Rate Note due 2024] [Class A-1 Senior Secured Floating Rate Note due 2024] [Class A-2 Senior Secured Floating Rate Note due 2024] [Class B Senior Secured Floating Rate Note due 2024] [Class C Mezzanine Secured Deferrable Floating Rate Note due 2023] [Class D Mezzanine Secured Deferrable Floating Rate Note due 2024] [of Acis CLO 2013-1 Ltd. and Acis CLO 2013-1 LLC] [Class E Junior Secured Deferrable Floating Rate Note due 2024][Class F Junior Secured Deferrable Floating Rate Note due 2024] [Combination Notes] [Subordinated Notes due 2024] [of Acis CLO 2013-1 LLC], and hereby requests the Trustee to provide to it (or its designated nominee set forth below) at the following address the [information specified in Section 7.17(g) of the Indenture] [and/or the] [information specified in Section 7.17(h) of the Indenture] [and/or the] [information specified in Section 7.17(i) of the Indenture] [and/or the] [access to the

Trustees website specified in Section 10.7(i) of the Indenture] [and/or the] [statement of Independent certified public accountants specified in Section 10.9(b) of the Indenture].

Please return the form via facsimile to the Trustee at 190 South LaSalle Street, 10th Floor, Chicago, IL 60603, Attn: Corporate Trust Services – ACIS CLO 2013-1, Fax: 312-332-8030.

Address:_____
_____
_____

IN WITNESS WHEREOF, the undersigned has caused this certificate to be duly executed this ____ day of _____, _____.

[NAME OF BENEFICIAL OWNER]

By: _____

Authorized Signatory

EXHIBIT 30

EXHIBIT B

CLO 2013-1 PORTFOLIO MANAGEMENT AGREEMENT

Portfolio Management Agreement

This Portfolio Management Agreement (this "Agreement"), dated as of March 18, 2013, is entered into by and between Acis CLO 2013-1 Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands, with its registered office located at Clifton House, 75 Fort Street, PO Box 1350, Grand Cayman KY1-1108, Cayman Islands (together with successors and assigns permitted hereunder, the "Issuer"), and Acis Capital Management, L.P., with its principal offices located at 300 Crescent Court, Suite 700, Dallas, TX 75201, as portfolio manager (together with successors and assigns permitted hereunder, in such capacity, the "Portfolio Manager").

WITNESSETH:

WHEREAS, the Issuer intends to issue U.S.$4,000,000 Class X Senior Secured Floating Rate Notes due 2024 (the "Class X Notes"), U.S.$190,750,000 Class A-1 Senior Secured Floating Rate Notes due 2024 (the "Class A-1 Notes"), U.S.$115,750,000 Class A-2A Senior Secured Floating Rate Notes due 2024 (the "Class A-2A Notes"), U.S.$10,250,000 Class A-2B Senior Secured Floating Rate Notes due 2024 (the "Class A-2B Notes" and, together with the Class A-1 Notes and the Class A-2A Notes, the "Class A Notes"), U.S.$62,500,000 Class B Senior Secured Floating Rate Notes due 2024 (the "Class B Notes", and together with the Class X Notes and the Class A Notes the "Senior Notes"), U.S.$39,500,000 Class C Mezzanine Secured Deferrable Floating Rate Notes due 2024 (the "Class C Notes"), U.S.$21,500,000 Class D Mezzanine Secured Deferrable Floating Rate Notes due 2024 (the "Class D Notes" and, together with the Class C Notes, the "Mezzanine Notes"), U.S.$193,000,000 Combination Notes (the "Combination Notes", and together with the Mezzanine Notes and the Senior Notes, the "Co-Issued Notes"), U.S.$19,500,000 Class E Junior Secured Deferrable Floating Rate Notes due 2024 (the "Class E Notes"), U.S.$10,000,000 Class F Junior Secured Deferrable Floating Rate Notes due 2024 (the "Class F Notes" and together with the Class E Notes and the Co-Issued Notes, the "Secured Notes") and U.S.$51,750,000 Subordinated Notes due 2024 (the "Subordinated Notes" and, together with the Secured Notes, the "Notes" or the "Offered Securities") pursuant to an indenture dated as of March 18, 2013 (as amended, supplemented or modified from time to time, the "Indenture"), among the Issuer, Acis CLO 2013-1 LLC, as co-issuer of the Co-Issued Notes (the "Co-Issuer"), and U.S. Bank National Association, as trustee (together with any successor trustee permitted under the Indenture, the "Trustee");

WHEREAS, the Issuer intends to pledge certain Collateral Obligations, certain Eligible Investments, Cash and the Hedge Agreements (each, as defined in the Indenture) and certain other assets (all as set forth in the Indenture) (collectively, the "Assets") to the Trustee as security for the Secured Notes;

WHEREAS, the Issuer wishes to enter into this Agreement, pursuant to which the Portfolio Manager agrees to perform, on behalf of the Issuer, certain duties with respect to the Assets securing the Secured Notes in the manner and on the terms set forth herein and to provide such additional services as are consistent with the terms of this Agreement and the Indenture; and

WHEREAS, the Portfolio Manager has the capacity to provide the services required hereby and is prepared to perform such services upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, the parties hereto agree as follows:

1. Definitions.

Terms used herein and not defined below shall have the meanings set forth in the Indenture.

"Actions" shall have the meaning provided in Section 11(a).

"Advisers Act" means the Investment Advisers Act of 1940, as amended.

"Affiliate" means, with respect to a Person, (i) any other Person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such Person or (ii) any other Person who is a director, officer or employee (a) of such Person, (b) of any subsidiary or parent company of such Person or (c) of any Person described in clause (i) above. For the purposes of this definition, control of a Person shall mean the power, direct or indirect, (i) to vote more than 50% of the securities having ordinary voting power for the election of directors of such Persons, or (ii) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise. For purposes of this definition, the management of an account by one Person for the benefit of any other Person shall not constitute "control" of such other Person and no entity shall be deemed an Affiliate of the Issuer or the Co-Issuer solely because the Administrator or its Affiliates serve as administrator or share trustee for such entity.

"Affiliate Transaction" shall have the meaning set forth in Section 6(a).

"Agreement" shall mean this portfolio management agreement, as amended from time to time.

"Attorneys" shall have the meaning provided in Section 33.

"Board of Directors" shall mean the directors of the Issuer duly appointed pursuant to the Governing Instruments of the Issuer in accordance with Cayman Islands law or any subsequent directors who are duly appointed according to the Articles of Association.

"Confidential Information" shall have the meaning provided in Section 7.

"Expenses" shall have the meaning provided in Section 11(a).

"Fee Election" shall have the meaning provided in Section 9(b).

"Governing Instruments" shall mean the memorandum, articles or certificate of incorporation or association and by-laws, if applicable, in the case of a corporation, the partnership agreement, in the case of a partnership, or the limited liability company agreement, in the case of a limited liability company.

"Indemnified Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Indemnifying Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Independent Review Party" shall have the meaning set forth in Section 6(b).

"Issuer Documents" shall have the meaning provided in Section 17(a)(i).

"Liabilities" shall have the meaning provided in Section 11(a).

"Manager Documents" shall have the meaning provided in Section 17(b).

"OFAC" shall have the meaning provided in Section 17(a)(x).

"OFAC Programs" shall have the meaning provided in Section 17(a)(x).

"Offer" shall mean, with respect to any security, (i) any offer by the issuer of such security or by any other Person made to all of the holders of such security to purchase or otherwise acquire such security (other than pursuant to any redemption in accordance with the terms of the related Underlying Instruments) or to convert or exchange such security into or for cash, securities or any other type of consideration or (ii) any solicitation by the issuer of such security or any other Person to amend, modify or waive any provision of such security or any related Underlying Instrument.

"Offering Circular" shall have the meaning provided in Section 11(a).

"Person" means any individual, partnership, corporation, limited liability company, trust or other entity.

"Related Entities" shall mean, with respect to the Portfolio Manager, its clients, its partners, its members, funds or other investment accounts managed by it or any of its Affiliates, or their employees and their Affiliates.

"Responsible Officer" shall mean any officer, authorized person or employee of the Portfolio Manager set forth on the list provided by the Portfolio Manager to the Issuer and the Trustee which list shall include any portfolio manager having day-to-day responsibility for the performance of the Portfolio Manager under the Portfolio Management Agreement, as such list may be amended from time to time.

"Section 28(e)" shall have the meaning provided in Section 4(a).

"Service Agreements" shall mean, collectively, the Sub-Advisory Agreement and the Shared Services Agreement.

"Shared Services Agreement" shall mean that certain Shared Services Agreement dated January 1, 2011 between the Portfolio Manager and Highland Capital Management, L.P. (as amended, supplemented or modified from time to time).

"Sub-Advisory Agreement" shall mean that certain Sub-Advisory Agreement dated May 5, 2011 between the Portfolio Manager and Highland Capital Management, L.P. (as amended, supplemented or modified from time to time).

2. Engagement.

Commencing on the date hereof, the Issuer hereby engages and retains the Portfolio Manager to provide the investment advisory and related services described below, for the period and on the terms and conditions set forth herein. The Portfolio Manager hereby accepts such engagement and agrees, for the period and on the terms and conditions set forth herein, to provide, or to make satisfactory arrangements for the provision of, the investment advisory and related services described below, for the period and on the terms and conditions set forth herein.

3. General Duties of the Portfolio Manager.

The Portfolio Manager shall provide services to the Issuer as follows:

(a) Subject to and in accordance with the terms of the Indenture and this Agreement, the Portfolio Manager agrees to supervise and direct the investment and reinvestment of the Assets, and shall perform on behalf of the Issuer the duties that have been specifically delegated to the Portfolio Manager in this Agreement and in the Indenture (and the Portfolio Manager shall have no obligation to perform any other duties under this Agreement and the Indenture) and, to the extent necessary or appropriate to perform such duties, the Portfolio Manager shall have the power to execute and deliver all necessary and appropriate documents and instruments, and to take all other actions, on behalf of the Issuer with respect thereto, it being understood that the Portfolio Manager shall have no obligation to perform duties whose performance depends on third parties not under the control of the Portfolio Manager or its Affiliates.

(b) The Portfolio Manager shall comply with all the terms and conditions of the Indenture affecting the duties and functions that have been delegated to it thereunder and hereunder and (without in any way limiting Section 11 of this Agreement) shall perform its obligations hereunder and thereunder in good faith and with reasonable care, using a degree of skill and attention no less than that which the Portfolio Manager (i) exercises with respect to comparable assets that it manages for itself and (ii) exercises with respect to comparable assets that it manages for others, and in a manner consistent with practices and procedures followed by institutional managers of national standing relating to assets of the nature and character of the Assets, except as expressly provided otherwise in this Agreement and/or the Indenture. To the extent not inconsistent with the foregoing, the Portfolio Manager shall follow its customary

standards, policies and procedures in performing its duties under the Indenture and hereunder (including those duties of the Issuer under the Indenture which the Portfolio Manager has agreed hereunder to perform on the Issuer's behalf). The Portfolio Manager shall not be bound to follow any amendment to the Indenture, however, until it has received written notice thereof and until it has received a copy of the amendment from the Issuer or the Trustee; provided that with respect to any amendment to the Indenture which would (i) increase the duties or liabilities of the Portfolio Manager or adversely change the economic consequences to the Portfolio Manager, (ii) modify the restrictions on the purchases or sales of Collateral Obligations under Article 12 of the Indenture or the Investment Criteria, (iii) expand or restrict the Portfolio Manager's discretion or (iv) modify the restrictions on and procedures for resales and other transfers of Subordinated Notes, except as set forth in Section 8.1(vi) of the Indenture, the Portfolio Manager shall not be bound thereby unless the Portfolio Manager shall have consented thereto in writing, such consent to not be unreasonably withheld or delayed. The Issuer agrees that it will not permit any such amendment to the Indenture to become effective unless the Portfolio Manager has been given prior written notice of such amendment and consented thereto in writing and that it will give prior written notice of any other amendment to the Indenture to the Portfolio Manager.

(c) The Portfolio Manager shall (i) determine during the Reinvestment Period, consistent with the applicable provisions of the Indenture, when Principal Proceeds shall be applied to effect a Special Redemption of the Secured Notes, (ii) select all Collateral Obligations and Eligible Investments which shall be acquired by the Issuer and pledged to the Trustee pursuant to the Indenture and (iii) facilitate the acquisition and settlement of Collateral Obligations by the Issuer. In providing services to the Issuer hereunder, the Portfolio Manager shall take into consideration the interests of the Holders as a whole. The Portfolio Manager shall have no obligation to perform any duties other than as expressly specified herein, or in the provisions of the Indenture applicable to the Portfolio Manager, and the Portfolio Manager shall be subject to no implicit obligations of any kind.

(d) Subject to any applicable terms of the Collateral Administration Agreement, the Portfolio Manager shall monitor the Assets, on behalf of the Issuer, on an ongoing basis and provide (or cause to be provided) to the Issuer all reports, schedules and other data reasonably available to the Portfolio Manager that the Issuer is required to prepare, deliver or furnish, or cause to be prepared, delivered or furnished, under the Indenture, in the form and containing all information required thereby and in sufficient time for the Issuer to review such required reports, schedules and data and to deliver them to the parties entitled thereto under the Indenture. The Portfolio Manager shall, on behalf of the Issuer, be responsible for obtaining to the extent practicable any information concerning whether a Collateral Obligation has become a Defaulted Obligation. Pursuant to the terms of the Collateral Administration Agreement, the Collateral Administrator shall provide certain reports, schedules and calculations to the Portfolio Manager regarding the Collateral Obligations. The obligation of the Portfolio Manager to furnish such information is subject to the Portfolio Manager's timely receipt of necessary reports and the appropriate information from the Person responsible for the delivery of or preparation of such reports and such information (including without limitation, the

Obligors of the Collateral Obligations, the Rating Agencies, the Trustee and the Collateral Administrator) and to any confidentiality restrictions with respect thereto. The Portfolio Manager shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing reasonably believed by it to be genuine and to have been signed or sent by a Person that the Portfolio Manager has no reason to believe is not duly authorized. The Portfolio Manager also may rely upon any statement made to it orally or by telephone and made by a Person the Portfolio Manager has no reason to believe is not duly authorized, and shall not incur any liability for relying thereon. The Portfolio Manager is entitled to rely on any other information furnished to it by third parties that it reasonably believes in good faith to be genuine.

(e) The Portfolio Manager may direct an Optional Redemption (including a Refinancing) under the Indenture on behalf of the Issuer.

(f) The Portfolio Manager may direct the Clean-Up Call Redemption under the Indenture on behalf of the Issuer.

(g) The Portfolio Manager may, in its sole discretion subject to and in accordance with the provisions of the Indenture and this Agreement, direct the Issuer and/or the Trustee to take the following actions with respect to a Collateral Obligation, Eligible Investment or other Asset:

(i) retain such Collateral Obligation, Eligible Investment or other Asset;

(ii) dispose of such Collateral Obligation, Eligible Investment or other Asset in the open market or otherwise;

(iii) acquire, as security for the Secured Notes in substitution for or in addition to any one or more Collateral Obligations or Eligible Investments included in the Assets, one or more additional Collateral Obligations or Eligible Investments;

(iv) if applicable, tender such Collateral Obligation, Eligible Investment or other Asset pursuant to an Offer;

(v) if applicable, consent to or refuse to consent to any proposed amendment, modification, restructuring, exchange or waiver pursuant to an Offer;

(vi) retain or dispose of any securities or other property (if other than cash) received pursuant to an Offer;

(vii) waive any default with respect to any Defaulted Obligation or other Asset;

(viii) vote to accelerate the maturity of any Defaulted Obligation or other Asset;

(ix) participate in a committee or group formed by creditors of an issuer or a borrower under a Collateral Obligation, Eligible Investment, Equity Security or asset held by any ETB Subsidiary;

(x) negotiate, modify or amend any loan for the Issuer as authorized by the Indenture in accordance with a Refinancing;

(xi) exercise any other rights or remedies with respect to a Collateral Obligation, Eligible Investment or other Asset as provided in the related Underlying Instruments or take any other action consistent with the terms of the Indenture;

(xii) enter into Hedge Agreements; and

(xiii) to make loans to ETB Subsidiaries.

(h) Notwithstanding anything to the contrary in this Agreement, none of the services performed by the Portfolio Manager shall result in or be construed as resulting in an obligation to perform any of the following:

(i) the Portfolio Manager acting repeatedly or continuously as an intermediary in securities for the Issuer;

(ii) the Portfolio Manager providing investment banking services to the Issuer; or

(iii) the Portfolio Manager having direct contact with, or actively soliciting or finding, outside investors to (x) invest in the Issuer or (y) make co-investments in securities of portfolio companies with the Issuer.

(i) The Portfolio Manager hereby agrees to the following:

(i) The Portfolio Manager agrees not to institute against the Issuer or the Co-Issuer any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings or other proceedings under U.S. federal or state bankruptcy or similar laws, or the similar laws of the Cayman Islands or other applicable jurisdiction until the payment in full of all Notes issued under the Indenture and the expiration of a period equal to one year and a day, or, if longer, the applicable preference period, following such payment. Nothing in this Section 3(i)(i) shall preclude, or be deemed to stop, the Portfolio Manager (i) from taking any action prior to the expiration of the aforementioned period in (A) any case or Proceeding voluntarily filed or commenced by the Issuer or the Co-Issuer or (B) any involuntary insolvency Proceeding filed or commenced by a Person other than the Portfolio Manager, or (ii) from commencing against the Issuer or the Co-Issuer or any of its properties any legal action which is not a

bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceeding. The provisions of this subsection 3(i)(i) shall survive termination of this Agreement.

(ii) The Portfolio Manager shall cause any purchase or sale of any Collateral Obligation to be conducted on arm's length terms or in the manner contemplated by Section 6, if applicable.

(iii) In providing services hereunder, the Portfolio Manager may employ third parties, including its Affiliates, to render advice (including investment advice), to provide services to arrange for trade execution and otherwise provide assistance to the Issuer, and to perform any of the Portfolio Manager's duties under this Agreement; provided, however, that the Portfolio Manager shall not be relieved of any of its duties hereunder regardless of the performance of any services by third parties.

4. Brokerage.

(a) The Portfolio Manager will seek to obtain the best execution (but shall have no obligation to obtain the best prices and execution) for all orders placed with respect to the Assets, in a manner permitted by law and in a manner it believes to be in the best interests of the Issuer. Subject to the preceding sentence, the Portfolio Manager may, in the allocation of business, select brokers and/or dealers with whom to effect trades on behalf of the Issuer and may open cash trading accounts with such brokers and dealers (provided that none of the Assets may be credited to, held in or subject to the lien of the broker or dealer with respect to any such account). In addition, subject to the first sentence of this paragraph, the Portfolio Manager may, in the allocation of business, take into consideration research and other brokerage services furnished to the Portfolio Manager or its Affiliates by brokers and dealers which are not Affiliates of the Portfolio Manager; provided that the Portfolio Manager in good faith believes that the compensation for such services rendered by such brokers and dealers complies with the requirements of Section 28(e) of the Securities Exchange Act of 1934, as amended ("Section 28(e)"), or in the case of principal or fixed income transactions for which the "safe harbor" of Section 28(e) is not available, the amount of the spread charged is reasonable in relation to the value of the research and other brokerage services provided. Such services may be used by the Portfolio Manager or its Affiliates in connection with its other advisory activities or investment operations. The Portfolio Manager may aggregate sales and purchase orders of securities placed with respect to the Assets with similar orders being made simultaneously for other accounts managed by the Portfolio Manager or with accounts of the Affiliates of the Portfolio Manager, if in the Portfolio Manager's reasonable business judgment such aggregation shall result in an economic benefit to the Issuer, taking into consideration the advantageous selling or purchase price, brokerage commission or other expenses, as well as the availability of such securities on any other basis. In accounting for such aggregated order price, commissions and other expenses may be apportioned on a weighted average basis. When a transaction with respect to the Assets occurs as part of any aggregate sales or purchase orders, the objective of the Portfolio Manager shall be to allocate the executions among the accounts

in an equitable manner the Portfolio Manager believes, in its reasonable business judgment, to be appropriate and in accordance with (x) its internal conflicts of interest and allocation policies and (y) any applicable requirements of the Advisers Act.

(b) The Issuer acknowledges and agrees that (i) the determination by the Portfolio Manager of any benefit to the Issuer will be subjective and will represent the Portfolio Manager's evaluation at the time that the Issuer will be benefited by relatively better purchase or sales prices, lower brokerage commissions, lower transaction costs and expenses and beneficial timing of transactions or any combination of any of these and/or other factors and (ii) the Portfolio Manager shall be fully protected with respect to any such determination to the extent the Portfolio Manager acts in accordance with Section 3(b).

(c) Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and 4(d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect client cross-transactions where the Portfolio Manager causes a transaction with respect to the Assets to be effected between the Issuer and another account advised by it or any of its Affiliates; provided that, if and to the extent required by the Advisers Act, such authorization is terminable prior to the initiation of such cross-transaction at the Issuer's option without penalty. Such termination shall be effective upon receipt by the Portfolio Manager of written notice from the Issuer. Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and 4(d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect principal transactions where the Issuer may invest in securities of issuers in which the Portfolio Manager and/or its Affiliates have a debt, equity or participation interest, in each case in accordance with applicable law.

(d) The Issuer acknowledges and agrees that the Portfolio Manager or any of its Affiliates may acquire or sell obligations or securities, for its own account or for the accounts of its customers, without either requiring or precluding the acquisition or sale of such obligations or securities for the account of the Issuer. Such investments may be the same or different from those made on behalf of the Issuer. If, in light of market conditions and investment objectives, the Portfolio Manager determines that it would be advisable to purchase the same item of Collateral Obligation both for the Issuer, and either the proprietary account of the Portfolio Manager or any Affiliate of the Portfolio Manager or another client of the Portfolio Manager, the Portfolio Manager shall allocate such investment opportunities across such entities for which such opportunities are appropriate consistent with (i) its internal conflicts of interest and allocation policies and (ii) any applicable requirements of the Advisers Act. The Issuer agrees that, in the course of managing the Collateral Obligations held by the Issuer, the Portfolio Manager may consider its relationships with other clients (including obligors and issuers) and its Affiliates. The Portfolio Manager may decline to make a particular investment for the Issuer in view of such relationships.

5. Additional Activities of the Portfolio Manager.

(a) Nothing herein shall prevent the Portfolio Manager or any of its Related Entities from engaging in other businesses, or from rendering services of any kind to the Issuer and its Affiliates, the Trustee, the Holders, the Placement Agents or any other Person to the extent permitted by applicable law, regardless of whether such business is in competition with the Issuer or otherwise. Without limiting the generality of the foregoing, the Portfolio Manager, its Related Entities and the directors, officers, employees and agents of the Portfolio Manager and its Related Entities may, subject to any limits specified in the Indenture:

(i) serve as directors (whether supervisory or managing), officers, partners, employees, agents, nominees or signatories, and receive arm's length fees in connection with such service, for the Issuer or its Affiliates, or for any obligor or issuer in respect of the Collateral Obligations, Equity Securities or Eligible Investments or any affiliate thereof, to the extent permitted by their Governing Instruments, as from time to time amended, or by any resolutions duly adopted by the Issuer, its Affiliates or any obligor or issuer in respect of any of the Collateral Obligations, Eligible Investments or Equity Securities (or any Affiliate thereof) pursuant to their respective Governing Instruments, and neither the Holders of the Notes nor the Issuer shall have the right to any such fees; provided, that in the reasonable business judgment of the Portfolio Manager, such activity will not have a material adverse effect on any item of the Assets;

(ii) receive fees or other compensation from third parties (including Persons in which the Issuer has made or proposes to make an investment) in connection with any business activities of the Portfolio Manager and its Affiliates and which are not related to the use of the Issuer's capital (which fees or other compensation shall be for the benefit of the Portfolio Manager's own account); provided, that in the reasonable business judgment of the Portfolio Manager, such activities will not have a material adverse effect on any item of the Assets; and

(iii) be a secured or unsecured creditor of, or hold an equity interest in, or own or hold notes issued by, the Issuer, its Affiliates or any issuer of any obligation included in the Assets; provided, that the Portfolio Manager may not take any such actions (other than the holding of Notes issued by the Issuer) if, in the opinion of counsel to the Issuer, such action would require registration of the Issuer as an "investment company" under the Investment Company Act or violate any applicable provisions of federal, state or non-U.S. law or any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer.

As a result, such individuals may possess information relating to obligors and issuers of Collateral Obligations that is (a) not known to or (b) known but restricted as to its use by the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations of the Portfolio Manager

under this Agreement. Each of such ownership and other relationships may result in securities laws restrictions on transactions in such securities by the Issuer and otherwise create conflicts of interest for the Issuer. The Issuer acknowledges and agrees that, in all such instances, the Portfolio Manager and its Affiliates may in their discretion make investment recommendations and decisions that may be the same as or different from those made with respect to the Issuer's investments and they have no duty, in making or managing such investments, to act in a way that is favorable to the Issuer.

The Issuer acknowledges that there are generally no ethical screens or information barriers among the Portfolio Manager and certain of its Affiliates of the type that many firms implement to separate Persons who make investment decisions from others who might possess material, non-public information that could influence such decisions. The officers or Affiliates of the Portfolio Manager may possess information relating to obligors of Collateral Obligations that is not known to the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations under this Agreement. As a result, the Portfolio Manager may from time to time come into possession of material nonpublic information that limits the ability of the Portfolio Manager to effect a transaction for the Issuer, and the Issuer's investments may be constrained as a consequence of the Portfolio Manager's inability to use such information for advisory purposes or otherwise to effect transactions that otherwise may have been initiated on behalf of its clients, including the Issuer.

(b) It is understood that the Portfolio Manager and any of its Affiliates may engage in any other business and furnish investment management and advisory services to others, including Persons which may have investment policies similar to those followed by the Portfolio Manager with respect to the Assets and which may own securities or obligations of the same class, or which are of the same type, as the Collateral Obligations or the Eligible Investments or other securities or obligations of the issuers of the Collateral Obligations or the Eligible Investments. The Portfolio Manager will be free, in its sole discretion, to make recommendations to others or effect transactions on behalf of itself or for others, which may be the same as or different from those effected with respect to the Assets. Nothing in the Indenture and this Agreement shall prevent the Portfolio Manager or any of its Affiliates, acting either as principal or agent on behalf of others, from buying or selling, or from recommending to or directing any other account to buy or sell, at any time, securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those directed by the Portfolio Manager to be purchased or sold on behalf of the Issuer. It is understood that, to the extent permitted by applicable law, the Portfolio Manager, its Affiliates or Related Entities, or any of their directors, managers, officers, stockholders, members, partners, partnership committee members, employees, agents or affiliates or any member of their families or a Person or entity advised by the Portfolio Manager may have an interest in a particular transaction or in securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same issuer, as those whose purchase or sale the Portfolio Manager may direct hereunder.

(c) The Portfolio Manager shall not be obligated to pursue any particular investment strategy or opportunity with respect to the Assets.

(d) The Issuer acknowledges that the Portfolio Manager and its Affiliates may make and/or hold an investment in an issuer's securities that may be pari passu, senior or junior in ranking to an investment in such issuer's securities made and/or held by the Issuer or in which partners, security holders, members, officers, directors, agents or employees of the Portfolio Manager and its Affiliates serve on boards of directors or otherwise have ongoing relationships.

6. Conflicts of Interest.

(a) Subject to compliance with applicable laws and regulations and subject to this Agreement and the Indenture, the Portfolio Manager may direct the Trustee to acquire a Collateral Obligation from, or sell a Collateral Obligation, Equity Security, Eligible Investment or asset held by an ETB Subsidiary to, the Portfolio Manager, any of its Affiliates or any account or portfolio for which the Portfolio Manager or any of its Affiliates serve as investment advisor for fair market value. The Portfolio Manager may obtain the Issuer's written consent through the Independent Review Party as provided herein if any such transaction requires the consent of the Issuer under Section 206(3) of the Advisers Act (any such transaction, an "Affiliate Transaction"). The Issuer hereby acknowledges that the Portfolio Manager, its Affiliates or accounts advised or sub-advised by the Portfolio Manager or its Affiliates (collectively, the "Portfolio Manager Affiliates") will purchase on the Closing Date U.S.$10,250,000 Aggregate Outstanding Amount of the Class A-2B Notes, U.S.$10,000,000 Aggregate Outstanding Amount of the Class B Notes, U.S.$2,500,000 Aggregate Outstanding Amount of the Class E Notes, U.S.$10,000,000 Aggregate Outstanding Amount of the Class F Notes and U.S.$51,750,000 Aggregate Outstanding Amount of the Subordinated Notes (collectively, the "Portfolio Manager Affiliate Notes"). The Issuer further acknowledges and agrees that no Portfolio Manager Affiliate is under any obligation to retain any Portfolio Manager Affiliate Notes, and may sell all or a portion of such Portfolio Manager Affiliate Notes at any time. In addition, the Issuer acknowledges that the Portfolio Manager Affiliates may acquire and subsequently sell other Notes after the Closing Date. In certain circumstances, the interests of the Issuer and/or the Holders or beneficial owners of the Notes with respect to matters as to which the Portfolio Manager is advising the Issuer may conflict with the interests of the Portfolio Manager Affiliates or its Related Entities. The Issuer hereby acknowledges that various potential and actual conflicts of interest may exist with respect to the Portfolio Manager as described above and as described in the final offering circular relating to the Notes; provided that nothing in this Section 6 shall be construed as altering the duties of the Portfolio Manager referred to herein.

(b) At the written request of the Portfolio Manager, the Issuer shall establish a conflicts review board or appoint an independent third party to act on behalf of the Issuer (such board or party, an "Independent Review Party") with respect to Affiliate Transactions. Decisions of any Independent Review Party shall be binding on the Portfolio Manager, the Issuer, and Holders of the Notes.

(c) Any Independent Review Party (i) shall either (A) be the Issuer's Board of Directors, (B) be an established financial institution or other financial company

with experience in assessing the merits of transactions similar to the Affiliate Transactions or (C) be a review board comprised of one or more individuals selected by the Issuer (or at the request of the Issuer, selected by the Portfolio Manager), (ii) shall be required to assess the merits of the Affiliate Transaction and either grant or withhold consent to such transaction in its sole judgment and (iii) shall not be (A) affiliated with the Portfolio Manager (other than as a Holder or as a passive investor in the Issuer or an Affiliate of the Issuer) or (B) (other than the Issuer's Board of Directors) involved in the daily management and control of the Issuer.

(d) The Issuer (i) shall be responsible for any fees relating to the services provided by any Independent Review Party and shall reimburse members of any Independent Review Party for their out-of-pocket expenses and (ii) may indemnify members of such Independent Review Party to the maximum extent permitted by law, subject to terms and conditions satisfactory to the Portfolio Manager.

7. Records; Confidentiality.

The Portfolio Manager shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Issuer, the Trustee, the Holders, and the Independent accountants appointed by the Portfolio Manager on behalf of the Issuer pursuant to Article 10 of the Indenture at any time during normal business hours and upon not less than three Business Days' prior notice. The Portfolio Manager shall keep confidential any and all information that is either (i) of a type that would ordinarily be considered proprietary or confidential or (ii) designated as confidential (collectively "Confidential Information") obtained in connection with the services rendered hereunder and shall not disclose any such Confidential Information to non-affiliated third parties (excluding any Holders and beneficial owners of Notes) except (a) with the prior written consent of the Issuer, (b) such Confidential Information as a Rating Agency shall reasonably request in connection with its rating of the Secured Notes or supplying credit estimates on any obligation included in the Assets, (c) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions with respect to the Assets on behalf of the Issuer, (d) as required by (i) applicable law, regulation, court order, or a request by a governmental regulatory agency with jurisdiction over the Portfolio Manager or any of its Affiliates, (ii) the rules or regulations of any stock exchange or self-regulating organization, body or official having jurisdiction over the Portfolio Manager or any of its Affiliates or (iii) the Irish Stock Exchange, (e) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (f) such Confidential Information as shall have been publicly available or disclosed other than in known violation of this Agreement or the provisions of the Indenture or shall have been obtained by the Portfolio Manager on a non-confidential basis, (g) such Confidential Information as is necessary or appropriate to disclose so that the Portfolio Manager may perform its duties hereunder, under the Indenture or the related documents or (h) general performance information which may be used by the Portfolio Manager or its Affiliates in connection with their marketing activities. Notwithstanding the foregoing, it is agreed that the Portfolio Manager may disclose (a) that it is serving as portfolio manager of the Issuer, (b) the nature, aggregate

principal amount and overall performance of the Issuer's assets, (c) the amount of earnings on the Assets, (d) such other Confidential Information about the Issuer, the Assets and the Notes as is customarily disclosed by managers of collateralized loan obligations and (e) each of its respective employees, representatives or other agents may disclose to any and all Persons, without limitation of any kind, the United States federal income tax treatment and United States federal income tax structure of the transactions contemplated by the Indenture, this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them relating to such United States federal income tax treatment and United States income tax structure. For purposes of this Section 7, the Holders and beneficial owners of the Notes shall not be considered "non-affiliated third parties."

8. Obligations of Portfolio Manager.

In accordance with the performance standard set forth in Section 3(b), the Portfolio Manager shall use commercially reasonable efforts to ensure that no action is taken by it, and shall not intentionally or with reckless disregard take any action, which would (a) materially adversely affect the status of the Issuer for purposes of Cayman Islands law, United States federal or state law, or other law known to the Portfolio Manager to be applicable to the Issuer, (b) not be permitted by the Issuer's Governing Instruments, (c) violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer, including, without limitation, actions which would violate any Cayman Islands law, United States federal, state or other applicable securities law that is known by the Portfolio Manager to be applicable to it and, in each case, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer or have a material adverse effect on the ability of the Portfolio Manager to perform its obligations hereunder or under the Indenture, (d) require registration of the Issuer, the Co-Issuer or the pool of Assets as an "investment company" under Section 8 of the Investment Company Act, (e) cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise cause the Issuer to be subject to U.S. federal or state income tax on a net basis; provided that it shall not be a violation of this clause (e) for the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal or state income tax on a net basis as a result of an action taken either (i) in compliance with Certain Tax Restrictions attached hereto as Schedule 1 or (ii) in reliance upon an opinion or written advice from White & Case LLP, Dechert LLP or other tax counsel of nationally recognized standing in the United States experienced in such matters to the effect that, under the relevant facts and circumstances with respect to such action, the Issuer's contemplated action would not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis; or (f) knowingly and willfully adversely affect the interests of the Holders in the Assets in any material respect (other than (i) as expressly permitted hereunder or under the Indenture or (ii) in connection with any action taken in the ordinary course of business of the Portfolio Manager in accordance with its fiduciary duties to its clients). In furtherance of the foregoing, the Portfolio Manager shall at all times comply with the tax restrictions set

forth in Schedule 1; provided that the Portfolio Manager may take an action that is not permitted by such operating guidelines if (x) such action is otherwise permitted under this Agreement and the Indenture and (y) the Portfolio Manager has received an opinion or written advice from White & Case LLP, Dechert LLP or other tax counsel of nationally recognized standing in the United States experienced in such matters to the effect that, under the relevant facts and circumstances with respect to such transaction, taking into account the Issuer's failure to comply with one or more of such provisions and assuming compliance with the Indenture and all other provisions in Schedule 1, the Issuer's contemplated activities would not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to United States federal income tax on a net basis. If the Portfolio Manager is ordered by the Board of Directors of the Issuer or the requisite Holders or beneficial owners of Notes to take any action which would, or could reasonably be expected to, in each case in its reasonable business judgment, have any such consequences, the Portfolio Manager shall promptly notify the Issuer that such action would, or could reasonably be expected to, in each case in its reasonable business judgment, have one or more of the consequences set forth above and shall not take such action unless the Board of Directors of the Issuer then request the Portfolio Manager to do so and at least a Majority of both the Controlling Class and the Subordinated Notes (voting separately by Class) have consented thereto in writing. Notwithstanding any such request, the Portfolio Manager shall not take such action unless (1) arrangements satisfactory to it are made to insure or indemnify the Portfolio Manager, Affiliates of the Portfolio Manager and members, shareholders, partners, directors, managers, officers or employees of the Portfolio Manager or such Affiliates from any liability and expense it may incur as a result of such action and (2) if the Portfolio Manager so requests in respect of a question of law, the Issuer delivers to the Portfolio Manager an opinion of a nationally recognized law firm (from outside counsel satisfactory to the Portfolio Manager) that the action so requested does not violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer or over the Portfolio Manager. Neither the Portfolio Manager nor its Affiliates, shareholders, partners, directors, members, managers, officers or employees shall be liable to the Issuer or any other Person, except as provided in Section 11. Notwithstanding anything contained in this Agreement to the contrary, any indemnification or insurance by the Issuer provided for in this Section 8 or Section 11 shall be payable out of the Assets in accordance with the Priority of Payments, and the Portfolio Manager may take into account such Priority of Payments in determining whether any proposed indemnity arrangements contemplated by this Section 8 are satisfactory.

9. Compensation.

(a) The Issuer shall pay to the Portfolio Manager, for services rendered under this Agreement, on each Payment Date, the Senior Management Fee, the Subordinated Management Fee and the Incentive Management Fee. Accrued and unpaid Management Fees shall be paid as set forth in Article 11 of the Indenture. To the extent any of the Subordinated Management Fee is not paid on any Payment Date, such payment will be deferred and will accrue interest at LIBOR, compounded quarterly, as set forth in the Indenture.

(b) The Portfolio Manager may (but shall not be obligated to), at its election upon notice to the Issuer and the Trustee, reduce for a predetermined period of time the amount which is due to it as Senior Management Fee by a specific percentage, in which case the Subordinated Management Fee shall automatically be increased by the same percentage (the "Fee Election"). Any Fee Election must be made on or before the Determination Date for the first Collection Period in respect of which the Fee Election will apply and shall not be revocable during the period of the Fee Election; except that, in the event that the Portfolio Manager is removed, resigns or assigns its rights to any Persons, as contemplated by Sections 13, 14 and 15 of this Agreement, the replacement Portfolio Manager shall be bound initially by the terms set forth under subsection 9(a).

(c) The Portfolio Manager shall pay (without reimbursement by the Issuer) its general overhead expenses, including (i) all costs and expenses on account of salaries, wages, bonuses and other employee benefits of the Portfolio Manager and (ii) all occupational expenses, including rent, taxes and utilities, of the Portfolio Manager. The Issuer shall pay or reimburse the Portfolio Manager for its payment of any and all reasonable costs and expenses incurred on behalf of the Issuer, including, without limitation: (i) any and all costs and expenses incurred in connection with the acquisition or disposition of the Assets (including (a) investment related travel, communications and related expenses and (b) amounts in connection with the termination, cancellation or abandonment of a potential acquisition or disposition of an Asset that is not consummated); (ii) any and all costs and expenses incurred in connection with the carrying or management of the Assets; (iii) any and all costs and expenses incurred in connection with the Notes and other indebtedness of the Issuer; (iv) any and all attorneys' and accountants' fees and disbursements relating to Issuer matters (including in-house attorneys' and accountants' services provided by or on behalf of the Portfolio Manager to the Issuer as may be reasonably allocated to the Issuer); (v) any and all taxes and governmental charges that may be incurred or payable by the Issuer or any ETB Subsidiary; (vi) any and all insurance premiums or expenses incurred in connection with the activities of the Issuer by the Portfolio Manager; (vii) any and all costs and expenses incurred in connection with the Portfolio Manager's information systems relating to the Issuer and the Assets and communications with the Holders of the Notes (including charges related to annual meetings); (viii) any and all costs and expenses incurred by the Portfolio Manager in connection with the establishment of any ETB Subsidiary (provided that such costs and expenses are directly attributable to the establishment of such ETB Subsidiary) and (ix) any and all expenses incurred to comply with any law or regulation related to the activities of the Issuer, any ETB Subsidiary and the Portfolio Manager. Other than as stated above, the Issuer will bear, and will pay directly in accordance with the Indenture, all other costs and expenses incurred by it in connection with the organization, operation or liquidation of the Issuer.

(d) If this Agreement is terminated pursuant to Section 13, Section 15 or otherwise, the Senior Management Fee, the Subordinated Management Fee and the Incentive Management Fee calculated as provided in the Indenture shall be prorated for any partial periods between Payment Dates during which this Agreement was in effect and shall be due and payable on the first Payment Date following the date of such termination, subject to Article 11 of the Indenture.

(e) Notwithstanding anything contained herein to the contrary, the obligations of the Issuer are limited recourse obligations payable solely from Assets granted to the Trustee pursuant to the Granting Clauses of the Indenture in accordance with the Priority of Payments and, following realization of the Assets and reduction thereof to zero, all obligations of the Issuer and any claims against the Issuer under this Agreement shall be extinguished and shall not thereafter revive. No recourse shall be had for the payment of any amount owing in respect of this Agreement against any other asset of the Issuer or against any officer, director, employee, shareholder or incorporator of the Issuer. The provisions of this Section 9(e) shall survive termination of this Agreement.

10. Benefit of the Agreement.

The Portfolio Manager agrees that its obligations hereunder in accordance with the terms of this Agreement and the terms of the Indenture applicable to it shall be enforceable by the Issuer and by the Trustee on behalf of the Holders, as provided in the Indenture. The Portfolio Manager agrees and consents to the provisions contained in Section 15.1 of the Indenture.

11. Limits of Portfolio Manager Responsibility.

(a) Subject to Section 8, the Portfolio Manager assumes no responsibility under this Agreement other than to render the services called for hereunder and under the terms of the Indenture applicable to it and affecting the duties and functions that have been delegated to it thereunder and hereunder in good faith and, subject to the standard of conduct described in the next succeeding sentence. The Portfolio Manager shall not be responsible for any action or inaction of the Co-Issuers or the Trustee in declining to follow any advice, recommendation or direction of the Portfolio Manager including as set forth in Section 8. Neither the Portfolio Manager nor any of its directors, managers, officers, stockholders, members, partners, partnership committee members, employees, agents or Affiliates will be liable to the Co-Issuers, the Trustee, the Holders of the Notes, the Placement Agents or any other Person for any act, omission, error of judgment, mistake of law, or for any claim, loss, liability, damage, judgments, assessments, settlement, cost, or other expense (including attorneys' fees and expenses and court costs) arising out of any investment, or for any other act or omission arising out of or in connection with the performance by the Portfolio Manager, its directors, managers, officers, stockholders, members, partners, partnership committee members, employees, agents or Affiliates under this Agreement or the terms of the Indenture applicable to the Portfolio Manager, incurred as a result of actions taken or recommended or for any omissions of the Portfolio Manager, or for any decrease in the value of the Collateral Obligations, except for liability to which the Portfolio Manager would be subject (i) by reason of acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance of its obligations hereunder or the terms of the Indenture applicable to the Portfolio Manager or, (ii) with respect to the information concerning the Portfolio Manager included in the Offering Circular dated March 13, 2013 (the "Offering Circular") under the headings "*Summary—Portfolio Manager*", "*The Portfolio Manager*" (including Part 2 of the Portfolio Manager's Form ADV referred to therein), "*Risk Factors—Risks Relating to Certain*

Conflicts of Interest—Conflicts of Interest Involving the Portfolio Manager", "*Risk Factors—Risks Relating to the Portfolio Manager—Past Performance Not Indicative of Future Results*", "*Risk Factors—Risks Relating to the Portfolio Manager—The Portfolio Manager Relies on Highland to Perform Certain Services*" and "*Risk Factors—Risks Relating to the Portfolio Manager—Litigation Involving Acis and Highland*", as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Portfolio Manager shall not be liable for any consequential, punitive, exemplary or treble damages or lost profits hereunder or under the Indenture. The Issuer (the Issuer in such case, the "Indemnifying Party") shall indemnify and hold harmless the Portfolio Manager, its directors, managers, officers, stockholders, members, partners, partnership committee members, agents and employees and its Affiliates and their directors, managers, officers, stockholders, members, partners, partnership committee members, agents and employees (each, an "Indemnified Party") from and against any and all losses, claims, damages, judgments, assessments, costs or other liabilities (other than losses in the value of a Collateral Obligation or Eligible Investment incurred by the Portfolio Manager or any of its Affiliates in connection with a transaction in which it elects to acquire a Collateral Obligation or an Eligible Investment from the Issuer as principal) (collectively, "Liabilities"), and will promptly reimburse each such Person for all reasonable fees and expenses (including reasonable fees and expenses of counsel) as such fees and expenses (collectively, the "Expenses") are incurred in investigating, preparing, pursuing or defending any claim, action, proceeding or investigation with respect to any pending or threatened litigation (collectively, the "Actions"), caused by, or arising out of or in connection with the Assets or business of the Issuer or any ETB Subsidiary or otherwise relating to the Indenture or this Agreement, and/or any action taken by, or any failure to act by, such Person; provided, however, that such Person shall not be indemnified for any Liabilities or Expenses (x) it incurs as a result of any acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance by the Portfolio Manager of its obligations hereunder or the terms of the Indenture applicable to the Portfolio Manager, or (y) it incurs with respect to the information concerning the Portfolio Manager included in the Offering Circular under the headings "*Summary—Portfolio Manager*", "*The Portfolio Manager*" (including Part 2 of the Portfolio Manager's Form ADV referred to therein), "*Risk Factors—Risks Relating to Certain Conflicts of Interest—Conflicts of Interest Involving the Portfolio Manager*", "*Risk Factors—Risks Relating to the Portfolio Manager—Past Performance Not Indicative of Future Results*", "*Risk Factors—Risks Relating to the Portfolio Manager—The Portfolio Manager Relies on Highland to Perform Certain Services*" and "*Risk Factors—Risks Relating to the Portfolio Manager—Litigation Involving Acis and Highland*", as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Notwithstanding anything contained herein to the contrary, the obligations of the Issuer under this Section 11 are limited recourse obligations of the Issuer payable solely out of the Assets in accordance with the Priority of Payments. The Indemnified Parties are not required to consult with, or obtain the consent of, the Issuer

with respect to any settlement, negotiation or other act of the Indemnified Parties in connection with any Action.

(b) The Portfolio Manager shall indemnify and hold harmless (the Portfolio Manager in such case, the "Indemnifying Party") the Issuer (the Issuer in such case, the "Indemnified Party") from and against any and all expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) arising directly out of any information described in subsection 11(a)(ii) above, as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided* that the Portfolio Manager shall not be liable for any special, indirect, consequential, punitive, exemplary or treble damages or lost profits.

(c) The Indemnified Party shall promptly notify the Indemnifying Party if the Indemnified Party receives a complaint, claim, compulsory process or other notice of any losses or damages giving rise to a claim for indemnification under this Section 11, but failure so to notify the Indemnifying Party or to comply with paragraph (d) below shall not relieve such Indemnifying Party from its obligations under this Section 11 unless and to the extent that such Indemnifying Party did not otherwise learn of such action or proceeding and to the extent such failure results in the forfeiture by the Indemnifying Party of material rights and defenses.

(d) With respect to any claim made or threatened against an Indemnified Party, or compulsory process or request served upon such Indemnified Party for which such Indemnified Party is or may be entitled to indemnification under this Section 11, such Indemnified Party shall:

(i) at the Indemnifying Party's expense, provide the Indemnifying Party such information and cooperation with respect to such claim as the Indemnifying Party may reasonably require, including, but not limited to, making appropriate personnel available to the Indemnifying Party at such reasonable times as the Indemnifying Party may request;

(ii) at the Indemnifying Party's expense, cooperate and take all such steps as the Indemnifying Party may reasonably request to preserve and protect any defense to such claim;

(iii) in the event suit is brought with respect to such claim, upon reasonable prior notice, afford to the Indemnifying Party the right, which the Indemnifying Party may exercise in its sole discretion and at its expense, (A) to participate in the investigation, defense and settlement of such claim, and, (B) to the extent that it shall wish, to assume the defense thereof, with counsel satisfactory to such Indemnified Party (who shall not, except with the consent of the Indemnified Party, be counsel to the Indemnifying Party), and, after notice from the Indemnifying Party to such Indemnified Party of its election so to assume the defense thereof, the Indemnifying Party shall not be liable to such

Indemnified Party under such subsection for any legal fees and expenses of other counsel or any other expenses, in each case subsequently incurred by such Indemnified Party, in connection with the defense thereof other than reasonable costs of investigation, except that, if such Indemnified Party reasonably determines that counsel selected by the Indemnifying Party has a conflict of interest, such Indemnifying Party shall pay the reasonable fees and disbursements of one additional counsel selected by the Indemnified Party (in addition to any local counsel) separate from its own counsel for all Indemnified Parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances; and

(iv) neither incur any material expense to defend against nor make any admission with respect thereto, nor permit a default or consent to the entry of any judgment in respect thereof, in each case without the prior written consent of the Indemnifying Party; *provided* that the Indemnifying Party shall have advised such Indemnified Party that such Indemnified Party is entitled to be indemnified hereunder with respect to such claim.

(e) No Indemnified Party shall, without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, settle or compromise any claim giving rise to a claim for indemnity hereunder, or permit a default or consent to the entry of any judgment in respect thereof; *provided* that if the Indemnified Party is the Portfolio Manager or an Affiliate or a Related Entity of the Portfolio Manager or of an Affiliate thereof, such Indemnified Party shall not be required to seek or obtain such consent if it determines in good faith that the Indemnifying Party is unlikely to have sufficient funds available to indemnify it in full, taking into account the Priority of Payments.

(f) No Indemnifying Party shall, without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, settle or compromise or consent to the entry of any judgment with respect to any claim giving rise to a claim for indemnity hereunder if such settlement includes a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party.

(g) If the indemnification provided for in this Section 11 is unavailable to an Indemnified Party in respect of any claims or liabilities referred to herein, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such claims or liabilities in such proportion as is appropriate to reflect the relative benefits received by, and the relative fault of, the Indemnifying Party, on the one hand, and the Indemnified Parties, on the other hand, as well as any other relevant equitable considerations.

(h) The required indemnification provided by this Section 11 shall be in addition to any rights to which an Indemnified Party may otherwise be entitled by contract or as a matter of law, and shall extend to each of its or his or her heirs, successors and assigns. The provisions of this Section 11 shall continue to afford

protection to each Indemnified Party regardless of whether such Indemnified Party remains in the position or capacity pursuant to which such Indemnified Party became entitled to indemnification under this Section 11.

(i) United States federal securities laws impose liabilities under certain circumstances on persons who act in good faith and nothing herein shall constitute a waiver or limitation of any rights which the Issuer or any Holder of Notes may have under any applicable federal securities laws.

12. No Partnership or Joint Venture.

The Issuer and the Portfolio Manager are not partners or joint venturers with each other and nothing herein shall be construed to make them such partners or joint venturers or impose any liability as such on either of them. The Portfolio Manager's relation to the Issuer shall be deemed to be that of an independent contractor.

13. Term; Termination.

(a) This Agreement shall commence as of the date first set forth above and shall continue in force and effect until the first of the following occurs: (i) the payment in full of the Notes and the termination of the Indenture in accordance with its terms; (ii) the liquidation of the Assets and the final distribution of the proceeds of such liquidation to the Holders; or (iii) the termination of this Agreement in accordance with subsections (b) of this Section 13 or Section 15 of this Agreement.

(b) Notwithstanding any other provision hereof to the contrary but subject to the provisions of clause (e) below, this Agreement may be terminated without cause by the Portfolio Manager, and the Portfolio Manager may resign, upon 90 days' (or such shorter notice as is acceptable to the Issuer) written notice to the Issuer; provided that the Portfolio Manager shall have the right to resign immediately upon the effectiveness of any material change in applicable law or regulations which renders the performance by the Portfolio Manager of its duties hereunder or under the Indenture to be a violation of such law or regulation.

(c) Notwithstanding the provisions of clause (b) above, no resignation or removal of the Portfolio Manager or termination of this Agreement pursuant to such clause shall be effective until the date as of which a successor Portfolio Manager shall have been appointed and approved in accordance with Section 13(e) and has accepted all of the Portfolio Manager's duties and obligations pursuant to this Agreement in writing and has assumed such duties and obligations.

(d) If this Agreement is terminated pursuant to this Section 13, neither party shall have any further liability or obligation to the other, except as provided in subsection 3(i)(i), Section 9(d) and (e) and Sections 11 and 16 of this Agreement.

(e) Any termination, removal or resignation of the Portfolio Manager while any Notes are Outstanding will be effective only upon (a) the appointment by the Issuer, at the direction of at least a Majority of the Subordinated Notes, with the consent

of at least a Majority of the Controlling Class, of a successor Portfolio Manager that is an established institution which (i) has demonstrated an ability to professionally and competently perform duties reasonably comparable to those imposed upon the Portfolio Manager hereunder, (ii) is legally qualified and has the capacity to act as successor to the Portfolio Manager under this Agreement in the assumption of all of the responsibilities, duties and obligations of the Portfolio Manager hereunder and under the terms of the Indenture applicable to the Portfolio Manager, (iii) satisfies the Global Rating Agency Condition, (iv) shall not cause the Issuer or the Co-Issuer or the pool of Assets to become required to register under the provisions of the Investment Company Act and (v) shall not result in the imposition of any entity-level or withholding tax on the Issuer or the payments to the Holders or cause any other material adverse tax consequences to the Issuer and (b) written acceptance of appointment by such successor Portfolio Manager. The Issuer shall use its commercially reasonable efforts to appoint a successor Portfolio Manager to assume the duties and obligations of the removed or resigning Portfolio Manager. The Issuer, the Trustee and the successor Portfolio Manager shall take such action (or cause the outgoing Portfolio Manager to take such action) consistent with this Agreement and the terms of the Indenture applicable to the Portfolio Manager, as shall be necessary to effectuate any such succession. In the event that the successor manager has not been appointed or has not assumed the duties of the Portfolio Manager in writing within a 60-day period, any of the Portfolio Manager, a Majority of the Controlling Class or a Majority of the Subordinated Notes may petition a court of competent jurisdiction for the appointment of a successor Portfolio Manager, which appointment will not require the consent of, or be subject to the approval or disapproval of, the Issuer or any Holder (so long as such court appointed successor meets the requirements of clauses (a)(i) through (v) above).

(f) In the event of removal of the Portfolio Manager pursuant to this Agreement by the Issuer or, to the extent so provided in the Indenture, by the Trustee, the Issuer shall have all of the rights and remedies available with respect thereto at law or equity, and, without limiting the foregoing, the Issuer or, to the extent so provided in the Indenture, the Trustee may by notice in writing to the Portfolio Manager as provided under this Agreement terminate all the rights and obligations of the Portfolio Manager under this Agreement (except those that survive termination pursuant to subsection 13(d) above). Upon resignation or removal of the Portfolio Manager in accordance with this Section 13 or Section 15 of this Agreement, as applicable, and upon acceptance by a successor Portfolio Manager of appointment, all authority and power of the Portfolio Manager under this Agreement and the Indenture, whether with respect to the Assets or otherwise, shall automatically and without further action by any Person pass to and be vested in the successor Portfolio Manager.

(g) For so long as Acis Capital Management, L.P. or an Affiliate of Acis Capital Management, L.P. is the Portfolio Manager, the Issuer and the Co-Issuer will be permitted to use the "Acis" name; provided, however, that if the Portfolio Manager ceases to be Acis Capital Management, L.P. or an Affiliate of Acis Capital Management, L.P., the Issuer shall use commercially reasonable efforts to change its name to remove all reference to the name "Acis" therefrom. In addition, the Portfolio

Manager, without the consent of the Issuer, may change the name of the Portfolio Manager.

14. Delegation; Assignments.

(a) Except as provided herein, the Portfolio Manager may not assign its rights or responsibilities hereunder without the written consent of the Issuer, at least a Majority of the Subordinated Notes and at least a Majority of the Controlling Class and satisfaction of the Global Rating Agency Condition. Notwithstanding the foregoing, the Portfolio Manager may, with the consent of at least a Majority of the Controlling Class and without satisfaction of the Global Rating Agency Condition or the consent of any other Class of Notes, (i) assign any of its rights or obligations hereunder to an Affiliate provided that such Affiliate (A) has demonstrated ability, whether as an entity or by its personnel, to professionally and competently perform duties similar to those imposed upon the Portfolio Manager pursuant to this Agreement, (B) has the legal right and capacity to act as Portfolio Manager hereunder and (C) shall not cause the Issuer or the pool of Assets to become required to register under the provisions of the Investment Company Act or (ii) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity and, (A) at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Portfolio Manager hereunder generally and the other entity is solely a continuation of the Portfolio Manager in another corporate or similar form and has substantially the same staff and (B) such action does not cause the Issuer to be subject to tax in any jurisdiction outside of its jurisdiction of incorporation; provided that the Portfolio Manager shall deliver prior notice to the Rating Agencies then rating a Class of Notes of any assignment, delegation or combination made pursuant to this sentence. The Issuer acknowledges and agrees that pursuant to an agreement dated the date hereof in substantially the form of Annex A hereto (the "Collateral Administration Agreement") among the Issuer, the Portfolio Manager and U.S. Bank National Association, as Collateral Administrator thereunder (in such capacity, the "Collateral Administrator"), the Issuer has retained the Collateral Administrator to prepare certain reports and other information with respect to the Collateral Obligations.

(b) Notwithstanding the foregoing to the extent that applicable law requires the consent of the Issuer to any "assignment" (as defined in the Advisers Act) of this Agreement to any Person, in whole or in part, by the Portfolio Manager, such requirement may be satisfied with respect to the Issuer and all holders (i) by obtaining consent to such assignment on behalf of the Issuer from any of the following persons as determined by the Portfolio Manager: (A) one or more directors of the Issuer independent from the Portfolio Manager, (B) the Independent Review Party, or (C) an advisory committee established by the Portfolio Manager; or (ii) in any other manner that is permitted pursuant to then applicable law. Any assignment consented to by the Issuer and such Holders shall bind the assignee hereunder in the same manner as the Portfolio Manager is bound. In addition, the assignee shall execute and deliver to the Issuer and the Trustee a counterpart of this Agreement naming such assignee as Portfolio Manager. Upon the execution and delivery of such a counterpart by the assignee, the Portfolio

Manager shall be released from further obligations pursuant to this Agreement, except with respect to its obligations arising under Section 11 of this Agreement prior to such assignment and except with respect to its obligations under subsection 3(i)(i) and Section 16 hereof.

(c) This Agreement shall not be assigned by the Issuer without the prior written consent of the Portfolio Manager, and unless the Global Rating Agency Condition has been satisfied in connection with such assignment, except in the case of assignment by the Issuer to (i) an entity which is a successor to the Issuer permitted under the Indenture, in which case such successor organization shall be bound hereunder and by the terms of said assignment in the same manner as the Issuer is bound thereunder or (ii) the Trustee as contemplated by the Granting Clause of the Indenture. In the event of any assignment by the Issuer, the Issuer shall use its commercially reasonable efforts to cause its successor to execute and deliver to the Portfolio Manager such documents as the Portfolio Manager shall consider reasonably necessary to effect fully such assignment.

15. Termination by the Issuer for Cause.

This Agreement may be terminated, and the Portfolio Manager may be removed for cause (i) by at least a Majority of the Controlling Class of Notes upon 10 days' prior written notice to the Portfolio Manager or (ii) by the Holders of at least 66-2/3% of the Aggregate Outstanding Amount of the Subordinated Notes upon 10 days' prior written notice to the Portfolio Manager. For purposes of the first sentence of this Section 15, Notes owned by the Portfolio Manager or any Affiliate thereof or an account or fund managed by the Portfolio Manager or its Affiliates shall be disregarded and deemed to be not Outstanding; provided that, Notes owned by a fund or an account managed by the Portfolio Manager or an Affiliate thereof will not be disregarded and will be deemed to be Outstanding if the voting rights with respect to such Notes are exercised by such fund or account or the client or beneficiary of such fund or account and not by the Portfolio Manager or its Affiliate. No such termination or removal shall be effective until the date as of which a successor Portfolio Manager shall have agreed in writing to assume all of the Portfolio Manager's duties and obligations pursuant to this Agreement and as specified in the Indenture. For purposes of determining "cause" with respect to any such termination of this Agreement or removal of the Portfolio Manager, such term includes any one of the following events:

(a) the Portfolio Manager willfully violates, or takes any action that it knows breaches, any material provision of this Agreement or the Indenture applicable to it in bad faith (not including a willful and intentional breach that results from a good faith dispute regarding reasonable alternative courses of action or interpretation of instructions);

(b) the Portfolio Manager breaches in any respect any provision of this Agreement or any terms of the Indenture applicable to it (other than as covered by clause (a) and it being understood that failure to meet any Coverage Test, any Concentration Limitation or the Collateral Quality Test is not such a violation) (except for any violation or breach that has not had, or could not reasonably be expected to have, a material

adverse effect on the Issuer) and fails to cure such breach within 30 days of a Responsible Officer receiving notice of such breach, unless, if such breach is remediable, the Portfolio Manager has taken action that the Portfolio Manager believes in good faith will remedy such breach, and such action does remedy such breach, within 60 days after a Responsible Officer receives notice thereof;

(c) the Portfolio Manager is wound up or dissolved or there is appointed over it or a substantial portion of its assets a receiver, administrator, administrative receiver, trustee or similar officer; or the Portfolio Manager (i) ceases to be able to, or admits in writing its inability to, pay its debts as they become due and payable, or makes a general assignment for the benefit of, or enters into any composition or arrangement with, its creditors generally; (ii) applies for or consents (by admission of material allegations of a petition or otherwise) to the appointment of a receiver, trustee, assignee, custodian, liquidator or sequestrator (or other similar official) of the Portfolio Manager or of any substantial part of its properties or assets, or authorizes such an application or consent, or proceedings seeking such appointment are commenced without such authorization, consent or application against the Portfolio Manager and continue undismissed for 60 days; (iii) authorizes or files a voluntary petition in bankruptcy, or applies for or consents (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, arrangement, readjustment of debt, insolvency or dissolution, or authorizes such application or consent, or proceedings to such end are instituted against the Portfolio Manager without such authorization, application or consent and are approved as properly instituted and remain undismissed for 60 days or result in adjudication of bankruptcy or insolvency; or (iv) permits or suffers all or any substantial part of its properties or assets to be sequestered or attached by court order and the order remains undismissed for 60 days;

(d) the occurrence of an Event of Default under the Indenture that consists of a default in the payment of principal or interest on the Secured Notes when due and payable and results primarily from any material breach by the Portfolio Manager of its duties hereunder or under the Indenture, which breach or default is not cured within any applicable cure period;

(e) the occurrence of an act by the Portfolio Manager that constitutes fraud or criminal activity in the performance of its obligations under this Agreement (as determined pursuant to a final adjudication by a court of competent jurisdiction), or the Portfolio Manager being indicted for a criminal offense materially related to its business of providing asset management services;

(f) any senior executive officer of the Portfolio Manager (in the performance of his or her investment management duties) is indicted for a criminal offense materially related to the business of the Portfolio Manager providing asset management services and continues to have responsibility for the performance by the Portfolio Manager hereunder for a period of 10 days after such indictment; or

(g) the inability of the Portfolio Manager to perform its duties hereunder in accordance with the standard of care specified herein due to the termination

of the Service Agreements, unless the Portfolio Manager believes in good faith that it will be able to either (i) secure reasonably equivalent substitute services to those that were performed for the Portfolio Manager under the Service Agreements or (ii) perform its duties hereunder in accordance with the applicable standard of care without engaging a third-party service provider, in each case, within 30 days, and the Portfolio Manager is in fact able to secure such services or perform such duties within such 30-day period.

If any of the events specified in the definition of "cause" in this Section 15 shall occur, the Portfolio Manager shall give prompt written notice thereof to the Issuer, each Rating Agency, each Holder of Notes and the Trustee upon the Portfolio Manager's becoming aware of the occurrence of such event. A Majority of the Controlling Class may waive any event described in (a), (b), (d), (e), (f) or (g) above as a basis for termination of this Agreement and removal of the Portfolio Manager under this Section 15.

16. Action Upon Termination.

(a) From and after the effective date of the termination of the Portfolio Manager's duties and obligations pursuant to this Agreement or resignation or removal of the Portfolio Manager hereunder, the Portfolio Manager shall not be entitled to compensation for further services hereunder, but shall be paid all compensation accrued to the date of termination, as provided in Section 9 hereof (including any accrued and unpaid Subordinated Management Fee and Incentive Management Fee), and shall be entitled to receive any amounts owing under Section 11 hereof. Upon such termination, resignation or removal, the Portfolio Manager shall as soon as practicable:

(i) deliver to the Issuer all property and documents of the Trustee or the Issuer or otherwise relating to the Assets then in the custody of the Portfolio Manager; and

(ii) deliver to the Trustee an accounting with respect to the books and records delivered to the Trustee or the successor Portfolio Manager appointed pursuant to subsection 13(e) hereof.

Notwithstanding such termination, resignation or removal, the Portfolio Manager shall remain liable to the extent set forth herein (but subject to Section 11 hereof) for its acts or omissions hereunder arising prior to termination and for any expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) in respect of or arising out of a breach of the representations and warranties made by the Portfolio Manager in subsection 17(b) hereof or from any failure of the Portfolio Manager to comply with the provisions of this Section 16.

(b) The Portfolio Manager agrees that, notwithstanding any termination, it shall reasonably cooperate in any Proceeding arising in connection with this Agreement, the Indenture or any of the Assets (excluding any such Proceeding in which claims are asserted against the Portfolio Manager or any Affiliate of the Portfolio Manager) upon receipt of appropriate indemnification and expense reimbursement.

17. Representations and Warranties.

(a) The Issuer hereby represents and warrants to the Portfolio Manager as follows:

(i) The Issuer has been duly incorporated and is validly existing under the laws of the Cayman Islands, has the full corporate power and authority to own its assets and the securities proposed to be owned by it and included in the Assets and to transact the business in which it is presently engaged and is duly qualified under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of its obligations under this Agreement, the Indenture, the Hedge Agreements, the Collateral Administration Agreement or the Notes (collectively, the "Issuer Documents") would require, such qualification, except for failures to be so qualified, authorized or licensed that would not in the aggregate have a material adverse effect on the business, operations, assets or financial condition of the Issuer.

(ii) The Issuer has the necessary corporate power and authority to execute, deliver and perform each of the Issuer Documents and all obligations required thereunder, and has taken all necessary action to authorize each of the Issuer Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Issuer Documents and the performance of all obligations imposed upon it hereunder and thereunder. No consent of any other Person including, without limitation, shareholders and creditors of the Issuer, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority, other than those that may be required under state securities or "blue sky" laws and those that have been or shall be obtained in connection with the Indenture and the issuance of the Notes, is required by the Issuer in connection with the Issuer Documents or the execution, delivery, performance, validity or enforceability of the Issuer Documents or the obligations imposed upon it hereunder or thereunder. This Agreement constitutes, and each instrument or document required hereunder, when executed and delivered hereunder, shall constitute, the legally valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms, subject, as to enforcement, to (a) the effect of bankruptcy, insolvency, or similar laws affecting generally the enforcement of creditors' rights, as such laws would apply in the event of any bankruptcy, receivership, insolvency or similar event applicable to the Issuer and (b) general equitable principles (whether enforceability of such principles is considered in a proceeding at law or in equity).

(iii) The execution, delivery and performance of this Agreement and the Collateral Administration Agreement and the documents and instruments required hereunder and thereunder do not violate any provision of any existing law or regulation binding on the Issuer, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Issuer, or the

Governing Instruments of, or any securities issued by, the Issuer or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Issuer is a party or by which the Issuer or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer, and do not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking (other than the lien of the Indenture).

(iv) The Issuer is not required to register as an "investment company" under the Investment Company Act.

(v) The Issuer is not in violation of its Governing Instruments or in breach or violation of or in default under the Indenture or any other contract or agreement to which it is a party or by which it or any of its assets may be bound, or any applicable statute or any rule, regulation or order (including, without limitation, any anti-money laundering statute or related rule, regulation or order) of any court, government agency or body having jurisdiction over the Issuer or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of this Agreement or the performance by the Issuer of its duties hereunder or under the Collateral Administration Agreement.

(vi) True and complete copies of the Indenture and the Issuer's Governing Instruments have been delivered to the Portfolio Manager.

(vii) The Issuer has not taken any action or engaged in any activity, either directly or through an agent, that could cause the Issuer to be treated as engaged in a United States trade or business for federal income tax purposes.

(viii) The Issuer is not a "bank" for purposes of Section 881 (c)(3)(A) of the Code.

(ix) The Issuer is a "qualified client" as such term is defined under the Advisers Act.

(x) The Issuer understands that the rules and regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") prohibit, among other things, the engagement in transactions with, and the provision of services to, certain countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <http://www.treas.gov/ofac>. In addition, the programs administered by OFAC ("OFAC Programs") prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists. To the best of its knowledge, none of:

(1) the Issuer; (2) any person controlling or controlled by the Issuer; (3) any person having a beneficial interest in the Issuer; or (4) any person for whom the Issuer is acting as agent or nominee in connection with this investment is a country, territory, individual or entity named on an OFAC list, or is a person or entity prohibited under the OFAC Programs.

(xi) By entering into this Agreement, the Issuer represents and warrants that it has received and had an opportunity to review a current copy of Part 2 of the Form ADV of Acis Capital Management, L.P., at least forty-eight hours prior to its entering into this Agreement.

The Issuer agrees to deliver a true and complete copy of each amendment to the documents referred to in subsection 17(a)(v) above to the Portfolio Manager as promptly as practicable after its adoption or execution.

(b) The Portfolio Manager hereby represents and warrants to the Issuer as follows:

(i) The Portfolio Manager is a limited partnership duly organized and validly existing and in good standing under the laws of the State of Delaware and has full power and authority to own its assets and to transact the business in which it is currently engaged and is duly qualified and in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of this Agreement or the Collateral Administration Agreement (together with this Agreement, the "Manager Documents") would require such qualification, except for those jurisdictions in which the failure to be so qualified, authorized or licensed would not have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or on the ability of the Portfolio Manager to perform its obligations under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager; the Portfolio Manager is registered as an investment adviser under the Advisers Act.

(ii) The Portfolio Manager has full power and authority to execute, deliver and perform each of the Manager Documents and all obligations required hereunder and under the provisions of the Indenture applicable to the Portfolio Manager, and has taken all necessary action to authorize each of the Manager Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Manager Documents and all obligations required hereunder and thereunder and under the terms of the Indenture applicable to the Portfolio Manager. No consent of any other Person, including, without limitation, creditors of the Portfolio Manager, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by the Portfolio Manager in connection with the Manager Documents or the execution, delivery, performance, validity or enforceability of the Manager

Documents or the obligations required hereunder and thereunder or under the terms of the Indenture applicable to the Portfolio Manager. Each of the Manager Documents has been, and each instrument and document required hereunder and thereunder or under the terms of the Indenture shall be, executed and delivered by a duly authorized officer of the Portfolio Manager, and each of the Manager Documents constitutes, and each instrument and document required hereunder and thereunder or under the terms of the Indenture when executed and delivered by the Portfolio Manager hereunder or thereunder or under the terms of the Indenture shall constitute, the valid and legally binding obligations of the Portfolio Manager enforceable against the Portfolio Manager in accordance with their terms, subject to (a) the effect of bankruptcy, insolvency or similar laws affecting generally the enforcement of creditors' rights and (b) general equitable principles.

(iii) The execution, delivery and performance of the Manager Documents and the terms of the Indenture applicable to the Portfolio Manager and the documents and instruments required hereunder or thereunder or under the terms of the Indenture shall not violate any provision of any existing law or regulation binding on the Portfolio Manager, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Portfolio Manager, or the Governing Instruments of, or any securities issued by the Portfolio Manager or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Portfolio Manager is a party or by which the Portfolio Manager or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its obligations under the Manager Documents, and shall not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking, the existence of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its obligations under the Manager Documents.

(iv) There is no charge, investigation, action, suit or proceeding before or by any court pending or, to the best knowledge of the Portfolio Manager, threatened that, if determined adversely to the Portfolio Manager, would have a material adverse effect upon the performance by the Portfolio Manager of its duties under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager hereunder.

(v) The Portfolio Manager is authorized to carry on its business in the United States and in all other jurisdictions necessary to the performance of its obligations under the Manager Documents and the Indenture applicable to the Portfolio Manager.

(vi) The Portfolio Manager is not in violation of its Governing Instruments or in breach or violation of or in default under any contract or agreement to which it is a party or by which it or any of its property may be bound, or any applicable statute or any rule, regulation or order of any court, government agency or body having jurisdiction over the Portfolio Manager or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of the Manager Documents or the provisions of the Indenture applicable to the Portfolio Manager, or the performance by the Portfolio Manager of its duties hereunder or thereunder.

(vii) The information concerning the Portfolio Manager contained under the headings entitled "*Summary—Portfolio Manager*", "*The Portfolio Manager*" (including Part 2 of the Portfolio Manager's Form ADV referred to therein), "*Risk Factors—Risks Relating to Certain Conflicts of Interest—Conflicts of Interest Involving the Portfolio Manager*", "*Risk Factors—Risks Relating to the Portfolio Manager—Past Performance Not Indicative of Future Results*", "*Risk Factors—Risks Relating to the Portfolio Manager—The Portfolio Manager Relies on Highland to Perform Certain Services*" and "*Risk Factors—Risks Relating to the Portfolio Manager—Litigation Involving Acis and Highland*" in the Offering Circular, as of the respective dates of the Offering Circular and as of the Closing Date, is true in all material respects and does not omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

18. Notices.

Unless expressly provided otherwise herein, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing (including by facsimile) and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of registered or certified mail, postage prepaid, return receipt requested, or, in the case of facsimile notice, when received in legible form, addressed as set forth below:

(a) If to the Issuer:

c/o Appleby Trust (Cayman) Ltd.
Clifton House, 75 Fort Street
PO Box 1350
Grand Cayman KYI-1108, Cayman Islands
Attention: The Directors

with a copy to:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

(b) If to the Portfolio Manager:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

(c) If to the Trustee:

U.S. Bank National Association
190 South LaSalle St., 10th Floor
Chicago, IL 60603
Attn: Corporate Trust Services—Acis CLO 2013-1
Facsimile: 312-332-8010

Any party may alter the address or telecopy number to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 18 for the giving of notice.

19. Binding Nature of Agreement; Successors and Assigns.

Subject to Section 14 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided herein.

20. Entire Agreement.

This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

21. Amendment.

This Agreement may not be modified or amended other than by an agreement in writing executed by the parties hereto and (other than in respect of a modification or amendment of the type that may be made to the Indenture without Holder consent) (i) the consent of at least a Majority of each Class of Notes materially and adversely effected thereby (such determination to be made in the same manner as determining whether an amendment to the Indenture materially and adversely effects the Notes), (ii) the consent of at least a Majority of the Subordinated Notes, (iii) the consent of at least a Majority of the Controlling Class and (iv) satisfaction of the Global Rating Agency Condition. Notwithstanding the foregoing, the parties hereto, without the consent of any Holders, may amend or modify any provision of this agreement to (i) reflect a change that is of an inconsequential nature, (ii) correct inconsistencies, typographical or other errors, defects or ambiguities, (iii) conform this Agreement to the Offering Circular or the Indenture (as

it may be amended from time to time) or (iv) reflect a change that is necessary or desirable to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation (including ERISA, the Code, the Advisers Act and the Investment Company Act) of any U.S. federal or state agency or contained in any U.S. federal or state statute. In addition, Schedule 1 may be amended or modified by the parties hereto without the consent of any Holder in accordance with the last sentence of such Schedule.

22. Conflict with the Indenture.

In the event that this Agreement requires any action to be taken with respect to any matter and the Indenture requires that a different action be taken with respect to such matter, and such actions are mutually exclusive, the provisions of the Indenture (as in effect on the date hereof or as amended or supplemented, with the consent of the Portfolio Manager if such consent is required by Section 3(b)) in respect thereof shall control.

23. Priority of Payments.

The Portfolio Manager agrees that the payment of all amounts to which it is entitled pursuant to this Agreement shall be subordinated to the extent set forth in, and the Portfolio Manager agrees to be bound by the provisions of, Article 11 and Section 15.1 of the Indenture as if the Portfolio Manager were a party to the Indenture and each of the Portfolio Manager and Issuer hereby consents to the assignment of this Agreement as provided in Section 15.1 of the Indenture.

24. Governing Law; Jury Trial.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PROVISIONS THEREOF). EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH OF THE PARTIES HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR SUCH PARTIES ENTERING INTO THIS AGREEMENT.

25. Indulgences Not Waivers.

Neither the failure nor any delay on the part of any party hereto to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to

any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

26. Titles Not to Affect Interpretation.

The titles of Sections and subsections of this Agreement are for convenience only, and they neither form a part of this Agreement nor are they to be used in the construction or interpretation hereof.

27. Execution in Counterparts.

This Agreement may be executed in any number of counterparts by facsimile or other written form of communication, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

28. Provisions Separable.

To the fullest extent permitted by law, in case any provision in this Agreement shall be invalid, illegal or unenforceable as written, such provision shall be construed in the manner most closely resembling the apparent intent of the parties with respect to such provision so as to be valid, legal and enforceable; provided, however, that if there is no basis for such a construction, to the fullest extent permitted by law, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability and, unless the ineffectiveness of such provision destroys the basis of the bargain for one of the parties to this Agreement, the validity, legality and enforceability of the remaining provisions hereof or thereof shall not in any way be affected or impaired thereby.

29. Number and Gender.

Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

30. Jurisdiction and Venue.

The parties to this Agreement irrevocably submit to the non-exclusive jurisdiction of any New York state or federal court sitting in the Borough of Manhattan in The City of New York in any action or proceeding arising out of or relating to this Agreement, the Notes or the Indenture, and the parties irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such New York state or federal court. The parties to this Agreement irrevocably waive, to the fullest extent they may legally do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. The parties to this Agreement irrevocably consent to the service of any and all process in any action or proceeding by the mailing or delivery of copies of such

process to it in accordance with Section 18. The parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

31. Third Party Beneficiaries.

No party, including any Holder of Notes, is a third party beneficiary of this Agreement.

32. Miscellaneous.

(a) With respect to any Defaulted Obligation, the Portfolio Manager, on behalf of the Issuer, may instruct the agent or the trustee for such Defaulted Obligation to enforce the Issuer's rights under the Underlying Instruments governing such Defaulted Obligation and under any applicable law, rule or regulation in any manner permitted under the Indenture that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer. In the event any Offer is made with respect to any Collateral Obligation or Equity Security, the Portfolio Manager, on behalf of the Issuer, may take such action as is permitted by the Indenture and that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer.

(b) Without prejudice to subsection 15(f) hereof, any corporation, partnership or limited liability company into which the Portfolio Manager may be merged or converted or with which it may be consolidated, or any corporation, partnership or limited liability company resulting from any merger, conversion or consolidation to which the Portfolio Manager shall be a party, or any corporation, partnership or limited liability company succeeding to all or substantially all of the collateral management business of the Portfolio Manager, shall be the successor to the Portfolio Manager without any further action by the Portfolio Manager, the Co-Issuers, the Trustee, the Holders or any other Person or entity; provided that the Portfolio Manager shall give prompt written notice to each Rating Agency upon any such occurrence.

(c) Notwithstanding anything herein or in the Indenture to the contrary, with respect to any report, information, communication, request, demand, authorization, direction, notice, consent or waiver to be given to a Rating Agency by the Issuer, the Issuer shall instead provide such information to the Portfolio Manager, and the Portfolio Manager shall then provide such information as well as any information related to the transaction requested by any Rating Agency directly from the Portfolio Manager to the applicable Rating Agencies via the website established on behalf of the Issuer for purposes of Rule 17g-5 under the Exchange Act.

(d) If the Issuer shall receive any written or oral communication from any Rating Agency (or any of their respective officers, directors or employees) with respect to the transactions contemplated hereby or in any way relating to the Notes, the Issuer agrees to refrain from communicating with such Rating Agency and to promptly (and, in any event, within one Business Day) notify the Portfolio Manager of such

communication. The Issuer agrees to coordinate with the Portfolio Manager with respect to any communication to a Rating Agency and further agrees that in no event shall it engage in any oral or written communication with respect to the transactions contemplated hereby or in any way relating to the Notes with any Rating Agency (or any of their respective officers, directors or employees) without the participation of the Portfolio Manager.

33. Power of Attorney.

The Issuer hereby makes, constitutes and appoints each of Josh Terry, Hunter Covitz and Philip Braner, with full power of substitution, as its true and lawful agent and attorney-in-fact (each an "Attorney" and together the "Attorneys"), jointly and severally with full power and authority in its name, place and stead, in accordance with the terms of this Agreement and the Indenture (a) to prepare, sign and deliver tax documentation, transfer documentation and all other documentation in connection with the acquisition and sale by the Issuer of Collateral Obligations and (b) to (i) vote in its discretion any securities, instruments or obligations included in the Assets, (ii) execute proxies, waivers, consents and other instruments with respect to such Collateral Obligations, (iii) endorse, transfer or deliver such securities, instruments and obligations, (iv) participate in or consent (or decline to consent) to any modification, work-out, restructuring, bankruptcy proceeding, class action, plan of reorganization, merger, combination, consolidation, liquidation or similar plan or transaction with regard to such Collateral Obligations and (v) take any other action specified in Section 3 of this Agreement. This grant of power of attorney will expire (a), with respect to each Attorney (and to each substitute appointed by such Attorney), when such Attorney ceases to be an officer or employee of Acis Capital Management, L.P. or an Affiliate thereof, acting on behalf of Acis Capital Management, L.P. or (b) upon (x) termination of this Agreement in accordance with its terms or (y) any assignment by the Portfolio Manager of its obligations under this Agreement in accordance with Section 14 hereof.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

Portfolio Manager:

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC

By: _____
Name:
Title:

Signatures Continue on Next Page

Signatures Continued from Previous Page

Issuer:

ACIS CLO 2013-1 LTD., Executed as a Deed

By: _____

Name: **David Boyd**
Title: **Director**

Witness: Kristen Leighton
Kirsten Leighton

SCHEDULE 1

CERTAIN TAX RESTRICTIONS

The Issuer[1] shall follow the following restrictions:

(1) Investment Restrictions relating to loan origination within the United States.

(A) The Issuer shall not make loans, shall not sign a loan agreement as an original lender, shall not purchase a loan until such loan has been closed for at least 48 hours and shall not, in the case of any loan the origination of which has not yet closed, commit the Issuer to acquire a loan earlier than 48 hours after the Person from whom the Issuer will purchase such loan is legally committed to acquire, participate in or make the loan (and such legal commitment by the seller of the loan to the Issuer is independent from and is not conditioned in any way on the Issuer's purchase of (or commitment to purchase) the loan from the seller). Notwithstanding this requirement, the Issuer is permitted to purchase a Publicly Issued Debt Security from an underwriter as part of the original issuance of the Publicly Issued Debt Security.

(B) The Issuer shall not, directly or indirectly, purchase (and will not enter into a commitment to purchase, whether or not in writing (or otherwise agree to acquire an economic, beneficial or derivative interest in)) a loan from the Portfolio Manager or one of its Affiliates if the Portfolio Manager or one of its Affiliates is lead or joint syndication agent in the loan syndicate, the originator, underwriter, placement agent or similar promoter of the loan unless (i) it has been 90 days since the loan was outstanding, issued and originated, (ii) the holder of the loan did not identify the loan as intended for sale to the Issuer until at least 60 days after the loan was issued; (iii) the price paid by the Issuer for such a loan is its fair market value on the date of the purchase, (iv) the employees or agents of the Portfolio Manager responsible for selecting the loan for the Issuer were not involved in the origination of the loan and (v) at all times after the acquisition, (A) the Issuer owns less than 50% of the aggregate principal amount of the borrowing that includes such Collateral Obligation and (B) less than 50% of the Issuer's assets are comprised of Collateral Obligations for which the Portfolio Manager or one of its Affiliates was lead or joint syndication agent in the loan syndicate, the originator, underwriter, placement agent or similar promoter of the Collateral Obligation.

(C) Except as set forth in subparagraph (I) or (II) of this paragraph (1)(C), the Issuer shall not (i) negotiate the terms of any loan, (ii) have any

[1] References in these U.S. Investment Restrictions to the "Issuer" shall include any agent of the Issuer (including, but not limited to, the Portfolio Manager) when acting on behalf of the Issuer.

discussions with any obligor on a loan or the issuer of other Collateral Obligations, except for due diligence or informational purposes after all the material terms and conditions of the related Collateral Obligation are fixed and binding or (iii) structure or influence the terms of any Collateral Obligation; provided that the Issuer may (x) consent to or withhold consent to any proposed amendments, supplements or other modifications of the terms of any Collateral Obligation after such Collateral Obligation is acquired by the Issuer, (y) negotiate with respect to the terms of purchase of any loan by the Issuer and communicate its standard terms and conditions for such purchase to the agent bank or its affiliates and (z) provide comments as to mistakes or inconsistencies in loan documents (including with respect to any provisions that are inconsistent with the terms and conditions of purchase of the loan by the Issuer). The Issuer will not acquire a loan with the expectation of restructuring or "working-out" the loan. For purposes of this paragraph (1)(C), the Issuer will be treated as acquiring a new loan by reason of a modification to an existing loan that is treated as a significant modification for purposes of Treasury regulations section 1.1001-3, and the Issuer will not be treated as acquiring a new loan by reason of a modification to an existing loan that is not treated as a significant modification for purposes of Treasury regulations section 1.1001-3. Notwithstanding anything to the contrary,

(I) if, at the time of acquisition, a loan was performing and there was no reasonable expectation that the loan would likely default, and the loan subsequently defaults or the Portfolio Manager reasonably expects the loan to default, the Issuer may renegotiate the terms of the loan with the debtor or other creditors and, may participate on a creditor's committee with respect to the loan to protect its investment, but the Issuer may not advance any additional funds (other than in compliance with the other provisions in these guidelines); and

(II) the Portfolio Manager, any affiliate thereof, and an ETB Subsidiary of the Issuer also may, with respect to a loan held by the ETB Subsidiary (and, in the case of the Invesment Manager, a loan issued by the debtor as part of the same issuance as the loan held by the ETB Subsidiary), negotiate with a debtor or other creditors or participate on a creditors' committee if such loan held by the ETB Subsidiary is held by such ETB Subsidiary and not by the Issuer during any period of time the workout is being negotiated.

In all other cases, except as described herein, neither the Issuer nor any affiliate thereof will negotiate with a debtor or other creditors or participate on a creditors' committee without the Issuer having received advice of White & Case LLP or an opinion of other nationally recognized U.S. tax counsel experienced in such matters that such activity

will not cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise subject the Issuer to U.S. federal income tax on a net income basis.

(D) No Collateral Obligation shall be purchased by the Issuer on terms such that the Issuer receives the benefit of a fee for underwriting, syndication or placement services, or other services connected with structuring the terms, marketing or placement of the Collateral Obligation (which shall not include any discount or fee for the use of or time value of money or commitment fees or any discount or fee based on market conditions at the time the Issuer purchases or commits to purchase the Collateral Obligation).

(E) If the Issuer makes a commitment to purchase a loan that is not outstanding at the time that the Issuer makes the commitment, (i) such commitment will be subject to a satisfactory review of the terms and conditions contained in the loan documentation such that, if the loan documentation or the documentation pursuant to which the Issuer will purchase the loan from the agent bank or syndicate member is not acceptable to the Issuer, the Issuer will not be obligated to purchase the loan and (ii) the actual purchase by the Issuer will not occur earlier than 48 hours after the closing and full funding of the loan.

(F) The Issuer cannot have a contractual relationship with the obligor with respect to a loan until the Issuer actually closes the purchase of such loan.

(G) On the date of the legal document closing of a loan, the Issuer cannot be a signatory on the lending agreement governing such loan and, on such date, the lending agreement and other agreements and documents relating to such loan to which the obligor, or any of its agents, is a party will not list the Issuer as a "Lender" or otherwise list the Issuer as a party to such loan, or to such lending agreement or such other agreements or documents. No lending institution with respect to such loan will have the power to bind the Issuer to fund such loan directly with the obligor thereof prior to the closing of the purchase of such loan by the Issuer.

(H) The Issuer cannot purchase or commit to purchase a loan that is a term loan if it would cause the Issuer to own more than 50% of the aggregate principal amount of all term loans issued under the related credit agreement, determined as of the date of acquisition.

(I) The Issuer will not acquire an interest in a Collateral Obligation that consists of, or includes, a revolving or delayed draw credit facility unless (i) the underlying loan documents were negotiated, finalized and executed prior to the Issuer's commitment to purchase such interest, (ii) all the terms of any advance required to be made by the Issuer thereunder will

be fixed as of the date of the Issuer's purchase (or determinable under a formula that is fixed as of such date), (iii) such revolving or delayed draw credit facility is a "fully committed loan" (i.e., under its terms, the Issuer has no discretion as to whether to make advances thereunder provided all the conditions thereto have been satisfied), (iv) (a) such revolving or delayed draw credit facility is acquired in connection with a term loan that the Issuer intends to hold at least as long as the revolving or delayed draw credit facility or (b) an advance of more than a de minimis amount has been made by a Person that is not an Affiliate of the Issuer and (v) the Issuer acquires less than 25% of the commitment amount of the revolver or delayed draw loan.

(J) If a Collateral Obligation requires the Issuer to participate in a letter of credit issued or to be issued to a borrower (directly or through a synthetic letter of credit structure), such Collateral Obligation only will be acquired and held in connection with an interest in a related term loan where the amount of such interest is at least as large as the Issuer's potential exposure under the letter of credit. All of the terms of any letter of credit in which the Issuer acquires an interest must have been fully negotiated no later than the original legal document closing of such credit facility.

(K) Any agent bank or syndicate members that are acting within the United States will not act on behalf of the Issuer as its agent when negotiating the economic terms of a loan with the obligor. Such agent bank or syndicate member may, however, seek, and the Issuer may respond to, requests for indications of interest.

(L) The Issuer will not hold itself out (or otherwise be held out) as originating loans.

(2) Investment Restrictions relating to activities (other than loan origination).

(A) The Issuer will not perform any services (e.g., loan servicing) for the obligor, the agent bank or a syndicate member in connection with a Collateral Obligation.

(B) The Issuer will invest in Collateral Obligations only with the intent of receiving interest and principal payment with respect to such obligations, or of selling the obligations for capital appreciation, and will not invest in Collateral Obligations with the goal of seeking a liquidation of the obligor of the security in order to obtain an interest in assets of the issuer that are located within the United States.

(C) The Issuer will not act as a dealer in stocks or securities or perform any services for others with respect to its investments. For this purpose,

"dealer" means a merchant of stocks or securities who is regularly engaged as a merchant in purchasing stocks and securities and selling them to customers with a view to the gains and profits that may be derived therefrom.

(D) The Issuer shall not hold itself out (or otherwise be held out) or take any actions (including making any filing with governmental agencies) that cause it to be treated as (i) making a market in Collateral Obligations, (ii) engaged in the business of insurance or guarantying debt obligations, (iii) a dealer in financial derivatives, (iv) a bank or (v) ready to enter into either side of a derivatives transaction with members of the public in the ordinary course of its business.

(E) The Issuer will not make a claim for exemption from U.S. withholding tax to the U.S. Internal Revenue Service (the "IRS") on the basis that income of the Issuer is effectively connected with the conduct of a trade or business in the United States, and in particular, shall not file an IRS Form W-8ECI (or any successor form) with any withholding agent with respect to any loan.

(3) Investment Restrictions relating to the nature of certain investments.

(A) The Issuer shall not (i) acquire or enter into any Synthetic Security with respect to any Reference Obligation the direct acquisition of which would violate any provision of this Schedule 1 or (ii) use Synthetic Securities as a means of making advances to the Synthetic Security Counterparty following the date on which the Synthetic Security is acquired or entered into (for the avoidance of doubt, the establishment of Synthetic Security collateral accounts and the payment of Synthetic Security Counterparties from the amounts on deposit therein, in each case in accordance with the Agreement, shall not constitute the making of advances).

(B) No Synthetic Security acquired by the Issuer shall, through an agreement, arrangement or understanding (i) legally require or cause the Synthetic Security Counterparty to be commercially compelled to own or hold the Related Obligation while the Synthetic Security remains in effect or (ii) require by its terms the delivery of reports or other information relating to the Reference Obligation if the effect of such requirement is that the purchaser of credit protection thereunder would be required to own the applicable Reference Obligation.

(C) With respect to each Synthetic Security: (i) the criteria used to determine whether to enter into any particular synthetic security is similar to the criteria used by the Issuer in making investment decisions in debt securities; (ii) the Synthetic Security is acquired by or entered into by the

Issuer for its own account and for investment purposes with the expectation of realizing a profit from income earned on the securities and/or any rise in their value during the interval of time between their purchase and sale or hedging purposes and not with an intention to trade or to sell for a short-term profit; (iii) the Issuer enters into the Synthetic Security with a counterparty that is a broker-dealer or a derivatives dealer; (iv) the Issuer does not solicit, advertise or publish to customers the Issuer's ability to enter into Synthetic Securities; (v) any net payment owed by the Issuer to the Synthetic Security Counterparty is not determined by reference, in whole or in part, to any actual loss incurred by the Synthetic Security Counterparty or any other designated person; (vi) the Synthetic Security (except such Synthetic Securities that are credit-linked notes or similar securities documented by an indenture, in which case the other provisions of this Schedule 1 apply) is structured as a default swap and is documented by a "Confirmation" as referred to in the form of ISDA Master Agreement published by the International Swaps and Derivatives Association, Inc.; (vii) the Issuer will not treat the Synthetic Security as insurance, reinsurance, indemnity bonds, guarantees, guarantee bonds or suretyship contracts for any purposes; and (viii) the Synthetic Security Counterparty, to the Issuer's knowledge, is not regulated or licensed to do business as an insurance company or a reinsurance company in any jurisdiction.

(D) The Issuer shall not purchase, acquire or enter into (whether directly, as a part of a "unit" with a Collateral Obligation, in exchange for or upon conversion of a Collateral Obligation or otherwise) any asset or any derivative interest (including, without limitation, any option, warrant or Synthetic Security) with respect to any asset, if such asset or, in the case of such derivative interest the asset which is the subject of such derivative interest (including a Reference Obligation), is treated as (A) an equity interest in an entity or vehicle that is classified for U.S. federal income tax purposes as a partnership or grantor trust (or otherwise as a pass-through entity or disregarded entity), unless (i) all of the assets of such entity could have been purchased by the Issuer in accordance with the restrictions contained in this Schedule 1 and are (x) treated as debt for U.S. federal income tax purposes or (y) ownership interests in entities treated as corporations for U.S. federal income tax purposes, (ii) such entity is not treated as engaged in a trade or business in the United States and does not otherwise have income that is subject to U.S. federal income tax on a net basis and (iii) the organizational documents for such entity prohibits such entity from being treated as engaged in a trade or business in the United States or otherwise having income that is subject to U.S. federal income tax on a net basis, (B) a residual interest in a "REMIC" (as such term is defined in the Code), (C) an ownership interest in a "FASIT" (as such term is defined in the Code), (D) an equity interest in a "United States real property holding corporation" ("USRPHC") (as such term is defined in the Code), such as a loan or security, in either case, convertible into equity of

a USRPHC or a loan that has the right to share, directly or indirectly, in the appreciation of U.S. real estate or (E) an asset (located in the United States) that is neither debt nor equity for US federal income tax purposes. If at any time pursuant to a bankruptcy or other insolvency proceeding or workout of a debt obligation or otherwise, the Issuer would acquire in exchange for a Collateral Obligation (or otherwise would acquire) assets that do not constitute stock (or right to purchase stock) of a corporation (or a partnership not permitted to be acquired pursuant to clause (A) of this paragraph (iii)) or debt instruments for U.S. federal income tax purposes ("Non-Securities Assets"), the Issuer shall not acquire such Non-Securities Assets without establishing a subsidiary treated as a corporation for U.S. federal income tax purposes to own such Non-Securities Assets (an "ETB Subsidiary"); provided that stock (or the right to purchase stock) of a United States real property holding corporation shall be treated as a Non-Securities Asset for the purpose of this paragraph and any such stock or any US real property shall be held through an ETB Subsidiary that is a non-U.S. corporation.

(4) Definitions and exceptions to Investment Restrictions.

(A) For purposes of this Schedule 1, (i) the term "Portfolio Manager" shall mean the Portfolio Manager when it is acting through any agent (which, for the avoidance of doubt, shall include any entity or natural person who directly or indirectly performs any activities on behalf of the Portfolio Manager), employee, office, fixed place of business or permanent establishment, (ii) the term "loan" shall mean any loan (without regard to this definition), debt security or other investment that is treated as debt for U.S. federal income tax purposes, (iii) the term "Collateral Obligation" shall mean any loan, debt security, or other investment, as the case may be, (iv) the term "Reference Obligation" shall mean a debt security or other obligation based upon which a party's payments under a Synthetic Security are determined, (v) the term "Synthetic Security" shall mean any swap transaction or security, other than a participation interest in a loan, that has payments associated with either payments of interest and/or principal on a Reference Obligation or the credit performance of a Reference Obligation, (vi) the term "Synthetic Security Counterparty" shall mean an entity (other than the Issuer) required to make payments on a Synthetic Security (including any guarantor); and (vii) "Publicly Issued Debt Security" shall mean a Security either (a) that was issued pursuant to an effective registration statement under the Securities Act of 1933, as amended (the "Securities Act") in a firm commitment or best efforts underwriting for which no Issuer Affiliate served as underwriter or (b)(i) privately placed or eligible for resale under Rule 144A or Regulation S, in each case, (ii) purchased by the Issuer from a person other than the obligor of the Security and where the Issuer has no contractual agreements with the obligor with respect to such Security other than obligations of the obligor under the Security effective upon or after the Issuer's closing of

the purchase of such Security and (iii) originally issued in an offering with an offering memorandum, private placement memorandum or similar offering document, and in each case with respect to which the Issuer, the Portfolio Manager (and Affiliates and accounts and funds managed or controlled by the Portfolio Manager or any Affiliate) either (1) did not at original issuance acquire 50% or more of the aggregate principal amount of such Security or 50% or more of the aggregate principal amount of any other class of Securities offered by the issuer of the Security in the offering and any related offering or (2) did not at original issuance acquire 33 1/3% or more of the aggregate principal amount of all classes of Securities offered by the issuer of such Security in the offering and any related offering; and (viii) "Security" shall mean a bond, note or security that is issued under a trust indenture or similar agreement under which a trustee is appointed to act on behalf of the holders of such a bond, note or security.

(B) In furtherance and not in limitation of the Portfolio Management Agreement and this Schedule 1, the Issuer shall comply with all of the provisions set forth in this schedule, unless with respect to a particular transaction, the Issuer shall have received advice of White & Case LLP or an opinion of counsel of nationally recognized standing in the United States experienced in such matters, that, under the relevant facts and circumstances with respect to such transaction, the Issuer's failure to comply with one or more of such provisions will not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis. The provisions set forth in this Schedule 1 may be amended, eliminated or supplemented by the Issuer if the Issuer shall have received advice of White & Case LLP or an opinion of tax counsel of nationally recognized standing in the United States experienced in such matters that the Issuer's compliance with such amended provisions or supplemental provisions or the failure to comply with such provisions proposed to be eliminated, as the case may be, will not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis.

ANNEX A

FORM OF COLLATERAL ADMINISTRATION AGREEMENT

EXECUTION VERSION

COLLATERAL ADMINISTRATION AGREEMENT

This COLLATERAL ADMINISTRATION AGREEMENT, dated as of March 18, 2013 (the "Agreement") is entered into by and among Acis CLO 2013-1 Ltd., an exempted company incorporated in the Cayman Islands with limited liability (the "Issuer"), Acis Capital Management, L.P., a Delaware limited partnership, in its capacity as Portfolio Manager under the Portfolio Management Agreement referred to below (the "Portfolio Manager"), and U.S. Bank National Association, a national banking association ("USB"), in its capacity as collateral administrator (the "Collateral Administrator").

WITNESSETH:

WHEREAS, the Issuer, USB, as trustee and Acis CLO 2013-1 LLC, as co-issuer (the "Co-Issuer"), have entered into an Indenture (the "Indenture") dated as of March 18, 2013, pursuant to which the Notes were issued;

WHEREAS, pursuant to the terms of the Indenture, the Issuer pledged certain collateral debt obligations and other assets (the "Assets") as security for the Secured Debt;

WHEREAS, the Portfolio Manager has entered into a Portfolio Management Agreement with the Issuer dated as of March 18, 2013, (the "Portfolio Management Agreement"), in connection with which the Portfolio Manager has agreed to provide certain services to the Issuer with respect to the Assets;

WHEREAS, the Issuer wishes to engage the Collateral Administrator to perform on its behalf certain administrative duties of the Issuer with respect to the Assets pursuant to the Indenture; and

WHEREAS, the Collateral Administrator, on behalf of the Issuer, is prepared to perform certain specified obligations of the Issuer under the Indenture and certain other services as specified herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Definitions.

Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in the Indenture.

2. Powers and Duties of the Collateral Administrator and the Portfolio Manager.

(a) The Issuer hereby appoints as its agent USB in the capacity of Collateral Administrator and USB hereby accepts its appointment as the Issuer's agent and shall act in the capacity of Collateral Administrator for the Issuer until the earlier of USB's resignation or

removal pursuant to Section 7 hereof or termination of this Agreement pursuant to Section 6 hereof. The Collateral Administrator shall assist the Issuer and the Portfolio Manager in connection with monitoring the Assets on an ongoing basis and providing to the Issuer, the Portfolio Manager and certain other parties specified in the Indenture certain reports, schedules, calculations and other data, all as more particularly described in Section 2(b), which the Issuer (or the Portfolio Manager) is required to prepare and deliver under Article X of the Indenture. The Collateral Administrator's duties and authority to act as Collateral Administrator hereunder are limited to the duties and authority specifically provided for in this Agreement. The Collateral Administrator shall not be deemed to assume the obligations of the Issuer under the Indenture or of the Portfolio Manager under the Portfolio Management Agreement.

(b) The Collateral Administrator shall perform the following functions:

(i) Create an Asset database compromised of, among other things, the Collateral Obligations and Eligible Investments credited to the Accounts within 30 days of the Closing Date;

(ii) Permit access to any information in the Asset database by the Portfolio Manager and the Issuer in electronic form;

(iii) Update the Asset database promptly for ratings changes of any item of the Assets;

(iv) Update the Asset database promptly for Collateral Obligations and Eligible Investments acquired or sold or otherwise disposed of;

(v) Track the receipt and daily allocation to the Accounts of Interest Proceeds and Principal Proceeds and any withdrawals therefrom and, on each Bushiness Day, provide to the Portfolio Manager daily reports reflecting balances of the Accounts as of the close of business on the preceding Business Day;

(vi) Prepare and arrange for the delivery, within the timeframe set forth in the Indenture, of each Monthly Report, Distribution Report and the Interest Rate Notice, in each case in accordance with the Indenture;

(vii) Assist the Issuer and the Portfolio Manager in preparing the report required to be prepared pursuant to Section 7.18(c)(i) of the Indenture, on the basis of information contained in the Asset database or provided to the Collateral Administrator by the Portfolio Manager or the Issuer;

(viii) Assist the Independent certified public accountants in the preparation of those reports required under Section 10.9 of the Indenture;

(ix) Reasonably cooperate with the Issuer or the Portfolio Manager in providing the Rating Agencies with such additional information in the possession of the Collateral Administrator as may be reasonably requested by the Rating Agencies under Section 10.10 of the Indenture;

(x) Notify the Portfolio Manager upon receiving any documents, legal opinions or any other information including, without limitation, any notices, reports, requests for waiver, consent requests or any other requests relating to corporate actions affecting the Collateral Obligations and Eligible Investments; and

(xi) Provide the Portfolio Manager with such other information as may be reasonably requested by the Portfolio Manager and as is within the possession of the Collateral Administrator.

(c) Not later than two Business Days prior to the day on which each Monthly Report or Distribution Report is required to be provided by the Issuer pursuant to Section 10.7(a) or Section 10.7(b) of the Indenture, respectively, the Collateral Administrator shall prepare the Monthly Report or Distribution Report, as applicable, in accordance with the Indenture, using the information contained in the Asset database created by the Collateral Administrator pursuant to Section 2(b) above and any other Asset information normally maintained by USB, in its capacity as Trustee, and subject to the Collateral Administrator's receipt from the Portfolio Manager of such information as the Collateral Administrator shall reasonably request in order to prepare such Monthly Report or Distribution Report with respect to the Assets that is not contained in such Asset database or normally maintained by USB, as Trustee, each item required to be stated in such Monthly Report or Distribution Report in accordance with the Indenture.

(d) Not more than two Business Days after receiving an Issuer Request requesting information regarding redemption pursuant to Sections 9.2 and 9.6 of the Indenture, the Collateral Administrator shall compute the information required to be provided by the Issuer in the Redemption Date notice pursuant to Sections 9.3 and 9.6 of the Indenture.

(e) The Collateral Administrator shall assist the Portfolio Manager in the preparation of such other reports that may be required by the Indenture and that are reasonably requested in writing by the Portfolio Manager and agreed to by the Collateral Administrator.

(f) Upon written notification by the Portfolio Manager of a proposed purchase of any Collateral Obligation pursuant to Section 12.2 of the Indenture (accompanied by such information concerning the Collateral Obligation to be purchased as may be necessary to make the calculations referred to below), the Collateral Administrator shall calculate, on a pro forma basis, each criterion included in the Investment Criteria set forth in Section 12.2(a) of the Indenture as a condition to such purchase in accordance with the Indenture and provide the results of such calculations to the Portfolio Manager so that the Portfolio Manager may determine whether such purchase is permitted by the Indenture. The Collateral Administrator shall deliver a draft of such calculation to the Portfolio Manager to the extent possible promptly after the later of (i) notification of such proposed purchase by the Portfolio Manager and (ii) delivery of all information to the Collateral Administrator reasonably necessary to complete such calculations; provided such notification or information is received by 12:00 Noon (Chicago time) on such date; otherwise such notification or information will be deemed made at 9:00a.m. (Chicago time), on the next succeeding Business Day. For the avoidance of doubt, the Collateral Administrator shall have no obligation to determine whether any item of the Assets meets the definition of "Collateral Obligation".

(g) Upon written notification by the Portfolio Manager of a proposed sale of any Collateral Obligation pursuant to Section 12.1 of the Indenture (accompanied by the Portfolio Manager's designation of the subsection of Section 12.1 of the Indenture pursuant to which it proposes to effect such sale), the Collateral Administrator shall calculate each criterion set forth in the designated subsection of Section 12.1 of the Indenture, if any, as a condition to such disposition in accordance with the Indenture and provide the results of such calculations to the Portfolio Manager so that the Portfolio Manager may determine whether such sale is permitted by the Indenture. The Collateral Administrator shall deliver a draft of such calculations to the Portfolio Manager to the extent possible promptly after the later of (i) notification of such proposed sale by the Portfolio Manager and (ii) delivery of all information to the Collateral Administrator reasonably necessary to complete such calculations; provided such notification or information is received by 12:00 Noon (Chicago time) on such date; otherwise such notification or information will be deemed made at 9:00a.m. (Chicago time), on the next succeeding Business Day.

(h) In the event the Portfolio Manager does not provide the Collateral Administrator the items necessary to complete the calculations required by Sections 2(f) and (g) above and/or the Portfolio Manager proceeds with a sale or purchase of the applicable Collateral Obligations prior to the time the Collateral Administrator delivers such calculations, neither the Collateral Administrator nor the Trustee shall be responsible for determining whether the provisions of the Indenture have been satisfied and each of the Trustee and Collateral Administrator shall be entitled to conclusively rely upon the instructions of the Portfolio Manager in all respects, including but not limited to instructions (which may be in the form of trade tickets) to release the applicable Collateral Obligation from the lien of the Indenture or to acquire the applicable Collateral Obligations. In the event the Portfolio Manager consummates a sale or purchase prior to receiving the calculations of the Collateral Administrator, the Collateral Administrator shall be under no duty, and shall incur no liability, to perform the calculations set forth in Sections 2(f) and (g) above.

(i) The Portfolio Manager shall cooperate with the Collateral Administrator in connection with the preparation (including the calculations required hereunder) by the Collateral Administrator of all reports, instructions, statements, the Monthly Reports, Distribution Reports, notices of Redemption, and the certificates required in connection with the purchase and sale of Collateral Obligations under the Indenture. The Portfolio Manager shall review and verify the contents of the aforesaid reports, instructions, statements and certificates and to the extent any of the information in such reports, instructions, statements and certificates conflicts with data or calculations in the records of the Portfolio Manager, the Portfolio Manager shall notify the Collateral Administrator of such discrepancy and use commercially reasonable efforts to assist the Collateral Administrator in reconciling such discrepancy. The Collateral Administrator shall cooperate with the Portfolio Manager in connection with the Portfolio Manager's review of the contents of the aforesaid reports, instructions, statements and certificates and shall provide such items to the Portfolio Manager within a reasonably sufficient time (as agreed between the Portfolio Manager and the Collateral Administrator, but in any event no later than two Business Days) prior to any applicable due date to enable such review. The Portfolio Manager shall cooperate with the Collateral Administrator by answering questions posed by the Collateral Administrator that are reasonably related to such reports, instructions, statements and certificates to the extent the answers to such questions are within the knowledge

of the Portfolio Manager. Upon acknowledgment from the Portfolio Manager that it has completed its review, the Collateral Administrator shall transmit same to the Issuer for execution and shall distribute such reports, instructions, statements and certificates, after execution by the Issuer or the Portfolio Manager, as applicable.

If, in performing its duties under this Agreement, the Collateral Administrator is required to decide between alternative courses of action (each of which is consistent with provisions of this Agreement), the Collateral Administrator may request written instructions from the Portfolio Manager acting on behalf of the Issuer as to the appropriate course of action desired by it. If the Collateral Administrator does not receive such instructions within two Business Days after it has requested them, the Collateral Administrator may, but shall be under no duty to, take or refrain from taking any such courses of action. The Collateral Administrator shall act in accordance with instructions received after such two Business Day period except to the extent it has already taken, or committed itself to take, action inconsistent with such instructions. The Collateral Administrator shall be entitled to conclusively rely on the advice of legal counsel and Independent accountants in performing its duties hereunder and shall be deemed to have acted in good faith if it acts in accordance with such advice.

Nothing herein shall prevent the Collateral Administrator or any of its Affiliates from engaging in other businesses or from rendering services of any kind to any Person.

The Collateral Administrator shall have no obligation to determine Market Value or price in connection with any actions or duties under this Agreement.

3. Powers and Duties of the Information Agent.

(a) In connection with Section 10.10 of the Indenture, the Issuer hereby appoints the Collateral Administrator to act as its agent (the "Information Agent") and in so acting, the Information Agent shall have all the protections and benefits provided for the Collateral Administrator hereunder.

(b) The Information Agent shall make available on the 17g-5 Site (as defined in Section 10.10(f)(i) of the Indenture), solely to the Rating Agencies and to nationally recognized statistical rating organizations who deliver a certification in form and substance satisfactory to the Information Agent, the items that are delivered by the Co-Issuers, the Trustee or the Portfolio Manager (or their respective representatives or advisors) to the Information Agent by electronic mail to the following address: 17g5informationprovider@usbank.com (or by any alternative electronic mail address following notice to the parties hereto of such alternative electronic mail address or any other delivery method established by the Information Agent if or as may be necessary or beneficial). The Information Agent shall post information to the 17g-5 Site on the same Business Day of receipt; provided that such information is received by 12:00 p.m. (Eastern time) or, if received after 12:00 p.m. (Eastern time), on the next Business Day. Any electronic mail message sent to the Information Agent with items for posting to the 17g-5 Site shall include "ACIS 2013-1" in the subject line of such electronic mail message and shall contain in the body of such electronic mail message an identification of the type of information being provided. Each e-mail sent to the Information Agent pursuant to this Agreement or the Indenture failing to be sent to the e-mail address specified above or failing to conform to the

foregoing requirements of this paragraph shall be deemed incomplete and the Information Agent shall have no obligations with respect thereto.

(c) The Information Agent's posting of information to the 17g-5 Site is ministerial in nature only, and the Information Agent shall have no obligation or duty to verify, confirm or otherwise determine whether any information being delivered for posting to the 17g-5 Site is accurate, complete, conforms to the terms of the Indenture or related transaction documents, conforms to the requirements of Rule 17g-5 of the Exchange Act or otherwise is or is not anything other than what it purports to be. In the event that any information is delivered or posted in error, the Information Agent may remove such information from the 17g-5 Site. The Collateral Administrator, the Trustee and the Information Agent have not obtained and shall not be deemed to have obtained actual knowledge of any information merely by posting such information to the 17g-5 Site to the extent such information was not produced by the Collateral Administrator, the Trustee or the Information Agent, as applicable.

(d) In connection with providing access to the 17g-5 Site, the Information Agent may require registration and the acceptance of a disclaimer. The Information Agent shall not be liable for the dissemination of information in accordance with the terms of this Agreement, makes no representations or warranties as to the accuracy or completeness of such information being made available, and assume no responsibility for such information, except to the extent such information is prepared by the Trustee or the Collateral Administrator pursuant to the term of this Agreement or the Indenture.

4. Compensation. The Issuer agrees to pay, and the Collateral Administrator shall be entitled to receive, as compensation for the Collateral Administrator's performance of the duties called for herein, including those of the Information Agent, the amounts set forth in the USB fee letter dated on June 19, 2012**.** The Issuer shall further reimburse the Collateral Administrator for all reasonable out-of-pocket expenses incurred in connection with the performance of its obligations hereunder. All payments hereunder shall be paid subject to and in accordance with Section 11.1(a) of the Indenture.

5. Limitation of Responsibility of the Collateral Administrator.

(a) The Collateral Administrator will have no responsibility under this Agreement other than to render the services called for hereunder in good faith and without willful misconduct or gross negligence in the performance of, or reckless disregard of, its duties hereunder. The Collateral Administrator shall incur no liability to anyone in acting upon any signature, instrument, statement, notice, resolution, request, direction, consent, order, certificate, report, opinion, bond or other document or paper reasonably believed by it to be genuine and reasonably believed by it to be signed by the proper party or parties. The Collateral Administrator may exercise any of its rights or powers hereunder or perform any of its duties hereunder either directly or by or through agents or attorneys, and the Collateral Administrator shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed hereunder with due care by it. Neither the Collateral Administrator nor any of its affiliates, directors, officers, shareholders, agents or employees shall be liable to the Portfolio Manager, the Issuer or others, except by reason of acts or omissions constituting bad faith, willful misconduct or gross negligence in the performance of, or reckless disregard of the

Collateral Administrator's duties hereunder. The Issuer will reimburse, indemnify and hold harmless the Collateral Administrator, and its affiliates, directors, officers, shareholders, agents, members and employees with respect to all expenses, losses, damages, liabilities, demands, charges and claims of any nature (including the reasonable fees and expenses of counsel and other experts) in respect of or arising from any acts or omissions performed or omitted by the Collateral Administrator, its affiliates, directors, officers, shareholders, agents, members or employees hereunder in good faith and without willful misconduct or gross negligence in the performance of, or reckless disregard of the Collateral Administrator' duties hereunder. Such indemnification will be paid subject to and in accordance with Section 11.1 of the Indenture.

(b) The Collateral Administrator shall reimburse, indemnify and hold harmless the Issuer and its respective affiliates, directors, managers, officers, shareholders, agents, members and employees with respect to all expenses, losses, damages, liabilities, demands, charges and claims of any nature (including the reasonable fees and expenses of counsel) to the extent arising out of any acts or omissions performed or omitted by the Portfolio Manager or any employees, agents or subcontractors thereof, in bad faith or constituting willful misconduct, gross negligence in the performance of, or reckless disregard of the Collateral Administrator's duties hereunder.

(c) Anything in this Agreement notwithstanding, in no event shall the Collateral Administrator be liable for special, punitive indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Collateral Administrator has been advised of such loss or damage and regardless of the form of action.

(d) Nothing herein shall in any way constitute a waiver or limitation of any rights which the Issuer may have under any U.S. federal or state securities laws.

6. No Joint Venture. Nothing contained in this Agreement (a) shall constitute the Collateral Administrator, the Issuer and the Portfolio Manager as members of any partnership, joint venture, association, syndicate, unincorporated business or other separate entity, (b) shall be construed to impose any liability as such on any of them or (c) shall be deemed to confer on any of them any express, implied or apparent authority to incur any obligation or liability on behalf of any other.

7. Term. This Agreement shall continue in effect so long as the Indenture remains in effect with respect to the Notes, unless this Agreement has been previously terminated in accordance with Section 7 hereof; provided that the Collateral Administrator and the Portfolio Manager shall be released from their respective obligations hereunder upon such party's ceasing to act as Collateral Administrator or Portfolio Manager, as applicable. Notwithstanding the foregoing, the indemnification obligations of the Issuer and Collateral Administrator under Section 5 hereof shall survive the termination of this Agreement, the resignation or removal of the Collateral Administrator or the release of any party hereto with respect to matters, in the case of the indemnification obligations of the Collateral Administrator, occurring prior to such termination, resignation, removal or release.

8. Termination.

(a) This Agreement may be terminated without cause by any party hereto upon not less than 30 days' prior written notice to each other party hereto.

(b) If at any time prior to payment in full of the Notes, USB shall resign or be removed as Trustee under Section 16.9 of the Indenture, such resignation or removal shall be deemed a resignation or removal of the Collateral Administrator hereunder (without any requirement for notice pursuant to Section 7(e) hereof).

(c) At the option of the Portfolio Manager or the Issuer, this Agreement shall be terminated upon ten days' written notice of termination from the Portfolio Manager or the Issuer to the Collateral Administrator and the Issuer or the Portfolio Manager, as applicable, if any of the following events shall occur:

(i) The Collateral Administrator shall default in the performance of any of its material duties under this Agreement and shall not cure such default within twenty days of receipt of written notice thereof (or, if such default cannot be cured in such time, shall not give within twenty days such assurance of the cure of such default as shall be reasonably satisfactory to the Portfolio Manager and the Issuer);

(ii) The Collateral Administrator is dissolved (other than pursuant to a consolidation, amalgamation or merger) or has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

(iii) A court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Collateral Administrator in any involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appoint a receiver, conservator, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Collateral Administrator or for any substantial part of its property, or order the winding-up or liquidation of its affairs; or

(iv) The Collateral Administrator shall commence a voluntary case under applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, conservator, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Collateral Administrator or for any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due.

If any of the events specified in clauses (ii), (iii) or (iv) of subsection (c) of this Section 7 shall occur, the Collateral Administrator shall give written notice thereof to the Portfolio Manager and the Issuer within five Business Days after the happening of such event.

(d) Except when the Collateral Administrator shall be removed pursuant to subsection (c) of this Section 7 or shall resign pursuant to subsection (e) of this Section 7, no removal or resignation of the Collateral Administrator shall be effective until the date as of which a successor collateral administrator reasonably acceptable to the Portfolio Manager and

the Issuer shall have agreed in writing to assume all of the Collateral Administrator's duties and obligations pursuant to this Agreement and shall have executed and delivered an agreement in form and content reasonably satisfactory to the Issuer and the Portfolio Manager.

(e) Notwithstanding the foregoing, the Collateral Administrator may resign its duties hereunder without any requirement that a successor collateral administrator be obligated hereunder and without any liability for further performance of any duties hereunder upon at least 30 days' prior written notice to the Portfolio Manager and the Issuer of termination upon the occurrence of any of the following events and the failure to cure such event within such 30 day notice period: (i) failure of the Issuer to pay any of the amounts specified in Section 3 hereof within 30 days after such amount is due pursuant to Section 3 hereof to the extent that amounts thereof are available therefor under Section 11.1(a) of the Indenture or (ii) failure of the Issuer to provide any indemnity payment or expense reimbursement payable to the Collateral Administrator hereunder within 30 days of the receipt by the Issuer of a written request for such payment or reimbursement.

(f) Subject to Section 7(d), at any time that the Collateral Administrator is the same institution as the Trustee, the Collateral Administrator hereby agrees that upon the appointment of a successor trustee pursuant to Section 6.9 of the Indenture, the Collateral Administrator shall immediately resign and such successor Trustee shall automatically become the Collateral Administrator under this Agreement. Any such successor Trustee shall be required to agree to assume the duties of the Collateral Administrator under the terms and conditions of this Agreement in its acceptance of appointment as successor Trustee.

(g) Promptly upon the effective date of termination of this Agreement pursuant to Section 6 or resignation or removal of the Collateral Administration pursuant to Section 7, the Collateral Administrator shall forthwith deliver to, or as directed by, the Issuer all property and documents of or relating to the Assets then in the custody of the Collateral Administrator, and the Collateral Administrator shall cooperate with the Issuer and any successor Collateral Administrator in making an orderly transfer of the duties of the Collateral Administrator.

9. Representations and Warranties.

(a) The Issuer hereby represents and warrants to the Collateral Administrator and the Portfolio Manager as follows:

(i) The Issuer has been duly registered and is validly existing and in good standing under the laws of the Cayman Islands. The Issuer has the full power and authority to execute, deliver and perform this Agreement and all obligations required hereunder and has taken all necessary action to authorize this Agreement on the terms and conditions hereof on behalf of itself and for the Issuer, the execution, delivery and performance of this Agreement and the performance of all obligations imposed upon the Issuer hereunder. No consent of any other Person including, without limitation, limited partners and creditors of the Issuer, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by the Issuer in connection with this Agreement or the

execution, delivery, performance, validity or enforceability of this Agreement and the obligations imposed upon the Issuer hereunder, with respect to which the failure to obtain or make the same would materially adversely effect the Issuer's ability to perform its obligations under this Agreement, other than those which have been obtained or made. This Agreement constitutes the legally valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms subject, as to enforcement, (A) to the effect of bankruptcy, insolvency or similar laws affecting generally the enforcement of creditors' rights as such laws would apply in the event of any bankruptcy, receivership, insolvency or similar event applicable to the Issuer and (B) to general equitable principles (whether enforceability of such principles is considered in a proceeding at law or in equity).

(ii) The execution, delivery and performance of this Agreement will not violate any provision of any existing law or regulation binding on the Issuer, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Issuer, or the governing instruments of, or any securities issued by, the Issuer or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Issuer is a party or by which the Issuer or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer and will not result in, or require, the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking.

(b) The Portfolio Manager hereby represents and warrants to the Collateral Administrator and the Issuer as follows:

(i) The Portfolio Manager has been duly organized and is validly existing and in good standing under the laws of the State of Delaware and has the full power and authority to execute, deliver and perform this Agreement and all obligations required hereunder and has taken all necessary action to authorize this Agreement on the terms and conditions hereof, the execution, delivery and performance of this Agreement and the performance of all obligations imposed upon it hereunder. No consent of any other Person including, without limitation, partners, managers and creditors of the Portfolio Manager, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by the Portfolio Manager in connection with this Agreement or the execution, delivery, performance, validity or enforceability of this Agreement and the obligations imposed upon the Portfolio Manager hereunder, with respect to which the failure to obtain or make the same would materially adversely effect the Portfolio Manager's ability to perform its obligations under this Agreement, other than those which have been obtained or made. This Agreement constitutes, and each instrument and document required hereunder when executed and delivered by the Portfolio Manager hereunder, will constitute the legally valid and binding obligation of the Portfolio Manager enforceable against the Portfolio Manager in accordance with its terms subject, as to enforcement, (A) to the effect of bankruptcy, insolvency or similar laws affecting generally the enforcement of creditors' rights as such laws would apply in the event of

any bankruptcy, receivership, insolvency or similar event applicable to the Portfolio Manager and (B) to general equitable principles (whether enforceability of such principles is considered in a proceeding at law or in equity).

(ii) The execution, delivery and performance of this Agreement and the documents and instruments required hereunder by the Portfolio Manager will not violate any provision of any existing law or regulation binding on the Portfolio Manager, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Portfolio Manager, or the governing instruments of, or any securities issued by, the Portfolio Manager or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Portfolio Manager is a party or by which the Portfolio Manager or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager and will not result in, or require, the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking.

(c) The Collateral Administrator hereby represents and warrants to the Portfolio Manager and the Issuer as follows:

(i) The Collateral Administrator is a national banking association with trust powers duly organized and validly existing under the laws of the United States of America and has the full corporate power and authority to execute, deliver and perform this Agreement and all its obligations required hereunder and has taken all necessary action to authorize this Agreement on the terms and conditions hereof, the execution, delivery and performance of this Agreement and all its obligations required hereunder. No consent, approval, authorization or other action by or filing with any United States federal agency or other governmental body under any United States federal regulation or law, having jurisdiction over the banking or trust powers of USB, is required by the Collateral Administrator in connection with this Agreement or the execution, delivery, performance, validity or enforceability of this Agreement and the obligations imposed upon it hereunder with respect to which the failure to obtain or make the same would materially adversely effect the Collateral Administrator's ability to perform its obligations under this Agreement. This Agreement constitutes, and each instrument and document required hereunder, when executed and delivered by the Collateral Administrator hereunder will constitute the legally valid and binding obligation of the Collateral Administrator enforceable against the Collateral Administrator in accordance with its terms subject, as to enforcement, (A) to the effect of bankruptcy, insolvency, reorganization, moratorium, liquidation or other similar laws affecting generally the enforcement of creditors' rights as such laws would apply in the event of any bankruptcy, receivership, insolvency, reorganization, moratorium, liquidation or other similar event applicable to the Collateral Administrator and (B) to general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing (whether enforceability of such principles is considered in a proceeding at law or in equity).

(ii) The execution, delivery and performance by the Collateral Administrator of this Agreement and the documents and instruments required hereunder will not violate any provision of any existing law or regulation binding on the Collateral Administrator, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Collateral Administrator, or the certificate or articles of association or incorporation or by-laws of the Collateral Administrator or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Collateral Administrator is a party or by which the Collateral Administrator or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Collateral Administrator and will not result in, or require, the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking.

10. Amendments. This Agreement may not be amended, changed, modified or terminated (except as otherwise expressly provided herein) except by the Portfolio Manager, the Issuer and the Collateral Administrator in writing. Promptly after the execution of any amendment hereto, the Issuer shall deliver a notice thereof to the Rating Agencies as required under the Indenture.

11. Waiver. No failure on the part of any party hereto to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

12. Governing Law. **THIS AGREEMENT AND ALL DISPUTES ARISING HEREFROM OR RELATING HERETO (WHETHER IN CONTRACT, TORT OR OTHERWISE) SHALL BE GOVERNED BY AND CONSTRUED IN CONFORMITY WITH THE LAWS OF THE STATE OF NEW YORK WITH RESPECT TO AGREEMENTS MADE AND TO BE PERFORMED THEREIN WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF THAT COULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.**

13. Notices. Except as otherwise provided herein, the Collateral Administrator agrees to accept and act upon instructions or directions pursuant to this Agreement sent by e-mail, facsimile transmission or other similar electronic methods; provided, however, that the Issuer and the Portfolio Manager shall provide to the Collateral Administrator an incumbency certificate listing persons designated to provide such instructions or directions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the Issuer or the Portfolio Manager elects to give the Collateral Administrator e-mail or facsimile instructions (or instructions by a similar electronic method) and the Collateral Administrator in its discretion elects to act upon such instructions, the Collateral Administrator's reasonable understanding of such instructions shall be deemed controlling. The Collateral Administrator shall not be liable for any losses, costs or expenses arising directly or indirectly from the Collateral Administrator's reliance upon and compliance with such instructions

notwithstanding such instructions conflicting with or being inconsistent with a subsequent written instruction. Each of the Issuer and the Portfolio Manager agree to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Collateral Administrator, including without limitation the risk of the Collateral Administrator acting in good faith on unauthorized instructions, and the risk of interception and misuse by third parties. Any notice, instruction or other instrument required or permitted to be given hereunder may be delivered in person to the offices of the parties as set forth herein during normal business hours, or delivered prepaid registered mail or by telex, electronic mail, cable or facsimile to the parties at the following addresses or such other address as may be notified by either party from time to time. All notices, requests, directions and other communications permitted or required hereunder shall be in writing and shall be deemed to have been duly given when received.

If to the Collateral Administrator, to:

U.S. Bank National Association
190 South LaSalle Street, 10th Floor
Chicago, Illinois 60603
Attention: Corporate Trust Services – ACIS CLO 2013-1
Telecopy: (312) 332-8030
E-mail: acis.clo.2013.01@usbank.com

If to the Issuer, to:

Acis CLO 2013-1 Ltd.
c/o Appleby Trust (Cayman) Ltd.
Clifton House
75 Fort Street, P.O. Box 1350
Grand Cayman, KY1-1108
Cayman Islands
Attn.: The Directors
Telephone: (345) 949-4900
Telecopy: (345) 949-4901
Email: atclsf@applebyglobal.com

If to the Portfolio Manager, to:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, Texas 75201
Attn.: Portfolio Management – Acis CLO 2013-1
Telephone: (972) 628-4100
Telecopy: (972) 628-4147
Email: jterry@hcmlp.com; hcovitz@hcmlp.com

14. Successors and Assigns; Assignments. Any corporation or association into which the Collateral Administrator may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Collateral Administrator shall be a party, or any corporation or association to which all or substantially all of the corporate trust business of the Collateral Administrator may be sold or otherwise transferred, shall be the successor Collateral Administrator hereunder without any further act. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of each of the Portfolio Manager, the Issuer, and the Collateral Administrator. No party hereto may assign or delegate any of its rights or obligations under this Agreement (whether by way of security or otherwise) without the prior written consent of the other parties hereto; provided (a) that the Issuer may grant a lien on its rights hereunder as provided in the Indenture and the Collateral Administrator and the Portfolio Manager hereby acknowledge and consent to the creation of such lien, (b) the Collateral Administrator may, in accordance with Section 4(a) hereunder, delegate to, employ as agent, or otherwise cause any duty or obligation hereunder to be performed by, an agent without the prior written consent of the Portfolio Manager and the Issuer, provided that, except as otherwise provided herein, the Collateral Administrator shall remain directly liable to the Issuer and to the Portfolio Manager for the performance of its duties and the fulfillment of its obligations hereunder, and (c) the Portfolio Manager may delegate or assign its duties hereunder upon the same terms and conditions for delegation and assignment as are set forth in the Portfolio Management Agreement.

15. Counterparts. The parties hereto agree that the execution of this Agreement may be completed by the exchange of facsimile or PDF signature pages, with the exchange of originally executed copies to be completed as soon as reasonably possible thereafter. The parties hereto further agree that this Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

16. Conflict with the Indenture. If this Agreement shall require that any action be taken with respect to any matter and the Indenture shall require that a different action be taken with respect to such matter, and such actions shall be mutually exclusive, or if this Agreement should otherwise conflict with the Indenture, the Indenture shall govern.

17. Conditions Precedent. The rights and obligations of the parties to this Agreement shall become effective upon execution and delivery of (a) this Agreement, (b) the Portfolio Management Agreement, and (c) the Indenture.

18. Jurisdiction. The parties hereto hereby irrevocably submit to the non-exclusive jurisdiction of any New York State or Federal court sitting in the Borough of Manhattan in the City of New York in any Proceeding arising out of or relating to this Agreement, and the parties hereby irrevocably agree that all claims in respect of any such Proceeding may be heard and determined in any such New York State or Federal court. The parties hereby irrevocably waive, to the fullest extent that they may legally do so, the defense of an inconvenient forum to the maintenance of such Proceeding. The parties irrevocably consent to the service of process in any Proceeding by the mailing or delivery of copies of such process as set forth in Section 13 hereof. The parties agree that a final non-appealable judgment in any such

Proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

19. Survival. Notwithstanding any term herein to the contrary, all indemnifications set forth or provided for in this Agreement, together with Sections 3, 4 and 20 of this Agreement, shall survive the termination of this Agreement and the resignation or removal of the Collateral Administrator.

20. Waiver of Jury Trial Right. EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY (BUT NO OTHER JUDICIAL REMEDIES) IN RESPECT OF ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY.

21. Bankruptcy Non-Petition and Limited Recourse. Notwithstanding any other provision of this Agreement, (i) the Collateral Administrator and the Portfolio Manager may not, prior to the date which is one year (or the then applicable preference period) and one day after the payment in full of all the Notes, institute against, or join any other Person in instituting against the Issuer, any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under United States federal or state bankruptcy laws, or any similar laws, (ii) the Issuer's obligations hereunder will be solely the corporate obligations of the Issuer, and the Collateral Administrator and the Portfolio Manager will not have any recourse to any of the directors, officers, employees, members, managers, governors or Affiliates of the Issuer with respect to any claims, losses, damages, liabilities, indemnities or other obligations in connection with any transactions contemplated hereby and (iii) the obligations of the Issuer hereunder shall be limited to the net proceeds of the Assets (if any), and following realization of the Assets and its application in accordance with the Indenture, any outstanding obligations of the Issuer hereunder, and any claims in respect thereof, shall be extinguished and shall not thereafter revive. This paragraph shall survive the termination of this Agreement.

22. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Collateral Administration Agreement to be executed effective as of the day and year first above written.

ACIS CLO 2013-1 LTD., as Issuer

By: _____
Name: David Boyd
Title: Director

U.S. BANK NATIONAL ASSOCIATION, as Collateral Administrator

By: _____
Name: _____
Title: _____

ACIS CAPITAL MANAGEMENT, L.P., as Portfolio Manager

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have caused this Collateral Administration Agreement to be executed effective as of the day and year first above written.

ACIS CLO 2013-1 LTD., as Issuer

By: _____
Name: _____
Title: _____

U.S. BANK NATIONAL ASSOCIATION, as Collateral Administrator

By: _____
Name: LOUIS J. MARCUCCI
Title: ASSISTANT VICE PRESIDENT

ACIS CAPITAL MANAGEMENT, L.P., as Portfolio Manager

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have caused this Collateral Administration Agreement to be executed effective as of the day and year first above written.

ACIS CLO 2013-1 LTD., as Issuer

By: _____
Name: _____
Title: _____

U.S. BANK NATIONAL ASSOCIATION, as Collateral Administrator

By: _____
Name: _____
Title: _____

ACIS CAPITAL MANAGEMENT, L.P., as Portfolio Manager

By: _____
Name: _____
Title: _____

EXHIBIT 31

EXHIBIT C

CLO 2014-3 INDENTURE

EXECUTION VERSION

DATED AS OF FEBRUARY 25, 2014

ACIS CLO 2014-3 LTD.
ISSUER

ACIS CLO 2014-3 LLC
CO-ISSUER

U.S. BANK NATIONAL ASSOCIATION,
TRUSTEE

INDENTURE

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A13 Form of Certificated Class A-X Note
A14 Form of Certificated Class B Note
A15 Form of Certificated Class C Note
A16 Form of Certificated Class D Note
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Exhibit B Forms of Transfer and Exchange Certificates

B1 Form of Transferor Certificate for Transfer of Rule 144A Global Note or Certificated Note to Regulation S Global Note
B2 Form of Purchaser Representation Letter for Certificated Secured Notes
B3 Form of Transferor Certificate for Transfer of Regulation S Global Note or Certificated Note to Rule 144A Global Note
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Exhibit H Form of Note Owner Certificate

Exhibit I Form of Confirmation of Registration

INDENTURE, dated as of February 25, 2014, among ACIS CLO 2014-3 Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands (the "Issuer"), ACIS CLO 2014-3 LLC, a limited liability company formed under the laws of the State of Delaware (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers"), and U.S. Bank National Association, as trustee (herein, together with its permitted successors and assigns in the trusts hereunder, the "Trustee").

PRELIMINARY STATEMENT

The Co-Issuers are duly authorized to execute and deliver this Indenture to provide for the Notes issuable as provided in this Indenture. Except as otherwise provided herein, all covenants and agreements made by the Co-Issuers herein are for the benefit and security of the Secured Parties. The Co-Issuers are entering into this Indenture, and the Trustee is accepting the trusts created hereby, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

All things necessary to make this Indenture a valid agreement of the Co-Issuers in accordance with the agreement's terms have been done.

GRANTING CLAUSES

The Issuer hereby Grants to the Trustee, for the benefit and security of the Holders of the Secured Notes, the Trustee, the Portfolio Manager and the Collateral Administrator (collectively, the "Secured Parties"), all of its right, title and interest in, to and under, in each case, whether now owned or existing, or hereafter acquired or arising, (a) the Collateral Obligations (listed, as of the Closing Date, in Schedule 1 to this Indenture) which the Issuer causes to be delivered to the Trustee (directly or through an intermediary or bailee) herewith and all payments thereon or with respect thereto and all Collateral Obligations that are delivered to the Trustee in the future pursuant to the terms hereof and all payments thereon or with respect thereto, (b) each of the Accounts, and any Eligible Investments purchased with funds on deposit in any of the Accounts, and all income from the investment of funds therein, (c) the equity interest in any Tax Subsidiary and all payments and rights thereunder, (d) the Portfolio Management Agreement as set forth in Article 15 and the Collateral Administration Agreement, (e) all Cash or Money delivered to the Trustee (or its bailee) for the benefit of the Secured Parties, (f) all accounts, chattel paper, deposit accounts, financial assets, general intangibles, instruments, investment property, goods, letter-of-credit rights and other supporting obligations relating to the foregoing (in each case as defined in the UCC), (g) any other property otherwise delivered to the Trustee by or on behalf of the Issuer (whether or not constituting Collateral Obligations or Eligible Investments) and (h) all proceeds with respect to the foregoing; *provided* that such Grants shall not include the U.S.$250 transaction fee paid to the Issuer in consideration of the issuance of the Secured Notes and Subordinated Notes, the funds attributable to the issuance and allotment of the Issuer's ordinary shares or the bank account in the Cayman Islands in which such funds are deposited (or any interest thereon) (collectively, the "Excepted Property") (the assets referred to in (a) through (h), excluding the Excepted Property, are collectively referred to as the "Assets").

The above Grant is made in trust to secure the Secured Obligations as provided for herein. Except as set forth in the Priority of Payments and Article 13 of this Indenture, the

provided that, for purposes of the determination of the S&P Rating, (x) if the applicable rating assigned by S&P to an obligor or its obligations is on "credit watch positive" by S&P, such rating will be treated as being one sub-category above such assigned rating and (y) if the applicable rating assigned by S&P to an obligor or its obligations is on "credit watch negative" by S&P, such rating will be treated as being one sub-category below such assigned rating.

The Portfolio Manager shall use commercially reasonable efforts to provide to S&P all available Information for any Collateral Obligation with an S&P Rating determined pursuant to clause (iii)(c) of this definition, prior to or within thirty (30) days after the acquisition of such Collateral Obligation.

"S&P Rating Condition": With respect to any action taken or to be taken by or on behalf of the Issuer, a condition that is satisfied if S&P has specifically confirmed in writing, including by electronic messages, facsimile, press release, posting to its internet website, or other means deemed acceptable by S&P, to the Issuer, the Trustee and the Portfolio Manager that no immediate withdrawal or reduction with respect to its then current rating of any Class of Secured Notes will occur as a result of such action; *provided* that if S&P (a) makes a public announcement or informs the Issuer, the Portfolio Manager or the Trustee that (i) it believes the S&P Rating Condition is not required with respect to an action or (ii) its practice is to not give such confirmations, or (b) it no longer constitutes a Rating Agency under this Indenture, the S&P Rating Condition shall not apply.

"S&P Rating Confirmation Failure": The meaning specified in Section 7.17(e).

"S&P Recovery Amount": With respect to any Collateral Obligation, an amount equal to: (a) the applicable S&P Recovery Rate *multiplied by* (b) the Principal Balance of such Collateral Obligation.

"S&P Recovery Rate": With respect to any category of Collateral Obligation, the corresponding "S&P Recovery Rate" designated in accordance with the methodology specified in the definition of the term "Weighted Average S&P Recovery Rate".

"S&P Recovery Rating": With respect to a Collateral Obligation for which an S&P Recovery Rate is being determined, the "Recovery Rating" assigned by S&P to such Collateral Obligation based upon the following table:

Recovery Rating	Description of Recovery	Recovery Range (%)
1+	High expectation, full recovery	75-95
1	Very high recovery	65-95
2	Substantial recovery	50-85
3	Meaningful recovery	30-65
4	Average recovery	20-45
5	Modest recovery	5-25
6	Negligible recovery	2-10

IN WITNESS WHEREOF, we have set our hands as of the day and year first written above.

Executed as a Deed by:

ACIS CLO 2014-3 LTD.,
as Issuer

By _____
Name: Wendy Ebanks
Title: Director

In the presence of:

Witness: _____
Name: **Lasma Purs**
Occupation: corporate assistant
Title:

ACIS CLO 2014-3 LLC,
as Co-Issuer

By _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By _____
Name:
Title:

IN WITNESS WHEREOF, we have set our hands as of the day and year first written above.

Executed as a Deed by:

ACIS CLO 2014-3 LTD.,
as Issuer

By _____
Name:
Title:

In the presence of:

Witness: _____
Name:
Occupation:
Title:

ACIS CLO 2014-3 LLC,
as Co-Issuer

By _____
Name: Donald J. Puglisi
Title: Manager

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By _____
Name:
Title:

IN WITNESS WHEREOF, we have set our hands as of the day and year first written above.

Executed as a Deed by:

ACIS CLO 2014-3 LTD.,
as Issuer

By _____
Name:
Title:

In the presence of:

Witness: _____
Name:
Occupation:
Title:

ACIS CLO 2014-3 LLC,
as Co-Issuer

By _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By _____
Name: Louis Marucheau
Title: Vice President

EXHIBIT 32

EXHIBIT D

CLO 2014-3 PORTFOLIO MANAGEMENT AGREEMENT

EXECUTION VERSION

PORTFOLIO MANAGEMENT AGREEMENT

between

ACIS CLO 2014-3 LTD.

and

ACIS CAPITAL MANAGEMENT, L.P.

Dated as of February 25, 2014

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Portfolio Management Agreement

This Portfolio Management Agreement (this "Agreement"), dated as of February 25, 2014, is entered into by and between Acis CLO 2014-3 Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands, with its registered office located at P.O. Box 1093, Queensgate House, Grand Cayman, KY1-1102, Cayman Islands (together with successors and assigns permitted hereunder, the "Issuer"), and Acis Capital Management, L.P., with its principal offices located at 300 Crescent Court, Suite 700, Dallas, TX 75201, as portfolio manager (together with successors and assigns permitted hereunder, in such capacity, the "Portfolio Manager").

WITNESSETH:

WHEREAS, the Issuer intends to issue U.S.$205,000,000 Class A-1A Senior Secured Floating Rate Notes due 2026 (the "Class A-1A Notes"), U.S.$25,000,000 Class A-1F Senior Secured Fixed Rate Notes due 2026 (the "Class A-1F Notes"), U.S.$15,000,000 Class A-2A Senior Secured Floating Rate Notes due 2026 (the "Class A-2A Notes"), U.S.$2,000,000 Class A-2B Senior Secured Floating Rate Notes due 2026 (the "Class A-2B Notes"), U.S.$3,500,000 Class A-X Senior Secured Floating Rate Notes due 2026 (the "Class A-X Notes", and together with the Class A-1A Notes, the Class A-1F Notes, the Class A-2A Notes, and the Class A-2B Notes, collectively, the "Class A Notes"), U.S.$56,000,000 Class B Senior Secured Floating Rate Notes due 2026 (the "Class B Notes"), U.S.$29,000,000 Class C Secured Deferrable Floating Rate Notes due 2026 (the "Class C Notes"), U.S.$19,000,000 Class D Secured Deferrable Floating Rate Notes due 2026 (the "Class D Notes"), U.S.$17,500,000 Class E Secured Deferrable Floating Rate Notes due 2026 (the "Class E Notes"), U.S.$5,000,000 Class F Secured Deferrable Floating Rate Notes due 2026 (the "Class F Notes" and together with the Class A Notes, the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes and the Class F Notes, the "Secured Notes") and U.S.$39,750,000 Subordinated Notes due 2026 (the "Subordinated Notes" and, together with the Secured Notes, the "Notes") pursuant to an indenture dated as of February 25, 2014 (as amended, supplemented or modified from time to time, the "Indenture"), among the Issuer, Acis CLO 2014-3 LLC, as co-issuer of the Notes (the "Co-Issuer"), and U.S. Bank National Association, as trustee (together with any successor trustee permitted under the Indenture, the "Trustee");

WHEREAS, the Issuer intends to pledge certain Collateral Obligations, certain Eligible Investments (each, as defined in the Indenture) and certain other assets (all as set forth in the Indenture) (collectively, the "Assets") to the Trustee as security for the Secured Notes;

WHEREAS, the Issuer wishes to enter into this Agreement, pursuant to which the Portfolio Manager agrees to perform, on behalf of the Issuer, certain duties with respect to the Assets securing the Secured Notes in the manner and on the terms set forth herein and to provide such additional services as are consistent with the terms of this Agreement and the Indenture; and

WHEREAS, the Portfolio Manager has the capacity to provide the services required hereby and is prepared to perform such services upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, the parties hereto agree as follows:

1. Definitions.

Terms used herein and not defined below shall have the meanings set forth in the Indenture.

"Actions" shall have the meaning provided in Section 11(a).

"Advisers Act" means the Investment Advisers Act of 1940, as amended.

"Affiliate" means, with respect to a Person, (i) any other Person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such Person or (ii) any other Person who is a director, Officer, employee or general partner (a) of such Person, (b) of any subsidiary or parent company of such Person or (c) of any Person described in clause (i) above. For the purposes of this definition, control of a Person shall mean the power, direct or indirect, (x) to vote more than 50% of the securities having ordinary voting power for the election of directors of such Persons, or (y) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise. For purposes of this definition, the management of an account by one Person for the benefit of any other Person shall not constitute "control" of such other Person and no entity shall be deemed an Affiliate of the Issuer or the Co-Issuer solely because the Administrator or its Affiliates serve as administrator or share trustee for such entity.

"Affiliate Transaction" shall have the meaning set forth in Section 6(a).

"Agreement" shall mean this portfolio management agreement, as amended from time to time.

"Attorneys" shall have the meaning provided in Section 33.

"Board of Directors" shall mean the directors of the Issuer duly appointed pursuant to the Governing Instruments of the Issuer in accordance with Cayman Islands law or any subsequent directors who are duly appointed according to the Articles of Association.

"Confidential Information" shall have the meaning provided in Section 7.

"Expenses" shall have the meaning provided in Section 11(a).

"Fee Election" shall have the meaning provided in Section 9(b).

"Fee Election Notice" shall mean notice from the Portfolio Manager to the Trustee and Collateral Administrator delivered no later than the Determination Date related to the Payment Date on which a Fee Election will apply, that specifies (x) the Payment Dates on which the Fee Election will apply, (y) the specific percentage by which the Portfolio Manager is electing to reduce the Base Management Fee (and thus increase the Subordinated Management Fee), which will not be greater than the entire Base Management Fee and (z) that the Fee Election is not revocable with respect to such Payment Date unless Acis Capital Management, L.P. is no longer the Portfolio Manager.

"Force Majeure Event" shall have the meaning assigned to such term in Section 11(m).

"Governing Instruments" shall mean the memorandum, articles or certificate of incorporation or association and by-laws, if applicable, in the case of a corporation, the partnership agreement, in the case of a partnership, or the limited liability company agreement, in the case of a limited liability company.

"Indemnified Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Indemnifying Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Independent Review Party" shall have the meaning set forth in Section 6(b).

"Issuer Documents" shall have the meaning provided in Section 17(a)(i).

"Liabilities" shall have the meaning provided in Section 11(a).

"Manager Documents" shall have the meaning provided in Section 17(b).

"Manager Related Party" means each of the Portfolio Manager, its Affiliates and their respective shareholders, partners, members, managers, directors, officers, trustees, incorporators, employees, representatives and agents.

"OFAC" shall have the meaning provided in Section 17(a)(x).

"OFAC Programs" shall have the meaning provided in Section 17(a)(x).

"Offer" shall mean, with respect to any security, (i) any offer by the obligor or issuer of such security or by any other Person made to all of the holders of such security to purchase or otherwise acquire such security (other than pursuant to any redemption in accordance with the terms of the related Underlying Instruments) or to convert or exchange such security into or for cash, securities or any other type of consideration or (ii) any solicitation by the obligor or issuer of such security or any other Person to amend, modify or waive any provision of such security or any related Underlying Instrument.

"Offering Circular" shall have the meaning provided in Section 11(a).

"Trading Restrictions" shall mean the Trading Restrictions set forth in Schedule 1.

"Person" means any individual, partnership, corporation, limited liability company, trust or other entity.

"Related Entities" shall mean, with respect to the Portfolio Manager, its clients, its partners, its members, funds or other investment accounts managed by it or any of its Affiliates, or their employees and their Affiliates.

"Responsible Officer" shall mean any officer, authorized person or employee of the Portfolio Manager set forth on the list provided by the Portfolio Manager to the Issuer and the Trustee which list shall include any portfolio manager having day-to-day responsibility for the performance of the Portfolio Manager under the Portfolio Management Agreement, as such list may be amended from time to time.

"Section 28(e)" shall have the meaning provided in Section 4(a).

"Service Agreements" shall mean, collectively, the Sub-Advisory Agreement and the Shared Services Agreement.

"Shared Services Agreement" shall mean that certain Shared Services Agreement dated January 1, 2011 between the Portfolio Manager and Highland Capital Management, L.P. (as amended, supplemented or modified from time to time).

"Sub-Advisory Agreement" shall mean that certain Sub-Advisory Agreement dated May 5, 2011 between the Portfolio Manager and Highland Capital Management, L.P. (as amended, supplemented or modified from time to time).

"Tax Advice" shall mean written advice from Dechert LLP or an opinion of other tax counsel of nationally recognized standing in the United States experienced in transactions of the type being addressed that (i) is based on knowledge by the person giving the advice of all relevant facts and circumstances of the Issuer and transaction (which are described in the advice or opinion, as applicable, or in a written description referred to in the advice or opinion, as applicable, which may be provided by the Issuer or Portfolio Manager), and (ii) is intended by the person rendering the advice to be relied upon by the Issuer in determining whether to enter into the transaction.

2. Engagement.

Commencing on the date hereof, the Issuer hereby engages and retains the Portfolio Manager to provide the investment advisory and related services described below, for the period and on the terms and conditions set forth herein. The Portfolio Manager hereby accepts such engagement and agrees, for the period and on the terms and conditions set forth herein, to provide, or to make satisfactory arrangements for the provision of, the investment advisory and related services described below, for the period and on the terms and conditions set forth herein.

3. General Duties of the Portfolio Manager.

The Portfolio Manager shall provide services to the Issuer as follows:

(a) Subject to and in accordance with the terms of the Indenture and this Agreement, the Portfolio Manager agrees to supervise and direct the investment and reinvestment of the Assets, and shall perform on behalf of the Issuer the duties that have been specifically delegated to the Portfolio Manager in this Agreement and in the Indenture (and the Portfolio Manager shall have no obligation to perform any other duties under this Agreement and the Indenture) and, to the extent necessary or appropriate to perform such duties, the Portfolio Manager shall have the power to execute and deliver all necessary and appropriate documents and instruments, and to take all other actions, on behalf of the Issuer with respect thereto, it being understood that the Portfolio Manager shall have no obligation to perform duties to be performed by third parties not under the control of the Portfolio Manager or its Affiliates.

(b) The Portfolio Manager shall comply with all the terms and conditions of the Indenture affecting the duties and functions that have been delegated to it thereunder and hereunder and (without in any way limiting Section 11 of this Agreement) shall perform its obligations hereunder and thereunder in good faith and with reasonable care, using a degree of skill and attention no less than that which the Portfolio Manager (i) exercises with respect to comparable assets that it manages for itself and (ii) exercises with respect to comparable assets that it manages for others, and in a manner consistent with practices and procedures followed by institutional managers of national standing relating to assets of the nature and character of the Assets, except as expressly provided otherwise in this Agreement and/or the Indenture. To the extent not inconsistent with the foregoing, the Portfolio Manager shall follow its customary standards, policies and procedures in performing its duties under the Indenture and hereunder (including those duties of the Issuer under the Indenture which the Portfolio Manager has agreed hereunder to perform on the Issuer's behalf). The Portfolio Manager shall not be bound to follow any amendment to the Indenture, however, until it has received written notice thereof and until it has received a copy of the amendment from the Issuer or the Trustee; *provided* that with respect to any amendment to the Indenture which would (i) increase the duties or liabilities of the Portfolio Manager or adversely change the economic consequences to the Portfolio Manager, (ii) modify the restrictions on the purchases or sales of Collateral Obligations under Article 12 of the Indenture or the Investment Criteria, (iii) expand or restrict the Portfolio Manager's discretion or (iv) modify the restrictions on and procedures for resales and other transfers of Subordinated Notes, except as set forth in Section 8.1(a)(vi) of the Indenture, the Portfolio Manager shall not be bound thereby unless the Portfolio Manager shall have consented thereto in writing, such consent to not be unreasonably withheld or delayed. The Issuer agrees that it will not permit any such amendment to the Indenture to become effective unless the Portfolio Manager has been given prior written notice of such amendment and consented thereto in writing and that it will give prior written notice of any other amendment to the Indenture to the Portfolio Manager.

(c) The Portfolio Manager shall (i) determine consistent with the applicable provisions of the Indenture, when Principal Proceeds shall be applied to effect a Special Redemption of the Secured Notes, (ii) select all Collateral Obligations and Eligible Investments which shall be acquired by the Issuer and pledged to the Trustee pursuant to the Indenture and (iii) facilitate the acquisition, settlement and sale of Collateral Obligations by the Issuer. In providing services to the Issuer hereunder, the Portfolio Manager shall take into consideration the interests of the Holders as a whole. The Portfolio Manager shall have no obligation to perform any duties other than as expressly specified herein, or in the provisions of the Indenture applicable to the Portfolio Manager, and the Portfolio Manager shall be subject to no implicit obligations of any kind.

(d) Subject to any applicable terms of the Collateral Administration Agreement, the Portfolio Manager shall monitor the Assets, on behalf of the Issuer, on an ongoing basis and provide (or cause to be provided) to the Issuer all reports, schedules and other data reasonably available to the Portfolio Manager that the Issuer is required to prepare, deliver or furnish, or cause to be prepared, delivered or furnished, under the Indenture, in the form and containing all information required thereby and in sufficient time for the Issuer to review such required reports, schedules and data and to deliver them to the parties entitled thereto under the Indenture. The Portfolio Manager shall, on behalf of the Issuer, be responsible for obtaining to the extent practicable any information concerning whether a Collateral Obligation has become a Defaulted Obligation. Pursuant to the terms of the Collateral Administration Agreement, the Collateral Administrator is required to provide drafts of certain reports, schedules and calculations to the Portfolio Manager regarding the Collateral Obligations. The obligation of the Portfolio Manager to furnish such information is subject to the Portfolio Manager's timely receipt of necessary reports and the appropriate information from the Person responsible for the delivery of or preparation of such reports and such information (including without limitation, the Obligors of the Collateral Obligations, the Rating Agencies, the Trustee and the Collateral Administrator) and to any confidentiality restrictions with respect thereto. The Portfolio Manager shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing reasonably believed by it to be genuine and to have been signed or sent by a Person that the Portfolio Manager has no reason to believe is not duly authorized. The Portfolio Manager also may rely upon any statement made to it orally or by telephone and made by a Person the Portfolio Manager has no reason to believe is not duly authorized, and shall not incur any liability for relying thereon. The Portfolio Manager is entitled to rely on any other information furnished to it by third parties that it reasonably believes in good faith to be genuine.

(e) The Portfolio Manager may direct an Optional Redemption (including a Refinancing) under the Indenture on behalf of the Issuer.

(f) The Portfolio Manager may, in its sole discretion subject to and in accordance with the provisions of the Indenture and this Agreement, direct the Issuer and/or the Trustee to take the following actions with respect to a Collateral Obligation, Eligible Investment or other Asset:

(i) retain such Collateral Obligation, Eligible Investment or other Asset;

(ii) dispose of such Collateral Obligation, Eligible Investment or other Asset in the open market or otherwise;

(iii) acquire, as security for the Secured Notes in substitution for or in addition to any one or more Collateral Obligations or Eligible Investments included in the Assets, one or more additional Collateral Obligations or Eligible Investments;

(iv) if applicable, tender such Collateral Obligation, Eligible Investment or other Asset pursuant to an Offer;

(v) if applicable, consent to or refuse to consent to any proposed amendment, modification, restructuring, exchange or waiver pursuant to an Offer;

(vi) retain or dispose of any securities or other property (if other than cash) received pursuant to an Offer;

(vii) waive any default with respect to any Defaulted Obligation or other Asset;

(viii) vote to accelerate the maturity of any Defaulted Obligation or other Asset;

(ix) participate in a committee or group formed by creditors of an issuer or a borrower under a Collateral Obligation, Eligible Investment, Equity Security or asset held by any Tax Subsidiary;

(x) negotiate, modify or amend any loan for the Issuer as authorized by the Indenture in accordance with a Refinancing;

(xi) exercise any other rights or remedies with respect to a Collateral Obligation, Eligible Investment or other Asset as provided in the related Underlying Instruments or take any other action consistent with the terms of the Indenture; and

(xii) to make loans to Tax Subsidiaries.

(g) Notwithstanding anything to the contrary in this Agreement, none of the services performed by the Portfolio Manager shall result in or be construed as resulting in an obligation to perform any of the following:

(i) the Portfolio Manager acting repeatedly or continuously as an intermediary in securities for the Issuer;

(ii) the Portfolio Manager providing investment banking services to the Issuer; or

(iii) the Portfolio Manager having direct contact with, or actively soliciting or finding, outside investors to (x) invest in the Issuer or (y) make co-investments in securities of portfolio companies with the Issuer.

(h) The Portfolio Manager hereby agrees to the following:

(i) The Portfolio Manager agrees not to institute against the Issuer or the Co-Issuer any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings or other proceedings under U.S. federal or state bankruptcy or similar laws, or the similar laws of the Cayman Islands or other applicable jurisdiction until the payment in full of all Notes issued under the Indenture and the expiration of a period equal to one year and a day, or, if longer, the applicable preference period, following such payment. Nothing in this Section 3(h)(i) shall preclude, or be deemed to stop, the Portfolio Manager (i) from taking any action prior to the expiration of the aforementioned period in (A) any case or Proceeding voluntarily filed or commenced by the Issuer or the Co-Issuer or (B) any involuntary insolvency Proceeding filed or commenced by a Person other than the Portfolio Manager, or (ii) from commencing against the Issuer or the Co-Issuer or any of its properties any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceeding. The provisions of this Section 3(h)(i) shall survive termination of this Agreement.

(ii) The Portfolio Manager shall cause any purchase or sale of any Collateral Obligation to be conducted on arm's length terms or in the manner contemplated by Section 6, if applicable.

(iii) In providing services hereunder, the Portfolio Manager may employ third parties, including its Affiliates, to render advice (including investment advice), to provide services to arrange for trade execution and otherwise provide assistance to the Issuer, and to perform any of the Portfolio Manager's duties under this Agreement; *provided* that the Portfolio Manager shall not be relieved of any of its duties hereunder regardless of the performance of any services by third parties.

(i) From and after the occurrence and continuance of an Event of Default, the Portfolio Manager will continue to perform and be bound by the provisions of this Agreement and the Indenture. Subject to the terms and conditions of the Indenture, the Trustee will be entitled to rely and be protected in relying upon all actions and omissions to act of the Portfolio Manager thereafter as fully as if no Event of Default had occurred.

4. Brokerage.

(a) The Portfolio Manager will seek to obtain the best execution (but shall have no obligation to obtain the best prices and execution) for all orders placed with respect to the Assets, in a manner permitted by law and in a manner it believes to be in the best interests of the Issuer. Subject to the preceding sentence, the Portfolio Manager may, in the allocation of business, select brokers and/or dealers with whom to effect trades on behalf of the Issuer and may open cash trading accounts with such brokers and dealers (provided that none of the Assets may be credited to, held in or subject to the lien of the broker or dealer with respect to any such account). In addition, subject to the first sentence of this paragraph, the Portfolio Manager may, in the allocation of business, take into consideration research and other brokerage services furnished to the Portfolio Manager or its Affiliates by brokers and dealers which are not Affiliates of the Portfolio Manager; *provided* that the Portfolio Manager in good faith believes that the compensation for such services rendered by such brokers and dealers complies with the requirements of Section 28(e) of the Securities Exchange Act of 1934, as amended ("Section 28(e)"), or in the case of principal or fixed income transactions for which the "safe harbor" of Section 28(e) is not available, the amount of the spread charged is reasonable in relation to the value of the research and other brokerage services provided. Such services may be used by the Portfolio Manager or its Affiliates in connection with its other advisory activities or investment operations. The Portfolio Manager may aggregate sales and purchase orders of securities placed with respect to the Assets with similar orders being made simultaneously for other accounts managed by the Portfolio Manager or with accounts of the Affiliates of the Portfolio Manager, if in the Portfolio Manager's reasonable business judgment such aggregation shall result in an economic benefit to the Issuer, taking into consideration the advantageous selling or purchase price, brokerage commission or other expenses, as well as the availability of such securities on any other basis. In accounting for such aggregated order price, commissions and other expenses may be apportioned on a weighted average basis. When a transaction with respect to the Assets occurs as part of any aggregate sales or purchase orders, the objective of the Portfolio Manager shall be to allocate the executions among the accounts in an equitable manner the Portfolio Manager believes, in its reasonable business judgment, to be appropriate and in accordance with (x) its internal conflicts of interest and allocation policies and (y) any applicable requirements of the Advisers Act.

(b) The Issuer acknowledges and agrees that (i) the determination by the Portfolio Manager of any benefit to the Issuer will be subjective and will represent the Portfolio Manager's evaluation at the time that the Issuer will be benefited by relatively better purchase or sales prices, lower brokerage commissions, lower transaction costs and expenses and beneficial timing of transactions or any combination of any of these and/or other factors and (ii) the Portfolio Manager shall be fully protected with respect to any such determination to the extent the Portfolio Manager acts in accordance with Section 3(b).

(c) Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and (d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect client cross-transactions where the Portfolio Manager causes a

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transaction with respect to the Assets to be effected between the Issuer and another account advised by it or any of its Affiliates; *provided* that, if and to the extent required by the Advisers Act, such authorization is terminable prior to the initiation of such cross-transaction at the Issuer's option without penalty. Such termination shall be effective upon receipt by the Portfolio Manager of written notice from the Issuer. Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and (d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect transactions, including principal transactions, where the Issuer may invest in securities of obligors or issuers in which the Portfolio Manager and/or its Affiliates have a debt, equity or participation interest, in each case in accordance with applicable law.

(d) The Issuer acknowledges and agrees that the Portfolio Manager or any of its Affiliates may acquire or sell obligations or securities, for its own account or for the accounts of its customers, without either requiring or precluding the acquisition or sale of such obligations or securities for the account of the Issuer. Such investments may be the same or different from those made on behalf of the Issuer. If, in light of market conditions and investment objectives, the Portfolio Manager determines that it would be advisable to purchase the same item of Collateral Obligation both for the Issuer, and either the proprietary account of the Portfolio Manager or any Affiliate of the Portfolio Manager or another client of the Portfolio Manager, the Portfolio Manager shall allocate such investment opportunities across such entities for which such opportunities are appropriate, consistent with (i) its internal conflicts of interest and allocation policies and (ii) any applicable requirements of the Advisers Act. The Issuer agrees that, in the course of managing the Collateral Obligations held by the Issuer, the Portfolio Manager may consider its relationships with other clients (including obligors and issuers) and its Affiliates. The Portfolio Manager may decline to make a particular investment for the Issuer in view of such relationships.

5. Additional Activities of the Portfolio Manager.

(a) Nothing herein shall prevent the Portfolio Manager or any of its Related Entities from engaging in other businesses, or from rendering services of any kind to the Issuer and its Affiliates, the Trustee, the Holders, the Initial Purchaser or any other Person to the extent permitted by applicable law, regardless of whether such business is in competition with the Issuer or otherwise. Without limiting the generality of the foregoing, the Portfolio Manager, its Related Entities and the directors, officers, employees and agents of the Portfolio Manager and its Related Entities may, subject to any limits specified in the Indenture:

(i) serve as directors (whether supervisory or managing), officers, partners, employees, agents, nominees or signatories, and receive arm's length fees in connection with such service, for the Issuer or its Affiliates, or for any obligor or issuer in respect of the Collateral Obligations, Equity Securities or Eligible Investments or any affiliate thereof, to the extent permitted by their Governing Instruments, as from time to time amended, or by any resolutions duly adopted by the Issuer, its Affiliates or any obligor or issuer in respect of any of the Collateral Obligations, Eligible Investments or Equity Securities (or any

Affiliate thereof) pursuant to their respective Governing Instruments, and neither the Holders of the Notes nor the Issuer shall have the right to any such fees; *provided* that, in the reasonable business judgment of the Portfolio Manager, such activity will not have a material adverse effect on any item of the Assets;

(ii) receive fees or other compensation from third parties (including Persons in which the Issuer has made or proposes to make an investment) in connection with any business activities of the Portfolio Manager and its Affiliates and which are not related to the use of the Issuer's capital (which fees or other compensation shall be for the benefit of the Portfolio Manager's own account); *provided* that, in the reasonable business judgment of the Portfolio Manager, such activities will not have a material adverse effect on any item of the Assets; and

(iii) be a secured or unsecured creditor of, or hold an equity interest in, or own or hold notes issued by, the Issuer, its Affiliates or any obligor or issuer of any obligation included in the Assets, subject to the Portfolio Manager's obligations in Section 8 hereof.

As a result, such individuals may possess information relating to obligors and issuers of Collateral Obligations that is (a) not known to or (b) known but restricted as to its use by the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations of the Portfolio Manager under this Agreement. Each of such ownership and other relationships may result in securities laws restrictions on transactions in such securities by the Issuer and otherwise create conflicts of interest for the Issuer. The Issuer acknowledges and agrees that, in all such instances, the Portfolio Manager and its Affiliates may in their discretion make investment recommendations and decisions that may be the same as or different from those made with respect to the Issuer's investments and they have no duty, in making or managing such investments, to act in a way that is favorable to the Issuer.

The Issuer acknowledges that there are generally no ethical screens or information barriers among the Portfolio Manager and certain of its Affiliates of the type that many firms implement to separate Persons who make investment decisions from others who might possess material, non-public information that could influence such decisions. The officers or Affiliates of the Portfolio Manager may possess information relating to obligors or issuers of Collateral Obligations that is not known to the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations under this Agreement. As a result, the Portfolio Manager may from time to time come into possession of material nonpublic information that limits the ability of the Portfolio Manager to effect a transaction for the Issuer, and the Issuer's investments may be constrained as a consequence of the Portfolio Manager's inability to use such information for advisory purposes or otherwise to effect transactions that otherwise may have been initiated on behalf of its clients, including the Issuer.

(b) It is understood that the Portfolio Manager and any of its Affiliates may engage in any other business and furnish investment management and advisory

services to others, including Persons which may have investment policies similar to those followed by the Portfolio Manager with respect to the Assets and which may own securities or obligations of the same class, or which are of the same type, as the Collateral Obligations or the Eligible Investments or other securities or obligations of the obligors or issuers of the Collateral Obligations or the Eligible Investments. The Portfolio Manager will be free, in its sole discretion, to make recommendations to others or effect transactions on behalf of itself or for others, which may be the same as or different from those effected with respect to the Assets. Nothing in the Indenture and this Agreement shall prevent the Portfolio Manager or any of its Affiliates, acting either as principal or agent on behalf of others, from buying or selling, or from recommending to or directing any other account to buy or sell, at any time, securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those directed by the Portfolio Manager to be purchased or sold on behalf of the Issuer. It is understood that, to the extent permitted by applicable law, the Portfolio Manager, its Affiliates or Related Entities, or any of their directors, managers, officers, stockholders, members, partners, partnership committee members, employees, agents or affiliates or any member of their families or a Person or entity advised by the Portfolio Manager may have an interest in a particular transaction or in securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those whose purchase or sale the Portfolio Manager may direct hereunder.

(c) The Portfolio Manager shall not be obligated to pursue any particular investment strategy or opportunity with respect to the Assets.

(d) The Issuer acknowledges that the Portfolio Manager and its Affiliates may make and/or hold an investment in an obligor's or issuer's securities that may be pari passu, senior or junior in ranking to an investment in such obligor's or issuer's securities made and/or held by the Issuer or in which partners, security holders, members, officers, directors, agents or employees of the Portfolio Manager and its Affiliates serve on boards of directors or otherwise have ongoing relationships.

6. Conflicts of Interest.

(a) Subject to compliance with applicable laws and regulations and subject to this Agreement and the Indenture, the Portfolio Manager may direct the Trustee to acquire a Collateral Obligation from, or sell a Collateral Obligation, Equity Security, Eligible Investment or asset held by an Tax Subsidiary to, the Portfolio Manager, any of its Affiliates or any account or portfolio for which the Portfolio Manager or any of its Affiliates serve as investment advisor for fair market value. The Portfolio Manager may obtain the Issuer's written consent through the Independent Review Party as provided herein if any such transaction requires the consent of the Issuer under Section 206(3) of the Advisers Act (any such transaction, an "Affiliate Transaction"). The Issuer hereby acknowledges that the Portfolio Manager, its Affiliates or accounts advised or sub-advised by the Portfolio Manager or its Affiliates (collectively, the "Portfolio Manager Affiliates") will purchase on the Closing Date U.S$9,250,000 Aggregate Outstanding Amount of the Class A-1A Notes, U.S$12,000,000 Aggregate Outstanding Amount of the Class D Notes, U.S$10,000,000 Aggregate Outstanding Amount of the

Class E Notes, U.S$5,000,000 Aggregate Outstanding Amount of the Class F Notes and U.S.$39,750,000 Aggregate Outstanding Amount of the Subordinated Notes (together, the "Portfolio Manager Notes"). The Issuer further acknowledges and agrees that no Portfolio Manager Affiliate is under any obligation to retain any Portfolio Manager Notes, and may sell all or a portion of such Portfolio Manager Notes at any time. In addition, the Issuer acknowledges that the Portfolio Manager Affiliates may acquire and subsequently sell other Notes after the Closing Date. In certain circumstances, the interests of the Issuer and/or the Holders or beneficial owners of the Notes with respect to matters as to which the Portfolio Manager is advising the Issuer may conflict with the interests of the Portfolio Manager Affiliates or its Related Entities. The Issuer hereby acknowledges that various potential and actual conflicts of interest may exist with respect to the Portfolio Manager as described above and as described in the final offering circular relating to the Notes; *provided* that nothing in this Section 6 shall be construed as altering the duties of the Portfolio Manager referred to herein.

(b) At the written request of the Portfolio Manager, the Issuer shall establish a conflicts review board or appoint an independent third party to act on behalf of the Issuer (such board or party, an "Independent Review Party") with respect to Affiliate Transactions. Decisions of any Independent Review Party shall be binding on the Portfolio Manager, the Issuer, and Holders of the Notes.

(c) Any Independent Review Party (i) shall either (A) be the Issuer's Board of Directors, (B) be an established financial institution or other financial company with experience in assessing the merits of transactions similar to the Affiliate Transactions or (C) be a review board comprised of one or more individuals selected by the Issuer (or at the request of the Issuer, selected by the Portfolio Manager), (ii) shall be required to assess the merits of the Affiliate Transaction and either grant or withhold consent to such transaction in its sole judgment and (iii) shall not be (A) affiliated with the Portfolio Manager (other than as a Holder or as a passive investor in the Issuer or an Affiliate of the Issuer) or (B) (other than the Issuer's Board of Directors) involved in the daily management and control of the Issuer.

(d) The Issuer (i) shall be responsible for any fees relating to the services provided by any Independent Review Party and shall reimburse members of any Independent Review Party for their out-of-pocket expenses and (ii) may indemnify members of such Independent Review Party to the maximum extent permitted by law, subject to terms and conditions satisfactory to the Portfolio Manager.

7. Records; Confidentiality.

The Portfolio Manager shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Issuer, the Trustee, the Holders, and the Independent accountants appointed by the Portfolio Manager on behalf of the Issuer pursuant to Article 10 of the Indenture at any time during normal business hours and upon not less than three Business Days' prior notice. The Portfolio Manager shall keep confidential any and all information that is either (i) of a

type that would ordinarily be considered proprietary or confidential or (ii) designated as confidential (collectively "Confidential Information") obtained in connection with the services rendered hereunder and shall not disclose any such Confidential Information to non-affiliated third parties (excluding any Holders and beneficial owners of Notes to the extent required by the terms of the Indenture) except (a) with the prior written consent of the Issuer, (b) such Confidential Information as a Rating Agency shall reasonably request in connection with its rating of the Secured Notes or supplying credit estimates on any obligation included in the Assets, (c) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions with respect to the Assets on behalf of the Issuer, (d) as required by (i) applicable law, regulation, court order, or a request by a governmental regulatory agency with jurisdiction over the Portfolio Manager or any of its Affiliates, (ii) the rules or regulations of any stock exchange or self-regulating organization, body or official having jurisdiction over the Portfolio Manager or any of its Affiliates or (iii) the Irish Stock Exchange, (e) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (f) such Confidential Information as shall have been publicly available or disclosed other than in known violation of this Agreement or the provisions of the Indenture or shall have been obtained by the Portfolio Manager on a non-confidential basis, (g) such Confidential Information as is necessary or appropriate to disclose so that the Portfolio Manager may perform its duties hereunder, under the Indenture or the related documents or (h) general performance information which may be used by the Portfolio Manager or its Affiliates in connection with their marketing activities. Notwithstanding the foregoing, it is agreed that the Portfolio Manager may disclose (a) that it is serving as portfolio manager of the Issuer, (b) the nature, aggregate principal amount and overall performance of the Issuer's assets, (c) the amount of earnings on the Assets, (d) such other Confidential Information about the Issuer, the Assets and the Notes as is customarily disclosed by managers of collateralized loan obligations and (e) each of its respective employees, representatives or other agents may disclose to any and all Persons, without limitation of any kind, the United States federal income tax treatment and United States federal income tax structure of the transactions contemplated by the Indenture, this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them relating to such United States federal income tax treatment and United States income tax structure. For purposes of this Section 7, the Holders and beneficial owners of the Notes shall not be considered "non-affiliated third parties."

8. Obligations of Portfolio Manager.

In accordance with the performance standard set forth in Section 3(b), the Portfolio Manager shall use commercially reasonable efforts to ensure that no action is taken by it, and shall not intentionally or with reckless disregard take any action, which would (a) materially and adversely affect the status of the Issuer for purposes of Cayman Islands law, United States federal or state law, or other law known to the Portfolio Manager to be applicable to the Issuer, (b) not be permitted by the Issuer's Governing Instruments, (c) violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer, including, without limitation, actions which would violate any Cayman Islands law, United States federal, state or other applicable securities law that is known by the Portfolio Manager to be applicable to it and, in each case, the

violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer or have a material adverse effect on the ability of the Portfolio Manager to perform its obligations hereunder or under the Indenture, (d) require registration of the Issuer, the Co-Issuer or the pool of Assets as an "investment company" under Section 8 of the Investment Company Act, (e) cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise cause the Issuer to be subject to U.S. federal or state income tax on a net basis; *provided* that it shall not be a violation of this clause (e) for the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal or state income tax on a net basis as a result of an action taken either (i) in compliance with the Trading Restrictions attached hereto as Schedule 1 or (ii) in reliance upon Tax Advice to the effect that, under the relevant facts and circumstances with respect to such action, the Issuer's contemplated action would not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis; or (f) knowingly and willfully adversely affect the interests of the Holders in the Assets in any material respect (other than (i) as expressly permitted hereunder or under the Indenture or (ii) in connection with any action taken in the ordinary course of business of the Portfolio Manager in accordance with its fiduciary duties to its clients). In furtherance of the foregoing, the Portfolio Manager shall at all times comply with the Trading Restrictions set forth in Schedule 1; *provided* that the Portfolio Manager may take an action that is not permitted by such Trading Restrictions if (x) such action is otherwise permitted under this Agreement and the Indenture and (y) the Portfolio Manager has received Tax Advice to the effect that, under the relevant facts and circumstances with respect to such transaction, taking into account the Issuer's failure to comply with one or more of such provisions and assuming compliance with the Indenture and all other provisions of the Trading Restrictions, the Issuer's contemplated activities would not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to United States federal income tax on a net basis. If the Portfolio Manager is ordered by the Board of Directors of the Issuer or the requisite Holders or beneficial owners of Notes to take any action which would, or could reasonably be expected to, in each case in its reasonable business judgment, have any such consequences, the Portfolio Manager shall promptly notify the Issuer that such action would, or could reasonably be expected to, in each case in its reasonable business judgment, have one or more of the consequences set forth above and shall not take such action unless the Board of Directors of the Issuer then request the Portfolio Manager to do so and at least a Majority of both the Controlling Class and the Subordinated Notes (voting separately by Class) have consented thereto in writing. Notwithstanding any such request, the Portfolio Manager shall not take such action unless (1) arrangements satisfactory to it are made to insure or indemnify the Portfolio Manager, Affiliates of the Portfolio Manager and members, shareholders, partners, directors, managers, officers or employees of the Portfolio Manager or such Affiliates from any liability and expense it may incur as a result of such action and (2) if the Portfolio Manager so requests in respect of a question of law, the Issuer delivers to the Portfolio Manager an opinion of a nationally recognized law firm (from outside counsel

satisfactory to the Portfolio Manager) that the action so requested does not violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer or over the Portfolio Manager. Neither the Portfolio Manager nor its Affiliates, shareholders, partners, directors, members, managers, officers or employees shall be liable to the Issuer or any other Person, except as provided in Section 11. Notwithstanding anything contained in this Agreement to the contrary, any indemnification or insurance by the Issuer provided for in this Section 8 or Section 11 shall be payable out of the Assets in accordance with the Priority of Payments, and the Portfolio Manager may take into account such Priority of Payments in determining whether any proposed indemnity arrangements contemplated by this Section 8 are satisfactory.

9. Compensation.

(a) The Issuer shall pay to the Portfolio Manager, for services rendered under this Agreement, on each Payment Date, the Base Management Fee, the Subordinated Management Fee and the Incentive Management Fee. Accrued and unpaid Management Fees shall be paid as set forth in Article 11 of the Indenture. To the extent any of the Subordinated Management Fee is not paid on any Payment Date, such payment will be deferred and will accrue interest at LIBOR (as determined for the applicable Interest Accrual Period with respect to the Secured Notes), compounded quarterly, as set forth in the Indenture.

(b) The Portfolio Manager may (but shall not be obligated to), at its election upon notice to the Issuer and the Trustee (the "Fee Election Notice"), reduce for a predetermined period of time, as specified in the Fee Election Notice, the amount which is due to it as Base Management Fee by a specific percentage, in which case the Subordinated Management Fee shall automatically be increased by the same percentage (the "Fee Election"). Any Fee Election must be made on or before the Determination Date for the first Collection Period in respect of which the Fee Election will apply and shall not be revocable during the period of the Fee Election; except that, in the event that the Portfolio Manager is removed, resigns or assigns its rights to any Persons, as contemplated by Sections 13, 14 and 15 of this Agreement, the replacement Portfolio Manager shall be bound initially by the terms set forth under Section 9(a) and the Fee Election will not apply to such replacement Portfolio Manager.

(c) The Portfolio Manager shall pay (without reimbursement by the Issuer) its general overhead expenses, including (i) all costs and expenses on account of salaries, wages, bonuses and other employee benefits of the Portfolio Manager and (ii) all occupational expenses, including rent, taxes and utilities, of the Portfolio Manager. The Issuer shall pay or reimburse the Portfolio Manager (at closing in the case of clause (i) below) for its payment of any and all reasonable costs and expenses incurred on behalf of the Issuer, including, without limitation: (i) the costs and expenses of the Portfolio Manager incurred in connection with the negotiation and preparation of this Agreement and all other agreements and matters related to the issuance of the Notes; (ii) any transfer fees necessary to register any Collateral Obligation in accordance with the Indenture; (iii) any costs, fees and expenses in connection with the acquisition, management or

disposition of Assets or otherwise in connection with the Notes or the Issuer (including (a) investment related travel, communications and related expenses, (b) loan processing fees, legal fees and expenses and other expenses of professionals retained by the Portfolio Manager on behalf of the Issuer and (c) amounts in connection with the termination, cancellation or abandonment of a potential acquisition or disposition of any Assets that is not consummated); (iv) any and all costs and expenses incurred in connection with the carrying or management of the Assets; (v) any and all costs and expenses incurred in connection with the Notes and other indebtedness of the Issuer; (vi) any and all attorneys', accountants', rating agencies', consultants', brokers' and other professionals' fees and disbursements relating to Issuer matters (including in house attorneys' and accountants' services provided by or on behalf of the Portfolio Manager to the Issuer as may be reasonably allocated to the Issuer); (vii) any and all taxes and governmental charges that may be incurred or payable by the Issuer or any Tax Subsidiary; (viii) any and all insurance premiums or expenses incurred in connection with the activities of the Issuer by the Portfolio Manager; (ix) any and all costs, fees and expenses incurred in connection with the rating of the Notes or obtaining ratings or credit estimates on Collateral Obligations, and communications with the Rating Agencies (including (a) any expenses related to compliance with Rule 17g-5 of the Securities Exchange Act of 1934, as amended, and (b) any fees, expenses or other amounts payable to the Rating Agencies); (x) any and all costs, fees and expenses incurred in connection with the Portfolio Manager's communications with the Holders (including charges related to annual meetings) and costs and expenses for services to the Issuer in respect of the Assets relating to asset pricing and rating services and specialty database software licensing and development fees; (xi) any and all costs and expenses incurred by the Portfolio Manager in connection with the establishment of any Tax Subsidiary (*provided* that such costs and expenses are directly attributable to the establishment of such Tax Subsidiary), and (xii) any and all expenses incurred to comply with any law or regulation related to the activities of the Issuer, any Tax Subsidiary and the Portfolio Manager. Other than as stated above, the Issuer will bear, and will pay directly in accordance with the Indenture, all other costs and expenses incurred by it or on its behalf in connection with the organization, operation or liquidation of the Issuer.

(d) If this Agreement is terminated pursuant to Section 13, Section 15 or otherwise, the Base Management Fee, the Subordinated Management Fee and the Incentive Management Fee calculated as provided in the Indenture shall be prorated for any partial periods between Payment Dates during which this Agreement was in effect and shall be due and payable on the first Payment Date following the date of such termination, subject to Article 11 of the Indenture.

(e) Notwithstanding anything contained herein to the contrary, the obligations of the Issuer are limited recourse obligations payable solely from Assets granted to the Trustee pursuant to the Granting Clauses of the Indenture in accordance with the Priority of Payments and, following realization of the Assets and reduction thereof to zero, all obligations of the Issuer and any claims against the Issuer under this Agreement shall be extinguished and shall not thereafter revive. No recourse shall be had for the payment of any amount owing in respect of this Agreement against any other asset

of the Issuer or against any officer, director, employee, shareholder or incorporator of the Issuer. The provisions of this Section 9(e) shall survive termination of this Agreement.

10. Benefit of the Agreement.

The Portfolio Manager agrees that its obligations hereunder in accordance with the terms of this Agreement and the terms of the Indenture applicable to it shall be enforceable by the Issuer and by the Trustee on behalf of the Holders, as provided in the Indenture. The Portfolio Manager agrees and consents to the provisions contained in Section 15.1 of the Indenture.

11. Limits of Portfolio Manager Responsibility.

(a) Subject to Section 8, the Portfolio Manager assumes no responsibility under this Agreement other than to render the services called for hereunder and under the terms of the Indenture applicable to it and affecting the duties and functions that have been delegated to it thereunder and hereunder in good faith and, subject to the standard of conduct described in the next succeeding sentence. The Portfolio Manager shall not be responsible for any action or inaction of the Co-Issuers or the Trustee in declining to follow any advice, recommendation or direction of the Portfolio Manager including as set forth in Section 8. Neither the Portfolio Manager nor any of its directors, managers, officers, stockholders, members, partners, partnership committee members, personnel, employees, agents or Affiliates will be liable to the Co-Issuers, the Trustee, the Holders of the Notes, the Initial Purchaser or any other Person for any act, omission, error of judgment, mistake of law, or for any claim, loss, liability, damage, judgments, assessments, settlement, cost, or other expense (including attorneys' fees and expenses and court costs) arising out of any investment, or for any other act taken by or recommended by or omission arising out of or in connection with the performance by the Portfolio Manager, its directors, managers, officers, stockholders, members, personnel, partners, partnership committee members, employees, agents or Affiliates under this Agreement or the terms of the Indenture applicable to the Portfolio Manager, incurred as a result of actions taken or recommended or for any omissions of the Portfolio Manager, or for any decrease in the value of the Collateral Obligations, except that the Portfolio Manager shall be liable (i) by reason of acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance of its obligations hereunder or the terms of the Indenture applicable to the Portfolio Manager or, (ii) with respect to the information concerning the Portfolio Manager included in the Offering Circular dated February 21, 2014 (the "Offering Circular") under the headings "*Risk Factors—Relating to the Portfolio Manager*" and the sub-headings thereunder, "*Risk Factors—Relating to Certain Conflicts of Interest—The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager*," as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Portfolio Manager shall not be liable for any consequential, punitive, exemplary or treble damages or lost profits hereunder or under the Indenture. The Issuer (the Issuer in such case, the "Indemnifying

Party") shall indemnify and hold harmless the Portfolio Manager, its directors, managers, officers, stockholders, members, partners, partnership committee members, agents, personnel and employees and its Affiliates and their directors, managers, officers, stockholders, members, partners, partnership committee members, agents, personnel and employees (each, an "Indemnified Party") from and against any and all losses, claims, damages, judgments, assessments, costs or other liabilities (other than losses in the value of a Collateral Obligation or Eligible Investment incurred by the Portfolio Manager or any of its Affiliates in connection with a transaction in which it elects to acquire a Collateral Obligation or an Eligible Investment from the Issuer as principal) (collectively, "Liabilities"), and will promptly reimburse each such Indemnified Party for all reasonable fees and expenses (including reasonable fees and expenses of counsel) as such fees and expenses (collectively, the "Expenses") are incurred in investigating, preparing, pursuing or defending any claim, action, proceeding or investigation with respect to any pending or threatened litigation (collectively, the "Actions"), caused by, or arising out of or in connection with the Assets or business of the Issuer or any Tax Subsidiary or otherwise relating to the Indenture or this Agreement, and/or any action taken by, or any failure to act by, such Indemnified Party; *provided* that the Portfolio Manager shall not be indemnified for any Liabilities or Expenses (x) it incurs as a result of any acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance by the Portfolio Manager of its obligations hereunder or the terms of the Indenture applicable to the Portfolio Manager, or (y) it incurs with respect to the information concerning the Portfolio Manager included in the Offering Circular under the headings "*Risk Factors—Relating to the Portfolio Manager*" and the sub-headings thereunder, "*Risk Factors—Relating to Certain Conflicts of Interest—The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager*," as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Notwithstanding anything contained herein to the contrary, the obligations of the Issuer under this Section 11 are limited recourse obligations of the Issuer payable solely out of the Assets in accordance with the Priority of Payments. The Indemnified Parties are not required to consult with, or obtain the consent of, the Issuer with respect to any settlement, negotiation or other act of the Indemnified Parties in connection with any Action.

(b) The Portfolio Manager shall indemnify and hold harmless (the Portfolio Manager in such case, the "Indemnifying Party") the Issuer (the Issuer in such case, the "Indemnified Party") from and against any and all expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) arising directly out of any information described in Section 11(a)(ii) above, as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided* that the Portfolio Manager shall not be liable for any special, indirect, consequential, punitive, exemplary or treble damages or lost profits.

(c) The Indemnified Party shall promptly notify the Indemnifying Party if the Indemnified Party receives a complaint, claim, compulsory process or other notice of any losses or damages giving rise to a claim for indemnification under this Section 11, but failure so to notify the Indemnifying Party or to comply with paragraph (d) below shall not relieve such Indemnifying Party from its obligations under this Section 11 unless and to the extent that such Indemnifying Party did not otherwise learn of such action or proceeding and to the extent such failure results in the forfeiture by the Indemnifying Party of material rights and defenses.

(d) With respect to any claim made or threatened against an Indemnified Party, or compulsory process or request served upon such Indemnified Party for which such Indemnified Party is or may be entitled to indemnification under this Section 11, such Indemnified Party shall:

(i) at the Indemnifying Party's expense, provide the Indemnifying Party such information and cooperation with respect to such claim as the Indemnifying Party may reasonably require, including, but not limited to, making appropriate personnel available to the Indemnifying Party at such reasonable times as the Indemnifying Party may request;

(ii) at the Indemnifying Party's expense, cooperate and take all such steps as the Indemnifying Party may reasonably request to preserve and protect any defense to such claim;

(iii) in the event suit is brought with respect to such claim, upon reasonable prior notice, afford to the Indemnifying Party the right, which the Indemnifying Party may exercise in its sole discretion and at its expense, (A) to participate in the investigation, defense and settlement of such claim, and, (B) to the extent that it shall wish, to assume the defense thereof, with counsel satisfactory to such Indemnified Party (who shall not, except with the consent of the Indemnified Party, be counsel to the Indemnifying Party), and, after notice from the Indemnifying Party to such Indemnified Party of its election so to assume the defense thereof, the Indemnifying Party shall not be liable to such Indemnified Party under such subsection for any legal fees and expenses of other counsel or any other expenses, in each case subsequently incurred by such Indemnified Party, in connection with the defense thereof other than reasonable costs of investigation, except that, if such Indemnified Party reasonably determines that counsel selected by the Indemnifying Party has a conflict of interest, such Indemnifying Party shall pay the reasonable fees and disbursements of one additional counsel selected by the Indemnified Party (in addition to any local counsel) separate from its own counsel for all Indemnified Parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances; and

(iv) neither incur any material expense to defend against nor make any admission with respect thereto, nor permit a default or consent to the entry of any judgment in respect thereof, in each case without the prior written

consent of the Indemnifying Party; *provided* that the Indemnifying Party shall have advised such Indemnified Party that such Indemnified Party is entitled to be indemnified hereunder with respect to such claim.

(e) No Indemnified Party shall, without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, settle or compromise any claim giving rise to a claim for indemnity hereunder, or permit a default or consent to the entry of any judgment in respect thereof; *provided* that if the Indemnified Party is the Portfolio Manager or an Affiliate or a Related Entity of the Portfolio Manager or of an Affiliate thereof, such Indemnified Party shall not be required to seek or obtain such consent if it determines in good faith that the Indemnifying Party is unlikely to have sufficient funds available to indemnify it in full, taking into account the Priority of Payments.

(f) No Indemnifying Party shall, without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, settle or compromise or consent to the entry of any judgment with respect to any claim giving rise to a claim for indemnity hereunder if such settlement includes a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party.

(g) If the indemnification provided for in this Section 11 is unavailable to an Indemnified Party in respect of any claims or liabilities referred to herein, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such claims or liabilities in such proportion as is appropriate to reflect the relative benefits received by, and the relative fault of, the Indemnifying Party, on the one hand, and the Indemnified Parties, on the other hand, as well as any other relevant equitable considerations.

(h) The required indemnification provided by this Section 11 shall be in addition to any rights to which an Indemnified Party may otherwise be entitled by contract or as a matter of law, and shall extend to each of its or his or her heirs, successors and assigns. The provisions of this Section 11 shall continue to afford protection to each Indemnified Party regardless of whether such Indemnified Party remains in the position or capacity pursuant to which such Indemnified Party became entitled to indemnification under this Section 11.

(i) United States federal securities laws impose liabilities under certain circumstances on persons who act in good faith and nothing herein shall constitute a waiver or limitation of any rights which the Issuer or any Holder of Notes may have under any applicable federal securities laws.

(j) Notwithstanding anything in this Agreement to the contrary, the Portfolio Manager's obligations hereunder will be solely the obligations of the Portfolio Manager, and the Issuer will not have any recourse to any Manager Related Party other than the Portfolio Manager, with respect to any claims, losses, damages, liabilities,

indemnities or other obligations in connection with any transactions contemplated hereby.

(k) The Portfolio Manager shall not be liable for any act or omission of the custodian, any sub-custodian, prime broker or other Person appointed by the Issuer. Any compensation to any such Person for its services to the Issuer shall be the obligation of the Issuer and not the Portfolio Manager.

(l) The Portfolio Manager shall not be responsible for any liability resulting from any failure by the Portfolio Manager to fulfill its duties under this Agreement if such liability or failure shall be caused by or directly or indirectly due to a Force Majeure Event, provided that the Portfolio Manager shall use commercially reasonable efforts to minimize the effect of the same. As used herein, the term "Force Majeure Event" means such an operation of the forces of nature as reasonable foresight and ability could not foresee or reasonably provide against including but not limited to, acts of god, flood, war (whether declared or undeclared), terrorism, fire, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services contemplated by this Agreement, inability to obtain material, equipment, or communications or computer facilities, or the failure of equipment or interruption of communications or computer facilities, and other causes beyond a party's control whether or not of the same class or kind as specifically named above.

(m) The Portfolio Manager shall be entitled to conclusively rely in good faith, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, facsimile, email, telex or teletype message, statement (which may be made orally or by telephone), order or other document or communication reasonably believed by it to be genuine and correct and to have been signed, sent or made by a Person that the Portfolio Manager has no reason to believe is not duly authorized and upon the advice and statements of independent accountants.

(n) The Portfolio Manager may consult with outside legal counsel of nationally recognized standing in the United States experienced in such matters as to questions of law pertaining to the performance of its duties hereunder and the advice or opinion of such counsel on any such question shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with the advice or opinion of such counsel; *provided* that the Portfolio Manager may take actions not permitted by the Trading Restrictions only if it has received Tax Advice as set forth in Section 8.

12. No Partnership or Joint Venture.

The Issuer and the Portfolio Manager are not partners or joint venturers with each other and nothing herein shall be construed to make them such partners or joint venturers or impose any liability as such on either of them. The Portfolio Manager's relation to the Issuer shall be deemed to be that of an independent contractor.

13. Term; Termination.

(a) This Agreement shall commence as of the date first set forth above and shall continue in force and effect until the first of the following occurs: (i) the payment in full of the Notes and the termination of the Indenture in accordance with its terms; (ii) the liquidation of the Assets and the final distribution of the proceeds of such liquidation to the Holders; or (iii) the termination of this Agreement in accordance with subsections (b) of this Section 13 or Section 15 of this Agreement.

(b) Notwithstanding any other provision hereof to the contrary but subject to the provisions of clause (e) below, this Agreement may be terminated without cause by the Portfolio Manager, and the Portfolio Manager may resign, upon 90 days' (or such shorter notice as is acceptable to the Issuer) written notice to the Issuer; *provided* that the Portfolio Manager shall have the right to resign immediately upon the effectiveness of any material change in applicable law or regulations which renders the performance by the Portfolio Manager of its duties hereunder or under the Indenture to be a violation of such law or regulation.

(c) Notwithstanding the provisions of clause (b) above, no resignation or removal of the Portfolio Manager or termination of this Agreement pursuant to such clause shall be effective until the date as of which a successor Portfolio Manager shall have been appointed and approved in accordance with Section 13(e) and has accepted all of the Portfolio Manager's duties and obligations pursuant to this Agreement in writing and has assumed such duties and obligations.

(d) If this Agreement is terminated pursuant to this Section 13, neither party shall have any further liability or obligation to the other, except as provided in Section 3(h)(i), Sections 9(d) and (e) and Sections 11 and 16 of this Agreement.

(e) Any termination, removal or resignation of the Portfolio Manager while any Notes are Outstanding will be effective only upon (a) the appointment by the Issuer, at the direction of at least a Majority of the Subordinated Notes, with the consent of at least a Majority of the Controlling Class, of a successor Portfolio Manager that is an established institution which (i) has demonstrated an ability to professionally and competently perform duties reasonably comparable to those imposed upon the Portfolio Manager hereunder, (ii) is legally qualified and has the capacity to act as successor to the Portfolio Manager under this Agreement in the assumption of all of the responsibilities, duties and obligations of the Portfolio Manager hereunder and under the terms of the Indenture applicable to the Portfolio Manager, (iii) satisfies the S&P Rating Condition, (iv) shall not cause the Issuer or the Co-Issuer or the pool of collateral to become required to register under the provisions of the Investment Company Act and (v) shall not result in the imposition of any entity-level or withholding tax on the Issuer or the payments to the Holders or cause any other material adverse tax consequences to the Issuer and (b) written acceptance of appointment by such successor Portfolio Manager. The Issuer shall use its commercially reasonable efforts to appoint a successor Portfolio Manager to assume the duties and obligations of the removed or resigning Portfolio Manager. The Issuer, the Trustee and the successor Portfolio Manager shall take such action (or cause

the outgoing Portfolio Manager to take such action) consistent with this Agreement and the terms of the Indenture applicable to the Portfolio Manager, as shall be necessary to effectuate any such succession. In the event that the successor manager has not been appointed or has not assumed the duties of the Portfolio Manager in writing within a 60-day period, any of the Portfolio Manager, a Majority of the Controlling Class or a Majority of the Subordinated Notes may petition a court of competent jurisdiction for the appointment of a successor Portfolio Manager, which appointment will not require the consent of, or be subject to the approval or disapproval of, the Issuer or any Holder (so long as such court appointed successor meets the requirements of clauses (a)(i) through (v) above).

(f) In the event of removal of the Portfolio Manager pursuant to this Agreement by the Issuer or, to the extent so provided in the Indenture, by the Trustee, the Issuer shall have all of the rights and remedies available with respect thereto at law or equity, and, without limiting the foregoing, the Issuer or, to the extent so provided in the Indenture, the Trustee may by notice in writing to the Portfolio Manager as provided under this Agreement terminate all the rights and obligations of the Portfolio Manager under this Agreement (except those that survive termination pursuant to Section 13(d) above). Upon resignation or removal of the Portfolio Manager in accordance with this Section 13 or Section 15 of this Agreement, as applicable, and upon acceptance by a successor Portfolio Manager of appointment, all authority and power of the Portfolio Manager under this Agreement and the Indenture, whether with respect to the Assets or otherwise, shall automatically and without further action by any Person pass to and be vested in the successor Portfolio Manager.

(g) For so long as Acis Capital Management, L.P. or an Affiliate of Acis Capital Management, L.P. is the Portfolio Manager, the Issuer and the Co-Issuer will be permitted to use the "Acis" name; *provided* that, if the Portfolio Manager ceases to be Acis Capital Management, L.P. or an Affiliate of Acis Capital Management, L.P., the Issuer shall use commercially reasonable efforts to change its name to remove all reference to the name "Acis" therefrom. In addition, the Portfolio Manager, without the consent of the Issuer, may change the name of the Portfolio Manager.

14. Delegation; Assignments.

(a) Except as provided herein, the Portfolio Manager may not assign its rights or responsibilities hereunder without the written consent of the Issuer, at least a Majority of the Subordinated Notes (*provided* that failure to object within 45 days of written notice of assignment will constitute consent) and at least a Majority of the Controlling Class and satisfaction of the S&P Rating Condition. Notwithstanding the foregoing, the Portfolio Manager may, (i) with the consent of a Majority of the Controlling Class and without satisfaction of the S&P Rating Condition or the consent of any other Class, assign any of its rights or obligations hereunder to an Affiliate; *provided* that such Affiliate (A) has demonstrated ability, whether as an entity or by its personnel, to professionally and competently perform duties similar to those imposed upon the Portfolio Manager pursuant to this Agreement, (B) has the legal right and capacity to act as Portfolio Manager hereunder and (C) shall not cause the Issuer or the pool of collateral

to become required to register under the provisions of the Investment Company Act, or (ii) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity and, (A) at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Portfolio Manager hereunder generally and the other entity is solely a continuation of the Portfolio Manager in another corporate or similar form and has substantially the same staff and (B) such action does not cause the Issuer to be subject to tax in any jurisdiction outside of its jurisdiction of incorporation; provided that the Portfolio Manager shall deliver prior notice to the Rating Agencies then rating a Class of any assignment, delegation or combination made pursuant to this sentence.

(b) Notwithstanding the foregoing to the extent that applicable law requires the consent of the Issuer to any "assignment" (as defined in the Advisers Act) of this Agreement to any Person, in whole or in part, by the Portfolio Manager, such requirement may be satisfied with respect to the Issuer and all holders (i) by obtaining consent to such assignment on behalf of the Issuer from any of the following persons as determined by the Portfolio Manager: (A) one or more directors of the Issuer independent from the Portfolio Manager, (B) the Independent Review Party, or (C) an advisory committee established by the Portfolio Manager; or (ii) in any other manner that is permitted pursuant to then applicable law. Any assignment consented to by the Issuer and such Holders shall bind the assignee hereunder in the same manner as the Portfolio Manager is bound. In addition, the assignee shall execute and deliver to the Issuer and the Trustee a counterpart of this Agreement naming such assignee as Portfolio Manager. Upon the execution and delivery of such a counterpart by the assignee, the Portfolio Manager shall be released from further obligations pursuant to this Agreement, except with respect to its obligations arising under Section 11 of this Agreement prior to such assignment and except with respect to its obligations under Section 3(h)(i) and Section 16 hereof.

(c) This Agreement shall not be assigned by the Issuer without the prior written consent of the Portfolio Manager, and unless the S&P Rating Condition has been satisfied in connection with such assignment, except in the case of assignment by the Issuer to (i) an entity which is a successor to the Issuer permitted under the Indenture, in which case such successor organization shall be bound hereunder and by the terms of said assignment in the same manner as the Issuer is bound thereunder or (ii) the Trustee as contemplated by the Granting Clause of the Indenture. In the event of any assignment by the Issuer, the Issuer shall use its commercially reasonable efforts to cause its successor to execute and deliver to the Portfolio Manager such documents as the Portfolio Manager shall consider reasonably necessary to effect fully such assignment.

15. Termination by the Issuer for Cause.

This Agreement may be terminated, and the Portfolio Manager may be removed for cause by at least a Majority of the Controlling Class of Notes upon 30 days' prior written notice to the Portfolio Manager. For purposes of determining whether the holders of the required percentage of relevant principal amount of the Notes have given notice of

removal of the Portfolio Manager for cause, Notes owned by the Portfolio Manager or any affiliate thereof or an account or fund managed by the Portfolio Manager or its affiliates will be disregarded and deemed to be not outstanding; provided that Notes owned by a fund or an account managed by the Portfolio Manager or an affiliate thereof will not be disregarded and will be deemed to be outstanding if the voting rights with respect to such Notes is exercised by such fund or account or the client or beneficiary of such fund or account and not by the Portfolio Manager or its affiliate. No such termination or removal shall be effective until the date as of which a successor Portfolio Manager shall have agreed in writing to assume all of the Portfolio Manager's duties and obligations pursuant to this Agreement and as specified in the Indenture. For purposes of determining "cause" with respect to any such termination of this Agreement or removal of the Portfolio Manager, such term includes any one of the following events:

(a) the Portfolio Manager willfully violates, or takes any action that it knows breaches, any material provision of this Agreement or the Indenture applicable to it in bad faith (not including a willful and intentional breach that results from a good faith dispute regarding reasonable alternative courses of action or interpretation of instructions);

(b) the Portfolio Manager breaches in any respect any provision of this Agreement or any terms of the Indenture applicable to it (other than as covered by clause (a) and it being understood that failure to meet any Coverage Test, any Concentration Limitation or the Collateral Quality Test is not such a violation) (except for any such violations or breaches that have not had, or could not, either individually or in the aggregate, reasonably be expected to have, a material adverse effect on the Issuer) and fails to cure such breach within 30 days of a Responsible Officer receiving notice of such breach, unless, if such breach is remediable, the Portfolio Manager has taken action that the Portfolio Manager believes in good faith will remedy such breach, and such action does remedy such breach, within 60 days after a Responsible Officer receives notice thereof;

(c) the Portfolio Manager is wound up or dissolved or there is appointed over it or a substantial portion of its assets a receiver, administrator, administrative receiver, trustee or similar officer; or the Portfolio Manager (i) ceases to be able to, or admits in writing its inability to, pay its debts as they become due and payable, or makes a general assignment for the benefit of, or enters into any composition or arrangement with, its creditors generally; (ii) applies for or consents (by admission of material allegations of a petition or otherwise) to the appointment of a receiver, trustee, assignee, custodian, liquidator or sequestrator (or other similar official) of the Portfolio Manager or of any substantial part of its properties or assets, or authorizes such an application or consent, or proceedings seeking such appointment are commenced without such authorization, consent or application against the Portfolio Manager and continue undismissed for 60 days; (iii) authorizes or files a voluntary petition in bankruptcy, or applies for or consents (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, arrangement, readjustment of debt, insolvency or dissolution, or authorizes such application or consent, or proceedings to such end are instituted against the Portfolio Manager without such authorization,

application or consent and are approved as properly instituted and remain undismissed for 60 days or result in adjudication of bankruptcy or insolvency; or (iv) permits or suffers all or any substantial part of its properties or assets to be sequestered or attached by court order and the order remains undismissed for 60 days;

(d) the occurrence of an Event of Default under the Indenture that consists of a default in the payment of principal or interest on the Secured Notes when due and payable and results primarily from any material breach by the Portfolio Manager of its duties hereunder or under the Indenture, which breach or default is not cured within any applicable cure period;

(e) the occurrence of an act by the Portfolio Manager that constitutes fraud or criminal activity in the performance of its obligations under this Agreement (as determined pursuant to a final adjudication by a court of competent jurisdiction), or the Portfolio Manager being convicted for a criminal offense materially related to its business of providing asset management services;

(f) any senior executive officer of the Portfolio Manager (in the performance of his or her investment management duties) is indicted for a criminal offense materially related to the business of the Portfolio Manager providing asset management services and continues to have responsibility for the performance by the Portfolio Manager hereunder for a period of 10 days after such indictment; or

(g) the inability of the Portfolio Manager to perform its duties hereunder in accordance with the standard of care specified herein due to the termination of the Service Agreements, unless the Portfolio Manager believes in good faith that it will be able to either (i) secure reasonably equivalent substitute services to those that were performed for the Portfolio Manager under the Service Agreements or (ii) perform its duties hereunder in accordance with the applicable standard of care without engaging a third-party service provider, in each case, within 30 days, and the Portfolio Manager is in fact able to secure such services or perform such duties within such 30-day period.

If any of the events specified in the definition of "cause" in this Section 15 shall occur, the Portfolio Manager shall give prompt written notice thereof to the Issuer, each Rating Agency, each Holder of Notes and the Trustee upon the Portfolio Manager's becoming aware of the occurrence of such event. A Majority of the Controlling Class may waive any event described in (a), (b), (d), (e), (f) or (g) above as a basis for termination of this Agreement and removal of the Portfolio Manager under this Section 15.

16. Action Upon Termination.

(a) From and after the effective date of the termination of the Portfolio Manager's duties and obligations pursuant to this Agreement or resignation or removal of the Portfolio Manager hereunder, the Portfolio Manager shall not be entitled to compensation for further services hereunder, but shall be paid all compensation accrued to the date of termination, as provided in Section 9 hereof (including any accrued and

unpaid Subordinated Management Fee), and shall be entitled to receive any amounts owing under Section 11 hereof. Upon such termination, resignation or removal, the Portfolio Manager shall as soon as practicable:

(i) deliver to the Issuer all property and documents of the Trustee or the Issuer or otherwise relating to the Assets then in the custody of the Portfolio Manager; and

(ii) deliver to the Trustee an accounting with respect to the books and records delivered to the Trustee or the successor Portfolio Manager appointed pursuant to Section 13(e) hereof.

Notwithstanding such termination, resignation or removal, the Portfolio Manager shall remain liable to the extent set forth herein (but subject to Section 11 hereof) for its liabilities hereunder arising prior to termination and for any expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) in respect of or arising out of a breach of the representations and warranties made by the Portfolio Manager in Section 17(b) hereof or from any failure of the Portfolio Manager to comply with the provisions of this Section 16.

(b) The Portfolio Manager agrees that, notwithstanding any termination, it shall reasonably cooperate in any Proceeding arising in connection with this Agreement, the Indenture or any of the Assets (excluding any such Proceeding in which claims are asserted against the Portfolio Manager or any Affiliate of the Portfolio Manager) upon receipt of appropriate indemnification and expense reimbursement.

17. Representations and Warranties.

(a) The Issuer hereby represents and warrants to the Portfolio Manager as follows:

(i) The Issuer has been duly incorporated and is validly existing under the laws of the Cayman Islands, has the full corporate power and authority to own its assets and the securities proposed to be owned by it and included in the Assets and to transact the business in which it is presently engaged and is duly qualified under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of its obligations under this Agreement, the Indenture, the Collateral Administration Agreement or the Notes (collectively, the "Issuer Documents") would require, such qualification, except for failures to be so qualified, authorized or licensed that would not in the aggregate have a material adverse effect on the business, operations, assets or financial condition of the Issuer.

(ii) The Issuer has the necessary corporate power and authority to execute, deliver and perform each of the Issuer Documents and all obligations required thereunder, and has taken all necessary action to authorize each of the Issuer Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Issuer Documents and the

performance of all obligations imposed upon it hereunder and thereunder. No consent of any other Person including, without limitation, shareholders and creditors of the Issuer, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority, other than those that may be required under state securities or "blue sky" laws and those that have been or shall be obtained in connection with the Indenture and the issuance of the Notes, is required by the Issuer in connection with the Issuer Documents or the execution, delivery, performance, validity or enforceability of the Issuer Documents or the obligations imposed upon it hereunder or thereunder. This Agreement constitutes, and each instrument or document required hereunder, when executed and delivered hereunder, shall constitute, the legally valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms, subject, as to enforcement, to (a) the effect of bankruptcy, insolvency, or similar laws affecting generally the enforcement of creditors' rights, as such laws would apply in the event of any bankruptcy, receivership, insolvency or similar event applicable to the Issuer and (b) general equitable principles (whether enforceability of such principles is considered in a proceeding at law or in equity).

(iii) The execution, delivery and performance of this Agreement and the Collateral Administration Agreement and the documents and instruments required hereunder and thereunder do not violate any provision of any existing law or regulation binding on the Issuer, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Issuer, or the Governing Instruments of, or any securities issued by, the Issuer or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Issuer is a party or by which the Issuer or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer, and do not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking (other than the lien of the Indenture).

(iv) The Issuer is not required to register as an "investment company" under the Investment Company Act.

(v) The Issuer is not in violation of its Governing Instruments or in breach or violation of or in default under the Indenture or any other contract or agreement to which it is a party or by which it or any of its assets may be bound, or any applicable statute or any rule, regulation or order (including, without limitation, any anti-money laundering statute or related rule, regulation or order) of any court, government agency or body having jurisdiction over the Issuer or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of this Agreement or the performance by the Issuer of its duties hereunder or under the Collateral Administration Agreement.

(vi) True and complete copies of the Indenture and the Issuer's Governing Instruments have been delivered to the Portfolio Manager.

(vii) The Issuer has not taken any action or engaged in any activity, either directly or through an agent, that could cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes.

(viii) The Issuer is not a "bank" for purposes of Section 881 (c)(3)(A) of the Code.

(ix) The Issuer is a "qualified client" as such term is defined under the Advisers Act.

(x) The Issuer understands that the rules and regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") prohibit, among other things, the engagement in transactions with, and the provision of services to, certain countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <http://www.treas.gov/ofac>. In addition, the programs administered by OFAC ("OFAC Programs") prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists. To the best of its knowledge, none of: (1) the Issuer; (2) any person controlling or controlled by the Issuer; (3) any person having a beneficial interest in the Issuer; or (4) any person for whom the Issuer is acting as agent or nominee in connection with this investment is a country, territory, individual or entity named on an OFAC list, or is a person or entity prohibited under the OFAC Programs.

(xi) The Issuer has received and had an opportunity to review a current copy of Part 2 of the Form ADV of Acis Capital Management, L.P., at least forty-eight hours prior to its entering into this Agreement.

The Issuer agrees to deliver a true and complete copy of each amendment to the documents referred to in Section 17(a)(v) above to the Portfolio Manager as promptly as practicable after its adoption or execution.

(b) The Portfolio Manager hereby represents and warrants to the Issuer as follows:

(i) The Portfolio Manager is a limited partnership duly organized and validly existing and in good standing under the laws of the State of Delaware and has full power and authority to own its assets and to transact the business in which it is currently engaged and is duly qualified and in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of this Agreement or the Collateral Administration Agreement (together with this Agreement, the "Manager Documents") would require such qualification, except

for those jurisdictions in which the failure to be so qualified, authorized or licensed would not have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or on the ability of the Portfolio Manager to perform its obligations under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager; the Portfolio Manager is registered as an investment adviser under the Advisers Act.

(ii) The Portfolio Manager has full power and authority to execute, deliver and perform each of the Manager Documents and all obligations required hereunder and under the provisions of the Indenture applicable to the Portfolio Manager, and has taken all necessary action to authorize each of the Manager Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Manager Documents and all obligations required hereunder and thereunder and under the terms of the Indenture applicable to the Portfolio Manager. No consent of any other Person, including, without limitation, creditors of the Portfolio Manager, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by the Portfolio Manager in connection with the Manager Documents or the execution, delivery, performance, validity or enforceability of the Manager Documents or the obligations required hereunder and thereunder or under the terms of the Indenture applicable to the Portfolio Manager. Each of the Manager Documents has been, and each instrument and document required hereunder and thereunder or under the terms of the Indenture shall be, executed and delivered by a duly authorized officer of the Portfolio Manager, and each of the Manager Documents constitutes, and each instrument and document required hereunder and thereunder or under the terms of the Indenture when executed and delivered by the Portfolio Manager hereunder or thereunder or under the terms of the Indenture shall constitute, the valid and legally binding obligations of the Portfolio Manager enforceable against the Portfolio Manager in accordance with their terms, subject to (a) the effect of bankruptcy, insolvency or similar laws affecting generally the enforcement of creditors' rights and (b) general equitable principles.

(iii) The execution, delivery and performance of the Manager Documents and the terms of the Indenture applicable to the Portfolio Manager and the documents and instruments required hereunder or thereunder or under the terms of the Indenture shall not violate any provision of any existing law or regulation binding on the Portfolio Manager, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Portfolio Manager, or the Governing Instruments of, or any securities issued by the Portfolio Manager or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Portfolio Manager is a party or by which the Portfolio Manager or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its

obligations under the Manager Documents, and shall not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking, the existence of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its obligations under the Manager Documents.

(iv) There is no charge, investigation, action, suit or proceeding before or by any court pending or, to the best knowledge of the Portfolio Manager, threatened that, if determined adversely to the Portfolio Manager, would have a material adverse effect upon the performance by the Portfolio Manager of its duties under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager hereunder.

(v) The Portfolio Manager is authorized to carry on its business in the United States and in all other jurisdictions necessary to the performance of its obligations under the Manager Documents and the Indenture applicable to the Portfolio Manager.

(vi) The Portfolio Manager is not in violation of its Governing Instruments or in breach or violation of or in default under any contract or agreement to which it is a party or by which it or any of its property may be bound, or any applicable statute or any rule, regulation or order of any court, government agency or body having jurisdiction over the Portfolio Manager or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of the Manager Documents or the provisions of the Indenture applicable to the Portfolio Manager, or the performance by the Portfolio Manager of its duties hereunder or thereunder.

(vii) The information concerning the Portfolio Manager contained under the headings entitled "*Risk Factors—Relating to the Portfolio Manager*," "*Risk Factors—Relating to Certain Conflicts of Interest—The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager,*" in the Offering Circular, as of the respective dates of the Offering Circular and as of the Closing Date, is true in all material respects and does not omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

18. Notices.

Unless expressly provided otherwise herein, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing (including by facsimile) and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of registered or certified mail,

postage prepaid, return receipt requested, or, in the case of facsimile notice, when received in legible form, addressed as set forth below:

(a) If to the Issuer:

Acis CLO 2014-3 Ltd.
c/o MaplesFS Limited
P.O. Box 1093
Boundary Hall, Cricket Square
Grand Cayman, KY1-1102
Cayman Islands
Attention: The Directors

with a copy to:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Facsimile: 972-628-4155

(b) If to the Portfolio Manager:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Facsimile: 972-628-4155

(c) If to the Trustee:

U.S. Bank National Association
190 S. LaSalle Street, 8th Floor
Chicago, IL 60603
Re: ACIS CLO 2014-3 LTD.
Facsimile: 312-332-8010

Any party may alter the address or telecopy number to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 18 for the giving of notice.

19. Binding Nature of Agreement; Successors and Assigns.

Subject to Section 14 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided herein.

20. Entire Agreement.

This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

21. Amendment.

This Agreement may not be modified or amended other than by an agreement in writing executed by the parties hereto and (other than in respect of a modification or amendment of the type that may be made to the Indenture without Holder consent) (i) the consent of a Majority of the Subordinated Notes, (ii) the consent of a Majority of the Controlling Class and (iii) notice to the Rating Agencies. Notwithstanding the foregoing, the parties hereto, without the consent of any Holders, may amend or modify any provision of this agreement to (i) reflect a change that is of an inconsequential nature, (ii) correct inconsistencies, typographical or other errors, defects or ambiguities, (iii) conform this Agreement to the Offering Circular or the Indenture (as it may be amended from time to time) or (iv) reflect a change that is necessary or desirable to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation (including ERISA, the Code, the Advisers Act and the Investment Company Act) of any U.S. federal or state agency or contained in any U.S. federal or state statute. In addition, Schedule 1 may be amended or modified by the parties hereto without the consent of any Holder in accordance with the last sentence of such Schedule.

22. Conflict with the Indenture.

In the event that this Agreement requires any action to be taken with respect to any matter and the Indenture requires that a different action be taken with respect to such matter, and such actions are mutually exclusive, the provisions of the Indenture (as in effect on the date hereof or as amended or supplemented, with the consent of the Portfolio Manager if such consent is required by Section 3(b)) in respect thereof shall control.

23. Priority of Payments.

The Portfolio Manager agrees that the payment of all amounts to which it is entitled pursuant to this Agreement shall be subordinated to the extent set forth in, and the Portfolio Manager agrees to be bound by the provisions of, Article 11 and Section 15.1 of the Indenture as if the Portfolio Manager were a party to the Indenture and each of the Portfolio Manager and Issuer hereby consents to the assignment of this Agreement as provided in Section 15.1 of the Indenture.

24. Governing Law; Jury Trial.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PROVISIONS THEREOF). EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH OF THE PARTIES HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR SUCH PARTIES ENTERING INTO THIS AGREEMENT.

25. Indulgences Not Waivers.

Neither the failure nor any delay on the part of any party hereto to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

26. Titles Not to Affect Interpretation.

The titles of Sections and subsections of this Agreement are for convenience only, and they neither form a part of this Agreement nor are they to be used in the construction or interpretation hereof.

27. Execution in Counterparts.

This Agreement may be executed in any number of counterparts by facsimile or other written form of communication, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

28. Provisions Separable.

To the fullest extent permitted by law, in case any provision in this Agreement shall be invalid, illegal or unenforceable as written, such provision shall be construed in the manner most closely resembling the apparent intent of the parties with respect to such provision so as to be valid, legal and enforceable; *provided* that, if there is no basis for such a construction, to the fullest extent permitted by law, such provision shall be

ineffective only to the extent of such invalidity, illegality or unenforceability and, unless the ineffectiveness of such provision destroys the basis of the bargain for one of the parties to this Agreement, the validity, legality and enforceability of the remaining provisions hereof or thereof shall not in any way be affected or impaired thereby.

29. Number and Gender.

Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

30. Jurisdiction and Venue.

The parties to this Agreement irrevocably submit to the non-exclusive jurisdiction of any New York state or federal court sitting in the Borough of Manhattan in The City of New York in any action or proceeding arising out of or relating to this Agreement, the Notes or the Indenture, and the parties irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such New York state or federal court. The parties to this Agreement irrevocably waive, to the fullest extent they may legally do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. The parties to this Agreement irrevocably consent to the service of any and all process in any action or proceeding by the mailing or delivery of copies of such process to it in accordance with Section 18. The parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

31. Third Party Beneficiaries.

Other than as provided below, no party, including any Holder of Notes, is a third party beneficiary of this Agreement. The parties hereby acknowledges and agrees that the Trustee will be a third-party beneficiary of this Agreement.

32. Miscellaneous.

(a) With respect to any Defaulted Obligation, the Portfolio Manager, on behalf of the Issuer, may instruct the agent or the trustee for such Defaulted Obligation to enforce the Issuer's rights under the Underlying Instruments governing such Defaulted Obligation and under any applicable law, rule or regulation in any manner permitted under the Indenture that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer. In the event any Offer is made with respect to any Collateral Obligation or Equity Security, the Portfolio Manager, on behalf of the Issuer, may take such action as is permitted by the Indenture and that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer.

(b) Without prejudice to Section 15(f) hereof, any corporation, partnership or limited liability company into which the Portfolio Manager may be merged or converted or with which it may be consolidated, or any corporation, partnership or

limited liability company resulting from any merger, conversion or consolidation to which the Portfolio Manager shall be a party, or any corporation, partnership or limited liability company succeeding to all or substantially all of the collateral management business of the Portfolio Manager, shall be the successor to the Portfolio Manager without any further action by the Portfolio Manager, the Co-Issuers, the Trustee, the Holders or any other Person or entity; *provided* that the Portfolio Manager shall give prompt written notice to each Rating Agency upon any such occurrence.

(c) Notwithstanding anything herein or in the Indenture to the contrary, with respect to any report, information, communication, request, demand, authorization, direction, notice, consent or waiver to be given to a Rating Agency by the Issuer, the Issuer shall instead provide such information to the Portfolio Manager, and the Portfolio Manager shall then provide such information as well as any information related to the transaction requested by any Rating Agency directly from the Portfolio Manager to the applicable Rating Agencies via the website established on behalf of the Issuer for purposes of Rule 17g-5 under the Exchange Act.

(d) If the Issuer shall receive any written or oral communication from any Rating Agency (or any of their respective officers, directors or employees) with respect to the transactions contemplated hereby or in any way relating to the Notes, the Issuer agrees to refrain from communicating with such Rating Agency and to promptly (and, in any event, within one Business Day) notify the Portfolio Manager of such communication. The Issuer agrees to coordinate with the Portfolio Manager with respect to any communication to a Rating Agency and further agrees that in no event shall it engage in any oral or written communication with respect to the transactions contemplated hereby or in any way relating to the Notes with any Rating Agency (or any of their respective officers, directors or employees) without the participation of the Portfolio Manager.

33. Power of Attorney.

The Issuer hereby makes, constitutes and appoints each of Josh Terry, Hunter Covitz and Philip Braner, with full power of substitution, as its true and lawful agent and attorney-in-fact (each an "Attorney" and together the "Attorneys"), jointly and severally with full power and authority in its name, place and stead, in accordance with the terms of this Agreement and the Indenture (a) to prepare, sign and deliver tax documentation, transfer documentation and all other documentation in connection with the acquisition and sale by the Issuer of Collateral Obligations and (b) to (i) vote in its discretion any securities, instruments or obligations included in the Assets, (ii) execute proxies, waivers, consents and other instruments with respect to such Collateral Obligations, (iii) endorse, transfer or deliver such securities, instruments and obligations, (iv) participate in or consent (or decline to consent) to any modification, work-out, restructuring, bankruptcy proceeding, class action, plan of reorganization, merger, combination, consolidation, liquidation or similar plan or transaction with regard to such Collateral Obligations and (v) take any other action specified in Section 3 of this Agreement. This grant of power of attorney will expire (a), with respect to each Attorney (and to each substitute appointed by such Attorney), when such Attorney ceases to be an officer or employee of Acis

Capital Management, L.P. or an Affiliate thereof, acting on behalf of Acis Capital Management, L.P. or (b) upon (x) termination of this Agreement in accordance with its terms or (y) any assignment by the Portfolio Manager of its obligations under this Agreement in accordance with Section 14 hereof.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

Portfolio Manager:

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC

By: _____
Name:
Title:

Signatures Continue on Next Page

Signatures Continued from Previous Page

Issuer:

ACIS CLO 2014-3 LTD., Executed as a Deed

By: _____

Name: Wendy Ebanks

Title: Director

Witness: _____

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SCHEDULE 1

TRADING RESTRICTIONS

The Issuer (and the Portfolio Manager and the Independent Investment Professional acting on behalf of the Issuer) and any other person acting on behalf or at the direction of the Issuer, and any Affiliate of the Issuer, will comply with all of the provisions set forth in this Schedule I (the "Trading Restrictions") unless, with respect to a particular transaction, the Portfolio Manager shall have received written advice of Dechert LLP or an opinion of other counsel of nationally recognized standing in the United States experienced in such matters that, under the relevant facts and circumstances with respect to such transaction, the Portfolio Manager's failure to comply with one or more of such provisions will not cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes, or otherwise to be subject to U.S. federal income tax on a net basis. For purposes of these Trading Restrictions, a "Collateral Obligation" shall include any "Assets" as defined in the Indenture.

The Issuer shall acquire, hold, lend and dispose of Collateral Obligations only for its own account, and shall acquire and hold its Collateral Obligations solely for investment with the expectation and intention of realizing a profit from income earned on the Collateral Obligations and/or any increase in their value during the interval of time between acquisition and disposition thereof.

Notwithstanding any other provision of these Trading Restrictions, the Issuer shall not (each of the following, a "Prohibited Activity"):

(i) act as, or engage in any activities customarily undertaken by, an agent, arranger, or structuring agent with respect to, or negotiate the terms of, any Collateral Obligation or otherwise; provided that, after the date on which the Issuer has acquired a Collateral Obligation, the Issuer may exercise any voting or other rights available to a holder of a Collateral Obligation under the terms of the Collateral Obligation, and may accept or reject any amendment or modification of the terms of that Collateral Obligation if (w) the amendment or modification is proposed by the obligor under that Collateral Obligation and does not require or provide for any advance of additional funds, the Collateral Obligation is not an Affiliate Collateral Obligation, neither the Issuer nor the Collateral Manager, nor any Affiliate of either, has participated directly or indirectly in the negotiation of the amendment or modification, and the Issuer is not the largest holder of the Collateral Obligation, or (x) the modification would not constitute a Significant Modification (for purposes of this clause, "Significant Modification" means any amendment, supplement or modification that involves (1) a change in interest rate or yield of the Collateral Obligation, (2) a change in the stated maturity or the timing of any material payment on the Collateral Obligation (including deferral of an interest payment), (3) a change in the obligor of the Collateral Obligation or (4) a change in the collateral or security for the Collateral Obligation, including the addition or deletion of a co-obligor or guarantor, all within the meaning of United States Department of the Treasury regulation section 1.1001-3), or (y) in the reasonable judgment of the Collateral Manager, the obligor is in financial distress, the obligor was not in financial distress on the date on

which the Issuer acquired such Collateral Obligation and such change in terms is desirable to protect the Issuer's investment, or (z) the Issuer has received advice of Dechert LLP or an opinion of other counsel of nationally recognized standing in the United States experienced in such matters that the Issuer's involvement in such amendment, supplement or modification of the terms of that Collateral Obligation will not cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes;

(ii) act as, hold itself out as, represent to others that it is, or engage in any activities customarily undertaken by, a dealer, middleman, market maker, retailer or wholesaler in any Collateral Obligations, reference obligations or hedging or derivative instruments, or hold as inventory for purposes of resale to customers, any Collateral Obligations owned by the Issuer;

(iii) perform services, or hold itself out as willing to perform services, for any person, or have or seek customers;

(iv) register as a broker-dealer under the laws of any country or political subdivision thereof, or register as, or become subject to regulatory supervision or other legal requirements under the laws of any country or political subdivision thereof as, a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business;

(v) take any action causing it to be treated as a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business for purposes of any tax, securities law or other filing or submission made to any governmental authority, any application made to a rating agency, or qualification for any exemption from tax, securities law or any other legal requirements;

(vi) hold itself out to the public as a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business, or hold itself out to the public, through advertising or otherwise, as originating loans or making a market in loans or other assets;

(vii) establish a branch, agency or other place of business within the United States; provided, that entering into this Agreement and the appointment of the Portfolio Manager as described herein shall not be construed as a violation of this clause (vii);

(viii) make any tax election which would cause it to be subject to United States federal, state or local income or franchise tax;

(ix) buy any security in order to earn a dealer spread or dealer mark-up over its cost; or

(x) buy any security with an expectation or intention of restructuring or entering into a workout of such security.

For purposes of this Schedule I, "dealer" means: (a) a merchant of securities with an established place of business who in the ordinary course of business is engaged as a merchant in purchasing securities and selling them to customers with a view to the gains and profits that may be derived therefrom, and (b) a person that regularly offers to enter into, assume, offset, assign or otherwise terminate positions in derivatives with customers in the ordinary course of a trade or business, including regularly holding itself out, in the ordinary course of its trade or business, as being willing and able to enter into either side of a derivative transaction.

Requirements With Respect to Collateral Obligations.

The Issuer may acquire Collateral Obligations only by assignment or participation, and may not execute any credit agreement whereby Collateral Obligations are issued. The Issuer shall not acquire any Collateral Obligation, or enter into any understanding, arrangement, forward sale agreement or commitment with any person to acquire any Collateral Obligation (a "Commitment"), in each case (i) prior to 48 hours after the completion of the issuance and funding of such Collateral Obligation, other than as otherwise permitted under "Forward Purchase Commitments" below, or (ii) if the Issuer would own more than 50 percent of the loan, obligation, issue, class or tranche that includes the Collateral Obligation or, if the loan, obligation, issue, class or tranche that includes that Collateral Obligation is part of a larger credit facility, more than 25 percent of that entire credit facility. In the case of any Collateral Obligation that is amended or modified in a manner that constitutes a Significant Modification after issuance and funding of such Collateral Obligation and before acquisition by the Issuer of such Collateral Obligation, any seasoning requirement set forth herein shall be computed and applied with respect to the date of such Significant Modification.

The Issuer shall not have any contractual relationship with the borrower or issuer with respect to a Collateral Obligation until the Issuer actually closes the acquisition of that Collateral Obligation. On the funding date of the Collateral Obligation, the documents relating to the Collateral Obligation shall not list the Issuer as a lender or otherwise as a party to any document relating to the issuance of the Collateral Obligation. The Issuer shall not be a signatory on any lending agreement or any other document relating to the issuance of the Collateral Obligation.

The Issuer shall not have any communications or negotiations with the borrower or issuer of any Collateral Obligation (directly or indirectly through the seller of such Collateral Obligation, the agent, negotiator, originator or structuror thereof, or any other person) prior to the completion of the issuance and funding thereof, in connection with the issuance or funding of such Collateral Obligation or commitments with respect thereto, or the Issuer's acquisition of such Collateral Obligation or the Issuer's Commitment with respect thereto, in each case, except as otherwise permitted under "Forward Purchase Commitments" below. For the avoidance of doubt, (i) the Issuer, or the Portfolio Manager or the Independent Investment Professional acting on its behalf, may, however, undertake customary due diligence communications with an issuer or obligor of any Collateral Obligation that would be reasonably necessary in order for an investor or trader to make a reasonably informed decision to acquire any such Collateral Obligation

for its own account, and (ii) nothing contained herein shall prohibit expressions of interest or providing comments as to mistakes or inconsistencies in documents relating to any Collateral Obligation by the Issuer, or by the Portfolio Manager or the Independent Investment Professional acting on its behalf.

The Issuer shall not be entitled to earn or receive from any person any premium, fee, commission or other compensation for services, whether or not denominated as received for services, in connection with acquiring or disposing of a Collateral Obligation, or entering into a commitment to acquire or dispose of a Collateral Obligation, including without limitation, in each case, any amount that is attributable or otherwise determined by reference to the amount of any origination, underwriting or similar profit or related or similar fees for services earned by an underwriter, placement agent, lender, arranger, agent or other similar person in connection with the issuance or funding of a Collateral Obligation. In furtherance and not in limitation of the immediately preceding sentence, the Issuer shall not be entitled to earn or receive directly from any person any separately stated premium, fee or commission that is compensation for services or that is based upon or otherwise determined by reference to the amount of any such services. For the avoidance of doubt, the foregoing prohibition against earning or receiving fees and similar amounts shall not apply to (i) any compensation paid other than for a Prohibited Activity pursuant to the terms of any Collateral Obligation (e.g., a prepayment fee or commitment fee), (ii) any amendment or waiver fee, or (iii) any discount in the price paid by the Issuer for a Collateral Obligation from the price paid by the seller of the Collateral Obligation where such discount is attributable to the time value of money, credit quality of the related borrower, market conditions, or terms and conditions of the Collateral Obligation.

Additional Requirements With Respect to Affiliate Collateral Obligations and Transfers to Affiliates.

Except as provided below, the Portfolio Manager shall not cause the Issuer to purchase any Collateral Obligation of any borrower or issuer with respect to which the Issuer, Portfolio Manager or any of their Affiliates:

(i) acted as an underwriter, financial advisory, placement or other agent, arranger, negotiator or structuror in connection with the issuance or origination of such Collateral Obligation,

(ii) was an agent, negotiator, structuring agent, bridge loan provider (where a bridge loan is repaid by any Collateral Obligation) or member of the original lending syndicate with respect to such Collateral Obligation, or

(iii) earned or received any compensation relating to the origination of such Collateral Obligation (each such Collateral Obligation, an "Affiliate Collateral Obligation").

The Portfolio Manager on behalf of the Issuer shall be permitted to cause the Issuer to purchase Affiliate Collateral Obligations, provided that the following conditions are met:

(I) at least 30 days shall have passed since the issuance and funding of such Affiliate Collateral Obligation and the holder of the Collateral Obligation did not identify the obligation or security as intended for sale to the Issuer within 30 days of its issuance;

(II) following such 30-day period, the Independent Investment Professional shall have approved the purchase by the Issuer of such Affiliate Collateral Obligation after a review of the terms and conditions thereof and a determination that such transaction shall be effected on an arm's length basis and that the purchase price represents fair market value (x) by reference to dealer quotes or the price paid by an unrelated secondary buyer in a material contemporaneous sale on substantially the same terms, or (y) to the extent there is no independent sale or the price paid in such sale is not readily ascertainable, by reference to the fair market value price at which an unrelated independent secondary market acquirer would acquire such Affiliate Collateral Obligation in an arm's length transaction;

(III) the Portfolio Manager or its Affiliate, as the case may be, originated the Collateral Obligation in the ordinary course of its business and not in contemplation of its acquisition by the Issuer; and

(IV) the Issuer may not purchase any Affiliate Collateral Obligation having a greater principal amount than the principal amount of such Affiliate Collateral Obligation held following such purchase by the Portfolio Manager and its Affiliates (excluding the Issuer).

In addition, the Portfolio Manager shall not cause the Issuer to sell or assign any Collateral Obligation to the Portfolio Manager or any of its Affiliates in a transaction in which the Portfolio Manager is acting as principal for its own account or has discretionary authority to invest for the account of such Affiliate, unless such sale or assignment is consented to by the Independent Investment Professional, which consent shall not be unreasonably withheld or delayed so long as such sale or assignment is effected at the fair market value price that an unrelated independent secondary market acquirer would acquire such Collateral Obligation in an arm's length transaction. It is understood and agreed that the consent requirement of the immediately preceding sentence shall not apply to any sale or assignment of any Collateral Obligation by the Issuer to any Person whose equity is at least majority owned by the Issuer (e.g., a special purpose financing subsidiary).

Maintenance of Separate and Independent Status.

At the written request of the Portfolio Manager, the Issuer shall establish a conflicts review board or appoint an independent third party to act on behalf of the Issuer (such board or party, an "Independent Investment Professional") with respect to transactions involving any Affiliate Collateral Obligation. Any Independent Investment Professional (i) shall either (A) be an established financial institution or other financial company with experience in assessing the merits of transactions similar to the transactions involving any Affiliate Collateral Obligation or (B) be a review board comprised of one or more individuals selected by the Issuer (or at the request of the Issuer, selected by the

Collateral Manager), (ii) shall be required to assess the merits of the transaction involving any Affiliate Collateral Obligation and either grant or withhold consent to such transaction in its sole judgment and (iii) shall not be (A) affiliated with the Portfolio Manager (other than as a holder or as a passive investor in the Issuer or an Affiliate of the Issuer) or (B) involved in the daily management and control of the Issuer.

Neither the Independent Investment Professional nor any of the employees or personnel performing duties of the Portfolio Manager on behalf of the Issuer relating to the purchase of Affiliate Collateral Obligations shall be directly or indirectly involved in any origination or underwriting activities with respect to any Collateral Obligation, or have access to any files, records, or other information that is not available to independent unrelated secondary market acquirers concerning the origination or underwriting of any such Collateral Obligation. In addition, neither the Independent Investment Professional nor any of the employees or personnel performing duties of the Portfolio Manager on behalf of the Issuer relating to the purchase of Affiliate Collateral Obligations shall be a party to any discussions or meetings relating to origination or underwriting activities with respect to any Affiliate Collateral Obligation. No employee or personnel of the Portfolio Manager who is involved in any origination or underwriting activities with respect to any Affiliate Collateral Obligation shall have any direct or indirect influence over the decision making process of the Issuer or the Independent Investment Professional with respect to the acquisition or disposition of any Affiliate Collateral Obligation on behalf of the Issuer, but no such employee or personnel shall be prohibited from making recommendations to the Independent Investment Professional. However, in all cases the decision whether to invest in an Affiliate Collateral Obligation or to sell a Collateral Obligation to the Portfolio Manager or one of its Affiliates shall be an independent decision by the Independent Investment Professional.

Revolving Collateral Obligations and Delayed Drawdown Collateral Obligations.

Neither the Issuer nor the Portfolio Manager acting on the Issuer's behalf shall acquire an interest (including by means of participation) in a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation unless:

(i) such interest is acquired in the secondary market, the acquisition of such interest will not cause the Issuer to hold more than 25 percent of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation, and taken together with the aggregate principal amount of other such interests held by the Issuer does not exceed 15% of the aggregate principal amount of all Collateral Obligations held by the Issuer; and

(ii) with respect to any Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation:

(a) neither the Issuer, the Portfolio Manager acting on behalf of the Issuer, nor the Independent Investment Professional acting on behalf of the Issuer has participated in the negotiation of the terms of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation;

(b) the terms of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation are fixed as of the date of the Issuer's acquisition thereof and do not provide the Issuer any discretion as to whether to make advances under such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation;

(c) more than a *de minimis* amount of such Collateral Obligation has been funded, or such loan is associated with a term loan to such borrower which has been fully funded; and

(d) the Issuer does not acquire any interest in a Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation which is not associated with a term loan prior to 60 days after the issuance thereof, and all such interests combined shall not exceed 10% of the aggregate principal amount of all assets held by the Issuer.

Forward Purchase Commitments.

The Issuer shall not have nor make any Commitment to acquire a Collateral Obligation from a seller before completion of the closing, full funding and seasoning (except, with respect to funding, in the case of a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation) of the Collateral Obligation, except as permitted in the following provisions.

If a Commitment is made to acquire a Collateral Obligation, other than an Affiliate Collateral Obligation, from a seller before completion of the closing and full funding of the Collateral Obligation by such seller (the "Original Lender"), such commitment shall only be made pursuant to a forward sale agreement at an agreed price (a "Forward Purchase Commitment"). Any Forward Purchase Commitment with any Original Lender in respect of a Collateral Obligation may only be made after such Original Lender has delivered its own commitment to acquire its own interest in that Collateral Obligation and after all material terms of the Collateral Obligation have been agreed to.

In the process of making or negotiating to make a Forward Purchase Commitment, the Issuer shall not negotiate with respect to any term of the Collateral Obligation to which the Forward Purchase Commitment relates. The Issuer is not prevented from negotiating the terms of the Forward Purchase Commitment, including the price at which the Issuer shall acquire the Collateral Obligation to which the Forward Purchase Commitment relates.

If the Issuer enters into a Forward Purchase Commitment to acquire a Collateral Obligation, the Issuer's obligation under the Forward Purchase Commitment shall be conditioned on there being, as of the time the Issuer is to acquire the Collateral Obligation, no material adverse change in the condition of the borrower or issuer, the Collateral Obligation or the financial markets, and in all other respects, the Forward Purchase Commitment may only be conditional to the extent the related counterparty's own commitment in the origination process and funding of the Collateral Obligation is delayed, reduced or eliminated; provided that, notwithstanding the foregoing, a Forward Purchase Commitment shall not be required to be conditioned on the absence of a

material adverse change if (y) the Issuer enters into the Forward Purchase Commitment no sooner than 48 hours after the Original Lender has delivered its own commitment with respect to the related Collateral Obligation and after all material terms of the Collateral Obligation have been agreed to, and (z) the Issuer's Commitment is documented in a form for secondary market purchases that is substantially similar to that used for commitments given by all other persons who will acquire an interest in the Collateral Obligation from the Original Lender (including as to the absence of a material adverse change condition). In the event of any delayed, reduced or eliminated funding, the Issuer shall not receive any premium, fee, or other compensation in connection with having entered into the Forward Purchase Commitment, other than commitment fees or fees in the nature of commitment fees that are customarily paid in connection with such delays, reductions or eliminations of funding of Collateral Obligations of the type permitted to be purchased by the Issuer.

The Issuer shall not have any contractual relationship with the borrower or issuer with respect to a Collateral Obligation that will be subject to a Forward Purchase Commitment until the Issuer actually closes the acquisition of that Collateral Obligation. On the funding date of the Collateral Obligation, the documents relating to the Collateral Obligation shall not list the Issuer as a lender or otherwise as a party to any document relating to the issuance of the Collateral Obligation. The Issuer shall not be a signatory on any lending agreement or any other document relating to the issuance of the Collateral Obligation.

The Issuer shall not enter into any Forward Purchase Commitment in respect of any Affiliate Collateral Obligation. The Issuer, or Portfolio Manager or the Independent Investment Professional acting on its behalf, may, however, undertake customary due diligence communications with an issuer or obligor of an Affiliate Collateral Obligation or any other Collateral Obligation that would be reasonably necessary in order for an investor or trader to make a reasonably informed decision to acquire any such Collateral Obligation for its own account.

For the avoidance of doubt, except as provided above with respect to Forward Purchase Commitments, the Issuer may enter into a Commitment with respect to a Collateral Obligation only when the Collateral Obligation is funded and at least 48 hours have thereafter elapsed.

Equity Restrictions.

The Issuer shall not acquire (whether as part of a "unit" with a Collateral Obligation, in exchange for a Collateral Obligation, or otherwise) any asset that is treated for U.S. federal income tax purposes as:

(i) an equity interest in a partnership, a trust or a disregarded entity (unless all of the assets of such trust or disregarded entity would otherwise qualify either as Collateral Obligations hereunder or as equity interests in entities taxable as corporations for U.S. federal income tax purposes);

(ii) a residual interest in a "REMIC" (as such term is defined in the U.S. Internal Revenue Code of 1986, as amended (the "Code"));

(iii) an ownership interest in a "FASIT" (as such term is defined in the Code); or

(iv) any asset that constitutes a "United States real property interest" ("USRPI"), including certain interests in a "United States real property holding corporation" ("USRPHC") (as such terms are defined in the Code), except that, if otherwise permitted under the Indenture, the Issuer may acquire and/or hold an interest in a USRPHC under circumstances where the USRPHC may not be liquidated, and stock of the USRPHC may not be sold, unless prior to such liquidation or sale all USRPI held by the USRPHC have been sold and all U.S federal income taxes payable by the USPRHC have been paid, and the Issuer reasonably believes, at the time of the acquisition of the interest in the USRPHC, that the USRPHC will be liquidated or the stock of the USRPHC will be sold (in each case, in accordance with the restrictions in this clause (iv)) prior to the liquidation of the Issuer.

Synthetic Securities.

The Issuer shall not acquire or enter into any swap transaction or security, which swap transaction or security provides for payments associated with either (i) payments of interest and/or principal on a reference obligation or (ii) the credit performance of a reference obligation.

EXHIBIT 33

EXHIBIT E

CLO 2014-4 INDENTURE

EXECUTION VERSION

ACIS CLO 2014-4 LTD.
Issuer,

ACIS CLO 2014-4 LLC
Co-Issuer,

AND

U.S. BANK NATIONAL ASSOCIATION
as Trustee

INDENTURE

Dated as of June 5, 2014

COLLATERALIZED LOAN OBLIGATIONS

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INDENTURE, dated as of June 5, 2014, among ACIS CLO 2014-4 Ltd., an exempted company incorporated in the Cayman Islands with limited liability (the "Issuer"), ACIS CLO 2014-4 LLC, a limited-liability company organized under the laws of the State of Delaware (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers"), and U.S. Bank National Association, a national banking association, as trustee (herein, together with its permitted successors in the trusts hereunder, the "Trustee").

PRELIMINARY STATEMENT

The Co-Issuers are duly authorized to execute and deliver this Indenture to provide for the Notes issuable and governed by this Indenture and to secure the Secured Notes and other obligations secured under this Indenture. Except as otherwise provided herein, all covenants and agreements made by the Co-Issuers herein are for the benefit and security of the Secured Parties and the Trustee. The Co-Issuers are entering into this Indenture and the Trustee is accepting the trusts created hereby, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

All things necessary to make this Indenture a valid agreement of the Co-Issuers in accordance with the agreement's terms have been done.

GRANTING CLAUSES

The Issuer hereby Grants to the Trustee, for the benefit and security of the Holders of the Secured Notes, the Holders of the Combination Notes, the Trustee, each Hedge Counterparty, the Collateral Administrator and the Portfolio Manager (collectively, the "Secured Parties"), all of its right, title and interest in, to and under, in each case, whether now owned or existing, or hereafter acquired or arising, (a) the Collateral Obligations which the Issuer causes to be delivered to the Trustee (directly or through an intermediary or bailee) herewith and all payments thereon or with respect thereto, and all Collateral Obligations which are purchased, or otherwise acquired, by the Issuer in the future pursuant to the terms hereof and all payments thereon or with respect thereto, (b) the Issuer's interest in each of the Accounts, each Hedge Account (to the extent permitted by the applicable Hedge Agreement), any Eligible Investments purchased with funds on deposit therein, and all income from the investment of funds therein, (c) the Issuer's rights under the Portfolio Management Agreement as set forth in Article 15 hereof, the Hedge Agreements (*provided* that there is no such Grant to the Trustee on behalf of any Hedge Counterparty in respect of its related Hedge Agreement), the Collateral Administration Agreement, the Purchase Agreement and any subscription agreements related to the purchase of the Notes, (d) all Cash or Money delivered to the Trustee (or its bailee), (e) all accounts, chattel paper, deposit accounts, financial assets, general intangibles, instruments, investment property, letter-of-credit rights and other supporting obligations relating to the foregoing, (f) any other property otherwise delivered to the Trustee by or on behalf of the Issuer (whether or not constituting Collateral Obligations or Eligible Investments (including, without limitation, Equity Securities)), (g) the Issuer's rights in all assets owned by any ETB Subsidiary and the Issuer's rights under any agreement with any ETB Subsidiary and (h) all proceeds with respect to the foregoing; *provided* that such Grants shall not include the $250 transaction fee paid to the Issuer in consideration of the issuance of the Secured Notes and Subordinated Notes, the funds attributable to the issue and allotment of the Issuer's ordinary shares and the Co-Issuer's

rating will be treated as being one sub-category above such assigned rating and (y) if the applicable rating assigned by S&P to an obligor or its obligations is on "credit watch negative" by S&P, such rating will be treated as being one sub-category below such assigned rating.

The Portfolio Manager shall use commercially reasonable efforts to provide to S&P all available Information for any Collateral Obligation with an S&P Rating determined pursuant to clause (iii)(c) of this definition, prior to or within thirty (30) days after the acquisition of such Collateral Obligation.

"S&P Rating Condition": With respect to any action taken or to be taken by or on behalf of the Issuer, a condition that is satisfied if S&P has confirmed in writing to the Issuer (which confirmation may be in the form of a press release), the Trustee and/or the Portfolio Manager that no immediate withdrawal or reduction with respect to its then-current rating by S&P of any Class of Secured Notes will occur as a result of such action; *provided* that the S&P Rating Condition will be deemed to be satisfied if (x) no Class of Secured Notes Outstanding is rated by S&P or (y) if S&P makes a public announcement or informs the Issuer, the Portfolio Manager or the Trustee that (i) it believes satisfaction of the S&P Rating Condition is not required with respect to the applicable action or (ii) its practice is not to give such confirmations.

"S&P Recovery Amount": With respect to any Collateral Obligation, an amount equal to: (a) the applicable S&P Recovery Rate *multiplied by* (b) the Principal Balance of such Collateral Obligation.

"S&P Recovery Rate": with respect to a Collateral Obligation, the recovery rate set forth in Section 1 of Schedule 3 using the initial rating of the most senior Class of Secured Notes outstanding at the time of determination.

"S&P Recovery Rating": With respect to a Collateral Obligation for which an S&P Recovery Rate is being determined, the "Recovery Rating" assigned by S&P to such Collateral Obligation based upon the following table:

Recovery Rating	Description of Recovery	Recovery Range (%)
1+	High expectation, full recovery	75-95
1	Very high recovery	65-95
2	Substantial recovery	50-85
3	Meaningful recovery	30-65
4	Average recovery	20-45
5	Modest recovery	5-25
6	Negligible recovery	2-10

"S&P Selling Institution Percentage": With respect to any Participation Interest proposed to be entered into by the Issuer or any Pre-funded Letter of Credit, criteria that will be met if immediately after giving effect to such acquisition, (x) the percentage of the Collateral Principal Amount that consists in the aggregate of Participation Interests and Pre-funded Letters of Credit with Selling Institutions that have the same or a lower S&P credit rating does not exceed the "Aggregate Selling Institution Percentage" set forth below for such S&P credit rating

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Indenture as of the date first written above.

ACIS CLO 2014-4 LTD.,
as Issuer

By: _____
Name: Wendy Ebanks
Title: Director

ACIS CLO 2014-4 LLC,
as Co-Issuer

By: _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Indenture as of the date first written above.

ACIS CLO 2014-4 LTD.,
as Issuer

By:_____
Name:
Title:

ACIS CLO 2014-4 LLC,
as Co-Issuer

By:_____
Name: Donald J. Puglisi
Title: Manager

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By:_____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Indenture as of the date first written above.

ACIS CLO 2014-4 LTD.,
as Issuer

By:_____
Name:
Title:

ACIS CLO 2014-4 LLC,
as Co-Issuer

By:_____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: Elaine Mah
Name: Elaine Mah
Title: Vice President

EXHIBIT 34

EXHIBIT F

CLO 2014-4 PORTFOLIO MANAGEMENT AGREEMENT

EXECUTION VERSION

PORTFOLIO MANAGEMENT AGREEMENT

between

ACIS CLO 2014-4 LTD.

and

ACIS CAPITAL MANAGEMENT, L.P.

Dated as of June 5, 2014

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Portfolio Management Agreement

This Portfolio Management Agreement (this "Agreement"), dated as of June 5, 2014, is entered into by and between Acis CLO 2014-4 Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands, with its registered office located at P.O. Box 1093, Queensgate House, Grand Cayman, KY1-1102, Cayman Islands (together with successors and assigns permitted hereunder, the "Issuer"), and Acis Capital Management, L.P., with its principal offices located at 300 Crescent Court, Suite 700, Dallas, TX 75201, as portfolio manager (together with successors and assigns permitted hereunder, in such capacity, the "Portfolio Manager").

WITNESSETH:

WHEREAS, the Issuer intends to issue U.S.$4,000,000 Class X Senior Secured Floating Rate Notes due 2026 (the "Class X Notes"), U.S.$296,000,000 Class A Senior Secured Floating Rate Notes due 2026 (the "Class A Notes"), U.S.$68,000,000 Class B Senior Secured Floating Rate Notes due 2026 (the "Class B Notes"), U.S.$33,000,000 Class C Secured Deferrable Floating Rate Notes due 2026 (the "Class C Notes"), U.S.$28,500,000 Class D Secured Deferrable Floating Rate Notes due 2026 (the "Class D Notes"), U.S.$20,500,000 Class E Secured Deferrable Floating Rate Notes due 2026 (the "Class E Notes"), U.S.$4,000,000 Class F Secured Deferrable Floating Rate Notes due 2026 (the "Class F Notes"), U.S.$347,600,000 Combination Notes due 2026 (the "Combination Notes" and together with the Class X Notes, the Class A Notes, the Class B Notes, the Class C Notes, the Class D Notes, the Class E Notes and the Class F Notes, the "Secured Notes") and U.S.$50,750,000 Subordinated Notes due 2026 (the "Subordinated Notes" and, together with the Secured Notes, the "Notes") pursuant to an indenture dated as of June 5, 2014 (as amended, supplemented or modified from time to time, the "Indenture"), among the Issuer, ACIS CLO 2014-4 LLC, as co-issuer of the Notes (the "Co-Issuer"), and U.S. Bank National Association, as trustee (together with any successor trustee permitted under the Indenture, the "Trustee");

WHEREAS, the Issuer intends to pledge certain Collateral Obligations, certain Eligible Investments (each, as defined in the Indenture) and certain other assets (all as set forth in the Indenture) (collectively, the "Assets") to the Trustee as security for the Secured Notes;

WHEREAS, the Issuer wishes to enter into this Agreement, pursuant to which the Portfolio Manager agrees to perform, on behalf of the Issuer, certain duties with respect to the Assets securing the Secured Notes in the manner and on the terms set forth herein and to provide such additional services as are consistent with the terms of this Agreement and the Indenture; and

WHEREAS, the Portfolio Manager has the capacity to provide the services required hereby and is prepared to perform such services upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, the parties hereto agree as follows:

1. Definitions.

Terms used herein and not defined below shall have the meanings set forth in the Indenture.

"Actions" shall have the meaning provided in Section 11(a).

"Advisers Act" means the Investment Advisers Act of 1940, as amended.

"Affiliate" means, with respect to a Person, (i) any other Person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such Person or (ii) any other Person who is a director, Officer, employee or general partner (a) of such Person, (b) of any subsidiary or parent company of such Person or (c) of any Person described in clause (i) above. For the purposes of this definition, control of a Person shall mean the power, direct or indirect, (x) to vote more than 50% of the securities having ordinary voting power for the election of directors of such Persons, or (y) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise. For purposes of this definition, the management of an account by one Person for the benefit of any other Person shall not constitute "control" of such other Person and no entity shall be deemed an Affiliate of the Issuer or the Co-Issuer solely because the Administrator or its Affiliates serve as administrator or share trustee for such entity.

"Affiliate Transaction" shall have the meaning set forth in Section 6(a).

"Agreement" shall mean this portfolio management agreement, as amended from time to time.

"Attorneys" shall have the meaning provided in Section 33.

"Board of Directors" shall mean the directors of the Issuer duly appointed pursuant to the Governing Instruments of the Issuer in accordance with Cayman Islands law or any subsequent directors who are duly appointed according to the Articles of Association.

"Confidential Information" shall have the meaning provided in Section 7.

"Expenses" shall have the meaning provided in Section 11(a).

"Fee Election" shall have the meaning provided in Section 9(b).

"Fee Election Notice" shall mean notice from the Portfolio Manager to the Issuer, the Trustee and Collateral Administrator delivered no later than the Determination Date related to the Payment Date on which a Fee Election will apply, that specifies (x) the Payment Dates on which the Fee Election will apply, (y) the specific percentage by which the Portfolio Manager is electing to reduce the Senior Management Fee (and thus increase the Subordinated Management Fee), which will not be greater than the entire Senior Management Fee and (z) that the Fee Election is not revocable with respect to

such Payment Date unless Acis Capital Management, L.P. is no longer the Portfolio Manager.

"Force Majeure Event" shall have the meaning assigned to such term in Section 11(m).

"Governing Instruments" shall mean the memorandum, articles or certificate of incorporation or association and by-laws, if applicable, in the case of a corporation, the partnership agreement, in the case of a partnership, or the limited liability company agreement, in the case of a limited liability company.

"Indemnified Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Indemnifying Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Independent Review Party" shall have the meaning set forth in Section 6(b).

"Issuer Documents" shall have the meaning provided in Section 17(a)(i).

"Liabilities" shall have the meaning provided in Section 11(a).

"Manager Documents" shall have the meaning provided in Section 17(b).

"Manager Related Party" means each of the Portfolio Manager, its Affiliates and their respective shareholders, partners, members, managers, directors, officers, trustees, incorporators, employees, representatives and agents.

"OFAC" shall have the meaning provided in Section 17(a)(x).

"OFAC Programs" shall have the meaning provided in Section 17(a)(x).

"Offer" shall mean, with respect to any security, (i) any offer by the obligor or issuer of such security or by any other Person made to all of the holders of such security to purchase or otherwise acquire such security (other than pursuant to any redemption in accordance with the terms of the related Underlying Instruments) or to convert or exchange such security into or for cash, securities or any other type of consideration or (ii) any solicitation by the obligor or issuer of such security or any other Person to amend, modify or waive any provision of such security or any related Underlying Instrument.

"Offering Circular" shall have the meaning provided in Section 11(a).

"Trading Restrictions" shall mean the Trading Restrictions set forth in Schedule 1.

"Person" means any individual, partnership, corporation, limited liability company, trust or other entity.

"Related Entities" shall mean, with respect to the Portfolio Manager, its clients, its partners, its members, funds or other investment accounts managed by it or any of its Affiliates, or their employees and their Affiliates.

"Responsible Officer" shall mean any officer, authorized person or employee of the Portfolio Manager set forth on the list provided by the Portfolio Manager to the Issuer and the Trustee which list shall include any portfolio manager having day-to-day responsibility for the performance of the Portfolio Manager under the Portfolio Management Agreement, as such list may be amended from time to time.

"Section 28(e)" shall have the meaning provided in Section 4(a).

"Service Agreements" shall mean, collectively, the Sub-Advisory Agreement and the Shared Services Agreement.

"Shared Services Agreement" shall mean that certain Shared Services Agreement dated January 1, 2011 between the Portfolio Manager and Highland Capital Management, L.P. (as amended, supplemented or modified from time to time).

"Sub-Advisory Agreement" shall mean that certain Sub-Advisory Agreement dated May 5, 2011 between the Portfolio Manager and Highland Capital Management, L.P. (as amended, supplemented or modified from time to time).

"Tax Advice" shall mean written advice from Dechert LLP or an opinion of other tax counsel of nationally recognized standing in the United States experienced in transactions of the type being addressed that (i) is based on knowledge by the person giving the advice of all relevant facts and circumstances of the Issuer and transaction (which are described in the advice or opinion, as applicable, or in a written description referred to in the advice or opinion, as applicable, which may be provided by the Issuer or Portfolio Manager), and (ii) is intended by the person rendering the advice to be relied upon by the Issuer in determining whether to enter into the transaction.

2. Engagement.

Commencing on the date hereof, the Issuer hereby engages and retains the Portfolio Manager to provide the investment advisory and related services described below, for the period and on the terms and conditions set forth herein. The Portfolio Manager hereby accepts such engagement and agrees, for the period and on the terms and conditions set forth herein, to provide, or to make satisfactory arrangements for the provision of, the investment advisory and related services described below, for the period and on the terms and conditions set forth herein.

3. General Duties of the Portfolio Manager.

The Portfolio Manager shall provide services to the Issuer as follows:

(a) Subject to and in accordance with the terms of the Indenture and this Agreement, the Portfolio Manager agrees to supervise and direct the investment and

reinvestment of the Assets, and shall perform on behalf of the Issuer the duties that have been specifically delegated to the Portfolio Manager in this Agreement and in the Indenture (and the Portfolio Manager shall have no obligation to perform any other duties under this Agreement and the Indenture) and, to the extent necessary or appropriate to perform such duties, the Portfolio Manager shall have the power to execute and deliver all necessary and appropriate documents and instruments, and to take all other actions, on behalf of the Issuer with respect thereto, it being understood that the Portfolio Manager shall have no obligation to perform duties to be performed by third parties not under the control of the Portfolio Manager or its Affiliates.

(b) The Portfolio Manager shall comply with all the terms and conditions of the Indenture affecting the duties and functions that have been delegated to it thereunder and hereunder and (without in any way limiting Section 11 of this Agreement) shall perform its obligations hereunder and thereunder in good faith and with reasonable care, using a degree of skill and attention no less than that which the Portfolio Manager (i) exercises with respect to comparable assets that it manages for itself and (ii) exercises with respect to comparable assets that it manages for others, and in a manner consistent with practices and procedures followed by institutional managers of national standing relating to assets of the nature and character of the Assets, except as expressly provided otherwise in this Agreement and/or the Indenture. To the extent not inconsistent with the foregoing, the Portfolio Manager shall follow its customary standards, policies and procedures in performing its duties under the Indenture and hereunder (including those duties of the Issuer under the Indenture which the Portfolio Manager has agreed hereunder to perform on the Issuer's behalf). The Portfolio Manager shall not be bound to follow any amendment to the Indenture, however, until it has received written notice thereof and until it has received a copy of the amendment from the Issuer or the Trustee; *provided* that with respect to any amendment to the Indenture which would (i) increase the duties or liabilities of the Portfolio Manager or adversely change the economic consequences to the Portfolio Manager, (ii) modify the restrictions on the purchases or sales of Collateral Obligations under Article 12 of the Indenture or the Investment Criteria, (iii) expand or restrict the Portfolio Manager's discretion or (iv) modify the restrictions on and procedures for resales and other transfers of Subordinated Notes, except as set forth in Section 8.1(vi) of the Indenture, the Portfolio Manager shall not be bound thereby unless the Portfolio Manager shall have consented thereto in writing, such consent to not be unreasonably withheld or delayed. The Issuer agrees that it will not permit any such amendment to the Indenture to become effective unless the Portfolio Manager has been given prior written notice of such amendment and consented thereto in writing and that it will give prior written notice of any other amendment to the Indenture to the Portfolio Manager.

(c) The Portfolio Manager shall (i) determine consistent with the applicable provisions of the Indenture, when Principal Proceeds shall be applied to effect a Special Redemption of the Secured Notes, (ii) select all Collateral Obligations and Eligible Investments which shall be acquired by the Issuer and pledged to the Trustee pursuant to the Indenture and (iii) facilitate the acquisition, settlement and sale of Collateral Obligations by the Issuer. In providing services to the Issuer hereunder, the Portfolio Manager shall take into consideration the interests of the Holders as a whole.

The Portfolio Manager shall have no obligation to perform any duties other than as expressly specified herein, or in the provisions of the Indenture applicable to the Portfolio Manager, and the Portfolio Manager shall be subject to no implicit obligations of any kind.

(d) Subject to any applicable terms of the Collateral Administration Agreement, the Portfolio Manager shall monitor the Assets, on behalf of the Issuer, on an ongoing basis and provide (or cause to be provided) to the Issuer all reports, schedules and other data reasonably available to the Portfolio Manager that the Issuer is required to prepare, deliver or furnish, or cause to be prepared, delivered or furnished, under the Indenture, in the form and containing all information required thereby and in sufficient time for the Issuer to review such required reports, schedules and data and to deliver them to the parties entitled thereto under the Indenture. The Portfolio Manager shall, on behalf of the Issuer, be responsible for obtaining to the extent practicable any information concerning whether a Collateral Obligation has become a Defaulted Obligation. Pursuant to the terms of the Collateral Administration Agreement, the Collateral Administrator is required to provide drafts of certain reports, schedules and calculations to the Portfolio Manager regarding the Collateral Obligations. The obligation of the Portfolio Manager to furnish such information is subject to the Portfolio Manager's timely receipt of necessary reports and the appropriate information from the Person responsible for the delivery of or preparation of such reports and such information (including without limitation, the Obligors of the Collateral Obligations, the Rating Agencies, the Trustee and the Collateral Administrator) and to any confidentiality restrictions with respect thereto. The Portfolio Manager shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing reasonably believed by it to be genuine and to have been signed or sent by a Person that the Portfolio Manager has no reason to believe is not duly authorized. The Portfolio Manager also may rely upon any statement made to it orally or by telephone and made by a Person the Portfolio Manager has no reason to believe is not duly authorized, and shall not incur any liability for relying thereon. The Portfolio Manager is entitled to rely on any other information furnished to it by third parties that it reasonably believes in good faith to be genuine.

(e) The Portfolio Manager may direct an Optional Redemption (including a Refinancing) under the Indenture on behalf of the Issuer.

(f) The Portfolio Manager may, in its sole discretion subject to and in accordance with the provisions of the Indenture and this Agreement, direct the Issuer and/or the Trustee to take the following actions with respect to a Collateral Obligation, Eligible Investment or other Asset:

(i) retain such Collateral Obligation, Eligible Investment or other Asset;

(ii) dispose of such Collateral Obligation, Eligible Investment or other Asset in the open market or otherwise;

(iii) acquire, as security for the Secured Notes in substitution for or in addition to any one or more Collateral Obligations or Eligible Investments included in the Assets, one or more additional Collateral Obligations or Eligible Investments;

(iv) if applicable, tender such Collateral Obligation, Eligible Investment or other Asset pursuant to an Offer;

(v) if applicable, consent to or refuse to consent to any proposed amendment, modification, restructuring, exchange or waiver pursuant to an Offer;

(vi) retain or dispose of any securities or other property (if other than cash) received pursuant to an Offer;

(vii) waive any default with respect to any Defaulted Obligation or other Asset;

(viii) vote to accelerate the maturity of any Defaulted Obligation or other Asset;

(ix) participate in a committee or group formed by creditors of an issuer or a borrower under a Collateral Obligation, Eligible Investment, Equity Security or asset held by any ETB Subsidiary;

(x) negotiate, modify or amend any loan for the Issuer as authorized by the Indenture in accordance with a Refinancing;

(xi) exercise any other rights or remedies with respect to a Collateral Obligation, Eligible Investment or other Asset as provided in the related Underlying Instruments or take any other action consistent with the terms of the Indenture; and

(xii) to make loans to ETB Subsidiaries.

(g) Notwithstanding anything to the contrary in this Agreement, none of the services performed by the Portfolio Manager shall result in or be construed as resulting in an obligation to perform any of the following:

(i) the Portfolio Manager acting repeatedly or continuously as an intermediary in securities for the Issuer;

(ii) the Portfolio Manager providing investment banking services to the Issuer; or

(iii) the Portfolio Manager having direct contact with, or actively soliciting or finding, outside investors to (x) invest in the Issuer or (y) make co-investments in securities of portfolio companies with the Issuer.

(h) The Portfolio Manager hereby agrees to the following:

(i) The Portfolio Manager agrees not to institute against the Issuer or the Co-Issuer any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings or other proceedings under U.S. federal or state bankruptcy or similar laws, or the similar laws of the Cayman Islands or other applicable jurisdiction until the payment in full of all Notes issued under the Indenture and the expiration of a period equal to one year and a day, or, if longer, the applicable preference period, following such payment. Nothing in this Section 3(h)(i) shall preclude, or be deemed to stop, the Portfolio Manager (i) from taking any action prior to the expiration of the aforementioned period in (A) any case or Proceeding voluntarily filed or commenced by the Issuer or the Co-Issuer or (B) any involuntary insolvency Proceeding filed or commenced by a Person other than the Portfolio Manager, or (ii) from commencing against the Issuer or the Co-Issuer or any of its properties any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceeding. The provisions of this Section 3(h)(i) shall survive termination of this Agreement.

(ii) The Portfolio Manager shall cause any purchase or sale of any Collateral Obligation to be conducted on arm's length terms or in the manner contemplated by Section 6, if applicable.

(iii) In providing services hereunder, the Portfolio Manager may employ third parties, including its Affiliates, to render advice (including investment advice), to provide services to arrange for trade execution and otherwise provide assistance to the Issuer, and to perform any of the Portfolio Manager's duties under this Agreement; *provided* that the Portfolio Manager shall not be relieved of any of its duties hereunder regardless of the performance of any services by third parties.

(i) From and after the occurrence and continuance of an Event of Default, the Portfolio Manager will continue to perform and be bound by the provisions of this Agreement and the Indenture. Subject to the terms and conditions of the Indenture, the Trustee will be entitled to rely and be protected in relying upon all actions and omissions to act of the Portfolio Manager thereafter as fully as if no Event of Default had occurred.

4. Brokerage.

(a) The Portfolio Manager will seek to obtain the best execution (but shall have no obligation to obtain the best prices and execution) for all orders placed with respect to the Assets, in a manner permitted by law and in a manner it believes to be in the best interests of the Issuer. Subject to the preceding sentence, the Portfolio Manager may, in the allocation of business, select brokers and/or dealers with whom to effect trades on behalf of the Issuer and may open cash trading accounts with such brokers and dealers (provided that none of the Assets may be credited to, held in or subject to the lien

of the broker or dealer with respect to any such account). In addition, subject to the first sentence of this paragraph, the Portfolio Manager may, in the allocation of business, take into consideration research and other brokerage services furnished to the Portfolio Manager or its Affiliates by brokers and dealers which are not Affiliates of the Portfolio Manager; *provided* that the Portfolio Manager in good faith believes that the compensation for such services rendered by such brokers and dealers complies with the requirements of Section 28(e) of the Securities Exchange Act of 1934, as amended ("Section 28(e)"), or in the case of principal or fixed income transactions for which the "safe harbor" of Section 28(e) is not available, the amount of the spread charged is reasonable in relation to the value of the research and other brokerage services provided. Such services may be used by the Portfolio Manager or its Affiliates in connection with its other advisory activities or investment operations. The Portfolio Manager may aggregate sales and purchase orders of securities placed with respect to the Assets with similar orders being made simultaneously for other accounts managed by the Portfolio Manager or with accounts of the Affiliates of the Portfolio Manager, if in the Portfolio Manager's reasonable business judgment such aggregation shall result in an economic benefit to the Issuer, taking into consideration the advantageous selling or purchase price, brokerage commission or other expenses, as well as the availability of such securities on any other basis. In accounting for such aggregated order price, commissions and other expenses may be apportioned on a weighted average basis. When a transaction with respect to the Assets occurs as part of any aggregate sales or purchase orders, the objective of the Portfolio Manager shall be to allocate the executions among the accounts in an equitable manner the Portfolio Manager believes, in its reasonable business judgment, to be appropriate and in accordance with (x) its internal conflicts of interest and allocation policies and (y) any applicable requirements of the Advisers Act.

(b) The Issuer acknowledges and agrees that (i) the determination by the Portfolio Manager of any benefit to the Issuer will be subjective and will represent the Portfolio Manager's evaluation at the time that the Issuer will be benefited by relatively better purchase or sales prices, lower brokerage commissions, lower transaction costs and expenses and beneficial timing of transactions or any combination of any of these and/or other factors and (ii) the Portfolio Manager shall be fully protected with respect to any such determination to the extent the Portfolio Manager acts in accordance with Section 3(b).

(c) Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and (d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect client cross-transactions where the Portfolio Manager causes a transaction with respect to the Assets to be effected between the Issuer and another account advised by it or any of its Affiliates; *provided* that, if and to the extent required by the Advisers Act, such authorization is terminable prior to the initiation of such cross-transaction at the Issuer's option without penalty. Such termination shall be effective upon receipt by the Portfolio Manager of written notice from the Issuer. Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and (d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect transactions, including principal transactions, where the Issuer may invest in securities of

obligors or issuers in which the Portfolio Manager and/or its Affiliates have a debt, equity or participation interest, in each case in accordance with applicable law.

(d) The Issuer acknowledges and agrees that the Portfolio Manager or any of its Affiliates may acquire or sell obligations or securities, for its own account or for the accounts of its customers, without either requiring or precluding the acquisition or sale of such obligations or securities for the account of the Issuer. Such investments may be the same or different from those made on behalf of the Issuer. If, in light of market conditions and investment objectives, the Portfolio Manager determines that it would be advisable to purchase the same item of Collateral Obligation both for the Issuer, and either the proprietary account of the Portfolio Manager or any Affiliate of the Portfolio Manager or another client of the Portfolio Manager, the Portfolio Manager shall allocate such investment opportunities across such entities for which such opportunities are appropriate, consistent with (i) its internal conflicts of interest and allocation policies and (ii) any applicable requirements of the Advisers Act. The Issuer agrees that, in the course of managing the Collateral Obligations held by the Issuer, the Portfolio Manager may consider its relationships with other clients (including obligors and issuers) and its Affiliates. The Portfolio Manager may decline to make a particular investment for the Issuer in view of such relationships.

5. Additional Activities of the Portfolio Manager.

(a) Nothing herein shall prevent the Portfolio Manager or any of its Related Entities from engaging in other businesses, or from rendering services of any kind to the Issuer and its Affiliates (other than those services that would violate the Portfolio Manager's covenants under this Agreement), the Trustee, the Holders, the Initial Purchaser or any other Person to the extent permitted by applicable law, regardless of whether such business is in competition with the Issuer or otherwise. Without limiting the generality of the foregoing, the Portfolio Manager, its Related Entities and the directors, officers, employees and agents of the Portfolio Manager and its Related Entities may, subject to any limits specified in the Indenture:

(i) serve as directors (whether supervisory or managing), officers, partners, employees, agents, nominees or signatories, and receive arm's length fees in connection with such service, for the Issuer or its Affiliates, or for any obligor or issuer in respect of the Collateral Obligations, Equity Securities or Eligible Investments or any affiliate thereof, to the extent permitted by their Governing Instruments, as from time to time amended, or by any resolutions duly adopted by the Issuer, its Affiliates or any obligor or issuer in respect of any of the Collateral Obligations, Eligible Investments or Equity Securities (or any Affiliate thereof) pursuant to their respective Governing Instruments, and neither the Holders of the Notes nor the Issuer shall have the right to any such fees; *provided* that, in the reasonable business judgment of the Portfolio Manager, such activity will not have a material adverse effect on any item of the Assets;

(ii) receive fees or other compensation from third parties (including Persons in which the Issuer has made or proposes to make an

investment) in connection with any business activities of the Portfolio Manager and its Affiliates and which are not related to the use of the Issuer's capital (which fees or other compensation shall be for the benefit of the Portfolio Manager's own account); *provided* that, in the reasonable business judgment of the Portfolio Manager, such activities will not have a material adverse effect on any item of the Assets; and

(iii) be a secured or unsecured creditor of, or hold an equity interest in, or own or hold notes issued by, the Issuer, its Affiliates or any obligor or issuer of any obligation included in the Assets, subject to the Portfolio Manager's obligations in Section 8 hereof.

As a result, such individuals may possess information relating to obligors and issuers of Collateral Obligations that is (a) not known to or (b) known but restricted as to its use by the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations of the Portfolio Manager under this Agreement. Each of such ownership and other relationships may result in securities laws restrictions on transactions in such securities by the Issuer and otherwise create conflicts of interest for the Issuer. The Issuer acknowledges and agrees that, in all such instances, the Portfolio Manager and its Affiliates may in their discretion make investment recommendations and decisions that may be the same as or different from those made with respect to the Issuer's investments and they have no duty, in making or managing such investments, to act in a way that is favorable to the Issuer.

The Issuer acknowledges that there are generally no ethical screens or information barriers among the Portfolio Manager and certain of its Affiliates of the type that many firms implement to separate Persons who make investment decisions from others who might possess material, non-public information that could influence such decisions. The officers or Affiliates of the Portfolio Manager may possess information relating to obligors or issuers of Collateral Obligations that is not known to the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations under this Agreement. As a result, the Portfolio Manager may from time to time come into possession of material nonpublic information that limits the ability of the Portfolio Manager to effect a transaction for the Issuer, and the Issuer's investments may be constrained as a consequence of the Portfolio Manager's inability to use such information for advisory purposes or otherwise to effect transactions that otherwise may have been initiated on behalf of its clients, including the Issuer.

(b) It is understood that the Portfolio Manager and any of its Affiliates may engage in any other business and furnish investment management and advisory services to others, including Persons which may have investment policies similar to those followed by the Portfolio Manager with respect to the Assets and which may own securities or obligations of the same class, or which are of the same type, as the Collateral Obligations or the Eligible Investments or other securities or obligations of the obligors or issuers of the Collateral Obligations or the Eligible Investments. The Portfolio Manager will be free, in its sole discretion, to make recommendations to others or effect transactions on behalf of itself or for others, which may be the same as or different from

those effected with respect to the Assets. Nothing in the Indenture and this Agreement shall prevent the Portfolio Manager or any of its Affiliates, acting either as principal or agent on behalf of others, from buying or selling, or from recommending to or directing any other account to buy or sell, at any time, securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those directed by the Portfolio Manager to be purchased or sold on behalf of the Issuer. It is understood that, to the extent permitted by applicable law, the Portfolio Manager, its Affiliates or Related Entities, or any of their directors, managers, officers, stockholders, members, partners, partnership committee members, employees, agents or affiliates or any member of their families or a Person or entity advised by the Portfolio Manager may have an interest in a particular transaction or in securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those whose purchase or sale the Portfolio Manager may direct hereunder.

(c) The Portfolio Manager shall not be obligated to pursue any particular investment strategy or opportunity with respect to the Assets.

(d) The Issuer acknowledges that the Portfolio Manager and its Affiliates may make and/or hold an investment in an obligor's or issuer's securities that may be pari passu, senior or junior in ranking to an investment in such obligor's or issuer's securities made and/or held by the Issuer or in which partners, security holders, members, officers, directors, agents or employees of the Portfolio Manager and its Affiliates serve on boards of directors or otherwise have ongoing relationships.

6. Conflicts of Interest.

(a) Subject to compliance with applicable laws and regulations and subject to this Agreement and the Indenture, the Portfolio Manager may direct the Trustee to acquire a Collateral Obligation from, or sell a Collateral Obligation, Equity Security, Eligible Investment or asset held by an ETB Subsidiary to, the Portfolio Manager, any of its Affiliates or any account or portfolio for which the Portfolio Manager or any of its Affiliates serve as investment advisor for fair market value. The Portfolio Manager may obtain the Issuer's written consent through the Independent Review Party as provided herein if any such transaction requires the consent of the Issuer under Section 206(3) of the Advisers Act (any such transaction, an "Affiliate Transaction"). The Issuer hereby acknowledges that the Portfolio Manager, its Affiliates or accounts advised or sub-advised by the Portfolio Manager or its Affiliates (collectively, the "Portfolio Manager Affiliates") will purchase on the Closing Date U.S.$6,000,000 of the Class D Notes, U.S.$4,000,000 of the Class F Notes and U.S.$50,750,000 of the Subordinated Notes (together, the "Portfolio Manager Notes"). The Issuer further acknowledges and agrees that no Portfolio Manager Affiliate is under any obligation to retain any Portfolio Manager Notes, and may sell all or a portion of such Portfolio Manager Notes at any time. In addition, the Issuer acknowledges that the Portfolio Manager Affiliates may acquire and subsequently sell other Notes after the Closing Date. In certain circumstances, the interests of the Issuer and/or the Holders or beneficial owners of the Notes with respect to matters as to which the Portfolio Manager is advising the Issuer may conflict with the interests of the Portfolio Manager Affiliates or its Related Entities.

The Issuer hereby acknowledges that various potential and actual conflicts of interest may exist with respect to the Portfolio Manager as described above and as described in the final offering circular relating to the Notes; *provided* that nothing in this Section 6 shall be construed as altering the duties of the Portfolio Manager referred to herein.

(b) At the written request of the Portfolio Manager, the Issuer shall establish a conflicts review board or appoint an independent third party to act on behalf of the Issuer (such board or party, an "Independent Review Party") with respect to Affiliate Transactions. Decisions of any Independent Review Party shall be binding on the Portfolio Manager, the Issuer, and Holders of the Notes.

(c) Any Independent Review Party (i) shall either (A) be the Issuer's Board of Directors, (B) be an established financial institution or other financial company with experience in assessing the merits of transactions similar to the Affiliate Transactions or (C) be a review board comprised of one or more individuals selected by the Issuer (or at the request of the Issuer, selected by the Portfolio Manager), (ii) shall be required to assess the merits of the Affiliate Transaction and either grant or withhold consent to such transaction in its sole judgment and (iii) shall not be (A) affiliated with the Portfolio Manager (other than as a Holder or as a passive investor in the Issuer or an Affiliate of the Issuer) or (B) (other than the Issuer's Board of Directors) involved in the daily management and control of the Issuer.

(d) The Issuer (i) shall be responsible for any fees relating to the services provided by any Independent Review Party and shall reimburse members of any Independent Review Party for their out-of-pocket expenses and (ii) may indemnify members of such Independent Review Party to the maximum extent permitted by law, subject to terms and conditions satisfactory to the Portfolio Manager.

7. Records; Confidentiality.

The Portfolio Manager shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Issuer, the Trustee, the Holders, and the Independent accountants appointed by the Portfolio Manager on behalf of the Issuer pursuant to Article 10 of the Indenture at any time during normal business hours and upon not less than three Business Days' prior notice. The Portfolio Manager shall keep confidential any and all information that is either (i) of a type that would ordinarily be considered proprietary or confidential or (ii) designated as confidential (collectively "Confidential Information") obtained in connection with the services rendered hereunder and shall not disclose any such Confidential Information to non-affiliated third parties (excluding any Holders and beneficial owners of Notes to the extent required by the terms of the Indenture) except (a) with the prior written consent of the Issuer, (b) such Confidential Information as a Rating Agency shall reasonably request in connection with its rating of the Secured Notes or supplying credit estimates on any obligation included in the Assets, (c) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions with respect to the Assets on behalf of the Issuer, (d) as required by (i) applicable law, regulation,

court order, or a request by a governmental regulatory agency with jurisdiction over the Portfolio Manager or any of its Affiliates, (ii) the rules or regulations of any stock exchange or self-regulating organization, body or official having jurisdiction over the Portfolio Manager or any of its Affiliates or (iii) the Irish Stock Exchange, (e) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (f) such Confidential Information as shall have been publicly available or disclosed other than in known violation of this Agreement or the provisions of the Indenture or shall have been obtained by the Portfolio Manager on a non-confidential basis, (g) such Confidential Information as is necessary or appropriate to disclose so that the Portfolio Manager may perform its duties hereunder, under the Indenture or the related documents or (h) general performance information which may be used by the Portfolio Manager or its Affiliates in connection with their marketing activities. Notwithstanding the foregoing, it is agreed that the Portfolio Manager may disclose (a) that it is serving as portfolio manager of the Issuer, (b) the nature, aggregate principal amount and overall performance of the Issuer's assets, (c) the amount of earnings on the Assets, (d) such other Confidential Information about the Issuer, the Assets and the Notes as is customarily disclosed by managers of collateralized loan obligations and (e) each of its respective employees, representatives or other agents may disclose to any and all Persons, without limitation of any kind, the United States federal income tax treatment and United States federal income tax structure of the transactions contemplated by the Indenture, this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them relating to such United States federal income tax treatment and United States income tax structure. For purposes of this Section 7, the Holders and beneficial owners of the Notes shall not be considered "non-affiliated third parties."

8. Obligations of Portfolio Manager.

In accordance with the performance standard set forth in Section 3(b), the Portfolio Manager shall use commercially reasonable efforts to ensure that no action is taken by it, and shall not intentionally or with reckless disregard take any action, which would (a) materially and adversely affect the status of the Issuer for purposes of Cayman Islands law, United States federal or state law, or other law known to the Portfolio Manager to be applicable to the Issuer, (b) not be permitted by the Issuer's Governing Instruments, (c) violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer, including, without limitation, actions which would violate any Cayman Islands law, United States federal, state or other applicable securities law that is known by the Portfolio Manager to be applicable to it and, in each case, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer or have a material adverse effect on the ability of the Portfolio Manager to perform its obligations hereunder or under the Indenture, (d) require registration of the Issuer, the Co-Issuer or the pool of Assets as an "investment company" under Section 8 of the Investment Company Act, (e) cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise cause the Issuer to be subject to U.S. federal or state income tax on a net basis; *provided* that it shall not be a violation of this clause (e) for the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal or state income tax on a

net basis as a result of an action taken either (i) in compliance with the Trading Restrictions attached hereto as Schedule 1 or (ii) in reliance upon Tax Advice to the effect that, under the relevant facts and circumstances with respect to such action, the Issuer's contemplated action would not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis; or (f) knowingly and willfully adversely affect the interests of the Holders in the Assets in any material respect (other than (i) as expressly permitted hereunder or under the Indenture or (ii) in connection with any action taken in the ordinary course of business of the Portfolio Manager in accordance with its fiduciary duties to its clients). In furtherance of the foregoing, the Portfolio Manager shall at all times comply with the Trading Restrictions set forth in Schedule 1; *provided* that the Portfolio Manager may take an action that is not permitted by such Trading Restrictions if (x) such action is otherwise permitted under this Agreement and the Indenture and (y) the Portfolio Manager has received Tax Advice to the effect that, under the relevant facts and circumstances with respect to such transaction, taking into account the Issuer's failure to comply with one or more of such provisions and assuming compliance with the Indenture and all other provisions of the Trading Restrictions, the Issuer's contemplated activities would not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to United States federal income tax on a net basis. If the Portfolio Manager is ordered by the Board of Directors of the Issuer or the requisite Holders or beneficial owners of Notes to take any action which would, or could reasonably be expected to, in each case in its reasonable business judgment, have any such consequences, the Portfolio Manager shall promptly notify the Issuer that such action would, or could reasonably be expected to, in each case in its reasonable business judgment, have one or more of the consequences set forth above and shall not take such action unless the Board of Directors of the Issuer then request the Portfolio Manager to do so and at least a Majority of both the Controlling Class and the Subordinated Notes (voting separately by Class) have consented thereto in writing. Notwithstanding any such request, the Portfolio Manager shall not take such action unless (1) arrangements satisfactory to it are made to insure or indemnify the Portfolio Manager, Affiliates of the Portfolio Manager and members, shareholders, partners, directors, managers, officers or employees of the Portfolio Manager or such Affiliates from any liability and expense it may incur as a result of such action and (2) if the Portfolio Manager so requests in respect of a question of law, the Issuer delivers to the Portfolio Manager an opinion of a nationally recognized law firm (from outside counsel satisfactory to the Portfolio Manager) that the action so requested does not violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer or over the Portfolio Manager. Neither the Portfolio Manager nor its Affiliates, shareholders, partners, directors, members, managers, officers or employees shall be liable to the Issuer or any other Person, except as provided in Section 11. Notwithstanding anything contained in this Agreement to the contrary, any indemnification or insurance by the Issuer provided for in this Section 8 or Section 11 shall be payable out of the Assets in accordance with the Priority of Payments, and the Portfolio Manager may take into account such Priority of Payments in determining

whether any proposed indemnity arrangements contemplated by this Section 8 are satisfactory.

9. Compensation.

(a) The Issuer shall pay to the Portfolio Manager, for services rendered under this Agreement, on each Payment Date, the Senior Management Fee, the Subordinated Management Fee and the Incentive Management Fee. Accrued and unpaid Management Fees shall be paid as set forth in Article 11 of the Indenture. To the extent any of the Subordinated Management Fee is not paid on any Payment Date, such payment will be deferred and will accrue interest at LIBOR (as determined for the applicable Interest Accrual Period with respect to the Secured Notes), compounded quarterly, as set forth in the Indenture.

(b) The Portfolio Manager may (but shall not be obligated to), at its election upon notice to the Issuer and the Trustee (the "Fee Election Notice"), reduce for a predetermined period of time, as specified in the Fee Election Notice, the amount which is due to it as Senior Management Fee by a specific percentage, in which case the Subordinated Management Fee shall automatically be increased by the same percentage (the "Fee Election"). Any Fee Election must be made on or before the Determination Date for the first Collection Period in respect of which the Fee Election will apply and shall not be revocable during the period of the Fee Election; except that, in the event that the Portfolio Manager is removed, resigns or assigns its rights to any Persons, as contemplated by Sections 13, 14 and 15 of this Agreement, the replacement Portfolio Manager shall be bound initially by the terms set forth under Section 9(a) and the Fee Election will not apply to such replacement Portfolio Manager.

(c) The Portfolio Manager shall pay (without reimbursement by the Issuer) its general overhead expenses, including (i) all costs and expenses on account of salaries, wages, bonuses and other employee benefits of the Portfolio Manager and (ii) all occupational expenses, including rent, taxes and utilities, of the Portfolio Manager. The Issuer shall pay or reimburse the Portfolio Manager (at closing in the case of clause (i) below) for its payment of any and all reasonable costs and expenses incurred on behalf of the Issuer, including, without limitation: (i) the costs and expenses of the Portfolio Manager incurred in connection with the negotiation and preparation of this Agreement and all other agreements and matters related to the issuance of the Notes; (ii) any transfer fees necessary to register any Collateral Obligation in accordance with the Indenture; (iii) any costs, fees and expenses in connection with the acquisition, management or disposition of Assets or otherwise in connection with the Notes or the Issuer (including (a) investment related travel, communications and related expenses, (b) loan processing fees, legal fees and expenses and other expenses of professionals retained by the Portfolio Manager on behalf of the Issuer and (c) amounts in connection with the termination, cancellation or abandonment of a potential acquisition or disposition of any Assets that is not consummated); (iv) any and all costs and expenses incurred in connection with the carrying or management of the Assets; (v) any and all costs and expenses incurred in connection with the Notes and other indebtedness of the Issuer; (vi) any and all attorneys', accountants', rating agencies', consultants', brokers' and other professionals'

fees and disbursements relating to Issuer matters (including in house attorneys' and accountants' services provided by or on behalf of the Portfolio Manager to the Issuer as may be reasonably allocated to the Issuer); (vii) any and all taxes and governmental charges that may be incurred or payable by the Issuer or any ETB Subsidiary; (viii) any and all insurance premiums or expenses incurred in connection with the activities of the Issuer by the Portfolio Manager; (ix) any and all costs, fees and expenses incurred in connection with the rating of the Notes or obtaining ratings or credit estimates on Collateral Obligations, and communications with the Rating Agencies (including (a) any expenses related to compliance with Rule 17g-5 of the Securities Exchange Act of 1934, as amended, and (b) any fees, expenses or other amounts payable to the Rating Agencies); (x) any and all costs, fees and expenses incurred in connection with the Portfolio Manager's communications with the Holders (including charges related to annual meetings) and costs and expenses for services to the Issuer in respect of the Assets relating to asset pricing and rating services and specialty database software licensing and development fees; (xi) any and all costs and expenses incurred by the Portfolio Manager in connection with the establishment of any ETB Subsidiary (*provided* that such costs and expenses are directly attributable to the establishment of such ETB Subsidiary), and (xii) any and all expenses incurred to comply with any law or regulation related to the activities of the Issuer, any ETB Subsidiary and the Portfolio Manager. Other than as stated above, the Issuer will bear, and will pay directly in accordance with the Indenture, all other costs and expenses incurred by it or on its behalf in connection with the organization, operation or liquidation of the Issuer.

(d) If this Agreement is terminated pursuant to Section 13, Section 15 or otherwise, the Senior Management Fee, the Subordinated Management Fee and the Incentive Management Fee calculated as provided in the Indenture shall be prorated for any partial periods between Payment Dates during which this Agreement was in effect and shall be due and payable on the first Payment Date following the date of such termination, subject to Article 11 of the Indenture.

(e) Notwithstanding anything contained herein to the contrary, the obligations of the Issuer are limited recourse obligations payable solely from Assets granted to the Trustee pursuant to the Granting Clauses of the Indenture in accordance with the Priority of Payments and, following realization of the Assets and reduction thereof to zero, all obligations of the Issuer and any claims against the Issuer under this Agreement shall be extinguished and shall not thereafter revive. No recourse shall be had for the payment of any amount owing in respect of this Agreement against any other asset of the Issuer or against any officer, director, employee, shareholder or incorporator of the Issuer. The provisions of this Section 9(e) shall survive termination of this Agreement.

10. Benefit of the Agreement.

The Portfolio Manager agrees that its obligations hereunder in accordance with the terms of this Agreement and the terms of the Indenture applicable to it shall be enforceable by the Issuer and by the Trustee on behalf of the Holders, as provided in the Indenture. The Portfolio Manager agrees and consents to the provisions contained in Section 15.1 of the Indenture.

11. Limits of Portfolio Manager Responsibility.

(a) Subject to Section 8, the Portfolio Manager assumes no responsibility under this Agreement other than to render the services called for hereunder and under the terms of the Indenture applicable to it and affecting the duties and functions that have been delegated to it thereunder and hereunder in good faith and, subject to the standard of conduct described in the next succeeding sentence. The Portfolio Manager shall not be responsible for any action or inaction of the Co-Issuers or the Trustee in declining to follow any advice, recommendation or direction of the Portfolio Manager including as set forth in Section 8. Neither the Portfolio Manager nor any of its directors, managers, officers, stockholders, members, partners, partnership committee members, personnel, employees, agents or Affiliates will be liable to the Co-Issuers, the Trustee, the Holders of the Notes, the Initial Purchaser or any other Person for any act, omission, error of judgment, mistake of law, or for any claim, loss, liability, damage, judgments, assessments, settlement, cost, or other expense (including attorneys' fees and expenses and court costs) arising out of any investment, or for any other act taken by or recommended by or omission arising out of or in connection with the performance by the Portfolio Manager, its directors, managers, officers, stockholders, members, personnel, partners, partnership committee members, employees, agents or Affiliates under this Agreement or the terms of the Indenture applicable to the Portfolio Manager, incurred as a result of actions taken or recommended or for any omissions of the Portfolio Manager, or for any decrease in the value of the Collateral Obligations, except that the Portfolio Manager shall be liable (i) by reason of acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance of its obligations hereunder or the terms of the Indenture applicable to the Portfolio Manager or, (ii) with respect to the information concerning the Portfolio Manager included in the Offering Circular dated June 3, 2014 (the "Offering Circular") under the headings "*Risk Factors—Risks Relating to the Portfolio Manager*" and the sub-headings thereunder, "*Risk Factors—Risks Relating to Certain Conflicts of Interest—The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager*," as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Portfolio Manager shall not be liable for any consequential, punitive, exemplary or treble damages or lost profits hereunder or under the Indenture. The Issuer (the Issuer in such case, the "Indemnifying Party") shall indemnify and hold harmless the Portfolio Manager, its directors, managers, officers, stockholders, members, partners, partnership committee members, agents, personnel and employees and its Affiliates and their directors, managers, officers, stockholders, members, partners, partnership committee members, agents, personnel and employees (each, an "Indemnified Party") from and against any and all losses, claims, damages, judgments, assessments, costs or other liabilities (other than losses in the value of a Collateral Obligation or Eligible Investment incurred by the Portfolio Manager or any of its Affiliates in connection with a transaction in which it elects to acquire a Collateral Obligation or an Eligible Investment from the Issuer as principal) (collectively, "Liabilities"), and will promptly reimburse each such Indemnified Party for all reasonable fees and expenses (including reasonable fees and expenses of counsel) as such

fees and expenses (collectively, the "Expenses") are incurred in investigating, preparing, pursuing or defending any claim, action, proceeding or investigation with respect to any pending or threatened litigation (collectively, the "Actions"), caused by, or arising out of or in connection with the Assets or business of the Issuer or any ETB Subsidiary or otherwise relating to the Indenture or this Agreement, and/or any action taken by, or any failure to act by, such Indemnified Party; *provided* that the Portfolio Manager shall not be indemnified for any Liabilities or Expenses (x) it incurs as a result of any acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance by the Portfolio Manager of its obligations hereunder or the terms of the Indenture applicable to the Portfolio Manager, or (y) it incurs with respect to the information concerning the Portfolio Manager included in the Offering Circular under the headings "*Risk Factors—Risks Relating to the Portfolio Manager*" and the sub-headings thereunder, "*Risk Factors—Risks Relating to Certain Conflicts of Interest—The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager*," as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Notwithstanding anything contained herein to the contrary, the obligations of the Issuer under this Section 11 are limited recourse obligations of the Issuer payable solely out of the Assets in accordance with the Priority of Payments. The Indemnified Parties are not required to consult with, or obtain the consent of, the Issuer with respect to any settlement, negotiation or other act of the Indemnified Parties in connection with any Action.

(b) The Portfolio Manager shall indemnify and hold harmless (the Portfolio Manager in such case, the "Indemnifying Party") the Issuer (the Issuer in such case, the "Indemnified Party") from and against any and all expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) arising directly out of any information described in Section 11(a)(ii) above, as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided* that the Portfolio Manager shall not be liable for any special, indirect, consequential, punitive, exemplary or treble damages or lost profits.

(c) The Indemnified Party shall promptly notify the Indemnifying Party if the Indemnified Party receives a complaint, claim, compulsory process or other notice of any losses or damages giving rise to a claim for indemnification under this Section 11, but failure so to notify the Indemnifying Party or to comply with paragraph (d) below shall not relieve such Indemnifying Party from its obligations under this Section 11 unless and to the extent that such Indemnifying Party did not otherwise learn of such action or proceeding and to the extent such failure results in the forfeiture by the Indemnifying Party of material rights and defenses.

(d) With respect to any claim made or threatened against an Indemnified Party, or compulsory process or request served upon such Indemnified Party

for which such Indemnified Party is or may be entitled to indemnification under this Section 11, such Indemnified Party shall:

(i) at the Indemnifying Party's expense, provide the Indemnifying Party such information and cooperation with respect to such claim as the Indemnifying Party may reasonably require, including, but not limited to, making appropriate personnel available to the Indemnifying Party at such reasonable times as the Indemnifying Party may request;

(ii) at the Indemnifying Party's expense, cooperate and take all such steps as the Indemnifying Party may reasonably request to preserve and protect any defense to such claim;

(iii) in the event suit is brought with respect to such claim, upon reasonable prior notice, afford to the Indemnifying Party the right, which the Indemnifying Party may exercise in its sole discretion and at its expense, (A) to participate in the investigation, defense and settlement of such claim, and, (B) to the extent that it shall wish, to assume the defense thereof, with counsel satisfactory to such Indemnified Party (who shall not, except with the consent of the Indemnified Party, be counsel to the Indemnifying Party), and, after notice from the Indemnifying Party to such Indemnified Party of its election so to assume the defense thereof, the Indemnifying Party shall not be liable to such Indemnified Party under such subsection for any legal fees and expenses of other counsel or any other expenses, in each case subsequently incurred by such Indemnified Party, in connection with the defense thereof other than reasonable costs of investigation, except that, if such Indemnified Party reasonably determines that counsel selected by the Indemnifying Party has a conflict of interest, such Indemnifying Party shall pay the reasonable fees and disbursements of one additional counsel selected by the Indemnified Party (in addition to any local counsel) separate from its own counsel for all Indemnified Parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances; and

(iv) neither incur any material expense to defend against nor make any admission with respect thereto, nor permit a default or consent to the entry of any judgment in respect thereof, in each case without the prior written consent of the Indemnifying Party; *provided* that the Indemnifying Party shall have advised such Indemnified Party that such Indemnified Party is entitled to be indemnified hereunder with respect to such claim.

(e) No Indemnified Party shall, without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, settle or compromise any claim giving rise to a claim for indemnity hereunder, or permit a default or consent to the entry of any judgment in respect thereof; *provided* that if the Indemnified Party is the Portfolio Manager or an Affiliate or a Related Entity of the Portfolio Manager or of an Affiliate thereof, such Indemnified Party shall not be required to seek or obtain such consent if it determines in good faith that the Indemnifying Party is

unlikely to have sufficient funds available to indemnify it in full, taking into account the Priority of Payments.

(f) No Indemnifying Party shall, without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, settle or compromise or consent to the entry of any judgment with respect to any claim giving rise to a claim for indemnity hereunder if such settlement includes a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party.

(g) If the indemnification provided for in this Section 11 is unavailable to an Indemnified Party in respect of any claims or liabilities referred to herein, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such claims or liabilities in such proportion as is appropriate to reflect the relative benefits received by, and the relative fault of, the Indemnifying Party, on the one hand, and the Indemnified Parties, on the other hand, as well as any other relevant equitable considerations.

(h) The required indemnification provided by this Section 11 shall be in addition to any rights to which an Indemnified Party may otherwise be entitled by contract or as a matter of law, and shall extend to each of its or his or her heirs, successors and assigns. The provisions of this Section 11 shall continue to afford protection to each Indemnified Party regardless of whether such Indemnified Party remains in the position or capacity pursuant to which such Indemnified Party became entitled to indemnification under this Section 11.

(i) United States federal securities laws impose liabilities under certain circumstances on persons who act in good faith and nothing herein shall constitute a waiver or limitation of any rights which the Issuer or any Holder of Notes may have under any applicable federal securities laws.

(j) Notwithstanding anything in this Agreement to the contrary, the Portfolio Manager's obligations hereunder will be solely the obligations of the Portfolio Manager, and the Issuer will not have any recourse to any Manager Related Party other than the Portfolio Manager, with respect to any claims, losses, damages, liabilities, indemnities or other obligations in connection with any transactions contemplated hereby.

(k) The Portfolio Manager shall not be liable for any act or omission of the custodian, any sub-custodian, prime broker or other Person appointed by the Issuer. Any compensation to any such Person for its services to the Issuer shall be the obligation of the Issuer and not the Portfolio Manager.

(l) The Portfolio Manager shall not be responsible for any liability resulting from any failure by the Portfolio Manager to fulfill its duties under this Agreement if such liability or failure shall be caused by or directly or indirectly due to a Force Majeure Event, provided that the Portfolio Manager shall use commercially

reasonable efforts to minimize the effect of the same. As used herein, the term "Force Majeure Event" means such an operation of the forces of nature as reasonable foresight and ability could not foresee or reasonably provide against including but not limited to, acts of god, flood, war (whether declared or undeclared), terrorism, fire, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services contemplated by this Agreement, inability to obtain material, equipment, or communications or computer facilities, or the failure of equipment or interruption of communications or computer facilities, and other causes beyond a party's control whether or not of the same class or kind as specifically named above.

(m) The Portfolio Manager shall be entitled to conclusively rely in good faith, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, facsimile, email, telex or teletype message, statement (which may be made orally or by telephone), order or other document or communication reasonably believed by it to be genuine and correct and to have been signed, sent or made by a Person that the Portfolio Manager has no reason to believe is not duly authorized and upon the advice and statements of independent accountants.

(n) The Portfolio Manager may consult with outside legal counsel of nationally recognized standing in the United States experienced in such matters as to questions of law pertaining to the performance of its duties hereunder and the advice or opinion of such counsel on any such question shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with the advice or opinion of such counsel; *provided* that the Portfolio Manager may take actions not permitted by the Trading Restrictions only if it has received Tax Advice as set forth in Section 8.

12. No Partnership or Joint Venture.

The Issuer and the Portfolio Manager are not partners or joint venturers with each other and nothing herein shall be construed to make them such partners or joint venturers or impose any liability as such on either of them. The Portfolio Manager's relation to the Issuer shall be deemed to be that of an independent contractor.

13. Term; Termination.

(a) This Agreement shall commence as of the date first set forth above and shall continue in force and effect until the first of the following occurs: (i) the payment in full of the Notes and the termination of the Indenture in accordance with its terms; (ii) the liquidation of the Assets and the final distribution of the proceeds of such liquidation to the Holders; or (iii) the termination of this Agreement in accordance with subsections (b) of this Section 13 or Section 15 of this Agreement.

(b) Notwithstanding any other provision hereof to the contrary but subject to the provisions of clause (e) below, this Agreement may be terminated without

cause by the Portfolio Manager, and the Portfolio Manager may resign, upon 90 days' (or such shorter notice as is acceptable to the Issuer) written notice to the Issuer; *provided* that the Portfolio Manager shall have the right to resign immediately upon the effectiveness of any material change in applicable law or regulations which renders the performance by the Portfolio Manager of its duties hereunder or under the Indenture to be a violation of such law or regulation.

(c) Notwithstanding the provisions of clause (b) above, no resignation or removal of the Portfolio Manager or termination of this Agreement pursuant to such clause shall be effective until the date as of which a successor Portfolio Manager shall have been appointed and approved in accordance with Section 13(e) and has accepted all of the Portfolio Manager's duties and obligations pursuant to this Agreement in writing and has assumed such duties and obligations.

(d) If this Agreement is terminated pursuant to this Section 13, neither party shall have any further liability or obligation to the other, except as provided in Section 3(h)(i), Sections 9(d) and (e) and Sections 11 and 16 of this Agreement.

(e) Any termination, removal or resignation of the Portfolio Manager while any Notes are Outstanding will be effective only upon (a) the appointment by the Issuer, at the direction of at least a Majority of the Subordinated Notes, with the consent of at least a Majority of the Controlling Class, of a successor Portfolio Manager that is an established institution which (i) has demonstrated an ability to professionally and competently perform duties reasonably comparable to those imposed upon the Portfolio Manager hereunder, (ii) is legally qualified and has the capacity to act as successor to the Portfolio Manager under this Agreement in the assumption of all of the responsibilities, duties and obligations of the Portfolio Manager hereunder and under the terms of the Indenture applicable to the Portfolio Manager, (iii) satisfies the S&P Rating Condition, (iv) shall not cause the Issuer or the Co-Issuer or the pool of collateral to become required to register under the provisions of the Investment Company Act and (v) shall not result in the imposition of any entity-level or withholding tax on the Issuer or the payments to the Holders or cause any other material adverse tax consequences to the Issuer and (b) written acceptance of appointment by such successor Portfolio Manager. The Issuer shall use its commercially reasonable efforts to appoint a successor Portfolio Manager to assume the duties and obligations of the removed or resigning Portfolio Manager. The Issuer, the Trustee and the successor Portfolio Manager shall take such action (or cause the outgoing Portfolio Manager to take such action) consistent with this Agreement and the terms of the Indenture applicable to the Portfolio Manager, as shall be necessary to effectuate any such succession. In the event that the successor manager has not been appointed or has not assumed the duties of the Portfolio Manager in writing within a 60-day period, any of the Portfolio Manager, a Majority of the Controlling Class or a Majority of the Subordinated Notes may petition a court of competent jurisdiction for the appointment of a successor Portfolio Manager, which appointment will not require the consent of, or be subject to the approval or disapproval of, the Issuer or any Holder (so long as such court appointed successor meets the requirements of clauses (a)(i) through (v) above). The Issuer shall provide notice to Moody's of any removal of the Portfolio Manager and appointment of a successor manager pursuant to this Section 13(e).

(f) In the event of removal of the Portfolio Manager pursuant to this Agreement by the Issuer or, to the extent so provided in the Indenture, by the Trustee, the Issuer shall have all of the rights and remedies available with respect thereto at law or equity, and, without limiting the foregoing, the Issuer or, to the extent so provided in the Indenture, the Trustee may by notice in writing to the Portfolio Manager as provided under this Agreement terminate all the rights and obligations of the Portfolio Manager under this Agreement (except those that survive termination pursuant to Section 13(d) above). Upon resignation or removal of the Portfolio Manager in accordance with this Section 13 or Section 15 of this Agreement, as applicable, and upon acceptance by a successor Portfolio Manager of appointment, all authority and power of the Portfolio Manager under this Agreement and the Indenture, whether with respect to the Assets or otherwise, shall automatically and without further action by any Person pass to and be vested in the successor Portfolio Manager.

(g) For so long as Acis Capital Management, L.P. or an Affiliate of Acis Capital Management, L.P. is the Portfolio Manager, the Issuer and the Co-Issuer will be permitted to use the "Acis" name; *provided* that, if the Portfolio Manager ceases to be Acis Capital Management, L.P. or an Affiliate of Acis Capital Management, L.P., the Issuer shall use commercially reasonable efforts to change its name to remove all reference to the name "Acis" therefrom. In addition, the Portfolio Manager, without the consent of the Issuer, may change the name of the Portfolio Manager.

14. Delegation; Assignments.

(a) Except as provided herein, the Portfolio Manager may not assign its rights or responsibilities hereunder without the written consent of the Issuer, at least a Majority of the Subordinated Notes (*provided* that failure to object within 45 days of written notice of assignment will constitute consent) and at least a Majority of the Controlling Class and satisfaction of the S&P Rating Condition. Notwithstanding the foregoing, the Portfolio Manager may, (i) with the consent of a Majority of the Controlling Class and without satisfaction of the S&P Rating Condition or the consent of any other Class, assign any of its rights or obligations hereunder to an Affiliate; *provided* that such Affiliate (A) has demonstrated ability, whether as an entity or by its personnel, to professionally and competently perform duties similar to those imposed upon the Portfolio Manager pursuant to this Agreement, (B) has the legal right and capacity to act as Portfolio Manager hereunder and (C) shall not cause the Issuer or the pool of collateral to become required to register under the provisions of the Investment Company Act, or (ii) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity and, (A) at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Portfolio Manager hereunder generally and the other entity is solely a continuation of the Portfolio Manager in another corporate or similar form and has substantially the same staff and (B) such action does not cause the Issuer to be subject to tax in any jurisdiction outside of its jurisdiction of incorporation; provided that the Portfolio Manager shall deliver prior notice to the Rating Agencies then rating a Class of any assignment, delegation or combination made pursuant to this sentence.

(b) Notwithstanding the foregoing to the extent that applicable law requires the consent of the Issuer to any "assignment" (as defined in the Advisers Act) of this Agreement to any Person, in whole or in part, by the Portfolio Manager, such requirement may be satisfied with respect to the Issuer and all holders (i) by obtaining consent to such assignment on behalf of the Issuer from any of the following persons as determined by the Portfolio Manager: (A) one or more directors of the Issuer independent from the Portfolio Manager, (B) the Independent Review Party, or (C) an advisory committee established by the Portfolio Manager; or (ii) in any other manner that is permitted pursuant to the applicable law. Any assignment consented to by the Issuer and such Holders shall bind the assignee hereunder in the same manner as the Portfolio Manager is bound. In addition, the assignee shall execute and deliver to the Issuer and the Trustee a counterpart of this Agreement naming such assignee as Portfolio Manager. Upon the execution and delivery of such a counterpart by the assignee, the Portfolio Manager shall be released from further obligations pursuant to this Agreement, except with respect to its obligations arising under Section 11 of this Agreement prior to such assignment and except with respect to its obligations under Section 3(h)(i) and Section 16 hereof.

(c) This Agreement shall not be assigned by the Issuer without the prior written consent of the Portfolio Manager, and unless the S&P Rating Condition has been satisfied in connection with such assignment, except in the case of assignment by the Issuer to (i) an entity which is a successor to the Issuer permitted under the Indenture, in which case such successor organization shall be bound hereunder and by the terms of said assignment in the same manner as the Issuer is bound thereunder or (ii) the Trustee as contemplated by the Granting Clause of the Indenture. In the event of any assignment by the Issuer, the Issuer shall use its commercially reasonable efforts to cause its successor to execute and deliver to the Portfolio Manager such documents as the Portfolio Manager shall consider reasonably necessary to effect fully such assignment.

15. Termination by the Issuer for Cause.

This Agreement may be terminated, and the Portfolio Manager may be removed for cause by at least a Majority of the Controlling Class of Notes upon 30 days' prior written notice to the Portfolio Manager. For purposes of determining whether the holders of the required percentage of relevant principal amount of the Notes have given notice of removal of the Portfolio Manager for cause, Notes owned by the Portfolio Manager or any affiliate thereof or an account or fund managed by the Portfolio Manager or its affiliates will be disregarded and deemed to be not outstanding; provided that Notes owned by a fund or an account managed by the Portfolio Manager or an affiliate thereof will not be disregarded and will be deemed to be outstanding if the voting rights with respect to such Notes is exercised by such fund or account or the client or beneficiary of such fund or account and not by the Portfolio Manager or its affiliate. No such termination or removal shall be effective until the date as of which a successor Portfolio Manager shall have agreed in writing to assume all of the Portfolio Manager's duties and obligations pursuant to this Agreement and as specified in the Indenture. For purposes of determining "cause" with respect to any such termination of this Agreement or removal of the Portfolio Manager, such term includes any one of the following events:

(a) the Portfolio Manager willfully violates, or takes any action that it knows breaches, any material provision of this Agreement or the Indenture applicable to it in bad faith (not including a willful and intentional breach that results from a good faith dispute regarding reasonable alternative courses of action or interpretation of instructions);

(b) the Portfolio Manager breaches in any respect any provision of this Agreement or any terms of the Indenture applicable to it (other than as covered by clause (a) and it being understood that failure to meet any Coverage Test, any Concentration Limitation, Interest Reinvestment Test or the Collateral Quality Test is not such a violation) (except for any such violations or breaches that have not had, or could not, either individually or in the aggregate, reasonably be expected to have, a material adverse effect on the Issuer) and fails to cure such breach within 30 days of a Responsible Officer receiving notice of such breach, unless, if such breach is remediable, the Portfolio Manager has taken action that the Portfolio Manager believes in good faith will remedy such breach, and such action does remedy such breach, within 60 days after a Responsible Officer receives notice thereof;

(c) the Portfolio Manager is wound up or dissolved or there is appointed over it or a substantial portion of its assets a receiver, administrator, administrative receiver, trustee or similar officer; or the Portfolio Manager (i) ceases to be able to, or admits in writing its inability to, pay its debts as they become due and payable, or makes a general assignment for the benefit of, or enters into any composition or arrangement with, its creditors generally; (ii) applies for or consents (by admission of material allegations of a petition or otherwise) to the appointment of a receiver, trustee, assignee, custodian, liquidator or sequestrator (or other similar official) of the Portfolio Manager or of any substantial part of its properties or assets, or authorizes such an application or consent, or proceedings seeking such appointment are commenced without such authorization, consent or application against the Portfolio Manager and continue undismissed for 60 days; (iii) authorizes or files a voluntary petition in bankruptcy, or applies for or consents (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, arrangement, readjustment of debt, insolvency or dissolution, or authorizes such application or consent, or proceedings to such end are instituted against the Portfolio Manager without such authorization, application or consent and are approved as properly instituted and remain undismissed for 60 days or result in adjudication of bankruptcy or insolvency; or (iv) permits or suffers all or any substantial part of its properties or assets to be sequestered or attached by court order and the order remains undismissed for 60 days;

(d) the occurrence of an Event of Default under the Indenture that consists of a default in the payment of principal or interest on the Secured Notes when due and payable and results primarily from any material breach by the Portfolio Manager of its duties hereunder or under the Indenture, which breach or default is not cured within any applicable cure period;

(e) the occurrence of an act by the Portfolio Manager that constitutes fraud or criminal activity in the performance of its obligations under this Agreement (as

determined pursuant to a final adjudication by a court of competent jurisdiction), or the Portfolio Manager being convicted for a criminal offense materially related to its business of providing asset management services;

(f) any senior executive officer of the Portfolio Manager (in the performance of his or her investment management duties) is indicted for a criminal offense materially related to the business of the Portfolio Manager providing asset management services and continues to have responsibility for the performance by the Portfolio Manager hereunder for a period of 10 days after such indictment; or

(g) the inability of the Portfolio Manager to perform its duties hereunder in accordance with the standard of care specified herein due to the termination of the Service Agreements, unless the Portfolio Manager believes in good faith that it will be able to either (i) secure reasonably equivalent substitute services to those that were performed for the Portfolio Manager under the Service Agreements or (ii) perform its duties hereunder in accordance with the applicable standard of care without engaging a third-party service provider, in each case, within 30 days, and the Portfolio Manager is in fact able to secure such services or perform such duties within such 30-day period.

If any of the events specified in the definition of "cause" in this Section 15 shall occur, the Portfolio Manager shall give prompt written notice thereof to the Issuer, each Rating Agency, each Holder of Notes and the Trustee upon the Portfolio Manager's becoming aware of the occurrence of such event. A Majority of the Controlling Class may waive any event described in (a), (b), (d), (e), (f) or (g) above as a basis for termination of this Agreement and removal of the Portfolio Manager under this Section 15.

16. Action Upon Termination.

(a) From and after the effective date of the termination of the Portfolio Manager's duties and obligations pursuant to this Agreement or resignation or removal of the Portfolio Manager hereunder, the Portfolio Manager shall not be entitled to compensation for further services hereunder, but shall be paid all compensation accrued to the date of termination, as provided in Section 9 hereof (including any accrued and unpaid Subordinated Management Fee), and shall be entitled to receive any amounts owing under Section 11 hereof. Upon such termination, resignation or removal, the Portfolio Manager shall as soon as practicable:

(i) deliver to the Issuer all property and documents of the Trustee or the Issuer or otherwise relating to the Assets then in the custody of the Portfolio Manager; and

(ii) deliver to the Trustee an accounting with respect to the books and records delivered to the Trustee or the successor Portfolio Manager appointed pursuant to Section 13(e) hereof.

Notwithstanding such termination, resignation or removal, the Portfolio Manager shall remain liable to the extent set forth herein (but subject to Section 11 hereof) for its

liabilities hereunder arising prior to termination and for any expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) in respect of or arising out of a breach of the representations and warranties made by the Portfolio Manager in Section 17(b) hereof or from any failure of the Portfolio Manager to comply with the provisions of this Section 16.

(b) The Portfolio Manager agrees that, notwithstanding any termination, it shall reasonably cooperate in any Proceeding arising in connection with this Agreement, the Indenture or any of the Assets (excluding any such Proceeding in which claims are asserted against the Portfolio Manager or any Affiliate of the Portfolio Manager) upon receipt of appropriate indemnification and expense reimbursement.

17. Representations and Warranties.

(a) The Issuer hereby represents and warrants to the Portfolio Manager as follows:

(i) The Issuer has been duly incorporated and is validly existing under the laws of the Cayman Islands, has the full corporate power and authority to own its assets and the securities proposed to be owned by it and included in the Assets and to transact the business in which it is presently engaged and is duly qualified under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of its obligations under this Agreement, the Indenture, the Collateral Administration Agreement or the Notes (collectively, the "Issuer Documents") would require, such qualification, except for failures to be so qualified, authorized or licensed that would not in the aggregate have a material adverse effect on the business, operations, assets or financial condition of the Issuer.

(ii) The Issuer has the necessary corporate power and authority to execute, deliver and perform each of the Issuer Documents and all obligations required thereunder, and has taken all necessary action to authorize each of the Issuer Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Issuer Documents and the performance of all obligations imposed upon it hereunder and thereunder. No consent of any other Person including, without limitation, shareholders and creditors of the Issuer, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority, other than those that may be required under state securities or "blue sky" laws and those that have been or shall be obtained in connection with the Indenture and the issuance of the Notes, is required by the Issuer in connection with the Issuer Documents or the execution, delivery, performance, validity or enforceability of the Issuer Documents or the obligations imposed upon it hereunder or thereunder. This Agreement constitutes, and each instrument or document required hereunder, when executed and delivered hereunder, shall constitute, the legally valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms, subject, as to

enforcement, to (a) the effect of bankruptcy, insolvency, or similar laws affecting generally the enforcement of creditors' rights, as such laws would apply in the event of any bankruptcy, receivership, insolvency or similar event applicable to the Issuer and (b) general equitable principles (whether enforceability of such principles is considered in a proceeding at law or in equity).

(iii) The execution, delivery and performance of this Agreement and the Collateral Administration Agreement and the documents and instruments required hereunder and thereunder do not violate any provision of any existing law or regulation binding on the Issuer, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Issuer, or the Governing Instruments of, or any securities issued by, the Issuer or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Issuer is a party or by which the Issuer or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer, and do not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking (other than the lien of the Indenture).

(iv) The Issuer is not required to register as an "investment company" under the Investment Company Act.

(v) The Issuer is not in violation of its Governing Instruments or in breach or violation of or in default under the Indenture or any other contract or agreement to which it is a party or by which it or any of its assets may be bound, or any applicable statute or any rule, regulation or order (including, without limitation, any anti-money laundering statute or related rule, regulation or order) of any court, government agency or body having jurisdiction over the Issuer or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of this Agreement or the performance by the Issuer of its duties hereunder or under the Collateral Administration Agreement.

(vi) True and complete copies of the Indenture and the Issuer's Governing Instruments have been delivered to the Portfolio Manager.

(vii) The Issuer has not taken any action or engaged in any activity, either directly or through an agent, that could cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes.

(viii) The Issuer is not a "bank" for purposes of Section 881 (c)(3)(A) of the Code.

(ix) The Issuer is a "qualified client" as such term is defined under the Advisers Act.

(x) The Issuer understands that the rules and regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") prohibit, among other things, the engagement in transactions with, and the provision of services to, certain countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <http://www.treas.gov/ofac>. In addition, the programs administered by OFAC ("OFAC Programs") prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists. To the best of its knowledge, none of: (1) the Issuer; (2) any person controlling or controlled by the Issuer; (3) any person having a beneficial interest in the Issuer; or (4) any person for whom the Issuer is acting as agent or nominee in connection with this investment is a country, territory, individual or entity named on an OFAC list, or is a person or entity prohibited under the OFAC Programs.

(xi) The Issuer has received and had an opportunity to review a current copy of Part 2 of the Form ADV of Acis Capital Management, L.P., at least forty-eight hours prior to its entering into this Agreement.

The Issuer agrees to deliver a true and complete copy of each amendment to the documents referred to in Section 17(a)(v) above to the Portfolio Manager as promptly as practicable after its adoption or execution.

(b) The Portfolio Manager hereby represents and warrants to the Issuer as follows:

(i) The Portfolio Manager is a limited partnership duly organized and validly existing and in good standing under the laws of the State of Delaware and has full power and authority to own its assets and to transact the business in which it is currently engaged and is duly qualified and in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of this Agreement or the Collateral Administration Agreement (together with this Agreement, the "Manager Documents") would require such qualification, except for those jurisdictions in which the failure to be so qualified, authorized or licensed would not have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or on the ability of the Portfolio Manager to perform its obligations under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager; the Portfolio Manager is registered as an investment adviser under the Advisers Act.

(ii) The Portfolio Manager has full power and authority to execute, deliver and perform each of the Manager Documents and all obligations

required hereunder and under the provisions of the Indenture applicable to the Portfolio Manager, and has taken all necessary action to authorize each of the Manager Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Manager Documents and all obligations required hereunder and thereunder and under the terms of the Indenture applicable to the Portfolio Manager. No consent of any other Person, including, without limitation, creditors of the Portfolio Manager, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by the Portfolio Manager in connection with the Manager Documents or the execution, delivery, performance, validity or enforceability of the Manager Documents or the obligations required hereunder and thereunder or under the terms of the Indenture applicable to the Portfolio Manager. Each of the Manager Documents has been, and each instrument and document required hereunder and thereunder or under the terms of the Indenture shall be, executed and delivered by a duly authorized officer of the Portfolio Manager, and each of the Manager Documents constitutes, and each instrument and document required hereunder and thereunder or under the terms of the Indenture when executed and delivered by the Portfolio Manager hereunder or thereunder or under the terms of the Indenture shall constitute, the valid and legally binding obligations of the Portfolio Manager enforceable against the Portfolio Manager in accordance with their terms, subject to (a) the effect of bankruptcy, insolvency or similar laws affecting generally the enforcement of creditors' rights and (b) general equitable principles.

(iii) The execution, delivery and performance of the Manager Documents and the terms of the Indenture applicable to the Portfolio Manager and the documents and instruments required hereunder or thereunder or under the terms of the Indenture shall not violate any provision of any existing law or regulation binding on the Portfolio Manager, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Portfolio Manager, or the Governing Instruments of, or any securities issued by the Portfolio Manager or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Portfolio Manager is a party or by which the Portfolio Manager or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its obligations under the Manager Documents, and shall not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking, the existence of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its obligations under the Manager Documents.

(iv) There is no charge, investigation, action, suit or proceeding before or by any court pending or, to the best knowledge of the Portfolio

Manager, threatened that, if determined adversely to the Portfolio Manager, would have a material adverse effect upon the performance by the Portfolio Manager of its duties under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager hereunder.

(v) The Portfolio Manager is authorized to carry on its business in the United States and in all other jurisdictions necessary to the performance of its obligations under the Manager Documents and the Indenture applicable to the Portfolio Manager.

(vi) The Portfolio Manager is not in violation of its Governing Instruments or in breach or violation of or in default under any contract or agreement to which it is a party or by which it or any of its property may be bound, or any applicable statute or any rule, regulation or order of any court, government agency or body having jurisdiction over the Portfolio Manager or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of the Manager Documents or the provisions of the Indenture applicable to the Portfolio Manager, or the performance by the Portfolio Manager of its duties hereunder or thereunder.

(vii) The information concerning the Portfolio Manager contained under the headings entitled "*Risk Factors—Risks Relating to the Portfolio Manager*," "*Risk Factors—Risks Relating to Certain Conflicts of Interest—The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager,*" in the Offering Circular, as of the respective dates of the Offering Circular and as of the Closing Date, is true in all material respects and does not omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

18. Notices.

Unless expressly provided otherwise herein, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing (including by facsimile) and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of registered or certified mail, postage prepaid, return receipt requested, or, in the case of facsimile notice, when received in legible form, addressed as set forth below:

(a) If to the Issuer:

ACIS CLO 2014-4 Ltd.
c/o MaplesFS Limited
P.O. Box 1093
Boundary Hall, Cricket Square
Grand Cayman, KY1-1102
Cayman Islands
Attention: The Directors

with a copy to:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Facsimile: 972-628-4155

(b) If to the Portfolio Manager:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Facsimile: 972-628-4155

(c) If to the Trustee:

U.S. Bank National Association
190 S. LaSalle Street, 8th Floor
Chicago, IL 60603
Re: ACIS CLO 2014-4 LTD.
Facsimile: 312-332-8010

Any party may alter the address or telecopy number to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 18 for the giving of notice.

19. Binding Nature of Agreement; Successors and Assigns.

Subject to Section 14 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided herein.

20. Entire Agreement.

This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

21. Amendment.

This Agreement may not be modified or amended other than by an agreement in writing executed by the parties hereto and (other than in respect of a modification or amendment of the type that may be made to the Indenture without Holder consent) (i) the consent of a Majority of the Subordinated Notes, (ii) the consent of a Majority of the Controlling Class and (iii) notice to the Rating Agencies. Notwithstanding the foregoing, the parties hereto, without the consent of any Holders, may amend or modify any provision of this agreement to (i) reflect a change that is of an inconsequential nature, (ii) correct inconsistencies, typographical or other errors, defects or ambiguities, (iii) conform this Agreement to the Offering Circular or the Indenture (as it may be amended from time to time) or (iv) reflect a change that is necessary or desirable to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation (including ERISA, the Code, the Advisers Act and the Investment Company Act) of any U.S. federal or state agency or contained in any U.S. federal or state statute. In addition, Schedule 1 may be amended or modified by the parties hereto without the consent of any Holder in accordance with the last sentence of such Schedule.

22. Conflict with the Indenture.

In the event that this Agreement requires any action to be taken with respect to any matter and the Indenture requires that a different action be taken with respect to such matter, and such actions are mutually exclusive, the provisions of the Indenture (as in effect on the date hereof or as amended or supplemented, with the consent of the Portfolio Manager if such consent is required by Section 3(b)) in respect thereof shall control.

23. Priority of Payments.

The Portfolio Manager agrees that the payment of all amounts to which it is entitled pursuant to this Agreement shall be subordinated to the extent set forth in, and the Portfolio Manager agrees to be bound by the provisions of, Article 11 and Section 15.1 of the Indenture as if the Portfolio Manager were a party to the Indenture and each of the Portfolio Manager and Issuer hereby consents to the assignment of this Agreement as provided in Section 15.1 of the Indenture.

24. Governing Law; Jury Trial.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PROVISIONS THEREOF). EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH OF THE PARTIES HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR SUCH PARTIES ENTERING INTO THIS AGREEMENT.

25. Indulgences Not Waivers.

Neither the failure nor any delay on the part of any party hereto to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

26. Titles Not to Affect Interpretation.

The titles of Sections and subsections of this Agreement are for convenience only, and they neither form a part of this Agreement nor are they to be used in the construction or interpretation hereof.

27. Execution in Counterparts.

This Agreement may be executed in any number of counterparts by facsimile or other written form of communication, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

28. Provisions Separable.

To the fullest extent permitted by law, in case any provision in this Agreement shall be invalid, illegal or unenforceable as written, such provision shall be construed in the manner most closely resembling the apparent intent of the parties with respect to such provision so as to be valid, legal and enforceable; *provided* that, if there is no basis for such a construction, to the fullest extent permitted by law, such provision shall be

ineffective only to the extent of such invalidity, illegality or unenforceability and, unless the ineffectiveness of such provision destroys the basis of the bargain for one of the parties to this Agreement, the validity, legality and enforceability of the remaining provisions hereof or thereof shall not in any way be affected or impaired thereby.

29. Number and Gender.

Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

30. Jurisdiction and Venue.

The parties to this Agreement irrevocably submit to the non-exclusive jurisdiction of any New York state or federal court sitting in the Borough of Manhattan in The City of New York in any action or proceeding arising out of or relating to this Agreement, the Notes or the Indenture, and the parties irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such New York state or federal court. The parties to this Agreement irrevocably waive, to the fullest extent they may legally do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. The parties to this Agreement irrevocably consent to the service of any and all process in any action or proceeding by the mailing or delivery of copies of such process to it in accordance with Section 18. The parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

31. Third Party Beneficiaries.

Other than as provided below, no party, including any Holder of Notes, is a third party beneficiary of this Agreement. The parties hereby acknowledges and agrees that the Trustee will be a third-party beneficiary of this Agreement.

32. Miscellaneous.

(a) With respect to any Defaulted Obligation, the Portfolio Manager, on behalf of the Issuer, may instruct the agent or the trustee for such Defaulted Obligation to enforce the Issuer's rights under the Underlying Instruments governing such Defaulted Obligation and under any applicable law, rule or regulation in any manner permitted under the Indenture that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer. In the event any Offer is made with respect to any Collateral Obligation or Equity Security, the Portfolio Manager, on behalf of the Issuer, may take such action as is permitted by the Indenture and that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer.

(b) Without prejudice to Section 15(f) hereof, any corporation, partnership or limited liability company into which the Portfolio Manager may be merged or converted or with which it may be consolidated, or any corporation, partnership or

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limited liability company resulting from any merger, conversion or consolidation to which the Portfolio Manager shall be a party, or any corporation, partnership or limited liability company succeeding to all or substantially all of the collateral management business of the Portfolio Manager, shall be the successor to the Portfolio Manager without any further action by the Portfolio Manager, the Co-Issuers, the Trustee, the Holders or any other Person or entity; *provided* that the Portfolio Manager shall give prompt written notice to each Rating Agency upon any such occurrence.

(c) Notwithstanding anything herein or in the Indenture to the contrary, with respect to any report, information, communication, request, demand, authorization, direction, notice, consent or waiver to be given to a Rating Agency by the Issuer, the Issuer shall instead provide such information to the Portfolio Manager, and the Portfolio Manager shall then provide such information as well as any information related to the transaction requested by any Rating Agency directly from the Portfolio Manager to the applicable Rating Agencies via the website established on behalf of the Issuer for purposes of Rule 17g-5 under the Exchange Act.

(d) If the Issuer shall receive any written or oral communication from any Rating Agency (or any of their respective officers, directors or employees) with respect to the transactions contemplated hereby or in any way relating to the Notes, the Issuer agrees to refrain from communicating with such Rating Agency and to promptly (and, in any event, within one Business Day) notify the Portfolio Manager of such communication. The Issuer agrees to coordinate with the Portfolio Manager with respect to any communication to a Rating Agency and further agrees that in no event shall it engage in any oral or written communication with respect to the transactions contemplated hereby or in any way relating to the Notes with any Rating Agency (or any of their respective officers, directors or employees) without the participation of the Portfolio Manager.

33. Power of Attorney.

The Issuer hereby makes, constitutes and appoints each of Josh Terry, Hunter Covitz and Philip Braner, with full power of substitution, as its true and lawful agent and attorney-in-fact (each an "Attorney" and together the "Attorneys"), jointly and severally with full power and authority in its name, place and stead, in accordance with the terms of this Agreement and the Indenture (a) to prepare, sign and deliver tax documentation, transfer documentation and all other documentation in connection with the acquisition and sale by the Issuer of Collateral Obligations and (b) to (i) vote in its discretion any securities, instruments or obligations included in the Assets, (ii) execute proxies, waivers, consents and other instruments with respect to such Collateral Obligations, (iii) endorse, transfer or deliver such securities, instruments and obligations, (iv) participate in or consent (or decline to consent) to any modification, work-out, restructuring, bankruptcy proceeding, class action, plan of reorganization, merger, combination, consolidation, liquidation or similar plan or transaction with regard to such Collateral Obligations and (v) take any other action specified in Section 3 of this Agreement. This grant of power of attorney will expire (a), with respect to each Attorney (and to each substitute appointed by such Attorney), when such Attorney ceases to be an officer or employee of Acis

Capital Management, L.P. or an Affiliate thereof, acting on behalf of Acis Capital Management, L.P. or (b) upon (x) termination of this Agreement in accordance with its terms or (y) any assignment by the Portfolio Manager of its obligations under this Agreement in accordance with Section 14 hereof.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

Portfolio Manager:

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC

By: _____

Name: James Dondero
Title: President

Signatures Continue on Next Page

Signatures Continued from Previous Page

Issuer:

ACIS CLO 2014-4 LTD., Executed as a Deed

By: _____

Name: Wendy Ebanks
Title: Director

Witness: _____

SCHEDULE 1

TRADING RESTRICTIONS

The Issuer (and the Portfolio Manager and the Independent Investment Professional acting on behalf of the Issuer) and any other person acting on behalf or at the direction of the Issuer, and any Affiliate of the Issuer, will comply with all of the provisions set forth in this Schedule 1 (the "Trading Restrictions") unless, with respect to a particular transaction, the Portfolio Manager shall have received written advice of Dechert LLP or an opinion of other counsel of nationally recognized standing in the United States experienced in such matters that, under the relevant facts and circumstances with respect to such transaction, the Portfolio Manager's failure to comply with one or more of such provisions will not cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes, or otherwise to be subject to U.S. federal income tax on a net basis. For purposes of these Trading Restrictions, a "Collateral Obligation" shall include any "Assets" as defined in the Indenture.

The Issuer shall acquire, hold, lend and dispose of Collateral Obligations only for its own account, and shall acquire and hold its Collateral Obligations solely for investment with the expectation and intention of realizing a profit from income earned on the Collateral Obligations and/or any increase in their value during the interval of time between acquisition and disposition thereof.

Notwithstanding any other provision of these Trading Restrictions, the Issuer shall not (each of the following, a "Prohibited Activity"):

(i) act as, or engage in any activities customarily undertaken by, an agent, arranger, or structuring agent with respect to, or negotiate the terms of, any Collateral Obligation or otherwise; provided that, notwithstanding the foregoing, after the date on which the Issuer has acquired a Collateral Obligation, the Issuer may exercise any voting or other rights available to a holder of a Collateral Obligation under the terms of the Collateral Obligation, and may accept or reject any amendment or modification of the terms of that Collateral Obligation if (w) the amendment or modification is proposed by the obligor under that Collateral Obligation and does not require or provide for any advance of additional funds, the Collateral Obligation is not an Affiliate Collateral Obligation, neither the Issuer nor the Collateral Manager, nor any Affiliate of either, has participated directly or indirectly in the negotiation of the amendment or modification, and the Issuer is not the largest holder of the Collateral Obligation, or (x) the modification would not constitute a Significant Modification (for purposes of this clause, "Significant Modification" means any amendment, supplement or modification that involves (1) a change in interest rate or yield of the Collateral Obligation, (2) a change in the stated maturity or the timing of any material payment on the Collateral Obligation (including deferral of an interest payment), (3) a change in the obligor of the Collateral Obligation or (4) a change in the collateral or security for the Collateral Obligation, including the addition or deletion of a co-obligor or guarantor, all within the meaning of United States Department of the Treasury regulation section 1.1001-3), or (y) in the reasonable judgment of the Collateral Manager, the obligor is in financial distress, the

obligor was not in financial distress on the date on which the Issuer acquired such Collateral Obligation and such change in terms is desirable to protect the Issuer's investment, or (z) the Issuer has received Tax Advice that the Issuer's involvement in such amendment, supplement or modification of the terms of that Collateral Obligation will not cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes;

(ii) act as, hold itself out as, represent to others that it is, or engage in any activities customarily undertaken by, a dealer, middleman, market maker, retailer or wholesaler in any Collateral Obligations, reference obligations or hedging or derivative instruments, or hold as inventory for purposes of resale to customers, any Collateral Obligations owned by the Issuer;

(iii) perform services, or hold itself out as willing to perform services, for any person, or have or seek customers;

(iv) register as a broker-dealer under the laws of any country or political subdivision thereof, or register as, or become subject to regulatory supervision or other legal requirements under the laws of any country or political subdivision thereof as, a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business;

(v) take any action causing it to be treated as a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business for purposes of any tax, securities law or other filing or submission made to any governmental authority, any application made to a rating agency, or qualification for any exemption from tax, securities law or any other legal requirements;

(vi) hold itself out to the public as a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business, or hold itself out to the public, through advertising or otherwise, as originating loans or making a market in loans or other assets;

(vii) establish a branch, agency or other place of business within the United States; provided, that entering into this Agreement and the appointment of the Portfolio Manager as described herein shall not be construed as a violation of this clause (vii);

(viii) make any tax election which would cause it to be subject to United States federal, state or local income or franchise tax;

(ix) buy any security in order to earn a dealer spread or dealer mark-up over its cost; or

(x) buy any security with an expectation or intention of restructuring or entering into a workout of such security.

For purposes of this Schedule 1, "dealer" means: (a) a merchant of securities with an established place of business who in the ordinary course of business is engaged as a

merchant in purchasing securities and selling them to customers with a view to the gains and profits that may be derived therefrom, and (b) a person that regularly offers to enter into, assume, offset, assign or otherwise terminate positions in derivatives with customers in the ordinary course of a trade or business, including regularly holding itself out, in the ordinary course of its trade or business, as being willing and able to enter into either side of a derivative transaction.

Requirements With Respect to Collateral Obligations.

The Issuer may acquire Collateral Obligations only by assignment or participation, and may not execute any credit agreement whereby Collateral Obligations are issued. The Issuer shall not acquire any Collateral Obligation, or enter into any understanding, arrangement, forward sale agreement or commitment with any person to acquire any Collateral Obligation (a "Commitment"), in each case (i) prior to 48 hours after the completion of the issuance and funding of such Collateral Obligation, other than as otherwise permitted under "Forward Purchase Commitments" below, or (ii) if the Issuer would own more than 50 percent of the loan, obligation, issue, class or tranche that includes the Collateral Obligation or, if the loan, obligation, issue, class or tranche that includes that Collateral Obligation is part of a larger credit facility, more than 25 percent of that entire credit facility. In the case of any Collateral Obligation that is amended or modified in a manner that constitutes a Significant Modification after issuance and funding of such Collateral Obligation and before acquisition by the Issuer of such Collateral Obligation, any seasoning requirement set forth herein shall be computed and applied with respect to the date of such Significant Modification.

The Issuer shall not have any contractual relationship with the borrower or issuer with respect to a Collateral Obligation until the Issuer actually closes the acquisition of that Collateral Obligation. On the funding date of the Collateral Obligation, the documents relating to the Collateral Obligation shall not list the Issuer as a lender or otherwise as a party to any document relating to the issuance of the Collateral Obligation. The Issuer shall not be a signatory on any lending agreement or any other document relating to the issuance of the Collateral Obligation.

The Issuer shall not have any communications or negotiations with the borrower or issuer of any Collateral Obligation (directly or indirectly through the seller of such Collateral Obligation, the agent, negotiator, originator or structuror thereof, or any other person) prior to the completion of the issuance and funding thereof, in connection with the issuance or funding of such Collateral Obligation or commitments with respect thereto, or the Issuer's acquisition of such Collateral Obligation or the Issuer's Commitment with respect thereto, in each case, except as otherwise permitted under "Forward Purchase Commitments" below. For the avoidance of doubt, (i) the Issuer, or the Portfolio Manager or the Independent Investment Professional acting on its behalf, may, however, undertake customary due diligence communications with an issuer or obligor of any Collateral Obligation that would be reasonably necessary in order for an investor or trader to make a reasonably informed decision to acquire any such Collateral Obligation for its own account, and (ii) nothing contained herein shall prohibit expressions of interest or providing comments as to mistakes or inconsistencies in documents relating to

any Collateral Obligation by the Issuer, or by the Portfolio Manager or the Independent Investment Professional acting on its behalf.

The Issuer shall not be entitled to earn or receive from any person any premium, fee, commission or other compensation for services, whether or not denominated as received for services, in connection with acquiring or disposing of a Collateral Obligation, or entering into a commitment to acquire or dispose of a Collateral Obligation, including without limitation, in each case, any amount that is attributable or otherwise determined by reference to the amount of any origination, underwriting or similar profit or related or similar fees for services earned by an underwriter, placement agent, lender, arranger, agent or other similar person in connection with the issuance or funding of a Collateral Obligation. In furtherance and not in limitation of the immediately preceding sentence, the Issuer shall not be entitled to earn or receive directly from any person any separately stated premium, fee or commission that is compensation for services or that is based upon or otherwise determined by reference to the amount of any such services. For the avoidance of doubt, the foregoing prohibition against earning or receiving fees and similar amounts shall not apply to (i) any compensation paid other than for a Prohibited Activity pursuant to the terms of any Collateral Obligation (e.g., a prepayment fee or commitment fee), (ii) any amendment or waiver fee, or (iii) any discount in the price paid by the Issuer for a Collateral Obligation from the price paid by the seller of the Collateral Obligation where such discount is attributable to the time value of money, credit quality of the related borrower, market conditions, or terms and conditions of the Collateral Obligation.

Additional Requirements With Respect to Affiliate Collateral Obligations and Transfers to Affiliates.

Except as provided below, the Portfolio Manager shall not cause the Issuer to purchase any Collateral Obligation of any borrower or issuer with respect to which the Issuer, Portfolio Manager or any of their Affiliates:

(i) acted as an underwriter, financial advisory, placement or other agent, arranger, negotiator or structuror in connection with the issuance or origination of such Collateral Obligation,

(ii) was an agent, negotiator, structuring agent, bridge loan provider (where a bridge loan is repaid by any Collateral Obligation) or member of the original lending syndicate with respect to such Collateral Obligation, or

(iii) earned or received any compensation relating to the origination of such Collateral Obligation (each such Collateral Obligation, an "Affiliate Collateral Obligation").

The Portfolio Manager on behalf of the Issuer shall be permitted to cause the Issuer to purchase Affiliate Collateral Obligations, provided that the following conditions are met:

(I) at least 30 days shall have passed since the issuance and funding of such Affiliate Collateral Obligation and the holder of the Collateral Obligation did not identify the obligation or security as intended for sale to the Issuer within 30 days of its issuance;

(II) following such 30-day period, the Independent Investment Professional shall have approved the purchase by the Issuer of such Affiliate Collateral Obligation after a review of the terms and conditions thereof and a determination that such transaction shall be effected on an arm's length basis and that the purchase price represents fair market value (x) by reference to dealer quotes or the price paid by an unrelated secondary buyer in a material contemporaneous sale on substantially the same terms, or (y) to the extent there is no independent sale or the price paid in such sale is not readily ascertainable, by reference to the fair market value price at which an unrelated independent secondary market acquirer would acquire such Affiliate Collateral Obligation in an arm's length transaction;

(III) the Portfolio Manager or its Affiliate, as the case may be, originated the Collateral Obligation in the ordinary course of its business and not in contemplation of its acquisition by the Issuer; and

(IV) the Issuer may not purchase any Affiliate Collateral Obligation having a greater principal amount than the principal amount of such Affiliate Collateral Obligation held following such purchase by the Portfolio Manager and its Affiliates (excluding the Issuer).

In addition, the Portfolio Manager shall not cause the Issuer to sell or assign any Collateral Obligation to the Portfolio Manager or any of its Affiliates in a transaction in which the Portfolio Manager is acting as principal for its own account or has discretionary authority to invest for the account of such Affiliate, unless such sale or assignment is consented to by the Independent Investment Professional, which consent shall not be unreasonably withheld or delayed so long as such sale or assignment is effected at the fair market value price that an unrelated independent secondary market acquirer would acquire such Collateral Obligation in an arm's length transaction. It is understood and agreed that the consent requirement of the immediately preceding sentence shall not apply to any sale or assignment of any Collateral Obligation by the Issuer to any Person whose equity is at least majority owned by the Issuer (e.g., a special purpose financing subsidiary).

Maintenance of Separate and Independent Status.

At the written request of the Portfolio Manager, the Issuer shall establish a conflicts review board or appoint an independent third party to act on behalf of the Issuer (such board or party, an "Independent Investment Professional") with respect to transactions involving any Affiliate Collateral Obligation. Any Independent Investment Professional (i) shall either (A) be an established financial institution or other financial company with experience in assessing the merits of transactions similar to the transactions involving any Affiliate Collateral Obligation or (B) be a review board comprised of one or more individuals selected by the Issuer (or at the request of the Issuer, selected by the

Collateral Manager), (ii) shall be required to assess the merits of the transaction involving any Affiliate Collateral Obligation and either grant or withhold consent to such transaction in its sole judgment and (iii) shall not be (A) affiliated with the Portfolio Manager (other than as a holder or as a passive investor in the Issuer or an Affiliate of the Issuer) or (B) involved in the daily management and control of the Issuer.

Neither the Independent Investment Professional nor any of the employees or personnel performing duties of the Portfolio Manager on behalf of the Issuer relating to the purchase of Affiliate Collateral Obligations shall be directly or indirectly involved in any origination or underwriting activities with respect to any Collateral Obligation, or have access to any files, records, or other information that is not available to independent unrelated secondary market acquirers concerning the origination or underwriting of any such Collateral Obligation. In addition, neither the Independent Investment Professional nor any of the employees or personnel performing duties of the Portfolio Manager on behalf of the Issuer relating to the purchase of Affiliate Collateral Obligations shall be a party to any discussions or meetings relating to origination or underwriting activities with respect to any Affiliate Collateral Obligation. No employee or personnel of the Portfolio Manager who is involved in any origination or underwriting activities with respect to any Affiliate Collateral Obligation shall have any direct or indirect influence over the decision making process of the Issuer or the Independent Investment Professional with respect to the acquisition or disposition of any Affiliate Collateral Obligation on behalf of the Issuer, but no such employee or personnel shall be prohibited from making recommendations to the Independent Investment Professional. However, in all cases the decision whether to invest in an Affiliate Collateral Obligation or to sell a Collateral Obligation to the Portfolio Manager or one of its Affiliates shall be an independent decision by the Independent Investment Professional.

Revolving Collateral Obligations, Delayed Drawdown Collateral Obligations and Letter of Credit Facilities.

Neither the Issuer nor the Portfolio Manager acting on the Issuer's behalf shall acquire an interest (including by means of participation) in a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation or a letter of credit facility unless:

(i) such interest is acquired in the secondary market, the acquisition of such interest will not cause the Issuer to hold more than 25 percent of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation or letter of credit facility, and taken together with the aggregate principal amount of other such interests held by the Issuer does not exceed 15% of the aggregate principal amount of all Collateral Obligations held by the Issuer;

(ii) with respect to any Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation:

(a) neither the Issuer, the Portfolio Manager acting on behalf of the Issuer, nor the Independent Investment Professional acting on behalf of the Issuer

has participated in the negotiation of the terms of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation;

(b) the terms of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation are fixed as of the date of the Issuer's acquisition thereof and do not provide the Issuer any discretion as to whether to make advances under such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation;

(c) more than a *de minimis* amount of such Collateral Obligation has been funded, or such loan is associated with a term loan to such borrower which has been fully funded; and

(d) the Issuer does not acquire any interest in a Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation which is not associated with a term loan prior to 60 days after the issuance thereof, and all such interests combined shall not exceed 10% of the aggregate principal amount of all assets held by the Issuer; and

(iii) with respect to any letter of credit facility:

(a) (I) such letter of credit facility has been fully funded by the original lender, and such lender has completed all of its obligations with respect to that letter of credit facility (such that the letter of credit facility does not constitute to any extent a Delayed Drawdown Collateral Obligation), at least 48 hours before the Issuer committed to acquire such letter of credit facility; or

(b) (I) such letter of credit facility is associated with a term loan to such borrower which has been fully funded;

(II) all terms of such letter of credit facility were fully negotiated and final no later than the time at which the terms of the related loan were fully negotiated and final;

(III) the Issuer, or the Portfolio Manager acting on behalf of the Issuer, holds the same proportionate interest in such letter of credit facility as the proportionate interest it holds in the term loan(s) associated with such letter of credit facility.

Forward Purchase Commitments.

The Issuer shall not have nor make any Commitment to acquire a Collateral Obligation from a seller before completion of the closing, full funding and seasoning (except, with respect to funding, in the case of a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation) of the Collateral Obligation, except as permitted in the following provisions.

If a Commitment is made to acquire a Collateral Obligation, other than an Affiliate Collateral Obligation, from a seller before completion of the closing and full funding of the Collateral Obligation by such seller (the "Original Lender"), such commitment shall only be made pursuant to a forward sale agreement at an agreed price (a "Forward Purchase Commitment"). Any Forward Purchase Commitment with any Original Lender in respect of a Collateral Obligation may only be made after such Original Lender has delivered its own commitment to acquire its own interest in that Collateral Obligation and after all material terms of the Collateral Obligation have been agreed to.

In the process of making or negotiating to make a Forward Purchase Commitment, the Issuer shall not negotiate with respect to any term of the Collateral Obligation to which the Forward Purchase Commitment relates. The Issuer is not prevented from negotiating the terms of the Forward Purchase Commitment, including the price at which the Issuer shall acquire the Collateral Obligation to which the Forward Purchase Commitment relates.

If the Issuer enters into a Forward Purchase Commitment to acquire a Collateral Obligation, the Issuer's obligation under the Forward Purchase Commitment shall be conditioned on there being, as of the time the Issuer is to acquire the Collateral Obligation, no material adverse change in the condition of the borrower or issuer, the Collateral Obligation or the financial markets, and in all other respects, the Forward Purchase Commitment may only be conditional to the extent the related counterparty's own commitment in the origination process and funding of the Collateral Obligation is delayed, reduced or eliminated; provided that, notwithstanding the foregoing, a Forward Purchase Commitment shall not be required to be conditioned on the absence of a material adverse change if (y) the Issuer enters into the Forward Purchase Commitment no sooner than 48 hours after the Original Lender has delivered its own commitment with respect to the related Collateral Obligation and after all material terms of the Collateral Obligation have been agreed to, and (z) the Issuer's Commitment is documented in a form for secondary market purchases that is substantially similar to that used for commitments given by all other persons who will acquire an interest in the Collateral Obligation from the Original Lender (including as to the absence of a material adverse change condition). In the event of any delayed, reduced or eliminated funding, the Issuer shall not receive any premium, fee, or other compensation in connection with having entered into the Forward Purchase Commitment, other than commitment fees or fees in the nature of commitment fees that are customarily paid in connection with such delays, reductions or eliminations of funding of Collateral Obligations of the type permitted to be purchased by the Issuer.

The Issuer shall not have any contractual relationship with the borrower or issuer with respect to a Collateral Obligation that will be subject to a Forward Purchase Commitment until the Issuer actually closes the acquisition of that Collateral Obligation. On the funding date of the Collateral Obligation, the documents relating to the Collateral Obligation shall not list the Issuer as a lender or otherwise as a party to any document relating to the issuance of the Collateral Obligation. The Issuer shall not be a signatory on any lending agreement or any other document relating to the issuance of the Collateral Obligation.

The Issuer shall not enter into any Forward Purchase Commitment in respect of any Affiliate Collateral Obligation. The Issuer, or Portfolio Manager or the Independent Investment Professional acting on its behalf, may, however, undertake customary due diligence communications with an issuer or obligor of an Affiliate Collateral Obligation or any other Collateral Obligation that would be reasonably necessary in order for an investor or trader to make a reasonably informed decision to acquire any such Collateral Obligation for its own account.

For the avoidance of doubt, except as provided above with respect to Forward Purchase Commitments, the Issuer may enter into a Commitment with respect to a Collateral Obligation only when the Collateral Obligation is funded and at least 48 hours have thereafter elapsed.

Equity Restrictions.

The Issuer shall not acquire (whether as part of a "unit" with a Collateral Obligation, in exchange for a Collateral Obligation, or otherwise) any asset that is treated for U.S. federal income tax purposes as:

(i) an equity interest in a partnership, a trust or a disregarded entity (unless all of the assets of such trust or disregarded entity would otherwise qualify either as Collateral Obligations hereunder or as equity interests in entities taxable as corporations for U.S. federal income tax purposes);

(ii) a residual interest in a "REMIC" (as such term is defined in the Code);

(iii) an ownership interest in a "FASIT" (as such term is defined in the Code); or

(iv) any asset that constitutes a "United States real property interest" ("USRPI"), including certain interests in a "United States real property holding corporation" ("USRPHC") (as such terms are defined in the Code), except that, if otherwise permitted under the Indenture, the Issuer may acquire and/or hold an interest in a USRPHC under circumstances where the USRPHC may not be liquidated, and stock of the USRPHC may not be sold, unless prior to such liquidation or sale all USRPI held by the USRPHC have been sold and all U.S federal income taxes payable by the USPRHC have been paid, and the Issuer reasonably believes, at the time of the acquisition of the interest in the USRPHC, that the USRPHC will be liquidated or the stock of the USRPHC will be sold (in each case, in accordance with the restrictions in this clause (iv)) prior to the liquidation of the Issuer.

Synthetic Securities.

The Issuer shall not acquire or enter into any swap transaction or security, which swap transaction or security provides for payments associated with either (i) payments of interest and/or principal on a reference obligation or (ii) the credit performance of a reference obligation.

EXHIBIT 35

EXHIBIT G

CLO 2014-5 INDENTURE

EXECUTION VERSION

ACIS CLO 2014-5 LTD.
Issuer,

ACIS CLO 2014-5 LLC
Co-Issuer,

AND

U.S. BANK NATIONAL ASSOCIATION
as Trustee

INDENTURE

Dated as of November 18, 2014

COLLATERALIZED LOAN OBLIGATIONS

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INDENTURE, dated as of November 18, 2014, among ACIS CLO 2014-5 Ltd., an exempted company incorporated in the Cayman Islands with limited liability (the "Issuer"), ACIS CLO 2014-5 LLC, a limited-liability company organized under the laws of the State of Delaware (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers"), and U.S. Bank National Association, a national banking association, as trustee (herein, together with its permitted successors in the trusts hereunder, the "Trustee").

PRELIMINARY STATEMENT

The Co-Issuers are duly authorized to execute and deliver this Indenture to provide for the Notes issuable and governed by this Indenture and to secure the Secured Notes and other obligations secured under this Indenture. Except as otherwise provided herein, all covenants and agreements made by the Co-Issuers herein are for the benefit and security of the Secured Parties and the Trustee. The Co-Issuers are entering into this Indenture and the Trustee is accepting the trusts created hereby, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

All things necessary to make this Indenture a valid agreement of the Co-Issuers in accordance with the agreement's terms have been done.

GRANTING CLAUSES

The Issuer hereby Grants to the Trustee, for the benefit and security of the Holders of the Secured Notes, the Trustee, each Hedge Counterparty, the Collateral Administrator and the Portfolio Manager (collectively, the "Secured Parties"), all of its right, title and interest in, to and under, in each case, whether now owned or existing, or hereafter acquired or arising, (a) the Collateral Obligations which the Issuer causes to be delivered to the Trustee (directly or through an intermediary or bailee) herewith and all payments thereon or with respect thereto, and all Collateral Obligations which are purchased, or otherwise acquired, by the Issuer in the future pursuant to the terms hereof and all payments thereon or with respect thereto, (b) the Issuer's interest in each of the Accounts, each Hedge Account (to the extent permitted by the applicable Hedge Agreement), any Eligible Investments purchased with funds on deposit therein, and all income from the investment of funds therein, (c) the Issuer's rights under the Portfolio Management Agreement as set forth in Article 15 hereof, the Hedge Agreements (*provided* that there is no such Grant to the Trustee on behalf of any Hedge Counterparty in respect of its related Hedge Agreement), the Collateral Administration Agreement, the Placement Agency Agreement and any subscription agreements related to the purchase of the Notes, (d) all Cash or Money delivered to the Trustee (or its bailee), (e) all accounts, chattel paper, deposit accounts, financial assets, general intangibles, instruments, investment property, letter-of-credit rights and other supporting obligations relating to the foregoing, (f) any other property otherwise delivered to the Trustee by or on behalf of the Issuer (whether or not constituting Collateral Obligations or Eligible Investments (including, without limitation, Equity Securities)), (g) the Issuer's rights in all assets owned by any ETB Subsidiary and the Issuer's rights under any agreement with any ETB Subsidiary and (h) all proceeds with respect to the foregoing; *provided* that such Grants shall not include the $250 transaction fee paid to the Issuer in consideration of the issuance of the Secured Notes and Subordinated Notes, the funds attributable to the issue and allotment of the Issuer's ordinary shares and the Co-Issuer's membership interests or the bank account in the

pursuant to clause (iii)(c) of this definition, prior to or within thirty (30) days after the acquisition of such Collateral Obligation.

"S&P Rating Condition": With respect to any action taken or to be taken by or on behalf of the Issuer, a condition that is satisfied if S&P has confirmed in writing to the Issuer (which confirmation may be in the form of a press release), the Trustee and/or the Portfolio Manager that no immediate withdrawal or reduction with respect to its then-current rating by S&P of any Class of Secured Notes will occur as a result of such action; *provided* that the S&P Rating Condition will be deemed to be satisfied if (x) no Class of Secured Notes Outstanding is rated by S&P or (y) if S&P makes a public announcement or informs the Issuer, the Portfolio Manager or the Trustee that (i) it believes satisfaction of the S&P Rating Condition is not required with respect to the applicable action or (ii) its practice is not to give such confirmations.

"S&P Recovery Amount": With respect to any Collateral Obligation, an amount equal to: (a) the applicable S&P Recovery Rate *multiplied by* (b) the Principal Balance of such Collateral Obligation.

"S&P Recovery Rate": with respect to a Collateral Obligation, the recovery rate set forth in Section 1 of Schedule 3 using the initial rating of the most senior Class of Secured Notes outstanding at the time of determination.

"S&P Recovery Rating": With respect to a Collateral Obligation for which an S&P Recovery Rate is being determined, the "Recovery Rating" assigned by S&P to such Collateral Obligation based upon the tables set forth in Schedule 3.

"S&P Selling Institution Percentage": With respect to any Participation Interest proposed to be entered into by the Issuer, criteria that will be met if immediately after giving effect to such acquisition, (x) the percentage of the Collateral Principal Amount that consists in the aggregate of Participation Interests with Selling Institutions that have the same or a lower S&P credit rating does not exceed the "Aggregate Selling Institution Percentage" set forth below for such S&P credit rating and (y) the percentage of the Collateral Principal Amount that consists in the aggregate of Participation Interests with any single Selling Institution that have the same or a lower S&P credit rating does not exceed the "Individual Selling Institution Percentage" set forth below for such S&P credit rating:

Long-term Senior Unsecured Debt Rating of Selling Institution S&P	**Individual Selling Institution Percentage**	**Aggregate Selling Institution Percentage**
AAA	20%	20%
AA+	10%	10%
AA	10%	10%
AA-	10%	10%
A+	5%	5%
A	5%	5%
Below A	0%	0%

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Indenture as of the date first written above.

ACIS CLO 2014-5 LTD.,
as Issuer

By: _____
Name: Wendy Ebanks
Title: Director

ACIS CLO 2014-5 LLC,
as Co-Issuer

By: _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Indenture as of the date first written above.

ACIS CLO 2014-5 LTD.,
as Issuer

By:_____
Name:
Title:

ACIS CLO 2014-5 LLC,
as Co-Issuer

By:_____
Name: Donald J. Puglisi
Title: Manager

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By:_____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Indenture as of the date first written above.

ACIS CLO 2014-5 LTD.,
as Issuer

By:_____
Name:
Title:

ACIS CLO 2014-5 LLC,
as Co-Issuer

By:_____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: Elaine Mah
Name: Elaine Mah
Title: Senior Vice President

EXHIBIT 36

EXHIBIT H

CLO 2014-5 PORTFOLIO MANAGEMENT AGREEMENT

EXECUTION VERSION

PORTFOLIO MANAGEMENT AGREEMENT

between

ACIS CLO 2014-5 LTD.

and

ACIS CAPITAL MANAGEMENT, L.P.

Dated as of November 18, 2014

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PORTFOLIO MANAGEMENT AGREEMENT

This Portfolio Management Agreement (this "Agreement"), dated as of November 18, 2014, is entered into by and between Acis CLO 2014-5 Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands, with its registered office located at P.O. Box 1093, Queensgate House, Grand Cayman, KY1-1102, Cayman Islands (together with successors and assigns permitted hereunder, the "Issuer"), and Acis Capital Management, L.P., with its principal offices located at 300 Crescent Court, Suite 700, Dallas, TX 75201, as portfolio manager (together with successors and assigns permitted hereunder, in such capacity, the "Portfolio Manager").

WITNESSETH:

WHEREAS, the Issuer intends to issue U.S.$280,750,000 Class A-1 Senior Secured Floating Rate Notes due 2026 (the "Class A-1 Notes"), U.S.$30,000,000 Class A-2 Senior Secured Fixed Rate Notes due 2026 (the "Class A-2 Notes" and together with the Class A-1 Notes, the "Class A Notes"), U.S.$68,000,000 Class B Senior Secured Floating Rate Notes due 2026 (the "Class B Notes"), U.S.$25,000,000 Class C-1 Secured Deferrable Floating Rate Notes due 2026 (the "Class C-1 Notes"), U.S.$7,000,000 Class C-2 Secured Deferrable Fixed Rate Notes due 2026 (the "Class C-2 Notes" and together with the Class C-1 Notes, the "Class C Notes"), U.S.$26,000,000 Class D Secured Deferrable Floating Rate Notes due 2026 (the "Class D Notes"), U.S.$10,500,000 Class E-1 Secured Deferrable Floating Rate Notes due 2026 (the "Class E-1 Notes"), U.S.$10,500,000 Class E-2 Secured Deferrable Floating Rate Notes due 2026 (the "Class E-2 Notes" and together with the Class E-1 Notes, the "Class E Notes" and together with the Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes, the "Secured Notes") and U.S.$53,000,000 Subordinated Notes due 2026 (the "Subordinated Notes" and, together with the Secured Notes, the "Notes") pursuant to an indenture dated as of November 18, 2014 (as amended, supplemented or modified from time to time, the "Indenture"), among the Issuer, ACIS CLO 2014-5 LLC, as co-issuer of the Class A Notes, the Class B Notes, the Class C Notes, and the Class D Notes (the "Co-Issuer"), and U.S. Bank National Association, as trustee (together with any successor trustee permitted under the Indenture, the "Trustee");

WHEREAS, the Issuer intends to pledge certain Collateral Obligations, certain Eligible Investments (each, as defined in the Indenture) and certain other assets (all as set forth in the Indenture) (collectively, the "Assets") to the Trustee as security for the Secured Notes;

WHEREAS, the Issuer wishes to enter into this Agreement, pursuant to which the Portfolio Manager agrees to perform, on behalf of the Issuer, certain duties with respect to the Assets securing the Secured Notes in the manner and on the terms set forth herein and to provide such additional services as are consistent with the terms of this Agreement and the Indenture; and

WHEREAS, the Portfolio Manager has the capacity to provide the services required hereby and is prepared to perform such services upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, the parties hereto agree as follows:

1. Definitions.

Terms used herein and not defined below shall have the meanings set forth in the Indenture.

"Actions" shall have the meaning provided in Section 11(a).

"Affiliate" means, with respect to a Person, (i) any other Person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such Person or (ii) any other Person who is a director, Officer, employee or general partner (a) of such Person, (b) of any subsidiary or parent company of such Person or (c) of any Person described in clause (i) above. For the purposes of this definition, control of a Person shall mean the power, direct or indirect, (x) to vote more than 50% of the securities having ordinary voting power for the election of directors of such Persons, or (y) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise. For purposes of this definition, the management of an account by one Person for the benefit of any other Person shall not constitute "control" of such other Person and no entity shall be deemed an Affiliate of the Issuer or the Co-Issuer solely because the Administrator or its Affiliates serve as administrator or share trustee for such entity.

"Affiliate Transaction" shall have the meaning set forth in Section 6(a).

"Agreement" shall mean this portfolio management agreement, as amended from time to time.

"Attorneys" shall have the meaning provided in Section 33.

"Board of Directors" shall mean the directors of the Issuer duly appointed pursuant to the Governing Instruments of the Issuer in accordance with Cayman Islands law or any subsequent directors who are duly appointed according to the Articles of Association.

"Confidential Information" shall have the meaning provided in Section 7.

"Exit Date" shall have the meaning provided in Section 9(d).

"Expenses" shall have the meaning provided in Section 11(a).

"Fee Election" shall have the meaning provided in Section 9(b).

"Fee Election Notice" shall mean notice from the Portfolio Manager to the Issuer, the Trustee and Collateral Administrator delivered no later than the Determination Date related to the Payment Date on which a Fee Election will apply, that specifies (x) the Payment Dates on which the Fee Election will apply, (y) the amount by which the Portfolio Manager is electing to reduce the Senior Management Fee (and thus increase the Subordinated Management Fee), which will not be greater than the entire Senior Management Fee and (z) that the Fee Election is not revocable with respect to such Payment Date unless Acis Capital Management, L.P. is no longer the Portfolio Manager.

"Force Majeure Event" shall have the meaning assigned to such term in Section 11(m).

"Governing Instruments" shall mean the memorandum, articles or certificate of incorporation or association and by-laws, if applicable, in the case of a corporation, the partnership agreement, in the case of a partnership, or the limited liability company agreement, in the case of a limited liability company.

"Indemnified Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Indemnifying Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Independent Review Party" shall have the meaning set forth in Section 6(b).

"Investment Advisers Act" means the Investment Advisers Act of 1940, as amended.

"Issuer Documents" shall have the meaning provided in Section 17(a)(i).

"Liabilities" shall have the meaning provided in Section 11(a).

"Manager Documents" shall have the meaning provided in Section 17(b).

"Manager Related Party" means each of the Portfolio Manager, its Affiliates and their respective shareholders, partners, members, managers, directors, officers, trustees, incorporators, employees, representatives and agents.

"OFAC" shall have the meaning provided in Section 17(a)(x).

"OFAC Programs" shall have the meaning provided in Section 17(a)(x).

"Offer" shall mean, with respect to any security, (i) any offer by the obligor or issuer of such security or by any other Person made to all of the holders of such security to purchase or otherwise acquire such security (other than pursuant to any redemption in accordance with the terms of the related Underlying Instruments) or to convert or exchange such security into or for cash, securities or any other type of consideration or

(ii) any solicitation by the obligor or issuer of such security or any other Person to amend, modify or waive any provision of such security or any related Underlying Instrument.

"Offering Circular" shall have the meaning provided in Section 11(a).

"Person" means any individual, partnership, corporation, limited liability company, trust or other entity.

"Related Entities" shall mean, with respect to the Portfolio Manager, its clients, its partners, its members, funds or other investment accounts managed by it or any of its Affiliates, or their employees and their Affiliates.

"Responsible Officer" shall mean any officer, authorized person or employee of the Portfolio Manager set forth on the list provided by the Portfolio Manager to the Issuer and the Trustee which list shall include any portfolio manager having day-to-day responsibility for the performance of the Portfolio Manager under the Portfolio Management Agreement, as such list may be amended from time to time.

"Section 28(e)" shall have the meaning provided in Section 4(a).

"Service Agreements" shall mean, collectively, the Sub-Advisory Agreement and the Shared Services Agreement.

"Shared Services Agreement" shall mean that certain Shared Services Agreement dated January 1, 2011 between the Portfolio Manager and Highland Capital Management, L.P. (as amended, supplemented or modified from time to time).

"Sub-Advisory Agreement" shall mean that certain Sub-Advisory Agreement dated May 5, 2011 between the Portfolio Manager and Highland Capital Management, L.P. (as amended, supplemented or modified from time to time).

"Tax Advice" shall mean written advice from Dechert LLP or an opinion of other tax counsel of nationally recognized standing in the United States experienced in transactions of the type being addressed that (i) is based on knowledge by the person giving the advice of all relevant facts and circumstances of the Issuer and transaction (which are described in the advice or opinion, as applicable, or in a written description referred to in the advice or opinion, as applicable, which may be provided by the Issuer or Portfolio Manager), and (ii) is intended by the person rendering the advice to be relied upon by the Issuer in determining whether to enter into the transaction.

"Trading Restrictions" shall mean the Trading Restrictions set forth in Schedule 1.

2. Engagement.

Commencing on the date hereof, the Issuer hereby engages and retains the Portfolio Manager to provide the investment advisory and related services described below, for the period and on the terms and conditions set forth herein. The Portfolio

Manager hereby accepts such engagement and agrees, for the period and on the terms and conditions set forth herein, to provide, or to make satisfactory arrangements for the provision of, the investment advisory and related services described below, for the period and on the terms and conditions set forth herein.

3. General Duties of the Portfolio Manager.

The Portfolio Manager shall provide services to the Issuer as follows:

(a) Subject to and in accordance with the terms of the Indenture and this Agreement, the Portfolio Manager agrees to supervise and direct the investment and reinvestment of the Assets, and shall perform on behalf of the Issuer the duties that have been specifically delegated to the Portfolio Manager in this Agreement and in the Indenture (and the Portfolio Manager shall have no obligation to perform any other duties under this Agreement and the Indenture) and, to the extent necessary or appropriate to perform such duties, the Portfolio Manager shall have the power to execute and deliver all necessary and appropriate documents and instruments, and to take all other actions, on behalf of the Issuer with respect thereto, it being understood that the Portfolio Manager shall have no obligation to perform duties to be performed by third parties not under the control of the Portfolio Manager or its Affiliates.

(b) The Portfolio Manager shall comply with all the terms and conditions of the Indenture affecting the duties and functions that have been delegated to it thereunder and hereunder and (without in any way limiting Section 11 of this Agreement) shall perform its obligations hereunder and thereunder in good faith and with reasonable care, using a degree of skill and attention no less than that which the Portfolio Manager (i) exercises with respect to comparable assets that it manages for itself and (ii) exercises with respect to comparable assets that it manages for others, and in a manner consistent with practices and procedures followed by institutional managers of national standing relating to assets of the nature and character of the Assets, except as expressly provided otherwise in this Agreement and/or the Indenture. To the extent not inconsistent with the foregoing, the Portfolio Manager shall follow its customary standards, policies and procedures in performing its duties under the Indenture and hereunder (including those duties of the Issuer under the Indenture which the Portfolio Manager has agreed hereunder to perform on the Issuer's behalf). The Portfolio Manager shall not be bound to follow any amendment to the Indenture, however, until it has received written notice thereof and until it has received a copy of the amendment from the Issuer or the Trustee; *provided* that with respect to any amendment to the Indenture which would (i) increase the duties or liabilities of the Portfolio Manager or adversely change the economic consequences to the Portfolio Manager, (ii) modify the restrictions on the purchases or sales of Collateral Obligations under Article 12 of the Indenture or the Investment Criteria, (iii) expand or restrict the Portfolio Manager's discretion or (iv) modify the restrictions on and procedures for resales and other transfers of Subordinated Notes, except as set forth in Section 8.1(vi) of the Indenture, the Portfolio Manager shall not be bound thereby unless the Portfolio Manager shall have consented thereto in writing, such consent to not be unreasonably withheld or delayed. The Issuer agrees that it will not permit any such amendment to the Indenture to become effective unless the

Portfolio Manager has been given prior written notice of such amendment and consented thereto in writing and that it will give prior written notice of any other amendment to the Indenture to the Portfolio Manager.

(c) The Portfolio Manager shall (i) determine consistent with the applicable provisions of the Indenture, when Principal Proceeds shall be applied to effect a Special Redemption of the Secured Notes, (ii) select all Collateral Obligations and Eligible Investments which shall be acquired by the Issuer and pledged to the Trustee pursuant to the Indenture and (iii) facilitate the acquisition, settlement and sale of Collateral Obligations by the Issuer. In providing services to the Issuer hereunder, the Portfolio Manager shall take into consideration the interests of the Holders as a whole. The Portfolio Manager shall have no obligation to perform any duties other than as expressly specified herein, or in the provisions of the Indenture applicable to the Portfolio Manager, and the Portfolio Manager shall be subject to no implicit obligations of any kind.

(d) Subject to any applicable terms of the Collateral Administration Agreement, the Portfolio Manager shall monitor the Assets, on behalf of the Issuer, on an ongoing basis and provide (or cause to be provided) to the Issuer all reports, schedules and other data reasonably available to the Portfolio Manager that the Issuer is required to prepare, deliver or furnish, or cause to be prepared, delivered or furnished, under the Indenture, in the form and containing all information required thereby and in sufficient time for the Issuer to review such required reports, schedules and data and to deliver them to the parties entitled thereto under the Indenture. The Portfolio Manager shall, on behalf of the Issuer, be responsible for obtaining to the extent practicable any information concerning whether a Collateral Obligation has become a Defaulted Obligation. Pursuant to the terms of the Collateral Administration Agreement, the Collateral Administrator is required to provide drafts of certain reports, schedules and calculations to the Portfolio Manager regarding the Collateral Obligations. The obligation of the Portfolio Manager to furnish such information is subject to the Portfolio Manager's timely receipt of necessary reports and the appropriate information from the Person responsible for the delivery of or preparation of such reports and such information (including without limitation, the Obligors of the Collateral Obligations, the Rating Agencies, the Trustee and the Collateral Administrator) and to any confidentiality restrictions with respect thereto. The Portfolio Manager shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing reasonably believed by it to be genuine and to have been signed or sent by a Person that the Portfolio Manager has no reason to believe is not duly authorized. The Portfolio Manager also may rely upon any statement made to it orally or by telephone and made by a Person the Portfolio Manager has no reason to believe is not duly authorized, and shall not incur any liability for relying thereon. The Portfolio Manager is entitled to rely on any other information furnished to it by third parties that it reasonably believes in good faith to be genuine.

(e) At the direction of 66 2/3% of the Aggregate Outstanding Amount of the Subordinated Notes, the Portfolio Manager may direct an Optional Redemption (including a Refinancing) under the Indenture on behalf of the Issuer.

(f) The Portfolio Manager may, in its sole discretion subject to and in accordance with the provisions of the Indenture and this Agreement, direct the Issuer and/or the Trustee to take the following actions with respect to a Collateral Obligation, Eligible Investment or other Asset:

(i) retain such Collateral Obligation, Eligible Investment or other Asset;

(ii) dispose of such Collateral Obligation, Eligible Investment or other Asset in the open market or otherwise;

(iii) acquire, as security for the Secured Notes in substitution for or in addition to any one or more Collateral Obligations or Eligible Investments included in the Assets, one or more additional Collateral Obligations or Eligible Investments;

(iv) if applicable, tender such Collateral Obligation, Eligible Investment or other Asset pursuant to an Offer;

(v) if applicable, consent to or refuse to consent to any proposed amendment, modification, restructuring, exchange or waiver pursuant to an Offer;

(vi) retain or dispose of any securities or other property (if other than cash) received pursuant to an Offer;

(vii) waive any default with respect to any Defaulted Obligation or other Asset;

(viii) vote to accelerate the maturity of any Defaulted Obligation or other Asset;

(ix) participate in a committee or group formed by creditors of an issuer or a borrower under a Collateral Obligation, Eligible Investment, Equity Security or asset held by any ETB Subsidiary;

(x) negotiate, modify or amend any loan for the Issuer as authorized by the Indenture in accordance with a Refinancing;

(xi) exercise any other rights or remedies with respect to a Collateral Obligation, Eligible Investment or other Asset as provided in the related Underlying Instruments or take any other action consistent with the terms of the Indenture; and

(xii) to make loans to ETB Subsidiaries.

(g) Notwithstanding anything to the contrary in this Agreement, none of the services performed by the Portfolio Manager shall result in or be construed as resulting in an obligation to perform any of the following:

(i) the Portfolio Manager acting repeatedly or continuously as an intermediary in securities for the Issuer;

(ii) the Portfolio Manager providing investment banking services to the Issuer; or

(iii) the Portfolio Manager having direct contact with, or actively soliciting or finding, outside investors to (x) invest in the Issuer or (y) make co-investments in securities of portfolio companies with the Issuer.

(h) The Portfolio Manager hereby agrees to the following:

(i) The Portfolio Manager agrees not to institute against the Issuer, the Co-Issuer or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings or other proceedings under U.S. federal or state bankruptcy or similar laws, or the similar laws of the Cayman Islands or other applicable jurisdiction until the payment in full of all Notes issued under the Indenture and the expiration of a period equal to one year, or, if longer, the applicable preference period, and a day following such payment. Nothing in this Section 3(h)(i) shall preclude, or be deemed to stop, the Portfolio Manager (i) from taking any action prior to the expiration of the aforementioned period in (A) any case or Proceeding voluntarily filed or commenced by the Issuer, the Co-Issuer or any ETB Subsidiary or (B) any involuntary insolvency Proceeding filed or commenced by a Person other than the Portfolio Manager, or (ii) from commencing against the Issuer, the Co-Issuer, any ETB Subsidiary or any of their respective properties any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceeding. The provisions of this Section 3(h)(i) shall survive termination of this Agreement.

(ii) The Portfolio Manager shall cause any purchase or sale of any Collateral Obligation to be conducted on arm's length terms or in the manner contemplated by Section 6, if applicable.

(iii) In providing services hereunder, the Portfolio Manager may employ third parties, including its Affiliates, to render advice (including investment advice), to provide services to arrange for trade execution and otherwise provide assistance to the Issuer, and to perform any of the Portfolio Manager's duties under this Agreement; *provided* that the Portfolio Manager shall not be relieved of any of its duties hereunder regardless of the performance of any services by third parties. Notwithstanding the foregoing, this Agreement, and any obligations or duties of the Portfolio Manager under this Agreement, can be delegated by the Portfolio Manager, in whole or in part, to any entity that (i) is

controlled by any of James Dondero, Mark Okada or Josh Terry and (ii) is one in which any of James Dondero, Mark Okada or Josh Terry is involved in the day-to-day management and operations (and in any such case pursuant to an instrument of delegation in form and substance satisfactory to the Issuer), with the prior written consent of the Issuer and, notwithstanding any such consent, no delegation of obligations or duties by the Portfolio Manager (including, without limitation, to an entity described above) shall relieve the Portfolio Manager from any liability under this Agreement.

(i) From and after the occurrence and continuance of an Event of Default, the Portfolio Manager will continue to perform and be bound by the provisions of this Agreement and the Indenture. Subject to the terms and conditions of the Indenture, the Trustee will be entitled to rely and be protected in relying upon all actions and omissions to act of the Portfolio Manager thereafter as fully as if no Event of Default had occurred.

4. Brokerage.

(a) The Portfolio Manager will seek to obtain the best execution (but shall have no obligation to obtain the best prices and execution) for all orders placed with respect to the Assets, in a manner permitted by law and in a manner it believes to be in the best interests of the Issuer. Subject to the preceding sentence, the Portfolio Manager may, in the allocation of business, select brokers and/or dealers with whom to effect trades on behalf of the Issuer and may open cash trading accounts with such brokers and dealers (*provided* that none of the Assets may be credited to, held in or subject to the lien of the broker or dealer with respect to any such account). In addition, subject to the first sentence of this paragraph, the Portfolio Manager may, in the allocation of business, take into consideration research and other brokerage services furnished to the Portfolio Manager or its Affiliates by brokers and dealers which are not Affiliates of the Portfolio Manager; *provided* that the Portfolio Manager in good faith believes that the compensation for such services rendered by such brokers and dealers complies with the requirements of Section 28(e) of the Securities Exchange Act of 1934, as amended ("Section 28(e)"), or in the case of principal or fixed income transactions for which the "safe harbor" of Section 28(e) is not available, the amount of the spread charged is reasonable in relation to the value of the research and other brokerage services provided. Such services may be used by the Portfolio Manager or its Affiliates in connection with its other advisory activities or investment operations. The Portfolio Manager may aggregate sales and purchase orders of securities placed with respect to the Assets with similar orders being made simultaneously for other accounts managed by the Portfolio Manager or with accounts of the Affiliates of the Portfolio Manager, if in the Portfolio Manager's reasonable business judgment such aggregation shall result in an overall economic benefit to the Issuer, taking into consideration the advantageous selling or purchase price, brokerage commission or other expenses, as well as the availability of such securities on any other basis. In accounting for such aggregated order price, commissions and other expenses may be apportioned on a weighted average basis. When

a transaction with respect to the Assets occurs as part of any aggregate sales or purchase orders, the objective of the Portfolio Manager shall be to allocate the executions among the accounts in an equitable manner the Portfolio Manager believes, in its reasonable business judgment, to be appropriate and in accordance with (x) its internal conflicts of interest and allocation policies and (y) any applicable requirements of the Investment Advisers Act.

(b) The Issuer acknowledges and agrees that (i) the determination by the Portfolio Manager of any benefit to the Issuer will be subjective and will represent the Portfolio Manager's evaluation at the time that the Issuer will be benefited by relatively better purchase or sales prices, lower brokerage commissions, lower transaction costs and expenses and beneficial timing of transactions or any combination of any of these and/or other factors and (ii) the Portfolio Manager shall be fully protected with respect to any such determination to the extent the Portfolio Manager acts in accordance with Section 3(b).

(c) Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and (d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect client cross-transactions where the Portfolio Manager causes a transaction with respect to the Assets to be effected between the Issuer and another account advised by it or any of its Affiliates; *provided* that, if and to the extent required by the Investment Advisers Act, such authorization is terminable prior to the initiation of such cross-transaction at the Issuer's option without penalty. Such termination shall be effective upon receipt by the Portfolio Manager of written notice from the Issuer. Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and (d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect transactions, including principal transactions, where the Issuer may invest in securities of obligors or issuers in which the Portfolio Manager and/or its Affiliates have a debt, equity or participation interest, in each case in accordance with applicable law.

(d) The Issuer acknowledges and agrees that the Portfolio Manager or any of its Affiliates may acquire or sell obligations or securities, for its own account or for the accounts of its customers, without either requiring or precluding the acquisition or sale of such obligations or securities for the account of the Issuer. Such investments may be the same or different from those made on behalf of the Issuer. If, in light of market conditions and investment objectives, the Portfolio Manager determines that it would be advisable to purchase the same item of Collateral Obligation both for the Issuer, and either the proprietary account of the Portfolio Manager or any Affiliate of the Portfolio Manager or another client of the Portfolio Manager, the Portfolio Manager shall allocate such investment opportunities across such entities for which such opportunities are appropriate, consistent with (i) its internal conflicts of interest and allocation policies and (ii) any applicable requirements of the Investment Advisers Act. The Issuer agrees that, in the course of managing the Collateral Obligations held by the Issuer, the Portfolio Manager may consider its relationships with other clients (including obligors and issuers) and its Affiliates. The Portfolio Manager may decline to make a particular investment for the Issuer in view of such relationships.

5. Additional Activities of the Portfolio Manager.

(a) Nothing herein shall prevent the Portfolio Manager or any of its Related Entities from engaging in other businesses, or from rendering services of any kind to the Issuer and its Affiliates (other than those services that would violate the Portfolio Manager's covenants under this Agreement), the Trustee, the Holders, the Placement Agent or any other Person to the extent permitted by applicable law, regardless of whether such business is in competition with the Issuer or otherwise. Without limiting the generality of the foregoing, the Portfolio Manager, its Related Entities and the directors, officers, employees and agents of the Portfolio Manager and its Related Entities may, subject to any limits specified in the Indenture:

(i) serve as directors (whether supervisory or managing), officers, partners, employees, agents, nominees or signatories, and receive arm's length fees in connection with such service, for the Issuer or its Affiliates, or for any obligor or issuer in respect of the Collateral Obligations, Equity Securities or Eligible Investments or any affiliate thereof, to the extent permitted by their Governing Instruments, as from time to time amended, or by any resolutions duly adopted by the Issuer, its Affiliates or any obligor or issuer in respect of any of the Collateral Obligations, Eligible Investments or Equity Securities (or any Affiliate thereof) pursuant to their respective Governing Instruments, and neither the Holders of the Notes nor the Issuer shall have the right to any such fees; *provided* that, in the reasonable business judgment of the Portfolio Manager, such activity will not have a material adverse effect on any item of the Assets;

(ii) receive fees or other compensation from third parties (including Persons in which the Issuer has made or proposes to make an investment) in connection with any business activities of the Portfolio Manager and its Affiliates and which are not related to the use of the Issuer's capital (which fees or other compensation shall be for the benefit of the Portfolio Manager's own account); *provided* that, in the reasonable business judgment of the Portfolio Manager, such activities will not have a material adverse effect on any item of the Assets; and

(iii) be a secured or unsecured creditor of, or hold an equity interest in, or own or hold notes issued by, the Issuer, its Affiliates or any obligor or issuer of any obligation included in the Assets, subject to the Portfolio Manager's obligations in Section 8 hereof.

As a result, such individuals may possess information relating to obligors and issuers of Collateral Obligations that is (a) not known to or (b) known but restricted as to its use by the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations of the Portfolio Manager under this Agreement. Each of such ownership and other relationships may result in securities laws restrictions on transactions in such securities by the Issuer and otherwise create conflicts of interest for the Issuer. The Issuer acknowledges and agrees that, in all such instances, the Portfolio Manager and its Affiliates may in their discretion make

investment recommendations and decisions that may be the same as or different from those made with respect to the Issuer's investments and they have no duty, in making or managing such investments, to act in a way that is favorable to the Issuer.

The Issuer acknowledges that there are generally no ethical screens or information barriers among the Portfolio Manager and certain of its Affiliates of the type that many firms implement to separate Persons who make investment decisions from others who might possess material, non-public information that could influence such decisions. The officers or Affiliates of the Portfolio Manager may possess information relating to obligors or issuers of Collateral Obligations that is not known to the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations under this Agreement. As a result, the Portfolio Manager may from time to time come into possession of material nonpublic information that limits the ability of the Portfolio Manager to effect a transaction for the Issuer, and the Issuer's investments may be constrained as a consequence of the Portfolio Manager's inability to use such information for advisory purposes or otherwise to effect transactions that otherwise may have been initiated on behalf of its clients, including the Issuer.

(b) It is understood that the Portfolio Manager and any of its Affiliates may engage in any other business and furnish investment management and advisory services to others, including Persons which may have investment policies similar to those followed by the Portfolio Manager with respect to the Assets and which may own securities or obligations of the same class, or which are of the same type, as the Collateral Obligations or the Eligible Investments or other securities or obligations of the obligors or issuers of the Collateral Obligations or the Eligible Investments. The Portfolio Manager will be free, in its sole discretion, to make recommendations to others or effect transactions on behalf of itself or for others, which may be the same as or different from those effected with respect to the Assets. Nothing in the Indenture and this Agreement shall prevent the Portfolio Manager or any of its Affiliates, acting either as principal or agent on behalf of others, from buying or selling, or from recommending to or directing any other account to buy or sell, at any time, securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those directed by the Portfolio Manager to be purchased or sold on behalf of the Issuer. It is understood that, to the extent permitted by applicable law, the Portfolio Manager, its Affiliates or Related Entities, or any of their directors, managers, officers, stockholders, members, partners, partnership committee members, employees, agents or affiliates or any member of their families or a Person or entity advised by the Portfolio Manager may have an interest in a particular transaction or in securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those whose purchase or sale the Portfolio Manager may direct hereunder.

(c) The Portfolio Manager shall not be obligated to pursue any particular investment strategy or opportunity with respect to the Assets.

(d) The Issuer acknowledges that the Portfolio Manager and its Affiliates may make and/or hold an investment in an obligor's or issuer's securities that may be pari passu, senior or junior in ranking to an investment in such obligor's or

issuer's securities made and/or held by the Issuer or in which partners, security holders, members, officers, directors, agents or employees of the Portfolio Manager and its Affiliates serve on boards of directors or otherwise have ongoing relationships.

6. Conflicts of Interest.

(a) Subject to compliance with applicable laws and regulations and subject to this Agreement and the Indenture, the Portfolio Manager may direct the Trustee to acquire a Collateral Obligation from, or sell a Collateral Obligation, Equity Security, Eligible Investment or asset held by an ETB Subsidiary to, the Portfolio Manager, any of its Affiliates or any account or portfolio for which the Portfolio Manager or any of its Affiliates serve as investment advisor for fair market value. The Portfolio Manager may obtain the Issuer's written consent through the Independent Review Party as provided herein if any such transaction requires the consent of the Issuer under Section 206(3) of the Investment Advisers Act (any such transaction, an "Affiliate Transaction"). The Issuer hereby acknowledges that the Portfolio Manager, its Affiliates or accounts advised or sub-advised by the Portfolio Manager or its Affiliates or their respective advised accounts (collectively, the "Portfolio Manager Affiliates") will purchase on the Closing Date U.S.$35,000,000 of the Class A-1 Notes and all of the Class C-1 Notes, the Class D Notes, the Class E-2 Notes, and all of the Subordinated Notes (the "Portfolio Manager Notes"). The Issuer further acknowledges and agrees that no Portfolio Manager Affiliate is under any obligation to retain any Portfolio Manager Notes, and may sell all or a portion of such Portfolio Manager Notes at any time. In addition, the Issuer acknowledges that the Portfolio Manager Affiliates may acquire and subsequently sell other Notes after the Closing Date. In certain circumstances, the interests of the Issuer and/or the Holders or beneficial owners of the Notes with respect to matters as to which the Portfolio Manager is advising the Issuer may conflict with the interests of the Portfolio Manager Affiliates or its Related Entities. The Issuer hereby acknowledges that various potential and actual conflicts of interest may exist with respect to the Portfolio Manager as described above and as described in the final offering memorandum relating to the Notes; *provided* that nothing in this Section 6 shall be construed as altering the duties of the Portfolio Manager referred to herein.

(b) At the written request of the Portfolio Manager, the Issuer shall establish a conflicts review board or appoint an independent third party to act on behalf of the Issuer (such board or party, an "Independent Review Party") with respect to Affiliate Transactions. Decisions of any Independent Review Party shall be binding on the Portfolio Manager, the Issuer, and Holders of the Notes.

(c) Any Independent Review Party (i) shall either (A) be the Issuer's Board of Directors, (B) be an established financial institution or other financial company with experience in assessing the merits of transactions similar to the Affiliate Transactions or (C) be a review board comprised of one or more individuals selected by the Issuer (or at the request of the Issuer, selected by the Portfolio Manager), (ii) shall be required to assess the merits of the Affiliate Transaction and either grant or withhold consent to such transaction in its sole judgment and (iii) shall not be (A) affiliated with the Portfolio Manager (other than as a Holder or as a passive investor in the Issuer or an

Affiliate of the Issuer) or (B) (other than the Issuer's Board of Directors) involved in the daily management and control of the Issuer.

(d) The Issuer (i) shall be responsible for any fees relating to the services provided by any Independent Review Party and shall reimburse members of any Independent Review Party for their out-of-pocket expenses and (ii) may indemnify members of such Independent Review Party to the maximum extent permitted by law, subject to terms and conditions satisfactory to the Portfolio Manager.

7. Records; Confidentiality.

The Portfolio Manager shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Issuer, the Trustee, the Holders, and the Independent accountants appointed by the Portfolio Manager on behalf of the Issuer pursuant to Article 10 of the Indenture at any time during normal business hours and upon not less than three Business Days' prior notice. The Portfolio Manager shall keep confidential any and all information that is either (i) of a type that would ordinarily be considered proprietary or confidential or (ii) designated as confidential (collectively "Confidential Information") obtained in connection with the services rendered hereunder and shall not disclose any such Confidential Information to non-affiliated third parties (excluding any Holders and beneficial owners of Notes to the extent required by the terms of the Indenture) except (a) with the prior written consent of the Issuer, (b) such Confidential Information as a Rating Agency shall reasonably request in connection with its rating of the Secured Notes or supplying credit estimates on any obligation included in the Assets, (c) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions with respect to the Assets on behalf of the Issuer, (d) as required by (i) applicable law, regulation, court order, or a request by a governmental regulatory agency with jurisdiction over the Portfolio Manager or any of its Affiliates, (ii) the rules or regulations of any stock exchange or self-regulating organization, body or official having jurisdiction over the Portfolio Manager or any of its Affiliates or (iii) the Irish Stock Exchange, (e) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (f) such Confidential Information as shall have been publicly available or disclosed other than in known violation of this Agreement or the provisions of the Indenture or shall have been obtained by the Portfolio Manager on a non-confidential basis, (g) such Confidential Information as is necessary or appropriate to disclose so that the Portfolio Manager may perform its duties hereunder, under the Indenture or the related documents or (h) general performance information which may be used by the Portfolio Manager or its Affiliates in connection with their marketing activities. Notwithstanding the foregoing, it is agreed that the Portfolio Manager may disclose (a) that it is serving as portfolio manager of the Issuer, (b) the nature, aggregate principal amount and overall performance of the Issuer's assets, (c) the amount of earnings on the Assets, (d) such other Confidential Information about the Issuer, the Assets and the Notes as is customarily disclosed by managers of collateralized loan obligations and (e) each of its respective employees, representatives or other agents may disclose to any and all Persons, without limitation of any kind, the United States federal income tax treatment and United States federal income tax structure

of the transactions contemplated by the Indenture, this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them relating to such United States federal income tax treatment and United States income tax structure. For purposes of this Section 7, the Holders and beneficial owners of the Notes shall not be considered "non-affiliated third parties."

8. Obligations of Portfolio Manager.

In accordance with the performance standard set forth in Section 3(b), the Portfolio Manager shall use commercially reasonable efforts to ensure that no action is taken by it, and shall not intentionally or with reckless disregard take any action, which would (a) materially and adversely affect the status of the Issuer for purposes of Cayman Islands law, United States federal or state law, or other law known to the Portfolio Manager to be applicable to the Issuer, (b) not be permitted by the Issuer's Governing Instruments, (c) violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer, including, without limitation, actions which would violate any Cayman Islands law, United States federal, state or other applicable securities law that is known by the Portfolio Manager to be applicable to it and, in each case, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer or have a material adverse effect on the ability of the Portfolio Manager to perform its obligations hereunder or under the Indenture, (d) require registration of the Issuer, the Co-Issuer or the pool of Assets as an "investment company" under Section 8 of the Investment Company Act, (e) cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise cause the Issuer to be subject to U.S. federal or state income tax on a net basis; *provided* that it shall not be a violation of this clause (e) for the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis as a result of an action taken either (i) in compliance with the Trading Restrictions attached hereto as Schedule 1 or (ii) in reliance upon Tax Advice to the effect that, under the relevant facts and circumstances with respect to such action, the Issuer's contemplated action "will" not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis, so long as (in respect of either (i) or (ii)) (x) there has been no material change in U.S. federal income tax law or the interpretation thereof that is relevant to such action since the date of such Tax Advice or the date hereof, as applicable; and (y) the Portfolio Manager does not have actual knowledge that such action, when considered in the light of the other activities of the Issuer, would cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes; or (f) knowingly and willfully adversely affect the interests of the Holders in the Assets in any material respect (other than (i) as expressly permitted hereunder or under the Indenture or (ii) in connection with any action taken in the ordinary course of business of the Portfolio Manager in accordance with its fiduciary duties to its clients). In furtherance of the foregoing clause (e), the Portfolio Manager shall at all times comply with the Trading Restrictions set forth in Schedule 1, except with respect to actions taken in compliance with clause (e)(ii). If the Portfolio Manager is ordered by the Board of Directors of the Issuer or the requisite

Holders or beneficial owners of Notes to take any action which would, or could reasonably be expected to, in each case in its reasonable business judgment, have any such consequences, the Portfolio Manager shall promptly notify the Issuer that such action would, or could reasonably be expected to, in each case in its reasonable business judgment, have one or more of the consequences set forth above and shall not take such action unless the Board of Directors of the Issuer then request the Portfolio Manager to do so and at least a Majority of both the Controlling Class and the Subordinated Notes (voting separately by Class) have consented thereto in writing. Notwithstanding any such request, the Portfolio Manager shall not take such action unless (1) arrangements satisfactory to it are made to insure or indemnify the Portfolio Manager, Affiliates of the Portfolio Manager and members, shareholders, partners, directors, managers, officers or employees of the Portfolio Manager or such Affiliates from any liability and expense it may incur as a result of such action and (2) if the Portfolio Manager so requests in respect of a question of law, the Issuer delivers to the Portfolio Manager an opinion of a nationally recognized law firm (from outside counsel satisfactory to the Portfolio Manager) that the action so requested does not violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer or over the Portfolio Manager. Neither the Portfolio Manager nor its Affiliates, shareholders, partners, directors, members, managers, officers or employees shall be liable to the Issuer or any other Person, except as provided in Section 11. Notwithstanding anything contained in this Agreement to the contrary, any indemnification or insurance by the Issuer provided for in this Section 8 or Section 11 shall be payable out of the Assets in accordance with the Priority of Payments, and the Portfolio Manager may take into account such Priority of Payments in determining whether any proposed indemnity arrangements contemplated by this Section 8 are satisfactory.

9. Compensation.

(a) The Issuer shall pay to the Portfolio Manager, for services rendered under this Agreement, on each Payment Date, the Senior Management Fee, the Subordinated Management Fee and the Incentive Management Fee. Accrued and unpaid Management Fees shall be paid as set forth in Article 11 of the Indenture. To the extent any of the Subordinated Management Fee is not paid on any Payment Date, such payment will be deferred and will accrue interest at LIBOR (as determined for the applicable Interest Accrual Period with respect to the Secured Notes), compounded quarterly, as set forth in the Indenture.

(b) The Portfolio Manager may (but shall not be obligated to), at its election upon notice to the Issuer, the Trustee and the Collateral Administrator (the "Fee Election Notice"), reduce for a predetermined period of time, as specified in the Fee Election Notice, the amount which is due to it as Senior Management Fee, in which case the Subordinated Management Fee shall automatically be increased by the same amount (the "Fee Election"). Any Fee Election must be made on or before the Determination Date for the first Collection Period in respect of which the Fee Election will apply and shall not be revocable during the period of the Fee Election; except that, in the event that the Portfolio Manager is removed, resigns or assigns its rights to any Persons, as contemplated by Sections 13, 14 and 15 of this Agreement, the replacement Portfolio

Manager shall be bound initially by the terms set forth under Section 9(a) and the Fee Election will not apply to such replacement Portfolio Manager.

(c) The Portfolio Manager shall pay (without reimbursement by the Issuer) its general overhead expenses, including (i) all costs and expenses on account of salaries, wages, bonuses and other employee benefits of the Portfolio Manager and (ii) all occupational expenses, including rent, taxes and utilities, of the Portfolio Manager. The Issuer shall pay or reimburse the Portfolio Manager (at closing in the case of clause (i) below) for its payment of any and all reasonable costs and expenses incurred on behalf of the Issuer, including, without limitation: (i) the costs and expenses of the Portfolio Manager incurred in connection with the negotiation and preparation of this Agreement and all other agreements and matters related to the issuance of the Notes; (ii) any transfer fees necessary to register any Collateral Obligation in accordance with the Indenture; (iii) any costs, fees and expenses in connection with the acquisition, management or disposition of Assets or otherwise in connection with the Notes or the Issuer (including (a) investment related travel, communications and related expenses, (b) loan processing fees, legal fees and expenses and other expenses of professionals retained by the Portfolio Manager on behalf of the Issuer and (c) amounts in connection with the termination, cancellation or abandonment of a potential acquisition or disposition of any Assets that is not consummated); (iv) any and all costs and expenses incurred in connection with the carrying or management of the Assets; (v) any and all costs and expenses incurred in connection with the Notes and other indebtedness of the Issuer; (vi) any and all attorneys', accountants', rating agencies', consultants', brokers' and other professionals' fees and disbursements relating to Issuer matters (including in house attorneys' and accountants' services provided by or on behalf of the Portfolio Manager to the Issuer as may be reasonably allocated to the Issuer); (vii) any and all taxes and governmental charges that may be incurred or payable by the Issuer or any ETB Subsidiary; (viii) any and all insurance premiums or expenses incurred in connection with the activities of the Issuer by the Portfolio Manager; (ix) any and all costs, fees and expenses incurred in connection with the rating of the Notes or obtaining ratings or credit estimates on Collateral Obligations, and communications with the Rating Agencies (including (a) any expenses related to compliance with Rule 17g-5 of the Securities Exchange Act of 1934, as amended, and (b) any fees, expenses or other amounts payable to the Rating Agencies); (x) any and all costs, fees and expenses incurred in connection with the Portfolio Manager's communications with the Holders (including charges related to annual meetings) and costs and expenses for services to the Issuer in respect of the Assets relating to asset pricing and rating services and specialty database software licensing and development fees; (xi) any and all costs and expenses incurred by the Portfolio Manager in connection with the establishment of any ETB Subsidiary (*provided* that such costs and expenses are directly attributable to the establishment of such ETB Subsidiary), and (xii) any and all expenses incurred to comply with any law or regulation related to the activities of the Issuer, any ETB Subsidiary and the Portfolio Manager. Other than as stated above, the Issuer will bear, and will pay directly in accordance with the Indenture, all other costs and expenses incurred by it or on its behalf in connection with the organization, operation or liquidation of the Issuer.

(d) Upon the effectiveness of any termination of this Agreement or any removal or resignation of the Portfolio Manager hereunder, (i) all Management Fees accrued but not paid prior to the effective date of such termination, removal, resignation or assignment, as the case may be (the "Exit Date"), shall continue to be payable to the exiting Portfolio Manager on Payment Dates occurring after the Exit Date and (ii) (a) in the case of removal for cause pursuant to Section 15, the Incentive Management Fee, if any, will be due and payable on each Payment Date after such removal for cause to the former Portfolio Manager and the successor Portfolio Manager *pro rata* based on the duration of service as portfolio manager for the Issuer during the period from the Closing Date to (and including) such Payment Date and (b) in the case of termination, resignation or assignment, as the case may be, for any reason other than cause, the Incentive Management Fee that is due and payable will be payable to the former Portfolio Manager and the successor Portfolio Manager based upon the former Portfolio Manager's reasonable determination of each portfolio manager's proportional participation and engagement in providing services to the Issuer in connection with the management of the Issuer's portfolio and carrying out the duties and obligations set forth in the Portfolio Management Agreement.

(e) Notwithstanding anything contained herein to the contrary, the obligations of the Issuer are limited recourse obligations payable solely from Assets granted to the Trustee pursuant to the Granting Clauses of the Indenture in accordance with the Priority of Payments and, following realization of the Assets and reduction thereof to zero, all obligations of the Issuer and any claims against the Issuer under this Agreement shall be extinguished and shall not thereafter revive. No recourse shall be had for the payment of any amount owing in respect of this Agreement against any other asset of the Issuer or against any officer, director, employee, shareholder or incorporator of the Issuer. The provisions of this Section 9(e) shall survive termination of this Agreement.

10. Benefit of the Agreement.

The Portfolio Manager agrees that its obligations hereunder in accordance with the terms of this Agreement and the terms of the Indenture applicable to it shall be enforceable by the Issuer and by the Trustee on behalf of the Holders, as provided in the Indenture. The Portfolio Manager agrees and consents to the provisions contained in Section 15.1 of the Indenture.

11. Limits of Portfolio Manager Responsibility.

(a) Subject to Section 8, the Portfolio Manager assumes no responsibility under this Agreement other than to render the services called for hereunder and under the terms of the Indenture applicable to it and affecting the duties and functions that have been delegated to it thereunder and hereunder in good faith and, subject to the standard of conduct described in the next succeeding sentence. The Portfolio Manager shall not be responsible for any action or inaction of the Co-Issuers or the Trustee in declining to follow any advice, recommendation or direction of the Portfolio Manager including as set forth in Section 8. Neither the Portfolio Manager nor any of its directors, managers, officers, stockholders, members, partners, partnership

committee members, personnel, employees, agents or Affiliates will be liable to the Co-Issuers, the Trustee, the Holders of the Notes, the Placement Agent or any other Person for any act, omission, error of judgment, mistake of law, or for any claim, loss, liability, damage, judgments, assessments, settlement, cost, or other expense (including attorneys' fees and expenses and court costs) arising out of any investment, or for any other act taken by or recommended by or omission arising out of or in connection with the performance by the Portfolio Manager, its directors, managers, officers, stockholders, members, personnel, partners, partnership committee members, employees, agents or Affiliates under this Agreement or the terms of the Indenture applicable to the Portfolio Manager, incurred as a result of actions taken or recommended or for any omissions of the Portfolio Manager, or for any decrease in the value of the Collateral Obligations, except that the Portfolio Manager shall be liable (i) by reason of acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance of its obligations hereunder or the terms of the Indenture applicable to the Portfolio Manager or, (ii) with respect to the information concerning the Portfolio Manager included in the Offering Memorandum dated November 12, 2014 (the "Offering Memorandum") under the headings "*Risk Factors—Risks Relating to the Portfolio Manager*" and the sub-headings thereunder, "*Risk Factors—Risks Relating to the Issuer and its Service Providers—The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager*," as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Portfolio Manager shall not be liable for any consequential, punitive, exemplary or treble damages or lost profits hereunder or under the Indenture. The Issuer (the Issuer in such case, the "Indemnifying Party") shall indemnify and hold harmless the Portfolio Manager, its directors, managers, officers, stockholders, members, partners, partnership committee members, agents, personnel and employees and its Affiliates and their directors, managers, officers, stockholders, members, partners, partnership committee members, agents, personnel and employees (each, an "Indemnified Party") from and against any and all losses, claims, damages, judgments, assessments, costs or other liabilities (other than losses in the value of a Collateral Obligation or Eligible Investment incurred by the Portfolio Manager or any of its Affiliates in connection with a transaction in which it elects to acquire a Collateral Obligation or an Eligible Investment from the Issuer as principal) (collectively, "Liabilities"), and will promptly reimburse each such Indemnified Party for all reasonable fees and expenses (including reasonable fees and expenses of counsel) as such fees and expenses (collectively, the "Expenses") are incurred in investigating, preparing, pursuing or defending any claim, action, proceeding or investigation with respect to any pending or threatened litigation (collectively, the "Actions"), caused by, or arising out of or in connection with the Assets or business of the Issuer or any ETB Subsidiary or otherwise relating to the Indenture or this Agreement, and/or any action taken by, or any failure to act by, such Indemnified Party; *provided* that the Portfolio Manager shall not be indemnified for any Liabilities or Expenses (x) it incurs as a result of any acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance by the Portfolio Manager of its obligations hereunder or the terms of the Indenture applicable to the

Portfolio Manager, or (y) it incurs with respect to the information concerning the Portfolio Manager included in the Offering Memorandum under the headings "*Risk Factors—Risks Relating to the Portfolio Manager*" and the sub-headings thereunder, "*Risk Factors— Risks Relating to the Issuer and its Service Providers—The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager*," as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Notwithstanding anything contained herein to the contrary, the obligations of the Issuer under this Section 11 are limited recourse obligations of the Issuer payable solely out of the Assets in accordance with the Priority of Payments. The Indemnified Parties are not required to consult with, or obtain the consent of, the Issuer with respect to any settlement, negotiation or other act of the Indemnified Parties in connection with any Action.

(b) The Portfolio Manager shall indemnify and hold harmless (the Portfolio Manager in such case, the "Indemnifying Party") the Issuer (the Issuer in such case, the "Indemnified Party") from and against any and all expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) arising directly out of any information described in Section 11(a)(ii) above, as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided* that the Portfolio Manager shall not be liable for any special, indirect, consequential, punitive, exemplary or treble damages or lost profits.

(c) The Indemnified Party shall promptly notify the Indemnifying Party if the Indemnified Party receives a complaint, claim, compulsory process or other notice of any losses or damages giving rise to a claim for indemnification under this Section 11, but failure so to notify the Indemnifying Party or to comply with paragraph (d) below shall not relieve such Indemnifying Party from its obligations under this Section 11 unless and to the extent that such Indemnifying Party did not otherwise learn of such action or proceeding and to the extent such failure results in the forfeiture by the Indemnifying Party of material rights and defenses.

(d) With respect to any claim made or threatened against an Indemnified Party, or compulsory process or request served upon such Indemnified Party for which such Indemnified Party is or may be entitled to indemnification under this Section 11, such Indemnified Party shall:

(i) at the Indemnifying Party's expense, provide the Indemnifying Party such information and cooperation with respect to such claim as the Indemnifying Party may reasonably require, including, but not limited to, making appropriate personnel available to the Indemnifying Party at such reasonable times as the Indemnifying Party may request;

(ii) at the Indemnifying Party's expense, cooperate and take all such steps as the Indemnifying Party may reasonably request to preserve and protect any defense to such claim;

(iii) in the event suit is brought with respect to such claim, upon reasonable prior notice, afford to the Indemnifying Party the right, which the Indemnifying Party may exercise in its sole discretion and at its expense, (A) to participate in the investigation, defense and settlement of such claim, and, (B) to the extent that it shall wish, to assume the defense thereof, with counsel satisfactory to such Indemnified Party (who shall not, except with the consent of the Indemnified Party, be counsel to the Indemnifying Party), and, after notice from the Indemnifying Party to such Indemnified Party of its election so to assume the defense thereof, the Indemnifying Party shall not be liable to such Indemnified Party under such subsection for any legal fees and expenses of other counsel or any other expenses, in each case subsequently incurred by such Indemnified Party, in connection with the defense thereof other than reasonable costs of investigation, except that, if such Indemnified Party reasonably determines that counsel selected by the Indemnifying Party has a conflict of interest, such Indemnifying Party shall pay the reasonable fees and disbursements of one additional counsel selected by the Indemnified Party (in addition to any local counsel) separate from its own counsel for all Indemnified Parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances; and

(iv) neither incur any material expense to defend against nor make any admission with respect thereto, nor permit a default or consent to the entry of any judgment in respect thereof, in each case without the prior written consent of the Indemnifying Party; *provided* that the Indemnifying Party shall have advised such Indemnified Party that such Indemnified Party is entitled to be indemnified hereunder with respect to such claim.

(e) No Indemnified Party shall, without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, settle or compromise any claim giving rise to a claim for indemnity hereunder, or permit a default or consent to the entry of any judgment in respect thereof; *provided* that if the Indemnified Party is the Portfolio Manager or an Affiliate or a Related Entity of the Portfolio Manager or of an Affiliate thereof, such Indemnified Party shall not be required to seek or obtain such consent if it determines in good faith that the Indemnifying Party is unlikely to have sufficient funds available to indemnify it in full, taking into account the Priority of Payments.

(f) No Indemnifying Party shall, without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, settle or compromise or consent to the entry of any judgment with respect to any claim giving rise to a claim for indemnity hereunder if such settlement includes a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party.

(g) If the indemnification provided for in this Section 11 is unavailable to an Indemnified Party in respect of any claims or liabilities referred to herein, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such claims or liabilities in such proportion as is appropriate to reflect the relative benefits received by, and the relative fault of, the Indemnifying Party, on the one hand, and the Indemnified Parties, on the other hand, as well as any other relevant equitable considerations.

(h) The required indemnification provided by this Section 11 shall be in addition to any rights to which an Indemnified Party may otherwise be entitled by contract or as a matter of law, and shall extend to each of its or his or her heirs, successors and assigns. The provisions of this Section 11 shall continue to afford protection to each Indemnified Party regardless of whether such Indemnified Party remains in the position or capacity pursuant to which such Indemnified Party became entitled to indemnification under this Section 11.

(i) United States federal securities laws impose liabilities under certain circumstances on persons who act in good faith and nothing herein shall constitute a waiver or limitation of any rights which the Issuer or any Holder of Notes may have under any applicable federal securities laws.

(j) Notwithstanding anything in this Agreement to the contrary, the Portfolio Manager's obligations hereunder will be solely the obligations of the Portfolio Manager, and the Issuer will not have any recourse to any Manager Related Party other than the Portfolio Manager, with respect to any claims, losses, damages, liabilities, indemnities or other obligations in connection with any transactions contemplated hereby.

(k) The Portfolio Manager shall not be liable for any act or omission of the custodian, any sub-custodian, prime broker or other Person appointed by the Issuer. Any compensation to any such Person for its services to the Issuer shall be the obligation of the Issuer and not the Portfolio Manager.

(l) The Portfolio Manager shall not be responsible for any liability resulting from any failure by the Portfolio Manager to fulfill its duties under this Agreement if such liability or failure shall be caused by or directly or indirectly due to a Force Majeure Event, *provided* that the Portfolio Manager shall use commercially reasonable efforts to minimize the effect of the same. As used herein, the term "Force Majeure Event" means such an operation of the forces of nature as reasonable foresight and ability could not foresee or reasonably provide against including but not limited to, acts of god, flood, war (whether declared or undeclared), terrorism, fire, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services contemplated by this Agreement, inability to obtain material, equipment, or communications or computer facilities, or the failure of equipment or interruption of

communications or computer facilities, and other causes beyond a party's control whether or not of the same class or kind as specifically named above.

(m) The Portfolio Manager shall be entitled to conclusively rely in good faith, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, facsimile, email, telex or teletype message, statement (which may be made orally or by telephone), order or other document or communication reasonably believed by it to be genuine and correct and to have been signed, sent or made by a Person that the Portfolio Manager has no reason to believe is not duly authorized and upon the advice and statements of independent accountants.

(n) The Portfolio Manager may consult with outside legal counsel of nationally recognized standing in the United States experienced in such matters as to questions of law pertaining to the performance of its duties hereunder and the advice or opinion of such counsel on any such question shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with the advice or opinion of such counsel; *provided* that the Portfolio Manager may take actions not permitted by the Trading Restrictions only in compliance with Section 8.

12. No Partnership or Joint Venture.

The Issuer and the Portfolio Manager are not partners or joint venturers with each other and nothing herein shall be construed to make them such partners or joint venturers or impose any liability as such on either of them. The Portfolio Manager's relation to the Issuer shall be deemed to be that of an independent contractor.

13. Term; Termination.

(a) This Agreement shall commence as of the date first set forth above and shall continue in force and effect until the first of the following occurs: (i) the payment in full of the Notes and the termination of the Indenture in accordance with its terms; (ii) the liquidation of the Assets and the final distribution of the proceeds of such liquidation to the Holders; or (iii) the termination of this Agreement in accordance with subsections (b) of this Section 13 or Section 15 of this Agreement.

(b) Notwithstanding any other provision hereof to the contrary but subject to the provisions of clause (e) below, this Agreement may be terminated without cause by the Portfolio Manager, and the Portfolio Manager may resign, upon 90 days' (or such shorter notice as is acceptable to the Issuer) written notice to the Issuer; *provided* that the Portfolio Manager shall have the right to resign immediately upon the effectiveness of any material change in applicable law or regulations which renders the performance by the Portfolio Manager of its duties hereunder or under the Indenture to be a violation of such law or regulation.

(c) Notwithstanding the provisions of clause (b) above, no resignation or removal of the Portfolio Manager or termination of this Agreement pursuant to such

clause shall be effective until the date as of which a successor Portfolio Manager shall have been appointed and approved in accordance with Section 13(e) and has accepted all of the Portfolio Manager's duties and obligations pursuant to this Agreement in writing and has assumed such duties and obligations.

(d) If this Agreement is terminated pursuant to this Section 13, neither party shall have any further liability or obligation to the other, except as provided in Section 3(h)(i), Sections 9(d) and (e) and Sections 11 and 16 of this Agreement.

(e) Any termination, removal or resignation of the Portfolio Manager while any Notes are Outstanding will be effective only upon (a) the appointment by the Issuer, at the direction of at least a Majority of the Subordinated Notes, with the consent of at least a Majority of the Controlling Class, of a successor Portfolio Manager that is an established institution which (i) has demonstrated an ability to professionally and competently perform duties reasonably comparable to those imposed upon the Portfolio Manager hereunder, (ii) is legally qualified and has the capacity to act as successor to the Portfolio Manager under this Agreement in the assumption of all of the responsibilities, duties and obligations of the Portfolio Manager hereunder and under the terms of the Indenture applicable to the Portfolio Manager, (iii) satisfies the S&P Rating Condition, (iv) shall not cause the Issuer or the Co-Issuer or the pool of collateral to become required to register under the provisions of the Investment Company Act and (v) shall not result in the imposition of any entity-level or withholding tax on the Issuer or the payments to the Holders or cause any other material adverse tax consequences to the Issuer and (b) written acceptance of appointment by such successor Portfolio Manager. The Issuer shall use its commercially reasonable efforts to appoint a successor Portfolio Manager to assume the duties and obligations of the removed or resigning Portfolio Manager. The Issuer, the Trustee and the successor Portfolio Manager shall take such action (or cause the outgoing Portfolio Manager to take such action) consistent with this Agreement and the terms of the Indenture applicable to the Portfolio Manager, as shall be necessary to effectuate any such succession. In the event that the successor manager has not been appointed or has not assumed the duties of the Portfolio Manager in writing within a 60-day period, any of the Portfolio Manager, a Majority of the Controlling Class or a Majority of the Subordinated Notes may petition a court of competent jurisdiction for the appointment of a successor Portfolio Manager, which appointment will not require the consent of, or be subject to the approval or disapproval of, the Issuer or any Holder (so long as such court appointed successor meets the requirements of clauses (a)(i) through (v) above). The Issuer shall provide notice to Moody's of any removal of the Portfolio Manager and appointment of a successor manager pursuant to this Section 13(e).

(f) In the event of removal of the Portfolio Manager pursuant to this Agreement by the Issuer or, to the extent so provided in the Indenture, by the Trustee, the Issuer shall have all of the rights and remedies available with respect thereto at law or equity, and, without limiting the foregoing, the Issuer or, to the extent so provided in the Indenture, the Trustee may by notice in writing to the Portfolio Manager as provided under this Agreement terminate all the rights and obligations of the Portfolio Manager under this Agreement (except those that survive termination pursuant to Section 13(d) above). Upon resignation or removal of the Portfolio Manager in accordance with this

Section 13 or Section 15 of this Agreement, as applicable, and upon acceptance by a successor Portfolio Manager of appointment, all authority and power of the Portfolio Manager under this Agreement and the Indenture, whether with respect to the Assets or otherwise, shall automatically and without further action by any Person pass to and be vested in the successor Portfolio Manager.

(g) For so long as Acis Capital Management, L.P. or an Affiliate of Acis Capital Management, L.P. is the Portfolio Manager, the Issuer and the Co-Issuer will be permitted to use the "Acis" name; *provided* that, if the Portfolio Manager ceases to be Acis Capital Management, L.P. or an Affiliate of Acis Capital Management, L.P., the Issuer shall use commercially reasonable efforts to change its name to remove all reference to the name "Acis" therefrom. In addition, the Portfolio Manager, without the consent of the Issuer, may change the name of the Portfolio Manager.

14. Delegation; Assignments.

(a) Except as provided herein, the Portfolio Manager may not assign its rights or responsibilities hereunder without the written consent of the Issuer, at least a Majority of the Subordinated Notes (*provided* that failure to object within 45 days of written notice of assignment will constitute consent) and at least a Majority of the Controlling Class and satisfaction of the S&P Rating Condition. Notwithstanding the foregoing, the Portfolio Manager may, (i) with the consent of a Majority of the Controlling Class and without satisfaction of the S&P Rating Condition or the consent of any other Class, assign any of its rights or obligations hereunder to an Affiliate; *provided* that such Affiliate (A) has demonstrated ability, whether as an entity or by its personnel, to professionally and competently perform duties similar to those imposed upon the Portfolio Manager pursuant to this Agreement, (B) has the legal right and capacity to act as Portfolio Manager hereunder and (C) shall not cause the Issuer or the pool of collateral to become required to register under the provisions of the Investment Company Act, or (ii) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity and, (A) at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Portfolio Manager hereunder generally and the other entity is solely a continuation of the Portfolio Manager in another corporate or similar form and has substantially the same staff and (B) such action does not cause the Issuer to be subject to tax in any jurisdiction outside of its jurisdiction of incorporation; *provided* that the Portfolio Manager shall deliver prior notice to the Rating Agencies of any assignment, delegation or combination made pursuant to this sentence.

(b) Notwithstanding the foregoing to the extent that applicable law requires the consent of the Issuer to any "assignment" (as defined in the Investment Advisers Act) of this Agreement to any Person, in whole or in part, by the Portfolio Manager, such requirement may be satisfied with respect to the Issuer and all holders (i) by obtaining consent to such assignment on behalf of the Issuer from any of the following persons as determined by the Portfolio Manager: (A) one or more directors of the Issuer independent from the Portfolio Manager, (B) the Independent Review Party, or (C) an

advisory committee established by the Portfolio Manager; or (ii) in any other manner that is permitted pursuant to the applicable law. Any assignment consented to by the Issuer and such Holders shall bind the assignee hereunder in the same manner as the Portfolio Manager is bound. In addition, the assignee shall execute and deliver to the Issuer and the Trustee a counterpart of this Agreement naming such assignee as Portfolio Manager. Upon the execution and delivery of such a counterpart by the assignee, the Portfolio Manager shall be released from further obligations pursuant to this Agreement, except with respect to its obligations arising under Section 11 of this Agreement prior to such assignment and except with respect to its obligations under Section 3(h)(i) and Section 16 hereof.

(c) This Agreement shall not be assigned by the Issuer without the prior written consent of the Portfolio Manager, and unless the S&P Rating Condition has been satisfied in connection with such assignment, except in the case of assignment by the Issuer to (i) an entity which is a successor to the Issuer permitted under the Indenture, in which case such successor organization shall be bound hereunder and by the terms of said assignment in the same manner as the Issuer is bound thereunder or (ii) the Trustee as contemplated by the Granting Clause of the Indenture. In the event of any assignment by the Issuer, the Issuer shall use its commercially reasonable efforts to cause its successor to execute and deliver to the Portfolio Manager such documents as the Portfolio Manager shall consider reasonably necessary to effect fully such assignment.

15. Termination by the Issuer for Cause.

This Agreement may be terminated, and the Portfolio Manager may be removed for cause by at least a Majority of the Controlling Class of Notes upon 30 days' prior written notice to the Portfolio Manager. For purposes of determining whether the holders of the required percentage of relevant principal amount of the Notes have given notice of removal of the Portfolio Manager for cause, Notes owned or controlled by the Portfolio Manager or any affiliate thereof or an account or fund managed on a discretionary basis by the Portfolio Manager or its affiliates will be disregarded and deemed to be not outstanding. No such termination or removal shall be effective until the date as of which a successor Portfolio Manager shall have agreed in writing to assume all of the Portfolio Manager's duties and obligations pursuant to this Agreement and as specified in the Indenture. For purposes of determining "cause" with respect to any such termination of this Agreement or removal of the Portfolio Manager, such term includes any one of the following events:

(a) the Portfolio Manager willfully violates, or takes any action that it knows breaches, any material provision of this Agreement or the Indenture applicable to it in bad faith (not including a willful and intentional breach that results from a good faith dispute regarding reasonable alternative courses of action or interpretation of instructions);

(b) the Portfolio Manager breaches in any respect any provision of this Agreement or any terms of the Indenture applicable to it (other than as covered by clause (a) and it being understood that failure to meet any Coverage Test, any Concentration

Limitation, Interest Reinvestment Test or the Collateral Quality Test is not such a violation) (except for any such violations or breaches that have not had, or could not, either individually or in the aggregate, reasonably be expected to have, a material adverse effect on the Issuer) and fails to cure such breach within 30 days of a Responsible Officer receiving notice of such breach, unless, if such breach is remediable, the Portfolio Manager has taken action that the Portfolio Manager believes in good faith will remedy such breach, and such action does remedy such breach, within 60 days after a Responsible Officer receives notice thereof;

(c) the Portfolio Manager is wound up or dissolved or there is appointed over it or a substantial portion of its assets a receiver, administrator, administrative receiver, trustee or similar officer; or the Portfolio Manager (i) ceases to be able to, or admits in writing its inability to, pay its debts as they become due and payable, or makes a general assignment for the benefit of, or enters into any composition or arrangement with, its creditors generally; (ii) applies for or consents (by admission of material allegations of a petition or otherwise) to the appointment of a receiver, trustee, assignee, custodian, liquidator or sequestrator (or other similar official) of the Portfolio Manager or of any substantial part of its properties or assets, or authorizes such an application or consent, or proceedings seeking such appointment are commenced without such authorization, consent or application against the Portfolio Manager and continue undismissed for 60 days; (iii) authorizes or files a voluntary petition in bankruptcy, or applies for or consents (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, arrangement, readjustment of debt, insolvency or dissolution, or authorizes such application or consent, or proceedings to such end are instituted against the Portfolio Manager without such authorization, application or consent and are approved as properly instituted and remain undismissed for 60 days or result in adjudication of bankruptcy or insolvency; or (iv) permits or suffers all or any substantial part of its properties or assets to be sequestered or attached by court order and the order remains undismissed for 60 days;

(d) the occurrence of an Event of Default under the Indenture that consists of a default in the payment of principal or interest on the Secured Notes when due and payable and results primarily from any material breach by the Portfolio Manager of its duties hereunder or under the Indenture, which breach or default is not cured within any applicable cure period;

(e) the occurrence of an act by the Portfolio Manager that constitutes fraud or criminal activity in the performance of its obligations under this Agreement (as determined pursuant to a final adjudication by a court of competent jurisdiction), or the Portfolio Manager being indicted for a criminal offense materially related to its business of providing asset management services;

(f) any senior executive officer of the Portfolio Manager (in the performance of his or her investment management duties) is convicted for a criminal offense materially related to the business of the Portfolio Manager providing asset management services and continues to have responsibility for the performance by the Portfolio Manager hereunder for a period of 10 days after such conviction; or

(g) the inability of the Portfolio Manager to perform its duties hereunder in accordance with the standard of care specified herein due to the termination of the Service Agreements, unless the Portfolio Manager believes in good faith that it will be able to either (i) secure reasonably equivalent substitute services to those that were performed for the Portfolio Manager under the Service Agreements or (ii) perform its duties hereunder in accordance with the applicable standard of care without engaging a third-party service provider, in each case, within 30 days, and the Portfolio Manager is in fact able to secure such services or perform such duties within such 30-day period.

If any of the events specified in the definition of "cause" in this Section 15 shall occur, the Portfolio Manager shall give prompt written notice thereof to the Issuer, each Rating Agency, each Holder of Notes and the Trustee upon the Portfolio Manager's becoming aware of the occurrence of such event. A Majority of the Controlling Class may waive any event described in (a), (b), (d), (e), (f) or (g) above as a basis for termination of this Agreement and removal of the Portfolio Manager under this Section 15.

16. Action Upon Termination.

(a) From and after the effective date of the termination of the Portfolio Manager's duties and obligations pursuant to this Agreement or resignation or removal of the Portfolio Manager hereunder, the Portfolio Manager shall not be entitled to compensation for further services hereunder, but shall be paid all compensation accrued to the date of termination, as provided in Section 9 hereof (including any accrued and unpaid Subordinated Management Fee), and shall be entitled to receive any amounts owing under Section 11 hereof. Upon such termination, resignation or removal, the Portfolio Manager shall as soon as practicable:

(i) deliver to the Issuer all property and documents of the Trustee or the Issuer or otherwise relating to the Assets then in the custody of the Portfolio Manager; and

(ii) deliver to the Trustee an accounting with respect to the books and records delivered to the Trustee or the successor Portfolio Manager appointed pursuant to Section 13(e) hereof.

Notwithstanding such termination, resignation or removal, the Portfolio Manager shall remain liable to the extent set forth herein (but subject to Section 11 hereof) for its liabilities hereunder arising prior to termination and for any expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) in respect of or arising out of a breach of the representations and warranties made by the Portfolio Manager in Section 17(b) hereof or from any failure of the Portfolio Manager to comply with the provisions of this Section 16.

(b) The Portfolio Manager agrees that, notwithstanding any termination, it shall reasonably cooperate in any Proceeding arising in connection with this Agreement, the Indenture or any of the Assets (excluding any such Proceeding in

which claims are asserted against the Portfolio Manager or any Affiliate of the Portfolio Manager) upon receipt of appropriate indemnification and expense reimbursement.

17. Representations and Warranties.

(a) The Issuer hereby represents and warrants to the Portfolio Manager as follows:

(i) The Issuer has been duly incorporated and is validly existing under the laws of the Cayman Islands, has the full corporate power and authority to own its assets and the securities proposed to be owned by it and included in the Assets and to transact the business in which it is presently engaged and is duly qualified under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of its obligations under this Agreement, the Indenture, the Collateral Administration Agreement or the Notes (collectively, the "Issuer Documents") would require, such qualification, except for failures to be so qualified, authorized or licensed that would not in the aggregate have a material adverse effect on the business, operations, assets or financial condition of the Issuer.

(ii) The Issuer has the necessary corporate power and authority to execute, deliver and perform each of the Issuer Documents and all obligations required thereunder, and has taken all necessary action to authorize each of the Issuer Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Issuer Documents and the performance of all obligations imposed upon it hereunder and thereunder. No consent of any other Person including, without limitation, shareholders and creditors of the Issuer, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority, other than those that may be required under state securities or "blue sky" laws and those that have been or shall be obtained in connection with the Indenture and the issuance of the Notes, is required by the Issuer in connection with the Issuer Documents or the execution, delivery, performance, validity or enforceability of the Issuer Documents or the obligations imposed upon it hereunder or thereunder. This Agreement constitutes, and each instrument or document required hereunder, when executed and delivered hereunder, shall constitute, the legally valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms, subject, as to enforcement, to (a) the effect of bankruptcy, insolvency, or similar laws affecting generally the enforcement of creditors' rights, as such laws would apply in the event of any bankruptcy, receivership, insolvency or similar event applicable to the Issuer and (b) general equitable principles (whether enforceability of such principles is considered in a proceeding at law or in equity).

(iii) The execution, delivery and performance of this Agreement and the Collateral Administration Agreement and the documents and instruments required hereunder and thereunder do not violate any provision of any existing

law or regulation binding on the Issuer, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Issuer, or the Governing Instruments of, or any securities issued by, the Issuer or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Issuer is a party or by which the Issuer or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer, and do not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking (other than the lien of the Indenture).

(iv) The Issuer is not required to register as an "investment company" under the Investment Company Act.

(v) The Issuer is not in violation of its Governing Instruments or in breach or violation of or in default under the Indenture or any other contract or agreement to which it is a party or by which it or any of its assets may be bound, or any applicable statute or any rule, regulation or order (including, without limitation, any anti-money laundering statute or related rule, regulation or order) of any court, government agency or body having jurisdiction over the Issuer or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of this Agreement or the performance by the Issuer of its duties hereunder or under the Collateral Administration Agreement.

(vi) True and complete copies of the Indenture and the Issuer's Governing Instruments have been delivered to the Portfolio Manager.

(vii) The Issuer is a "qualified client" as such term is defined under the Investment Advisers Act.

(viii) The Issuer understands that the rules and regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") prohibit, among other things, the engagement in transactions with, and the provision of services to, certain countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <http://www.treas.gov/ofac>. In addition, the programs administered by OFAC ("OFAC Programs") prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists. To the best of its knowledge, none of: (1) the Issuer; (2) any person controlling or controlled by the Issuer; (3) any person having a beneficial interest in the Issuer; or (4) any person for whom the Issuer is acting as agent or nominee in connection with this investment is a country, territory, individual or entity named on an OFAC list, or is a person or entity prohibited under the OFAC Programs.

(ix) The Issuer has received and had an opportunity to review a current copy of Part 2 of the Form ADV of Acis Capital Management, L.P., at least forty-eight hours prior to its entering into this Agreement.

The Issuer agrees to deliver a true and complete copy of each amendment to the documents referred to in Section 17(a)(v) above to the Portfolio Manager as promptly as practicable after its adoption or execution.

(b) The Portfolio Manager hereby represents and warrants to the Issuer as follows:

(i) The Portfolio Manager is a limited partnership duly organized and validly existing and in good standing under the laws of the State of Delaware and has full power and authority to own its assets and to transact the business in which it is currently engaged and is duly qualified and in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of this Agreement or the Collateral Administration Agreement (together with this Agreement, the "Manager Documents") would require such qualification, except for those jurisdictions in which the failure to be so qualified, authorized or licensed would not have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or on the ability of the Portfolio Manager to perform its obligations under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager; the Portfolio Manager is registered as an investment adviser under the Investment Advisers Act.

(ii) The Portfolio Manager has full power and authority to execute, deliver and perform each of the Manager Documents and all obligations required hereunder and under the provisions of the Indenture applicable to the Portfolio Manager, and has taken all necessary action to authorize each of the Manager Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Manager Documents and all obligations required hereunder and thereunder and under the terms of the Indenture applicable to the Portfolio Manager. No consent of any other Person, including, without limitation, creditors of the Portfolio Manager, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by the Portfolio Manager in connection with the Manager Documents or the execution, delivery, performance, validity or enforceability of the Manager Documents or the obligations required hereunder and thereunder or under the terms of the Indenture applicable to the Portfolio Manager. Each of the Manager Documents has been, and each instrument and document required hereunder and thereunder or under the terms of the Indenture shall be, executed and delivered by a duly authorized officer of the Portfolio Manager, and each of the Manager Documents constitutes, and each instrument and document required hereunder and thereunder or under the terms of the Indenture when executed and delivered

by the Portfolio Manager hereunder or thereunder or under the terms of the Indenture shall constitute, the valid and legally binding obligations of the Portfolio Manager enforceable against the Portfolio Manager in accordance with their terms, subject to (a) the effect of bankruptcy, insolvency or similar laws affecting generally the enforcement of creditors' rights and (b) general equitable principles.

(iii) The execution, delivery and performance of the Manager Documents and the terms of the Indenture applicable to the Portfolio Manager and the documents and instruments required hereunder or thereunder or under the terms of the Indenture shall not violate any provision of any existing law or regulation binding on the Portfolio Manager, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Portfolio Manager, or the Governing Instruments of, or any securities issued by the Portfolio Manager or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Portfolio Manager is a party or by which the Portfolio Manager or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its obligations under the Manager Documents, and shall not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking, the existence of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its obligations under the Manager Documents.

(iv) There is no charge, investigation, action, suit or proceeding before or by any court pending or, to the best knowledge of the Portfolio Manager, threatened that, if determined adversely to the Portfolio Manager, would have a material adverse effect upon the performance by the Portfolio Manager of its duties under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager hereunder.

(v) The Portfolio Manager is authorized to carry on its business in the United States and in all other jurisdictions necessary to the performance of its obligations under the Manager Documents and the Indenture applicable to the Portfolio Manager.

(vi) The Portfolio Manager is not in violation of its Governing Instruments or in breach or violation of or in default under any contract or agreement to which it is a party or by which it or any of its property may be bound, or any applicable statute or any rule, regulation or order of any court, government agency or body having jurisdiction over the Portfolio Manager or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of the Manager

Documents or the provisions of the Indenture applicable to the Portfolio Manager, or the performance by the Portfolio Manager of its duties hereunder or thereunder.

(vii) The information concerning the Portfolio Manager contained under the headings entitled "*Risk Factors—Risks Relating to the Portfolio Manager*," "*Risk Factors—Risks Relating to the Issuer and its Service Providers—The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager,*" in the Offering Memorandum, as of the respective dates of the Offering Memorandum and as of the Closing Date, is true in all material respects and does not omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

18. Notices.

Unless expressly provided otherwise herein, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing (including by facsimile) and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of registered or certified mail, postage prepaid, return receipt requested, or, in the case of facsimile notice, when received in legible form, addressed as set forth below:

(a) If to the Issuer:

ACIS CLO 2014-5 Ltd.
c/o MaplesFS Limited
P.O. Box 1093
Boundary Hall, Cricket Square
Grand Cayman, KY1-1102
Cayman Islands
Attention: The Directors

with a copy to:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Facsimile: 972-628-4155

(b) If to the Portfolio Manager:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Facsimile: 972-628-4155

(c) If to the Trustee:

U.S. Bank National Association
190 S. LaSalle Street, 8th Floor
Chicago, IL 60603
Re: ACIS CLO 2014-5 LTD.
Facsimile: 312-332-8010

Any party may alter the address or telecopy number to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 18 for the giving of notice.

19. Binding Nature of Agreement; Successors and Assigns.

Subject to Section 14 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided herein.

20. Entire Agreement.

This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

21. Amendment.

This Agreement may not be modified or amended other than by an agreement in writing executed by the parties hereto and (other than in respect of a modification or amendment of the type that may be made to the Indenture without Holder consent) (i) the consent of a Majority of the Subordinated Notes, (ii) the consent of a Majority of the Controlling Class and (iii) notice to the Rating Agencies. Notwithstanding the foregoing, the parties hereto, without the consent of any Holders, may amend or modify any provision of this agreement to (i) reflect a change that is of an inconsequential nature, (ii) correct inconsistencies, typographical or other errors, defects or ambiguities, (iii) conform this Agreement to the Offering Memorandum or the Indenture (as it may be amended from time to time) or (iv) reflect a change that is necessary or desirable to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation (including ERISA, the Code, the Investment Advisers Act and the Investment Company Act) of any U.S. federal or state agency or contained in any U.S. federal or state statute. In addition, Schedule 1 may be amended or modified by the parties hereto without the consent of any Holder in accordance with Tax Advice.

22. Conflict with the Indenture.

In the event that this Agreement requires any action to be taken with respect to any matter and the Indenture requires that a different action be taken with respect to such matter, and such actions are mutually exclusive, the provisions of the Indenture (as in effect on the date hereof or as amended or supplemented, with the consent of the Portfolio Manager if such consent is required by Section 3(b)) in respect thereof shall control.

23. Priority of Payments.

The Portfolio Manager agrees that the payment of all amounts to which it is entitled pursuant to this Agreement shall be subordinated to the extent set forth in, and the Portfolio Manager agrees to be bound by the provisions of, Article 11 and Section 15.1 of the Indenture as if the Portfolio Manager were a party to the Indenture and each of the Portfolio Manager and Issuer hereby consents to the assignment of this Agreement as provided in Section 15.1 of the Indenture.

24. Governing Law; Jury Trial.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PROVISIONS THEREOF). EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH OF THE PARTIES HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR SUCH PARTIES ENTERING INTO THIS AGREEMENT.

25. Indulgences Not Waivers.

Neither the failure nor any delay on the part of any party hereto to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

26. Titles Not to Affect Interpretation.

The titles of Sections and subsections of this Agreement are for convenience only, and they neither form a part of this Agreement nor are they to be used in the construction or interpretation hereof.

27. Execution in Counterparts.

This Agreement may be executed in any number of counterparts by facsimile or other written form of communication, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

28. Provisions Separable.

To the fullest extent permitted by law, in case any provision in this Agreement shall be invalid, illegal or unenforceable as written, such provision shall be construed in the manner most closely resembling the apparent intent of the parties with respect to such provision so as to be valid, legal and enforceable; *provided* that, if there is no basis for such a construction, to the fullest extent permitted by law, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability and, unless the ineffectiveness of such provision destroys the basis of the bargain for one of the parties to this Agreement, the validity, legality and enforceability of the remaining provisions hereof or thereof shall not in any way be affected or impaired thereby.

29. Number and Gender.

Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

30. Jurisdiction and Venue.

The parties to this Agreement irrevocably submit to the non-exclusive jurisdiction of any New York state or federal court sitting in the Borough of Manhattan in The City of New York in any action or proceeding arising out of or relating to this Agreement, the Notes or the Indenture, and the parties irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such New York state or federal court. The parties to this Agreement irrevocably waive, to the fullest extent they may legally do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. The parties to this Agreement irrevocably consent to the service of any and all process in any action or proceeding by the mailing or delivery of copies of such process to it in accordance with Section 18. The parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

31. Third Party Beneficiaries.

Other than as provided below, no party, including any Holder of Notes, is a third party beneficiary of this Agreement. The parties hereby acknowledges and agrees that the Trustee will be a third-party beneficiary of this Agreement.

32. Miscellaneous.

(a) With respect to any Defaulted Obligation, the Portfolio Manager, on behalf of the Issuer, may instruct the agent or the trustee for such Defaulted Obligation to enforce the Issuer's rights under the Underlying Instruments governing such Defaulted Obligation and under any applicable law, rule or regulation in any manner permitted under the Indenture that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer. In the event any Offer is made with respect to any Collateral Obligation or Equity Security, the Portfolio Manager, on behalf of the Issuer, may take such action as is permitted by the Indenture and that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer.

(b) Without prejudice to Section 15(f) hereof, any corporation, partnership or limited liability company into which the Portfolio Manager may be merged or converted or with which it may be consolidated, or any corporation, partnership or limited liability company resulting from any merger, conversion or consolidation to which the Portfolio Manager shall be a party, or any corporation, partnership or limited liability company succeeding to all or substantially all of the collateral management business of the Portfolio Manager, shall be the successor to the Portfolio Manager without any further action by the Portfolio Manager, the Co-Issuers, the Trustee, the Holders or any other Person or entity; *provided* that the Portfolio Manager shall give prompt written notice to each Rating Agency upon any such occurrence.

(c) Notwithstanding anything herein or in the Indenture to the contrary, with respect to any report, information, communication, request, demand, authorization, direction, notice, consent or waiver to be given to a Rating Agency by the Issuer, the Issuer shall instead provide such information to the Portfolio Manager, and the Portfolio Manager shall then provide such information as well as any information related to the transaction requested by any Rating Agency directly from the Portfolio Manager to the applicable Rating Agencies via the website established on behalf of the Issuer for purposes of Rule 17g-5 under the Exchange Act.

(d) If the Issuer shall receive any written or oral communication from any Rating Agency (or any of their respective officers, directors or employees) with respect to the transactions contemplated hereby or in any way relating to the Notes, the Issuer agrees to refrain from communicating with such Rating Agency and to promptly (and, in any event, within one Business Day) notify the Portfolio Manager of such communication. The Issuer agrees to coordinate with the Portfolio Manager with respect to any communication to a Rating Agency and further agrees that in no event shall it engage in any oral or written communication with respect to the transactions

contemplated hereby or in any way relating to the Notes with any Rating Agency (or any of their respective officers, directors or employees) without the participation of the Portfolio Manager.

33. Power of Attorney.

The Issuer hereby makes, constitutes and appoints each of Josh Terry, Hunter Covitz and Philip Braner, with full power of substitution, as its true and lawful agent and attorney-in-fact (each an "Attorney" and together the "Attorneys"), jointly and severally with full power and authority in its name, place and stead, in accordance with the terms of this Agreement and the Indenture (a) to prepare, sign and deliver tax documentation, transfer documentation and all other documentation in connection with the acquisition and sale by the Issuer of Collateral Obligations and (b) to (i) vote in its discretion any securities, instruments or obligations included in the Assets, (ii) execute proxies, waivers, consents and other instruments with respect to such Collateral Obligations, (iii) endorse, transfer or deliver such securities, instruments and obligations, (iv) participate in or consent (or decline to consent) to any modification, work-out, restructuring, bankruptcy proceeding, class action, plan of reorganization, merger, combination, consolidation, liquidation or similar plan or transaction with regard to such Collateral Obligations and (v) take any other action specified in Section 3 of this Agreement. This grant of power of attorney will expire (a), with respect to each Attorney (and to each substitute appointed by such Attorney), when such Attorney ceases to be an officer or employee of Acis Capital Management, L.P. or an Affiliate thereof, acting on behalf of Acis Capital Management, L.P. or (b) upon (x) termination of this Agreement in accordance with its terms or (y) any assignment by the Portfolio Manager of its obligations under this Agreement in accordance with Section 14 hereof.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

Portfolio Manager:

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC

By: _____
Name: Joshua N. Terry
Title: Portfolio Manager

Signatures Continue on Next Page

Signatures Continued from Previous Page

Issuer:

ACIS CLO 2014-5 LTD., Executed as a Deed

By: _____
Name: Wendy Ebanks
Title: Director

Witness: _____
Jeffrey Powery
Corporate Assistant

SCHEDULE 1

TRADING RESTRICTIONS

The Issuer (and the Portfolio Manager and the Independent Investment Professional acting on behalf of the Issuer) and any other person acting on behalf or at the direction of the Issuer, and any Affiliate of the Issuer, will comply with all of the provisions set forth in this Schedule 1 (the "Trading Restrictions") unless, with respect to a particular transaction, the Portfolio Manager shall have received Tax Advice in compliance with Section 8 of this Agreement. For purposes of these Trading Restrictions, a "Collateral Obligation" shall include any "Assets" as defined in the Indenture.

The Issuer shall acquire, hold, lend and dispose of Collateral Obligations only for its own account, and shall acquire and hold its Collateral Obligations solely for investment with the expectation and intention of realizing a profit from income earned on the Collateral Obligations and/or any increase in their value during the interval of time between acquisition and disposition thereof.

Notwithstanding any other provision of these Trading Restrictions, the Issuer shall not (each of the following, a "Prohibited Activity"):

(i) act as, or engage in any activities customarily undertaken by, an agent, arranger, or structuring agent with respect to, or negotiate the terms of, any Collateral Obligation or otherwise; *provided* that, notwithstanding the foregoing, after the date on which the Issuer has acquired a Collateral Obligation, the Issuer may exercise any voting or other rights available to a holder of a Collateral Obligation under the terms of the Collateral Obligation, and may accept or reject any amendment or modification of the terms of that Collateral Obligation if (x) the amendment or modification is proposed by the obligor under that Collateral Obligation and does not require or provide for any advance of additional funds, the Collateral Obligation is not an Affiliate Collateral Obligation (as defined below), neither the Issuer nor the Portfolio Manager, nor any Affiliate of either, has participated directly or indirectly in the negotiation of the amendment or modification, and the Issuer is not the largest holder of the Collateral Obligation, or (y) the modification would not constitute a Significant Modification (for purposes of this clause, "Significant Modification" means any amendment, supplement or modification that involves (1) a change in interest rate or yield of the Collateral Obligation, (2) a change in the stated maturity or the timing of any material payment on the Collateral Obligation (including deferral of an interest payment), (3) a change in the obligor of the Collateral Obligation or (4) a change in the collateral or security for the Collateral Obligation, including the addition or deletion of a co-obligor or guarantor, all within the meaning of United States Department of the Treasury regulation section 1.1001-3), or (z) in the reasonable judgment of the Portfolio Manager, the obligor is in financial distress, the obligor was not in financial distress on the date on which the Issuer acquired such Collateral Obligation and such change in terms is desirable to protect the Issuer's investment;

(ii) act as, hold itself out as, represent to others that it is, or engage in any activities customarily undertaken by, a dealer, middleman, market maker, retailer or wholesaler in any Collateral Obligations, reference obligations or hedging or derivative instruments, or hold as inventory for purposes of resale to customers, any Collateral Obligations owned by the Issuer;

(iii) perform services, or hold itself out as willing to perform services, for any person, or have or seek customers;

(iv) register as a broker-dealer under the laws of any country or political subdivision thereof, or register as, or become subject to regulatory supervision or other legal requirements under the laws of any country or political subdivision thereof as, a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business;

(v) take any action causing it to be treated as a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business for purposes of any tax, securities law or other filing or submission made to any governmental authority, any application made to a rating agency, or qualification for any exemption from tax, securities law or any other legal requirements;

(vi) hold itself out to the public as a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business, or hold itself out to the public, through advertising or otherwise, as originating loans or making a market in loans or other assets;

(vii) establish a branch, agency or other place of business within the United States; provided, that entering into this Agreement and the appointment of the Portfolio Manager as described herein shall not be construed as a violation of this clause (vii);

(viii) make any tax election which would cause it to be subject to United States federal, state or local income or franchise tax;

(ix) buy any security in order to earn a dealer spread or dealer mark-up over its cost; or

(x) buy any security with an expectation or intention of restructuring or entering into a workout of such security.

For purposes of this Schedule 1, "dealer" means: (a) a merchant of securities with an established place of business who in the ordinary course of business is engaged as a merchant in purchasing securities and selling them to customers with a view to the gains and profits that may be derived therefrom, and (b) a person that regularly offers to enter into, assume, offset, assign or otherwise terminate positions in derivatives with customers in the ordinary course of a trade or business, including regularly holding itself out, in the ordinary course of its trade or business, as being willing and able to enter into either side of a derivative transaction.

Requirements With Respect to Collateral Obligations.

The Issuer may acquire Collateral Obligations only by assignment or participation, and may not execute any credit agreement whereby Collateral Obligations are issued. The Issuer shall not acquire any Collateral Obligation, or enter into any understanding, arrangement, forward sale agreement or commitment with any person to acquire any Collateral Obligation (a "Commitment"), in each case (i) prior to 48 hours after the completion of the issuance and funding of such Collateral Obligation, other than as otherwise permitted under "Forward Purchase Commitments" below, or (ii) if the Issuer would own more than 50 percent of the loan, obligation, issue, class or tranche that includes the Collateral Obligation or, if the loan, obligation, issue, class or tranche that includes that Collateral Obligation is part of a larger credit facility, more than 25 percent of that entire credit facility. In the case of any Collateral Obligation that is amended or modified in a manner that constitutes a Significant Modification after issuance and funding of such Collateral Obligation and before acquisition by the Issuer of such Collateral Obligation, any seasoning requirement set forth herein shall be computed and applied with respect to the date of such Significant Modification.

The Issuer shall not have any contractual relationship with the borrower or issuer with respect to a Collateral Obligation until the Issuer actually closes the acquisition of that Collateral Obligation. On the funding date of the Collateral Obligation, the documents relating to the Collateral Obligation shall not list the Issuer as a lender or otherwise as a party to any document relating to the issuance of the Collateral Obligation. The Issuer shall not be a signatory on any lending agreement or any other document relating to the issuance of the Collateral Obligation.

The Issuer shall not have any communications or negotiations with the borrower or issuer of any Collateral Obligation (directly or indirectly through the seller of such Collateral Obligation, the agent, negotiator, originator or structuror thereof, or any other person) prior to the completion of the issuance and funding thereof, in connection with the issuance or funding of such Collateral Obligation or commitments with respect thereto, or the Issuer's acquisition of such Collateral Obligation or the Issuer's Commitment with respect thereto, in each case, except as otherwise permitted under "Forward Purchase Commitments" below. For the avoidance of doubt, (i) the Issuer, or the Portfolio Manager or the Independent Investment Professional acting on its behalf, may, however, undertake customary due diligence communications with an issuer or obligor of any Collateral Obligation that would be reasonably necessary in order for an investor or trader to make a reasonably informed decision to acquire any such Collateral Obligation for its own account, and (ii) nothing contained herein shall prohibit expressions of interest or providing comments as to mistakes or inconsistencies in documents relating to any Collateral Obligation by the Issuer, or by the Portfolio Manager or the Independent Investment Professional acting on its behalf.

The Issuer shall not be entitled to earn or receive from any person any premium, fee, commission or other compensation for services, whether or not denominated as received for services, in connection with acquiring or disposing of a Collateral Obligation, or entering into a commitment to acquire or dispose of a Collateral Obligation, including

without limitation, in each case, any amount that is attributable or otherwise determined by reference to the amount of any origination, underwriting or similar profit or related or similar fees for services earned by an underwriter, placement agent, lender, arranger, agent or other similar person in connection with the issuance or funding of a Collateral Obligation. In furtherance and not in limitation of the immediately preceding sentence, the Issuer shall not be entitled to earn or receive directly from any person any separately stated premium, fee or commission that is compensation for services or that is based upon or otherwise determined by reference to the amount of any such services. For the avoidance of doubt, the foregoing prohibition against earning or receiving fees and similar amounts shall not apply to (i) any compensation paid other than for a Prohibited Activity pursuant to the terms of any Collateral Obligation (e.g., a prepayment fee or commitment fee), (ii) any amendment or waiver fee, or (iii) any discount in the price paid by the Issuer for a Collateral Obligation from the price paid by the seller of the Collateral Obligation where such discount is attributable to the time value of money, credit quality of the related borrower, market conditions, or terms and conditions of the Collateral Obligation.

Additional Requirements With Respect to Affiliate Collateral Obligations and Transfers to Affiliates.

Except as provided below, the Portfolio Manager shall not cause the Issuer to purchase any Collateral Obligation of any borrower or issuer with respect to which the Issuer, Portfolio Manager or any of their Affiliates:

(i) acted as an underwriter, financial advisory, placement or other agent, arranger, negotiator or structuror in connection with the issuance or origination of such Collateral Obligation,

(ii) was an agent, negotiator, structuring agent, bridge loan provider (where a bridge loan is repaid by any Collateral Obligation) or member of the original lending syndicate with respect to such Collateral Obligation, or

(iii) earned or received any compensation relating to the origination of such Collateral Obligation (each such Collateral Obligation, an "Affiliate Collateral Obligation").

The Portfolio Manager on behalf of the Issuer shall be permitted to cause the Issuer to purchase Affiliate Collateral Obligations, *provided* that the following conditions are met:

(I) at least 30 days shall have passed since the issuance and funding of such Affiliate Collateral Obligation and the holder of the Collateral Obligation did not identify the obligation or security as intended for sale to the Issuer within 30 days of its issuance;

(II) following such 30-day period, the Independent Investment Professional shall have approved the purchase by the Issuer of such Affiliate Collateral Obligation after a review of the terms and conditions thereof and a determination that such transaction shall be effected on an arm's length basis and that the purchase price represents fair market value

(x) by reference to dealer quotes or the price paid by an unrelated secondary buyer in a material contemporaneous sale on substantially the same terms, or (y) to the extent there is no independent sale or the price paid in such sale is not readily ascertainable, by reference to the fair market value price at which an unrelated independent secondary market acquirer would acquire such Affiliate Collateral Obligation in an arm's length transaction;

(III) the Portfolio Manager or its Affiliate, as the case may be, originated the Collateral Obligation in the ordinary course of its business and not in contemplation of its acquisition by the Issuer; and

(IV) the Issuer may not purchase any Affiliate Collateral Obligation having a greater principal amount than the principal amount of such Affiliate Collateral Obligation held following such purchase by the Portfolio Manager and its Affiliates (excluding the Issuer).

In addition, the Portfolio Manager shall not cause the Issuer to sell or assign any Collateral Obligation to the Portfolio Manager or any of its Affiliates in a transaction in which the Portfolio Manager is acting as principal for its own account or has discretionary authority to invest for the account of such Affiliate, unless such sale or assignment is consented to by the Independent Investment Professional, which consent shall not be unreasonably withheld or delayed so long as such sale or assignment is effected at the fair market value price that an unrelated independent secondary market acquirer would acquire such Collateral Obligation in an arm's length transaction. It is understood and agreed that the consent requirement of the immediately preceding sentence shall not apply to any sale or assignment of any Collateral Obligation by the Issuer to any Person whose equity is at least majority owned by the Issuer (e.g., a special purpose financing subsidiary).

Maintenance of Separate and Independent Status.

At the written request of the Portfolio Manager, the Issuer shall establish a conflicts review board or appoint an independent third party to act on behalf of the Issuer (such board or party, an "Independent Investment Professional") with respect to transactions involving any Affiliate Collateral Obligation. Any Independent Investment Professional (i) shall either (A) be an established financial institution or other financial company with experience in assessing the merits of transactions similar to the transactions involving any Affiliate Collateral Obligation or (B) be a review board comprised of one or more individuals selected by the Issuer (or at the request of the Issuer, selected by the Portfolio Manager), (ii) shall be required to assess the merits of the transaction involving any Affiliate Collateral Obligation and either grant or withhold consent to such transaction in its sole judgment and (iii) shall not be (A) affiliated with the Portfolio Manager (other than as a holder or as a passive investor in the Issuer or an Affiliate of the Issuer) or (B) involved in the daily management and control of the Issuer.

Neither the Independent Investment Professional nor any of the employees or personnel performing duties of the Portfolio Manager on behalf of the Issuer relating to the

purchase of Affiliate Collateral Obligations shall be directly or indirectly involved in any origination or underwriting activities with respect to any Collateral Obligation, or have access to any files, records, or other information that is not available to independent unrelated secondary market acquirers concerning the origination or underwriting of any such Collateral Obligation. In addition, neither the Independent Investment Professional nor any of the employees or personnel performing duties of the Portfolio Manager on behalf of the Issuer relating to the purchase of Affiliate Collateral Obligations shall be a party to any discussions or meetings relating to origination or underwriting activities with respect to any Affiliate Collateral Obligation. No employee or personnel of the Portfolio Manager who is involved in any origination or underwriting activities with respect to any Affiliate Collateral Obligation shall have any direct or indirect influence over the decision making process of the Issuer or the Independent Investment Professional with respect to the acquisition or disposition of any Affiliate Collateral Obligation on behalf of the Issuer, but no such employee or personnel shall be prohibited from making recommendations to the Independent Investment Professional. However, in all cases the decision whether to invest in an Affiliate Collateral Obligation or to sell a Collateral Obligation to the Portfolio Manager or one of its Affiliates shall be an independent decision by the Independent Investment Professional.

Revolving Collateral Obligations, Delayed Drawdown Collateral Obligations and Letter of Credit Facilities.

Neither the Issuer nor the Portfolio Manager acting on the Issuer's behalf shall acquire an interest (including by means of participation) in a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation or a letter of credit facility unless:

(i) such interest is acquired in the secondary market, the acquisition of such interest will not cause the Issuer to hold more than 25 percent of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation or letter of credit facility, and taken together with the aggregate principal amount of other such interests held by the Issuer does not exceed 15% of the aggregate principal amount of all Collateral Obligations held by the Issuer;

(ii) with respect to any Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation:

(a) neither the Issuer, the Portfolio Manager acting on behalf of the Issuer, nor the Independent Investment Professional acting on behalf of the Issuer has participated in the negotiation of the terms of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation;

(b) the terms of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation are fixed as of the date of the Issuer's acquisition thereof and do not provide the Issuer any discretion as to whether to make advances under such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation;

(c) more than a *de minimis* amount of such Collateral Obligation has been funded, or such loan is associated with a term loan to such borrower which has been fully funded; and

(d) the Issuer does not acquire any interest in a Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation which is not associated with a term loan prior to 60 days after the issuance thereof, and all such interests combined shall not exceed 10% of the aggregate principal amount of all assets held by the Issuer; and

(iii) with respect to any letter of credit facility:

(a) (I) such letter of credit facility has been fully funded by the original lender, and such lender has completed all of its obligations with respect to that letter of credit facility (such that the letter of credit facility does not constitute to any extent a Delayed Drawdown Collateral Obligation), at least 48 hours before the Issuer committed to acquire such letter of credit facility; and

(II) the lead or agent lender or bank or other withholding agent with respect to such letter of credit will deduct and withhold all applicable withholding taxes on all payments made to the Issuer with respect to such letter of credit facility that are subject to withholding tax imposed by the United States; or

(b) (I) such letter of credit facility is associated with a term loan to such borrower which has been fully funded;

(II) all terms of such letter of credit facility were fully negotiated and final no later than the time at which the terms of the related loan were fully negotiated and final;

(III) the Issuer, or the Portfolio Manager acting on behalf of the Issuer, holds the same proportionate interest in such letter of credit facility as the proportionate interest it holds in the term loan(s) associated with such letter of credit facility; and

(IV) the lead or agent lender or bank or other withholding agent with respect to such letter of credit will deduct and withhold all applicable withholding taxes on all payments made to the Issuer with respect to such letter of credit facility that are subject to withholding tax imposed by the United States.

Forward Purchase Commitments.

The Issuer shall not have nor make any Commitment to acquire a Collateral Obligation from a seller before completion of the closing, full funding and seasoning (except, with respect to funding, in the case of a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation) of the Collateral Obligation, except as permitted in the following provisions.

If a Commitment is made to acquire a Collateral Obligation, other than an Affiliate Collateral Obligation, from a seller before completion of the closing and full funding of the Collateral Obligation by such seller (the "Original Lender"), such commitment shall only be made pursuant to a forward sale agreement at an agreed price (a "Forward Purchase Commitment"). Any Forward Purchase Commitment with any Original Lender in respect of a Collateral Obligation may only be made after such Original Lender has delivered its own commitment to acquire its own interest in that Collateral Obligation and after all material terms of the Collateral Obligation have been agreed to.

In the process of making or negotiating to make a Forward Purchase Commitment, the Issuer shall not negotiate with respect to any term of the Collateral Obligation to which the Forward Purchase Commitment relates. The Issuer is not prevented from negotiating the terms of the Forward Purchase Commitment, including the price at which the Issuer shall acquire the Collateral Obligation to which the Forward Purchase Commitment relates.

If the Issuer enters into a Forward Purchase Commitment to acquire a Collateral Obligation, the Issuer's obligation under the Forward Purchase Commitment shall be conditioned on there being, as of the time the Issuer is to acquire the Collateral Obligation, no material adverse change in the condition of the borrower or issuer, the Collateral Obligation or the financial markets, and in all other respects, the Forward Purchase Commitment may only be conditional to the extent the related counterparty's own commitment in the origination process and funding of the Collateral Obligation is delayed, reduced or eliminated; *provided* that, notwithstanding the foregoing, a Forward Purchase Commitment shall not be required to be conditioned on the absence of a material adverse change if (y) the Issuer enters into the Forward Purchase Commitment no sooner than 48 hours after the Original Lender has delivered its own commitment with respect to the related Collateral Obligation and after all material terms of the Collateral Obligation have been agreed to, and (z) the Issuer's Commitment is documented in a form for secondary market purchases that is substantially similar to that used for commitments given by all other persons who will acquire an interest in the Collateral Obligation from the Original Lender (including as to the absence of a material adverse change condition). In the event of any delayed, reduced or eliminated funding, the Issuer shall not receive any premium, fee, or other compensation in connection with having entered into the Forward Purchase Commitment, other than commitment fees or fees in the nature of commitment fees that are customarily paid in connection with such delays, reductions or eliminations of funding of Collateral Obligations of the type permitted to be purchased by the Issuer.

The Issuer shall not have any contractual relationship with the borrower or issuer with respect to a Collateral Obligation that will be subject to a Forward Purchase Commitment until the Issuer actually closes the acquisition of that Collateral Obligation. On the funding date of the Collateral Obligation, the documents relating to the Collateral Obligation shall not list the Issuer as a lender or otherwise as a party to any document relating to the issuance of the Collateral Obligation. The Issuer shall not be a signatory on any lending agreement or any other document relating to the issuance of the Collateral Obligation.

The Issuer shall not enter into any Forward Purchase Commitment in respect of any Affiliate Collateral Obligation. The Issuer, or Portfolio Manager or the Independent Investment Professional acting on its behalf, may, however, undertake customary due diligence communications with an issuer or obligor of an Affiliate Collateral Obligation or any other Collateral Obligation that would be reasonably necessary in order for an investor or trader to make a reasonably informed decision to acquire any such Collateral Obligation for its own account.

For the avoidance of doubt, except as provided above with respect to Forward Purchase Commitments, the Issuer may enter into a Commitment with respect to a Collateral Obligation only when the Collateral Obligation is funded and at least 48 hours have thereafter elapsed.

Equity Restrictions.

The Issuer shall not acquire (whether as part of a "unit" with a Collateral Obligation, in exchange for a Collateral Obligation, or otherwise) any asset that is treated for U.S. federal income tax purposes as:

(i) an equity interest in a partnership, a trust or a disregarded entity (unless all of the assets of such trust or disregarded entity would otherwise qualify either as Collateral Obligations hereunder or as equity interests in entities taxable as corporations for U.S. federal income tax purposes);

(ii) a residual interest in a "REMIC" (as such term is defined in the Code);

(iii) an ownership interest in a "FASIT" (as such term is defined in the Code); or

(iv) any asset that constitutes a "United States real property interest" ("USRPI"), including certain interests in a "United States real property holding corporation" ("USRPHC") (as such terms are defined in the Code), except that, if otherwise permitted under the Indenture, the Issuer may acquire and/or hold an interest in a USRPHC under circumstances where the USRPHC may not be liquidated, and stock of the USRPHC may not be sold, unless prior to such liquidation or sale all USRPI held by the USRPHC have been sold and all U.S. federal income taxes payable by the USRPHC have been paid, and the Issuer reasonably believes, at the time of the acquisition of the interest in the USRPHC, that the USRPHC will be liquidated or the stock of the USRPHC will be sold (in each case, in accordance with the restrictions in this clause (iv)) prior to the liquidation of the Issuer.

Synthetic Securities.

The Issuer shall not acquire or enter into any swap transaction or security, which swap transaction or security provides for payments associated with either (i) payments of interest and/or principal on a reference obligation or (ii) the credit performance of a reference obligation.

EXHIBIT 37

EXHIBIT I

CLO 2015-6 INDENTURE

EXECUTION VERSION

ACIS CLO 2015-6 LTD.
Issuer,

ACIS CLO 2015-6 LLC
Co-Issuer,

AND

U.S. BANK NATIONAL ASSOCIATION
as Trustee

INDENTURE

Dated as of April 16, 2015

COLLATERALIZED LOAN OBLIGATIONS

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INDENTURE, dated as of April 16, 2015, among ACIS CLO 2015-6 Ltd., an exempted company incorporated in the Cayman Islands with limited liability (the "Issuer"), ACIS CLO 2015-6 LLC, a limited-liability company organized under the laws of the State of Delaware (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers"), and U.S. Bank National Association, a national banking association, as trustee (herein, together with its permitted successors in the trusts hereunder, the "Trustee").

PRELIMINARY STATEMENT

The Co-Issuers are duly authorized to execute and deliver this Indenture to provide for the Notes issuable and governed by this Indenture and to secure the Secured Notes and other obligations secured under this Indenture. Except as otherwise provided herein, all covenants and agreements made by the Co-Issuers herein are for the benefit and security of the Secured Parties and the Trustee. The Co-Issuers are entering into this Indenture and the Trustee is accepting the trusts created hereby, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

All things necessary to make this Indenture a valid agreement of the Co-Issuers in accordance with the agreement's terms have been done.

GRANTING CLAUSES

The Issuer hereby Grants to the Trustee, for the benefit and security of the Holders of the Secured Notes, the Trustee, each Hedge Counterparty, the Collateral Administrator and the Portfolio Manager (collectively, the "Secured Parties"), all of its right, title and interest in, to and under, in each case, whether now owned or existing, or hereafter acquired or arising, (a) the Collateral Obligations which the Issuer causes to be delivered to the Trustee (directly or through an intermediary or bailee) herewith and all payments thereon or with respect thereto, and all Collateral Obligations which are purchased, or otherwise acquired, by the Issuer in the future pursuant to the terms hereof and all payments thereon or with respect thereto, (b) the Issuer's interest in each of the Accounts, each Hedge Account (to the extent permitted by the applicable Hedge Agreement), any Eligible Investments purchased with funds on deposit therein, and all income from the investment of funds therein, (c) the Issuer's rights under the Portfolio Management Agreement as set forth in Article 15 hereof, the Hedge Agreements (*provided* that there is no such Grant to the Trustee on behalf of any Hedge Counterparty in respect of its related Hedge Agreement), the Collateral Administration Agreement, the Purchase Agreement and any subscription agreements related to the purchase of the Notes, (d) all Cash or Money delivered to the Trustee (or its bailee), (e) all accounts, chattel paper, deposit accounts, financial assets, general intangibles, instruments, investment property, letter-of-credit rights and other supporting obligations relating to the foregoing, (f) any other property otherwise delivered to the Trustee by or on behalf of the Issuer (whether or not constituting Collateral Obligations or Eligible Investments (including, without limitation, Equity Securities)), (g) the Issuer's rights in all assets owned by any ETB Subsidiary and the Issuer's rights under any agreement with any ETB Subsidiary and (h) all proceeds with respect to the foregoing; *provided* that such Grants shall not include the $250 transaction fee paid to the Issuer in consideration of the issuance of the Secured Notes and Subordinated Notes, the funds attributable to the issue and allotment of the Issuer's ordinary shares and the Co-Issuer's membership interests or the bank account in the

"S&P Rating Condition": With respect to any action taken or to be taken by or on behalf of the Issuer, a condition that is satisfied if S&P has confirmed in writing to the Issuer (which confirmation may be in the form of a press release), the Trustee and/or the Portfolio Manager that no immediate withdrawal or reduction with respect to its then-current rating by S&P of any Class of Secured Notes will occur as a result of such action; *provided* that the S&P Rating Condition will be deemed to be satisfied if (x) no Class of Secured Notes Outstanding is rated by S&P or (y) if S&P makes a public announcement or informs the Issuer, the Portfolio Manager or the Trustee that (i) it believes satisfaction of the S&P Rating Condition is not required with respect to the applicable action or (ii) its practice is not to give such confirmations.

"S&P Recovery Amount": With respect to any Collateral Obligation, an amount equal to: (a) the applicable S&P Recovery Rate *multiplied by* (b) the Principal Balance of such Collateral Obligation.

"S&P Recovery Rate": with respect to a Collateral Obligation, the recovery rate set forth in Section 1 of Schedule 3 using the initial rating of the most senior Class of Secured Notes outstanding at the time of determination.

"S&P Recovery Rating": With respect to a Collateral Obligation for which an S&P Recovery Rate is being determined, the "Recovery Rating" assigned by S&P to such Collateral Obligation based upon the tables set forth in Schedule 3.

"S&P Selling Institution Percentage": With respect to any Participation Interest proposed to be entered into by the Issuer, criteria that will be met if immediately after giving effect to such acquisition, (x) the percentage of the Collateral Principal Amount that consists in the aggregate of Participation Interests with Selling Institutions that have the same or a lower S&P credit rating does not exceed the "Aggregate Selling Institution Percentage" set forth below for such S&P credit rating and (y) the percentage of the Collateral Principal Amount that consists in the aggregate of Participation Interests with any single Selling Institution that have the same or a lower S&P credit rating does not exceed the "Individual Selling Institution Percentage" set forth below for such S&P credit rating:

Long-term Senior Unsecured Debt Rating of Selling Institution S&P	**Individual Selling Institution Percentage**	**Aggregate Selling Institution Percentage**
AAA	20%	20%
AA+	10%	10%
AA	10%	10%
AA-	10%	10%
A+	5%	5%
A	5%	5%
Below A	0%	0%

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Indenture as of the date first written above.

ACIS CLO 2015-6 LTD.,
as Issuer

By: _____
Name: Wendy Ebanks
Title: Director

ACIS CLO 2015-6 LLC,
as Co-Issuer

By: _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Indenture as of the date first written above.

ACIS CLO 2015-6 LTD.,
as Issuer

By:_____
Name:
Title:

ACIS CLO 2015-6 LLC,
as Co-Issuer

By:_____
Name: Donald J. Puglisi
Title: Independent Manager

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By:_____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Indenture as of the date first written above.

ACIS CLO 2015-6 LTD.,
as Issuer

By:_____
Name:
Title:

ACIS CLO 2015-6 LLC,
as Co-Issuer

By:_____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By: Elaine Mah
Name: Elaine P. Mah
Title: Senior Vice President

EXHIBIT 38

EXHIBIT J

CLO 2015-6 PORTFOLIO MANAGEMENT AGREEMENT

EXECUTION VERSION

PORTFOLIO MANAGEMENT AGREEMENT

between

ACIS CLO 2015-6 LTD.

and

ACIS CAPITAL MANAGEMENT, L.P.

Dated as of April 16, 2015

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PORTFOLIO MANAGEMENT AGREEMENT

This Portfolio Management Agreement (this "Agreement"), dated as of April 16, 2015, is entered into by and between ACIS CLO 2015-6 Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands, with its registered office located at P.O. Box 1093, Queensgate House, Grand Cayman, KY1-1102, Cayman Islands (together with successors and assigns permitted hereunder, the "Issuer"), and Acis Capital Management, L.P., with its principal offices located at 300 Crescent Court, Suite 700, Dallas, TX 75201, as portfolio manager (together with successors and assigns permitted hereunder, in such capacity, the "Portfolio Manager").

WITNESSETH:

WHEREAS, the Issuer intends to issue U.S.$300,000,000 Class A-1 Senior Secured Floating Rate Notes due 2027 (the "Class A-1 Notes"), U.S.$47,000,000 Class A-2 Senior Secured Fixed Rate Notes due 2027 (the "Class A-2 Notes" and together with the Class A-1 Notes, the "Class A Notes"), U.S.$75,000,000 Class B-1 Senior Secured Floating Rate Notes due 2027 (the "Class B-1 Notes"), U.S.$14,000,000 Class B-2 Senior Secured Fixed Rate Notes due 2027 (the "Class B-2 Notes" and together with the Class B-1 Notes, the "Class B Notes"), U.S.$31,500,000 Class C Secured Deferrable Floating Rate Notes due 2027 (the "Class C Notes"), U.S.$25,000,000 Class D Secured Deferrable Floating Rate Notes due 2027 (the "Class D Notes", U.S.$26,000,000 Class E Secured Deferrable Floating Rate Notes due 2027 (the "Class E Notes" and together with the Class A Notes, the Class B Notes, the Class C Notes and the Class D Notes, the "Secured Notes") and U.S.$59,850,000 Subordinated Notes due 2027 (the "Subordinated Notes" and, together with the Secured Notes, the "Notes") pursuant to an indenture dated as of April 16, 2015 (as amended, supplemented or modified from time to time, the "Indenture"), among the Issuer, ACIS CLO 2015-6 LLC, as co-issuer of the Class A Notes, the Class B Notes, the Class C Notes, and the Class D Notes (the "Co-Issuer"), and U.S. Bank National Association, as trustee (together with any successor trustee permitted under the Indenture, the "Trustee");

WHEREAS, the Issuer intends to pledge certain Collateral Obligations, certain Eligible Investments (each, as defined in the Indenture) and certain other assets (all as set forth in the Indenture) (collectively, the "Assets") to the Trustee as security for the Secured Notes;

WHEREAS, the Issuer wishes to enter into this Agreement, pursuant to which the Portfolio Manager agrees to perform, on behalf of the Issuer, certain duties with respect to the Assets securing the Secured Notes in the manner and on the terms set forth herein and to provide such additional services as are consistent with the terms of this Agreement and the Indenture; and

WHEREAS, the Portfolio Manager has the capacity to provide the services required hereby and is prepared to perform such services upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, the parties hereto agree as follows:

1. Definitions.

Terms used herein and not defined below shall have the meanings set forth in the Indenture.

"Actions" shall have the meaning provided in Section 11(a).

"Affiliate" means, with respect to a Person, (i) any other Person who, directly or indirectly, is in control of, or controlled by, or is under common control with, such Person or (ii) any other Person who is a director, Officer, employee or general partner (a) of such Person, (b) of any subsidiary or parent company of such Person or (c) of any Person described in clause (i) above. For the purposes of this definition, control of a Person shall mean the power, direct or indirect, (x) to vote more than 50% of the securities having ordinary voting power for the election of directors of such Persons, or (y) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise. For purposes of this definition, the management of an account by one Person for the benefit of any other Person shall not constitute "control" of such other Person and no entity shall be deemed an Affiliate of the Issuer or the Co-Issuer solely because the Administrator or its Affiliates serve as administrator or share trustee for such entity.

"Affiliate Transaction" shall have the meaning set forth in Section 6(a).

"Agreement" shall mean this portfolio management agreement, as amended from time to time.

"Attorneys" shall have the meaning provided in Section 33.

"Board of Directors" shall mean the directors of the Issuer duly appointed pursuant to the Governing Instruments of the Issuer in accordance with Cayman Islands law or any subsequent directors who are duly appointed according to the Articles of Association.

"Confidential Information" shall have the meaning provided in Section 7.

"Exit Date" shall have the meaning provided in Section 9(d).

"Expenses" shall have the meaning provided in Section 11(a).

"Fee Election" shall have the meaning provided in Section 9(b).

"Fee Election Notice" shall mean notice from the Portfolio Manager to the Issuer, the Trustee and Collateral Administrator delivered no later than the Determination Date related to the Payment Date on which a Fee Election will apply, that specifies (x) the Payment Dates on which the Fee Election will apply, (y) the amount by which the

Portfolio Manager is electing to reduce the Senior Management Fee (and thus increase the Subordinated Management Fee), which will not be greater than the entire Senior Management Fee and (z) that the Fee Election is not revocable with respect to such Payment Date unless Acis Capital Management, L.P. is no longer the Portfolio Manager.

"Force Majeure Event" shall have the meaning assigned to such term in Section 11(l).

"Governing Instruments" shall mean the memorandum, articles or certificate of incorporation or association and by-laws, if applicable, in the case of a corporation, the partnership agreement, in the case of a partnership, or the limited liability company agreement, in the case of a limited liability company.

"Indemnified Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Indemnifying Party" shall have the meaning set forth in Section 11(a) or (b), as applicable.

"Independent Review Party" shall have the meaning set forth in Section 6(b).

"Investment Advisers Act" means the Investment Advisers Act of 1940, as amended.

"Issuer Documents" shall have the meaning provided in Section 17(a)(i).

"Liabilities" shall have the meaning provided in Section 11(a).

"Manager Documents" shall have the meaning provided in Section 17(b).

"Manager Related Party" means each of the Portfolio Manager, its Affiliates and their respective shareholders, partners, members, managers, directors, officers, trustees, incorporators, employees, representatives and agents.

"OFAC" shall have the meaning provided in Section 17(a)(viii).

"OFAC Programs" shall have the meaning provided in Section 17(a)(viii).

"Offer" shall mean, with respect to any security, (i) any offer by the obligor or issuer of such security or by any other Person made to all of the holders of such security to purchase or otherwise acquire such security (other than pursuant to any redemption in accordance with the terms of the related Underlying Instruments) or to convert or exchange such security into or for cash, securities or any other type of consideration or (ii) any solicitation by the obligor or issuer of such security or any other Person to amend, modify or waive any provision of such security or any related Underlying Instrument.

"Offering Circular" shall have the meaning provided in Section 11(a).

"Person" means any individual, partnership, corporation, limited liability company, trust or other entity.

"Related Entities" shall mean, with respect to the Portfolio Manager, its clients, its partners, its members, funds or other investment accounts managed by it or any of its Affiliates, or their employees and their Affiliates.

"Responsible Officer" shall mean any officer, authorized person or employee of the Portfolio Manager set forth on the list provided by the Portfolio Manager to the Issuer and the Trustee which list shall include any portfolio manager having day-to-day responsibility for the performance of the Portfolio Manager under the Portfolio Management Agreement, as such list may be amended from time to time.

"Section 28(e)" shall have the meaning provided in Section 4(a).

"Service Agreements" shall mean, collectively, the Sub-Advisory Agreement and the Shared Services Agreement.

"Shared Services Agreement" shall mean that certain Shared Services Agreement dated January 1, 2011 between the Portfolio Manager and Highland Capital Management, L.P. (as amended, supplemented or modified from time to time).

"Sub-Advisory Agreement" shall mean that certain Sub-Advisory Agreement dated May 5, 2011 between the Portfolio Manager and Highland Capital Management, L.P. (as amended, supplemented or modified from time to time).

"Tax Advice" shall mean written advice from Dechert LLP or an opinion of other tax counsel of nationally recognized standing in the United States experienced in transactions of the type being addressed that (i) is based on knowledge by the person giving the advice of all relevant facts and circumstances of the Issuer and transaction (which are described in the advice or opinion, as applicable, or in a written description referred to in the advice or opinion, as applicable, which may be provided by the Issuer or Portfolio Manager), and (ii) is intended by the person rendering the advice to be relied upon by the Issuer in determining whether to enter into the transaction.

"Trading Restrictions" shall mean the Trading Restrictions set forth in Schedule 1.

2. Engagement.

Commencing on the date hereof, the Issuer hereby engages and retains the Portfolio Manager to provide the investment advisory and related services described below, for the period and on the terms and conditions set forth herein. The Portfolio Manager hereby accepts such engagement and agrees, for the period and on the terms and conditions set forth herein, to provide, or to make satisfactory arrangements for the provision of, the investment advisory and related services described below, for the period and on the terms and conditions set forth herein.

3. General Duties of the Portfolio Manager.

The Portfolio Manager shall provide services to the Issuer as follows:

(a) Subject to and in accordance with the terms of the Indenture and this Agreement, the Portfolio Manager agrees to supervise and direct the investment and reinvestment of the Assets, and shall perform on behalf of the Issuer the duties that have been specifically delegated to the Portfolio Manager in this Agreement and in the Indenture (and the Portfolio Manager shall have no obligation to perform any other duties under this Agreement and the Indenture) and, to the extent necessary or appropriate to perform such duties, the Portfolio Manager shall have the power to execute and deliver all necessary and appropriate documents and instruments, and to take all other actions, on behalf of the Issuer with respect thereto, it being understood that the Portfolio Manager shall have no obligation to perform duties to be performed by third parties not under the control of the Portfolio Manager or its Affiliates.

(b) The Portfolio Manager shall comply with all the terms and conditions of the Indenture affecting the duties and functions that have been delegated to it thereunder and hereunder and (without in any way limiting Section 11 of this Agreement) shall perform its obligations hereunder and thereunder in good faith and with reasonable care, using a degree of skill and attention no less than that which the Portfolio Manager (i) exercises with respect to comparable assets that it manages for itself and (ii) exercises with respect to comparable assets that it manages for others, and in a manner consistent with practices and procedures followed by institutional managers of national standing relating to assets of the nature and character of the Assets, except as expressly provided otherwise in this Agreement and/or the Indenture. To the extent not inconsistent with the foregoing, the Portfolio Manager shall follow its customary standards, policies and procedures in performing its duties under the Indenture and hereunder (including those duties of the Issuer under the Indenture which the Portfolio Manager has agreed hereunder to perform on the Issuer's behalf). The Portfolio Manager shall not be bound to follow any amendment to the Indenture, however, until it has received written notice thereof and until it has received a copy of the amendment from the Issuer or the Trustee; *provided* that with respect to any amendment to the Indenture which would (i) increase the duties or liabilities of the Portfolio Manager or adversely change the economic consequences to the Portfolio Manager, (ii) modify the restrictions on the purchases or sales of Collateral Obligations under Article 12 of the Indenture or the Investment Criteria, (iii) expand or restrict the Portfolio Manager's discretion or (iv) modify the restrictions on and procedures for resales and other transfers of Subordinated Notes, except as set forth in Section 8.1(vi) of the Indenture, the Portfolio Manager shall not be bound thereby unless the Portfolio Manager shall have consented thereto in writing, such consent to not be unreasonably withheld or delayed. The Issuer agrees that it will not permit any such amendment to the Indenture to become effective unless the Portfolio Manager has been given prior written notice of such amendment and consented thereto in writing and that it will give prior written notice of any other amendment to the Indenture to the Portfolio Manager.

(c) The Portfolio Manager shall (i) determine consistent with the applicable provisions of the Indenture, when Principal Proceeds shall be applied to effect a Special Redemption of the Secured Notes, (ii) select all Collateral Obligations and Eligible Investments which shall be acquired by the Issuer and pledged to the Trustee pursuant to the Indenture and (iii) facilitate the acquisition, settlement and sale of Collateral Obligations by the Issuer. In providing services to the Issuer hereunder, the Portfolio Manager shall take into consideration the interests of the Holders as a whole. The Portfolio Manager shall have no obligation to perform any duties other than as expressly specified herein, or in the provisions of the Indenture applicable to the Portfolio Manager, and the Portfolio Manager shall be subject to no implicit obligations of any kind.

(d) Subject to any applicable terms of the Collateral Administration Agreement, the Portfolio Manager shall monitor the Assets, on behalf of the Issuer, on an ongoing basis and provide (or cause to be provided) to the Issuer all reports, schedules and other data reasonably available to the Portfolio Manager that the Issuer is required to prepare, deliver or furnish, or cause to be prepared, delivered or furnished, under the Indenture, in the form and containing all information required thereby and in sufficient time for the Issuer to review such required reports, schedules and data and to deliver them to the parties entitled thereto under the Indenture. The Portfolio Manager shall, on behalf of the Issuer, be responsible for obtaining to the extent practicable any information concerning whether a Collateral Obligation has become a Defaulted Obligation. Pursuant to the terms of the Collateral Administration Agreement, the Collateral Administrator is required to provide drafts of certain reports, schedules and calculations to the Portfolio Manager regarding the Collateral Obligations. The obligation of the Portfolio Manager to furnish such information is subject to the Portfolio Manager's timely receipt of necessary reports and the appropriate information from the Person responsible for the delivery of or preparation of such reports and such information (including without limitation, the Obligors of the Collateral Obligations, the Rating Agency, the Trustee and the Collateral Administrator) and to any confidentiality restrictions with respect thereto. The Portfolio Manager shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing reasonably believed by it to be genuine and to have been signed or sent by a Person that the Portfolio Manager has no reason to believe is not duly authorized. The Portfolio Manager also may rely upon any statement made to it orally or by telephone and made by a Person the Portfolio Manager has no reason to believe is not duly authorized, and shall not incur any liability for relying thereon. The Portfolio Manager is entitled to rely on any other information furnished to it by third parties that it reasonably believes in good faith to be genuine.

(e) At the direction of 66 2/3% of the Aggregate Outstanding Amount of the Subordinated Notes, the Portfolio Manager may direct an Optional Redemption (including a Refinancing) under the Indenture on behalf of the Issuer.

(f) The Portfolio Manager may, in its sole discretion subject to and in accordance with the provisions of the Indenture and this Agreement, direct the Issuer

and/or the Trustee to take the following actions with respect to a Collateral Obligation, Eligible Investment or other Asset:

(i) retain such Collateral Obligation, Eligible Investment or other Asset;

(ii) dispose of such Collateral Obligation, Eligible Investment or other Asset in the open market or otherwise;

(iii) acquire, as security for the Secured Notes in substitution for or in addition to any one or more Collateral Obligations or Eligible Investments included in the Assets, one or more additional Collateral Obligations or Eligible Investments;

(iv) if applicable, tender such Collateral Obligation, Eligible Investment or other Asset pursuant to an Offer;

(v) if applicable, consent to or refuse to consent to any proposed amendment, modification, restructuring, exchange or waiver pursuant to an Offer;

(vi) retain or dispose of any securities or other property (if other than cash) received pursuant to an Offer;

(vii) waive any default with respect to any Defaulted Obligation or other Asset;

(viii) vote to accelerate the maturity of any Defaulted Obligation or other Asset;

(ix) participate in a committee or group formed by creditors of an issuer or a borrower under a Collateral Obligation, Eligible Investment, Equity Security or asset held by any ETB Subsidiary;

(x) negotiate, modify or amend any loan for the Issuer as authorized by the Indenture in accordance with a Refinancing;

(xi) exercise any other rights or remedies with respect to a Collateral Obligation, Eligible Investment or other Asset as provided in the related Underlying Instruments or take any other action consistent with the terms of the Indenture; and

(xii) to make loans to ETB Subsidiaries.

(g) Notwithstanding anything to the contrary in this Agreement, none of the services performed by the Portfolio Manager shall result in or be construed as resulting in an obligation to perform any of the following:

(i) the Portfolio Manager acting repeatedly or continuously as an intermediary in securities for the Issuer;

(ii) the Portfolio Manager providing investment banking services to the Issuer; or

(iii) the Portfolio Manager having direct contact with, or actively soliciting or finding, outside investors to (x) invest in the Issuer or (y) make co-investments in securities of portfolio companies with the Issuer.

(h) The Portfolio Manager hereby agrees to the following:

(i) The Portfolio Manager agrees not to institute against the Issuer, the Co-Issuer or any ETB Subsidiary any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings or other proceedings under U.S. federal or state bankruptcy or similar laws, or the similar laws of the Cayman Islands or other applicable jurisdiction until the payment in full of all Notes issued under the Indenture and the expiration of a period equal to one year, or, if longer, the applicable preference period, and a day following such payment. Nothing in this Section 3(h)(i) shall preclude, or be deemed to stop, the Portfolio Manager (i) from taking any action prior to the expiration of the aforementioned period in (A) any case or Proceeding voluntarily filed or commenced by the Issuer, the Co-Issuer or any ETB Subsidiary or (B) any involuntary insolvency Proceeding filed or commenced by a Person other than the Portfolio Manager, or (ii) from commencing against the Issuer, the Co-Issuer, any ETB Subsidiary or any of their respective properties any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceeding. The provisions of this Section 3(h)(i) shall survive termination of this Agreement.

(ii) The Portfolio Manager shall cause any purchase or sale of any Collateral Obligation to be conducted on arm's length terms or in the manner contemplated by Section 6, if applicable.

(iii) In providing services hereunder, the Portfolio Manager may employ third parties, including its Affiliates, to render advice (including investment advice), to provide services to arrange for trade execution and otherwise provide assistance to the Issuer, and to perform any of the Portfolio Manager's duties under this Agreement; *provided* that the Portfolio Manager shall not be relieved of any of its duties hereunder regardless of the performance of any services by third parties. Notwithstanding the foregoing, this Agreement, and any obligations or duties of the Portfolio Manager under this Agreement, can be delegated by the Portfolio Manager, in whole or in part, to any entity that (i) is controlled by any of James Dondero, Mark Okada or Josh Terry and (ii) is one in which any of James Dondero, Mark Okada or Josh Terry is involved in the day-to-day management and operations (and in any such case pursuant to an instrument of delegation in form and substance satisfactory to the Issuer), with the

prior written consent of the Issuer and, notwithstanding any such consent, no delegation of obligations or duties by the Portfolio Manager (including, without limitation, to an entity described above) shall relieve the Portfolio Manager from any of its duties or any liability under this Agreement.

(i) From and after the occurrence and continuance of an Event of Default, the Portfolio Manager will continue to perform and be bound by the provisions of this Agreement and the Indenture. Subject to the terms and conditions of the Indenture, the Trustee will be entitled to rely and be protected in relying upon all actions and omissions to act of the Portfolio Manager thereafter as fully as if no Event of Default had occurred.

4. Brokerage.

(a) The Portfolio Manager will seek to obtain the best execution (but shall have no obligation to obtain the best prices and execution) for all orders placed with respect to the Assets, in a manner permitted by law and in a manner it believes to be in the best interests of the Issuer. Subject to the preceding sentence, the Portfolio Manager may, in the allocation of business, select brokers and/or dealers with whom to effect trades on behalf of the Issuer and may open cash trading accounts with such brokers and dealers (*provided* that none of the Assets may be credited to, held in or subject to the lien of the broker or dealer with respect to any such account). In addition, subject to the first sentence of this paragraph, the Portfolio Manager may, in the allocation of business, take into consideration research and other brokerage services furnished to the Portfolio Manager or its Affiliates by brokers and dealers which are not Affiliates of the Portfolio Manager; *provided* that the Portfolio Manager in good faith believes that the compensation for such services rendered by such brokers and dealers complies with the requirements of Section 28(e) of the Securities Exchange Act of 1934, as amended ("Section 28(e)"), or in the case of principal or fixed income transactions for which the "safe harbor" of Section 28(e) is not available, the amount of the spread charged is reasonable in relation to the value of the research and other brokerage services provided. Such services may be used by the Portfolio Manager or its Affiliates in connection with its other advisory activities or investment operations. The Portfolio Manager may aggregate sales and purchase orders of securities placed with respect to the Assets with similar orders being made simultaneously for other accounts managed by the Portfolio Manager or with accounts of the Affiliates of the Portfolio Manager, if in the Portfolio Manager's reasonable business judgment such aggregation shall result in an overall economic benefit to the Issuer, taking into consideration the advantageous selling or purchase price, brokerage commission or other expenses, as well as the availability of such securities on any other basis. In accounting for such aggregated order price, commissions and other expenses may be apportioned on a weighted average basis. When a transaction with respect to the Assets occurs as part of any aggregate sales or purchase orders, the objective of the Portfolio Manager shall be to allocate the executions among the accounts in an equitable manner the Portfolio Manager believes, in its reasonable business judgment, to be appropriate and in accordance with (x) its internal conflicts of interest and allocation policies and (y) any applicable requirements of the Investment Advisers Act.

(b) The Issuer acknowledges and agrees that (i) the determination by the Portfolio Manager of any benefit to the Issuer will be subjective and will represent the Portfolio Manager's evaluation at the time that the Issuer will be benefited by relatively better purchase or sales prices, lower brokerage commissions, lower transaction costs and expenses and beneficial timing of transactions or any combination of any of these and/or other factors and (ii) the Portfolio Manager shall be fully protected with respect to any such determination to the extent the Portfolio Manager acts in accordance with Section 3(b).

(c) Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and (d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect client cross-transactions where the Portfolio Manager causes a transaction with respect to the Assets to be effected between the Issuer and another account advised by it or any of its Affiliates; *provided* that, if and to the extent required by the Investment Advisers Act, such authorization is terminable prior to the initiation of such cross-transaction at the Issuer's option without penalty. Such termination shall be effective upon receipt by the Portfolio Manager of written notice from the Issuer. Subject to the Portfolio Manager's execution obligations described in Sections 4(a) and (d) and the covenants set forth in Section 6, the Portfolio Manager is hereby authorized to effect transactions, including principal transactions, where the Issuer may invest in securities of obligors or issuers in which the Portfolio Manager and/or its Affiliates have a debt, equity or participation interest, in each case in accordance with applicable law.

(d) The Issuer acknowledges and agrees that the Portfolio Manager or any of its Affiliates may acquire or sell obligations or securities, for its own account or for the accounts of its customers, without either requiring or precluding the acquisition or sale of such obligations or securities for the account of the Issuer. Such investments may be the same or different from those made on behalf of the Issuer. If, in light of market conditions and investment objectives, the Portfolio Manager determines that it would be advisable to purchase the same item of Collateral Obligation both for the Issuer, and either the proprietary account of the Portfolio Manager or any Affiliate of the Portfolio Manager or another client of the Portfolio Manager, the Portfolio Manager shall allocate such investment opportunities across such entities for which such opportunities are appropriate, consistent with (i) its internal conflicts of interest and allocation policies and (ii) any applicable requirements of the Investment Advisers Act. The Issuer agrees that, in the course of managing the Collateral Obligations held by the Issuer, the Portfolio Manager may consider its relationships with other clients (including obligors and issuers) and its Affiliates. The Portfolio Manager may decline to make a particular investment for the Issuer in view of such relationships.

5. Additional Activities of the Portfolio Manager.

(a) Nothing herein shall prevent the Portfolio Manager or any of its Related Entities from engaging in other businesses, or from rendering services of any kind to the Issuer and its Affiliates (other than those services that would violate the Portfolio Manager's covenants under this Agreement), the Trustee, the Holders, the Initial Purchaser or any other Person to the extent permitted by applicable law, regardless

of whether such business is in competition with the Issuer or otherwise. Without limiting the generality of the foregoing, the Portfolio Manager, its Related Entities and the directors, officers, employees and agents of the Portfolio Manager and its Related Entities may, subject to any limits specified in the Indenture:

(i) serve as directors (whether supervisory or managing), officers, partners, employees, agents, nominees or signatories, and receive arm's length fees in connection with such service, for the Issuer or its Affiliates, or for any obligor or issuer in respect of the Collateral Obligations, Equity Securities or Eligible Investments or any affiliate thereof, to the extent permitted by their Governing Instruments, as from time to time amended, or by any resolutions duly adopted by the Issuer, its Affiliates or any obligor or issuer in respect of any of the Collateral Obligations, Eligible Investments or Equity Securities (or any Affiliate thereof) pursuant to their respective Governing Instruments, and neither the Holders of the Notes nor the Issuer shall have the right to any such fees; *provided* that, in the reasonable business judgment of the Portfolio Manager, such activity will not have a material adverse effect on any item of the Assets;

(ii) receive fees or other compensation from third parties (including Persons in which the Issuer has made or proposes to make an investment) in connection with any business activities of the Portfolio Manager and its Affiliates and which are not related to the use of the Issuer's capital (which fees or other compensation shall be for the benefit of the Portfolio Manager's own account); *provided* that, in the reasonable business judgment of the Portfolio Manager, such activities will not have a material adverse effect on any item of the Assets; and

(iii) be a secured or unsecured creditor of, or hold an equity interest in, or own or hold notes issued by, the Issuer, its Affiliates or any obligor or issuer of any obligation included in the Assets, subject to the Portfolio Manager's obligations in Section 8 hereof.

As a result, such individuals may possess information relating to obligors and issuers of Collateral Obligations that is (a) not known to or (b) known but restricted as to its use by the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations of the Portfolio Manager under this Agreement. Each of such ownership and other relationships may result in securities laws restrictions on transactions in such securities by the Issuer and otherwise create conflicts of interest for the Issuer. The Issuer acknowledges and agrees that, in all such instances, the Portfolio Manager and its Affiliates may in their discretion make investment recommendations and decisions that may be the same as or different from those made with respect to the Issuer's investments and they have no duty, in making or managing such investments, to act in a way that is favorable to the Issuer.

The Issuer acknowledges that there are generally no ethical screens or information barriers among the Portfolio Manager and certain of its Affiliates of the type that many firms implement to separate Persons who make investment decisions from others who

might possess material, non-public information that could influence such decisions. The officers or Affiliates of the Portfolio Manager may possess information relating to obligors or issuers of Collateral Obligations that is not known to the individuals at the Portfolio Manager responsible for monitoring the Collateral Obligations and performing the other obligations under this Agreement. As a result, the Portfolio Manager may from time to time come into possession of material nonpublic information that limits the ability of the Portfolio Manager to effect a transaction for the Issuer, and the Issuer's investments may be constrained as a consequence of the Portfolio Manager's inability to use such information for advisory purposes or otherwise to effect transactions that otherwise may have been initiated on behalf of its clients, including the Issuer.

(b) It is understood that the Portfolio Manager and any of its Affiliates may engage in any other business and furnish investment management and advisory services to others, including Persons which may have investment policies similar to those followed by the Portfolio Manager with respect to the Assets and which may own securities or obligations of the same class, or which are of the same type, as the Collateral Obligations or the Eligible Investments or other securities or obligations of the obligors or issuers of the Collateral Obligations or the Eligible Investments. The Portfolio Manager will be free, in its sole discretion, to make recommendations to others or effect transactions on behalf of itself or for others, which may be the same as or different from those effected with respect to the Assets. Nothing in the Indenture and this Agreement shall prevent the Portfolio Manager or any of its Affiliates, acting either as principal or agent on behalf of others, from buying or selling, or from recommending to or directing any other account to buy or sell, at any time, securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those directed by the Portfolio Manager to be purchased or sold on behalf of the Issuer. It is understood that, to the extent permitted by applicable law, the Portfolio Manager, its Affiliates or Related Entities, or any of their directors, managers, officers, stockholders, members, partners, partnership committee members, employees, agents or affiliates or any member of their families or a Person or entity advised by the Portfolio Manager may have an interest in a particular transaction or in securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those whose purchase or sale the Portfolio Manager may direct hereunder.

(c) The Portfolio Manager shall not be obligated to pursue any particular investment strategy or opportunity with respect to the Assets.

(d) The Issuer acknowledges that the Portfolio Manager and its Affiliates may make and/or hold an investment in an obligor's or issuer's securities that may be pari passu, senior or junior in ranking to an investment in such obligor's or issuer's securities made and/or held by the Issuer or in which partners, security holders, members, officers, directors, agents or employees of the Portfolio Manager and its Affiliates serve on boards of directors or otherwise have ongoing relationships.

6. Conflicts of Interest.

(a) Subject to compliance with applicable laws and regulations and subject to this Agreement and the Indenture, the Portfolio Manager may direct the Trustee to acquire a Collateral Obligation from, or sell a Collateral Obligation, Equity Security, Eligible Investment or asset held by an ETB Subsidiary to, the Portfolio Manager, any of its Affiliates or any account or portfolio for which the Portfolio Manager or any of its Affiliates serve as investment advisor for fair market value. The Portfolio Manager may obtain the Issuer's written consent through the Independent Review Party as provided herein if any such transaction requires the consent of the Issuer under Section 206(3) of the Investment Advisers Act (any such transaction, an "Affiliate Transaction"). The Issuer hereby acknowledges that the Portfolio Manager, its Affiliates or accounts advised or sub-advised by the Portfolio Manager or its Affiliates or their respective advised accounts (collectively, the "Portfolio Manager Affiliates") will purchase on the Closing Date U.S.$32,000,000 of the Class A-1 Notes, U.S.$2,000,000 of the Class D Notes, U.S.$5,500,000 of the Class E Notes and U.S.$51,850,000 of the Subordinated Notes (the "Portfolio Manager Notes"). The Issuer further acknowledges and agrees that no Portfolio Manager Affiliate is under any obligation to retain any Portfolio Manager Notes, and may sell all or a portion of such Portfolio Manager Notes at any time. In addition, the Issuer acknowledges that the Portfolio Manager Affiliates may acquire and subsequently sell other Notes after the Closing Date. In certain circumstances, the interests of the Issuer and/or the Holders or beneficial owners of the Notes with respect to matters as to which the Portfolio Manager is advising the Issuer may conflict with the interests of the Portfolio Manager Affiliates or its Related Entities. The Issuer hereby acknowledges that various potential and actual conflicts of interest may exist with respect to the Portfolio Manager as described above and as described in the final offering circular relating to the Notes; *provided* that nothing in this Section 6 shall be construed as altering the duties of the Portfolio Manager referred to herein.

(b) At the written request of the Portfolio Manager, the Issuer shall establish a conflicts review board or appoint an independent third party to act on behalf of the Issuer (such board or party, an "Independent Review Party") with respect to Affiliate Transactions. Decisions of any Independent Review Party shall be binding on the Portfolio Manager, the Issuer, and Holders of the Notes.

(c) Any Independent Review Party (i) shall either (A) be the Issuer's Board of Directors, (B) be an established financial institution or other financial company with experience in assessing the merits of transactions similar to the Affiliate Transactions or (C) be a review board comprised of one or more individuals selected by the Issuer (or at the request of the Issuer, selected by the Portfolio Manager), (ii) shall be required to assess the merits of the Affiliate Transaction and either grant or withhold consent to such transaction in its sole judgment and (iii) shall not be (A) affiliated with the Portfolio Manager (other than as a Holder or as a passive investor in the Issuer or an Affiliate of the Issuer) or (B) (other than the Issuer's Board of Directors) involved in the daily management and control of the Issuer.

(d) The Issuer (i) shall be responsible for any fees relating to the services provided by any Independent Review Party and shall reimburse members of any Independent Review Party for their out-of-pocket expenses and (ii) may indemnify members of such Independent Review Party to the maximum extent permitted by law, subject to terms and conditions satisfactory to the Portfolio Manager.

7. Records; Confidentiality.

The Portfolio Manager shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Issuer, the Trustee, the Holders, and the Independent accountants appointed by the Portfolio Manager on behalf of the Issuer pursuant to Article 10 of the Indenture at any time during normal business hours and upon not less than three Business Days' prior notice. The Portfolio Manager shall keep confidential any and all information that is either (i) of a type that would ordinarily be considered proprietary or confidential or (ii) designated as confidential (collectively "Confidential Information") obtained in connection with the services rendered hereunder and shall not disclose any such Confidential Information to non-affiliated third parties (excluding any Holders and beneficial owners of Notes to the extent required by the terms of the Indenture) except (a) with the prior written consent of the Issuer, (b) such Confidential Information as the Rating Agency shall reasonably request in connection with its rating of the Secured Notes or supplying credit estimates on any obligation included in the Assets, (c) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions with respect to the Assets on behalf of the Issuer, (d) as required by (i) applicable law, regulation, court order, or a request by a governmental regulatory agency with jurisdiction over the Portfolio Manager or any of its Affiliates, (ii) the rules or regulations of any stock exchange or self-regulating organization, body or official having jurisdiction over the Portfolio Manager or any of its Affiliates or (iii) the Irish Stock Exchange, (e) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (f) such Confidential Information as shall have been publicly available or disclosed other than in known violation of this Agreement or the provisions of the Indenture or shall have been obtained by the Portfolio Manager on a non-confidential basis, (g) such Confidential Information as is necessary or appropriate to disclose so that the Portfolio Manager may perform its duties hereunder, under the Indenture or the related documents or (h) general performance information which may be used by the Portfolio Manager or its Affiliates in connection with their marketing activities. Notwithstanding the foregoing, it is agreed that the Portfolio Manager may disclose (a) that it is serving as portfolio manager of the Issuer, (b) the nature, aggregate principal amount and overall performance of the Issuer's assets, (c) the amount of earnings on the Assets, (d) such other Confidential Information about the Issuer, the Assets and the Notes as is customarily disclosed by managers of collateralized loan obligations and (e) each of its respective employees, representatives or other agents may disclose to any and all Persons, without limitation of any kind, the United States federal income tax treatment and United States federal income tax structure of the transactions contemplated by the Indenture, this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them relating to such United States federal income tax treatment and

United States income tax structure. For purposes of this Section 7, the Holders and beneficial owners of the Notes shall not be considered "non-affiliated third parties."

8. Obligations of Portfolio Manager.

In accordance with the performance standard set forth in Section 3(b), the Portfolio Manager shall use commercially reasonable efforts to ensure that no action is taken by it, and shall not intentionally or with reckless disregard take any action, which would (a) materially and adversely affect the status of the Issuer for purposes of Cayman Islands law, United States federal or state law, or other law known to the Portfolio Manager to be applicable to the Issuer, (b) not be permitted by the Issuer's Governing Instruments, (c) violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer, including, without limitation, actions which would violate any Cayman Islands law, United States federal, state or other applicable securities law that is known by the Portfolio Manager to be applicable to it and, in each case, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer or have a material adverse effect on the ability of the Portfolio Manager to perform its obligations hereunder or under the Indenture, (d) require registration of the Issuer, the Co-Issuer or the pool of Assets as an "investment company" under Section 8 of the Investment Company Act, (e) cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise cause the Issuer to be subject to U.S. federal or state income tax on a net basis; *provided* that it shall not be a violation of this clause (e) for the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis as a result of an action taken either (i) in compliance with the Trading Restrictions attached hereto as Schedule 1 or (ii) in reliance upon Tax Advice to the effect that, under the relevant facts and circumstances with respect to such action, the Issuer's contemplated action "will" not cause the Issuer to be engaged, or deemed to be engaged, in a trade or business within the United States for U.S. federal income tax purposes or otherwise to be subject to U.S. federal income tax on a net basis, so long as (in respect of either (i) or (ii)) (x) there has been no material change in U.S. federal income tax law or the interpretation thereof that is relevant to such action since the date of such Tax Advice or the date hereof, as applicable; and (y) the Portfolio Manager does not have actual knowledge that such action, when considered in the light of the other activities of the Issuer, would cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes; or (f) knowingly and willfully adversely affect the interests of the Holders in the Assets in any material respect (other than (i) as expressly permitted hereunder or under the Indenture or (ii) in connection with any action taken in the ordinary course of business of the Portfolio Manager in accordance with its fiduciary duties to its clients). In furtherance of the foregoing clause (e), the Portfolio Manager shall at all times comply with the Trading Restrictions set forth in Schedule 1, except with respect to actions taken in compliance with clause (e)(ii). If the Portfolio Manager is ordered by the Board of Directors of the Issuer or the requisite Holders or beneficial owners of Notes to take any action which would, or could reasonably be expected to, in each case in its reasonable business judgment, have any such consequences, the Portfolio Manager shall promptly notify the Issuer that such

action would, or could reasonably be expected to, in each case in its reasonable business judgment, have one or more of the consequences set forth above and shall not take such action unless the Board of Directors of the Issuer then request the Portfolio Manager to do so and at least a Majority of both the Controlling Class and the Subordinated Notes (voting separately by Class) have consented thereto in writing. Notwithstanding any such request, the Portfolio Manager shall not take such action unless (1) arrangements satisfactory to it are made to insure or indemnify the Portfolio Manager, Affiliates of the Portfolio Manager and members, shareholders, partners, directors, managers, officers or employees of the Portfolio Manager or such Affiliates from any liability and expense it may incur as a result of such action and (2) if the Portfolio Manager so requests in respect of a question of law, the Issuer delivers to the Portfolio Manager an opinion of a nationally recognized law firm (from outside counsel satisfactory to the Portfolio Manager) that the action so requested does not violate any law, rule or regulation of any governmental body or agency having jurisdiction over the Issuer or over the Portfolio Manager. Neither the Portfolio Manager nor its Affiliates, shareholders, partners, directors, members, managers, officers or employees shall be liable to the Issuer or any other Person, except as provided in Section 11. Notwithstanding anything contained in this Agreement to the contrary, any indemnification or insurance by the Issuer provided for in this Section 8 or Section 11 shall be payable out of the Assets in accordance with the Priority of Payments, and the Portfolio Manager may take into account such Priority of Payments in determining whether any proposed indemnity arrangements contemplated by this Section 8 are satisfactory.

9. Compensation.

(a) The Issuer shall pay to the Portfolio Manager, for services rendered under this Agreement, on each Payment Date, the Senior Management Fee, the Subordinated Management Fee and the Incentive Management Fee. Accrued and unpaid Management Fees shall be paid as set forth in Article 11 of the Indenture. To the extent any of the Subordinated Management Fee is not paid on any Payment Date, such payment will be deferred and will accrue interest at LIBOR (as determined for the applicable Interest Accrual Period with respect to the Secured Notes), compounded quarterly, as set forth in the Indenture.

(b) The Portfolio Manager may (but shall not be obligated to), at its election upon notice to the Issuer, the Trustee and the Collateral Administrator (the "Fee Election Notice"), reduce for a predetermined period of time, as specified in the Fee Election Notice, the amount which is due to it as Senior Management Fee, in which case the Subordinated Management Fee shall automatically be increased by the same amount (the "Fee Election"). Any Fee Election must be made on or before the Determination Date for the first Collection Period in respect of which the Fee Election will apply and shall not be revocable during the period of the Fee Election; except that, in the event that the Portfolio Manager is removed, resigns or assigns its rights to any Persons, as contemplated by Sections 13, 14 and 15 of this Agreement, the replacement Portfolio Manager shall be bound initially by the terms set forth under Section 9(a) and the Fee Election will not apply to such replacement Portfolio Manager.

(c) The Portfolio Manager shall pay (without reimbursement by the Issuer) its general overhead expenses, including (i) all costs and expenses on account of salaries, wages, bonuses and other employee benefits of the Portfolio Manager and (ii) all occupational expenses, including rent, taxes and utilities, of the Portfolio Manager. The Issuer shall pay or reimburse the Portfolio Manager (at closing in the case of clause (i) below) for its payment of any and all reasonable costs and expenses incurred on behalf of the Issuer, including, without limitation: (i) the costs and expenses of the Portfolio Manager incurred in connection with the negotiation and preparation of this Agreement and all other agreements and matters related to the issuance of the Notes; (ii) any transfer fees necessary to register any Collateral Obligation in accordance with the Indenture; (iii) any costs, fees and expenses in connection with the acquisition, management or disposition of Assets or otherwise in connection with the Notes or the Issuer (including (a) investment related travel, communications and related expenses, (b) loan processing fees, legal fees and expenses and other expenses of professionals retained by the Portfolio Manager on behalf of the Issuer and (c) amounts in connection with the termination, cancellation or abandonment of a potential acquisition or disposition of any Assets that is not consummated); (iv) any and all costs and expenses incurred in connection with the carrying or management of the Assets; (v) any and all costs and expenses incurred in connection with the Notes and other indebtedness of the Issuer; (vi) any and all attorneys', accountants', rating agencies', consultants', brokers' and other professionals' fees and disbursements relating to Issuer matters (including in house attorneys' and accountants' services provided by or on behalf of the Portfolio Manager to the Issuer as may be reasonably allocated to the Issuer); (vii) any and all taxes and governmental charges that may be incurred or payable by the Issuer or any ETB Subsidiary; (viii) any and all insurance premiums or expenses incurred in connection with the activities of the Issuer by the Portfolio Manager; (ix) any and all costs, fees and expenses incurred in connection with the rating of the Notes or obtaining ratings or credit estimates on Collateral Obligations, and communications with the Rating Agency (including (a) any expenses related to compliance with Rule 17g-5 of the Securities Exchange Act of 1934, as amended, and (b) any fees, expenses or other amounts payable to the Rating Agency); (x) any and all costs, fees and expenses incurred in connection with the Portfolio Manager's communications with the Holders (including charges related to annual meetings) and costs and expenses for services to the Issuer in respect of the Assets relating to asset pricing and rating services and specialty database software licensing and development fees; (xi) any and all costs and expenses incurred by the Portfolio Manager in connection with the establishment of any ETB Subsidiary (*provided* that such costs and expenses are directly attributable to the establishment of such ETB Subsidiary), and (xii) any and all expenses incurred to comply with any law or regulation related to the activities of the Issuer, any ETB Subsidiary and the Portfolio Manager. Other than as stated above, the Issuer will bear, and will pay directly in accordance with the Indenture, all other costs and expenses incurred by it or on its behalf in connection with the organization, operation or liquidation of the Issuer.

(d) Upon the effectiveness of any termination of this Agreement or any removal or resignation of the Portfolio Manager hereunder, (i) all Management Fees accrued but not paid prior to the effective date of such termination, removal, resignation or assignment, as the case may be (the "Exit Date"), shall continue to be payable to the

exiting Portfolio Manager on Payment Dates occurring after the Exit Date and (ii) (a) in the case of removal for cause pursuant to Section 15, the Incentive Management Fee, if any, will be due and payable on each Payment Date after such removal for cause to the former Portfolio Manager and the successor Portfolio Manager *pro rata* based on the duration of service as portfolio manager for the Issuer during the period from the Closing Date to (and including) such Payment Date and (b) in the case of termination, resignation or assignment, as the case may be, for any reason other than cause, the Incentive Management Fee that is due and payable will be payable to the former Portfolio Manager and the successor Portfolio Manager based upon the former Portfolio Manager's reasonable determination of each portfolio manager's proportional participation and engagement in providing services to the Issuer in connection with the management of the Issuer's portfolio and carrying out the duties and obligations set forth in the Portfolio Management Agreement.

(e) Notwithstanding anything contained herein to the contrary, the obligations of the Issuer are limited recourse obligations payable solely from Assets granted to the Trustee pursuant to the Granting Clauses of the Indenture in accordance with the Priority of Payments and, following realization of the Assets and reduction thereof to zero, all obligations of the Issuer and any claims against the Issuer under this Agreement shall be extinguished and shall not thereafter revive. No recourse shall be had for the payment of any amount owing in respect of this Agreement against any other asset of the Issuer or against any officer, director, employee, shareholder or incorporator of the Issuer. The provisions of this Section 9(e) shall survive termination of this Agreement.

10. Benefit of the Agreement.

The Portfolio Manager agrees that its obligations hereunder in accordance with the terms of this Agreement and the terms of the Indenture applicable to it shall be enforceable by the Issuer and by the Trustee on behalf of the Holders, as provided in the Indenture. The Portfolio Manager agrees and consents to the provisions contained in Section 15.1 of the Indenture.

11. Limits of Portfolio Manager Responsibility.

(a) Subject to Section 8, the Portfolio Manager assumes no responsibility under this Agreement other than to render the services called for hereunder and under the terms of the Indenture applicable to it and affecting the duties and functions that have been delegated to it thereunder and hereunder in good faith and, subject to the standard of conduct described in the next succeeding sentence. The Portfolio Manager shall not be responsible for any action or inaction of the Co-Issuers or the Trustee in declining to follow any advice, recommendation or direction of the Portfolio Manager including as set forth in Section 8. Neither the Portfolio Manager nor any of its directors, managers, officers, stockholders, members, partners, partnership committee members, personnel, employees, agents or Affiliates will be liable to the Co-Issuers, the Trustee, the Holders of the Notes, the Initial Purchaser or any other Person for any act, omission, error of judgment, mistake of law, or for any claim, loss, liability, damage, judgments, assessments, settlement, cost, or other expense (including attorneys'

fees and expenses and court costs) arising out of any investment, or for any other act taken by or recommended by or omission arising out of or in connection with the performance by the Portfolio Manager, its directors, managers, officers, stockholders, members, personnel, partners, partnership committee members, employees, agents or Affiliates under this Agreement or the terms of the Indenture applicable to the Portfolio Manager, incurred as a result of actions taken or recommended or for any omissions of the Portfolio Manager, or for any decrease in the value of the Collateral Obligations, except that the Portfolio Manager shall be liable (i) by reason of acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance of its obligations hereunder or the terms of the Indenture applicable to the Portfolio Manager or, (ii) with respect to the information concerning the Portfolio Manager included in the Offering Circular dated April 14, 2015 (the "Offering Circular") under the headings "*Risk Factors—Risks Relating to the Portfolio Manager*" and the sub-headings thereunder, "*Risk Factors— Risks Relating to Certain Conflicts of Interest — The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager*," as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Portfolio Manager shall not be liable for any consequential, punitive, exemplary or treble damages or lost profits hereunder or under the Indenture. The Issuer (the Issuer in such case, the "Indemnifying Party") shall indemnify and hold harmless the Portfolio Manager, its directors, managers, officers, stockholders, members, partners, partnership committee members, agents, personnel and employees and its Affiliates and their directors, managers, officers, stockholders, members, partners, partnership committee members, agents, personnel and employees (each, an "Indemnified Party") from and against any and all losses, claims, damages, judgments, assessments, costs or other liabilities (other than losses in the value of a Collateral Obligation or Eligible Investment incurred by the Portfolio Manager or any of its Affiliates in connection with a transaction in which it elects to acquire a Collateral Obligation or an Eligible Investment from the Issuer as principal) (collectively, "Liabilities"), and will promptly reimburse each such Indemnified Party for all reasonable fees and expenses (including reasonable fees and expenses of counsel) as such fees and expenses (collectively, the "Expenses") are incurred in investigating, preparing, pursuing or defending any claim, action, proceeding or investigation with respect to any pending or threatened litigation (collectively, the "Actions"), caused by, or arising out of or in connection with the Assets or business of the Issuer or any ETB Subsidiary or otherwise relating to the Indenture or this Agreement, and/or any action taken by, or any failure to act by, such Indemnified Party; *provided* that the Portfolio Manager shall not be indemnified for any Liabilities or Expenses (x) it incurs as a result of any acts or omissions constituting bad faith, willful misconduct, gross negligence or reckless disregard in the performance by the Portfolio Manager of its obligations hereunder or the terms of the Indenture applicable to the Portfolio Manager, or (y) it incurs with respect to the information concerning the Portfolio Manager included in the Offering Circular under the headings "*Risk Factors—Risks Relating to the Portfolio Manager*" and the sub-headings thereunder, "*Risk Factors— Risks Relating to Certain Conflicts of Interest—The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and*

its affiliates" and "*The Portfolio Manager*," as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Notwithstanding anything contained herein to the contrary, the obligations of the Issuer under this Section 11 are limited recourse obligations of the Issuer payable solely out of the Assets in accordance with the Priority of Payments. The Indemnified Parties are not required to consult with, or obtain the consent of, the Issuer with respect to any settlement, negotiation or other act of the Indemnified Parties in connection with any Action.

(b) The Portfolio Manager shall indemnify and hold harmless (the Portfolio Manager in such case, the "Indemnifying Party") the Issuer (the Issuer in such case, the "Indemnified Party") from and against any and all expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) arising directly out of any information described in Section 11(a)(ii) above, as of the date of such information, to the extent that such information contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided* that the Portfolio Manager shall not be liable for any special, indirect, consequential, punitive, exemplary or treble damages or lost profits.

(c) The Indemnified Party shall promptly notify the Indemnifying Party if the Indemnified Party receives a complaint, claim, compulsory process or other notice of any losses or damages giving rise to a claim for indemnification under this Section 11, but failure so to notify the Indemnifying Party or to comply with paragraph (d) below shall not relieve such Indemnifying Party from its obligations under this Section 11 unless and to the extent that such Indemnifying Party did not otherwise learn of such action or proceeding and to the extent such failure results in the forfeiture by the Indemnifying Party of material rights and defenses.

(d) With respect to any claim made or threatened against an Indemnified Party, or compulsory process or request served upon such Indemnified Party for which such Indemnified Party is or may be entitled to indemnification under this Section 11, such Indemnified Party shall:

(i) at the Indemnifying Party's expense, provide the Indemnifying Party such information and cooperation with respect to such claim as the Indemnifying Party may reasonably require, including, but not limited to, making appropriate personnel available to the Indemnifying Party at such reasonable times as the Indemnifying Party may request;

(ii) at the Indemnifying Party's expense, cooperate and take all such steps as the Indemnifying Party may reasonably request to preserve and protect any defense to such claim;

(iii) in the event suit is brought with respect to such claim, upon reasonable prior notice, afford to the Indemnifying Party the right, which the

Indemnifying Party may exercise in its sole discretion and at its expense, (A) to participate in the investigation, defense and settlement of such claim, and, (B) to the extent that it shall wish, to assume the defense thereof, with counsel satisfactory to such Indemnified Party (who shall not, except with the consent of the Indemnified Party, be counsel to the Indemnifying Party), and, after notice from the Indemnifying Party to such Indemnified Party of its election so to assume the defense thereof, the Indemnifying Party shall not be liable to such Indemnified Party under such subsection for any legal fees and expenses of other counsel or any other expenses, in each case subsequently incurred by such Indemnified Party, in connection with the defense thereof other than reasonable costs of investigation, except that, if such Indemnified Party reasonably determines that counsel selected by the Indemnifying Party has a conflict of interest, such Indemnifying Party shall pay the reasonable fees and disbursements of one additional counsel selected by the Indemnified Party (in addition to any local counsel) separate from its own counsel for all Indemnified Parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances; and

(iv) neither incur any material expense to defend against nor make any admission with respect thereto, nor permit a default or consent to the entry of any judgment in respect thereof, in each case without the prior written consent of the Indemnifying Party; *provided* that the Indemnifying Party shall have advised such Indemnified Party that such Indemnified Party is entitled to be indemnified hereunder with respect to such claim.

(e) No Indemnified Party shall, without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, settle or compromise any claim giving rise to a claim for indemnity hereunder, or permit a default or consent to the entry of any judgment in respect thereof; *provided* that if the Indemnified Party is the Portfolio Manager or an Affiliate or a Related Entity of the Portfolio Manager or of an Affiliate thereof, such Indemnified Party shall not be required to seek or obtain such consent if it determines in good faith that the Indemnifying Party is unlikely to have sufficient funds available to indemnify it in full, taking into account the Priority of Payments.

(f) No Indemnifying Party shall, without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, settle or compromise or consent to the entry of any judgment with respect to any claim giving rise to a claim for indemnity hereunder if such settlement includes a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party.

(g) If the indemnification provided for in this Section 11 is unavailable to an Indemnified Party in respect of any claims or liabilities referred to herein, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such claims or liabilities in such proportion as is appropriate to reflect the relative benefits received by, and the relative fault of, the Indemnifying Party, on the one hand, and the

Indemnified Parties, on the other hand, as well as any other relevant equitable considerations.

(h) The required indemnification provided by this Section 11 shall be in addition to any rights to which an Indemnified Party may otherwise be entitled by contract or as a matter of law, and shall extend to each of its or his or her heirs, successors and assigns. The provisions of this Section 11 shall continue to afford protection to each Indemnified Party regardless of whether such Indemnified Party remains in the position or capacity pursuant to which such Indemnified Party became entitled to indemnification under this Section 11.

(i) United States federal securities laws impose liabilities under certain circumstances on persons who act in good faith and nothing herein shall constitute a waiver or limitation of any rights which the Issuer or any Holder of Notes may have under any applicable federal securities laws.

(j) Notwithstanding anything in this Agreement to the contrary, the Portfolio Manager's obligations hereunder will be solely the obligations of the Portfolio Manager, and the Issuer will not have any recourse to any Manager Related Party other than the Portfolio Manager, with respect to any claims, losses, damages, liabilities, indemnities or other obligations in connection with any transactions contemplated hereby.

(k) The Portfolio Manager shall not be liable for any act or omission of the custodian, any sub-custodian, prime broker or other Person appointed by the Issuer. Any compensation to any such Person for its services to the Issuer shall be the obligation of the Issuer and not the Portfolio Manager.

(l) The Portfolio Manager shall not be responsible for any liability resulting from any failure by the Portfolio Manager to fulfill its duties under this Agreement if such liability or failure shall be caused by or directly or indirectly due to a Force Majeure Event, *provided* that the Portfolio Manager shall use commercially reasonable efforts to minimize the effect of the same. As used herein, the term "Force Majeure Event" means such an operation of the forces of nature as reasonable foresight and ability could not foresee or reasonably provide against including but not limited to, acts of god, flood, war (whether declared or undeclared), terrorism, fire, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services contemplated by this Agreement, inability to obtain material, equipment, or communications or computer facilities, or the failure of equipment or interruption of communications or computer facilities, and other causes beyond a party's control whether or not of the same class or kind as specifically named above.

(m) The Portfolio Manager shall be entitled to conclusively rely in good faith, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, facsimile, email, telex or teletype message, statement (which may be made orally or by telephone), order or other

document or communication reasonably believed by it to be genuine and correct and to have been signed, sent or made by a Person that the Portfolio Manager has no reason to believe is not duly authorized and upon the advice and statements of independent accountants.

(n) The Portfolio Manager may consult with outside legal counsel of nationally recognized standing in the United States experienced in such matters as to questions of law pertaining to the performance of its duties hereunder and the advice or opinion of such counsel on any such question shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with the advice or opinion of such counsel; *provided* that the Portfolio Manager may take actions not permitted by the Trading Restrictions only in compliance with Section 8.

12. No Partnership or Joint Venture.

The Issuer and the Portfolio Manager are not partners or joint venturers with each other and nothing herein shall be construed to make them such partners or joint venturers or impose any liability as such on either of them. The Portfolio Manager's relation to the Issuer shall be deemed to be that of an independent contractor.

13. Term; Termination.

(a) This Agreement shall commence as of the date first set forth above and shall continue in force and effect until the first of the following occurs: (i) the payment in full of the Notes and the termination of the Indenture in accordance with its terms; (ii) the liquidation of the Assets and the final distribution of the proceeds of such liquidation to the Holders; or (iii) the termination of this Agreement in accordance with subsections (b) of this Section 13 or Section 15 of this Agreement.

(b) Notwithstanding any other provision hereof to the contrary but subject to the provisions of clause (e) below, this Agreement may be terminated without cause by the Portfolio Manager, and the Portfolio Manager may resign, upon 90 days' (or such shorter notice as is acceptable to the Issuer) written notice to the Issuer; *provided* that the Portfolio Manager shall have the right to resign immediately upon the effectiveness of any material change in applicable law or regulations which renders the performance by the Portfolio Manager of its duties hereunder or under the Indenture to be a violation of such law or regulation.

(c) Notwithstanding the provisions of clause (b) above, no resignation or removal of the Portfolio Manager or termination of this Agreement pursuant to such clause shall be effective until the date as of which a successor Portfolio Manager shall have been appointed and approved in accordance with Section 13(e) and has accepted all of the Portfolio Manager's duties and obligations pursuant to this Agreement in writing and has assumed such duties and obligations.

(d) If this Agreement is terminated pursuant to this Section 13, neither party shall have any further liability or obligation to the other, except as provided in Section 3(h)(i), Sections 9(d) and (e) and Sections 11 and 16 of this Agreement.

(e) Any termination, removal or resignation of the Portfolio Manager while any Notes are Outstanding will be effective only upon (a) the appointment by the Issuer, at the direction of at least a Majority of the Subordinated Notes, with the consent of at least a Majority of the Controlling Class, of a successor Portfolio Manager that is an established institution which (i) has demonstrated an ability to professionally and competently perform duties reasonably comparable to those imposed upon the Portfolio Manager hereunder, (ii) is legally qualified and has the capacity to act as successor to the Portfolio Manager under this Agreement in the assumption of all of the responsibilities, duties and obligations of the Portfolio Manager hereunder and under the terms of the Indenture applicable to the Portfolio Manager, (iii) satisfies the S&P Rating Condition, (iv) shall not cause the Issuer or the Co-Issuer or the pool of collateral to become required to register under the provisions of the Investment Company Act and (v) shall not result in the imposition of any entity-level or withholding tax on the Issuer or the payments to the Holders or cause any other material adverse tax consequences to the Issuer and (b) written acceptance of appointment by such successor Portfolio Manager. The Issuer shall use its commercially reasonable efforts to appoint a successor Portfolio Manager to assume the duties and obligations of the removed or resigning Portfolio Manager. The Issuer, the Trustee and the successor Portfolio Manager shall take such action (or cause the outgoing Portfolio Manager to take such action) consistent with this Agreement and the terms of the Indenture applicable to the Portfolio Manager, as shall be necessary to effectuate any such succession. In the event that the successor manager has not been appointed or has not assumed the duties of the Portfolio Manager in writing within a 60-day period, any of the Portfolio Manager, a Majority of the Controlling Class or a Majority of the Subordinated Notes may petition a court of competent jurisdiction for the appointment of a successor Portfolio Manager, which appointment will not require the consent of, or be subject to the approval or disapproval of, the Issuer or any Holder (so long as such court appointed successor meets the requirements of clauses (a)(i) through (v) above).

(f) In the event of removal of the Portfolio Manager pursuant to this Agreement by the Issuer or, to the extent so provided in the Indenture, by the Trustee, the Issuer shall have all of the rights and remedies available with respect thereto at law or equity, and, without limiting the foregoing, the Issuer or, to the extent so provided in the Indenture, the Trustee may by notice in writing to the Portfolio Manager as provided under this Agreement terminate all the rights and obligations of the Portfolio Manager under this Agreement (except those that survive termination pursuant to Section 13(d) above). Upon resignation or removal of the Portfolio Manager in accordance with this Section 13 or Section 15 of this Agreement, as applicable, and upon acceptance by a successor Portfolio Manager of appointment, all authority and power of the Portfolio Manager under this Agreement and the Indenture, whether with respect to the Assets or otherwise, shall automatically and without further action by any Person pass to and be vested in the successor Portfolio Manager.

(g) For so long as Acis Capital Management, L.P. or an Affiliate of Acis Capital Management, L.P. is the Portfolio Manager, the Issuer and the Co-Issuer will be permitted to use the "Acis" name; *provided* that, if the Portfolio Manager ceases to be Acis Capital Management, L.P. or an Affiliate of Acis Capital Management, L.P., the Issuer shall use commercially reasonable efforts to change its name to remove all reference to the name "Acis" therefrom. In addition, the Portfolio Manager, without the consent of the Issuer, may change the name of the Portfolio Manager.

14. Delegation; Assignments.

(a) Except as provided herein, the Portfolio Manager may not assign its rights or responsibilities hereunder without the written consent of the Issuer, at least a Majority of the Subordinated Notes (*provided* that failure to object within 45 days of written notice of assignment will constitute consent) and at least a Majority of the Controlling Class and satisfaction of the S&P Rating Condition. Notwithstanding the foregoing, the Portfolio Manager may, (i) with the consent of a Majority of the Controlling Class and without satisfaction of the S&P Rating Condition or the consent of any other Class, assign any of its rights or obligations hereunder to an Affiliate; *provided* that such Affiliate (A) has demonstrated ability, whether as an entity or by its personnel, to professionally and competently perform duties similar to those imposed upon the Portfolio Manager pursuant to this Agreement, (B) has the legal right and capacity to act as Portfolio Manager hereunder and (C) shall not cause the Issuer or the pool of collateral to become required to register under the provisions of the Investment Company Act, or (ii) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity and, (A) at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Portfolio Manager hereunder generally and the other entity is solely a continuation of the Portfolio Manager in another corporate or similar form and has substantially the same staff and (B) such action does not cause the Issuer to be subject to tax in any jurisdiction outside of its jurisdiction of incorporation; *provided* that the Portfolio Manager shall deliver prior notice to the Rating Agency of any assignment, delegation or combination made pursuant to this sentence.

(b) Notwithstanding the foregoing to the extent that applicable law requires the consent of the Issuer to any "assignment" (as defined in the Investment Advisers Act) of this Agreement to any Person, in whole or in part, by the Portfolio Manager, such requirement may be satisfied with respect to the Issuer and all holders (i) by obtaining consent to such assignment on behalf of the Issuer from any of the following persons as determined by the Portfolio Manager: (A) one or more directors of the Issuer independent from the Portfolio Manager, (B) the Independent Review Party, or (C) an advisory committee established by the Portfolio Manager; or (ii) in any other manner that is permitted pursuant to the applicable law. Any assignment consented to by the Issuer and such Holders shall bind the assignee hereunder in the same manner as the Portfolio Manager is bound. In addition, the assignee shall execute and deliver to the Issuer and the Trustee a counterpart of this Agreement naming such assignee as Portfolio Manager. Upon the execution and delivery of such a counterpart by the assignee, the Portfolio

Manager shall be released from further obligations pursuant to this Agreement, except with respect to its obligations arising under Section 11 of this Agreement prior to such assignment and except with respect to its obligations under Section 3(h)(i) and Section 16 hereof.

(c) This Agreement shall not be assigned by the Issuer without the prior written consent of the Portfolio Manager, and unless the S&P Rating Condition has been satisfied in connection with such assignment, except in the case of assignment by the Issuer to (i) an entity which is a successor to the Issuer permitted under the Indenture, in which case such successor organization shall be bound hereunder and by the terms of said assignment in the same manner as the Issuer is bound thereunder or (ii) the Trustee as contemplated by the Granting Clause of the Indenture. In the event of any assignment by the Issuer, the Issuer shall use its commercially reasonable efforts to cause its successor to execute and deliver to the Portfolio Manager such documents as the Portfolio Manager shall consider reasonably necessary to effect fully such assignment.

15. Termination by the Issuer for Cause.

This Agreement may be terminated, and the Portfolio Manager may be removed for cause by at least a Majority of the Controlling Class of Notes upon 30 days' prior written notice to the Portfolio Manager. For purposes of determining whether the holders of the required percentage of relevant principal amount of the Notes have given notice of removal of the Portfolio Manager for cause, Notes owned or controlled by the Portfolio Manager or any affiliate thereof or an account or fund managed on a discretionary basis by the Portfolio Manager or its affiliates will be disregarded and deemed to be not outstanding. No such termination or removal shall be effective until the date as of which a successor Portfolio Manager shall have agreed in writing to assume all of the Portfolio Manager's duties and obligations pursuant to this Agreement and as specified in the Indenture. For purposes of determining "cause" with respect to any such termination of this Agreement or removal of the Portfolio Manager, such term includes any one of the following events:

(a) the Portfolio Manager willfully violates, or takes any action that it knows breaches, any material provision of this Agreement or the Indenture applicable to it in bad faith (not including a willful and intentional breach that results from a good faith dispute regarding reasonable alternative courses of action or interpretation of instructions);

(b) the Portfolio Manager breaches in any respect any provision of this Agreement or any terms of the Indenture applicable to it (other than as covered by clause (a) and it being understood that failure to meet any Coverage Test, any Concentration Limitation, Interest Reinvestment Test or the Collateral Quality Test is not such a violation) (except for any such violations or breaches that have not had, or could not, either individually or in the aggregate, reasonably be expected to have, a material adverse effect on the Issuer) and fails to cure such breach within 30 days of a Responsible Officer receiving notice of such breach, unless, if such breach is remediable, the Portfolio Manager has taken action that the Portfolio Manager believes in good faith will remedy

such breach, and such action does remedy such breach, within 60 days after a Responsible Officer receives notice thereof;

(c) the Portfolio Manager is wound up or dissolved or there is appointed over it or a substantial portion of its assets a receiver, administrator, administrative receiver, trustee or similar officer; or the Portfolio Manager (i) ceases to be able to, or admits in writing its inability to, pay its debts as they become due and payable, or makes a general assignment for the benefit of, or enters into any composition or arrangement with, its creditors generally; (ii) applies for or consents (by admission of material allegations of a petition or otherwise) to the appointment of a receiver, trustee, assignee, custodian, liquidator or sequestrator (or other similar official) of the Portfolio Manager or of any substantial part of its properties or assets, or authorizes such an application or consent, or proceedings seeking such appointment are commenced without such authorization, consent or application against the Portfolio Manager and continue undismissed for 60 days; (iii) authorizes or files a voluntary petition in bankruptcy, or applies for or consents (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, arrangement, readjustment of debt, insolvency or dissolution, or authorizes such application or consent, or proceedings to such end are instituted against the Portfolio Manager without such authorization, application or consent and are approved as properly instituted and remain undismissed for 60 days or result in adjudication of bankruptcy or insolvency; or (iv) permits or suffers all or any substantial part of its properties or assets to be sequestered or attached by court order and the order remains undismissed for 60 days;

(d) the occurrence of an Event of Default under the Indenture that consists of a default in the payment of principal or interest on the Secured Notes when due and payable and results primarily from any material breach by the Portfolio Manager of its duties hereunder or under the Indenture, which breach or default is not cured within any applicable cure period;

(e) the occurrence of an act by the Portfolio Manager that constitutes fraud or criminal activity in the performance of its obligations under this Agreement (as determined pursuant to a final adjudication by a court of competent jurisdiction), or the Portfolio Manager being indicted for a criminal offense materially related to its business of providing asset management services;

(f) any senior executive officer of the Portfolio Manager (in the performance of his or her investment management duties) is convicted for a criminal offense materially related to the business of the Portfolio Manager providing asset management services and continues to have responsibility for the performance by the Portfolio Manager hereunder for a period of 10 days after such conviction; or

(g) the inability of the Portfolio Manager to perform its duties hereunder in accordance with the standard of care specified herein due to the termination of the Service Agreements, unless the Portfolio Manager believes in good faith that it will be able to either (i) secure reasonably equivalent substitute services to those that were performed for the Portfolio Manager under the Service Agreements or (ii) perform its

duties hereunder in accordance with the applicable standard of care without engaging a third-party service provider, in each case, within 30 days, and the Portfolio Manager is in fact able to secure such services or perform such duties within such 30-day period.

If any of the events specified in the definition of "cause" in this Section 15 shall occur, the Portfolio Manager shall give prompt written notice thereof to the Issuer, the Rating Agency, each Holder of Notes and the Trustee upon the Portfolio Manager's becoming aware of the occurrence of such event. A Majority of the Controlling Class may waive any event described in (a), (b), (d), (e), (f) or (g) above as a basis for termination of this Agreement and removal of the Portfolio Manager under this Section 15.

16. Action Upon Termination.

(a) From and after the effective date of the termination of the Portfolio Manager's duties and obligations pursuant to this Agreement or resignation or removal of the Portfolio Manager hereunder, the Portfolio Manager shall not be entitled to compensation for further services hereunder, but shall be paid all compensation accrued to the date of termination, as provided in Section 9 hereof (including any accrued and unpaid Subordinated Management Fee), and shall be entitled to receive any amounts owing under Section 11 hereof. Upon such termination, resignation or removal, the Portfolio Manager shall as soon as practicable:

(i) deliver to the Issuer all property and documents of the Trustee or the Issuer or otherwise relating to the Assets then in the custody of the Portfolio Manager; and

(ii) deliver to the Trustee an accounting with respect to the books and records delivered to the Trustee or the successor Portfolio Manager appointed pursuant to Section 13(e) hereof.

Notwithstanding such termination, resignation or removal, the Portfolio Manager shall remain liable to the extent set forth herein (but subject to Section 11 hereof) for its liabilities hereunder arising prior to termination and for any expenses, losses, damages, liabilities, demands, charges and claims (including reasonable attorneys' fees) in respect of or arising out of a breach of the representations and warranties made by the Portfolio Manager in Section 17(b) hereof or from any failure of the Portfolio Manager to comply with the provisions of this Section 16.

(b) The Portfolio Manager agrees that, notwithstanding any termination, it shall reasonably cooperate in any Proceeding arising in connection with this Agreement, the Indenture or any of the Assets (excluding any such Proceeding in which claims are asserted against the Portfolio Manager or any Affiliate of the Portfolio Manager) upon receipt of appropriate indemnification and expense reimbursement.

17. Representations and Warranties.

(a) The Issuer hereby represents and warrants to the Portfolio Manager as follows:

(i) The Issuer has been duly incorporated and is validly existing under the laws of the Cayman Islands, has the full corporate power and authority to own its assets and the securities proposed to be owned by it and included in the Assets and to transact the business in which it is presently engaged and is duly qualified under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of its obligations under this Agreement, the Indenture, the Collateral Administration Agreement or the Notes (collectively, the "Issuer Documents") would require, such qualification, except for failures to be so qualified, authorized or licensed that would not in the aggregate have a material adverse effect on the business, operations, assets or financial condition of the Issuer.

(ii) The Issuer has the necessary corporate power and authority to execute, deliver and perform each of the Issuer Documents and all obligations required thereunder, and has taken all necessary action to authorize each of the Issuer Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Issuer Documents and the performance of all obligations imposed upon it hereunder and thereunder. No consent of any other Person including, without limitation, shareholders and creditors of the Issuer, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority, other than those that may be required under state securities or "blue sky" laws and those that have been or shall be obtained in connection with the Indenture and the issuance of the Notes, is required by the Issuer in connection with the Issuer Documents or the execution, delivery, performance, validity or enforceability of the Issuer Documents or the obligations imposed upon it hereunder or thereunder. This Agreement constitutes, and each instrument or document required hereunder, when executed and delivered hereunder, shall constitute, the legally valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms, subject, as to enforcement, to (a) the effect of bankruptcy, insolvency, or similar laws affecting generally the enforcement of creditors' rights, as such laws would apply in the event of any bankruptcy, receivership, insolvency or similar event applicable to the Issuer and (b) general equitable principles (whether enforceability of such principles is considered in a proceeding at law or in equity).

(iii) The execution, delivery and performance of this Agreement and the Collateral Administration Agreement and the documents and instruments required hereunder and thereunder do not violate any provision of any existing law or regulation binding on the Issuer, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Issuer, or the Governing Instruments of, or any securities issued by, the Issuer or of any

mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Issuer is a party or by which the Issuer or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Issuer, and do not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking (other than the lien of the Indenture).

(iv) The Issuer is not required to register as an "investment company" under the Investment Company Act.

(v) The Issuer is not in violation of its Governing Instruments or in breach or violation of or in default under the Indenture or any other contract or agreement to which it is a party or by which it or any of its assets may be bound, or any applicable statute or any rule, regulation or order (including, without limitation, any anti-money laundering statute or related rule, regulation or order) of any court, government agency or body having jurisdiction over the Issuer or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of this Agreement or the performance by the Issuer of its duties hereunder or under the Collateral Administration Agreement.

(vi) True and complete copies of the Indenture and the Issuer's Governing Instruments have been delivered to the Portfolio Manager.

(vii) The Issuer is a "qualified client" as such term is defined under the Investment Advisers Act.

(viii) The Issuer understands that the rules and regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") prohibit, among other things, the engagement in transactions with, and the provision of services to, certain countries, territories, entities and individuals. The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <http://www.treas.gov/ofac>. In addition, the programs administered by OFAC ("OFAC Programs") prohibit dealing with individuals or entities in certain countries regardless of whether such individuals or entities appear on the OFAC lists. To the best of its knowledge, none of: (1) the Issuer; (2) any person controlling or controlled by the Issuer; (3) any person having a beneficial interest in the Issuer; or (4) any person for whom the Issuer is acting as agent or nominee in connection with this investment is a country, territory, individual or entity named on an OFAC list, or is a person or entity prohibited under the OFAC Programs.

(ix) The Issuer has received and had an opportunity to review a current copy of Part 2 of the Form ADV of Acis Capital Management, L.P., at least forty-eight hours prior to its entering into this Agreement.

The Issuer agrees to deliver a true and complete copy of each amendment to the documents referred to in Section 17(a)(v) above to the Portfolio Manager as promptly as practicable after its adoption or execution.

(b) The Portfolio Manager hereby represents and warrants to the Issuer as follows:

(i) The Portfolio Manager is a limited partnership duly organized and validly existing and in good standing under the laws of the State of Delaware and has full power and authority to own its assets and to transact the business in which it is currently engaged and is duly qualified and in good standing under the laws of each jurisdiction where its ownership or lease of property or the conduct of its business requires, or the performance of this Agreement or the Collateral Administration Agreement (together with this Agreement, the "Manager Documents") would require such qualification, except for those jurisdictions in which the failure to be so qualified, authorized or licensed would not have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or on the ability of the Portfolio Manager to perform its obligations under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager; the Portfolio Manager is registered as an investment adviser under the Investment Advisers Act.

(ii) The Portfolio Manager has full power and authority to execute, deliver and perform each of the Manager Documents and all obligations required hereunder and under the provisions of the Indenture applicable to the Portfolio Manager, and has taken all necessary action to authorize each of the Manager Documents on the terms and conditions hereof and thereof and the execution, delivery and performance of each of the Manager Documents and all obligations required hereunder and thereunder and under the terms of the Indenture applicable to the Portfolio Manager. No consent of any other Person, including, without limitation, creditors of the Portfolio Manager, and no license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any governmental authority is required by the Portfolio Manager in connection with the Manager Documents or the execution, delivery, performance, validity or enforceability of the Manager Documents or the obligations required hereunder and thereunder or under the terms of the Indenture applicable to the Portfolio Manager. Each of the Manager Documents has been, and each instrument and document required hereunder and thereunder or under the terms of the Indenture shall be, executed and delivered by a duly authorized officer of the Portfolio Manager, and each of the Manager Documents constitutes, and each instrument and document required hereunder and thereunder or under the terms of the Indenture when executed and delivered by the Portfolio Manager hereunder or thereunder or under the terms of the Indenture shall constitute, the valid and legally binding obligations of the Portfolio Manager enforceable against the Portfolio Manager in accordance with their terms, subject to (a) the effect of bankruptcy, insolvency or similar laws

affecting generally the enforcement of creditors' rights and (b) general equitable principles.

(iii) The execution, delivery and performance of the Manager Documents and the terms of the Indenture applicable to the Portfolio Manager and the documents and instruments required hereunder or thereunder or under the terms of the Indenture shall not violate any provision of any existing law or regulation binding on the Portfolio Manager, or any order, judgment, award or decree of any court, arbitrator or governmental authority binding on the Portfolio Manager, or the Governing Instruments of, or any securities issued by the Portfolio Manager or of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which the Portfolio Manager is a party or by which the Portfolio Manager or any of its assets may be bound, the violation of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its obligations under the Manager Documents, and shall not result in or require the creation or imposition of any lien on any of its property, assets or revenues pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement, instrument or undertaking, the existence of which would have a material adverse effect on the business, operations, assets or financial condition of the Portfolio Manager or its ability to perform its obligations under the Manager Documents.

(iv) There is no charge, investigation, action, suit or proceeding before or by any court pending or, to the best knowledge of the Portfolio Manager, threatened that, if determined adversely to the Portfolio Manager, would have a material adverse effect upon the performance by the Portfolio Manager of its duties under, or on the validity or enforceability of, the Manager Documents and the provisions of the Indenture applicable to the Portfolio Manager hereunder.

(v) The Portfolio Manager is authorized to carry on its business in the United States and in all other jurisdictions necessary to the performance of its obligations under the Manager Documents and the Indenture applicable to the Portfolio Manager.

(vi) The Portfolio Manager is not in violation of its Governing Instruments or in breach or violation of or in default under any contract or agreement to which it is a party or by which it or any of its property may be bound, or any applicable statute or any rule, regulation or order of any court, government agency or body having jurisdiction over the Portfolio Manager or its properties, the breach or violation of which or default under which would have a material adverse effect on the validity or enforceability of the Manager Documents or the provisions of the Indenture applicable to the Portfolio Manager, or the performance by the Portfolio Manager of its duties hereunder or thereunder.

(vii) The information concerning the Portfolio Manager contained under the headings entitled "*Risk Factors—Risks Relating to the Portfolio Manager*," "*Risk Factors—Risks Relating to Certain Conflicts of Interest —The Issuer will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" and "*The Portfolio Manager,*" in the Offering Circular, as of the respective dates of the Offering Circular and as of the Closing Date, is true in all material respects and does not omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

18. Notices.

Unless expressly provided otherwise herein, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing (including by facsimile) and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of registered or certified mail, postage prepaid, return receipt requested, or, in the case of facsimile notice, when received in legible form, addressed as set forth below:

(a) If to the Issuer:

ACIS CLO 2015-6 Ltd.
c/o MaplesFS Limited
P.O. Box 1093
Boundary Hall, Cricket Square
Grand Cayman, KY1-1102
Cayman Islands
Attention: The Directors

with a copy to:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Facsimile: 972-628-4155

(b) If to the Portfolio Manager:

Acis Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Facsimile: 972-628-4155

(c) If to the Trustee:

U.S. Bank National Association
190 S. LaSalle Street, 8th Floor
Chicago, IL 60603
Re: ACIS CLO 2015-6 LTD.
Email: ACIS.CLO.2015.06@USBANK.COM

Any party may alter the address or telecopy number to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 18 for the giving of notice.

19. Binding Nature of Agreement; Successors and Assigns.

Subject to Section 14 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided herein.

20. Entire Agreement.

This Agreement contains the entire agreement and understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

21. Amendment.

This Agreement may not be modified or amended other than by an agreement in writing executed by the parties hereto and (other than in respect of a modification or amendment of the type that may be made to the Indenture without Holder consent) (i) the consent of a Majority of the Subordinated Notes, (ii) the consent of a Majority of the Controlling Class and (iii) notice to the Rating Agency. Notwithstanding the foregoing, the parties hereto, without the consent of any Holders, may amend or modify any provision of this agreement to (i) reflect a change that is of an inconsequential nature, (ii) correct inconsistencies, typographical or other errors, defects or ambiguities, (iii) conform this Agreement to the Offering Circular or the Indenture (as it may be amended from time to time) or (iv) reflect a change that is necessary or desirable to satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation (including ERISA, the Code, the Investment Advisers Act and the Investment Company Act) of any U.S. federal or state agency or contained in any U.S. federal or state statute. In addition, Schedule 1 may be amended or modified by the parties hereto without the consent of any Holder in accordance with Tax Advice.

22. Conflict with the Indenture.

In the event that this Agreement requires any action to be taken with respect to any matter and the Indenture requires that a different action be taken with respect to such matter, and such actions are mutually exclusive, the provisions of the Indenture (as in effect on the date hereof or as amended or supplemented, with the consent of the Portfolio Manager if such consent is required by Section 3(b)) in respect thereof shall control.

23. Priority of Payments.

The Portfolio Manager agrees that the payment of all amounts to which it is entitled pursuant to this Agreement shall be subordinated to the extent set forth in, and the Portfolio Manager agrees to be bound by the provisions of, Article 11 and Section 15.1 of the Indenture as if the Portfolio Manager were a party to the Indenture and each of the Portfolio Manager and Issuer hereby consents to the assignment of this Agreement as provided in Section 15.1 of the Indenture.

24. Governing Law; Jury Trial.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PROVISIONS THEREOF). EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH OF THE PARTIES HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR SUCH PARTIES ENTERING INTO THIS AGREEMENT.

25. Indulgences Not Waivers.

Neither the failure nor any delay on the part of any party hereto to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

26. Titles Not to Affect Interpretation.

The titles of Sections and subsections of this Agreement are for convenience only, and they neither form a part of this Agreement nor are they to be used in the construction or interpretation hereof.

27. Execution in Counterparts.

This Agreement may be executed in any number of counterparts by facsimile or other written form of communication, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

28. Provisions Separable.

To the fullest extent permitted by law, in case any provision in this Agreement shall be invalid, illegal or unenforceable as written, such provision shall be construed in the manner most closely resembling the apparent intent of the parties with respect to such provision so as to be valid, legal and enforceable; *provided* that, if there is no basis for such a construction, to the fullest extent permitted by law, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability and, unless the ineffectiveness of such provision destroys the basis of the bargain for one of the parties to this Agreement, the validity, legality and enforceability of the remaining provisions hereof or thereof shall not in any way be affected or impaired thereby.

29. Number and Gender.

Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

30. Jurisdiction and Venue.

The parties to this Agreement irrevocably submit to the non-exclusive jurisdiction of any New York state or federal court sitting in the Borough of Manhattan in The City of New York in any action or proceeding arising out of or relating to this Agreement, the Notes or the Indenture, and the parties irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such New York state or federal court. The parties to this Agreement irrevocably waive, to the fullest extent they may legally do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. The parties to this Agreement irrevocably consent to the service of any and all process in any action or proceeding by the mailing or delivery of copies of such process to it in accordance with Section 18. The parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

31. Third Party Beneficiaries.

Other than as provided below, no party, including any Holder of Notes, is a third party beneficiary of this Agreement. The parties hereby acknowledges and agrees that the Trustee will be a third-party beneficiary of this Agreement.

32. Miscellaneous.

(a) With respect to any Defaulted Obligation, the Portfolio Manager, on behalf of the Issuer, may instruct the agent or the trustee for such Defaulted Obligation to enforce the Issuer's rights under the Underlying Instruments governing such Defaulted Obligation and under any applicable law, rule or regulation in any manner permitted under the Indenture that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer. In the event any Offer is made with respect to any Collateral Obligation or Equity Security, the Portfolio Manager, on behalf of the Issuer, may take such action as is permitted by the Indenture and that the Portfolio Manager has determined in its reasonable business judgment will be in the best interests of the Issuer.

(b) Without prejudice to Section 15(f) hereof, any corporation, partnership or limited liability company into which the Portfolio Manager may be merged or converted or with which it may be consolidated, or any corporation, partnership or limited liability company resulting from any merger, conversion or consolidation to which the Portfolio Manager shall be a party, or any corporation, partnership or limited liability company succeeding to all or substantially all of the collateral management business of the Portfolio Manager, shall be the successor to the Portfolio Manager without any further action by the Portfolio Manager, the Co-Issuers, the Trustee, the Holders or any other Person or entity; *provided* that the Portfolio Manager shall give prompt written notice to the Rating Agency upon any such occurrence.

(c) Notwithstanding anything herein or in the Indenture to the contrary, with respect to any report, information, communication, request, demand, authorization, direction, notice, consent or waiver to be given to the Rating Agency by the Issuer, the Issuer shall instead provide such information to the Portfolio Manager, and the Portfolio Manager shall then provide such information as well as any information related to the transaction requested by the Rating Agency directly from the Portfolio Manager to the Rating Agency via the website established on behalf of the Issuer for purposes of Rule 17g-5 under the Exchange Act.

(d) If the Issuer shall receive any written or oral communication from the Rating Agency (or any of its respective officers, directors or employees) with respect to the transactions contemplated hereby or in any way relating to the Notes, the Issuer agrees to refrain from communicating with the Rating Agency and to promptly (and, in any event, within one Business Day) notify the Portfolio Manager of such communication. The Issuer agrees to coordinate with the Portfolio Manager with respect to any communication to the Rating Agency and further agrees that in no event shall it engage in any oral or written communication with respect to the transactions

contemplated hereby or in any way relating to the Notes with the Rating Agency (or any of its respective officers, directors or employees) without the participation of the Portfolio Manager.

33. Power of Attorney.

The Issuer hereby makes, constitutes and appoints each of Josh Terry, Hunter Covitz and Philip Braner, with full power of substitution, as its true and lawful agent and attorney-in-fact (each an "Attorney" and together the "Attorneys"), jointly and severally with full power and authority in its name, place and stead, in accordance with the terms of this Agreement and the Indenture (a) to prepare, sign and deliver tax documentation, transfer documentation and all other documentation in connection with the acquisition and sale by the Issuer of Collateral Obligations and (b) to (i) vote in its discretion any securities, instruments or obligations included in the Assets, (ii) execute proxies, waivers, consents and other instruments with respect to such Collateral Obligations, (iii) endorse, transfer or deliver such securities, instruments and obligations, (iv) participate in or consent (or decline to consent) to any modification, work-out, restructuring, bankruptcy proceeding, class action, plan of reorganization, merger, combination, consolidation, liquidation or similar plan or transaction with regard to such Collateral Obligations and (v) take any other action specified in Section 3 of this Agreement. This grant of power of attorney will expire (a), with respect to each Attorney (and to each substitute appointed by such Attorney), when such Attorney ceases to be an officer or employee of Acis Capital Management, L.P. or an Affiliate thereof, acting on behalf of Acis Capital Management, L.P. or (b) upon (x) termination of this Agreement in accordance with its terms or (y) any assignment by the Portfolio Manager of its obligations under this Agreement in accordance with Section 14 hereof.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

Portfolio Manager:
ACIS CAPITAL MANAGEMENT, L.P.
By: Acis Capital Management GP, LLC

By: _____
Name: James Pandeo
Title: President

Signatures Continue on Next Page

Signatures Continued from Previous Page

Issuer:
ACIS CLO 2015-6 LTD.

Executed as a Deed

By: _____
Name: Wendy Ebanks
Title: Director

Witness: _____

SCHEDULE 1

TRADING RESTRICTIONS

The Issuer (and the Portfolio Manager and the Independent Investment Professional acting on behalf of the Issuer) and any other person acting on behalf or at the direction of the Issuer, and any Affiliate of the Issuer, will comply with all of the provisions set forth in this Schedule 1 (the "Trading Restrictions") unless, with respect to a particular transaction, the Portfolio Manager shall have received Tax Advice in compliance with Section 8 of this Agreement. For purposes of these Trading Restrictions, a "Collateral Obligation" shall include any "Assets" as defined in the Indenture.

The Issuer shall acquire, hold, lend and dispose of Collateral Obligations only for its own account, and shall acquire and hold its Collateral Obligations solely for investment with the expectation and intention of realizing a profit from income earned on the Collateral Obligations and/or any increase in their value during the interval of time between acquisition and disposition thereof.

Notwithstanding any other provision of these Trading Restrictions, the Issuer shall not (each of the following, a "Prohibited Activity"):

(i) act as, or engage in any activities customarily undertaken by, an agent, arranger, or structuring agent with respect to, or negotiate the terms of, any Collateral Obligation or otherwise; *provided* that, notwithstanding the foregoing, after the date on which the Issuer has acquired a Collateral Obligation, the Issuer may exercise any voting or other rights available to a holder of a Collateral Obligation under the terms of the Collateral Obligation, and may accept or reject any amendment or modification of the terms of that Collateral Obligation if (w) the amendment or modification is proposed by the obligor under that Collateral Obligation and does not require or provide for any advance of additional funds, the Collateral Obligation is not an Affiliate Collateral Obligation (as defined below), neither the Issuer nor the Portfolio Manager, nor any Affiliate of either, has participated directly or indirectly in the negotiation of the amendment or modification, and the Issuer is not the largest holder of the Collateral Obligation, or (x) the modification would not constitute a Significant Modification (for purposes of this clause, "Significant Modification" means any amendment, supplement or modification that involves (1) a change in interest rate or yield of the Collateral Obligation, (2) a change in the stated maturity or the timing of any material payment on the Collateral Obligation (including deferral of an interest payment), (3) a change in the obligor of the Collateral Obligation or (4) a change in the collateral or security for the Collateral Obligation, including the addition or deletion of a co-obligor or guarantor, all within the meaning of United States Department of the Treasury regulation section 1.1001-3), or (y) in the reasonable judgment of the Portfolio Manager, the obligor is in financial distress, the obligor was not in financial distress on the date on which the Issuer acquired such Collateral Obligation and such change in terms is desirable to protect the Issuer's investment, or (z) the Issuer has received Tax Advice that the Issuer's involvement in such amendment, supplement or modification of the terms of that

Collateral Obligation will not cause the Issuer to be treated as engaged in a trade or business within the United States for U.S. federal income tax purposes;

(ii) act as, hold itself out as, represent to others that it is, or engage in any activities customarily undertaken by, a dealer, middleman, market maker, retailer or wholesaler in any Collateral Obligations, reference obligations or hedging or derivative instruments, or hold as inventory for purposes of resale to customers, any Collateral Obligations owned by the Issuer;

(iii) perform services, or hold itself out as willing to perform services, for any person, or have or seek customers;

(iv) register as a broker-dealer under the laws of any country or political subdivision thereof, or register as, or become subject to regulatory supervision or other legal requirements under the laws of any country or political subdivision thereof as, a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business;

(v) take any action causing it to be treated as a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business for purposes of any tax, securities law or other filing or submission made to any governmental authority, any application made to a rating agency, or qualification for any exemption from tax, securities law or any other legal requirements;

(vi) hold itself out to the public as a bank, insurance company, loan originator, finance company or other institution engaged in a similar loan origination or insurance business, or hold itself out to the public, through advertising or otherwise, as originating loans or making a market in loans or other assets;

(vii) establish a branch, agency or other place of business within the United States; provided, that entering into this Agreement and the appointment of the Portfolio Manager as described herein shall not be construed as a violation of this clause (vii);

(viii) make any tax election which would cause it to be subject to United States federal, state or local income or franchise tax;

(ix) buy any security in order to earn a dealer spread or dealer mark-up over its cost; or

(x) buy any security with an expectation or intention of restructuring or entering into a workout of such security.

For purposes of this Schedule 1, "dealer" means: (a) a merchant of securities with an established place of business who in the ordinary course of business is engaged as a merchant in purchasing securities and selling them to customers with a view to the gains and profits that may be derived therefrom, and (b) a person that regularly offers to enter into, assume, offset, assign or otherwise terminate positions in derivatives with customers in the ordinary course of a trade or business, including regularly holding itself out, in the

ordinary course of its trade or business, as being willing and able to enter into either side of a derivative transaction.

Requirements With Respect to Collateral Obligations.

The Issuer may acquire Collateral Obligations only by assignment or participation, and may not execute any credit agreement whereby Collateral Obligations are issued. The Issuer shall not acquire any Collateral Obligation, or enter into any understanding, arrangement, forward sale agreement or commitment with any person to acquire any Collateral Obligation (a "Commitment"), in each case (i) prior to 48 hours after the completion of the issuance and funding of such Collateral Obligation, other than as otherwise permitted under "Forward Purchase Commitments" below, or (ii) if the Issuer would own more than 50 percent of the loan, obligation, issue, class or tranche that includes the Collateral Obligation or, if the loan, obligation, issue, class or tranche that includes that Collateral Obligation is part of a larger credit facility, more than 25 percent of that entire credit facility. In the case of any Collateral Obligation that is amended or modified in a manner that constitutes a Significant Modification after issuance and funding of such Collateral Obligation and before acquisition by the Issuer of such Collateral Obligation, any seasoning requirement set forth herein shall be computed and applied with respect to the date of such Significant Modification.

The Issuer shall not have any contractual relationship with the borrower or issuer with respect to a Collateral Obligation until the Issuer actually closes the acquisition of that Collateral Obligation. On the funding date of the Collateral Obligation, the documents relating to the Collateral Obligation shall not list the Issuer as a lender or otherwise as a party to any document relating to the issuance of the Collateral Obligation. The Issuer shall not be a signatory on any lending agreement or any other document relating to the issuance of the Collateral Obligation.

The Issuer shall not have any communications or negotiations with the borrower or issuer of any Collateral Obligation (directly or indirectly through the seller of such Collateral Obligation, the agent, negotiator, originator or structuror thereof, or any other person) prior to the completion of the issuance and funding thereof, in connection with the issuance or funding of such Collateral Obligation or commitments with respect thereto, or the Issuer's acquisition of such Collateral Obligation or the Issuer's Commitment with respect thereto, in each case, except as otherwise permitted under "Forward Purchase Commitments" below. For the avoidance of doubt, (i) the Issuer, or the Portfolio Manager or the Independent Investment Professional acting on its behalf, may, however, undertake customary due diligence communications with an issuer or obligor of any Collateral Obligation that would be reasonably necessary in order for an investor or trader to make a reasonably informed decision to acquire any such Collateral Obligation for its own account, and (ii) nothing contained herein shall prohibit expressions of interest or providing comments as to mistakes or inconsistencies in documents relating to any Collateral Obligation by the Issuer, or by the Portfolio Manager or the Independent Investment Professional acting on its behalf.

The Issuer shall not be entitled to earn or receive from any person any premium, fee, commission or other compensation for services, whether or not denominated as received for services, in connection with acquiring or disposing of a Collateral Obligation, or entering into a commitment to acquire or dispose of a Collateral Obligation, including without limitation, in each case, any amount that is attributable or otherwise determined by reference to the amount of any origination, underwriting or similar profit or related or similar fees for services earned by an underwriter, placement agent, lender, arranger, agent or other similar person in connection with the issuance or funding of a Collateral Obligation. In furtherance and not in limitation of the immediately preceding sentence, the Issuer shall not be entitled to earn or receive directly from any person any separately stated premium, fee or commission that is compensation for services or that is based upon or otherwise determined by reference to the amount of any such services. For the avoidance of doubt, the foregoing prohibition against earning or receiving fees and similar amounts shall not apply to (i) any compensation paid other than for a Prohibited Activity pursuant to the terms of any Collateral Obligation (e.g., a prepayment fee or commitment fee), (ii) any amendment or waiver fee, or (iii) any discount in the price paid by the Issuer for a Collateral Obligation from the price paid by the seller of the Collateral Obligation where such discount is attributable to the time value of money, credit quality of the related borrower, market conditions, or terms and conditions of the Collateral Obligation.

Additional Requirements With Respect to Affiliate Collateral Obligations and Transfers to Affiliates.

Except as provided below, the Portfolio Manager shall not cause the Issuer to purchase any Collateral Obligation of any borrower or issuer with respect to which the Issuer, Portfolio Manager or any of their Affiliates:

(i) acted as an underwriter, financial advisory, placement or other agent, arranger, negotiator or structuror in connection with the issuance or origination of such Collateral Obligation,

(ii) was an agent, negotiator, structuring agent, bridge loan provider (where a bridge loan is repaid by any Collateral Obligation) or member of the original lending syndicate with respect to such Collateral Obligation, or

(iii) earned or received any compensation relating to the origination of such Collateral Obligation (each such Collateral Obligation, an "Affiliate Collateral Obligation").

The Portfolio Manager on behalf of the Issuer shall be permitted to cause the Issuer to purchase Affiliate Collateral Obligations, *provided* that the following conditions are met:

(I) at least 30 days shall have passed since the issuance and funding of such Affiliate Collateral Obligation and the holder of the Collateral Obligation did not identify the obligation or security as intended for sale to the Issuer within 30 days of its issuance;

(II) following such 30-day period, the Independent Investment Professional shall have approved the purchase by the Issuer of such Affiliate Collateral Obligation after a review of the terms and conditions thereof and a determination that such transaction shall be effected on an arm's length basis and that the purchase price represents fair market value (x) by reference to dealer quotes or the price paid by an unrelated secondary buyer in a material contemporaneous sale on substantially the same terms, or (y) to the extent there is no independent sale or the price paid in such sale is not readily ascertainable, by reference to the fair market value price at which an unrelated independent secondary market acquirer would acquire such Affiliate Collateral Obligation in an arm's length transaction;

(III) the Portfolio Manager or its Affiliate, as the case may be, originated the Collateral Obligation in the ordinary course of its business and not in contemplation of its acquisition by the Issuer; and

(IV) the Issuer may not purchase any Affiliate Collateral Obligation having a greater principal amount than the principal amount of such Affiliate Collateral Obligation held following such purchase by the Portfolio Manager and its Affiliates (excluding the Issuer).

In addition, the Portfolio Manager shall not cause the Issuer to sell or assign any Collateral Obligation to the Portfolio Manager or any of its Affiliates in a transaction in which the Portfolio Manager is acting as principal for its own account or has discretionary authority to invest for the account of such Affiliate, unless such sale or assignment is consented to by the Independent Investment Professional, which consent shall not be unreasonably withheld or delayed so long as such sale or assignment is effected at the fair market value price that an unrelated independent secondary market acquirer would acquire such Collateral Obligation in an arm's length transaction. It is understood and agreed that the consent requirement of the immediately preceding sentence shall not apply to any sale or assignment of any Collateral Obligation by the Issuer to any Person whose equity is at least majority owned by the Issuer (e.g., a special purpose financing subsidiary).

Maintenance of Separate and Independent Status.

At the written request of the Portfolio Manager, the Issuer shall establish a conflicts review board or appoint an independent third party to act on behalf of the Issuer (such board or party, an "Independent Investment Professional") with respect to transactions involving any Affiliate Collateral Obligation. Any Independent Investment Professional (i) shall either (A) be an established financial institution or other financial company with experience in assessing the merits of transactions similar to the transactions involving any Affiliate Collateral Obligation or (B) be a review board comprised of one or more individuals selected by the Issuer (or at the request of the Issuer, selected by the Portfolio Manager), (ii) shall be required to assess the merits of the transaction involving any Affiliate Collateral Obligation and either grant or withhold consent to such transaction in its sole judgment and (iii) shall not be (A) affiliated with the Portfolio Manager (other

than as a holder or as a passive investor in the Issuer or an Affiliate of the Issuer) or (B) involved in the daily management and control of the Issuer.

Neither the Independent Investment Professional nor any of the employees or personnel performing duties of the Portfolio Manager on behalf of the Issuer relating to the purchase of Affiliate Collateral Obligations shall be directly or indirectly involved in any origination or underwriting activities with respect to any Collateral Obligation, or have access to any files, records, or other information that is not available to independent unrelated secondary market acquirers concerning the origination or underwriting of any such Collateral Obligation. In addition, neither the Independent Investment Professional nor any of the employees or personnel performing duties of the Portfolio Manager on behalf of the Issuer relating to the purchase of Affiliate Collateral Obligations shall be a party to any discussions or meetings relating to origination or underwriting activities with respect to any Affiliate Collateral Obligation. No employee or personnel of the Portfolio Manager who is involved in any origination or underwriting activities with respect to any Affiliate Collateral Obligation shall have any direct or indirect influence over the decision making process of the Issuer or the Independent Investment Professional with respect to the acquisition or disposition of any Affiliate Collateral Obligation on behalf of the Issuer, but no such employee or personnel shall be prohibited from making recommendations to the Independent Investment Professional. However, in all cases the decision whether to invest in an Affiliate Collateral Obligation or to sell a Collateral Obligation to the Portfolio Manager or one of its Affiliates shall be an independent decision by the Independent Investment Professional.

Revolving Collateral Obligations, Delayed Drawdown Collateral Obligations and Letter of Credit Facilities.

Neither the Issuer nor the Portfolio Manager acting on the Issuer's behalf shall acquire an interest (including by means of participation) in a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation or a letter of credit facility unless:

(i) such interest is acquired in the secondary market, the acquisition of such interest will not cause the Issuer to hold more than 25 percent of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation or letter of credit facility, and taken together with the aggregate principal amount of other such interests held by the Issuer does not exceed 15% of the aggregate principal amount of all Collateral Obligations held by the Issuer;

(ii) with respect to any Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation:

(a) neither the Issuer, the Portfolio Manager acting on behalf of the Issuer, nor the Independent Investment Professional acting on behalf of the Issuer has participated in the negotiation of the terms of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation;

(b) the terms of such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation are fixed as of the date of the Issuer's acquisition thereof and do not provide the Issuer any discretion as to whether to make advances under such Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation;

(c) more than a *de minimis* amount of such Collateral Obligation has been funded, or such loan is associated with a term loan to such borrower which has been fully funded; and

(d) the Issuer does not acquire any interest in a Revolving Collateral Obligation or Delayed Drawdown Collateral Obligation which is not associated with a term loan prior to 60 days after the issuance thereof, and all such interests combined shall not exceed 10% of the aggregate principal amount of all assets held by the Issuer; and

(iii) with respect to any letter of credit facility:

(a) (I) such letter of credit facility has been fully funded by the original lender, and such lender has completed all of its obligations with respect to that letter of credit facility (such that the letter of credit facility does not constitute to any extent a Delayed Drawdown Collateral Obligation), at least 48 hours before the Issuer committed to acquire such letter of credit facility; and

(II) the lead or agent lender or bank or other withholding agent with respect to such letter of credit will deduct and withhold all applicable withholding taxes on all payments made to the Issuer with respect to such letter of credit facility that are subject to withholding tax imposed by the United States; or

(b) (I) such letter of credit facility is associated with a term loan to such borrower which has been fully funded;

(II) all terms of such letter of credit facility were fully negotiated and final no later than the time at which the terms of the related loan were fully negotiated and final;

(III) the Issuer, or the Portfolio Manager acting on behalf of the Issuer, holds the same proportionate interest in such letter of credit facility as the proportionate interest it holds in the term loan(s) associated with such letter of credit facility; and

(IV) the lead or agent lender or bank or other withholding agent with respect to such letter of credit will deduct and withhold all applicable withholding taxes on all payments made to the Issuer with respect to such letter of credit facility that are subject to withholding tax imposed by the United States.

Forward Purchase Commitments.

The Issuer shall not have nor make any Commitment to acquire a Collateral Obligation from a seller before completion of the closing, full funding and seasoning (except, with respect to funding, in the case of a Revolving Collateral Obligation or a Delayed Drawdown Collateral Obligation) of the Collateral Obligation, except as permitted in the following provisions.

If a Commitment is made to acquire a Collateral Obligation, other than an Affiliate Collateral Obligation, from a seller before completion of the closing and full funding of the Collateral Obligation by such seller (the "Original Lender"), such commitment shall only be made pursuant to a forward sale agreement at an agreed price (a "Forward Purchase Commitment"). Any Forward Purchase Commitment with any Original Lender in respect of a Collateral Obligation may only be made after such Original Lender has delivered its own commitment to acquire its own interest in that Collateral Obligation and after all material terms of the Collateral Obligation have been agreed to.

In the process of making or negotiating to make a Forward Purchase Commitment, the Issuer shall not negotiate with respect to any term of the Collateral Obligation to which the Forward Purchase Commitment relates. The Issuer is not prevented from negotiating the terms of the Forward Purchase Commitment, including the price at which the Issuer shall acquire the Collateral Obligation to which the Forward Purchase Commitment relates.

If the Issuer enters into a Forward Purchase Commitment to acquire a Collateral Obligation, the Issuer's obligation under the Forward Purchase Commitment shall be conditioned on there being, as of the time the Issuer is to acquire the Collateral Obligation, no material adverse change in the condition of the borrower or issuer, the Collateral Obligation or the financial markets, and in all other respects, the Forward Purchase Commitment may only be conditional to the extent the related counterparty's own commitment in the origination process and funding of the Collateral Obligation is delayed, reduced or eliminated; *provided* that, notwithstanding the foregoing, a Forward Purchase Commitment shall not be required to be conditioned on the absence of a material adverse change if (y) the Issuer enters into the Forward Purchase Commitment no sooner than 48 hours after the Original Lender has delivered its own commitment with respect to the related Collateral Obligation and after all material terms of the Collateral Obligation have been agreed to, and (z) the Issuer's Commitment is documented in a form for secondary market purchases that is substantially similar to that used for commitments given by all other persons who will acquire an interest in the Collateral Obligation from the Original Lender (including as to the absence of a material adverse change condition). In the event of any delayed, reduced or eliminated funding, the Issuer shall not receive any premium, fee, or other compensation in connection with having entered into the Forward Purchase Commitment, other than commitment fees or fees in the nature of commitment fees that are customarily paid in connection with such delays, reductions or eliminations of funding of Collateral Obligations of the type permitted to be purchased by the Issuer.

The Issuer shall not have any contractual relationship with the borrower or issuer with respect to a Collateral Obligation that will be subject to a Forward Purchase Commitment

until the Issuer actually closes the acquisition of that Collateral Obligation. On the funding date of the Collateral Obligation, the documents relating to the Collateral Obligation shall not list the Issuer as a lender or otherwise as a party to any document relating to the issuance of the Collateral Obligation. The Issuer shall not be a signatory on any lending agreement or any other document relating to the issuance of the Collateral Obligation.

The Issuer shall not enter into any Forward Purchase Commitment in respect of any Affiliate Collateral Obligation. The Issuer, or Portfolio Manager or the Independent Investment Professional acting on its behalf, may, however, undertake customary due diligence communications with an issuer or obligor of an Affiliate Collateral Obligation or any other Collateral Obligation that would be reasonably necessary in order for an investor or trader to make a reasonably informed decision to acquire any such Collateral Obligation for its own account.

For the avoidance of doubt, except as provided above with respect to Forward Purchase Commitments, the Issuer may enter into a Commitment with respect to a Collateral Obligation only when the Collateral Obligation is funded and at least 48 hours have thereafter elapsed.

Equity Restrictions.

The Issuer shall not acquire (whether as part of a "unit" with a Collateral Obligation, in exchange for a Collateral Obligation, or otherwise) any asset that is treated for U.S. federal income tax purposes as:

(i) an equity interest in a partnership, a trust or a disregarded entity (unless all of the assets of such trust or disregarded entity would otherwise qualify either as Collateral Obligations hereunder or as equity interests in entities taxable as corporations for U.S. federal income tax purposes that are not ineligible to be acquired by the Issuer under clause (iv) below);

(ii) a residual interest in a "REMIC" (as such term is defined in the Code);

(iii) an ownership interest in a "FASIT" (as such term is defined in the Code); or

(iv) any asset that constitutes a "United States real property interest" ("USRPI"), including certain interests in a "United States real property holding corporation" ("USRPHC") (as such terms are defined in the Code), except that, if otherwise permitted under the Indenture, the Issuer may acquire and/or hold an interest in a USRPHC under circumstances where the USRPHC may not be liquidated, and stock of the USRPHC may not be sold, unless prior to such liquidation or sale all USRPI held by the USRPHC have been sold and all U.S. federal income taxes payable by the USRPHC have been paid, and the Issuer reasonably believes, at the time of the acquisition of the interest in the USRPHC, that the USRPHC will be liquidated or the stock of the

USRPHC will be sold (in each case, in accordance with the restrictions in this clause (iv)) prior to the liquidation of the Issuer.

Synthetic Securities.

The Issuer shall not acquire or enter into any swap transaction or security, which swap transaction or security provides for payments associated with either (i) payments of interest and/or principal on a reference obligation or (ii) the credit performance of a reference obligation.

EXHIBIT 39

EXHIBIT K

Projections of Senior Management Fees and Subordinated Management fees for each of the ACIS CLOs, used to calculate the purchase price among the parties

08/15/2016

Total Fees (Sr. + Sub)

Date	A1	A2	A3	A4	A5	A6	Total
01-Nov-16	$ 628,833	$ 501,103	$ 400,539	$ 485,582	$ 500,770	$ 565,300	$ 3,082,127
01-Feb-17	629,166	415,266	400,671	485,731	500,932	565,468	2,997,234
01-May-17	629,515	386,535	400,818	485,910	501,117	565,676	2,969,570
01-Aug-17	629,850	360,230	400,961	486,082	501,295	565,878	2,944,296
01-Nov-17	629,850	335,498	401,104	486,256	501,471	566,077	2,920,257
01-Feb-18	582,023		399,687	484,653	500,186	564,946	2,531,495
01-May-18	537,614		399,437	484,350	499,872	564,593	2,485,866
01-Aug-18	496,958		399,198	484,059	499,572	564,258	2,444,046
01-Nov-18	456,603		398,952	483,761	499,264	563,911	2,402,491
01-Feb-19	421,484		398,711	483,479	498,962	563,571	2,366,206
01-May-19	386,825		398,479	483,200	498,674	563,247	2,330,426
01-Aug-19	351,635		398,088	482,924	498,387	562,928	2,293,962
01-Nov-19	318,273		364,034	482,501	498,091	562,372	2,225,272
01-Feb-20			334,706	454,773	497,799	517,326	1,804,604
01-May-20			306,143	417,579	497,310	474,866	1,695,897
01-Aug-20			280,219	383,147	457,750	436,328	1,557,445
01-Nov-20			248,475	341,060	408,487	385,774	1,383,796
01-Feb-21			224,395	308,856	371,679	349,395	1,254,325
01-May-21			200,991	277,472	336,584	316,190	1,131,237
01-Aug-21			180,441	250,442	304,971	287,823	1,023,678
01-Nov-21				226,462	276,498	259,291	762,251
01-Feb-22				196,933	243,461		440,394
01-May-22					216,747		216,747
01-Aug-22					198,003		198,003

Aggregate fee (bps)	50	40	40	40	40	40
Sold bps	30	-	20	20	20	20

Projected Sold Amount

Date	A1	A2	A3	A4	A5	A6	Total	Cumulative
01-Nov-16	**377,300**	-	**200,269**	**242,791**	**250,385**	**282,650**	1,353,395	1,353,395
01-Feb-17	**377,500**	-	**200,336**	**242,866**	**250,466**	**282,734**	1,353,901	2,707,296
01-May-17	**377,709**	-	**200,409**	**242,955**	**250,558**	**282,838**	1,354,469	4,061,765
01-Aug-17	**377,910**	-	**200,480**	**243,041**	**250,647**	**282,939**	1,355,018	5,416,783
01-Nov-17	**377,910**	-	**200,552**	**243,128**	**250,736**	**283,039**	1,355,364	6,772,148
01-Feb-18	**349,214**	-	**199,843**	**242,327**	**250,093**	**282,473**	1,323,950	8,096,097
01-May-18	**322,569**	-	**199,718**	**242,175**	**249,936**	**282,296**	1,296,694	9,392,792
01-Aug-18	**298,175**	-	**199,599**	**242,030**	**249,786**	**282,129**	1,271,719	10,664,510
01-Nov-18	**273,962**	-	**199,476**	**241,880**	**249,632**	**281,955**	1,246,906	11,911,416
01-Feb-19	**252,890**	-	**199,355**	**241,740**	**249,481**	**281,786**	1,225,252	13,136,668
01-May-19	**232,095**	-	**199,240**	**241,600**	**249,337**	**281,623**	1,203,895	14,340,563
01-Aug-19	**210,981**	-	**199,044**	**241,462**	**249,194**	**281,464**	1,182,145	15,522,708
01-Nov-19	190,964	-	182,017	241,251	249,046	281,186	1,144,463	
01-Feb-20	-	-	167,353	227,386	248,900	258,663	902,302	
01-May-20	-	-	153,071	208,789	248,655	237,433	847,948	
01-Aug-20	-	-	140,110	191,574	228,875	218,164	778,723	
01-Nov-20	-	-	124,238	170,530	204,243	192,887	691,898	
01-Feb-21	-	-	112,197	154,428	185,840	174,697	627,163	
01-May-21	-	-	100,496	138,736	168,292	158,095	565,619	
01-Aug-21	-	-	90,221	125,221	152,486	143,911	511,839	
01-Nov-21	-	-	-	113,231	138,249	129,646	381,126	
01-Feb-22	-	-	-	98,466	121,731	-	220,197	
01-May-22	-	-	-	-	108,374	-	108,374	
01-Aug-22	-	-	-	-	99,001	-	99,001	

EXHIBIT 40

EXHIBIT L

TRANSACTION DOCUMENT

AGREEMENT FOR PURCHASE AND SALE OF CLO PARTICIPATION INTERESTS

By and between

Acis Capital Management, L.P.

and

Highland Capital Management, L.P.

Dated as of

October 7, 2016

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5.	Miscellaneous.	8

THIS AGREEMENT FOR PURCHASE AND SALE OF CLO PARTICIPATION INTERESTS (this "Agreement"), dated as of the 7th day of October, 2016, is entered into by and between ACIS CAPITAL MANAGEMENT, L.P., a Delaware limited partnership (the "Seller"), and HIGHLAND CAPITAL MANAGEMENT, L.P., a Delaware limited partnership (the "Purchaser").

RECITALS

Whereas, the Seller is the owner of certain rights to receive senior and subordinated management fees (the "Servicer Fees"), as described in Schedule A, attributable to the collateralized loan obligation issuances also listed in Schedule A (the "CLOs");

Whereas, all of the reinvestment periods of the CLOs will have expired by August 2019;

Whereas, the Seller operates an investment management business focused on sponsoring and managing collateralized loan obligations ("CLO Investments");

Whereas, Seller has recently engaged an investment bank to actively market a new CLO to prospective investors and Seller currently is uncertain as to the likelihood of success and timing of securing new investors;

Whereas, recent European and U.S. regulatory rules require sponsors of newly issued CLO investments, such as Seller, to retain during the life of the CLO, a five percent ownership interest in the equity or capital structure of the CLO (the "Risk Retention Amount");

Whereas, in order to fund the Risk Retention Amount, Seller has undertaken a joint venture with another entity to originate and sponsor new CLO investments, pursuant to which Seller is obligated to contribute fifty-one percent of the Risk Retention Amount;

Whereas, Seller has typically paid overhead expenses first with its revenue, then made an annual distribution of excess cash to the partners of Seller;

Whereas, Seller has determined to stop making annual distributions of excess cash to Seller's partners while efforts are underway to form new CLOs;

Whereas, cash flows from the Servicer Fees are unpredictable and unstable;

Whereas, Seller has determined that obtaining a guaranteed fixed amount of cash flow from Buyer is a prudent business decision in order to facilitate Seller's compliance with its

obligation to contribute funds toward the Risk Retention Amount to the joint venture entity;

Whereas, the Purchaser acknowledges it is a sophisticated investor and, in particular, has a knowledge and understanding of CLO Investments;

Whereas, the Purchaser acknowledges that it understands the inherent risk in the timing and amount of the payment of the Servicer Fees by the trustees of the respective CLOs; and

Whereas, the Purchaser acknowledges that it has undertaken all the necessary due diligence to feel comfortable in determining the inherent risks of purchasing such Servicer Fees from the Seller.

AGREEMENT

Now, therefore, in consideration of the premises and mutual agreements set forth herein, and in consideration of the mutual representations, warranties and covenants contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. Sale and Purchase of Acis Participation Interests.

Subject to and upon the terms and conditions set forth in this Agreement, the Seller hereby sells to the Purchaser, and the Purchaser hereby purchases from the Seller, participation interests in the Servicer Fees (the "ACIS Participation Interests") in an amount equal to (A) the total Servicer Fees paid to Seller by each of the CLOs beginning in November 2016 and ending August 2019 (each, with respect to both a particular CLO payor and a particular payment date, a "Servicer Fee Payment," and in the aggregate for a particular payment date the "Aggregate Servicer Fee Payment") less (B) the Servicer Fee Retention Amount with respect to each CLO, as shown on Schedule A.

Purchase Price; Additional Documents; Termination.

1.1 In consideration of the sale of the Acis Participation Interests to the Purchaser, the Purchaser shall (a) pay to the Seller an amount equal to **$666,655.00** in cash (the "Cash Purchase Price"), and (b) deliver to the Seller a promissory note (the "Note"), duly executed by the Purchaser and substantially in the form of Exhibit 1, with an initial principal balance of **$12,666,446.00** (the Cash Purchase Price and the delivery of such Note, collectively, the "Purchase Price").

1.2 The Purchaser shall pay the Cash Purchase Price to the Seller by wire transfer of immediately available funds to an account designated in writing by the Seller.

1.3 The parties acknowledge and agree that the Purchase Price reflects the arm's-length value of the Acis Participation Interests as of the date of this Agreement as determined by mutually agreed appraisal methods.

1.4 Notwithstanding any other provision of this Agreement, to the extent that the sale and purchase of the Acis Participation Interests hereunder shall require the consent or approval of another party or any governmental authority, the consummation of the transactions contemplated by this Agreement shall not constitute an assignment or an attempted assignment with respect to the Servicer Fees if such assignment or attempted assignment would constitute a breach or violation with respect to the terms of the governing CLO agreements (the "CLO Documents"). Each of the parties hereto shall use its commercially reasonable efforts to obtain any such consent or approval. If such consent or approval is not obtained, each party agrees to cooperate with the other party in any reasonable manner necessary or desirable to provide the Purchaser the benefits of the Acis Participation Interests.

1.5 In the event that any governmental entity commences a formal regulatory proceeding against Seller and within 90 days thereof (or later, but solely in the event of removal of Seller by order of such governmental entity), Seller is terminated or otherwise removed as manager of one or more of the CLOs and such governmental action results in the seizure or forfeiture of Servicer Fees, then the outstanding principal of the Note shall be reduced in proportion to the reduction in Servicer Fees resulting from such termination or seizure.

2. Representations and Warranties of the Seller.

The Seller represents and warrants to the Purchaser that each of the following representations and warranties is true and correct as of the date of this Agreement:

2.1 Organization and Authority of the Seller. The Seller is a limited partnership, duly formed, validly existing and in good standing under the laws of the State of Delaware and has requisite power and authority to enter into this Agreement and

any other agreements entered into in connection herewith and to perform its obligations hereunder and thereunder.

2.2 Title to the Acis Participation Interests. The Seller owns good and valid title to, and is the sole record and beneficial owner of, the Servicer Fees, free and clear of any and all mortgages, liens, pledges, charges, adverse rights or claims, security interests, restrictions on use and/or transfer or encumbrances of any kind (collectively, "Liens"), except as provided herein and in the CLO Documents and agreements governing the CLOs. Other than as provided in the CLO Documents, the Acis Participation Interests are not subject to any rights of first refusal or other rights to purchase such Acis Participation Interests.

2.3 Due Authorization and Enforceability. All action on the part of the Seller necessary for the authorization, execution and delivery of this Agreement and any other agreements entered into in connection herewith and the performance by the Seller of its obligations hereunder and thereunder has been taken. This Agreement and any other agreements entered into in connection herewith constitute the valid and legally binding obligations of the Seller, enforceable in accordance with their terms, except as may be limited by (a) applicable bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights generally and (b) the effect of rules of law governing the availability of equitable remedies.

2.4 Consents. Except as may be required under the CLO Documents, no consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority or any third party is required by the Seller in connection with the consummation of the transactions contemplated by this Agreement or any other agreements entered into in connection herewith.

2.5 Non-Contravention. Other than with respect to any consents required under the CLO Documents, the execution, delivery and performance of this Agreement and any other agreements entered into in connection herewith and the consummation of the transactions contemplated hereby and thereby will not result in (a) a

violation or default, or be in conflict with or constitute a default, under the Seller's organizational documents, or any agreement or contract that the Seller is party to or that its assets are bound by, (b) a violation of any statute, law, regulation or order; provided, however, that with respect to any statute, law, regulation or order applicable to any of the CLO Documents the foregoing is limited to the knowledge of the Seller, or (c) the creation of any Lien upon any asset of, or the loss of any right or asset by, the Seller that would not reasonably be expected to cause a material adverse effect on the Seller.

3. Representations and Warranties of the Purchaser.

The Purchaser represents and warrants to the Seller that each of the following representations and warranties is true and correct as of the date of this Agreement:

3.1 Organization and Authority of the Purchaser. The Purchaser is a limited liability company, duly formed, validly existing and in good standing under the laws of the State of Delaware and has requisite power and authority to enter into this Agreement and any other agreements entered into in connection herewith and to perform its obligations hereunder and thereunder.

3.2 Due Authorization and Enforceability. All action on the part of the Purchaser necessary for the authorization, execution and delivery of this Agreement and any other agreements entered into in connection herewith and the performance by the Purchaser of its obligations hereunder and thereunder has been taken. This Agreement and any other agreements entered into in connection herewith constitute the valid and legally binding obligations of the Purchaser, enforceable in accordance with their terms, except as may be limited by (a) applicable bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights generally and (b) the effect of rules of law governing the availability of equitable remedies.

3.3 Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority or any third party is required by the Purchaser in

connection with the consummation of the transactions contemplated by this Agreement or any other agreements entered into in connection herewith.

3.4 Non-Contravention. The execution, delivery and performance of this Agreement and any other agreements entered into in connection herewith and the consummation of the transactions contemplated hereby and thereby will not result in (a) a violation or default, or be in conflict with or constitute a default, under the Purchaser's organizational documents, or any agreement or contract that the Purchaser is party to or that its assets are bound by, (b) a violation of any statute, law, regulation or order, or (c) the creation of any Lien upon any asset of, or the loss of any right or asset by the Purchaser.

3.5 Information Concerning the Acis Participation Interests. The Purchaser (a) has received and had the opportunity to review information with respect to the Seller, the Acis Participation Interests, the CLOs, and the CLO Documents, (b) is familiar with the Seller, the CLOs and the CLO Documents, and (c) has been afforded the opportunity to ask questions of and received satisfactory answers concerning the Seller, the CLOs and the CLO Documents and has asked any questions the Purchaser desires to ask and all such questions have been answered to the full satisfaction of the Purchaser. The Purchaser understands that the purchase and/or receipt of the Acis Participation Interests involves various risks and that the Purchaser may lose some or all of its investment due to economic conditions that could negatively impact the CLOs and/or the Seller and/or for other unforeseen reasons. The Purchaser acknowledges and agrees that no representations or warranties have been made to the Purchaser by the Seller, or any person acting on the Seller's behalf, as to the tax consequences of this investment, or as to profits, losses or cash flow that may be received or sustained as a result of this investment. All documents, records and books pertaining to a proposed investment in and/or receipt of the Acis Participation Interests which the Purchaser has requested have been made available to the Purchaser.

3.6 Acknowledgments of the Purchaser. Subject to Section 1.5, the Purchaser acknowledges and agrees that: (a) except as provided in Section 1.5, should the

Seller's rights with respect to the Servicer Fees be terminated, such termination shall not affect the Purchaser's obligations under the Note; (b) except as provided in Section 1.5, the Seller may exercise all of its legal rights and remedies to enforce the Purchaser's obligations under the Note even if the Acis Participation Interests are not paid, in full or part, by the CLO trustees for any reason, including the termination of the Seller as the manager, a hostile buyout of such CLO, or any other reason (other than as a result of the Seller breaching its covenants under this Agreement or as a result of fraud or by willful misconduct of the Seller); and (c) Purchaser has had the opportunity to consult with its own legal counsel with respect to the purchase of the Acis Participation Interests. The Purchaser understands such actions could negatively impact the timing and amount of payment of such Acis Participation Interests during the pendency of such dispute by the trustee of such CLO. The Purchaser bears the sole risk with respect to non-payment of the Acis Participation Interests (other than as a result of the Seller breaching its covenants under this Agreement or as a result of the fraud or willful misconduct of the Seller).

3.7 No additional Representations. The Purchaser has relied solely upon its investigation and analysis and the representations and warranties of the Seller set forth in this Agreement and the Purchaser acknowledges that, other than as set forth in this Agreement, the Seller does not make any other representation or warranty, either express or implied.

4. Covenants.

4.1 Payments on the Acis Participation Interests. The Seller agrees to promptly remit, or cause to be promptly remitted, to the Purchaser the cash received with respect to the Acis Participation Interests. If the Seller is required at any time to return to any person, any portion of the payments made to the Seller pursuant to the Servicer Fees, then the Purchaser shall, on demand of the Seller, forthwith return to the Seller any such payments transferred to the Purchaser by the Seller but without interest or penalty on such payments.

4.2 Actions With Respect to Servicer Fees. Notwithstanding anything else contained in this Agreement, the Seller shall not, without the Purchaser's written consent, and other than as required by the CLO Documents, take or omit to take any action which would (a) postpone any date fixed for any payment under the CLO Documents of the Servicer Fees; (b) amend the CLO Documents so as to materially and adversely affect the payment of the Servicer Fees; or (c) release any material claim of the Seller under the CLO Documents that relates to the Servicer Fees.

4.3 Reporting. Seller shall provide Purchaser a detailed certification of any Servicer Fees received from the CLOs within forty-five (45) business days of the date such Servicer Fees are received by the Seller.

5. Miscellaneous.

5.1 Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties; provided, however, that no party hereto may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other parties hereto.

5.2 Terms Confidential. The parties agree that they will keep the terms, amounts and facts of this Agreement completely confidential, and that they will not hereafter disclose any information concerning this Agreement to anyone except their respective attorneys or accountants. Notwithstanding the foregoing prohibition, the parties shall not be prohibited from disclosing the terms, amounts and facts of this Agreement or this Agreement itself as may be requested by governmental entities or required by law.

5.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to the principles thereof relating to conflicts of law.

5.4 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.5 Headings. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to articles, sections, paragraphs, exhibits and schedules shall, unless otherwise provided, refer to articles, sections and paragraphs hereof and exhibits and schedules attached hereto, all of which exhibits and schedules are incorporated herein by reference.

5.6 Notices. All notices, demands and requests required or permitted to be given hereunder shall be in writing and shall be delivered by hand or sent by telecopy (with confirmed transmission), or sent, postage prepaid, by registered, certified or express mail, or reputable overnight courier service, and shall be deemed given when so delivered by hand, or confirmed after telecopying, or if mailed, three (3) business days after mailing (one (1) business day in the case of express mail or overnight courier service), as follows (or to such other address or telecopy number as a party shall specify by notice as provided herein to the other party hereto):

(i) if to the Purchaser:

Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Attention: Frank Waterhouse
Telephone: 972-628-4100
Facsimile: 972-628-4147

with copies to:

Hunton & Williams LLP
1145 Ross Avenue, Suite 3700
Dallas, Texas 75202
Attention: Alexander McGeoch
Telephone: 214-979-3041
Facsimile: 214-979-3938

(ii) if to the Seller:

Acis Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
Facsimile: 972-628-4147

5.7 Specific Performance. The Seller and the Purchaser agree that the rights created by this Agreement are unique and that the loss of any such rights is not susceptible to monetary quantification. Consequently, the Seller and the Purchaser agree that an action for specific performance (including for temporary and/or permanent injunctive relief) of the obligations created by this Agreement is a proper remedy for the breach of the provisions of this Agreement, and the Purchaser shall be entitled to such relief without the necessity of proving actual damages or posting a bond.

5.8 Costs, Expenses. The Seller and the Purchaser shall each pay their own costs, fees and expenses in connection with this Agreement and the transactions contemplated herein. The Seller will pay any and all transfer, recording, sales, use or similar taxes and fees in connection with the consummation of the transaction contemplated herein. If any party is forced to institute legal proceedings to enforce its rights in accordance with the provisions of this Agreement, the prevailing party shall be entitled to recover its reasonable expenses, including attorneys' fees and expenses, in connection with any such action.

5.9 Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Seller and the Purchaser.

5.10 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such

provision(s) were so excluded and shall be enforceable in accordance with its terms.

5.11 Entire Agreement. This Agreement, together with all exhibits and schedules hereto, constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, correspondence, agreements, understandings, duties or obligations between the parties with respect to the subject matter hereof.

5.12 Further Assurances. From and after the date of this Agreement, upon the reasonable request of the Purchaser, the Seller shall execute and deliver such instruments, documents or other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement.

5.13 Construction. The parties acknowledge that each has had the advice of independent counsel selected by it in connection with the terms of this Agreement. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

5.14 Arbitration. Any disputes or controversies arising out of or related to this Agreement that are not resolved by the parties shall be resolved by arbitration under the administration of the American Arbitration Association ("AAA"). The Seller and the Purchaser will seek to agree on an arbitrator. If the parties cannot agree, each of the Seller and the Purchaser will appoint an arbitrator, and such arbitrators will select a third arbitrator to serve as the sole arbitrator to determine the dispute. Such dispute or controversy shall be resolved pursuant to the rules of the AAA with the findings and any award by such arbitrator being final and binding upon all parties. Judgment on any award or finding rendered by the arbitrator may be entered in any court of proper jurisdiction. The location of any such arbitration proceedings shall be in the greater Dallas, Texas metropolitan

area or such other location as mutually agreed by the parties. Each party shall bear its own costs related to any dispute or controversy arising out of or related to this agreement. The parties agree any dispute or controversy arising out of or related to this Agreement shall be kept confidential between the relevant arbitrators, the parties, and their appointed counsel and agents.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first set forth above.

THE PURCHASER:

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its General Partner

By: _____
Name: James Dondero
Title: President

THE SELLER:

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC, its General Partner

By: _____
Name: James Dondero
Title: President

Schedule A

Participation Interests

CLO Issuer	Total Servicer Fee	Servicer Fee Retention Amount	Acis Participation Interests
Acis CLO 2013-1, Ltd.	50 bps	20 bps	30 bps
Acis CLO 2014-3, Ltd.	40 bps	20 bps	20 bps
Acis CLO 2014-4, Ltd.	40 bps	20 bps	20 bps
Acis CLO 2014-5, Ltd.	40 bps	20 bps	20 bps
Acis CLO 2015-6, Ltd.	40 bps	20 bps	20 bps

Exhibit 1

PROMISSORY NOTE

$12,666,446 October __, 2016

FOR VALUE RECEIVED, the undersigned, Highland Capital Management, L.P., a Delaware limited partnership ("Maker"), hereby promises to pay to the order of Acis Capital Management, L.P., a Delaware limited partnership ("Payee"), at its office at 300 Crescent Court, Suite 700, Dallas, Texas 75201 in lawful money of the United States of America, the principal sum of TWELVE MILLION SIX HUNDRED SIXTY-SIX THOUSAND FOUR HUNDRED FORTY-SIX DOLLARS ($12,666,446), together with interest on the outstanding principal balance thereof from day to day remaining at the rate of three percent (3%) per annum, as provided herein.

Payments

THE UNPAID PRINCIPAL HEREOF, TOGETHER WITH ALL ACCRUED AND UNPAID INTEREST THEREON, SHALL AUTOMATICALLY BE DUE AND PAYABLE IN FULL, WITHOUT NECESSITY OF DEMAND OR NOTICE, ACCORDING TO THE AMORTIZATION TABLE ATTACHED HERETO AS EXHIBIT A.

All past due principal and interest shall bear interest from and after the date when due at a rate equal to the rate equal to the lesser of (a) eighteen percent (18.0%) per annum or (b) the Maximum Rate (as defined herein).

Interest on the indebtedness evidenced by this Note shall be computed on the basis of a year of 360 days and the actual number of days elapsed (including the first day but excluding the last day) unless such calculation would result in a rate that exceeds the maximum rate allowed by applicable law (such rate, the "Maximum Rate") in which case interest shall be calculated on the basis of a year of 365 or 366 days, as the case may be. If the regularly scheduled due date for any payment under this Note is not a Business Day, the due date for such payment shall be the next succeeding Business Day, and payment made on such succeeding Business Day shall have the same force and effect as if made on the regularly scheduled due date. "Business Day" means a day, other than a Saturday, Sunday or legal holiday, on which a bank in Dallas, Texas is open for business.

Maker shall have the right to prepay this Note, in whole or in part, at any time and from time to time without premium or penalty. Amounts borrowed and repaid hereunder may not be reborrowed.

Conditions Precedent

This Note shall not become effective and Payee shall have no obligation to make the advance hereunder until Payee has received each of the following in form and substance acceptable to Payee:

(a) this Note executed by Maker;

(b) the Agreement for Purchase and Sale of CLO Participation Interests dated of even date herewith (the "Purchase Agreement"), by and between Maker and Payee, and copies of all agreements, documents and instruments executed or delivered in connection therewith and evidence that all conditions to the effectiveness of the Purchase Agreement have been or will be fulfilled contemporaneously with the initial advance under this Note;

(c) evidence that the execution, delivery and performance by Maker of this Note and all other documents and instruments related to this Note have been duly authorized by, or on behalf of, Maker; and

(d) such other agreements, documents, information, and other assurances as Payee may reasonably request.

Events of Default

Maker shall be in default under this Note upon the occurrence of any of the following events or conditions (each, an "Event of Default"):

(a) the failure of Maker to make any payment required to be made under this Note when such payment becomes due;

(b) Maker defaults in the performance of any obligation, covenant, or agreement now or hereafter made or owed by Maker to Payee, whether under this Note or any related document;

(c) any representation or warranty made by Maker to Payee in connection with this Note or any document executed or delivered in connection therewith, is false or misleading in any material respect when made;

(d) Maker shall commence a voluntary proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official for it or a substantial part of its property or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it or shall make a general assignment for the benefit of creditors or shall generally fail to pay its debts as they become due or shall take any corporate action to authorize any of the foregoing;

(e) any involuntary proceeding shall be commenced against Maker seeking liquidation, reorganization, or other relief with respect to it or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official for it or a substantial part of its property, in each case, that results in the entry of an order for any such relief or appointment that has not been vacated, discharged or stayed or bonded pending appeal within 60 days from the entry thereof;

(f) any lien, attachment, sequestration or similar proceeding against any of Maker's assets or properties other than liens in favor of Payee;

(g) any event or condition occurs that results in any indebtedness of Maker becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time, or both) the holder of such indebtedness to cause any of such indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; or

(h) the validity or enforceability of this Note shall be contested or challenged by Maker.

Remedies

Should an Event of Default exist, Payee may but without any obligation to do so, at its option and at any time, and without presentment, demand, or protest, notice of default, dishonor, demand, non-payment, or protest, notice of intent to accelerate all or any part of the advances hereunder, notice of acceleration of all or any part of the indebtedness evidenced by this Note, or notice of any other kind, all of which Maker hereby expressly waives, except for any notice required by applicable statute which cannot be waived: (a) terminate Payee's commitment to make any advances under this Note; (b) declare the indebtedness evidenced by this Note, or any part thereof, immediately due and payable, whereupon the same shall be due and payable (provided, however, that upon the occurrence of any event described in clause (e) of the definition of "Event of Default", such indebtedness shall become immediately due and payable in full without demand or acceleration); (c) reduce any claim to judgment; (d) to the maximum extent permitted under applicable laws, set-off and apply any and all deposits, funds, or assets at any time held and any and all other indebtedness at any time owing by Payee to or for the credit or the account of Maker against any and all obligations, whether or not Payee exercises any other right or remedy hereunder and whether or not such obligations are then matured; (e) may cure any Event of Default, or event of nonperformance under this Note and/or (f) exercise any and all rights and remedies afforded by this Note, or by law or equity or otherwise, as Payee deems appropriate. No failure or delay of the holder hereof to exercise any of its rights or remedies shall not constitute a waiver thereof.

If the holder hereof incurs any costs or expenses in any attempt to enforce payment of all or any part of this Note, or if this Note is placed in the hands of an attorney for collection, Maker agrees to pay all such costs fees and expenses incurred, including without limitation, reasonable attorneys' fees.

Miscellaneous

It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply with the applicable law of the State of Texas governing the maximum rate or amount of interest payable on or in connection with the indebtedness under this Note (or applicable United States federal law to the extent that it permits Payee to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If such law is ever judicially interpreted so as to render usurious any amount contracted for, charged, taken, reserved or received with respect to this Note, or if any payment by Maker results in Maker having paid any interest in excess of the amount that is permitted by such law, then it is Maker's and Payee's express intent that all excess amounts theretofore collected by Payee be credited on the principal balance hereof (or, if the principal balance has been or would thereby be paid in full, refunded to Maker), and the provisions of this Note shall immediately be deemed reformed and the amounts thereafter collectible thereunder reduced, without the necessity of the execution of any new documents, so as to comply with all such applicable laws, but so as to permit the recovery of the fullest amount otherwise called for thereunder. All sums paid or agreed to be paid to Payee for the use, forbearance or detention of money and other indebtedness evidenced by this Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the applicable usury ceiling provided by such applicable law. Notwithstanding any provision contained herein to the contrary, the total amount of interest that Maker is obligated to pay and Payee is entitled to receive with respect to this Note shall not exceed the amount calculated on a simple (i.e., non-compounded) interest basis at the maximum rate allowed by applicable law on principal amounts actually advanced hereunder to or for the account of Maker.

MAKER AND EACH SURETY, GUARANTOR, ENDORSER, AND OTHER PARTY EVER LIABLE FOR PAYMENT OF ANY SUMS OF MONEY PAYABLE ON THIS NOTE JOINTLY AND SEVERALLY WAIVE NOTICE, PRESENTMENT, DEMAND FOR PAYMENT, PROTEST, NOTICE OF PROTEST AND NON-PAYMENT OR DISHONOR, NOTICE OF ACCELERATION, NOTICE OF INTENT TO ACCELERATE, NOTICE OF INTENT TO DEMAND, DILIGENCE IN COLLECTING, GRACE, AND ALL OTHER FORMALITIES OF ANY KIND, AND CONSENT TO ALL EXTENSIONS WITHOUT NOTICE FOR ANY PERIOD OR PERIODS OF TIME AND PARTIAL PAYMENTS,

BEFORE OR AFTER MATURITY, AND ANY IMPAIRMENT OF ANY COLLATERAL SECURING THIS NOTE, ALL WITHOUT PREJUDICE TO THE HOLDER. Without limiting the foregoing, any notice or demand upon Maker in connection with this Note shall be in writing and shall become effective (a) upon personal delivery, (b) three (3) days after it shall have been mailed by United States mail, first class, certified or registered, with postage prepaid or (c) when properly transmitted by telecopy, in each case addressed to Maker's address for notice specified in connection with its signature below.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. THIS NOTE IS PERFORMABLE IN DALLAS COUNTY, TEXAS. ANY ACTION OR PROCEEDING UNDER OR IN CONNECTION WITH THIS NOTE AGAINST MAKER OR ANY OTHER PARTY EVER LIABLE FOR PAYMENT OF ANY SUMS OF MONEY PAYABLE ON THIS NOTE MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT IN DALLAS COUNTY, TEXAS. MAKER AND EACH SUCH OTHER PARTY HEREBY IRREVOCABLY (I) SUBMITS TO THE NONEXCLUSIVE JURISDICTION OF SUCH COURTS AND (II) WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH ACTION OR PROCEEDING BROUGHT IN SUCH COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL AFFECT THE RIGHT OF PAYEE TO BRING ANY ACTION OR PROCEEDING AGAINST MAKER OR ANY OTHER PARTY LIABLE HEREUNDER OR WITH RESPECT TO ANY COLLATERAL IN ANY STATE OR FEDERAL COURT IN ANY OTHER JURISDICTION. ANY ACTION OR PROCEEDING BY MAKER OR ANY OTHER PARTY LIABLE HEREUNDER AGAINST PAYEE SHALL BE BROUGHT ONLY IN A COURT LOCATED IN DALLAS COUNTY, TEXAS.

MAKER AND PAYEE EACH IRREVOCABLY WAIVES ITS RIGHT TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY KIND BROUGHT BY EITHER AGAINST THE OTHER, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. MAKER AND PAYEE EACH AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT ITS RIGHT TO A TRIAL BY JURY IS WAIVED AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS NOTE OR ANY PROVISION HEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS NOTE, WHETHER OR NOT SPECIFICALLY SET FORTH THEREIN.

This Note embodies the final, entire agreement of Maker and Payee with respect to the indebtedness evidenced hereby and supersedes any and all prior commitments, agreements, representations and understandings, whether written or oral, relating thereto and may not be contradicted or varied by evidence of prior, contemporaneous or subsequent oral agreements or discussions of Maker and Payee. There are no oral agreements between Maker and Payee.

Signed effective as of the date of this Note.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its general partner

By: _____
Name: _____
Title: _____

Maker's address for notice:

HIGHLAND CAPITAL MANAGEMENT, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Attention: Frank Waterhouse
Fax: 972-628-4147

EXHIBIT A

Amortization Schedule

Interest Rate	3.0%				
Payment Date	Beg Principal	Interest	Principal	Payment	End Principal
10/7/2016	12,666,446				12,666,446
5/31/2017	12,666,446	245,694	3,125,000	3,370,694	9,541,446
5/31/2018	9,541,446	286,243	5,000,000	5,286,243	4,541,446
5/31/2019	4,541,446	136,243	4,541,446	4,677,690	-

EXHIBIT 41

EXHIBIT M

PROMISSORY NOTE

PROMISSORY NOTE

$12,666,446 October 7, 2016

FOR VALUE RECEIVED, the undersigned, Highland Capital Management, L.P., a Delaware limited partnership ("Maker"), hereby promises to pay to the order of Acis Capital Management, L.P., a Delaware limited partnership ("Payee"), at its office at 300 Crescent Court, Suite 700, Dallas, Texas 75201 in lawful money of the United States of America, the principal sum of TWELVE MILLION SIX HUNDRED SIXTY-SIX THOUSAND FOUR HUNDRED FORTY-SIX DOLLARS ($12,666,446), together with interest on the outstanding principal balance thereof from day to day remaining at the rate of three percent (3%) per annum, as provided herein.

Payments

THE UNPAID PRINCIPAL HEREOF, TOGETHER WITH ALL ACCRUED AND UNPAID INTEREST THEREON, SHALL AUTOMATICALLY BE DUE AND PAYABLE IN FULL, WITHOUT NECESSITY OF DEMAND OR NOTICE, ACCORDING TO THE AMORTIZATION TABLE ATTACHED HERETO AS EXHIBIT A.

All past due principal and interest shall bear interest from and after the date when due at a rate equal to the rate equal to the lesser of (a) eighteen percent (18.0%) per annum or (b) the Maximum Rate (as defined herein).

Interest on the indebtedness evidenced by this Note shall be computed on the basis of a year of 360 days and the actual number of days elapsed (including the first day but excluding the last day) unless such calculation would result in a rate that exceeds the maximum rate allowed by applicable law (such rate, the "Maximum Rate") in which case interest shall be calculated on the basis of a year of 365 or 366 days, as the case may be. If the regularly scheduled due date for any payment under this Note is not a Business Day, the due date for such payment shall be the next succeeding Business Day, and payment made on such succeeding Business Day shall have the same force and effect as if made on the regularly scheduled due date. "Business Day" means a day, other than a Saturday, Sunday or legal holiday, on which a bank in Dallas, Texas is open for business.

Maker shall have the right to prepay this Note, in whole or in part, at any time and from time to time without premium or penalty. Amounts borrowed and repaid hereunder may not be reborrowed.

Conditions Precedent

This Note shall not become effective and Payee shall have no obligation to make the advance hereunder until Payee has received each of the following in form and substance acceptable to Payee:

(a) this Note executed by Maker;

(b) the Agreement for Purchase and Sale of CLO Participation Interests dated of even date herewith (the "Purchase Agreement"), by and between Maker and Acis Capital Management, LP, a Delaware limited partnership ("Highland"), and copies of all agreements, documents and instruments executed or delivered in connection therewith and evidence that all conditions to the effectiveness of the Purchase Agreement have been or will be fulfilled contemporaneously with the initial advance under this Note;

(c) evidence that the execution, delivery and performance by Maker of this Note and all other documents and instruments related to this Note have been duly authorized by, or on behalf of, Maker;

(d) true and correct copies of the organizational documents of Maker; and

(e) such other agreements, documents, information, and other assurances as Payee may reasonably request.

Events of Default

Maker shall be in default under this Note upon the occurrence of any of the following events or conditions (each, an "Event of Default"):

(a) the failure of Maker to make any payment required to be made under this Note when such payment becomes due;

(b) Maker defaults in the performance of any obligation, covenant, or agreement now or hereafter made or owed by Maker to Payee, whether under this Note or any related document;

(c) any representation or warranty made by Maker to Payee in connection with this Note or any document executed or delivered in connection therewith, is false or misleading in any material respect when made;

(d) Maker shall commence a voluntary proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official for it or a substantial part of its property or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it or shall make a general assignment for the benefit of creditors or shall generally fail to pay its debts as they become due or shall take any corporate action to authorize any of the foregoing;

(e) any involuntary proceeding shall be commenced against Maker seeking liquidation, reorganization, or other relief with respect to it or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian, or other similar official for it or a substantial part of its property;

(f) any lien, attachment, sequestration or similar proceeding against any of Maker's assets or properties other than liens in favor of Payee and liens in favor of Highland;

(g) any event or condition occurs that results in any indebtedness of Maker becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time, or both) the holder of such indebtedness to cause any of such indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; or

(i) the validity or enforceability of this Note shall be contested or challenged by Maker.

Remedies

Should an Event of Default exist, Payee may but without any obligation to do so, at its option and at any time, and without presentment, demand, or protest, notice of default, dishonor, demand, non-payment, or protest, notice of intent to accelerate all or any part of the advances hereunder, notice of acceleration of all or any part of the indebtedness evidenced by this Note, or notice of any other kind, all of which Maker hereby expressly waives, except for any notice required by applicable statute which cannot be waived: (a) terminate Payee's commitment to make any advances under this Note; (b) declare the indebtedness evidenced by this Note, or any part thereof, immediately due and payable, whereupon the same shall be due and payable (provided, however, that upon the occurrence of any event described in clause (e) of the definition of "Event of Default", such indebtedness shall become immediately due and payable in full without demand or acceleration); (c) reduce any claim to judgment; (d) to the maximum extent permitted under applicable laws, set-off and apply any and all deposits, funds, or assets at any time held and any and all other indebtedness at any time owing by Payee to or for the credit or the account of Maker against any and all obligations, whether or not Payee exercises any other right or remedy hereunder and whether or not such obligations are then matured; (e) may cure any Event of Default, or event of nonperformance under this Note and/or (f) exercise any and all rights and remedies afforded by this Note, or by law or equity or otherwise, as Payee deems appropriate. No failure or delay of the holder hereof to exercise any of its rights or remedies shall not constitute a waiver thereof.

If the holder hereof incurs any costs or expenses in any attempt to enforce payment of all or any part of this Note, or if this Note is placed in the hands of an attorney for collection, Maker agrees to pay all such costs fees and expenses incurred, including without limitation, reasonable attorneys' fees.

Miscellaneous

It is expressly stipulated and agreed to be the intent of Maker and Payee at all times to comply with the applicable law of the State of Texas governing the maximum rate or amount of interest payable on or in connection with the indebtedness under this Note (or applicable United States federal law to the extent that it permits Payee to contract for, charge, take, reserve or receive a greater amount of interest than under Texas law). If such law is ever judicially interpreted so as to render usurious any amount contracted for, charged, taken, reserved or received with respect to this Note, or if any payment by Maker results in Maker having paid any interest in excess of the amount that is permitted by such law, then it is Maker's and Payee's express intent that all excess amounts theretofore collected by Payee be credited on the principal balance hereof (or, if the principal balance has been or would thereby be paid in full, refunded to Maker), and the provisions of this Note shall immediately be deemed reformed and the amounts thereafter collectible thereunder reduced, without the necessity of the execution of any new documents, so as to comply with all such applicable laws, but so as to permit the recovery of the fullest amount otherwise called for thereunder. All sums paid or agreed to be paid to Payee for the use, forbearance or detention of money and other indebtedness evidenced by this Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the rate or amount of interest on account of such indebtedness does not exceed the applicable usury ceiling provided by such applicable law. Notwithstanding any provision contained herein to the contrary, the total amount of interest that Maker is obligated to pay and Payee is entitled to receive with respect to this Note shall not exceed the amount calculated on a simple (i.e., non-compounded) interest basis at the maximum rate allowed by applicable law on principal amounts actually advanced hereunder to or for the account of Maker.

MAKER AND EACH SURETY, GUARANTOR, ENDORSER, AND OTHER PARTY EVER LIABLE FOR PAYMENT OF ANY SUMS OF MONEY PAYABLE ON THIS NOTE JOINTLY AND SEVERALLY WAIVE NOTICE, PRESENTMENT, DEMAND FOR PAYMENT, PROTEST, NOTICE OF PROTEST AND NON-PAYMENT OR DISHONOR, NOTICE OF ACCELERATION, NOTICE OF INTENT TO ACCELERATE, NOTICE OF INTENT TO DEMAND, DILIGENCE IN COLLECTING, GRACE, AND ALL OTHER FORMALITIES OF ANY KIND, AND CONSENT TO ALL EXTENSIONS WITHOUT NOTICE FOR ANY PERIOD OR PERIODS OF TIME AND PARTIAL PAYMENTS,

BEFORE OR AFTER MATURITY, AND ANY IMPAIRMENT OF ANY COLLATERAL SECURING THIS NOTE, ALL WITHOUT PREJUDICE TO THE HOLDER. Without limiting the foregoing, any notice or demand upon Maker in connection with this Note shall be in writing and shall become effective (a) upon personal delivery, (b) three (3) days after it shall have been mailed by United States mail, first class, certified or registered, with postage prepaid or (c) when properly transmitted by telecopy, in each case addressed to Maker's address for notice specified in connection with its signature below.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. THIS NOTE IS PERFORMABLE IN DALLAS COUNTY, TEXAS. ANY ACTION OR PROCEEDING UNDER OR IN CONNECTION WITH THIS NOTE AGAINST MAKER OR ANY OTHER PARTY EVER LIABLE FOR PAYMENT OF ANY SUMS OF MONEY PAYABLE ON THIS NOTE MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT IN DALLAS COUNTY, TEXAS. MAKER AND EACH SUCH OTHER PARTY HEREBY IRREVOCABLY (I) SUBMITS TO THE NONEXCLUSIVE JURISDICTION OF SUCH COURTS AND (II) WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH ACTION OR PROCEEDING BROUGHT IN SUCH COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL AFFECT THE RIGHT OF PAYEE TO BRING ANY ACTION OR PROCEEDING AGAINST MAKER OR ANY OTHER PARTY LIABLE HEREUNDER OR WITH RESPECT TO ANY COLLATERAL IN ANY STATE OR FEDERAL COURT IN ANY OTHER JURISDICTION. ANY ACTION OR PROCEEDING BY MAKER OR ANY OTHER PARTY LIABLE HEREUNDER AGAINST PAYEE SHALL BE BROUGHT ONLY IN A COURT LOCATED IN DALLAS COUNTY, TEXAS.

MAKER AND PAYEE EACH IRREVOCABLY WAIVES ITS RIGHT TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS NOTE OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY KIND BROUGHT BY EITHER AGAINST THE OTHER, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. MAKER AND PAYEE EACH AGREES THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT ITS RIGHT TO A TRIAL BY JURY IS WAIVED AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS NOTE OR ANY PROVISION HEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS NOTE, WHETHER OR NOT SPECIFICALLY SET FORTH THEREIN.

This Note embodies the final, entire agreement of Maker and Payee with respect to the indebtedness evidenced hereby and supersedes any and all prior commitments, agreements, representations and understandings, whether written or oral, relating thereto and may not be contradicted or varied by evidence of prior, contemporaneous or subsequent oral agreements or discussions of Maker and Payee. There are no oral agreements between Maker and Payee.

Signed effective as of the date of this Note.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., general partner

By: _____
Name: James Dondero
Title: President

Maker's address for notice:

HIGHLAND CAPITAL MANAGEMENT, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201
Attention: Frank Waterhouse
Fax: 972-628-4147

EXHIBIT A

Amortization Schedule

Interest Rate	3.0%				
Payment Date	Beg Principal	Interest	Principal	Payment	End Principal
10/7/2016	12,666,446				12,666,446
5/31/2017	12,666,446	245,694	3,125,000	3,370,694	9,541,446
5/31/2018	9,541,446	286,243	5,000,000	5,286,243	4,541,446
5/31/2019	4,541,446	136,243	4,541,446	4,677,690	-

EXHIBIT 42

EXHIBIT N

Bank statements of ACIS and Buyer evidencing the cash payment made upon execution of the Transaction Document

NEXBANK
2515 McKinney Avenue, 11th Floor
Dallas, Texas 75201
972.934.4700
www.NexBank.com

Highland Capital Management LP
300 Crescent Court Suite 700
Dallas TX 75201

NexBank's Privacy Notice, which has not changed, is available on our website at www.NexBank.com/files/privacynotice.pdf. If you would like a copy of our Privacy Notice mailed to you, please call us at 972-934-4700.

Checking Account/s

Account Type: Highland Capital Management LP

Analysis Checking w/ Interest

Account Number	1614130	Statement Dates	10/03/16 thru 10/31/16
Last Statement Balance	45,374.09	Days in the statement period	29
13 Deposits/Credits	14,337,977.92	Average Ledger	1,325,560.26
2 Checks/Debits	11,666,655.00	Average Collected	1,325,560.26
Service Charge	.00	Interest Earned	577.67
Interest Paid	579.04	Annual Percentage Yield Earned	0.55%
This Statement Balance	2,717,276.05	2016 Interest Paid	17,979.60

Deposits and Additions

Date	Description	Amount
10/04	IB Transfer from D ****094 to D ****130	54,371.77
10/04	IB Transfer from D ****415 to D ****130	221,581.00
10/05	IB Transfer from D ****171 to D ****130	50,787.77
10/07	IB Transfer from D ****656 to D ****130	600,000.00
10/14	IB Transfer from D ****134 to D ****130	438,465.37
10/14	Transfer	10,999,250.00
10/18	IB Transfer from D ****513 to D ****130	548.30
10/18	IB Transfer from D ****134 to D ****130	377,299.93

NEXBANK
2515 McKinney Avenue, 11th Floor
Dallas, Texas 75201
972.934.4700
www.NexBank.com

Analysis Checking w/ Interest 1614130 (Continued)

Deposits and Additions

Date	Description	Amount
10/18	IB Transfer from D ****134 to D ****130	440,183.26
10/20	IB Transfer from D ****134 to D ****130	280,160.11
10/25	IB Transfer from D ****415 to D ****130	65,330.41
10/28	IB Transfer from D ****656 to D ****130	800,000.00
10/31	IB Transfer from D ****976 to D ****130	10,000.00
10/31	Interest Deposit	579.04

Checks and Withdrawals

Date	Description	Amount
10/12	IB Transfer from D ****130 to D ****134	666,655.00-
10/14	IB Transfer from D ****130 to D ****884	11,000,000.00-

Daily Balance Information

Date	Balance	Date	Balance	Date	Balance
10/03	45,374.09	10/12	305,459.63	10/25	1,906,697.01
10/04	321,326.86	10/14	743,175.00	10/28	2,706,697.01
10/05	372,114.63	10/18	1,561,206.49	10/31	2,717,276.05
10/07	972,114.63	10/20	1,841,366.60		

Interest Rate Summary

Date	Rate
10/02	0.550000%

NEXBANK
2515 McKinney Avenue, 11th Floor
Dallas, Texas 75201
972.934.4700
www.NexBank.com

Analysis Checking w/ Interest 1614130 (Continued)

End of Statement

MEMBER FDIC

NOTICE: SEE LAST PAGE FOR IMPORTANT INFORMATION

Payments received at the address indicated on this statement by 3:00 pm. Central Standard Time each banking day will be credited as of that date.

OUTSTANDING CHECKS

Reconciliation of Account

CHECKS WRITTEN BUT NOT PAID

NUMBER	AMOUNT		

Total of Checks not paid				Total of Checks not paid			
THIS AMOUNT SHOULD EQUAL YOUR CHECKBOOK BALANCE->							

Any Charge for Imprinted Checks Includes State Sales Tax Computed at the Current Rate, When Applicable
Notice: The Annual Percentage Rate and Daily Periodic Rate may vary.

EXPLANATION OF BALANCE ON WHICH THE INTEREST CHARGE IS COMPUTED

We figure the interest charge on your account by applying the periodic rate to the "daily balance" of your account for each day in the billing cycle. To get the "daily balance" we take the beginning balance of your account each day, add any new advances/fees, and subtract any unpaid interest or other finance charges and any payments or credits. This gives us the daily balance.

WHAT TO DO IF YOU THINK YOU FIND A MISTAKE ON YOUR STATEMENT

If you think there is an error on your statement, write to us at:
NexBank
2515 McKinney Avenue, 11th Floor
Dallas, Texas 75201
You may also contact us on the Web: www.nexbank.com
In your letter, give us the following information:

- Account Information: Your name and account number.
- Dollar Amount: The dollar amount of the suspected error.
- Description of Problem: If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.

You must contact us within 60 days after the error appeared on your statement.
You must notify us of any potential errors in writing or electronically. You may call us, but if you do we are not required to investigate any potential errors and you may have to pay the amount in question.
While we investigate whether or not there has been an error, the following are true:

- We cannot try to collect the amount in question, or report you as delinquent on that amount.
- The charge in question may remain on your statement, and we may continue to charge you interest on that amount. But, if we determine that we made a mistake, you will not have to pay the amount in question or any interest or other fees related to that amount.
- While you do not have to pay the amount in question, you are responsible for the remainder of your balance.
- We can apply any unpaid amount against your credit limit.

IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR ELECTRONIC TRANSFERS

In Case of Errors or Questions About Your Electronic Transfers, Telephone us at 972.934.4700 or Write us at NexBank, 2515 McKinney Avenue, 11th Floor, Dallas, Texas 75201 as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer on the statement or receipt. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared.

(1) Tell us your name and account number (if any).
(2) Describe the error or transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
(3) Tell us the dollar amount of the suspected error.

We will investigate your complaint and will correct any error promptly. If we take more than 10 business days to do this, we will credit your account for the amount you think is in error, so that you will have use of the money during the time it takes us to complete our investigation.

NEXBANK
2515 McKinney Avenue, 11th Floor
Dallas, Texas 75201
972.934.4700
www.NexBank.com

ACIS Capital Management L P
300 Crescent Court Suite 700
Dallas TX 75201

NexBank's Privacy Notice, which has not changed, is available on our website at www.NexBank.com/files/privacynotice.pdf. If you would like a copy of our Privacy Notice mailed to you, please call us at 972-934-4700.

Checking Account/s

Account Type: ACIS Capital Management L P

Commercial Interest Checking

Account Number	1612134	Statement Dates	10/03/16 thru 10/31/16
Last Statement Balance	1,730,012.75	Days in the statement period	29
6 Deposits/Credits	2,433,197.73	Average Ledger	2,284,755.49
8 Checks/Debits	1,595,468.74	Average Collected	2,284,755.49
Service Charge	.00	Interest Earned	271.55
Interest Paid	285.73	Annual Percentage Yield Earned	0.15%
This Statement Balance	2,568,027.47	2016 Interest Paid	3,758.80

Deposits and Additions

Date	Description	Amount
10/12	IB Transfer from D ****130 to D ****134	666,655.00
10/14	INCOMING WIRE ACIS CLO 2013 2 LTD PAYMENT	501,103.28
10/18	INCOMING WIRE ACIS CAPITAL MANAGEMENT LP	239,089.12
10/18	INCOMING WIRE ACIS CLO 2013-1 LTD 300 CRESCE	251,533.29
10/18	INCOMING WIRE ACIS CLO 2013-1 LTD 300 CRESCE	377,299.93
10/20	INCOMING WIRE BAYVK R2 LUX SA SICAV-FIS-HIGH	397,517.11
10/31	Interest Deposit	285.73

NEXBANK
2515 McKinney Avenue, 11th Floor
Dallas, Texas 75201
972.934.4700
www.NexBank.com

Commercial Interest Checking 1612134 (Continued)

Checks and Withdrawals

Date	Description	Amount
10/11	OUTGOING WIRE DAVID SIMEK	1,974.25-
10/14	IB Transfer from D ****134 to D ****130	438,465.37-
10/18	IB Transfer from D ****134 to D ****130	377,299.93-
10/18	IB Transfer from D ****134 to D ****130	440,183.26-
10/19	OUTGOING WIRE HIGHFIELD EQUITIES INC	9,164.56-
10/19	OUTGOING WIRE KENNEDY LEGAL FIRM TRUST ACCT	23,221.26-
10/20	IB Transfer from D ****134 to D ****130	280,160.11-
10/31	OUTGOING WIRE DAVID SIMEK	25,000.00-

Daily Balance Information

Date	Balance	Date	Balance	Date	Balance
10/03	1,730,012.75	10/14	2,457,331.41	10/20	2,592,741.74
10/11	1,728,038.50	10/18	2,507,770.56	10/31	2,568,027.47
10/12	2,394,693.50	10/19	2,475,384.74		

Interest Rate Summary

Date	Rate
10/02	0.150000%

End of Statement

NEXBANK™

Payments received at the address indicated on this statement by 3:00 pm. Central Standard Time each banking day will be credited as of that date.

OUTSTANDING CHECKS

Reconciliation of Account

CHECKS WRITTEN BUT NOT PAID

NUMBER	AMOUNT		

RECONCILIATION INSTRUCTIONS

Date _____

Please examine this statement and items at once and refer any exceptions immediately.

Sort your checks numerically or by date issued.

Mark off in your checkbook each of your checks paid by the bank and list the numbers and amounts of those not paid in the space provided at the left. Include any checks still not paid from previous statements.

Subtract from your checkbook balance any SERVICE CHARGE (S.C.) or bank charge appearing on this statement.

Reconcile your statement in the

				Statement period below.			
				Enter bank balance from statement			
				Add deposits not credited by bank (if any)			
				TOTAL			
Total of Checks not paid				Subtract total of checks not paid			
				THIS AMOUNT SHOULD EQUAL YOUR CHECKBOOK BALANCE->			

Any Charge for Imprinted Checks Includes State Sales Tax Computed at the Current Rate, When Applicable
Notice: The Annual Percentage Rate and Daily Periodic Rate may vary.

EXPLANATION OF BALANCE ON WHICH THE INTEREST CHARGE IS COMPUTED

We figure the interest charge on your account by applying the periodic rate to the "daily balance" of your account for each day in the billing cycle. To get the "daily balance" we take the beginning balance of your account each day, add any new advances/fees, and subtract any unpaid interest or other finance charges and any payments or credits. This gives us the daily balance.

WHAT TO DO IF YOU THINK YOU FIND A MISTAKE ON YOUR STATEMENT

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NexBank
2515 McKinney Avenue, 11th Floor
Dallas, Texas 75201
You may also contact us on the Web: www.nexbank.com
In your letter, give us the following information:

- Account Information: Your name and account number.
- Dollar Amount: The dollar amount of the suspected error.
- Description of Problem: If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.

You must contact us within 60 days after the error appeared on your statement.
You must notify us of any potential errors in writing or electronically. You may call us, but if you do we are not required to investigate any potential errors and you may have to pay the amount in question.
While we investigate whether or not there has been an error, the following are true:

- We cannot try to collect the amount in question, or report you as delinquent on that amount.
- The charge in question may remain on your statement, and we may continue to charge you interest on that amount. But, if we determine that we made a mistake, you will not have to pay the amount in question or any interest or other fees related to that amount.
- While you do not have to pay the amount in question, you are responsible for the remainder of your balance.
- We can apply any unpaid amount against your credit limit.

IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR ELECTRONIC TRANSFERS

In Case of Errors or Questions About Your Electronic Transfers, Telephone us at 972.934.4700 or Write us at NexBank, 2515 McKinney Avenue, 11th Floor, Dallas, Texas 75201 as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer on the statement or receipt. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared.

(1) Tell us your name and account number (if any).
(2) Describe the error or transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
(3) Tell us the dollar amount of the suspected error.

We will investigate your complaint and will correct any error promptly. If we take more than 10 business days to do this, we will credit your account for the amount you think is in error, so that you will have use of the money during the time it takes us to complete our investigation.

EXHIBIT 43

EXHIBIT O

CERTIFICATE OF REPRESENTATIONS OF ACIS

CERTIFICATE of REPRESENTATIONS

Reference is hereby made to that certain U.S. federal income tax opinion, dated January 31, 2017 (the "**Tax Opinion**"), provided by Hunton & Williams LLP to Acis Capital Management, L.P. ("**ACIS**") regarding certain U.S. federal income tax issues, including the treatment of any gain from the Transaction (as defined in the Tax Opinion). Each term herein with an initial capital not required by standard capitalization rules is a defined term, and each such term not parenthetically defined herein shall have the meaning ascribed to it in the Tax Opinion.

ACIS understands that Hunton & Williams LLP is relying upon the validity of each of the statements set forth below as the factual basis for the conclusions expressed in the Tax Opinion and that any inaccuracy in the matters set forth herein could adversely affect the conclusions in the Tax Opinion. ACIS hereby represents, warrants, covenants and certifies, after reasonable investigation and review and consultation as appropriate, as follows below.

1. The summary of facts set forth in Part II of the Tax Opinion and *Exhibits A - N* attached to the Tax Opinion are accurate and complete in all material respects.

2. ACIS is and has been during all relevant times properly treated as a partnership for U.S. federal income tax purposes.

3. The Portfolio Management Agreements (as defined in the Tax Opinion) are in accord with market standard collateralized loan obligation ("**CLO**") cash and synthetic securitizations generally, and the obligations of ACIS under the Portfolio Management Agreements are consistent with industry standards and are substantially in accord with those of other similar CLOs.

4. Based on industry standards, the rights that ACIS retains, with respect to each CLO, to the remaining Senior Management Fees and Subordinated Management Fees, as well as all of the Incentive Management Fees (each as defined in the Portfolio Management Agreements) (the "**Retained Fees**") represents industry standard reasonable compensation for performing the services under the Portfolio Management Agreements. For this purpose, reasonable compensation means that, as of the relevant acquisition date, ACIS would not have paid (or required an upfront payment from a seller) to acquire the Portfolio Management Agreements if its servicing compensation consisted of only the Retained fees. The Retained Fees will not have more than a nominal value in relation to the expected costs of servicing the CLOs pursuant to the Portfolio Management Agreements.

5. ACIS has no intention to or reason to believe it will not fulfill the obligations related to the Portfolio Management Agreements and has no current intention to terminate the Portfolio Management Agreements or reason to believe that it will be terminated under the Portfolio Management Agreements.

6. During the Warehouse Period for each CLO, ACIS did not have the economic benefits and burdens of ownership of the assets acquired for the related CLOs.

7. For U.S. federal income tax purposes, any taxable gain or loss in respect of the sale of the interests in Senior Management Fees and Subordinated Management Fees (the "**Participation Interests**") conveyed to Highland Capital Management, L.P. ("**Buyer**"), under the Transaction Document (as defined in the Tax Opinion) will be calculated using a zero basis for such Participation Interests.

8. The parties to the Transaction believe and intend that the promissory note for $12,666,446 that Buyer gave to ACIS for the Participation Interests will be paid in accordance with its terms.

9. For U.S. federal income tax purposes, any previously reported income in respect of fee payments received pursuant to the Participation Interests has been reported by ACIS as ordinary income.

IN WITNESS WHEREOF, ACIS has executed this Certificate under seal by its duly authorized representative as of January 31, 2017.

[Signature Page Follows]

Acis Capital Management, L.P.
Certificate of Representations
January 31, 2017

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC,
its General Partner

By: _____
Name: JAMES DONDERO
Title: PRESIDENT

EXHIBIT 44

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of January 29, 2018

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"When you reach the end of your rope, tie a knot in it and hang on."
- Franklin D. Roosevelt

Weekly Budget Checklist - Talking Points
Week of
1/29/2018

Talking Points of the week:

Today's Beginning Operating Cash (000s)	**$**	**1,223**
Today's Money Market Balance (000s)		**10**
Today's Total HCMLP Available Cash (000s)	**$**	**1,233**
Today's HCMF Cash (000s)	**$**	**1,229**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**773**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**3,869**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**7,446**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(35,833)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**2,056**
Today's Current Margin Balance - Services (000s)	**$**	**(7,921)**
Today's Current Portfolio Margin - Select (000s)	**$**	**259**
Today's Current Margin Balance - Select (000s)	**$**	**(75,236)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of January 22, 2018

(in thousands)

	01.22.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 2,314	$ 2,314	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	364	364	Timing difference: moved from week of 01.29 to week of 01.22
Private Equity (includes PetroCap Royalty)	-	-	-	
Separate Accounts	373	-	(373)	Timing difference: moved from week of 01.22 to week of 01.29
Total Management Fees	$ 373	$ 364	$ (9)	
Shared Services	-	(258)	(258)	
Fund Reimbursements	-	4	4	
Other	-	-	-	
Total Operating Receipts	$ 373	$ 110	$ (263)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(100)	-	100	
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (100)	$ -	$ 100	
General Overhead				
Legal	(30)	(36)	(6)	
General Overhead	(400)	541	941	$450 from HCMFA, $350 from NPA, $(141) timing difference
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (430)	$ 505	$ 935	
Net Change in Cash Due to Operating Activities	**(157)**	**615**	**772**	
Other				
One-Time Payments	-	(1,560)	(1,560)	Timing difference; CLO capital commitment
Total Other	$ -	$ (1,560)	$ (1,560)	
Ending Cash Before Restricted	**$ 2,157**	**$ 1,369**	**$ (788)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 2,032**	**$ 1,244**	**$ (788)**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	01.22.18	01.29.18	B/(W)	Notes:
Beginning Cash for the week beginning 01.29.18	$ 2,157	$ 1,369	$ (788)	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	13,077	13,132	55	Updated for 02.01 flows
Hedge Funds	4,375	4,020	(355)	Timing difference: moved from week of 01.29 to week of 01.22
Private Equity (includes PetroCap Royalty)	2,940	2,940	-	
Retail Sub-Advisory Fees	2,772	2,772	-	
Separate Accounts	17,918	18,291	373	Timing difference: moved from week of 01.22 to week of 01.29
Total Management Fees	$ 41,082	$ 41,155	$ 73	
Shared Service Receipts	10,769	10,769	-	
Fund Reimbursements	4,373	4,737	364	Updated for 02.01 flows
Other	10	10	-	
Total Operating Receipts	$ 56,234	$ 56,671	$ 437	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(21,618)	(21,618)	-	
Severance Payments	(370)	(370)	-	
Cash Bonus Awards	(17,627)	(18,538)	(911)	Updated for current/future employee roster & deferred awards
Total Compensation and Benefits	$ (39,615)	$ (40,526)	$ (911)	
General Overhead				
Legal	(4,484)	(4,484)	-	
General Overhead	(19,955)	(20,096)	(141)	Timing difference: moved from week of 01.22 to week of 01.29
HC of NY Overhead	(845)	(845)	-	
Interest Payments and Financing Costs	(175)	(175)	-	
Total General Overhead	$ (25,459)	$ (25,600)	$ (141)	
Net Change in Cash Due to Operating Activities	**(8,840)**	**(9,455)**	**(615)**	
Other				
One-Time Payments	(11,380)	(11,440)	(60)	HCF cap commitment
Monetizations of Investments	500	500	-	
Prometheus Commitments	(2,500)	(2,500)	-	
Korea/Stonebridge Commitments	(5,760)	(5,760)	-	
CLO Issuance Commitments	(16,000)	(8,750)	7,250	Revised CLO commitments due to transition to 50% financing
Petrocap II Commitments/Distributions	(11,308)	(11,308)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	1,808	1,808	-	
HCRE Loans, net	671	171	(500)	HCRE loan
HCMF Loans, net	(1,500)	(1,500)	-	
Services Loans, net	1,206	1,206	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Stability Transaction	(592)	(592)	-	
Partner Contribution/(Distribution)	(3,825)	(3,825)	-	
Total Other	$ (52,269)	$ (45,579)	$ 6,690	
Ending Cash Before Restricted	**$ (58,952)**	**$ (53,665)**	**$ 5,287**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (59,077)**	**$ (53,790)**	**$ 5,287**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)	2012	2013	2014	2015	2016	2017	2018				
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	1/1	1/8	1/15	1/22	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 9,588	$ 9,813	$ 2,314	$ 9,813
Operating Receipts											
Management Fees											
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	-	-	258	-	258
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	-	-	-	364	364
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	-	-	-	-	-
Retail	7,426	-	51	-	-	-	-	-	-	-	-
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	-	-	344	-	344
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ -	$ -	$ 602	$ 364	$ 966
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	808	-	-	(258)	550
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	14	7	279	4	304
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	-	-	-	-	-
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 822	$ 7	$ 881	$ 110	$ 1,820
Compensation and Benefits											
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(149)	(780)	(48)	-	(977)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	-	-	-	-	-
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	-	-	-	-	-
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (149)	$ (780)	$ (48)	$ -	$ (977)
General Overhead											
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(155)	(73)	-	(36)	(264)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(243)	(278)	(711)	541	(691)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	-	-	(65)	-	(65)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	-	-	-	-	-
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (398)	$ (351)	$ (776)	$ 505	$ (1,020)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**275**	**(1,124)**	**57**	**615**	**(177)**
Other											
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	-	1,349	344	(344)	1,349
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	-	-	-	-	-
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	-	-	-	-	-
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(500)	-	-	(1,216)	(1,716)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	-	-	-	-	-
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	-	-	(7,900)	-	(7,900)
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (500)	$ 1,349	$ (7,556)	$ (1,560)	$ (8,267)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 9,588**	**$ 9,813**	**$ 2,314**	**$ 1,369**	**$ 1,369**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(6,745)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ 2,843**	**$ 3,068**	**$ 2,189**	**$ 1,244**	**$ 1,244**

Budget Summary Page

Week of January 29, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast				Cash Low Point
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Quarter Ending Cash	**($16,171)**	**($32,625)**	**($53,328)**	**($53,791)**
Better / (Worse) than prior week	3,278	4,078	4,803	5,287
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**($16,171)**	**($32,625)**	**($53,328)**	**($53,791)**
Better / (Worse) than prior week	3,278	4,078	4,803	5,287

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			305
Timing Differences			
CLO capital commitment made	CLO Issuance Commitments	Timing	(1,216)
CLO capital commitment not made the following week	CLO Issuance Commitments	Timing	1,216
General overhead not paid	General Overhead	Timing	141
General overhead paid the following week	General Overhead	Timing	(141)
Bandera mgmt fees paid	Mgmt Fees: HF	Timing	355
Bandera mgmt fees not received the following week	Mgmt Fees: HF	Timing	(355)
HLSP management fees not received	Mgmt Fees: SA	Timing	(373)
HLSP management fees received the following week	Mgmt Fees: SA	Timing	373
Total (should = 0)			**-**
Forecast modifications (besides timing)			
N/A			
HCRE Loans, net	Affiliate Loans	To end of '18	(500)
Updated for current/future employee roster & deferred awards	Cash Bonus Awards	To end of '18	(911)
Revised CLO commitments due to transition to 50% financing	CLO Issuance Commitments	To end of '18	6,034
02/01 CLO flow estimate update	Fund Reimbursements	02/01/18	364
02/01 CLO flow estimate update	Mgmt Fees: CLOs	08/01/17	55
HCF Cap Commitment	NPS Commitments	01/29/18	(60)
Total Impact of new forecast modifications			**4,982**
Overall budget B/(W)			**5,287**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget January 29, 2018 - December 31, 2018
(in thousands)

Week Beginning	1/29	2/5	2/12	2/19	2/26	Mar-18	Apr-18	May-18	Jun-18	Jul-18
Beginning Cash	$ 1,369	$ 2,287	$ 2,970	$ 11,604	$ 9,582	$ (6,252)	$ (16,046)	$ (15,411)	$ (19,733)	$ (32,500)
Operating Receipts										
Management Fees										
CLOs	3,372	-	-	-	-	-	272	3,265	-	244
Hedge Funds	-	180	2,100	-	-	-	580	-	-	580
Private Equity (includes PetroCap Royalty)	450	-	302	-	-	-	740	-	-	729
Retail Sub-Advisory Fees	252	-	-	-	252	-	252	252	252	252
Separate Accounts	373	2,460	6,635	-	-	-	2,831	65	-	2,876
Total Management Fees	$ 4,447	$ 2,640	$ 9,037	$ -	$ 252	$ -	$ 4,675	$ 3,582	$ 252	$ 4,681
Shared Services Receipts	994	304	-	-	-	934	916	1,385	555	905
Fund Reimbursements	1,137	-	-	-	-	-	100	1,000	100	100
Other	10	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 6,588	$ 2,944	$ 9,037	$ -	$ 252	$ 934	$ 5,692	$ 5,967	$ 907	$ 5,686
Compensation and Benefits										
Payroll, Benefits, and Taxes	(885)	(112)	(902)	(114)	(853)	(1,776)	(1,771)	(2,871)	(1,749)	(1,742)
Severance Payments	-	-	-	-	(150)	-	-	-	-	-
Cash Bonus Awards (including deferred)	-	-	-	-	(11,520)	-	-	-	-	-
Total Compensation and Benefits	$ (885)	$ (112)	$ (902)	$ (114)	$ (12,524)	$ (1,776)	$ (1,771)	$ (2,871)	$ (1,749)	$ (1,742)
General Overhead										
Legal	-	(284)	-	(200)	-	(400)	(400)	(400)	(400)	(400)
General Overhead	(400)	(400)	(400)	(400)	(400)	(1,918)	(1,380)	(2,135)	(1,890)	(1,330)
HC of NY Overhead	-	(65)	-	-	(130)	(65)	(65)	(65)	(65)	(65)
Interest Payments and Financing Costs	-	-	-	-	-	(69)	-	-	(70)	-
Total General Overhead	$ (400)	$ (749)	$ (400)	$ (600)	$ (530)	$ (2,452)	$ (1,845)	$ (2,600)	$ (2,424)	$ (1,795)
Net Change in Cash Due to Operating Activities	**5,303**	**2,083**	**7,734**	**(714)**	**(12,802)**	**(3,294)**	**2,076**	**496**	**(3,267)**	**2,149**
Other										
One-Time Items - Misc Asset Purchases, etc	(560)	-	-	-	(500)	-	(500)	(500)	(500)	(500)
Monetizations of Investments	-	-	-	-	-	-	-	-	-	-
Prometheus Commitments	-	-	-	-	-	-	-	-	(2,500)	-
Korea/Stonebridge Commitments	-	-	-	-	-	(1,500)	-	-	(1,500)	-
CLO Issuance Commitments	-	-	-	-	(2,250)	(2,500)	(1,250)	-	-	(1,375)
Petrocap II Commitments/Distributions	-	-	-	(1,308)	-	(2,500)	-	-	(2,500)	-
Petrocap III Commitments/Distributions	-	-	-	-	-	-	-	-	(2,500)	-
NexPoint Loans, net	-	-	-	-	(1,000)	-	-	-	-	-
Services Loans, net	-	-	-	-	750	-	-	-	-	-
HCRE Loans, net	-	(1,400)	900	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	-	(1,000)	-	-	-	-	-
Stability Transaction	-	-	-	-	967	-	309	(4,318)	-	277
Partner Contribution/(Distribution)	(3,825)	-	-	-	-	-	-	-	-	-
Total Other	$ (4,385)	$ (1,400)	$ 900	$ (1,308)	$ (3,033)	$ (6,500)	$ (1,441)	$ (4,818)	$ (9,500)	$ (1,598)
Ending Cash Before Restricted	**$2,287**	**$2,970**	**$11,604**	**$9,582**	**($6,252)**	**($16,046)**	**($15,411)**	**($19,733)**	**($32,500)**	**($31,949)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$2,162**	**$2,845**	**$11,479**	**$9,457**	**($6,377)**	**($16,171)**	**($15,536)**	**($19,858)**	**($32,625)**	**($32,074)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget January 29, 2018 - Decemb
(in thousands)

Week Beginning	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (31,949)	$ (43,059)	$ (53,203)	$ (53,134)	$ (50,616)	$ 9,813
Operating Receipts						
Management Fees						
CLOs	3,050	-	217	2,712	-	13,390
Hedge Funds	-	-	580	-	-	4,384
Private Equity (includes PetroCap Royalty)	-	-	719	-	-	2,940
Retail Sub-Advisory Fees	252	252	252	252	252	2,772
Separate Accounts	65	-	2,921	65	-	18,635
Total Management Fees	$ 3,367	$ 252	$ 4,689	$ 3,029	$ 252	$ 42,121
Shared Services Receipts	1,392	553	885	1,391	553	11,319
Fund Reimbursements	1,000	100	100	1,000	100	5,041
Other	-	-	-	-	-	10
Total Operating Receipts	$ 5,759	$ 905	$ 5,674	$ 5,420	$ 905	$ 58,491
Compensation and Benefits						
Payroll, Benefits, and Taxes	(1,920)	(1,731)	(1,731)	(1,731)	(1,726)	(22,595)
Severance Payments	(150)	-	-	-	(70)	(370)
Cash Bonus Awards (including deferred)	(7,018)	-	-	-	-	(18,538)
Total Compensation and Benefits	$ (9,088)	$ (1,731)	$ (1,731)	$ (1,731)	$ (1,796)	$ (41,504)
General Overhead						
Legal	(400)	(400)	(400)	(400)	(400)	(4,748)
General Overhead	(1,364)	(1,853)	(1,780)	(1,169)	(3,280)	(20,787)
HC of NY Overhead	(65)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	(37)	-	-	-	-	(175)
Total General Overhead	$ (1,865)	$ (2,318)	$ (2,245)	$ (1,634)	$ (3,745)	$ (26,621)
Net Change in Cash Due to Operating Activities	**(5,194)**	**(3,144)**	**1,698**	**2,055**	**(4,636)**	**(9,634)**
Other						
One-Time Items - Misc Asset Purchases, etc	(6,380)	(500)	(500)	(500)	(500)	(21,056)
Monetizations of Investments	-	-	-	-	500	1,849
Prometheus Commitments	-	-	-	-	-	(2,500)
Korea/Stonebridge Commitments	-	(1,500)	-	-	(1,260)	(5,760)
CLO Issuance Commitments	-	-	(1,375)	-	-	(8,750)
Petrocap II Commitments/Distributions	-	(2,500)	-	-	(2,500)	(11,308)
Petrocap III Commitments/Distributions	-	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	-	-	-	-	2,808	1,808
Services Loans, net	-	-	-	-	456	1,206
HCRE Loans, net	-	-	-	-	671	171
Dugaboy/Dondero Loans, net	-	-	-	-	1,411	1,411
HCMF Loans, net	(500)	-	-	-	-	(1,500)
Stability Transaction	964	-	246	963	-	(592)
Partner Contribution/(Distribution)	-	-	-	-	-	(3,825)
Total Other	$ (5,915)	$ (7,000)	$ (1,629)	$ 463	$ 1,586	$ (53,846)
Ending Cash Before Restricted	**($43,059)**	**($53,203)**	**($53,134)**	**($50,616)**	**($53,666)**	**($53,666)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($43,184)**	**($53,328)**	**($53,259)**	**($50,741)**	**($53,791)**	**($53,791)**

CLO Issuance Schedule
As of January 29, 2018
in thousands

Timing	Deal Name	Total Deal Size	Total Sub Notes	HCM Funding
Feb-18	Acis 3	$ 500,000	50,000	1,250
Feb-18	Acis 4	450,000	45,000	1,125
Feb-18	Acis 5	450,000	45,000	1,125
Mar-18	Acis 1	500,000	50,000	1,250
Mar-18	Acis 6	500,000	50,000	1,250
Apr-18	Highland 1	500,000	50,000	1,250
Jul-18	Highland 2	550,000	55,000	1,375
Oct-18	Highland 3	550,000	55,000	1,375

Weekly Budget Checklist - Review of Compensation Status
Week of January 29, 2018

Comp changes during the current week:

Modifications: N/A
New Hires: N/A
Terms: Ridgeway, Carnal (previously included in forecast, but never started)
Accruals: Added Head of Sales

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	96	13,307,795	$554,491
Singapore/Korea	3	490,000	20,417
HC of NY	5	467,920	19,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**105**	**14,365,715**	**$598,571**
HCMF	19	3,499,850	145,827
NexPoint	7	2,790,746	116,281
HCFD	17	1,415,000	58,958
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**154**	**$23,235,994**	**$968,166**
Expected Future Hires (see right)	4	805,000	33,542
Total Salary + OT for all entities including future hires	**158**	**$24,040,994**	**$1,001,708**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	300,000
Institutional Fundraiser	175,000
Senior Sales Manager	175,000
Senior Tax Analyst	85,000
Fund Accountant	70,000
Total	805,000

Expected Bonuses

Bonus payments (currently active employees only)		2/28/2018	8/31/2018
3rd/4th installments of 2016 Regular Awards	$23.3mm awards		
HCMLP		$3,132,917	$3,005,000
HCMF		932,730	894,396
NexPoint		272,500	272,500
NXRT		16,667	-
HC of NY		53,750	53,750
HCM Argentina		25,000	25,000
Other (Singapore, HCFD and misc)		72,917	56,250
Total		**$4,506,480**	**$4,306,896**
1st/2nd installments of 2017 Regular Awards (estimated)	$21.1mm awards		
HCMLP		$3,891,400	$3,565,900
HCMF		865,200	860,200
NexPoint		267,833	263,333
NXRT		19,667	16,667
HC of NY		91,167	89,167
HCM Argentina		200,000	200,000
Other (Singapore, HCFD and misc)		111,655	97,083
Total		**$5,446,921**	**$5,092,350**
Total Bonuses		**$9,953,401**	**$9,399,246**

EXHIBIT 45

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of February 05, 2018

Description	Page #
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"To a smart girl men are no problem - they're the answer."
- Zsa Zsa Gabor

Weekly Budget Checklist - Talking Points
Week of
2/5/2018

Talking Points of the week:

1) Removed Sub-Advisory and SS Receipts
2) Refined affiliate needs for 02.28 bonuses
3) Updated capital commitments for PetroCap and Korean PE Fund

Today's Beginning Operating Cash (000s)	**$**	**8,992**
Today's Money Market Balance (000s)		**569**
Today's Total HCMLP Available Cash (000s)	**$**	**9,561**
Today's HCMF Cash (000s)	**$**	**1,989**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**1,468**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**13,652**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**4,490**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(35,777)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**1,252**
Today's Current Margin Balance - Services (000s)	**$**	**(7,936)**
Today's Current Portfolio Margin - Select (000s)	**$**	**(1,607)**
Today's Current Margin Balance - Select (000s)	**$**	**(63,001)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of January 29, 2018

(in thousands)

	01.29.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 1,369	$ 1,369	$ -	
Operating Receipts				
Management Fees				
CLOs	3,372	2,416	(956)	Sub-Advisory Fees not received
Hedge Funds	-	420	420	Timing difference & upside for Multi-Strat
Private Equity (includes PetroCap Royalty)	450	447	(3)	
Retail Sub-Advisory Fees	252	252	-	
Separate Accounts	373	611	238	Timing difference: moved from the week of 02.05 to the week of 01.29
Total Management Fees	$ 4,447	$ 4,146	$ (301)	
Shared Services	994	323	(671)	SS not receieved; timing difference: moved from the week of 01.29 to the week of 02.05
Fund Reimbursements	1,137	1,069	(68)	Timing difference: moved from the week of 01.29 to the week of 02.05
Other	10	1	(9)	
Total Operating Receipts	$ 6,588	$ 5,539	$ (1,049)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(885)	(904)	(19)	Timing difference: moved from the week of 02.05 to the week of 01.29
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (885)	$ (904)	$ (19)	
General Overhead				
Legal	-	-	-	
General Overhead	(400)	(602)	(202)	Timing difference: moved from the week of 02.05 to the week of 01.29
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (400)	$ (602)	$ (202)	
Net Change in Cash Due to Operating Activities	**5,303**	**4,033**	**(1,270)**	
Other				
One-Time Payments	(4,385)	(3,888)	497	Timing difference: moved from the week of 01.29 to the week of 02.05
Total Other	$ (4,385)	$ (3,888)	$ 497	
Ending Cash Before Restricted	**$ 2,287**	**$ 1,514**	**$ (773)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 2,162**	**$ 1,389**	**$ (773)**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	01.29.18	02.05.18	B/(W)	Notes:
Beginning Cash for the week beginning 02.05.18	$ 2,287	$ 1,514	$ (773)	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	9,759	5,907	(3,852)	Removed CLO Sub-Advisory Fees
Hedge Funds	4,020	3,932	(88)	Multi Strat and Bandera updates
Private Equity (includes PetroCap Royalty)	2,490	2,490	-	
Retail Sub-Advisory Fees	2,520	2,520	-	
Separate Accounts	17,918	18,595	677	BVK and CLO Holdco Updates
Total Management Fees	$ 36,707	$ 33,444	$ (3,263)	
Shared Service Receipts	9,775	5,742	(4,033)	Removed Acis SS
Fund Reimbursements	3,600	3,668	68	Timing difference: moved from the week of 01.29 to the week of 02.05
Other	-	-	-	
Total Operating Receipts	$ 50,082	$ 42,854	$ (7,228)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(20,733)	(20,714)	19	Timing difference: moved from the week of 02.05 to the week of 01.29
Severance Payments	(370)	(370)	-	
Cash Bonus Awards	(18,538)	(18,152)	386	Updated deferred awards
Total Compensation and Benefits	$ (39,641)	$ (39,236)	$ 405	
General Overhead				
Legal	(4,484)	(4,484)	-	
General Overhead	(19,696)	(19,494)	202	Timing difference: moved from the week of 02.05 to the week of 01.29
HC of NY Overhead	(845)	(845)	-	
Interest Payments and Financing Costs	(175)	(175)	-	
Total General Overhead	$ (25,200)	$ (24,998)	$ 202	
Net Change in Cash Due to Operating Activities	**(14,759)**	**(21,380)**	**(6,621)**	
Other				
One-Time Payments	(10,880)	(11,380)	(500)	Timing difference: moved from week of 01.29 to week of 02.12
Monetizations of Investments	500	500	-	
Prometheus Commitments	(2,500)	-	2,500	Removed
Korea/Stonebridge Commitments	(5,760)	(3,660)	2,100	Reduced based upon Moore input
CLO Issuance Commitments	(8,750)	(8,750)	-	
Petrocap II Commitments/Distributions	(11,308)	(8,250)	3,058	Reduced based upon Manzo input
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	1,808	2,308	500	Reduced 02.28 funding needs
HCRE Loans, net	171	671	500	Removed loan
HCMF Loans, net	(1,500)	(1,250)	250	Reduced 02.28 funding needs
Services Loans, net	1,206	1,206	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Stability Transaction	(592)	-	592	Removed stability flows
Partner Contribution/(Distribution)	-	-	-	
Total Other	$ (41,194)	$ (32,194)	$ 9,000	
Ending Cash Before Restricted	**$ (53,666)**	**$ (52,060)**	**$ 1,606**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (53,791)**	**$ (52,185)**	**$ 1,606**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017						2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	1/1	1/8	1/15	1/22	1/29	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 9,588	$ 9,813	$ 2,314	$ 1,369	$ 9,813
Operating Receipts												
Management Fees												
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	-	-	258	-	2,416	2,674
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	-	-	-	364	420	784
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	-	-	-	-	447	447
Retail	7,426	-	51	-	-	-	-	-	-	-	252	252
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	-	-	344	-	611	955
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ -	$ -	$ 602	$ 364	$ 4,146	$ 5,112
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	808	-	-	(258)	323	873
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	14	7	279	4	1,069	1,373
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	-	-	-	-	1	1
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 822	$ 7	$ 881	$ 110	$ 5,539	$ 7,359
Compensation and Benefits												
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(149)	(780)	(48)	-	(904)	(1,881)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	-	-	-	-	-	-
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (149)	$ (780)	$ (48)	$ -	$ (904)	$ (1,881)
General Overhead												
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(155)	(73)	-	(36)	-	(264)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(243)	(278)	(711)	541	(602)	(1,293)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	-	-	(65)	-	-	(65)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	-	-	-	-	-	-
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (398)	$ (351)	$ (776)	$ 505	$ (602)	$ (1,622)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**275**	**(1,124)**	**57**	**615**	**4,033**	**3,856**
Other												
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	-	1,349	344	(344)	-	1,349
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	-	-	-	-	-	-
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	-	-	-	-	-	-
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(500)	-	-	(1,216)	(63)	(1,779)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	-	-	-	-	-	-
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	-	-	(7,900)	-	(3,825)	(11,725)
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (500)	$ 1,349	$ (7,556)	$ (1,560)	$ (3,888)	$ (12,155)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 9,588**	**$ 9,813**	**$ 2,314**	**$ 1,369**	**$ 1,514**	**$ 1,514**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(6,745)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ 2,843**	**$ 3,068**	**$ 2,189**	**$ 1,244**	**$ 1,389**	**$ 1,389**

Budget Summary Page

Week of February 05, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast				Cash Low Point
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Quarter Ending Cash	**($12,041)**	**($24,321)**	**($48,613)**	**($52,185)**
Better / (Worse) than prior week	4,130	8,303	4,715	1,606
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**($12,041)**	**($24,321)**	**($48,613)**	**($52,332)**
Better / (Worse) than prior week	4,130	8,303	4,715	1,460

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			(1,474)
Timing Differences			
Fund reimbursements received in the future	Fund Reimbursements	Timing	(68)
Fund reimbursements not received the previous week	Fund Reimbursements	Timing	68
General overhead paid	General Overhead	Timing	(202)
General overhead not paid the following week	General Overhead	Timing	202
Multi Strat mgmt fees paid	Mgmt Fees: HF	Timing	255
Multi Strat mgmt fees not received the following week	Mgmt Fees: HF	Timing	(255)
Longhorn A&B fees received	Mgmt Fees: SA	Timing	235
Longhorn A&B fees not received the following week	Mgmt Fees: SA	Timing	(235)
DRIP purchase not made	One-Time Item	Timing	500
DRIP purchase made after black-out period	One-Time Item	Timing	(500)
SWB paid	Payroll, Benefits & Taxes	Timing	(19)
SWB not paid in the future	Payroll, Benefits & Taxes	Timing	19
Total (should = 0)			-
Forecast modifications (besides timing)			
HCRE Loans, net	Affiliate Loans	To end of '18	500
Updated estimate for loan to HCMFA for 02/28/18 Bonuses	Affiliate Loans	02/26/18	250
Updated estimate for loan to NexPoint for 02/28/18 Bonuses	Affiliate Loans	02/26/18	500
Updated for current/future employee roster & deferred awards	Cash Bonus Awards	To end of '18	387
Revised to two deals at $20mm apiece for remainder of year; $1.2mm commitment per deal	Korea/Stonebridge Commitments	To end of '18	2,100
Removed CLO Sub-Advisory fees	Mgmt Fees: CLOs	To end of '18	(3,853)
Bandera incentive fee update	Mgmt Fees: HF	To end of '18	167
Updated CLO Holdco Incentive Fee and Q1 Mgmt Fees	Mgmt Fees: SA	02/05/18	1,766
Removed BVK Sub-Advisory Receipts	Mgmt Fees: SA	To end of '18	(854)
Removed commitments	Prometheus Commitments	To end of '18	2,500
Revised based upon guidance from Manzo	PetroCap Commitments	To end of '18	3,058
Removed Acis SS Receipts	Shared Services	To end of '18	(4,033)
Removed	Stability Transaction	To end of '18	592
Total Impact of new forecast modifications			**3,080**
Overall budget B/(W)			**1,606**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget February 05, 2018 - December 31, 2018
(in thousands)

Week Beginning	2/5	2/12	2/19	2/26	3/5	3/12	3/19	3/26	Apr-18	May-18	Jun-18
Beginning Cash	$ 1,514	$ 9,488	$ 10,334	$ 9,867	$ (5,543)	$ (6,018)	$ (8,552)	$ (9,247)	$ (11,916)	$ (16,095)	$ (17,927)
Operating Receipts											
Management Fees											
CLOs	-	-	-	-	-	-	-	-	-	2,222	-
Hedge Funds	-	2,192	-	-	-	-	-	-	580	-	-
Private Equity (includes PetroCap Royalty)	-	302	-	-	-	-	-	-	740	-	-
Retail Sub-Advisory Fees	-	-	-	252	-	-	-	-	252	252	252
Separate Accounts	8,595	1,855	-	-	-	-	-	-	2,605	65	-
Total Management Fees	$ 8,595	$ 4,349	$ -	$ 252	$ -	$ -	$ -	$ -	$ 4,177	$ 2,539	$ 252
Shared Services Receipts	-	60	-	323	220	-	-	-	543	603	555
Fund Reimbursements	-	-	-	-	-	-	-	-	168	1,000	100
Other	-	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 8,595	$ 4,409	$ -	$ 575	$ 220	$ -	$ -	$ -	$ 4,888	$ 4,142	$ 907
Compensation and Benefits											
Payroll, Benefits, and Taxes	(21)	(894)	(22)	(1,002)	(50)	(839)	(50)	(839)	(1,773)	(2,874)	(1,752)
Severance Payments	-	-	-	(150)	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	-	(125)	-	(11,009)	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (21)	$ (1,019)	$ (22)	$ (12,160)	$ (50)	$ (839)	$ (50)	$ (839)	$ (1,773)	$ (2,874)	$ (1,752)
General Overhead											
Legal	-	(484)	-	-	(200)	-	(200)	-	(400)	(400)	(400)
General Overhead	(600)	(745)	(445)	(445)	(445)	(445)	(445)	(445)	(1,380)	(2,135)	(1,890)
HC of NY Overhead	-	(65)	-	(130)	-	-	-	(65)	(65)	(65)	(65)
Interest Payments and Financing Costs	-	-	-	-	-	-	-	(69)	-	-	(70)
Total General Overhead	$ (600)	$ (1,294)	$ (445)	$ (575)	$ (645)	$ (445)	$ (645)	$ (579)	$ (1,845)	$ (2,600)	$ (2,424)
Net Change in Cash Due to Operating Activities	**7,974**	**2,096**	**(467)**	**(12,160)**	**(475)**	**(1,284)**	**(695)**	**(1,418)**	**1,270**	**(1,332)**	**(3,269)**
Other											
One-Time Items - Misc Asset Purchases, etc	-	(500)	-	(500)	-	-	-	-	(500)	(500)	(500)
Monetizations of Investments	-	-	-	-	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	(1,200)	-	-
CLO Issuance Commitments	-	-	-	(2,250)	-	(1,250)	-	(1,250)	(1,250)	-	-
Petrocap II Commitments/Distributions	-	(750)	-	-	-	-	-	-	(2,500)	-	-
Petrocap III Commitments/Distributions	-	-	-	-	-	-	-	-	-	-	(2,500)
NexPoint Loans, net	-	-	-	(500)	-	-	-	-	-	-	-
Services Loans, net	-	-	-	750	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	(750)	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-	-
Total Other	$ -	$ (1,250)	$ -	$ (3,250)	$ -	$ (1,250)	$ -	$ (1,250)	$ (5,450)	$ (500)	$ (3,000)
Ending Cash Before Restricted	**$9,488**	**$10,334**	**$9,867**	**($5,543)**	**($6,018)**	**($8,552)**	**($9,247)**	**($11,916)**	**($16,095)**	**($17,927)**	**($24,196)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$9,363**	**$10,209**	**$9,742**	**($5,668)**	**($6,143)**	**($8,677)**	**($9,372)**	**($12,041)**	**($16,220)**	**($18,052)**	**($24,321)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget February 05, 2018 - Decen
(in thousands)

Week Beginning	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (24,196)	$ (27,247)	$ (42,341)	$ (48,488)	$ (51,943)	$ (52,207)	$ 9,813
Operating Receipts							
Management Fees							
CLOs	-	2,011	-	-	1,674	-	8,581
Hedge Funds	580	-	-	580	-	-	4,716
Private Equity (includes PetroCap Royalty)	729	-	-	719	-	-	2,937
Retail Sub-Advisory Fees	252	252	252	252	252	252	2,772
Separate Accounts	2,650	65	-	2,695	65	-	19,550
Total Management Fees	$ 4,211	$ 2,328	$ 252	$ 4,246	$ 1,991	$ 252	$ 38,556
Shared Services Receipts	553	613	553	553	613	553	6,615
Fund Reimbursements	100	1,000	100	100	1,000	100	5,041
Other	-	-	-	-	-	-	1
Total Operating Receipts	$ 4,864	$ 3,941	$ 905	$ 4,899	$ 3,604	$ 905	$ 50,213
Compensation and Benefits							
Payroll, Benefits, and Taxes	(1,745)	(1,923)	(1,734)	(1,734)	(1,734)	(1,729)	(22,595)
Severance Payments	-	(150)	-	-	-	(70)	(370)
Cash Bonus Awards (including deferred)	-	(7,018)	-	-	-	-	(18,152)
Total Compensation and Benefits	$ (1,745)	$ (9,091)	$ (1,734)	$ (1,734)	$ (1,734)	$ (1,799)	$ (41,117)
General Overhead							
Legal	(400)	(400)	(400)	(400)	(400)	(400)	(4,748)
General Overhead	(1,330)	(1,364)	(1,853)	(1,780)	(1,169)	(2,580)	(20,787)
HC of NY Overhead	(65)	(65)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	-	(37)	-	-	-	-	(175)
Total General Overhead	$ (1,795)	$ (1,865)	$ (2,318)	$ (2,245)	$ (1,634)	$ (3,045)	$ (26,620)
Net Change in Cash Due to Operating Activities	**1,325**	**(7,015)**	**(3,147)**	**920**	**236**	**(3,939)**	**(17,524)**
Other							
One-Time Items - Misc Asset Purchases, etc	(500)	(6,380)	(500)	(500)	(500)	(500)	(13,159)
Monetizations of Investments	-	-	-	-	-	500	1,849
Korea/Stonebridge Commitments	-	(1,200)	-	-	-	(1,260)	(3,660)
CLO Issuance Commitments	(1,375)	-	-	(1,375)	-	-	(8,750)
Petrocap II Commitments/Distributions	(2,500)	-	-	(2,500)	-	-	(8,250)
Petrocap III Commitments/Distributions	-	-	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	-	-	-	-	-	2,808	2,308
Services Loans, net	-	-	-	-	-	456	1,206
Dugaboy/Dondero Loans, net	-	-	-	-	-	1,411	1,411
HCMF Loans, net	-	(500)	-	-	-	-	(1,250)
Partner Contribution/(Distribution)	-	-	-	-	-	-	(11,725)
Total Other	$ (4,375)	$ (8,080)	$ (3,000)	$ (4,375)	$ (500)	$ 4,086	$ (44,349)
Ending Cash Before Restricted	**($27,247)**	**($42,341)**	**($48,488)**	**($51,943)**	**($52,207)**	**($52,060)**	**($52,060)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($27,372)**	**($42,466)**	**($48,613)**	**($52,068)**	**($52,332)**	**($52,185)**	**($52,185)**

CLO Issuance Schedule
As of February 05, 2018
in thousands

Timing	Deal Name	Total Deal Size	Total Sub Notes	HCM Funding
Feb-18	Acis 3	$ 500,000	50,000	1,250
Feb-18	Acis 4	450,000	45,000	1,125
Feb-18	Acis 5	450,000	45,000	1,125
Mar-18	Acis 1	500,000	50,000	1,250
Mar-18	Acis 6	500,000	50,000	1,250
Apr-18	Highland 1	500,000	50,000	1,250
Jul-18	Highland 2	550,000	55,000	1,375
Oct-18	Highland 3	550,000	55,000	1,375

Weekly Budget Checklist - Review of Compensation Status
Week of February 05, 2018

Comp changes during the current week:

Modifications:	N/A
New Hires:	N/A
Terms:	N/A
Accruals:	N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	96	13,307,795	$554,491
Singapore/Korea	3	490,000	20,417
HC of NY	5	467,920	19,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**105**	**14,365,715**	**$598,571**
HCMF	19	3,499,850	145,827
NexPoint	7	2,790,746	116,281
HCFD	17	1,415,000	58,958
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**154**	**$23,235,994**	**$968,166**
Expected Future Hires (see right)	4	805,000	33,542
Total Salary + OT for all entities including future hires	**158**	**$24,040,994**	**$1,001,708**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	300,000
Institutional Fundraiser	175,000
Senior Sales Manager	175,000
Senior Tax Analyst	85,000
Fund Accountant	70,000
Total	805,000

Expected Bonuses

Bonus payments (currently active employees only)		2/28/2018	8/31/2018
3rd/4th installments of 2016 Regular Awards	$23.3mm awards		
HCMLP		$3,132,917	$3,005,000
HCMF		932,730	894,396
NexPoint		210,000	210,000
NXRT		16,667	-
HC of NY		53,750	53,750
HCM Argentina		25,000	25,000
Other (Singapore, HCFD and misc)		72,917	56,250
Total		**$4,443,980**	**$4,244,396**
1st/2nd installments of 2017 Regular Awards (estimated)	$21.1mm awards		
HCMLP		$3,891,400	$3,565,900
HCMF		865,200	860,200
NexPoint		267,833	263,333
NXRT		19,667	16,667
HC of NY		91,167	89,167
HCM Argentina		35,000	35,000
Other (Singapore, HCFD and misc)		97,083	97,083
Total		**$5,267,350**	**$4,927,350**
Total Bonuses		**$9,711,330**	**$9,171,746**

EXHIBIT 46

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of February 12, 2018

Description	Page #
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"When you're rich, you don't write checks."
- Randy Moss

Weekly Budget Checklist - Talking Points
Week of
2/12/2018

Talking Points of the week:

1) CLO Commitments removed given court ruling on risk retention
2) HCMFA Sub-Advisory
3) Deferred: $3.7mm total; min $0.7mm in cash

Today's Beginning Operating Cash (000s)	**$**	**9,392**
Today's Money Market Balance (000s)		**6,069**
Today's Total HCMLP Available Cash (000s)	**$**	**15,461**
Today's HCMF Cash (000s)	**$**	**1,972**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**1,437**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**19,504**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**4,299**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(35,777)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**1,265**
Today's Current Margin Balance - Services (000s)	**$**	**(7,936)**
Today's Current Portfolio Margin - Select (000s)	**$**	**5,847**
Today's Current Margin Balance - Select (000s)	**$**	**(42,819)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of February 05, 2018

(in thousands)

	02.05.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 1,514	$ 1,514	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	-	-	
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	8,595	8,595	-	
Total Management Fees	$ 8,595	$ 8,595	$ -	
Shared Services	-	-	-	
Fund Reimbursements	-	-	-	
Other	-	-	-	
Total Operating Receipts	$ 8,595	$ 8,595	$ -	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(21)	-	21	Timing difference: moved from week of 02.05 to week of 02.12
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (21)	$ -	$ 21	
General Overhead				
Legal	-	(100)	(100)	Timing difference: moved from week of 02.12 to week of 02.05
General Overhead	(600)	(723)	(123)	Timing difference: moved from week of 02.12 to week of 02.05
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (600)	$ (823)	$ (223)	
Net Change in Cash Due to Operating Activities	**7,974**	**7,772**	**(202)**	
Other				
One-Time Payments	-	5,000	5,000	Select redemption
Total Other	$ -	$ 5,000	$ 5,000	
Ending Cash Before Restricted	**$ 9,488**	**$ 14,286**	**$ 4,798**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 9,363**	**$ 14,161**	**$ 4,798**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	02.05.18	**02.12.18**	**B/(W)**	**Notes:**
Beginning Cash for the week beginning 02.12.18	$ 9,488	$ 14,286	$ 4,798	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,907	5,907	-	
Hedge Funds	3,932	3,932	-	
Private Equity (includes PetroCap Royalty)	2,490	2,490	-	
Retail Sub-Advisory Fees	2,520	2,520	-	
Separate Accounts	10,000	10,000	-	
Total Management Fees	$ 24,849	$ 24,849	$ -	
Shared Service Receipts	5,742	5,742	-	
Fund Reimbursements	3,668	3,668	-	
Other	-	-	-	
Total Operating Receipts	$ 34,259	$ 34,259	$ -	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(20,693)	(20,714)	(21)	Timing difference: moved from week of 02.05 to week of 02.12
Severance Payments	(370)	(370)	-	
Cash Bonus Awards	(18,152)	(18,152)	-	
Total Compensation and Benefits	$ (39,215)	$ (39,236)	$ (21)	
General Overhead				
Legal	(4,484)	(4,384)	100	Timing difference: moved from week of 02.12 to week of 02.05
General Overhead	(18,894)	(18,771)	123	Timing difference: moved from week of 02.12 to week of 02.05
HC of NY Overhead	(845)	(845)	-	
Interest Payments and Financing Costs	(175)	(175)	-	
Total General Overhead	$ (24,398)	$ (24,175)	$ 223	
Net Change in Cash Due to Operating Activities	**(29,354)**	**(29,152)**	**202**	
Other				
One-Time Payments	(11,380)	(11,380)	-	
Monetizations of Investments	500	500	-	
Korea/Stonebridge Commitments	(3,660)	(3,660)	-	
CLO Issuance Commitments	(8,750)	1,278	10,028	Adjusted due to CLOs ruled exempt from risk retention
Petrocap II Commitments/Distributions	(8,250)	(8,250)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,308	2,308	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,250)	(1,250)	-	
Services Loans, net	1,206	456	(750)	Removed loan repayment
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (32,194)	$ (22,916)	$ 9,278	
Ending Cash Before Restricted	**$ (52,060)**	**$ (37,782)**	**$ 14,278**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (52,185)**	**$ (37,907)**	**$ 14,278**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017							2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	1/1	1/8	1/15	1/22	1/29	2/5	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 9,588	$ 9,813	$ 2,314	$ 1,369	$ 1,514	$ 9,813
Operating Receipts													
Management Fees													
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	-	-	258	-	2,416	-	2,674
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	-	-	-	364	420	-	784
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	-	-	-	-	447	-	447
Retail	7,426	-	51	-	-	-	-	-	-	-	252	-	252
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	-	-	344	-	611	8,595	9,550
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ -	$ -	$ 602	$ 364	$ 4,146	$ 8,595	$ 13,707
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	808	-	-	(258)	323	-	873
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	14	7	279	4	1,069	-	1,373
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	-	-	-	-	1	-	1
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 822	$ 7	$ 881	$ 110	$ 5,539	$ 8,595	$ 15,954
Compensation and Benefits													
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(149)	(780)	(48)	-	(904)	-	(1,881)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (149)	$ (780)	$ (48)	$ -	$ (904)	$ -	$ (1,881)
General Overhead													
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(155)	(73)	-	(36)	-	(100)	(364)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(243)	(278)	(711)	541	(602)	(723)	(2,016)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	-	-	(65)	-	-	-	(65)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	-	-	-	-	-	-	-
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (398)	$ (351)	$ (776)	$ 505	$ (602)	$ (823)	$ (2,445)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**275**	**(1,124)**	**57**	**615**	**4,033**	**7,772**	**11,628**
Other													
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	-	1,349	344	(344)	-	5,000	6,349
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	-	-	-	-	-	-	-
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	-	-	-	-	-	-	-
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(500)	-	-	(1,216)	(63)	-	(1,779)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	-	-	-	-	-	-	-
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	-	-	(7,900)	-	(3,825)	-	(11,725)
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (500)	$ 1,349	$ (7,556)	$ (1,560)	$ (3,888)	$ 5,000	$ (7,155)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 9,588**	**$ 9,813**	**$ 2,314**	**$ 1,369**	**$ 1,514**	**$ 14,286**	**$ 14,286**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(6,745)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ 2,843**	**$ 3,068**	**$ 2,189**	**$ 1,244**	**$ 1,389**	**$ 14,161**	**$ 14,161**

Budget Summary Page

Week of February 12, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast				Cash Low Point
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Quarter Ending Cash	**($1,886)**	**($12,916)**	**($35,833)**	**($37,907)**
Better / (Worse) than prior week	10,155	11,405	12,780	14,278
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**($1,886)**	**($12,916)**	**($35,833)**	**($38,177)**
Better / (Worse) than prior week	10,155	11,405	12,780	14,155

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			5,000
Timing Differences			
General overhead paid	General Overhead	Timing	(123)
General overhead not paid the following week	General Overhead	Timing	123
Legal paid	Legal	Timing	(100)
Legal not paid in the future	Legal	Timing	100
SWB not paid	Payroll, Benefits & Taxes	Timing	21
SWB paid in the future	Payroll, Benefits & Taxes	Timing	(21)
Total (should = 0)			-
Forecast modifications (besides timing)			
Removed Services loan repayment	Affiliate Loans	02/26/18	(750)
Adjusted due to CLOs ruled exempt from risk retention	CLO Issuance Commitments	To end of '18	10,028
Total Impact of new forecast modifications			**9,278**
Overall budget B/(W)			**14,278**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget February 12, 2018 - December 31, 2018
(in thousands)

Week Beginning	2/12	2/19	2/26	3/5	3/12	3/19	3/26	Apr-18	May-18	Jun-18	Jul-18
Beginning Cash	$ 14,286	$ 13,600	$ 16,022	$ 2,242	$ 1,767	$ 418	$ (277)	$ (1,761)	$ (4,690)	$ (6,522)	$ (12,791)
Operating Receipts											
Management Fees											
CLOs	-	-	-	-	-	-	-	-	2,222	-	-
Hedge Funds	-	2,192	-	-	-	-	-	580	-	-	580
Private Equity (includes PetroCap Royalty)	-	302	-	-	-	-	-	740	-	-	729
Retail Sub-Advisory Fees	-	-	252	-	-	-	-	252	252	252	252
Separate Accounts	-	1,855	-	-	-	-	-	2,605	65	-	2,650
Total Management Fees	$ -	$ 4,349	$ 252	$ -	$ -	$ -	$ -	$ 4,177	$ 2,539	$ 252	$ 4,211
Shared Services Receipts	-	60	323	220	-	-	-	543	603	555	553
Fund Reimbursements	-	-	-	-	-	-	-	168	1,000	100	100
Other	-	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ -	$ 4,409	$ 575	$ 220	$ -	$ -	$ -	$ 4,888	$ 4,142	$ 907	$ 4,864
Compensation and Benefits											
Payroll, Benefits, and Taxes	(894)	(43)	(1,002)	(50)	(839)	(50)	(839)	(1,773)	(2,874)	(1,752)	(1,745)
Severance Payments	-	-	(150)	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	(125)	-	(11,009)	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (1,019)	$ (43)	$ (12,160)	$ (50)	$ (839)	$ (50)	$ (839)	$ (1,773)	$ (2,874)	$ (1,752)	$ (1,745)
General Overhead											
Legal	-	(384)	-	(200)	-	(200)	-	(400)	(400)	(400)	(400)
General Overhead	(445)	(745)	(445)	(445)	(445)	(445)	(445)	(1,380)	(2,135)	(1,890)	(1,330)
HC of NY Overhead	-	(65)	-	-	(65)	-	(130)	(65)	(65)	(65)	(65)
Interest Payments and Financing Costs	-	-	-	-	-	-	(69)	-	-	(70)	-
Total General Overhead	$ (445)	$ (1,194)	$ (445)	$ (645)	$ (510)	$ (645)	$ (644)	$ (1,845)	$ (2,600)	$ (2,424)	$ (1,795)
Net Change in Cash Due to Operating Activities	**(1,464)**	**3,172**	**(12,030)**	**(475)**	**(1,349)**	**(695)**	**(1,483)**	**1,270**	**(1,332)**	**(3,269)**	**1,325**
Other											
One-Time Items - Misc Asset Purchases, etc	(500)	-	(500)	-	-	-	-	(500)	(500)	(500)	(500)
Monetizations of Investments	-	-	-	-	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	(1,200)	-	-	-
CLO Issuance Commitments	1,278	-	-	-	-	-	-	-	-	-	-
Petrocap II Commitments/Distributions	-	(750)	-	-	-	-	-	(2,500)	-	-	(2,500)
Petrocap III Commitments/Distributions	-	-	-	-	-	-	-	-	-	(2,500)	-
NexPoint Loans, net	-	-	(500)	-	-	-	-	-	-	-	-
Services Loans, net	-	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	(750)	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-	-
Total Other	$ 778	$ (750)	$ (1,750)	$ -	$ -	$ -	$ -	$ (4,200)	$ (500)	$ (3,000)	$ (3,000)
Ending Cash Before Restricted	**$13,600**	**$16,022**	**$2,242**	**$1,767**	**$418**	**($277)**	**($1,761)**	**($4,690)**	**($6,522)**	**($12,791)**	**($14,467)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$13,475**	**$15,897**	**$2,117**	**$1,642**	**$293**	**($402)**	**($1,886)**	**($4,815)**	**($6,647)**	**($12,916)**	**($14,592)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget February 12, 2018 - Decer
(in thousands)

Week Beginning	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (14,467)	$ (29,561)	$ (35,708)	$ (37,788)	$ (38,052)	$ 9,813
Operating Receipts						
Management Fees						
CLOs	2,011	-	-	1,674	-	8,581
Hedge Funds	-	-	580	-	-	4,716
Private Equity (includes PetroCap Royalty)	-	-	719	-	-	2,937
Retail Sub-Advisory Fees	252	252	252	252	252	2,772
Separate Accounts	65	-	2,695	65	-	19,550
Total Management Fees	$ 2,328	$ 252	$ 4,246	$ 1,991	$ 252	$ 38,556
Shared Services Receipts	613	553	553	613	553	6,615
Fund Reimbursements	1,000	100	100	1,000	100	5,041
Other	-	-	-	-	-	1
Total Operating Receipts	$ 3,941	$ 905	$ 4,899	$ 3,604	$ 905	$ 50,213
Compensation and Benefits						
Payroll, Benefits, and Taxes	(1,923)	(1,734)	(1,734)	(1,734)	(1,729)	(22,595)
Severance Payments	(150)	-	-	-	(70)	(370)
Cash Bonus Awards (including deferred)	(7,018)	-	-	-	-	(18,152)
Total Compensation and Benefits	$ (9,091)	$ (1,734)	$ (1,734)	$ (1,734)	$ (1,799)	$ (41,117)
General Overhead						
Legal	(400)	(400)	(400)	(400)	(400)	(4,748)
General Overhead	(1,364)	(1,853)	(1,780)	(1,169)	(2,457)	(20,787)
HC of NY Overhead	(65)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	(37)	-	-	-	-	(175)
Total General Overhead	$ (1,865)	$ (2,318)	$ (2,245)	$ (1,634)	$ (2,922)	$ (26,620)
Net Change in Cash Due to Operating Activities	**(7,015)**	**(3,147)**	**920**	**236**	**(3,816)**	**(17,524)**
Other						
One-Time Items - Misc Asset Purchases, etc	(6,380)	(500)	(500)	(500)	(500)	(13,159)
Monetizations of Investments	-	-	-	-	500	6,849
Korea/Stonebridge Commitments	(1,200)	-	-	-	(1,260)	(3,660)
CLO Issuance Commitments	-	-	-	-	-	1,278
Petrocap II Commitments/Distributions	-	-	(2,500)	-	-	(8,250)
Petrocap III Commitments/Distributions	-	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	-	-	-	-	2,808	2,308
Services Loans, net	-	-	-	-	456	456
Dugaboy/Dondero Loans, net	-	-	-	-	1,411	1,411
HCMF Loans, net	(500)	-	-	-	-	(1,250)
Partner Contribution/(Distribution)	-	-	-	-	-	(11,725)
Total Other	$ (8,080)	$ (3,000)	$ (3,000)	$ (500)	$ 4,086	$ (30,071)
Ending Cash Before Restricted	**($29,561)**	**($35,708)**	**($37,788)**	**($38,052)**	**($37,782)**	**($37,782)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($29,686)**	**($35,833)**	**($37,913)**	**($38,177)**	**($37,907)**	**($37,907)**

Weekly Budget Checklist - Review of Compensation Status
Week of February 12, 2018

Comp changes during the current week:

Modifications:	N/A
New Hires:	N/A
Terms:	N/A
Accruals:	N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	96	13,307,795	$554,491
Singapore/Korea	3	490,000	20,417
HC of NY	5	467,920	19,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**105**	**14,365,715**	**$598,571**
HCMF	19	3,499,850	145,827
NexPoint	7	2,790,746	116,281
HCFD	17	1,415,000	58,958
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**154**	**$23,235,994**	**$968,166**
Expected Future Hires (see right)	4	805,000	33,542
Total Salary + OT for all entities including future hires	**158**	**$24,040,994**	**$1,001,708**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	300,000
Institutional Fundraiser	175,000
Senior Sales Manager	175,000
Senior Tax Analyst	85,000
Fund Accountant	70,000
Total	805,000

Expected Bonuses

Bonus payments (currently active employees only)		2/28/2018	8/31/2018
3rd/4th installments of 2016 Regular Awards	$23.3mm awards		
HCMLP		$3,132,917	$3,005,000
HCMF		932,730	894,396
NexPoint		210,000	210,000
NXRT		16,667	-
HC of NY		53,750	53,750
HCM Argentina		25,000	25,000
Other (Singapore, HCFD and misc)		72,917	56,250
Total		**$4,443,980**	**$4,244,396**
1st/2nd installments of 2017 Regular Awards (estimated)	$21.1mm awards		
HCMLP		$3,891,400	$3,565,900
HCMF		865,200	860,200
NexPoint		267,833	263,333
NXRT		19,667	16,667
HC of NY		91,167	89,167
HCM Argentina		35,000	35,000
Other (Singapore, HCFD and misc)		97,083	97,083
Total		**$5,267,350**	**$4,927,350**
Total Bonuses		**$9,711,330**	**$9,171,746**

EXHIBIT 47

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of February 19, 2018

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"Do not dwell in the past, do not dream of the future, concentrate the mind on the present moment."
- Buddha

Weekly Budget Checklist - Talking Points
Week of
2/19/2018

Talking Points of the week:

Today's Beginning Operating Cash (000s)	**$**	**10,367**
Today's Money Market Balance (000s)		**6,233**
Today's Total HCMLP Available Cash (000s)	**$**	**16,600**
Today's HCMF Cash (000s)	**$**	**1,362**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**1,092**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**19,688**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**4,678**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(35,777)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**1,456**
Today's Current Margin Balance - Services (000s)	**$**	**(7,936)**
Today's Current Portfolio Margin - Select (000s)	**$**	**(102)**
Today's Current Margin Balance - Select (000s)	**$**	**(46,260)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of February 12, 2018

(in thousands)

	02.12.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 14,286	$ 14,286	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	2,149	2,149	Timing difference: moved from week of 02.19 to week of 02.12
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	-	916	916	Timing difference: moved from week of 02.19 to week of 02.12
Total Management Fees	$ -	$ 3,065	$ 3,065	
Shared Services	-	262	262	Timing difference: moved from week of 02.19 to week of 02.12
Fund Reimbursements	-	30	30	Timing difference: moved from week of 02.19 to week of 02.12
Other	-	-	-	
Total Operating Receipts	$ -	$ 3,357	$ 3,357	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(894)	(746)	148	Timing difference: moved from week of 02.12 to week of 02.19
Severance Payments	-	-	-	
Cash Bonus Awards	(125)	-	125	Timing difference: accounting for Goetz prepayment
Total Compensation and Benefits	$ (1,019)	$ (746)	$ 273	
General Overhead				
Legal	-	(9)	(9)	
General Overhead	(445)	(144)	301	Timing difference: moved from week of 02.12 to week of 02.19
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (445)	$ (153)	$ 292	
Net Change in Cash Due to Operating Activities	**(1,464)**	**2,458**	**3,922**	
Other				
One-Time Payments	778	716	(62)	Timing difference: moved from week of 02.12 to week of 02.19
Total Other	$ 778	$ 716	$ (62)	
Ending Cash Before Restricted	**$ 13,600**	**$ 17,460**	**$ 3,860**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 13,475**	**$ 17,335**	**$ 3,860**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	02.12.18	**02.19.18**	**B/(W)**	**Notes:**
Beginning Cash for the week beginning 02.19.18	$ 13,600	$ 17,460	$ 3,860	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,907	5,907	-	
Hedge Funds	3,932	1,785	(2,147)	Timing difference: moved from week of 02.19 to week of 02.12
Private Equity (includes PetroCap Royalty)	2,490	2,490	-	
Retail Sub-Advisory Fees	2,520	2,520	-	
Separate Accounts	10,000	9,100	(900)	Timing difference: moved from week of 02.19 to week of 02.12
Total Management Fees	$ 24,849	$ 21,802	$ (3,047)	
Shared Service Receipts	5,742	5,682	(60)	
Fund Reimbursements	3,668	3,638	(30)	Timing difference: moved from week of 02.19 to week of 02.12
Other	-	-	-	
Total Operating Receipts	$ 34,259	$ 31,122	$ (3,137)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(19,821)	(19,917)	(96)	Timing difference: moved from week of 02.12 to week of 02.19
Severance Payments	(370)	(370)	-	
Cash Bonus Awards	(18,027)	(17,402)	625	Timing difference: accounting for Goetz prepayment
Total Compensation and Benefits	$ (38,218)	$ (37,689)	$ 529	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(18,326)	(18,627)	(301)	Timing difference: moved from week of 02.12 to week of 02.19
HC of NY Overhead	(845)	(845)	-	
Interest Payments and Financing Costs	(175)	(175)	-	
Total General Overhead	$ (23,730)	$ (24,031)	$ (301)	
Net Change in Cash Due to Operating Activities	**(27,689)**	**(30,598)**	**(2,909)**	
Other				
One-Time Payments	(10,880)	(10,880)	-	
Monetizations of Investments	500	500	-	
Korea/Stonebridge Commitments	(3,660)	(3,660)	-	
CLO Issuance Commitments	-	62	62	Timing difference: moved from week of 02.12 to week of 02.19
Petrocap II Commitments/Distributions	(8,250)	(8,250)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,308	2,308	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,250)	(1,250)	-	
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (23,694)	$ (23,632)	$ 62	
Ending Cash Before Restricted	**$ (37,783)**	**$ (36,770)**	**$ 1,013**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (37,908)**	**$ (36,895)**	**$ 1,013**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017								2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	1/1	1/8	1/15	1/22	1/29	2/5	2/12	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 9,588	$ 9,813	$ 2,314	$ 1,369	$ 1,514	$ 14,286	$ 9,813
Operating Receipts														
Management Fees														
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	-	-	258	-	2,416	-	-	2,674
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	-	-	-	364	420	-	68	852
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	-	-	-	-	447	-	-	447
Retail	7,426	-	51	-	-	-	-	-	-	-	252	-	-	252
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	-	-	344	-	611	8,595	2,997	12,547
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ -	$ -	$ 602	$ 364	$ 4,146	$ 8,595	$ 3,065	$ 16,772
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	808	-	-	(258)	323	-	262	1,135
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	14	7	279	4	1,069	-	30	1,403
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	-	-	-	-	1	-	-	1
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 822	$ 7	$ 881	$ 110	$ 5,539	$ 8,595	$ 3,357	$ 19,311
Compensation and Benefits														
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(149)	(780)	(48)	-	(904)	-	(746)	(2,627)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (149)	$ (780)	$ (48)	$ -	$ (904)	$ -	$ (746)	$ (2,627)
General Overhead														
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(155)	(73)	-	(36)	-	(100)	(9)	(373)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(243)	(278)	(711)	541	(602)	(723)	(144)	(2,160)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	-	-	(65)	-	-	-	-	(65)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	-	-	-	-	-	-	-	-
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (398)	$ (351)	$ (776)	$ 505	$ (602)	$ (823)	$ (153)	$ (2,598)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**275**	**(1,124)**	**57**	**615**	**4,033**	**7,772**	**2,458**	**14,086**
Other														
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	-	1,349	344	(344)	-	5,000	-	6,349
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	-	-	-	-	-	-	-	-
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	-	-	-	-	-	-	-	-
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(500)	-	-	(1,216)	(63)	-	716	(1,063)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	-	-	-	-	-	-	-	-
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	-	-	(7,900)	-	(3,825)	-	-	(11,725)
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (500)	$ 1,349	$ (7,556)	$ (1,560)	$ (3,888)	$ 5,000	$ 716	$ (6,439)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 9,588**	**$ 9,813**	**$ 2,314**	**$ 1,369**	**$ 1,514**	**$ 14,286**	**$ 17,460**	**$ 17,460**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(6,745)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ 2,843**	**$ 3,068**	**$ 2,189**	**$ 1,244**	**$ 1,389**	**$ 14,161**	**$ 17,335**	**$ 17,335**

Budget Summary Page

Week of February 19, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast				Cash Low Point
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Quarter Ending Cash	**($795)**	**($11,893)**	**($34,460)**	**($36,895)**
Better / (Worse) than prior week	1,091	1,023	1,373	1,012
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**($795)**	**($11,893)**	**($34,460)**	**($36,895)**
Better / (Worse) than prior week	1,091	1,023	1,373	1,282

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			211
Timing Differences			
CLO capital commitment not returned	CLO Issuance Commitments	Timing	(62)
CLO capital commitment returned the following week	CLO Issuance Commitments	Timing	62
Fund reimbursements not received in the future	Fund Reimbursements	Timing	30
Fund reimbursements received the previous week	Fund Reimbursements	Timing	(30)
General overhead not paid	General Overhead	Timing	301
General overhead paid the following week	General Overhead	Timing	(301)
Bandera/Loan Fund mgmt fees paid	Mgmt Fees: HF	Timing	2,147
Bandera/Loan Fund mgmt fees not received the following week	Mgmt Fees: HF	Timing	(2,147)
NexBank management fees received	Mgmt Fees: SA	Timing	900
NexBank management fees not received the following week	Mgmt Fees: SA	Timing	(900)
SWB not paid	Payroll, Benefits & Taxes	Timing	148
SWB paid in the future	Payroll, Benefits & Taxes	Timing	(148)
Goetz prepaid award	Payroll, Benefits & Taxes	Timing	125
Goetz prepaid award	Payroll, Benefits & Taxes	Timing	(125)
Shared services received	Shared services	Timing	60
Shared services not received in future period	Shared services	Timing	(60)
Total (should = 0)			**-**
Forecast modifications (besides timing)			
Comp updates based on comp process	Payroll, Benefits & Taxes	throughout 2018	801
Total Impact of new forecast modifications			**801**
Overall budget B/(W)			**1,012**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget February 19, 2018 - December 31, 2018
(in thousands)

Week Beginning	2/19	2/26	3/5	3/12	3/19	3/26	Apr-18	May-18	Jun-18	Jul-18
Beginning Cash	$ 17,460	$ 17,112	$ 3,332	$ 2,857	$ 1,573	$ 878	$ (670)	$ (3,675)	$ (5,503)	$ (11,768)
Operating Receipts										
Management Fees										
CLOs	-	-	-	-	-	-	-	2,222	-	-
Hedge Funds	-	45	-	-	-	-	580	-	-	580
Private Equity (includes PetroCap Royalty)	-	302	-	-	-	-	740	-	-	729
Retail Sub-Advisory Fees	-	252	-	-	-	-	252	252	252	252
Separate Accounts	955	-	-	-	-	-	2,605	65	-	2,650
Total Management Fees	$ 955	$ 599	$ -	$ -	$ -	$ -	$ 4,177	$ 2,539	$ 252	$ 4,211
Shared Services Receipts	-	323	220	-	-	-	543	603	555	553
Fund Reimbursements	-	-	-	-	-	-	138	1,000	100	100
Other	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 955	$ 922	$ 220	$ -	$ -	$ -	$ 4,858	$ 4,142	$ 907	$ 4,864
Compensation and Benefits										
Payroll, Benefits, and Taxes	(43)	(1,150)	(50)	(839)	(50)	(839)	(1,769)	(2,870)	(1,748)	(1,741)
Severance Payments	-	(150)	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	-	(10,758)	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (43)	$ (12,057)	$ (50)	$ (839)	$ (50)	$ (839)	$ (1,769)	$ (2,870)	$ (1,748)	$ (1,741)
General Overhead										
Legal	-	(384)	(200)	-	(200)	-	(400)	(400)	(400)	(400)
General Overhead	(745)	(445)	(445)	(445)	(445)	(445)	(1,380)	(2,135)	(1,890)	(1,330)
HC of NY Overhead	-	(65)	-	-	-	(195)	(65)	(65)	(65)	(65)
Interest Payments and Financing Costs	-	-	-	-	-	(69)	-	-	(70)	-
Total General Overhead	$ (745)	$ (894)	$ (645)	$ (445)	$ (645)	$ (709)	$ (1,845)	$ (2,600)	$ (2,424)	$ (1,795)
Net Change in Cash Due to Operating Activities	**167**	**(12,030)**	**(475)**	**(1,284)**	**(695)**	**(1,548)**	**1,244**	**(1,328)**	**(3,265)**	**1,329**
Other										
One-Time Items - Misc Asset Purchases, etc	-	(500)	-	-	-	-	(500)	(500)	(500)	(500)
Monetizations of Investments	-	-	-	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	(1,200)	-	-	-
CLO Issuance Commitments	62	-	-	-	-	-	-	-	-	-
Petrocap II Commitments/Distributions	(577)	-	-	-	-	-	(2,550)	-	-	(2,550)
Petrocap III Commitments/Distributions	-	-	-	-	-	-	-	-	(2,500)	-
NexPoint Loans, net	-	(500)	-	-	-	-	-	-	-	-
Services Loans, net	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	(750)	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-
Total Other	$ (515)	$ (1,750)	$ -	$ -	$ -	$ -	$ (4,250)	$ (500)	$ (3,000)	$ (3,050)
Ending Cash Before Restricted	**$17,112**	**$3,332**	**$2,857**	**$1,573**	**$878**	**($670)**	**($3,675)**	**($5,503)**	**($11,768)**	**($13,489)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$16,987**	**$3,207**	**$2,732**	**$1,448**	**$753**	**($795)**	**($3,800)**	**($5,628)**	**($11,893)**	**($13,614)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget February 19, 2018 - Decen
(in thousands)

Week Beginning	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (13,489)	$ (28,192)	$ (34,335)	$ (36,484)	$ (36,743)	$ 9,813
Operating Receipts						
Management Fees						
CLOs	2,011	-	-	1,674	-	8,581
Hedge Funds	-	-	580	-	-	2,637
Private Equity (includes PetroCap Royalty)	-	-	719	-	-	2,937
Retail Sub-Advisory Fees	252	252	252	252	252	2,772
Separate Accounts	65	-	2,695	65	-	21,647
Total Management Fees	$ 2,328	$ 252	$ 4,246	$ 1,991	$ 252	$ 38,574
Shared Services Receipts	613	553	553	613	553	6,817
Fund Reimbursements	1,000	100	100	1,000	100	5,041
Other	-	-	-	-	-	1
Total Operating Receipts	$ 3,941	$ 905	$ 4,899	$ 3,604	$ 905	$ 50,433
Compensation and Benefits						
Payroll, Benefits, and Taxes	(1,904)	(1,730)	(1,730)	(1,730)	(1,725)	(22,544)
Severance Payments	(150)	-	-	-	(70)	(370)
Cash Bonus Awards (including deferred)	(6,645)	-	-	-	-	(17,402)
Total Compensation and Benefits	$ (8,699)	$ (1,730)	$ (1,730)	$ (1,730)	$ (1,795)	$ (40,316)
General Overhead						
Legal	(400)	(400)	(400)	(400)	(400)	(4,757)
General Overhead	(1,364)	(1,853)	(1,780)	(1,169)	(2,758)	(20,787)
HC of NY Overhead	(65)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	(37)	-	-	-	-	(175)
Total General Overhead	$ (1,865)	$ (2,318)	$ (2,245)	$ (1,634)	$ (3,223)	$ (26,629)
Net Change in Cash Due to Operating Activities	**(6,623)**	**(3,143)**	**924**	**241**	**(4,113)**	**(16,512)**
Other						
One-Time Items - Misc Asset Purchases, etc	(6,380)	(500)	(500)	(500)	(500)	(11,943)
Monetizations of Investments	-	-	-	-	500	6,849
Korea/Stonebridge Commitments	(1,200)	-	-	-	(1,260)	(3,660)
CLO Issuance Commitments	-	-	-	-	-	62
Petrocap II Commitments/Distributions	-	-	(2,573)	-	-	(8,250)
Petrocap III Commitments/Distributions	-	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	-	-	-	-	2,808	2,308
Services Loans, net	-	-	-	-	456	456
Dugaboy/Dondero Loans, net	-	-	-	-	1,411	1,411
HCMF Loans, net	(500)	-	-	-	-	(1,250)
Partner Contribution/(Distribution)	-	-	-	-	-	(11,725)
Total Other	$ (8,080)	$ (3,000)	$ (3,073)	$ (500)	$ 4,086	$ (30,071)
Ending Cash Before Restricted	**($28,192)**	**($34,335)**	**($36,484)**	**($36,743)**	**($36,770)**	**($36,770)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($28,317)**	**($34,460)**	**($36,609)**	**($36,868)**	**($36,895)**	**($36,895)**

Weekly Budget Checklist - Review of Compensation Status
Week of February 19, 2018

Comp changes during the current week:

Modifications: N/A
New Hires: N/A
Terms: Tomlin, Phillips
Accruals: N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	96	13,307,795	$554,491
Singapore/Korea	3	490,000	20,417
HC of NY	5	467,920	19,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**105**	**14,365,715**	**$598,571**
HCMF	19	3,499,850	145,827
NexPoint	7	2,790,746	116,281
HCFD	17	1,415,000	58,958
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**154**	**$23,235,994**	**$968,166**
Expected Future Hires (see right)	4	805,000	33,542
Total Salary + OT for all entities including future hires	**158**	**$24,040,994**	**$1,001,708**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	300,000
Institutional Fundraiser	175,000
Senior Sales Manager	175,000
Senior Tax Analyst	85,000
Fund Accountant	70,000
Total	805,000

EXHIBIT 48

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of February 26, 2018

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"It's not the having, it's the getting."
- Elizabeth Taylor

Weekly Budget Checklist - Talking Points
Week of
2/26/2018

Talking Points of the week:

1) AIMCO

Today's Beginning Operating Cash (000s)	**$**	**6,361**	Pro forma for today's payroll
Today's Money Market Balance (000s)		**6,233**	
Today's Total HCMLP Available Cash (000s)	**$**	**12,594**	
Today's HCMF Cash (000s)	**$**	**242**	Pro forma for today's payroll
Today's Acis Nexbank Cash (000s)		**634**	
Today's NexPoint Cash (000s)		**404**	Pro forma for today's payroll
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**13,874**	
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**5,468**	
Today's Current Margin Balance - HCMLP (000s)	**$**	**(35,777)**	
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**1,708**	
Today's Current Margin Balance - Services (000s)	**$**	**(7,936)**	
Today's Current Portfolio Margin - Select (000s)	**$**	**1,244**	
Today's Current Margin Balance - Select (000s)	**$**	**(48,786)**	

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of February 19, 2018

(in thousands)

	02.19.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 17,460	$ 17,460	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	-	-	
Private Equity (includes PetroCap Royalty)	-	295	295	Timing difference: moved from week of 02.26 to week of 02.19
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	955	(99)	(1,054)	CLO Holdco update for estimated
Total Management Fees	$ 955	$ 196	$ (759)	
Shared Services	-	-	-	
Fund Reimbursements	-	3	3	
Other	-	-	-	
Total Operating Receipts	$ 955	$ 199	$ (756)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(43)	101	144	Timing difference: moved from week of 02.26 to week of 02.19
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (43)	$ 101	$ 144	
General Overhead				
Legal	-	(3)	(3)	
General Overhead	(745)	(44)	701	Timing difference: moved from week of 02.19 to week of 02.26
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (745)	$ (47)	$ 698	
Net Change in Cash Due to Operating Activities	**167**	**253**	**86**	
Other				
One-Time Payments	(515)	(280)	235	PCP Distirbution budget pick-up
Total Other	$ (515)	$ (280)	$ 235	
Ending Cash Before Restricted	**$ 17,112**	**$ 17,433**	**$ 321**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 16,987**	**$ 17,308**	**$ 321**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week 02.19.18	Current Week 02.26.18	B/(W)	Notes:
Beginning Cash for the week beginning 02.26.18	$ 17,112	$ 17,433	$ 321	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,907	5,797	(110)	Shifted new CLO pricing out one month (now assuming April and June pricing)
Hedge Funds	1,785	1,570	(215)	Revised Prometheus run-rate/removed growth
Private Equity (includes PetroCap Royalty)	2,490	2,188	(302)	Timing difference: moved from week of 02.26 to week of 02.19
Retail Sub-Advisory Fees	2,520	2,520	-	
Separate Accounts	8,145	8,145	-	
Total Management Fees	$ 20,847	$ 20,220	$ (627)	
Shared Service Receipts	5,682	5,682	-	
Fund Reimbursements	3,638	3,638	-	
Other	-	-	-	
Total Operating Receipts	$ 30,167	$ 29,540	$ (627)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(19,874)	(19,850)	24	Timing difference: moved from week of 02.26 to week of 02.19
Severance Payments	(370)	(370)	-	
Cash Bonus Awards	(17,402)	(17,402)	-	
Total Compensation and Benefits	$ (37,646)	$ (37,622)	$ 24	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(17,882)	(18,437)	(555)	Timing difference: moved from week of 02.19 to week of 02.26
HC of NY Overhead	(845)	(845)	-	
Interest Payments and Financing Costs	(175)	(175)	-	
Total General Overhead	$ (23,286)	$ (23,841)	$ (555)	
Net Change in Cash Due to Operating Activities	**(30,765)**	**(31,923)**	**(1,158)**	
Other				
One-Time Payments	(10,880)	(10,880)	-	
Monetizations of Investments	500	500	-	
Korea/Stonebridge Commitments	(3,660)	(3,660)	-	
Petrocap II Commitments/Distributions	(7,673)	(7,673)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,308	2,308	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,250)	(1,200)	50	Adjusted for 02.28 bonus expectations
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (23,117)	$ (23,067)	$ 50	
Ending Cash Before Restricted	**$ (36,770)**	**$ (37,557)**	**$ (787)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (36,895)**	**$ (37,682)**	**$ (787)**	

Highland Capital Management, L.P.
Cash Actuals January 1, 2012 - End of Previous Week
(in thousands)

	2012	2013	2014	2015	2016	2017									2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	1/1	1/8	1/15	1/22	1/29	2/5	2/12	2/19	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 9,588	$ 9,813	$ 2,314	$ 1,369	$ 1,514	$ 14,286	$ 17,460	$ 9,813
Operating Receipts															
Management Fees															
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	-	-	258	-	2,416	-	-	-	2,674
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	-	-	-	364	420	-	68	-	852
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	-	-	-	-	447	-	-	295	742
Retail	7,426	-	51	-	-	-	-	-	-	-	252	-	-	-	252
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	-	-	344	-	611	8,595	2,997	(99)	12,448
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ -	$ -	$ 602	$ 364	$ 4,146	$ 8,595	$ 3,065	$ 196	$ 16,968
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	808	-	-	(258)	323	-	262	-	1,135
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	14	7	279	4	1,069	-	30	3	1,406
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	-	-	-	-	1	-	-	-	1
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 822	$ 7	$ 881	$ 110	$ 5,539	$ 8,595	$ 3,357	$ 199	$ 19,510
Compensation and Benefits															
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(149)	(780)	(48)	-	(904)	-	(746)	(67)	(2,694)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (149)	$ (780)	$ (48)	$ -	$ (904)	$ -	$ (746)	$ (67)	$ (2,694)
General Overhead															
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(155)	(73)	-	(36)	-	(100)	(9)	(3)	(376)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(243)	(278)	(711)	541	(602)	(723)	(144)	124	(2,036)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	-	-	(65)	-	-	-	-	-	(65)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	-	-	-	-	-	-	-	-	-
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (398)	$ (351)	$ (776)	$ 505	$ (602)	$ (823)	$ (153)	$ 121	$ (2,477)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**275**	**(1,124)**	**57**	**615**	**4,033**	**7,772**	**2,458**	**253**	**14,339**
Other															
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	-	1,349	344	(344)	-	5,000	-	361	6,710
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	-	-	-	-	-	-	-	-	-
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	-	-	-	-	-	-	-	-	-
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(500)	-	-	(1,216)	(63)	-	716	(641)	(1,704)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	-	-	-	-	-	-	-	-	-
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	-	-	(7,900)	-	(3,825)	-	-	-	(11,725)
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (500)	$ 1,349	$ (7,556)	$ (1,560)	$ (3,888)	$ 5,000	$ 716	$ (280)	$ (6,719)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 9,588**	**$ 9,813**	**$ 2,314**	**$ 1,369**	**$ 1,514**	**$ 14,286**	**$ 17,460**	**$ 17,433**	**$ 17,433**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(6,745)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ 2,843**	**$ 3,068**	**$ 2,189**	**$ 1,244**	**$ 1,389**	**$ 14,161**	**$ 17,335**	**$ 17,308**	**$ 17,308**

Budget Summary Page

Week of February 26, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast				Cash Low Point
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Quarter Ending Cash	**($526)**	**($12,690)**	**($35,322)**	**($37,682)**
Better / (Worse) than prior week	268	(797)	(862)	(787)
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**($526)**	**($12,690)**	**($35,322)**	**($37,682)**
Better / (Worse) than prior week	268	(797)	(862)	(787)

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			(512)
Timing Differences			
General overhead not paid	General Overhead	Timing	555
General overhead paid the following week	General Overhead	Timing	(555)
PetroCap mgmt fees received	Mgmt Fees: PE	Timing	295
PetroCap mgmt fees not received in the future	Mgmt Fees: PE	Timing	(295)
SWB paid	Payroll, Benefits & Taxes	Timing	(24)
SWB not paid in the future	Payroll, Benefits & Taxes	Timing	24
Total (should = 0)			-
Forecast modifications (besides timing)			
Updated estimate for loan to HCMFA for 02/28/18 Bonuses	Affiliate Loans	02/26/18	50
Shifted new CLO pricing out one month	Mgmt Fees: CLOs	To end of '18	(110)
Prometheus AUM update	Mgmt Fees: HF	To end of '18	(215)
Total Impact of new forecast modifications			**(275)**
Overall budget B/(W)			**(787)**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget February 26, 2018 - December 31, 2018
(in thousands)

Week Beginning	2/26	3/5	3/12	3/19	3/26	4/2	4/9	4/16	4/23	4/30	May-18	Jun-18
Beginning Cash	$ 17,433	$ 3,951	$ 3,296	$ 1,757	$ 1,307	$ (401)	$ (841)	$ (1,831)	$ (1,021)	$ (1,277)	$ (692)	$ (8,800)
Operating Receipts												
Management Fees												
CLOs	37	-	-	-	-	-	-	-	-	-	2,075	-
Hedge Funds	25	-	-	-	-	-	-	-	515	-	-	-
Private Equity (includes PetroCap Royalty)	-	-	-	-	-	-	-	-	439	302	-	-
Retail Sub-Advisory Fees	252	-	-	-	-	252	-	-	-	-	252	252
Separate Accounts	-	-	-	-	-	-	-	1,660	-	945	65	-
Total Management Fees	$ 314	$ -	$ -	$ -	$ -	$ 252	$ -	$ 1,660	$ 954	$ 1,247	$ 2,392	$ 252
Shared Services Receipts	323	220	-	-	-	323	220	-	-	383	220	555
Fund Reimbursements	38	-	-	-	-	-	-	-	-	100	1,000	100
Other	-	-	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 675	$ 220	$ -	$ -	$ -	$ 575	$ 220	$ 1,660	$ 954	$ 1,730	$ 3,612	$ 907
Compensation and Benefits												
Payroll, Benefits, and Taxes	(1,150)	(26)	(839)	(50)	(839)	(50)	(810)	(50)	(810)	(50)	(2,870)	(1,748)
Severance Payments	(150)	-	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	(10,758)	-	-	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (12,057)	$ (26)	$ (839)	$ (50)	$ (839)	$ (50)	$ (810)	$ (50)	$ (810)	$ (50)	$ (2,870)	$ (1,748)
General Overhead												
Legal	-	(384)	-	-	(400)	-	-	(400)	-	-	(400)	(400)
General Overhead	(400)	(400)	(700)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(2,135)	(1,890)
HC of NY Overhead	-	(65)	-	-	-	(65)	-	-	-	(195)	(65)	(65)
Interest Payments and Financing Costs	-	-	-	-	(69)	-	-		-	-	-	(70)
Total General Overhead	$ (400)	$ (849)	$ (700)	$ (400)	$ (869)	$ (465)	$ (400)	$ (800)	$ (400)	$ (595)	$ (2,600)	$ (2,424)
Net Change in Cash Due to Operating Activities	**(11,782)**	**(655)**	**(1,539)**	**(450)**	**(1,708)**	**60**	**(990)**	**810**	**(256)**	**1,085**	**(1,858)**	**(3,265)**
Other												
One-Time Items - Misc Asset Purchases, etc	(500)	-	-	-	-	(500)	-	-	-	(500)	-	(500)
Monetizations of Investments	-	-	-	-	-	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	-	(1,200)	-
Petrocap II Commitments/Distributions	-	-	-	-	-	-	-	-	-	-	(2,550)	-
Petrocap III Commitments/Distributions	-	-	-	-	-	-	-	-	-	-	(2,500)	-
NexPoint Loans, net	(500)	-	-	-	-	-	-	-	-	-	-	-
Services Loans, net	-	-	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	(700)	-	-	-	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-	-	-
Total Other	$ (1,700)	$ -	$ -	$ -	$ -	$ (500)	$ -	$ -	$ -	$ (500)	$ (6,250)	$ (500)
Ending Cash Before Restricted	**$3,951**	**$3,296**	**$1,757**	**$1,307**	**($401)**	**($841)**	**($1,831)**	**($1,021)**	**($1,277)**	**($692)**	**($8,800)**	**($12,565)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$3,826**	**$3,171**	**$1,632**	**$1,182**	**($526)**	**($966)**	**($1,956)**	**($1,146)**	**($1,402)**	**($817)**	**($8,925)**	**($12,690)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget February 26, 2018 - Decer
(in thousands)

Week Beginning	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (12,565)	$ (11,801)	$ (25,304)	$ (35,197)	$ (34,838)	$ (35,097)	$ 9,813
Operating Receipts							
Management Fees							
CLOs	-	2,011	-	-	1,674	-	8,471
Hedge Funds	515	-	-	515	-	-	2,422
Private Equity (includes PetroCap Royalty)	729	-	-	719	-	-	2,930
Retail Sub-Advisory Fees	252	252	252	252	252	252	2,772
Separate Accounts	2,650	65	-	2,695	65	-	20,593
Total Management Fees	$ 4,146	$ 2,328	$ 252	$ 4,181	$ 1,991	$ 252	$ 37,188
Shared Services Receipts	553	613	553	553	613	553	6,817
Fund Reimbursements	100	1,000	100	100	1,000	100	5,044
Other	-	-	-	-	-	-	1
Total Operating Receipts	$ 4,799	$ 3,941	$ 905	$ 4,834	$ 3,604	$ 905	$ 49,050
Compensation and Benefits							
Payroll, Benefits, and Taxes	(1,741)	(1,904)	(1,730)	(1,730)	(1,730)	(1,725)	(22,544)
Severance Payments	-	(150)	-	-	-	(70)	(370)
Cash Bonus Awards (including deferred)	-	(6,645)	-	-	-	-	(17,402)
Total Compensation and Benefits	$ (1,741)	$ (8,699)	$ (1,730)	$ (1,730)	$ (1,730)	$ (1,795)	$ (40,316)
General Overhead							
Legal	(400)	(400)	(400)	(400)	(400)	(400)	(4,760)
General Overhead	(1,330)	(1,364)	(1,853)	(1,780)	(1,169)	(2,618)	(20,473)
HC of NY Overhead	(65)	(65)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	-	(37)	-	-	-	-	(175)
Total General Overhead	$ (1,795)	$ (1,865)	$ (2,318)	$ (2,245)	$ (1,634)	$ (3,083)	$ (26,318)
Net Change in Cash Due to Operating Activities	**1,264**	**(6,623)**	**(3,143)**	**859**	**241**	**(3,973)**	**(17,584)**
Other							
One-Time Items - Misc Asset Purchases, etc	(500)	(6,380)	(500)	(500)	(500)	(500)	(12,584)
Monetizations of Investments	-	-	-	-	-	500	7,210
Korea/Stonebridge Commitments	-	-	(1,200)	-	-	(1,260)	(3,660)
Petrocap II Commitments/Distributions	-	-	(2,550)	-	-	(2,573)	(7,673)
Petrocap III Commitments/Distributions	-	-	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	-	-	-	-	-	2,808	2,308
Services Loans, net	-	-	-	-	-	456	456
Dugaboy/Dondero Loans, net	-	-	-	-	-	1,411	1,411
HCMF Loans, net	-	(500)	-	-	-	-	(1,200)
Partner Contribution/(Distribution)	-	-	-	-	-	-	(11,725)
Total Other	$ (500)	$ (6,880)	$ (6,750)	$ (500)	$ (500)	$ 1,513	$ (29,786)
Ending Cash Before Restricted	**($11,801)**	**($25,304)**	**($35,197)**	**($34,838)**	**($35,097)**	**($37,557)**	**($37,557)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($11,926)**	**($25,429)**	**($35,322)**	**($34,963)**	**($35,222)**	**($37,682)**	**($37,682)**

Weekly Budget Checklist - Review of Compensation Status
Week of February 26, 2018

Comp changes during the current week:

Modifications: N/A
New Hires: N/A
Terms: N/A
Accruals: N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	96	13,307,795	$554,491
Singapore/Korea	3	490,000	20,417
HC of NY	5	467,920	19,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**105**	**14,365,715**	**$598,571**
HCMF	19	3,499,850	145,827
NexPoint	7	2,790,746	116,281
HCFD	17	1,415,000	58,958
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**154**	**$23,235,994**	**$968,166**
Expected Future Hires (see right)	4	805,000	33,542
Total Salary + OT for all entities including future hires	**158**	**$24,040,994**	**$1,001,708**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	300,000
Institutional Fundraiser	175,000
Senior Sales Manager	175,000
Senior Tax Analyst	85,000
Fund Accountant	70,000
Total	805,000

EXHIBIT 49

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of March 05, 2018

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"I'm tired of hearing about money, money, money, money, money. I just want to play the game, drink Pepsi, wear Reebok."
- Shaq

Weekly Budget Checklist - Talking Points
Week of
3/5/2018

Talking Points of the week:

Today's Beginning Operating Cash (000s)	**$**	**4,187**
Today's Money Market Balance (000s)		**1,760**
Today's Total HCMLP Available Cash (000s)	**$**	**5,947**
Today's HCMF Cash (000s)	**$**	**1,609**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**875**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**9,065**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**4,788**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(35,767)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**1,463**
Today's Current Margin Balance - Services (000s)	**$**	**(7,950)**
Today's Current Portfolio Margin - Select (000s)	**$**	**(941)**
Today's Current Margin Balance - Select (000s)	**$**	**(24,545)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of February 26, 2018

(in thousands)

	02.26.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 17,433	$ 17,433	$ -	
Operating Receipts				
Management Fees				
CLOs	37	37	-	
Hedge Funds	25	27	2	
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	252	252	-	
Separate Accounts	-	262	262	Final HLSP payment
Total Management Fees	$ 314	$ 578	$ 264	
Shared Services	323	323	-	
Fund Reimbursements	38	50	12	
Other	-	2	2	
Total Operating Receipts	$ 675	$ 953	$ 278	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(1,150)	(815)	335	Timing Difference: moved from week of 02.26 to week of 03.05
Severance Payments	(150)	(194)	(44)	
Cash Bonus Awards	(10,758)	(10,070)	688	Timing Difference: moved from week of 02.26 to week of 03.05
Total Compensation and Benefits	$ (12,058)	$ (11,079)	$ 979	
General Overhead				
Legal	-	(3)	(3)	
General Overhead	(400)	(537)	(137)	Timing difference: moved from week of 03.05 to week of 02.26
HC of NY Overhead	-	(65)	(65)	Timing difference: moved from week of 03.05 to week of 02.26
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (400)	$ (605)	$ (205)	
Net Change in Cash Due to Operating Activities	**(11,783)**	**(10,731)**	**1,052**	
Other				
One-Time Payments	(1,700)	(765)	935	4,500 Wick Phillips; 500 NPA loan; (4,075) Select sub
Total Other	$ (1,700)	$ (765)	$ 935	
Ending Cash Before Restricted	**$ 3,950**	**$ 5,937**	**$ 1,987**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 3,825**	**$ 5,812**	**$ 1,987**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	02.26.18	03.05.18	B/(W)	Notes:
Beginning Cash for the week beginning 03.05.18	$ 3,950	$ 5,937	$ 1,987	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,760	5,760	-	
Hedge Funds	1,545	1,545	-	
Private Equity (includes PetroCap Royalty)	2,188	2,188	-	
Retail Sub-Advisory Fees	2,268	7,668	5,400	HCMFA Sub-Advisory Fees
Separate Accounts	8,145	8,145	-	
Total Management Fees	$ 19,906	$ 25,306	$ 5,400	
Shared Service Receipts	5,359	5,359	-	
Fund Reimbursements	3,600	3,600	-	
Other	-	-	-	
Total Operating Receipts	$ 28,865	$ 34,265	$ 5,400	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(18,700)	(19,162)	(462)	Updated for current/future EE roster and timing differences
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,645)	(7,710)	(1,065)	Updated for current/future EE roster and timing differences
Total Compensation and Benefits	$ (25,565)	$ (27,092)	$ (1,527)	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(18,037)	(17,900)	137	Timing difference: moved from week of 03.05 to week of 02.26
HC of NY Overhead	(845)	(780)	65	Timing difference: moved from week of 03.05 to week of 02.26
Interest Payments and Financing Costs	(175)	(205)	(30)	True-Up for amount due to Frontier
Total General Overhead	$ (23,441)	$ (23,269)	$ 172	
Net Change in Cash Due to Operating Activities	**(20,141)**	**(16,096)**	**4,045**	
Other				
One-Time Payments	(10,380)	(11,380)	(1,000)	True-Up for amount due to Frontier
Monetizations of Investments	500	500	-	
Korea/Stonebridge Commitments	(3,660)	(3,660)	-	
Petrocap II Commitments/Distributions	(7,673)	(7,673)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,808	2,808	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(500)	(1,000)	(500)	Projected HCMFA needs for August Bonuses
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (21,367)	$ (22,867)	$ (1,500)	
Ending Cash Before Restricted	**$ (37,558)**	**$ (33,026)**	**$ 4,532**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (37,683)**	**$ (33,151)**	**$ 4,532**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017										2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	1/1	1/8	1/15	1/22	1/29	2/5	2/12	2/19	2/26	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 9,588	$ 9,813	$ 2,314	$ 1,369	$ 1,514	$ 14,286	$ 17,460	$ 17,433	$ 9,813
Operating Receipts																
Management Fees																
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	-	-	258	-	2,416	-	-	-	37	2,711
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	-	-	-	364	420	-	68	-	27	879
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	-	-	-	-	447	-	-	295	-	742
Retail	7,426	-	51	-	-	-	-	-	-	-	252	-	-	-	514	766
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	-	-	344	-	611	8,595	2,997	(99)	-	12,448
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ -	$ -	$ 602	$ 364	$ 4,146	$ 8,595	$ 3,065	$ 196	$ 578	$ 17,546
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	808	-	-	(258)	323	-	262	-	323	1,458
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	14	7	279	4	1,069	-	30	3	50	1,456
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	-	-	-	-	1	-	-	-	2	3
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 822	$ 7	$ 881	$ 110	$ 5,539	$ 8,595	$ 3,357	$ 199	$ 953	$ 20,463
Compensation and Benefits																
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(149)	(780)	(48)	-	(904)	-	(746)	(67)	(815)	(3,509)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	-	-	-	-	-	-	-	-	(194)	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	-	-	-	-	-	-	-	-	(10,070)	(10,070)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (149)	$ (780)	$ (48)	$ -	$ (904)	$ -	$ (746)	$ (67)	$ (11,079)	$ (13,773)
General Overhead																
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(155)	(73)	-	(36)	-	(100)	(9)	(3)	(3)	(379)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(243)	(278)	(711)	541	(602)	(723)	(144)	124	(537)	(2,573)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	-	-	(65)	-	-	-	-	-	(65)	(130)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	-	-	-	-	-	-	-	-	-	-
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (398)	$ (351)	$ (776)	$ 505	$ (602)	$ (823)	$ (153)	$ 121	$ (605)	$ (3,082)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**275**	**(1,124)**	**57**	**615**	**4,033**	**7,772**	**2,458**	**253**	**(10,731)**	**3,608**
Other																
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	-	1,349	344	(344)	-	5,000	-	361	-	6,710
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	-	-	-	-	-	-	-	-	-	-
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	-	-	-	-	-	-	-	-	-	-
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(500)	-	-	(1,216)	(63)	-	716	(641)	(4,575)	(6,279)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	-	-	-	-	-	-	-	-	(700)	(700)
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	-	-	(7,900)	-	(3,825)	-	-	-	4,510	(7,215)
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (500)	$ 1,349	$ (7,556)	$ (1,560)	$ (3,888)	$ 5,000	$ 716	$ (280)	$ (765)	$ (7,484)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 9,588**	**$ 9,813**	**$ 2,314**	**$ 1,369**	**$ 1,514**	**$ 14,286**	**$ 17,460**	**$ 17,433**	**$ 5,937**	**$ 5,937**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(6,745)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ 2,843**	**$ 3,068**	**$ 2,189**	**$ 1,244**	**$ 1,389**	**$ 14,161**	**$ 17,335**	**$ 17,308**	**$ 5,812**	**$ 5,812**

Budget Summary Page

Week of March 05, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast				Cash Low Point
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Quarter Ending Cash	**$528**	**($10,188)**	**($32,687)**	**($33,150)**
Better / (Worse) than prior week	1,054	2,502	2,634	4,532
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**$528**	**($10,188)**	**($32,687)**	**($33,150)**
Better / (Worse) than prior week	1,054	2,502	2,634	4,532

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			903
Timing Differences			
Bonus award taxes not paid	Cash bonus awards	Timing	950
Bonus award taxes paid in the future	Cash bonus awards	Timing	(950)
General overhead paid	General Overhead	Timing	(137)
General overhead not paid the following week	General Overhead	Timing	137
HCNY funded	HC of NY Overhead	Timing	(65)
HCNY not funded the following week	HC of NY Overhead	Timing	65
SWB not paid	Payroll, Benefits & Taxes	Timing	335
SWB paid in the future	Payroll, Benefits & Taxes	Timing	(335)
Total (should = 0)			**-**
Forecast modifications (besides timing)			
Projected HCMFA needs for August Bonuses	Affiliate Loans	To end of '18	(500)
Updated for current/future employee roster & deferred awards	Cash Bonus Awards	To end of '18	(115)
True-Up for amount due to Frontier	Interest Payments	To end of '18	(29)
HCMFA Sub-Advisory Fees	Mgmt Fees: Retail Sub-Advisory	To end of '18	5,400
True-Up for amount due to Frontier	One-Time Items	Aug 18	(1,000)
Updated for current/future employee roster	Payroll, Benefits & Taxes	To end of '18	(127)
Total Impact of new forecast modifications			**3,629**
Overall budget B/(W)			**4,532**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget March 05, 2018 - December 31, 2018
(in thousands)

Week Beginning	3/5	3/12	3/19	3/26	4/2	4/9	4/16	4/23	4/30	May-18	Jun-18
Beginning Cash	$ 5,937	$ 4,490	$ 2,862	$ 2,377	$ 653	$ 613	$ (459)	$ 301	$ (36)	$ 949	$ (6,722)
Operating Receipts											
Management Fees											
CLOs	-	-	-	-	-	-	-	-	-	2,075	-
Hedge Funds	-	-	-	-	-	-	-	515	-	-	-
Private Equity (includes PetroCap Royalty)	-	-	-	-	-	-	-	439	302	-	-
Retail Sub-Advisory Fees	-	-	-	-	702	-	-	-	450	702	702
Separate Accounts	-	-	-	-	-	-	1,660	-	945	65	-
Total Management Fees	$ -	$ -	$ -	$ -	$ 702	$ -	$ 1,660	$ 954	$ 1,697	$ 2,842	$ 702
Shared Services Receipts	220	-	-	-	323	220	-	-	383	220	555
Fund Reimbursements	-	-	-	-	-	-	-	-	100	1,000	100
Other	-	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 220	$ -	$ -	$ -	$ 1,025	$ 220	$ 1,660	$ 954	$ 2,180	$ 4,062	$ 1,357
Compensation and Benefits											
Payroll, Benefits, and Taxes	(17)	(844)	(85)	(844)	(100)	(891)	(100)	(891)	(100)	(2,883)	(1,761)
Severance Payments	-	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	(950)	-	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (967)	$ (844)	$ (85)	$ (844)	$ (100)	$ (891)	$ (100)	$ (891)	$ (100)	$ (2,883)	$ (1,761)
General Overhead											
Legal	-	(384)	-	(400)	-	-	(400)	-	-	(400)	(400)
General Overhead	(700)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(2,135)	(1,890)
HC of NY Overhead	-	-	-	-	(65)	-	-	-	(195)	(65)	(65)
Interest Payments and Financing Costs	-	-	-	(81)	-	-		-	-	-	(81)
Total General Overhead	$ (700)	$ (784)	$ (400)	$ (881)	$ (465)	$ (400)	$ (800)	$ (400)	$ (595)	$ (2,600)	$ (2,436)
Net Change in Cash Due to Operating Activities	**(1,447)**	**(1,628)**	**(485)**	**(1,724)**	**460**	**(1,071)**	**760**	**(337)**	**1,485**	**(1,421)**	**(2,840)**
Other											
One-Time Items - Misc Asset Purchases, etc	-	-	-	-	(500)	-	-	-	(500)	-	(500)
Monetizations of Investments	-	-	-	-	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	(1,200)	-
Petrocap II Commitments/Distributions	-	-	-	-	-	-	-	-	-	(2,550)	-
Petrocap III Commitments/Distributions	-	-	-	-	-	-	-	-	-	(2,500)	-
NexPoint Loans, net	-	-	-	-	-	-	-	-	-	-	-
Services Loans, net	-	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-	-
Total Other	$ -	$ -	$ -	$ -	$ (500)	$ -	$ -	$ -	$ (500)	$ (6,250)	$ (500)
Ending Cash Before Restricted	**$4,490**	**$2,862**	**$2,377**	**$653**	**$613**	**($459)**	**$301**	**($36)**	**$949**	**($6,722)**	**($10,063)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$4,365**	**$2,737**	**$2,252**	**$528**	**$488**	**($584)**	**$176**	**($161)**	**$824**	**($6,847)**	**($10,188)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget March 05, 2018 - Decembe
(in thousands)

Week Beginning	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (10,063)	$ (8,862)	$ (23,106)	$ (32,562)	$ (31,767)	$ (31,589)	$ 9,813
Operating Receipts							
Management Fees							
CLOs	-	2,011	-	-	1,674	-	8,471
Hedge Funds	515	-	-	515	-	-	2,424
Private Equity (includes PetroCap Royalty)	729	-	-	719	-	-	2,930
Retail Sub-Advisory Fees	702	1,152	702	702	702	1,152	8,434
Separate Accounts	2,650	65	-	2,695	65	-	20,593
Total Management Fees	$ 4,596	$ 3,228	$ 702	$ 4,631	$ 2,441	$ 1,152	$ 42,852
Shared Services Receipts	553	613	553	553	613	553	6,817
Fund Reimbursements	100	1,000	100	100	1,000	100	5,056
Other	-	-	-	-	-	-	3
Total Operating Receipts	$ 5,249	$ 4,841	$ 1,355	$ 5,284	$ 4,054	$ 1,805	$ 54,728
Compensation and Benefits							
Payroll, Benefits, and Taxes	(1,754)	(1,924)	(1,743)	(1,743)	(1,743)	(1,738)	(22,671)
Severance Payments	-	(150)	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	-	(6,760)	-	-	-	-	(17,780)
Total Compensation and Benefits	$ (1,754)	$ (8,834)	$ (1,743)	$ (1,743)	$ (1,743)	$ (1,808)	$ (40,865)
General Overhead							
Legal	(400)	(400)	(400)	(400)	(400)	(400)	(4,763)
General Overhead	(1,330)	(1,364)	(1,853)	(1,780)	(1,169)	(2,481)	(20,473)
HC of NY Overhead	(65)	(65)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	-	(43)	-	-	-	-	(205)
Total General Overhead	$ (1,795)	$ (1,872)	$ (2,318)	$ (2,245)	$ (1,634)	$ (2,946)	$ (26,351)
Net Change in Cash Due to Operating Activities	**1,701**	**(5,865)**	**(2,706)**	**1,296**	**677**	**(2,949)**	**(12,487)**
Other							
One-Time Items - Misc Asset Purchases, etc	(500)	(7,380)	(500)	(500)	(500)	(500)	(13,849)
Monetizations of Investments	-	-	-	-	-	500	7,210
Korea/Stonebridge Commitments	-	-	(1,200)	-	-	(1,260)	(3,660)
Petrocap II Commitments/Distributions	-	-	(2,550)	-	-	(2,573)	(7,673)
Petrocap III Commitments/Distributions	-	-	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	-	-	-	-	-	2,808	2,808
Services Loans, net	-	-	-	-	-	456	456
Dugaboy/Dondero Loans, net	-	-	-	-	-	1,411	1,411
HCMF Loans, net	-	(1,000)	-	-	-	-	(1,000)
Partner Contribution/(Distribution)	-	-	-	-	-	-	(11,725)
Total Other	$ (500)	$ (8,380)	$ (6,750)	$ (500)	$ (500)	$ 1,513	$ (30,351)
Ending Cash Before Restricted	**($8,862)**	**($23,106)**	**($32,562)**	**($31,767)**	**($31,589)**	**($33,025)**	**($33,025)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($8,987)**	**($23,231)**	**($32,687)**	**($31,892)**	**($31,714)**	**($33,150)**	**($33,150)**

Weekly Budget Checklist - Review of Compensation Status
Week of March 05, 2018

Comp changes during the current week:

Modifications:	Updated for 2017 comp cycle
New Hires:	N/A
Terms:	N/A
Accruals:	Updated for 2017 comp cycle

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	93	12,867,795	$536,158
Singapore/Korea	3	490,000	20,417
HC of NY	5	467,920	19,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**102**	**13,925,715**	**$580,238**
HCMF	20	3,589,850	149,577
NexPoint	7	2,790,746	116,281
HCFD	17	1,415,000	58,958
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**152**	**$22,885,994**	**$953,583**
Expected Future Hires (see right)	4	805,000	33,542
Total Salary + OT for all entities including future hires	**156**	**$23,690,994**	**$987,125**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	300,000
Institutional Fundraiser	175,000
Senior Sales Manager	175,000
Senior Tax Analyst	85,000
Fund Accountant	70,000
Total	805,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
3rd/4th installments of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,873,750
HCMF		894,396
NexPoint		213,750
NXRT		-
HC of NY		53,750
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$4,116,896**
1st/2nd installments of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,575,200
HCMF		820,332
NexPoint		326,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,916,949**
Total Bonuses		**$9,033,845**

EXHIBIT 50

Highland Capital Management, L.P.
Weekly Budget Checklist
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Week of March 12, 2018

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"Live rich, die poor; never make the mistake of doing it the other way round."
- Walter Annenberg

Weekly Budget Checklist - Talking Points
Week of
3/12/2018

Talking Points of the week:

Today's Beginning Operating Cash (000s)	**$**	**3,392**
Today's Money Market Balance (000s)		**1,600**
Today's Total HCMLP Available Cash (000s)	**$**	**4,992**
Today's HCMF Cash (000s)	**$**	**1,669**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**423**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**7,718**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**5,370**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,267)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**1,837**
Today's Current Margin Balance - Services (000s)	**$**	**(7,950)**
Today's Current Portfolio Margin - Select (000s)	**$**	**696**
Today's Current Margin Balance - Select (000s)	**$**	**(28,055)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of March 05, 2018

(in thousands)

	03.05.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 5,937	$ 5,937	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	-	-	
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	-	-	-	
Total Management Fees	$ -	$ -	$ -	
Shared Services	220	-	(220)	Timing difference: moved from week of 03.05 to week of 03.12
Fund Reimbursements	-	63	63	
Other	-	-	-	
Total Operating Receipts	$ 220	$ 63	$ (157)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(17)	-	17	
Severance Payments	-	-	-	
Cash Bonus Awards	(950)	(124)	826	Timing difference: moved from week of 03.05 to week of 03.19
Total Compensation and Benefits	$ (967)	$ (124)	$ 843	
General Overhead				
Legal	-	(3)	(3)	
General Overhead	(700)	(740)	(40)	Timing difference: moved from week of 03.12 to week of 03.05
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (700)	$ (743)	$ (43)	
Net Change in Cash Due to Operating Activities	**(1,447)**	**(804)**	**643**	
Other				
One-Time Payments	-	(85)	(85)	Partner distribution
Total Other	$ -	$ (85)	$ (85)	
Ending Cash Before Restricted	**$ 4,490**	**$ 5,048**	**$ 558**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 4,365**	**$ 4,923**	**$ 558**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	03.05.18	03.12.18	B/(W)	Notes:
Beginning Cash for the week beginning 03.12.18	$ 4,490	$ 5,048	$ 558	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,760	5,650	(110)	Shifted new CLO pricing out one month (June, August, October)
Hedge Funds	1,545	1,545	-	
Private Equity (includes PetroCap Royalty)	2,188	2,188	-	
Retail Sub-Advisory Fees	7,668	7,668	-	
Separate Accounts	8,145	8,145	-	
Total Management Fees	$ 25,306	$ 25,196	$ (110)	
Shared Service Receipts	5,139	5,359	220	Timing difference: moved from week of 03.05 to week of 03.12
Fund Reimbursements	3,600	3,600	-	
Other	-	-	-	
Total Operating Receipts	$ 34,045	$ 34,155	$ 110	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(19,145)	(19,145)	-	
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,760)	(7,586)	(826)	Timing difference: moved from week of 03.05 to week of 03.19
Total Compensation and Benefits	$ (26,125)	$ (26,951)	$ (826)	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(17,200)	(17,160)	40	Timing difference: moved from week of 03.12 to week of 03.05
HC of NY Overhead	(780)	(780)	-	
Interest Payments and Financing Costs	(205)	(205)	-	
Total General Overhead	$ (22,569)	$ (22,529)	$ 40	
Net Change in Cash Due to Operating Activities	**(14,649)**	**(15,325)**	**(676)**	
Other				
One-Time Payments	(11,380)	(9,380)	2,000	Frontier financing
Monetizations of Investments	500	500	-	
Korea/Stonebridge Commitments	(3,660)	(2,400)	1,260	Revised to two deals at $20mm apiece for remainder of year; $1.2mm commitment per deal per C. Moore
Petrocap II Commitments/Distributions	(7,673)	(7,673)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,808	2,808	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,000)	(800)	200	Updated for 02.28 loan repayment and 08.31 bonus needs
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (22,867)	$ (19,407)	$ 3,460	
Ending Cash Before Restricted	**$ (33,026)**	**$ (29,684)**	**$ 3,342**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (33,151)**	**$ (29,809)**	**$ 3,342**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017											2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	1/1	1/8	1/15	1/22	1/29	2/5	2/12	2/19	2/26	3/5	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 9,588	$ 9,813	$ 2,314	$ 1,369	$ 1,514	$ 14,286	$ 17,460	$ 17,433	$ 5,937	$ 9,813
Operating Receipts																	
Management Fees																	
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	-	-	258	-	2,416	-	-	-	37	-	2,711
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	-	-	-	364	420	-	68	-	27	-	879
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	-	-	-	-	447	-	-	295	-	-	742
Retail	7,426	-	51	-	-	-	-	-	-	-	252	-	-	-	514	-	766
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	-	-	344	-	611	8,595	2,997	(99)	-	-	12,448
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ -	$ -	$ 602	$ 364	$ 4,146	$ 8,595	$ 3,065	$ 196	$ 578	$ -	$ 17,546
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	808	-	-	(258)	323	-	262	-	323	-	1,458
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	14	7	279	4	1,069	-	30	3	50	63	1,519
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	-	-	-	-	1	-	-	-	2	-	3
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 822	$ 7	$ 881	$ 110	$ 5,539	$ 8,595	$ 3,357	$ 199	$ 953	$ 63	$ 20,526
Compensation and Benefits																	
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(149)	(780)	(48)	-	(904)	-	(746)	(67)	(815)	-	(3,509)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	-	-	-	-	-	-	-	-	(194)	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	-	-	-	-	-	-	-	-	(10,070)	(124)	(10,194)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (149)	$ (780)	$ (48)	$ -	$ (904)	$ -	$ (746)	$ (67)	$ (11,079)	$ (124)	$ (13,897)
General Overhead																	
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(155)	(73)	-	(36)	-	(100)	(9)	(3)	(3)	(3)	(382)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(243)	(278)	(711)	541	(602)	(723)	(144)	124	(537)	(740)	(3,313)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	-	-	(65)	-	-	-	-	-	(65)	-	(130)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	-	-	-	-	-	-	-	-	-	-	-
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (398)	$ (351)	$ (776)	$ 505	$ (602)	$ (823)	$ (153)	$ 121	$ (605)	$ (743)	$ (3,825)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**275**	**(1,124)**	**57**	**615**	**4,033**	**7,772**	**2,458**	**253**	**(10,731)**	**(804)**	**2,804**
Other																	
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	-	1,349	344	(344)	-	5,000	-	361	-	-	6,710
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	-	-	-	-	-	-	-	-	-	-	-
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	-	-	(7,900)	-	(3,825)	-	-	-	-	(85)	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(500)	-	-	(1,216)	(63)	-	716	(641)	(4,575)	-	(6,279)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	-	-	-	-	-	-	-	-	(700)	-	(700)
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	-	-	-	-	-	-	-	-	4,510	-	4,510
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (500)	$ 1,349	$ (7,556)	$ (1,560)	$ (3,888)	$ 5,000	$ 716	$ (280)	$ (765)	$ (85)	$ (7,569)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 9,588**	**$ 9,813**	**$ 2,314**	**$ 1,369**	**$ 1,514**	**$ 14,286**	**$ 17,460**	**$ 17,433**	**$ 5,937**	**$ 5,048**	**$ 5,048**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(6,745)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ 2,843**	**$ 3,068**	**$ 2,189**	**$ 1,244**	**$ 1,389**	**$ 14,161**	**$ 17,335**	**$ 17,308**	**$ 5,812**	**$ 4,923**	**$ 4,923**

Budget Summary Page

Week of March 12, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast				Cash Low Point
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Quarter Ending Cash	**$2,480**	**($8,196)**	**($29,195)**	**($29,808)**
Better / (Worse) than prior week	1,952	1,992	3,492	3,342
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**$1,771**	**($8,196)**	**($29,195)**	**($29,808)**
Better / (Worse) than prior week	1,243	1,992	3,492	3,342

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			(8)
Timing Differences			
Bonus awards & taxes not paid	Cash bonus awards	Timing	826
Bonus awards & taxes paid in the future	Cash bonus awards	Timing	(826)
General overhead paid	General Overhead	Timing	(40)
General overhead not paid the following week	General Overhead	Timing	40
Shared services not received	Shared services	Timing	(220)
Shared services received in future period	Shared services	Timing	220
Total (should = 0)			-
Forecast modifications (besides timing)			
Updated estimate for loan to HCMFA for 08/31/18 Bonuses	Affiliate Loans	08/01/18	200
Revised to two deals at $20mm apiece for remainder of year; $1.2mm commitment per deal per C. Moore	Korea/Stonebridge Commitments	To end of '18	1,260
Shifted new CLO pricing out one month (June, August, October)	Mgmt Fees: CLOs	To end of '18	(110)
Frontier financing	One-Time Items	03/19/18	2,000
Total Impact of new forecast modifications			**3,350**
Overall budget B/(W)			**3,342**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget March 12, 2018 - December 31, 2018
(in thousands)

Week Beginning	3/12	3/19	3/26	4/2	4/9	4/16	4/23	4/30	May-18	Jun-18	Jul-18
Beginning Cash	$ 5,048	$ 3,198	$ 4,713	$ 2,605	$ 2,765	$ 1,693	$ 2,453	$ 2,116	$ 2,651	$ (3,530)	$ (8,071)
Operating Receipts											
Management Fees											
CLOs	-	-	-	-	-	-	-	-	1,865	-	-
Hedge Funds	-	-	-	-	-	-	515	-	-	-	515
Private Equity (includes PetroCap Royalty)	-	-	-	-	-	-	439	302	-	-	729
Retail Sub-Advisory Fees	-	-	-	702	-	-	-	-	702	702	702
Separate Accounts	-	-	-	-	-	1,660	-	945	65	-	2,650
Total Management Fees	$ -	$ -	$ -	$ 702	$ -	$ 1,660	$ 954	$ 1,247	$ 2,632	$ 702	$ 4,596
Shared Services Receipts	220	-	-	323	220	-	-	383	220	555	553
Fund Reimbursements	-	-	-	-	-	-	-	100	1,000	100	100
Other	-	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 220	$ -	$ -	$ 1,025	$ 220	$ 1,660	$ 954	$ 1,730	$ 3,852	$ 1,357	$ 5,249
Compensation and Benefits											
Payroll, Benefits, and Taxes	(844)	(85)	(844)	(100)	(891)	(100)	(891)	(100)	(2,883)	(1,761)	(1,754)
Severance Payments	-	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	(826)	-	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (1,670)	$ (85)	$ (844)	$ (100)	$ (891)	$ (100)	$ (891)	$ (100)	$ (2,883)	$ (1,761)	$ (1,754)
General Overhead											
Legal	-	-	(784)	-	-	(400)	-	-	(400)	(400)	(400)
General Overhead	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(2,135)	(1,890)	(1,330)
HC of NY Overhead	-	-	-	(65)	-	-	-	(195)	(65)	(65)	(65)
Interest Payments and Financing Costs	-	-	(81)	-	-		-	-	-	(81)	-
Total General Overhead	$ (400)	$ (400)	$ (1,265)	$ (465)	$ (400)	$ (800)	$ (400)	$ (595)	$ (2,600)	$ (2,436)	$ (1,795)
Net Change in Cash Due to Operating Activities	**(1,850)**	**(485)**	**(2,108)**	**460**	**(1,071)**	**760**	**(337)**	**1,035**	**(1,631)**	**(2,840)**	**1,701**
Other											
One-Time Items - Misc Asset Purchases, etc	-	2,000	-	(500)	-	-	-	(500)	-	(500)	(500)
Monetizations of Investments	-	-	-	-	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	(1,200)	-
Petrocap II Commitments/Distributions	-	-	-	-	-	-	-	-	(2,550)	-	-
Petrocap III Commitments/Distributions	-	-	-	(500)	-	-	-	-	(2,000)	-	-
NexPoint Loans, net	-	-	-	-	-	-	-	-	-	-	-
Services Loans, net	-	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	700	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-	-
Total Other	$ -	$ 2,000	$ -	$ (300)	$ -	$ -	$ -	$ (500)	$ (4,550)	$ (1,700)	$ (500)
Ending Cash Before Restricted	**$3,198**	**$4,713**	**$2,605**	**$2,765**	**$1,693**	**$2,453**	**$2,116**	**$2,651**	**($3,530)**	**($8,071)**	**($6,870)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$3,073**	**$4,588**	**$2,480**	**$2,640**	**$1,568**	**$2,328**	**$1,991**	**$2,526**	**($3,655)**	**($8,196)**	**($6,995)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget March 12, 2018 - Decembe
(in thousands)

Week Beginning	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (6,870)	$ (20,814)	$ (29,070)	$ (29,475)	$ (29,097)	$ 9,813
Operating Receipts						
Management Fees						
CLOs	1,911	-	-	1,874	-	8,361
Hedge Funds	-	-	515	-	-	2,424
Private Equity (includes PetroCap Royalty)	-	-	719	-	-	2,930
Retail Sub-Advisory Fees	2,052	702	702	702	702	8,434
Separate Accounts	65	-	2,695	65	-	20,593
Total Management Fees	$ 4,028	$ 702	$ 4,631	$ 2,641	$ 702	$ 42,742
Shared Services Receipts	613	553	553	613	553	6,817
Fund Reimbursements	1,000	100	100	1,000	100	5,119
Other	-	-	-	-	-	3
Total Operating Receipts	$ 5,641	$ 1,355	$ 5,284	$ 4,254	$ 1,355	$ 54,681
Compensation and Benefits						
Payroll, Benefits, and Taxes	(1,924)	(1,743)	(1,743)	(1,743)	(1,738)	(22,654)
Severance Payments	(150)	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	(6,760)	-	-	-	-	(17,780)
Total Compensation and Benefits	$ (8,834)	$ (1,743)	$ (1,743)	$ (1,743)	$ (1,808)	$ (40,848)
General Overhead						
Legal	(400)	(400)	(400)	(400)	(400)	(4,766)
General Overhead	(1,364)	(1,853)	(1,780)	(1,169)	(2,441)	(20,473)
HC of NY Overhead	(65)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	(43)	-	-	-	-	(205)
Total General Overhead	$ (1,872)	$ (2,318)	$ (2,245)	$ (1,634)	$ (2,906)	$ (26,354)
Net Change in Cash Due to Operating Activities	**(5,065)**	**(2,706)**	**1,296**	**877**	**(3,359)**	**(12,520)**
Other						
One-Time Items - Misc Asset Purchases, etc	(7,380)	(500)	(500)	(500)	(500)	(11,849)
Monetizations of Investments	-	-	-	-	500	7,210
Korea/Stonebridge Commitments	-	-	(1,200)	-	-	(2,400)
Petrocap II Commitments/Distributions	-	(2,550)	-	-	(2,573)	(7,673)
Petrocap III Commitments/Distributions	-	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	-	-	-	-	2,808	2,808
Services Loans, net	-	-	-	-	456	456
Dugaboy/Dondero Loans, net	-	-	-	-	1,411	1,411
HCMF Loans, net	(1,500)	-	-	-	-	(800)
Partner Contribution/(Distribution)	-	-	-	-	-	(11,810)
Total Other	$ (8,880)	$ (5,550)	$ (1,700)	$ (500)	$ 2,773	$ (26,976)
Ending Cash Before Restricted	**($20,814)**	**($29,070)**	**($29,475)**	**($29,097)**	**($29,683)**	**($29,683)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($20,939)**	**($29,195)**	**($29,600)**	**($29,222)**	**($29,808)**	**($29,808)**

Weekly Budget Checklist - Review of Compensation Status
Week of March 12, 2018

Comp changes during the current week:

Modifications:	N/A
New Hires:	N/A
Terms:	N/A
Accruals:	N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	93	12,867,795	$536,158
Singapore/Korea	3	490,000	20,417
HC of NY	5	467,920	19,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**102**	**13,925,715**	**$580,238**
HCMF	20	3,589,850	149,577
NexPoint	7	2,790,746	116,281
HCFD	17	1,415,000	58,958
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**152**	**$22,885,994**	**$953,583**
Expected Future Hires (see right)	4	805,000	33,542
Total Salary + OT for all entities including future hires	**156**	**$23,690,994**	**$987,125**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	300,000
Institutional Fundraiser	175,000
Senior Sales Manager	175,000
Senior Tax Analyst	85,000
Fund Accountant	70,000
Total	805,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
3rd/4th installments of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,873,750
HCMF		894,396
NexPoint		213,750
NXRT		-
HC of NY		53,750
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$4,116,896**
1st/2nd installments of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,575,200
HCMF		855,085
NexPoint		326,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,951,702**
Total Bonuses		**$9,068,598**

EXHIBIT 51

Highland Capital Management, L.P.
Weekly Budget Checklist
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Week of March 19, 2018

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"There's no such thing as coulda, shoulda, or woulda. If you shoulda and coulda, you woulda done it."
- Pat Riley

Weekly Budget Checklist - Talking Points
Week of
3/19/2018

Talking Points of the week:

1) AIMCO
2) Crusader

Today's Beginning Operating Cash (000s)	**$**	**950**
Today's Money Market Balance (000s)		**1,800**
Today's Total HCMLP Available Cash (000s)	**$**	**2,750**
Today's HCMF Cash (000s)	**$**	**904**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**161**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**4,449**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**4,201**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,267)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**1,414**
Today's Current Margin Balance - Services (000s)	**$**	**(7,950)**
Today's Current Portfolio Margin - Select (000s)	**$**	**1,929**
Today's Current Margin Balance - Select (000s)	**$**	**(27,132)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of March 12, 2018

(in thousands)

	03.12.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 5,048	$ 5,048	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	-	-	
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	-	-	-	
Total Management Fees	$ -	$ -	$ -	
Shared Services	220	51	(169)	Timing difference: moved from week of 03.12 to week of 03.19
Fund Reimbursements	-	-	-	
Other	-	-	-	
Total Operating Receipts	$ 220	$ 51	$ (169)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(844)	(838)	6	
Severance Payments	-	-	-	
Cash Bonus Awards	(826)	(779)	47	Timing difference: moved from week of 03.12 to week of 03.19
Total Compensation and Benefits	$ (1,670)	$ (1,617)	$ 53	
General Overhead				
Legal	-	(38)	(38)	
General Overhead	(400)	(366)	34	
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (400)	$ (404)	$ (4)	
Net Change in Cash Due to Operating Activities	**(1,850)**	**(1,970)**	**(120)**	
Other				
One-Time Payments	-	(426)	(426)	Meritage Good Faith Deposit
Total Other	$ -	$ (426)	$ (426)	
Ending Cash Before Restricted	**$ 3,198**	**$ 2,652**	**$ (546)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 3,073**	**$ 2,527**	**$ (546)**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	03.12.18	03.19.18	B/(W)	Notes:
Beginning Cash for the week beginning 03.19.18	$ 3,198	$ 2,652	$ (546)	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,650	5,650	-	
Hedge Funds	1,545	1,545	-	
Private Equity (includes PetroCap Royalty)	2,188	2,188	-	
Retail Sub-Advisory Fees	7,668	6,618	(1,050)	HCMFA re-class to General Overhead
Separate Accounts	8,145	8,145	-	
Total Management Fees	$ 25,196	$ 24,146	$ (1,050)	
Shared Service Receipts	5,139	5,087	(52)	Timing difference and updated HCMFA run-rate
Fund Reimbursements	3,600	3,600	-	
Other	-	-	-	
Total Operating Receipts	$ 33,935	$ 32,833	$ (1,102)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(18,301)	(18,201)	100	100 update for current/future EE roster
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,760)	(6,807)	(47)	Estimate for remaining 2017 bonuses
Total Compensation and Benefits	$ (25,281)	$ (25,228)	$ 53	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(16,760)	(15,710)	1,050	HCMFA re-class from Retail Sub-Advisory Fees
HC of NY Overhead	(780)	(780)	-	
Interest Payments and Financing Costs	(205)	(265)	(60)	Frontier interest through 2018
Total General Overhead	$ (22,129)	$ (21,139)	$ 990	
Net Change in Cash Due to Operating Activities	**(13,475)**	**(13,534)**	**(59)**	
Other				
One-Time Payments	(9,380)	(2,074)	7,306	6,880 Frontier loan repayment removed; Timing difference: 426 Meritage Good Faith Deposit reimbursement
Monetizations of Investments	500	500	-	
Korea/Stonebridge Commitments	(2,400)	(2,400)	-	
Petrocap II Commitments/Distributions	(7,673)	(7,673)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,808	2,808	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(800)	(800)	-	
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (19,407)	$ (12,101)	$ 7,306	
Ending Cash Before Restricted	**$ (29,684)**	**$ (22,983)**	**$ 6,701**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (29,809)**	**$ (23,108)**	**$ 6,701**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017												2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	1/1	1/8	1/15	1/22	1/29	2/5	2/12	2/19	2/26	3/5	3/12	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 9,588	$ 9,813	$ 2,314	$ 1,369	$ 1,514	$ 14,286	$ 17,460	$ 17,433	$ 5,937	$ 5,048	$ 9,813
Operating Receipts																		
Management Fees																		
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	-	-	258	-	2,416	-	-	-	37	-	-	2,711
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	-	-	-	364	420	-	68	-	27	-	-	879
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	-	-	-	-	447	-	-	295	-	-	-	742
Retail	7,426	-	51	-	-	-	-	-	-	-	252	-	-	-	514	-	-	766
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	-	-	344	-	611	8,595	2,997	(99)	-	-	-	12,448
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ -	$ -	$ 602	$ 364	$ 4,146	$ 8,595	$ 3,065	$ 196	$ 578	$ -	$ -	$ 17,546
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	808	-	-	(258)	323	-	262	-	323	-	51	1,509
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	14	7	279	4	1,069	-	30	3	50	63	-	1,519
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	-	-	-	-	1	-	-	-	2	-	-	3
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 822	$ 7	$ 881	$ 110	$ 5,539	$ 8,595	$ 3,357	$ 199	$ 953	$ 63	$ 51	$ 20,577
Compensation and Benefits																		
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(149)	(780)	(48)	-	(904)	-	(746)	(67)	(815)	-	(838)	(4,347)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	-	-	-	-	-	-	-	-	(194)	-	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	-	-	-	-	-	-	-	-	(10,070)	(124)	(779)	(10,973)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (149)	$ (780)	$ (48)	$ -	$ (904)	$ -	$ (746)	$ (67)	$ (11,079)	$ (124)	$ (1,617)	$ (15,514)
General Overhead																		
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(155)	(73)	-	(36)	-	(100)	(9)	(3)	(3)	(3)	(38)	(420)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(243)	(278)	(711)	541	(602)	(723)	(144)	124	(537)	(740)	(366)	(3,679)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	-	-	(65)	-	-	-	-	-	(65)	-	-	(130)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	-	-	-	-	-	-	-	-	-	-	-	-
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (398)	$ (351)	$ (776)	$ 505	$ (602)	$ (823)	$ (153)	$ 121	$ (605)	$ (743)	$ (404)	$ (4,229)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**275**	**(1,124)**	**57**	**615**	**4,033**	**7,772**	**2,458**	**253**	**(10,731)**	**(804)**	**(1,970)**	**834**
Other																		
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	-	1,349	344	(344)	-	5,000	-	361	-	-	-	6,710
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	-	-	-	-	-	-	-	-	-	-	-	-
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	-	-	(7,900)	-	(3,825)	-	-	-	-	(85)	-	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(500)	-	-	(1,216)	(63)	-	716	(641)	(4,575)	-	-	(6,279)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	-	-	-	-	-	-	-	-	(700)	-	-	(700)
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	-	-	-	-	-	-	-	-	4,510	-	(426)	4,084
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (500)	$ 1,349	$ (7,556)	$ (1,560)	$ (3,888)	$ 5,000	$ 716	$ (280)	$ (765)	$ (85)	$ (426)	$ (7,995)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 9,588**	**$ 9,813**	**$ 2,314**	**$ 1,369**	**$ 1,514**	**$ 14,286**	**$ 17,460**	**$ 17,433**	**$ 5,937**	**$ 5,048**	**$ 2,652**	**$ 2,652**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(6,745)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ 2,843**	**$ 3,068**	**$ 2,189**	**$ 1,244**	**$ 1,389**	**$ 14,161**	**$ 17,335**	**$ 17,308**	**$ 5,812**	**$ 4,923**	**$ 2,527**	**$ 2,527**

Budget Summary Page

Week of March 19, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast				Cash Low Point
	Q1'18	Q2'18	Q3'18	Q4'18
Quarter Ending Cash	**$2,543**	**($8,613)**	**($23,295)**	**($23,108)**
Better / (Worse) than prior week	63	(417)	5,900	6,701
	Q1'18	Q2'18	Q3'18	Q4'18
Cash Low Point by Quarter	**$2,543**	**($8,613)**	**($23,295)**	**($23,432)**
Better / (Worse) than prior week	772	(417)	5,900	6,376

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			(393)
Timing Differences			
Bonus awards & taxes not paid	Cash bonus awards	Timing	47
Bonus awards & taxes paid in the future	Cash bonus awards	Timing	(47)
Shared services not received	Shared services	Timing	(200)
Shared services received in future period	Shared services	Timing	200
Total (should = 0)			**-**
Forecast modifications (besides timing)			
Frontier interest updated	Interest Payments	To end of '18	(60)
Meritage Good Faith Deposit reimbursement	One-Time Items	03/26/18	426
Frontier loan extension (removed August 2018 loan repayment)	One-Time Items	08/17/18	6,880
Updated for current/future employee roster	Payroll, Benefits & Taxes	To end of '18	100
Updated for current HCMFA run-rate	Shared Services	To end of '18	(252)
Total Impact of new forecast modifications			**7,094**
Overall budget B/(W)			**6,701**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget March 19, 2018 - December 31, 2018
(in thousands)

Week Beginning	3/19	3/26	4/2	4/9	4/16	4/23	4/30	May-18	Jun-18	Jul-18
Beginning Cash	$ 2,652	$ 4,367	$ 2,668	$ 2,378	$ 1,278	$ 2,038	$ 1,685	$ 2,219	$ (3,885)	$ (8,488)
Operating Receipts										
Management Fees										
CLOs	-	-	-	-	-	-	-	1,865	-	-
Hedge Funds	-	-	-	-	-	515	-	-	-	515
Private Equity (includes PetroCap Royalty)	-	-	-	-	-	439	302	-	-	729
Retail Sub-Advisory Fees	-	-	252	-	-	-	-	252	252	977
Separate Accounts	-	-	-	-	1,660	-	945	65	-	2,650
Total Management Fees	$ -	$ -	$ 252	$ -	$ 1,660	$ 954	$ 1,247	$ 2,182	$ 252	$ 4,871
Shared Services Receipts	200	-	323	200	-	-	383	200	523	523
Fund Reimbursements	-	-	-	-	-	-	100	1,000	100	100
Other	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 200	$ -	$ 575	$ 200	$ 1,660	$ 954	$ 1,730	$ 3,382	$ 875	$ 5,494
Compensation and Benefits										
Payroll, Benefits, and Taxes	(85)	(894)	(100)	(900)	(100)	(907)	(100)	(2,861)	(1,739)	(1,732)
Severance Payments	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	-	(47)	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (85)	$ (941)	$ (100)	$ (900)	$ (100)	$ (907)	$ (100)	$ (2,861)	$ (1,739)	$ (1,732)
General Overhead										
Legal	-	(784)	-	-	(400)	-	-	(400)	(400)	(400)
General Overhead	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(1,610)	(1,365)	(1,330)
HC of NY Overhead	-	-	(65)	-	-	-	(195)	(65)	(65)	(65)
Interest Payments and Financing Costs	-	-	-	-		-	-	-	(209)	-
Total General Overhead	$ (400)	$ (1,184)	$ (465)	$ (400)	$ (800)	$ (400)	$ (595)	$ (2,075)	$ (2,039)	$ (1,795)
Net Change in Cash Due to Operating Activities	**(285)**	**(2,125)**	**10**	**(1,100)**	**760**	**(353)**	**1,035**	**(1,554)**	**(2,903)**	**1,968**
Other										
One-Time Items - Misc Asset Purchases, etc	2,000	426	(500)	-	-	-	(500)	-	(500)	(500)
Monetizations of Investments	-	-	-	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	(1,200)	-
Petrocap II Commitments/Distributions	-	-	-	-	-	-	-	(2,550)	-	-
Petrocap III Commitments/Distributions	-	-	(500)	-	-	-	-	(2,000)	-	-
NexPoint Loans, net	-	-	-	-	-	-	-	-	-	-
Services Loans, net	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	700	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-
Total Other	$ 2,000	$ 426	$ (300)	$ -	$ -	$ -	$ (500)	$ (4,550)	$ (1,700)	$ (500)
Ending Cash Before Restricted	**$4,367**	**$2,668**	**$2,378**	**$1,278**	**$2,038**	**$1,685**	**$2,219**	**($3,885)**	**($8,488)**	**($7,020)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$4,242**	**$2,543**	**$2,253**	**$1,153**	**$1,913**	**$1,560**	**$2,094**	**($4,010)**	**($8,613)**	**($7,145)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget March 19, 2018 - Decembe
(in thousands)

Week Beginning	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (7,020)	$ (15,181)	$ (23,170)	$ (23,307)	$ (22,663)	$ 9,813
Operating Receipts						
Management Fees						
CLOs	1,911	-	-	1,874	-	8,361
Hedge Funds	-	-	515	-	-	2,424
Private Equity (includes PetroCap Royalty)	-	-	719	-	-	2,930
Retail Sub-Advisory Fees	977	977	977	977	977	7,384
Separate Accounts	65	-	2,695	65	-	20,593
Total Management Fees	$ 2,953	$ 977	$ 4,906	$ 2,916	$ 977	$ 41,692
Shared Services Receipts	583	523	523	583	523	6,596
Fund Reimbursements	1,000	100	100	1,000	100	5,119
Other	-	-	-	-	-	3
Total Operating Receipts	$ 4,536	$ 1,600	$ 5,529	$ 4,499	$ 1,600	$ 53,410
Compensation and Benefits						
Payroll, Benefits, and Taxes	(1,903)	(1,721)	(1,721)	(1,721)	(1,716)	(22,548)
Severance Payments	(150)	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	(6,760)	-	-	-	-	(17,780)
Total Compensation and Benefits	$ (8,813)	$ (1,721)	$ (1,721)	$ (1,721)	$ (1,786)	$ (40,742)
General Overhead						
Legal	(400)	(400)	(400)	(400)	(400)	(4,804)
General Overhead	(1,364)	(1,853)	(1,780)	(1,169)	(2,441)	(19,389)
HC of NY Overhead	(65)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	(55)	-	-	-	-	(265)
Total General Overhead	$ (1,884)	$ (2,318)	$ (2,245)	$ (1,634)	$ (2,906)	$ (25,367)
Net Change in Cash Due to Operating Activities	**(6,161)**	**(2,439)**	**1,563**	**1,144**	**(3,092)**	**(12,699)**
Other						
One-Time Items - Misc Asset Purchases, etc	(500)	(500)	(500)	(500)	(500)	(4,969)
Monetizations of Investments	-	-	-	-	500	7,210
Korea/Stonebridge Commitments	-	-	(1,200)	-	-	(2,400)
Petrocap II Commitments/Distributions	-	(2,550)	-	-	(2,573)	(7,673)
Petrocap III Commitments/Distributions	-	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	-	-	-	-	2,808	2,808
Services Loans, net	-	-	-	-	456	456
Dugaboy/Dondero Loans, net	-	-	-	-	1,411	1,411
HCMF Loans, net	(1,500)	-	-	-	-	(800)
Partner Contribution/(Distribution)	-	-	-	-	-	(11,810)
Total Other	$ (2,000)	$ (5,550)	$ (1,700)	$ (500)	$ 2,773	$ (20,096)
Ending Cash Before Restricted	**($15,181)**	**($23,170)**	**($23,307)**	**($22,663)**	**($22,983)**	**($22,983)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($15,306)**	**($23,295)**	**($23,432)**	**($22,788)**	**($23,108)**	**($23,108)**

Weekly Budget Checklist - Review of Compensation Status
Week of March 19, 2018

Comp changes during the current week:

Modifications: N/A
New Hires: N/A
Terms: Ross, Saehler, Brown, Murray
Accruals: N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	93	12,867,795	$536,158
Singapore/Korea	3	490,000	20,417
HC of NY	5	467,920	19,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**102**	**13,925,715**	**$580,238**
HCMF	20	3,589,850	149,577
NexPoint	7	2,790,746	116,281
HCFD	17	1,415,000	58,958
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**152**	**$22,885,994**	**$953,583**
Expected Future Hires (see right)	4	805,000	33,542
Total Salary + OT for all entities including future hires	**156**	**$23,690,994**	**$987,125**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	300,000
Institutional Fundraiser	175,000
Senior Sales Manager	175,000
Senior Tax Analyst	85,000
Fund Accountant	70,000
Total	805,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
3rd/4th installments of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,873,750
HCMF		894,396
NexPoint		213,750
NXRT		-
HC of NY		53,750
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$4,116,896**
1st/2nd installments of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,575,200
HCMF		855,085
NexPoint		326,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,951,702**
Total Bonuses		**$9,068,598**

EXHIBIT 52

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of March 26, 2018

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"It is not possible to go forward while looking back."
- Ludwig Mies van der Rohe

Weekly Budget Checklist - Talking Points
Week of
3/26/2018

Talking Points of the week:

1) AIMCO
2) Crusader
3) Bandera

Today's Beginning Operating Cash (000s)	**$**	**686**
Today's Money Market Balance (000s)		**1,650**
Today's Total HCMLP Available Cash (000s)	**$**	**2,336**
Today's HCMF Cash (000s)	**$**	**806**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**144**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**3,920**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**3,170**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,267)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**1,160**
Today's Current Margin Balance - Services (000s)	**$**	**(7,950)**
Today's Current Portfolio Margin - Select (000s)	**$**	**2,000**
Today's Current Margin Balance - Select (000s)	**$**	**(19,450)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of March 19, 2018

(in thousands)

	03.19.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 2,652	$ 2,652	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	-	-	
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	-	-	-	
Total Management Fees	$ -	$ -	$ -	
Shared Services	200	200	-	
Fund Reimbursements	-	15	15	
Other	-	-	-	
Total Operating Receipts	$ 200	$ 215	$ 15	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(85)	(185)	(100)	Timing difference: moved from week of 03.19 to week of 03.12
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (85)	$ (185)	$ (100)	
General Overhead				
Legal	-	-	-	
General Overhead	(400)	(155)	245	Timing difference: moved from week of 03.12 to week of 03.19
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (400)	$ (155)	$ 245	
Net Change in Cash Due to Operating Activities	**(285)**	**(125)**	**160**	
Other				
One-Time Payments	2,000	-	(2,000)	Timing difference: moved from week of 03.12 to week of 03.19
Total Other	$ 2,000	$ -	$ (2,000)	
Ending Cash Before Restricted	**$ 4,367**	**$ 2,527**	**$ (1,840)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 4,242**	**$ 2,402**	**$ (1,840)**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	03.19.18	03.26.18	B/(W)	Notes:
Beginning Cash for the week beginning 03.26.18	$ 4,367	$ 2,527	$ (1,840)	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,650	5,650	-	
Hedge Funds	1,545	1,545	-	
Private Equity (includes PetroCap Royalty)	2,188	2,188	-	
Retail Sub-Advisory Fees	6,618	6,618	-	
Separate Accounts	8,145	8,145	-	
Total Management Fees	$ 24,146	$ 24,146	$ -	
Shared Service Receipts	4,887	4,887	-	
Fund Reimbursements	3,600	3,600	-	
Other	-	-	-	
Total Operating Receipts	$ 32,633	$ 32,633	$ -	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(18,116)	(18,016)	100	Timing difference: moved from week of 03.19 to week of 03.12
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,807)	(6,807)	-	
Total Compensation and Benefits	$ (25,143)	$ (25,043)	$ 100	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(15,310)	(15,555)	(245)	Timing difference: moved from week of 03.12 to week of 03.19
HC of NY Overhead	(780)	(780)	-	
Interest Payments and Financing Costs	(265)	(265)	-	
Total General Overhead	$ (20,739)	$ (20,984)	$ (245)	
Net Change in Cash Due to Operating Activities	**(13,249)**	**(13,394)**	**(145)**	
Other				
One-Time Payments	(4,074)	(531)	3,543	$2,000 Timing difference: moved from week of 03.12 to week of 03.19; $1,453 Highlander Euro Incentive Fee
Monetizations of Investments	500	500	-	
Korea/Stonebridge Commitments	(2,400)	(2,400)	-	
Petrocap II Commitments/Distributions	(7,673)	(4,500)	3,173	Updated per Manzo guidance
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,808	2,808	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(800)	(800)	-	
Services Loans, net	456	306	(150)	Loan to Services
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (14,101)	$ (7,535)	$ 6,566	
Ending Cash Before Restricted	**$ (22,983)**	**$ (18,402)**	**$ 4,581**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (23,108)**	**$ (18,527)**	**$ 4,581**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017													2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	1/1	1/8	1/15	1/22	1/29	2/5	2/12	2/19	2/26	3/5	3/12	3/19	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 9,588	$ 9,813	$ 2,314	$ 1,369	$ 1,514	$ 14,286	$ 17,460	$ 17,433	$ 5,937	$ 5,048	$ 2,652	$ 9,813
Operating Receipts																			
Management Fees																			
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	-	-	258	-	2,416	-	-	-	37	-	-	-	2,711
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	-	-	-	364	420	-	68	-	27	-	-	-	879
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	-	-	-	-	447	-	-	295	-	-	-	-	742
Retail	7,426	-	51	-	-	-	-	-	-	-	252	-	-	-	514	-	-	-	766
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	-	-	344	-	611	8,595	2,997	(99)	-	-	-	-	12,448
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ -	$ -	$ 602	$ 364	$ 4,146	$ 8,595	$ 3,065	$ 196	$ 578	$ -	$ -	$ -	$ 17,546
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	808	-	-	(258)	323	-	262	-	323	-	51	200	1,709
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	14	7	279	4	1,069	-	30	3	50	63	-	15	1,534
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	-	-	-	-	1	-	-	-	2	-	-	-	3
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 822	$ 7	$ 881	$ 110	$ 5,539	$ 8,595	$ 3,357	$ 199	$ 953	$ 63	$ 51	$ 215	$ 20,792
Compensation and Benefits																			
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(149)	(780)	(48)	-	(904)	-	(746)	(67)	(815)	-	(838)	(185)	(4,532)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	-	-	-	-	-	-	-	-	(194)	-	-	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	-	-	-	-	-	-	-	-	(10,070)	(124)	(779)	-	(10,973)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (149)	$ (780)	$ (48)	$ -	$ (904)	$ -	$ (746)	$ (67)	$ (11,079)	$ (124)	$ (1,617)	$ (185)	$ (15,699)
General Overhead																			
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(155)	(73)	-	(36)	-	(100)	(9)	(3)	(3)	(3)	(38)	-	(420)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(243)	(278)	(711)	541	(602)	(723)	(144)	124	(537)	(740)	(366)	(155)	(3,834)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	-	-	(65)	-	-	-	-	-	(65)	-	-	-	(130)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	-	-	-	-	-	-	-	-	-	-	-	-	-
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (398)	$ (351)	$ (776)	$ 505	$ (602)	$ (823)	$ (153)	$ 121	$ (605)	$ (743)	$ (404)	$ (155)	$ (4,384)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**275**	**(1,124)**	**57**	**615**	**4,033**	**7,772**	**2,458**	**253**	**(10,731)**	**(804)**	**(1,970)**	**(125)**	**709**
Other																			
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	-	1,349	344	(344)	-	5,000	-	361	-	-	-	-	6,710
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	-	-	-	-	-	-	-	-	-	-	-	-	-
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	-	-	(7,900)	-	(3,825)	-	-	-	-	(85)	-	-	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(500)	-	-	(1,216)	(63)	-	716	(641)	(4,575)	-	-	-	(6,279)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	-	-	-	-	-	-	-	-	(700)	-	-	-	(700)
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	-	-	-	-	-	-	-	-	4,510	-	(426)	-	4,084
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (500)	$ 1,349	$ (7,556)	$ (1,560)	$ (3,888)	$ 5,000	$ 716	$ (280)	$ (765)	$ (85)	$ (426)	$ -	$ (7,995)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 9,588**	**$ 9,813**	**$ 2,314**	**$ 1,369**	**$ 1,514**	**$ 14,286**	**$ 17,460**	**$ 17,433**	**$ 5,937**	**$ 5,048**	**$ 2,652**	**$ 2,527**	**$ 2,527**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(6,745)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ 2,843**	**$ 3,068**	**$ 2,189**	**$ 1,244**	**$ 1,389**	**$ 14,161**	**$ 17,335**	**$ 17,308**	**$ 5,812**	**$ 4,923**	**$ 2,527**	**$ 2,402**	**$ 2,402**

Budget Summary Page

Week of March 26, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast				Cash Low Point
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Quarter Ending Cash	**$4,389**	**($4,800)**	**($19,532)**	**($18,527)**
Better / (Worse) than prior week	1,846	3,813	3,763	4,581
	Q1'18	**Q2'18**	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**$4,242**	**($4,800)**	**($19,532)**	**($19,670)**
Better / (Worse) than prior week	1,699	3,813	3,763	3,763

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			15
Timing Differences			
General overhead not paid	General Overhead	Timing	245
General overhead paid the following week	General Overhead	Timing	(245)
Frontier financing not received	One-Time Item	Timing	(2,000)
Frontier financing received the following week	One-Time Item	Timing	2,000
SWB paid	Payroll, Benefits & Taxes	Timing	(100)
SWB not paid in the future	Payroll, Benefits & Taxes	Timing	100
Total (should = 0)			-
Forecast modifications (besides timing)			
Loan to Services	Affiliate Loans	03/26/18	(150)
Highlander Euro Incentive Fee	Monetizations of investments	03/27/18	1,543
Revised based upon guidance from Manzo	PetroCap Commitments	To end of '18	3,173
Total Impact of new forecast modifications			**4,566**
Overall budget B/(W)			**4,581**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget March 26, 2018 - December 31, 2018
(in thousands)

Week Beginning	3/26	4/2	4/9	4/16	4/23	4/30	5/7	5/14	5/21	5/28	Jun-18
Beginning Cash	$ 2,527	$ 4,514	$ 3,555	$ 2,906	$ 2,056	$ 1,289	$ 6,812	$ 6,464	$ 5,223	$ 4,773	$ (572)
Operating Receipts											
Management Fees											
CLOs	-	-	-	-	-	1,825	-	40	-	-	-
Hedge Funds	-	-	-	-	515	-	-	-	-	-	-
Private Equity (includes PetroCap Royalty)	-	-	-	-	-	439	302	-	-	-	-
Retail Sub-Advisory Fees	-	252	-	-	-	252	-	-	-	-	252
Separate Accounts	-	-	-	-	-	2,670	-	-	-	-	-
Total Management Fees	$ -	$ 252	$ -	$ -	$ 515	$ 5,185	$ 302	$ 40	$ -	$ -	$ 252
Shared Services Receipts	-	323	200	-	-	383	200	-	-	-	523
Fund Reimbursements	-	-	-	-	-	1,100	-	-	-	-	100
Other	-	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ -	$ 575	$ 200	$ -	$ 515	$ 6,668	$ 502	$ 40	$ -	$ -	$ 875
Compensation and Benefits											
Payroll, Benefits, and Taxes	(894)	(50)	(875)	(50)	(882)	(50)	(50)	(880)	(50)	(880)	(1,739)
Severance Payments	-	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	(47)	-	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (941)	$ (50)	$ (875)	$ (50)	$ (882)	$ (50)	$ (50)	$ (880)	$ (50)	$ (880)	$ (1,739)
General Overhead											
Legal	-	(784)	-	(400)	-	-	(400)	-	-	-	(400)
General Overhead	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(1,365)
HC of NY Overhead	(65)	-	-	-	-	(195)	-	-	-	(65)	(65)
Interest Payments and Financing Costs	-	-	-		-	-	-	-	-	-	(209)
Total General Overhead	$ (465)	$ (1,184)	$ (400)	$ (800)	$ (400)	$ (595)	$ (800)	$ (400)	$ (400)	$ (465)	$ (2,039)
Net Change in Cash Due to Operating Activities	**(1,406)**	**(659)**	**(1,075)**	**(850)**	**(767)**	**6,023**	**(348)**	**(1,240)**	**(450)**	**(1,345)**	**(2,903)**
Other											
One-Time Items - Misc Asset Purchases, etc	3,543	(500)	426	-	-	(500)	-	-	-	(500)	-
Monetizations of Investments	-	-	-	-	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	-	(1,200)
Petrocap II Commitments/Distributions	-	-	-	-	-	-	-	-	-	(1,500)	-
Petrocap III Commitments/Distributions	-	(500)	-	-	-	-	-	-	-	(2,000)	-
NexPoint Loans, net	-	-	-	-	-	-	-	-	-	-	-
Services Loans, net	(150)	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	700	-	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-	-
Total Other	$ 3,393	$ (300)	$ 426	$ -	$ -	$ (500)	$ -	$ -	$ -	$ (4,000)	$ (1,200)
Ending Cash Before Restricted	**$4,514**	**$3,555**	**$2,906**	**$2,056**	**$1,289**	**$6,812**	**$6,464**	**$5,223**	**$4,773**	**($572)**	**($4,675)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$4,389**	**$3,430**	**$2,781**	**$1,931**	**$1,164**	**$6,687**	**$6,339**	**$5,098**	**$4,648**	**($697)**	**($4,800)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget March 26, 2018 - Decembe
(in thousands)

Week Beginning	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (4,675)	$ (3,208)	$ (11,368)	$ (19,407)	$ (19,545)	$ (18,901)	$ 9,813
Operating Receipts							
Management Fees							
CLOs	-	1,911	-	-	1,874	-	8,361
Hedge Funds	515	-	-	515	-	-	2,424
Private Equity (includes PetroCap Royalty)	729	-	-	719	-	-	2,930
Retail Sub-Advisory Fees	977	977	977	977	977	977	7,384
Separate Accounts	2,650	65	-	2,695	65	-	20,593
Total Management Fees	$ 4,871	$ 2,953	$ 977	$ 4,906	$ 2,916	$ 977	$ 41,692
Shared Services Receipts	523	583	523	523	583	523	6,596
Fund Reimbursements	100	1,000	100	100	1,000	100	5,134
Other	-	-	-	-	-	-	3
Total Operating Receipts	$ 5,494	$ 4,536	$ 1,600	$ 5,529	$ 4,499	$ 1,600	$ 53,425
Compensation and Benefits							
Payroll, Benefits, and Taxes	(1,732)	(1,903)	(2,821)	(1,721)	(1,721)	(1,716)	(22,548)
Severance Payments	-	(150)	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	-	(6,760)	-	-	-	-	(17,780)
Total Compensation and Benefits	$ (1,732)	$ (8,813)	$ (2,821)	$ (1,721)	$ (1,721)	$ (1,786)	$ (40,742)
General Overhead							
Legal	(400)	(400)	(400)	(400)	(400)	(400)	(4,804)
General Overhead	(1,330)	(1,364)	(1,853)	(1,780)	(1,169)	(2,696)	(19,389)
HC of NY Overhead	(65)	(65)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	-	(55)	-	-	-	-	(265)
Total General Overhead	$ (1,795)	$ (1,884)	$ (2,318)	$ (2,245)	$ (1,634)	$ (3,161)	$ (25,368)
Net Change in Cash Due to Operating Activities	**1,968**	**(6,161)**	**(3,539)**	**1,563**	**1,144**	**(3,347)**	**(12,685)**
Other							
One-Time Items - Misc Asset Purchases, etc	(500)	(500)	(500)	(500)	(500)	(500)	(3,426)
Monetizations of Investments	-	-	-	-	-	500	7,210
Korea/Stonebridge Commitments	-	-	-	(1,200)	-	-	(2,400)
Petrocap II Commitments/Distributions	-	-	(1,500)	-	-	(1,500)	(4,500)
Petrocap III Commitments/Distributions	-	-	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	-	-	-	-	-	2,808	2,808
Services Loans, net	-	-	-	-	-	456	306
Dugaboy/Dondero Loans, net	-	-	-	-	-	1,411	1,411
HCMF Loans, net	-	(1,500)	-	-	-	-	(800)
Partner Contribution/(Distribution)	-	-	-	-	-	-	(11,810)
Total Other	$ (500)	$ (2,000)	$ (4,500)	$ (1,700)	$ (500)	$ 3,846	$ (15,530)
Ending Cash Before Restricted	**($3,208)**	**($11,368)**	**($19,407)**	**($19,545)**	**($18,901)**	**($18,402)**	**($18,402)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($3,333)**	**($11,493)**	**($19,532)**	**($19,670)**	**($19,026)**	**($18,527)**	**($18,527)**

Weekly Budget Checklist - Review of Compensation Status
Week of March 26, 2018

Comp changes during the current week:

Modifications:	N/A
New Hires:	N/A
Terms:	N/A
Accruals:	N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	93	12,867,795	$536,158
Singapore/Korea	3	490,000	20,417
HC of NY	5	467,920	19,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**102**	**13,925,715**	**$580,238**
HCMF	20	3,589,850	149,577
NexPoint	7	2,790,746	116,281
HCFD	17	1,415,000	58,958
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**152**	**$22,885,994**	**$953,583**
Expected Future Hires (see right)	4	805,000	33,542
Total Salary + OT for all entities including future hires	**156**	**$23,690,994**	**$987,125**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	300,000
Institutional Fundraiser	175,000
Senior Sales Manager	175,000
Senior Tax Analyst	85,000
Fund Accountant	70,000
Total	805,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
3rd/4th installments of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,873,750
HCMF		894,396
NexPoint		200,000
NXRT		-
HC of NY		53,750
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$4,103,146**
1st/2nd installments of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,575,200
HCMF		855,085
NexPoint		306,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,931,702**
Total Bonuses		**$9,034,848**

EXHIBIT 53

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of April 02, 2018

Description	Page #
Weekly Talking Points	1
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"Never confuse the size of your paycheck with the size of your talent."
- Marlon Brando

Weekly Budget Checklist - Talking Points
Week of
4/2/2018

Talking Points of the week:

1) AIMCO/Crusader
2) Targa

Today's Beginning Operating Cash (000s)	**$**	**892**	
Today's Money Market Balance (000s)		**2,344**	
Today's Total HCMLP Available Cash (000s)	**$**	**3,236**	
Today's HCMF Cash (000s)	**$**	**2,164**	
Today's Acis Nexbank Cash (000s)		**634**	
Today's NexPoint Cash (000s)		**823**	
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**6,857**	
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**2,458**	
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,100)**	
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**616**	
Today's Current Margin Balance - Services (000s)	**$**	**(7,963)**	
Today's Current Portfolio Margin - Select (000s)	**$**	**(1,120)**	Pro Forma for HRTX trade: $2,185
Today's Current Margin Balance - Select (000s)	**$**	**(23,663)**	

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of March 26, 2018

(in thousands)

	03.26.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 2,527	$ 2,527	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	-	-	
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	-	-	-	
Total Management Fees	$ -	$ -	$ -	
Shared Services	-	155	155	Timing difference: moved from week of 04.02 to week of 03.26
Fund Reimbursements	-	168	168	Timing difference: moved from week of 04.02 to week of 03.26
Other	-	-	-	
Total Operating Receipts	$ -	$ 323	$ 323	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(894)	(955)	(61)	Timing difference: moved from week of 04.02 to week of 03.26
Severance Payments	-	-	-	
Cash Bonus Awards	(47)	(48)	(1)	
Total Compensation and Benefits	$ (941)	$ (1,003)	$ (62)	
General Overhead				
Legal	-	(401)	(401)	Hunton & Williams
General Overhead	(400)	(396)	4	
HC of NY Overhead	(65)	(65)	-	
Interest Payments and Financing Costs	-	(113)	(113)	Timing difference: moved from 06.30 to 03.26
Total General Overhead	$ (465)	$ (975)	$ (510)	
Net Change in Cash Due to Operating Activities	**(1,406)**	**(1,655)**	**(249)**	
Other				
One-Time Payments	3,393	2,793	(600)	(1,000) Frontier financing; 426 DST III timing of deposit return
Total Other	$ 3,393	$ 2,793	$ (600)	
Ending Cash Before Restricted	**$ 4,514**	**$ 3,665**	**$ (849)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 4,389**	**$ 3,540**	**$ (849)**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	03.26.18	04.02.18	B/(W)	Notes:
Beginning Cash for the week beginning 04.02.18	$ 4,514	$ 3,665	$ (849)	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,650	5,650	-	
Hedge Funds	1,545	955	(590)	Removed Bandera AUM
Private Equity (includes PetroCap Royalty)	2,188	2,188	-	
Retail Sub-Advisory Fees	6,618	6,618	-	
Separate Accounts	8,145	8,145	-	
Total Management Fees	$ 24,146	$ 23,556	$ (590)	
Shared Service Receipts	4,887	4,732	(155)	Timing difference: moved from week of 04.02 to week of 03.26
Fund Reimbursements	3,600	3,432	(168)	Timing difference: moved from week of 04.02 to week of 03.26
Other	-	-	-	
Total Operating Receipts	$ 32,633	$ 31,720	$ (913)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(17,122)	(16,966)	156	95 updated EE roster; 61 timing difference: moved from week of 04.02 to week of 03.26
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,760)	(6,760)	-	
Total Compensation and Benefits	$ (24,102)	$ (23,946)	$ 156	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(15,155)	(15,155)	-	
HC of NY Overhead	(715)	(715)	-	
Interest Payments and Financing Costs	(265)	(161)	104	Timing difference: moved from 06.30 to 03.26
Total General Overhead	$ (20,519)	$ (20,415)	$ 104	
Net Change in Cash Due to Operating Activities	**(11,988)**	**(12,641)**	**(653)**	
Other				
One-Time Payments	(4,074)	(4,710)	(636)	(426) timing difference; (150) HCM Brazil funding; (60) ABN purchase
Monetizations of Investments	500	2,100	1,600	Bandera liquidation
Korea/Stonebridge Commitments	(2,400)	(2,400)	-	
Petrocap II Commitments/Distributions	(4,500)	(4,500)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,808	2,808	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(800)	(300)	500	Updated 08.31 bonus needs
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (10,928)	$ (9,464)	$ 1,464	
Ending Cash Before Restricted	**$ (18,402)**	**$ (18,440)**	**$ (38)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (18,527)**	**$ (18,565)**	**$ (38)**	

Highland Capital Management, L.P.
Cash Actuals January 1, 2012 - End of Previous Week
(in thousands)

	2012	2013	2014	2015	2016	2017	2018													
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	1/1	1/8	1/15	1/22	1/29	2/5	2/12	2/19	2/26	3/5	3/12	3/19	3/26	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 9,588	$ 9,813	$ 2,314	$ 1,369	$ 1,514	$ 14,286	$ 17,460	$ 17,433	$ 5,937	$ 5,048	$ 2,652	$ 2,527	$ 9,813
Operating Receipts																				
Management Fees																				
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	-	-	258	-	2,416	-	-	-	37	-	-	-	-	2,711
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	-	-	-	364	420	-	68	-	27	-	-	-	-	879
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	-	-	-	-	447	-	-	295	-	-	-	-	-	742
Retail	7,426	-	51	-	-	-	-	-	-	-	252	-	-	-	514	-	-	-	-	766
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	-	-	344	-	611	8,595	2,997	(99)	-	-	-	-	-	12,448
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ -	$ -	$ 602	$ 364	$ 4,146	$ 8,595	$ 3,065	$ 196	$ 578	$ -	$ -	$ -	$ -	$ 17,546
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	808	-	-	(258)	323	-	262	-	323	-	51	200	155	1,864
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	14	7	279	4	1,069	-	30	3	50	63	-	15	168	1,702
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	-	-	-	-	1	-	-	-	2	-	-	-	-	3
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 822	$ 7	$ 881	$ 110	$ 5,539	$ 8,595	$ 3,357	$ 199	$ 953	$ 63	$ 51	$ 215	$ 323	$ 21,115
Compensation and Benefits																				
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(149)	(780)	(48)	-	(904)	-	(746)	(67)	(815)	-	(838)	(185)	(955)	(5,487)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	-	-	-	-	-	-	-	-	(194)	-	-	-	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	-	-	-	-	-	-	-	-	(10,070)	(124)	(779)	-	(48)	(11,021)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (149)	$ (780)	$ (48)	$ -	$ (904)	$ -	$ (746)	$ (67)	$ (11,079)	$ (124)	$ (1,617)	$ (185)	$ (1,003)	$ (16,702)
General Overhead																				
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(155)	(73)	-	(36)	-	(100)	(9)	(3)	(3)	(3)	(38)	-	(401)	(821)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(243)	(278)	(711)	541	(602)	(723)	(144)	124	(537)	(740)	(366)	(155)	(396)	(4,230)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	-	-	(65)	-	-	-	-	-	(65)	-	-	-	(65)	(195)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	-	-	-	-	-	-	-	-	-	-	-	-	(113)	(113)
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (398)	$ (351)	$ (776)	$ 505	$ (602)	$ (823)	$ (153)	$ 121	$ (605)	$ (743)	$ (404)	$ (155)	$ (975)	$ (5,359)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**275**	**(1,124)**	**57**	**615**	**4,033**	**7,772**	**2,458**	**253**	**(10,731)**	**(804)**	**(1,970)**	**(125)**	**(1,655)**	**(946)**
Other																				
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	-	1,349	344	(344)	-	5,000	-	361	-	-	-	-	1,517	8,227
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	-	-	-	-	-	-	-	-	-	-	-	-	1,000	1,000
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	-	-	(7,900)	-	(3,825)	-	-	-	-	(85)	-	-	-	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(500)	-	-	(1,216)	(63)	-	716	(641)	(4,575)	-	-	-	-	(6,279)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	-	-	-	-	-	-	-	-	(700)	-	-	-	(150)	(850)
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	-	-	-	-	-	-	-	-	4,510	-	(426)	-	426	4,510
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (500)	$ 1,349	$ (7,556)	$ (1,560)	$ (3,888)	$ 5,000	$ 716	$ (280)	$ (765)	$ (85)	$ (426)	$ -	$ 2,793	$ (5,202)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 9,588**	**$ 9,813**	**$ 2,314**	**$ 1,369**	**$ 1,514**	**$ 14,286**	**$ 17,460**	**$ 17,433**	**$ 5,937**	**$ 5,048**	**$ 2,652**	**$ 2,527**	**$ 3,665**	**$ 3,665**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(6,745)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ 2,843**	**$ 3,068**	**$ 2,189**	**$ 1,244**	**$ 1,389**	**$ 14,161**	**$ 17,335**	**$ 17,308**	**$ 5,812**	**$ 4,923**	**$ 2,527**	**$ 2,402**	**$ 3,540**	**$ 3,540**

Budget Summary Page

Week of April 02, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast			Cash Low Point
	Q2'18	Q3'18	Q4'18
Quarter Ending Cash	**($4,670)**	**($19,251)**	**($18,565)**
Better / (Worse) than prior week	131	281	(38)
	Q2'18	Q3'18	Q4'18
Cash Low Point by Quarter	**($4,670)**	**($19,251)**	**($19,731)**
Better / (Worse) than prior week	131	281	(62)

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			(1,433)
Timing Differences			
Fund reimbursements not received in the future	Fund Reimbursements	Timing	168
Fund reimbursements received the previous week	Fund Reimbursements	Timing	(168)
Frontier interest paid	Interest Payments	Timing	(104)
Frontier interest not paid the following week	Interest Payments	Timing	104
DST III Commitment returned	One-Time Item	Timing	426
DST III Commitment not returned the following week	One-Time Item	Timing	(426)
SWB paid	Payroll, Benefits & Taxes	Timing	(61)
SWB not paid in the future	Payroll, Benefits & Taxes	Timing	61
Shared services received	Shared services	Timing	155
Shared services not received in future period	Shared services	Timing	(155)
Total (should = 0)			**-**
Forecast modifications (besides timing)			
Updated estimate for loan to HCMFA for 08/31/18 Bonuses	Affiliate Loans	08/31/18	500
Removed Bandera AUM	Mgmt Fees: HF	To end of '18	(590)
Bandera liquidation	Monetizations of investments	05/28/18	1,600
HCM Brazil funding	One-Time Items	04/03/18	(150)
ABN purchase	One-Time Items	04/02/18	(60)
Updated for current/future employee roster	Payroll, Benefits & Taxes	To end of '18	95
Total Impact of new forecast modifications			**1,395**
Overall budget B/(W)			**(38)**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget April 02, 2018 - December 31, 2018
(in thousands)

Week Beginning	4/2	4/9	4/16	4/23	4/30	5/7	5/14	5/21	5/28	Jun-18	Jul-18
Beginning Cash	$ 3,665	$ 3,845	$ 1,386	$ 706	$ (62)	$ 5,445	$ 5,096	$ 3,822	$ 3,412	$ (558)	$ (4,545)
Operating Receipts											
Management Fees											
CLOs	-	-	-	-	1,825	-	-	40	-	-	-
Hedge Funds	-	-	-	515	-	-	-	-	-	-	280
Private Equity (includes PetroCap Royalty)	-	-	-	-	439	302	-	-	-	-	729
Retail Sub-Advisory Fees	252	-	-	-	252	-	-	-	-	252	977
Separate Accounts	-	-	-	-	2,670	-	-	-	-	-	2,650
Total Management Fees	$ 252	$ -	$ -	$ 515	$ 5,185	$ 302	$ -	$ 40	$ -	$ 252	$ 4,636
Shared Services Receipts	368	-	-	-	383	200	-	-	-	523	523
Fund Reimbursements	-	-	-	-	932	-	-	-	-	100	100
Other	-	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 620	$ -	$ -	$ 515	$ 6,500	$ 502	$ -	$ 40	$ -	$ 875	$ 5,259
Compensation and Benefits											
Payroll, Benefits, and Taxes	(30)	(875)	(30)	(882)	(29)	(50)	(874)	(50)	(874)	(1,727)	(1,720)
Severance Payments	-	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	-	-	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (30)	$ (875)	$ (30)	$ (882)	$ (29)	$ (50)	$ (874)	$ (50)	$ (874)	$ (1,727)	$ (1,720)
General Overhead											
Legal	-	(1,184)	-	-	-	(400)	-	-	-	(400)	(400)
General Overhead	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(1,365)	(1,330)
HC of NY Overhead	-	-	-	-	(65)	-	-	-	(45)	(65)	(65)
Interest Payments and Financing Costs	-	-		-	-	-	-	-	-	(105)	-
Total General Overhead	$ (400)	$ (1,584)	$ (400)	$ (400)	$ (465)	$ (800)	$ (400)	$ (400)	$ (445)	$ (1,935)	$ (1,795)
Net Change in Cash Due to Operating Activities	**190**	**(2,459)**	**(430)**	**(767)**	**6,006**	**(348)**	**(1,274)**	**(410)**	**(1,319)**	**(2,787)**	**1,745**
Other											
One-Time Items - Misc Asset Purchases, etc	(710)	-	-	-	(500)	-	-	-	(500)	-	(500)
Monetizations of Investments	-	-	-	-	-	-	-	-	1,600	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	(1,200)	-
Petrocap II Commitments/Distributions	-	-	-	-	-	-	-	-	(1,500)	-	-
Petrocap III Commitments/Distributions	-	-	(250)	-	-	-	-	-	(2,250)	-	-
NexPoint Loans, net	-	-	-	-	-	-	-	-	-	-	-
Services Loans, net	-	-	-	-	-	-	-	-	-	-	-
HCRE Loans, net	-	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	700	-	-	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-	-
Principal Borrowing	-	-	-	-	-	-	-	-	-	-	-
Total Other	$ (10)	$ -	$ (250)	$ -	$ (500)	$ -	$ -	$ -	$ (2,650)	$ (1,200)	$ (500)
Ending Cash Before Restricted	**$3,845**	**$1,386**	**$706**	**($62)**	**$5,445**	**$5,096**	**$3,822**	**$3,412**	**($558)**	**($4,545)**	**($3,300)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$3,720**	**$1,261**	**$581**	**($187)**	**$5,320**	**$4,971**	**$3,697**	**$3,287**	**($683)**	**($4,670)**	**($3,425)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget April 02, 2018 - December
(in thousands)

Week Beginning	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (3,300)	$ (11,099)	$ (19,126)	$ (19,606)	$ (18,950)	$ 9,813
Operating Receipts						
Management Fees						
CLOs	1,911	-	-	1,874	-	8,361
Hedge Funds	-	-	160	-	-	1,834
Private Equity (includes PetroCap Royalty)	-	-	719	-	-	2,930
Retail Sub-Advisory Fees	977	977	977	977	977	7,384
Separate Accounts	65	-	2,695	65	-	20,593
Total Management Fees	$ 2,953	$ 977	$ 4,551	$ 2,916	$ 977	$ 41,102
Shared Services Receipts	583	523	523	583	523	6,596
Fund Reimbursements	1,000	100	100	1,000	100	5,134
Other	-	-	-	-	-	3
Total Operating Receipts	$ 4,536	$ 1,600	$ 5,174	$ 4,499	$ 1,600	$ 52,835
Compensation and Benefits						
Payroll, Benefits, and Taxes	(1,891)	(2,809)	(1,709)	(1,709)	(1,704)	(22,453)
Severance Payments	(150)	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	(6,760)	-	-	-	-	(17,781)
Total Compensation and Benefits	$ (8,801)	$ (2,809)	$ (1,709)	$ (1,709)	$ (1,774)	$ (40,648)
General Overhead						
Legal	(400)	(400)	(400)	(400)	(400)	(5,205)
General Overhead	(1,364)	(1,853)	(1,780)	(1,169)	(2,696)	(19,385)
HC of NY Overhead	(215)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	(55)	-	-	-	-	(274)
Total General Overhead	$ (2,034)	$ (2,318)	$ (2,245)	$ (1,634)	$ (3,161)	$ (25,774)
Net Change in Cash Due to Operating Activities	**(6,299)**	**(3,527)**	**1,219**	**1,156**	**(3,335)**	**(13,586)**
Other						
One-Time Items - Misc Asset Purchases, etc	(500)	(500)	(500)	(500)	(500)	(7,179)
Monetizations of Investments	-	-	-	-	500	10,327
Korea/Stonebridge Commitments	-	-	(1,200)	-	-	(2,400)
Petrocap II Commitments/Distributions	-	(1,500)	-	-	(1,500)	(4,500)
Petrocap III Commitments/Distributions	-	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	-	-	-	-	2,808	2,808
Services Loans, net	-	-	-	-	456	306
HCRE Loans, net	-	-	-	-	671	671
Dugaboy/Dondero Loans, net	-	-	-	-	1,411	1,411
HCMF Loans, net	(1,000)	-	-	-	-	(300)
Partner Contribution/(Distribution)	-	-	-	-	-	(11,810)
Principal Borrowing	-	-	-	-	-	1,000
Total Other	$ (1,500)	$ (4,500)	$ (1,700)	$ (500)	$ 3,846	$ (14,666)
Ending Cash Before Restricted	**($11,099)**	**($19,126)**	**($19,606)**	**($18,950)**	**($18,440)**	**($18,440)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($11,224)**	**($19,251)**	**($19,731)**	**($19,075)**	**($18,565)**	**($18,565)**

Weekly Budget Checklist - Review of Compensation Status
Week of April 02, 2018

Comp changes during the current week:

Modifications:	N/A
New Hires:	Micah Jordan
Terms:	Gregory, Ryder
Accruals:	N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	92	12,867,795	$536,158
Singapore/Korea	3	490,000	20,417
HC of NY	5	467,920	19,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**101**	**13,925,715**	**$580,238**
HCMF	20	3,589,850	149,577
NexPoint	7	2,790,746	116,281
HCFD	18	1,415,000	58,958
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**152**	**$22,885,994**	**$953,583**
Expected Future Hires (see right)	4	805,000	33,542
Total Salary + OT for all entities including future hires	**156**	**$23,690,994**	**$987,125**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	300,000
Institutional Fundraiser	175,000
Senior Sales Manager	175,000
Senior Tax Analyst	85,000
Fund Accountant	70,000
Total	805,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
3rd/4th installments of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,873,750
HCMF		894,396
NexPoint		200,000
NXRT		-
HC of NY		53,750
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$4,103,146**
1st/2nd installments of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,575,200
HCMF		880,085
NexPoint		306,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,956,702**
Total Bonuses		**$9,059,848**

EXHIBIT 54

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of April 09, 2018

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"Don't worry about the horse being blind, just load the wagon."
- John Madden

Weekly Budget Checklist - Talking Points
Week of
4/9/2018

Talking Points of the week:

1) BDC Mgmt Fees

Today's Beginning Operating Cash (000s)	**$**	**3,808**
Today's Money Market Balance (000s)		**-**
Today's Total HCMLP Available Cash (000s)	**$**	**3,808**
Today's HCMF Cash (000s)	**$**	**1,338**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**1,033**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**6,813**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**2,496**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,100)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**498**
Today's Current Margin Balance - Services (000s)	**$**	**(7,963)**
Today's Current Portfolio Margin - Select (000s)	**$**	**(279)**
Today's Current Margin Balance - Select (000s)	**$**	**(22,169)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of April 02, 2018

(in thousands)

	04.02.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 3,665	$ 3,665	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	-	-	
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	252	252	-	
Separate Accounts	-	-	-	
Total Management Fees	$ 252	$ 252	$ -	
Shared Services	368	368	-	
Fund Reimbursements	-	11	11	
Other	-	2	2	
Total Operating Receipts	$ 620	$ 633	$ 13	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(30)	(38)	(8)	
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (30)	$ (38)	$ (8)	
General Overhead				
Legal	-	(19)	(19)	
General Overhead	(400)	(381)	19	
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (400)	$ (400)	$ -	
Net Change in Cash Due to Operating Activities	**190**	**195**	**5**	
Other				
One-Time Payments	(10)	(10)	-	
Total Other	$ (10)	$ (10)	$ -	
Ending Cash Before Restricted	**$ 3,845**	**$ 3,850**	**$ 5**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 3,720**	**$ 3,725**	**$ 5**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	04.02.18	04.09.18	B/(W)	Notes:
Beginning Cash for the week beginning 04.09.18	$ 3,845	$ 3,850	$ 5	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,650	5,650	-	
Hedge Funds	955	1,110	155	185 Multi Strat; (30) Loan Fund AUM Update
Private Equity (includes PetroCap Royalty)	2,188	2,188	-	
Retail Sub-Advisory Fees	6,366	6,366	-	
Separate Accounts	8,145	8,530	385	265 Longhorn A&B; 75 CLO Holdco; 45 PDK run-rate updates
Total Management Fees	$ 23,304	$ 23,844	$ 540	
Shared Service Receipts	4,364	4,364	-	
Fund Reimbursements	3,432	3,432	-	
Other	-	-	-	
Total Operating Receipts	$ 31,100	$ 31,640	$ 540	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(16,936)	(16,936)	-	
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,760)	(6,649)	111	Updated for current/future EE roster
Total Compensation and Benefits	$ (23,916)	$ (23,805)	$ 111	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(14,755)	(14,755)	-	
HC of NY Overhead	(715)	(715)	-	
Interest Payments and Financing Costs	(161)	(362)	(201)	Frontier interest through 2018
Total General Overhead	$ (20,015)	$ (20,216)	$ (201)	
Net Change in Cash Due to Operating Activities	**(12,831)**	**(12,381)**	**450**	
Other				
One-Time Payments	(4,000)	(3,430)	570	650 BEA CBO distribution; (80) Highland Fund Holdings, LLC repurchase
Monetizations of Investments	2,100	2,100	-	
Korea/Stonebridge Commitments	(2,400)	(2,400)	-	
Petrocap II Commitments/Distributions	(4,500)	(4,500)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,808	2,808	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,000)	(1,000)	-	
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (9,454)	$ (8,884)	$ 570	
Ending Cash Before Restricted	**$ (18,440)**	**$ (17,415)**	**$ 1,025**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (18,565)**	**$ (17,540)**	**$ 1,025**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017	2018		2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Q1 Totals	4/2	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 3,665	$ 9,813
Operating Receipts									
Management Fees									
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	2,711	-	2,711
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	879	-	879
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	742	-	742
Retail	7,426	-	51	-	-	-	766	252	1,018
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	12,448	-	12,448
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ 17,546	$ 252	$ 17,798
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	1,864	368	2,232
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	1,702	11	1,713
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	3	2	5
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 21,115	$ 633	$ 21,748
Compensation and Benefits									
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(5,487)	(38)	(5,525)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	(194)	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	(11,021)	-	(11,021)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (16,702)	$ (38)	$ (16,740)
General Overhead									
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(821)	(19)	(840)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(4,230)	(381)	(4,611)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	(195)	-	(195)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	(113)	-	(113)
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (5,359)	$ (400)	$ (5,759)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**(946)**	**195**	**(751)**
Other									
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	8,227	-	8,227
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	1,000	-	1,000
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	(11,810)	-	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(6,279)	(560)	(6,839)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	(850)	700	(150)
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	4,510	(150)	4,360
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (5,202)	$ (10)	$ (5,212)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 3,665**	**$ 3,850**	**$ 3,850**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ (3,080)**	**$ 3,725**	**$ 3,725**

Budget Summary Page

Week of April 09, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast			Cash Low Point
	Q2'18	**Q3'18**	**Q4'18**
Quarter Ending Cash	**($2,950)**	**($16,853)**	**($17,540)**
Better / (Worse) than prior week	1,720	2,398	1,025
	Q2'18	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**($2,950)**	**($16,853)**	**($17,540)**
Better / (Worse) than prior week	1,720	2,398	2,191

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			5
Timing Differences			
N/A			
Total (should = 0)			**-**
Forecast modifications (besides timing)			
Updated for current/future employee roster	Cash Bonus Awards	To end of '18	111
Frontier interest updated	Interest Payments	To end of '18	(201)
Multi Strat update	Mgmt Fees: HF	To end of '18	185
Loan Fund update	Mgmt Fees: HF	To end of '18	(30)
CLO Holdco update	Mgmt Fees: SA	02/15/18	75
LH A update	Mgmt Fees: SA	To end of '18	(135)
LH B update	Mgmt Fees: SAs	To end of '18	400
PDK update	Mgmt Fees: SAs	To end of '18	45
BEA CBO distribution	One-Time Items	04/23/18	650
Highland Fund Holdings, LLC repurchase	One-Time Items	04/10/18	(80)
Total Impact of new forecast modifications			**1,020**
Overall budget B/(W)			**1,025**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget April 09, 2018 - December 31, 2018
(in thousands)

Week Beginning	4/9	4/16	4/23	4/30	5/7	5/14	5/21	5/28	Jun-18	Jul-18
Beginning Cash	$ 3,850	$ 2,941	$ 1,062	$ 506	$ 3,909	$ 4,879	$ 5,256	$ 4,846	$ 1,028	$ (2,825)
Operating Receipts										
Management Fees										
CLOs	-	-	-	1,825	-	-	40	-	-	-
Hedge Funds	-	-	370	225	25	-	-	-	-	320
Private Equity (includes PetroCap Royalty)	-	-	-	439	-	302	-	-	-	729
Retail Sub-Advisory Fees	-	-	-	252	-	-	-	-	252	977
Separate Accounts	-	-	350	195	945	1,350	-	-	-	2,690
Total Management Fees	$ -	$ -	$ 720	$ 2,935	$ 970	$ 1,652	$ 40	$ -	$ 252	$ 4,716
Shared Services Receipts	-	-	-	383	200	-	-	-	523	523
Fund Reimbursements	-	-	-	932	-	-	-	-	100	100
Other	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ -	$ -	$ 720	$ 4,250	$ 1,170	$ 1,652	$ 40	$ -	$ 875	$ 5,339
Compensation and Benefits										
Payroll, Benefits, and Taxes	(869)	(45)	(876)	(29)	(50)	(874)	(50)	(874)	(1,727)	(1,720)
Severance Payments	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	-	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (869)	$ (45)	$ (876)	$ (29)	$ (50)	$ (874)	$ (50)	$ (874)	$ (1,727)	$ (1,720)
General Overhead										
Legal	-	(1,184)	-	-	(400)	-	-	-	(400)	(400)
General Overhead	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(1,365)	(1,330)
HC of NY Overhead	-	-	-	(65)	-	-	-	(45)	(65)	(65)
Interest Payments and Financing Costs	-		-	-	-	-	-	-	(117)	-
Total General Overhead	$ (400)	$ (1,584)	$ (400)	$ (465)	$ (800)	$ (400)	$ (400)	$ (445)	$ (1,947)	$ (1,795)
Net Change in Cash Due to Operating Activities	**(1,269)**	**(1,629)**	**(556)**	**3,756**	**320**	**377**	**(410)**	**(1,319)**	**(2,799)**	**1,825**
Other										
One-Time Items - Misc Asset Purchases, etc	(80)	-	-	(500)	650	-	-	(500)	-	(500)
Monetizations of Investments	-	-	-	-	-	-	-	1,600	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	(1,200)	-
Petrocap II Commitments/Distributions	-	-	-	-	-	-	-	(1,500)	-	-
Petrocap III Commitments/Distributions	-	(250)	-	-	-	-	-	(2,250)	-	-
NexPoint Loans, net	440	-	-	147	-	-	-	151	147	151
Services Loans, net	-	-	-	-	-	-	-	-	-	-
HCRE Loans, net	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-
Principal Borrowing	-	-	-	-	-	-	-	-	-	-
Total Other	$ 360	$ (250)	$ -	$ (353)	$ 650	$ -	$ -	$ (2,499)	$ (1,053)	$ (349)
Ending Cash Before Restricted	**$2,941**	**$1,062**	**$506**	**$3,909**	**$4,879**	**$5,256**	**$4,846**	**$1,028**	**($2,825)**	**($1,349)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$2,816**	**$937**	**$381**	**$3,784**	**$4,754**	**$5,131**	**$4,721**	**$903**	**($2,950)**	**($1,474)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget April 09, 2018 - December
(in thousands)

Week Beginning	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (1,349)	$ (8,727)	$ (16,728)	$ (17,007)	$ (16,169)	$ 9,813
Operating Receipts						
Management Fees						
CLOs	1,911	-	-	1,874	-	8,361
Hedge Funds	-	-	170	-	-	1,989
Private Equity (includes PetroCap Royalty)	-	-	719	-	-	2,930
Retail Sub-Advisory Fees	977	977	977	977	977	7,384
Separate Accounts	165	-	2,735	100	-	20,978
Total Management Fees	$ 3,053	$ 977	$ 4,601	$ 2,951	$ 977	$ 41,642
Shared Services Receipts	583	523	523	583	523	6,596
Fund Reimbursements	1,000	100	100	1,000	100	5,145
Other	-	-	-	-	-	5
Total Operating Receipts	$ 4,636	$ 1,600	$ 5,224	$ 4,534	$ 1,600	$ 53,388
Compensation and Benefits						
Payroll, Benefits, and Taxes	(1,888)	(2,809)	(1,709)	(1,709)	(1,704)	(22,461)
Severance Payments	(150)	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	(6,649)	-	-	-	-	(17,670)
Total Compensation and Benefits	$ (8,687)	$ (2,809)	$ (1,709)	$ (1,709)	$ (1,774)	$ (40,545)
General Overhead						
Legal	(400)	(400)	(400)	(400)	(400)	(5,224)
General Overhead	(1,364)	(1,853)	(1,780)	(1,169)	(2,696)	(19,366)
HC of NY Overhead	(215)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	-	(121)	-	-	(124)	(475)
Total General Overhead	$ (1,979)	$ (2,438)	$ (2,245)	$ (1,634)	$ (3,285)	$ (25,975)
Net Change in Cash Due to Operating Activities	**(6,030)**	**(3,648)**	**1,269**	**1,191**	**(3,459)**	**(13,132)**
Other						
One-Time Items - Misc Asset Purchases, etc	(500)	(500)	(500)	(500)	(500)	(6,609)
Monetizations of Investments	-	-	-	-	500	10,327
Korea/Stonebridge Commitments	-	-	(1,200)	-	-	(2,400)
Petrocap II Commitments/Distributions	-	(1,500)	-	-	(1,500)	(4,500)
Petrocap III Commitments/Distributions	-	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	151	147	151	147	1,176	2,808
Services Loans, net	-	-	-	-	456	306
HCRE Loans, net	-	-	-	-	671	671
Dugaboy/Dondero Loans, net	-	-	-	-	1,411	1,411
HCMF Loans, net	(1,000)	-	-	-	-	(300)
Partner Contribution/(Distribution)	-	-	-	-	-	(11,810)
Principal Borrowing	-	-	-	-	-	1,000
Total Other	$ (1,349)	$ (4,353)	$ (1,549)	$ (353)	$ 2,214	$ (14,096)
Ending Cash Before Restricted	**($8,727)**	**($16,728)**	**($17,007)**	**($16,169)**	**($17,415)**	**($17,415)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($8,852)**	**($16,853)**	**($17,132)**	**($16,294)**	**($17,540)**	**($17,540)**

Weekly Budget Checklist - Review of Compensation Status
Week of April 09, 2018

Comp changes during the current week:

Modifications:	N/A
New Hires:	N/A
Terms:	N/A
Accruals:	N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	89	12,585,791	$524,408
Singapore/Korea	3	490,000	20,417
HC of NY	5	467,920	19,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**98**	**13,643,711**	**$568,488**
HCMF	17	2,799,850	116,660
NexPoint	7	2,790,746	116,281
HCFD	16	1,265,000	52,708
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**144**	**$21,663,989**	**$902,666**
Expected Future Hires (see right)	4	690,000	28,750
Total Salary + OT for all entities including future hires	**148**	**$22,353,989**	**$931,416**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	300,000
Institutional Fundraiser	175,000
Senior Tax Analyst	85,000
Fund Accountant	70,000
Operations Analyst	60,000
Total	690,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
3rd/4th installments of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,820,000
HCMF		683,771
NexPoint		200,000
NXRT		-
HC of NY		53,750
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$3,838,771**
1st/2nd installments of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,518,117
HCMF		744,922
NexPoint		306,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,764,455**
Total Bonuses		**$8,603,226**

EXHIBIT 55

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of April 16, 2018

Description	**Page #**
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"The hardest thing to understand in the world is the income tax."
- Albert Einstein

Weekly Budget Checklist - Talking Points
Week of
4/16/2018

Talking Points of the week:

1) RCP

Today's Beginning Operating Cash (000s)	**$**	**2,676**
Today's Money Market Balance (000s)		**440**
Today's Total HCMLP Available Cash (000s)	**$**	**3,116**
Today's HCMF Cash (000s)	**$**	**1,032**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**1,009**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**5,791**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**3,059**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,100)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**486**
Today's Current Margin Balance - Services (000s)	**$**	**(7,963)**
Today's Current Portfolio Margin - Select (000s)	**$**	**1,943**
Today's Current Margin Balance - Select (000s)	**$**	**(26,735)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of April 09, 2018

(in thousands)

	04.09.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 3,850	$ 3,850	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	-	-	
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	-	-	-	
Total Management Fees	$ -	$ -	$ -	
Shared Services	-	-	-	
Fund Reimbursements	-	174	174	Timing difference: Hedge fund reimbursements
Other	-	-	-	
Total Operating Receipts	$ -	$ 174	$ 174	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(869)	(781)	88	
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (869)	$ (781)	$ 88	
General Overhead				
Legal	-	(13)	(13)	
General Overhead	(400)	(449)	(49)	
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (400)	$ (462)	$ (62)	
Net Change in Cash Due to Operating Activities	**(1,269)**	**(1,069)**	**200**	
Other				
One-Time Payments	360	358	(2)	
Total Other	$ 360	$ 358	$ (2)	
Ending Cash Before Restricted	**$ 2,941**	**$ 3,139**	**$ 198**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 2,816**	**$ 3,014**	**$ 198**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	04.09.18	**04.16.18**	**B/(W)**	**Notes:**
Beginning Cash for the week beginning 04.16.18	$ 2,941	$ 3,139	$ 198	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,650	5,650	-	
Hedge Funds	1,110	1,110	-	
Private Equity (includes PetroCap Royalty)	2,188	980	(1,208)	Removed RCP, except for pro-rated Q2 receipt
Retail Sub-Advisory Fees	6,366	6,366	-	
Separate Accounts	8,530	8,530	-	
Total Management Fees	$ 23,844	$ 22,636	$ (1,208)	
Shared Service Receipts	4,364	4,364	-	
Fund Reimbursements	3,432	3,258	(174)	Timing difference: Hedge fund reimbursements
Other	-	-	-	
Total Operating Receipts	$ 31,640	$ 30,258	$ (1,382)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(16,067)	(16,010)	57	Shifted timing of expected new hires to June 1
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,649)	(6,649)	-	
Total Compensation and Benefits	$ (22,936)	$ (22,879)	$ 57	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(14,355)	(14,355)	-	
HC of NY Overhead	(715)	(715)	-	
Interest Payments and Financing Costs	(362)	(362)	-	
Total General Overhead	$ (19,816)	$ (19,816)	$ -	
Net Change in Cash Due to Operating Activities	**(11,112)**	**(12,437)**	**(1,325)**	
Other				
One-Time Payments	(3,350)	(3,350)	-	
Monetizations of Investments	2,100	2,100	-	
Korea/Stonebridge Commitments	(2,400)	(1,200)	1,200	Removed near-term capital call
Petrocap II Commitments/Distributions	(4,500)	(4,500)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,368	2,368	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,000)	(1,000)	-	
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (9,244)	$ (8,044)	$ 1,200	
Ending Cash Before Restricted	**$ (17,415)**	**$ (17,342)**	**$ 73**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (17,540)**	**$ (17,467)**	**$ 73**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017	2018			2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Q1 Totals	4/2	4/9	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 3,665	$ 3,850	$ 9,813
Operating Receipts										
Management Fees										
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	2,711	-	-	2,711
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	879	-	-	879
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	742	-	-	742
Retail	7,426	-	51	-	-	-	766	252	-	1,018
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	12,448	-	-	12,448
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ 17,546	$ 252	$ -	$ 17,798
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	1,864	368	-	2,232
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	1,702	11	174	1,887
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	3	2	-	5
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 21,115	$ 633	$ 174	$ 21,922
Compensation and Benefits										
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(5,487)	(38)	(781)	(6,306)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	(194)	-	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	(11,021)	-	-	(11,021)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (16,702)	$ (38)	$ (781)	$ (17,521)
General Overhead										
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(821)	(19)	(13)	(853)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(4,230)	(381)	(449)	(5,060)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	(195)	-	-	(195)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	(113)	-	-	(113)
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (5,359)	$ (400)	$ (462)	$ (6,221)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**(946)**	**195**	**(1,069)**	**(1,820)**
Other										
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	8,227	-	-	8,227
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	1,000	-	-	1,000
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	(11,810)	-	-	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(6,279)	(560)	-	(6,839)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	(850)	700	440	290
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	4,510	(150)	(82)	4,278
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (5,202)	$ (10)	$ 358	$ (4,854)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 3,665**	**$ 3,850**	**$ 3,139**	**$ 3,139**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ (3,080)**	**$ 3,725**	**$ 3,014**	**$ 3,014**

Budget Summary Page

Week of April 16, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast			Cash Low Point
	Q2'18	**Q3'18**	**Q4'18**
Quarter Ending Cash	**($2,032)**	**($16,363)**	**($17,468)**
Better / (Worse) than prior week	918	491	72
	Q2'18	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**($2,032)**	**($16,363)**	**($17,468)**
Better / (Worse) than prior week	918	491	72

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			24
Timing Differences			
Fund reimbursements not received in the future	Fund Reimbursements	Timing	174
Fund reimbursements received the previous week	Fund Reimbursements	Timing	(174)
Total (should = 0)			**-**
Forecast modifications (besides timing)			
Removed RCP, other than near-term receipt to cover partial Q2 period	Mgmt Fees: PE	To end of '18	(1,208)
Updated start dates for future employees	Payroll, Benefits & Taxes	To end of '18	56
Removed one Korea PE Fund investment	One-Time Items	July '18	1,200
Total Impact of new forecast modifications			**48**
Overall budget B/(W)			**72**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget April 16, 2018 - December 31, 2018
(in thousands)

Week Beginning	4/16	4/23	4/30	5/7	5/14	5/21	5/28	Jun-18	Jul-18	Aug-18
Beginning Cash	$ 3,139	$ 2,619	$ 673	$ 3,538	$ 4,508	$ 4,930	$ 4,520	$ 746	$ (1,907)	$ (859)
Operating Receipts										
Management Fees										
CLOs	-	-	1,825	-	-	40	-	-	-	1,911
Hedge Funds	-	370	225	25	-	-	-	-	320	-
Private Equity (includes PetroCap Royalty)	-	-	75	-	302	-	-	-	302	-
Retail Sub-Advisory Fees	-	-	252	-	-	-	-	252	977	977
Separate Accounts	-	350	195	945	1,350	-	-	-	2,690	165
Total Management Fees	$ -	$ 720	$ 2,572	$ 970	$ 1,652	$ 40	$ -	$ 252	$ 4,289	$ 3,053
Shared Services Receipts	-	-	383	200	-	-	-	523	523	583
Fund Reimbursements	-	-	758	-	-	-	-	100	100	1,000
Other	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ -	$ 720	$ 3,713	$ 1,170	$ 1,652	$ 40	$ -	$ 875	$ 4,912	$ 4,636
Compensation and Benefits										
Payroll, Benefits, and Taxes	(120)	(832)	(29)	(50)	(830)	(50)	(830)	(1,728)	(1,720)	(1,887)
Severance Payments	-	-	-	-	-	-	-	-	-	(150)
Cash Bonus Awards (including deferred)	-	-	-	-	-	-	-	-	-	(6,649)
Total Compensation and Benefits	$ (120)	$ (832)	$ (29)	$ (50)	$ (830)	$ (50)	$ (830)	$ (1,728)	$ (1,720)	$ (8,686)
General Overhead										
Legal	-	(1,184)	-	(400)	-	-	-	(400)	(400)	(400)
General Overhead	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(1,365)	(1,330)	(1,364)
HC of NY Overhead	-	-	(65)	-	-	-	(45)	(65)	(65)	(215)
Interest Payments and Financing Costs		-	-	-	-	-	-	(117)	-	-
Total General Overhead	$ (400)	$ (1,584)	$ (465)	$ (800)	$ (400)	$ (400)	$ (445)	$ (1,947)	$ (1,795)	$ (1,979)
Net Change in Cash Due to Operating Activities	**(520)**	**(1,696)**	**3,219**	**320**	**422**	**(410)**	**(1,275)**	**(2,800)**	**1,396**	**(6,029)**
Other										
One-Time Items - Misc Asset Purchases, etc	-	-	(500)	650	-	-	(500)	-	(500)	(500)
Monetizations of Investments	-	-	-	-	-	-	1,600	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	-
Petrocap II Commitments/Distributions	-	-	-	-	-	-	(1,500)	-	-	-
Petrocap III Commitments/Distributions	-	(250)	-	-	-	-	(2,250)	-	-	-
NexPoint Loans, net	-	-	147	-	-	-	151	147	151	151
Services Loans, net	-	-	-	-	-	-	-	-	-	-
HCRE Loans, net	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	-	-	-	-	-	-	(1,000)
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-
Principal Borrowing	-	-	-	-	-	-	-	-	-	-
Total Other	$ -	$ (250)	$ (353)	$ 650	$ -	$ -	$ (2,499)	$ 147	$ (349)	$ (1,349)
Ending Cash Before Restricted	**$2,619**	**$673**	**$3,538**	**$4,508**	**$4,930**	**$4,520**	**$746**	**($1,907)**	**($859)**	**($8,236)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$2,494**	**$548**	**$3,413**	**$4,383**	**$4,805**	**$4,395**	**$621**	**($2,032)**	**($984)**	**($8,361)**

Highland Capital Management, L.P. - Interna

Cash Projections/Budget April 16, 2018 - December

(in thousands)

Week Beginning	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (8,236)	$ (16,238)	$ (16,934)	$ (16,097)	$ 9,813
Operating Receipts					
Management Fees					
CLOs	-	-	1,874	-	8,361
Hedge Funds	-	170	-	-	1,989
Private Equity (includes PetroCap Royalty)	-	302	-	-	1,722
Retail Sub-Advisory Fees	977	977	977	977	7,384
Separate Accounts	-	2,735	100	-	20,978
Total Management Fees	$ 977	$ 4,184	$ 2,951	$ 977	$ 40,434
Shared Services Receipts	523	523	583	523	6,596
Fund Reimbursements	100	100	1,000	100	5,145
Other	-	-	-	-	5
Total Operating Receipts	$ 1,600	$ 4,807	$ 4,534	$ 1,600	$ 52,180
Compensation and Benefits					
Payroll, Benefits, and Taxes	(2,810)	(1,710)	(1,710)	(1,705)	(22,316)
Severance Payments	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	-	-	-	-	(17,670)
Total Compensation and Benefits	$ (2,810)	$ (1,710)	$ (1,710)	$ (1,775)	$ (40,400)
General Overhead					
Legal	(400)	(400)	(400)	(400)	(5,237)
General Overhead	(1,853)	(1,780)	(1,169)	(2,696)	(19,415)
HC of NY Overhead	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	(121)	-	-	(124)	(475)
Total General Overhead	$ (2,438)	$ (2,245)	$ (1,634)	$ (3,285)	$ (26,037)
Net Change in Cash Due to Operating Activities	**(3,648)**	**852**	**1,191**	**(3,460)**	**(14,258)**
Other					
One-Time Items - Misc Asset Purchases, etc	(500)	(500)	(500)	(500)	(6,171)
Monetizations of Investments	-	-	-	500	10,327
Korea/Stonebridge Commitments	-	(1,200)	-	-	(1,200)
Petrocap II Commitments/Distributions	(1,500)	-	-	(1,500)	(4,500)
Petrocap III Commitments/Distributions	(2,500)	-	-	-	(5,000)
NexPoint Loans, net	147	151	147	1,176	2,368
Services Loans, net	-	-	-	456	306
HCRE Loans, net	-	-	-	671	671
Dugaboy/Dondero Loans, net	-	-	-	1,411	1,411
HCMF Loans, net	-	-	-	-	(300)
Partner Contribution/(Distribution)	-	-	-	-	(11,810)
Principal Borrowing	-	-	-	-	1,000
Total Other	$ (4,353)	$ (1,549)	$ (353)	$ 2,214	$ (12,898)
Ending Cash Before Restricted	**($16,238)**	**($16,934)**	**($16,097)**	**($17,343)**	**($17,343)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($16,363)**	**($17,059)**	**($16,222)**	**($17,468)**	**($17,468)**

Weekly Budget Checklist - Review of Compensation Status
Week of April 16, 2018

Comp changes during the current week:

Modifications:	Shifted start dates for new hires to June 2018
New Hires:	Madeline Frizell (Inst Mktg)
Terms:	N/A
Accruals:	N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	90	12,585,791	$524,408
Singapore/Korea	3	490,000	20,417
HC of NY	4	347,920	14,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**98**	**13,523,711**	**$563,488**
HCMF	17	2,799,850	116,660
NexPoint	7	2,790,746	116,281
HCFD	16	1,265,000	52,708
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**144**	**$21,543,989**	**$897,666**
Expected Future Hires (see right)	4	820,000	34,167
Total Salary + OT for all entities including future hires	**148**	**$22,363,989**	**$931,833**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	250,000
MD - PE	250,000
Institutional Fundraiser	175,000
Senior Tax Analyst	85,000
Operations Analyst	60,000
Total	820,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
4th installment of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,820,000
HCMF		683,771
NexPoint		200,000
NXRT		-
HC of NY		37,500
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$3,822,521**
2nd installment of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,518,117
HCMF		744,922
NexPoint		306,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,764,455**
Total Bonuses		**$8,586,976**

EXHIBIT 56

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of April 23, 2018

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"I've loved my 20s, but I would never repeat them."
- Kelly Clarkson

Weekly Budget Checklist - Talking Points
Week of
4/23/2018

Talking Points of the week:

Today's Beginning Operating Cash (000s)	**$**	**2,501**
Today's Money Market Balance (000s)		**440**
Today's Total HCMLP Available Cash (000s)	**$**	**2,941**
Today's HCMF Cash (000s)	**$**	**802**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**1,000**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**5,377**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**2,902**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,100)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**511**
Today's Current Margin Balance - Services (000s)	**$**	**(7,963)**
Today's Current Portfolio Margin - Select (000s)	**$**	**1,258**
Today's Current Margin Balance - Select (000s)	**$**	**(26,212)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of April 16, 2018

(in thousands)

	04.16.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 3,139	$ 3,139	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	-	-	
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	-	-	-	
Total Management Fees	$ -	$ -	$ -	
Shared Services	-	-	-	
Fund Reimbursements	-	219	219	Timing difference: moved from week of 04.23 to week of 04.16
Other	-	-	-	
Total Operating Receipts	$ -	$ 219	$ 219	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(120)	(5)	115	Timing difference: moved from week of 04.16 to week of 04.23
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (120)	$ (5)	$ 115	
General Overhead				
Legal	-	-	-	
General Overhead	(400)	(340)	60	
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (400)	$ (340)	$ 60	
Net Change in Cash Due to Operating Activities	**(520)**	**(126)**	**394**	
Other				
One-Time Payments	-	-	-	
Total Other	$ -	$ -	$ -	
Ending Cash Before Restricted	**$ 2,619**	**$ 3,013**	**$ 394**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 2,494**	**$ 2,888**	**$ 394**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	04.16.18	04.23.18	B/(W)	Notes:
Beginning Cash for the week beginning 04.23.18	$ 2,619	$ 3,013	$ 394	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,650	5,650	-	
Hedge Funds	1,110	1,110	-	
Private Equity (includes PetroCap Royalty)	980	980	-	
Retail Sub-Advisory Fees	6,366	6,366	-	
Separate Accounts	8,530	8,530	-	
Total Management Fees	$ 22,636	$ 22,636	$ -	
Shared Service Receipts	4,364	4,364	-	
Fund Reimbursements	3,258	3,039	(219)	Timing difference: moved from week of 04.23 to week of 04.16
Other	-	-	-	
Total Operating Receipts	$ 30,258	$ 30,039	$ (219)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(15,890)	(16,005)	(115)	Timing difference: moved from week of 04.16 to week of 04.23
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,649)	(6,649)	-	
Total Compensation and Benefits	$ (22,759)	$ (22,874)	$ (115)	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(13,955)	(13,955)	-	
HC of NY Overhead	(715)	(715)	-	
Interest Payments and Financing Costs	(362)	(362)	-	
Total General Overhead	$ (19,416)	$ (19,416)	$ -	
Net Change in Cash Due to Operating Activities	**(11,917)**	**(12,251)**	**(334)**	
Other				
One-Time Payments	(3,350)	(3,564)	(214)	BB Votorantim funding
Monetizations of Investments	2,100	2,100	-	
Korea/Stonebridge Commitments	(1,200)	(1,200)	-	
Petrocap II Commitments/Distributions	(4,500)	(4,500)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,368	2,368	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,000)	(1,000)	-	
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (8,044)	$ (8,258)	$ (214)	
Ending Cash Before Restricted	**$ (17,342)**	**$ (17,496)**	**$ (154)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (17,467)**	**$ (17,621)**	**$ (154)**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)	2012	2013	2014	2015	2016	2017	2018				2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Q1 Totals	4/2	4/9	4/16	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 3,665	$ 3,850	$ 3,139	$ 9,813
Operating Receipts											
Management Fees											
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	2,711	-	-	-	2,711
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	879	-	-	-	879
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	742	-	-	-	742
Retail	7,426	-	51	-	-	-	766	252	-	-	1,018
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	12,448	-	-	-	12,448
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ 17,546	$ 252	$ -	$ -	$ 17,798
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	1,864	368	-	-	2,232
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	1,702	11	174	219	2,106
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	3	2	-	-	5
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 21,115	$ 633	$ 174	$ 219	$ 22,141
Compensation and Benefits											
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(5,487)	(38)	(781)	(5)	(6,311)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	(194)	-	-	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	(11,021)	-	-	-	(11,021)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (16,702)	$ (38)	$ (781)	$ (5)	$ (17,526)
General Overhead											
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(821)	(19)	(13)	-	(853)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(4,230)	(381)	(449)	(340)	(5,400)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	(195)	-	-	-	(195)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	(113)	-	-	-	(113)
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (5,359)	$ (400)	$ (462)	$ (340)	$ (6,561)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**(946)**	**195**	**(1,069)**	**(126)**	**(1,946)**
Other											
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	8,227	-	-	-	8,227
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	1,000	-	-	-	1,000
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	(11,810)	-	-	-	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(6,279)	(560)	-	-	(6,839)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	(850)	700	440	-	290
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	4,510	(150)	(82)	-	4,278
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (5,202)	$ (10)	$ 358	$ -	$ (4,854)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 3,665**	**$ 3,850**	**$ 3,139**	**$ 3,013**	**$ 3,013**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ (3,080)**	**$ 3,725**	**$ 3,014**	**$ 2,888**	**$ 2,888**

Budget Summary Page

Week of April 23, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast			Cash Low Point
	Q2'18	**Q3'18**	**Q4'18**
Quarter Ending Cash	**($1,020)**	**($13,926)**	**($17,621)**
Better / (Worse) than prior week	1,011	2,436	(154)
	Q2'18	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**($1,020)**	**($13,926)**	**($17,621)**
Better / (Worse) than prior week	1,011	2,436	(154)

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			60
Timing Differences			
Fund reimbursements not received in the future	Fund Reimbursements	Timing	219
Fund reimbursements received the previous week	Fund Reimbursements	Timing	(219)
SWB not paid	Payroll, Benefits & Taxes	Timing	115
SWB paid in the future	Payroll, Benefits & Taxes	Timing	(115)
Total (should = 0)			**-**
Forecast modifications (besides timing)			
BB Votorantim funding	One-Time Items	04/23/18	(214)
Total Impact of new forecast modifications			**(214)**
Overall budget B/(W)			**(154)**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget April 23, 2018 - December 31, 2018
(in thousands)

Week Beginning	4/23	4/30	5/7	5/14	5/21	5/28	6/4	6/11	6/18	6/25	Jul-18
Beginning Cash	$ 3,013	$ 1,567	$ 3,709	$ 5,049	$ 4,621	$ 3,791	$ 2,769	$ 2,284	$ 668	$ 233	$ (895)
Operating Receipts											
Management Fees											
CLOs	-	1,825	-	-	40	-				-	-
Hedge Funds	-	595	25	-	-	-				-	320
Private Equity (includes PetroCap Royalty)	-	75	-	302	-	-				-	302
Retail Sub-Advisory Fees	-	252	-	-	-	252				-	977
Separate Accounts	-	545	945	1,350	-	-				-	2,690
Total Management Fees	$ -	$ 3,292	$ 970	$ 1,652	$ 40	$ 252	$ -	$ -	$ -	$ -	$ 4,289
Shared Services Receipts	-	383	200	-	-	-	-	-	-	523	523
Fund Reimbursements	-	539	-	-	-	-	-	-	-	100	100
Other	-	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ -	$ 4,214	$ 1,170	$ 1,652	$ 40	$ 252	$ -	$ -	$ -	$ 623	$ 4,912
Compensation and Benefits											
Payroll, Benefits, and Taxes	(832)	(69)	(80)	(830)	(70)	(830)	(85)	(816)	(35)	(816)	(1,720)
Severance Payments	-	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	-	-	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (832)	$ (69)	$ (80)	$ (830)	$ (70)	$ (830)	$ (85)	$ (816)	$ (35)	$ (816)	$ (1,720)
General Overhead											
Legal	-	(1,184)	-	-	(400)	-	-	(400)	-	-	(400)
General Overhead	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(1,330)
HC of NY Overhead	-	(65)	-	-	-	(45)				(65)	(65)
Interest Payments and Financing Costs	-	-	-	-	-	-	-	-	-	(117)	-
Total General Overhead	$ (400)	$ (1,649)	$ (400)	$ (400)	$ (800)	$ (445)	$ (400)	$ (800)	$ (400)	$ (582)	$ (1,795)
Net Change in Cash Due to Operating Activities	**(1,232)**	**2,496**	**690**	**422**	**(830)**	**(1,023)**	**(485)**	**(1,616)**	**(435)**	**(775)**	**1,396**
Other											
One-Time Items - Misc Asset Purchases, etc	(214)	(500)	650	-	-	(500)	-	-	-	(500)	-
Monetizations of Investments	-	-	-	-	-	1,600	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	-	-
Petrocap II Commitments/Distributions	-	-	-	(850)	-	-	-	-	-	-	-
Petrocap III Commitments/Distributions	-	-	-	-	-	(1,250)	-	-	-	-	(1,250)
NexPoint Loans, net	-	147	-	-	-	151	-	-	-	147	151
Services Loans, net	-	-	-	-	-	-	-	-	-	-	-
HCRE Loans, net	-	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-	-
Principal Borrowing	-	-	-	-	-	-	-	-	-	-	-
Total Other	$ (214)	$ (353)	$ 650	$ (850)	$ -	$ 1	$ -	$ -	$ -	$ (353)	$ (1,099)
Ending Cash Before Restricted	**$1,567**	**$3,709**	**$5,049**	**$4,621**	**$3,791**	**$2,769**	**$2,284**	**$668**	**$233**	**($895)**	**($598)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$1,442**	**$3,584**	**$4,924**	**$4,496**	**$3,666**	**$2,644**	**$2,159**	**$543**	**$108**	**($1,020)**	**($723)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget April 23, 2018 - December
(in thousands)

Week Beginning	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (598)	$ (7,975)	$ (13,801)	$ (14,498)	$ (16,161)	$ 9,813
Operating Receipts						
Management Fees						
CLOs	1,911	-	-	1,874	-	8,361
Hedge Funds	-	-	170	-	-	1,989
Private Equity (includes PetroCap Royalty)	-	-	302	-	-	1,722
Retail Sub-Advisory Fees	977	977	977	977	977	7,384
Separate Accounts	165	-	2,735	100	-	20,978
Total Management Fees	$ 3,053	$ 977	$ 4,184	$ 2,951	$ 977	$ 40,434
Shared Services Receipts	583	523	523	583	523	6,596
Fund Reimbursements	1,000	100	100	1,000	100	5,145
Other	-	-	-	-	-	5
Total Operating Receipts	$ 4,636	$ 1,600	$ 4,807	$ 4,534	$ 1,600	$ 52,180
Compensation and Benefits						
Payroll, Benefits, and Taxes	(1,887)	(2,810)	(1,710)	(1,710)	(1,705)	(22,316)
Severance Payments	(150)	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	(6,649)	-	-	-	-	(17,670)
Total Compensation and Benefits	$ (8,686)	$ (2,810)	$ (1,710)	$ (1,710)	$ (1,775)	$ (40,400)
General Overhead						
Legal	(400)	(400)	(400)	(400)	(400)	(5,237)
General Overhead	(1,364)	(1,853)	(1,780)	(1,169)	(2,461)	(19,355)
HC of NY Overhead	(215)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	-	(121)	-	-	(124)	(475)
Total General Overhead	$ (1,979)	$ (2,438)	$ (2,245)	$ (1,634)	$ (3,050)	$ (25,977)
Net Change in Cash Due to Operating Activities	**(6,029)**	**(3,648)**	**852**	**1,191**	**(3,225)**	**(14,197)**
Other						
One-Time Items - Misc Asset Purchases, etc	(500)	(500)	(500)	(500)	(500)	(6,385)
Monetizations of Investments	-	-	-	-	500	10,327
Korea/Stonebridge Commitments	-	-	(1,200)	-	-	(1,200)
Petrocap II Commitments/Distributions	-	(1,825)	-	-	(1,825)	(4,500)
Petrocap III Commitments/Distributions	-	-	-	(2,500)	-	(5,000)
NexPoint Loans, net	151	147	151	147	1,176	2,368
Services Loans, net	-	-	-	-	456	306
HCRE Loans, net	-	-	-	-	671	671
Dugaboy/Dondero Loans, net	-	-	-	-	1,411	1,411
HCMF Loans, net	(1,000)	-	-	-	-	(300)
Partner Contribution/(Distribution)	-	-	-	-	-	(11,810)
Principal Borrowing	-	-	-	-	-	1,000
Total Other	$ (1,349)	$ (2,178)	$ (1,549)	$ (2,853)	$ 1,889	$ (13,112)
Ending Cash Before Restricted	**($7,975)**	**($13,801)**	**($14,498)**	**($16,161)**	**($17,496)**	**($17,496)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($8,100)**	**($13,926)**	**($14,623)**	**($16,286)**	**($17,621)**	**($17,621)**

Weekly Budget Checklist - Review of Compensation Status
Week of April 23, 2018

Comp changes during the current week:

Modifications:	N/A
New Hires:	N/A
Terms:	N/A
Accruals:	N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	90	12,585,791	$524,408
Singapore/Korea	3	490,000	20,417
HC of NY	4	347,920	14,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**98**	**13,523,711**	**$563,488**
HCMF	17	2,799,850	116,660
NexPoint	7	2,790,746	116,281
HCFD	16	1,265,000	52,708
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**144**	**$21,543,989**	**$897,666**
Expected Future Hires (see right)	4	820,000	34,167
Total Salary + OT for all entities including future hires	**148**	**$22,363,989**	**$931,833**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	250,000
MD - PE	250,000
Institutional Fundraiser	175,000
Senior Tax Analyst	85,000
Operations Analyst	60,000
Total	820,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
4th installment of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,820,000
HCMF		683,771
NexPoint		200,000
NXRT		-
HC of NY		37,500
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$3,822,521**
2nd installment of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,518,117
HCMF		744,922
NexPoint		306,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,764,455**
Total Bonuses		**$8,586,976**

EXHIBIT 57

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of April 30, 2018

Description	**Page #**
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"I live in a house with four women. Just shut up and say, yes ma'am."
- Tim McGraw

Weekly Budget Checklist - Talking Points
Week of
4/30/2018

Talking Points of the week:

1) BEA Distribution
2) RCP Distribution

Today's Beginning Operating Cash (000s)	**$**	**1,781**
Today's Money Market Balance (000s)		**450**
Today's Total HCMLP Available Cash (000s)	**$**	**2,231**
Today's HCMF Cash (000s)	**$**	**399**
Today's Acis Nexbank Cash (000s)		**634**
Today's NexPoint Cash (000s)		**457**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**3,721**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**3,035**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,020)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**232**
Today's Current Margin Balance - Services (000s)	**$**	**(7,980)**
Today's Current Portfolio Margin - Select (000s)	**$**	**(93)**
Today's Current Margin Balance - Select (000s)	**$**	**(28,128)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of April 23, 2018

(in thousands)

	04.23.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 3,013	$ 3,013	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	-	-	-	
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	-	-	-	
Total Management Fees	$ -	$ -	$ -	
Shared Services	-	10	10	Timing difference: moved from week of 04.30 to week of 04.23
Fund Reimbursements	-	18	18	
Other	-	-	-	
Total Operating Receipts	$ -	$ 28	$ 28	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(832)	(820)	12	
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (832)	$ (820)	$ 12	
General Overhead				
Legal	-	(44)	(44)	
General Overhead	(400)	(103)	297	Timing difference: moved from week of 04.23 to week of 04.30
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (400)	$ (147)	$ 253	
Net Change in Cash Due to Operating Activities	**(1,232)**	**(939)**	**293**	
Other				
One-Time Payments	(214)	-	214	BB Votorantim not funded
Total Other	$ (214)	$ -	$ 214	
Ending Cash Before Restricted	**$ 1,567**	**$ 2,074**	**$ 507**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 1,442**	**$ 1,949**	**$ 507**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	04.23.18	**04.30.18**	**B/(W)**	**Notes:**
Beginning Cash for the week beginning 04.30.18	$ 1,567	$ 2,074	$ 507	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	5,650	5,650	-	
Hedge Funds	1,110	1,129	19	Bandera true-up
Private Equity (includes PetroCap Royalty)	980	980	-	
Retail Sub-Advisory Fees	6,366	7,008	642	HCMFA Sub-Advisory Fees
Separate Accounts	8,530	8,530	-	
Total Management Fees	$ 22,636	$ 23,297	$ 661	
Shared Service Receipts	4,364	4,354	(10)	Timing difference: moved from week of 04.30 to week of 04.23
Fund Reimbursements	3,039	2,539	(500)	
Other	-	-	-	
Total Operating Receipts	$ 30,039	$ 30,190	$ 151	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(15,173)	(15,173)	-	
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,649)	(6,649)	-	
Total Compensation and Benefits	$ (22,042)	$ (22,042)	$ -	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(13,555)	(13,852)	(297)	Timing difference: moved from week of 04.23 to week of 04.30
HC of NY Overhead	(715)	(715)	-	
Interest Payments and Financing Costs	(362)	(362)	-	
Total General Overhead	$ (19,016)	$ (19,313)	$ (297)	
Net Change in Cash Due to Operating Activities	**(11,019)**	**(11,165)**	**(146)**	
Other				
One-Time Payments	(3,350)	(3,350)	-	
Monetizations of Investments	2,100	2,600	500	RCP Distribution
Korea/Stonebridge Commitments	(1,200)	(1,200)	-	
Petrocap II Commitments/Distributions	(4,500)	(4,500)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,368	2,368	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,000)	(1,000)	-	
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (8,044)	$ (7,544)	$ 500	
Ending Cash Before Restricted	**$ (17,496)**	**$ (16,635)**	**$ 861**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (17,621)**	**$ (16,760)**	**$ 861**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017	2018					2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Q1 Totals	4/2	4/9	4/16	4/23	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 3,665	$ 3,850	$ 3,139	$ 3,013	$ 9,813
Operating Receipts												
Management Fees												
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	2,711	-	-	-	-	2,711
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	879	-	-	-	-	879
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	742	-	-	-	-	742
Retail	7,426	-	51	-	-	-	766	252	-	-	-	1,018
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	12,448	-	-	-	-	12,448
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ 17,546	$ 252	$ -	$ -	$ -	$ 17,798
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	1,864	368	-	-	10	2,242
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	1,702	11	174	219	18	2,124
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	3	2	-	-	-	5
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 21,115	$ 633	$ 174	$ 219	$ 28	$ 22,169
Compensation and Benefits												
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(5,487)	(38)	(781)	(5)	(820)	(7,131)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	(194)	-	-	-	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	(11,021)	-	-	-	-	(11,021)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (16,702)	$ (38)	$ (781)	$ (5)	$ (820)	$ (18,346)
General Overhead												
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(821)	(19)	(13)	-	(44)	(897)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(4,230)	(381)	(449)	(340)	(103)	(5,503)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	(195)	-	-	-	-	(195)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	(113)	-	-	-	-	(113)
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (5,359)	$ (400)	$ (462)	$ (340)	$ (147)	$ (6,708)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**(946)**	**195**	**(1,069)**	**(126)**	**(939)**	**(2,885)**
Other												
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	8,227	-	-	-	-	8,227
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	1,000	-	-	-	-	1,000
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	(11,810)	-	-	-	-	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(6,279)	(560)	-	-	-	(6,839)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	(850)	700	440	-	-	290
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	4,510	(150)	(82)	-	-	4,278
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (5,202)	$ (10)	$ 358	$ -	$ -	$ (4,854)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 3,665**	**$ 3,850**	**$ 3,139**	**$ 3,013**	**$ 2,074**	**$ 2,074**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ (3,080)**	**$ 3,725**	**$ 3,014**	**$ 2,888**	**$ 1,949**	**$ 1,949**

Budget Summary Page

Week of April 30, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast			Cash Low Point
	Q2'18	**Q3'18**	**Q4'18**
Quarter Ending Cash	**$1,435**	**($11,571)**	**($16,760)**
Better / (Worse) than prior week	2,455	2,355	861
	Q2'18	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**$1,435**	**($11,571)**	**($16,760)**
Better / (Worse) than prior week	2,455	2,355	861

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			200
Timing Differences			
General overhead not paid	General Overhead	Timing	297
General overhead paid the following week	General Overhead	Timing	(297)
Shared services received	Shared services	Timing	10
Shared services not received in future period	Shared services	Timing	(10)
Total (should = 0)			**-**
Forecast modifications (besides timing)			
HCMLP Reimbursements	Fund Reimbursements	To end of '18	(500)
Bandera Q2 estimate	Mgmt Fees: HF	To end of '18	19
HCMFA Sub-Advisory Fees	Mgmt Fees: Retail Sub-Advisory	To end of '18	642
RCP distribution	Monetizations of investments	Week of 04/30	500
Total Impact of new forecast modifications			**661**
Overall budget B/(W)			**861**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget April 30, 2018 - December 31, 2018
(in thousands)

Week Beginning	4/30	5/7	5/14	5/21	5/28	6/4	6/11	6/18	6/25	Jul-18
Beginning Cash	$ 2,074	$ 8,568	$ 8,714	$ 8,285	$ 7,455	$ 5,249	$ 4,764	$ 3,148	$ 2,713	$ 1,560
Operating Receipts										
Management Fees										
CLOs	2,227	-	-	40	-	-	-	-	-	-
Hedge Funds	649	95	-	-	-	-	-	-	-	215
Private Equity (includes PetroCap Royalty)	-	75	302	-	-	-	-	-	-	302
Retail Sub-Advisory Fees	668	-	-	-	668	-	-	-	-	1,084
Separate Accounts	545	945	1,350	-	-	-	-	-	-	2,690
Total Management Fees	$ 4,089	$ 1,115	$ 1,652	$ 40	$ 668	$ -	$ -	$ -	$ -	$ 4,291
Shared Services Receipts	313	260	-	-	-	-	-	-	523	523
Fund Reimbursements	664	-	-	-	-	-	-	-	75	75
Other	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 5,066	$ 1,375	$ 1,652	$ 40	$ 668	$ -	$ -	$ -	$ 598	$ 4,889
Compensation and Benefits										
Payroll, Benefits, and Taxes	(69)	(80)	(830)	(70)	(830)	(85)	(816)	(35)	(816)	(1,720)
Severance Payments	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	-	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (69)	$ (80)	$ (830)	$ (70)	$ (830)	$ (85)	$ (816)	$ (35)	$ (816)	$ (1,720)
General Overhead										
Legal	-	(1,184)	-	(400)	-	-	(400)	-	-	(400)
General Overhead	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(1,330)
HC of NY Overhead	-	(65)	-	-	(45)	-	-	-	(65)	(65)
Interest Payments and Financing Costs	-	-	-	-	-	-	-	-	(117)	-
Total General Overhead	$ (400)	$ (1,649)	$ (400)	$ (800)	$ (445)	$ (400)	$ (800)	$ (400)	$ (582)	$ (1,795)
Net Change in Cash Due to Operating Activities	**4,597**	**(354)**	**422**	**(830)**	**(607)**	**(485)**	**(1,616)**	**(435)**	**(800)**	**1,373**
Other										
One-Time Items - Misc Asset Purchases, etc	150	-	-	-	(500)	-	-	-	(500)	-
Monetizations of Investments	1,600	500	-	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	-
Petrocap II Commitments/Distributions	-	-	(850)	-	-	-	-	-	-	-
Petrocap III Commitments/Distributions	-	-	-	-	(1,250)	-	-	-	-	(1,250)
NexPoint Loans, net	147	-	-	-	151	-	-	-	147	151
Services Loans, net	-	-	-	-	-	-	-	-	-	-
HCRE Loans, net	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-
Principal Borrowing	-	-	-	-	-	-	-	-	-	-
Total Other	$ 1,897	$ 500	$ (850)	$ -	$ (1,599)	$ -	$ -	$ -	$ (353)	$ (1,099)
Ending Cash Before Restricted	**$8,568**	**$8,714**	**$8,285**	**$7,455**	**$5,249**	**$4,764**	**$3,148**	**$2,713**	**$1,560**	**$1,835**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$8,443**	**$8,589**	**$8,160**	**$7,330**	**$5,124**	**$4,639**	**$3,023**	**$2,588**	**$1,435**	**$1,710**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget April 30, 2018 - December
(in thousands)

Week Beginning	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ 1,835	$ (5,702)	$ (11,446)	$ (12,061)	$ (14,965)	$ 9,813
Operating Receipts						
Management Fees						
CLOs	1,895	-	-	1,488	-	8,361
Hedge Funds	-	-	170	-	-	2,008
Private Equity (includes PetroCap Royalty)	-	-	302	-	-	1,722
Retail Sub-Advisory Fees	1,084	1,084	1,084	668	668	8,026
Separate Accounts	165	-	2,735	100	-	20,978
Total Management Fees	$ 3,144	$ 1,084	$ 4,291	$ 2,256	$ 668	$ 41,095
Shared Services Receipts	583	523	523	583	523	6,596
Fund Reimbursements	750	75	75	750	75	4,663
Other	-	-	-	-	-	5
Total Operating Receipts	$ 4,477	$ 1,682	$ 4,889	$ 3,589	$ 1,266	$ 52,359
Compensation and Benefits						
Payroll, Benefits, and Taxes	(1,887)	(2,810)	(1,710)	(1,710)	(1,705)	(22,304)
Severance Payments	(150)	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	(6,649)	-	-	-	-	(17,670)
Total Compensation and Benefits	$ (8,686)	$ (2,810)	$ (1,710)	$ (1,710)	$ (1,775)	$ (40,388)
General Overhead						
Legal	(400)	(400)	(400)	(400)	(400)	(5,281)
General Overhead	(1,364)	(1,853)	(1,780)	(1,466)	(2,461)	(19,355)
HC of NY Overhead	(215)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	-	(121)	-	-	(124)	(475)
Total General Overhead	$ (1,979)	$ (2,438)	$ (2,245)	$ (1,931)	$ (3,050)	$ (26,021)
Net Change in Cash Due to Operating Activities	**(6,188)**	**(3,566)**	**934**	**(51)**	**(3,559)**	**(14,050)**
Other						
One-Time Items - Misc Asset Purchases, etc	(500)	(500)	(500)	(500)	(500)	(6,611)
Monetizations of Investments	-	-	-	-	500	10,827
Korea/Stonebridge Commitments	-	-	(1,200)	-	-	(1,200)
Petrocap II Commitments/Distributions	-	(1,825)	-	-	(1,825)	(4,500)
Petrocap III Commitments/Distributions	-	-	-	(2,500)	-	(5,000)
NexPoint Loans, net	151	147	151	147	1,176	2,808
Services Loans, net	-	-	-	-	456	306
HCRE Loans, net	-	-	-	-	671	671
Dugaboy/Dondero Loans, net	-	-	-	-	1,411	1,411
HCMF Loans, net	(1,000)	-	-	-	-	(300)
Partner Contribution/(Distribution)	-	-	-	-	-	(11,810)
Principal Borrowing	-	-	-	-	-	1,000
Total Other	$ (1,349)	$ (2,178)	$ (1,549)	$ (2,853)	$ 1,889	$ (12,398)
Ending Cash Before Restricted	**($5,702)**	**($11,446)**	**($12,061)**	**($14,965)**	**($16,635)**	**($16,635)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($5,827)**	**($11,571)**	**($12,186)**	**($15,090)**	**($16,760)**	**($16,760)**

Weekly Budget Checklist - Review of Compensation Status
Week of April 30, 2018

Comp changes during the current week:

Modifications:	N/A
New Hires:	Clark (Ops Analyst)
Terms:	N/A
Accruals:	Removed Ops Analyst

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	90	12,585,791	$524,408
Singapore/Korea	3	490,000	20,417
HC of NY	4	347,920	14,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**98**	**13,523,711**	**$563,488**
HCMF	17	2,799,850	116,660
NexPoint	7	2,790,746	116,281
HCFD	16	1,265,000	52,708
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**144**	**$21,543,989**	**$897,666**
Expected Future Hires (see right)	3	760,000	31,667
Total Salary + OT for all entities including future hires	**147**	**$22,303,989**	**$929,333**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	250,000
MD - PE	250,000
Institutional Fundraiser	175,000
Senior Tax Analyst	85,000
Total	760,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
4th installment of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,820,000
HCMF		683,771
NexPoint		200,000
NXRT		-
HC of NY		37,500
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$3,822,521**
2nd installment of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,518,117
HCMF		744,922
NexPoint		306,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,764,455**
Total Bonuses		**$8,586,976**

EXHIBIT 58

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of May 07, 2018

Description	**Page #**
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"It is amazing what you can accomplish if you do not care who gets the credit."
- Harry S. Truman

Weekly Budget Checklist - Talking Points
Week of
5/7/2018

Talking Points of the week:

1) Cityplace

Today's Beginning Operating Cash (000s)	**$**	**4,322**
Today's Money Market Balance (000s)		**1,462**
Today's Total HCMLP Available Cash (000s)	**$**	**5,784**
Today's HCMF Cash (000s)	**$**	**1,714**
Today's NexPoint Cash (000s)		**1,339**
Today's HCMLP, HCMF, Acis and NexPoint Cash (000s)	**$**	**8,837**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**3,736**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,020)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**309**
Today's Current Margin Balance - Services (000s)	**$**	**(7,980)**
Today's Current Portfolio Margin - Select (000s)	**$**	**(289)**
Today's Current Margin Balance - Select (000s)	**$**	**(29,469)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of April 30, 2018

(in thousands)

	04.30.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 2,074	$ 2,074	$ -	
Operating Receipts				
Management Fees				
CLOs	2,227	2,227	-	
Hedge Funds	649	369	(280)	Timing difference: moved from week of 04.30 to week of 05.07
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	668	668	-	
Separate Accounts	545	547	2	
Total Management Fees	$ 4,089	$ 3,811	$ (278)	
Shared Services	313	183	(130)	Timing difference: moved from week of 04.30 to week of 05.07
Fund Reimbursements	664	606	(58)	
Other	-	-	-	
Total Operating Receipts	$ 5,066	$ 4,600	$ (466)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(69)	(55)	14	
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (69)	$ (55)	$ 14	
General Overhead				
Legal	-	-	-	
General Overhead	(400)	(1,039)	(639)	Timing difference: moved from week of 05.07 to week of 04.30
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (400)	$ (1,039)	$ (639)	
Net Change in Cash Due to Operating Activities	**4,597**	**3,506**	**(1,091)**	
Other				
One-Time Payments	1,897	296	(1,601)	Timing difference: moved from week of 04.30 to week of 05.07
Total Other	$ 1,897	$ 296	$ (1,601)	
Ending Cash Before Restricted	**$ 8,568**	**$ 5,876**	**$ (2,692)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 8,443**	**$ 5,751**	**$ (2,692)**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	04.30.18	**05.07.18**	**B/(W)**	**Notes:**
Beginning Cash for the week beginning 05.07.18	$ 8,568	$ 5,876	$ (2,692)	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	3,423	3,423	-	
Hedge Funds	480	759	279	Timing difference: moved from week of 04.30 to week of 05.07
Private Equity (includes PetroCap Royalty)	980	980	-	
Retail Sub-Advisory Fees	6,340	6,340	-	
Separate Accounts	7,985	7,985	-	
Total Management Fees	$ 19,208	$ 19,487	$ 279	
Shared Service Receipts	4,041	4,171	130	Timing difference: moved from week of 04.30 to week of 05.07
Fund Reimbursements	1,875	1,875	-	
Other	-	-	-	
Total Operating Receipts	$ 25,124	$ 25,533	$ 409	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(15,104)	(15,104)	-	
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,649)	(6,649)	-	
Total Compensation and Benefits	$ (21,973)	$ (21,973)	$ -	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(13,452)	(12,813)	639	Timing difference: moved from week of 05.07 to week of 04.30
HC of NY Overhead	(715)	(715)	-	
Interest Payments and Financing Costs	(362)	(362)	-	
Total General Overhead	$ (18,913)	$ (18,274)	$ 639	
Net Change in Cash Due to Operating Activities	**(15,762)**	**(14,714)**	**1,048**	
Other				
One-Time Payments	(3,500)	(3,500)	-	
Monetizations of Investments	1,000	2,600	1,600	Timing difference: moved from week of 04.30 to week of 05.07
Korea/Stonebridge Commitments	(1,200)	(1,200)	-	
Petrocap II Commitments/Distributions	(4,500)	(4,500)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,222	2,222	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,000)	(1,000)	-	
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (9,440)	$ (7,840)	$ 1,600	
Ending Cash Before Restricted	**$ (16,634)**	**$ (16,678)**	**$ (44)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (16,759)**	**$ (16,803)**	**$ (44)**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017	2018						2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Q1 Totals	4/2	4/9	4/16	4/23	4/30	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 3,665	$ 3,850	$ 3,139	$ 3,013	$ 2,074	$ 9,813
Operating Receipts													
Management Fees													
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	2,711	-	-	-	-	2,227	4,938
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	879	-	-	-	-	369	1,248
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	742	-	-	-	-	-	742
Retail	7,426	-	51	-	-	-	766	252	-	-	-	668	1,686
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	12,448	-	-	-	-	547	12,995
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ 17,546	$ 252	$ -	$ -	$ -	$ 3,811	$ 21,609
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	1,864	368	-	-	10	183	2,425
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	1,702	11	174	219	18	606	2,730
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	3	2	-	-	-	-	5
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 21,115	$ 633	$ 174	$ 219	$ 28	$ 4,600	$ 26,769
Compensation and Benefits													
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(5,487)	(38)	(781)	(5)	(820)	(55)	(7,186)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	(194)	-	-	-	-	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	(11,021)	-	-	-	-	-	(11,021)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (16,702)	$ (38)	$ (781)	$ (5)	$ (820)	$ (55)	$ (18,401)
General Overhead													
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(821)	(19)	(13)	-	(44)	-	(897)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(4,230)	(381)	(449)	(340)	(103)	(1,039)	(6,542)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	(195)	-	-	-	-	-	(195)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	(113)	-	-	-	-	-	(113)
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (5,359)	$ (400)	$ (462)	$ (340)	$ (147)	$ (1,039)	$ (7,747)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**(946)**	**195**	**(1,069)**	**(126)**	**(939)**	**3,506**	**621**
Other													
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	8,227	-	-	-	-	649	8,876
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	1,000	-	-	-	-	-	1,000
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	(11,810)	-	-	-	-	-	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(6,279)	(560)	-	-	-	(500)	(7,339)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	(850)	700	440	-	-	147	437
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	4,510	(150)	(82)	-	-	-	4,278
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (5,202)	$ (10)	$ 358	$ -	$ -	$ 296	$ (4,558)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 3,665**	**$ 3,850**	**$ 3,139**	**$ 3,013**	**$ 2,074**	**$ 5,876**	**$ 5,876**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ (3,080)**	**$ 3,725**	**$ 3,014**	**$ 2,888**	**$ 1,949**	**$ 5,751**	**$ 5,751**

Budget Summary Page

Week of May 07, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast			Cash Low Point
	Q2'18	**Q3'18**	**Q4'18**
Quarter Ending Cash	**$625**	**($12,379)**	**($16,928)**
Better / (Worse) than prior week	(810)	(808)	(167)
	Q2'18	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**$625**	**($12,379)**	**($16,928)**
Better / (Worse) than prior week	(810)	(808)	(167)

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			(43)
Timing Differences			
General overhead paid	General Overhead	Timing	(639)
General overhead not paid the following week	General Overhead	Timing	639
Bandera/Multi Strat mgmt fees not paid	Mgmt Fees: HF	Timing	(279)
Bandera/Multi Strat mgmt fees received the following week	Mgmt Fees: HF	Timing	279
Bandera distribution received	Monetizations of investments	Timing	(1,600)
Bandera distribution not received the following week	Monetizations of investments	Timing	1,600
Shared services not received	Shared services	Timing	(130)
Shared services received in future period	Shared services	Timing	130
Total (should = 0)			**-**
Forecast modifications (besides timing)			
n/a			
Total Impact of new forecast modifications			**-**
Overall budget B/(W)			**(43)**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget May 07, 2018 - December 31, 2018
(in thousands)

Week Beginning	5/7	5/14	5/21	5/28	6/4	6/11	6/18	6/25	Jul-18	Aug-18
Beginning Cash	$ 5,876	$ 6,486	$ 4,979	$ 5,045	$ 2,839	$ 3,954	$ 2,338	$ 1,903	$ 750	$ 1,025
Operating Receipts										
Management Fees										
CLOs	-	-	40	-	-	-	-	-	-	1,895
Hedge Funds	250	-	-	-	124	-	-	-	215	-
Private Equity (includes PetroCap Royalty)	75	302	-	-	-	-	-	-	302	-
Retail Sub-Advisory Fees	-	-	-	668	-	-	-	-	1,084	1,084
Separate Accounts	-	945	1,350	-	-	-	-	-	2,690	165
Total Management Fees	$ 325	$ 1,247	$ 1,390	$ 668	$ -	$ -	$ -	$ -	$ 4,291	$ 3,144
Shared Services Receipts	330	60	-	-	-	-	-	523	523	583
Fund Reimbursements	-	-	-	-	-	-	-	75	75	750
Other	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 655	$ 1,307	$ 1,390	$ 668	$ -	$ -	$ -	$ 598	$ 4,889	$ 4,477
Compensation and Benefits										
Payroll, Benefits, and Taxes	(80)	(830)	(74)	(830)	(85)	(816)	(35)	(816)	(1,720)	(1,886)
Severance Payments	-	-	-	-	-	-	-	-	-	(150)
Cash Bonus Awards (including deferred)	-	-	-	-	-	-	-	-	-	(6,649)
Total Compensation and Benefits	$ (80)	$ (830)	$ (74)	$ (830)	$ (85)	$ (816)	$ (35)	$ (816)	$ (1,720)	$ (8,686)
General Overhead										
Legal	-	(1,584)	-	-	-	(400)	-	-	(400)	(400)
General Overhead	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(1,330)	(1,364)
HC of NY Overhead	(65)	-	-	(45)	-	-	-	(65)	(65)	(215)
Interest Payments and Financing Costs	-	-	-	-	-	-	-	(117)	-	-
Total General Overhead	$ (465)	$ (1,984)	$ (400)	$ (445)	$ (400)	$ (800)	$ (400)	$ (582)	$ (1,795)	$ (1,979)
Net Change in Cash Due to Operating Activities	**110**	**(1,507)**	**916**	**(607)**	**(485)**	**(1,616)**	**(435)**	**(800)**	**1,374**	**(6,187)**
Other										
One-Time Items - Misc Asset Purchases, etc	-	-	-	(500)	-	-	-	(500)	-	(500)
Monetizations of Investments	500	-	-	-	1,600	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	-
Petrocap II Commitments/Distributions	-	-	(850)	-	-	-	-	-	-	-
Petrocap III Commitments/Distributions	-	-	-	(1,250)	-	-	-	-	(1,250)	-
NexPoint Loans, net	-	-	-	151	-	-	-	147	151	151
Services Loans, net	-	-	-	-	-	-	-	-	-	-
HCRE Loans, net	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	-	-	-	-	-	-	(1,000)
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-
Principal Borrowing	-	-	-	-	-	-	-	-	-	-
Total Other	$ 500	$ -	$ (850)	$ (1,599)	$ 1,600	$ -	$ -	$ (353)	$ (1,099)	$ (1,349)
Ending Cash Before Restricted	**$6,486**	**$4,979**	**$5,045**	**$2,839**	**$3,954**	**$2,338**	**$1,903**	**$750**	**$1,025**	**($6,511)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$6,361**	**$4,854**	**$4,920**	**$2,714**	**$3,829**	**$2,213**	**$1,778**	**$625**	**$900**	**($6,636)**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget May 07, 2018 - December
(in thousands)

Week Beginning	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ (6,511)	$ (12,254)	$ (12,868)	$ (15,772)	$ 9,813
Operating Receipts					
Management Fees					
CLOs	-	-	1,488	-	8,361
Hedge Funds	-	170	-	-	2,007
Private Equity (includes PetroCap Royalty)	-	302	-	-	1,722
Retail Sub-Advisory Fees	1,084	1,084	668	668	8,026
Separate Accounts	-	2,735	100	-	20,980
Total Management Fees	$ 1,084	$ 4,291	$ 2,256	$ 668	$ 41,096
Shared Services Receipts	523	523	583	523	6,596
Fund Reimbursements	75	75	750	75	4,605
Other	-	-	-	-	5
Total Operating Receipts	$ 1,682	$ 4,889	$ 3,589	$ 1,266	$ 52,302
Compensation and Benefits					
Payroll, Benefits, and Taxes	(2,809)	(1,709)	(1,709)	(1,704)	(22,290)
Severance Payments	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	-	-	-	-	(17,670)
Total Compensation and Benefits	$ (2,809)	$ (1,709)	$ (1,709)	$ (1,774)	$ (40,374)
General Overhead					
Legal	(400)	(400)	(400)	(400)	(5,281)
General Overhead	(1,853)	(1,780)	(1,466)	(1,822)	(19,355)
HC of NY Overhead	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	(121)	-	-	(124)	(475)
Total General Overhead	$ (2,438)	$ (2,245)	$ (1,931)	$ (2,411)	$ (26,021)
Net Change in Cash Due to Operating Activities	**(3,565)**	**935**	**(51)**	**(2,919)**	**(14,093)**
Other					
One-Time Items - Misc Asset Purchases, etc	(500)	(500)	(500)	(500)	(7,261)
Monetizations of Investments	-	-	-	500	11,476
Korea/Stonebridge Commitments	-	(1,200)	-	-	(1,200)
Petrocap II Commitments/Distributions	(1,825)	-	-	(1,825)	(4,500)
Petrocap III Commitments/Distributions	-	-	(2,500)	-	(5,000)
NexPoint Loans, net	147	151	147	1,176	2,809
Services Loans, net	-	-	-	456	306
HCRE Loans, net	-	-	-	671	671
Dugaboy/Dondero Loans, net	-	-	-	1,411	1,411
HCMF Loans, net	-	-	-	-	(300)
Partner Contribution/(Distribution)	-	-	-	-	(11,810)
Principal Borrowing	-	-	-	-	1,000
Total Other	$ (2,178)	$ (1,549)	$ (2,853)	$ 1,889	$ (12,399)
Ending Cash Before Restricted	**($12,254)**	**($12,868)**	**($15,772)**	**($16,803)**	**($16,679)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**($12,379)**	**($12,993)**	**($15,897)**	**($16,928)**	**($16,804)**

Weekly Budget Checklist - Review of Compensation Status
Week of May 07, 2018

Comp changes during the current week:

Modifications:	N/A
New Hires:	N/A
Terms:	N/A
Accruals:	N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	91	12,585,791	$524,408
Singapore/Korea	3	490,000	20,417
HC of NY	4	347,920	14,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**99**	**13,523,711**	**$563,488**
HCMF	17	2,799,850	116,660
NexPoint	7	2,790,746	116,281
HCFD	16	1,265,000	52,708
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**145**	**$21,543,989**	**$897,666**
Expected Future Hires (see right)	3	760,000	31,667
Total Salary + OT for all entities including future hires	**148**	**$22,303,989**	**$929,333**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	250,000
MD - PE	250,000
Institutional Fundraiser	175,000
Senior Tax Analyst	85,000
Total	760,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
4th installment of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,820,000
HCMF		621,271
NexPoint		200,000
NXRT		-
HC of NY		37,500
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$3,760,021**
2nd installment of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,518,117
HCMF		641,172
NexPoint		306,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,660,705**
Total Bonuses		**$8,420,726**

EXHIBIT 59

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of May 14, 2018

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Compensation Summary	8

"Demand excellence."
- Emmitt Smith

Weekly Budget Checklist - Talking Points
Week of
5/14/2018

Talking Points of the week:

Today's Beginning Operating Cash (000s)	**$**	**6,956**
Today's Money Market Balance (000s)		**698**
Today's Total HCMLP Available Cash (000s)	**$**	**7,654**
Today's HCMF Cash (000s)	**$**	**522**
Today's NexPoint Cash (000s)		**308**
Today's HCMLP, HCMF and NexPoint Cash (000s)	**$**	**8,484**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**3,073**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,020)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**277**
Today's Current Margin Balance - Services (000s)	**$**	**(7,945)**
Today's Current Portfolio Margin - Select (000s)	**$**	**3,842**
Today's Current Margin Balance - Select (000s)	**$**	**(31,525)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of May 07, 2018

(in thousands)

	05.07.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 5,876	$ 5,876	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	250	-	(250)	Timing difference: moved from week of 05.07 to week of 05.14
Private Equity (includes PetroCap Royalty)	75	88	13	
Retail Sub-Advisory Fees	-	832	832	Timing difference: moved from week of 05.14 to week of 05.07
Separate Accounts	-	-	-	
Total Management Fees	$ 325	$ 920	$ 595	
Shared Services	330	130	(200)	Timing difference: moved from week of 05.07 to week of 05.14
Fund Reimbursements	-	20	20	
Other	-	-	-	
Total Operating Receipts	$ 655	$ 1,070	$ 415	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(80)	(26)	54	Timing difference: moved from week of 05.07 to week of 05.14
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (80)	$ (26)	$ 54	
General Overhead				
Legal	-	-	-	
General Overhead	(400)	(375)	25	
HC of NY Overhead	(65)	(65)	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (465)	$ (440)	$ 25	
Net Change in Cash Due to Operating Activities	**110**	**604**	**494**	
Other				
One-Time Payments	500	880	380	Prepaid NPA interest through October; timing difference for BEA/Roma receipt
Total Other	$ 500	$ 880	$ 380	
Ending Cash Before Restricted	**$ 6,486**	**$ 7,360**	**$ 874**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 6,361**	**$ 7,235**	**$ 874**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	05.07.18	05.14.18	B/(W)	Notes:
Beginning Cash for the week beginning 05.14.18	$ 6,486	$ 7,360	$ 874	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	3,423	3,423	-	
Hedge Funds	509	759	250	Timing difference: moved from week of 05.07 to week of 05.14
Private Equity (includes PetroCap Royalty)	905	905	-	
Retail Sub-Advisory Fees	6,340	5,508	(832)	Timing difference: moved from week of 05.14 to week of 05.07
Separate Accounts	7,985	8,135	150	DAF update
Total Management Fees	$ 19,162	$ 18,730	$ (432)	
Shared Service Receipts	3,841	4,041	200	Timing difference: moved from week of 05.07 to week of 05.14
Fund Reimbursements	1,875	1,875	-	
Other	-	-	-	
Total Operating Receipts	$ 24,878	$ 24,646	$ (232)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(15,024)	(14,950)	74	$128 update for term; (54) timing difference
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,649)	(6,520)	129	$129 update for term
Total Compensation and Benefits	$ (21,893)	$ (21,690)	$ 203	
General Overhead				
Legal	(4,384)	(4,384)	-	
General Overhead	(12,413)	(12,413)	-	
HC of NY Overhead	(650)	(650)	-	
Interest Payments and Financing Costs	(362)	(362)	-	
Total General Overhead	$ (17,809)	$ (17,809)	$ -	
Net Change in Cash Due to Operating Activities	**(14,824)**	**(14,853)**	**(29)**	
Other				
One-Time Payments	(3,500)	(3,500)	-	
Monetizations of Investments	2,100	2,900	800	$500 BEA/Roma distribution timing difference; 300 update for future distributions
Korea/Stonebridge Commitments	(1,200)	(1,200)	-	
Petrocap II Commitments/Distributions	(4,500)	(4,500)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	2,222	1,342	(880)	Prepaid NPA interest through October
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,000)	(1,000)	-	
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	1,411	-	
Total Other	$ (8,340)	$ (8,420)	$ (80)	
Ending Cash Before Restricted	**$ (16,678)**	**$ (15,913)**	**$ 765**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (16,803)**	**$ (16,038)**	**$ 765**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017	2018							2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Q1 Totals	4/2	4/9	4/16	4/23	4/30	5/7	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 3,665	$ 3,850	$ 3,139	$ 3,013	$ 2,074	$ 5,876	$ 9,813
Operating Receipts														
Management Fees														
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	2,711	-	-	-	-	2,227	-	4,938
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	879	-	-	-	-	369	-	1,248
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	742	-	-	-	-	-	88	830
Retail	7,426	-	51	-	-	-	766	252	-	-	-	668	832	2,518
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	12,448	-	-	-	-	547	-	12,995
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ 17,546	$ 252	$ -	$ -	$ -	$ 3,811	$ 920	$ 22,529
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	1,864	368	-	-	10	183	130	2,555
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	1,702	11	174	219	18	606	20	2,750
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	3	2	-	-	-	-	-	5
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 21,115	$ 633	$ 174	$ 219	$ 28	$ 4,600	$ 1,070	$ 27,839
Compensation and Benefits														
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(5,487)	(38)	(781)	(5)	(820)	(55)	(26)	(7,212)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	(194)	-	-	-	-	-	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	(11,021)	-	-	-	-	-	-	(11,021)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (16,702)	$ (38)	$ (781)	$ (5)	$ (820)	$ (55)	$ (26)	$ (18,427)
General Overhead														
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(821)	(19)	(13)	-	(44)	-	-	(897)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(4,230)	(381)	(449)	(340)	(103)	(1,039)	(375)	(6,917)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	(195)	-	-	-	-	-	(65)	(260)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	(113)	-	-	-	-	-	-	(113)
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (5,359)	$ (400)	$ (462)	$ (340)	$ (147)	$ (1,039)	$ (440)	$ (8,187)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**(946)**	**195**	**(1,069)**	**(126)**	**(939)**	**3,506**	**604**	**1,225**
Other														
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	8,227	-	-	-	-	649	-	8,876
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	1,000	-	-	-	-	-	-	1,000
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	(11,810)	-	-	-	-	-	-	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(6,279)	(560)	-	-	-	(500)	-	(7,339)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	(850)	700	440	-	-	147	880	1,317
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	4,510	(150)	(82)	-	-	-	-	4,278
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (5,202)	$ (10)	$ 358	$ -	$ -	$ 296	$ 880	$ (3,678)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 3,665**	**$ 3,850**	**$ 3,139**	**$ 3,013**	**$ 2,074**	**$ 5,876**	**$ 7,360**	**$ 7,360**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ (3,080)**	**$ 3,725**	**$ 3,014**	**$ 2,888**	**$ 1,949**	**$ 5,751**	**$ 7,235**	**$ 7,235**

Budget Summary Page

Week of May 14, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast			Cash Low Point
	Q2'18	**Q3'18**	**Q4'18**
Quarter Ending Cash	**$3,689**	**($11,643)**	**($16,039)**
Better / (Worse) than prior week	2,940	613	764
	Q2'18	**Q3'18**	**Q4'18**
Cash Low Point by Quarter	**$1,442**	**($11,643)**	**($16,039)**
Better / (Worse) than prior week	694	613	764

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			58
Timing Differences			
NPA interest received	Affiliate Loans	Timing	880
NPA interest not received	Affiliate Loans	Timing	(880)
Loan Fund, Prometheus, Multi Strat mgmt fees not received	Mgmt Fees: HF	Timing	(250)
Loan Fund, Prometheus, Multi Strat mgmt fees received the following week	Mgmt Fees: HF	Timing	250
HCMFA Sub-Advisory fees received	Mgmt Fees: SA	Timing	832
HCMFA Sub-Advisory fees not received the following week	Mgmt Fees: SA	Timing	(832)
BEA distribution received	Monetizations of investments	Timing	(500)
BEA distribution not received the following week	Monetizations of investments	Timing	500
SWB not paid	Payroll, Benefits & Taxes	Timing	54
SWB paid in the future	Payroll, Benefits & Taxes	Timing	(54)
Shared services not received	Shared services	Timing	(200)
Shared services received in future period	Shared services	Timing	200
Total (should = 0)			**-**
Forecast modifications (besides timing)			
Updated for current/future employee roster	Cash Bonus Awards	To end of '18	128
DAF update	Mgmt Fees: SAs	To end of '18	150
BEA distribution update	Monetizations of investments	05/14/18	300
Updated for current/future employee roster	Payroll, Benefits & Taxes	To end of '18	128
Total Impact of new forecast modifications			**706**
Overall budget B/(W)			**764**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget May 14, 2018 - December 31, 2018
(in thousands)

Week Beginning	5/14	5/21	5/28	6/4	6/11	6/18	6/25	7/2	7/9	7/16	7/23
Beginning Cash	$ 7,360	$ 7,838	$ 7,978	$ 6,029	$ 6,068	$ 4,458	$ 4,023	$ 3,814	$ 3,379	$ 1,942	$ 1,507
Operating Receipts											
Management Fees											
CLOs	-	40	-	-	-	-	-	-	-	-	-
Hedge Funds	95	155	-	124	-	-	-		215		
Private Equity (includes PetroCap Royalty)	-	302	-	-	-	-	-	-	-	-	-
Retail Sub-Advisory Fees	-	-	668	-	-	-	1,084	-	-	-	-
Separate Accounts	945	1,400	-	-	-	-	-	-	-	-	-
Total Management Fees	$ 1,040	$ 1,897	$ 668	$ 124	$ -	$ -	$ 1,084	$ -	$ 215	$ -	$ -
Shared Services Receipts	260	-	-	-	-	-	523	-	-	-	-
Fund Reimbursements	-	-	-	-	-	-	75	-	-	-	-
Other	-	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 1,300	$ 1,897	$ 668	$ 124	$ -	$ -	$ 1,682	$ -	$ 215	$ -	$ -
Compensation and Benefits											
Payroll, Benefits, and Taxes	(822)	(73)	(822)	(35)	(809)	(35)	(809)	(35)	(852)	(35)	(852)
Severance Payments	-	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	-	-	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (822)	$ (73)	$ (822)	$ (35)	$ (809)	$ (35)	$ (809)	$ (35)	$ (852)	$ (35)	$ (852)
General Overhead											
Legal	(300)	(1,284)	-	-	(400)	-	-	-	(400)	-	-
General Overhead	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)
HC of NY Overhead	-	-	(45)	-	-	-	(65)	-	-	-	-
Interest Payments and Financing Costs	-	-	-	-	-	-	(117)	-	-	-	-
Total General Overhead	$ (700)	$ (1,684)	$ (445)	$ (400)	$ (800)	$ (400)	$ (582)	$ (400)	$ (800)	$ (400)	$ (400)
Net Change in Cash Due to Operating Activities	**(222)**	**140**	**(599)**	**(311)**	**(1,609)**	**(435)**	**290**	**(435)**	**(1,437)**	**(435)**	**(1,252)**
Other											
One-Time Items - Misc Asset Purchases, etc	-	-	(500)	-	-	-	(500)	-	-	-	-
Monetizations of Investments	700	-	-	1,600	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	-	-
Petrocap II Commitments/Distributions	-	-	(850)	-	-	-	-	-	-	-	-
Petrocap III Commitments/Distributions	-	-	-	(1,250)	-	-	-	-	-	-	-
NexPoint Loans, net	-	-	-	-	-	-	-	-	-	-	-
Services Loans, net	-	-	-	-	-	-	-	-	-	-	-
HCRE Loans, net	-	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-	-
Principal Borrowing	-	-	-	-	-	-	-	-	-	-	-
Total Other	$ 700	$ -	$ (1,350)	$ 350	$ -	$ -	$ (500)	$ -	$ -	$ -	$ -
Ending Cash Before Restricted	**$7,838**	**$7,978**	**$6,029**	**$6,068**	**$4,458**	**$4,023**	**$3,814**	**$3,379**	**$1,942**	**$1,507**	**$255**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$7,713**	**$7,853**	**$5,904**	**$5,943**	**$4,333**	**$3,898**	**$3,689**	**$3,254**	**$1,817**	**$1,382**	**$130**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget May 14, 2018 - December
(in thousands)

Week Beginning	7/30	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ 255	$ 3,677	$ (3,977)	$ (11,518)	$ (12,633)	$ (13,002)	$ 9,813
Operating Receipts							
Management Fees							
CLOs	-	1,895	-	-	1,488	-	8,361
Hedge Funds	-	-	-	170	-	-	2,007
Private Equity (includes PetroCap Royalty)	-	302	-	302	-	-	1,735
Retail Sub-Advisory Fees	1,084	668	668	668	668	-	8,026
Separate Accounts	2,740	165	-	2,785	100	-	21,130
Total Management Fees	$ 3,824	$ 3,030	$ 668	$ 3,925	$ 2,256	$ -	$ 41,259
Shared Services Receipts	523	583	523	523	583	523	6,596
Fund Reimbursements	75	750	75	75	750	75	4,625
Other	-	-	-	-	-	-	5
Total Operating Receipts	$ 4,422	$ 4,363	$ 1,266	$ 4,523	$ 3,589	$ 598	$ 52,485
Compensation and Benefits							
Payroll, Benefits, and Taxes	(35)	(1,868)	(2,793)	(1,693)	(1,693)	(1,688)	(22,162)
Severance Payments	-	(150)	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	-	(6,520)	-	-	-	-	(17,541)
Total Compensation and Benefits	$ (35)	$ (8,538)	$ (2,793)	$ (1,693)	$ (1,693)	$ (1,758)	$ (40,117)
General Overhead							
Legal	-	(400)	(400)	(400)	(400)	(400)	(5,281)
General Overhead	(400)	(1,364)	(1,853)	(1,780)	(1,466)	(1,152)	(19,331)
HC of NY Overhead	(65)	(215)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	-	-	(121)	-	-	(124)	(475)
Total General Overhead	$ (465)	$ (1,979)	$ (2,438)	$ (2,245)	$ (1,931)	$ (1,741)	$ (25,996)
Net Change in Cash Due to Operating Activities	**3,922**	**(6,154)**	**(3,965)**	**585**	**(35)**	**(2,901)**	**(13,629)**
Other							
One-Time Items - Misc Asset Purchases, etc	(500)	(500)	(500)	(500)	(500)	-	(7,261)
Monetizations of Investments	-	-	-	-	-	600	11,776
Korea/Stonebridge Commitments	-	-	-	(1,200)	-	-	(1,200)
Petrocap II Commitments/Distributions	-	-	(1,825)	-	-	(1,825)	(4,500)
Petrocap III Commitments/Distributions	-	-	(1,250)	-	-	(2,500)	(5,000)
NexPoint Loans, net	-	-	-	-	166	1,176	2,809
Services Loans, net	-	-	-	-	-	456	306
HCRE Loans, net	-	-	-	-	-	671	671
Dugaboy/Dondero Loans, net	-	-	-	-	-	1,411	1,411
HCMF Loans, net	-	(1,000)	-	-	-	-	(300)
Partner Contribution/(Distribution)	-	-	-	-	-	-	(11,810)
Principal Borrowing	-	-	-	-	-	-	1,000
Total Other	$ (500)	$ (1,500)	$ (3,575)	$ (1,700)	$ (334)	$ (11)	$ (12,099)
Ending Cash Before Restricted	**$3,677**	**($3,977)**	**($11,518)**	**($12,633)**	**($13,002)**	**($15,914)**	**($15,914)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$3,552**	**($4,102)**	**($11,643)**	**($12,758)**	**($13,127)**	**($16,039)**	**($16,039)**

Weekly Budget Checklist - Review of Compensation Status
Week of May 14, 2018

Comp changes during the current week:

Modifications: N/A
New Hires: N/A
Terms: Fedorshyn
Accruals: N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	90	12,385,791	$516,075
Singapore/Korea	3	490,000	20,417
HC of NY	4	347,920	14,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**98**	**13,323,711**	**$555,155**
HCMF	17	2,799,850	116,660
NexPoint	7	2,790,746	116,281
HCFD	16	1,265,000	52,708
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**144**	**$21,343,989**	**$889,333**
Expected Future Hires (see right)	3	760,000	31,667
Total Salary + OT for all entities including future hires	**147**	**$22,103,989**	**$921,000**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	250,000
MD - PE	250,000
Institutional Fundraiser	175,000
Senior Tax Analyst	85,000
Total	760,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
4th installment of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,738,750
HCMF		621,271
NexPoint		200,000
NXRT		-
HC of NY		37,500
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$3,678,771**
2nd installment of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,486,867
HCMF		641,172
NexPoint		306,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,629,455**
Total Bonuses		**$8,308,226**

EXHIBIT 60

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of May 21, 2018

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"I feel the pressure."
- Novak Djokovic

Weekly Budget Checklist - Talking Points
Week of
5/21/2018

Talking Points of the week:

Today's Beginning Operating Cash (000s)	**$**	**6,968**
Today's Money Market Balance (000s)		**940**
Today's Total HCMLP Available Cash (000s)	**$**	**7,908**
Today's HCMF Cash (000s)	**$**	**196**
Today's NexPoint Cash (000s)		**305**
Today's HCMLP, HCMF and NexPoint Cash (000s)	**$**	**8,409**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**3,577**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,020)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**439**
Today's Current Margin Balance - Services (000s)	**$**	**(7,945)**
Today's Current Portfolio Margin - Select (000s)	**$**	**1,480**
Today's Current Margin Balance - Select (000s)	**$**	**(39,575)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of May 14, 2018

(in thousands)

	05.14.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 7,360	$ 7,360	$ -	
Operating Receipts				
Management Fees				
CLOs	-	-	-	
Hedge Funds	95	58	(37)	
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	945	985	40	
Total Management Fees	$ 1,040	$ 1,043	$ 3	
Shared Services	260	278	18	
Fund Reimbursements	-	-	-	
Other	-	20	20	
Total Operating Receipts	$ 1,300	$ 1,341	$ 41	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(822)	(649)	173	Timing difference: moved from week of 5.14.18 to week of 5.21.18
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (822)	$ (649)	$ 173	
General Overhead				
Legal	(300)	(311)	(11)	
General Overhead	(400)	(441)	(41)	
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (700)	$ (752)	$ (52)	
Net Change in Cash Due to Operating Activities	**(222)**	**(60)**	**162**	
Other				
One-Time Payments	700	699	(1)	
Total Other	$ 700	$ 699	$ (1)	
Ending Cash Before Restricted	**$ 7,838**	**$ 7,999**	**$ 161**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 7,713**	**$ 7,874**	**$ 161**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	05.14.18	**05.21.18**	**B/(W)**	**Notes:**
Beginning Cash for the week beginning 05.21.18	$ 7,838	$ 7,999	$ 161	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	3,423	3,423	-	
Hedge Funds	664	664	-	
Private Equity (includes PetroCap Royalty)	905	905	-	
Retail Sub-Advisory Fees	5,508	5,508	-	
Separate Accounts	7,190	7,190	-	
Total Management Fees	$ 17,690	$ 17,690	$ -	
Shared Service Receipts	3,781	3,781	-	
Fund Reimbursements	1,875	1,875	-	
Other	-	-	-	
Total Operating Receipts	$ 23,346	$ 23,346	$ -	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(14,128)	(14,301)	(173)	Timing difference: moved from week of 5.14.18 to week of 5.21.18
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,520)	(6,520)	-	
Total Compensation and Benefits	$ (20,868)	$ (21,041)	$ (173)	
General Overhead				
Legal	(4,084)	(4,084)	-	
General Overhead	(12,014)	(11,973)	41	
HC of NY Overhead	(650)	(650)	-	
Interest Payments and Financing Costs	(362)	(362)	-	
Total General Overhead	$ (17,110)	$ (17,069)	$ 41	
Net Change in Cash Due to Operating Activities	**(14,632)**	**(14,764)**	**(132)**	
Other				
One-Time Payments	(3,500)	(7,000)	(3,500)	NHF Rights Offering
Monetizations of Investments	2,200	2,200	-	
Korea/Stonebridge Commitments	(1,200)	(1,200)	-	
Petrocap II Commitments/Distributions	(4,500)	(4,500)	-	
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	1,342	1,342	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,000)	(1,000)	-	
Services Loans, net	456	456	-	
Dugaboy/Dondero Loans, net	1,411	3,500	2,089	Pre-payment by Dugaboy of $3.5mm of loans, less $1.4mm timing difference for expected December '18 receipt
Total Other	$ (9,120)	$ (10,531)	$ (1,411)	
Ending Cash Before Restricted	**$ (15,914)**	**$ (17,296)**	**$ (1,382)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (16,039)**	**$ (17,421)**	**$ (1,382)**	

Highland Capital Management, L.P.
Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)	2012	2013	2014	2015	2016	2017	2018								2018
	Total YTD	**Total YTD**	**Total YTD**	**Total YTD**	**Total YTD**	**Total YTD**	**Q1 Totals**	**4/2**	**4/9**	**4/16**	**4/23**	**4/30**	**5/7**	**5/14**	**Total YTD**
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 3,665	$ 3,850	$ 3,139	$ 3,013	$ 2,074	$ 5,876	$ 7,360	$ 9,813
Operating Receipts															
Management Fees															
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	2,711	-	-	-	-	2,227	-	-	4,938
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	879	-	-	-	-	369	-	58	1,306
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	742	-	-	-	-	-	88	-	830
Retail	7,426	-	51	-	-	-	766	252	-	-	-	668	832	-	2,518
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	12,448	-	-	-	-	547	-	985	13,980
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ 17,546	$ 252	$ -	$ -	$ -	$ 3,811	$ 920	$ 1,043	$ 23,572
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	1,864	368	-	-	10	183	130	278	2,833
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	1,702	11	174	219	18	606	20	-	2,750
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	3	2	-	-	-	-	-	20	25
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 21,115	$ 633	$ 174	$ 219	$ 28	$ 4,600	$ 1,070	$ 1,341	$ 29,180
Compensation and Benefits															
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(5,487)	(38)	(781)	(5)	(820)	(55)	(26)	(649)	(7,861)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	(194)	-	-	-	-	-	-	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	(11,021)	-	-	-	-	-	-	-	(11,021)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (16,702)	$ (38)	$ (781)	$ (5)	$ (820)	$ (55)	$ (26)	$ (649)	$ (19,076)
General Overhead															
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(821)	(19)	(13)	-	(44)	-	-	(311)	(1,208)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(4,230)	(381)	(449)	(340)	(103)	(1,039)	(375)	(441)	(7,358)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	(195)	-	-	-	-	-	(65)	-	(260)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	(113)	-	-	-	-	-	-	-	(113)
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (5,359)	$ (400)	$ (462)	$ (340)	$ (147)	$ (1,039)	$ (440)	$ (752)	$ (8,939)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**(946)**	**195**	**(1,069)**	**(126)**	**(939)**	**3,506**	**604**	**(60)**	**1,165**
Other															
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	8,227	-	-	-	-	649	-	699	9,575
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	1,000	-	-	-	-	-	-	-	1,000
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	(11,810)	-	-	-	-	-	-	-	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(6,279)	(560)	-	-	-	(500)	-	-	(7,339)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	(850)	700	440	-	-	147	880	-	1,317
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	4,510	(150)	(82)	-	-	-	-	-	4,278
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (5,202)	$ (10)	$ 358	$ -	$ -	$ 296	$ 880	$ 699	$ (2,979)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 3,665**	**$ 3,850**	**$ 3,139**	**$ 3,013**	**$ 2,074**	**$ 5,876**	**$ 7,360**	**$ 7,999**	**$ 7,999**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ (3,080)**	**$ 3,725**	**$ 3,014**	**$ 2,888**	**$ 1,949**	**$ 5,751**	**$ 7,235**	**$ 7,874**	**$ 7,874**

Budget Summary Page

Week of May 21, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast			Cash Low Point
	Q2'18	Q3'18	Q4'18
Quarter Ending Cash	**$3,918**	**($11,514)**	**($17,421)**
Better / (Worse) than prior week	229	129	(1,382)
	Q2'18	Q3'18	Q4'18
Cash Low Point by Quarter	**$1,442**	**($11,514)**	**($17,421)**
Better / (Worse) than prior week	0	129	(1,382)

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			29
Timing Differences			
SWB not paid	Payroll, Benefits & Taxes	Timing	173
SWB paid in the future	Payroll, Benefits & Taxes	Timing	(173)
Overhead paid	Payroll, Benefits & Taxes	Timing	(41)
Overhead not paid in the future	Payroll, Benefits & Taxes	Timing	41
Total (should = 0)			**-**
Forecast modifications (besides timing)			
Prepayment of Dugaboy loans receivable, less expected December 2018 receipt	Dugaboy loans, net	To end of '18	(1,411)
Total Impact of new forecast modifications			**(1,411)**
Overall budget B/(W)			**(1,382)**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget May 21, 2018 - December 31, 2018
(in thousands)

Week Beginning	5/21	5/28	6/4	6/11	6/18	6/25	7/2	7/9	7/16	7/23	7/30	8/6
Beginning Cash	$ 7,999	$ 9,062	$ 6,331	$ 7,547	$ 4,687	$ 4,252	$ 4,043	$ 3,608	$ 2,171	$ 1,736	$ 484	$ 5,801
Operating Receipts												
Management Fees												
CLOs	40	-	-	-	-	-	-	-	-	-	1,895	-
Hedge Funds	155	-	124	-	-	-	-	215	-	-	-	-
Private Equity (includes PetroCap Royalty)	-	302	-	-	-	-	-	-	-	-	-	-
Retail Sub-Advisory Fees	-	668	-	-	-	1,084	-	-	-	-	1,084	-
Separate Accounts	1,400	-	-	-	-	-	-	-	-	-	2,740	-
Total Management Fees	$ 1,595	$ 970	$ 124	$ -	$ -	$ 1,084	$ -	$ 215	$ -	$ -	$ 5,719	$ -
Shared Services Receipts	-	-	-	-	-	523	-	-	-	-	523	-
Fund Reimbursements	-	-	-	-	-	75	-	-	-	-	75	-
Other	-	-	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 1,595	$ 970	$ 124	$ -	$ -	$ 1,682	$ -	$ 215	$ -	$ -	$ 6,317	$ -
Compensation and Benefits												
Payroll, Benefits, and Taxes	(173)	(822)	(108)	(809)	(35)	(809)	(35)	(852)	(35)	(852)	(35)	-
Severance Payments	-	-	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	-	-	-	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (173)	$ (822)	$ (108)	$ (809)	$ (35)	$ (809)	$ (35)	$ (852)	$ (35)	$ (852)	$ (35)	$ -
General Overhead												
Legal	-	(1,284)	-	(400)	-	-	-	(400)	-	-	-	-
General Overhead	(359)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)
HC of NY Overhead	-	(45)	-	-	-	(65)	-	-	-	-	(65)	-
Interest Payments and Financing Costs	-	-	-	-	-	(117)	-	-	-	-	-	-
Total General Overhead	$ (359)	$ (1,729)	$ (400)	$ (800)	$ (400)	$ (582)	$ (400)	$ (800)	$ (400)	$ (400)	$ (465)	$ (400)
Net Change in Cash Due to Operating Activities	**1,063**	**(1,581)**	**(384)**	**(1,609)**	**(435)**	**290**	**(435)**	**(1,437)**	**(435)**	**(1,252)**	**5,817**	**(400)**
Other												
One-Time Items - Misc Asset Purchases, etc	(3,500)	(500)	-	-	-	(500)	-	-	-	-	(500)	-
Monetizations of Investments	-	-	1,600	-	-	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	-	-	-
Petrocap II Commitments/Distributions	-	(650)	-	-	-	-	-	-	-	-	-	-
Petrocap III Commitments/Distributions	-	-	-	(1,250)	-	-	-	-	-	-	-	-
NexPoint Loans, net	-	-	-	-	-	-	-	-	-	-	-	-
Services Loans, net	-	-	-	-	-	-	-	-	-	-	-	-
HCRE Loans, net	-	-	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	3,500	-	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	-	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-	-	-
Principal Borrowing	-	-	-	-	-	-	-	-	-	-	-	-
Total Other	$ -	$ (1,150)	$ 1,600	$ (1,250)	$ -	$ (500)	$ -	$ -	$ -	$ -	$ (500)	$ -
Ending Cash Before Restricted	**$9,062**	**$6,331**	**$7,547**	**$4,687**	**$4,252**	**$4,043**	**$3,608**	**$2,171**	**$1,736**	**$484**	**$5,801**	**$5,401**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$8,937**	**$6,206**	**$7,422**	**$4,562**	**$4,127**	**$3,918**	**$3,483**	**$2,046**	**$1,611**	**$359**	**$5,676**	**$5,276**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget May 21, 2018 - December
(in thousands)

Week Beginning	8/13	8/20	8/27	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ 5,401	$ 3,667	$ 3,267	$ (3,748)	$ (11,389)	$ (12,504)	$ (12,873)	$ 9,813
Operating Receipts								
Management Fees								
CLOs	-	-	-	-	-	1,488	-	8,361
Hedge Funds	-	-	-	-	170	-	-	1,970
Private Equity (includes PetroCap Royalty)	-	-	302	-	302	-	-	1,735
Retail Sub-Advisory Fees	-	-	668	668	668	668	-	8,026
Separate Accounts	-	-	165	-	2,785	100	-	21,170
Total Management Fees	$ -	$ -	$ 1,135	$ 668	$ 3,925	$ 2,256	$ -	$ 41,262
Shared Services Receipts	-	-	583	523	523	583	523	6,614
Fund Reimbursements	-	-	750	75	75	750	75	4,625
Other	-	-	-	-	-	-	-	25
Total Operating Receipts	$ -	$ -	$ 2,468	$ 1,266	$ 4,523	$ 3,589	$ 598	$ 52,526
Compensation and Benefits								
Payroll, Benefits, and Taxes	(934)	-	(934)	(2,793)	(1,693)	(1,693)	(1,688)	(22,162)
Severance Payments	-	-	(150)	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	-	-	(6,520)	-	-	-	-	(17,541)
Total Compensation and Benefits	$ (934)	$ -	$ (7,604)	$ (2,793)	$ (1,693)	$ (1,693)	$ (1,758)	$ (40,117)
General Overhead								
Legal	(400)	-		(400)	(400)	(400)	(400)	(5,292)
General Overhead	(400)	(400)	(164)	(1,853)	(1,780)	(1,466)	(1,152)	(19,331)
HC of NY Overhead	-	-	(215)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	-	-	-	(121)	-	-	(124)	(475)
Total General Overhead	$ (800)	$ (400)	$ (379)	$ (2,438)	$ (2,245)	$ (1,931)	$ (1,741)	$ (26,007)
Net Change in Cash Due to Operating Activities	**(1,734)**	**(400)**	**(5,515)**	**(3,965)**	**585**	**(35)**	**(2,901)**	**(13,599)**
Other								
One-Time Items - Misc Asset Purchases, etc	-	-	(500)	(500)	(500)	(500)	-	(10,761)
Monetizations of Investments	-	-	-	-	-	-	600	11,775
Korea/Stonebridge Commitments	-	-	-	-	(1,200)	-	-	(1,200)
Petrocap II Commitments/Distributions	-	-	-	(1,925)	-	-	(1,925)	(4,500)
Petrocap III Commitments/Distributions	-	-	-	(1,250)	-	-	(2,500)	(5,000)
NexPoint Loans, net	-	-	-	-	-	166	1,176	2,809
Services Loans, net	-	-	-	-	-	-	456	306
HCRE Loans, net	-	-	-	-	-	-	671	671
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	3,500
HCMF Loans, net	-	-	(1,000)	-	-	-	-	(300)
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	(11,810)
Principal Borrowing	-	-	-	-	-	-	-	1,000
Total Other	$ -	$ -	$ (1,500)	$ (3,675)	$ (1,700)	$ (334)	$ (1,522)	$ (13,511)
Ending Cash Before Restricted	**$3,667**	**$3,267**	**($3,748)**	**($11,389)**	**($12,504)**	**($12,873)**	**($17,296)**	**($17,296)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$3,542**	**$3,142**	**($3,873)**	**($11,514)**	**($12,629)**	**($12,998)**	**($17,421)**	**($17,421)**

Weekly Budget Checklist - Review of Compensation Status
Week of May 21, 2018

Comp changes during the current week:

Modifications:	N/A
New Hires:	Jae Lee (Senior Tax Analyst)
Terms:	N/A
Accruals:	Removed Senior Tax Analyst

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	91	12,385,791	$516,075
Singapore/Korea	3	490,000	20,417
HC of NY	4	347,920	14,497
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**99**	**13,323,711**	**$555,155**
HCMF	17	2,799,850	116,660
NexPoint	7	2,790,746	116,281
HCFD	16	1,265,000	52,708
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**145**	**$21,343,989**	**$889,333**
Expected Future Hires (see right)	2	675,000	28,125
Total Salary + OT for all entities including future hires	**147**	**$22,018,989**	**$917,458**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	250,000
MD - PE	250,000
Institutional Fundraiser	175,000
Total	675,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
4th installment of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,738,750
HCMF		621,271
NexPoint		200,000
NXRT		-
HC of NY		37,500
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$3,678,771**
2nd installment of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,486,867
HCMF		641,172
NexPoint		306,250
NXRT		30,000
HC of NY		69,167
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,629,455**
Total Bonuses		**$8,308,226**

EXHIBIT 61

Highland Capital Management, L.P.
Weekly Budget Checklist
Table of Contents
Week of May 28, 2018

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Weekly Budget Reconciliations	
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"I'm a little lavish I must admit. But I'm not really concerned with money. Being rich is not my goal, being wealthy is."
- CeeLo Green

Weekly Budget Checklist - Talking Points
Week of
5/28/2018

Talking Points of the week:

Today's Beginning Operating Cash (000s)	**$**	**5,600**
Today's Money Market Balance (000s)		**1,450**
Today's Total HCMLP Available Cash (000s)	**$**	**7,050**
Today's HCMF Cash (000s)	**$**	**426**
Today's NexPoint Cash (000s)		**168**
Today's HCMLP, HCMF and NexPoint Cash (000s)	**$**	**7,644**
Today's Available Margin Room at Jefferies - HCMLP (000s)	**$**	**3,258**
Today's Current Margin Balance - HCMLP (000s)	**$**	**(32,020)**
Today's Available Margin Room at Jefferies - Services (000s)	**$**	**251**
Today's Current Margin Balance - Services (000s)	**$**	**(8,045)**
Today's Current Portfolio Margin - Select (000s)	**$**	**(1,145)**
Today's Current Margin Balance - Select (000s)	**$**	**(36,176)**

Highland Capital Management, L.P.
Prior Week Cash Projections/Budget to Actual
Week of May 21, 2018

(in thousands)

	05.21.18 Budget	Actual	B/(W)	Notes:
Beginning Cash	$ 7,999	$ 7,999	$ -	
Operating Receipts				
Management Fees				
CLOs	40	-	(40)	Timing difference: moved from the week of 05.21 to the week of of 05.28
Hedge Funds	155	-	(155)	Timing difference: moved from the week of 05.21 to the week of of 05.28
Private Equity (includes PetroCap Royalty)	-	-	-	
Retail Sub-Advisory Fees	-	-	-	
Separate Accounts	1,400	1,406	6	
Total Management Fees	$ 1,595	$ 1,406	$ (189)	
Shared Services	-	-	-	
Fund Reimbursements	-	9	9	
Other	-	-	-	
Total Operating Receipts	$ 1,595	$ 1,415	$ (180)	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(173)	(32)	141	Timing difference: moved from the week of 05.21 to the week of of 05.28
Severance Payments	-	-	-	
Cash Bonus Awards	-	-	-	
Total Compensation and Benefits	$ (173)	$ (32)	$ 141	
General Overhead				
Legal	-	(11)	(11)	
General Overhead	(359)	(190)	169	Timing difference: moved from the week of 05.21 to the week of of 05.28
HC of NY Overhead	-	-	-	
Interest Payments and Financing Costs	-	-	-	
Total General Overhead	$ (359)	$ (201)	$ 158	
Net Change in Cash Due to Operating Activities	**1,063**	**1,182**	**119**	
Other				
One-Time Payments	-	(2,201)	(2,201)	$(1,554) NMCT purchase; (647) timing difference
Total Other	$ -	$ (2,201)	$ (2,201)	
Ending Cash Before Restricted	**$ 9,062**	**$ 6,980**	**$ (2,082)**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ 8,937**	**$ 6,855**	**$ (2,082)**	

Highland Capital Management, L.P.
Reconciliation of Prior Week Cash Projections/Budget to Current Week
Through December 31, 2018

(in thousands)	Prior Week	Current Week		
	05.21.18	**05.28.18**	**B/(W)**	**Notes:**
Beginning Cash for the week beginning 05.28.18	$ 9,062	$ 6,980	$ (2,082)	Refer to Prior Week Budget to Actual Reconciliation on page 1
Operating Receipts				
Management Fees				
CLOs	3,383	3,423	40	Timing difference: moved from the week of 05.21 to the week of of 05.28
Hedge Funds	509	884	375	Multi Strat timing and update
Private Equity (includes PetroCap Royalty)	905	905	-	
Retail Sub-Advisory Fees	5,508	5,508	-	
Separate Accounts	5,790	5,790	-	
Total Management Fees	$ 16,095	$ 16,510	$ 415	
Shared Service Receipts	3,781	3,781	-	
Fund Reimbursements	1,875	1,875	-	
Other	-	-	-	
Total Operating Receipts	$ 21,751	$ 22,166	$ 415	
Compensation and Benefits				
Payroll, Benefits, and Taxes	(14,128)	(14,269)	(141)	Timing difference: moved from the week of 05.21 to the week of of 05.28
Severance Payments	(220)	(220)	-	
Cash Bonus Awards	(6,520)	(6,520)	-	
Total Compensation and Benefits	$ (20,868)	$ (21,009)	$ (141)	
General Overhead				
Legal	(4,084)	(4,084)	-	
General Overhead	(11,614)	(11,783)	(169)	Timing difference: moved from the week of 05.21 to the week of of 05.28
HC of NY Overhead	(650)	(650)	-	
Interest Payments and Financing Costs	(362)	(362)	-	
Total General Overhead	$ (16,710)	$ (16,879)	$ (169)	
Net Change in Cash Due to Operating Activities	**(15,827)**	**(15,722)**	**105**	
Other				
One-Time Payments	(3,500)	(3,500)	-	
Monetizations of Investments	2,200	3,754	1,554	
Korea/Stonebridge Commitments	(1,200)	(1,200)	-	
Petrocap II Commitments/Distributions	(4,500)	(3,850)	650	Timing difference: moved from the week of 05.28 to the week of of 05.21
Petrocap III Commitments/Distributions	(5,000)	(5,000)	-	
NexPoint Loans, net	1,342	1,342	-	
HCRE Loans, net	671	671	-	
HCMF Loans, net	(1,000)	(1,000)	-	
Services Loans, net	456	456	-	
Total Other	$ (10,531)	$ (8,327)	$ 2,204	
Ending Cash Before Restricted	**$ (17,296)**	**$ (17,069)**	**$ 227**	
Less: Restricted Cash	(125)	(125)	-	
Ending Cash	**$ (17,421)**	**$ (17,194)**	**$ 227**	

Highland Capital Management, L.P.

Cash Actuals January 1, 2012 - End of Previous Week

(in thousands)

	2012	2013	2014	2015	2016	2017	2018									2018
	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Total YTD	Q1 Totals	4/2	4/9	4/16	4/23	4/30	5/7	5/14	5/21	Total YTD
Beginning Cash	$ 9,148	$ 13,896	$ 19,072	$ 5,084	$ 7,184	$ 16,321	$ 9,813	$ 3,665	$ 3,850	$ 3,139	$ 3,013	$ 2,074	$ 5,876	$ 7,360	$ 7,999	$ 9,813
Operating Receipts																
Management Fees																
CLOs	113,678	83,803	51,678	43,414	40,075	18,489	2,711	-	-	-	-	2,227	-	-	-	4,938
Hedge Funds	17,183	3,713	2,181	2,610	7,087	3,634	879	-	-	-	-	369	-	58	-	1,306
Private Equity (includes PetroCap Royalty)	2,869	2,443	2,141	2,936	3,101	3,253	742	-	-	-	-	-	88	-	-	830
Retail	7,426	-	51	-	-	-	766	252	-	-	-	668	832	-	-	2,518
Separate Accounts	12,312	6,125	9,012	5,602	6,942	19,469	12,448	-	-	-	-	547	-	985	1,406	15,386
Total Management Fees	$ 153,468	$ 96,084	$ 65,063	$ 54,562	$ 57,205	$ 44,845	$ 17,546	$ 252	$ -	$ -	$ -	$ 3,811	$ 920	$ 1,043	$ 1,406	$ 24,978
Shared Service Receipts	1,403	4,703	9,218	11,387	8,956	8,530	1,864	368	-	-	10	183	130	278	-	2,833
Fund Reimbursements	8,696	14,053	9,673	9,294	9,632	7,691	1,702	11	174	219	18	606	20	-	9	2,759
Administrator Receipts (PFPC, etc)	61	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other (excluding Investment sale proceeds)	4,602	4,265	261	1,125	525	21	3	2	-	-	-	-	-	20	-	25
Total Operating Receipts	$ 168,230	$ 119,105	$ 84,215	$ 76,368	$ 76,318	$ 61,087	$ 21,115	$ 633	$ 174	$ 219	$ 28	$ 4,600	$ 1,070	$ 1,341	$ 1,415	$ 30,595
Compensation and Benefits																
Payroll, Benefits, and Taxes	(26,036)	(24,881)	(26,852)	(26,464)	(23,588)	(22,491)	(5,487)	(38)	(781)	(5)	(820)	(55)	(26)	(649)	(32)	(7,893)
Severance Payments	(1,250)	(844)	(468)	(1,742)	(181)	(252)	(194)	-	-	-	-	-	-	-	-	(194)
Cash Bonus Awards (including deferred)	(26,410)	(10,603)	(14,761)	(15,008)	(17,087)	(17,419)	(11,021)	-	-	-	-	-	-	-	-	(11,021)
Total Compensation and Benefits	$ (53,696)	$ (36,328)	$ (42,081)	$ (43,214)	$ (40,856)	$ (40,162)	$ (16,702)	$ (38)	$ (781)	$ (5)	$ (820)	$ (55)	$ (26)	$ (649)	$ (32)	$ (19,108)
General Overhead																
Legal	(7,227)	(11,600)	(7,543)	(4,496)	(3,686)	(6,830)	(821)	(19)	(13)	-	(44)	-	-	(311)	(11)	(1,219)
General Overhead	(23,804)	(18,983)	(21,441)	(19,493)	(20,349)	(20,378)	(4,230)	(381)	(449)	(340)	(103)	(1,039)	(375)	(441)	(190)	(7,548)
HC of NY Overhead	(2,014)	(2,550)	(2,950)	(2,620)	(1,657)	(475)	(195)	-	-	-	-	-	(65)	-	-	(260)
Interest Payments and Financing Costs	(1,283)	-	-	(1,281)	(2,018)	(594)	(113)	-	-	-	-	-	-	-	-	(113)
Total General Overhead	$ (34,328)	$ (33,133)	$ (31,934)	$ (27,890)	$ (27,710)	$ (28,277)	$ (5,359)	$ (400)	$ (462)	$ (340)	$ (147)	$ (1,039)	$ (440)	$ (752)	$ (201)	$ (9,140)
Net Change in Cash Due to Operating Activities	**80,206**	**49,644**	**10,200**	**5,264**	**7,752**	**(7,352)**	**(946)**	**195**	**(1,069)**	**(126)**	**(939)**	**3,506**	**604**	**(60)**	**1,182**	**2,347**
Other																
Proceeds from Investments	64,485	26,456	66,287	51,029	141,035	50,165	8,227	-	-	-	-	649	-	699	425	10,000
Principal Paydowns from Investment Sales	(22,954)	-	-	-	(11,000)	(6,216)	-	-	-	-	-	-	-	-	-	-
Principal Paydowns from Operations	(51,254)	-	-	(1,132)	(5,489)	-	-	-	-	-	-	-	-	-	-	-
Principal Borrowings	16,000	-	-	28,000	7,104	2,200	1,000	-	-	-	-	-	-	-	-	1,000
Fees paid to Bank Group (non-interest)	(198)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Legal Fees (Bracewell, Willkie and HH only)	(51)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Partner Distributions	(12,403)	(34,189)	(25,941)	(18,300)	(1,608)	(21,041)	(11,810)	-	-	-	-	-	-	-	-	(11,810)
OptionIt Payments	(592)	-	(297)	-	-	-	-	-	-	-	-	-	-	-	-	-
LTIP Payments	-	(455)	-	(936)	-	-	-	-	-	-	-	-	-	-	-	-
Investment Purchases	(37,886)	(26,387)	(29,357)	(45,277)	(91,929)	(37,771)	(6,279)	(560)	-	-	-	(500)	-	-	(6,126)	(13,465)
Affiliate Loan Principal & Interest	(28,654)	(5,393)	(28,655)	(12,999)	(27,292)	12,355	(850)	700	440	-	-	147	880	-	3,500	4,817
Other One-Time Payments	(1,951)	(4,500)	(6,225)	(3,549)	(9,436)	1,152	4,510	(150)	(82)	-	-	-	-	-	-	4,278
Total Other	$ (75,458)	$ (44,468)	$ (24,188)	$ (3,164)	$ 1,385	$ 844	$ (5,202)	$ (10)	$ 358	$ -	$ -	$ 296	$ 880	$ 699	$ (2,201)	$ (5,180)
Ending Cash Before Restricted	**$ 13,896**	**$ 19,072**	**$ 5,084**	**$ 7,184**	**$ 16,321**	**$ 9,813**	**$ 3,665**	**$ 3,850**	**$ 3,139**	**$ 3,013**	**$ 2,074**	**$ 5,876**	**$ 7,360**	**$ 7,999**	**$ 6,980**	**$ 6,980**
Less: Restricted Cash	(1,400)	(2,621)	(2,621)	(2,621)	(125)	(125)	(6,745)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Cash	**$ 12,496**	**$ 16,451**	**$ 2,463**	**$ 4,563**	**$ 16,196**	**$ 9,688**	**$ (3,080)**	**$ 3,725**	**$ 3,014**	**$ 2,888**	**$ 1,949**	**$ 5,751**	**$ 7,235**	**$ 7,874**	**$ 6,855**	**$ 6,855**

Budget Summary Page

Week of May 28, 2018

$ in thousands

Summary Data

Cash Low Point in Forecast			Cash Low Point
	Q2'18	Q3'18	Q4'18
Quarter Ending Cash	**$4,309**	**($11,395)**	**($17,194)**
Better / (Worse) than prior week	391	119	227
	Q2'18	Q3'18	Q4'18
Cash Low Point by Quarter	**$1,442**	**($11,395)**	**($17,194)**
Better / (Worse) than prior week	0	119	227

HCMLP Forecast Modifications Made

Description	Line Item	When	$ Impact (000's)
Prior week budget to actual (excluding timing differences)			(1,547)
Timing Differences			
General overhead not paid	General Overhead	Timing	169
General overhead paid the following week	General Overhead	Timing	(169)
HPCDO mgmt fees not received	Mgmt Fees: CLO	Timing	(40)
HPCDO mgmt fees received the following week	Mgmt Fees: CLO	Timing	40
Multi Strat mgmt fees not received	Mgmt Fees: HF	Timing	(155)
Multi Strat mgmt fees received the following week	Mgmt Fees: HF	Timing	155
Capital Commitment made	PetroCap Commitments	Timing	(650)
Capital Commitment not made the following week	PetroCap Commitments	Timing	650
SWB not paid	Payroll, Benefits & Taxes	Timing	141
SWB paid in the future	Payroll, Benefits & Taxes	Timing	(141)
Total (should = 0)			**-**
Forecast modifications (besides timing)			
Multi Strat update	Mgmt Fees: HF	To end of '18	220
NMCT monetization	Monetizations of investments	Week of 5/28/18	1,554
Total Impact of new forecast modifications			**1,774**
Overall budget B/(W)			**227**

Highland Capital Management, L.P. - Internal Budget
Cash Projections/Budget May 28, 2018 - December 31, 2018
(in thousands)

Week Beginning	5/28	6/4	6/11	6/18	6/25	7/2	7/9	7/16	7/23	7/30	8/6	8/13
Beginning Cash	$ 6,980	$ 8,164	$ 8,096	$ 6,891	$ 4,665	$ 4,434	$ 3,968	$ 2,587	$ 2,152	$ 901	$ 3,454	$ 3,219
Operating Receipts												
Management Fees												
CLOs	40	-	-	-	-	-	-	-	-	1,895	-	-
Hedge Funds	220	124	-	-	-	-	270	-	-	-	-	-
Private Equity (includes PetroCap Royalty)	302	-	-	-	-	-	-	-	-	-	-	-
Retail Sub-Advisory Fees	668	-	-	-	1,084	-	-	-	-	1,084	-	-
Separate Accounts	-	-	-	-	-	-	-	-	-	-	165	2,740
Total Management Fees	$ 1,230	$ 124	$ -	$ -	$ 1,084	$ -	$ 270	$ -	$ -	$ 2,979	$ 165	$ 2,740
Shared Services Receipts	-	-	-	-	523	-	-	-	-	523	-	-
Fund Reimbursements	100	-	-	-	50	-	-	-	-	50	-	-
Other	-	-	-	-	-	-	-	-	-	-	-	-
Total Operating Receipts	$ 1,330	$ 124	$ -	$ -	$ 1,657	$ -	$ 270	$ -	$ -	$ 3,552	$ 165	$ 2,740
Compensation and Benefits												
Payroll, Benefits, and Taxes	(821)	(108)	(806)	(176)	(806)	(66)	(851)	(35)	(851)	(35)	-	(929)
Severance Payments	-	-	-	-	-	-	-	-	-	-	-	-
Cash Bonus Awards (including deferred)	-	-	-	-	-	-	-	-	-	-	-	-
Total Compensation and Benefits	$ (821)	$ (108)	$ (806)	$ (176)	$ (806)	$ (66)	$ (851)	$ (35)	$ (851)	$ (35)	$ -	$ (929)
General Overhead												
Legal	-	(1,284)	-	(400)	-	-	(400)	-	-	-	-	(400)
General Overhead	(333)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)	(400)
HC of NY Overhead	(45)	-	-	-	(65)	-	-	-	-	(65)	-	-
Interest Payments and Financing Costs	-	-	-	-	(117)	-	-	-	-	-	-	-
Total General Overhead	$ (378)	$ (1,684)	$ (400)	$ (800)	$ (582)	$ (400)	$ (800)	$ (400)	$ (400)	$ (465)	$ (400)	$ (800)
Net Change in Cash Due to Operating Activities	**130**	**(1,668)**	**(1,206)**	**(976)**	**269**	**(466)**	**(1,381)**	**(435)**	**(1,251)**	**3,052**	**(235)**	**1,011**
Other												
One-Time Items - Misc Asset Purchases, etc	(500)	-	-	-	(500)	-	-	-	-	(500)	-	-
Monetizations of Investments	1,554	1,600	-	-	-	-	-	-	-	-	-	-
Korea/Stonebridge Commitments	-	-	-	-	-	-	-	-	-	-	-	-
Petrocap II Commitments/Distributions	-	-	-	-	-	-	-	-	-	-	-	-
Petrocap III Commitments/Distributions	-	-	-	(1,250)	-	-	-	-	-	-	-	-
NexPoint Loans, net	-	-	-	-	-	-	-	-	-	-	-	-
Services Loans, net	-	-	-	-	-	-	-	-	-	-	-	-
HCRE Loans, net	-	-	-	-	-	-	-	-	-	-	-	-
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-	-	-	-	-	-
HCMF Loans, net	-	-	-	-	-	-	-	-	-	-	-	-
Partner Contribution/(Distribution)	-	-	-	-	-	-	-	-	-	-	-	-
Principal Borrowing	-	-	-	-	-	-	-	-	-	-	-	-
Total Other	$ 1,054	$ 1,600	$ -	$ (1,250)	$ (500)	$ -	$ -	$ -	$ -	$ (500)	$ -	$ -
Ending Cash Before Restricted	**$8,164**	**$8,096**	**$6,891**	**$4,665**	**$4,434**	**$3,968**	**$2,587**	**$2,152**	**$901**	**$3,454**	**$3,219**	**$4,230**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$8,039**	**$7,971**	**$6,766**	**$4,540**	**$4,309**	**$3,843**	**$2,462**	**$2,027**	**$776**	**$3,329**	**$3,094**	**$4,105**

Highland Capital Management, L.P. - Interna
Cash Projections/Budget May 28, 2018 - December
(in thousands)

Week Beginning	8/20	8/27	Sep-18	Oct-18	Nov-18	Dec-18	A + E 2018
Beginning Cash	$ 4,230	$ 3,830	$ (3,632)	$ (11,270)	$ (12,282)	$ (12,649)	$ 9,813
Operating Receipts							
Management Fees							
CLOs	-	-	-	-	1,488	-	8,361
Hedge Funds	-	-	-	270	-	-	2,190
Private Equity (includes PetroCap Royalty)	-	302	-	302	-	-	1,735
Retail Sub-Advisory Fees	-	668	668	668	668	-	8,026
Separate Accounts	-	-	-	2,785	100	-	21,176
Total Management Fees	$ -	$ 970	$ 668	$ 4,025	$ 2,256	$ -	$ 41,488
Shared Services Receipts	-	583	523	523	583	523	6,614
Fund Reimbursements	-	700	75	75	750	75	4,634
Other	-	-	-	-	-	-	25
Total Operating Receipts	$ -	$ 2,253	$ 1,266	$ 4,623	$ 3,589	$ 598	$ 52,761
Compensation and Benefits							
Payroll, Benefits, and Taxes	-	(929)	(2,791)	(1,691)	(1,691)	(1,686)	(22,162)
Severance Payments	-	(150)	-	-	-	(70)	(414)
Cash Bonus Awards (including deferred)	-	(6,520)	-	-	-	-	(17,541)
Total Compensation and Benefits	$ -	$ (7,599)	$ (2,791)	$ (1,691)	$ (1,691)	$ (1,756)	$ (40,117)
General Overhead							
Legal	-		(400)	(400)	(400)	(400)	(5,303)
General Overhead	(400)	(400)	(1,853)	(1,780)	(1,466)	(1,152)	(19,331)
HC of NY Overhead	-	(215)	(65)	(65)	(65)	(65)	(910)
Interest Payments and Financing Costs	-	-	(121)	-	-	(124)	(475)
Total General Overhead	$ (400)	$ (615)	$ (2,438)	$ (2,245)	$ (1,931)	$ (1,741)	$ (26,019)
Net Change in Cash Due to Operating Activities	**(400)**	**(5,962)**	**(3,963)**	**687**	**(32)**	**(2,898)**	**(13,375)**
Other							
One-Time Items - Misc Asset Purchases, etc	-	(500)	(500)	(500)	(500)	-	(9,887)
Monetizations of Investments	-	-	-	-	-	600	13,329
Korea/Stonebridge Commitments	-	-	-	(1,200)	-	-	(1,200)
Petrocap II Commitments/Distributions	-	-	(1,925)	-	-	(1,925)	(3,850)
Petrocap III Commitments/Distributions	-	-	(1,250)	-	-	(2,500)	(5,000)
NexPoint Loans, net	-	-	-	-	166	1,176	2,809
Services Loans, net	-	-	-	-	-	456	306
HCRE Loans, net	-	-	-	-	-	671	671
Dugaboy/Dondero Loans, net	-	-	-	-	-	-	-
HCMF Loans, net	-	(1,000)	-	-	-	-	(300)
Partner Contribution/(Distribution)	-	-	-	-	-	-	(11,810)
Principal Borrowing	-	-	-	-	-	-	1,000
Total Other	$ -	$ (1,500)	$ (3,675)	$ (1,700)	$ (334)	$ (1,522)	$ (13,933)
Ending Cash Before Restricted	**$3,830**	**($3,632)**	**($11,270)**	**($12,282)**	**($12,649)**	**($17,069)**	**($17,494)**
Less: Restricted Cash	(125)	(125)	(125)	(125)	(125)	(125)	(125)
Ending Unrestricted Cash	**$3,705**	**($3,757)**	**($11,395)**	**($12,407)**	**($12,774)**	**($17,194)**	**($17,619)**

Weekly Budget Checklist - Review of Compensation Status
Week of May 28, 2018

Comp changes during the current week:

Modifications:	N/A
New Hires:	M. Brennan (Wholesaler)
Terms:	N/A
Accruals:	N/A

Salary + OT Run Rates and Remaining Excess Room in Bank Budget

Highland Funded Entities	Headcount	Annual Salary	Per Period
HCMLP	92	12,585,791	$524,408
Singapore/Korea	3	490,000	20,417
HC of NY	3	147,920	6,163
Williams	1	100,000	4,167
Total Salary + OT for Highland Funded entities*	**99**	**13,323,711**	**$555,155**
HCMF	17	2,799,850	116,660
NexPoint	7	2,790,746	116,281
HCFD	17	1,265,000	52,708
HCM Argentina	4	997,683	41,570
NXRT	2	167,000	6,958
Total Salary + OT for all entities	**146**	**$21,343,989**	**$889,333**
Expected Future Hires (see right)	2	675,000	28,125
Total Salary + OT for all entities including future hires	**148**	**$22,018,989**	**$917,458**

*Won't tie directly to budget because of taxes, insurance, 401k, etc.

Expected Future Hires

Future Employees List	Annual
General Reserve	250,000
MD - PE	250,000
Institutional Fundraiser	175,000
Total	675,000

Expected Bonuses

Bonus payments (currently active employees only)		8/31/2018
4th installment of 2016 Regular Awards	$23.3mm awards	
HCMLP		$2,776,250
HCMF		621,271
NexPoint		200,000
NXRT		-
HC of NY		-
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		56,250
Total		**$3,678,771**
2nd installment of 2017 Regular Awards	$21.2mm awards	
HCMLP		$3,549,367
HCMF		641,172
NexPoint		306,250
NXRT		30,000
HC of NY		6,667
HCM Argentina		25,000
Other (Singapore, HCFD and misc)		71,000
Total		**$4,629,455**
Total Bonuses		**$8,308,226**

EXHIBIT 62

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE: Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., Case No.:
Reorganized Debtor. 19-34054-sgj11

VIDEOTAPED DEPOSITION

WITNESS: JAMES DONDERO
DATE: Monday, November 4, 2024
START TIME: 11:04 a.m., CT
END TIME: 3:31 p.m., CT
REMOTE LOCATION: Remote Legal
PROCEEDINGS OFFICER: Kindel McDermott, CDR-3527
JOB NO.: 30439

APPEARANCES

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Appearing for the Reorganized Debtor

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BY: MICHAEL AIGEN, ESQUIRE
michael.aigen@stinson.com
Appearing for HCLOM, LLC, and the Witness

ALSO PRESENT:
Andrea Bates, Legal Assistant to Mr. Morris

INDEX OF TESTIMONY

EXAMINATION OF JAMES DONDERO: PAGE
By Mr. Morris 7

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(available for download)

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P R O C E E D I N G S

THE PROCEEDINGS OFFICER: Good morning. We are now on the record. Today's date is November 4th, 2024, and the time is approximately 11:04 a.m., Central Time.

My name is Kindel McDermott. I'm the -- I am the officer designated by Remote Legal, 11 Broadway, Suite 468, New York, New York, to take the record of this proceeding.

This is the deposition of James Dondero, taken in the matter of In Re: Highland Capital Management, L.P., Case Number 19-34054-SGJ11, filed in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division.

Would all counsel please identify themselves for the record and state who they represent, starting with the noticing attorney.

MR. MORRIS: Good morning. This is John Morris, Pachulski Stang Ziehl & Jones, for the reorganized Highland Capital Management, L.P. I'm here with my partner, Jeff Pomerantz, and my legal assistant, Andrea Bates.

MS. DEITSCH-PEREZ: Hi. This is Deborah Deitsch-Perez from Stinson, representing HCLOM and the witness. I'm here with my partner, Mike Aigen.

THE PROCEEDINGS OFFICER: Thank you.

This deposition is being taken remotely on behalf of the reorganized debtor and is being conducted pursuant to the procedural rules and laws governing this matter.

As such, all parties agree to this means of capturing the official record, which may include recording by audio, audiovisual, and/or stenographic means, and agree not to oppose admissibility of the testimony in this proceeding on the basis of the personnel or method by which the testimony was captured.

Further, all parties agree that the deposition officer or person administering the oath may be authorized to administer the oath under the rules where they reside.

Do the parties all stipulate?

MS. DEITSCH-PEREZ: Yes.

MR. MORRIS: On behalf of Highland, yes.

THE PROCEEDINGS OFFICER: Thank you. I will now swear in the witness.

Mr. Dondero, please raise your right hand. Please state and spell your name for the record.

THE WITNESS: James Dondero, J-A-M-E-S, D-O-N-D-E-R-O.

THE PROCEEDINGS OFFICER: Do you swear or

affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

MR. DONDERO: I do.

WHEREUPON,

J A M E S D O N D E R O,

having been called as a witness, being duly sworn by the notary public present, testified as follows:

THE PROCEEDINGS OFFICER: Thank you, sir. You may put your hand down.

And, Counsel, we're ready to begin.

MR. MORRIS: Okay.

EXAMINATION

BY MR. MORRIS:

Q Good morning, Mr. Dondero.

A Morning.

Q Nice to see you again. I hope you're well. Where are you located right now, physically?

A Dallas.

Q Are you in a -- whose office are you in?

A I'm in a conference room.

Q And is there anybody in the conference room with you?

A Just Deborah and I.

Q Okay. Do you have a telephone that's on at the moment?

A No.

Q Okay. Do you have a computer in front of you?

A Just the one I'm talking into.

Q Thank you for the clarification. Do you have any notes of any kind?

A No.

Q Do you understand that you're here today to give testimony in connection with the claim objection relating to Highland Capital Management, LTD?

A Not the specific entity, but I -- I know it's regarding a note, the $10 million note.

Q Do you know who holds the $10 million note today?

A No.

Q Did you do anything to prepare for today's deposition?

A Not other than meeting with Deborah.

Q And when did you meet with Deborah?

A For half an hour on Friday -- or an hour on Friday and 15 minutes today.

Q So was Mr. Aigen present for either of those meetings?

A No.

Q Okay. So you met -- to prepare for today's deposition, you met with Deborah on Friday for 30 to 60

minutes and today for up to 15 minutes? Do I have that right?

A Yeah.

Q Okay. Did you review any documents to prepare for today's deposition?

A No.

Q Did you speak with anybody other than Deborah for today's deposition?

A No, I did not.

Q Did you speak with anybody concerning the events that are the subject of this litigation in connection with today's deposition at any time in the past 60 days?

A No.

Q Are you aware that Frank Waterhouse was deposed in connection with this particular litigation?

A No.

Q So is it fair to say that you didn't speak with Mr. Waterhouse about his testimony?

A I did not.

Q Have you reviewed any transcripts of Mr. Waterhouse's testimony?

A No.

Q Okay. Are you familiar with an entity named Highland CLO Management Limited?

A I -- I just know it was one of the entities involved with the resolution of Acis after Josh Terry left.

Q And do you know what role that entity played in connection with the resolution of the issues that you just referred to?

A Not specifically.

Q Do you have any knowledge at all as to what role Highland CLO Management Limited played in connection with the post-Josh-Terry issues surrounding Acis?

A Just generally.

Q And what's your general understanding?

A That it was one of the entities involved in -- on the note, and it was one of the entities that was going to be involved in refinancing or resetting of the CLOs.

Q What does it mean -- what -- when you use the term "involved," do you have any -- can you elaborate at all on what that term means in connection with this particular entity?

A Not specifically.

Q Do you know when Highland CLO Management Limited was formed?

A No.

Q Can I refer to that entity going forward as HCLOM? Just the acronym, H-C-L-O-M?

A HCLOM, you want to use for the limited entity?

Q Yes, sir.

A Okay.

Q Do you know where HCLOM was formed?

A And -- other than that Limited, generally, is a payment entity, other than that, no.

Q Do you know who directed the formation of HCLOM?

A I -- I believe it would have been the lawyers, the internal --

Q Do you know -- I appreciate that. Do you know -- can you identify any specific lawyer, or are you just saying, generally, you believe it would have been the lawyers?

A I believe it, excuse me, generally would have been our legal staff or internal lawyers.

Q Okay. Are you aware that there is a similarly named entity called Highland CLO Management, LLC?

A Yes.

Q Do you know when that entity was formed?

A No.

Q Do you know why that entity was formed?

A I -- not specifically, but it's -- it sounds

like it's an onshore entity involved in the same process that we're talking about.

Q Do you know who decided to form -- I'm going to -- withdrawn.

I'm going to refer to that entity as HCLOM, LLC. So we've got HCLOM, LLC, and then just HCLOM, which refers to HCLOM Limited; is that okay?

A Okay.

Q Okay. So do you know who decided to form HCLOM, LLC?

A Same answer. I believe it would have been our internal legal staff.

Q Do you know if HCLOM, LLC, and HCLOM ever had common ownership?

A I don't know.

Q Do you know if they ever had a contractual relationship?

A I -- I believe they had to have some contractual relationship because ultimately, the assets have to be managed by an RIA and managed with people or some -- some sub-advisory agreement that gives it people. And I -- and I believe that was all at the LLC level, not at the LTD level.

Q Are you aware -- have you ever seen a contract between HCLOM, LLC, and HCLOM?

A Not that I'm -- not that I remember.
Q Do you recall if anybody ever told you that there was a contract that existed between HCLOM, LLC, and HCLOM?
A Not that I recall.
Q When did you first become aware that there was two different entities that were similarly named, one that was HCLOM, LLC, and one that was HCLOM?
A Excuse me. I don't know. Year -- years ago.
Q Did you ever ask anybody why there were two similarly named entities?
A No. I -- I wasn't specifically involved in any of the details on a transaction of this size. I was aware of the creation of the note and the moving away from Acis as a -- as a manager in the resets. But the specifics, the -- the specifics -- my -- my awareness is just general.
Q So is it fair to say that you never asked anybody why there were two entities created, one named HCLOM Limited, and one named HCLOM, LLC; is that fair?
A I never asked specifically, and I gave my best speculation as to why there would be.
Q Okay. Did anybody ever explain to you why there were two HCLOM entities that were formed, one HCLOM Limited and one HCLOM, LLC?

A Not that I recall.
Q I apologize if I'm repeating here, but you don't know today who holds the note in question; is that fair?
MS. DEITSCH-PEREZ: Can you -- can you say that again? Because I apologize. My phone rang while you were talking.
MR. MORRIS: No problem.
BY MR. MORRIS:
Q Mr. Dondero, do you know who holds the note that is the subject of this litigation?
A Not specifically.
Q Do you know generally?
A I don't -- I don't know generally.
Q Okay. Can you identify the ultimate beneficial owners of HCLOM Limited today?
A Not specifically.
Q Do you know generally who the ultimate beneficial owners of HCLOM Limited are today?
A Just generally, it's our side of the table, but I don't know -- I -- I don't know the ownership of the entities.
Q And when you refer to your side of the table, are you referring to you or entities in which you have a direct or indirect ownership interest?

A Yes. I -- I believe it's generally -- generally, it's monies that are due to -- that are owed to us.
Q But you can't identify any specific entity that has a direct or indirect ownership interest in HCLOM Limited today, correct?
A Correct.
Q Okay. Do you know who the ultimate beneficial owners of HCLOM Limited were at the time of formation?
A No.
Q Do you know if there was ever a change in the beneficial ownership of HCLOM Limited?
A I -- I would need to be refreshed on that. I -- I don't specifically remember.
Q Okay. Did you ever direct anybody to change the ultimate beneficial ownership for HCLOM Limited?
A No. Not that I recall.
Q Do you know who controls HCLOM Limited today?
A I do not.
Q Did you ever know? Do you know who -- withdrawn.
Do you know who controlled HCLOM Limited at any time?
A I -- I do not. I do not -- I do not recall. This is a small transaction. I wasn't involved in

details.
Q Okay. Do you control HCLOM today?
A I don't know. I'm -- I'm willing to be refreshed, but I don't know.
Q Yeah. Did you ever ask anybody who controlled HCLOM Limited?
A No.
Q Do you know who's authorized to act on behalf of HCLOM Limited today?
A I do not specifically know, no.
Q Do you know if you're authorized to act on behalf of HCLOM Limited?
A I -- I don't know.
Q Are you aware that HCLOM Limited filed a response to Highland's objection to the scheduled claims that are at issue in this litigation?
A I'm aware we're pursuing or trying to get the note paid. I don't -- I -- I don't know the specific motions.
Q Have you ever seen any written response that was filed on behalf of HCLOM Limited in connection with this litigation?
A Not that I recall.
MR. MORRIS: Okay. Andrea, can you please put up on the screen tab 15, which we'll mark as

Dondero Exhibit 1?

(Exhibit 1 marked for identification.)

BY MR. MORRIS:

Q All right. Mr. Dondero, we've done this a few times, so the last thing I want to do here is try to trick you. If there's anything about a document that you think you need to read for full context, let me know.

I don't expect to ask substantive questions about this document. But if we could just scroll down a little bit on this first page, this is a document that we've marked as Exhibit 1. You can see it was filed in the bankruptcy court in Docket 3715 on April 3rd, 2023.

MR. MORRIS: And if we could just scroll to the title of the document, please?

MS. DEITSCH-PEREZ: Yeah. You're aware that very little of the document is visible on the screen because of the size, right?

MR. MORRIS: Yeah.

THE PROCEEDINGS OFFICER: So I also wanted -- sorry to interject here. I just wanted to bring to your attention -- you can also control the document on your end if you would like. There's a plus or minus at the top of the document that you can zoom in or out. There's a hand icon for panning around on the

document if you end up zooming in far enough.

MR. MORRIS: Oh, I see. Okay. Great. Enough said. Okay.

BY MR. MORRIS:

Q Mr. Dondero, do you see --

MR. MORRIS: I really do appreciate that.

BY MR. MORRIS:

Q Mr. Dondero, do you see this document is called Response of Highland CLO Management, Ltd. to -- and I'll just paraphrase here, to Highland's objection to the schedule claims?

Do you see that that's the title of the document, sir?

A Hold on. I can't -- that's all I got. I got --

MR. MORRIS: Deborah, scroll down on the document.

MS. DEITSCH-PEREZ: Yeah, we're trying.

MR. MORRIS: It's just trying to --

THE PROCEEDINGS OFFICER: Sorry. My screen froze for a moment, and I had to refresh.

MS. DEITSCH-PEREZ: All right. You can hit the down arrow.

THE WITNESS: All right.

MS. DEITSCH-PEREZ: And wait --

THE WITNESS: Response to -- okay.

BY MR. MORRIS:

Q Okay. I invite you to scroll down. Are you able to scroll down on the document?

A Yes. Yeah.

Q So take your time. You can read as much of the document or as little of the document as you want. My only question for the moment is whether you've ever seen it before, so take your time.

A Not that I recall.

Q So is it fair to say that you don't recall reviewing this before it was filed?

A Correct.

Q And because you don't recall ever seeing it before, is it fair to say that you have no basis to say whether it's true or accurate today?

A Well, I -- I believe in the capabilities of my internal legal and accounting and my external legal to vet the pleadings. So I believe it's accurate, but it's not -- I don't -- it -- it's not a document that I created or reviewed.

Q Okay. Is there somebody within your organization who is responsible for handling this litigation on behalf of HCLOM Limited?

A I do not know. I mean, yes. There would be

internal legal involved, but I -- I don't know who.

Q Did you ever designate somebody to be responsible for handling this litigation?

A I did not.

Q And nobody ever informed you as to the identity of an in-house professional who was charged with the responsibility of overseeing this litigation on behalf of HCLOM Limited, correct?

A Correct. I don't know who specifically internally was responsible or interfacing with externals.

Q Did you ever speak with anybody internally concerning the litigation that is the subject of this response, that is, Highland's claims?

A I do not.

MR. MORRIS: Okay. Let's shift gears. You can take that down.

MS. DEITSCH-PEREZ: John, you're frozen on the screen. I don't know if that matters, but --

THE PROCEEDINGS OFFICER: So one thing we can try and do, Mr. Morris, if you move your mouse over your -- over where your image is supposed to be, it will bring up a little blue box at the top right corner of your image. If you click on that, you can say, refresh video.

MR. MORRIS: Appear to -- you see me, Deb?

MS. DEITSCH-PEREZ: No. Now you're gone entirely.

MR. MORRIS: You're probably better off.

THE WITNESS: I don't see him on my screen, either.

MS. DEITSCH-PEREZ: Yeah.

THE WITNESS: I mean, he's not -- he's not anywhere on my screen.

MR. AIGEN: Scroll down. You can see John's window, but there's no image. Looks like his video is turned off right now. If you scroll down, you can see his box. I think he moved down when --

MS. DEITSCH-PEREZ: I give up.

THE PROCEEDINGS OFFICER: I'm not sure why you're not showing back up. Would you like me to take us off the record while we figure this out?

MR. MORRIS: Yes, please. Apologies, folks.

THE PROCEEDINGS OFFICER: Taking us off the record.

(Off the record.)

THE PROCEEDINGS OFFICER: We are now back on the record, 11:32 a.m., Central Time.

BY MR. MORRIS:

Q Mr. Dondero, can you hear me okay?

A Yes.

Q Okay. You're familiar with an entity called Acis Capital Management, L.P., correct?

A Yes.

Q And we're going to refer to that entity as Acis for purposes of this deposition; is that okay?

A Okay.

Q Acis was formed by Mark Okada, Josh Terry, and you back in around 2011, correct?

A Yes.

Q And it was formed to be a registered advisor to manage and invest in certain collateralized loan obligations, correct?

A Yes.

Q Okay. And we're going to refer to collateralized loan obligations as CLOs, okay?

A Okay.

Q And Acis managed those CLOs through certain management agreements with the issuers of the CLOs, correct?

A I -- yes, in -- in conjunction with a shared services agreement with Highland.

Q I appreciate that. But just focusing on the

relationship between Acis and the issuers, Acis obtained its role as the manager of the CLOs pursuant to management agreements with the issuers; is that fair?

A Yes.

Q Okay. And pursuant to those CLO management agreements, Acis would receive fees for its services, correct?

A Yes.

Q And is it okay with you if, going forward, I - I refer to the fees that are due under the CLO management agreements as servicing fees?

A Let's call them management fees because that's what they are.

Q Okay. In early 2018, Josh Terry commenced an involuntary bankruptcy case against Acis and its general partner, correct?

A Yes.

Q At all times prior to the commencement of the Acis bankruptcy case, your family owned a majority of Acis's limited partnership interest, correct?

A At all times prior, I -- I don't remember what the original percentages were, if they were a majority or not. I -- I believe, after Josh Terry left, it was a majority, but I -- I don't know. I don't know if it was before that.

Q Do you recall that at some point during the Acis bankruptcy, a gentleman named Robin Phelan was appointed as the Chapter 11 trustee, and in that capacity, he took control of Acis?

A I do remember that.

Q Okay. From the time of formation until Mr. Phelan's taking of control during the Acis bankruptcy case, you served as the president of Acis, correct?

A I -- yeah. I don't specifically remember it, but it's logical.

Q Is it fair to say, until Mr. Phelan took control of Acis as part of the Acis bankruptcy, that you personally controlled Acis?

MS. DEITSCH-PEREZ: Object to the form.

BY MR. MORRIS:

Q In your capacity as --

MR. MORRIS: I appreciate the objection. Withdrawn.

BY MR. MORRIS:

Q Mr. Dondero, as an office -- withdrawn. You were an officer of Acis at all times prior to Mr. Phelan's appointment Chapter 11 trustee, right?

A I -- same answer. I -- I don't remember. It's logical that I would've been, but I don't remember.

Q Do you know if there was any time prior to Mr.

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Phelan's appointment when you did not control Acis?
A I -- I don't -- I don't remember. And it's -- what is -- I -- I don't remember. And I -- I don't remember if I was an officer. I'm willing to be refreshed, you know? And I don't remember if I had majority ownership prior to Josh leaving.
Q Okay. Josh left in or around June 2016, right?
A Yes. I remember -- yeah, mid-16. I remember. Yes.
Q And he left because you terminated him, correct?
A I -- that's -- I think that's been subject to litigation, and I -- I don't want to opine on that.
Q I'm not asking you to opine. I'm just asking about facts. It's a fact that you terminated Mr. Terry from his position at Acis in or around June 2016, correct?
A There were issues of aberrant behavior on his part, and I remember there were issues on whether or not it was for cause. And I don't remember, ultimately, how it was characterized or decided.
Q Okay. I want to assure you, Mr. Dondero, I'm not here to re mitigate the circumstances surrounding his departure. I'm just looking to establish some

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foundation. But if you don't remember specifically the circumstances of Terry's departure, that's fine.
We can agree, though, that he left Acis in or around June 2016, right?
A Yes. That's how I'd like to leave it.
Q That's fine. And following his departure, Mr. Terry's ownership interest in Acis was allocated between and among entities owned or controlled by you and Mr. Okada, fair?
A Yes. I believe that's the case.
Q Okay. And who decided to allocate Mr. Terry's ownership interest in Acis between and among entities owned or controlled by you and Mister --
A I -- I believe that came from internal counsel as the appropriate way to handle the reconfiguring of a partnership when the primary operating partner left.
Q Okay. Can you identify any particular lawyer, or do you think it was just in-house counsel? Is that the best you can do today?
A That's the best I can do today.
Q Was there anybody at Highland's internal -- withdrawn.
Was there any in-house counsel that was specifically tasked with the responsibility of addressing Acis and the issues that arose following Mr.

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Terry's departure?
A I don't know. I don't know who was specifically assigned to it.
Q Do you recall if Mr. Ellington was the person ultimately responsible among the in-house team addressing the issues following Mr. Terry's departure?
A He was -- he was the overall senior general counsel, but I -- I don't believe he handled the nuts and bolts. I believe he delegated it.
Q Did you delegate to a particular person the responsibility for addressing issues arising from Mr. Terry's departure?
A No.
Q Following Mr. Terry's departure, do you know who controlled Acis?
A I -- I believe the reconfigured partnership agreement outlined that.
Q And the only partners of Acis following Mr. Terry's departure were entities owned and/or controlled by you and Mr. Okada; is that fair?
A Yes, as far as ownership is concerned. But -- but again, control is a -- subject to various descriptions, and there -- there would've -- again, there was a shared services agreement which would've given control, so to speak, of the asset management

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and/or the accounting and other services. I think back to Highland. I think describing the ownership as reconfigured with Mark and I is correct, but I -- I don't want to -- I -- I don't want to broadly agree to control over all aspects just because we were the owners.
Q Okay. So following Mr. Terry's departure, his ownership interest gets allocated to you and Mr. Okada or entities owned directly or indirectly by the two of you, fair?
A I believe that's the case.
Q And as part of that process, your recollection is that Dugaboy or other entities owned or controlled by you held a majority of the limited partnership interest in Acis, correct?
A I believe so.
Q Okay. As the person who owned, directly or indirectly, a majority of the limited partnership interests of Acis, are you willing to tell me who, at any time following Mr. Terry's departure, actually controlled Acis?
A I'll say it one more time. Again, you know, the -- how to handle the document properly with the exit of the operating partner would've been done by internal and external legal, with the assistance of accounting

where relevant. And I believe the portfolio management and the accounting and regulatory stuff was governed by shared services, as -- as it typically is when we have a -- offshoot RNAs.

Q Was there any particular person who was authorized -- personally authorized to act on behalf of Acis following Mr. Terry's departure other than its owners?

A I don't recall specifically delegating or specifically designating anybody.

Q Do you know if Mister -- withdrawn.

Do you -- can you identify any officers of Acis following Mr. Terry's departure?

A I don't remember, but I'm willing to be refreshed.

Q Do you know if you ever controlled Acis at any time after Mr. Terry's departure?

A I -- I think I've asked and answered that several times.

Q No. I'm now -- I'm not -- I'm now asking specifically about you. Do you know if you ever controlled Acis after Mr. Terry's departure?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: Not -- not beyond what I've answered already.

BY MR. MORRIS:

Q Did you ever take any action following Mr. Terry's departure that bound Acis that you can recall?

A I -- I would've signed the documents, as put forward by internal and external legal staff often. Usually, I'm the signatory and stuff.

Q And when you signed things, is it fair to say that when you signed documents, you understood that you were binding Acis?

MS. DEITSCH-PEREZ: Object to the form.

MR. MORRIS: Withdrawn.

BY MR. MORRIS:

Q You understood, when you signed documents in your capacity as an officer of Acis, that you were binding that entity, correct?

A I -- I just understood I was the appropriate signatory on appropriate legal documents, as put forward by internal/external counsel.

Q And what was the basis for your understanding that you were the appropriate person to do those tasks?

A Trust in the legal department and trust in the external legal counsel.

Q Okay. Is there anybody who you can identify that specifically informed you that you were the appropriate person to sign documents on behalf of Acis?

A Not that I recall.

Q Okay. At some point in the fall of 2016, Highland sued Mr. Terry in Texas State Court; do you recall that?

A Not specifically.

Q Okay. I'm going to refer to Highland Capital Management L.P. as Highland; is that okay?

A Sure.

Q And you controlled Highland at all times until the independent board was appointed in January of 2020, correct?

A Yes.

Q And you authorized Highland to file for bankruptcy, correct?

A That turned out to be a mistake. I --

Q But you did authorize it, right?

A I believe so.

Q Okay. So going back to the fall of 2016, did you also authorize Highland to commence the action against Mr. Terry?

A Did I -- yes, I was aware of it. I would've ultimately had to authorize it, yes.

Q Okay. And a few weeks later, Mr. Terry, do you recall, he made his Motion to Compel Arbitration, and the dispute got submitted to arbitration? Do you

recall that?

A Yes.

Q Okay.

MR. MORRIS: Can we put tab up -- tab 1 up on the screen, just so we can have a point of reference?

BY MR. MORRIS:

Q So this, Mr. Dondero, I'll represent to you is Mr. Terry's Motion to Compel Arbitration. You'll see that it's got the Highland versus Mr. Terry caption, and you'll see in the upper right-hand corner that it was filed in Dallas on September 12th, 2016.

Do you see that?

A Yes.

Q Okay. So just as a point of reference, Mr. Terry gets -- Mr. Terry departs from Acis in June 2016. Highland, based on your authority, commences a lawsuit against Mr. Terry in the fall of 2016. And Mr. Terry responds on September 12th with this Motion to Compel Arbitration.

Does that generally conform with your recollection of events?

A Generally.

Q Okay. And then short -- a short time later, Acis and Highland enter into what some of us have been

referring to as a participation agreement.
Do you have any recollection of that?
A No. I'll need to be refreshed on that.
MR. MORRIS: Okay. Can we put up tab 2? Which we will - I guess, let's -- before you take this down, let's mark this Motion to Compel Arbitration, I think, as Exhibit 2.
THE PROCEEDINGS OFFICER: Yes, it would be Exhibit 2.
I didn't get a chance to mark that, though, ma'am -- Ms. Bates.
MR. MORRIS: Can we take care of that at a break?
MS. BATES: I'm sorry. I'm bringing it up now. There you go.
MR. MORRIS: All right. Go ahead.
(Exhibit 2 marked for identification.)
THE PROCEEDINGS OFFICER: Okay. We're good there. Sorry.
MR. MORRIS: That's okay. I'm learning to process myself.
So let's take that down and put up what we'll mark as Exhibit 3, which is tab number 2.
THE PROCEEDINGS OFFICER: Great. Thank you.

(Exhibit 3 marked for identification.)
BY MR. MORRIS:
Q And Mr. Dondero, again, feel free to scroll through this document as you see fit. But do you see that this is an Agreement for Purchase and Sale of CLO Participation Interest between Acis and Highland, dated as of October 7, 2016?
MS. DEITSCH-PEREZ: And I'll just note for the record it's 22 pages. And he's -- this is the most (indiscernible) reviewed.
MR. MORRIS: Yeah.
BY MR. MORRIS:
Q Do you see that that is what the document is called, sir?
A Yeah. That -- that's all I got. I'm trying to scroll. It's not taking the button, so it's a little -- it's not taking this.
THE PROCEEDINGS OFFICER: So when you try and scroll, go down.
MS. DEITSCH-PEREZ: So what -- hang on. We got it. If you push down when it's in there, then it will go. Otherwise, it will move this screen over here.
THE WITNESS: Yep. I got it.
MS. DEITSCH-PEREZ: All right.
THE WITNESS: Yes, I see the document.

BY MR. MORRIS:
Q Okay. And if you go down to page -- I think it's 15 of 22, can you just confirm for me that you signed this agreement on behalf of both Highland and Acis?
A Yes.
Q Okay. Do you recall if you read this document before you signed it?
A I did not.
Q Do you have an understanding today of what this document was intended to accomplish?
A Yes.
Q What is your recollection of what this document was intended to accomplish? And again, you know, to Deborah's point, if you'd like to scroll, I don't mean to rush you.
A No, that's okay. My -- my general understanding, and we've done several of these over the years, is a -- a purchase of -- of fees, expected fees for a note -- note -- note in cash or sometimes cash, sometimes note, whatever, that has some tax advantages to it, generally, in terms of deferring taxes and in some cases, recharacterizing short-term income as capital gains.
Q So is it fair to say that your understanding

of -- is that the purpose of this document was to capture tax benefits, either through the deferral of income or through the recharacterization of income from ordinary income to capital gains income?
A I -- I believe that's the structure and my general purpose.
Q Okay. And do you understand that Acis is what was known as -- what is known as a pass-through entity? Are you familiar with that term?
A Yes.
Q Okay. What's your understanding of what a pass-through entity is?
A A pass-through entity is typically a partnership or an LLC that passes through the tax liability directly to the owners and does -- isn't a tax-paying entity in and of itself.
Q And so the benefits that you've described from this agreement, it was your understanding -- withdrawn.
It was your understanding, at the time you signed this agreement, that the intended beneficiaries of this transaction were the ultimate beneficial owners of Acis; is that fair?
A Well, the deferral and recharacterization benefits all parties. And then it's reflected, usually, in the price and timing and interest rate on the note.

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But it's -- yeah. It -- it's -- the accountants weigh the benefits to all parties and then determine the appropriate variables.

Q Highland was also a pass-through entity, correct?

A Yes.

Q So that neither Highland nor Acis were the tax-paying entities for the income and losses that Highland and Acis experienced, right?

A Yeah. I don't understand why that's relevant, but -- yes.

Q Right. So that -- so that whether it's income or losses, those -- and that income and those losses would pass through Highland or Acis, respectively, to the beneficial owners of each entity, correct?

A Correct. And the ownership interest was similar in both entities. And the transaction, again, has a benefit to all parties in terms of deferral and some recharacterization.

Q Would you need -- would you need -- withdrawn. I'll get to it.

Was it your understanding that under this agreement, Acis agreed to pay Highland a portion of the management fees that we discussed earlier?

A I -- I don't know exactly how the mechanism

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works, whether it's --

Q Let's try and go through it. I'm sorry. We can -- if you can go to Section 1 of the document, which --

A What page?

Q It's right under "Agreement." It's page 2. It's got Bates Number 8900 in the lower right-hand corner. So it's page 4 of the screen --

A Okay.

Q -- as you go through the document. And if you could just take a moment to read paragraph 1 to yourself? And just -- does --

A Yes. I -- I read it. This is why you're using -- you wanted to use the word "servicer fee" versus "management fee."

Q Yes.

A Okay. I -- I read it.

Q Okay. So when you signed this agreement, did you understand that Acis was agreeing to pay to Highland a portion of the servicing fees that it was going to receive from serving as the portfolio manager of the CLOs?

A Yes.

Q And do you see at the end of Section 1, there is a reference to Schedule A?

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A Yes.

Q Can we take a look at Schedule A? I think it's the last page of the document. It's not the -- it's not the last page of the document. It's the page right after the signature page. It's 16 of 22, ending in Bates Number 8912.

A Yes.

Q So let me see if I understand this. This is the Schedule A that's referred to Section 1 in the agreement that we just looked at, right?

A Yes.

Q And these are the -- there's a list of CLO issuers in the left-hand column, and then there's a column called Total Servicer Fee; do you see that?

A Yes.

Q And the total servicer fee are the fees that Acis was going to receive from the issuer in exchange for managing the CLOs, correct?

A Yes.

Q And the next two columns show how that fee would be divided between Acis and Highland, fair?

A Yes.

Q So that servicer fee retention amount is the amount that Acis was going to retain as its portion of the total servicer fee that it expected to receive from

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the issuer, correct?

A Just, I don't want to get tripped up in the exact words, so I'm going back to page 4.

Q Take your time.

A It looks like the gross amount minus the retention is the servicer fee payment amount, which is --

Q Right. Okay.

A -- which is that second column, I guess.

Q Right. So the last column, the Acis Participation Interest, that is the amount of the total servicer fee that Acis was agreeing to pay to Highland, fair?

A I thought it was -- I thought it was saying the opposite of that. Hold on. Servicer fee payment is the aggregate minus the retention amount. The aggregate minus the retention amount, so --

Q Try this just one more time and say that --

A In the aggregate minus, so it's one -- Column 1 minus Column 3 equals Column 2.

Q Correct. Or Column 1 minus Column 2 equals Column 3. You could go either way, right?

A Yeah. Yes.

Q Okay. And the last column, the Acis Participation Interest, that's the portion of the total

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servicing fee that was supposed to go to Highland, correct? Under this agreement?

A Sorry. That -- but one -- one goes to Highland, and one goes to Acis, right?

Q That's right. And it's servicer fee retention amount that goes to Acis, and it's the Acis participation interest that go to Highland, right?

A Let's make sure we get that right. Yes. It's the Acis participation amount that goes to Highland.

Q Okay. So in exchange for the Acis participation interests, as set forth in Schedule A, Highland agreed to give some cash and a note; is that right?

A Yes.

Q Okay. And that's set forth in Section 1.1, if you go to that.

A Okay.

Q Okay. So am I correct that when you signed this document, you understood that Acis would give to Highland the participation interest set forth in the last column of Schedule A, and in exchange, Highland would give to Acis the cash purchase price and the note described in Section 1.1?

A I -- I believe that was the -- the economics, yeah.

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Q Okay. Is it your understanding that nobody could get any of the tax benefits that you described earlier unless you had this exchange of cash in the form of the Acis participation interests on the one hand, and the payments that were required under Section 1.1 on the other hand?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: Yeah. I -- I don't -- I don't have an awareness of the nuts and bolts that it -- it takes to be bona fide for tax purposes. But it -- it's something that our internal lawyers and accountants would've always vetted and gotten an opinion with outside tax counsel, too.

MR. MORRIS: Okay. Let's take this down, and let's put up -- actually, hold on one second. The mote may be attached to this document. Oh, it's unsigned. Let's take this down. And let's put up and mark as the next exhibit -- thin.

k it's Exhibit 4, tab number 3?

THE PROCEEDINGS OFFICER: Yes, sir. Exhibit 4.

(Exhibit 4 marked for identification.)

BY MR. MORRIS:

Q Okay. So you'll see up on the screen, what's been marked as Exhibit 4 is a promissory note dated

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October 7th, 2016, in the principal amount of $12,666,446.

Do you see that?

A Yes.

Q And if you scroll down, you signed this promissory note, right?

A There we go again. There's the whole thing.

Q The next-to-the-last page. It's page 5 of 6.

A Yes.

Q Okay. And then what you did when you signed this document is, you obligated Highland to make the payment forth on Exhibit A, correct?

MS. DEITSCH-PEREZ: I think he's talking about the next page.

MR. MORRIS: Yeah.

MS. DEITSCH-PEREZ: Exhibit -- after the signature page, there's another. There's one more page.

THE WITNESS: Yes.

BY MR. MORRIS:

Q Okay. And this note and that cash payment that we just looked at in Section 1.1, those were given to Acis in exchange for the promise of the future stream of servicing fees that we just looked at in the last column of the participation agreement, right?

A Yes. I believe that was the economics.

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Q Okay. And if we go back to the top of the document, you know, the principal amount of the note is 12 -- I'm just going to call it $12.6-plus million.

Do you know how that amount -- when combined with the cash payment that was due under Section 1.1, do you know how that amount was calculated?

A No. I wouldn't have been involved with that. But again, that's where there's a give and take on the variables and to be compliant with the tax code and to provide some cushion and IRR, relative to the fee stream on the other side. But -- but how that note -- how that number is calculated, I -- I have no specific awareness or no specific involvement at all.

Q Do you know, if you added the cash payment with the principal amount of the note, whether that would've equaled the servicing fees that Acis was to give Highland under the participation agreement? Were they supposed to be equal?

A I don't know. But my memory of other transactions in the past is that typically, it's not equal. There's, you know, again, some kind of cushion or present value or interest component to it, also. But -- but I -- I don't know. Let me just leave it at, I don't know.

Q Okay. Do you know if the cash flow between

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the two entities -- subject to the participation agreement, were they supposed to at least approximate each other?

A Can you guys hear me? You guys kind of zapped in and out there for a second.

Q I can hear you.

A Okay. Was the question approximately? Was that the question?

Q Yep.

A I -- I'll say, in the ballpark. I -- I don't want to use the word "approximately," implying that it's close, because I don't think it's necessarily close.

Q Do you know if there's any relationship between the cash payment and the principal amount of the note and the cash flow that Highland expected to receive from Acis under the participation agreement? Is there any relationship between those two numbers at all?

A Yeah. Well, the same answer I've been giving. I mean, subject to time, value of money, a cushion, an interest rate, IRS tax code, there -- there's a bunch of variables that go into setting it. And I -- I don't -- I -- I don't know the -- I don't know the tax laws, but again, it's something that is done with the internal accountants and outside opinions and et cetera. But I'm not the person involved in any of those details.

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MR. MORRIS: Okay. I'm just going to move to strike.

BY MR. MORRIS:

Q And I'm just -- it's a really simple question. Do you know if there's a relationship between the cash flow that was expected to go from Acis to Highland and the cash flow that was supposed to go from Highland to Acis?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: Wow. Okay. You want to strike my last answer? I'll just give you a short one. No.

BY MR. MORRIS:

Q Thank you very much. What was the benefit to Highland from entering into the participation agreement and signing the promissory note?

A Benefit? Again, my understanding is, these are structured to provide tax benefits to both sides that are reflected either in the tax benefits themselves or the present value of the note being higher than otherwise. There -- there's a tax benefit to all parties, as I understand it.

Q Okay. Can you describe the tax benefit to Highland from this transaction?

A Tax deferral and recharacterization.

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Q And have -- can you quantify the benefit?

A No.

Q Did you ask anybody, before signing this document, what the monetary benefit would be to Highland from entering into this transaction?

A I did not.

Q Do you know what Highland's expected rate of return was from entering into this transaction?

A I do not.

Q Did you -- do you recall if you asked anybody what Highland's expected rate of return would be from entering into this transaction?

A I did not.

Q Do you recall if anybody ever told you what Highland's expected internal rate of return would be from entering into this transaction?

A I do not.

Q Have you ever entered into a transaction with a third party without knowing what the projected rate of return was?

A When I'm saying I did not know, I'm not saying that the organization didn't know, or accounting didn't know, or the tax department didn't know. I'm just saying I didn't know. And yes, organizationally, there are transactions that occur that I do not know the

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present value of, but other people in the organization do.

Q Could you -- would you -- would you have authorized Highland to enter into the same participation agreement on the same terms with a third party?

A Boy. I -- I believe part of the process with the external accounting firm and our internal compliance department checks and verifies those things.

Q I'm just asking you if you could envision doing a similar transaction with a third party?

A Yes.

Q Can you identify a third party with whom Highland did a similar transaction?

A Well, you asked me, could I envision it? The answer was yes. I -- I don't have a specific example, though.

Q Based on your understanding of the tax benefits that were to inure to both Highland and Acis, as well as their ultimate beneficial owners, would those tax benefits have existed if they weren't affiliated parties? If they didn't have common ownership?

A Yes. And -- and these kind of transactions happen in the market quite often.

Q Okay.

A Because it's a -- it's a way for a startup

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money management firm that has a -- a promise of fees, but needs capital for its next deal, to monetize those fees so it can do a subsequent deal. It -- it -- these kinds of structures are common among CLO managers. And these kinds of structures are common in real estate and other businesses, too.

Q Would Highland have entered into this agreement, and would you have signed this promissory note, if Acis wasn't on the other side of the transaction?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: Sure, if there was a business relationship or a business reason.

BY MR. MORRIS:

Q Whose idea was it to enter into this transaction?

A I believe it came from the tax accountants.

Q And who were the tax accountants?

A I -- I don't know which. It's a group. I don't know which one.

Q Is it Mark Patrick?

A I don't know.

Q What other tax accountants were there in the fall of 2016?

A There is a department of four or five. There

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was another senior tax accountant named Rick Swadley, and then there were two or three other tax accountants.

Q Do you recall, when we looked at paragraph 1.1 of the participation agreement, there was a cash component and the note component, right?

A Yes.

Q Okay. And the note -- so the note was an integral part of the participation agreement, fair?

MS. DEITSCH-PEREZ: Object to the form.

BY MR. MORRIS:

Q You can answer.

A It -- it was.

Q Right. You would never have signed this promissory note on behalf of Highland if you didn't receive the promise to receive the servicing fees from Acis under the participation agreement, right?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I mean, it was essentially a trade of promises, and one side wouldn't have signed it if they didn't get the promises of the other side, and vice versa.

BY MR. MORRIS:

Q Exactly. So just to be really clear, as the person who signed the participation on behalf of Acis, you would not have done that for Acis if Highland didn't

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promise to give the cash payment and the note, correct?

A I believe, yes, that was the promises on the Highland side.

Q Okay. And taking it in reverse, you were also acting on behalf of Highland. And you would not have agreed to give to Acis the promissory note and that cash payment without Acis promising to give to Highland the share of the participation agreements that we saw in Schedule A, fair?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I mean, yes. Those were promises on the other side, correct.

BY MR. MORRIS:

Q Okay. Can we -- if you scroll down to the bottom of the note -- I think it's the bottom. Yeah, the last -- the amortization schedule on page 6. Tell me when you're there, Mr. Dondero.

A I'm having a hard time getting it. I'm on page 5.

MS. DEITSCH-PEREZ: That's weird. Okay. Something is -- it's not you. It shows up on mine. Okay. That's really weird. On mine, you can see Exhibit A. On Jim's, you can't. There it is. Okay. Got it.

MR. MORRIS: Thanks, Deborah.

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MS. DEITSCH-PEREZ: That was weird.

THE WITNESS: Okay. I see the amortization schedule.

BY MR. MORRIS:

Q Okay. So under this agreement, Highland was supposed to make a principal and interest payment of approximately $3.37 million on May 31st, 2017.

Do you see that?

A Yep.

Q Do you know if Highland made that payment?

A I don't know.

Q Do you know if Highland made any of the payments on this amortization schedule?

A I don't know.

Q Did you ever direct anybody to make any payments on this -- that are set forth on this amortization schedule?

A I was not involved.

Q Did you ever direct someone not to make any of the payments that were due under this note?

A I did not.

Q Do you know if Acis ever paid to Highland any of the servicing fees that were described on Exhibit A to the participation agreement?

A Just based on the timeline before the

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injunctions, the state injunctions, the threats of the injunctions, the bankruptcy, there probably were some. But I -- I don't have an awareness of how many or what amounts.

Q Did you ever direct anybody on behalf of Acis to make any of the payments that were due under the participation agreement?

A No. I wouldn't have been responsible for administering the agreement.

Q Do you know -- did -- do you recall if you ever directed anybody not to make any of the payments on behalf of Acis under the participation agreement?

A I did not.

Q Did you ever delegate to anybody the responsibility for making the payments that were due under the participation agreement and the promissory note that we're looking at?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: Not specifically.

BY MR. MORRIS:

Q Would it have been Frank Waterhouse's -- withdrawn.

Are you aware that Frank Waterhouse was the chief financial officer at Highland at the time?

A Yes.

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Q Were you aware that Mr. Waterhouse was also the treasurer of Acis at the time?

A I was not aware.

Q Can you think of anybody other than Mr. Waterhouse who would have been responsible for overseeing the administration of the participation agreement?

A I -- I even think he would have delegated that to somebody below his level.

Q Do you know who he delegated it to?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I have no idea.

BY MR. MORRIS:

Q Acis had no employees of its own, correct?

A Post Josh leaving, I believe that's correct.

Q Okay. And Acis was able to fulfill its obligations as the CLO portfolio manager by entering into shared services and sub-advisory agreements with Highland, correct?

A Correct.

Q And Highland received a fee from Acis in exchange for those sub-advisory and shared services, correct?

A I don't know. I -- I don't know where -- when those began and ended, you know, subject to the same

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bankruptcy and injunction stuff. I don't know.

Q Well, before the bankruptcy, do you recall that you signed Amended Shared Services and Sub-Advisory Agreements on behalf of Highland and Acis?

A You're testing my memory. I -- I believe that was part of the Acis case. I -- I think there were some adjustments post-Josh leaving.

Q Okay.

MR. MORRIS: Can we put up on the screen -- let's mark, as Exhibit 5, tab Number 12.

(Exhibit 5 marked for identification.)

BY MR. MORRIS:

Q And, Mr. Dondero, you'll see that this is the Fourth Amended and Restated Shared Services agreement between Acis and Highland. It is dated March 17th, 2017, and if you went to the page towards the back -- hopefully you're able to get there.

Can you confirm for me that the page ending in Bates Number 9092 has your signatures on it?

A 22. Page 22, yes.

Q Yes. Those are your signatures, right?

A Yes.

Q And so in March 2017, you personally authorized both Highland and Acis to enter into the Fourth Amended and Restated Shared Services Agreement,

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correct?

A Yes.

Q And you did that because at the time, you expected Acis to continue on as the CLO manager, correct?

A I don't recall the reason.

Q You don't know why you signed this document?

A Correct.

Q Is it fair to say that you wouldn't have signed this document if you didn't believe that Acis was going to continue to serve as the portfolio manager for the CLOs?

A That's not fair.

Q I've heard and seen some allegations that the Acis brand was toxic. Have you heard that phrase before?

A Yes.

Q Now, Josh Terry had left Highland in June of 2016, correct?

A Yes.

Q And the litigation was started in the fall of 2016, correct?

A Yes.

Q And this agreement is entered into in March 2017, correct?

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A Yeah. Is that the date on it? If -- if it is, I'll agree to it.
Q Yes. It's on the first page.
A Okay.
Q If you want to just -- did you have any reason to believe that the Acis brand was toxic at the -- at the time you signed this agreement?
A It was -- it was pretty --
Q Withdrawn. Withdrawn. I need to lay a foundation.
Did you ever believe that the Acis brand was toxic?
A Yes.
Q Did you -- when did you form that belief?
A The -- at -- on the onset of the litigation. The -- the litigation was -- you know, it was -- it was, like, Petrofsky litigation. It was sensationalized with a lot of claims and, you know, et cetera. But no -- no investor would want to get involved with an entity that was a shell entity that no longer had employees, but was wrapped in that kind of litigation.
Q When did -- when did the shell entity lose its employees?
A The day Josh Terry left.
Q Was he the only employee that Acis had?

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A I believe so.
Q And how did you learn that the Acis brand was toxic?
A I -- I believe the firm that first coined that adjective was Goldman, when they were approached to reset or refinance the deals.
Q And when you refer to Goldman, you're referring to Goldman Sachs?
A Goldman Sachs CLO Group, yes.
Q And when did Goldman Sachs CLO Group get involved in a potential reset; do you recall?
A I -- I don't. But it would have been -- I -- I don't. It -- roughly early on after Josh left.
Q Are you aware that Goldman was negotiating with Highland concerning a potential reset of the Acis CLOs as late as October 2017?
A I -- I believe there were ongoing discussions for an extended period of time. I -- I don't know when it began and ended.
Q Were you involved in those discussions?
A I was not.
Q Do you have any personal knowledge as to whether Goldman Sachs stated that it would decline the opportunity to participate in the reset of the Acis CLOs because the Acis CLO brand was toxic?

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A That's essentially what I got from the business people who were trying to do it.
Q Which business people are you're referring to?
A I can't recall who was heading up investments at that point.
Q Can you identify any person who ever told you that they had been informed by Goldman Sachs that it would not participate in the reset of the Acis CLOs because Goldman Sachs had concluded that the Acis brand was toxic?
A I can't remember. I can't remember specifically. But it would have been whoever was heading up investments, the credit team, at that point in time.
Q Did you ever -- did you -- do you recall the communication? Did you ask any questions?
A I -- I took it at face value. It made sense.
Q Did anybody explain to you why Goldman Sachs believed that the Acis brand was toxic?
A Again, I think it all hearkens back to the litigation.
Q And do you know if Goldman Sachs actually expressed the concern that the resets might constitute a fraud joint transfer?
A I've never heard that.

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Q Have you ever been told that Goldman Sachs expressed the concern that transferring the CLO management agreements in the midst of the litigation might constitute a fraud joint transfer?
A I never heard that.
Q Okay. When did anybody acting on behalf of Highland or Acis ever suggest to Goldman Sachs that the resets be done with an entity other than Acis?
A My recollection is, that was the recommendation of Goldman Sachs and our internal people.
Q Did you ever see that in writing, sir?
A I don't -- I don't know. I don't recall. We don't have -- we don't have access to that stuff.
Q Well, do you recall signing a number of different agreements with a couple of different entities concerning potential resets of Acis CLOs?
A I -- I don't recall. But if we engaged investment banks to perform a service, it's logical I would've been the signatory.
Q And in fact, following Mr. Terry's arbitration, the issuance of the arbitration award in Mr. Terry -- in Mr. Terry's favor, steps were taken to replace Acis with HCLOM, LLC, correct?
A I don't recall.
Q Okay.

THE PROCEEDINGS OFFICER: I'm sorry to interject, but can we take a short break pretty soon, sir?

MR. MORRIS: Yeah, sure. We can take a break. It's 12:40 Central, I think. Why don't we just take a 10-minute break and come back at 12:50 Central?

THE PROCEEDINGS OFFICER: Great. Thank you, sir. I'm taking us off the record.

(Off the record.)

THE PROCEEDINGS OFFICER: Back on the record at 12:57 p.m., Central Time.

BY MR. MORRIS:

Q All right. Mr. Dondero, are you ready to proceed?

A I am.

Q Can you hear me okay?

A Yep.

Q Okay. Going back to Goldman Sachs for a moment, did you ever see anything in writing from Goldman Sachs on the topic of Acis's alleged toxicity?

A Not that I recall.

Q And as you sit here right now, you can't recall the person who told you that Goldman Sachs stated that the Acis brand was toxic; is that fair?

A I -- it was either -- it was either -- I -- I

just don't remember. It would've been whoever was running credit. It would've been, you know, Trey Parker or Jon Poglitsch. It would've been one of those two people, I believe.

Q Okay. Other than Goldman Sachs, did you ever hear of any other person or any entity using the phrase "toxic" to describe Acis following Mr. Terry's departure?

A I -- I'm trying to -- I -- I think we -- it was generally accepted as -- as true on its face by everybody. And I -- I believe it was the opinion of every other investment banker we talked to, also. But I -- I don't -- I don't have a specific recollection. That is my general -- my general memories.

Q Did you personally ever hear an investment banker describe Acis as toxic?

A I didn't have the conversations with the investment banks.

Q Okay. Did you ever see anything in writing from any investment bank that suggested Acis was toxic?

A I wasn't involved in those communications.

Q Can I ask a question? Can you identify any investment bank other than Goldman Sachs that you recall learning had described Acis as toxic?

A Again, consistent with what I just said,

whoever else we would've been talking to besides Goldman.

Q Okay. So this is Exhibit 5. This was the shared services agreement. Do you recall that at the same time, you also signed an Amended and Restated Sub-Advisory Agreement between Highland and Acis?

A I -- I don't -- I don't recall specifically, but I do remember the shared services agreement was amended.

Q Okay.

MR. MORRIS: Let's take this down. And let's mark tab 13 as Exhibit 6.

MS. DEITSCH-PEREZ: Hang on. I don't see -- is there supposed to be a little yellow sticker on that ,electronically? There wasn't one.

MR. MORRIS: Yeah. There was one on the upper left corner, the first page.

THE WITNESS: On the front page.

MS. DEITSCH-PEREZ: Oh, okay. It's just not on my screen.

THE WITNESS: Okay. We're just not on the last page. Only on the front page. So it was --

MS. DEITSCH-PEREZ: Okay. The last.

THE PROCEEDINGS OFFICER: See what it was. Thank you.

(Exhibit 6 marked for identification.)

BY MR. MORRIS:

Q Okay. So up on the screen, you have the Third Amended and Restated Sub-Advisory Agreement between Acis and Highland, which is also dated March 17, 2017.

Do you see that?

A Yes.

Q And if we scroll down, I think to the -- let's see. The page with -- it's 15 of 21, ending in Bates Number 7798.

Can you just confirm those are your signatures?

A Yes.

Q Okay. So do you recall that from the day you signed these two agreements on March 17th, 2017, beginning on that date, Highland provided shared services and sub-advisory services in accordance with those agreements until some point in the Acis bankruptcy?

A I -- I believe so. I have no reason to think it didn't.

Q Okay. And as we discussed earlier, at some point during the Acis bankruptcy, Mr. Phelan gets appointed as the Chapter 11 trustee for Acis, correct?

A Yes.

Q And do you recall that sometime after that, Highland is replaced by Brigade as the service provider to Acis?

A Yeah. I -- I believe that's true.

Q And to the best of your recollection, did Highland provide to Acis shared services and sub-advisory services from the date of this agreement until the date that Brigade took over?

A I really want to -- I want to be careful here not to just say yes to that. Brigade did the portfolio management, I believe, or provided the RIA for Josh to be involved in the portfolio management, I guess. Or -- or anyway -- but I'm not -- I'm not sure if they took over the other services and the shared services or if Highland kept doing those or not. I -- I just want to be careful, but I -- but the asset management or portfolio management by Highland did cease when Brigade took over. But I -- I don't know if -- the shared services agreement in its entirety.

Q Let me -- I appreciate the distinction, and never trying to trick you. Let me try and ask it in a more palatable way. From the time that the shared -- withdrawn.

From the time you signed the Amended and Restated Shared Services and Sub-Advisory Agreements,

Highland provided services (indiscernible - audio disruption) until an orderly transition was effectuated, by which those services were provided to Acis by some third party; is that fair?

A I -- it -- yeah. It's my belief we -- we adhered to and honored the contract.

Q Okay. I want to go back in time. So the -- these agreements are signed in March of 2017. And while these agreements are being prepared and signed and executed and administered, Mr. Terry's arbitration is going forward.

Do you remember that in the early part of 2017?

A I -- I don't recall.

Q Did you testify in the arbitration?

A I believe so.

Q Okay. And do you remember who else testified on the Highland side in connection with the arbitration?

A Thomas Surgent. Mark Okada. I -- I don't recall who else.

Q Do you remember if Isaac did?

A I -- I wasn't there for every day. I -- I don't have a specific recollection.

Q Okay. Do you recall, at some point in October, the panel issued the award in favor of Mr.

Terry?

A I -- I remember it, but it was against a very limited number of entities.

Q Right. Highland was one of them, right?

A No. I thought it was just Acis.

Q Okay.

MR. MORRIS: Let's take that document down. Let's mark, as Exhibit 7, tab Number 4.

(Exhibit 7 marked for identification.)

BY MR. MORRIS:

Q Yeah. You could be right about that. And do you see, up on the screen, there's a document that's been marked as Exhibit 7? It's dated October 20th, 2017, and the cover page discloses that it has attached the final award executed by the arbitrator.

Do you see that?

A Yes.

Q Okay. Did you ever read the final award that was issued by the panel in the Josh Terry arbitration?

A I did not.

Q To this day, you've never read it?

A Correct.

Q Can we go to the third page of the document, which is -- no, I apologize. It's page 3 of the document, which is page 4 of 28.

A Yes.

Q No. Apologies. Page 3 of 28. The panel was -- it was a panel of three that administered the arbitration; is that right?

A Yes.

Q And they were all retired, at least to the best of your knowledge, correct?

A Yes.

Q Do you know how they were selected?

A I do not.

Q Do you know if Highland had any role in the selection of the three arbitrators in the Josh Terry arbitration panel?

A I have no idea.

Q Is it fair to say that Highland had a fair opportunity to present its case?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I -- I don't want to -- I don't know. I don't want to comment on that.

BY MR. MORRIS:

Q Was Highland precluded from offering into evidence any evidence that it wanted to offer?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I don't know.

BY MR. MORRIS:

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Q Did anybody ever contend that all or any member of the panel was biased in favor of Mr. Terry?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: I -- I don't have any awareness.
BY MR. MORRIS:
Q Did anybody ever suggest that any member of the panel was biased against you or Highland?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: I don't have any awareness.
BY MR. MORRIS:
Q Okay. It was a pretty lengthy hearing, wasn't it?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: I -- I don't know. I don't know what lengthy is in an arbitration or arbitration panels.
BY MR. MORRIS:
Q All right. If we go to the next page, you'll see that at the top, it refers to hearing dates in September. It's listed there. It's 10 hearing days.
Do you see that?
A Yes.
Q And so were you aware that, you know, for a number of days in September 2017, this arbitration with

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Mr. Terry was being litigated in Dallas?
A Yes, I was aware.
Q Okay. Are you aware of any of the findings of the panel?
A The -- my -- my recollection is that it was -- that the entities with any balance sheet or -- or any substance were all struck and that the only entity that it was awarded against was Acis.
Q What do you mean when you refer to the balance sheet?
A No. I'm just saying all the -- let me say it differently. Myself, Okada, Highland were all removed from the culpability list, and it was just Acis that received the negative award or -- or just -- it -- it was just a finding against Acis. That's my recollection.
Q And are you familiar with the findings?
A No. That was my recollection. That's how it was -- that -- my recollection of how it was explained to me.
Q Okay. Let's go down to page 21 of the document. Let's see. This is the -- it's page 22 of 28 on the PDF.
A Yes.
Q All right. So this is the panel's findings

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and conclusions. Do you see that?
A Yes.
Q And it states, among other things in that first paragraph, quote, "To the extent the findings and conclusions differ from any of the party's position, that is the result of these arbitrators' determinations as to the credibility, relevance, burden of proof, consideration, and the weighing of the evidence, both oral and written."
Do you see that?
A Yes.
Q I just want to cover a few of these. Looking down at Number 5, were you aware that the panel found and determined, quote, "Highland's termination of Terry's employment was not, in fact," quote, "for cause"? Highland's stated, quote, "for cause termination of Terry's employment was, in fact, pretextual and for the purpose of denying Terry benefits of employment, payable at his termination and as a basis for the forfeiture of the value of Terry's limited partnership interest in Acis"?
Have I read that fairly?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: That's what it says. It says what it says.

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BY MR. MORRIS:
Q And is this the first time that you're learning that the panel made that finding?
A No. I -- I knew -- I knew that. We didn't agree with that, but I knew that's what they had found.
Q Okay. And is it fair to say that you don't agree with any of the panel's findings here in this section of the document?
A I didn't say that.
Q All right. Let's just go through a few more. Number 6 on the next page says, quote, "Acis and Acis GP knowingly and willingly invoked Highland's false pretense of," quote, "for cause termination to deny Terry the value of his 25 percent limited partnership interest."
Did you know of that finding before I read it just now?
A No. I -- I - 6 kind of dovetails into 5. They're one and the same, really.
Q Okay. And were you aware that that finding had been made back in 2017?
A Yes.
Q I know you said that you didn't read the award. Did anybody describe the award for you at the time it was rendered?

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A I mean, just -- just what I've really said so far, that they -- I know they gave him an award against Acis, but it wasn't against other related entities. And they knew Acis was a partnership without assets.

Q Who knew Acis was a partnership without assets?

A The -- the arbitration panel.

Q What did -- what's your understanding of how the arbitration panel learned that Acis was without assets?

A That was part of the presentation. I -- my recollection is, the reason why Josh Terry tried to tie in a bunch of other entities was because he knew Acis had no assets, and Acis was allowed -- permitted bona fide, reconstituted after he left. So he sought to add Highland, myself, Okada, and other entities in, which were ultimately all stricken.

And again, my recollection -- you know, arbitration is supposed to be for all purposes, including, the way my lawyers described it, including collections, you know? So you know, the -- the lawyers thought it was highly inappropriate to file Acis for involuntary, and my lawyers thought it was highly inappropriate for Jernigan to remove it from arbitration.

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Q And your lawyers had an opportunity to appeal her decision to the District Court, correct?

A I believe, yes. And I believe they -- I -- I believe they sought all remedies that they felt were possible.

Q And the District Court agreed with Judge Jernigan that it was appropriate to file the involuntary petition under the circumstances, correct?

A I -- I don't -- I don't remember.

MS. DEITSCH-PEREZ: I don't think we've run into a problem yet, but as we go forward, if Mr. Morris asks you questions that relate to Highland's privilege, Highland has waived it. If he ever tries to ask you about communications between you and your lawyer personally, those are not waived. But just --

THE WITNESS: Okay.

MS. DEITSCH-PEREZ: -- as he asks the questions, think about whether he is asking you Highland, or you, Mr. Dondero.

THE WITNESS: Sure.

BY MR. MORRIS:

Q Did Acis ever have any assets?

A Nothing meaningful. I -- I don't believe ever more than working capital or a million bucks or something.

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Q Was the promissory note that you signed on behalf of Highland pursuant, to which you paid -- you agreed to pay Acis over $13 million when you had the cash component, was that an asset of Acis's?

A Yeah. You know what? Let me -- let me not -- other than the promises both ways regarding the promissory note, there weren't significant other assets at Acis. And -- and how exactly the note or promises to pay were accounted for, I -- I don't know.

Q Well, you made a statement that the panel knew, and Josh knew, and everybody knew that Acis had no assets. And I'm just asking you what I think is a fairly simple question.

From your perspective, was the note an asset of Acis's?

MS. DEITSCH-PEREZ: Asked and answered.

THE WITNESS: Yeah. You know, let me answer that by setting a context for a second. I think his judgment was only $8 million, but I think the amount that he sought in arbitration was hundreds of millions of dollars. And relative to hundreds of millions of dollars, there was no meaningful assets, even if you include the notes and a million dollars of other stuff. And so in that context, he was trying to include a whole bunch of other defendants, who were ultimately dropped

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or ultimately found to be not involved. That -- that's my recollection.

BY MR. MORRIS:

Q Okay. I'm just asking you --

MR. MORRIS: I'm going to move to strike --

BY MR. MORRIS:

Q And just ask, simply from your perspective as Highlands president and as the majority owner of Acis, did you understand, prior to the issuance of the arbitration award, that the note that we looked at earlier was an asset of Acis?

MS. DEITSCH-PEREZ: Object to form.

THE WITNESS: I believe the note would have been properly accounted for on both parties books. I -- I don't know how it was accounted for.

BY MR. MORRIS:

Q You're a CPA, sir, right?

A Yes.

Q And wouldn't it -- wouldn't you have expected, as a CPA, that the note would have been carried as an asset on Acis's balance sheet, with a corresponding liability for the amounts that were due under the participation agreement?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: Again, they're -- they're promises to pay, and this was -- was a -- a tax-driven structure. You know, the -- the note itself stands on its own, and promises to pay stand on their own. They're -- they're not -- if -- if they were directly tied, it wouldn't pass muster as a tax transaction.

BY MR. MORRIS:

Q So on behalf of Highland -- so I just want to make sure I understand your testimony correctly. On behalf of Highland, you knowingly signed a promissory note for the benefit of Acis.

And it's your understanding that Highland would have the absolute obligation to pay whether or not Acis performed under the participation agreement? Do I have that right?

A Yeah. I mean, absolutely. That's the basis for the -- the transaction. And when you were asking me all the questions of why the amounts don't equal exactly, et cetera, it -- it's for a present value, handicapping the value at risk, handicapping the likelihood, et cetera. And that's why the numbers don't match. But -- but the -- the notes very much -- the note very much stands on its own, regardless of the promises to pay.

Q So even if even if Acis breaches and doesn't

pay Highland a penny, Highland still must pay the face amount of the note? That's your --

A Yeah. I mean, absolutely. I mean, I'm sure there's legal consequences for the failure to pay, as promised, the fees. But the note says what it says, and it stands on its own.

Q Are you at all familiar with the concept that if one party materially breaches their obligation, the other party to the contract is relieved of performing? Is that news to you?

A Yeah. I'm -- I'm not a lawyer. It's -- the right to offset directly or indirectly is -- we deal with it at the bank sometimes. But that's not a -- that -- that's not an ironclad or only remedy under a certain -- again, I'm not a lawyer, but it -- I -- I don't -- I don't believe that it works like that.

Q Okay. About two weeks after the panel entered this award that we're looking at, you signed an Assignment and Transfer Agreement on behalf of both Highland and Acis, correct?

A You asking me to agree with the dates? Or I --

Q Do you recall that? Do you recall that just after the Terry arbitration award was issued, you signed an agreement on behalf of Highland and Acis called a --

an Assignment and Transfer Agreement? Do you recall that?

A Yes.

MR. MORRIS: Okay. So let's put up on the screen Exhibit 8, which is tab Number 5.

(Exhibit 8 marked for identification.)

BY MR. MORRIS:

Q All right. Do you see this is a document that's called Assignment and Transfer Agreement? It's dated as of November 3rd, 2017?

A Yes.

Q And it's between and among three entities. Do you see, it's Acis, Highland, and HCLOM? HCLOM Limited?

A Yep.

Q Okay. And if we could go down to, I think, the last page, can you confirm that you signed this document on behalf of both Highland and Acis?

A Yes.

Q Okay. And do you recognize the signature under HCLOM Limited?

A No.

Q Have you ever heard the name John Cullinane?

MS. DEITSCH-PEREZ: Is that how you -- are you sure that's how you pronounce it, John?

THE WITNESS: Are you talking about

Kinoyer (phonetic) that still works at Highland? No.

BY MR. MORRIS:

Q No.

A Okay.

Q It's spelled C-U-L-L-I-N-A-N-E. I'm told it's pronounced Cullinane, but it could certainly be pronounced some other way.

A I -- I don't have a -- a recollection at this point.

Q Did you ever hear of Summit Management Limited?

A I -- I can't recall as I sit here right now.

Q Do you know why an entity called Summit Management Limited is signing this agreement on behalf of HCLOM?

A I do not.

Q Did you ever -- so you don't recall anybody by the name of John Cullinane, do you?

A I -- I do not, at this moment.

MR. MORRIS: Deborah, if you're familiar with another pronunciation, can you share that with me?

MS. DEITSCH-PEREZ: I've heard it as Cullinane.

BY MR. MORRIS:

Q Does that cause you to change your answer, Mr.

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Dondero?
A No. It doesn't jar my memory.
Q Okay. I'm just going to ask you a few questions. Given what you've just said, I take it that you have no recollection of ever meeting John Cullinane or anybody acting on behalf of Summit Management or HCLOM Limited, correct?
A Not today.
Q Okay. And you don't recall, as you sit here today, ever speaking with Mr. Cullinane, the person who signed this document on behalf of Summit Management and HCLOM Limited, correct?
A Not today, no.
Q And as you sit here today, you don't recall ever exchanging any e-mails with that person, correct?
A I do not.
Q Do you have any recollection of ever communicating with him in any manner prior to today?
A I do not.
Q Do you know if there was somebody at Highland who was responsible for communicating with Mr. Cullinane or anybody acting on behalf of HCLOM Limited in connection with this particular agreement?
A My general recollection is, the vast majority of contact with any Cayman-related entities was handled

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by the internal lawyers, the setup and administration by the -- the setup and governance by the internal lawyers. The accounting or administration would subsequently get handed off to the accountants. But the -- the setup and the governance, and governance being approvals or actions, would be done by the internal lawyers.
Q Can you identify any internal lawyer who was responsible for handling this particular agreement?
A It would've been Surgent or somebody on his team. It would've been Surgent or Kinoyer, or there was a woman -- a -- a woman lawyer that worked for us for a number of years who was a big part of that group, too. I can't remember her name. But it was the three of them that typically handled the corporate formation and formation, governance, and stuff.
Q Do you know if this agreement was negotiated in any way with HCLOM Limited?
A I was not involved.
Q Do you know why HCLOM Limited signed this agreement?
MS. DEITSCH-PEREZ: Object to the form.
BY MR. MORRIS:
Q Withdraw the question.
Since you've never spoken with Mr. Cullinane, did you ever speak with anybody who was authorized to

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act on behalf of HCLOM Limited in connection with this agreement, prior to the time it was executed?
A I did not.
Q Did anybody ever share with you anything that anybody ever said, who was authorized to act on behalf of HCLOM Limited, with respect to this document before you signed it?
A Not that I recall.
Q Okay. We can go back to the top of the document and again, you know, to the extent -- we urge you to take your time and do so.
Do you recall this document before?
A No.
Q Do you recall if you read it before you signed it?
A No.
Q You don't recall if you read it, or you're pretty sure you didn't?
A I don't recall if I read it.
Q Again, take your time and look at the document to the extent you think it would be helpful, but my question is kind of a simple one.
Do you have an understanding of what the purpose of the document was? From Acis's and Highland's perspective, the entities on behalf -- on whose behalf

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you signed it?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: It's replacing ACIS as portfolio manager. It's, I think, captured in that succession, paragraph Number 1.
BY MR. MORRIS:
Q So is it your understanding that you signed this document for the purpose of having HCLOM Limited succeed Acis as portfolio manager?
A It says what it says, but that's what it appears to say to me.
Q Okay. And at the time you signed this, was it your expectation that Highland would continue to receive the servicing fees that were set forth in the participation agreement, in exchange for the payments that were due under the note?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: I -- I didn't have a particular opinion regarding that at the time of this. Not that I can recall.
BY MR. MORRIS:
Q When you bound Highland to this agreement, what -- did you expect Highland to receive a benefit? And again, you can take your time to read the document.
A I don't recall.

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Q As you sit here today, can you identify any benefit that Highland was expected to receive when it signed this document?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: The question was any benefit that Highland receives?

BY MR. MORRIS:

Q Yeah. Let me restate it. When you signed this document, what benefit, if any, did you expect Highland to receive?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I mean, Highland is not a party to this, right? Are you -- are you talking about HCLOM Limited or --

BY MR. MORRIS:

Q Highland is a party to this agreement.

A Wait a minute. Yeah, there it is. But I'm trying to see where they're referenced in here. Again, I'm not a lawyer, but what it appears to say is the -- the appointment of a HCLOM as portfolio manager, replacing Acis.

But then it's reciting that the assignment of the -- and transfer of the promissory note and the obligations of the stabilization payments or promises is part of the transfer. That's -- that's what it looks

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like it's saying to me. But again, it's -- I'm not a lawyer. I didn't draft it. That's -- I probably even shouldn't be giving my interpretation, but that's -- that's about all I can say about it.

Q Okay. But other than reading it right now and sharing your interpretation of it, do you have any recollection as to why you signed this document on behalf of Acis and Highland?

A What's the date on this thing?

Q November 3rd. That's 10 days or two weeks after the Terry arbitration award?

A I don't know. I don't know if it was part of the formal transfer process that -- I -- I don't know. I have -- I have no idea. I don't want to speculate.

Q I appreciate that. And you can't, you know, other than reading the document and interpreting it as you sit here right now -- withdrawn. No commentary.

Do you have any recollection, at the time you signed the document, of what benefit you expected Highland to receive from entering into this agreement?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: The extent that the CLO platform were to refinance, reset, or grow in the future, Highland would benefit either directly or indirectly with sub-advisor fees or management fees

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directly. I -- I mean, that's -- it looks like it's laying the groundwork for that, but --

BY MR. MORRIS:

Q And if you look at Sections 3(B) and (C), which I know I have up on my screen, wasn't it intended that Highland would receive the servicer fees regardless of whether Acis or HCLOM Limited served as portfolio manager of the CLOs?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I'm sorry. Repeat the question, please?

BY MR. MORRIS:

Q Sure. If you look at Section 3(B) and 3(C), wasn't those -- wasn't -- aren't those sections intended to give assurance to Highland that it would continue to receive its servicer fees, regardless of whether Acis or HCLOM, Limited, was serving as the CLO portfolio manager?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: See, I don't -- I don't want to provide an interpretation, but it -- it -- again, I'm not a lawyer. But it looks like it -- it's just trying to make sure the promises and the obligations of Acis transfer to the new entity.

BY MR. MORRIS:

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Q Okay. Do you know if Highland ever actually received any benefit from entering into this agreement? I want to take it out from the theoretical and what was expected to -- what actually happened.

As the, you know, co-founder and president of Highland until January 20th -- until January 2020, do you know if Highland ever received any benefit from entering into this agreement?

A What I said, the part that perplexes me, I -- I don't know early on what payments were or weren't received. But all payments that Highland got or didn't get, Highland knew 100 percent of when they settled with Josh Terry. The settlement of Josh Terry would've been negligent if it didn't incorporate this.

Q Okay. So let me ask another question, then. Can you -- as you sit here today, can you identify any -- anything of value that HCLOM Ltd. ever provided to Highland, pursuant to this agreement? Forget about Acis.

A I believe there were shared services fees, if nothing else, away from -- away from the Acis agreement.

Q Do you believe that HCLOM Ltd. had a shared services agreement with Highland at any time?

A I -- I don't know. Just -- but typically, the asset management agreement comes along with a shared

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services agreement for the accounting and the other things.

Q Do you know if HCLOM Ltd., ever signed a management agreement?

A I -- I don't know between what typically happens and then what got clogged and derailed or detoured in the Acis parade of state actions, injunctions, bankruptcy, and then halted in the Highland bankruptcy, I don't know what amounts were actually paid or stayed or not.

And I wouldn't be in a position to know, but you guys have all the numbers and all the documentations. You guys would know. We were just doing everything when we could and when we were allowed to honor the agreement and the path of getting towards the agreements.

Q All right. So this agreement is signed on November 3rd, 2017, and you are in control of Highland until January 2020.

And my question is really simple: Do you have any knowledge of anything of value HCLOM Limited gave to Highland during the period, November 3rd, 2017, through the time you relinquished control of Highland in January 2020?

MS. DEITSCH-PEREZ: Object to the form.

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THE WITNESS: Yeah. I mean, for -- again, just to state it, there were other things going on besides being in control of Highland. There was the Acis injunctions and the Acis things going on. I don't know the particulars regarding what amounts went back and forth. I -- I don't know the answer.

BY MR. MORRIS:

Q Do you know -- do you have any knowledge that HCLOM Limited, ever paid one penny to Highland in the history of the world?

A I -- I wouldn't be in a position to know whether it was a penny or a hundred million.

Q Okay. Is it fair to say that you have no personal knowledge that HCLOM Limited ever gave anything to Highland -- anything of value to Highland, pursuant to this agreement?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: Same answer. I'm not in a position to know whether they received a hundred million or a penny.

BY MR. MORRIS:

Q Or zero, right?

A Or zero. I don't know.

Q Thank you. And now I just want to take it beyond this agreement. Same question, though: Are you

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aware of anything of value that HCLOM Limited, ever gave to Highland for any reason?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I -- I don't have an awareness.

BY MR. MORRIS:

Q Okay. I appreciate that. Do you know if HCLOM Limited had any obligations under this agreement? I don't want to go through that same process again.

At the time that you signed this agreement, did you have any understanding that HCLOM, Limited, was undertaking any obligations or duties to Highland or Acis?

A I think it says, in the beginning there, it's essentially taking on the obligation to the CLOs, right?

Q And that's the --

A (Indiscernible - simultaneous speech) manager.

Q Okay. Do you know -- sorry.

A No, that's -- so sorry. So -- but as manager, the CLO, then, there are fees and sub-advisor fees and administrative fees that flow off of that, right? Anyway.

Q Okay. Do you know if HCLOM Limited ever had any employees?

A No. I -- I believe it wasn't an RIA, either.

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And I -- I think that's why there had to be an establishment of the LLC version of the (indiscernible - audio disruption).

Q Did you just use the acronym RIA?

A Yes.

Q And does that stand for? Registered Investment Advisor?

A Yes.

Q And is it your understanding that HCLOM Ltd. never became a registered investment advisor?

A I don't know that for sure, but I'm just saying, typically, it is the domestic entities that we have that are registered. And it's typically domestic entities that have the employees.

Q Do you know if a foreign entity is able, under U.S. law, to be a registered investment advisor?

A I -- I don't know the answer to that.

Q Okay. But you would agree that, to the best of your knowledge, HCLOM Ltd. never became an RIA, correct?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I don't know that for sure.

BY MR. MORRIS:

Q I understand that you don't know it for sure, but you have no knowledge, as you sit here today, that

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HCLOM Limited ever became a registered investment advisor, correct?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I -- I do not know.

BY MR. MORRIS:

Q Thank you. Do you know if HCLOM Limited ever entered into a shared services agreement with Highland?

A I don't know.

Q Do you know if HCLOM Limited ever entered a shared services agreement with anybody?

A I don't know.

Q Do you know if HCLOM Limited ever entered into a sub-advisory agreement with Highland?

A I don't know.

Q Do you know if HCLOM Limited ever entered into a sub-advisory agreement with anybody?

A I -- I don't know what the relationship was with the LLC domestic version. I don't know whether it was a sub-advisory or a transfer. I don't know.

Q Okay. If we go back to the first page of the agreement, there's some recitals there.

A Yes. Yep.

Q Okay. The third one down says, "HCM -- " and HCM is the defined term for Highland that we've been using. It says, "HCM has notified Acis that HCM is

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unwilling to continue to provide support personnel and other critical services to Acis with respect to the CLOs." And it's defined -- that's defined as the notification.

Do you see that?

A What -- what page is that on? I'm sorry.

MS. DEITSCH-PEREZ: Yeah. I'm --

MR. MORRIS: It's the first page. It's the very first page.

MS. DEITSCH-PEREZ: What document are you -- what document are you asking him to look at?

MR. MORRIS: I'm still on the -- I'm still on Exhibit 8, the Assignment and Transfer Agreement.

MS. DEITSCH-PEREZ: Okay.

MR. MORRIS: And I'm looking at the third whereas clause, under the recital of the first page.

THE WITNESS: Yes. Yep. Yep. Yep. "Whereas Highland is notified." Yep.

MR. MORRIS: Okay. So you're with me now?

THE WITNESS: Yes.

BY MR. MORRIS:

Q Okay. Mr. Dondero, do you have any personal knowledge concerning the notification, as that term is

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defined in the third whereas clause?

A Well, do I have any awareness of it, or do I -- what was the --

Q Personal knowledge. Yeah. Do you know anything about that personally?

A No. Not -- no.

Q Okay. Do you know who and -- who notified -- who gave the notification to Acis on behalf of Highland?

A No, I do not.

Q Do you know who received the notification from Highland on behalf of Acis?

A No, I do not.

Q Do you know why Highland was unwilling to continue to provide support personnel and other critical services to Acis with respect to the CLOs?

A I don't know. I'm guessing -- no, I don't want to guess. It -- not viable, no employees, toxic. But I don't -- but I don't know.

Q Did the arbitration award -- did the issuance of the arbitration award have anything to do with the entry into this agreement?

A Not as far as I know.

Q Did the issuance of the arbitration award have any impact on the perceived toxicity of Acis?

A I don't know. I don't remember.

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Q Did Acis have the financial wherewithal to satisfy the award that was granted to Mr. Terry? Withdrawn. Let me ask a slightly different question.

Do you recall whether Acis had the financial wherewithal to satisfy the arbitration award that was issued to Mr. Terry on the day it was rendered? On October 20th, 2017?

A I don't know.

Q Do you recall if Acis's inability to satisfy that award was a factor in the decision to enter into this agreement?

A No, I -- I don't know.

Q Did you ever consider loaning Acis money so that it could satisfy the award that was rendered in Mr. Terry's favor?

A No.

Q You did cause Highland to loan money to affiliates from time to time, correct?

A Yes.

Q In fact, you caused Highland to loan money to Acis from time to time, correct?

A Yes.

Q Do you know how much money Acis would have needed in order to be able to satisfy Mr. Terry's arbitration award?

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A Roughly. Roughly, but not specifically.
Q Did the entry into this agreement leave Acis -- withdrawn.
Did the entry into this agreement have any impact on Ace's ability to satisfy Mr. Terry's arbitration award?
A I don't know.
Q Do you understand that by entering into this agreement, Acis was both losing the benefit of the payments under the note, but being relieved of the obligation to share servicing fees pursuant to the participation agreement?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: No.
BY MR. MORRIS:
Q Is it your understanding that this agreement is neutral to Acis?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: I -- I don't have an opinion.
BY MR. MORRIS:
Q Now, you have no view as to the impact of this agreement on Acis?
A I do not.
Q You did sign this agreement on behalf of Acis,

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right?
A Yes.
Q Did you expect Acis to receive a benefit from signing this agreement when you signed it on its behalf?
A Well, it -- it was more driven out of necessity.
Q Okay. But did you expect Acis to receive any benefit from signing this agreement?
A It was more out of necessity that Highland wasn't providing the service anymore for Acis to continue to function.
Q And who made that decision on behalf of Highland?
A I don't know.
Q Was it anybody other than you?
A It wasn't me.
Q Did you ever ask anybody who authorized Highland to notify Acis that Highland was no longer willing to provide services?
A Like I said, this whole -- the whole relationship with Josh Terry was being administered by legal, so it would've been someone in the legal department.
Q Did you have any interest at all as to how these issues were being managed?

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A Yes, but I trusted the legal department.
Q Do you know why you signed this document?
A Yes.
Q Why did you sign this document?
A Because I was an authorized signatory, and this was the administration of the agreements recommended by the legal department.
Q And who in the legal department recommended that you sign this?
A Going back to -- it would've been Tom Surgent and his group.
Q Did Scott Ellington play any role in advising you with respect to this document?
A Not that I recall. Again, he was the overall general counsel. The legal, and particularly the Josh Terry relationship and litigation, was handled by Thomas Surgent and his group. It was Thomas Surgent who impressed or didn't impress the -- the JAMS panel.
Q And what's your basis for that?
A He was the lawyer that testified on behalf of Highland.
Q You testified, too, didn't you?
A Yeah, but not regarding legal claims and -- and for cause, not for cause, et cetera. That was all Thomas Surgent.

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Q Okay. So I'd have to ask Mr. Surgent what the purpose of the agreement was; is that fair?
A I -- I would start there.
Q Okay. Can you share with me any advice that Mr. Surgeon gave to you before you signed this document?
A Not that I recall.
Q Can you share with me any advice you received from anybody before you put pen to paper on this document on behalf of Highland and Acis?
A Nope. Not that I recall at this point.
Q Can you tell me who was authorized on behalf of Highland to notify Acis that Highland was no longer willing to perform services?
A I don't know.
Q Was anybody other than you authorized to act on behalf of Highland in terms of giving notice of termination of services?
A Yes.
Q Who was authorized to do that without your authority?
A Again, this was all being administered by legal with some support from accounting and some support from tax. But it was all administered by the legal department.
Q Well, I appreciate that. I'm just asking you

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if you can recall who you authorized in the fall of 2017 to terminate shared services agreements without your prior knowledge and approval?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: Yeah. Again, I -- I point you back to Thomas and his group.

BY MR. MORRIS:

Q Okay. So Thomas had the authority, without obtaining your knowledge or approval -- withdrawn.

Thomas had the authority, without obtaining your prior approval, to terminate intercompany service agreements. Is that your testimony?

A Yeah. I mean, he is administering the -- the documents in a way that's permissible, that he believes is the best way to effectuate an outcome or strategy. It's -- it's well within his realm.

Q Okay. I'm not talking about the administration of a document. I'm talking about the termination of a document.

Is it your testimony --

A Yes.

Q -- your --

A Yeah. That's -- well, that's exactly what I'm saying. He is just using -- there's -- there's an overall partnership agreement. There's a strategy of

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replacing a toxic advisor. There's a strategy in terms of getting there. That's all within his realm of responsibility and authority, including canceling the -- the service agreement with Acis.

Q Do you know that he did that?

A It -- it was him and his team. It wasn't -- it wasn't me. I wasn't that deeply involved in this.

Q Did anybody ever tell you anything about the notification, as defined in the third whereas clause? Did anybody ever tell you before you signed this document that the notification had been given?

A I can't recall specifically at this time. I -- I can't -- I'm not -- I'm not saying someone did mention it, but I can't remember specifically or remember who.

Q Do you know if anybody ever gave written notice of termination of the shared services and sub-advisory agreements that we looked at earlier?

A I don't know, but -- I don't know, but that -- that stuff tends to move in tandem. But I don't know.

Q Okay. Let's look at the --

A I'm -- I'm no longer on the screen. Can you guys see me on the screen? I can't see myself anymore.

THE PROCEEDINGS OFFICER: Yeah, I was just about to mention your screen is --

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MR. MORRIS: Frozen.

THE PROCEEDINGS OFFICER: Let me take us off the record for just a moment, if that's all right.

MR. MORRIS: Yes, please.

THE PROCEEDINGS OFFICER: Okay. Taking us off the record.

(Off the record.)

THE PROCEEDINGS OFFICER: We are now back on record. Sorry.

BY MR. MORRIS:

Q Okay. Back on the record. Mr. Dondero, would you agree with me that the substance of the next whereas clause says that, as a result of the notification as defined, Acis has to identify a successor portfolio manager?

A I'm sorry. So "Whereas Acis has determined the effect of the notification"? Is that the paragraph?

Q Yes, sir.

A Yes.

Q Okay. And in the -- in the next whereas clause, it says, "HCLOM, a qualified successor manager." Do you see that?

A Yes.

Q Okay. Do you have an understanding of what it means to be a qualified successor manager?

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A No. It's defined, the indenture to CLOs, but I -- I don't know it off the top of my head.

Q Would being a registered investment advisor be one of the attributes of a qualified successor manager?

A Not necessarily.

Q Do you believe that an entity could serve as the portfolio manager of CLOs without being a registered investment advisor?

A I think Siri has been doing it for quite a while. Yes.

Q You do?

A Yes. Unless it specifically says it in the CLO indenture, there are managers out there that aren't registered investment advisors.

Q Do you know -- I'm sorry. I didn't mean --

A No. I was just saying, at least there used to be.

Q Did you ever check the indenture to see what the qualifications were to be a qualified successor manager for purposes of the Acis CLOs?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I did not.

BY MR. MORRIS:

Q Do you know if HCLOM Limited was, in fact, a qualified successor manager?

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MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: I do not know.
BY MR. MORRIS:
Q Did you know, at the time you signed this agreement, whether HCLOM Limited was a qualified successor manager?
A I believed, as presented to me by staff that I trusted, everything was accurate when I signed it.
Q Okay. But nobody told you that HCLOM Limited was a qualified successor manager, correct? You just believed that?
A I -- I didn't focus on it. I didn't have specific knowledge.
Q Okay. Would you have signed this agreement on Highland's behalf if you knew that HCLOM Limited was not qualified to be a successor manager?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: If I had thought anything was inaccurate, I wouldn't have signed it. And I would have asked for it to be corrected.
BY MR. MORRIS:
Q Do you see, in the same clause, it then says that HCLOM "irrevocably commits to be appointed as successor manager, in consideration of Acis assigning to it the note"?

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A Yes.
Q And is that your understanding of what the deal was? That HCLOM Limited would become the successor manager, and Acis would transfer the note to HCLOM?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: I mean, it says what it says. I -- I'm reading it for the first time.
BY MR. MORRIS:
Q But you don't have a recollection as to -- you don't have a recollection as to whether or not that was the substance of the transaction that's embodied in this document; is that fair?
A Other than it says what it says.
Q Okay. Do you know if HCLOM Limited was ever appointed as successor manager?
A I don't know.
Q Do you know if HCLOM Limited ever took any steps to become the successor manager?
A I -- I believe we took steps to do everything we said we were going to do and were only -- only stopped or paused or derailed based on injunctions, state actions, threat of injunctions, the Acis bankruptcy, or the Highland bankruptcy. But I -- I believe we moved in good faith on all the documents that we signed.

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Q Would you agree with me that HCLOM, LLC, is not a party to this particular agreement?
A It doesn't appear to be. It doesn't appear to be.
Q When you talk about the steps that were taken to create a successor to Acis, do you know whether those steps involved HCLOM Limited or HCLOM, LLC?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: Yeah, I don't -- I don't know specifically.
BY MR. MORRIS:
Q Did either one ever become the successor manager?
A I -- I don't -- Jernigan's injunction, I think, prevented a lot of things from happening, but I don't know if -- I thought Acis 6 took a different path. I just remember that vaguely, but I -- I don't know if that was enough to make these different entities applicable. I -- I don't know the answer.
Q Do you know if the decision was made prior to the filing of the Acis bankruptcy that HCLOM, LLC, and not HCLOM Limited would be established for the purpose of serving as the successor portfolio manager?
A I don't know.
Q And I apologize if I asked you this, but you

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have no knowledge that HCLOM Limited ever became the successor manager, correct?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: I -- I don't know.
BY MR. MORRIS:
Q Okay. You wouldn't have signed this agreement on Highland's behalf if you knew HCLOM Limited was not qualified to become a successor manager, fair?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: I -- I think I answered that. If there were any errors or anything I thought was erroneous or inconsistent, I would've not signed it and asked it to be corrected and as accurate as possible.
BY MR. MORRIS:
Q Did you take any affirmative steps to make sure that this agreement reflected the facts that existed at that time?
A No. I -- I trusted -- I trusted internal counsel.
Q Did you ask internal counsel any questions about this document before you signed it?
MS. DEITSCH-PEREZ: Object to the form.
I think that's actually the third time.
THE WITNESS: Yeah. No. No, I did not.

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BY MR. MORRIS:
Q You're familiar with the phrase "quid pro quo," fair?
A Yes.
Q Okay. What is your understanding of that term?
A That it was part of a -- an action was part of a -- a trade or a barter.
Q When you signed this agreement, did you understand that the quid pro quo was that HCLOM Limited would step into Acis's shoes and share the portion of the servicing fees that was to remit to Highland under the participation agreement, in exchange for the stream of revenue that was contemplated under the Highland note?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: Yeah. I didn't have an understanding that -- I didn't have an understanding of that, or I didn't have an understanding that this changed the previously negotiated note arrangement.
BY MR. MORRIS:
Q I didn't mean to suggest that it did. In fact, was it your understanding that this agreement was intended to simply let HCLOM Limited step into the shoes of Acis?

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A That was my general understanding.
Q Do you know who's managing this litigation today on behalf of HCLOM Limited? Who is the person -- not counsel, but who other than counsel is managing this on behalf of HCLOM Limited?
THE PROCEEDINGS OFFICER: Oh, I think we might have lost --
THE WITNESS: Nope.
BY MR. MORRIS:
Q Do you know, Mr. Dondero?
A No. I don't know. Can we take a break soon and have an idea of how much longer you think you got?
Q Sure. Just a couple more questions. So today, as you sit here today, you don't know who's managing this litigation on behalf of HCLOM Limited, correct?
A I do not.
Q Did you ever ask anybody?
A No.
Q Do you have any understanding who the officers of HCLOM Limited are today?
A No.
Q Do you have any understanding as to who owns HCLOM Limited today?
A No.

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Q Do you have any understanding as to who is authorized to act on behalf of HCLOM Limited today?
A No, I do not.
MR. MORRIS: Okay. I'm happy to take a break now, if you'd like. If I had to guess, I would say 90 minutes. So it's 3:19.
MS. DEITSCH-PEREZ: 90 -- hold on. 90 minutes would be four and a half hours. I thought you had committed that this would be no more than four.
MR. MORRIS: Deborah, if you want to cut me off, you are free to cut me off. If I take four and a half hours instead of four, you're free to do that. I will note you took a 20-minute break before instead of a 10-minute break, but I think that would --
MS. DEITSCH-PEREZ: No, no. John, I'm not I'm not talking about actual hours on the clock. I'm looking at the -- on the record. I don't think that counts --
MR. MORRIS: Deborah, if you want to cut him off after four hours, you can do that, and I will reserve my rights. That's all. I'm giving you an estimate of --
MS. DEITSCH-PEREZ: I'm just reminding you of your promise, John.
MR. MORRIS: Okay. And it's not a

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promise. It's an estimate, and you should know that better than anybody.
MS. DEITSCH-PEREZ: No, no. Actually, this time, because of the schedule --
MR. MORRIS: Let's take a break.
THE PROCEEDINGS OFFICER: Okay. I'm going to take us off the record.
(Off the record.)
THE PROCEEDINGS OFFICER: We are back on the record at 2:35 p.m., Central Time.
MR. MORRIS: Great.
BY MR. MORRIS:
Q So, Mr. Dondero, this Assignment and Transfer Agreement that's entered into among HCLOM Limited, Acis, and Highland is signed early November 2017, right?
A Yes.
Q And at around the same time, work is being done to either reset or refinance the Acis CLOs, right?
A I believe so.
Q Okay. And you were involved in that process, were you not?
A I was not.
Q No? What is a reset?
A A -- a reset is where you exchange and reprice the liabilities, assuming you still have enough equity

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to do so, or you resize the deal accordingly.
Q Is that different than refinancing?
A I'm sorry. What?
Q Is that different than a refinancing for this purpose?
A Is that different than a refinancing? Essentially -- essentially, it's one and the same.
Q Okay.
A A reset -- reset is a slightly easier version.
Q Okay. And at this time that the resets and the refinancings are being contemplated, you understood that the -- that one piece of that was that Acis would be replaced as the CLO portfolio manager, correct?
A Yes.
Q Okay. And if Acis were to be replaced as the CLO portfolio manager, did you understand that Acis would no longer have the right to receive the management fees or the servicing fees that we discussed earlier?
A Yes, when the -- when the resets or the refis were complete.
Q And the entity that would receive the management or servicing fees that we discussed, that would be the successor to Acis? The successor portfolio manager, right?
A Yes.

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Q Okay. Do you know who decided to pursue the resets on behalf of the Acis CLOs in late 2017?
A Some combination of the senior investment professionals and the legal staff. The deals themselves had paid down a significant amount, and the Acis brand was toxic. So the effort to refire reset involved, you know, resetting the interest rates, releveraging as much as possible, and moving away from the Acis brand.
Q Did you play any role in the decision to reset the Acis CLOs?
A I was aware of it. You know, I signed things that were put in front of me, authorized the plan that the lawyers and the investment people had to make it happen, but I -- I wasn't involved in the details.
Q But do you know who made the decision? Who gave the instruction to the team to pursue the resetting of the Acis CLOs?
A I -- I think, on their own -- on their own, the investment professionals knew that it was necessary and needed to happen. And then, you know, the adjusting and how to operate within the Acis L.P. agreement and the CLO agreement was the counsel of the legal guys on how best to do it.
Q But do you know who said, I authorize and instruct you to pursue the resetting of the Acis CLOs?

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Do you know?
A I -- I think the thing I keep dancing around; I'll say explicitly. It wasn't me. From a top-down basis, it was the business people knowing and realizing it needed to happen as responsible portfolio managers. And then you had the input of and counsel of the legal folks how to do it, and then you had input from the marketplace saying that the Acis name was toxic and non-marketable. It wasn't -- it wasn't top-down genius from my desk. It was obvious, normal course of business for the investment professionals.
Q I appreciate that those are the reasons that supported the decision. I'm asking you if you know, and if you don't, that's fine.
But do you know who made the decision to do this? Who was -- withdrawn.
Do you have any understanding as to who was authorized to make the decision, on behalf of Acis, to reset the Acis CLOs?
A In -- in the CLO management agreements, it's the CLO manager who has the ability to reset and refinance the CLOs.
Q Do you know, as you sit here today, who the CLO manager was?
A It depends on different points in time, right?

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I mean, there was Acis when Josh Terry was on board. There was Acis when Josh Terry was out. And then there's the intention to move it to the ALCM LTD or LLC that happened or didn't happen or partially happened, you know, along the way.
Q Right. I'm talking about a very specific moment in time, November 2017. It's just after Josh Terry obtained his arbitration award. It's at the same time that you signed this Assignment and Transfer Agreement on behalf of HCLOM Limited. You signed it on behalf of Highland and Acis, rather.
And the question is really pretty simple: At that moment in time, do you know who was authorized to have Acis reset the CLOs?
A I don't know specifically.
Q Is there a list of people from whom you believe would have had the authority to cause Acis to reset the CLOs, or you just don't have -- you can't name anybody?
A It's the same answer I've been giving, I think, for half an hour now.
Q I'm asking for specific names. You haven't given me one name, sir. I apologize. I don't mean to interrupt, and I don't want to be contentious.
I'm just asking you if you can identify a

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human being who you believe, in November 2017, had the authority to direct Acis to reset the CLOs?

A I -- I've given the names before. I'll give them again. On the investment side, it was Trey Parker or John Poglitsch. I don't remember who was in charge and -- or who was delegated to working on the CLOs, but those were the senior investment people. They reported to Mark Okada. I don't know if he was involved or not, but I've given those names at least once before, if not twice.

On the legal side, it was the people reporting to Thomas Surgent. And I've given these names at least once or twice before. It was Tim Cornyn (phonetic), and then there was a woman that no longer works for us who was a very good corporate lawyer, and she handled a lot of the document formation, company formation, company administration, et cetera. But she was a little bit more junior than Tim Cornyn and Thomas Surgeon.

And they -- they would've been -- they would've been among those five people, six people orchestrating the resets or the refis of the CLOs, which, again, is obvious on its face as they deliver, and their cost of debt is too high. It wasn't a brilliant -- brilliant observation from the top down of me ordering anybody to do anything.

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Q Were any of the people that you just named ever an officer or employee of Acis?

A I don't know.

Q Do you know what the source of authority would've been for them to engage in the conduct we're talking about? And that is directing Acis to reset the CLOs.

What would the source of authority have been?

A I mean, there's multiple sources. If it was Okada, I think he would've been an officer of Acis somewhere. If it was the investment people, the investment people on some sub-advisory or -- or sub-management agreement would've been responsible for the portfolio and administering the structure, which would include refinancing, whatever.

So I believe they would've felt they had adequate authority, and then I think the lawyers could do what was in the best interest of the investors that got materially harmed and damaged by enduring its injunction. And the investors who would've benefited from a reset, it was their responsibility, if not a fiduciary responsibility, to do what was in their best interest.

Q But you had absolutely nothing to do with the approval of this, right?

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A Like I've said, I'm the signator. There aren't a lot of signators around here, so I probably sign a hundred things a week. And I -- I rely on -- especially on an administrative or legal side, I -- I rely on counsel.

Q Okay. Do you recall that Mizuho was engaged to serve as agent in connection with the resetting and refinancing the Acis CLOs in November 2017?

A I remember their name. I -- I thought they were going to be in conjunction with Goldman. I thought they were going to be party of the underwriting syndicate. That's my recollection. But maybe they were looking at it from an administrative agent standpoint.

MR. MORRIS: All right. Let's mark, as Exhibit 9, what we have, Andrea, as tab 14.

(Exhibit 9 marked for identification.)

BY MR. MORRIS:

Q You will see this is a letter agreement between Mizuho and HCLOM, LLC. It's dated November 15th. And if we could just scroll down to the end, Mr. Dondero, let me see if I can find the exact page number. 12 of 19.

Is that your signature, sir?

A Yes.

Q Okay. And again, if we go back to the top --

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don't want to step on your toes at all. If you could just take a -- maybe a look at the beginning and tell me if you recall ever reading this document before?

A I do not.

Q Okay. Do you recall ever signing an agreement with Mizuho that related to the Acis CLOs?

A Okay. This is refreshing me on an issue that was an issue in terms of the refis or the resets. I think, on the refis, you needed to be compliant with the new --

Q The risk retention rules?

A Yeah, the new risk retention rules. I think, on a reset, you didn't need to, but on a refi, you did. But it looks like there -- this transaction -- yeah. "Engages the Placement Agent to act as sole financial arranger." So it looks like Mizuho was in competition with Goldman to be placement agent in terms of refinancing the restructures.

Q Okay. And you signed this agreement on behalf of HCLOM, LLC, correct?

A I'm getting there. C Level Management, LLC. Correct.

Q Okay. And if you go back to the first paragraph, HCLOM, LLC, is defined as the company. You take a look and confirm that for me?

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A LLC is defined as -- I'm sorry, what?
Q As the company. So in the first paragraph, you'll see a reference to HCLOM, LLC, and then there's a definition of the company. And I just want to make sure we're on the same page with that.
A Doesn't -- it -- it's not a defined term in that first paragraph. It just says, "the Company," right?
MS. DEITSCH-PEREZ: You have to go on to the next --
THE WITNESS: Oh, okay.
MS. DEITSCH-PEREZ: Yeah, there.
THE WITNESS: Highland C Level -- okay. I got it.
All right. So the company in the header is the company in the first paragraph, I guess, is what you're asking, which is LLC?
BY MR. MORRIS:
Q Right. So HCLOM, LLC, is defined in this agreement as the company, fair?
A Yes.
Q Okay. Now, if you turn the page, we'll go down to the page to Section 2, Engagement of the Placement Agent. Would you agree with me that the first sentence essentially says that the co-issuers and HCLOM,

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LLC, engage Mizuho to act as the sole financial arranger and placement agent for the transactions and offerings described in the document?
A Yes.
Q Okay. Do you know where HCLOM, LLC, got the authority to engage Mizuho for this purpose?
A I do not.
Q Do you know why HCLOM Limited wasn't designated as the company for purposes of serving in this capacity in connection with the resets?
A I do not.
Q Does this document -- is it fair to say that under this document, if these transactions had occurred, then HCLOM, LLC would've served as Acis's successor manager?
A I -- I don't want to make a legal interpretation.
Q I don't want you to make a legal interpretation, either. I'm asking for facts. Was it your understanding, when you signed this document, that HCLOM, LLC was going to serve as Acis's successor manager of the CLOs?
A I'm struggling with the word "successor." I think this engagement letter says that the LLC will be the manager of whatever CLOs fall out of this

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engagement.
Q And Acis would no longer be the manager, correct?
A Depending upon how the deals were handled or --
Q And HCLOM Limited was not going to play any role in the transactions and offerings described in this document, correct?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: I don't know.
BY MR. MORRIS:
Q Well, you can take your time and review the document if you'd like.
A Well, I don't see their name mentioned here, but I -- it would be -- I don't see their name mentioned here. I would like to leave it at that. I -- I don't know -- I -- it's too much for me to say they would have no involvement.
Q Okay. So I'm going to ask two questions, then. As you review this document, you don't see any reference to HCLOM, LTD, correct?
A I do not.
Q And based on your recollection, you have no personal knowledge that HCLOM, LTD was ever going to play a role -- withdrawn.

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Based on your recollection, you have no knowledge that HCLOM, LTD was going to play a role in the transactions that are described in this document, fair?
MS. DEITSCH-PEREZ: Object to the form.
THE WITNESS: I -- I don't have awareness.
BY MR. MORRIS:
Q Okay. Do you know why HCLOM, LLC was a signatory to this agreement rather than HCLOM, LTD?
A I do not.
Q Did you ever ask anybody why HCLOM, LTD wasn't signing this document instead of HCLOM, LLC?
A I do not.
Q Do you know if HCLOM, LLC ever succeeded Acis as the portfolio manager of the Acis CLOs?
A I -- like I said, I don't know how much that process was interrupted by the various other legal things that were going on.
Q But looking at this document, does that refresh your recollection that in November 2017, the expectation was that HCLOM, LLC would serve as the successor portfolio manager to Acis?
A That's what this document says, but I don't want to -- I don't want to extrapolate from that.

Q Okay. But you would agree with me that that's what this document says, fair?

MS. DEITSCH-PEREZ: Object to the form.

BY MR. MORRIS:

Q You can answer.

A Again, it says what it says, that the LLC would be the collateral manager.

Q Do you have any recollection of ever signing any document, other than the transfer agreement we looked at before, that contemplated that HCLOM, LTD would serve as Acis's successor portfolio manager?

A Not as I sit here today.

Q Okay. Let's go to page 3 and look at Section 3C. Do you see, in 3C, HCLOM, LLC represented, warranted, and agreed that it would, quote, "Act as collateral manager for the co-issuers"?

A (No audible response).

Q I'm just looking at C. We're only at one.

A Yeah. I see that.

Q Okay. And did you understand, at the time that you signed this document, that HCLOM, LLC was making this representation?

A I -- I don't remember.

Q When you signed the document, did you intend that Mizuho would rely on the representations and

warranties in the document?

A I -- I didn't focus on them, but I do think people rely on reps and warranties.

Q Do you know what happened with respect to the transactions and the resets described in this document after it was executed?

A Other than what I've spoken to generally, I mean, I think it was derailed by legal actions. I'm not sure much happened at all.

Q Okay. Going to try and speed this up a bit.

MR. MORRIS: Let's take that down, and let's put up -- let's mark, as the next exhibit, tab 7.

(Exhibit 10 marked for identification.)

BY MR. MORRIS:

Q Okay. And you'll see, Mr. Dondero, this is a document entitled Standard Custodial Terms for Highland CLO Management, LLC, dated as of January 19th, 2018, by and between HCLOM, LLC and U.S. Bank National Association.

Do you see that?

A Yes.

Q And if we go down towards the bottom, I think we'll find the signature page. And if you can go to 26 of 29, that's your signature, correct?

A Yes.

Q Okay. And do you recall signing an agreement with U.S. Bank in January 2018 on behalf of HCLOM, LLC?

A No.

Q Do you know, looking at the document, if this was part of the contemplated reset of the Acis CLOs?

A I don't know. Was this ever executed or -- by their side or --

Q Yeah. We can go back --

A Okay.

Q -- to the bottom if you want.

A I just -- I saw my signature. I didn't see theirs, but --

Q Okay. Take your time.

MS. DEITSCH-PEREZ: Following page.

THE WITNESS: The following page. Okay. Uh-huh. Okay.

BY MR. MORRIS:

Q So do you have any recollection of this document?

A No.

Q Do you have any recollection of entering into an agreement with U.S. Bank in January 2018 on behalf of HCLOM, LLC?

A No.

Q Do you know what role the custodian would play

in the resetting of the Acis CLOs?

A Every deal needs a custodial bank. So on refis -- on resets, you don't typically change, I don't think. But on refinancings, you typically have a new custodial bank.

Q And the custodial bank plays a different role than the placement agent that Mizuho was going to play, fair?

A Correct.

Q Okay. Do you know why you signed this document at this time?

A I -- I assumed it was something that was necessary as part of engaging Mizuho or Goldman, that they wanted to know we had a custodial bank on board.

Q And is this consistent expectation that HCLOM, LLC was going to serve as Acis's successor as the portfolio manager of the Acis CLOs?

A I -- I think this is just setting up a relationship with a custodial bank. I'm not sure it's -- I think it's meant to be consistent with the entities in the agreements with Mizuho or Goldman, but it's not -- in and of itself, it's not a commentary on Acis versus something else.

Q Do you recall if there was -- do you recall any discussion in late 2017, early 2018, concerning

whether HCLOM, LTD or HCLOM, LLC could or would serve as the successor portfolio manager to Acis?

A No.

Q Okay.

MR. MORRIS: Let's take that document down. Let's put up on the screen the next exhibit, which is tab 8.

(Exhibit 11 marked for identification.)

BY MR. MORRIS:

Q Okay. So this is just a one-page agreement. If we go to the second page, you'll see your signatures on behalf of Highland and Acis.

And then if we go to the last page, you'll see Mr. Kulani's (phonetic) name again on behalf of Summit, the director of HCLOM Limited; do you see that?

A Yes.

Q Okay. Have you seen this document before? Withdrawn.

Obviously, you did. You signed it, right? That's your signature. Those are your --

A Yes.

Q -- signatures we looked at?

A That is my signature.

Q Okay. Do you remember ever -- do you remember seeing this document before?

A No.

Q Do you recall if you signed -- if you read it before you signed it?

A I do not remember reading it.

Q Do you recall discussing it with anybody at any time?

A I do not.

Q Do you know what an -- what the purpose of the document is, now that you're looking at it?

A Again, it appears -- it appears to highlight the issue of risk retention rules that I -- I think influence how these transactions could be reset or refinanced, and I think also probably have something to do with the suitability or lack of suitability in -- on the part of Acis. I -- I --

Q So could -- I'm sorry?

A No. I was just going to say, I -- I don't remember the interplay of the issue. But it's something we'll get refreshed on, I guess --

Q Yeah.

A -- before -- before the trial. But there -- there was something to do with -- there was something to do with risk retention, and risk retention requires capital and requires new investment. And again, I -- I can't remember exactly, but I think it had something to

do with the suitability, or lack thereof, of Acis on an ongoing basis.

Q Well, the second paragraph refers to the transfer agreement that we looked at earlier, right?

A Yes.

Q Okay. And the third paragraph describes certain obligations on the part of both Acis and HCLOM Limited, fair?

A Yep.

Q Okay. And you have no reason to believe that paragraph 3 is incorrect in any way, right?

A I -- I didn't when I signed it. I don't as I'm looking at it now, either.

Q Okay. Great. So the next paragraph says that both Highland and HCLOM acknowledge a number of things. And the first one is that they intend to reset the CLOs, fair?

A Yes.

Q B says that each reset has to comply with the U.S. risk retention rules, fair?

A Yes.

Q C says that to comply with the U.S. risk retention rules in connection with the resets, "Each applicable CLO issuer will appoint Highland CLO Management, LLC, a Delaware limited liability company,

as the collateral manager of such CLO"; is that right?

A Yes.

Q Okay. And then it continues, and D, "Therefore, none of the notices have been nor will be delivered pursuant to Section 1 of the transfer agreement, and none of the appointments have been nor will be made pursuant to Section 2 of the transfer agreement."

Have I read that?

A Yes.

Q So is it fair to interpret this as saying there's a cause and effect here? That because Highland CLO Management, LLC, is being appointed pursuant to the U.S. risk retention rules, that the notices and appointments set forth in Sections 1 and 2 of the transfer agreement won't occur?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: Are those notices referring to notices to Limited? Is that what they're referring to?

BY MR. MORRIS:

Q You can look up above and see, in the third paragraph, what they referred to. You know what? Let's take it in pieces. Let's look at that third paragraph.

Did you understand that, pursuant to the

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transfer agreement, Acis was required to promptly provide notice to the controlling class of each CLO?

A Yes, I see that.

Q And did you understand that as part of the transfer agreement, that was an obligation on Acis's part?

A I -- I don't specifically have awareness of that.

Q Okay. Are you aware of Acis ever promptly providing notice to the controlling class of each CLO, as that phrase is used in this paragraph?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I -- I have no awareness whether they did or didn't or had an obligation.

BY MR. MORRIS:

Q Okay. The next sentence is -- says -- sentence that says that, after the delivery of the notices, "Each of Acis and HCLOM was required to promptly pursue an appointment for each CLO."

Do you see that?

A Yes.

Q Do you know if that ever happened? Did Acis and HCLOM ever promptly pursue an appointment for each CLO?

A I don't know.

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Q Okay. So now, going back to D, is it fair to say that the word "therefore" signifies that there's an effect that flows from C? And to be specific, is it fair to say that HCLOM, LLC, is going to be appointed as the collateral manager, and as a result, the notices and appointments contemplated by Sections 1 and 2 of the transfer agreement are not going to happen?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: Yeah. This is a legal document. I don't want to give a legal interpretation. You know, as a layperson, it appears to be a --

BY MR. MORRIS:

Q All right. So let me try it this way, then, because I'm certainly not looking for a legal conclusion. You signed this document on behalf of both Acis and Highland, correct?

A Right.

Q And you didn't read the document, correct?

A I did not read the document I was signing.

Q And you don't recall discussing the substance of this document with anybody prior to the time you signed it, fair?

A I did not. I do not.

Q Okay. Do you see, in the very last portion, it says, you know, taking the beginning, "Each of HCM

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and HCLOM hereby waive any breach of Sections 1 or 2 of the transfer agreement as applicable"? Do you see that?

A Yes.

Q Did you know when you signed this document that you were waiving breaches of the transfer agreement on behalf of Highland?

A I mean, this looks like document cleanup or clarification in the movement towards LLC from LTD. I did -- I did not have specific awareness that we were waiving a breach, but it -- it also doesn't strike me as material.

Q Okay. I'll move -- it's interesting that you don't want to play lawyer unless you do, right? Like, materiality is a legal conclusion; would you agree?

A Well, the materiality is a financial concept, you know? That's -- I -- I mean materiality in a financial way.

Q Okay. I appreciate that. Do you know what, if anything, Highland received in exchange for the waiver set forth in (indiscernible - audio disruption)?

A I -- I do not specifically.

Q Did you ever ask anybody why Highland was waiving breaches of the transfer agreement?

A I did not.

Q Did anybody ever explain to you what breaches

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occurred of the transfer agreement?

A No.

Q Did anybody ever explain to you what benefit there would be to Highland by waiving the breaches of the transfer agreement?

A No.

MR. MORRIS: All right. Why don't we take a five-minute break? I'll just have a few minutes more. I just want to look at my notes.

THE PROCEEDINGS OFFICER: Sure. Taking us off the record.

(Off the record.)

THE PROCEEDINGS OFFICER: Back on record at 3:25 p.m., Central Time.

BY MR. MORRIS:

Q Okay. Just a couple of questions, Mr. Dondero. Do you believe that Highland's objection to the claim -- to the scheduled claim that encompasses the note should be overruled? Do you think the Court should overrule Highland's objection?

MS. DEITSCH-PEREZ: Object to the form.

THE WITNESS: I think it should be paid.

BY MR. MORRIS:

Q Okay. And why do you think it should be paid, in your own words?

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A It's -- it's a bona fide note. It had a tax angle to it. It's separate and distinct from when -- whether any of the fees are paid or not. In some ways, it's not unlike the note's case, where you guys argued that it was a bona fide note, you know, in and of itself, separate and distinct from anything else. Yeah. I mean, I don't know. That -- that's in a nutshell. I mean, again, it was -- it was done in good faith. It was a bona fide note.

But again, more importantly, Josh Terry had a $2 million claim when he left. He wrote me an eight-page heartfelt, handwritten note that he considered me like a father, and even though he only deserved a million or two, he should get paid four for having built the organization. He got awarded eight in the arbitration. He took out 15 initially, as much as 25 million out of Acis, all out of the hides of the investors. You guys gave him another 30 from the Highland estate. You know, he's -- he's parlayed a couple million bucks into 60 or 70, and he's suing me separately for another 75 million.

And when you guys settled with Acis and Josh Terry, you were 100 percent aware of the note, all the details around it, and that it was due, et cetera. And to the extent that Highland didn't get paid fees it

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might have, or could have, or should have that aren't directly related, but you want to make the argument are directly related, you, in essence, considered those or should have considered those in the Josh Terry, you know, unjust enrichment train.

Q Anything else?

A I'm sorry. You asked for my own words. Sorry if I rambled too long. That's it. No, that's all I got.

Q Okay. When you say that it's separate and distinct, are you saying the obligations under the note are separate and distinct from the obligations under the transfer agreement?

A That's our -- yes. It's separate and distinct from whether or not a penny of fees got paid or no fees got paid or whatever. Again, it was all something that was well known to Siri and the estate when you threw tens of millions of dollars at Josh Terry.

Q Okay. Anything else to add?

A That's it at the moment. Thank you.

MR. MORRIS: Okay. Thank you very much for your time, Mr. Dondero. Good to see you. Be well.

THE WITNESS: You, too. See you.

MR. MORRIS: Take care, folks. Bye now.

THE PROCEEDINGS OFFICER: There's

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actually a couple questions that I need to ask before we go off the record, Mr. Morris.

MR. MORRIS: Okay.

THE PROCEEDINGS OFFICER: So the certified transcript is included in your order. I just wanted to confirm you wanted to be getting the transcript.

MR. MORRIS: Yes, please.

THE PROCEEDINGS OFFICER: Okay. And I also wanted to confirm there was an expedite date for tomorrow, November 5th, 2024.

MR. MORRIS: Didn't quite need it that fast. I don't -- if you want to do that, that's fine because I don't mean to take money away from you. If you would be happier waiting until Friday, that would be okay, too. So I'll leave it to you. I'll take it tomorrow and pay for tomorrow if that's, you know, the deal, and that's what you want to do.

If you'd prefer a slightly more leisurely pace, you know, Thursday or Friday would be fine, too, okay?

THE PROCEEDINGS OFFICER: Okay. Perfect. So --

MS. DEITSCH-PEREZ: My two sense would be, if you don't need it expedited, John, don't order it

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expedited. Don't --

MR. MORRIS: Please --

MS. DEITSCH-PEREZ: -- take money out of the estate to pay for the expedited.

MR. MORRIS: Please don't tell me what to do. Thank you.

THE PROCEEDINGS OFFICER: So would the 8th work all right for you, then, sir?

MR. MORRIS: Yeah, that would be great.

THE PROCEEDINGS OFFICER: Okay. Perfect. Thank you.

MR. MORRIS: Thank you.

THE PROCEEDINGS OFFICER: And I'm sorry. Oh, and I -- Ms. Deborah, I'm so sorry. I don't want to mispronounce your last name. Would you like to purchase a copy of the transcript, ma'am?

MS. DEITSCH-PEREZ: Don't I get one, representing the witness?

THE PROCEEDINGS OFFICER: From what --

MR. MORRIS: You know, that -- that's taking money out of his pocket, but you do what you want. I'll be sending you the transcript, and Mr. Dondero needs to read it.

MS. DEITSCH-PEREZ: I'll take a -- I mean, I'll take -- I don't need it expedited. I'll take

a condensed.

THE PROCEEDINGS OFFICER: Okay.

MS. DEITSCH-PEREZ: But send me whatever I'm entitled to as counsel for the witness.

THE PROCEEDINGS OFFICER: Okay.

MR. MORRIS: All right, Kindel. Thanks so much. Anything else?

THE PROCEEDINGS OFFICER: Thank you. I think that's all that I need.

Thank you so much, everybody.

MR. MORRIS: All right.

(Proceeding concluded at 3:31 p.m., CT)

(Read and sign waived.)

* * * * *

CERTIFICATE OF PROCEEDINGS OFFICER

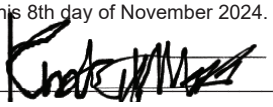
I, Kindel McDermott, CDR-3527, hereby certify:

That the foregoing proceedings were taken before me at the time and place therein set forth;

That the proceedings were recorded by me and thereafter formatted into a full, true, and correct transcript of same;

I further certify that I am neither counsel for nor related to any parties to said action, nor in any way interested in the outcome thereof.

DATED this 8th day of November 2024.



Kindel McDermott, CDR-3527
Proceedings Officer
Commission No.: 20234044059
Commission Expiration: November 21, 2027

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EXHIBIT 63

ASSIGNMENT AND TRANSFER AGREEMENT

THIS AGREEMENT FOR ASSIGNMENT AND TRANSFER OF PROMISSORY NOTE (this "***Agreement***"), dated as of November 3, 2017, is entered into by and between ACIS CAPITAL MANAGEMENT, L.P., a Delaware limited partnership ("***Acis***"), HIGHLAND CAPITAL MANAGEMENT, L.P., a Delaware limited partnership ("***HCM***") and HIGHLAND CLO MANAGEMENT, LTD., a Cayman Islands exempted company ("***HCLOM***", and together with HCM and Acis, the "***Parties***"). Capitalized terms used herein but not defined have the meanings ascribed thereto in the Agreement for Purchase and Sale of CLO Participation Interests between Acis and HCM dated as of October 7, 2016 (the "***Purchase Agreement***" and the promissory note therein, the "***Note***").

RECITALS

Whereas, Acis is portfolio manager to certain collateralized loan obligations listed in Schedule A of the Purchase Agreement and is entitled to fee compensation in connection therewith as set forth therein (the "***CLOs***", the governing documents thereof, the "***CLO Documents***" and such fees, the "***Servicer Fees***");

Whereas, Acis and HCM entered into the Purchase Agreement, whereby Acis sold a portion of its future Servicer Fees to HCM in exchange for cash flows from HCM, in each case as set forth in the Note (such future Servicer Fees identified to be paid to HCM pursuant to the Purchase Agreement, the "***HCM Stabilization Fees***" and such cash flows from HCM, the "***Stabilization Payments***");

Whereas, HCM has notified Acis that HCM is unwilling to continue to provide support personnel and other critical services to Acis with respect to the CLOs (the "***Notification***");

Whereas, Acis has determined that the effect of the Notification is that it cannot fulfill its duties as portfolio manager of the CLOs, and in order to ensure the continued operation of such CLOs and protection for its stakeholders, it must assign its rights as portfolio manager in the CLOs to a qualified successor portfolio manager pursuant to the CLO Documents (a "***Successor Manager***");

Whereas, HCLOM, a qualified Successor Manager, irrevocably commits to be appointed as Successor Manager in consideration of Acis assigning to it the Note, subject to the conditions set forth in the CLO Documents and pursuant to the terms herein;

Whereas, Acis is expected to incur significant costs and expenses related to ongoing claims and litigation to which Acis is either a party or is otherwise obligated with respect to such costs and expenses (the "Acis Legal Expenses"); and

Whereas, Acis also is expected to have ongoing accounting and administrative expenses (the "Acis Administrative Expenses" and together with the Acis Legal Expenses, the "Acis Expenses").

AGREEMENT

Now, therefore, in consideration of the promises and mutual agreements set forth herein, and in consideration of the mutual representations, warranties and covenants herein, and intending to be legally bound hereby, the Parties agree as follows:

1. **Succession**. Acis shall promptly provide the Controlling Class (as defined in each of the CLO Indentures) with notice requesting the appointment of HCLOM as Portfolio Manager pursuant to the requirements of the CLO Documents (each, a "***Notice***" and the period between the Notice and an Appointment (as such term is defined below), the "***Post-Notice Period***").

2. **Successor Manager.** Subsequent to the Notices, each of Acis and HCLOM shall promptly pursue Successor Manager appointment of HCLOM in respect of each CLO, including but not limited to achieving all conditions precedent required by the CLO Documents in such respect (consummation of HCLOM's appointment as Portfolio Manager of a given CLO, an "***Appointment***").

3. **Assignment and Transfer of the Promissory Note; Stabilization Payments.**

   a. Effective immediately upon execution of this Agreement by the Parties, all right, title and interest of Acis under the Note, including the right to any and all Stabilization Payments not yet paid to Acis, are hereby irrevocably assigned and transferred by Acis to HCLOM, it being understood that from the date of such assignment, HCLOM shall become the "Payee" thereunder.
   b. For so long as Acis shall receive Servicer Fees following the date hereof, Acis shall remit to HCM the HCM Stabilization Fees pursuant to the Note Purchase Agreement.
   c. For so long as HCLOM receives any Servicer Fees following any Appointment, then HCLOM shall remit to HCM any portion of such fees that would otherwise have constituted HCM Stabilization Fees pursuant to the Note Purchase Agreement if Acis was the recipient of such fees.
   d. HCLOM shall sign a joinder to Note Purchase Agreement upon HCM's written notice thereof.

4. **Expense Support**. In the event Acis delivers written notice to HCLOM that Acis is unable to pay when due any Acis Expenses, then HCLOM shall promptly pay to Acis, or at Acis' written request, to Acis' creditors, the amount of such shortfall, provided that in no event shall HCOLM's obligations under this paragraph exceed greater than $2 million of Acis Legal Expenses in the aggregate, or greater than $1 million of Acis Administrative Expenses in the aggregate.

5. **Indemnity**. Acis shall and hereby does, to the fullest extent permitted by applicable law, advance, indemnify and hold harmless any Covered Person from and against any and all claims, demands, liabilities, costs, expenses, damages, losses, suits, proceedings, judgments, assessments, actions and other liabilities, whether judicial, administrative, investigative or otherwise, of whatever nature, known or unknown, liquidated or

unliquidated ("***Claims***"), that my accrue to or be incurred by any Covered Person, or in which any Covered Person may be threatened, relating to this Agreement, including amounts paid in satisfaction of judgments, in compromise or as fines or penalties, and attorneys' fees and expenses incurred in connection with the preparation for or defense or disposition of any investigation, action, suit, arbitration or other proceeding (a "***Proceeding***"), whether civil or criminal (all of such Claims, amounts and expenses referred to therein are referred to collectively as "***Damages***"), except to the extent that it shall have been determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, that such Damages arose primarily from fraud, bad faith or willful misconduct of such Covered Person. The termination of any Proceeding by settlement, judgment, order, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that any Damages relating to such settlement, judgment, order, conviction or plea of nolo contendere or its equivalent or otherwise relating to such Proceeding arose primarily from fraud, bad faith or willful misconduct of any Covered Persons. "***Covered Person***" means each of HCLOM and HCM, as well as each and every one of their affiliates (other than Acis), and all of HCLOM's and HCM's respective managers, members, principals, partners, directors, officers, shareholders, employees and agents.

6. Miscellaneous.

a. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties, provided however that no party hereto may assign or transfer any of its rights or obligation hereunder without the prior written consent of the other parties hereto.

b. No Third Party Beneficiaries. For the avoidance of doubt, this Agreement is not intended to and does not confer any right to any person or entity other than the Parties hereto.

c. Terms Confidential. The Parties agree that they will keep the terms, amounts, and facts of this Agreement completely confidential, and that they will not hereafter disclose any information concerning this Agreement to anyone except their respective attorneys or accountants. Notwithstanding the foregoing prohibition, the Parties shall not be prohibited from disclosing the terms, amounts and facts of this Agreement or this Agreement itself as may be requested by governmental entities or required by law.

d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Cayman Islands, with exclusive jurisdiction in the courts of George Town, Grand Cayman.

e. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

f. Headings. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. All references in this Agreement to articles, sections, paragraphs, exhibits and schedules shall, unless otherwise provided, refer to articles, sections and paragraphs hereof and exhibits and schedules attached hereto, all of which exhibits and schedules are incorporated herein by reference.

g. Notices. All notices, demands and requests required or permitted to be given hereunder shall be in writing and shall be delivered by hand or sent by telecopy (with confirmed transmission), or sent, postage prepaid, by registered, certified or express mail, or reputable overnight courier service, and shall be deemed given when so delivered by hand, or confirmed after telecopying, or if mailed, three (3) business days after mailing (one (1) business day in the case of express mail or overnight courier service), as follows (or to such other address or telecopy number as a party shall specify by notice as provided herein to the other party hereto):

i. If to Acis:
Acis Capital Management, LP
300 Crescent Court, Suite 700
Dallas, Texas 75201
Facsimile: 972-628-4147

ii. If to HCM:
Highland Capital Management, LP
300 Crescent Court, Suite 700
Dallas, Texas 75201
Facsimile: 972-628-4147

iii. If to HCLOM:
Highland CLO Management, Ltd.
PO Box 309
Ugland House
Grand Cayman KY1-1104
Cayman Islands

h. Specific Performance. The Parties agree that the rights created by this Agreement are unique and that the loss of any such rights is not susceptible to monetary quantification. Consequently, the Parties agree that an action for specific performance, including for temporary and/or injunctive relief) of the obligations created by this Agreement is a proper remedy for the breach of the provisions of this Agreement, and HCM shall be

entitled to such relief without the necessity of proving actual damages or posting a bond.

i. Costs, Expenses. The Parties shall each pay their own costs, fees and expenses in connection

j. Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Seller and the Purchaser.

k. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision(s) were so excluded and shall be enforceable in accordance with its terms.

l. Entire Agreement. This Agreement, together with all exhibits and schedules hereto, constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior negotiations, correspondence, agreements, understandings, duties or obligations between the parties with respect to the subject matter hereof.

m. Further Assurances. From and after the date of this Agreement, upon the reasonable request of the Purchaser, the Seller shall execute and deliver such instruments, documents or other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purposes of this Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of November 3, 2017.

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its General Partner

By:_____

Name: James Dondero

Title: President

ACIS CAPITAL MANAGEMENT, L.P.

By: Acis Capital Management GP, LLC, its General Partner

By:_____

Name: James Dondero

Title: President

HIGHLAND CLO MANAGEMENT, LTD.

_____

For and on behalf of Summit Management, Limited

Director

EXHIBIT 64

EXH-9
Nov 04 2024

November 15, 2017

Private and Confidential

ACIS CLO 2014-3 Ltd.
c/o MaplesFS Limited
P.O. Box 1093, Boundary Hall
Cricket Square
Grand Cayman, KY1-1102
Cayman Islands

ACIS CLO 2014-3 LLC
c/o Puglisi & Associates
850 Library Avenue, Suite 204
Newark, Delaware 19711
Attn: Donald J. Puglisi

ACIS CLO 2014-4 Ltd.
c/o MaplesFS Limited
P.O. Box 1093, Boundary Hall
Cricket Square
Grand Cayman, KY1-1102
Cayman Islands

ACIS CLO 2014-4 LLC
c/o Puglisi & Associates
850 Library Avenue, Suite 204
Newark, Delaware 19711
Attn: Donald J. Puglisi

ACIS CLO 2014-5 Ltd.
c/o MaplesFS Limited
P.O. Box 1093, Boundary Hall
Cricket Square
Grand Cayman, KY1-1102
Cayman Islands

ACIS CLO 2014-5 LLC
c/o Puglisi & Associates
850 Library Avenue, Suite 204
Newark, Delaware 19711
Attn: Donald J. Puglisi

Highland CLO Management, LLC
300 Crescent Court, Suite 700
Dallas, TX 75201

Re: ACIS CLO 2014-3, ACIS CLO 2014-4 and ACIS CLO 2014-5 Resets

Dear Sirs:

This letter agreement (together with all schedules, annexes, exhibits and attachments hereto, this "Agreement") confirms the terms on which each of ACIS CLO 2014-3 Ltd., ACIS CLO 2014-4 Ltd. and ACIS CLO 2014-5 Ltd., respectively (each, an "Issuer" and collectively, the "Issuers"), ACIS CLO 2014-3 LLC, ACIS CLO 2014-4 LLC and ACIS 2014-5 LLC, respectively (each, a "Co-Issuer" and collectively with the Issuers, the "Co-Issuers"), and Highland CLO Management, LLC, (the "Company" and together with its affiliates that are directly involved in the Transactions (as hereinafter defined), "Highland") hereby engages Mizuho Securities USA LLC. (the "Placement Agent" and together with its affiliates, "Mizuho") in connection with three proposed refinancing and reset transactions (each, a "Transaction" and collectively, the "Transactions").

Highland has advised Mizuho that the Company intends to initiate Transactions with respect to the refinancing of the Secured Notes issued by each of the Co-Issuers. The Company acknowledges that the final regulations implementing the credit risk retention requirements of Section 15G of the United States Securities Exchange Act of 1934, as amended (the "Exchange Act"), codified at 17 C.F.R. Part 246 (the "U.S. Risk Retention Rules") will apply in connection with each Transaction. Each of the parties hereto acknowledges that Acis Capital Management, L.P. is the current collateral manager to the Co-Issuers, however in order to comply with the U.S. Risk Retention Rules and enhance the marketability of the Offered Notes (as hereinafter defined), as a condition to closing of the Transactions, Acis will be replaced by the Company, an affiliated registered investment adviser, as the collateral manager of the Co-Issuers.

1. *The Transactions*.

Each Transaction will involve, among other things, the sale, arrangement or placement, in a private transaction of replacement securities to replace the applicable Secured Notes (with respect to a Transaction, the "Offered Notes") in connection with a refinancing effected by the applicable Issuer in accordance with its indenture, on terms and subject to documentation acceptable to the Placement Agent and the Company.

2. *Engagement of the Placement Agent*. (a) Each of the Co-Issuers and the Company hereby engages the Placement Agent to act as sole financial arranger of each Transaction and sole placement agent for the offering of each of the Offered Notes (each, an "Offering"). Each of the Co-Issues and the Company agrees that it shall not appoint any third party as an additional financial arranger of the Transactions or as the Placement Agent or initial purchaser for any Offering without obtaining the Placement Agent's prior written consent to such appointment and to the terms of such third party's participation in the Transactions.

(b) The services to be provided by the Placement Agent in connection with its engagement hereunder will include, without limitation:

(i) Acting as initial purchaser or placement agent of the Offered Notes and managing each Offering (including managing communications with prospective investors).

(ii) Taking such incidental or related actions to assist the Company and each Issuer as the Company may deem to be appropriate, necessary or reasonable in connection with the such placement; and

(iii) Assisting in (A) preparing written materials for the preliminary marketing of the Offered Notes (together with any amendments or supplements thereto with respect to each Offering, "Marketing Materials") and (B) preliminary and final offering documents for the Offered Notes (together with any amendments or supplements thereto with respect to each Offering, the "Offering Documents"

and together with the Marketing Materials with respect to each Offering, the "Disclosure Documents").

(c) Each of the Co-Issues and the Company acknowledges and agrees that the Placement Agent's engagement hereunder is not an agreement by the Placement Agent to purchase or place the Offered Notes or any other securities. The Placement Agent's agreement to place the Offered Notes will be set forth in a separate placement agency agreement between each Co-Issuer and the Placement Agent that is in the Placement Agent's customary form and that contains terms and conditions mutually acceptable to each applicable Co-Issuer, the Company and the Placement Agent.

3. *The Company*.

(a) Each Transaction will be effected at the direction of the respective Holders of the requisite percentage of the Subordinated Notes issued by the applicable Co-Issuer. The Company will use reasonable efforts to cooperate with the Holders of the requisite percentage of the Subordinated Notes in causing the indenture to be amended for the purpose of making such changes as will be necessary to issue the Offered Notes in connection with such Transaction.]

(b) For the avoidance of doubt, the Placement Agent's role as sole financial arranger and sole placement agent will not include acting as "arranger" for purposes of Rule 17g-5 under the Securities Act of 1934, as amended ("Rule 17g-5"). Each Co-Issuer has established and will be responsible for maintaining a website to comply with Rule 17g-5.

(c) The Company represents, warrants, acknowledges and agrees that:

(i) it will act as collateral manager for the Co-Issuers;

(ii) Mizuho shall have the right to approve all investor presentations, term sheets and offering memoranda furnished by or on behalf of any party to prospective investors in connection with the Transactions;

(iii) all Manager Provided Information (as defined below) is and will be true and correct in all material respects and does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not misleading in light of the circumstances under which such statements are made, in each case as of the date of such statements;

(iv) Mizuho may rely, without independent verification, upon the accuracy and completeness of all information furnished by the Company to Mizuho in connection with the Transactions, including, without limitation, all Manager Provided Information, and that Mizuho does not assume any responsibility or liability therefor;

(v) it will assist Mizuho in completing a satisfactory preliminary marketing and offering of the Offered Notes in such manner as Mizuho may reasonably request from

time to time, including, without limitation, providing prospective investors from time to time with reasonable access to the appropriate officers, accountants, legal counsel and other parties and facilities of the Company; and

(vi) (A) either it or its affiliate will be the "sponsor" (as defined in the U.S. Risk Retention Rules) of each Transaction for purposes of the U.S. Risk Retention Rules, (B) either it or an entity meeting the requirements for being a "majority-owned affiliate" (as defined in the U.S. Risk Retention Rules) will acquire and retain an "eligible horizontal residual interest" (as defined in the U.S. Risk Retention Rules) in each Transaction in a manner that complies with the U.S. Risk Retention Rules for so long as required to comply with the U.S. Risk Retention Rules, and (C) (1) it will cause to be provided to prospective investors each of the disclosures required under the U.S. Risk Retention Rules and such disclosures shall be included under the heading "Credit Risk Retention" (the "Credit Risk Disclosures") in the applicable Offering Documents, (2) it will cause to be provided a copy of such Credit Risk Disclosures to Mizuho at least one business day prior to the delivery of the applicable Offering Documents to prospective investors, (3) it will cause such Credit Risk Disclosures to contain a disclaimer with respect to Mizuho not having participated in the preparation thereof in form and substance satisfactory to Mizuho, (4) it will cause such Credit Risk Disclosures to be provided (i) to potential investors on the second business day prior to the pricing date of the Transaction (it being understood that the Credit Risk Disclosures will be included in the applicable Offering Documents to be provided by the applicable Co-Issuers, through Mizuho, to potential investors at least two business days prior to the pricing date), and (ii) on the date of delivery of, or prior to the delivery of, the applicable Co-Issuer's first monthly report following the Closing Date (provided that this covenant will be satisfied if such information is included in such monthly report).

4. *Marketing and Offering of Securities*. (a) The Company represents and agrees that neither it nor any of its affiliates (i) has offered or sold or will offer or sell the Offered Notes by any form of general solicitation or general advertising within the meaning of Rule 502(c) of Regulation D of the Securities Act or (ii) has engaged or will engage in any directed selling efforts within the meaning of Regulation S of the Securities Act with respect to the Offered Notes.

(b) The Company agrees to use reasonable efforts to assist the Placement Agent in completing a satisfactory preliminary marketing and offering of the Offered Notes in such manner as the Placement Agent may reasonably request from time to time, including, without limitation, furnishing the Placement Agent with all relevant financial and other information regarding the Company and its affiliates, and regarding the pool of collateral obligations owned by the Co-Issuers (the "Collateral Pool"), that the Placement Agent may reasonably request for inclusion in the Disclosure Documents or otherwise, to the extent such information is reasonably available to the Company.

(c) The Company acknowledges and agrees that the Placement Agent may rely, without independent verification, upon the accuracy and completeness of all information furnished

in writing by the Company to the Placement Agent expressly for use in connection with each Offering (including, for the avoidance of doubt, the information furnished in writing by the Company expressly for use in the offering circular relating to such Offering under the heading "Credit Risk Retention) (collectively, the "Manager Provided Information") and that the Placement Agent does not assume any responsibility therefor.

The Company agrees that it (i) shall notify the Placement Agent promptly if (A) any material adverse change, or any development that could reasonably be expected to result in a material adverse change, occurs in the business, properties or financial condition of the Company or the Collateral Pool, (B) at any time, the Manager Provided Information relating to the Company and its affiliates included in the Disclosure Documents then in use includes any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading or (C) any Manager Provided Information furnished by the Company to the Placement Agent (and relating to the Company and its affiliates) is or becomes inaccurate, incomplete or misleading in any material respect and (ii) shall provide the Placement Agent, upon its reasonable request, with updated Manager Provided Information for inclusion in the Disclosure Documents.

The Company acknowledges and agrees that it shall be a condition to the issuance of the Offered Notes that the applicable Co-Issuer's counsel shall have delivered to the Placement Agent on the closing date of each Transaction (each, a "Closing Date") a Rule 10b-5 negative assurances letter covering the final Offering Documents.

5. *Fees and Expenses*. It is agreed that (a) on the Closing Date with respect to the ACIS CLO 2014-3 Transaction, the Placement Agent, as compensation for its services hereunder, will be paid a fee that is equal to 18.0 basis points on the face amount of the Offered Notes in respect of such Transaction (other than Offered Notes placed with the Company or any of its affiliates, or funds or accounts that are managed or advised by the Company or any of its affiliates), (b) on the Closing Date with respect to the ACIS CLO 2014-4 Transaction, the Placement Agent, as compensation for its services hereunder, will be paid a fee that is equal to (x) 19.0 basis points on the face amount of the Offered Notes in respect of such Transaction (other than Offered Notes placed with the Company or any of its affiliates, or funds or accounts that are managed or advised by the Company or any of its affiliates), plus (y) if the reinvestment period for such Transaction is 2.5 years or longer from the applicable Closing Date, 2.5 basis points on the face amount of the Offered Notes in respect of such Transaction (other than Offered Notes placed with the Company or any of its affiliates, or funds or accounts that are managed or advised by the Company or any of its affiliates), and (c) on the Closing Date with respect to the ACIS CLO 2014-5 Transaction, the Placement Agent, as compensation for its services hereunder, will be paid a fee that is equal to (x) 20.0 basis points on the face amount of the Offered Notes in respect of such Transaction (other than Offered Notes placed with the Company or any of its affiliates, or funds or accounts that are managed or advised by the Company or any of its affiliates), plus (y) if the reinvestment period for such Transaction is 2.5 years or longer from the applicable Closing Date, 2.5 basis points on the face amount of the Offered Notes in respect of such Transaction (other than Offered Notes placed with the Company or any

of its affiliates, or funds or accounts that are managed or advised by the Company or any of its affiliates, in each case, which fee shall be payable solely by the applicable Co-Issuer and shall be paid as an Administrative Expense (as defined in the applicable indenture) in accordance with the Priority of Payments (as defined in the applicable indenture). For the avoidance of doubt, the Placement Agent's fees shall not be adjusted or reduced as a result of any discount on the purchase price of the Offered Notes and the cost of any discount shall be borne solely by the Co-Issuer.

The following expenses shall be payable solely by the applicable Co-Issuer and shall be paid as an Administrative Expense in accordance with the Priority of Payments on the applicable Closing Date: all expenses associated with the Transaction (including but not limited to the fees and expenses of the Placement Agent's outside counsel, the Company's outside counsel, the Co-Issuer's outside counsel (including "deal counsel" and special counsel in the Co-Issuer's jurisdiction of incorporation), the trustee's outside counsel and outside accountants, rating agency fees, listing fees, issuing and paying agent fees and the Placement Agent's and the Co-Issuer's out-of-pocket expenses) ("Costs and Expenses"). The parties agree that Dechert shall act as "deal counsel" for the Co-Issuers and as the Company's outside counsel (which role will include the provision of a customary "negative assurance" letter with respect to the Transactions). The parties further understand that Dechert has agreed to limit its fees in connection with each Transaction to a maximum of $150,000 per Transaction. The parties also agree that Schulte Roth & Zabel LLP shall act as the Placement Agent's outside counsel in connection with the Transactions and the parties understand that Schulte Roth & Zabel LLP has agreed to limit its fees to a maximum of $200,000 in the aggregate for all three Transactions. If this Agreement terminates on an Expiration Date other than the last Closing Date, then all Costs and Expenses with respect to any Transaction that has not closed, shall be equally split between the Co-Issuers and the Placement Agent unless one of the parties materially breaches its obligations or unilaterally terminates this Agreement without Cause (as defined below), in which case, such breaching or terminating party shall be responsible for all Costs and Expenses.

6. *Indemnification and Contribution.* In consideration of the Placement Agent's engagement hereunder, each of the Co-Issuers and the Company agrees to the provisions set forth in Schedule I hereto, which provisions are incorporated by reference herein and constitute a part hereof.

7. *Termination and Survival.* The Placement Agent's engagement hereunder and the term of this Agreement will commence upon the execution of this Agreement by all parties, and will continue until the earliest to occur of (i) the last Closing Date, (ii) termination by either Mizuho or the Company of this Agreement for Cause, and (iii) (a) in the event at least two Closing Dates have occurred, May 15, 2018, in the event less than two Closing Dates have occurred, March 16, 2018, or such later date as mutually agreed by Mizuho and the Company (the "Expiration Date"). For purposes hereof, "Cause" shall mean a material breach by the non-terminating party of its obligations hereunder.

Notwithstanding the foregoing or anything to the contrary herein, this Section 7 (Termination and Survival) and Sections 4 (Marketing and Offering of Securities), 5 (Fees and Expenses), 6 (Indemnification and Contribution), 8 (Certain Matters Relating to

Engagement), 10 (Governing Law, Waiver of Jury Trial and Submission to Jurisdiction) and 11 (Miscellaneous) will survive the expiration or any termination of the Placement Agent's engagement under this Agreement (whether as a result of the completion of the offering of the Offered Notes or otherwise).

8. *Certain Matters Relating to Engagement.* (a) Each of the Co-Issuers and the Company acknowledges that the Placement Agent has been engaged solely as an independent contractor to provide the services set forth herein and any duties of the Placement Agent arising out of its engagement hereunder shall be owed solely to the Co-Issuers and the Company. In rendering the services set forth herein, the Placement Agent will be acting solely pursuant to a contractual relationship on an arm's-length basis with respect to each Offering (including in connection with determining the terms of each Offering) and not as a financial advisor or a fiduciary to any Co-Issuer, the Company or any other person. Each of the Co-Issuers and the Company further acknowledges and agrees that any review by the Placement Agent of the Company, the Co-Issuers, each Offering, the terms of the Offered Notes and other matters relating thereto will be performed solely for the benefit of the Placement Agent and shall not be on behalf of any Co-Issuer, the Company or any other person. In addition, each of the Co-Issuers and the Company agrees that the Placement Agent may perform the services contemplated hereby in conjunction with its affiliates and that any the Placement Agent affiliates performing services hereunder shall be entitled to the benefits and be subject to the terms of this Agreement.

(b) Each of the Co-Issuers and the Company acknowledges that the Placement Agent is not advising any Co_Issuer, the Company or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. Each of the Co-Issuers and the Company shall consult with its own respective advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Placement Agent shall have no responsibility or liability to the Company or the Co-Issuer with respect thereto.

(c) Each of the Co-Issuers and the Company understands that (i) so long as any Offered Notes are outstanding, the applicable Co-Issuer will be required under any purchase agreement or placement agency agreement between it and the Placement Agent to furnish to the Placement Agent copies of all reports or other communications (financial or other) furnished to holders of the Offered Notes (collectively, the "Transaction Reports"), (ii) such Transaction Reports, as well as the Disclosure Documents and the operative documents related to the Offered Notes, may be provided to third parties, such as current and prospective investors in the Offered Notes, securities exchanges on which the Offered Notes are listed and third-party vendors, such as Intex, that provide modeling, reporting and other support services to investors and other participants in CLO transactions, and (iii) the Placement Agent (or affiliates thereof) may use information derived from such operative documentation and Transaction Reports in research publications or other research work-product relating to CLO, ABS or other securitization transactions. To facilitate the Placement Agent's provision of valuations of the Offered Notes following the applicable Closing Date, each of the Co-Issuers and the Company further agrees (A) to

provide, or to request the Transaction's trustee or collateral administrator to provide, to the Placement Agent information reasonably available to such person relating to the collateral obligations and (B) to provide, or to request each of the Transaction's trustee or collateral administrator to provide, such other information reasonably available to such person relating to such Transaction as the Placement Agent may reasonably request from time to time.

(d) The Placement Agent may not, without its prior written consent, be quoted or referred to in any document, release or communication prepared, issued or transmitted by the Co-Issuers or the Company (including any entity controlled by, or under common control with, the Co-Issuers, the Company or any of their respective directors, officers, employees or agents thereof). Upon consummating the sale of any Offered Notes, the Placement Agent or any of its affiliates may place customary "tombstone" advertisements in publications of the Placement Agent's choice at its own expense only with the prior written approval of the Company.

9. *Other Business Relationships*. (a) Each of the Co-Issuers and the Company understands that Mizuho comprises full service securities firms and commercial banks engaged in securities trading and brokerage activities, as well as providing investment banking, asset management, financing and financial advisory services and other commercial and investment banking products and services to a wide range of corporations and individuals. In the ordinary course of its trading, brokerage, asset management and financing activities, Mizuho may at any time hold long or short positions, and may trade or otherwise effect transactions, for its own account or the other accounts of customers, in debt or equity securities or senior loans of persons or entities that may be involved in the transactions contemplated hereby. Mizuho recognizes its responsibility for compliance with federal securities laws in connection with such activities.

(b) In addition, Mizuho may have and may in the future have investment and commercial banking, trust and other relationships with parties other than the Co-Issuers or the Company, which parties may have interests with respect to the transactions contemplated hereby. Although Mizuho in the course of such other relationships may acquire information about such other parties, Mizuho shall have no obligation to disclose such information, or the fact that Mizuho is in possession of such information, to the Co-Issuers, the Company or to use such information on its behalf. Furthermore, Mizuho may have fiduciary or other relationships whereby Mizuho may exercise voting power over securities of various persons, which securities may from time to time include securities of persons or entities that may be involved in the transactions contemplated hereby. Each of the Co-Issuers and the Company acknowledges that Mizuho may exercise such powers and otherwise perform its functions in connection with such fiduciary or other relationships without regard to its relationship to the Co-Issuers and the Company.

10. *Governing Law, Waiver of Jury Trial and Submission to Jurisdiction*. (a) This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to the conflicts of laws principles thereof. Each of the parties hereto irrevocably agrees to waive trial by jury in any action, proceeding, claim or

counterclaim brought by or on behalf of any party hereto related to or arising out of this Agreement or the performance of services hereunder.

(b) Each of the parties hereto irrevocably agrees that any state or federal court sitting in the Borough of Manhattan in the City of New York shall have exclusive jurisdiction to hear and determine any suit, action or proceeding and to settle any dispute arising out of or relating to this Agreement and, for such purposes, irrevocably submits to the jurisdiction of such courts. Each of the parties hereto irrevocably and unconditionally waives any objection to the laying of venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum.

11. *Miscellaneous*. This Agreement contains the entire agreement between the parties hereto relating to the subject matter hereof and supersedes all oral statements and prior writings with respect thereto. This Agreement may not be amended or modified except by a writing executed by each of the parties hereto. Section headings herein are for convenience only and are not a part of this Agreement. This Agreement is solely for the benefit of the parties hereto, and no other person (except for indemnified persons to the extent set forth in Schedule I hereto and the Placement Agent affiliates referred to in Section 8(a)) shall acquire or have any rights under or by virtue of this Agreement. This Agreement may not be assigned by either party hereto without the other party's prior written consent. Neither party hereto shall be responsible or have any liability to any other party for any indirect, special or consequential damages arising out of or in connection with this Agreement or the transactions contemplated hereby, even if advised of the possibility thereof.

This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which taken together will constitute one and the same instrument.

12. *Confidentiality*. (a) In connection with each Offering, the Placement Agent expects to furnish the Co-Issuers and the Company, and the Co-Issuers and the Company expects to furnish to the Placement Agent, certain oral and written confidential or proprietary material and information, including without limitation, information regarding the specific proposed structure of such Offering. All material information furnished by the Placement Agent to the Co-Issuers or the Company, or the Co-Issuer or the Company to the Placement Agent, whether oral or written, shall be considered confidential and proprietary unless the party furnishing such information otherwise specifies in writing (all such confidential or proprietary material and information is referred to herein as the "Confidential Information"). Other than as set forth in this Agreement, each party hereto agrees that it will keep all Confidential Information furnished to it by the other party hereto strictly confidential; provided that each party hereto may disclose such Confidential Information (v) to its affiliates, agents or representatives (collectively, the "Representatives") to the extent necessary to consummate the Offering if such Representatives are advised of the confidentiality obligations imposed hereby and agree to abide by such obligations, (w) to current or prospective investors, to the extent such information was provided for inclusion in any offering memorandum or other marketing materials for the Offered Notes or is

otherwise provided for distribution to one or more potential investors (x) to any other person or entity with the prior written consent of the other party hereto, (y) to each Rating Agency and other persons or entities involved in the Offering to the extent necessary or requested to obtain ratings for the Offered Notes, to sell the Offered Notes, to structure such Transaction and to consummate such Transaction or (z) (i) at the request of any regulatory authority (including, but not limited to, any self-regulatory organization), (ii) pursuant to subpoena or other legal or administrative process or to defend against any claim in any legal or administrative proceeding, (iii) to its independent auditors and counsel or (iv) otherwise as required by law or regulation. Each party hereto agrees that it will use all such Confidential Information solely for the purposes described in this Agreement. Confidential Information furnished to a party hereto does not include any information (i) that is or becomes publicly available or is not otherwise confidential or proprietary, in each case other than as a result of breach of this confidentiality provision by such party, (ii) that was known by such party prior to its disclosure by the other party hereto, (iii) that was received from a third party that is not known by the receiving party to be subject to a confidentiality agreement or similar document prohibiting the disclosure of such Confidential Information to such receiving party, (iv) that is independently developed by the receiving party without reference to the Confidential Information.

(b) Notwithstanding the foregoing, each party hereto may disclose to any and all persons, without limitation of any kind, the "tax treatment" and "tax structure" (in each case, within the meaning of Treasury Regulation Section 1.6011-4) of each Transaction described herein and all materials of any kind (including opinions or other tax analyses) that are provided to such party relating to such tax treatment and tax structure, except that, with respect to any document or similar item that in either case contains information concerning the tax treatment or tax structure of each Transaction as well as other information, this authorization shall only apply to such portions of the document or similar item that relate to the tax treatment or tax structure of each Transaction. Each party shall take reasonable steps to ensure that any such disclosure by it will not result in a violation of applicable securities laws.

13. *Limited Recourse*. Notwithstanding the foregoing or anything in this Agreement to the contrary, no party hereto shall institute against, or join any other person in instituting against, any Co-Issuer, any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other similar proceedings under United States federal or state bankruptcy laws or any similar laws; provided, however, that nothing in this Agreement (i) shall preclude, or be deemed to estop, any party (A) from taking any action in (x) any case or proceeding voluntarily filed or commenced by a Co-Issuer or (y) any involuntary insolvency proceeding filed or commenced against a Co-Issuer by a person other than such party or any affiliate of such party or (B) from commencing against a Co-Issuer or any properties of a Co-Issuer, any legal action which is not a bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceeding, including, without limitation, any legal action to enforce this Agreement. Each of the Co-Issuer's obligations hereunder will be solely the corporate obligations of such Co-Issuer and no party shall have any recourse to any of the directors, officers, employees, shareholders, members, governors or affiliates of such Co-Issuer with respect to any claims, losses,

damages, liabilities, indemnities or other obligations contemplated by this Agreement. Notwithstanding any other provisions hereof, recourse in respect of any obligations of a Co-Issuer to the parties hereunder from time to time and at any time will be limited to the Assets available at such time as applied in accordance with the Priority of Payments pursuant to the applicable Indenture and, on the exhaustion of the Assets, all remaining claims against such Co-Issuer arising from this Agreement or any transactions contemplated hereby or thereby shall be extinguished and shall not thereafter revive. The provisions of this Section 13 shall survive the termination or expiration of this Agreement for any reason whatsoever.

If the foregoing correctly sets forth our understanding, please so indicate by executing this letter, together with the enclosed duplicate originals, in the place indicated and returning two of these originals for our files.

Very truly yours,

MIZUHO SECURITIES USA LLC

By: _____
Name: James Stehli
Title: MD

Accepted and agreed to as of the date first written above:

HIGHLAND CLO MANAGEMENT, LLC

By: _____
Name: James Dondero
Title: President

ACIS CLO 2014-3 LTD.

By: _____
Name: Wendy Ebanks
Title: Director

ACIS CLO 2014-3 LLC

By: _____
Name:
Title:

ACIS CLO 2014-4 LTD.

By: _____
Name: Wendy Ebanks
Title: Director

If the foregoing correctly sets forth our understanding, please so indicate by executing this letter, together with the enclosed duplicate originals, in the place indicated and returning two of these originals for our files.

Very truly yours,

MIZUHO SECURITIES USA LLC

By:_____
Name:
Title:

Accepted and agreed to as of the
date first written above:

HIGHLAND CLO MANAGEMENT, LLC

By:_____
Name:
Title:

ACIS CLO 2014-3 LTD.

By:_____
Name:
Title:

ACIS CLO 2014-3 LLC

By:_____
Name: Donald J. Puglisi
Title: Manager

ACIS CLO 2014-4 LTD.

By:_____
Name:
Title:

ACIS CLO 2014-4 LLC

By:_____
Name: Donald J. Puglisi
Title: Manager

ACIS CLO 2014-5 LTD.

By:_____
Name:
Title:

ACIS CLO 2014-5 LLC

By:_____
Name: Donald J. Puglisi
Title: Manager

ACIS CLO 2014-4 LLC

By:_____
Name:
Title:

ACIS CLO 2014-5 LTD.

By:_____
Name: Wendy Ebanks
Title: Director

ACIS CLO 2014-5 LLC

By:_____
Name:
Title:

SCHEDULE I

Capitalized terms used but not defined in this Schedule I have the meanings assigned to such terms in the letter agreement to which this Schedule I is attached (the "Agreement").

(a) *Indemnification and Reimbursement*. The Company agrees (i) to indemnify and hold harmless the Placement Agent, its affiliates and the respective officers, directors, employees, agents and controlling persons of the Placement Agent and its affiliates (each a "Manager Indemnified Person") from and against any and all losses, claims, demands, damages, liabilities and expenses ("Liabilities"), joint or several, to which any such Manager Indemnified Person may become subject, insofar as such Liabilities (or any claim, action, litigation, investigation or proceeding in respect thereof, regardless of whether any of such Manager Indemnified Persons is a party thereto) are either (x) arising out of, based upon or in connection with any breach or alleged breach by the Company of any representation, covenant or warranty or failure to comply with any of the agreements set forth in the Agreement or in the collateral management agreement, or the gross negligence, fraud or willful misconduct of the Company in the performance of its obligations hereunder or under such collateral management agreement, or (y) arising out of or based upon an untrue statement or alleged untrue statement of a material fact contained in any information concerning the Company furnished in writing by the Company expressly for inclusion in any Disclosure Document (including, for the avoidance of doubt, the information furnished in writing by the Company expressly for inclusion in the offering circular relating to the Offering under the heading "Credit Risk Retention") (the "Manager Information"), or arising out of or based upon any omission or alleged omission to state in the Disclosure Documents a material fact necessary in order to make the statements contained in the Manager Information, in light of the circumstances under which they were made not misleading, and (ii) to reimburse such Manager Indemnified Persons for any legal or other expenses as they are incurred in connection with investigating, preparing, responding to or defending any such Liabilities (or claim, action, litigation, investigation or proceeding); provided that the foregoing indemnification shall not, as to any Manager Indemnified Person, apply to any Liabilities to the extent that they have resulted primarily from the bad faith, gross negligence or willful misconduct of an Manager Indemnified Person.

The Placement Agent agrees (i) to indemnify and hold harmless the Co-Issuers, the Company, their respective affiliates and its and their respective officers, directors, employees, agents and controlling persons (each a "Placement Agent Indemnified Person" and together with a "Manager Indemnified Person" the "Indemnified Persons") from and against any Liabilities, joint or several, to which any such Placement Agent Indemnified Person may become subject, insofar as such Liabilities (or any claim, action, litigation, investigation or proceeding in respect thereof, regardless of whether any of such Placement Agent Indemnified Persons is a party thereto) are either (x) arising out of, based upon or in connection with any breach or alleged breach by the Placement Agent of any representation, covenant or warranty or failure to comply with any of the agreements set forth in the Agreement, or (y) arising out of or based upon an untrue statement or alleged untrue statement of a material fact contained in any information concerning the

Placement Agent in any Disclosure Document (the "Placement Agent Information"), or arising out of or based upon any omission or alleged omission to state in the Disclosure Documents a material fact necessary in order to make the statements contained in the Placement Agent Information, in light of the circumstances under which they were made not misleading, and (ii) to reimburse such Placement Agent Indemnified Persons for any legal or other expenses as they are incurred in connection with investigating, preparing, responding to or defending any such Liabilities (or claim, action, litigation, investigation or proceeding); provided that the foregoing indemnification shall not, as to any Placement Agent Indemnified Person, apply to any Liabilities to the extent that they have resulted primarily from the bad faith, gross negligence or willful misconduct of a Placement Agent Indemnified Person.

(b) *Exculpation*. Each of the Co-Issuers and the Company also agrees that no Indemnified Person shall have any liability (whether direct or indirect, in contract, tort or otherwise) to Co-Issuers or the Company for any Liabilities incurred by the Co-Issuers or the Company in connection with the Agreement, any transactions contemplated thereby or the Placement Agent's role or services in connection therewith, except to the extent that any such Liabilities incurred by the Co-Issuers or the Company have resulted primarily from the bad faith, gross negligence or willful misconduct of such Indemnified Person.

(c) *Contribution*. If the foregoing indemnification is unavailable or insufficient to hold an Indemnified Person harmless (in each case, other than by reason of the express limitations in the indemnity set forth above) then, in lieu of indemnifying such Indemnified Person hereunder, the Company or the Placement Agent, as applicable, shall contribute to the amount paid or payable by such Indemnified Person as a result of such Liabilities in such proportion as is appropriate to reflect the relative benefits to the Company or the Placement Agent, as applicable, on the one hand, and such Indemnified Person, on the other hand, of the transactions contemplated by the Agreement and also the relative fault of each of the Company or the Placement Agent, as applicable, and such Indemnified Person, as well as any other relevant equitable considerations.

(d) *Notice and Conduct of Proceedings*. Promptly after receipt by an Indemnified Person of actual notice of its involvement in any claim, action, litigation, investigation or proceeding for which indemnification is being sought hereunder (a "Proceeding"), the Placement Agent or such Indemnified Person will notify the Company or the Placement Agent, as applicable, in writing of such involvement. Failure to so notify the Company or the Placement Agent, as applicable, will not relieve the Company or the Placement Agent, as applicable, from liability that it may have to any Indemnified Person hereunder, except to the extent that the Company or the Placement Agent, as applicable, is materially prejudiced by such failure. The Company or the Placement Agent, as applicable, shall be entitled to assume the defense of all Indemnified Persons in connection with the Proceeding, including the employment of counsel reasonably satisfactory to the Placement Agent, and the payment of the fees and disbursements of such counsel. Notwithstanding the Company's or the Placement Agent's, as applicable, decision to assume the defense of any Proceeding, (x) its right to enter into any compromise or

settlement of the Proceeding shall be limited as set forth below, and (y) the Indemnified Person shall have the right to employ separate counsel and to participate in the defense of the Proceeding. Such counsel shall be at the expense of the Indemnified Person, unless (i) the use of counsel chosen by the Company or the Placement Agent, as applicable, to represent the Indemnified Person would present such counsel with a conflict of interest, (ii) the named parties to any Proceeding (including any impleaded parties) include both the Company or the Placement Agent, as applicable, and an Indemnified Person and (A) representation of both parties by the same counsel, or conduct by the Company or the Placement Agent, as applicable, of the defense of the Indemnified Person, would be inappropriate due to actual or potential differing interests between the Company or the Placement Agent, as applicable, and such Indemnified Person or (B) there may be defenses available to the Indemnified Person that are different from, or in addition to, the defenses available to the Company or the Placement Agent, as applicable,, or (iii) the Company or the Placement Agent, as applicable, fails to assume the defense of the Proceeding or to employ counsel reasonably satisfactory to the Placement Agent, in each case in a timely manner. In the event of any of the foregoing clauses (i) through (iii), then the Indemnified Person may employ separate counsel at the Company's or the Placement Agent's, as applicable, expense to represent or defend it in any such Proceeding or group of related Proceedings (it being agreed that the Company or the Placement Agent, as applicable, shall not, under any of the circumstances described in clause (i) or (ii) above, have the right to direct the defense of the Proceeding on behalf of the Indemnified Person). In no event shall the Company or the Placement Agent, as applicable, be liable for the fees and expenses of more than one separate firm of attorneys for all Indemnified Persons in connection with any Proceeding, plus one firm of local counsel in each jurisdiction in which any such Proceeding is taking place. Notwithstanding anything to the contrary herein, the Indemnified Person and its counsel shall have the right to defend and to make the final decision on matters affecting the conduct of such Proceeding with respect to any allegation that such Indemnified Person is not entitled to be indemnified by the Company or the Placement Agent, as applicable,.

(e) *Settlement of Proceedings*. The Company or the Placement Agent, as applicable, shall not be liable for any settlement of any Proceeding effected without its written consent but if settled with its written consent or if there be a final judgment for the plaintiff in any such Proceedings, the Company or the Placement Agent, as applicable, agrees to indemnify and hold harmless each Indemnified Person from and against any and all Liabilities by reason of such settlement or judgment in accordance with the provisions of this Schedule I. Notwithstanding the immediately preceding sentence, if at any time an Indemnified Person shall have requested the Company or the Placement Agent, as applicable, in writing to reimburse such Indemnified Person for legal or other expenses in connection with investigating, preparing, responding to or defending any Proceeding as contemplated by this Schedule I, the Company or the Placement Agent, as applicable, shall be liable for any settlement of any Proceeding effected without its written consent if (i) such settlement is entered into more than 60 days after receipt by the Company or the Placement Agent, as applicable, of such written request for reimbursement, accompanied by documentation (in reasonable detail) of the incurrence, amounts and nature of such expenses, and (ii) the Company or the Placement Agent, as

applicable, shall not have reimbursed such Indemnified Person in accordance with such request prior to the date of such settlement. The Company or the Placement Agent, as applicable, shall not, without the prior written consent of an Indemnified Person, settle, compromise, consent to the entry of any judgment in or otherwise seek to terminate any pending or threatened Proceeding in respect of which indemnity could have been sought hereunder by such Indemnified Person, whether or not any Indemnified Person is an actual or potential party thereto, unless (x) such settlement, compromise, consent or termination includes an unconditional release of such Indemnified Person in form and substance satisfactory to such Indemnified Person from all liability on claims that are the subject matter of such Proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

(f) *Miscellaneous*. The obligations of the Company or the Placement Agent, as applicable, under this Schedule I shall be in addition to any liability that the Company or the Placement Agent, as applicable, may otherwise have to an Indemnified Person and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Company or the Placement Agent, as applicable, and any Indemnified Person.

EXHIBIT 65

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	**Case No. 18-30264-SGJ-11**
	§	**Case No. 18-30265-SGJ-11**
ACIS CAPITAL MANAGEMENT, L.P.,	§	
ACIS CAPITAL MANAGEMENT GP, LLC,	§	**(Jointly Administered Under Case No. 18-30264-SGJ-11)**
Debtors	§	
	§	**Chapter 11**

ACIS CAPITAL MANAGEMENT, L.P., ACIS CAPITAL MANAGEMENT GP, LLC, Reorganized Debtors,	§	
Plaintiffs,	§	**Adversary No. 20-03060-SGJ**
vs.	§	
JAMES DONDERO, FRANK WATERHOUSE, SCOTT ELLINGTON, HUNTER COVITZ, ISAAC LEVENTON, JEAN PAUL SEVILLA, THOMAS SURGENT, GRANT SCOTT, HEATHER BESTWICK, WILLIAM SCOTT, AND CLO HOLDCO, LTD.,	§	
Defendants.	§	

DEFENDANT JAMES DONDERO'S AMENDED OBJECTIONS AND ANSWERS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES

TO: Plaintiffs Acis Capital Management, L.P. and Acis Capital Management GP, by and through their counsel of record, Joseph Y. Ahmad, Shawn M. Bates, and Thomas Cooke, AHMAD, ZAVITSANOS, ANAIPAKOS, ALAVI, & MENSING, P.C., 1221 McKinney Street, Suite 2500, Houston, Texas 77010

Pursuant to FEDERAL RULE OF BANKRUPTCY PROCEDURE 7033, Defendant James Dondero ("**Defendant**" or "**Dondero**") hereby serves his amended objections and answers to Plaintiffs Acis Capital Management, L.P. and Acis Capital Management GP's ("**Plaintiffs**" or "**Acis**") First Set of Interrogatories.

Dated: August 29, 2024

Respectfully submitted,

CRAWFORD, WISHNEW & LANG PLLC

By: */s/ Michael J. Lang*
Michael J. Lang
Texas State Bar No. 24036944
mlang@cwl.law
Alexandra Ohlinger
Texas State Bar No. 24091423
aohlinger@cwl.law
Haleigh Jones
Texas State Bar No. 24097899
hjones@cwl.law
1700 Pacific Ave, Suite 2390
Dallas, Texas 75201
Telephone: (214) 817-4500

Counsel for Defendant James Dondero

CERTIFICATE OF SERVICE

The undersigned certifies that on August 29, 2024, a true and correct copy of the above and foregoing document was served on all parties and counsel of record.

/s/ Michael J. Lang
Michael J. Lang

DONDERO'S OBJECTIONS AND ANSWERS TO ACIS' FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1: Describe Your approval, on behalf of Acis, to Acis amending or revising its Sub-Advisory and Shared Services Agreements with Highland Capital to increase payments to Highland Capital under those agreements, including identifying for each instance in which those agreements were amended or revised (i) Your decision-making process for approving the increased payments to Highland Capital, such as who You communicated with, what was said, and what information You considered; (ii) on what grounds did you approve the increased payments to Highland Capital; (iii) the financial gain, direct or indirect, that You derived from Acis paying Highland Capital more; and (iv) Your evaluation and resolution of any potential conflicts of interest.

ANSWER: Defendant objects to this interrogatory to the extent this request and its sub-parts call for a narrative response requiring complete factual detail by Defendant, and to the extent this request and its sub-parts seek to narrow Defendant's responses without the benefit of specific questions during direct or cross examination. This interrogatory is unduly burdensome and overbroad, requires Defendant to marshal all of his available evidence, is duplicative of Plaintiffs' Requests for Production to this Defendant, and would more appropriately be addressed by way of deposition. Subject to and without waiving the foregoing objections, Defendant responds as follows:

Acis was created and used as a vehicle to compensate Josh Terry. Accordingly, and in order to increase the amount of compensation Terry was able to extract from Acis, Acis' payments to vendors were hard capped by agreement, even if that meant that other Highland affiliates had to bear a portion of Acis' pro rata allocation of shared third-party vendor expenses. Additionally, via price-controlled shared services and sub-advisory fees, Acis paid less, on a pro rata basis, for the infrastructure and employees' costs compared to Highland and the other affiliated investment managers. For example, Acis never paid additional amounts even when employee costs increased (even if those employees primarily worked to service Acis) and never paid more when other overhead costs increased. Moreover, if Acis earned less revenue, then it still only paid a fixed percentage of that revenue to Highland Capital, rather than a fixed amount. Therefore, while the actual costs of running the Acis business could fluctuate up and down, Acis could not lose money: its expenses were a fixed percentage of its revenue. While Acis and Highland shared the benefit of increased revenue to Acis, Highland alone bore the risk of increased costs of running the Acis business.

As far as Dondero understands as of the date of these responses, after Terry's employment with Acis terminated, to ensure that Acis was paying its fair pro rata share of overhead, infrastructure, and employee expenses, David Klos (the current CFO of Highland Capital Management, L.P. ("Highland Capital")) performed a comparison of Acis to other affiliated advisors and managed investment products on the Highland Capital platform to determine which expenses incurred by Highland Capital were actually attributable to Acis and its operations. Dondero did not participate in that analysis and has no personal knowledge of how it was conducted. Dondero's understanding is based on what he was told at the time by Klos. Acis's expenses began being accounted for as expenses of Acis and Acis was treated similarly to other affiliated advisors and managed accounts.

There was no financial gain to Dondero as the result of the process to account for and capture Acis expenses on the books of Acis. In fact, the adjustment of the fees paid by Acis to Highland Capital yielded a financial loss to Dondero, because: (1) Dondero had sold almost all of his interest in Highland Capital to Hunter Mountain prior to the time the decision was made to increase payments to Highland Capital under the Sub-Advisory and Shared Services Agreements; and (2) a trust, of which Dondero is the beneficiary, owned approximately 60 percent of Acis at that time. Dondero did not engage in any formal process to resolve potential conflicts of interest affecting Acis partners because, at that time, the only Acis partners were the trust and Okada. Moreover, conflicts of interest policies generally were designed to protect investor funds. The amendments to the sub-advisory and shared services agreements were executed based upon recommendations of the Chief Compliance Officer, the Deputy General Counsel, and other in-house counsel of Highland Capital.

INTERROGATORY NO. 2: Describe Your approval of diverting $332,284 from Acis CLO Value Fund II, L.P.; Acis CLO Value Fund II (Cayman), L.P.; or Acis CLO Value Master Fund II, LP to CLO HoldCo, instead of Acis, see Original Complaint at **,** ¶¶ 44-47, including identifying (i) Your decision making process for diverting these funds in such a way, such as who You communicated with, what was said, and what information You considered; (ii) on what grounds You approved diverting those funds away from Acis and to CLO HoldCo; and (iii) Your evaluation and resolution of any potential conflicts of interest.

ANSWER: Defendant objects to this interrogatory to the extent this request and its sub-parts call for a narrative response requiring complete factual detail by Defendant, and to the extent this request and its sub-parts seek to narrow Defendant's responses without the benefit of specific questions during direct or cross examination. This interrogatory is unduly burdensome and overbroad, requires Defendant to marshal all of his available evidence, is duplicative of Plaintiffs' Requests for Production to this Defendant, and would more appropriately be addressed by way of deposition. Defendant further objects to the term "diverting" as it inaccurately describes what happened and the parties' rights. Defendant further objects to this interrogatory as assuming facts not in evidence. Defendant objects to this request on the basis that it seeks information that is irrelevant because that information is not likely to make any fact at issue in this proceeding more or less probable. *See* Fed. R. Evid. 401. For that reason, this request seeks information that is beyond the scope of discovery and that has no impact or importance in resolving the issues in this proceeding. Fed. R. Civ. P. 26(b). Subject to and without waiving the foregoing objections, Defendant responds as follows:

Dondero did not approve the referenced "diversion" of $332,284 and has no personal knowledge regarding how that transaction was completed. Dondero was informed by Thomas Surgent and Tim Cournoyer that Terry caused an amendment to a fund document that resulted in a redemption in a fund. Terry represented to Surgent that investors in that fund had requested an amendment. In reality, the amendment was Terry's request and decision alone. The amendment caused investors (Highfield Capital and CLO HoldCo, Ltd.) to lose approximately $700,000. As a result, investors were owed a reimbursement in that amount pursuant to the Trading Policy of Highland Capital's Compliance Manual. Surgent, not Dondero, engaged in the formal process to identify or resolve potential conflicts of interest affecting Acis partners in connection with the loss to investors caused by Terry.

INTERROGATORY NO. 3: Describe Your approval, on behalf of Acis, to Acis selling its shares to ALF, see Exhibits A & B, including identifying (i) Your decision-making process for approving this transaction, such as who You communicated with, what was said, and what information You considered; (ii) on what grounds You approved Acis selling its shares to ALF; and (iii) Your evaluation and resolution of any potential conflicts of interest.

ANSWER: Defendant objects to this interrogatory to the extent this request and its sub-parts call for a narrative response requiring complete factual detail by Defendant, and to the extent this request and its sub-parts seek to narrow Defendant's responses without the benefit of specific questions during direct or cross examination. This interrogatory is unduly burdensome and overbroad, requires Defendant to marshal all of his available evidence, is duplicative of Plaintiffs' Requests for Production to this Defendant, and would more appropriately be addressed by way of deposition. Subject to and without waiving the foregoing objections, Defendant responds as follows:

Highland Capital was a creditor of Acis because Acis had substantial unpaid sub-advisory, shared services, and other fees and expenses that had never been paid to Highland Capital. To reduce liabilities to Highland Capital, Acis transferred certain of its assets to Highland Capital in exchange for a dollar-for-dollar forgiveness of debt owed to Highland Capital. At the same time, Acis was the manager of ALF and held shares in ALF. ALF redeemed its shares (Acis sold them to ALF at fair value) in order to generate revenue to Acis. Acis used that revenue to further reduce its debt to Highland Capital. The actual value of the transaction between Acis and ALF was a net zero, and Dondero did not benefit as the result of this transaction. The transactions reduced the liabilities of Acis and were approved by Surgent, and drafted and executed by Cournoyer under Surgent's direction. The documents to facilitate these transactions were drafted by Cournoyer, who reported to Surgent for purposes of structuring these transactions. Cournoyer acted under the direct supervision of Surgent. Leventon analyzed the transaction documents and advised with respect to legal risks associated with the transactions. Thomas Surgent, Highland Capital's Chief Compliance Officer, was tasked with resolving any potential conflicts of interest created by the transactions described in this response. Dondero had no direct involvement with reviewing those transactions and they were approved based upon recommendations of the Chief Compliance Officer, the Deputy General Counsel, and other in-house counsel of Highland Capital.

INTERROGATORY NO. 4: Describe Your approval, on behalf of Acis, to it transferring to Highland Management a note payable to Acis from Highland Capital, see Exhibits C & D, including identifying (i) Your decision-making process for this note transfer, such as who You communicated with, what was said, and what information You considered; (ii) on what grounds You approved Acis transferring its note to Highland Management; and (iii) Your evaluation and resolution of any potential conflicts of interest.

ANSWER: Defendant objects to this interrogatory because the request for information regarding the "grounds on which [Defendant] approved" a transaction is vague and ambiguous as used in this request. Specifically, Defendant cannot discern what information this request seeks beyond a description of the decision-making process by which Defendant determined to approve the transaction described in this response. Defendant further objects to this interrogatory to the extent

this request and its sub-parts call for a narrative response requiring complete factual detail by Defendant, and to the extent this request and its sub-parts seek to narrow Defendant's responses without the benefit of specific questions during direct or cross examination. This interrogatory is unduly burdensome and overbroad, requires Defendant to marshal all of his available evidence, is duplicative of Plaintiffs' Requests for Production to this Defendant, and would more appropriately be addressed by way of deposition. Subject to and without waiving the foregoing objections, Defendant responds as follows:

On October 7, 2016, Acis and Highland Capital entered into a transaction that had positive tax benefits to Acis. The parties executed a certain Agreement for Purchase and Sale of Participation Interests under which Acis sold Highland Capital 50% of Acis' future quarterly management fees for a period of years in exchange for Highland Capital's agreement to pay to Acis $12,666,446, together with principal and interest pursuant to the amortization table attached to the Promissory Note. This transaction resulted in a dollar-for-dollar forgiveness of debt owed to Highland Capital, and the fees that Acis was to pay Highland were intended to equal $12,666,4460, *i.e.*, the value of the Promissory Note. Acis stopped paying Highland Capital 50% of Acis' quarterly management fees, i.e. Acis stopped paying Highland Capital any amount as consideration for the Promissory Note. Immediately prior to bankruptcy, it was inadvisable for Acis to continue to manage the Acis CLOs, especially if they were to undergo reset transactions as needed for the benefit of their investors. Accordingly, Highland CLO Management, LLC ("Highland Management") was established to assume management of the Acis CLOs post-reset, including taking on Acis' obligation to pay 50% of the Acis CLO fees to Highland Capital as well as becoming payee on Highland Capital's the Promissory Note. In accordance with the above, Acis, on November 7, 2017, agreed to transfer the Promissory Note to Highland Management and also agreed to transfer to Highland Management, when it became manager of the Acis CLO's post-reset, to pay 50% of the CLO management fees to Highland Capital. The result to Acis would be approximately neutral: it would not have the benefit of the asset of the outstanding balance on the Promissory Note, but it also would not have the liability of being obligated to pay 50% of the CLO management fees.

The wind down process was orchestrated by Surgent and carried out by Surgent, Cournoyer, and Hunter Covitz. The documents to facilitate these transactions were drafted by Cournoyer. Thomas Surgent, Highland Capital's Chief Compliance Officer, was tasked with resolving any potential conflicts of interest created by the transactions described in this response. These transactions were approved based upon recommendations of Surgent, the Chief Compliance Officer, the Deputy General Counsel, and other in-house counsel of Highland Capital.

INTERROGATORY NO. 5: Describe Your approval, on behalf of Acis, to its determination that it could no longer fulfill its duties as portfolio manager of the Acis CLOs, see Exhibit D, including identifying (i) Your decision-making process, such as who You communicated with, what was said, and what information You considered and (ii) on what grounds You approved Acis transferring its note to Highland Management.

ANSWER: Defendant objects to this request on the basis that it seeks information that is irrelevant because that information is not likely to make any fact at issue in this proceeding more or less probable. *See* Fed. R. Evid. 401. For that reason, this request seeks information that is beyond the

scope of discovery and that has no impact or importance in resolving the issues in this proceeding. Fed. R. Civ. P. 26(b). Subject to and without waiving the foregoing objections, Defendant responds as follows:

Acis was not able to fulfil its duties to investors while also bearing the legal risk created by the Terry arbitration award. Acis had insufficient liquidity to pay its debts, in particular those to Highland Capital, in cash. Acis did not have sufficient cash to pay Terry's arbitration award. Acis needed to proceed with reset transactions for each of its CLOs for the benefit of investors. Acis would have faced substantial difficulty in the market resetting its CLOs with (a) a public arbitration award by its former portfolio manager and (b) the business risked posed by Acis' liquidity position. Additionally, as described in response to Interrogatory No. 2 above, Acis only was able to turn an operating profit because it was subsidized by Highland Capital. At this point Acis was a pass-through entity with a substantial legal issue, no employees or infrastructure of its own, whose only ability to service its clients was via the continued subsidization by Highland Capital. Regarding the transfer of its note, Dondero incorporates by reference as if fully restated here his response to Interrogatory No. 4, above.

INTERROGATORY NO. 6: Describe Your approval, on behalf of Acis, to Acis assigning its assets to Highland Holdings, see Exhibit E, including identifying (i) Your decision-making process, such as who You communicated with, what was said, and what information You considered; (ii) on what grounds You approved Acis so assigning its assets; and (iii) Your evaluation and resolution of any potential conflicts of interest.

ANSWER: Defendant objects to this request because its use of the phrase "its assets" to describe some unidentified assets of Acis is vague and confusing. Defendant cannot discern which particular assets Acis intends to be the subject of this request. Defendant further objects to this interrogatory to the extent this request and its sub-parts call for a narrative response requiring complete factual detail by Defendant, and to the extent this request and its sub-parts seek to narrow Defendant's responses without the benefit of specific questions during direct or cross examination. This interrogatory is unduly burdensome and overbroad, requires Defendant to marshal all of his available evidence, is duplicative of Plaintiffs' Requests for Production to this Defendant, and would more appropriately be addressed by way of deposition. Subject to and without waiving the foregoing objections, Defendant responds as follows:

Exhibit E states why Acis assigned the "Interests," as that term is defined in Exhibit E. *See* Fed. R. Civ. P. 33(d). Acis was set to cease being the manager of Acis CLO 2017-7 for the reasons set forth in response to Interrogatory No. 5 and also because Acis did not have assets to fund a capitalized majority-owned affiliate ("C-MOA") pursuant to newly enacted federal regulations regarding risk retention by CLO managers. Additionally, Acis did not have the assets to continue to fund any future risk retention obligations or costs. The Interests that were actually conveyed to Highland Holdings via Exhibit E were LLC interests and a limited partnership interest that were associated with the management of Acis CLO-2017-7, Ltd. (a CLO). On the date Exhibit E was executed, the CLO had a capitalized majority-owned affiliate. As a result, the management company was required to have funds at risk. A structure was built around the manager risk-retention requirements. Acis CLO Management Intermediate Holdings I, LLC and Acis CLO Management GP, LLC (on Schedule A to Exhibit E) (together the "**LLCs**") were the managers

of the CLO. Acis CLO Management Holdings, L.P. (the "**LP**") was the risk retention vehicle holding an interest in the CLO. The LLCs had no value because their only possible value was the ability to receive future fees pursuant to a management contract that could be cancelled at any time. The LP had a market value of 2.8 million dollars, consisting of the ownership of the CLO. Acis transferred the LP to Highland Holdings for fair value and reduced the debt Acis owed Highland Capital by $2.8 million dollars. These transactions were approved based upon recommendations of Surgent, the Chief Compliance Officer, the Deputy General Counsel, and other in-house counsel of Highland Capital.

INTERROGATORY NO. 7: Describe Your approval, on behalf of Acis, of Acis transferring its risk retention structure to Highland Holdings, see Exhibit F at ¶ 31(e), including identifying (i) Your decision-making process, such as who You communicated with, what was said, and what information You considered; (ii) the grounds for this decision; and (iii) Your evaluation and resolution of any potential conflicts of interest.

ANSWER: Defendant objects to this interrogatory to the extent this request and its sub-parts call for a narrative response requiring complete factual detail by Defendant, and to the extent this request and its sub-parts seek to narrow Defendant's responses without the benefit of specific questions during direct or cross examination. This interrogatory is unduly burdensome and overbroad, requires Defendant to marshal all of his available evidence, is duplicative of Plaintiffs' Requests for Production to this Defendant, and would more appropriately be addressed by way of deposition. Subject to and without waiving the foregoing objections, Defendant responds as follows:

Frank Waterhouse initiated and approved transferring Acis's risk retention structure (and associated ownership in CLOs) to Highland Holdings. As far as Dondero understands as of the date of these responses, Waterhouse authorized that transfer because Acis (via Terry) claimed that Highland Capital was charging Acis too much in fees and attributing too many expenses to Acis. The transaction was approved based upon recommendations of Surgent, the Chief Compliance Officer, the Deputy General Counsel, and other in-house counsel of Highland Capital. Dondero incorporates by reference his response to Interrogatory No. 6, above, as if fully restated here.

INTERROGATORY NO. 8: Describe your approval, on behalf of Highland Capital, of its evaluation of replacing Acis as the manager or advisor to BayVK R2 Lux S.A., SICAVFIS, see Exhibit G at 2-3, including identifying (i) Your decision-making process, such as who You communicated with, what was said, and what information You considered; (ii) the grounds for this decision; and (iii) Your evaluation and resolution of any potential conflicts of interest.

ANSWER: Defendant objects to this request on the basis that it seeks information that is irrelevant because that information is not likely to make any fact at issue in this proceeding more or less probable. *See* Fed. R. Evid. 401. For that reason, this request seeks information that is beyond the scope of discovery and that has no impact or importance in resolving the issues in this proceeding. Fed. R. Civ. P. 26(b). Defendant further objects to the use of the word "your" as used in this request, because it assumes facts not in evidence, i.e. that it was Defendant who approved the transaction described in this request on behalf of Highland Capital, and that such approval was, in

fact, given. The email that is cited in Exhibit G by Plaintiffs is a request of Cournoyer at Highland Capital inquiring about options. Defendant further objects to this interrogatory to the extent this request and its sub-parts call for a narrative response requiring complete factual detail by Defendant, and to the extent this request and its sub-parts seek to narrow Defendant's responses without the benefit of specific questions during direct or cross examination. This interrogatory is unduly burdensome and overbroad, requires Defendant to marshal all of his available evidence, is duplicative of Plaintiffs' Requests for Production to this Defendant, and would more appropriately be addressed by way of deposition. Subject to and without waiving the foregoing objections, Defendant responds that Defendant neither approved or disproved the transaction described in this interrogatory and no such transaction ever occurred.

INTERROGATORY NO. 9: Describe your approval, on behalf of Highland Capital, of Highland Capital's attempted reset of Acis CLO 2014-3, see Exhibit F at ¶ 31(h) & Exhibit H, that would have replaced Acis with Highland Management as the portfolio manager for that CLO, including identifying (i) Your decision-making process, such as who You communicated with, what was said, and what information You considered; (ii) the grounds for this attempted reset; and (iii) Your evaluation and resolution of any potential conflicts of interest.

ANSWER: Defendant objects to the use of the word "your" as used in this request, because it assumes facts not in evidence, i.e. that it was Defendant who approved the transaction described in this request on behalf of Highland Capital, and that such approval was, in fact, given. Defendant further objects to this interrogatory to the extent this request and its sub-parts call for a narrative response requiring complete factual detail by Defendant, and to the extent this request and its sub-parts seek to narrow Defendant's responses without the benefit of specific questions during direct or cross examination. This interrogatory's request for Dondero to describe each conversation and what was discuss is unduly burdensome and overbroad, requires Defendant to marshal all of his available evidence, is duplicative of Plaintiffs' Requests for Production to this Defendant, and would more appropriately be addressed by way of deposition. Subject to and without waiving the foregoing objections, Defendant responds as follows:

Highland Capital was in the act of implementing a reset on the CLOs. When the CLOs are reset, the equity owners of the CLO have the contractual right to select the portfolio manager. The equity in Acis CLO 2014-3 was the Donor Advisory Fund ("**DAF**"), Harborvest and Highland Capital Management employees. The CLOs were to be reset based on market conditions requiring that Acis reset the CLOs for the benefit of its investors, in particular the CLO equity holders. As noted in the Acis bankruptcy proceeding, the majority of similar vintage CLOs in the market either reset or were "called" consistent with what was demanded by the Acis CLO equity holders. Dondero made the decision as a fiduciary to the equity holders to request the resets. That decision was made based upon recommendations of Surgent, the Chief Compliance Officer, the Deputy General Counsel, and other in-house counsel of Highland Capital. Hunter Covitz, as the head of the structured products group, primarily was tasked with effectuating the resets. As is legally required in the investment industry, the interests of the investors in Acis' managed funds was paramount and above the interests of Acis and its constituents, including its creditors. Additionally, Dondero was not required to perform any analysis of whether the reset was in the best interest of Acis because the equity owners' option to reset and select a new manager is contractual and unqualified.

INTERROGATORY NO. 10: Describe Your involvement with the First Optional Redemption Notices, see Exhibit I, including identifying and describing (i) each communication you had with Heather Bestwick, William Scott, or any Highland Capital employee regarding those Notices and (ii) Your assessment and conclusion, on behalf of Acis, as to whether the Notices were in Acis' best interest.

ANSWER: Defendant objects to this request on the basis that it seeks information that is irrelevant because that information is not likely to make any fact at issue in this proceeding more or less probable. *See* Fed. R. Evid. 401. For that reason, this request seeks information that is beyond the scope of discovery and that has no impact or importance in resolving the issues in this proceeding. Fed. R. Civ. P. 26(b). Defendant further objects to this interrogatory to the extent this request and its sub-parts call for a narrative response requiring complete factual detail by Defendant, and to the extent this request and its sub-parts seek to narrow Defendant's responses without the benefit of specific questions during direct or cross examination. This interrogatory's request for Dondero to describe each conversation and what was discuss is unduly burdensome and overbroad, requires Defendant to marshal all of his available evidence, is duplicative of Plaintiffs' Requests for Production to this Defendant, and would more appropriately be addressed by way of deposition. Subject to and without waiving the foregoing objections, Defendant responds as follows:

Acis CLO 2014-3 was going to be reset. When Acis CLO 2014-3 was reset, the equity owners of the CLO had the contractual right to select the portfolio manager. Those equity owners chose to transfer the management of Acis CLO 2014-3 to Highland CLO Management, LLC. In connection with these changes in management, an optional redemption was also offered to the equity holders of Acis CLO 2014-3. The First Optional Redemption Notices were approved based upon recommendations of Surgent, the Chief Compliance Officer, the Deputy General Counsel, and other in-house counsel of Highland Capital. Regarding whether the Notices were in Acis's best interest, under the Indentures, the CLO equity owners have the option to redeem. Under the Indentures, if the CLO Equity exercise their option to redeem, Acis is obligated to comply with the request. The Portfolio Management Agreements require the Portfolio Manager to comply with the terms and conditions of the Indenture. Dondero made the decision as a fiduciary to the equity holders to request the resets. As is legally required in the investment industry, the interests of the investors in Acis' managed funds were paramount and above the interests of Acis and its constituents, including its creditors. Accordingly, Dondero performed no analysis of whether the Notices were in Acis's best interest as no analysis was needed—the equity owners' option to redeem is contractual and unqualified.

INTERROGATORY NO. 11: Describe Your involvement with the Second Optional Redemption Notices, see Original Complaint at ¶¶ 118-123, including identifying and describing (i) each communication you had with Heather Bestwick, William Scott, or any Highland Capital employee regarding those Notices and (ii) Your assessment and conclusion, on behalf of Acis, as to whether the Notices were in Acis' best interest.

ANSWER: Defendant objects because the information that is responsive to this request has no propensity to make any fact in issue more or less likely. Defendant further objects to this interrogatory to the extent this request and its sub-parts call for a narrative response requiring

complete factual detail by Defendant, and to the extent this request and its sub-parts seek to narrow Defendant's responses without the benefit of specific questions during direct or cross examination. This interrogatory's request for Dondero to describe each conversation and what was discuss is unduly burdensome and overbroad, requires Defendant to marshal all of his available evidence, is duplicative of Plaintiffs' Requests for Production to this Defendant, and would more appropriately be addressed by way of deposition. Subject to and without waiving the foregoing objections, Defendant responds as follows:

The Second Optional Redemption was triggered by Acis's involuntary bankruptcy proceeding. All of the CLOs tendered their optional redemptions when Terry initiated the involuntary bankruptcy proceeding. Under the Indentures, the CLO equity owners have the option to redeem. Under the Indentures, if the CLO Equity exercise their option to redeem, Acis is obligated to comply with the request. The Portfolio Management Agreements require the Portfolio Manager to comply with the terms and conditions of the Indenture. The equity owners' option to redeem is contractual and unqualified. Accordingly, Acis agreed to these terms and it is irrelevant if the Notices were in Acis's best interest. Highland Capital was the investment manager and fiduciary of Highland CLO Funding, Ltd., the fund that owned the Acis CLOs' equity at that time. Dondero made the decision as a fiduciary to the equity holders to request the resets. That decision was made based upon recommendations of Surgent, the Chief Compliance Officer, the Deputy General Counsel, and other in-house counsel of Highland Capital. As is legally required in the investment industry, the interests of the investors in Acis' managed funds were paramount and above the interests of Acis and its constituents, including its creditors. To the best of Dondero's knowledge, Surgent and Covitz, together with US Bank, decided to redeem on behalf of Highland Capital. Dondero had no discussions about that decision with Bestwick, Scott, or any other Highland Capital employee.

INTERROGATORY NO. 12: Describe Your involvement with and knowledge of Highland Capital's management of the Acis CLOs during the pendency of the Acis and Highland Capital bankruptcy proceedings, including identifying (i) who, at Highland Capital, directed Highland Capital to sell loans for the Acis CLOs and not purchase loans for them; (ii) any analysis You conducted or had conducted during this timeframe of the Acis CLOs; (iii) all individuals with whom You consulted and all documents that You considered; (iv) Your decision-making authority with respect to the Acis CLOs during this timeframe.

ANSWER: Each of the Acis CLOs had a pending optional redemption period. A few were in their reinvestment period and yielding cash flows. That cash was not reinvested via the purchase of additional loans due to the pending optional redemptions, because any loans purchased would have to comport to the portfolio criteria following the pending optional redemptions. Isaac Leventon, as counsel to Highland and at the instruction of Hunter Covitz as his business client, told Robin Phalen that the employees of Highland Capital were not reinvesting and were retaining cash in the CLOs for the purposes of effectuating the notices of optional redemption submitted by the equity-holding investors. Highland as sub-advisor to the CLOs, believed it had a fiduciary obligation to effectuate the investors' notices of optional redemption under the governing CLO indentures. Acis, via Chapter 11 Trustee Phalen, took steps to prevent Acis and Highland Capital from fulfilling their fiduciary duties to the investors. Namely, Phalen then sought a temporary restraining order to prevent the liquidation. Buying and selling decisions were made by Covitz.

Dondero had no direct involvement in management the Acis CLOs during the pendency of the bankruptcy proceedings and was consulted by Covitz on rare occasions only.

INTERROGATORY NO. 13: Identify by date and proceeding name all sworn testimony that You have provided over the past seven years.

ANSWER: Defendant objects to this request on the basis that it seeks information that is irrelevant because that information is not likely to make any fact at issue in this proceeding more or less probable. *See* Fed. R. Evid. 401. For that reason, this request seeks information that is beyond the scope of discovery and that has no impact or importance in resolving the issues in this proceeding. Fed. R. Civ. P. 26(b).

VERIFICATION OF JAMES DONDERO

1. My names is James Dondero. I am over the age of twenty-one and competent to give this verification. I am a Defendant in the above-styled lawsuit in my individual capacity.

2. I have reviewed Defendant's answers to the First Set of Interrogatories of Acis (as defined in those answers) and the facts stated in those answers are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 5, 2022



James Dondero

EXHIBIT 66

WARNING

The following transcript is being delivered UNEDITED and UNCERTIFIED.

This transcription has not been checked, proofread or corrected. It is a draft transcript, NOT a certified transcript. As such, it may contain computer-generated transmission errors, resulting in inaccurate or nonsensical word combinations, or untranslated stenotype symbols which cannot be deciphered by non-stenotypists. Corrections will be made in the preparation of the certified transcription, resulting in differences in content, page and line numbers, punctuation, and formatting.

This realtime unedited transcript contains no appearance page, certification page, index, or certification.

The rough draft transcript may not be cited or used in any way or at any time to rebut or contradict the certified transcription of proceedings.

Acceptance by any party of this realtime form is considered an acknowledgment by that party that this is not an official record of the proceedings.

PROCEEDINGS

THE VIDEOGRAPHER: We are now on the record at 10:06 a.m. on September 4, 2024. This is the video-recorded deposition of James Dondero.

Would counsel please introduce yourselves for the record, after which the court reporter will swear in the witness.

MR. AHMAD: This is Joe Ahmad, together with Thomas Cooke, for the Plaintiffs.

MR. LANG: Michael Lang for James Dondero.

MR. LURICH: Ryan Lurich on behalf of Grant Scott.

MR. AUSTIN: Joseph Austin on behalf of CLO HoldCo, Ltd.

(Witness placed under oath.)

JAMES DONDERO,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. AHMAD:

Q. State your name, please, sir.

A. James David Dondero.

Q. And, Mr. Dondero, how are you employed right now?

A. President of NexPoint and chairman of NexBank.

Q. And what is the full entity name of NexPoint?

A. NexPoint Capital Management.

Q. And how long have you been with NexPoint?

A. Since I left Highland.

Q. And so you've been president the entire time since you left Highland?

A. Yes.

Q. Do you remember what date that was?

A. Early in '20.

Q. And have you been chairman of NexBank that long as well?

A. Longer. Twenty-plus years.

Q. Okay. And then you mentioned when you left Highland in 2020. What position did you hold prior to being president at NexPoint?

MR. LANG: Objection, form.

A. They overlapped, but I was president of Highland, at Highland.

Q. Okay. And which Highland entity are you referring to that you were president of?

A. Highland Capital Management.

Q. Okay. And when you say they overlapped, did you hold any other positions immediately prior to being president of NexPoint?

A. I was on numerous other boards. Yeah, I was on numerous other boards in numerous other companies.

Q. Okay. Meaning you were a director of numerous other boards?

A. Yes.

Q. And -- I'm sorry. Did I cut you off?

A. Well, and president of the retail -- Highland retail funds operated separately. I believe I was president there also. I don't -- I don't remember if I was president of Acis. I don't -- I don't recall what my position was there.

Q. Okay. I'll ask you about that in a second. When you say you were president of Highland retail funds, what was the name of that entity, as best you can remember?

A. There was H- -- Highland Fund Management, HFM.

Q. Highland Fund Management?

A. Yes.

Q. And how long were you the president?

A. Twenty years. Twenty-plus years.

Q. Until when?

A. I think I -- I believe I still am, actually.

Q. Okay. And do you remember the names of the companies you have served as a director?

A. They're numerous. I can't remember off the top of my head. We can send you a summary.

Q. Okay. Can you remember any of them off the top

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of your head?
A. Different -- different portfolio companies, like MGM.
Q. MGM, the casino and hotel?
A. No. MGM, the studio.
Q. Okay.
A. I was on and off the board at CCS at different times. Trustway. There are others over the years, too.
Q. That you can't remember right now?
A. Correct.
Q. What does CCS stand for?
A. I don't know what CCS stands for. It -- it was an abbreviation for a company that did diabetes machines.
Q. Okay. Do you know the full name?
A. CCS Medical was the full name, as far as I know.
Q. Were you ever the president of Acis? I'll start with Acis, Limited Partnership?
MR. LANG: Objection, form.
A. I don't remember. Probably, but I don't remember.
Q. I should say Acis Capital Management, L.P.?
MR. LANG: Objection, form.
Q. You don't remember whether you were the

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president of Acis Capital Management, L.P.?
MR. LANG: Same objection.
A. Correct.
Q. How about Acis Capital Management, GP? Did you have a position with that entity?
A. I don't remember which entities.
Q. Were you the president of any Acis entity?
MR. LANG: Same objection.
A. I don't remember. I don't remember.
Q. Do you remember holding any position with any Acis entity?
A. I don't remember if I had management positions or if I was just the majority owner.
Q. Do you remember being a majority owner of any Acis entity?
A. Yes.
Q. Which ones?
A. I believe I was majority owner of -- of all of them, unless there was -- unless there was an entity that was just Josh's interest. But otherwise I would have been a majority owner of all of them.
Q. Do you remember being the sole member of any Acis entity?
A. I don't remember.
Q. Do you remember -- do you remember being the

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sole member of Acis, GP at any time?
MR. LANG: Objection, form.
A. It's logical I would have been, but I don't remember. I haven't refreshed myself on the details here.
Q. Okay. And if I say "Acis, GP," do you understand that to be Acis Capital Management, GP?
A. I will if you tell me that --
Q. Okay.
A. -- that's what --
Q. Let me -- I'm sorry. Then I'll ask you the question again. Do you remember being the sole member of Acis Capital Management, GP?
MR. LANG: Objection, form.
A. I don't remember specifically, but, again, I do remember being majority owner, and it would have made sense in an LP structure that I would have had the 1 percent GP interest, but I don't remember specifically. I haven't refreshed myself. I don't know if it was an LP or LLC structure.
Q. And so when you say refreshed yourself, did you do anything to prepare for today's deposition other than meet with your lawyer?
A. No.
Q. Did you review any of your previous testimony,

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depositions, arbitration testimony, anything like that in preparation for today's deposition?
A. No.
Q. Did you hold any position -- well, let me ask you this: Do you remember being the president and CEO of Highland Capital Management?
A. Yes.
Q. And during what period of time?
A. Since inception through spring of 2020.
Q. And how about Highland -- HCF Advisor, Ltd.? Do you remember being the president of that entity?
A. Not specifically.
Q. Do you remember holding any position with that entity?
A. Not specifically.
Q. You mentioned Strand Advisors before. Do you remember being -- I think you said you were on the -- I may have it wrong, but I thought you mentioned being on the board.
But my question is, do you specifically remember being the president of Strand Advisors, Inc.?
A. Yes. I believe that was the GP for Highland Capital.
Q. Highland Capital Management?
A. Yes, although I believe there were at least

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half a dozen different Strand entities, but the ...
Q. Okay. Were you the president of any of the other Strand entities other than Strand Advisors, Inc.?
A. I believe so.
Q. All of them?
A. I believe so.
Q. And you mentioned a NexPoint entity that you're currently the president of, correct?
A. Yes.
Q. Are you also -- or if it's a different entity, are you also president and CEO of NexPoint Strategic Opportunities Fund?
A. Are you speaking of the publicly listed fund?
Q. Yes.
A. I know I'm the portfolio manager there. I don't know if a closed-end fund has -- or I guess it's a REIT now.
Q. Whatever position you have.
A. It's a senior position in the fund. I don't know what it is, though.
Q. Okay. Are you the manager?
A. One of the portfolio managers, yes.
Q. Who are the other portfolio managers?
A. I don't know. Most likely somebody from the real estate team.

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Q. Don't know any of them?
A. I don't know. The structures change all the time.
Q. Going back to Acis Capital Management, LP. And I think you said you don't remember whether you were the president or not. Do you remember anybody reporting to you at all at Acis Capital Management, LP?
MR. LANG: Objection, form.
A. I'm not sure Acis had many employees other than Josh Terry. I think Josh Terry would have been the only person, and whatever other employees went through Acis.
Q. Did Josh Terry report to you at Acis Capital Management, LP?
MR. LANG: Objection, form.
A. I don't remember. He was an employee of Highland for years, and then he was an employee at Acis. Whether or not he was a dual employee, I don't remember, but he would have reported to me at Highland for sure, and if I was or wasn't an officer -- if I was, he would have reported to me at Acis. If not, he would have been responsive to me as the majority holder.
Q. Okay. So at Highland Capital Management, LP, Josh Terry would have reported to you?
MR. LANG: Objection, form.
A. Yes. I mean, not throughout his career. Not

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when he was junior, but when he was more senior, yes.
Q. And during what period of time would this be?
A. I don't know.
Q. Would it have been at the time of his termination?
A. Like I said, I don't remember whether he was a dual employee or just an employee at Acis at that time.
Q. Okay. Do you remember Josh Terry being terminated back in 2016?
A. I remember the incident, yes.
Q. What was the incident?
A. He came into my office with Thomas Surgent, the head of compliance, and there was an issue -- there was an issue -- I believe Thomas Surgent was doing the talking, where he had lost faith or trust in Josh Terry, and we sent him home. That's all I remember at this point.
Q. And at the time you say he was sent home, did Josh Terry report to you, whether it was Acis or Highland?
A. I don't know specifically.
Q. Back in 2016, specifically I'll go to July of 2016, do you remember what position you held at any entity, whether it's Highland or Acis at that time?
MR. LANG: Objection, form.

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A. I would have been president of Highland and Highland Funds and most of the other Highland entities. I can't remember specifically whether I was president of Acis or not.
Q. Okay. And when you say "Highland," you're again referring to Highland Capital Management?
A. Yes.
Q. And when you say "Highland Funds," which entity are you referring to?
A. That H fam entity we spoke of earlier.
Q. Do you generally know what a fiduciary duty is?
A. Yes.
Q. And how would you describe fiduciary duty?
MR. LANG: Objection, form.
Q. I'm not asking for a legal opinion. Just your understanding.
A. To treat client monies with the highest standards and care and subject to any contractual or regulatory specifics to that account.
Q. Do you believe you ever owed any fiduciary duty to any Acis entity?
MR. LANG: Objection, form.
A. The fiduciary answer I was describing was towards client money. Corporate structure duty is different and defined by the corporate or partnership

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agreements in -- in my mind.
Q. Okay. Do you feel like you have an understanding when you're an officer of a company or whether it's an LP or an LLC, do you feel like you know what an officer's fiduciary duty to a company is?
MR. LANG: Objection, form.
A. Yeah, again, the duties I would describe as contractual largely, with any -- with any regulatory or state registrant fair dealing or transparency issues that might be specific to the State. But I always have and would rely on compliance and internal and external legal to define those responsibilities.
Q. So is it your understanding fiduciary duty is defined by contract and subject to regulation?
A. No.
Q. What fiduciary duties -- well, let me ask you this: Do you understand as an officer of a company you may have fiduciary duties outside of what is specified in a contract?
MR. LANG: Objection, form.
A. I would repeat the answer I just gave. I would rely on compliance internal and external lawyers that would draft and interpret the agreements and domicile of those agreements to make sure that we were compliant with them. But fiduciary responsibility is generally a

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term reserved for dealing with client money. Not saying that there isn't corporate fiduciary responsibility, especially with public companies, but fiduciary responsibility in private companies and partnerships I believe is typically very limited.
Q. Why do you believe it's typically very limited?
A. That's the feedback from our lawyers and our compliance people.
Q. Do you know whether you ever owed any fiduciary duty to any Acis entity?
MR. LANG: Objection, form.
A. I am a hundred percent confident that compliance that approved every transaction and legal internal and external had structured every transaction was compliant with any and all fiduciary responsibilities and was never influenced to circumvent them.
MR. AHMAD: I'll object as nonresponsive.
Q. My question is, do you know whether you owed any fiduciary duty to any Acis entity, not whether you complied. Just whether you owed such a duty.
MR. LANG: Objection, form.
A. I think my response was responsive. I would repeat that answer.
Q. Is the answer yes -- well, let me just ask you

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this: If your answer was meant to say yes, which Acis entity do you believe you owed a fiduciary duty to?
MR. LANG: Objection, form.
A. I don't believe my answer was yes.
Q. Was it no?
MR. LANG: Objection, form.
A. My answer was the answer I gave.
Q. Okay. Well, are you saying you did not owe a fiduciary duty to Acis Capital Management, L.P.?
MR. LANG: Object to the form.
A. I didn't say that.
Q. Okay. Are you saying you did owe a fiduciary duty to Acis Capital Management, L.P.?
MR. LANG: Objection, form.
A. Let me do the best to repeat the answer I did give. Fiduciary responsibility is a term largely to describe the relationship with -- the responsibilities towards third-party investor funds. Fiduciary responsibilities in contracts and partnerships, my understanding is limited beyond contractual and defined by specific state or regulatory limits.
And I would never have been the person to interpret whether or not there were some limited fiduciary responsibilities and how best to comply with them regarding Acis. All that was performed and

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approved by compliance and internal counsel and external counsel.
So I don't have an opinion nor am I a lawyer, nor would I know the details to answer what limited fiduciary responsibility I might have had to Acis.
Q. So to the extent you might have had a fiduciary duty to Acis Capital Management, L.P., you believe it was limited?
MR. LANG: Object --
A. In comparison to the fiduciary responsibility to third-party investors. That fiduciary responsibility is significant and real. And within private partnerships or companies it's much less, much more limited, much less, and generally defined by the contract itself, with some overlay based on state and regulatory bodies.
Q. Have you ever -- well, are you familiar with the term "duty of good faith"?
A. No, not specifically. I have a general layman's concept.
Q. And what's your layman's concept of it?
A. Just transparency and -- I'm trying to think of other examples. Transparency and fair treatment under contracts.

(Exhibits 1, 2 marked.)
Q. I'm going to hand you what has been marked as Exhibits 1 and 2 to your deposition.
MR. AHMAD: And pass this one. I may not have copies of the next one, but if somebody wants it --
MR. LANG: I can print them on the next break if somebody wants.
Q. There's Exhibit 2.
MR. AHMAD: Here's an extra. That's 2.
Q. Taking a look at Exhibit 1, have you seen that document before?
A. These are affidavits that we prepared at different points, right?
Q. Interrogatory responses. I'll represent to you those are your -- Exhibit 1 is your objections and answers to plaintiffs' first set of interrogatories, and Exhibit 2 is your amended answers to plaintiffs' interrogatories.
A. Yeah, I'm aware of these from when they were prepared.
Q. I'm assuming you helped prepare those?
A. I reviewed them when -- after they were prepared.
Q. Okay. And if you look at Exhibit 2, on the last page --

A. Yes.
Q. -- do you see your verification?
A. Yes.
Q. Dated July 5th, 2022, correct?
A. Yes, yes.
Q. And that's your signature?
A. Yes.
Q. Verifying that the facts stated in the -- the answers to interrogatories are true and correct?
A. Yes.
Q. Now, if you look at page 3 --
A. Of Number 2 or Number 1?
Q. It's probably the same, but I'll check. Well, I think it's page 3 of Exhibit 1. And you see at the bottom it says, "As far as Dondero understands"? Do you see that?
A. Yes.
Q. "As of the date of these responses, after Terry's employment with Acis terminated, to ensure that Acis was paying its fair pro rata share of overhead structure and employee expenses, David Klos"?
A. Yes, yes, I see all that.
Q. And he says, he performed a comparison of Acis to other affiliated advisors.
Do you see that?

A. Yes.
Q. Have you seen any such comparison done?
A. Not that I recall at this point.
Q. Did you request him to do such a comparison?
A. Not -- not specifically, that I recall.
Q. Have you ever seen the comparison?
A. Not that I recall.
Q. Now, if you go to -- and this is Exhibit 1 again -- Interrogatory No. 4 -- okay. If you look at the very last sentence of your answer in Interrogatory No. 4. And you're in Exhibit 1, right?
A. Yes.
Q. Okay. It talks about in that paragraph a wind down process being orchestrated by Surgent and carried out by Surgent, Cournoyer, and Hunter Covitz. And at the very end, it said, "Dondero had no direct involvement with reviewing or approving those transactions."
Do you see that?
A. Yes.
Q. Now, if you look at Exhibit 2, at the end of that interrogatory response, I notice that the phrase or statement Dondero's had no direct involvement with reviewing or approving those transactions" has been taken out.

And my question is, did you have any involvement in the wind-down process as being described in this paragraph at the end of Interrogatory No. 4?
A. No, not that -- no, not that I recall. I don't know why this sentence would have been taken out either.
Q. What position did Mr. Surgent have? He's a -- my understanding he's --
MR. LANG: I was making sure he was on the right page on both of them.
MR. AHMAD: Okay. Did I miss it?
MR. LANG: No, no. He's just looking at the one. And this is the -- this is the amended.
MR. AHMAD: Yes, Exhibit 2 is amended. Exhibit 1 is the original.
THE WITNESS: Yeah.
Q. My understanding is Mr. Surgent is a chief compliance officer --
A. Yes.
Q. -- as of 2016. Correct?
A. I -- I don't know when he started the position. I think it was well before that.
Q. Well, I'm just saying I think it's describing a process in October of 2016. Do you see that?
A. See it where? Or just --
Q. My question is really just when you describe

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this wind-down process being orchestrated by Surgent, I'm asking was he the chief compliance officer at that time.
A. Yes, I believe he was -- yes, at that time and long before that time.
Q. Okay. And I'm not suggesting he wasn't long before that time.
Which entity was Mr. Surgent the chief compliance officer of?
A. Everything in the complex. Everything that we did he was the chief compliance officer for.
Q. Would that mean Highland Capital Management?
A. Every entity.
Q. Every Highland entity?
A. Everything that we did at Highland on those two floors at The Crescent, every investment, yes. Every investment, whether it was for investors or any proprietary investments, everything went through compliance.
Q. Well, I'm asking about Mr. Surgent in particular. Was he also the chief compliance officer -- in addition to being the chief compliance officer for the Highland entities, was he also the chief compliance officer for the Acis entities?
A. Yes.

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Q. And there is reference at the end of Interrogatory No. 4 response in Exhibit 2.
MR. LANG: Here.
Q. If you read, it says -- I believe the last sentence says, now, "These transactions were approved based upon recommendations of Surgent, the chief compliance officer, the deputy general counsel, and other in-house counsel of Highland Capital."
Do you see that?
A. Yes.
Q. Who is the -- or who was the deputy general counsel that you're referring to in this answer?
A. I can't remember his name.
Q. Was it Cournoyer?
A. I'm sorry. Was the question -- repeat -- please repeat the question.
Q. Who was the deputy general counsel you're referring to?
A. Okay. Yeah, I believe Cournoyer was the deputy general counsel.
Q. Okay.
A. Or I think that was the name they used for midlevel attorneys.
Q. Okay. And it says these transactions were approved.

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I take it you were the one approving them. Correct?
A. No. I signed off on them, but the approval process is from compliance.
Q. Who would have given the ultimate approval of their recommendations?
A. Compliance.
Q. And who would that have been?
A. Thomas Surgent.
Q. Okay. The reason I ask is, it says, "These transactions were approved based upon the recommendation of Surgent."
Are you now telling me he approved his own recommendation?
MR. LANG: Objection, form.
A. I guess the distinction I'm trying to draw is I would have had signing authority for respective entities. The approval of the final transaction -- compliance would have to approve any final transactions. I don't remember making any changes to the transaction recommended by Surgent and Cournoyer.
Q. Did you have to sign off on the recommendations?
A. I'd sign on the transaction itself. There wasn't an intermediate step signing off on the

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transactions, as far as I know.
Q. Okay. But it was necessary for you to sign off on the transaction or else the transaction couldn't be carried out, correct?
A. I was the majority --
MR. LANG: Objection, form.
A. I was the majority controlling shareholder. So ultimately I needed to approve or sign off on it, correct.
Q. Who sent -- when it says "these transactions were based upon the recommendations of Surgent, chief compliance officer, deputy general counsel, and other in-house counsel of Highland Capital," who would have sent these transactions to Surgent and the other lawyers?
MR. LANG: Objection, form.
A. They kept -- they keep all legal files. So they were aware and involved in the structuring of Acis in the first place. So when the partnership or -- whether it's an LLC or partnership, I don't know. But when it was no longer -- when it no longer contained all the partners after Josh left, the proper reconstituting was a necessary maintenance item that they would have done. Nobody had to send them anything.
Q. Did they ever issue any written

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recommendations?
A. Not that -- not that I would recall. It wasn't -- it wasn't -- my recollection is it wasn't complicated. They were rights the other partners had to properly reconstitute the entity when one partner left. And that's what they did. And there wasn't discretion or debate, as far as I remember.
Q. Okay. So the best of your knowledge is that these recommendations from Surgent, Cournoyer, Hunter Covitz, other lawyers, was -- it was all oral, not written?
A. Yes. What I'm saying is it wasn't complicated or iterative. That's why there's -- I have no recollection. I don't believe there was any paper trail or verbal back and forth.
(Exhibit 3 marked.)
Q. I'm going to hand you what has been marked as Exhibit 3 to your deposition.
MR. LANG: Can we set these two aside, Joe?
MR. AHMAD: Yes.
MR. LANG: Get these out of the way, if you don't mind.
Q. And if you skip over the first page, or first two pages, you'll see a final award on Exhibit 3.

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A. Final award.
MR. LANG: It's on the second page.
A. It's on the second page?
MR. LANG: Yeah. It's a front/back.
A. Okay.
Q. Can you identify that award in Exhibit 3?
A. I'm sorry. Identify what? Final award in Exhibit 3?
Q. Can you identify this as the final arbitration award in the case between Josh Terry and Highland Capital Management, Acis Capital Management, Acis Capital Management, GP, LLC, you as trustee of the Dugaboy Investment Trust and Mark Okada?
A. Yes. I don't -- yes. That's what it seems to be.
Q. Have you read the final award?
A. No.
Q. Never?
A. Never.
Q. Do you know if there were any findings you disagreed with?
MR. LANG: Objection, form.
A. I haven't read it before. I can read it now if you'd like.
Q. That's okay. I'm just wondering sitting

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today -- here today if you remember any findings of the arbitrators that you disagree with.
A. I don't -- I don't remember. I haven't reviewed it.
Q. Did you ever think the arbitrators were biased against you?
A. I don't remember having those feelings.
Q. Did you have any -- remember having any negative opinion about the arbitration process at all?
A. I don't remember at this point.
Q. There is an entity in here called Hunter Mountain. Are you familiar with that entity?
A. Generally.
Q. And what is Hunter Mountain?
A. Hunter Mountain owns a chunk of Highland Capital.
Q. Do you know what type of entity Hunter Mountain is?
A. No.
Q. Do you know who owns Hunter Mountain?
A. I believe at this point that DAF owns Hunter Mountain.
Q. I'm sorry. Staff?
MR. LANG: DAF.
A. DAF. DAF.

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MR. LANG: Donor-Advised Fund.
MR. AHMAD: Thank you.
MR. LANG: Yep.
Q. How about in 2017? Do you know who owned Hunter Mountain?
A. I know John Honis was the trustee at that point, but I don't recall who owns it.
Q. And his name is H-o-n-e -- n-i-s?
A. H-o-n-i-s.
Q. You don't know any of the owners?
A. I don't recall as we sit here.
(Exhibit 4 marked.)
Q. I'm going to hand you what has been marked as Exhibit 4 to your deposition. Can you identify Exhibit 4?
A. Looks like it's an LP agreement for defining Acis.
Q. For Acis Capital Management?
A. Yes.
Q. And if you go to the last page -- actually, maybe not the last page, but the last few pages are signature pages. Do you see that?
A. Yep.
Q. On the, I believe, third-to-last signature page, do you see your signature?

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A. Yes.
Q. Do you see it twice?
A. Yes.
Q. Both as general partner of Acis Capital Management GP, LLC? Do you see that?
A. Yes.
Q. Does that refresh your recollection that you were the president of Acis Capital Management GP, LLC?
A. Yes.
Q. And then you are also signing off on behalf of one of the limited partners, Dugaboy Investment Trust. Do you see that?
A. Yes. Yep.
Q. And your position with the Dugaboy Investment Trust was trustee, correct?
A. Yes.
Q. Were you also the beneficiary?
MR. LANG: Objection, form.
A. I don't believe so.
Q. Do you know who the beneficiary was?
A. I think the beneficiary, my understanding, was and is my children.
Q. Okay. And then it looks like Mark Okada is a limited partner as well?
A. Yes.

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Q. And, of course, Josh Terry, right?
A. Yes.
Q. And did you know Mark Okada prior to this limited partnership agreement being signed in January of 2011?
A. Yes.
Q. And how did you know him?
A. We formed Highland together in '93, but I guess I hired him in '89.
Q. Hired him where?
A. When I used to be the chief investment officer for an insurance company called Protective Life, and we had started an asset management company for them called Protective Asset Management. And Mark Okada was my first hire.
Q. Is that how you first met him?
A. Yes.
Q. And then I think, as you said, the two of you started Highland together?
A. Yes.
Q. Highland Capital Management?
A. Yes.
Q. Did you read Exhibit 4, the limited partnership agreement, before you signed it?
A. Not that I recall. Not specifically.

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Q. Did you read it after you signed it?
A. I can't remember ever reading it.
Q. Do you know who created Exhibit 4?
A. I believe it would have been Thomas and his group.
Q. Surgent?
A. Yes.
Q. "His group" being lawyers?
A. Yes. Him and/or the lawyers under him.
Q. Do you know if they made any revisions to the original draft?
A. I do remember there was more than one iteration of it, but I don't remember anything beyond that.
Q. Did you review any parts of any previous iteration?
A. I wouldn't have reviewed the documentation or legal stuff. They would have -- if there were substantive changes in terms, they would have run those by me, but I -- I don't -- I don't -- I don't remember anything in particular.
Q. Do you know if there's anything in Exhibit 4, the limited partnership agreement, that limits any fiduciary duty you would have to Acis Capital Management, LP?
MR. LANG: Objection, form.

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A. If there's a section that describes fiduciary responsibility, then there'd be maybe a subsection that limits it. So is there a section that describes any fiduciary responsibility?
Q. Well, I'm just asking if you're aware of anything that limits any fiduciary duty you would owe to Acis Capital Management, LP.
MR. LANG: Objection, form.
Q. Do you know of any?
MR. LANG: Objection, form.
A. I'm -- I'm not aware of any described in here or what regulatory or state obligations there might be. But I don't believe there's any described in here.
Q. So you don't know of anything that would modify or waive any fiduciary duty to the extent it exists?
MR. LANG: Objection, form.
A. I don't believe that this gives any. I don't believe that this limits any either, which I think answers your question.
Q. Do you -- were you ever aware that as president of the Acis Capital Management GP, LLC, you might owe some fiduciary duties to Acis Capital Management, LP?
MR. LANG: Objection, form.
Q. Did that ever occur to you?
MR. LANG: Objection, form.

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A. That would have been handled by compliance and legal to make sure that we were compliant with whatever, if any, fiduciary obligations there were.
Q. I'm just asking you were you ever aware.
MR. LANG: Objection, form.
A. I don't remember it as a discussion item.
Q. Never entered your mind?
MR. LANG: Same objection.
A. Yeah, I can't remember what entered my mind. I'm just saying I don't remember it being a discussion point or issue.
Q. If you look at page 1 of Exhibit 4 of -- and I mean page 1 of the substantive agreement, not the table of contents. If you look at the top, you see I think a few "whereas" paragraphs.
A. Yep.
Q. It looks like on the second "whereas" it says, Effective on the effective capital -- excuse me. Effective on the effective date, Highland Management Services, Inc., transferred its interest in the partnership in kind to James Dondero and Mark K. Okada. And James Dondero transferred his interest into the Dugaboy Investment Trust.
Do you see that?
A. Yes.

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Q. Do you remember why you gave your interest to the Dugaboy Investment Trust?
A. No.
Q. Is it fair to say that you were the top person at -- as president of the general partner at Acis Capital Management, LP?
MR. LANG: Objection, form.
A. What do you mean by "top person"?
Q. Were you the ultimate authority?
MR. LANG: Objection, form.
A. I was the president, so --
Q. Did anybody have more authority than you?
MR. LANG: Objection, form.
A. Not on presidential-type decisions, but I wasn't involved in the day-to-day operations that would have been performed by Josh and his staff. And I wouldn't have been the decision-maker on any of those activities.
Q. Okay. But I assume if you disagreed with something that Josh wanted to do, you had the power to make sure it didn't happen?
A. Yes.
Q. If, in fact, you disagreed?
A. Yeah. As a registered investment advisor, anytime a portfolio manager like Josh tries to steal

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from investor funds, which he did several times, we would try and object and stop it or file whatever appropriate motions to prevent it. We've done that numerous times.
Q. Okay. Do you think he ever successfully stole money?
A. Oh, yeah. Well, I mean -- yes. I would use the word "stealing" for taking investors' money for his own personal legal expenses and his compensation and for compensation when there were no activities performed. I would view that as stealing, so ...
Q. Okay. And what personal legal expenses?
A. We filed various different -- he -- he's been -- I think he's been a defendant in several actions where it wasn't just against Acis, it was against him personally. And using investor funds for his own personal defense was, in the view of the entities filing the motions, you know, improper or stealing.
Q. Was that your view?
A. Yes.
Q. Okay. Which case and which lawyer did he -- did he use for personal purposes and have Acis pay for, or Highland?
A. I -- I don't remember. I just -- these were the substance. I don't know any of the specifics, but

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these were the substance of various actions and motions in both Acis and subsequent cases.
Q. Okay. Well, you've said that he was stealing money from investors. I assume that's pretty serious. Is that right?
A. Correct.
Q. But you don't remember any of the specifics?
A. No, nor would I be involved in the specifics.
Q. Okay. Anything else you can tell me about them other than what you just have?
A. No. Most of it's public, or most of it's party to arbitration case file.
Q. Yeah, and you made those arguments in the arbitration, correct?
A. I believe so.
MR. LANG: Objection, form.
Q. Were you aware that you did not prevail as far as his termination was concerned?
A. I haven't read the -- I haven't read the arbitration award.
Q. Do you believe that Josh Terry was terminated for good cause?
A. Yes.
Q. And you were the one that made that decision, correct?

A. I -- I -- I don't remember. I believe compliance and Thomas Surgent were deeply involved.
Q. Were you involved?
A. And in the room at the same time.
Q. I'm sorry. Were you involved?
A. It was in my office, the contrivance, I guess.
Q. Okay. But were you involved in the decision to terminate Josh Terry?
A. Was I involved? Yeah, either I was involved or I approved it. I don't remember exactly.
Q. And did Josh Terry report to you such that you were the one that had to approve his termination?
MR. LANG: Objection, form.
A. Same answer.
Q. Were you the top person at Highland Capital Management, LP?
A. Yes.
Q. I'm going to ask you, if you'd look at pages 4 going over to 5 of the agreement, there is a term "net available cash." Do you see that?
A. Yes.
Q. If you go to the top of page 5, it talks about -- and this is under (b). It talks about any other reasonable reserve created by the general partner in connection with any expected expenses or liabilities

of the partnership, and goes on.
You were the general partner, correct, or at least president of the general partner?
A. Yes.
Q. Were you aware of any reasonable reserve?
A. I -- that clause provides flexibility. I don't remember -- I don't remember applying it, but it provides some flexibility to create reserves.
Q. Now, if you go to page 15, and if you specifically look at -- I believe it's 4.01(e) and (ii). So it's kind of the middle of page 15. Do you see that?
A. Uh-huh.
Q. Talks about how the general partner, any of its affiliates, and with the consent of the general partner, any other partner may enter into to an agreement with the partnership to render services, including management services, for the partnership.
Do you see that?
A. Yes.
Q. And that, in fact, happened, did it not? Affiliates rendered services to Acis?
A. Acis needed a lot of services. It was very employee-light, so -- but it was a functioning RIA, so it needed accounting compliance, it needed legal support, et cetera. So, yeah, I mean ...

Q. So Highland Capital Management, LP, provided services to Acis Capital Management, L.P., correct?
A. Yes.
Q. Did any other affiliates provide services to Acis Capital Management, L.P.?
A. I don't remember.
Q. You would agree, though, Highland Capital Management LP was an affiliate of Acis Capital Management, LP?
MR. LANG: Objection, form.
A. I mean, "affiliate" is a legal term, right? I -- common control. If we want to define it as common control, yes. I'm -- I just want to be cautious about agreeing to the word "affiliate."
Q. Fair enough.
Did you understand, if you keep reading on, that any such agreement for services with an affiliate as it's described here in 4.01(e)(ii), should be on arm's-length term and fair and reasonable to Acis Capital Management, LP?
A. Right. I see that at the end of little two little i there.
Q. Do you agree with me that services provided by an affiliate should be arm's length and fair and reasonable to the Acis Capital Management, LP?

MR. LANG: Objection, form.
A. I believe every -- every effort was made to make sure that was the case.
Q. Specifically, was every effort made to make sure that the services provided by Highland Capital Management LP were arm's length and fair and reasonable to Acis Capital Management, LP?
A. I believe so.
MR. LANG: Objection, form.
Go ahead.
A. I believe so.
Q. And why do you believe that?
A. We honor our contracts, and we administer things methodically with appropriate accounting compliance, et cetera.
Q. Were there ever any, in your opinion, conflicts of interest between any Acis -- well, let me ask it this way: Was there any conflict of interest between any Highland entity and Acis Capital Management LP?
MR. LANG: Objection, form.
A. Generally -- generally not, that I'm aware of.
Q. Did you regard the fact that Highland Capital Management was providing services to Acis Capital Management, LP, as a conflict or potential conflict?
A. No.

Q. Did you ever regard that relationship or service as being a conflict or potential conflict?
A. No.
Q. Would you agree with me that if you were trying to deliberately depress Acis Capital Management, LP's value so that Josh Terry couldn't get money from it, would you agree with me that that would not be appropriate and in good faith?
MR. LANG: Objection, form.
A. I don't want to speculate on hypotheticals, but that scenario was never done, in my mind, or in my recollection or any evidence I've seen.
Q. Okay. Would you agree that to do that would be in bad faith?
MR. LANG: Objection, form.
A. I don't want to -- I don't want to speculate, not knowing what else could have been happening or what else could have been going on.
Q. Okay. So you're not willing to agree that trying to deliberately depress Acis Capital Management, LP's value to prevent Josh Terry from collecting money from Acis, not willing to agree that that would be in bad faith?
MR. LANG: Objection, form.
A. You're using sensationalized words. You know,

there's rights of offset and there's, you know -- let's say in the context of that scenario he was also stealing money, or let's say he did something to destroy investor value, putting on a significant reserve or putting on a significant allocation for regulatory fines or for legal expenses would be more than appropriate.
Now, you used the word deliberately as if maliciously reducing value, would that be an appropriate -- we've never done that. We would never do that, but I can imagine scenarios where the value would get depressed based on bad acts of a partner.
Q. So let me make sure I understand you. Do you think that -- if Josh Terry had stole money from investors or taken any other act of misconduct towards Acis, do you think that would be justification for you to deliberately depress Acis Capital Management, LP's value?
MR. LANG: Objection, form.
A. What I'm saying, we honor our contracts in the spirit of our contracts. We wouldn't deliberately or maliciously do anything to distort the value. I'm just saying I could imagine scenarios where compliance or legal would create material offsets that could materially change the value if they believed the offsets were proper due to bad behavior.

But I don't believe that happened contemporaneously here at all. I think that bad behavior was discovered later, and I don't think there was any intentional diminution of value in the partnership, that I recall.
Q. Okay. I just want to be clear. Was there any offset created for any reason because of any bad behavior of Josh Terry?
MR. LANG: Objection, form.
A. I don't recall, but I wouldn't have been the one who did that or calculated that or determined it was appropriate. Again, compliance reports directly to the SEC. They're the ones that police and administer compliance and react to bad behavior, if there is bad behavior that they are aware of.
Q. And have you told me -- by the way, when you referred to Josh Terry stealing, I think using company funds to pay for personal lawyers, I think you gave me that example, but have you described to me all the misconduct by Josh Terry that you remember?
MR. LANG: Objection, form.
A. We don't have all the source documents on all the monies and where it went, but there's 20 or 30 million dollars missing from investor accounts that there's no reasonable accounting for if you compare the

expense level to other similar funds in the marketplace.
Q. Are you saying that Josh Terry took that money?
A. In one form or another, yes.
Q. And how did he take it?
A. False expense allocations, false management fee compensation, and legal fees allocated that weren't properly -- that shouldn't have properly been -- that shouldn't have been born been the investors.
Q. You said false expense reimbursements. Anything else besides legal fees?
A. False management fees, too. These are -- again, we don't have source documents, but these are -- these are just suspicions relative to fee levels for similar-size funds in the marketplace that should have been a couple million dollars, there's $30 million missing, 20, 30 million dollars missing.
Q. When you say "false management fees," is there a document where Josh Terry charged management fees that were false?
A. I know we have some documentation. We have limited documentation. But all this stuff has been filed and put forward already, you know, to varying degrees of success, but it -- still, nonetheless, the investors are missing $30 million.
Q. Did you raise all the misconduct in the

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arbitration?
MR. LANG: Objection, form.
A. I think most of the misconduct happened after the arbitration. I believe the misconduct happened based on latitudes -- latitude that Acis felt Jernigan gave them.
Q. I'm sorry. I'm not sure I understand the last part. Are you saying that most of the misconduct occurred after Acis was put into bankruptcy?
A. I believe so.
Q. Acis Capital Management, LP, correct?
A. Yes.
Q. And specifically what acts occurred during bankruptcy? You mentioned Judge Jernigan gave latitude. What -- what acts of misconduct are you referring to in the bankruptcy, if you remember?
A. I -- I can describe it generally. It's -- let's say you and I had a property management company together and we managed a couple different office buildings. But let's say we had a falling out and we went our own way. Let's say whoever left had a claim against the management company, but there was nothing in the management company because it was just a service company.
Then let's say the judge said, I'm going

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to force the insurance companies or Japanese investors that own the office building to continue to pay management fees for three years even though they want to go somewhere else and they want nothing to do with the infighting or our services company anymore. And the judge forces them to continue to pay for the management company that is in disarray and not providing adequate services anymore.
In addition to that, whoever was left in our partnership, me and you, of me and you on managing the building then said, oh, they're stuck for three years. I can now bill them for whatever additional expenses or legal fees I want and take it out of their hides because they can't go anywhere and it doesn't matter if I bill them ten times what a typical management fee would be because they're stuck based on court order.
That's -- that's -- that's my -- that's my best analogy.
Q. So this happened through court approval, correct?
MR. LANG: Objection, form.
A. A thoughtful court would have, I think, viewed it as unintended consequences that the investors who she locked into paying management fees for three years

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wasn't specifically addressed and the unintended consequence was the free rein that Josh and Acis had to bilk the investors who couldn't leave. She didn't specifically grant him that latitude, but he took that latitude.
Q. Do you -- I assume you raised all these issues with the bankruptcy court. Right?
MR. LANG: Objection, form.
A. I think we tried to raise them as much as possible during the bankruptcy, and then I don't know how much ability there was post the bankruptcy to do it. But everything that we thought was compliant with the advisors act and consistent with the fiduciary responsibility to investors we tried to shine light on and stop improper behavior as much as we could.
Q. Was there any improper behavior which you didn't point out to the court, the bankruptcy court?
A. Everything that we were aware of, when we were aware of it we brought forward the best we could.
Q. Is there anything you've become aware of since?
A. I -- I would -- I'm not a lawyer. I'm not the lawyer on the Acis thing. I don't know.
Q. In your example of the Japanese investor, who do you think is the equivalent of the Japanese investor here?

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A. The DAF and the retail funds who are just third-party investor in the Acis, Acis CLOs. They're impaired at least 30-odd million dollars.
Q. Which donor-advised fund are you referring to?
A. There's only one that I'm aware of, the DAF, which is the foundation we set up years ago. And then the retail funds are the NexPoint and Highland fund, closed-end funds.
Q. When you say we set up the donor-advised fund, who is "we"?
A. Highland Capital set it up.
Q. Highland Capital Management?
A. Yes.
Q. And who at Highland Capital Management set it up?
A. Our tax attorneys.
Q. Tax attorneys that work for Highland Capital --
A. Highland Capital Management, yes.
Q. Okay. Who gave the tax attorneys authority to set it up?
A. I did.
Q. Anybody else?
A. Compliance.
MR. LANG: When you get to a stopping point, we've been going about an hour and a half.

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THE WITNESS: Yeah, let's take a break.
MR. AHMAD: Sounds good.
THE VIDEOGRAPHER: Off the record at 11:31 a.m.
(Recess taken from 11:31 to 11:50.)
THE VIDEOGRAPHER: We are back on the record at 11:50 a.m.
Q. Mr. Dondero, you mentioned Thomas Surgent. Did you -- I think you mentioned that you relied upon him for some of the Acis Capital Management, LP, transactions. Is that right?
A. Yes.
Q. And what did you specifically rely on him for?
A. To administer properly with whatever responsibilities are in the document or whatever responsibilities are based on jurisdiction or regulation in the initial formation and then in the reconstitution after Josh was gone.
Q. Do you believe that Mr. Surgent engaged in any -- well, let me ask you this: Do you believe Mr. Surgent gave you bad advice at all?
A. I have no reason to believe that as we sit here today.
Q. Do you believe he did anything wrong?
A. Not as we sit here today.

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Q. You don't have any -- you haven't brought any claims against him?
A. I don't know. I think -- I think there are claims stemming from the Highland bankruptcy that I think people are tracking, but I don't -- I think there's maybe some preclusions. I don't believe anything's been filed against Thomas Surgent at this point.
Q. Do you believe that there are potential claims against Thomas Surgent?
MR. LANG: Objection, form.
A. Not regarding Acis, but I believe there -- there are things regarding the Highland bankruptcy.
Q. What specifically?
A. I don't know. Just certain -- certain transactions that he was deeply involved in that other parties are, I think, improperly seeking relief from myself or Ellington.
Q. Okay. Well, do you believe Mr. Surgent breached any duty he has to any Highland entity?
MR. LANG: Objection, form.
A. I don't believe those are the nature of any of the claims. I'm not aware of anybody, any as we sit here at this moment.
Q. I'm asking what you believe. You don't believe

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Mr. Surgent has done anything wrong, you personally?
MR. LANG: Objection, form.
A. I believe there are things in the Highland bankruptcy that may be actionable.
Q. What specifically?
A. I don't know. I know they're keeping a list of things, but there's nothing that we've brought forward at this point, that I'm aware of.
Q. Okay. Do you believe that he gave you good advice with respect to Acis Capital Management, LP?
MR. LANG: Objection, form.
A. I -- I have no reason to think otherwise at -- up to this point.
Q. Okay. And the same with any of the other lawyers? I can go through them, but I think you mentioned Mr. Ellington?
A. I don't -- I'm not aware of Mr. Ellington having any involvement in Acis, but as far as the other lawyers or his team are concerned, I don't have awareness of anything improper or negligent with regard to Acis.
Q. Okay. And I'll just go through them just so we're clear by name.
Mr. Leventon?
A. I don't have any awareness of anything

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improper.
Q. Gave you good advice?
MR. LANG: Objection, form.
A. Yes, as far as I -- as far as I know, yes.
Q. Mr. Cournoyer, if I'm saying that right?
A. As far as I know today, yes.
Q. Gave you good advice?
A. Yes.
Q. Did nothing wrong?
MR. LANG: Objection, form.
A. Yes. As far as I know, yes.
Q. Hunter Covitz?
A. Hunter Covitz isn't a lawyer. He's a businessperson.
Q. Did he give you advice regarding Acis?
A. I don't know if advice is -- he did not give me legal advice with regard to Acis.
Q. Did he give you any other advice with respect to Acis?
A. I don't remember.
Q. With respect to legal advice, did you get legal advice outside of the arbitration -- you know, I know you hired outside counsel. But did you get legal advice with respect to any of the Acis Capital Management, L.P. transactions from anybody I haven't mentioned?

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MR. LANG: Objection, form.
A. The compliance department had one or two different outside law firms that they use regularly on anything, anything complex from a compliance or regulatory side. For a long time it was Ropes & Gray. I don't know if Ropes & Gray is still the -- was still the counsel at this point. But whether or not Thomas consulted or relied on outside counsel I wouldn't know. I don't have an awareness.
Q. Okay. Did any outside counsel specifically give you advice with respect to any of the Acis Capital Management, LP, transactions?
A. I relied on -- I relied on internal counsel entirely.
Q. And those internal counsel would be the ones we mentioned, correct?
A. Correct.
Q. Is there anybody you relied upon primarily?
A. Thomas Surgent.
(Exhibit 5 marked.)
Q. I'm handing you what's been marked Exhibit 5.
MR. LANG: Thank you.
MR. AHMAD: Uh-huh.
Q. Can you identify that document?
A. This is first time I recall seeing it.

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Q. Did you sign it on page 3?
A. Yes.
Q. As both the transferor and the transferee?
A. Yes.
Q. Do you not remember this transaction?
A. Not specifically, but I'm willing to be refreshed.
Q. Okay. Well, I think you can see what's going on in the recitals.
A. Yes.
Q. And you see that you signed off on behalf of the transferor, which is Highland Capital Management services Inc., correct?
A. Yes.
Q. And they were transferring, as you will see, 74 percent of its LP interest and a hundred percent of its membership interest in the general partner to you, and 25 percent of its LP interest to Mark Okada, correct?
A. Correct.
Q. Did you regard -- at least after this transaction on January 21st, 2011, did you regard Acis Capital Management, LP as a wholly owned subsidiary of Highland?
MR. LANG: Objection, form.
A. That's not what it says here.

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Q. No, it's not, at least I don't think. Because after this transaction, for example, the LP interest is split between you and Mr. Okada, correct?
A. Correct.
Q. Meaning it's not wholly owned by Highland, correct?
A. Correct.
(Exhibit 6 marked.)
Q. I'm handing you what's been marked as Exhibit 6.
MR. LANG: Thank you.
Q. Have you seen Exhibit 6 before?
A. Not that I recall.
Q. Do you see you're one of the signatories under transferee?
A. Yes.
Q. So you signed Exhibit 6 just like you signed Exhibit 5, correct?
MR. LANG: Objection, form.
Q. Correct?
A. I signed it as transferee, yes, both times, yes.
Q. Both on Exhibit 5 and Exhibit 6 as transferee, but Exhibit 5 is transferor in addition, correct?
A. Yes.

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Q. And who is Nancy Dondero?
A. I believe at this point she was trustee of Dugaboy, and she's my sister.
Q. I notice, if you again look at the whereases, in the second whereas it says that transferor and transferee, which looks like you and your sister, correct?
A. Yes.
Q. Have determined that it is in their respective best interests to cause the transferor's membership interest in the company to be transferred to transferee. Do you see that?
A. Yes.
Q. Do you know why it was considered to be in your best interest to transfer the membership interest in Acis GP to you?
A. I -- my general recollection is at this point Acis had no value, and none of the investors -- potential new investors or underwriters in terms of refinancing CLOs or doing additional CLOs wanted to be anywhere near Acis as a shell without any employees or any normal business. And in general miscellaneous assets I try and put into Dugaboy to keep any estate cleaner. But I don't remember the specifics otherwise around this.

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Q. What do you mean by "cleaner"?
A. It's -- if you have a bunch of -- if you're an asset manager or a high-net-worth individual and you have a bunch of disparate assets, it's good to aggregate them instead of having them off in a myriad of different entities. That's my recollection. There might have been some other reason, but that's my recollection.
Q. Was Acis insolvent, Acis Capital Management, LP, insolvent as of October 2015?
MR. LANG: Objection, form.
A. As of -- no, I don't believe so at that date. It wasn't -- it wasn't particularly solvent or insolvent. It was largely a pass-through entity, but it wasn't an ongoing business once Josh left.
And I think any potential for it being an ongoing business was quickly and firmly killed by HarbourVest that was either an investor or going to put money in and then killed by -- also by -- I think Goldman Sachs was the underwriter that we were potentially going to refinance the deals with. And nobody wanted to have anything to do with Acis. So I don't think we viewed at this point Acis having any value on a current or going-forward basis.
Q. Just to be clear, you're saying Acis had no value as of October 2015?

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MR. LANG: Objection, form.
A. I want to be careful saying anything with regarding the date because I can't remember the context around that date. Is that the date -- that's after Josh left, right? No.
Q. That's before.
A. Oh, okay.
MR. LANG: He left in June of '16, just to orient you.
THE WITNESS: Okay. Thank you.
A. So the valueless comment is -- is after he left. But -- but my recollection is we didn't reconstitute the partnership until after he left. So these -- these agreements to me look like a reconstituting of the partnership or a reconstituting of the transfer of the partnership.
Q. I'm just asking as of October 2015, which is -- I don't know -- eight, nine months before Josh Terry left, did Acis Capital Management, LP have value?
MR. LANG: Objection, form.
A. It had limited value before Josh left because the markets had turned down materially, and the mark to market and the upside on the portfolios was limited. And I believe that panic is what put Josh on a path towards trying to be terminated. You know, the

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surreptitious taping of employees, the, you know, contrivance of his exit was because the portfolio was down and incentives that would have been material to Acis were gone based on market conditions.
There was still inherent flows to the entity, and there was expense reimbursement and there was salaries and stuff that came out. So it was marginally solvent. But the point in time leading up to Josh's departure, there wasn't any expectation of future value. That's why he went on the path that he went down. And my recollection is the transfers or the -- the reconstituting of the ownership to be just Mark and I was something that happened post him leaving. That's my recollection. But I don't -- I have no recollection of -- of changing his ownership interests while he was still there in good standing.
MR. AHMAD: I'll object to non- -- nonresponsive part.
Q. So you're saying you -- you have no memory of Exhibit 6?
A. I guess -- I'm struggling with the dates here I guess is the issue.
Q. I will tell you it's about eight months before Josh Terry left. I could count it up, but --
MR. LANG: It's about eight.

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MR. AHMAD: About eight? Yeah.
Q. I'm just asking you if you remember this assignment agreement which is Exhibit 6.
A. I don't remember these agreements. Give me a second here to try and piece what's going on here. So this first agreement is 2011. This is more at the formation? Is that what this is, this Number 5?
Q. That's about the time of the formation. Probably the same date.
A. Okay. So this was when Acis was formed, before Josh Terry was ever brought into it.
Q. Yeah. Now, I'm not asking you about the previous exhibits. I'm just asking you if you remember Exhibit 6. And if you don't, that's fine.
A. So hold on a second.
Q. Not trying to -- not trying to make it harder than it is.
A. Well, I -- okay. I just want to make sure I don't misspeak, that this first agreement predates even bringing Josh Terry into Acis, so it has no relevance to Josh Terry whatsoever. This was us, Mark Okada and I, just forming Acis and splitting it our typical 75/25. There's nothing unusual or relevant to Josh Terry in 5. That's -- that's my comment on that.
MR. LANG: I think we're overthinking it.

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I think one --
THE WITNESS: Okay.
MR. LANG: Exhibit 5 assigns from Highland. Highland owned Acis. It assigned its interest to you and Mark 75/25.
THE WITNESS: Right, okay.
MR. LANG: Exhibit 6, you just assign your interest to Dugaboy.
Q. I actually just simpler than that, I just wanted to know if you remembered it.
A. Okay.
Q. I think you testified you don't?
A. No, not specifically, but I can -- I can -- pulling it out of Highland makes some sense if we were going to make it a separate entity or separate vehicle we wanted to take advantage of signage or in anticipation of bringing in another partner like Josh or somebody. That makes some sense to me. And then moving it to -- moving my interest to Dugaboy makes some sense to me, too. Now --
Q. And how does it make sense?
A. Again, I've tried over the years, as I've gotten older, to get more things out of my personal estate and put more things -- or most everything into Dugaboy because that's the surviving residual entity

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that goes to my children.
Q. You mentioned, I think, the term pass-through entity with respect to Acis Capital Management, L.P. Did I -- did I hear that right?
A. Pass-through is not the right word, but I'm just saying it was an entity that was dependent on management fees, reimbursements, expenses, et cetera. But it wasn't an entity that accumulated great deals of capital or was expected to. It was -- it largely disbursed its income every year.
Q. And why is not -- why is pass-through not the right word? Do you have a different understanding of pass-through?
A. Pass-through is -- are tax thing generally, but that isn't the word I was -- I was looking for there.
(Exhibit 7 marked.)
Q. I'm going to hand you what has been marked as Exhibit 7 to your deposition. Have you seen that document before?
A. Not specifically. I can -- I can tell what it is, but I don't recall this.
Q. Do you remember seeing this letter, Exhibit 7, back in 2016?
A. I remember -- I remember the attachment.
Q. And is attachment is a letter to you from Josh

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Terry?
A. Yes.
Q. You got that letter, correct?
A. Yes.
Q. Do you remember if you got the letter from Rogge Dunn over at Clouse Dunn?
A. I remember he hired Rogge Dunn. I don't remember this demand letter specifically.
Q. Well, if you look at Josh's letter to you, towards the end he gives a summary of what he is requesting.
A. Uh-huh.
Q. Do you see that under summary of departure economics?
A. Yes.
Q. He's requesting 2.8 be paid immediately from Acis Capital Management, LP, correct?
A. I'm sorry. I don't remember specifics. I remember it was a couple million bucks. He's done an expert job parlaying it into 40 and another 75, so -- but I remember his original claims being a couple million bucks.
MR. LANG: I think it's towards the back. He's got it -- is that what you're looking at, Joe?
MR. AHMAD: Yes. It's right under this

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heading.
MR. LANG: It's down at the bottom of that page. Do you see bullet points?
THE WITNESS: Yeah.
Q. If it helps you, it's Acis CM 024288 at the bottom.
A. Yeah, I see this, yeah.
Q. Okay. And the money that he's requesting from Acis, did Acis have the money -- Acis Capital Management, LP, have the money to -- if it had wanted to, to pay Josh 2.8 million plus?
A. I have no idea. I have no idea. I don't remember keeping cash balances anywhere near that high.
Q. Do you think it could have paid it if it wanted to?
A. What a disaster.
MR. LANG: Objection, form.
THE WITNESS: We need to get back everything from Josh other than the 1.8 million. That's got to be the mandate.
Q. What's the 1.8 million?
A. Or, I'm sorry, whatever. It's crazy that a couple million dollar claim is parlayed into -- what are we talking about? 20 from Acis, 30 from Highland, another 75? It's a pretty good parlay. Jeez.

Q. Well, my question --
MR. AHMAD: I'll object to the nonresponsive part.
Q. -- is was Acis Capital Management capable of paying 2.8 million back then.
A. I don't know.
MR. LANG: Objection, form.
A. I don't know the answer.
Q. Do you know whether Acis Capital Management, LP, had value -- net value as of July 2016?
A. I have no idea.
Q. Okay. And actually I think the letter was just a few days later, in June. But did you ever believe Acis Capital Management, LP was insolvent?
MR. LANG: Objection, form.
A. I don't remember having those thoughts.
Q. Why do you think Acis Capital Management, LP, has not paid Josh for his arbitration award?
MR. LANG: Objection, form.
A. I think Jernigan gave him access to other entities that weren't part of this. This was supposed to be an arbitration thing in general. I think Jernigan gave him 15 or 17. I think the Highland estate gave him 25. I think he took another 30. It's been a -- it's been a tremendous parlay on his part if he doesn't have

to disgorge it.
MR. AHMAD: I'll object as nonresponse.
Q. Do you know why Acis Capital Management, LP, has not paid the amount in the arbitration award that was awarded to Josh Terry?
MR. LANG: Objection, form.
Q. If you know.
A. I believe Josh has been immensely overrewarded and compensated for any claims he might have ever had. So I don't believe there's a deficiency anywhere. But I don't know specifically what entity, when.
Q. Did you have a desire after the arbitration award to pay Josh Terry what he was awarded in arbitration?
MR. LANG: Objection, form. Could you restate that?
MR. AHMAD: Sure.
Q. Did you have a desire to pay Josh Terry what he was awarded in the arbitration?
A. I think I was released in the arbitration. I wasn't -- I think I was originally a defendant, but I think the award wasn't against me.
Q. Sure, but did you have a desire on behalf of Acis Capital Management, LP, to have Acis Capital Management, LP, pay the arbitration award?

A. I did not have a specific opinion one way or another.
Q. You had no desire one way or the other?
MR. LANG: Objection, form.
A. I don't remember having an opinion one way or the other.
(Exhibit 8 marked.)
Q. I'm going to hand you what has been marked as Exhibit 8 to your deposition.
MR. LANG: Thank you.
Q. Can you identify Exhibit 8?
A. I haven't seen it before.
Q. Okay.
(Exhibit 9 marked.)
Q. I'm going to hand you what's been marked as Exhibit 9. Can you tell me what Exhibit 9 is?
A. It appears to be an amendment to the partnership we were looking at earlier.
Q. You signed off on it as general partner?
A. Yes.
Q. As well as trustee of a Dugaboy Investment Trust as a limited partner?
A. Yes.
Q. Mark Okada signed off on it also as limited partner?

A. Yes.
Q. Why was this done? If it helps, it looks like you're changing the definition of founding partner group.
A. Yes, that's what it looks like. I mean, it says what it says. I don't know. I don't have a recollection beyond that.
Q. Well, it looks like it's designed to remove Josh Terry as a founding partner group, as a member of the founding partner group. Is that -- is that fair to say?
MR. LANG: Objection, form.
A. Yes, that appears so. Was he out of the company at this point?
Q. Yes. He had been -- I think he left on June 9th of 2016, and this is July 1st of 2016. So probably about two and a half weeks later.
A. Right.
Q. So is it fair to say that this was designed to remove Josh Terry as a member of the founding partner group?
MR. LANG: Objection, form.
A. Yes, I believe that's what it does.
Q. Do you know why you wanted to remove him as a member of the founding partner group? If you remember.

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A. I just -- I believe it's good corporate -- or good corporate responsible and proper document adjustment. You start a restaurant with three people. There's a cook that provides no capital but the labor and then he quits or is terminated, whatever. You reconstitute the partnership with the people who are left or you bring in a new cook, right? That's how I would look at that.
Q. Well, I understand, but why did you need to amend the partnership agreement to do that?
MR. LANG: Objection, form.
Q. If you know.
A. I -- I believe it's good legal housekeeping. I don't know the exact reason why.
Q. Did you ever testify that things between you and Josh Terry after the termination and during the arbitration proceedings had become personal?
A. I don't remember.
Q. You don't remember saying that?
A. I -- I don't remember. I'm not saying I didn't, but I don't remember.
Q. Did you ever feel it was personal?
A. You know, at some point stealing money and trying to gouge value from somebody else when you have a $2 million claim and you've already parlayed it into 50

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or 70 and going for another 75, at some point it gets personal, doesn't it?
Q. Did you ever accuse Mr. Terry of mud slinging?
A. I don't remember.
Q. If I -- well, let me ask you this: Have you ever gone back and looked at any of your testimony before?
A. No.
Q. Do you have any reason to believe you testified inaccurately in the past?
MR. LANG: Objection, form.
A. Yeah, there are sometimes I speak too fast, and there's sometimes I get emotional. So there's -- there's definitely a chance that things I say or have said need clarification.
Q. Did you ever feel like you didn't want a dime to go to Terry because it was personal?
A. I don't recall saying that.
Q. Did you ever feel that way?
A. I -- I don't -- no, I don't recall -- I don't recall that at all.
Q. If you said that, was it wrong?
MR. LANG: Objection, form.
A. I -- I don't remember saying that at all.
Q. Did you -- did you realize that Acis Capital

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Management, LP, when it went into bankruptcy -- and I take it it was not your choice for it to go into bankruptcy. Is that right?
A. I believe it was filed involuntarily and against the binding arbitration clause in the agreement.
Q. Okay.
MR. AHMAD: I'll object as nonresponsive.
Q. It wasn't your choice to send Acis Capital Management into bankruptcy?
A. It was not.
Q. Did you believe that Acis Capital Management, LP's creditors, though, should be paid?
MR. LANG: Objection, form.
A. I believe creditors were entitled to whatever they were entitled to.
Q. Well, do you specifically -- and, actually, I think if you go back, I believe it's to the proof of claim. It's probably Exhibit --
A. 8.
Q. -- 8?
MR. LANG: 8.
Q. And you said you hadn't seen it, but if you look, you'll see a list of creditors at the end, or it should be there?
MR. LANG: No.

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MR. AHMAD: Make this a separate exhibit.
MR. LANG: Should this be part of this, like an 8A, or should it be 10?
MR. AHMAD: I can do it separately.
MR. LANG: Okay.
MR. AHMAD: It was supposed to be, but ...
MR. LANG: That's fine.
(Exhibit 10 marked.)
Q. Hand you what's been marked as Exhibit 10. You'll see Exhibit 10 is a list of creditors that you signed on behalf of Acis Capital Management, LP.
A. Yes.
Q. Did you believe that the creditors listed here in Exhibit 10 should be paid?
A. I don't have an awareness of the validity of each bill, but on the surface it looks like bona fide creditors.
Q. So did you believe they should be paid if they were bona fide?
MR. LANG: Objection, form.
A. If they're bona fide in due course with -- yes.
Q. Did you believe that as of the time of the bankruptcy that you were the sole owner of Acis Capital Management, LP?
MR. LANG: Objection, form.

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A. No.
Q. Who else was the owner? Mr. Okada?
A. Yes.
Q. Twenty-five percent interest?
A. Yes, I believe so.
(Exhibit 11 marked.)
Q. I'm going to hand you what has been marked as Exhibit 11.
A. Yes.
Q. Do you remember this agreement, Exhibit 11? Actually, amended and restated agreement?
A. No.
Q. It looks like, if you look at page 10, you signed off as both the investment manager, Acis Capital Management, LP, as well as the sub-advisor, Highland Capital Management LP. Is that correct?
A. Yes.
Q. And when it says sub-advisor, what was Highland's duties -- or what were Highland's duties with respect to Acis?
A. Well, when Josh left, there were no employees left, I don't think, at Acis, or no ability to manage the portfolios that were there. So, again, I view this document like the other one, as proper legal housekeeping and adjustment for a situation that

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changed.
Q. Well, one of the things, if not the major thing that's being done was an increase in the fee charged for the advisory services of Highland Capital Management, correct?
A. Well, again, because all the work was shifting to Highland, so I believe they probably made the proper adjustment to reflect that.
Q. Okay. So you see in here, if you look at the Schedule A, the fee rate is now going to be 20 bps.
A. Okay. Yes.
Q. Which I guess is .2 percent. Is that correct?
A. Correct, yep.
Q. And it had previously been 5 basis points, correct?
A. Correct. Again, Acis used to be work. Now Acis wasn't going to be doing any work.
Q. Okay.
A. So I think this was just proper adjustment and housekeeping.
Q. Well, when --
A. And I think well within the latitude of the agreement, too, right?
Q. Did you have any lawyers, compliance people recommend this transaction to you?

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A. Yes. They were the ones that would have prepared and put this in front of me.
Q. And who did that?
A. Thomas Surgent.
Q. Any documents where he's recommending that the fee from Highland go up from 5 basis points to 20?
A. This document here.
Q. Okay. This is just the change. Any documents where Surgent is saying that?
A. This reflects his recommendation and his legal work and keeper of all -- his responsibility of keeper of all documents to be current and compliant and appropriate.
Q. No other document?
MR. LANG: Objection, form.
A. Not that I'm aware of.
Q. And you're saying that the reason for this increase, this four-fold increase from 5 basis points to 20 basis points is that Highland was going to have to provide more services because Josh Terry was gone?
A. Correct. All the work that Acis did Acis was no longer doing, and the burden of replacing the services provided by a 2, 3 million dollar a year guy were now falling on Highland.
Q. And what services did Josh Terry provide that

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Highland was now going to have to pick up?
A. He probably has a grander answer to this question, but, you know, the portfolio management, the business development, and the communication with Wall Street and investors, all activities that he would have been doing are now -- have now fallen back to Highland.
Q. Who paid Josh salaries -- Josh Terry's salary or his compensation? Do you know?
A. I believe in the beginning there wasn't enough in Acis to do that, and like I said, I don't know whether -- how long he was a dual employee, but it would have been offset from Highland. But then as Acis started accruing more fees and more deals, I imagine most of it would have been paid by Acis.
Q. Do you know?
A. I don't. The accountants would know. I don't know the specifics.
Q. Okay. And to be clear, you said Surgent would have been involved in recommending this increase; is that right?
MR. LANG: Objection, form.
A. Yes, absolutely. He -- he would have been the one that crafted the agreement, making sure it was compliant with partnership agreement, any responsibilities from a regulatory or venue standpoint.

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And I sign probably 200 things a week. I'm not the lawyer putting together documents. I rely on the lawyers. And, like I said, compliance has an unusually large role in any asset management firm. They report dotted line to me but also to the SEC. So they're -- they're quasi independent and personal liability to the SEC.

So you take their recommendations and you can't push them around. Otherwise, they would have personal liability. And an investment -- investment advisory firm, they would be the orchestrator of that.

Q. And did Surgent also make the recommendation to remove Josh Terry from the founding partner group?

A. Yes. He was gone. He had -- he had left.

Q. My question is did Surgent recommend that --

A. Yes.

Q. -- change.

A. Yes. I said yes.

Q. And as far as this Exhibit 11, the change in the fees, Highland Capital Management was changing to now 20 basis points. Did anybody get a fairness opinion of whether -- given the fact that this was one affiliate, Highland, charging a fee to another affiliate, Acis Capital Management, anybody get an opinion as to whether this transaction was fair?

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A. Not that I'm aware of. Not that I would have thought would be logical or appropriate either.

Q. Do you think this reflected fair market value?

A. Yes. Acis became a shell when Josh left. Why would -- when all the work and all the responsibility and all the liability flowed to Highland, why would -- why would a shell be entitled to anything?

Q. Was there any discussion or thought of any kind about Acis getting these same advisory services from another entity, an unaffiliated independent entity?

A. Not that I'm aware of.

Q. Are there other outfits other than Highland Capital Management which provide advisory services, or is it the only one?

A. There aren't any others that we believe do it better.

Q. Are there -- are there others out there? Are there competitors?

A. Yes.

Q. Anybody look at potentially using one of them to provide these services?

A. There aren't any that we believe do it better.

Q. So therefore you didn't look at any other entity? Is that what you're saying?

A. Not that I recall.

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MR. AHMAD: Let me know when you guys want to take lunch, by the way. If you do want to take lunch.

THE WITNESS: Let's not take lunch. I've got a hard stop at 2:00. I can push it till 2:30. But I thought this was going to be a short one. I've got to travel internationally tomorrow.

MR. AHMAD: Well, I can't promise you I'll be done by 2:00, but if you have a hard stop --

THE WITNESS: Yeah. I have a hard stop. I was thinking we'd be done by 2:00. I can push it to 2:30, but that's it. Otherwise, we can reconvene when schedules permit.

(Exhibit 12 marked.)

Q. I'm going to hand you what's been marked as Exhibit 12 to your deposition.

MR. LANG: Thank you.

Q. Do you remember this document?

A. No.

Q. You signed it, didn't you?

A. Yes.

Q. It looks like you signed it on behalf of both purchaser, Highland Capital Management, LP, and the seller, Acis Capital Management, LP, right?

A. I don't see signatures on mine.

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MR. LANG: On page 13.

THE WITNESS: Oh, it's on page 13?

MR. LANG: Yeah. There's other attachments.

A. Yes.

Q. Those are your signatures, correct?

A. Yes.

Q. On page 3, if you go to Section 1.3, it says that the parties acknowledge and agree that the purchase price reflects the arm's length value of Acis' participation interest as of the date of this agreement as determined by mutually agreed appraisal methods.

Do you see that?

A. Yes.

Q. Was there an appraisal done of the value of Acis's participation interest?

A. I don't have specific knowledge, but if it -- I do believe whatever it says we did, we did.

Q. But you haven't seen that?

A. I have not.

Q. And you don't specifically remember an appraisal?

MR. LANG: Objection, form.

A. I'm saying we're good with our contracts, and if we said we were doing something, we did it. But I

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don't have any specific awareness.
Q. Okay. If you go to the bottom of page 1, under the recitals, it's the third-to-the-last "whereas." It says, Whereas, seller has determined to stop making annual distributions of excess cash to seller's partners while efforts are underway to form a new -- to form new CLOs.
Do you see that?
A. Yes.
Q. Who on behalf of seller determined to stop making annual distributions of excess cash, if you remember?
A. There was a lot going on. I thought -- I thought it was the investors, meaning the retail funds and the DAF, that didn't want that, didn't want any more distributions because they needed the extra cash in the deals in order to form the -- in order to do new CLOs. I believe that was the -- my recollection is that was investor driven.
Q. And the investor being the donor-advised fund?
A. And the retail mutual funds.
Q. Which retail mutual funds?
A. **(need spellings) ^H fro and ^N H F.
Q. With respect to the donor advisor fund, who at the donor advisor fund made that decision? Would that

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have been you?
A. No. The donor-advised fund's independent. I believe the trustee at the time. I believe the trustee at the time was Grant Scott.
Q. So you believe Grant Scott determined to stop making annual distributions of excess cash?
MR. LANG: Objection, form.
A. I believe the excess cash distributions were -- holding them back in the deal were necessary to refinance the deals because the deals hadn't performed that well. And the excess cash was necessary to refinance them. And the investors in aggregate wanted to refinance the deals. And that was one of the prerequisites.
Q. Okay. Do you have any idea, if it was really the investors, why it said the seller, Acis Capital Management, LP?
A. Because the -- the registered investment advisors have responsibility first and foremost to the investors.
Q. Is there any communication from the investors where they tell Acis to stop making annual distributions?
A. I don't know.
Q. If you go to Schedule A, which is the last page

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in the document --
A. Yes.
Q. -- you will see a total servicer fee and then the servicer fee retention amount. Do you see that?
A. Yes.
Q. So basically the seller, Acis Capital Management, is selling its -- looks like about half of its participation interest to Highland Capital Management; is that correct?
A. Yes.
Q. In exchange for a note?
A. Yes. The date on this is -- is this pre --
Q. It's October 7, 2016.
A. Is this pre or after he left?
Q. After.
A. Okay.
Q. Do you think that as of October 7th, 2016, Acis could afford to pay these -- half of its advisory fees participation interest rather?
MR. LANG: Objection, form.
Q. I'll restate it. Do you think Acis as of October 7, 2016, could afford to pay Highland half of its participation interest?
MR. LANG: Objection, form.
Q. Or servicer fees?

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MR. LANG: Same objection.
A. I -- I don't know if that's -- I don't know how much of the total servicer fee Acis was getting. I don't know if it's fair to look at it that way. But in any case, let me just answer by saying I don't -- I don't know. I don't have a comment.
Q. And did anybody do any kind of a fairness opinion as to whether the value of the servicer fees that Acis was giving up was worth the value of the note?
MR. LANG: Objection, form.
A. Since it suggests that it was done in here, I believe that there was something done. I just don't have an awareness of it.
(Exhibit 13 marked.)
Q. I'm going to hand you what's been marked as Exhibit 13. And this is the note that we were referring to earlier --
A. Uh-huh.
Q. -- that Acis received in exchange for the transaction of Exhibit 12, correct?
A. It appears to be.
Q. And Acis made payments, at least one payment on that note; is that correct?
A. I don't know.
Q. Well, I think if --

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MR. LANG: Object to the form. Acis or Highland, Joe?
MR. AHMAD: Hang on for a second.
Q. If you look at the last page --
MR. AHMAD: And it's Highland. I'm sorry.
MR. LANG: Yeah. I just wanted to be sure we're clear.
Q. If you look at the last page --
A. Of the promissory note?
Q. Yeah, Exhibit 8.
MR. LANG: Sorry. Exhibit 8. So here.
Q. Exhibit A.
MR. LANG: Oh, A.
Q. Of Exhibit 13.
MR. LANG: Okay.
Q. Sorry. It's an exhibit of an exhibit.
A. Yes.
Q. Were you aware -- and the first payment looks like it was supposed to be on May 31st, 2017. Were you aware that one payment had been made?
A. No. I'm not aware of accounting details like that.
Q. Were you aware that Acis stopped remitting its servicer fees to Highland?
A. I'm not aware.

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(Exhibit 14 marked.)
Q. I'm going to hand you what's been marked as Exhibit 14. It looks like this is an agenda, I'm assuming for a meeting that you sent out, on October 6, 2016. Is that correct?
A. Appears to be.
Q. And it's to Isaac Leventon?
A. Yes.
Q. One of the lawyers?
A. Yes.
Q. And it says, Meeting with Isaac re David Smith at the top. I'm not sure -- do you know who Isaac or David Smith is?
A. Isaac Leventon is Isaac.
Q. That makes sense.
A. David Smith was a CEO at one of the portfolio companies. Might have been CCS.
Q. Okay. So these are two different items on the agenda? His separation, and then it looks like tax, slash, Acis, slash, Terry transaction; is that right?
A. Yes.
Q. And do you know what this meeting was about?
A. I -- I don't remember.
Q. Do you know whether the structure of the transaction we just looked at, Exhibits 12 and 13, did

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it have any tax benefit for Acis or Highland?
A. I believe it had some modest tax deferral if it had gone as planned. I don't think it had any tax -- I don't want to say. The tax -- if it would have had some tax deferral benefit for a few years if it had gone as planned, I don't -- since it busted, I don't know what -- what value it had, if any.
Q. Who would the deferral benefits have been for? Acis or Highland?
A. It would have been -- it would have been -- the tax deferral, it looks like three years of tax deferral, would have gone to whoever was reporting the income on the CLO fee income.
Q. And who would that have been?
A. I don't know. Whoever -- whoever had the management contract at that point, whether it was Acis or Highland, I don't know.
Q. Okay. And do you know what the Terry transaction is that you're referring to on Exhibit 14?
A. I don't know, but given its contemporaneous timing with everything we just discussed -- I don't even want to -- I'm not supposed to assume, but it appears to be that -- that transaction.
(Exhibit 15 marked.)
Q. I'll hand you what's been marked as Exhibit 15.

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This looks like another meeting, but this time with --
A. Compliance.
Q. I assume Thomas is Thomas Surgent, correct?
A. Yes.
Q. And then JP and Tim are who?
A. Tim Cournoyer. I can never pronounce it right. And JP is another lawyer in the group.
Q. Do you remember his name or her name?
A. JP Sevilla.
Q. And Isaac, Isaac Leventon, I assume?
A. Yes.
Q. Do you know why you-all were meeting about Josh Terry on November 3rd, 2017?
A. No.
Q. This would have been right after the arbitration. Does that ring a bell?
A. I -- that was a long time. I have no specific recollection.
(Exhibit 16 marked.)
Q. I'm handing you what's been marked as Exhibit 16 to your deposition. I take it you have seen that document before because you signed it a couple of times.
A. I don't recall it.
Q. Well, Exhibit 16 does have your signature at

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the end twice, does it not?
A. Yes.
Q. On behalf of Acis Capital Management, LP, and Highland Capital Management, LP, correct?
A. Yes.
Q. And then somebody is signing for Highland CLO Management. Do you see that?
A. Yes.
Q. And who is that?
A. I haven't seen that signature before, but let me --
Q. Is it John Cullinane, or Cullinane?
A. Tim -- I don't think that's Tim Cournoyer. Maybe it is. I don't recognize the signature.
Q. Is Highland CLO Management -- by the way, is that referred to as HCLOM?
A. It seems to be here, yes.
Q. It says if you look on the first page, under recitals, the third whereas, it says, whereas HCM has notified Acis that HCM is unwilling to provide -- to continue to provide support personnel and other critical services to Acis with respect to the CLOs.
Do you see that?
A. Yes.
Q. Is this the first time Highland ever mentioned

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that they would stop providing support?
A. I don't know.
Q. Why did Highland -- why was Highland Capital Management unwilling to continue to provide support personnel and other critical services to Acis?
A. I can't remember why. Could you ask the question again?
Q. It was just that. Why was Highland Capital Management unwilling to continue to provide support, personnel, and other critical services to Acis with respect to the CLOs?
A. See, I can't remember -- I'm trying to figure out why HCLOM was set up as a successor manager. I wasn't -- I wasn't involved. I'm just speculating, but it looks like they're creating a separate asset management arm, which it's not unusual for us to have multiple advisors under Highland. And it looks like they're creating HCLOM to be the successor manager probably as part of what the investors wanted and part of the refi they created a separate entity. And as part of that, they had to terminate the relationship with Highland, and this is how they -- they drafted it. But this is probably -- this is me more speculating, but I don't know. I don't have an awareness. I wasn't involved in this, so --

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Q. Okay.
A. That's my overall answer but I think my speculation is probably pretty good.
Q. Okay. HCLOM was a new entity, correct?
A. Yes, it appears to be here.
Q. It didn't have any CLO experience, correct?
MR. LANG: Objection, form.
A. Well, we don't have a description of HCLOM. We don't know. We don't know what the agreement with HCLOM is relative -- I don't know if that's the next document -- with Highland, but it -- if it's a qualified successor manager, then it has to be qualified, right? If we're representing it's qualified, it either has to have employees or it has to have a services agreement with Highland.
Q. Do you have any idea who would have -- who came up with the idea to basically transfer Acis's position and notes -- note to HCLOM?
MR. LANG: Objection, form.
A. This all would have been from Thomas and his group.
Q. Thomas Surgent?
A. Yes.
Q. Do you know if there was any fairness opinion, fairness determination?

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A. I don't know. If it says in here that there was one, then I believe we would have got one. If it doesn't specifically say it, I have no idea.
Q. Other than 9.5 million remaining on the note its owed from Highland, did Acis have any other assets?
A. I don't know. That would be an accountant question.
Q. Was Acis insolvent after this assignment and transfer agreement, Exhibit 16, on November 3rd, 2017?
MR. LANG: Objection, form.
A. I don't know.
Q. Do you remember talking to Thomas Surgent, Isaac Leventon, JP Sevilla, or Cournoyer, on November 3rd, 2017, the date of Exhibit 16?
A. Not specifically.
(Exhibit 17 marked.)
Q. I've handed you what's been marked as Exhibit 17.
MR. AHMAD: Just take one.
MR. LANG: Okay.
Q. You're not copied on this, but the bottom email is an email from Isaac Leventon to Surgent, JP Sevilla, Tim Cournoyer, subject Terry. And it says, Talked to Scott.
Do you have any idea who that is?

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A. Nope.
Q. It says, He would like us to talk to Jim this afternoon.
I assume that's you?
A. Probably.
Q. But you don't remember talking to them about the subject is Terry?
A. Not specifically.
(Telephonic interruption.)
MR. AHMAD: Do you need to take that?
THE WITNESS: No, that's okay.
Q. Did you regard Acis as a shell company?
MR. LANG: Objection, form.
You can answer.
A. After Josh left.
Q. Why was it a shell company?
A. Because there was no employees and no ability to conduct business, no continuity after Josh left.
Q. Was Josh an Acis employee or a Highland employee?
MR. LANG: Objection, form.
A. Like I said, I don't remember the construct, whether he was a dual employee and/or when he transferred to Acis. I don't know the answers. The accountants would know the answers.

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Q. You noted before, or at least you saw in the November 3rd agreement between Highland Capital Management, Acis Capital Management, HCLOM, that Highland Capital Management was unwilling to continue to provide support.
Do you know if anybody at either Highland or Acis tried to find anybody else to provide support for Acis?
A. I don't know.
Q. Did you ask?
A. I don't remember asking.
(Exhibit 18 marked.)
Q. I hand you what's been marked as Exhibit 18. Are you familiar with Exhibit 18?
A. No.
Q. Don't have your signature. This looks like a draft agreement. But did you issue a personal guarantee from any note between Acis and Highland?
A. Not that I recall.
Q. Do you remember Exhibit 18 at all?
MR. LANG: Objection, form.
A. I do not.
Q. Were you ever aware that you personally guaranteed the note between Highland and Acis?
MR. LANG: Objection, form.

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A. I don't have a recollection, but I'm willing to be refreshed.
Q. Do you know who would have drafted this?
A. I can't imagine anybody other than Thomas Surgent and his group.
Q. Did he ever mention this to you?
A. Not that I recall.
(Exhibit 19 marked.)
Q. Exhibit 19. Have you seen Exhibit 19 before?
A. No.
Q. Okay.
A. It's not my signature at the back either.
Q. Well, it looks, by the way, like that signature that you couldn't spot before. Would you agree with me that it looks like John Cullinane's signature here?
A. Yes. Yes.
Q. And do you know who's signing on behalf of Strand Advisors, Inc.?
A. I don't know who John Cullinane is. But I'm willing to be refreshed, but I don't know who he is.
Q. Okay.
A. And I don't know whose signature that is for Strand.
Q. Are you familiar with this forbearance agreement?

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A. No.
Q. So I take it you have no idea why this agreement was entered into?
A. I have no idea.
(Exhibit 20 marked.)
Q. I've handed you what's been marked as Exhibit 20. Have you seen Exhibit 20 before?
A. No.
Q. If you look towards the end, you'll see that John Cullinane is supposed to be the director.
A. Okay.
Q. Do you see that?
A. Yes.
Q. And do you see you're the president?
MR. LANG: Hold on. Where are we?
THE WITNESS: Second to the last page.
MR. LANG: Right here (pointing)?
MR. AHMAD: Correct.
MR. LANG: All right.
Q. And this is of HCLOM or Highland CLO Management, Ltd., correct?
A. Yes.
Q. Do you remember being the president of Highland CLO Management, Ltd.?
A. No.

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Q. And you still don't remember John Cullinane who's supposed to be a director of the company you're a president of?
A. Directors come and go. Maples corporate services changes them often. But, no, I don't have an awareness of --
Q. Okay.
A. -- him.
Q. Do you know who the members of Highland CLO Management is?
A. I mean, other than what this agreement -- other than what this paper says, I do not.
Q. Do you know who Summit Management, Limited, is? I'm getting that from John Cullinane. He's for and on behalf of Summit Management, Lt- -- Limited.
A. I think maples puts together independent board members in the Caymans, and I think they have their own entities, so -- but I don't have an awareness of Summit Management.
Q. By the way, you mentioned something about HarbourVest and Goldman Sachs before. They didn't want to use Acis anymore; is that correct?
A. Correct.
Q. Who at -- well, first of all, did anybody from HarbourVest tell you that?

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A. Not directly. There were -- there were legal and investment teams talking directly to HarbourVest weekly or biweekly.
Q. And who is -- who is talking to HarbourVest directly?
A. Trey Parker on the investment side, and then the legal team, I don't know who on the legal team was talking to them regularly.
Q. So who told you that HarbourVest said they didn't want to use Acis?
A. The legal team.
Q. Who in the legal team?
A. I don't recall specifically. It probably would have been Thomas, but I don't recall specifically.
Q. And who told the legal team that HarbourVest didn't want to use Acis?
A. HarbourVest. There was a point person in particular at HarbourVest. I never spoke with them, but the legal team, whoever the legal team was speaking to regularly.
Q. And who was that point person at HarbourVest?
A. I don't know.
Q. Okay. You mentioned Goldman Sachs. Did you personally talk to Goldman Sachs?
A. No. That was Trey and his group, or maybe

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Hunter. But Trey under Hunter would have been talking to Goldman.
Q. Do you know who they talked to at Goldman Sachs?
A. The CLO desk.
Q. Do you know who was at the CLO desk?
A. No.
(Exhibit 21 marked.)
Q. I've handed you what has been marked as Exhibit 21. Are you familiar with Acis Loan Funding, Ltd.?
A. Not specifically, but I think this was the structure they tried to bring HarbourVest into or that they did bring HarbourVest into, but I don't have a specific awareness of this.
Q. Have you reviewed Exhibit 21 before?
A. No.
Q. Did you approve it?
A. I don't even know if I was involved in approving -- generally the concept of bringing HarbourVest in for half the portfolio I was aware of as a business development, but ...
(Exhibit 22 marked.)
Q. I'm going to hand you what's been marked as Exhibit 22.

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MR. AHMAD: This looks like my only copy.
MR. LANG: Do you want me to make copies?
MR. AHMAD: Oh, he's got -- he's got them.
MR. LANG: Do you have a copy?
MR. AHMAD: Yeah.
MR. LANG: Okay.
MR. AHMAD: Thank you. If I don't, I'm going to wing it.
Q. I see an email here towards the top from Trey Parker. It just says that Thomas and I just walked through the term sheet with Jim and he is comfortable with it. Do you see that?
A. Yes.
Q. Is that true, you were comfortable with the term sheet as of August 22nd, 2017?
A. Yes.
(Exhibit 23 marked.)
Q. I'm going to hand you what's been marked as Exhibit 23 to your deposition. Have you seen this document before?
A. No.
Q. Do you know who would have created it?
A. This would have been Trey and -- and/or Hunter.
Q. Hunter Covitz?
A. Yes.

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Q. Trey Parker?
A. Yes.
(Exhibit 24 marked.)
Q. I've handed you what's been marked as Exhibit 24. Do you remember telling people not to use arbitration anymore?
A. I think we did strip arbitration out of all of our contracts.
Q. Is that because arbitrators like to split the baby?
A. I think that's a fair summary there, yeah.
Q. And that's an email you sent on September 18th, 2017; is that correct?
A. Yes.
(Exhibit 25 marked.)
Q. I'm going to hand you what's been marked as Exhibit 25. And this document appears to be a revision of the term sheet, correct?
A. Yes.
Q. And this one is dated September 14, 2017?
A. Yes.
Q. And it looks like Acis is being replaced in this document, does it not, by Highland?
A. Yes.
Q. Specifically Highland Capital Management, LP?

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A. Well, as portfolio manager, but it's being replaced by HCLO Funding.
Q. Yes.
A. Okay.
Q. And who made that decision to change the portfolio manager from Acis to Highland Capital Management?
A. I believe the investors. I mean, you can see all -- see how many other terms are changed?
Q. Sure.
A. So that would have been based on investor or underwriter feedback.
Q. Specifically who?
A. I -- I don't know. I'm just saying that I think what you had before was the best fair efforts of Trey and Hunter to put forward what they thought was reasonable, and then this is the turn and change from the -- either the investors or from the underwriters. That's why -- they wouldn't have changed all these terms on their own iterations.
Q. Which investors and which underwriters?
A. HarbourVest -- we were considering I think three or four different underwriters at the time, but I think ended up focusing on Goldman. And we had solicited a bunch of investors, but I think HarbourVest

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was the investor that was going forward. So it would have been one of those two.
Q. Is there any document that you know of where HarbourVest or Goldman Sachs says to remove Acis?
A. Implicitly this document here.
Q. Exhibit 25?
A. Yeah.
Q. I don't see -- I don't see where Goldman Sachs is -- or HarbourVest is actually making that change.
A. Let's look at some of the changes inside, because a lot of the changes inside there'd be no reason for us to make them. They would have only been made by somebody else. Like look at descriptions of the loans and investment policy. Look at the investment period being changed and adjusted.
Q. But --
A. Look at the limitations on whatever -- these are -- look how much it changes from the original proposal. These are not things that we would have unilaterally changed between drafts. Those -- those kinds of inputs would have only come from third parties.
Q. Well, could you have changed the portfolio manager from Acis to Highland?
A. I believe this change was required, that you're referring to on the front, from Goldman and/or

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HarbourVest.
Q. Okay. But you don't have a document that says that?
A. I believe this document speaks clearly for itself.
Q. And that's all you have?
A. I don't --
MR. LANG: Objection, form.
A. I don't have any documents.
(Exhibit 26 marked.)
Q. I hand you what's been marked as Exhibit 26. And you'll see at the top it's an email from Tim Cournoyer to Trey Parker, cc'ing -- well, cc'ing Tom Surgent, correct?
A. Yes.
Q. And it's the Acis loan funding sheet, correct?
A. Yes.
Q. Sometimes referred to as "ALF"?
A. Yes.
Q. I don't -- I don't see HarbourVest on here. Do you?
A. Yes.
Q. Where?
A. Second-to-last sentence. "HV reviewed."
Q. I'm sorry. Where?

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A. Redline marked against the last draft from HarbourVest.
Q. Oh, I'm sorry. I was talking -- I was talking about on this email. But I'll go to that section. It says, this is the form ready to be sent to HarbourVest, correct?
A. Well, it says attached is a clean draft and a redline marked against the last draft HarbourVest reviewed, yeah.
Q. And -- and it says, attached is a -- above that, on September 14, 7:56 a.m., it says, attached is a revised draft that's been updated for today's date pending confirmation of Thomas's discussion with Jim.
Do you see that?
A. Yes.
Q. And it's -- and then above that, at 8:02 a.m., it says, Thomas spoke to Jim. Will need to circle up this morning, and says internally and with Dechert on RR structure, if necessary.
Do you see that?
A. Yes.
Q. Is that Dechert the law firm?
A. Yeah. Let me clarify what I said before about Ropes & Gray. By this point, we had switched from Ropes & Gray to Dechert. But Dechert was our third-party

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independent compliance counsel. So you're seeing independent -- you're seeing internal compliance and looks like external compliance in this case reviewing everything, which goes back to everything that we've talked about today was either directly developed or reviewed by internal compliance, probably external compliance.
Q. Yeah, and I guess that's my question. Where is the documentation from Dechert where they analyze or give an opinion about this?
A. We lost all of our internal records to Highland in the bankruptcy, and they have not been forthcoming on any requests for documentation. So you're going to have to get that from them.
Q. Who is "them"?
A. Jim Seery and Thomas Surgent.
Q. Okay. So you have these emails, but you don't have the Dechert documents?
MR. LANG: Objection, form.
A. No, no, we don't have the emails. These emails come from their servers. But they have mandatory 7-, 10-year document retention. They have all the supporting documents that you need. But we have none of them.
MR. LANG: Joe, we can talk about this.

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These all come from Highland Capital and John Morris, but we can talk about it --
MR. AHMAD: I gathered that, but I'm just wondering why you have the emails from Highland but not Dechert.
MR. LANG: Highland produced these, not us.
MR. AHMAD: I get it.
MR. LANG: I don't know what Highland withheld.
MR. AHMAD: I'm sorry?
MR. LANG: I don't know what Highland withheld.
MR. AHMAD: Yeah, that's what I'm asking.
MR. LANG: That's fair.
MR. AHMAD: Okay. I'm asking why they would produce this and not the Dechert.
Q. But you don't know, I take it?
A. You should work from the assumption they'll withhold anything that would impair Thomas.
Q. Do you believe Dechert did an analysis?
A. I have no idea.
Q. Was it your understanding that HarbourVest demanded to remove Acis?
MR. LANG: Objection, form.

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A. I believe it was demanded by both them and Goldman.
Q. Was HarbourVest aware of the arbitration?
A. They were kept abreast of all the details of on at least a weekly or biweekly basis of everything regarding Acis.
Q. Who kept them abreast?
A. Somebody on Thomas's team.
(Exhibit 27 marked.)
Q. I'm going to hand you what's been marked as Exhibit 27 to your deposition. Are you familiar with Exhibit 27?
A. No.
Q. Were you aware of it?
A. Not yet. Let me keep reading. (Reviewing document.) Okay. What's the question?
Q. Are you familiar with the document?
A. No. I'm trying to figure it out as I'm sitting here.
Q. Okay. Do you know why HarbourVest removed Acis as the portfolio manager?
A. They didn't want any part of the risk in Jernigan's court or the risk in the litigation or arbitration around Josh Terry.
Q. Is that what was communicated to you from the

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legal group?
A. Yes.
Q. And, again, they didn't tell you who said that?
MR. LANG: Objection, form.
A. No.
Q. Any other reason that Acis was removed as the portfolio manager?
A. No. Well, no, other than once Josh was no longer employed, there was no reason to use the shell.
Q. If you'd go to page 13, which is section 14. Do you see that, in the middle of the paragraph --
A. Yes.
Q. -- middle of the page? It says that this agreement may be terminated and portfolio manager may be removed for cause as defined below.
Do you see that?
A. Yes.
Q. Was Acis as portfolio manager removed for cause?
A. You know, this is -- this is a different set of people and a different fund, right? This is Acis Loan Funding. This isn't part of Acis Management, right? This is -- this is the -- William Scott, I believe, is the Guernsey director removing Acis as the manager of one of the holding companies above Acis that was located

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in Guernsey. This is a different thing and a different entity.
Q. Well, under this -- this is a PMA, portfolio management agreement, correct?
A. Yes.
Q. And it's between Acis Loan Funding, ALF --
A. Yes.
Q. -- and Acis Capital Management, LP, correct?
A. Yes.
Q. And Acis Capital Management is going to be the portfolio manager, right? Correct?
A. Yes.
Q. For Acis Loan Funding, correct?
A. Yes.
Q. Are you saying that Acis Capital Management was not removed as the portfolio manager for Acis Loan Funding?
MR. LANG: Objection, form.
A. It was, I guess.
Q. Okay. Do you believe Acis Capital Management, LP, was removed for cause as the portfolio manager?
A. Well, again, that decision was made by the Guernsey independent board member, right?
Q. Who was that?
A. William Scott is an English fellow that lives

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in Guernsey. I've met him before.
Q. Okay. Okay. So I'm just asking your opinion. If you don't have one, that's fine.
Do you believe that Acis Capital Management, LP, was removed as portfolio manager for cause?
MR. LANG: Objection, form.
A. I believe if it was post Josh's departure, it was validly for cause, if that's how they did it. But I don't know.
Q. Do you know what the cause was under Exhibit 27?
A. Let's see if we can find it. If there -- if there's no personnel or no ability to manage the portfolio, that would be cause, I would think. What section do you want me to read? Termination for cause?
Q. I don't need you to read any section. I'm just asking if you believe that they were terminated for cause.
A. The portfolio managers is wound up or dissolved, appointed over a substantial portion of its assets a receiver, administrator ...
I don't know. I -- I don't know what Jim Scott thought, but it sounds like he's got plenty of avenues for cause.

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Q. Such as?
A. The paragraph I was just reading.
Q. Which one?
A. How about let's focus on this one? The occurrence of the act of the portfolio manager that constitutes fraud or criminal activity in the performance of his obligations under that agreement. I think that's a good one.
Q. Okay.
A. That would apply to Josh, four or five ways.
Q. Okay. So I thought you said -- when I asked you why HarbourVest wanted to replace Acis, you didn't mention anything about any criminal or fraudulent acts.
Are you saying that they were aware of criminal or fraudulent acts, or they believe that Josh Terry had engaged in them?
A. Maybe I'm being too tongue-in-cheek. Again, this is between an offshore administrator and Guernsey regarding ALF, which has nothing to do with HarbourVest. And you're asking me if I know or I can speculate if he had for cause.
Q. I'm just asking if you --
A. So I'm just saying if -- I believe he could have chosen a cause, but I don't know what basis he used to terminate. You should ask him.

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Q. Well, sir, I'm just asking whether you have an opinion as to whether it was terminated for cause. Do you have an opinion?
A. I don't know.
MR. LANG: Objection, form.
A. I don't know.
(Exhibit 28 marked.)
Q. I'm handing you what's been marked as Exhibit 28. This looks like an email between you and Mark Okada, cc'ing Trey Parker, on May 17, 2017.
Do you see that?
A. Yes.
Q. It says, ALF has to close June 30, multistrat by year end or we start laying off people.
A. Yes.
Q. What does that mean?
A. We were overstaffed at that point in the economy, and there were projects that were lingering that needed to close.
Q. Is "multistrat" something that needed to close?
A. Yes.
Q. Was -- was ALF in any financial trouble at this point?
A. No. ALF I think represented new business at that point.

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(Exhibit 29 marked.)
Q. I'll hand you what's been marked as Exhibit 29. Are you familiar with Exhibit 29?
A. No.
Q. You've never seen it before?
A. No.
Q. Were you aware of it?
A. No.
Q. Do you have any idea why ALF was buying back its shares from Acis?
A. No.
Q. On October 24, 2017?
A. No.
Q. Did you approve the buyback?
A. I don't have an awareness of it or recollection of it.
Q. If you go back and look at Exhibit -- let's see. If you go back and look at Exhibit 1, to Interrogatory No. 3, on page 5. And do you see that?
A. Yes.
Q. And I think it's the same, as far as I can tell, but maybe it's a little bit different as Exhibit 2 answer to Interrogatory No. 3, but you could use either one. But I think for the relevant portion it's the same.

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And if you go down about four lines, you'll see, At the same time, Acis was the manager of ALF and held shares in ALF.
Do you see that?
A. Yes.
Q. And it says, ALF redeemed its shares (Acis sold them to ALF at fair value) in order to generate revenue for Acis -- or to Acis.
A. Yes.
Q. Do you see that?
A. Yes.
Q. Is that true?
A. I believe everything in this thing is true. I just -- I didn't refresh myself on this.
Q. Okay. Well, I mean, it sounds like you did have some knowledge of this share buyback.
A. Well, I think we tried to answer the question, but it's -- I didn't have awareness of this.
Q. Okay. Well, just so we're clear, I mean, did you verify that things were true and correct even if you didn't really know it?
A. Yeah, I believe we answered the interrogatories to the best of our ability as accurately as possible. And whatever it says here specifically I believe is accurate, but I'm saying I had no involvement in this.

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Q. Well, you were -- you were certainly the president of the general partner of Acis, correct, Acis Capital Management GP?
A. Yes.
Q. Okay. And you're saying you had no awareness that ALF redeemed its shares?
A. I don't believe it was a material transaction, and it was done at book value or fair market value I believe is what it says here.
Q. Was it --
A. I -- I wasn't -- I wasn't specifically involved. I don't remember it. And I don't believe it was material, either.
Q. Okay. Did you have knowledge at some point in time that Acis sold its shares -- I mean, Acis sold its shares in ALF to ALF in order to generate revenue to Acis? Did you -- did you have personal knowledge of that at one time?
A. I don't -- not that I remember as I sit here today.
Q. Do you know how you arrived at this answer?
A. I believe the organization put forward the best answers to all these questions, and I think the answer here is correct and complete.
And then look at the last sentence.

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Dondero had no direct involvement when reviewing these -- these transactions.
I don't have a recollection or memory of these transactions.
Q. Okay. Well, it said you didn't have direct involvement. But they were approved based upon recommendations of various people, correct?
A. Yes.
Q. And that would have been you approving them, correct?
A. Yes.
Q. Because you were the president of the general partner of Acis, right?
A. I was one of the few people with signing authority, so I get to sign a lot of things that I rely on other people to do well.
Q. And is it accurate to say Acis had to pay -- pay some debt to Highland, and that's why this was done?
A. I don't know.
Q. Do you know who Frank Waterhouse is?
A. Yes.
Q. Was he the treasurer of Highland, Highland Capital Management, LP?
A. I know him as our CFO. He might have been treasurer.

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Q. As CFO, did he report to you at Highland?
A. Yes.
MR. AHMAD: By the way, I'm going to keep going until you tell me the stop.
THE WITNESS: Let me set my car up, and then we'll have a hard stop at 2:30. Hold on a second.
MR. AHMAD: Because I'm not necessarily going to keep track of time, but I'm happy to stop when you have to go.
Q. By the way, did anybody besides you have signing authority at Acis Capital Management, LP?
MR. LANG: Objection, form.
A. On particular trades, Josh Terry had signing authority. But on anything corporate governance related, I believe I was the only one that had signing authority.
Q. So after Josh Terry left, would you be the only one that had signing authority at Acis Capital Management, LP?
MR. LANG: Objection, form.
A. I believe -- I -- I don't know. I don't know if they replaced somebody on the portfolio side. I don't know.
Q. Did Frank Waterhouse have any signing authority for Acis Capital Management, LP?

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MR. LANG: Objection, form.
A. I don't know. I don't know.
(Exhibit 30 marked.)
Q. Handing you what's been marked as Exhibit 30 to your deposition.
A. Yep.
Q. Are you familiar with this document?
A. Nope.
Q. If you look under the portfolio management agreement paragraph on paragraph 4 --
A. Yes.
Q. -- it says, It is noted that the rationale for entry into the portfolio management agreement is that (i) it is a condition to the proposed investment from HarbourVest Partners, LLC.
A. Yes. Well, that answers that question.
Q. Well, I'm asking you, do you know who drafted this document?
A. I do not.
Q. Do you know where they got the idea that it was a condition to the proposed investment from HarbourVest Partners?
A. From HarbourVest? I don't know.
Q. Do you know that?
A. No, I don't know where they got it from.

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Q. And it indicates in, I guess, (ii), it says, the change in portfolio manager to Highland HCF Advisor, Ltd. will improve the marketability of the company and the CLO business going forward.
Do you see that?
A. Yes.
Q. Again, do you know who would have -- who would have told the signatories of Exhibit 30 that?
A. I -- I don't know.
Q. Have you ever seen Exhibit 30 before?
A. No.
Q. Who owned Highland HCF Advisor?
A. I don't know.
Q. Was it a Highland entity?
A. I don't know. I'm willing to be refreshed, but I don't know.
Q. Was it you?
A. I don't know. I don't believe so. No, I don't know.
Q. You don't know whether you owned Highland HCF Advisor, Ltd.?
A. I do not know.
Q. And you don't know whether you had any ownership interest at all?
A. I -- I mean, we've been looking at stuff all

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day that's either 75/25 or Highland owned it. I -- it's -- the economic flow-through is the same, but I don't know whether Highland owned it or if there was an entity that Mark and I shared.

Q. If you look at paragraph 5, it says, Written Resolution. Do you see that?

A. Yes.

Q. It says the -- After due and careful consideration, the written resolution was put to the sole shareholder of the company, CLO HoldCo, Ltd. for approval.

Do you see that?

A. Yes.

Q. Do you know who the sole shareholder was?

A. Nope.

Q. Do you know who Grant Scott is?

A. Yes.

Q. And who is that?

A. Grant Scott is trustee -- was trustee I think on the DAF at this point in time.

Q. Okay.

A. Yeah, Grant Scott. Not Bill Scott. Bill Scott's different.

Q. Yeah. William Scott is different than Grant Scott?

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A. Yes.

Q. No relation, as far as you know?

A. Yes, correct.

Q. You said Grant Scott was a trustee of the donor-advised fund?

A. Yes.

Q. Was he also the trustee of CLO HoldCo?

A. I don't know.

Q. And when did you first meet Grant Scott? Or better way of asking, how long have you known him?

A. Since high school.

Q. Did you go to high school with him?

A. Yes.

Q. Where did you go to high school?

A. Pascack Hills public high school in northern New Jersey. Montvale.

Q. Montvale, New Jersey?

A. Uh-huh.

Q. Does he hold any other positions in any Highland or Acis entity?

A. Not that I'm aware of.

Q. Did he ever?

A. Not that I'm aware of.

Q. Is he ever -- is he a trustee of any entity that you have any relationship to other than the ones you've just mentioned?

A. No.

Q. Do you know if HCF Advisor is different from H- -- HCLOF?

MR. LANG: HCF Advisor versus HCLOF?

MR. AHMAD: Correct.

Q. Do you know if they're different?

A. Not off the top of my head.

(Exhibit 31 marked.)

Q. I'm handing you what's been marked as Exhibit 31. Can you identify Exhibit 31?

A. I can read it. The bench ruling?

Q. I'm just asking whether you're familiar of it.

A. I'm aware of it. I've never read it.

Q. Do you know -- when I asked you about HCLOF, do you know who the directors of HCLOF are? HCLOF of Guernsey?

A. Yeah, that's -- that's Bill Scott and his partner, the woman that we saw in some of the signatures.

Q. Okay. And to be clear, would that be Heather Bestwick?

A. Yes.

Q. Do you know who owns HCLOF Guernsey?

A. I don't recall as I sit here.

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Q. Was it NexBank?

A. No, I don't believe that's true.

Q. NexBank doesn't own any part of HCLOF or its equity?

A. No. NexBank I don't believe's been involved in this circus at all.

Q. Okay. But you're certainly the majority owner and chairman, chairman of the board of NexBank, correct?

A. Yes.

Q. What it says here, if you go to Exhibit 14 --

MR. LANG: Page 14?

MR. AHMAD: Oh, I'm sorry. Page 14. You're right.

MR. LANG: Exhibit 31?

MR. AHMAD: Yeah. Trying to do this without a break.

MR. LANG: I got it. Doing great.

MR. AHMAD: Thanks.

Q. It says in here that the equity owner of HCLOF Guernsey, in turn, has three equity owners. Do you see that?

A. Yep.

Q. And it mentions above -- if you go up a few lines, it has the reference to NexBank that I was referring to, that NexBank had some -- it looked like

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some notes that were pledged to HCLOF, or I guess held at NexBank.
A. Okay, yes.
Q. But, in any event, it says HCLOF -- the equity owner HCLOF Guernsey, in turn, had three equity owners. And it says the donor-advised fund, or DAF, right?
A. Uh-huh.
Q. Is that a yes?
A. Yes.
Q. And that donor-advised fund has the trustee of Grant Scott, correct?
A. Yes.
Q. And then it says 2 percent is owned by Highland employees. Do you see that?
A. Yes.
Q. Do you know which employees?
A. Hunter, Trey, Parker, and I don't remember. I think it was four employees. I don't remember the other two.
Q. And it then it says a 49 percent equity owner that is a third-party institutional investor based in Boston?
A. Yes.
Q. Is that HarbourVest?
A. Yes.

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Q. And it says they desire to remain passive and anonymous. But we know that's HarbourVest, correct?
A. Yes.
Q. Do you know who could act on behalf of HCLOF?
A. HCLOF.
Q. Yes. Which --
A. I mean HCLOF could. I don't know. I don't know if Bill Scott or Heather.
Q. What about you and Mr. Okada and Mr. Covitz?
A. No, I think -- no, not that I'm aware of.
Q. You -- do you remember an expert hired by Highland, a Mr. Castro?
A. Yes, I remember the name.
Q. And he was hired by Highland, to be clear?
A. I believe so.
Q. Okay. That's your company, correct?
MR. LANG: Objection, form.
A. It was at the time, yes.
Q. Yes, it was at the time. And it looks like, if you go on to -- page -- the bottom of page 22, top of page 23, your expert, Mr. Castro, testified that the actual humans who would make the decision for HCLOF were not the directors but rather Highland executives. You, Mr. Okada, and Mr. Covitz.
A. Yes.

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Q. Do you remember that being Highland's position through its expert?
A. I would say Hunter Covitz maybe, if they're talking about specific assets. But I don't agree with the inclusion of myself or Okada.
Q. But apparently your expert did?
A. If he really did say that.
Q. Okay. Fair enough.
A. Never know.
Q. You never know, why?
MR. LANG: Don't answer that.
MR. AHMAD: It was a fair question.
MR. LANG: Never know. A more fair response by me.
MR. AHMAD: It's fine.
Q. Hang on. Let me mark that. I've got to mark that first. Sir?
A. Oh, sorry.
Q. I've got to mark that.
(Exhibit 32 marked.)
Q. I have in front of you Exhibit 32.
A. Yep.
Q. And do you recognize 32 at all?
A. No.
Q. Well, it looks to be board meeting minutes?

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A. Yes.
Q. That's what it says, right?
A. Yes.
Q. Do you believe that William Scott and Heather Bestwick were independent?
A. Yes.
Q. How do you know those individuals, if you do?
A. I don't. I mean, other than I think Jernigan put them out of business. They closed up shop and went back to England.
Q. Weren't they in England before?
A. They were in Guernsey before, but --
Q. Oh, I always thought that was part of England, but ...
A. Okay. Well --
Q. I don't know.
A. -- satellite island. But after being accused of fraud in a sham jurisdiction, and not being truthful, their business ended, so -- but I do believe they were independent. I believe they had a real business for 30 years before, before they met Judge Jernigan.
Q. Do you know how they were selected as directors?
A. There's only -- at the time, there was only two or three firms to choose from in Guernsey. The law firm

that -- I believe the law firm that did that document -- the document creation knew and recommended them.

And by the way, all that document creation was -- that whole structure was done by Josh, by the way.

Q. What whole structure?

A. The whole offshore Guernsey structure was put together by Josh.

Q. Did he pick the directors?

A. I think he picked the law firm that picked the directors.

Q. And what law firm was that?

A. I don't know.

Q. But whatever it was, you believe they picked the directors?

A. Yes.

(Exhibit 33 marked.)

Q. I've handed you what's been marked as Exhibit 33.

A. Didn't we see this one already?

Q. I hope not.

A. This is just the final version of one?

Q. Yeah, it shouldn't be the same document.

This document is a PMA agreement between Highland CLO Funding, Ltd., formerly known as Acis Loan

Funding, Ltd., and Highland HCF Advisor, Ltd., dated November 15, 2017.

Do you see that?

A. Yes.

Q. Have you seen this document before?

A. No.

Q. I noticed that at the end it has your signature.

A. Yes.

Q. Signing at least as portfolio manager, president of portfolio manager Highland HCF Advisor, Ltd., correct?

A. Yes.

Q. Do you think you signed it without looking at it?

A. Yes.

Q. Does this refresh your recollection that Highland HCF Advisor, Ltd. was a Highland entity?

MR. LANG: Objection, form.

A. No.

(Exhibit 34 marked.)

Q. You have in front of you Exhibit 34. First of all, do you know who Mizuho is?

A. Yes.

Q. And who are they?

A. They're a large Japanese bank.

Q. Okay. And do you know what's going on in Exhibit 34? It looks like several resets. Is that a fair statement?

A. I think they -- they were either co with Goldman or competing with Goldman. I believe that's what -- let me not speak here for a second.

Yeah, because it's refinancing transactions. So they were either co with Goldman or in competition with Goldman, looks like to redo the Acis transactions.

Q. To refinance or --

A. Yes.

Q. -- extend it?

A. Yep, yes.

Q. And you're signing as president of Highland CLO Management, LLC, correct?

A. Correct.

Q. Also known as HCLOM?

A. Yes.

Q. Why was this reset or refinancing extension -- however you want to call it, why was this being done?

A. The financing was maturing. And the way CLOs work is there's senior tranches and mez tranches. And the senior tranches get paid off first.

So as time goes on and you get closer to termination, you're losing your low cost stat and you're losing your arbitrage. So you have to refire, extend them to maintain the -- to maintain the arbitrage.

THE WITNESS: All right. This a good break? This is good time? 2:30.

MR. AHMAD: Okay. We'll let you know about reconvening.

THE VIDEOGRAPHER: Off the record at 2:28 p.m.

(Proceedings adjourned at 2:28 p.m.)

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EXHIBIT 67

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	Case No. 18-30264-SGJ-11
	§	Case No. 18-30265-SGJ-11
ACIS CAPITAL MANAGEMENT, L.P. and	§	
ACIS CAPITAL MANAGEMENT GP, LLC,	§	(Jointly Administered Under Case No.
	§	18-30264-SGJ-11)
	§	
Debtors.	§	Chapter 11

HIGHLAND CAPITAL MANAGEMENT, L.P.'s APPLICATION FOR ADMINISTRATIVE EXPENSE CLAIM PURSUANT TO 11 U.S.C. § 503(b)

Highland Capital Management, L.P. ("**Highland**"), hereby files this *Application for Administrative Expense Claim Pursuant to 11 U.S.C. § 503(b)* (the "**Application**") and requests this Court's approval of an administrative expense claim for the actual and necessary costs and expenses for services to Acis Capital Management, LP and Acis Capital Management GP, LLC (the "**Debtors**") rendered post-petition in the current known amount of **$3,554,224.29**, as well as such other amounts that may arise, as referenced herein, related to Highland's indemnity rights and other potential claims that may be asserted against the estates, as applicable. In support of the Application, Highland respectfully states as follows:

JURISDICTION & VENUE

1. This Court has jurisdiction over the subject matter of this Application pursuant to 28 U.S.C. §§ 157 and 1334. The subject matter of this Application is a core proceeding within

the meaning of 28 U.S.C. § 157(b)(2)(A) and (B). Venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).

BACKGROUND

A. The Contracts

2. Debtor Acis Capital Management, L.P. ("**Acis LP**") was formed in 2011 as an affiliated investment advisor to manage Highland's collateralized loan obligations. Acis LP and Highland are parties to a number of different agreements. Debtor Acis Capital Management GP, LLC ("**Acis GP**") is the general partner of Acis LP.

(a) The PMAs and the CLOs

3. Prior to the Petition Date (defined below), Acis LP had contractual obligations to provide portfolio management services to five collateralized loan obligation entities known as Acis CLO 2013-1 Ltd., Acis CLO 2014-3 Ltd., Acis CLO 2014-4 Ltd., Acis CLO 2014-5 Ltd., and Acis CLO 2015-6 Ltd. (the "**CLOs**") through certain portfolio management agreements (the "**PMAs**") with the CLOs. For those services, Acis LP was entitled to certain portfolio management fees pursuant to the PMAs.

4. Each CLO holds a portfolio of diversified syndicated leveraged commercial loans through the private placement of rated secured notes (the "**Secured Notes**") and unsecured subordinated securities (the "**Equity Notes**," together with the Secured Notes, the "**Notes**"). Highland CLO Funding, Ltd. ("**HCLOF**") is the holder of the Equity Notes. Each Note is subject to an indenture (the "**Indenture**") that establishes the rights of the noteholders and indenture trustee investment criteria. Neither of the Debtors are a party to any of the Indentures. Rather, the Indentures are between each CLO entity, as issuer, and U.S. Bank, N.A. as indenture trustee (the "**Indenture Trustee**").

5. Pursuant to the Indentures, the CLOs can redeem the Secured Notes under certain conditions, including at the written direction of 66 2/3% of the aggregate outstanding amount of the Equity Notes. Through this right of redemption, the Equity Noteholders can restructure the CLOs when they no longer meet their investment objectives. Because changes in interest rates affect the return on the CLOs' investments, HCLOF has the contractual right to "reset" the CLOs, which is a process of refinancing the existing collateral loan obligations.

(b) The Outsourcing Agreement

6. Also prior to the Petition Date, Acis LP was party to an Agreement for the Outsourcing of the Asset Management (the "**Outsourcing Agreement**") with Universal-Investment-Luxembourg S.A. ("**Universal**") whereby Universal outsourced to Acis LP the asset management of an entity called BAYVK R2 Lux S.A., SICAV-FS – Highland (the "**Sub-Fund**"), which is a sub-fund of an entity called BAYVK R2 Lux S.A., SICAV-FIS. A copy of the Outsourcing Agreement is attached hereto as **Exhibit A**. In return for Acis LP's management services, Universal paid Acis LP management fees, which were ultimately charged to the Sub-Fund, as provided by section 5.3 of the Outsourcing Agreement. Section 2.6 of the Outsourcing Agreement provided that, subject to the prior consent of Universal, Acis LP was permitted to utilize the asset management services of third parties. Pursuant to that provision, Acis LP engaged Highland to provide sub-advisory services with respect to the management of the Sub-Fund.[1]

7. Acis LP does not have, nor has it ever had, any employees. All employees who have ever provided services to Acis LP were Highland employees, which were provided to Acis LP through shared and sub-advisory services agreements. Acis LP has always essentially

[1] The Sub-Fund is funded indirectly by an entity called Bayerische Versogungskammer ("**BVK**"). In the case, the term "BVK" has been used by the parties as shorthand to refer to the Sub-Fund arrangement under the Outsourcing Agreement.

subcontracted its CLO managerial function out to Highland. As a result, independently, Acis LP was not able to provide the services necessary to fulfill the contractual obligations under the PMAs or the Outsourcing Agreement. Since the inception of Acis LP until August 2, 2018, Highland provided all front, middle, and back-office services to Acis LP through sub-advisory and shared services agreements.

(c) The Shared Services Agreement

8. Prior to being replaced on August 2, 2018 (as described below), Highland provided back- and middle-office services to Acis LP pursuant to the Fourth Amended and Restated Shared Services Agreement, executed on March 17, 2017, (as amended and restated from time to time, the "**Shared Services Agreement**"). A copy of the Shared Services Agreement is attached hereto as **Exhibit B** and incorporated herein by reference. The multitude of services provided by Highland are set forth in Article II of the Shared Services Agreement.

9. Highland provided these shared services in exchange for management fees, currently averaging 15 basis points ("**bps**") of the total balances of the CLO accounts. *See* Exhibit 1 at Section 3.01 and Appendix A. The management fees were due to be paid to Highland approximately every quarter.

(d) The Sub-Advisory Agreement

10. Highland also provided front-office services to Acis LP pursuant to the Third Amended and Restated Sub-Advisory Agreement, executed March 17, 2017 (as amended and restated from time to time, the "**Sub-Advisory Agreement**," collectively with the Shared Services Agreement, the "**Contracts**"). A copy of the Sub-Advisory Agreement is attached hereto as **Exhibit C** and incorporated herein by reference.

11. The Sub-Advisory Agreement appointed Highland "as Sub-Advisor to the Management Company [Acis LP] for the purpose of assisting the Management Company [Acis LP] in managing the Portfolios of each Account . . . ." *See* Sub-Advisory Agreement at Section 1(a)). The Sub-Advisory Agreement directs Highland to perform a multitude of investment advisory services set forth in Section 1(b) of the agreement.

12. Highland was the sole provider of these services to Acis LP. *See id* at § 5(6) ("So long as this [Sub-Advisory] Agreement or any extension, renewal or amendment of this [Sub-Advisory] Agreement remains in effect, the Sub-Advisor shall be the only portfolio management sub-advisor for the Management Company."). Given that Acis LP has no employees, Highland therefore was the sole provider of these services to the CLOs and the BVK Sub-Fund.

13. For these investment advisory services, Highland received a sub-advisory fee that averaged 20 bps of the total average 40 bps Acis LP received as portfolio manager. *See id.* at § 2(a) and Appendix A. The sub-advisory fees were due to be paid to Highland approximately every quarter. Acis LP has not made a payment to Highland for sub-advisory services since November of 2017.

B. The Bankruptcy Cases

14. On January 30, 2018 (the "**Petition Date**"), Joshua N. Terry ("**Terry**") filed involuntary petitions (the "**Involuntary Petitions**") for relief under Chapter 7, Title 11 of the United States Code (the "**Bankruptcy Code**") against Acis LP and Acis Capital Management GP, LLC (the "**Debtors**").

15. The Debtors filed answers to the Involuntary Petitions and moved to dismiss the petitions, asserting among other defenses that the Court lacked subject matter jurisdiction.

16. A five-day contested trial on the Involuntary Petitions was held in late March 2018. On April 13, 2018, the Court entered orders for relief (the "**Orders for Relief**"). Diane Reed was thereafter appointed as the Chapter 7 trustee (the "**Chapter 7 Trustee**").

17. On April 17, 2018, the Chapter 7 Trustee filed her Expedited Motion to Operate the Debtors' Business in Chapter 7 [Doc. No. 127] (the "**Motion to Operate**"). By the Motion to Operate, the Chapter 7 Trustee determined there was "an immediate need to obtain authorization to continue the business operations of the Debtors by the [Chapter 7] Trustee continuing Acis LP's performance of the Sub-Advisory Agreement and the Shared Services Agreement." Motion to Operate at ¶ 5.

18. During this time period, HCLOF evaluated the situation and determined that having a bankrupt portfolio manager was an untenable situation. HCLOF therefore decided to take action related to redeeming the CLOs. Accordingly, on April 30, 2018, HCLOF instructed the Indenture Trustee and Acis LP to initiate an optional redemption (the "**Optional Redemption Notices**"). Pursuant to the terms of the Indentures, there was a 45-day notice period prior to the occurrence of the redemption. Thus, the redemption was scheduled to occur on June 14, 2018.

19. Highland, which had related responsibilities as sub-manager, was well-aware of the timeline related to the Optional Redemption Notices and was operating under the assumption that the Debtors would no longer be operating as of June 14, 2018. As such, on May 3, 2018, Highland filed its *Motion of Highland Capital Management, L.P. for Order Compelling Chapter 7 Trustee to Reject Certain Executory Contracts* [Doc. No. 169] ("**Motion to Reject**"). By the Motion to Reject, Highland sought an order compelling the Debtors to reject the Contracts. Highland's intention was to file the Motion to Reject on a timeline such that any order granting

the Motion to Reject would be on or about the same time as the optional redemption on June 14, 2018.

20. On May 4, 2018, the Chapter 7 trustee filed an *Expedited Motion to Convert Cases to Chapter 11* [Doc. No. 171] (the "**Motion to Convert**"). Also on May 4, 2018, Terry filed an *Emergency Motion for an Order Appointing Trustee for the Chapter 11 Estates of Acis Capital Management, L.P. and Acis Capital Management GP, LLC Pursuant to Bankruptcy Code Section 1104(a)* [Doc. No. 173] (the "**Motion to Appoint Chapter 11 Trustee**").

21. On May 6, 2018, following an expedited hearing on the matter, the Court entered an order granting the Motion to Operate [Doc. No. 178] (the "**Operation Order**").[2] The Operation Order authorized the Chapter 7 Trustee to operate the Debtors, explicitly pursuant to the terms of the Contracts with Highland. The Operations Order did not contemplate long-term operations of the Debtors as illustrated by the fact that the Court set a further status conference for June 25, 2018 to "consider the status of the cases and any modifications to the relief granted" in the Operations Order. *See* Operations Order at p. 3.

22. Thereafter, on May 11, 2018, after a hearing on the matter, the Court entered orders granting the Motion to Convert [Doc. No. 205] and the Motion to Appoint Chapter 11 Trustee [Doc. No. 206]. On May 17, 2018, the Court entered an order granting appointment of Robin Phelan as Chapter 11 Trustee (the "**Chapter 11 Trustee**").

23. The Chapter 11 Trustee refused to authorize the process to allow Highland, as sub-manager, to take the actions necessary to effectuate the noticed optional redemptions. The Chapter 11 Trustee, Highland, and HCLOF exchanged a number of letters related to that issue in late May 2018.

[2] The Operations Order was preceded by an interim order entered by the Court on April 18, 2018 [Doc. No. 130] pending a hearing on the Motion to Operate.

24. On May 24, 2018, the Chapter 11 Trustee filed his *Objection to the Motion of Highland Capital Management, L.P. for Order Compelling Chapter 7 Trustee to Reject Certain Executory Contracts and Request for Expedited Hearing* [Doc. 237] ("**Trustee's Objection**"). By the Trustee's Objection, the Chapter 11 Trustee argued that rejection of the Contracts was premature, given the conversion of the cases to Chapter 11. The Chapter 11 Trustee made clear his intention to continue to bind Highland to the terms of the Contracts, and to enjoy the services provided by Highland that made Acis LP's operations possible.

25. On May 31, 2018, the Court held a status conference and entered a *sua sponte* temporary restraining order (the "**TRO**") staying the optional redemption process. In recognition of this fact, HCLOF subsequently withdrew the Optional Redemption Notices.

26. On June 11, 2018, Highland filed a withdrawal [Doc. No. 273] of its Motion to Reject. The conversion of the case and the entry of the TRO made it perfectly clear that the Debtors' business would continue to operate past the late June time period Highland originally contemplated when it filed the Motion to Reject. Thus, Highland continued to perform the sub-advisory and shared services it provided the Debtors pre-petition, throughout the involuntary, and post-petition pursuant to the terms of the Contracts.

27. On July 30, 2018, less than a month after the Chapter 11 Trustee complained about Highland's attempts to free itself of the obligations under the Contracts, the Chapter 11 Trustee filed his *Emergency Motion to Approve Replacement Sub-Advisory and Shared Services Providers, Brigade Capital Management, LP and Cortland Capital Markets Services LLC* [Doc. No. 448] (the "**Replacement Motion**"). By the Replacement Motion, the Chapter 11 Trustee sought to replace Highland with Brigade Capital Management, LP ("**Brigade**") based on vague

allegations by the Chapter 11 Trustee that Highland was "mismanaging" and "overcharging" the Debtors.

28. The Court held a hearing on the Replacement Motion on August 1, 2018. At the hearing, counsel for the Chapter 11 Trustee stated that the issue of mismanagement was "not the issue" for the hearing and reserved rights.[3] Rather, the issue related solely to whether the Chapter 11 Trustee's business judgment supported the relief sought in the Replacement Motion. As such, the Court never took up the mismanagement issue.

29. On August 1, 2018, the Court entered an order [Doc. 464] granting the Chapter 11 Trustee's Replacement Motion, thereby replacing Highland with Brigade Capital Management, LP as service provider to Acis LP. Highland provided transitional services through August 2, 2018.

C. Highland's Post-Petition Services Under the Contracts

30. Highland provided Acis LP with uninterrupted services during three legally-distinct time periods: (i) the period prior to the filing of the Involuntary Petitions; (ii) the "gap" period between the filing of Involuntary Petitions and the entry of the Orders for Relief; and (iii) the post-petition period following the entry of the Orders for Relief until Highland's replacement on August 2, 2018 (the "**Post-Petition Period**"). Highland has filed a proof of claim asserting its pre-petition unsecured claim and its priority gap claim pursuant to Bankruptcy Code section 507(a)(3).[4] This Application seeks an administrative expense claim relating solely to the Post-Petition Period and Highland reserves all rights related to any other period.

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[3] See Hr'g Tr (Aug. 1, 2018) at 154:17-24 (MS. PATEL: "And with respect to these – to issues surrounding mismanagement, et cetera, as I said sort of at the opportunity to cross-examine Mr. Covitz, it's just not an issue today. That's why we would want to reserve our rights at a later date to the extent that that is an actual material issue in dispute. That's when that needs to be brought up, but that's it. We reserve our rights, Your Honor. It's just not an issue for today. Thank you."

[4] *See* Proof of Claim [No. 27] filed on August 1, 2018 (the "**Proof of Claim**") whereby Highland asserts an unsecured claim in the amount of $4,672,140.38, constituting $2,622,576.03 for the pre-petition period and

RELIEF REQUESTED

31. By this Application, Highland seeks allowance of an administrative expense claim for services rendered under the Contracts during the Post-Petition Period. The total accrued amount for such services is $3,554,224.29, as set forth in the summary attached hereto as **Exhibit D**, composed of $3,007,678.41 for sub-servicing and sub-advisory fees and $543,545.88 for expenses.

32. Section 503(b) provides for an administrative expense claim for "the actual, necessary costs and expenses of preserving the estate" as well as "the actual, necessary expenses" incurred by a creditor "in making a substantial contribution" in a Chapter 11 case. *See* 11 U.S.C. §§ 503(b)(1); *see also In re ASARCO, LLC*, 650 F.3d 593, 601 (5th Cir. 2011) (providing that administrative expense claims under 503 "generally stem from voluntary transactions with third parties who lend goods or services necessary to the successful reorganization of the debtor's estate.") (internal citation omitted). "A prima facie case under section 503(b)(1) may be established by evidence that (1) the claim arises from a transaction with the [debtor]; and (2) the goods or services supplied enhanced the ability of the [debtor's] business to function as a going concern." *Matter of TransAmerican Natural Gas Corp.*, 978 F.2d 1409, 1416 (5th Cir. 1992). The burden then shifts to the objector to put on sufficient evidence to rebut the movant's prima facie case. *Id.* Mere allegations, unsupported by evidence, are insufficient to rebut the movant's prima face case. *Id.*

33. It is undisputed that Highland provided services under the Contracts during the Post-Petition Period and that Highland has not been paid for such services. Because Acis LP has

---

$2,049,564.35 for the gap period. In the Proof of Claim, Highland specifically reserves its right to seek an administrative expense claim, and also related to contingent claims for indemnification pursuant to Section 6.03 of the Shared Services Agreement and Section 4(c) of the Sub-Advisory Agreement. *See id.* at Proof of Claim Exhibit A.

no employees, it is self-evident that Highland's services benefited the estates because, absent such services, Acis LP would have been completely incapable of operating. In addition, while the Chapter 11 Trustee apparently has furthered a theory that Highland overcharged the Debtors (despite the fact that the terms of the Contracts are not in dispute), the Chapter 11 Trustee is required to provide evidence, not simply allegations, to rebut the prima facie case that Highland is entitled to an administrative expense claim. To date, the Chapter 11 Trustee has provided no such evidence. Rather, the Contracts speak for themselves and are the best evidence of the validity of the claim asserted by Highland.

34. In addition, Highland reserves all indemnity rights against the Debtors pursuant to section 6.03 of the Shared Services Agreement and section 4(c) of the Sub-Advisory Agreement. This includes, but is not limited to, in relation to the thirty-for (34) causes of action (the "**Causes of Action**") asserted against Highland by the Chapter 11 Trustee in the *Amended Answer, Counterclaims (Including Claims Objections) and Third Party Claims* filed by the Chapter 11 Trustee on November 13, 2018 in Adversary Proceeding No. 18-03078 [Adv. Proc. Doc. No. 84]. Many – if not all – of such Causes of Action appear to arguably fall within the coverage of the applicable indemnity provisions of the Contracts.

WHEREFORE, Highland respectfully requests that the Court enter an order: (i) awarding it an administrative expense claim at least in the amount of $3,554,224.29; (ii) awarding an administrative expense for any indemnity claims payable to Highland under the Contracts; and (iii) providing any such other relief the Court deems just and proper.

Dated: December 11, 2018

Respectfully submitted,

/s/ Jason B. Binford

Holland N. O'Neil (TX 14864700)
Jason B. Binford (TX 24045499)
Shiva D. Beck (TX 24086882)
Melina N. Bales (TX 24106851)
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and

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mhurst@lynnllp.com
bbarnes@lynnllp.com

COUNSEL FOR HIGHLAND CAPITAL MANAGEMENT, L.P.

CERTIFICATE OF SERVICE

This is to certify that on December 11, 2018, a true and correct copy of the foregoing was served electronically via the Court's ECF system on those parties registered to receive such service.

/s/ Jason B. Binford
Jason B. Binford

EXHIBIT 68

From: Scott Ellington <SEllington@HighlandCapital.com>
To: Thomas Surgent <TSurgent@HighlandCapital.com>, Eric Girard <EGirard@HighlandCapital.com>, Isaac Leventon <ILeventon@HighlandCapital.com>, Jim Dondero <JDondero@HighlandCapital.com>
Subject: Way it's going to be...
Date: Fri, 23 Sep 2016 13:10:13 +0000
Importance: Normal

Eric/Thomas/Isaac,

I thought I had delivered a message so clear a baboon could understand it but some how my instructions seem to be ignored or things get lost in translation so hopefully this will clear things up.
Isaac and Jamie Welton are working on the Josh Terry case. No one else.
If any other resource needs to be pulled in that is a determination which will be made by me and/or Jim.
If Jim tells you to do something you do it. Period.
Once Jim instructs you to do something you immediately get in touch with me and let me know what you have been told to do and if I have additional instruction or strategy I will let you know.
Failure to follow this protocol will result in your immediate termination.
No second chances no excuses.
Follow the hierarchy or suffer the consequences.

Sent from my iPhone

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EXHIBIT 69

From: Isaac Leventon <ILeventon@HighlandCapital.com>
To: Jamie Welton <jrw@lhlaw.net>, Scott Ellington <SEllington@HighlandCapital.com>
Cc: Paul Lackey <pbl@lhlaw.net>
Subject: RE: Terry/Acis - Terry/Highland
Date: Fri, 03 Nov 2017 17:48:26 +0000
Importance: Normal

Draft bullets for internal management discussion:

Where: Texas State Court, new proceeding.

What will be in the new case to confirm? Probably the entire detail of the award.

When: Monday, November 6.

When will Terry file the award? November 13.

Next steps: Highland files a notice of related case; moves to transfer the new case to the current case at the 162nd.

How long until Terry confirms: Depends. If the new case and the pending case are combined, then at least a year. If the new case stays separate, then within 4 months.

Upon confirmation: ACM/GP files a notice of appeal; posts a bond for 50% of net worth, which delays collection.

Collection: Must collect where the bank accounts are located; Delaware. If not assets in Delaware, then chase in Cayman. Will be multiple years to collect.

Other issues: SEC may investigate, statements to the media. Potentially a separate claim against ALF for Terry's 401K monies. File suit against NexBank. Highland's employment claims against Terry.

From: Jamie Welton [mailto:jrw@lhlaw.net]
Sent: Friday, November 3, 2017 11:21 AM
To: Isaac Leventon <ILeventon@HighlandCapital.com>; Scott Ellington <SEllington@HighlandCapital.com>
Cc: Paul Lackey <pbl@lhlaw.net>
Subject: RE: Terry/Acis - Terry/Highland

I just spoke to Rogge, he confirmed intend of new filing in TX state district court. He said he is inclined to file it separately even if we add ACM/ACM GP (as he is trying to avoid getting it dragged into HCM/Terry disputes, which will delay entry). He will also want to try and take a victory lap based their spin of the result.

I am generally available this afternoon to discuss.

jrw

From: Isaac Leventon [mailto:ILeventon@HighlandCapital.com]
Sent: Friday, November 3, 2017 11:16 AM
To: Jamie Welton <jrw@lhlaw.net>; Scott Ellington <SEllington@HighlandCapital.com>
Cc: Paul Lackey <pbl@lhlaw.net>
Subject: RE: Terry/Acis - Terry/Highland

My inclination is to force it into the same case in the first instance. Please let me know if you are available to discuss this afternoon. I am going try to get Scott on the phone as well.

From: Jamie Welton [mailto:jrw@lhlaw.net]
Sent: Friday, November 3, 2017 11:13 AM
To: Isaac Leventon <ILeventon@HighlandCapital.com>; Scott Ellington <SEllington@HighlandCapital.com>
Cc: Paul Lackey <pbl@lhlaw.net>
Subject: RE: Terry/Acis - Terry/Highland

Adding ACM/ACM GP to the current case makes transfer/consolidation more likely, and also aids in delaying entry of a judgment on the award pending resolution of the remaining HCM/Terry claims. He may still file separately, but would behooved to plead a motion to enforce in that case as opposed to initiating a new action and avoid cost, expense, and delay associated with serving the suit and litigating the transfer. He may try and file the Petition in County Court at Law to get a friendlier draw, but that should not affect the transfer/consolidation motion practice. He could also try and file in federal court, but state district remains the most likely venue and that is what Rogge was contemplating when we spoke earlier in the week. I can reach out to him again today to see if he is agreeable to filing in the 162nd after we plead ACM/ACM GP into the case.

Only downside to adding ACM/ACM GP is it speeds up service.

Jamie

From: Isaac Leventon [mailto:ILeventon@HighlandCapital.com]
Sent: Friday, November 3, 2017 10:59 AM
To: Jamie Welton <jrw@lhlaw.net>; Scott Ellington <SEllington@HighlandCapital.com>
Cc: Paul Lackey <pbl@lhlaw.net>
Subject: RE: Terry/Acis - Terry/Highland

Is there a way/reason why we would want to add ACM/GP to the current matter to make him file in the current case? I think that would be my preference so there is not a new matter that shows up on docket alerts.

From: Jamie Welton [mailto:jrw@lhlaw.net]
Sent: Friday, November 3, 2017 10:57 AM
To: Isaac Leventon <ILeventon@HighlandCapital.com>; Scott Ellington <SEllington@HighlandCapital.com>
Cc: Paul Lackey <pbl@lhlaw.net>
Subject: RE: Terry/Acis - Terry/Highland

When we spoke to him earlier in the week, it was going to be state district court in Dallas. Since ACM/ACM GP are not parties to HCM's pending suit at the moment, it will most likely be a new filing and we will have to try and get it transferred to the 162nd for consolidation w/ HCM suit.

jrw

From: Isaac Leventon [mailto:ILeventon@HighlandCapital.com]
Sent: Friday, November 3, 2017 10:52 AM
To: Jamie Welton <jrw@lhlaw.net>; Scott Ellington <SEllington@HighlandCapital.com>
Cc: Paul Lackey <pbl@lhlaw.net>
Subject: RE: Terry/Acis - Terry/Highland

Do we know which Court?

From: Jamie Welton [mailto:jrw@lhlaw.net]
Sent: Friday, November 3, 2017 10:36 AM
To: Scott Ellington <SEllington@HighlandCapital.com>; Isaac Leventon <ILeventon@HighlandCapital.com>
Cc: Paul Lackey <pbl@lhlaw.net>
Subject: FW: Terry/Acis - Terry/Highland

Terry intends to file a Petition to Enforce the Award on Monday. It will not attach the Award at that time, but you should expect it to be a hit piece regardless.

To comply with the procedures in 6.12 of the LPA, he has also provided written notice that he will file the award on 11/13.

jrw

From: LaKeisha Phillips [mailto:kphillips@clousedunn.com]
Sent: Friday, November 3, 2017 9:54 AM
To: Jamie Welton <jrw@lhlaw.net>
Cc: Rogge Dunn <Rogge@clousedunn.com>; Brian Shaw <shaw@clousedunn.com>; Tina Vanderburg <tvanderburg@clousedunn.com>
Subject: Terry/Acis - Terry/Highland

Counsel:

At the request of Rogge Dunn, please see the attached correspondence.

Best Regards,

LaKeisha J. Phillips

Legal Assistant to Rogge Dunn
214-239-2698 (Direct Dial)
kphillips@clousedunn.com

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EXHIBIT 70

From: "Roy, Amit" <Amit.Roy@gs.com>
To: 'Hunter Covitz' <HCovitz@HighlandCapital.com>
Subject: RE: Engagement Letter: ACIS 2014-3 Refinancing
Date: Fri, 27 Oct 2017 18:58:12 +0000
Importance: Normal

Hi Hunter – sorry I missed you yesterday, but just had so much going on that I could not make it to the conference.

As you probably know, Scott Ellington reached out to post us on the arbitration ruling related to Josh Terry. We will need to do a follow-on diligence call to get more details on that, and the potential transfer of management contracts from ACIS to affiliates that was referenced in the engagement letter .

Could you let me know if there are some times on Monday afternoon/evening or Tuesday that work for the team on your end?

Thanks,

Amit

From: Hunter Covitz [mailto:HCovitz@HighlandCapital.com]
Sent: Friday, October 27, 2017 1:35 PM
To: Roy, Amit [IBD]
Subject: RE: Engagement Letter: ACIS 2014-3 Refinancing

Hi Amit – just checking to see where you all were on the EL comments I am back in the office, let me know how we can help.

Sorry we missed you yesterday, but we did see Sameer and Kamar briefly, so that was good.

Thank you
Hunter

Hunter Covitz
972-628-4124

From: Tim Cournoyer
Sent: Thursday, October 26, 2017 5:39 PM
To: 'Reilly, Richard' <Richard.Reilly@dlapiper.com>; Hunter Covitz <HCovitz@HighlandCapital.com>; 'Roy, Amit' <Amit.Roy@gs.com>; Neil Desai <NDesai@HighlandCapital.com>
Cc: gs-clo-desk-ny@ny.email.gs.com <gs-clo-desk-ny@gs.com>; Nathoo, Jamil M <Jamil.Nathoo@gs.com>; Thomas Surgent <TSurgent@HighlandCapital.com>
Subject: RE: Engagement Letter: ACIS 2014-3 Refinancing

Please see attached.

TIMOTHY J. COURNOYER | ASSISTANT GENERAL COUNSEL

O: 972.628.4100 | D: 972.628.4153 | F: 972.628.4147

From: Reilly, Richard [mailto:Richard.Reilly@dlapiper.com]
Sent: Thursday, October 26, 2017 2:28 PM
To: Hunter Covitz <HCovitz@HighlandCapital.com>; 'Roy, Amit' <Amit.Roy@gs.com>; Neil Desai <NDesai@HighlandCapital.com>
Cc: gs-clo-desk-ny@ny.email.gs.com <gs-clo-desk-ny@gs.com>; Nathoo, Jamil M <Jamil.Nathoo@gs.com>; Thomas Surgent <TSurgent@HighlandCapital.com>; Tim Cournoyer <TCournoyer@HighlandCapital.com>
Subject: RE: Engagement Letter: ACIS 2014-3 Refinancing

Hunter: Could you please send us the PMAs for each of the CLOs to be refinanced? Thx

---

From: Hunter Covitz [mailto:HCovitz@HighlandCapital.com]
Sent: Wednesday, October 25, 2017 7:35 PM
To: 'Roy, Amit'; Neil Desai
Cc: gs-clo-desk-ny@ny.email.gs.com; Nathoo, Jamil M; Reilly, Richard; Thomas Surgent; Tim Cournoyer; Hunter Covitz
Subject: RE: Engagement Letter: ACIS 2014-3 Refinancing

Hello Amit, please see our Engagement Letter comments. As discussed today, alongside closing the refinancing of the Notes of the three CLOs we have discussed (Acis 14-3/Acis 14-4/Acis 14-5), we plan to

- Change the manager of each CLO from Acis Capital Management, LP to another affiliated registered investment advisor, likely Highland Capital Management, LP.
- Change the Issuer names to correspond to the manager change
- Change the ticker on the Notes to correspond to the manager change

We did remove "Highland" from some of the language in Section 15 but we feel Highland is covered by either the references to the Portfolio Manager and/or the description of "affiliates" of the Portfolio Manager within Section 15.

Let us know if you have any questions. I have cc'd our internal counsel (Tim Cournoyer) and CCO (Thomas Surgent) on the email.

Thank you,
Hunter

Hunter Covitz
972-628-4124

From: Roy, Amit [mailto:Amit.Roy@gs.com]
Sent: Monday, October 23, 2017 4:17 PM
To: Hunter Covitz <HCovitz@HighlandCapital.com>; Neil Desai <NDesai@HighlandCapital.com>
Cc: gs-clo-desk-ny@ny.email.gs.com <gs-clo-desk-ny@gs.com>; Nathoo, Jamil M <Jamil.Nathoo@gs.com>; 'richard.reilly@dlapiper.com' <richard.reilly@dlapiper.com>
Subject: Engagement Letter: ACIS 2014-3 Refinancing

Hunter and Neil – attached please find a draft engagement letter for ACIS 2014-3. Happy to discuss once you have had a chance to review.

Copying Rich Reilly at DLA Piper who will be representing us on the transaction.

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EXHIBIT 71

EXECUTION VERSION

AMENDMENT
TO
AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP
OF
ACIS CAPITAL MANAGEMENT, L.P.

THIS AMENDMENT (this "***Amendment***") to the Amended and Restated Agreement of Limited Partnership, dated effective as of January 21, 2011 (the "***Amended and Restated LPA***"), of Acis Capital Management, L.P., a Delaware limited partnership (the "***Partnership***"), is entered into to be effective as of July 1, 2016 (the "***Effective Date***") by Acis Capital Management GP, LLC, a Delaware corporation (the "***General Partner***") as the General Partner of the Partnership. Capitalized terms used but not defined in this Amendment shall have the meanings set forth in the Amended and Restated LPA.

WHEREAS, the General Partner desires to amend the Amended and Restated LPA pursuant to the authority granted under Section 6.01 of the Amended and Restated LPA; and

WHEREAS, each of the current Limited Partners of the Partnership are joining in the execution and delivery of this Amendment for the purpose of consenting to this Amendment in accordance with Section 6.01 of the Amended and Restated LPA.

NOW, THEREFORE, the General Partner hereby amends the Amended and Restated LPA as follows:

1. The definition of "Founding Partner Group" that is set forth in Section 2.01 of the Amended and Restated LPA is hereby amended and replaced in its entirety to read as follows:

> "***Founding Partner Group***" means, collectively, Acis Capital Management GP, LLC, The Dugaboy Investment Trust, Mark K. Okada and Joshua N. Terry; provided, however, that the definition will not include any Limited Partner that has experienced a Removal Event as defined herein or any General Partner that has withdrawn pursuant to this Agreement.

2. Exhibit A of the Amended and Restated LPA is hereby amended and replaced in its entirety with Exhibit A attached hereto.

3. Except as modified hereby, the Amended and Restated LPA shall remain in full force and effect and this Amendment shall be binding upon the parties thereto and their respective successors and assigns. If any inconsistency exists or arises between the terms of this Amendment and the terms of the Amended and Restated LPA, this Amendment shall prevail.

4. This Amendment may be executed in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart.

5. Subject to Section 6.12 of the Amended and Restated LPA, as amended, restated, modified or supplemented from time to time, and which is incorporated herein by reference as so amended, restated modified or supplemented from time to time, this Amendment shall be construed in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law.



[*Remainder of Page Intentionally Left Blank - Signature Page Follows.*]

IN WITNESS WHEREOF, the General Partner has entered into this Amendment to be effective as of the Effective Date.

GENERAL PARTNER:

ACIS CAPITAL MANAGEMENT GP, LLC,
a Delaware limited liability company

By:_____
Name: James D. Dondero
Title: President

The undersigned Limited Partners of the Partnership hereby consent to this Amendment as of the Effective Date in accordance with Section 6.01 of the Amended and Restated LPA:

THE DUGABOY INVESTMENT TRUST

By:_____
Name: James D. Dondero
Title: Trustee

_____
MARK K. OKADA

EXHIBIT A

Partnership Percentage Interests

General Partner	**Percentage Interest**
Acis Capital Management GP, LLC	0.1%
Limited Partners	
The Dugaboy Investment Trust	74.9%
Mark K. Okada	25.0%
Total	**100.00%**

EXHIBIT 72

Master Repurchase Agreement

September 1996 Version

Dated as of January 26, 2018

Between: NWCC, LLC

And HIGHLAND CLO MANAGEMENT, LLC

1. Applicability

From time to time the parties hereto may enter into transactions in which one party ("Seller") agrees to transfer to the other ("Buyer") securities or other assets ("Securities") against the transfer of funds by Buyer, with a simultaneous agreement by Buyer to transfer to Seller such Securities at a date certain or on demand, against the transfer of funds by Seller. Each such transaction shall be referred to herein as a "Transaction" and, unless otherwise agreed in writing, shall be governed by this Agreement, including any supplemental terms or conditions contained in Annex I hereto and in any other annexes identified herein or therein as applicable hereunder.

2. Definitions

(a) "Act of Insolvency", with respect to any party, (i) the commencement by such party as debtor of any case or proceeding under any bankruptcy, insolvency, reorganization, liquidation, moratorium, dissolution, delinquency or similar law, or such party seeking the appointment or election of a receiver, conservator, trustee, custodian or similar official for such party or any substantial part of its property, or the convening of any meeting of creditors for purposes of commencing any such case or proceeding or seeking such an appointment or election, (ii) the commencement of any such case or proceeding against such party, or another seeking such an appointment or election, or the filing against a party of an application for a protective decree under the provisions of the Securities Investor Protection Act of 1970, which (A) is consented to or not timely contested by such party, (B) results in the entry of an order for relief, such an appointment or election, the

issuance of such a protective decree or the entry of an order having a similar effect, or (C) is not dismissed within 15 days, (iii) the making by such party of a general assignment for the benefit of creditors, or (iv) the admission in writing by such party of such party's inability to pay such party's debts as they become due;

(b) "Additional Purchased Securities", Securities provided by Seller to Buyer pursuant to Paragraph 4(a) hereof;

(c) "Buyer's Margin Amount", with respect to any Transaction as of any date, the amount obtained by application of the Buyer's Margin Percentage to the Repurchase Price for such Transaction as of such date;

(d) "Buyer's Margin Percentage", with respect to any Transaction as of any date, a percentage (which may be equal to the Seller's Margin Percentage) agreed to by Buyer and Seller or, in the absence of any such agreement, the percentage obtained by dividing the Market Value of the Purchased Securities on the Purchase Date by the Purchase Price on the Purchase Date for such Transaction;

(e) "Confirmation", the meaning specified in Paragraph 3(b) hereof;

(f) "Income", with respect to any Security at any time, any principal thereof and all interest, dividends or other distributions thereon;

(g) "Margin Deficit", the meaning specified in Paragraph 4(a) hereof;

(h) "Margin Excess", the meaning specified in Paragraph 4(b) hereof;

(i) "Margin Notice Deadline", the time agreed to by the parties in the relevant Confirmation, Annex I hereto or otherwise as the deadline for giving notice requiring same-day satisfaction of margin maintenance obligations as provided in Paragraph 4 hereof (or, in the absence of any such agreement, the deadline for such purposes established in accordance with market practice);

(j) "Market Value", with respect to any Securities as of any date, the price for such Securities on such date obtained from a generally recognized source agreed to by the parties or the most recent closing bid quotation from such a source, plus accrued Income to the extent not included therein (other than any Income credited or transferred to, or applied to the obligations of, Seller pursuant to Paragraph 5 hereof) as of such date (unless contrary to market practice for such Securities);

(k) "Price Differential", with respect to any Transaction as of any date, the aggregate amount obtained by daily application of the Pricing Rate for such Transaction to the Purchase Price for such Transaction on a 360 day per year basis for the actual number of days during the period commencing on (and including) the Purchase Date for such Transaction and ending on (but excluding) the date of determination (reduced by any amount of such Price Differential previously paid by Seller to Buyer with respect to such Transaction);

(l) "Pricing Rate", the per annum percentage rate for determination of the Price Differential;

(m) "Prime Rate", the prime rate of U.S. commercial banks as published in The Wall Street Journal (or, if more than one such rate is published, the average of such rates);

(n) "Purchase Date", the date on which Purchased Securities are to be transferred by Seller to Buyer;

(o) "Purchase Price", (i) on the Purchase Date, the price at which Purchased Securities are transferred by Seller to Buyer, and (ii) thereafter, except where Buyer and Seller agree otherwise, such price increased by the amount of any cash transferred by Buyer to Seller pursuant to Paragraph 4(b) hereof and decreased by the amount of any cash transferred by Seller to Buyer pursuant to Paragraph 4(a) hereof or applied to reduce Seller's obligations under clause (ii) of Paragraph 5 hereof;

(p) "Purchased Securities", the Securities transferred by Seller to Buyer in a Transaction hereunder, and any Securities substituted therefor in accordance with Paragraph 9 hereof. The term "Purchased Securities" with respect to any Transaction at any time also shall include Additional Purchased Securities delivered pursuant to Paragraph 4(a) hereof and shall exclude Securities returned pursuant to Paragraph 4(b) hereof;

(q) "Repurchase Date", the date on which Seller is to repurchase the Purchased Securities from Buyer, including any date determined by application of the provisions of Paragraph 3(c) or 11 hereof;

(r) "Repurchase Price", the price at which Purchased Securities are to be transferred from Buyer to Seller upon termination of a Transaction, which will be determined in each case (including Transactions terminable upon demand) as the sum of the Purchase

Price and the Price Differential as of the date of such determination;

(s) "Seller's Margin Amount", with respect to any Transaction as of any date, the amount obtained by application of the Seller's Margin Percentage to the Repurchase Price for such Transaction as of such date;

(t) "Seller's Margin Percentage", with respect to any Transaction as of any date, a percentage (which may be equal to the Buyer's Margin Percentage) agreed to by Buyer and Seller or, in the absence of any such agreement, the percentage obtained by dividing the Market Value of the Purchased Securities on the Purchase Date by the Purchase Price on the Purchase Date for such Transaction.

3. Initiation; Confirmation; Termination

(a) An agreement to enter into a Transaction may be made orally or in writing at the initiation of either Buyer or Seller. On the Purchase Date for the Transaction, the Purchased Securities shall be transferred to Buyer or its agent against the transfer of the Purchase Price to an account of Seller.

(b) Upon agreeing to enter into a Transaction hereunder, Buyer or Seller (or both), as shall be agreed, shall promptly deliver to the other party a written confirmation of each Transaction (a "Confirmation"). The Confirmation shall describe the Purchased Securities (including CUSIP number, if any), identify Buyer and Seller and set forth (i) the Purchase Date, (ii) the Purchase Price, (iii) the Repurchase Date, unless the Transaction is to be terminable on demand, (iv) the Pricing Rate or Repurchase Price applicable to the Transaction, and (v) any additional terms or conditions of the Transaction not inconsistent with this Agreement. The Confirmation, together with this Agreement, shall constitute conclusive evidence of the terms agreed between Buyer and Seller with respect to the Transaction to which the Confirmation relates, unless with respect to the Confirmation specific objection is made promptly after receipt thereof. In the event of any conflict between the terms of such Confirmation and this Agreement, this Agreement shall prevail.

(c) In the case of Transactions terminable upon demand, such demand shall be made by Buyer or Seller, no later than such time as is customary in accordance with market practice, by telephone or otherwise on or prior to the business day on which such termination will be effective. On the date specified in such

demand, or on the date fixed for termination in the case of Transactions having a fixed term, termination of the Transaction will be effected by transfer to Seller or its agent of the Purchased Securities and any Income in respect thereof received by Buyer (and not previously credited or transferred to, or applied to the obligations of, Seller pursuant to Paragraph 5 hereof) against the transfer of the Repurchase Price to an account of Buyer.

4. Margin Maintenance

(a) If at any time the aggregate Market Value of all Purchased Securities subject to all Transactions in which a particular party hereto is acting as Buyer is less than the aggregate Buyer's Margin Amount for all such Transactions (a "Margin Deficit"), then Buyer may by notice to Seller require Seller in such Transactions, at Seller's option, to transfer to Buyer cash or additional Securities reasonably acceptable to Buyer ("Additional Purchased Securities"), so that the cash and aggregate Market Value of the Purchased Securities, including any such Additional Purchased Securities, will thereupon equal or exceed such aggregate Buyer's Margin Amount (decreased by the amount of any Margin Deficit as of such date arising from any Transactions in which such Buyer is acting as Seller).

(b) If at any time the aggregate Market Value of all Purchased Securities subject to all Transactions in which a particular party hereto is acting as Seller exceeds the aggregate Seller's Margin Amount for all such Transactions at such time (a "Margin Excess"), then Seller may by notice to Buyer require Buyer in such Transactions, at Buyer's option, to transfer cash or Purchased Securities to Seller, so that the aggregate Market Value of the Purchased Securities, after deduction of any such cash or any Purchased Securities so transferred, will thereupon not exceed such aggregate Seller's Margin Amount (increased by the amount of any Margin Excess as of such date arising from any Transactions in which such Seller is acting as Buyer).

(c) If any notice is given by Buyer or Seller under subparagraph (a) or (b) of this Paragraph at or before the Margin Notice Deadline on any business day, the party receiving such notice shall transfer cash or Additional Purchased Securities as provided in such subparagraph no later than the close of business in the relevant market on such day. If any such notice is given after the Margin Notice Deadline, the party receiving such notice shall transfer such cash or Securities no later than the close of business in the relevant market on the next business day following such notice.

(d) Any cash transferred pursuant to this Paragraph shall be attributed to such Transactions as shall be agreed upon by Buyer and Seller.

(e) Seller and Buyer may agree, with respect to any or all Transactions hereunder, that the respective rights of Buyer or Seller (or both) under subparagraphs (a) and (b) of this Paragraph may be exercised only where a Margin Deficit or Margin Excess, as the case may be, exceeds a specified dollar amount or a specified percentage of the Repurchase Prices for such Transactions (which amount or percentage shall be agreed to by Buyer and Seller prior to entering into any such Transactions).

(f) Seller and Buyer may agree, with respect to any or all Transactions hereunder, that the respective rights of Buyer and Seller under subparagraphs (a) and (b) of this Paragraph to require the elimination of a Margin Deficit or a Margin Excess, as the case may be, may be exercised whenever such a Margin Deficit or Margin Excess exists with respect to any single Transaction hereunder (calculated without regard to any other Transaction outstanding under this Agreement).

5. Income Payments

Seller shall be entitled to receive an amount equal to all Income paid or distributed on or in respect of the Securities that is not otherwise received by Seller, to the full extent it would be so entitled if the Securities had not been sold to Buyer. Buyer shall, as the parties may agree with respect to any Transaction (or, in the absence of any such agreement, as Buyer shall reasonably determine in its discretion), on the date such Income is paid or distributed either (i) transfer to or credit to the account of Seller such Income with respect to any Purchased Securities subject to such Transaction or (ii) with respect to Income paid in cash, apply the Income payment or payments to reduce the amount, if any, to be transferred to Buyer by Seller upon termination of such Transaction. Buyer shall not be obligated to take any action pursuant to the preceding sentence (A) to the extent that such action would result in the creation of a Margin Deficit, unless prior thereto or simultaneously therewith Seller transfers to Buyer cash or Additional Purchased Securities sufficient to eliminate such Margin Deficit, or (B) if an Event of Default with respect to Seller has occurred and is then continuing at the time such Income is paid or distributed.

6. Security Interest

Although the parties intend that all Transactions hereunder be sales and purchases and not loans, in the event any such Transactions are deemed to be loans, Seller shall be deemed to have pledged to Buyer as security for

the performance by Seller of its obligations under each such Transaction, and shall be deemed to have granted to Buyer a security interest in, all of the Purchased Securities with respect to all Transactions hereunder and all Income thereon and other proceeds thereof.

7. Payment and Transfer

Unless otherwise mutually agreed, all transfers of funds hereunder shall be in immediately available funds. All Securities transferred by one party hereto to the other party (i) shall be in suitable form for transfer or shall be accompanied by duly executed instruments of transfer or assignment in blank and such other documentation as the party receiving possession may reasonably request, (ii) shall be transferred on the book-entry system of a Federal Reserve Bank, or (iii) shall be transferred by any other method mutually acceptable to Seller and Buyer.

8. Segregation of Purchased Securities

To the extent required by applicable law, all Purchased Securities in the possession of Seller shall be segregated from other securities in its possession and shall be identified as subject to this Agreement. Segregation may be accomplished by appropriate identification on the books and records of the holder, including a financial or securities intermediary or a clearing corporation. All of Seller's interest in the Purchased Securities shall pass to Buyer on the Purchase Date and, unless otherwise agreed by Buyer and Seller, nothing in this Agreement shall preclude Buyer from engaging in repurchase transactions with the Purchased Securities or otherwise selling, transferring, pledging or hypothecating the Purchased Securities, but no such transaction shall relieve Buyer of its obligations to transfer Purchased Securities to Seller pursuant to Paragraph 3, 4 or 11 hereof, or of Buyer's obligation to credit or pay Income to, or apply Income to the obligations of, Seller pursuant to Paragraph 5 hereof.

Required Disclosure for Transactions in Which the Seller Retains Custody of the Purchased Securities

Seller is not permitted to substitute other securities for those subject to this Agreement and therefore must keep Buyer's securities segregated at all times, unless in this Agreement Buyer grants Seller the right to substitute other securities. If Buyer grants the right to substitute, this means that Buyer's securities will likely be commingled with Seller's own securities during the trading day. Buyer is advised that, during any trading day that Buyer's securities are commingled with Seller's securities, they [will]* [may]** be subject to liens granted by Seller to [its clearing bank]* [third parties]** and may be used by Seller for deliveries on other securities transactions. Whenever the securities are commingled, Seller's ability to resegregate substitute securities for Buyer

will be subject to Seller's ability to satisfy [the clearing]* [any]** lien or to obtain substitute securities.

* Language to be used under 17 C.F.R. ß403.4(e) if Seller is a government securities broker or dealer other than a financial institution.

** Language to be used under 17 C.F.R. ß403.5(d) if Seller is a financial institution.

9. Substitution

(a) Seller may, subject to agreement with and acceptance by Buyer, substitute other Securities for any Purchased Securities. Such substitution shall be made by transfer to Buyer of such other Securities and transfer to Seller of such Purchased Securities. After substitution, the substituted Securities shall be deemed to be Purchased Securities.

(b) In Transactions in which Seller retains custody of Purchased Securities, the parties expressly agree that Buyer shall be deemed, for purposes of subparagraph (a) of this Paragraph, to have agreed to and accepted in this Agreement substitution by Seller of other Securities for Purchased Securities; provided, however, that such other Securities shall have a Market Value at least equal to the Market Value of the Purchased Securities for which they are substituted.

10. Representations

Each of Buyer and Seller represents and warrants to the other that (i) it is duly authorized to execute and deliver this Agreement, to enter into Transactions contemplated hereunder and to perform its obligations hereunder and has taken all necessary action to authorize such execution, delivery and performance, (ii) it will engage in such Transactions as principal (or, if agreed in writing, in the form of an annex hereto or otherwise, in advance of any Transaction by the other party hereto, as agent for a disclosed principal), (iii) the person signing this Agreement on its behalf is duly authorized to do so on its behalf (or on behalf of any such disclosed principal), (iv) it has obtained all authorizations of any governmental body required in connection with this Agreement and the Transactions hereunder and such authorizations are in full force and effect and (v) the execution, delivery and performance of this Agreement and the Transactions hereunder will not violate any law, ordinance, charter, bylaw or rule applicable to it or any agreement by which it is bound or by which any of its assets are affected. On the Purchase Date for any Transaction Buyer and Seller shall each be deemed to repeat all the foregoing representations made by it.

11. Events of Default

In the event that (i) Seller fails to transfer or Buyer fails to purchase Purchased Securities upon the applicable Purchase Date, (ii) Seller fails to repurchase or Buyer fails to transfer Purchased Securities upon the applicable Repurchase Date, (iii) Seller or Buyer fails to comply with Paragraph 4 hereof, (iv) Buyer fails, after one business day's notice, to comply with Paragraph 5 hereof, (v) an Act of Insolvency occurs with respect to Seller or Buyer, (vi) any representation made by Seller or Buyer shall have been incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated, or (vii) Seller or Buyer shall admit to the other its inability to, or its intention not to, perform any of its obligations hereunder (each an "Event of Default"):

(a) The nondefaulting party may, at its option (which option shall be deemed to have been exercised immediately upon the occurrence of an Act of Insolvency), declare an Event of Default to have occurred hereunder and, upon the exercise or deemed exercise of such option, the Repurchase Date for each Transaction hereunder shall, if it has not already occurred, be deemed immediately to occur (except that, in the event that the Purchase Date for any Transaction has not yet occurred as of the date of such exercise or deemed exercise, such Transaction shall be deemed immediately canceled). The nondefaulting party shall (except upon the occurrence of an Act of Insolvency) give notice to the defaulting party of the exercise of such option as promptly as practicable.

(b) In all Transactions in which the defaulting party is acting as Seller, if the nondefaulting party exercises or is deemed to have exercised the option referred to in subparagraph (a) of this Paragraph, (i) the defaulting party's obligations in such Transactions to repurchase all Purchased Securities, at the Repurchase Price therefor on the Repurchase Date determined in accordance with subparagraph (a) of this Paragraph, shall thereupon become immediately due and payable, (ii) all Income paid after such exercise or deemed exercise shall be retained by the nondefaulting party and applied to the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder, and (iii) the defaulting party shall immediately deliver to the nondefaulting party any Purchased Securities subject to such Transactions then in the defaulting party's possession or control.

(c) In all Transactions in which the defaulting party is acting as Buyer, upon tender by the nondefaulting party of payment of the aggregate Repurchase Prices for all such Transactions, all right, title and interest in and entitlement to all Purchased Securities

subject to such Transactions shall be deemed transferred to the nondefaulting party, and the defaulting party shall deliver all such Purchased Securities to the nondefaulting party.

(d) If the nondefaulting party exercises or is deemed to have exercised the option referred to in subparagraph (a) of this Paragraph, the nondefaulting party, without prior notice to the defaulting party, may:

(i) as to Transactions in which the defaulting party is acting as Seller, (A) immediately sell, in a recognized market (or otherwise in a commercially reasonable manner) at such price or prices as the nondefaulting party may reasonably deem satisfactory, any or all Purchased Securities subject to such Transactions and apply the proceeds thereof to the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder or (B) in its sole discretion elect, in lieu of selling all or a portion of such Purchased Securities, to give the defaulting party credit for such Purchased Securities in an amount equal to the price therefor on such date, obtained from a generally recognized source or the most recent closing bid quotation from such a source, against the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder; and

(ii) as to Transactions in which the defaulting party is acting as Buyer, (A) immediately purchase, in a recognized market (or otherwise in a commercially reasonable manner) at such price or prices as the nondefaulting party may reasonably deem satisfactory, securities ("Replacement Securities") of the same class and amount as any Purchased Securities that are not delivered by the defaulting party to the nondefaulting party as required hereunder or (B) in its sole discretion elect, in lieu of purchasing Replacement Securities, to be deemed to have purchased Replacement Securities at the price therefor on such date, obtained from a generally recognized source or the most recent closing offer quotation from such a source.

Unless otherwise provided in Annex I, the parties acknowledge and agree that (1) the Securities subject to any Transaction hereunder are instruments traded in a recognized market, (2) in the absence of a generally recognized source for prices or bid or offer quotations for any Security, the nondefaulting party may establish

the source therefor in its sole discretion and (3) all prices, bids and offers shall be determined together with accrued Income (except to the extent contrary to market practice with respect to the relevant Securities).

(e) As to Transactions in which the defaulting party is acting as Buyer, the defaulting party shall be liable to the nondefaulting party for any excess of the price paid (or deemed paid) by the nondefaulting party for Replacement Securities over the Repurchase Price for the Purchased Securities replaced thereby and for any amounts payable by the defaulting party under Paragraph 5 hereof or otherwise hereunder.

(f) For purposes of this Paragraph 11, the Repurchase Price for each Transaction hereunder in respect of which the defaulting party is acting as Buyer shall not increase above the amount of such Repurchase Price for such Transaction determined as of the date of the exercise or deemed exercise by the nondefaulting party of the option referred to in subparagraph (a) of this Paragraph.

(g) The defaulting party shall be liable to the nondefaulting party for (i) the amount of all reasonable legal or other expenses incurred by the nondefaulting party in connection with or as a result of an Event of Default, (ii) damages in an amount equal to the cost (including all fees, expenses and commissions) of entering into replacement transactions and entering into or terminating hedge transactions in connection with or as a result of an Event of Default, and (iii) any other loss, damage, cost or expense directly arising or resulting from the occurrence of an Event of Default in respect of a Transaction.

(h) To the extent permitted by applicable law, the defaulting party shall be liable to the nondefaulting party for interest on any amounts owing by the defaulting party hereunder, from the date the defaulting party becomes liable for such amounts hereunder until such amounts are (i) paid in full by the defaulting party or (ii) satisfied in full by the exercise of the nondefaulting party's rights hereunder. Interest on any sum payable by the defaulting party to the nondefaulting party under this Paragraph 11(h) shall be at a rate equal to the greater of the Pricing Rate for the relevant Transaction or the Prime Rate.

(i) The nondefaulting party shall have, in addition to its rights hereunder, any rights otherwise available to it under any other agreement or applicable law.

12. Single Agreement

Buyer and Seller acknowledge that, and have entered hereinto and will enter into each Transaction hereunder in consideration of and in reliance upon the fact that, all Transactions hereunder constitute a single business and contractual relationship and have been made in consideration of each other. Accordingly, each of Buyer and Seller agrees (i) to perform all of its obligations in respect of each Transaction hereunder, and that a default in the performance of any such obligations shall constitute a default by it in respect of all Transactions hereunder, (ii) that each of them shall be entitled to set off claims and apply property held by them in respect of any Transaction against obligations owing to them in respect of any other Transactions hereunder and (iii) that payments, deliveries and other transfers made by either of them in respect of any Transaction shall be deemed to have been made in consideration of payments, deliveries and other transfers in respect of any other Transactions hereunder, and the obligations to make any such payments, deliveries and other transfers may be applied against each other and netted.

13. Notices and Other Communications

Any and all notices, statements, demands or other communications hereunder may be given by a party to the other by mail, facsimile, telegraph, messenger or otherwise to the address specified in Annex II hereto, or so sent to such party at any other place specified in a notice of change of address hereafter received by the other. All notices, demands and requests hereunder may be made orally, to be confirmed promptly in writing, or by other communication as specified in the preceding sentence.

14. Entire Agreement; Severability

This Agreement shall supersede any existing agreements between the parties containing general terms and conditions for repurchase transactions. Each provision and agreement herein shall be treated as separate and independent from any other provision or agreement herein and shall be enforceable notwithstanding the unenforceability of any such other provision or agreement.

15. Non-assignability; Termination

(a) The rights and obligations of the parties under this Agreement and under any Transaction shall not be assigned by either party without the prior written consent of the other party, and any such assignment without the prior written consent of the other party shall be null and void. Subject to the foregoing, this Agreement and any Transactions shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. This Agreement may be terminated by either party upon giving written notice to the other, except that this Agreement shall,

notwithstanding such notice, remain applicable to any Transactions then outstanding.

(b) Subparagraph (a) of this Paragraph 15 shall not preclude a party from assigning, charging or otherwise dealing with all or any part of its interest in any sum payable to it under Paragraph 11 hereof.

16. Governing Law

This Agreement shall be governed by the laws of the State of New York without giving effect to the conflict of law principles thereof.

17. No Waivers, Etc.

No express or implied waiver of any Event of Default by either party shall constitute a waiver of any other Event of Default and no exercise of any remedy hereunder by any party shall constitute a waiver of its right to exercise any other remedy hereunder. No modification or waiver of any provision of this Agreement and no consent by any party to a departure herefrom shall be effective unless and until such shall be in writing and duly executed by both of the parties hereto. Without limitation on any of the foregoing, the failure to give a notice pursuant to Paragraph 4(a) or 4(b) hereof will not constitute a waiver of any right to do so at a later date.

18. Use of Employee Plan Assets

(a) If assets of an employee benefit plan subject to any provision of the Employee Retirement Income Security Act of 1974 ("ERISA") are intended to be used by either party hereto (the "Plan Party") in a Transaction, the Plan Party shall so notify the other party prior to the Transaction. The Plan Party shall represent in writing to the other party that the Transaction does not constitute a prohibited transaction under ERISA or is otherwise exempt therefrom, and the other party may proceed in reliance thereon but shall not be required so to proceed.

(b) Subject to the last sentence of subparagraph (a) of this Paragraph, any such Transaction shall proceed only if Seller furnishes or has furnished to Buyer its most recent available audited statement of its financial condition and its most recent subsequent unaudited statement of its financial condition.

(c) By entering into a Transaction pursuant to this Paragraph, Seller shall be deemed (i) to represent to Buyer that since the date of Seller's latest such financial statements, there has been no material adverse change in Seller's financial condition which Seller has not disclosed to Buyer, and (ii) to agree to provide Buyer with future audited and unaudited statements of its financial condition as they

are issued, so long as it is a Seller in any outstanding Transaction involving a Plan Party.

19. Intent

(a) The parties recognize that each Transaction is a "repurchase agreement" as that term is defined in Section 101 of Title 11 of the United States Code, as amended (except insofar as the type of Securities subject to such Transaction or the term of such Transaction would render such definition inapplicable), and a "securities contract" as that term is defined in Section 741 of Title 11 of the United States Code, as amended (except insofar as the type of assets subject to such Transaction would render such definition inapplicable).

(b) It is understood that either party's right to liquidate Securities delivered to it in connection with Transactions hereunder or to exercise any other remedies pursuant to Paragraph 11 hereof is a contractual right to liquidate such Transaction as described in Sections 555 and 559 of Title 11 of the United States Code, as amended.

(c) The parties agree and acknowledge that if a party hereto is an "insured depository institution," as such term is defined in the Federal Deposit Insurance Act, as amended ("FDIA"), then each Transaction hereunder is a "qualified financial contract," as that term is defined in FDIA and any rules, orders or policy statements thereunder (except insofar as the type of assets subject to such Transaction would render such definition inapplicable).

(d) It is understood that this Agreement constitutes a "netting contract" as defined in and subject to Title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA") and each payment entitlement and payment obligation under any Transaction hereunder shall constitute a "covered contractual payment entitlement" or "covered contractual payment obligation", respectively, as defined in and subject to FDICIA (except insofar as one or both of the parties is not a "financial institution" as that term is defined in FDICIA).

20. Disclosure Relating to Certain Federal Protections

The parties acknowledge that they have been advised that:

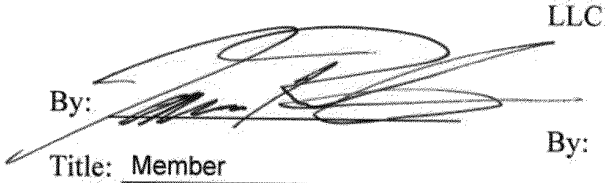
(a) in the case of Transactions in which one of the parties is a broker or dealer registered with the Securities and Exchange Commission ("SEC") under Section 15 of the Securities Exchange Act of 1934

("1934 Act"), the Securities Investor Protection Corporation has taken the position that the provisions of the Securities Investor Protection Act of 1970 ("SIPA") do not protect the other party with respect to any Transaction hereunder;

(b) in the case of Transactions in which one of the parties is a government securities broker or a government securities dealer registered with the SEC under Section 15C of the 1934 Act, SIPA will not provide protection to the other party with respect to any Transaction hereunder; and

(c) in the case of Transactions in which one of the parties is a financial institution, funds held by the financial institution pursuant to a Transaction hereunder are not a deposit and therefore are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, as applicable.

NWCC, LLC

By: 

Title: Member

Date: 1/26/18

HIGHLAND CLO MANAGEMENT, LLC

By: _____

Title: _____

Date: _____

[Signature Page to Master Repurchase Agreement]

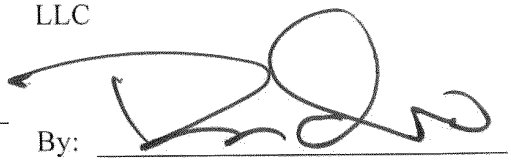
NWCC, LLC

By: _____

Title: _____

Date: _____

HIGHLAND CLO MANAGEMENT, LLC

By: 

Title: _____

Date: 1/26/18

[Signature Page to Master Repurchase Agreement]

Execution Version

ANNEX I
SUPPLEMENTAL TERMS AND CONDITIONS

This Annex I forms a part of the Master Repurchase Agreement, dated as of January 26, 2018 (the "**Master Agreement**"), between **NWCC, LLC** (the "**Buyer**") and **HIGHLAND CLO MANAGEMENT, LLC** (the "**Seller**"). Capitalized terms used but not defined in this Annex I shall have the meanings ascribed to them in the Master Agreement.

1. **Applicable Annexes.** In addition to this Annex I and Annex II, the following Annexes and any applicable Schedules thereto shall form part of the Master Agreement and shall be applicable thereunder:

   Annex III (Form of Conforming Transaction Master Confirmation).

2. **Definitions.**

   (a) The definition of "Act of Insolvency" in Paragraph 2(a) of the Master Agreement is hereby amended by (i) deleting the following words in clause (i): "or the convening of any meeting of creditors for purposes of commencing any such case or proceeding or seeking such an appointment or election" and (ii) replacing the words "15 days" in clause (ii)(C) thereof with the words "90 days".

   (b) "**Conforming Transaction**" means any Transaction that satisfies each of the following criteria:

      (i) such Transaction shall be evidenced by a written transaction supplement substantially in the form attached as Schedule B to Annex III to the Master Agreement (each, a "**Conforming Transaction Supplement**") and a written Master Confirmation substantially in the form attached to the Master Agreement as Annex III (the "**Conforming Transaction Master Confirmation**"; the Conforming Transaction Master Confirmation together with the Conforming Transaction Supplement in respect of any Conforming Transaction shall be referred to herein as the "**Conforming Transaction Confirmation**" in respect of such Conforming Transaction); provided, for the avoidance of doubt, that each Conforming Transaction Confirmation shall constitute a Confirmation for purposes of the Master Agreement;

      (ii) (A) the Purchase Price for all Purchased Securities subject to such Transaction shall equal the sum of the Purchase Prices attributable to each class of such Purchased Securities and (B) the Purchase Price for each class of such Purchased Securities shall equal the Market Value (as defined in the Conforming Transaction Master Confirmation) of such class of Purchased Securities as of the related Purchase Date (it being understood and agreed that if the Purchase Price specified in any Conforming Transaction Supplement does not reflect the methodology set forth in this clause (ii), the Buyer and the Seller shall cooperate with each

other in good faith to amend such Conforming Transaction Supplement to ensure that the Purchase Price specified therein reflects the methodology set forth in this clause (ii)); and

(iii) the Scheduled Repurchase Date for such Transaction shall be the latest final maturity date of the Purchased Securities subject to such Transaction (it being understood and agreed that if the Scheduled Repurchase Date specified in the Conforming Transaction Supplement for such Transaction is not the latest final maturity date of the Purchased Securities subject to such Transaction, the Buyer and the Seller shall cooperate with each other in good faith to amend such Conforming Transaction Supplement to ensure that the Scheduled Repurchase Date specified is the latest final maturity date of the Purchased Securities subject to such Transaction).

(c) "**Margin Notice Deadline**", the deadline for giving notice, referenced in Paragraph 2(i) of the Master Agreement, shall be 10:00 a.m. (New York time) and such notice shall be made in writing.

(d) "**Maximum Facility Amount**" means $100,000,000 (or such other amount as may be agreed to by the Buyer and the Seller from time to time).

(e) "**Retention Period**" means, with respect to any Conforming Transaction and the related Purchased Securities, the period from (and including) the Purchase Date of such Conforming Transaction to (but excluding) the date on which the Seller and, if the Seller is not the "sponsor" of the related "securitization transaction" (as such terms are defined in the Risk Retention Requirements), pursuant to which such Purchased Securities were issued, such "sponsor" is no longer required pursuant to any applicable Risk Retention Requirements to hold the Purchased Securities.

(f) "**Risk Retention Requirements**" means the requirements of Section 941 of The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, as amended, and the rules and regulations thereunder, or any successor law, rules or regulations.

3. **Events of Default.**

(a) The introductory paragraph of Paragraph 11 of the Master Agreement is hereby amended and restated in its entirety as follows:

"In the event that (i) Seller fails to transfer or the Buyer fails to purchase Purchased Securities upon the applicable Purchase Date, (ii) the Seller fails to repurchase or the Buyer fails to transfer Purchased Securities upon the applicable Repurchase Date and, in either case, such failure is not remedied within three (3) Business Days after written notice of such failure is given to such party, (iii) the Seller or the Buyer fails to comply with Paragraph 4 hereof, subject to a three (3) Business Day grace period after written notice of such failure is given to such party, (iv) the Buyer fails, after three (3) Business Days' written notice, to comply

with Paragraph 5 hereof, (v) an Act of Insolvency occurs with respect to the Seller or the Buyer, (vi) any written representation made by the Seller or the Buyer fails to be correct or true in any material respect when made or repeated, such failure materially and adversely affects the party to whom such representation is made or repeated, and such failure is not remedied within thirty (30) days after written notice of such failure is given by such party that is materially and adversely affected to the party making such representation, or (vii) the Seller or the Buyer shall admit to the other its inability to, or its intention not to, perform any of its obligations hereunder (each an "**Event of Default**");"

(b) Notwithstanding any provision of the Master Agreement to the contrary, during the Retention Period, the Buyer may not sell, foreclose upon or otherwise comparably convert, or cause to be sold, foreclosed upon or comparably converted, any Purchased Securities, in each such case as the result of the occurrence of an Event of Default hereunder; provided that the provisions of this sentence shall in no way prohibit, limit, restrict or impair the ability of the Buyer to sell, transfer, pledge or hypothecate the Purchased Securities pursuant to Paragraph 8 of the Master Agreement.

(c) Paragraph 11(d)(i) of the Master Agreement is hereby amended by deleting the last four lines thereof and replacing them with the following:

"Purchased Securities in an amount equal to the price therefor, as determined in a commercially reasonable manner by a recognized third party valuation agent appointed by the mutual agreement of the Buyer and the Seller, each acting in good faith and in a commercially reasonable manner, on such date; and".

(d) Paragraph 11(g) of the Master Agreement is hereby amended by (i) adding "and documented" after the word "reasonable" and before the words "legal or other expenses" in the second line thereof and (ii) replacing the words "in connection with or as a" in the fifth line thereof with the words "as a direct".

4. **Initiation of Conforming Transactions**. The Seller may at any time, in its sole and absolute discretion, request that the Buyer enter into one or more Conforming Transactions hereunder. A request to enter into a Conforming Transaction may be made orally or in writing at the initiation of the Seller; provided that the Seller shall deliver to the Buyer any such request and a Conforming Transaction Confirmation for such Conforming Transaction at least fifteen (15) Business Days prior to the proposed Purchase Date of such Conforming Transaction. Upon receipt of a Conforming Transaction Confirmation executed by the Seller, the Buyer may, in its sole and absolute discretion, enter into the related Conforming Transaction by countersigning and delivering to Seller each component of such Conforming Transaction Confirmation. Notwithstanding the foregoing, the Buyer shall not enter into any Conforming Transaction if, immediately after giving effect to such proposed Conforming Transaction, the aggregate outstanding Purchase Price for all outstanding Conforming Transactions (including such proposed Conforming Transaction) would exceed the Maximum Facility Amount. For the avoidance of doubt, the Buyer shall be under no obligation to enter into

any Conforming Transaction hereunder. In the event of any inconsistencies between the terms of the Master Agreement and any Conforming Transaction Confirmation, the terms of the Conforming Transaction Confirmation shall prevail.

5. **Additional Documentation.** Each party agrees to deliver to the other party the following documents:

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered
Buyer and Seller	Certified copies of all corporate, partnership, limited liability company or other similar authorizations, as the case may be, and any other documents with respect to the execution, delivery and performance of the Master Agreement or any other document executed in connection with the Master Agreement.	Upon execution and delivery of the Master Agreement or any other document executed in connection with the Master Agreement.
Buyer and Seller	Certificate of authority and specimen signatures of individuals executing the Master Agreement or any other document executed in connection with the Master Agreement.	Upon execution and delivery of the Master Agreement or any other document executed in connection with the Master Agreement and thereafter upon reasonable request of the other party.

6. **Tax Document Delivery Obligations.**

(a) Both parties agree to provide, upon reasonable written demand by such other party, any form, document or information that may be required in order to allow such other party to make a payment under the Master Agreement (i) without any deduction or withholding for or on account of any tax or (ii) with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form, document or information would not materially prejudice the legal or commercial position of the party in receipt of such demand). Any such form, document or information shall be accurate and completed in a manner reasonably satisfactory to such other party and be executed and be delivered with any reasonably required certification.

(b) The Seller agrees to provide an original executed United States Internal Revenue Service Form W-9 (or any successor thereto) upon execution of the Master Agreement, thereafter promptly upon reasonable demand by the other party, and prior to any such tax form previously provided by the Seller becoming obsolete or incorrect.

(c) The Buyer agrees to provide an executed United States Internal Revenue Service Form W-9 (or any successor thereto) upon execution of the Master Agreement, thereafter promptly upon reasonable demand by the other party, and upon learning that any such tax form previously provided by the Buyer has become obsolete or incorrect.

7. **FATCA.** Notwithstanding anything to the contrary in the Master Agreement, if a "FATCA Withholding Tax" (as defined below) is required by law to be withheld from a payment made by one party to another under the Master Agreement, such payment shall be made net of such FATCA Withholding Tax, and neither party shall be required to pay additional amounts with respect to such FATCA Withholding Tax. "**FATCA Withholding Tax**" is defined as any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code.

8. **Expenses**. Upon receipt of a detailed invoice, the Seller shall pay all reasonable out-of-pocket costs and expenses incurred by the Buyer (including, without limitation, all reasonable fees, disbursements and expenses of one external counsel) in connection with the negotiation of (a) a finalized term sheet relating to the Facility Documents (as defined below), (b) the Master Agreement, the Conforming Transaction Master Confirmation and each Conforming Transaction Supplement (collectively, the "**Facility Documents**"), and (c) any other documents prepared in connection with the Facility Documents, in each case regardless of whether any Transaction is entered into under the Facility Documents. For the avoidance of doubt, all other costs and expenses (including any expenses incurred after the Purchase Date) incurred by the Buyer shall be the sole responsibility of the Buyer.

9. **Indemnification**. The Seller shall indemnify and hold harmless the Buyer and its affiliates, and its and their respective directors, officers and employees (collectively the "**Indemnitees**") from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including reasonable and documented legal fees and expenses) incurred by any Indemnitee or asserted against any Indemnitee by any third party of any kind or nature whatsoever, which may at any time be imposed on, incurred by or asserted against any such Indemnitee in connection with (i) the execution, delivery and performance by the parties thereto of their respective obligations under the Master Agreement, any Confirmation, any transaction contemplated hereby or thereby, or the consummation and administration of the transactions contemplated hereby and thereby, or (ii) any actual or prospective claim, litigation, investigation or proceeding brought or threatened, whether based on contract, tort or any other theory, brought by a third party, and regardless of whether such Indemnitee is designated a party thereto, relating to or arising out of the Master Agreement or any Confirmation or the transactions contemplated hereby and thereby; provided that such indemnity shall not, as to any Indemnitee, be available to the

extent that such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements have resulted from the bad faith, gross negligence, willful misconduct, fraud or violation of applicable law of such Indemnitee. Notwithstanding anything to the contrary set forth herein, neither the Seller (and its affiliates, and its and their respective directors, officers, employees, agents and advisors) nor any Indemnitee shall have any liability for any special, indirect, consequential or punitive damages relating to the Master Agreement or any Confirmation or arising out of their activities in connection herewith or therewith (whether before or after the date hereof). Moreover, if the Buyer is paid any amount by the Seller pursuant to this Section 9 and later collects amounts from third parties based on the same or similar claims, the Buyer shall reimburse in full all amounts to Seller within five (5) Business Days of collecting such amounts from such third parties.

10. **Confidential Information.**

(a) "**Confidential Information**" means the terms of each Conforming Transaction (including, without limitation, the related Upfront Amount, the Spread or any Haircut Percentage, or, in each case, any component thereof), the Facility Documents and any other documents prepared in connection herewith or therewith (including, without limitation, any related account control agreements or custodial agreements) and, in each case, the terms of any negotiations relating thereto.

(b) The Seller shall maintain the secrecy of the Confidential Information furnished to it by the Buyer by using the same degree of care to prevent the unauthorized use, dissemination, or publication of the Confidential Information as the Seller uses to protect its own confidential or proprietary information of like kind, and will not disclose or permit the disclosure of any Confidential Information to third parties other than directors, officers, employees, internal consultants, attorneys, accountants and agents of the Seller who are required to have such information in order to implement the terms of the Master Agreement and any Conforming Transaction (each person to whom the Seller discloses or allows access to Confidential Information, individually, a "**Receiving Party**"), but then only where such Receiving Party has agreed to maintain the confidentiality of the Confidential Information as set forth in this Section 10. The Seller shall be liable for any breach of confidentiality or misuse of Confidential Information by any Receiving Party. The Seller further agrees to notify the Buyer immediately, in writing, of any actual or suspected misuse, misappropriation or unauthorized disclosure of Confidential Information which may come to the Seller's attention.

(c) The Seller agrees that it will use the Confidential Information solely in order to implement the terms of the Master Agreement and any Conforming Transaction.

(d) Notwithstanding the foregoing, the Seller shall not have liability to the Buyer with regard to, and Confidential Information shall not include, any information that, as demonstrated by written records in existence at the time of disclosure:

(i) was in the public domain at the time it was disclosed by the Buyer or has entered the public domain through no fault of the Seller;

(ii) was known to the Seller without restriction as of the date of the Master Agreement;

(iii) is disclosed with the prior written approval of the Buyer; or

(iv) becomes known to the Seller, without restriction, from a source other than the Buyer.

The Seller shall have no liability with regard to any Confidential Information that is disclosed pursuant to the order, request or requirement of a court (or in connection with any legal process), administrative or regulatory agency, or other governmental body; provided, however, that if the Seller or any Receiving Party becomes subject to legal proceedings that require the disclosure of the Confidential Information, then, prior to any disclosure of such Confidential Information, to the extent permitted and practicable, the Seller shall promptly notify the Buyer and, upon the Buyer's request and at the Buyer's expense, shall reasonably cooperate with the Buyer in contesting such request or seeking confidential treatment therefor.

(e) The Buyer and the Seller each expressly agree that due to the unique nature of the Confidential Information, monetary damages would be inadequate to compensate the Buyer for any breach by the Seller of its covenants and agreements set forth in this Section 10. Accordingly, the Buyer and the Seller each agree and acknowledge that any such violation or threatened violation shall cause irreparable injury to the Buyer and that, in addition to any other remedies that may be available, in law, in equity or otherwise, the Buyer shall be entitled to seek injunctive relief against the threatened breach of this Section 10 or the continuation of any such breach by the Seller.

(f) The Buyer will maintain the confidentiality of all "Confidential Information" (as defined in the Governing Instruments with respect to the Purchased Securities for each Conforming Transaction) in accordance with the terms of such Governing Instruments.

11. **Submission to Jurisdiction.** Each party irrevocably and unconditionally (i) submits to the exclusive jurisdiction of any United States Federal or New York State court sitting in Manhattan, and any appellate court from any such court, solely for the purpose of any suit, action or proceeding brought to enforce its obligations under the Master Agreement or relating in any way to the Master Agreement or any Transaction under the Master Agreement and (ii) waives, to the fullest extent it may effectively do so, any defense of an inconvenient forum to the maintenance of such action or proceeding in any such court and any right of jurisdiction on account of its place of residence or domicile.

12. **Notices.** Paragraph 13 of the Master Agreement is hereby amended to add "electronic mail," after the words "by mail," and before the word "facsimile".

13. **Waiver of Jury Trial.** EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE MASTER AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

14. **Amendments.** The Seller and Buyer agree to cooperate with each other in the negotiation and execution of such reasonable amendments to the Facility Documents as may be necessary in order to ensure compliance by the Seller with the Risk Retention Requirements or any other applicable law, rule or regulation.

15. **Counterparts.** The Master Agreement may be executed in counterparts (including by facsimile or electronic transmission), each of which counterpart, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute one and the same agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

NWCC, LLC

By: _____
Name: James Peterson
Title: Member
Date: 1/26/2018

HIGHLAND CLO MANAGEMENT, LLC

By: _____
Name:
Title:
Date:

[SIGNATURE PAGE TO ANNEX I]

NWCC, LLC

By:_____
Name:
Title:
Date:

HIGHLAND CLO MANAGEMENT, LLC

By:_____
Name: JIM DONDERO
Title:
Date: 1/26/18

[SIGNATURE PAGE TO ANNEX I]

ANNEX II
NAMES AND ADDRESSES FOR COMMUNICATIONS BETWEEN PARTIES

All Buyer Notices other than Notices Relating to Operational Issues:

NWCC, LLC
Nearwater Capital
Attention: NWCC, LLC
390 Park Avenue, Suite 1600
New York, NY 10022
nearwatersettlement@nearwatercapital.com
212.774.9000

Operational Issues
Nearwater Capital
Attention: Operations
390 Park Avenue, Suite 1600
New York, NY 10022
nearwateroperations@nearwatercapital.com
212.774.9000

All Seller Notices other than Notices Relating to Operational Issues:

Highland CLO Management, LLC
Attention: Hunter Covitz
300 Crescent Court, #700
Dallas, TX 75201
hcovitz@highlandcapital.com
(972) 628-4124

Operational Issues
Highland CLO Management, LLC
Attention: Hunter Covitz
300 Crescent Court, #700
Dallas, TX 75201
hcovitz@highlandcapital.com
(972) 628-4124

Execution Version

ANNEX III
FORM OF CONFORMING TRANSACTION
MASTER CONFIRMATION

The purpose of this master confirmation, dated as of the Contract Date specified below (this "**Conforming Transaction Master Confirmation**"), is to set forth the terms and conditions of one or more repurchase transactions (each, a "**Conforming Transaction**") entered into between NWCC, LLC ("**NWCC**") and HIGHLAND CLO MANAGEMENT, LLC ("**Counterparty**"), each as further evidenced by a transaction supplement substantially in the form attached hereto as Schedule B (each, a "**Conforming Transaction Supplement**;" this Conforming Transaction Master Confirmation together with the Conforming Transaction Supplement in respect of any Conforming Transaction shall be referred to herein as a "**Conforming Transaction Confirmation**"). Each Conforming Transaction shall constitute a "Transaction," and each "Conforming Transaction Confirmation" shall constitute a "Confirmation," in each case for purposes of the Master Agreement described below.

Each Conforming Transaction Confirmation supplements, forms a part of, and is subject to the SIFMA 1996 Master Repurchase Agreement, dated as of January 26, 2018 (as amended, restated, supplemented or modified from time to time, the "**Master Agreement**"), between NWCC and Counterparty. Except as expressly modified by the relevant Conforming Transaction Confirmation, all provisions contained in, or incorporated by reference into, the Master Agreement shall govern each Conforming Transaction. In the event of any inconsistencies between the Master Agreement and any Conforming Transaction Confirmation, such Conforming Transaction Confirmation shall prevail. Capitalized terms not defined herein have the meaning ascribed to them in the Master Agreement.

The terms of each Conforming Transaction to which this Conforming Transaction Master Confirmation relates are as follows:

Buyer:	NWCC (the "**Buyer**").
Seller:	Counterparty (the "**Seller**").
Contract Date:	January 26, 2018 (the "**Contract Date**").
Purchase Date:	For each Conforming Transaction, as specified in the related Conforming Transaction Supplement (the "**Purchase Date**").
Purchase Price:	For each Conforming Transaction, as specified in the related Conforming Transaction Supplement (the "**Purchase Price**").
Purchased Securities:	For each Conforming Transaction, the Rated Purchased Securities and the Equity Purchased Securities (collectively, the "**Purchased Securities**").

Rated Purchased Securities:	For each Conforming Transaction, the Eligible Securities specified as such in the related Conforming Transaction Supplement (the "**Rated Purchased Securities**").
Equity Purchased Securities:	For each Conforming Transaction, the Eligible Securities specified as such in the related Conforming Transaction Supplement (the "**Equity Purchased Securities**").
PIKable Purchased Securities:	For each Conforming Transaction, any class of Purchased Securities that pursuant to its Governing Instrument permits the capitalization or deferral of accrued and unpaid interest thereon (any such class of Purchased Securities, "**PIKable Purchased Securities**;" and any PIKable Purchased Securities in respect of which accrued and unpaid interest is being capitalized or deferred (so long as such capitalization or deferral is continuing), "**PIKing Purchased Securities**"). Solely for purposes of calculating the Repurchase Price of any Conforming Transaction, the Purchase Price for such Conforming Transaction shall, effective as of the date on which any capitalization or deferral of accrued and unpaid interest in respect of any PIKing Purchased Securities actually occurs, be deemed to be automatically increased by the amount of any accrued and unpaid interest so capitalized or deferred (any such amount (so long as such amount remains capitalized or deferred), a "**PIK Amount**"); provided, for the avoidance of doubt, that no such deemed increase in the Purchase Price shall require the Buyer to make any additional payments to the Seller in respect of the Purchase Price after the Purchase Date of such Conforming Transaction.
Eligible Securities:	Any Securities set forth in Schedule A to this Conforming Transaction Master Confirmation, as such schedule may be amended by the written agreement of the Buyer and the Seller from time to time (the "**Eligible Securities**").
Repurchase Date:	For all or any portion of a Conforming Transaction, the earliest to occur of (i) any Repurchase Date occurring under Paragraph 11 of the Master Agreement (a "**Paragraph 11 Repurchase Date**"); (ii) the Scheduled Repurchase Date of such Conforming Transaction; (iii) the date on which all or any portion of the related Purchased Securities are redeemed pursuant to the related Governing Instrument; (iv) a Change in Law Repurchase Date in respect of such Conforming Transaction; or (v) an Accelerated Repurchase Date in respect of such

	Conforming Transaction (each, a "**Repurchase Date**"). Any repurchased Purchased Securities transferred from Buyer to Seller on a Repurchase Date shall bear the same CUSIP identifier as those of the Purchased Securities. For the avoidance of doubt, the amount of any repurchased PIKable Purchased Securities required to be transferred from the Buyer to the Seller on a Repurchase Date shall be increased by any related PIK Amounts attributable to any date from (and including) the Purchase Date to (but excluding) the Repurchase Date.
Governing Instrument:	For each Conforming Transaction and any Purchased Securities, as specified in the related Conforming Transaction Supplement (the "**Governing Instrument**").
Scheduled Repurchase Date:	For each Conforming Transaction, as specified in the related Conforming Transaction Supplement (the "**Scheduled Repurchase Date**").
Upfront Amount:	On the Purchase Date of each Conforming Transaction, the Seller shall pay to the Buyer an amount equal to (i) (a) the Purchase Price multiplied by (b) the Upfront Amount Percentage or (ii) such other amount as may be specified in the related Conforming Transaction Supplement (the "**Upfront Amount**").
Upfront Amount Percentage:	For each Conforming Transaction, as specified in the related Conforming Transaction Supplement (the "**Upfront Amount Percentage**"); provided that the Upfront Amount Percentage for any Refinancing Conforming Transaction (as defined below) shall be the "Related Refinancing Conforming Transaction Upfront Amount Percentage" set forth in the Conforming Transaction Supplement for the related Refinanced Conforming Transaction (the "**Related Refinancing Conforming Transaction Upfront Amount Percentage**").
Proportionate Paydown:	With respect to each Conforming Transaction, on any Business Day prior to the Repurchase Date on which an amount of Income constituting a principal or redemption amount (such Income, "**Paydown Income**") is paid in respect of the Purchased Securities to the holder(s) thereof, (i) the Seller shall pay to the Buyer an amount equal to the Seller Proportionate Paydown Amount (it being understood that any Seller Proportionate Paydown Amount paid by the Seller to the Buyer will result in a corresponding equal decrease in the Repurchase Price) and (ii) the Buyer shall pay to the Seller an amount equal to the Buyer

	Proportionate Paydown Amount (each, a "**Proportionate Paydown**").
Seller Proportionate Paydown Amount:	For each Conforming Transaction, with respect to any Interim Payment Date and any class of Purchased Securities, an amount equal to (i) the Paydown Income paid to the holder(s) of such Purchased Securities on such Interim Payment Date multiplied by (ii) (a) 100% minus (b) the Haircut Percentage for such class of Purchased Securities (the "**Seller Proportionate Paydown Amount**").
Buyer Proportionate Paydown Amount:	For each Conforming Transaction, with respect to any Interim Payment Date and any class of Purchased Securities, an amount equal to the Paydown Income paid to the holder(s) of such class of Purchased Securities on such Interim Payment Date (the "**Buyer Proportionate Paydown Amount**").
Business Day:	For each Conforming Transaction, each day on which commercial banks settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in New York, and on which the relevant clearing houses for the Purchased Securities (if any) are open for settling deliveries of the types of securities as the Purchased Securities (each, a "**Business Day**").
Business Day Convention:	If any relevant date in respect of any Conforming Transaction would otherwise fall on a day that is not a Business Day, such date shall be the following Business Day unless such following Business Day is in the next calendar month, in which case such date shall be the first preceding Business Day (the "**Business Day Convention**"). Notwithstanding the foregoing, the Business Day Convention shall not apply to any Paragraph 11 Repurchase Date, which shall be determined in accordance with Paragraph 11 of the Master Agreement.
Pricing Rate:	For each Conforming Transaction and each calendar day in a Price Differential Calculation Period, a per annum rate (the "**Pricing Rate**") determined by the Buyer equal to: (i) the Weighted Average Interest Rate of the Rated Purchased Securities applicable to such Price

Differential Calculation Period, subject to a minimum of zero; plus

(ii) the Spread.

Weighted Average Interest Rate: For each Conforming Transaction, (i) the average effective interest rate of each class of securities comprising the Rated Purchased Securities, as such rate may be adjusted from time to time pursuant to the related Governing Instrument, weighted in proportion to the principal amount of securities comprising each such class that constitute Rated Purchased Securities plus (ii) solely for the purposes of calculating the Pricing Rate, the Adjustment Rate (the "**Weighted Average Interest Rate**"). For the avoidance of doubt, if the interest payable in respect of any PIKable Purchased Securities is capitalized or deferred pursuant to the related Governing Instrument, then neither the related interest rate nor the principal amount of such PIKable Purchased Securities shall be included in the calculation of the Weighted Average Interest Rate for the period during which such interest is capitalized or deferred (but the related interest rate and principal amount of such PIKable Purchased Securities shall be included in the calculation of the Weighted Average Interest Rate after such capitalization or deferral period).

Adjustment Rate: For each Conforming Transaction, for any class of securities purchased at a discount or a premium, a rate (which in the case of securities purchased at a premium shall be negative) equal to (i) (100% minus the Class Purchase Price) divided by (ii) the Class Modified Duration (the "**Adjustment Rate**"); provided, however, the Adjustment Rate shall be zero from and after the date on which the discount or premium for the class has been fully amortized; and provided, further, if the Repurchase Date occurs before the discount or premium for a class has been fully amortized, such unamortized premium will be payable to Seller or to Buyer in the case of unamortized discount.

Class Purchase Price: For each Conforming Transaction, the amount specified in the related Conforming Transaction Supplement (the "**Class Purchase Price**").

Class Modified Duration: For each Conforming Transaction, the period specified in the related Conforming Transaction Supplement (the "**Class Modified Duration**").

Spread:	For each Conforming Transaction, (i) the Spread Percentage multiplied by (ii) (a) the Purchase Price divided by (b) the face amount (excluding, in the case of any PIKable Purchased Securities, any PIK Amounts attributable to either the then-current Price Differential Calculation Period or any prior Price Differential Calculation Period) of the Rated Purchased Securities (the "**Spread**").
Spread Percentage:	For each Conforming Transaction, as specified in the related Conforming Transaction Supplement (the "**Spread Percentage**").
Price Differential:	For each Conforming Transaction, with respect to any Price Differential Payment Date, the sum of (i) the aggregate amount obtained by daily application of the rate described in clause (i) of the definition of Pricing Rate for such Conforming Transaction, for the Price Differential Calculation Period ending immediately prior to such Price Differential Payment Date, to the face amount of the Rated Purchased Securities (other than any PIKable Purchased Securities that constitute PIKing Purchased Securities) for such Conforming Transaction on an actual/360 basis and (ii) the aggregate amount obtained by daily application of the rate described in clause (ii) of the definition of Pricing Rate for such Conforming Transaction, for the Price Differential Calculation Period ending immediately prior to such Price Differential Payment Date, to the face amount of the Rated Purchased Securities (which, for the avoidance of doubt, shall include the face amount of any PIKable Purchased Securities, irrespective of whether such PIKable Purchased Securities are also PIKing Purchased Securities, but without giving effect to any PIK Amounts attributable to either the then-current Price Differential Calculation Period or any prior Price Differential Calculation Period) for such Conforming Transaction on an actual/360 basis (the sum of clauses (i) and (ii), the "**Price Differential**"). On each Price Differential Payment Date for any Conforming Transaction, the Seller shall pay to the Buyer all accrued and unpaid Price Differential.
Price Differential Payment Dates:	For each Conforming Transaction, (i) the Repurchase Date, (ii) each Interim Payment Date, and (iii) each Periodic Price Differential Payment Date (each of the dates described in clauses (i), (ii) and (iii), a "**Price Differential Payment Date**").

Interim Payment Date:	For each Conforming Transaction, any Business Day prior to the Repurchase Date on which Paydown Income is paid to the holder(s) of the Purchased Securities (each, an "**Interim Payment Date**").
Periodic Price Differential Payment Dates:	For each Conforming Transaction, as specified in the related Conforming Transaction Supplement (each, a "**Periodic Price Differential Payment Date**").
Price Differential Calculation Periods:	For each Conforming Transaction, each period commencing on (and including) a Price Differential Payment Date and ending on (but excluding) the immediately following Price Differential Payment Date (each, a "**Price Differential Calculation Period**"), provided that the initial Price Differential Calculation Period will commence on (and include) the Purchase Date and the final Price Differential Calculation Period will end on (but exclude) the Repurchase Date.
Buyer's Margin Percentage and Seller's Margin Percentage:	For each Conforming Transaction, 100%.
Market Value:	With respect to any Securities as of any time on any date, an amount determined by the Buyer equal to the greater of: (i) the Unadjusted Market Value of such Securities as of such date minus the Haircut applicable to such Securities at such time; and (ii) zero. With respect to any cash as of any date, the amount of such cash.
Unadjusted Market Value:	For each Conforming Transaction, with respect to any Purchased Securities as of the related Purchase Date, an amount determined by the Buyer in a commercially reasonable manner equal to the product of (i) the price of such Purchased Securities (expressed as a percentage and which, in the case of any Rated Purchased Securities, shall be based on one or more firm bids solicited by the Buyer from one or more dealers selected by the Buyer in its sole and absolute discretion) and (ii) the applicable current face amount for such Purchased Securities on such date, excluding accrued Income to the extent not included therein unless contrary to market practice for such Purchased Securities.

	For each Conforming Transaction, with respect to any Purchased Securities as of any Margin Deficit Determination Date or Margin Excess Determination Date, as applicable, an amount equal to the product of (i) (a) the bid price of such Purchased Securities (expressed as a percentage) published by Interactive Data Corporation, the Financial Industry Regulatory Authority's Trade Reporting and Compliance Engine or another nationally recognized bond pricing service, in each case as selected by the Buyer with the prior written consent of the Seller, (b) if the bid price of such Purchased Securities described in clause (i)(a) is not available, (I) the average of the bid prices (expressed as a percentage) determined by three broker-dealers selected by the Buyer that are active in the trading of such Purchased Securities and are independent from each other and the Buyer, (II) if only two such bid prices can be obtained, the lower of such two bid prices (expressed as a percentage), or (III) if only one such bid price can be obtained, such bid price (expressed as a percentage); or (c) if a bid price described in clauses (i)(a) or (i)(b) is not available, then the price (expressed as a percentage) at which the Buyer reasonably believes such Purchased Securities could be sold in the market within thirty (30) days from such date of determination, as determined by the Buyer in a commercially reasonable manner consistent with the manner in which it would determine the market value of an asset for purposes of other funds or accounts managed by it or its affiliates; and (ii) the applicable current face amount for such Purchased Securities on such date (including, in the case of any PIKable Purchased Securities, any PIK Amounts attributable to any date occurring on or prior to such date of determination), excluding accrued Income to the extent not included therein unless contrary to market practice for such Purchased Securities (the amount determined in accordance with this paragraph or the preceding paragraph, as applicable, the "**Unadjusted Market Value**").
Haircut:	For each Conforming Transaction, with respect to any Purchased Securities as of any time on any date, an amount determined by the Buyer equal to the product of: (i) the Unadjusted Market Value; and (ii) the Haircut Percentage (the "**Haircut**").
Haircut Percentage:	For each Conforming Transaction, with respect to (i) any class of Rated Purchased Securities, the Rated Purchased Securities Haircut Percentage and (ii) any class of Equity

	Purchased Securities, the Equity Purchased Securities Haircut Percentage (the Rated Purchased Securities Haircut Percentage or the Equity Purchased Securities Haircut Percentage, as applicable, the "**Haircut Percentage**").
Rated Purchased Securities Haircut Percentage:	For each Conforming Transaction, as specified in the related Conforming Transaction Supplement (the "**Rated Purchased Securities Haircut Percentage**").
Equity Purchased Securities Haircut Percentage:	For each Conforming Transaction, as specified in the related Conforming Transaction Supplement (the "**Equity Purchased Securities Haircut Percentage**").
Purchased Securities Default Event:	For each Conforming Transaction, as specified in the related Conforming Transaction Supplement (each, a "**Purchased Securities Default Event**"). The Seller shall notify the Buyer of each Purchased Securities Default Event promptly following a responsible officer of the Seller having actual knowledge or received notice of the occurrence thereof (any such notice, a "**Purchased Securities Default Event Notice**").
Margin Deficit Determination Date:	With respect to each Purchased Securities Default Event, the earlier of (i) the Business Day on which the Buyer receives a Purchased Securities Default Event Notice in respect of such Purchased Securities Default Event and (ii) the Business Day on which a responsible officer of the Buyer has actual knowledge of the occurrence of such Purchased Securities Default Event (each, a "**Margin Deficit Determination Date**"). For the avoidance of doubt, (x) no more than one Margin Deficit Determination Date may occur in connection with the occurrence of any particular Purchased Securities Default Event in respect of any Conforming Transaction and (y) there may be more than one Margin Deficit Determination Date if (and only if) there is more than one Purchased Securities Default Event in respect of any Conforming Transaction.
Margin Excess Determination Date:	Any Business Day selected by the Seller following the occurrence of a Margin Deficit Determination Date; provided that the Seller shall not select more than one Margin Excess Determination Date per calendar quarter (each, a "**Margin Excess Determination Date**").

Margin Determination:	In Paragraph 4(a) of the Master Agreement, (i) the words "If at any time" in the first line thereof are hereby deleted and replaced with the words "If on any Margin Deficit Determination Date in respect of any Conforming Transaction," and the words "(which notice must be given no later than three (3) Business Days following the related Margin Deficit Determination Date)" are hereby inserted immediately after the words "may by notice to Seller" in the fourth line thereof. In Paragraph 4(b) of the Master Agreement, (i) the words "If at any time" in the first line thereof are hereby deleted and replaced with the words "If on any Margin Excess Determination Date," and (ii) the words "(which notice must be given no later than three (3) Business Days following the related Margin Excess Determination Date)" are hereby inserted immediately after the words "may by notice to Buyer" in the fourth line thereof.
Margin Transfer:	Notwithstanding the provisions of Paragraph 4 of the Master Agreement, if the Buyer requires the Seller to satisfy a Margin Deficit, the Seller shall satisfy such Margin Deficit by (i) first, repaying any cash paid by the Buyer to satisfy a Margin Excess and (ii) second, paying cash in U.S. Dollars (which cash payment shall result in a corresponding reduction in the Repurchase Price of one or more Conforming Transactions (as agreed upon by the Buyer and the Seller)) (any cash payment described in this clause (ii), a "**Cash Paydown**") or delivering to the Buyer Additional Purchased Securities. For the avoidance of doubt, and notwithstanding any provision of this Conforming Transaction Master Confirmation to the contrary but without limiting the Seller's obligations under the immediately preceding sentence, the Seller may, in its sole and absolute discretion, at any time deliver to the Buyer Additional Purchased Securities, cash or other assets as may be agreed upon by the Buyer and the Seller to further secure the Seller's obligations to the Buyer in respect of any Conforming Transaction or to facilitate compliance by the Seller with the Risk Retention Requirements. Notwithstanding the provisions of Paragraph 4 of the Master Agreement, if the Seller requires the Buyer to satisfy a Margin Excess, the Buyer shall satisfy such Margin Excess by repaying, up to the amount of such Margin Excess, any cash paid by the Seller to satisfy a Margin Deficit ("**Previously Paid Margin Deficit Cash**");

	it being understood that (i) in no event shall the Buyer ever be required to pay to the Seller more than the amount of any Previously Paid Margin Deficit Cash in order to satisfy any Margin Excess and (ii) upon any such payment by the Buyer to the Seller of any Previously Paid Margin Deficit Cash, such Margin Excess shall be deemed to have been satisfied for all purposes of the Master Agreement and this Conforming Transaction Master Confirmation.
Accelerated Repurchase Date:	The Seller may by written notice to the Buyer request that a Conforming Transaction be terminated in whole on any date. If the Buyer, in its sole and absolute discretion, agrees to so terminate such Conforming Transaction, the date specified in such notice shall be the "**Accelerated Repurchase Date**" of such Conforming Transaction; provided that no Accelerated Repurchase Date shall occur unless the Buyer and the Seller have agreed on the size of the Early Repurchase Amount to be paid by the Seller to the Buyer on such Accelerated Repurchase Date.
Payments on Accelerated Repurchase Date:	On an Accelerated Repurchase Date of any Conforming Transaction, the Seller shall pay to the Buyer such amount as may be agreed to by the Buyer and the Seller (such amount, the "**Early Repurchase Amount**"). For the avoidance of doubt, the payment by the Seller to the Buyer of the Early Repurchase Amount shall be in lieu of (and not in addition to) any other amounts payable under the Master Agreement or the related Conforming Transaction Confirmation on such Accelerated Repurchase Date.
Change in Law Repurchase Date:	For any Conforming Transaction, the date on which (i) the Seller has certified to the Buyer in writing (which certification shall be based on the written advice of a nationally recognized and reputable law firm) that there has been a change in law (as a result of the issuance of new interpretative letters or other applicable written guidance) such that the Risk Retention Requirements no longer require that the Seller own the Purchased Securities and (ii) the Seller elects in its sole discretion to effect such Change in Law Repurchase Date (the "**Change in Law Repurchase Date**").
Payment of PV Amount on Change in Law Repurchase Date:	For each Conforming Transaction, if a Change in Law Repurchase Date occurs prior to the related PV Amount

Cut-Off Date, the Seller shall pay to the Buyer on such Change in Law Repurchase Date an amount equal to the PV Amount. For the avoidance of doubt, such PV Amount shall be in addition to any other amount payable under the Master Agreement or this Conforming Transaction Master Confirmation on or in connection with such Change in Law Repurchase Date.

PV Amount:

For each Conforming Transaction, a sum of amounts determined by the Buyer acting in good faith for each Price Differential Calculation Period from (and including) the Change in Law Repurchase Date to (and including) the PV Amount Cut-Off Date for all Purchased Securities equal to:

(i) the face amount of the Rated Purchased Securities (excluding, in the case of any PIKable Purchased Securities, any PIK Amounts attributable to the then-current Price Differential Calculation Period or any prior Price Differential Calculation Period); multiplied by

(ii) the Spread; multiplied by

(iii) the actual number of days in such Price Differential Calculation Period (or in the case of the Price Differential Calculation Period during which the PV Amount Cut-Off Date occurs, the actual number of days from and including the PV Amount Cut-Off Date to and including the last day of such Price Differential Calculation Period), divided by 360;

each such amount discounted using the USD Swap Curve Rate for a term (the "**Relevant Swap Term**") equal to the period from the relevant PV Amount Cut-Off Date to the last day of the relevant Price Differential Calculation Period (the sum of such amounts, the "**PV Amount**").

USD Swap Curve Rate:

On any date of determination and in relation to any Relevant Swap Term, the mid-market rate determined by the Buyer for the fixed-for-floating USD interest rate swap transaction, with a scheduled term equal to the Relevant Swap Term, against the Fed Funds Effective Rate (the "**USD Swap Curve Rate**").

"**Fed Funds Effective Rate**" means, for any day, the rate set forth in H.15 for that day opposite the caption "Federal funds (effective)".

	"**H.15**" means the weekly statistical release designated as such, or any successor publication, published by the Board of Governors of the Federal Reserve System.
Cash Settlement on Change in Law Repurchase Date:	Notwithstanding any other provision of this Conforming Transaction Master Confirmation or the Master Agreement (including Paragraph 3(c) thereof) to the contrary, in connection with the Change in Law Repurchase Date of any Conforming Transaction, the Buyer may (in its sole and absolute discretion), by giving notice to the Seller, elect to settle such Conforming Transaction on such Change in Law Repurchase Date such that no payment (other than the payment by the Seller to the Buyer of any PV Amount) or delivery shall be required to be made by the Buyer or the Seller on or in connection with such Change in Law Repurchase Date pursuant to this Conforming Transaction Master Confirmation or the Master Agreement.
PV Amount Cut Off Date:	For each Conforming Transaction, the date that is two (2) years from the related Purchase Date (the "**PV Amount Cut-Off Date**").
No Substitution:	Paragraph 9 of the Master Agreement is hereby deleted in its entirety and replaced with "Reserved.", and all references thereto are hereby deleted.
Notices:	The Seller shall deliver to the Buyer a copy of any notice delivered to the holder(s) of the Purchased Securities by the issuer, the trustee or the collateral manager (however described) of such Purchased Securities, promptly (and in any event no event later than three (3) Business Days) following the delivery of such notice to such holder(s).

Seller Representation and Warranty:	On each Purchase Date, the Seller represents and warrants to the Buyer that it is in compliance with the Risk Retention Requirements as such requirements relate to the issuer of the Purchased Securities, except for (i) any Risk Retention Requirements that are being contested by the Seller in good faith through appropriate proceedings or (ii) any Risk Retention Requirements the failure to comply with which, individually or in the aggregate, could not reasonably be expected to materially and adversely affect the Buyer.
Calculations:	All calculations made by the Buyer hereunder shall be made in good faith and in a commercially reasonable manner.
Refinancing Conforming Transactions:	Notwithstanding any provision of this Conforming Transaction Master Confirmation to the contrary, in the event that, pursuant to the terms of the related Governing Instrument, the Purchased Securities for any Conforming Transaction are redeemed in full and new securities are issued in replacement therefor, in each case in connection with a refinancing or re-pricing (any such Conforming Transaction, a "**Refinanced Conforming Transaction**"), the Buyer and the Seller agree that the Seller and Buyer may enter into a new Conforming Transaction (any such Conforming Transaction, a "**Refinancing Conforming Transaction**") in respect of such newly-issued securities on such terms as the Buyer and Seller (acting in good faith and in a commercially reasonable manner) may agree upon; provided that the Upfront Amount Percentage for such Refinancing Conforming Transaction shall be the Related Refinancing Conforming Transaction Upfront Amount Percentage.
Counterparts:	This Conforming Transaction Master Confirmation may be executed in counterparts (including by facsimile or electronic transmission), each of which counterpart, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute one and the same agreement.

[**REMAINDER OF PAGE LEFT INTENTIONALLY BLANK**]

Please sign this Conforming Transaction Master Confirmation to indicate your agreement with its terms.

Yours faithfully,

NWCC, LLC	**HIGHLAND CLO MANAGEMENT, LLC**
By:_____	By:_____
Name:	Name:
Title:	Title:

[SIGNATURE PAGE TO CONFORMING TRANSACTION MASTER CONFIRMATION]

SCHEDULE A TO CONFORMING TRANSACTION MASTER CONFIRMATION

ELIGIBLE SECURITIES

Issuer	Class	CUSIP/ISIN
HIGHLAND CLO 2014-3R LTD. HIGHLAND CLO 2014-3R LLC	Class X-R	430016AA3/US430016AA33
HIGHLAND CLO 2014-3R LTD. HIGHLAND CLO 2014-3R LLC	Class A-R	430016AC9/US430016AC98
HIGHLAND CLO 2014-3R LTD. HIGHLAND CLO 2014-3R LLC	Class B-R	430016AE5/US430016AE54
HIGHLAND CLO 2014-3R LTD. HIGHLAND CLO 2014-3R LLC	Class C-R	430016AG0/US430016AG03
HIGHLAND CLO 2014-3R LTD. HIGHLAND CLO 2014-3R LLC	Class D-R	430016AJ4/US430016AJ42

SCHEDULE B TO CONFORMING TRANSACTION MASTER CONFIRMATION

FORM OF CONFORMING TRANSACTION SUPPLEMENT

DATED [●]

The purpose of this Conforming Transaction Supplement (this "**Conforming Transaction Supplement**") is to confirm the terms and conditions of a repurchase transaction entered into between NWCC, LLC ("**NWCC**") and HIGHLAND CLO MANAGEMENT, LLC ("**Counterparty**") on [●], 2018 (the "**Conforming Transaction**"). NWCC and Counterparty hereby agree that such Conforming Transaction constitutes (i) a "Conforming Transaction" for purposes of the Conforming Transaction Master Confirmation, dated January 26, 2018 (the "**Conforming Transaction Master Confirmation**"), between us, and (ii) a "Transaction" for purposes of the Master Agreement (as defined in the Conforming Transaction Master Confirmation). This Conforming Transaction Supplement, together with the Conforming Transaction Master Confirmation, shall constitute a "Confirmation" for purposes of the Master Agreement. In the event of any inconsistency between the terms of the Conforming Transaction Master Confirmation and the terms of this Conforming Transaction Supplement, the terms of this Conforming Transaction Supplement shall govern.

Purchase Date:	[●][1]
Purchase Price:	$[●][2]
Rated Purchased Securities:	$[●] aggregate principal amount of [**DESCRIBE RATED PURCHASED SECURITIES**] with a final maturity date of [●], CUSIP [●].[3]
Equity Purchased Securities:	[**DESCRIBE EQUITY PURCHASED SECURITIES**].[4]
Scheduled Repurchase Date:	[●][5]
Upfront Amount Percentage:	[[●]%]
Related Refinancing Conforming Transaction Upfront Amount	

---

[1] **NTD**: Insert the date on which the Purchased Securities are issued or such other date as may be agreed to by the Buyer and the Seller.

[2] **NTD**: The Purchase Price should be equal to the sum of the Purchase Prices for each class of Purchased Securities. With respect to each class of Purchased Securities, the Purchase Price should be an amount equal to the Market Value of such class of Purchased Securities as of the Purchase Date.

[3] **NTD**: Describe each class of rated retention interests.

[4] **NTD**: Describe each class of equity retention interests.

[5] **NTD**: Insert the latest final maturity date of the Purchased Securities.

Percentage:	[[●]%]
Upfront Amount:	[As specified in the Conforming Transaction Master Confirmation.] [$[●]]
Class Purchase Price:	$[●].
Class Modified Duration:	[●].
Spread Percentage:	[●]%
Periodic Price Differential Payment Dates:	The second (2nd) Business Day following each ["Payment Date"] (as such term is defined in the Governing Instrument) (other than any such [Payment Date] occurring in the month in which the Purchase Date or the Repurchase Date occurs).
Rated Purchased Securities Haircut Percentage:	[0]%
Equity Purchased Securities Haircut Percentage:	[100]%
Purchased Securities Default Event:	The acceleration of principal of and accrued and unpaid interest on any class of Purchased Securities as a result of the occurrence of an ["Event of Default"] (as such term is defined in the Governing Instrument) pursuant to the terms of the Governing Instrument.
Governing Instrument:	[**DESCRIBE INDENTURE, TRUST AGREEMENT OR OTHER INSTRUMENT PURSUANT TO WHICH THE PURCHASED SECURITIES WERE ISSUED**].
Additional Terms:	[●]
Counterparts:	This Conforming Transaction Supplement may be executed in counterparts (including by facsimile or electronic transmission), each of which counterpart, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute one and the same agreement.

[**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**]

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this Conforming Transaction Supplement and returning it to us.

NWCC, LLC

By:_____
Name:
Title:

Confirmed as of the date first above written:

HIGHLAND CLO MANAGEMENT, LLC

By:_____
Name:
Title:

[SIGNATURE PAGE TO CONFORMING TRANSACTION SUPPLEMENT]

EXHIBIT 73

Execution Version

CONFORMING TRANSACTION SUPPLEMENT

DATED January 29, 2018

The purpose of this Conforming Transaction Supplement (this "**Conforming Transaction Supplement**") is to confirm the terms and conditions of a repurchase transaction entered into between NWCC, LLC ("**NWCC**") and HIGHLAND CLO MANAGEMENT, LLC ("**Counterparty**") on January 29, 2018 (the "**Conforming Transaction**"). NWCC and Counterparty hereby agree that such Conforming Transaction constitutes (i) a "Conforming Transaction" for purposes of the Conforming Transaction Master Confirmation, dated January 26, 2018 (the "**Conforming Transaction Master Confirmation**"), between us, and (ii) a "Transaction" for purposes of the Master Agreement (as defined in the Conforming Transaction Master Confirmation). This Conforming Transaction Supplement, together with the Conforming Transaction Master Confirmation, shall constitute a "Confirmation" for purposes of the Master Agreement. In the event of any inconsistency between the terms of the Conforming Transaction Master Confirmation and the terms of this Conforming Transaction Supplement, the terms of this Conforming Transaction Supplement shall govern.

Purchase Date:	February 1, 2018
Purchase Price:	$17,556,927.50
Rated Purchased Securities:	$80,000.00 aggregate principal amount of Class X-R Notes (as defined in the Governing Instrument) with a final maturity date of May 1, 2028, CUSIP 430016AA3; $12,735,000.00 aggregate principal amount of Class A-R Notes (as defined in the Governing Instrument) with a final maturity date of May 1, 2028, CUSIP 430016AC9; $2,490,000.00 aggregate principal amount of Class B-R Notes (as defined in the Governing Instrument) with a final maturity date of May 1, 2028, CUSIP 430016AE5; $1,400,000.00 aggregate principal amount of Class C-R Notes (as defined in the Governing Instrument) with a final maturity date of May 1, 2028, CUSIP 430016AG0; $900,000.00 aggregate principal amount of Class D-R Notes (as defined in the Governing Instrument) with a final maturity date of May 1, 2028, CUSIP 430016AJ4.
Equity Purchased Securities:	None.
Scheduled Repurchase Date:	May 1, 2028
Upfront Amount Percentage:	0.50%
Related Refinancing Conforming Transaction Upfront Amount Percentage:	Not Applicable.

Upfront Amount:	$87,784.64
Class Purchase Price:	100.0000% for Class X-R Notes; 99.6500% for Class A-R Notes; 100.0000% for Class B-R Notes; 99.7500% for Class C-R Notes; 100.0000% for Class D-R Notes.
Class Modified Duration:	0.91 for Class X-R Notes; 3.66 for Class A-R Notes; 5.41 for Class B-R Notes; 5.90 for Class C-R Notes; 6.25 for Class D-R Notes.
Spread Percentage:	0.50%
Periodic Price Differential Payment Dates:	The second (2nd) Business Day following each "Payment Date" (as such term is defined in the Governing Instrument) (other than any such Payment Date occurring in the month in which the Purchase Date or the Repurchase Date occurs).
Rated Purchased Securities Haircut Percentage:	0%
Equity Purchased Securities Haircut Percentage:	100%
Purchased Securities Default Event:	The acceleration of principal of and accrued and unpaid interest on any class of Purchased Securities as a result of the occurrence of an "Event of Default" (as such term is defined in the Governing Instrument) pursuant to the terms of the Governing Instrument.
Governing Instrument:	INDENTURE, dated as of February 25, 2014, among HIGHLAND CLO 2014-3R Ltd., an exempted company incorporated with limited liability under the laws of the Cayman Islands (the "Issuer"), HIGHLAND CLO 2014-3R LLC, a limited liability company formed under the laws of the State of Delaware (the "Co-Issuer" and, together with the Issuer, the "Co-Issuers"), and U.S. Bank National Association, as trustee (the "Trustee"), as such Indenture will be amended by the Supplemental Indenture dated as of February 1, 2018 among the Co-Issuers and the Trustee and as may be further amended, supplemented, restated and otherwise modified from time to time.

Additional Terms:	Not Applicable.
Counterparts:	This Conforming Transaction Supplement may be executed in counterparts (including by facsimile or electronic transmission), each of which counterpart, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute one and the same agreement.

[**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**]

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this Conforming Transaction Supplement and returning it to us.

NWCC, LLC

By: _____
Name: James Peterson
Title: Member

Confirmed as of the date first above written:

HIGHLAND CLO MANAGEMENT, LLC

By: _____
Name:
Title:

[SIGNATURE PAGE TO CONFORMING TRANSACTION SUPPLEMENT]

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing a copy of this Conforming Transaction Supplement and returning it to us.

NWCC, LLC

By:_____
Name:
Title:

Confirmed as of the date first above written:

HIGHLAND CLO MANAGEMENT, LLC

By:_____
Name: JIM DONDERO
Title:

[SIGNATURE PAGE TO CONFORMING TRANSACTION SUPPLEMENT]

EXHIBIT 74

CAUSE NO. DC-17-15244

JOSHUA N. TERRY,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	OF DALLAS COUNTY, TEXAS
	§	
ACIS CAPITAL MANAGEMENT, L.P. and ACIS CAPITAL MANAGEMENT GP, LLC,	§	
	§	
Defendants.	§	44th JUDICIAL DISTRICT

ORDER CONFIRMING ARBITRATION AWARD

On December 13, 2017, came on to be heard the Petition to Confirm Arbitration Award and Enter Judgment on Same (the "Petition") filed by Plaintiff Joshua N. Terry ("Terry"), seeking confirmation of the arbitration award entered in JAMS Arbitration No. 1310022713 on October 20, 2017 (the "Award"). After considering the Petition and other pleadings, any evidence timely presented at the hearing, and the argument of counsel, the Court believes that it is proper to enter an order confirming the Award.

IT IS THEREFORE ORDERED that the Award is confirmed. All relief not expressly granted herein is hereby denied.

Signed this 18th day of December, 2017.

PRESIDING JUDGE

EXHIBIT 75

CLOUSE DUNN LLP

1201 ELM ST., SUITE 5200
DALLAS, TEXAS 75270-2142
(214) 220-3888 • FAX (214) 220-3833

TRIAL ATTORNEYS

ROGGE DUNN

BOARD CERTIFIED
TEXAS BD. OF LEGAL SPECIALIZATION:
* CIVIL TRIAL LAW
* LABOR & EMPLOYMENT LAW

WRITER'S DIRECT DIAL: (214) 220-0077

WRITER'S E-MAIL: dunn@financialadvisorlaw.com

NOTICE REGARDING TRANSFER OF ASSETS

November 7, 2017

Jamie Welton, Esq.
LACKEY HERSHMAN
3102 Oak Lawn Avenue, Suite 777
Dallas, Texas 75219

☐ **VIA ECF**
☐ **VIA OVERNIGHT**
☐ **VIA HAND DELIVERY**
☐ **VIA FIRST CLASS MAIL**
☒ **VIA FAX: 214-560-2203**
and ☒ **VIA E-MAIL:** jrw@lhlaw.net
☐ **VIA CERTIFIED MAIL:**

Re: ***Terry v. Acis Capital Management, L.P. and Acis Capital Management GP, LLC***

Our File No: 1675-55555
Our File Name: Terry/Acis - Terry/Highland

Dear Mr. Welton:

You told me on the phone last week that Acis Capital Management, L.P. and Acis Capital Management GP are "judgment proof."

Acis, an affiliate of Highland, touts on its website that Acis has "$3.5 billion in assets under management." If the investment manager for that amount of assets is insolvent, that is a material event that Acis Capital Management, L.P. and Acis Capital Management GP should immediately disclose to the fund's investors, the public, and others.

Notice: Mr. Terry will pursue legal claims against any person or entity involved in any aspect of fraudulent transfers of Acis Capital Management, L.P. and Acis Capital Management GP's assets, including, but not limited to, Mr. Dondero, Mr. Surgent, Mr. Covitz and Mr. Waterhouse, individually. Further, if Acis Capital Management, L.P. and/or Acis Capital Management GP fraudulently dissipate assets via unreasonable expense charges, excessive payments or other machinations, Mr. Terry will pursue his legal rights against any person or entity involved with such fraud.

Any such transfers subject the transferees, as well as those facilitating the transfers, and/or conspiring to transfer assets to civil liability for actual damages, attorneys' fees, and punitive damages. *See, e.g., Matter of Galaz*, 850 F.3d 800, 807 (5th Cir. 2017) (affirming award of punitive damages under TUFTA). If any fraudulent or questionable transfers occur, Mr. Terry will vigorously pursue claims against any person or entity involved.

Very truly yours,

Rogge Dunn

RRD:tmv

cc:	w/enc.	w/o enc.	no enc.	Marc Katz, Esq.
cc:	w/enc.	w/o enc.	no enc.	Brian Shaw, Esq. (our office)
cc:	w/enc.	w/o enc.	no enc.	Tina Vanderburg, Paralegal (our office)
cc:	w/enc.	w/o enc.	no enc.	RRD's work files

EXHIBIT 76

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS (DALLAS)

In Re:	)	Case No. 18-30264-Sgj7
	)	Dallas, Texas
ACIS CAPITAL MANAGEMENT, L.P.,	)	
	)	
Alleged Debtor.	)	March 23, 2018
	)	9:36 a.m.
----------	)	
	)	
ACIS CAPITAL MANAGEMENT GP, LLC,	)	Case No. 18-30265-sgj7
	)	
Alleged Debtor.	)	
	)	
----------	)	

TRANSCRIPT OF HEARING ON:

AS TO CASE NO. 18-30264-sgj7:
[#80] EMERGENCY MOTION TO INTERVENE IN PROCEEDINGS CONTESTING INVOLUNTARY PETITIONS FILED BY CLO HOLDCO, LTD., HIGHLAND CLO FUNDING, LTD., NEUTRA, LTD.;

[#81] MOTION FOR EXPEDITED HEARING (RELATED DOCUMENTS #80 MOTION TO INTERVENE) FILED BY CREDITOR HIGHLAND CLO FUNDING, LTD., CREDITOR CLO HOLDCO, LTD., CREDITOR NEUTRA, LTD.) FILED BY PETITIONING CREDITOR JOSHUA TERRY

[#87] OBJECTION TO (RELATED DOCUMENT(S): #80 EMERGENCY MOTION TO INTERVENE IN PROCEEDINGS CONTESTING INVOLUNTARY PETITIONS FILED BY CREDITOR HIGHLAND CLO FUNDING, LTD., CREDITOR CLO HOLDCO, LTD., CREDITOR NEUTRA, LTD., #81 MOTION FOR EXPEDITED HEARING (RELATED DOCUMENTS, #80 MOTION TO INTERVENE) FILED BY CREDITOR HIGHLAND CLO FUNDING, LTD., CREDITOR CLO HOLDCO, LTD., CREDITOR NEUTRA, LTD.) FILED BY PETITIONING CREDITOR JOSHUA TERRY

(cont'd. next page)

AS TO CASE NO. 18-30265-sgj7:
[#77] EMERGENCY MOTION TO INTERVENE IN PROCEEDINGS CONTESTING INVOLUNTARY PETITIONS FILED BY CLO FUNDING, LTD., HIGHLAND CLO FUNDING, LTD., NEUTRA, LTD.;

[#78] MOTION FOR EXPEDITED HEARING (RELATED DOCUMENTS #77 MOTION TO INTERVENE) FILED BY CLO FUNDING, LTD., HIGHLAND CLO FUNDING, LTD., NEUTRA, LTD.;

[#83] OBJECTION TO (RELATED DOCUMENT(S): #77 EMERGENCY MOTION TO INTERVENE IN PROCEEDINGS CONTESTING INVOLUNTARY PETITIONS FILED BY CREDITOR NEUTRA, LTD., CREDITOR HIGHLAND CLO FUNDING, LTD., CREDITOR CLO FUNDING, LTD., #78 MOTION FOR EXPEDITED HEARING (RELATED DOCUMENTS #77 MOTION TO INTERVENE) FILED BY CREDITOR NEUTRA, LTD., CREDITOR HIGHLAND CLO FUNDING, LTD., CREDITOR CLO FUNDING, LTD.) FILED BY PETITIONING CREDITOR JOSHUA TERRY

BEFORE THE HONORABLE STACEY G. JERNIGAN

UNITED STATES BANKRUPTCY COURT

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THE CLERK: All rise. United States Bankruptcy Court for the Northern District of Texas, Dallas Division, is now in session, the Honorable Stacey Jernigan presiding.

THE COURT: Good morning. Please be seated.

IN UNISON: Good morning.

THE COURT: Long time no see. All right, the record will reflect we're starting day three of the trial on the involuntary bankruptcy petition of Acis Capital Management, L.P. and Acis Capital Management GP, LLC. Do we have all the lawyers we need?

UNIDENTIFIED SPEAKER: Yes, Your Honor.

THE COURT: Okay, so for the record, we've got Ms. Patel, Mr. Shaw, and Ms. Chiarello for the petitioning creditors (sic). We've got Mr. Warner --

MR. WARNER: Good morning.

THE COURT: Good morning. -- and Mr. Cruciani's back there; Mr. Fritz and Mr. Usatine; all here for the companies. And then our proposed intervenors -- Mr. Larson and Ms. Jobe, are you all back there?

MR. LARSON: Mr. Larson, ma'am. (Indiscernible).

THE COURT: Okay. All right, well, thank you. Do we have any housekeeping matters before we start?

MR. FRITZ: We do, Judge.

THE COURT: Okay.

MR. FRITZ: You'll recall the debtors introduced some

exhibits yesterday. We have copies for the Court and the Court's clerk. If I may approach?

THE COURT: You may.

MR. FRITZ: Judge, here; it belongs with all of this --

THE COURT: Thank you. Okay. So my list here -- this is the Demonstrative 6 that we have the marked-up version of page 32 -- or, wait. Yes. Okay, so I need to call this Demonstrative 6, right?

UNIDENTIFIED SPEAKER: Yeah.

THE COURT: Okay. This is the marked-up version of page 32 of Demonstrative 5. Okay. So Demonstrative Aid 6.

(Marked-up version of page 32 of Demonstrative 5 was hereby marked for identification as Demonstrative's Exhibit 6, as of this date.)

THE CLERK: Is there a demonstrative of the charts that (indiscernible)? I (indiscernible).

THE COURT: Okay, well, let --

THE CLERK: Yeah, it's here if we need to look for the --

THE COURT: Just what are those, so we have them marked and --

THE CLERK: These are demonstrative replacements for the notebooks, for Demonstrative 1 -- these books.

THE COURT: They're replacement pages for --

THE CLERK: Yes. Updated charts from --

THE COURT: Okay. I gotcha. Okay, I just wanted to make sure we have everything correctly.

THE CLERK: I have everything here.

THE COURT: Okay. Very good. We're clear. We're good. Thank you.

All right, anything else?

MS. PATEL: Your Honor, just from a scheduling perspective; I know that there was discussion yesterday about what days we're going to come back next week.

THE COURT: Um-hum.

MS. PATEL: Just so everyone can start putting it on their calendars and blocking those days, in the event other things get put on there in the interim, if we could sort of rejigger the conversation with respect to just what days we're going to come back next week?

THE COURT: All right, well, pending overnight, we had: are we coming back Monday morning? So I cannot remember whose potential conflict it was.

MR. CRUCIANI: That was Mr. Ellington's conflict --

THE COURT: Okay.

MR. CRUCIANI: -- on Monday. I think Tuesday is available for everybody, I believe --

THE COURT: Okay.

MR. CRUCIANI: -- for a half a day, I believe we

have.

THE COURT: Yes.

MR. CRUCIANI: What we were hoping for, given the Easter --

THE COURT: Um-hum.

MR. CRUCIANI: -- break and Ms. Patel's --

THE COURT: Um-hum.

MR. CRUCIANI: -- conflict is, if -- perhaps on our end at least, that following Monday, if the Court had time that date, that would work on our side. I don't know about the Court or opposing counsel.

THE COURT: That's a terrible day for us, I'm sorry. We --

MR. CRUCIANI: Okay.

THE COURT: We already knew that was a terrible, terrible day. Yeah, I am just -- now, right, I'm showing Wednesday, March 28th is a good day, unless something has changed.

MR. CRUCIANI: That was your --

MS. PATEL: That was -- Your Honor, that's when I'm in Judge Jones' court on contested cash collateral and --

THE COURT: Oh, wait. Wait.

MS. PATEL: -- a variety of other things.

THE COURT: Wait, wait, wait. Okay, so I'm -- so it's Monday, April 2nd that's terrible, right?

THE CLERK: Yeah. I --

THE COURT: Okay.

THE CLERK: Oh, wait, you have a (indiscernible) on --

THE COURT: Okay, that's -- yeah, we could do the 3rd or the 4th.

MR. CRUCIANI: Of all places, I am in Hawaii arguing before the Hawaii Supreme Court.

THE COURT: Okay.

MR. CRUCIANI: And you could check it.

THE COURT: Rough duty.

MR. CRUCIANI: Yeah.

THE COURT: Yeah.

MR. CRUCIANI: But Your Honor, here's what I would suggest: if we could -- given that that Monday doesn't work, we just may need to try to make some choice on our end whether it's Mr. Ellington -- I know Mr. Warner can't be here on Thursday, but potentially, if we're just doing closing and I'm doing it, he may not need to be here. So that's a possibility to potentially do Tuesday and Thursday. But as I recall, you might have a tight schedule on Thursday?

THE COURT: Well, I had a tight schedule until about 2:30, right, or 3.

That was the day we had a long 1:30 docket.

Well, was Ellington going to be a witness or he

just -- because he's general counsel.

MR. CRUCIANI: Well, it was both, depending upon --

THE COURT: Okay.

MR. CRUCIANI: -- these witnesses -- he potentially was batting cleanup. If I need him as a witness, then for sure I would want him here. I don't yet know that, because it depends on how today's testimony goes in court.

THE COURT: Um-hum.

MR. CRUCIANI: So we would have liked to have been here as a general counsel, but I understand; with conflicts, we're prepared to dispense with that if necessary.

THE COURT: Okay. All right, so here's what we'll do: we'll definitely come back Tuesday for a half a day --

MR. CRUCIANI: Um-hum.

THE COURT: -- 9:30 to -- I've got a long afternoon starting at 1:30. So 9:30 to 12:30ish. We could start earlier; 9.

MR. CRUCIANI: That's fine.

THE COURT: We'll start 9 to kind of get in a little more time. And then I will see what Traci can do about clearing up some time Thursday. I know our 1:30 docket's terrible, but maybe the morning docket we can -- I just don't remember what the --

THE CLERK: (Indiscernible) so we push the morning --

THE COURT: Push the morning.

(On phone) Traci, we are going to come back on Acis at 9 o'clock Tuesday morning, and so we'll give them 9 to 12:30. But we're probably going to need a little time at least for closing arguments, if not more. And I want to see if we can free up some time Thursday morning. I can't remember what's set. I know we've got a huge 1:30 docket, but are the 9:30 matters possibly going to go away or can we maybe move them to the afternoon? Maybe contact those attorneys and see can they come at 2:30. Um-hum. All right. Thank you. Bye-bye.

All right, so we'll know a little later if our Thursday morning will clear up. I think we'll be able to do that.

MR. CRUCIANI: Thank you.

THE COURT: Okay? All right. So with that --

MS. PATEL: And Your Honor, Monday -- did you have all day if we can work through the issues for Monday? I'm just trying to block out my calendar before people start putting things on it unbeknownst to me.

THE COURT: Monday morning.

MS. PATEL: Morning? Okay, I --

THE COURT: Yeah.

MS. PATEL: I'm just going to tentatively block it off. I'm not going to let anything get scheduled --

THE COURT: Okay.

MS. PATEL: -- so that we don't have a later conflict. Thank you, Your Honor.

THE COURT: All right. Well -- okay. With that, are -- okay, I believe Petitioning Creditor had rested, subject to the ability to -- on Mr. Dondero, to treat him as both a witness you're cross-examining as well as direct testimony that can be beyond the scope of --

MS. PATEL: I don't think we said we rested, because it's subject to this interesting Dondero thing. But I -- so I just want to be --

THE COURT: You technically don't want that --

MS. PATEL: -- the record to be clear. Right.

THE COURT: Okay.

MS. PATEL: Exactly.

THE COURT: What we all agreed that means is that when Dondero is called as Acis' witness, your cross can go beyond the scope of direct.

MS. PATEL: Exactly, Your Honor.

THE COURT: All right. So with that, I will turn to Acis. You may call your first witness.

MR. FRITZ: We call Mark Okada.

THE COURT: All right. Mr. Okada, welcome. If you could approach our witness stand; I'll swear you in.

Please raise your right hand.

(Witness sworn)

THE COURT: All right, please take a seat.

DIRECT EXAMINATION

BY MR. FRITZ:

Q. Good morning, sir.

A. Good morning.

Q. Could you please state your name for the record?

A. Mark Okada.

Q. Where are you employed?

A. Highland Capital Management.

Q. Okay, what is your position at Highland Capital Management?

A. I'm the co-founder and co-chief investment officer.

Q. You say you're the co-founder. Can you tell me about Highland's founding?

A. Yeah. We formed -- "we" meaning Protective Life and Jim Dondero and myself, formed the firm in April of '93; so it was about twenty-five years ago. And Highland had a different name then; it was Protective Asset Management. But we -- we changed that name, bought out our parent -- or our partner in Protective Life in -- in '97 and moved the company to Dallas in '94. So, yeah, that -- that's sufficient?

Q. Yes. Could you please explain to the judge what business Highland's in?

A. So we are an investment manager, which means that we manage funds that investors can invest in, and our -- our role

is to, really, provide the -- the investment-management services and the risk management for those investors, in different markets.

Q. What types of funds does Highland manage?

A. So we manage a -- a wide variety of funds, everything from hedge funds to private-equity funds, mutual funds, ETFs, private-equity funds (sic). And then the largest asset class we manage is structured-credit funds, called CLOs or collateralized loan obligations.

Q. And what's been Highland's experience with CLOs?

A. So we really were there at the founding of the industry. Back in 1996, we did our first CLO. And back then, we -- we probably did the first investor-led transaction in the space. Today the -- the industry is, gosh, about 600 billion. It's a very large industry. But when we started, we were the first people to do one for -- from an investor standpoint. And, yeah, that was in 1996.

Q. And you said before, you were the chief investment officer?

A. Yes.

Q. And as chief investment officer, do you have any personal experience with CLOs?

A. Yes.

Q. Could you explain that?

A. So I mean, I -- I've been involved in everything from

structuring and managing to restructuring to -- to raising funds for -- for CLOs and analyzing them since really 1995 when we started the process. So it's been twenty-three years I'm now involved in the industry and as it's evolved since then. So I've been very involved in -- in the entire space as a manager, as -- as somebody who's helping, you know, lead our -- our -- our teams in the space. But, yeah, I've been very involved in -- in the CLO business for as long as anybody, really.

Q. And with respect to the CLO business at Highland, do you still take part in active management of that?

A. Yeah; the team directly reports in to me. I -- I -- I -- I supervise and oversee the -- the -- the activities of -- of our -- our CLO team, which includes originating and -- and managing CLOs, but also our -- our investing in -- in the -- in the -- the marketplace of -- of investing in CLO bonds and equity, and then also interfacing with investors in explaining market risks and opportunities and -- and -- and things like that.

Q. You see Mr. Terry's in the courtroom today?

A. Yes.

Q. While Mr. Terry was at Highland, did he report to you?

A. Yes, he did.

Q. Now, we've talked about Highland's management of CLOs. Are you familiar with an entity called Acis Capital

Management, L.P. and Acis Capital Management GP?
A. Yes.
Q. And Acis is also an asset manager for CLOs, correct?
A. Correct.
Q. And are you familiar with the Acis-managed CLOs at Highland?
A. Yes.
Q. Let me back up and ask you some general questions about CLOs. What's the purpose of a CLO?
A. So a CLO is a structured product, or a securitization. What that basically means is you're taking a -- a pool of -- of investments, or in this case they're -- they're called bank loans, the corporate bank loans that are issued by -- by companies. And you're -- you're funding a pool of those in using CLO bonds and equity.

And so a CLO is a structure that is formed to -- to house the investments, and it's funded by issuing CLO bonds and CLO equity. And then as it's -- as it's -- it has a -- a -- a reinvestment period and a maturity as -- these deals are anywhere from eight to twelve years long; they're -- they're fairly long-life transactions.

But the purpose of a CLO is -- is -- is -- as in all securitizations, is to yield to -- tranche the risk of that pool, so that the pool of loans will have a certain type of risk based on the market and the -- but the bonds that you

issue and the equity that you issue will have different types of risk.

So you can -- you -- you can allocate the risk to different types of investors that want to fund into markets, taking different types of risk. And that's -- that's how securitizations are structured. And the -- and so a CLO is formed to do that in -- in the ARM (ph.) market.

Q. Can you explain to the judge who are the various parties of a CLO?

A. Sure. So as -- as we were talking about, there's -- Acis would be -- are -- are the CLO manager. So what managers do is -- is they're -- they're out looking to form transactions to raise the capital and then help structure them and distribute them but also manage them on a go-forward basis.

With a CLO, the -- the -- the -- the investment manager is going to be managing the pool of assets -- or loans or assets in -- in -- in the portfolio, during the reinvestment period, and then managing those assets during the -- the -- the wind-down or liquidation at the end.

So that -- that's the manager's role. And we -- this is all driven by an indenture. Indenture is the document that the trustee administers, that talks about really all the rules of how the CLO is governed and how -- how things can be traded, and also lays out all of the -- the covenants and the structure for the -- the deal.

So there's a trustee -- an independent third-party trustee that will manage the -- the structure for the benefit of the bondholders and the equity. They -- they -- they create a monthly report, called the trustee report, that really details all the activity within -- within each individual CLO.

And then we have an underwriter. So every deal that is done has a -- an underwriter, and these would be your -- your big Wall Street banks like -- like a Merrill Lynch or a B of A or a JPMorgan or a Goldman Sachs. They -- they have the salesforce and the -- the -- the -- the wherewithal to go and pool the investors together and help you structure and raise a -- a transaction. So there's always an underwriter.

And then we obviously have the -- the bondholders and the equity investors. So the CLO bondholders, as I mentioned earlier, are -- this is a -- it's about a 600-billion-dollar market. So the people that invest -- or the -- the investors that invest in CLO bonds would be anything from, gosh, large pensions, sovereign-wealth banks, insurance companies.

But they're -- they're investing in this market because these bonds are rated for a certain type of credit risk. We have everything from B all up to AAA sorts of risk. And so they're looking at, gosh, I can invest in these bonds at a -- a certain rating and a certain risk versus a certain price. And that's -- that's what the bondholders are doing. And

they -- they have the indenture that it's governed -- what they're doing.

And then on the other side, you have the -- the equity. The equity sponsor or the equity investors in the transaction, they're -- they're taking the most risk in the transaction. They put the -- the money in that -- that comes out last. They're taking the risk of all that -- the -- the bank-loan pool of -- of what happens to it over time, and all the loans in there. And -- and as the -- the transaction goes forward, the -- the -- they'll be rewarded with -- with -- with the net income off the portfolio.

So those are the basic -- there's lawyers, obviously, involved in these things, and -- and -- but that -- those are the -- the major players in a CLO.

Q. We were talking before about Acis Capital Management LLC -- L.P., and Acis Capital Management GP. For the purposes of this examination, can we just refer to those as "Acis"?

A. Yes.

Q. With respect to Acis, do you know approximately how many CLOs Acis manages?

A. Right now, about five. Yeah, five.

Q. Does Acis have any employees?

A. No.

Q. If Acis doesn't have any employees, how does Acis manage those CLOs?

A. It has a -- a shared-service contract with Highland Capital Management.
Q. Does Acis own any equity in the CLOs it manages?
A. No.
Q. Is Acis a bondholder in any of the CLOs it manages?
A. No.
MR. FRITZ: Omar, could you put up slide 2, please?
UNIDENTIFIED SPEAKER: (Indiscernible) the input.
Q. If you look on your screen, Mr. Okada, you see the titles "ALF's equity investments" and "All Acis CLOs". You see that?
A. Yes.
Q. Could you please describe for the judge what's being shown in this slide?
A. So this is a -- a chart that shows the -- believe the original amount of -- of CLO equity that was invested in the Acis CLOs. So those -- the 1940 (ph.), the 51, 53, and 52 million dollars would be the original amounts of equity that were invested into each of those CLOs; we call them 1, 3, 4, 5, and 6, for -- for reference.
And then there's this unfunded commitment. ALF is a -- a -- a vehicle that has additional cash in unfunded -- unfunded commitments to invest in further equity of -- of CLOs and -- and CLO securities.
Q. Near the top of this chart, you see there's a circle with the term "ALF" in it. You know who ALF is?

A. So that is a Highland -- that's our -- that's our Highland Loan Funding -- formerly known as Acis -- as Acis Loan Funding; we refer to it as ALF, kind of a sticky name which you -- which you hear at once.

But -- but yeah, that -- that's a -- a vehicle that is set up to invest in the equity of -- of -- of CLOs and also invest in -- in the -- the secondary market of CLO securities.

Q. So just so the record's clear, this entity is currently known as Highland Loan Funding Ltd. but was formerly known as Acis Loan Funding?

A. That's correct.

Q. For simplicity's sake, just to be consistent with kind of what we've been using, will we refer to that entity as "ALF"?

A. Yeah. Sure.

Q. Mr. Okada, you see there's another diagram up, the screen there? You see that "ALF" in the middle?

A. (No audible response).

Q. Can you please describe to the judge the various parties you see identified on this chart?

A. So what this is is it shows who the investors are in ALF that hold the -- basically hold the equity of this CLO 3; this is the third CLO that has -- had an original amount of about forty million dollars of equity. So there's -- there's two institutional investors that hold the majority; each have about forty-nine percent of the transaction -- or of -- of --

of ALF. And then there's Highland employees that have a -- a small amount of -- of investment in the -- the ALF vehicle.

Q. When you say the Highland employees have two percent, could you please describe that a little bit more?

A. So if you -- one of the things that we -- we -- we think is important for our investors to understand is that our employees are aligned with them. So we -- we give the opportunity for the employees of the firm to invest alongside of our investors so that they have the same experience and they're aligned. It's kind of like eating your own cooking.

So that two percent would represent a direct investment into the transact -- into the ALF fund, by various Highland employees; I'm one of them. Various people on the team are -- that are involved in managing our CLOs have their own equity invested -- or their own capital invested alongside the -- the equity investors here.

Q. Now, is this -- when you say "their own equity", is this money that they actually take out of their pocket, put in, or is it contributed by --

A. No, no, no. It's -- it's -- it's their own capital.

Q. So they actually invest their own product (ph.)?

A. Yes.

Q. We have two other entities there that each own forty-nine percent. There's one up there that says, "third party"; do you see that?

A. Yes.
Q. Is that an independent third party?
A. Yes.
Q. Now, there's another one: the charitable foundation. Can you describe generally what that charitable foundation is?
A. So the charitable foundation is a -- a donor-advised fund set up to provide charitable donations to -- you know, like any foundation, in -- in various charities around the country, really.
Q. Now, during the course of this hearing, we've heard the term -- or the entity "CLO Holdco Ltd." Do you know who that is?
A. Yes.
Q. Can you please tell the judge who that is?
A. So CLO Holdco Ltd. is the vehicle that houses the charitable foundation's investment in the equity of the CLOs. So it -- it could be, like, their brokerage account or their checking account that -- that holds the -- the -- the CLO equity investment. It's just a holding vehicle that houses the actual CLO equity.
Q. So that CLO equity for the charitable foundation, that would be the charitable foundation's money?
A. Yes.
Q. Obviously, this charitable foundation, I assume, makes donations?

A. Yes.
Q. Who controls what donations the charitable foundation makes?
A. So it's -- it's -- it's a donor-advised fund but it's -- it's administered by The Dallas Foundation, and -- and -- and -- primarily. And -- I'm not sure if you're familiar with -- with -- with what I -- The Dallas Foundation does, but they -- they provide all of the operational and -- and structural management for a donor-advised fund.
And -- and -- and -- and the way these things are set up, they'll have a staff that help you write the -- the -- the -- the different grants that you're going to make, determine who to donate the money to, evaluate those -- those different charities, and help you plan out how -- how the charity is -- is -- is to go about its -- its -- its donations.
Q. Is The Dallas Foundation an affiliate of Highland?
A. No.
Q. With regard to this charitable foundation, who decides how the charitable foundation invests its money?
A. So the -- the investments within the charitable foundation ultimately are -- are managed by a -- a trustee; his name is Grant Scott. And so we have a independent trustee that -- that -- that oversees the -- the investing activity of -- of the charitable foundation.
Q. Is Mr. Scott a friend Highland?

A. Yes. He -- he and Jim go way back; twenty, thirty years.
Q. You also mentioned he was an independent trustee?
A. Yes. He's a -- he's a lawyer and that -- that's his role: to -- to -- to be the -- the independent trustee for the transaction.
Q. Do you understand if Mr. Scott owes any duties to the foundation?
A. Well, yeah. I mean, as the trustee, he has a fiduciary duty to the -- to the foundation.
Q. And do you have a general understanding of what the fiduciary duty is?
A. Well, he's -- he's supposed to make sure that the -- the foundation's interests are -- are -- are put first, ahead of, you know, anybody else in the -- in the -- in his dealings, and to make sure that it's -- it's administered in a -- in a fair and lawful way.
Q. Is Mr. Scott an employee of Highland?
A. No.
Q. Has he ever been?
A. No.
Q. Does Highland own any of the assets in the charitable foundation?
A. No, they do not.
Q. What about Mr. Dondero?
A. No, he does not.

Q. Does Highland or Mr. Dondero have access to any of the funds held by the charitable foundation?
A. No.
MR. FRITZ: Omar?
Q. I want to talk kind of about the Acis-managed CLOs in the time period of 2014 to 2017; would that be okay?
A. Yes.
Q. So if I own equity in a CLO -- and let's use CLO 3 as an example -- how do I make money?
A. Okay, so let me explain this chart to you, because it -- think of it -- this is a balance sheet, the way this is set up; so you have assets and liabilities. The assets here are these -- a loan portfolio. This is made up of anywhere between 100 to 200 individual loans to corporations. The type of corporations we're talking about here are large; they have a -- an average of about a billion dollars of -- of overall size and total capitalization. So we're talking about American Airlines, big companies that issue within this loan market that we're investing in.
But think of those as our assets. Right? So that -- that market that we're investing in, this loan-portfolio returns, these are the assets that are going to generate the income that is -- that is structured into -- that goes into paying the -- the liabilities of the structure.
So the -- the manager is going to be -- Acis is going

to -- or Highland is going to be managing this loan portfolio during the reinvestment period, and during that period we can be trading it, we can buy and sell -- buying things and selling them. We want to avoid things that are going to end up here in the bankruptcy court, because we don't want them to default, per se.

THE COURT: We talked about Toys "R" Us a lot yesterday.

THE WITNESS: Yeah, okay. Okay. Yeah, that -- that's a good example of something that -- that we -- that can end up in one of these -- these pools.

A. And the --

THE COURT: Um-hum.

A. -- manager's role is to determine is that a good investment, that's going to pay off based on its collateral, et cetera, et cetera.

So the income -- this -- this top box up here is supposed to represent the -- the quarterly interest income. So these loans are yielding LIBOR plus something, and they're going to pay every quarter, on average. And that -- that's the variable income that's coming out of the loan portfolio.

And how it's applied is the -- is -- is the next chart here on the right. So when we look at the -- the liability structure, when I talked about the bondholders -- the CLO bond debt that -- that you issue in the equity, this is how it's

represented here. So you have AAA, AA bonds; they're all rated different ratings. They're -- they're issued in the marketplace.

And the reason it says "fixed payment" is because their coupons are determined at the day that you issue the bonds and you -- you -- you fund them. So the -- the -- when you have a pricing and when you go do a deal, you price your AAAs at a certain price; LIBOR plus something. And that's fixed -- those payments are fixed so everyone knows what the liability costs are going to cost you when you do a transaction.

So the way this -- the way this works is each quarter you take your -- your income, you subtract what you have to pay in the form of your expenses, which would be your bond coupon, your bond-interest payments, your management fees, to the -- the CLO manager. There's trustee fees and expenses that come out of the transaction; those are all paid. And then whatever's left over, given -- if the thing -- if -- if the transaction is -- is operating normally, would flow out to the equity in the form of a dividend or a net income.

So your -- your question was how do you make money in a CLO. You can see that the bondholders are making a -- a -- a coupon return based on the types of risks -- the -- the rating that they're -- risks that they're taking. And then the equity investor here is getting that quarterly distribution.

And then at the end of the transaction, whether you

either call it or -- or wind it up, the -- the principal amount of these loans is used to pay off the debt in the order that it's on here; so the AAA gets paid off first, AA, A. That's why these are very -- the -- the -- very highly rated, high-quality assets because they get paid off first and the equity gets paid off last.

So the -- the -- the way you make money in a CLO is -- is, if you're the equity, right, you want to maximize your variable income coming off your loan portfolio or your assets, versus the amount of fixed payments you have to pay, because if you have -- if you have a higher income coming off a portfolio than what you have to pay for your liabilities for the CLO bonds, then you have higher dividends. That's -- that's how the structure works.

Q. Are you familiar with essentially the returns on the Acis-managed CLOs from 2014 to 2016?

A. Yes.

Q. Can you please describe for the judge what type of return the Acis-managed CLOs saw in -- between 2014 and 2016?

A. So the dividends expressed in, like, an annual return are anywhere from fourteen to sixteen, seventeen percent; so pretty high returns for that period.

Q. Has that changed recently?

A. Yes. That -- that's coming down.

Q. Could you please explain that to the judge?

A. So what's -- what's happened as the economy's gotten better, as the -- the markets have -- have improved, the overall pricing within this loan asset class has compressed. So -- so borrowers are refinancing their debt at lower yields. As -- as more people are looking to invest in these loans, there's more demand for them. As the economy's been good, that -- that amount of return that we're getting in this loan portfolio is -- for the entire industry, is coming down.

So that -- that variable income coming off the portfolio -- let's -- let's just make an example. Let's say, before, we were making six percent on the portfolio and we were paying four percent for all of our liabilities and two percent was coming out every quarter. That's how we were getting to our nice returns that we discussed earlier. Today, 2017, that six percent might have dropped to five percent.

And so now you have five percent coming off the portfolio. You're still paying the same amount, that five percent, the -- the -- the four percent for the liabilities, all -- the cost of your debt. And so now you only have one percent left over.

So you can see how that -- as -- as -- as loan income drops, because you have these fixed payments for your -- your liability structure, you're going to compress the amount of net income that's coming out to be equity. And that's what happened to this -- this CLO specifically in -- in 20 -- 2017.

Q. If the return to equity keeps diminishing, does the market have a response for that?

A. Yeah. So -- so one of the -- the things that's happened within the marketplace in a pretty big way is -- is something called a reset, or a refinance. And what a reset is is you go and you reset the transaction. That involves repricing all of these bonds to -- to current market prices.

So -- so now your costs of debt will now reflect the current environment versus what it used to be. Think about refinancing your home mortgage; you're going -- you're going to get a lower rate now because all rates have come down.

So a reset would be you go back and you remarket all of these bonds, you reprice them to current market prices and, because those are lower -- think of our example before where we went from six and four -- six minus four, it gets to two, and then we went from five minus four, it gets to one. Now it might be five minus three or three and a half, and that would get us back up to a higher equity return.

The other thing that happens in a reset is you're going to extend the reinvestment period for the -- for the -- the CLO, and you're going to reset a lot of the covenants. We didn't talk about the covenants within a CLO; it gets kind of complicated because there's -- there's a lot of things governing how these payments work in a structure.

But suffice it to say, you -- you reset the covenants,

which can be -- free up the manager to be able to invest in more things, because as the deals get closer and closer to the end of their reinvestment period, it becomes more restrictive. The bondholders is -- these bonds that are listed here, they want to have certainty of getting paid. So they -- they restrict to what the manager can invest in, as you get closer and closer to the end of the reinvestment period.

Q. Mr. Okada, if part of a reset is, for example, reducing the coupon rate to the bondholders, why would the bondholders ever go along with it?

A. So as -- as in all bond -- all investors are going to look at an -- an investment based on what their alternatives are. So when we would go out to do a reset, we'd be offering these bonds in a -- in a -- a -- a new offering, and they would have to be attractive versus where the markets are.

The -- the -- the existing investor that's in the bond -- that holds the bond today is -- is the primary person that you're going to, to talk about the reset. They can either -- they can either roll, meaning they can be -- they can -- they can be -- they can stay in the bonds and just take a lower coupon, or they can be replaced by other investors. So if there's other investors that want to hold that risk at the current marketplace, they'll just get paid off and their -- their returns would go away.

So it's a competitive dynamic of -- in the reset, where

you're repricing things to market, and the investor who's -- who's looking at that, the AAA, the AA, A, will be looking at other alternatives of where CLO bonds or other similarly rated debt is trading, and say, well, that makes sense and I want to do that, I want to invest in -- in the transaction.

Q. Are you familiar with how many resets have occurred in 2017, approximately?

A. It's -- there's a lot. I -- I think the numbers are, like -- I -- I would be guessing, but something like thirty, forty billion dollars. A lot of -- of resets. Maybe even more than that. So a -- a lot of it.

Q. Relatively speaking, compared to other years, how does that compare in terms of the number of resets you saw in 2017?

A. I'm not sure I understand your question.

Q. In other words, did you see an uptick as compared to 2013, 2014 --

A. Yeah; resets are a fairly new phenomenon. They -- they really started in -- at the end of '16 and '17 and -- through 2017. And -- and I think we've done ten or fifteen billion in -- in January alone. So there's a lot of these happening in the marketplace right now.

Q. When you say "we", who are you referring to?

A. The -- the entire CLO industry. When I refer to that six hundred billion, that's -- there -- there are -- there are probably several hundred different CLO managers that are

managing CLOs in that space, and a lot of them are taking advantage of the CLO resets to lower their costs of debt, their costs of financing, and their transactions, to match -- to better match what -- where the -- the market has gone and, therefore, improve their equity returns and then extend the deals to make them easier to manage.

Q. With respect to the Acis-managed CLOs, have those been able to be reset?

A. One of them.

Q. Did it actually execute?

A. Well, we priced it. We -- we -- we had a -- we -- we had an underwriter, Mizuho, and we went out to market for this transaction specifically. We priced all the bonds. And then this proceeding occurred and that stopped that from happening.

Q. Mr. Okada, do you recognize what's been put up on the screen and labeled as Acis Exhibit 194?

A. Yes, I do.

Q. Could you please explain to the judge what this is?

A. So this is an analysis of that equity return that we talked about earlier for the May 1st period for CLO 3, before and after the reset. So the top part is kind of the state of the -- of the transaction as it sits, and the bottom part is what will happen once the reset that we priced went into effect.

So it shows what happens to both the -- the variable

income, the -- the income that's coming off the portfolio, on the left side, and then what changes to the -- the costs of the bonds and the fixed payments that you have to pay on the other side, and it shows the net income that's going to come out to the equity in the form of net income. And this is just for one quarter for that May period.

Q. Which CLO does this apply to?

A. CLO 3.

Q. Now, in the upper right-hand corner, I see a number around 4.5 million dollars. What number is that?

A. So that's -- that's the interest projection of how much those -- those loan portfolio -- those 100 to 200 loans are going to pay in coupon income for that quarter. So we -- the -- the -- there's a internal accounting system called Wall Street Office that will -- that has all the loans in it, all the coupons, and we project out what will be paid in that quarter, based on the current coupons.

So that's what that totals. That 4.583 totals the total amount of -- of interest income that's coming into the transaction as of that date, for that quarter.

Q. And I see underneath that number there's a lot of numbers in parentheses. Can you describe for the judge what those numbers are?

A. So this would be, when we talked about the fixed payments on the liability structure, what has to be paid in that

quarter. So there's the fees, the -- that goes to the CLO manager; that's called senior fees; that's the 147. The expenses, those are the trustee fees and other fees that -- that occur during the quarter.

Then there's a -- staying on the fees line, there's a sub fee that also comes out to the manager down there, at 246. You see that?

And then there's the -- the coupons that are being paid to those bondholders for the quarter, and these -- these amounts show the number of days that it's calculated, based on the -- the LIBOR base rate and then the -- the overall all-in coupon based on the spread and the amount. And that's just calculated into those numbers. So that million-664 is what the AAA bondholders are going to get as far as their coupon return for that quarter.

And as we said before, these really don't change in a CLO. At -- at least the -- the -- the way it's calculated don't (sic) change. The LIBOR will change, but -- but the way the -- the coupons are -- are calculated stays the same.

And then on the bottom we have some more expenses that come out, at the bottom.

And then -- so this 565, think of it as your net income. So you had your -- your income coming out the portfolio, you pay all your expenses, and then you have your net income.

What's a little different about this demonstrative here

is -- and this structure, is there's a test that was tripped. There's something called an OC test, an overcollateralization test, that has -- has different forms; one is the diversion test. So once you trip the diversion test, now something happens to this net income. It doesn't flow out to the equity. The dividends don't get to the equity investor. Half of them are diverted and they go back into the -- the loan pool. So they're -- they're reinvested back in the deal.

The -- the -- the purpose of the -- of the diversion is -- is to improve the value or the -- the size of the portfolio or the collateral that all these bondholders are depending on, if it -- if it goes down. So maybe we had a -- a Toys "R" Us or something where we have a default, and you may trip this -- this diversion test, as CLO 3 has, and then so that -- that 2 -- 282 would be half of the -- the income that would have gone to the investors; instead, it's going to be reinvested and go back into the transaction and go into the loan pool to be reinvested. So that's why this ultimate 282 is what -- what is coming out to the equity investors for this quarter.

Q. Can you please describe to the judge what this section of Exhibit 194 describes?

A. So this is a projection of what the CLO would be returning to the equity and -- and the -- the bondholders under the -- the transaction that we had priced in the reset.

So once we reset the deal and priced it, now we know what all the new coupons are. We refinanced all of our debt to these new prices that are lower than the ones up top. And so we're -- we're going to apply that over time, in this period, and then we're going to have the expenses and the fees stay the same in the transaction.

Up top, we have a higher -- you can see the -- the income coming off the portfolio's a little bit higher. CLO 3 -- because it's at the end of its reinvestment period, it's hard to invest all the cash in the portfolio. There's -- there's these tests that say you can't own debt that has maturities beyond a certain amount of time, and that restricts our -- the pool of investments that we can make for this CLO.

By resetting it, we improve the -- we -- we make the market bigger for us to invest in more loans. And so having more loans in the portfolio will increase the amount of income that -- that comes off in that quarter.

So we're pro-forming (sic) that we would be spending some of our cash into loans and that pickup -- and that interest income is what's reflected on the top here, in that 4.8 million versus the 4.5 we had earlier.

So what you're seeing here now is we -- we have our income. We pay our expenses and the fees and the bond interest to the -- the new bondholders in the reset that we priced. And then what's coming out at the bottom is this

million-three. There's no diversion test now because we've reset all the tests in the transaction. So that -- that -- that -- that diversion test that got tripped before, it's not -- it's -- now it's fine because we reset that in the transaction. And so the entire amount of 1.3 million dollars would flow out to the equity in this -- this quarter.

And so on the bottom, you see the difference between the -- the payment that we had projected and what will happen after we do the reset.

Q. And Mr. Okada, earlier you said this is for one quarter?

A. Yes.

Q. Do you have any idea of what'll happen in quarters to come if -- both if and -- if the CLO is reset and the CLO is not reset?

THE CLERK: (Indiscernible).

MR. FRITZ: Yes, ma'am. Sorry.

A. So in the case where we -- we can't do the reset, what will happen is -- is the amount of income coming off the portfolio will go down, because there's fewer loans that we can invest in, because of the restrictions in the -- the transaction. So that's going to come down. Our fixed payments will stay the same, and so that diversion test -- that OC test will still be the same.

So that amount to the equity will go down and down and down, and it could go to zero. And so that -- that's a bad

thing. We -- we don't -- we don't want that.

In a reset, because we've reset the transaction, you'll get similar sorts of payments like this each quarter. So -- so there's a -- this -- this million-dollar increase in -- in income actually will grow, in the two different scenarios where we do the reset.

In this scenario, we'll -- we'll -- we'll have very nice income each quarter, assuming that the world doesn't blow up. But -- but -- but if -- if not, because of the -- the fact that the -- the income will be coming down in the transaction and we have to pay all the expenses, at some point, we're going to have to -- we're going to have to call -- the -- the equity will decide to call the deal and -- and wind it up, because we're not going to make any money coming out of the portfolio -- you shouldn't -- you -- you're not going to want to have the -- the -- the -- the structure in place.

MR. FRITZ: Omar, could you pull up 193?

Q. Mr. Okada, I've asked Omar to pull up Exhibit 193. Are you familiar with this document?

A. Yes.

Q. Could you explain to the judge what this document is?

A. So you saw "Mizuho" on the front page; that's our underwriter for the reset. This is the pricing document that shows what we -- we -- what we were successful in -- in placing in the market on January 26 and were set to fund and

close on February 1st for CLO 3. And you can see it has the amounts of the -- the debt, the new pricing, the new coupons that we had placed in the marketplace, the amounts, the ratings. And then they have new CUSIPs because they're -- they're new bonds. So that -- that's -- that's what you see here.

And -- and -- so this was -- this was priced; this was done. We had third-party investors that had spoken for all of these bonds in the marketplace, and we were ready to go with our reset.

Q. So this wasn't hypothetical; this wasn't --

A. No, no. This is done. We -- we had trade tickets and we were priced and we were in the process of -- of trying to close the transaction.

Q. Did the transaction close?

A. No, it did not.

Q. Why did it not close?

A. Because of -- Mr. Terry filed Acis for involuntary bankruptcy proceedings.

MR. FRITZ: Omar, could you go to Exhibit 192?

Q. Do you recognize the document that we put up on the screen? It's Exhibit 192.

A. Yes.

Q. What is it?

A. So this is the -- the -- well, I spoke earlier about the

trustee and what they do. This is -- would be a -- a monthly trustee report that they performed for CLO 3 for that -- for the month -- for the -- the -- the month of February. I'm not sure what month this actually is, but -- but it's dated February 21st.

MR. FRITZ: Omar, would you go to page 5, please?

Q. Mr. Okada, do you recognize the chart that's on page 5?

A. Yes.

Q. Could you tell the judge what that chart is?

A. So it lays out all those bonds of the existing CLO, as they stand, with -- with the amounts, and the coupons that -- for the original pricing, and their -- their original rating and their current rating, and -- and the amounts. And then it has -- at the bottom it -- it shows the amount of -- of assets, term loans, and different assets of the CLO and the number of them; so there's 189 individual loans here that total 378 million dollars.

And then there's these -- these different tests. There's the -- the coverage test, the quality test, the -- these are the things that are in the indenture that the trustee is going to tell you whether you're passing or failing them, in that month.

Q. Does the trustee have any involvement in deciding whether or not to reset a CLO?

A. No -- well, I mean, they're -- they're going to --

they're going to have to administer the new CLO, the new bonds, once it's -- it's reset.
Q. Who does the trustee report to?
A. The trustee reports to the transaction itself, to the fund.
Q. "To the fund" meaning the CLO?
A. Yes, the CLO.
MR. FRITZ: Could you turn back to Exhibit 194?
Q. So we just saw two exhibits: the Mizuho -- that -- the data chart, and then also the U.S. Bank trustee report. Does the information you saw there correlate with the information that's in Exhibit 194?
A. Yeah, that's -- that's where these -- the -- the information came from to make this -- this chart here.
Q. So in essence, the information in the top chart came from U.S. Bank, which is an independent trustee? Correct?
A. Yes.
Q. And who did the -- who provided the information in the bottom chart?
A. Mizuho, for the -- the -- we were talking specifically about the -- the pricing, the amounts of the bonds, for up top versus the bottom.
Q. And remind the judge who Mizuho is.
A. Mizuho would be the underwriter of the transaction.
Q. Is Mizuho a Highland-related entity?

A. No. They're -- they're an investment bank.
Q. What about U.S. Bank? Is that a Highland-related entity?
A. No. That's -- they're an independent trustee.
Q. And it's -- there's -- and it's those two entities whose members are driving what you see here in Exhibit 194?
A. Yes.
Q. So Mr. Okada, we've discussed CLO 3 in detail in Exhibit 194. Do you know if, for example, the million-dollar loss we see equity facing if the CLO's not reset -- do you know if something similar will affect the other Acis-managed CLOs?
A. Yeah; they're all in the -- the same sort of situation as -- as -- as CLO 3. And our plan was to reset all of them.
Q. And why haven't the other Acis-managed CLOs been reset?
A. Oh, because we -- we're here and we can't do that with this proceeding going on.
Q. And is there any way you see that million-dollar loss for Acis CLO actually being reduced over the coming quarters?
MR. SHAW: I'm going to object to spec -- it calls for speculation.
THE COURT: Overruled. He can answer.
A. So as I said before, what will happen as -- as these deals age, as they get older, right, the -- the tests become more restrictive; it's harder for us to invest the portfolio. So the amount of income that we can get each quarter is going to go down.

And so without the reset and the benefit of the reset, we don't get to reinvest a lot of cash, so it sits there earning nothing and/or very small amounts. But we still have to pay those fixed income -- those fixed coupons every quarter. So the income's going to just fall for each -- all these transactions, with time. And so that's -- that's why the plan was to reset them.

Ultimately, if it gets bad enough, the -- the controlling -- the investors in the transactions will call the deal, they'll -- they'll wind them up. And -- and in that scenario, we -- we -- we'll pay it, we'll -- we'll liquidate the whole portfolio and we'll pay off all the bonds. And what's there left over, it will go to the equity investor and -- and the deal's gone; there's no more fees to -- to the manager; the -- the deals just kind of go away.

But in that scenario, you're -- you're cementing the loss for the equity. They don't get to see any more current income and they have to -- they have to take their losses or gains, whatever they are, based on the value of the portfolio as you liquidate it. So there's no more interest income and it's -- it's different -- net income on a quarterly basis that we saw before, when you call a deal.

Q. You said you call -- that is called a call?

A. That -- yeah. When -- when a deal is called.

Q. If there's a possible loss associated with a call, why

would an investor call a deal?
A. Because if -- if there's no net income coming off the portfolio, you're -- you're not -- it makes no sense to be the investor, and it really -- I mean, you -- you -- you wouldn't -- you'd want to take that equity that's sitting there and you want to reinvest it in something that's earning something. So if you're not going to earn anything, you might -- you'll be better off taking -- calling the deal, taking whatever equity you have left over, and maybe reinvesting it in a new CLO and then starting to get earned income again.

So in the -- in an event where a transaction can't be reset at some point -- and this is in the normal course of all CLOs; they all get called at some point. And that -- that's what'll happen here; you -- your -- your assets aren't earning enough to justify the cost of your liabilities, and that net income is not high enough to justify continuing to pay the management fees and trustee fees and -- and having that risk in the marketplace, so deals get called.
Q. And I think you said, and correct me if I'm wrong, but investors make the decision to call a deal?
A. Yes.
Q. Specifically which investors?
A. It's going to be the controlling-share class, which is normally the equity.

Q. And what would happen if a deal is called to the asset manager?
A. Their fees just go away. You stop getting your fees.
Q. Because what is -- remind me what a manager's fee -- what's it based on?
A. So the -- the manager gets -- as what you saw in that demonstrative where we had the senior fees and the sub fees, you get a fee that -- that's based on the total size of the portfolio. So this case, we had about a 380-million-dollar portfolio. You'd get a -- a small senior fee, which is ten or twelve basis points.

And then you get a sub fee after -- and the sub fee's -- pays out after -- after the bonds get paid. So that's why it's called a sub fee. That -- that -- that fee -- those two fees would go away in a call, because the deal's wound up; there's no more -- no more management of the loans. And so you're not -- you're not paid that -- that.

And fees, on average, they total about anywhere between fifteen and fifty basis points, on average. So they'd come down a bit, so the -- the -- today they're probably averaging in the thirty-, thirty-five-basis-point fees in total.
Q. Mr. Okada, if a deal is called by the investors, can an asset manager stop that from taking place?
A. Well, it -- it -- there -- there's -- a call has to happen in the -- based on what the indenture says the rules

are. So as long as the call is -- is -- is in compliance with the indenture, no, the -- the manager needs to carry out the call.

Q. Do you know, based upon your experience in the industry and your particular experience with Acis, does Acis have a fiduciary duty to the investors in, for example, the Acis-managed CLOs?

A. So we have an investment-management agreement that's part of the -- the -- the -- the documentation for a CLO, and -- and -- and we provide the investment-management services for -- for all of the -- the bondholders and the equity holders in the -- in the deal, and we owe them a fiduciary duty.

Q. And for example, does that fiduciary duty include making sure that the investors receive the largest return on their money?

A. Risk-adjusted, right? We -- we want to make sure that -- that we are managing the -- the CLO as best as we can to optimize the returns and the recovery for the bondholders and the equity holders over time.

Q. Mr. Okada, are the Acis CLO equity holders being harmed by this involuntary bankruptcy?

A. Absolutely.

Q. Could you please explain that to the judge?

A. Well, as we just saw, I mean, even in this one example,

right, there -- there's five CLOs within the Acis complex. But this one example in this one quarter -- there's a million dollars of income they're missing out on, and that's only going to grow. Plus -- so if you -- Acis -- ALF has -- I think, has invested about 200 million of -- of face of -- of equity in all these transactions.

So you -- if you can't reset them, you're materially reducing the amount of -- of that net income coming to the equity investors, every quarter. It's -- it's -- it's -- it's already happened. And we've already created the losses, because we haven't been able to refinance the debt.

We -- we would have already been in the market with CLO 4 and 5 and 6 by now. That was our plan to already kind of be in the market and reset those deals too so they had lower cost of debt.

And so the -- the -- the equity investors here are being materially harmed, because they -- they're getting much lower equity returns as a result of not being able to reset transactions in the marketplace.

Q. Mr. Okada, based upon your experience in the industry, if the equity holders are not allowed to reset their CLOs, specifically the Acis-managed CLOs, do you know what their solution is?

A. They're probably going to call the deals. I mean, at -- at some point, the arbitrage, or the difference between the

income and the expense, is going to go down so much that there's going to be no need to have it structured together, so they'll call all the deals.

Q. And will -- with respect to the Acis-managed CLOs, will equity take any losses on those calls?

A. Yes. I mean, there -- there's been -- in all of these transactions, because they were done in 2014, there's been defaults in the portfolios and -- and -- and -- and some reduction in the overall amount of -- of the -- the loan pool. And so that'll be realized when you call the deal, because you have to sell the whole portfolio and pay off all the bondholders, and what'sever (sic) left over is -- so you're -- you're going to crystallize losses on a mark-to-market basis, for the equity investors when you call a deal.

Q. And do you have any idea, based upon your experience particularly with the Acis-managed CLOs, with respect to those losses that equity sustains? Will they hold someone responsible?

A. Yes, I believe so.

Q. Who?

A. Mr. Terry.

MR. FRITZ: No other questions, Your Honor.

THE COURT: All right. Let's figure out do we need a break. About how long do you think the cross will take?

MR. SHAW: I think forty-five minutes.

THE COURT: Okay. Let's take a ten-minute break, then.

THE CLERK: All rise.

(Recess from 10:40 a.m. until 10:52 a.m.)

(Audio begins mid-sentence)

MR. USATINE: -- if I may. Can I offer my demonstratives as a demonstrative exhibit?

THE COURT: All right. Yeah, the ones that you've been using --

MR. USATINE: Yes, ma'am.

THE COURT: -- this morning are not -- yes, you may approach.

MS. PATEL: Thank you.

THE COURT: I was flipping through your PowerPoint at one point; where are these pages in there marked.

Okay, so we're marking this Demonstrative 8.

(PowerPoint was hereby marked for identification as Demonstrative's Exhibit 8, as of this date.)

THE COURT: All right. There you are.

Mr. Okada, if you could resume your spot. And you are of course still under oath.

Mr. Shaw, you may proceed with your cross.

MR. SHAW: Thank you, Judge.

CROSS-EXAMINATION

BY MR. SHAW:

Q. Mr. Okada, you were discussing with Mr. Fritz this proposed reset transaction; you recall that?
A. Yes.
Q. I noted one omission in your exchange with him, with regard to the transaction, and that is that not only was this a reset but it was also a reset coupled with a change in the manager of the CLO from Acis, the alleged debtor to a Highland affiliate. That's true, correct?
A. Yes.
Q. What attempts did Acis make to go out and get value -- or value those collateral-management agreements that's contemplated to be transferred in this reset transaction?
A. I'm not sure I understand your question. Could you repeat it, please?
Q. Well, Acis was not getting anything for this reset tran -- this proposed reset transaction that would have transferred the collateral-management agreement from Acis to a Highland affiliate, right?
A. That's correct, I believe.
Q. And you've been involved in the sale of collateral-management agreements while you were at Highland, right?
A. Yes, I have.
Q. And for example, the Carlyle transaction where Highland sold collateral-management agreements to Carlyle, right?
A. Yes.

Q. Did Acis make any effort -- as opposed to agreeing to transfer the management of this CLO to a Highland affiliate, did Acis make any effort to go out and say, let's get some value for this collateral-management agreement that we are transferring to this Highland affiliate?
A. Well, Acis wouldn't qualify for the management for the reset, so that's not possible.
Q. So did Acis go out and try to get value for the collateral-management agreement that's at issue?
A. No, because Acis wouldn't be the manager under the reset.
Q. Does Acis have a duty to the investors in this particular CLO to transfer its collateral-management agreement to a Highland affiliate for no consideration?
A. The -- the duty is to -- to the investors, ultimately, as fiduciary right, to -- to make sure that their interests are -- are met. So the -- as we described in the reset, the -- the transaction's refinanced so that the equity would continue to get better payments over time.

So that -- that's -- that's the nature of the -- of the transaction.
Q. So you believe that Acis had a duty to the investors in the underlying CLO to agree to transfer and no longer be the collateral-management -- collateral manager under these particular CMAs?
A. They're -- they're CLOs. Don't --

Q. Under the CMA, the collateral-management agreement. I'm sorry.
A. Okay. I'm sorry. But the -- the transaction's going away under the reset, because Acis is not a qualified investor for -- for a reset. Resets have to be done with a manager that the market will accept. And given all the things going on with Acis, the -- the market is -- will not accept Acis as a manager. And plus, the -- the deal has to be risk-retention-compliant, and Acis does not have the capital to be a risk-retention-compliant manager.
Q. Now, Acis was risk-retention-compliant at one point, was it not?
A. For one transaction, it -- it did have the capital to do that.
Q. And then subsequent to the arbitration award that was entered on October 20th, 2017, a transaction occurred which made Acis nonrisk-retention-compliant, correct?
A. No, I -- I don't agree with that characterization.
Q. You're familiar with the sale of Acis' interest in ALF, correct?
A. "Sale of Acis interest in ALF". No.
Q. You're not familiar with that transaction?
A. No.
Q. Now, you understand that Mr. Terry did not have an issue with Acis resetting this CLO, is that correct?

A. I haven't talked to Mr. Terry about that. I don't -- I don't know what he's okay with or not.
Q. Are you familiar with this bankruptcy proceeding and what's occurred in the bankruptcy proceeding?
A. Only today. I mean, I -- I know that there's a -- he's filed for an involuntary, the -- on Acis.
Q. What efforts -- has Acis filed anything in this court to request permission to go forward with this reset or refi?
A. You're going to have to ask the lawyers that. I'm not -- I'm not aware of -- of what we've filed or not.
Q. Are you aware of Goldman Sachs passing on participating in the reset of this particular CLO?
A. We did -- we were working with Goldman as -- as a potential underwriter for CLO 3.
Q. And they didn't proceed with doing the underwriting for this particular deal, right?
A. No, they did not.
Q. And do you know why?
A. Well, they had -- they had concerns with the transaction, but I -- I don't know specifically what those concerns were.
Q. Have you seen any of the email traffic with regard to -- between Acis and Goldman Sachs?
A. Not that I -- no, I don't believe I saw those emails.
Q. So you're unaware of the fact that Goldman Sachs had an issue with the transfer of the collateral-management agreement

or that this successor collateral-management -- collateral manager would be a Highland affiliate, as opposed to Acis?
A. I know that they had concerns with the -- with the -- the transaction and chose not to go forward.
Q. Now, let's go back to kind of a little bit of a -- I'm going to back up and talk about your role with Acis. Now, up until December 19, 2017, you were a limited partner in Acis, right?
A. I -- I'm -- I'm not familiar with that date or that data, but that -- that sounds correct. I mean, I could be -- I don't remember that date in my head, so -- but sounds good.
Q. You were a limited partner in Acis up until at least the issuance of the arbitration award in the underlying arbitration, right?
A. I -- I -- I don't -- I haven't looked at those dates, so I -- I don't want to answer that, because I -- I'm not -- I don't -- I haven't looked at that.
Q. Let's go to Exhibit 184.
MR. SHAW: Omar, if you don't mind pulling that up for me.
Q. Mr. Okada, this is an assignment, transfer, and amendment agreement. Do you recognize that document?
MR. FRITZ: Your Honor, if I may, I just point out that if Mr. Okada would like him to scroll through the document so he can read the entire thing, that we're happy to

do that.

THE COURT: Okay.

MR. SHAW: Maybe go on to the signature page. Would it be helpful to show where Mr. Okada's signature is?

MR. FRITZ: And Mr. Okada, there's a binder with hard copies, if you would rather look at those, to the right of the witness box.

THE WITNESS: Okay.

MR. SHAW: One more, please, Omar.

A. There I am.

Q. And that's your signature, correct?

A. Yes. Yes, it is.

Q. And that document is dated December 19th, 2017?

MR. SHAW: If you go to the first page, Omar.

A. Yeah, that's what it says.

Q. So does that refresh your memory as to when you ceased becoming a limited partner in Acis?

A. That's correct. That's what this is: the assignment, transfer, and amendment agreement.

Q. Now, so we know that at one point until December 19, 2017, which was the day after the judgment was entered in the 44th District Court, you were a limited partner in Acis. Do you have any corporate-governance role in Acis?

A. "Corporate-governance role".

Q. And maybe I can ask a better question. Are you an

officer or director of Acis L.P. or Acis GP?
A. I don't know. Maybe.
Q. Do you know that Mr. Dondero is the president of Acis GP?
A. That sounds correct.
Q. And is there anybody higher in the organizational chart for Acis, than Mr. Dondero?
A. I don't have that chart in front of me. I'm -- you mean -- by "higher" -- what do you mean by "higher"?
Q. More senior than Mr. Dondero.
A. No, I -- I don't believe so.
Q. Now, your day-to-day role with Acis -- I think you described it a little bit that you have some role with risk analysis, et cetera; is that true?
A. Yes.
Q. Now, before Mr. Terry was terminated, he, in effect, ran the day-to-day operations for Acis, right?
A. He was the -- the head of the team. Yes.
Q. So he was -- he and his team were making the decisions on what loans to buy and sell and other of those kind of investment decisions?
A. In conjunction with our investment policies, our committees, and the oversight of myself and the rest of our partners, that's correct.
Q. You weren't involved in that, kind of, day-to-day minutiae, though, correct?

A. Well, I'm -- I -- I chair the investment committee and so any loan that goes into the CLOs is -- is something that has to go through those -- those committees. And so I -- I -- I do handle some -- some of the minutiae, even though I'm -- have a beard and I'm old.

Q. Well, you recall that you testified at the arbitration hearing in the underlying arbitration? You remember that?

A. Yes.

Q. And you remember that you were under oath during that arbitration proceeding, just like you were before today --

A. Yeah --

Q. -- correct?

A. Yes.

Q. Do you remember kind of describing yourself, with regard to your role with Highland and Acis, as the "outside guy", quote-unquote?

A. I -- I don't -- I don't recall what that is -- was referring to. I mean, when I -- when I -- when I refer to myself as the outside guy, I'm -- I'm the -- between Jim and I, I'm the extrovert, he's the introvert. And so I spend time with investors, I -- I go on TV, I do a lot of external activity for the firm.

So -- I don't remember specifically what you're referring to, but that's probably what that means.

Q. Right, and you do things like going and speaking at

conferences, is that right?
A. Yes, I do.
Q. And describe to me, if you will, the difference between what you do for Highland and what Mr. Dondero does for Highland.
A. So -- so Jim -- Jim is the -- the president and -- and a majority partner for the firm, so he -- he manages the firm, he -- he's helping us try to figure out what -- where -- where -- where -- where risk lies and where opportunities are, how businesses should be managed. And -- and he also has, as I do, specific fund-management roles. He's portfolio manager for specific funds, and so he'll -- he'll manage those.
But the -- the -- the difference between our activities is he's my boss, and then I tend to have more investor contact and -- and, sort of, media contact than he does.
Q. So Mr. Dondero's your boss; he's also the majority owner of Highland ultimately, correct?
A. He and his trusts and -- yeah.
Q. And when I'm referring to Highland, I'm referring to Highland Capital Management, L.P. If I say -- if we talk about another entity that's got the Highland name in it, I'll make sure to make that distinction. Can we agree on that?
A. Okay.
Q. Now, did you read the arbitration award that was issued in the Terry arbitration?

A. Some of it.
Q. And you're aware that Highland issued a press release after that arbitration award became public?
A. Yes.
Q. Were you -- did you play any part in drafting that --
A. No, I did not.
Q. -- press release? And just if you can; I know sometimes you can anticipate my question but, if you will, just -- that makes the record a lot clearer.
A. Sorry.
Q. Did you approve of the issuance of that press release?
A. It -- it wasn't something that I was involved in specifically.
Q. Now, are you familiar with the fact that there have been several transactions that have occurred after the arbitration was entered on October 20th, 2017, with regard to Acis?
A. What do you mean by "transactions"? I'm sorry.
Q. Well, let's go through those and I think I can probably help you out there. Can we go to Exhibit 173. Have you ever seen this document, Mr. Okada?
A. No.
Q. And this is the transaction I was talking about before with regard to ALF, Acis Loan Funding, where Acis was selling its interest in ALF back to ALF. Do you see that there? If you look at the top Acis Loan Funding is defined as "the

company," so anywhere the terms "the company" is used means ALF.

MR. FRITZ: Your Honor, I just wanted to ask Mr. Okada, would it be easier if we got you a hard copy to scroll through rather than the screen?

THE WITNESS: Yes.

THE COURT: You may.

MR. SHAW: 173.

(Pause)

Q. Let me just ask you this question, have you ever seen that document before?

A. No.

Q. So I take it you were not involved in the underlying transaction that is contemplated there?

A. No.

Q. All right. At the time that this document was executed four days after the arbitration award you were still a limited partner in Acis, right? Remember you transferred your Acis interest --

A. When you --

Q. I'm sorry.

A. You said Acis, you're referring to the manager, Acis Management?

Q. Yeah. When I say Acis -- I think you had the agreement with Mr. Fritz, that if we say Acis we're referring to Acis

Capital Management L.P., and Acis Capital Management --
A. Right.
Q. -- GP, LLC, can we have that agreement?
A. Yes.
Q. And so at the time that you executed this -- or at the time this document was entered into you were still a limited partner in Acis, right?
A. I believe that's correct.
Q. But you had no advance notice, and no knowledge regarding this transaction?
A. I had no knowledge.
Q. All right. Let's go to Exhibit 16, please.
MR. SHAW: May I approach, Your Honor?
THE COURT: You may.
THE WITNESS: We're killing a lot of trees.
MR. SHAW: It's the nature of our business unfortunately.
A. All right, 16.
Q. And if you would, just look through that real quickly, let me know if you have any familiarity with that document?
(Pause)
Q. Mr. Okada, I've got the signature pages up there on the screen if you look right there. Your signature's not there, correct?
A. No.

Q. Have you seen this document before?
A. Not that I remember.
Q. Now, let's go back to the first page there if you would. Are you aware of an October 2016 transaction, wherein Acis sold certain participation interests in CLOs that it managed to Highland in exchange for a promissory note?
A. I don't recall that.
Q. Are you aware of the fact that Acis had on its balance sheet as of October 20th, 2017 a promissory note that had about nine million dollars left to be paid on it from Highland Capital Management?
A. I don't -- I'm not familiar with that.
Q. So you never had any conversations with Mr. Dondero before he signed Exhibit 16?
A. Not that I can recall.
Q. And, again, you were a limited partner of Acis on November 3rd, 2017, correct?
A. Yes, I believe that's correct.
Q. Do you know who -- there's an entity here referenced Highland CLO Management Limited in the first paragraph on the first page. Do you see that there?
A. Yes, I see that.
Q. Okay. And that's a Cayman Islands exempted company. Are you familiar with Cayman Island exempted companies?
A. I'm familiar with Cayman Islands companies, I'm not sure

what an exempted company is, but --
Q. Do you know who Highland CLO Management Limited is?
A. Not off the top of my head.
Q. Is it a Highland affiliate?
A. I don't know.
Q. Do you have any ownership interest in Highland CLO Management Limited?
A. I don't know.
Q. All right. Exhibit number 16, if you go down to the third whereas paragraph. It says, "Whereas HCM has notified Acis that HCM is unwilling to continue to provide support personnel and other critical services to Acis with respect to the CLOs," you see that?
A. Yes.
Q. Were you involved in the decision on behalf of Highland to inform Acis that it was unwilling to continue to provide personnel in other critical services to Acis?
A. No.
Q. And, again, you were a limited partner as of November 3rd, 2017?
A. Yes.
Q. And you see the paragraph 4 -- I'm sorry, the paragraph 3, the third whereas. It says, "Whereas has determined that the effect of the notification is that it cannot fulfill its duties as portfolio management of the CLOs. And in order

ensure the continued operation of such CLOs and protection for its stakeholders it must assign its rights as portfolio manager in the CLOs to a qualified successor portfolio manager pursuant to the CLO documents." You see that?

A. Yeah, I read what you just read.

Q. Okay. And the next paragraph talks about that HCLOM is going to agree to be this qualified successor manager, right?

A. Yeah, that's what that says.

Q. Now, just in general Acis is an asset manager, right?

A. Yes.

Q. It's not a CLO, it's an asset manager, it manages CLOs, correct?

A. Yes.

Q. And an asset manager of CLOs, where does it derive its revenue from?

A. From the fees that it receives from managing assets.

Q. And where -- what document governs or entitles the asset manager to those fees?

A. It's usually and investment management or a management agreement.

Q. Right. So sometimes it's called a collateral-management agreement. Sometimes it's called a portfolio-management agreement. But those are essentially the same things; is that right?

A. Yes.

Q. Okay. And that is the source of the revenue for Acis?
A. Yes, in general, that's correct.
Q. And this November 3rd transaction Exhibit number 16, did Mr. Dondero consult with you before he executed this document on November 3rd?
A. No.
Q. All right. Let's look at Exhibit number 184, that's the Neutra document that we were discussing before. I'm sorry to go back and forth between exhibits. You didn't know you were going to get a workout.
Now we know you signed Exhibit 184, we looked at that before.
MR. SHAW: Omar, if you don't mind pulling that up too, go to his signature page.
A. Yes.
Q. Right. Who provided this document to you to sign?
A. Our internal legal counsel.
Q. And who in your internal legal counsel provided you that document to sign?
A. I think it was Thomas Surgent.
Q. Why were you transferring your partnership interest in Acis to Neutra one day after the judgment was rendered in the 44th District Court?
A. Because my counsel advised me to.
MR. FRITZ: Your Honor, I just would like to make

sure to instruct the witness don't answer a question if to do so would require you to disclose communications with your counsel.

THE COURT: Okay. You understand?

THE WITNESS: Yeah.

THE COURT: Um-huh.

Q. Do you have any other basis other than the advice of internal counsel at Highland for you to sign this agreement?

A. No.

Q. And was Mr. Surgent, who's the chief compliance officer for Highland, correct?

A. And the I believe deputy general counsel.

Q. And he's also the chief compliance officer for Acis, is that right too?

A. I'm not certain, but that probably makes sense.

Q. Now, was he representing you in your individual capacity?

A. I'm not sure I understand your question.

Q. Well, you're a partner in Acis Capital Management personally, correct?

A. Yes.

Q. Do you know whether or not Mr. Surgent was representing you, Mark Okada, individually, or was he representing Highland, or was he representing Acis, or was he representing Neutra, do you know?

A. I'm not sure I understand your question.

Q. Now, over the course of your partnership interest in Acis, started in 2011 and lasted until December of 2017, you received distributions from Acis, right?
A. I believe that's -- it happened.
Q. Right. Let's just look at Exhibit 23, page 3, if you could, just to refresh your memory. And it will come up here, and I don't think you're going to -- you probably won't need to look at it. If you can just look at it on the screen, I think this won't be easy?
MR. FRITZ: Mr. Okada, please free to look at the entire document in hard copy if you need to.
MR. SHAW: Can you zoom in on that.
Q. And you see there under the listing for equity there's Mark Okada draws, you see that there?
A. Yes, I see that there.
MR. FRITZ: We want to make sure you capture -- is there anything else? Thank you, Mark.
MR. SHAW: Can you zoom in -- or do you want to look at both pages, or --
Q. I mean, you don't have any reason to dispute that you've received distributions in excess of two million dollars from Acis from 2011 to 2017, do you?
A. I don't -- I don't -- I didn't -- I haven't seen this before, so, but it could be right.
Q. You've received distributions from Acis over the course

of 2011 to 2017, right?
A. Is that what this document represents?
Q. Well, I'm just asking the question, independent of that you've been a limited partner and you've received distributions from Acis over the course of its existence, right?
A. Yes.
Q. Now, do you own any of this Neutra entity, that's a Cayman entity?
A. I don't know.
Q. Did you discuss this transaction that's reflected in Exhibit number 184 with anyone other than counsel at Highland?
A. No.
Q. And your rationale -- I just want to make sure the record's clear, your rationale for executing this agreement is -- was solely based on advice of counsel?
A. Yes.
Q. And you understand, you have the right to invoke your attorney-client privilege on those particular communications, right?
A. Yes.
Q. And you're -- and I'm going to ask you the question, what did Mr. Surgent tell you about the rationale for entering into Exhibit number 184?
A. I'm not going to answer that.

Q. Thank you.

MR. SHAW: All right. Can we go to slide number 3. You guys were discussing slide number 3. And I think it should be big enough on the screen there.

Q. Now, you've been throwing around the term equity with regard to CLOs, right?

A. Yes.

Q. And that's also referred to in some circles as subordinated notes?

A. Yes.

Q. And when we talk about equity we're not talking about equity in Acis, the asset manager, right?

A. Correct.

Q. We're talking about the equity in the underlying CLOs?

A. Yes.

Q. Now, we have this chart here with the third-party forty-nine percent, you see that?

A. Yes.

Q. And you're familiar with the identity of that third party?

A. Yes.

Q. When did that third party make its investment in the equity of CLO-3?

A. Sometime in 2017, I don't remember the exact dates.

Q. After the litigation between Mr. Terry, and Highland, and

Acis started, right?
A. Correct.
Q. And was that third-party investor notified regarding the pendency of the arbitration in the various litigation?
A. What term did you use, pendence?
Q. The existence of it?
A. I believe so.
Q. And they knew coming in that there was this existing litigation, and they decided to invest nevertheless, right?
A. Yes.
Q. Now, under that is this charitable foundation that we've been referencing, this forty-nine percent. We've called that the DAF -- I know that there's another entity called CLO Holdco Limited, can we just call that the DAF; is that fair enough?
A. It's fine with me.
Q. Okay. And that's kind of loosely what Highland refers to is -- in shorthand is the DAF, right?
A. That's right.
Q. And that stands for donor advised funds?
A. Yes.
Q. All right. Who advises the donor advised fund?
A. To do what?
Q. Well, on investment decisions?
A. So the donor advised fund has a management contract with

Highland to manage its investments.
Q. And does Highland manage all the donor advised fund's assets?
A. I don't know if it's all of them.
Q. The original underlying assets that are -- that comprise the donor advised fund, what was the source of those assets?
A. Could you -- could you narrow that down a bit for me. What do you mean by "source?"
Q. What was the seed investment, the capital that initially capitalized the DAF, where did that come from?
A. It was a donation from Highland.
Q. And what type of assets were donated by Highland to the DAF?
A. They were primarily CLO equity, equity some debt.
Q. And that CLO equity and debt has performed well subsequent to that initial contribution, right?
A. I think it's done well. I don't know what you mean by "well" but that's a fair word.
Q. You're pleased with the performance of those -- those assets have increased in value from the time that they were originally contributed until now?
A. They have increased.
Q. Now, the DAF has what you call -- what you refer to as an independent trustee, right?
A. Yes.

Q. And that is Mr. Grant Scott, correct?
A. Yes.
Q. And Mr. Scott is Mr. Dondero's college roommate, correct?
A. I don't remember whether they were college roommates or not, but they -- he's known him for a long, long time.
Q. We talked about the charities that benefit from the DAF. You mentioned The Dallas foundation, but also the Santa Barbara Foundation as well, do you recall that?
A. Yes.
Q. And those foundations then make donations to various charitable organizations, is that right?
A. Yes.
Q. Now, one of the charitable foundations or organizations that the DAF assets eventually flow down to is the Dallas Zoo, correct?
A. We've made donations to the zoo.
Q. And when you say "we" are you talking about the DAF --
A. The DAF.
Q. -- or you talking about Highland?
A. The DAF.
Q. Now, when you go to the zoo, because I went to the zoo a few weeks ago with my son and wife, there is signage that says the zoo has been sponsored by Highland Capital Management, is that correct?
A. Yeah.

Q. And you're familiar with that signage and you're familiar with the fact that that is around the Dallas Zoo, right?
A. Yes.
Q. And Mr. Ellington I believe serves on some kind of board capacity with the Dallas Zoo as well?
A. I believe that's the case, I'm not sure if he's still on the board. But, yeah, in the past he has. I'm aware of that.
Q. And there's no mention of the DAF, or CLO, Holdco, or Mr. Scott, as somehow being a sponsor of the Dallas Zoo, right?
A. I don't think that's what the signs say.
Q. Same question for the Perot Museum. The Perot Museum is one of the ultimate beneficiaries of charitable contributions from the DAF, right?
A. Yes.
Q. And the signage there at the Perot Museum says Highland Capital Management, right?
A. Yes.
Q. Recently I saw a press release regarding a contribution made to the George Bush Presidential Library, are you familiar with that contribution?
A. Yes, I am.
Q. And that is held out as a contribution by Highland Capital Management; is it not?
A. I believe it's characterized in the same way as the other two examples that you brought up.

Q. But the money from that contribution came from this charitable foundation, this forty-nine percent, that owns ALF, or owns forty-nine percent of ALF, right?
A. Yes.
Q. Now, the DAF invests in a lot of Highland funds and various Highland vehicles, correct?
A. That's part of the things that they're invested in, that's correct.
Q. So the DAF is used, for example -- or had been used to invest in an entity or fund called CLO Value Fund, right?
A. I don't understand what you mean by the term "used?"
Q. The DAF invested in CLO Value Fund, right?
A. Yes, I believe so.
Q. All right. And that was a fund that was -- the portfolio manager of which was Acis Capital?
A. Yes.
Q. Now, going back to the first thing we talked about, which was this contemplated reset or refi transaction, now that transaction would require the equity to make an investment in order for that reset to happen, right?
A. Are you referring to the -- we didn't talk about, but there's a need to create a risk-retention-compliant management agreement. So the manager has to have equity in the new transaction, that's correct.
Q. And that risk-retention requirement that you're referring

to does that derive from the Dodd-Frank legislation?
A. I believe it's part of that.
Q. Are you familiar with a recent case out of the district or the court of appeals in the District of Columbia that says that CLO managers do not have to comply with that risk-retention requirement?
A. That's in process. There's been a ruling, and it's being -- we'll figure out if it's going to be appealed. But that's going on right now.
Q. So that issue is in flux at the moment?
A. Yes.
Q. Now, you said that there was a -- with regard to CLO 3 that there was an interest diversion test failure, do you recall that?
A. Yes.
Q. All right. There are things that the asset manager can do in order to fix that failure, right?
A. I don't know how you make a statement like that, but you're not an investment manager.
Q. I am not an investment manager, and you know much more than I do. And I know that Mr. Terry does as well. But, for example, if you were failing that interest diversion test, you can trade -- the asset manager can trade underlying assets, those loans, in order to meet that test, correct?
A. Maybe, possible.

Q. And while we're at it, Mr. Terry -- you worked with Mr. Terry for how many years, eight years?
A. It's quite a long time, yes.
Q. And Mr. Terry has quite a vast knowledge with regard to the CLO market, do you agree with that?
A. He's knowledgeable.
Q. Very smart guy, right?
A. Yes.
Q. I mean, he rose through the ranks of Highland. He started in a fairly low position and ended -- when he was terminated he was in a fairly high position at Highland, correct?
A. That's correct.
Q. Now, you talked about the controlling share class calling the deal, calling the CLO if a reset or refi did not occur, do you recall that?
A. I said that that's they hypothetical of what would probably happen, that's correct.
Q. Are you aware of that occurring with any of these CLOs that are of the vintage that we're talking about in the market?
A. I'm not aware of -- if your question is do I know what's happened with all the 2014 managed deals, whether they can call the reset back, I don't have that knowledge.
Q. Well, I mean, can you name one CLO that has been -- of

that vintage that has been called by the equity?
A. We had one, Acis CLO 2, that's been called.
Q. And when did that occur?
A. I think that happened in '17. But I don't remember the exact dates.
Q. And who was the controlling class in that particular CLO?
A. It was the equity.
Q. And the equity, is that the same split that we have here, this third-party investor in the charitable foundation, or who owned the equity?
A. That was outside of ALF.
Q. And was it outside of the DAF as well?
A. Yes.
Q. And who owned that equity?
A. I don't -- other institutional investors. I don't -- and I'm not -- I don't remember exactly who the equity holders are of that -- were of that transaction.
Q. Now, you are an employee of Highland Capital Management, right?
A. Yes.
Q. Does Highland Capital Management oppose this bankruptcy proceeding?
MR. FRITZ: Objection, Your Honor. That may or may not call for communications with counsel. So to the extent Mr. Okada's going to answer that question based upon

communication of counsel, I'll ask him not to answer. Instruct him not to answer.

THE COURT: All right. So answer the question if you can without revealing conversations with counsel.

A. And your question again, can you repeat that for me one more time?

Q. I lost my train of thought because I was looking at my notes.

A. Okay.

Q. Does Highland oppose this bankruptcy proceeding, without revealing any attorney -- anything that your attorneys have told you?

A. I don't know if I can answer that. This is all a legal proceeding in my mind, so everything that's happening here has been in conjunction with discussion with the lawyers. And you're asking about Highland Capital, I'm one of the partners there, but I don't control Highland. So it's a diff -- I don't know how to answer your question specifically. I mean, if you can ask it differently, I can give you a different answer.

Q. All right. You don't control Highland, who does?

A. In -- on average, it's Jim, in general.

Q. Now, going back to this reset/refi issue, there are a lot of CLOs out there of the 2015 vintage that have not yet refi'd or reset, isn't that true?

A. I have no idea.
Q. Who would know that?
A. I guess maybe industry research people, like Wells Fargo, Morgan Stanley, somebody like that.
Q. I mean, there are people at Highland that have more knowledge with regard to the current state of the CLO market than you, right?
A. I'm not sure what you're getting at there.
Q. Well, for example, Mr. Covitz, he's on the structured products team, right?
A. Yes.
Q. And he has taken over some of the responsibilities that Mr. Terry had while he was the portfolio manager at Acis, right?
A. Yes.
Q. And Mr. Covitz is in the "trenches" day in day out, right?
A. He has a more detailed day-to-day involvement than I do, if that's what you're getting at.
Q. Right. Mr. Covitz is not going on CNBC, he's not going to conferences, he's not -- he hasn't played that role, he's more in the operational day-to-day operations of Acis and the structured products team at Highland, right?
A. He goes to conferences.
Q. He does go to conference, sure. But he doesn't speak at

conferences like you do, he's not the public face of Highland or of Acis like --

A. He speaks at conferences.

Q. Okay.

MR. SHAW: We pass the witness.

THE COURT: All right, redirect.

MR. FRITZ: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. FRITZ:

Q. Mr. Okada, I want to ask a clarification question. In response to one of Mr. Shaw's questions, I think you said, and correct me if I'm wrong, that the reset couldn't go forward because Acis wasn't qualified. Can you please expound upon that?

A. So there's two things that have to happen when you do a reset. You got to reprice the bonds, you got to redistribute them in the marketplace. So the marketplace is going to make a determination of who the manager is and whether they find that manager acceptable. Acis does not qualify given all the noise around the legal disputes.

And then the other thing that has to happen, and because of the risk-retention regulation, is that Acis would have to come up with the capital to be able to invest in the new transaction if it was going to be the manager. Otherwise that deal is not risk-retention-compliant. And you can't issue

the -- you couldn't do the reset per the law.
Q. Did Acis -- I'm sorry, go ahead.
A. Per the law.
Q. Did Acis ever have the capital to make that commitment?
A. For CLO 3, no.
Q. Over --
MR. FRITZ: Hold on one second.
Q. I want to get back to this charitable foundation issue real quick if we could.
So Highland was essentially the seed money for the DAF for this charitable foundation?
A. Yes.
Q. Once Highland committed that money, could it take it back?
A. No.
MR. FRITZ: So if you would go to slide 4, Omar.
Q. And are these some of the charities that the DAF has provided funds to?
A. Yes, they are.
Q. And when Highland provided the seed money to the DAF, the DAF then invested it and made that money grow; is that correct?
A. Yes.
Q. When Highland gave that seed that money to the DAF was it ever intended to be an anonymous donation?

A. No.

MR. FRITZ: And with that on behalf of my six and eight-year-old as a co-founder of Highland, thank you for your donations to the Perot Museum and the Zoo. Pass the witness.

THE COURT: Recross?

MR. SHAW: Nothing further, Judge.

THE COURT: All right. Thank you, Mr. Okada. You are excused.

THE WITNESS: Thank you, Your Honor.

THE COURT: All right. It is 11:45. I said we'd stop at noon. Who is your next witness?

MR. CRUCIANI: Your Honor, we have two short videotapes to -- we reached an agreement with counsel rather than to call them, just to play their videotapes. I think they're about fifteen to twenty minutes each. And then after that will be Mr. Dondero.

THE COURT: All right. So shall we do one of those videotapes, and then --

MR. FRITZ: That makes sense.

THE COURT: -- we'll break. I mean, I -- if you all don't mind going a little past noon, I don't know if it messes up lunch plans, we can do both of the videos then break.

MR. FRITZ: We're indifferent, whatever the Court would prefer.

THE COURT: Everyone's indifferent?

MS. PATEL: Your Honor, we get lunch on the sixth floor, so it will probably be better because there won't be a rush.

THE COURT: Okay. All right. So we'll go ahead and do both videos and then break for an hour for lunch. Okay.

MR. FRITZ: 303.

THE COURT: Everybody hear that?

MR. FRITZ: Thank you, yes.

THE COURT: Okay.

(Video deposition of Brian Patrick Shaw played at 11:46:32, transcribed to the best of the transcriber's ability)

Q. Please state your name for the record?

A. Brian Patrick Shaw.

Q. Mr. Shaw, how long have you been a practicing attorney?

A. Since 2006.

Q. Why did Mr. Terry put Acis into involuntary bankruptcy?

A. I can't answer the question without violating the work-product or attorney-client privilege.

Q. You publicly disclosed those reasons, didn't you? Did you not publicly disclose the reasons you put -- Mr. Terry put Acis into involuntarily bankruptcy?

A. I don't understand your question.

Q. Do you recall telling Judge Goldstein why you did that?

A. I do not.

Q. Trial Exhibit 2. Do you recognize this, Mr. Shaw, as being transferred from the January 31, 2018 hearing in front Judge Goldstein?
A. It appears to be.
Q. Look at page 8, if you would, Mr. Shaw. Can you see per the transcript you begin speaking on line 13, do you see that, sir?
A. Correct.
Q. All right. And then on line 20 you represent to Ms. Goldstein -- Judge Goldstein "We have filed them into an involuntary bankruptcy. We did so because on Monday we received a sworn affidavit from Acis regarding their net worth." You see that --
A. I do.
Q. -- representation? Was that truthful representation you made to Judge Goldstein?
A. Was my statement on the record truthful?
Q. Yes, sir.
A. Yes.
Q. I'm handing you Mr. Klos' declaration, Exhibit 3. And the balance sheet attached to that, which is Exhibit 4. And would you just look at the transcript from January 30th where you refer to the sworn affidavit from Acis regarding your net worth, and that would be Mr. Klos' declaration to which you were referring, which has been marked as Exhibit 3, correct?

A. Correct.
Q. And what was it about that affidavit that caused Mr. Terry to put Acis into involuntary bankruptcy?
(No audible response)
Q. Now, you had requested that -- you argued to Judge Goldstein that basically everything would be hunky-dory as long as someone, including Highland, put out the eight-million-dollar bond, do you recall that?
A. I don't -- your characterization of everything is going to be hunky-dory if somebody puts up a -- the bond --
Q. Um-hum.
A. -- did I say that, I don't know. I mean, the transcript speaks for itself. I believe -- yeah, I made that argument, sure.
Q. Okay. What did you mean by that?
A. I can't answer that question without revealing my mental impressions, work-product, attorney-client.
Q. Well, I was just ask -- well, these are words you spoke, I want to know what you meant when you said everything would be hunky-dory?
A. I do not believe I ever said the word "hunky-dory." But if I did, I did.
Q. Well, okay. Do you have an understanding of what "hunky-dory" means to you?
A. Hunky-dory means everything is going to be fine.

Q. Okay.
A. I do not recall using the term "hunky-dory," it's not something that I use very often. If I said the term "hunky-dory," then I said the term "hunky-dory."
Q. Fair enough. And if you said it you would have inteded to mean what you just said, "That everything would be fine," correct?
A. I can't answer that question. It also invades the attorney-work-client and work-product privilege. This is what happens when you depose and attorney, you're going to get a lot of instructions not to answer based upon attorney work-product and attorney-client privilege.
Q. You're familiar with the list of creditors and everything on the two supplemental lists filed with the bankruptcy court, correct?
A. I am.
Q. Okay. And have you communicated with any of those creditors?
A. I have.
Q. So what I'm interested in is any discussions you had with them on any topic other than just that. For example, whether they were interested in joining Mr. Terry as the movants in connection with the involuntary?
A. Sure. So the only purported creditors listed in Exhibit number 5, for which I had discussions beyond transmitting

discovery and getting responses back is CSI Global Deposition Services, and the TASA Group Inc.

Q. So tell me about your discussions with CSI Global Depositions Services, who did you speak with or communicate with there?

A. Communicated with Brent Dobbs at CSI.

Q. Okay. And what position does he hold with that company?

A. I don't know what his title is.

Q. Did you know him by name prior to reaching out, or did you reach out and you were provided his --

A. Knew him by name.

Q. How did you know him by name?

A. We do -- we use CSI Global Deposition Services, my firm.

Q. Okay. And did you have a phone call or email or meeting with Mr. Dobbs?

A I had a phone call with him.

Q. When was that?

A Sometime after you guys filed your list of creditors. I don't know exactly when.

Q. What was the --

A And you're talking about with regard to this Acis matter, right?

Q. Yes, sir.

A Okay.

Q. Tell me what was discussed in that phone call.

A That they were listed as a purported creditor of Acis.
Q. Okay.
A And we made inquiry as to whether they would -- if they ended up -- if the Court ended up finding that they were indeed a creditor of Acis, if they would care to join in the involuntary bankruptcy.
Q. What did they say?
A They said that they would.
Q. Okay. Have they?
A They have not so -- for so far.
Q. Why not?
A I don't know.
Q. You then spoke with a lawyer, as I understand it, within the TASA Group?
A I did.
Q. Okay. Who was that?
A His name is David Seltzer. I think it's S-E-L-T-Z-E-R.
Q. And what was -- and did you ask him if he'd be willing to join Mr. Terry as a petitioning creditor?
A. I asked if his client, TASA Group, was interested in joining in as a potential creditor.
Q. What did he say?
A. I heard from him yesterday. He said that after discussing with their client, that they were -- were not interested in joining into the bankruptcy.

Q. Okay. Separate topic. Have you received substantive responses from one or more of the parties to whom you've served written deposition questions?
A. Received responses from CSI, but that were incomplete because we didn't have their -- they had not been served with -- or didn't receive their cross-questions. So I have received responses from CSI, but we're awaiting their cross-questions.
Q. Do you know whether those have been provided to Acis, the CSI responses?
A. I don't know.
Q. Did you provide them to Acis?
A I did not.
Q. Do you know whether CSI provided them to Acis?
Q. Is there a reason that you have discovery responses that you've received from one of the deponents that you've not provided those responses to Acis?
A. Yeah, that's -- it would be work product.
Q. Handing you Plaintiff's Application For Turnover Order and Appointment of Receiver I've marked as Exhibit 8. You filed this on January 29th in the state court?
A. Yes.
Q. And this went out under your firm's signature?
A. Yes.
Q. And you asked at the bottom of -- actually, page 4, you

say, "Mr. Terry requests the Court exercise its broad discretion to appoint a receiver over Acis to provide for the orderly and arm's-length liquidation of Acis' assets sufficient to satisfy the judgment, the cost to pursue this receivership and receivership fees.

The asset subject to sale include, but are not limited to, one or more of the management contracts. To the extent necessary to preserve the value of Acis, the receiver should also be empowered to obtain substitute shared-services and subadvisory providers in arm's-length transactions.

Mr. Terry requests the receiver be empowered to do all things reasonably necessary to preserve the value of Acis and satisfy the judgment and any other amounts that are appropriate under applicable law."

Did I read that correctly?

A. Yes.

Q. And is that the relief that you, in fact, were seeking from the state court?

A. The relief that we were requesting is contained in Exhibit 8.

Q. And you proposed a trustee, Kelly Crawford at Scheef & Stone?

A. Correct.

Q. Who is that person?

A. He's an individual that I spoke with that's a -- that has

served as a receiver in other cases.
Q. Do you know him?
A You know, I have run in to him on -- in to -- on one case, on the Life Partners bankruptcy that was in the Fort Worth Division. He represented some other defendants in an adversary case.
Q. What capacity did he serve in that case?
A. Counsel for a defend -- a co-defendant.
Q. Okay. Can you tell the Court -- you told the Court that "Mr. Crawford is supremely qualified to serve as a receiver in this matter."
Why did you believe that?
A. Based upon comments that I'd received from other lawyers with regard to his abilities as well as his curriculum vitae.
Q. And you say that "Mr. Terry anticipates that Mr. Crawford will engage professionals, including an investment bank, to market one or more of the management contracts or other assets of Acis in a manner designed to ensure the highest potential price for those assets."
Do you see that?
A. I do. What page are we on?
Q. Yes, sir. It's -- it's the page 5 of 66, right above "Conclusion."
A All right. I'm with you.
Q. Okay. Did you have a discussion with Mr. Crawford about

that? Or on what basis did Mr. Terry anticipate Mr. Crawford would do that?
A I don't know that I talked to Mr. Crawford about the necessity to engage an investment bank.
Q. On what basis did you represent to the Court that you anticipated that's what Mr. Crawford would do? Was it based on anything you discussed or was it on some other basis?
A I don't know that I can answer that question without revealing attorney work product, my mental processes with regard to my legal strategy and my legal opinion on that issue. So I don't know that I can answer that question. And also, attorney-client privilege.
Q. Well, you're not asserting any privilege vis-à-vis Mr. Crawford, are you?
A No. But to the extent that that statement was based upon attorney-client privileged information, then I can't answer the question.
Q. Just tell me about any discussions or communications you had with Mr. Crawford in connection with this matter.
A. I told him generally about the case. I believe I sent him a copy of our TRO and had him run conflicts to make sure that he was able to serve, and I think that's it.
Q. How many conversations did you have with him?
A. Probably three to four.
Q. Okay. Well, you filed the receiver application on

January 29th. So with that, can you try to place the dates of those conversations?

A. Prior to that time?

Q. Okay. Did you have any subsequent to filing the receivership application?

A. Yes.

Q. Okay. So let's -- tell me about the -- the dates, as best you can recall, the conversations you had prior to January 29th.

A. I reached out to him. I think I just minimally provided him with party information so that he could run a conflicts check. Once conflicts passed, we then had a substantive discussion with regards to what he or what his role would be if the Court appointed him. Obviously the Court has no obligation to appoint any particular person. They can appoint whoever they want. So we were making the suggestion as a proposed receiver, but that was simply a proposal.

I believe that once I told him about the substantive representation, you know, I think that he looked at the TRO and said, "Wow, these are some pretty audacious transfers that are happening right after the arbitration award," and that he would be willing to serve if the Court appointed him as a receiver.

I think his assistant sent me his CV, and -- and that is the extent of our communications prior to the filing of the

receivership. I don't know whether I sent him a file-marked copy of the receivership motion after I filed it -- or application after I filed it -- or not. I may have.

Q. Because for him to -- he was reviewing apparently a draft of what -- of the receivership application you were planning on filing that led him to believe these were some audacious transfers?

A. I sent him a copy -- I think a file-marked copy of the -- of the request for a temporary restraining order. So that sets out the facts --

Q. Okay.

A -- with regard to the transfers, which, you know, I think anybody would consider them audacious. But -- so, yeah, that's -- I think -- I'm pretty sure that's the document that he -- that I gave him initially, kind of, as background once he cleared conflicts.

Q. So you filed that on January 24th, the TRO. Do you recall that?

A. Yes, I do.

Q. So you would have sent that to him -- that -- that substantive conversation would have taken place on or subsequent to January 24th?

A To the extent that -- that the application for a TRO was indeed the document that I sent to him, yes, it would have had to have been subsequent to me filing.

I guess, you know, I'm thinking back upon other filings that were made that could have provided a similar background, which, you know, as you're aware, there are several that have a similar fact pattern. So it could have been any one of those, but I do believe it was the application for a temporary restraining order.

Q. Okay. So you had an initial preliminary discussion really more for conflicts purposes, identifying the parties. Then you had a second discussion that you've just testified to that sounds like it likely would have occurred sometime between January 24 and January 29th.

Is that fair?

A. I think that's fair, yes.

Q. Okay. Any other conversations with Mr. Crawford prior to the filing of the receivership application?

A. I -- not that I recall.

Q. Okay. And he indicated, based on that second substantive discussion, that if the Court were to appoint him, he'd be willing to serve?

A. Yes.

Q. Okay. And he had already indicated to you his views that these were audacious transfers. Was that his words or your paraphrase?

A. That's a paraphrase. So he was -- he certainly did not respond with "What's the big deal," and my recollection is

that he was complimentary of the drafting that was done and said that -- that it looked bad, the transactions looked bad, you know, the Cayman transfers, the fact that it was transferred days after the arbitration award, the fact that, you know, that they were transferring substantially all of the assets of the entity, you know, all the facts that you've heard that support the fraudulent nature of the transfers.

Q. And these were all -- this was the discussion you had with him prior to filing the receivership application on January 29th?

A. Correct.

Q. So you knew, when you were proposing Mr. Crawford, that he was favorably disposed of your view of the case -- audacious transfers and looked bad, et cetera, et cetera, correct?

A. I don't -- I don't know what was in his mind. I know what he -- he told me, and that's what I just recited. So that's to the extent of what I'm going to say.

Q. And it's a fair summary what he recited to you, that he was favorably disposed towards your view of the case of bad conduct, the fraudulent transfers, correct?

A I don't know how to answer that question. All I can tell you is what he told me. And in order for me to characterize what his view was, that he was favorably -- favorably disposed to our side of the case, I can't tell you that.

Q. But what you've told me is truthful so far, correct?
A. Correct. And you can -- you can -- you can draw your own conclusions, but I'm not going to draw it for you.
(End of video deposition excerpt of Brian Patrick Shaw)
MR. CRUCIANI: That concludes the deposition excerpt for Mr. Brian Shaw.
THE COURT: All right.
MR. CRUCIANI: And we now have Ms. Rakhee Patel.
And, Your Honor, we do have a transcript that it would probably make sense for the record if we could mark that as an exhibit and submit that into the record as a housekeeping matter later.
THE COURT: Okay. Any objection to that? Okay.
UNIDENTIFIED SPEAKER: No objection, Judge.
THE COURT: We'll look for it later.
(Video deposition of Rakhee Patel played at 12:06:42, transcribed to the best of the transcriber's ability)
Q. So other than that one email that gave you the list of entities from which you could run your informal conflict check, you had not been provided with any documents as of the time of this phone call on January 25th or 26th?
A. That's -- that's correct.
Q. And you had not spoken to Mr. Terry at that time?
A. That's correct.
Q. Now, had you -- by the time you -- you arrived at the

meeting, had you read all the documents that you were sent on January 29th or did you wait until January 30th to read them?
A. I -- by the time I arrived at the meeting, I had read all of the documents, but I read them early morning on the 30th.
Q. Okay. So you didn't start reading anything until the morning of the 30th pre-meeting?
A. That -- that's correct. My best recollection is that the reason why we had to have a meeting on the morning of the 30th is because I was otherwise disposed the entire day of the 29th.
Q. Okay. And so while things were collecting in your mailbox on the 29th, you didn't actually open and start reading them until prior to the meeting on the 30th?
A. Well, I -- I may have read it the eve -- late evening of the 29th, but -- or it may have been first thing in the morning on the 30th.
Q. So you're in a meeting on January 30th that started sometime around 9:00 or 9:30 in the morning. How long did the meeting last?
A. A few hours. At least until the lunch hour.
Q. And when -- in terms of the purpose of the meeting, had the decision to file an involuntary been made by the time they came to meet with you or they -- or was that a potential path of action that was to be discussed? In other words, did they say we need to file an involuntary, let's hire Rakhee, or did

they say let's go see what Rakhee thinks we should do. You understand the distinction I'm drawing?
A. Yes. I do not believe that a decision to file had been made. I believe that the purpose of the meeting was to get my advice and counsel with respect to whether an involuntary would be appropriate under the facts and circumstances.
Q. Now, at the time you -- you all sat down in the morning of January 30th, you weren't retained yet; is that right?
A. That's correct.
Q. Okay. When did that happen?
A. Later that afternoon.
Q. Your conclusion that for purposes of Section 303 eligibility, Mr. Terry could be a sole petitioning creditor because Acis -- both Acis entities has less -- had less than twelve creditors was based solely on your review of documents on January 30th; is that correct?
A. Yes. And I'll also add as the documents that -- that underlie my opinions here, as the -- the -- I'll call it the -- the arbitration in the state-court pleadings that I reviewed that day.
Q. Right. That's -- that's included in the universe of documents?
A. Included in the universe of documents.
Q. At some point on January 30th, based on everything you reviewed and based on everything that was discussed, did you

advise Mr. Terry to file the involuntary petitions?
A. The fact is the involuntary petitions were filed on January 30th. I think that probably provides your answer.
Q. I want to -- it does, but I'm -- I'm more interested in when. When did -- when did --when -- when on January 30th was the decision made to file?
A. I don't recall a specific moment that the decision was made to file, because as with all things, there's work performed in the -- in the run up to it. And as with all things, again, anyone could change their mind until the moment that we filed. But shortly before the filings, it was definitive that -- that we were filing.
Q. Okay. Let me -- let me back up. Was a decision made to file before Mr. Terry and Mr. Shaw left your office?
A. No.
Q. Okay. Was a decision made to file --
MR. USTAINE: Strike that.
Q. What time of the day did you get your engagement letter signed?
A. Oh. Engagement letter, it was midafternoon. I don't remember the exact time.
Q. Was a decision made to file by the time you got your engagement letter signed?
A. I think by the time the engagement letter was signed and returned to the firm, it was more assured than not that the

involuntaries were going to be filed.
Q. So when -- I mean, did you -- did there ever come a time on January 30th where you expressed to Mr. Terry or Mr. Shaw or both of them -- hey, I'd like to have more time before we make the decision to file. I've got a lot of stuff I've got to review. I've got to look at some issues. I'd like more time.
A. Could I see the transcript from Mr. Terry's deposition yesterday? I'd like to --
MR. USTAINE: It's okay with me.
A. -- re-read the questions
MR. USTAINE: I think --
A. -- that the privilege was waived to.
MR. USTAINE: I mean, it's -- yes. The answer is yes, you could. They're highlighted somewhat there, but I'm not sure it's going to give you a perfect understanding.
MR. CAMPBELL: Just to be clear, the witness is reviewing a binder that contains a rough draft --
MR. USTAINE: Correct.
MR. CAMPBELL: -- of Mr. Terry's deposition. It's not been marked as an exhibit.
MR. USTAINE: Also correct.
A. Okay. I -- I don't think these are the questions that --
Q. You've got to flip through wherever the tabs are.
A. You're right. Okay. I --

Q. They kind of exist in a few different places.
A. I took -- I was reading the highlighted as you had indicated but -- okay. Here we go. All right. Got this. Okay. That was the first one.
(Witness reviewing document.)
A. I will -- I don't believe that the response to the question falls within the scope of the waiver. So I will answer with my mental impressions, which was just that --
Q. Okay. That was my next question anyway.
A. -- I didn't believe that in my mind -- I didn't believe in my mind that time was an -- was something available for me to request. It would be akin to me just walking out on the street and saying, Can I please have an Aston Martin? There's -- it wasn't -- it's just not an option.
Q. Why is that?
A. Well, because -- well, we -- the transaction was closing on February 1st, and again, in any mind, I wanted -- I thought it most prudent to file the involuntaries, seek immediate 303(f) relief and address -- address the situation on that path. So and -- I could have --I could have said at any given point, I'm sure, like, can I have another hour or two. But did I think to myself, oh, well, let's see if we can't deal with this in a -- in a week or two, that just wasn't something that necessarily was in my mind.
Q. Because you didn't think it was just available under the

time line that you were facing?
A. I just didn't think it was available under the time line.
Q. Did you advise Mr. Terry that the law on the special circumstances exception was uniform throughout the country? Or did you tell him that there was a split, that some courts apply it and some courts don't? What did you tell him in terms of the state of the law of the special circumstances exception such as it is?
A. I told him that that's the law in this district.
Q. Binding precedent in this district is that there is a special circumstances exception to both numerosity and generally not paying their debts as they become due?
A. I -- the cases say that there is a special exception, and I believe the language is that special except -- special circumstances exception is a exception to the technical requirements of 303.
Q. I get what it says. My question is did you tell him that was the law and -- and this judge had no wiggle room, she had to apply it? Or did you tell him that some bankruptcy courts apply it and maybe some courts don't?
A. I don't think I opined on that either way.
Q. Okay. Fair -- fair enough.
A. The case law is the case law.
Q. The case law is the case law. So let's talk about where -- what are the case where the special circumstances

exception lives. Norris?
A. Right. I believe I referenced them.
Q. Moss?
A. Norris, Moss.
Q. Smith?
A. Smith.
Q. Okay.
A. In this district.
Q. Okay. Now, are any of those --
A. And there may be -- there may be unreported opinions as well, but I'm not --
Q. Okay. Are any of those cases binding on this judge?
(Pause)
A. I don't know definitively.
Q. Well --
A. But I think perhaps not.
Q. Okay. Because they're authored by sister or brother bankruptcy courts, right?
A. Yes.
Q. Okay. And Judge Jernigan herself hasn't written on this issue; is that correct?
A. Not as far as I am aware today, subject to the caveat that, again, there may be an unpublished opinion of which I am unaware.
Q. Okay. Putting that -- accepting that caveat, okay, did

you advise Mr. Terry that there was a risk that while you might have grounds for special circumstances, for example, if you were in Judge Hale's court, okay, that Judge Jernigan may say I don't believe in the special circumstances exception? Did you so advise Mr. Terry?

A. No.

Q. Have you ever in your career filed an involuntary petition on the same day that you were retained?

A. Other than this matter, I can't recall. And I'm happy to explain that -- why I can't recall, because I've only ever filed or been a party to a filing of one other involuntary.

Q. Do you know what Mr. Shaw told the creditors?

A. I do -- only by virtue of my conversations with Mr. Shaw, which I believe would still be covered by the work product.

Q. Did he tell you what he said? Did he say, Ms. Patel, here's what I told the creditors?

A. I don't know if he told me everything that he told the creditors, but he has advised me as to at least some of the substance of his conversations he had with some creditors.

Q. What did he tell you he said to the creditors?

MR. CAMPBELL: You can answer that one.

THE WITNESS: I can answer that one?

A. Well -- well, he at least advised them that -- of the consequences of -- of joining the petition under Section 303, and that --

Q. And what --
A. And that there's a pending claim by Acis for bad faith and attorneys' fees and costs and that by joining that -- that any joining creditor will potentially subject themselves to the same claims.
Q. Okay. And based on that, no surprise, no one has joined today?
A. As -- as we sit here today, no one has joined.
Q. Okay.
(End of video-deposition excerpt of Rakhee Patel)
MR. CRUCIANI: That concludes the deposition of Ms. --
THE COURT: All right. We will recess. Come back at 1:20. Okay?
UNIDENTIFIED SPEAKER: Thank you, Judge.
THE COURT: All rise.
(Recess from 12:21 p.m. until 1:22 p.m.)
THE CLERK: All rise.
THE COURT: Please be seated. We are going back on the record in the Acis trial. Are you ready to call your witness?
MR. CRUCIANI: Yes, Your Honor. Just, perhaps, a quick housekeeping matter. I have Mr. Shaw's transcript. It will be Exhibit 195 and Ms. Patel's Exhibit 196. If I may hand up to you?

THE COURT: You may approach.
THE CLERK: Was that Shaw 195?
MR. CRUCIANI: Yes.
THE CLERK: Patel 196?
MR. CRUCIANI: Um-hum.
THE COURT: All right.
MR. CRUCIANI: We call Mr. Jim Dondero to the stand.
THE COURT: All right. Mr. Dondero, if you could approach our witness stand I'll swear you in.
Please raise your right hand.
(Witness sworn)
THE COURT: All right. Please be seated.
DIRECT EXAMINATION
BY MR. CRUCIANI:
Q. Good afternoon, Mr. Dondero. Could you please state your name for the record?
A. James David Dondero.
Q. And who is your employer?
A. Highland Capital Management.
Q. What is your title with Highland Capital?
A. I'm president.
Q. Can you give us just some background on where you grew up kind of, family members and all. Just tell us a little bit about yourself, if you would.
A. I was born in Hoboken, New Jersey. Went to high school

in Bergen County, Northern New Jersey. Went to University of Virginia. Graduated in '84. Beta Gamma Sigma, Beta Alpha Psi, top four percent of the class at Virginia. Got my CPA, CFA, CMA exam. Worked for Morgan Bank, American Express, and in Protective Life for a while before setting up Highland in '93, '94.

Q. Okay. And Mr. Okada gave us a little bit of a history of Highland, and so we can dispense with that. We already have that in the record.

Tell us, in your capacity as president of Highland, generally speaking, what are your duties?

A. To provide oversight, guidance, coordination, strategy, in terms of different business initiatives.

Q. Okay. Now, the subject matter of this proceeding involves, among other things, the CLOs. How significant of a player is Highland in the CLO industry?

A. We were one of original founders. We did one of their first CLOs back in the mid-nineties. We were very large players prior to the crash. The crash created some complexities in the business. The -- our portfolios were over-weighted in some bad Credit Suisse deals, which ended up having more volatility and -- more volatility than CLOs in general, which hampered our ability to do CLOs post the crisis and under the Highland brand, so we rebranded under Acis.

Q. And are you experiencing that same dynamic now in terms

of back then you rebranded from Highland to Acis, and now you're rebranding from Acis back to Highland?
A. Yes. Almost exactly. The old Highland deals have phoenixed back, and the Acis brand is tainted largely by litigation and Josh Terry publicity, you know, and to a lesser extent, you know, the performance of the Acis deals has been average.
Q. Okay. All right. Now, what we've seen a lot of references to offshore entities throughout this proceeding, Cayman Islands and elsewhere. Why is that? What is it about the CLO industry that causes that phenomenon?
A. The entire CLO business, ninety-nine percent of it, is based in the Cayman. They're structured vehicles that depend on niches in the tax code that allow you to create, essentially, a synthetic bank in the Cayman Islands, with the entity itself not paying taxes but being a pass-through, essentially, a PFIC or whatever. But it's -- it grew up in the Cayman Islands, and virtually a hundred percent of the business is in the Cayman Islands.
Q. And we may use some jargon, and just to have a clear record, you said a PFIC and a "synthetic bank". Just so we know what you're referring to, can you tell us what either of those are?
A. Sure. Passive foreign income. That's a section of the Tax Code, you know, that you have to be -- you have to be

compliant. You have to buy loans that are existing, et cetera. But essentially you buy a pool of loans, and then you finance them with a series of securities, you know.

So you buy a hundred million dollars of loans, and then you finance it with ninety million of debt and ten million of equity. And then the debt is -- the ninety million of debt is tranched into a AAA tranche or a AA tranche, a A or a BBB tranche.

Q. Okay. And again, just for your edification, and I think Mr. Okada, kind of, went through that whole structure, so just for the sake of not being repetitive I'm not going to go over that with you in any detail. Are there other types of either industries, other types of financial products that Highland has -- is a material player in -- besides the CLO industry?

A. Oh, sure. Institutional and retail products in a variety of -- we have a reinsurance company in Bermuda and the Cayman. We have a corporation that does largely marketing and business development in Singapore. We do retail funds in the U.S. We do some hedge funds in the U.S. We do real estate and REITs in the U.S., and we do institutional money management in the U.S. also.

Q. And you mentioned institutional and retail. Can you explain a little bit what the distinction is there?

A. Retail products are generally '40 Act funds, and, you know, some of them are REITs or real estate investment

trusts -- operate under a different section of the Code. But they're products geared for retail investors, you know, mom and pop investors making 5, 10, 50,000 dollar investments, you know, liquid listed on exchanges. That's our retail business.

And then the institutional business is more sophisticated qualified investors in private accounts.

Q. Okay. All right. And I know that the ownership and organizational structure is complex, but can you explain, generally speaking, who owns Highland Cap?

A. Sure. Mark and I have been seventy-five/twenty-five partners since the beginning, essentially. There were times pre-crisis we brought in minority partners for ten percent of the business, but since then we've bought out those partners and they've retired.

About three years ago we sold Highland to a -- essentially what's a charitable remainder trust is a good way to describe it. We sold it for noncash. Mark and I both got a note that Highland has to pay back over time, and Highland's been making payments on it. The note is principal and interest.

It pays Mark and I over a fifteen-year period, and then after that fifteen-year period the value of Highland or the remainder amount goes to charity.

Q. So after fifteen years, what exactly happens to your ownership or Mr. Okada's ownership in Highland?

A. Well, we've already sold our ownership. It's a hundred percent owned by the remainder trust. But, like I said, we're capturing in the payoff of the note most of the value. Once we've been paid off, the charitable remainder trust goes to -- and we can add additional charities to it, but right now it defaults to Catholic Charities --

Q. Okay. Now, there's been a lot of discussion about Highland affiliates in this matter. Do you have any estimation of the number of Highland affiliates within the corporate family?

A. I know we're set up -- I mean, I know our -- I know our K-1s are more than a thousand. We have 1,500, 1,800. Maybe more.

Q. And why is it? Why is Highland structured to have so many entities?

A. It's by necessity. Each retail fund, each institutional investor, each property, each development project we do when we build something requires its own entity. A lot of times a single entity, oftentimes a holding company entity that captures multiple partners, but for sure a specific entity. And it's driven by the market. I mean, it's, you know, the -- if you're, like, we're building a project in Phoenix. The lenders to that project, we're providing a construction loan. They don't want it to be an amalgamation of other things. They want it -- they want an entity that has just that piece

of land, just that project in it, you know, et cetera. And so that becomes an entity.

And then we have partners in the equity in that deal, so ended up creating an entity on top of that, which brings in the other partners.

Q. So one deal may spawn multiple entities for a single deal or a single project?

A. And I think that's typical, yes. You're correct.

Q. And are those sometimes called SPVs or special purpose vehicles?

A. Yes.

Q. Okay. Now, do these Highland affiliates typically have or not have employees?

A. It depends. Sometimes they'll -- a lot of times they'll have none, you know, like that development project on Camelback Road in Phoenix. You know, it has no employees, and it's serviced by Highland employees under either direct billing or a shared-services agreement.

Sometimes it'll be like our office in Singapore, where it has one employee, but he's doing marketing and business development. And all the other necessary services like accounting and tax and -- are handled via some shared-services agreement via Highland.

Q. Okay. And are you typically an officer in these entities?

A. Yes. I mean, ultimately it becomes partnership accounting, but somebody has to sign for the partner, and generally the GP is either Highland, and I'm signing for Highland, or -- yeah, I mean, usually the GP in some form or fashion is Highland, and I'm signing for Highland.
Q. And we'll talk about, sort of, signature authority in a little more detail, but as you understand it, who, absent you delegating them permission to sign on behalf of Acis, who has permission to sign on behalf of Acis?
A. There's never more than three parties or three equity -- or three equity owners of Acis at its maximum: myself, Okada, and Josh Terry.
From the very beginning I was the only one that had signing authority when Josh was a member and after Josh was a member.
Q. Okay. And so has that always been the case, that you've been the lone person with signing authority, absent your delegating that to someone else?
A. Yes.
Q. And what about Highland presently? How many individuals have signature authority at Highland, again, absent delegation?
A. Two or three.
Q. Okay. And is that why we'll often see you signing documents on behalf of Highland and an affiliate?

A. Yes.
Q. Okay. With all these thousands of affiliates, do you make it your personal mission to attempt to keep track of the ownership structure of each of these affiliates?
A. No.
Q. Who or what department is typically in charge of maintaining the corporate formalities and such with respect to the ownership structure?
A. Yeah, that's -- that's the important question. It comes from -- what does it take for somebody to hit my desk for a signature? What's the protocol? And everything comes through legal department. I think -- especially post the financial crisis, but post Dodd-Frank and post the regulatory burden increasing for the last ten or twenty years, I mean, a firm like ours has half a dozen people in compliance, you know, and we have a -- and, you know, a firm like Citibank will have floors of people in compliance. But everything runs through compliance nowadays, where compliance is weighting issues between funds, duty and care to investors, and regulatory compliance.
Q. Okay. And we'll talk about compliance again in a little more detail as well.
But let's turn to Acis. Do you recall approximately what year Acis was formed?
A. Post the crisis, 2010, 2011.

Q. And what role did Mr. Terry have in connection with the formation of Acis?
A. He was one of the original partners, myself and Mark Okada and him. He was responsible for building the CLOs or getting the CLOs priced, so to speak. You know, getting the liabilities priced and then working with Trey and our investment professionals to put the portfolios together.
Q. And we've likewise seen some very complex organizational structure for Acis. What role, if any, did Mr. Terry have in setting up all that complex web of organizations for Acis?
A. He worked with outside counsel. It is very complex from post Dodd-Frank, and it's complex from a tax standpoint.
Q. And testimony has been that Mr. Terry was the portfolio manager of Acis. Was that correct?
A. Yes.
Q. And what are the duties of -- what were his duties as portfolio manager?
A. Keeping the cash balances spent in the CLOs, because things pay off and different loans will reprice, and keeping the portfolio balanced and diversified, which is part of the collateral-management agreement.
Depicting the underlying credits was something that was separate and done by, you know, Trey Parker and the investment staff. We have ten or fifteen people on the investment staff that are mastering different industries and looking at, you

know, individual investments, you know, and there's only two or three people in structured product that would -- that worked under Josh when he was there, so they weren't doing the individual credits. They were just balancing the portfolio and making sure the portfolios were compliant with the CMAs.

Q. And you've mentioned structured products. What is the structured products group? What do they do?

A. They're the ones pooling the loans together in a pool. You know, putting together, say, 500 million of them, and then working with Mizuho, Goldman, somebody to come up with the ninety percent financing and issuing the AAA securities and AA securities, and the BBB securities.

Q. And you mentioned this ninety/ten. Is that, sort of, an industry standard?

A. That's typical, yes.

Q. And where does the -- in the Highland or its affiliate deals -- where does the ten percent equity come from typically?

A. As far as Acis is concerned, virtually all the equity came from either the DAF or from the large institutional investor that we partnered up with a couple of years ago.

Q. And who presently are the key Highland managers in that structured products group?

A. Well, replacing him on the portfolio-management side has been Hunter and Neil, and then, you know, replacing him on

some of the structuring underwriting side has been Dave Simek.
Q. All right. And when Mr. Terry was at Acis, was he a part of that structured products group, or when he was at Highland, was he a part of that structured products group?
A. Yes. He led that group.
Q. And can you give us a sense of how many loans or industries that that structured products group covers?
A. Typically each transaction would be 150 different investments. And if there were 6 or 7 transactions, there'd be overlap between Acis 1, Acis 2, Acis 3, so there'd be some credits that were in all of the deals, so you can't just say 7 times 150. You know, probably -- because again, there's overlap -- maybe there were 6 or 700 credits in total. But again, the individual names or the individual credits were being selected and picked by Trey Parker and his group.
Q. Okay. And when Highland makes an investment, was it common for Acis to more or less piggyback on a Highland investment?
A. Yes. I mean, because again, the competency to select individual loans and pick individual investments was in Trey Parker's area. In the structured product group, nobody in that group other than, I think, Josh had spent a couple of years in credit early in his career, but nobody else in that group had ever analyzed individual investments, and they were piggybacking off of the Highland portfolio selection or

investment selection.
Q. And how, if at all, does it benefit Acis to be able to rely on the analysis of the Highland employees in terms of deciding what loans to put into the CLO?
A. It's critical. I mean, it's -- the fees that CLO managers have gotten over the years have come down enormously, and if it wasn't for being able to lean on those services from Highland at a relatively cost effective basis, there would be no profitability at Acis if Acis had to hire fifteen or sixteen analysts.
Q. And let's talk a little bit about your Acis duties or positions. Do you know what offices that you hold within Acis?
A. I believe I was the president there also.
Q. And do you have any day-to-day management responsibilities to speak of for Acis?
A. No. I didn't then, and I don't now.
Q. What, historically, have been, to the extent you have them, the duties that you performed on behalf of Acis?
A. Strategy. You know, when to refinance or not refinance a deal, when to price a deal, when the market is attractive to put a pool of loans together. Helping select, you know, underwriters. You know, coordinating our marketing team with the structured products team to try and raise money from third-party investors.

Q. Okay. Now, let's talk about -- we talked about your beneficial ownership and the structure of that ownership in Highland. On a percentage basis, what is the split between you and Mr. Okada on the Acis side from ownership?
A. You know, automatically when people leave Highland they give up their interest in any entities at Highland. So when Josh left his interests were split between Mark and I, and Mark and I fell back to that seventy-five/twenty-five percent virtually immediately when Josh left in Acis.
Q. So when you have transaction involving Highland on the one end and Acis on the other, do you have any financial incentive to favor one over the other?
A. No.
Q. Another entity that's been mentioned is the Dugaboy Investment Trust. What is the purpose of that trust?
A. It's an estate planning. It's a perpetual Delaware trust. It's -- I'm their trustee as long as I'm alive, and then it spills into my children.
Q. And who are the beneficial owners of that trust?
A. I am until I die, and then it spills into -- it's -- the primary purpose of the trust is generation -- as far as I understand it, it's generation skipping, and it uses part of your exemption.
Q. Okay. Now, given the way that we have these structured and your signature authority, does that give rise to potential

or real conflicts of interest in the ordinary course of Highland doing business through its affiliates?

A. Yeah, we touched on this a little bit earlier. I mean, that's why I said, you know, nothing -- nothing gets signed organizationally until it goes through compliance. And compliance is -- again, going back to Dodd-Frank, compliance, and your compliance officer has personal liability for anything that's improper or fraudulent, right? Like, that's what Dodd-Frank did. It stepped up the chief compliance officer to have the same personal liability that C-Suite executives, CEOs and CFOs, have in public and private companies.

So the chief compliance officer is very empowered in our organization and every financial services organization. So he's looking at things carefully in their fairness, their spirit. A phrase they use all the time, but whenever someone tries to get too clever, is you can't do something indirectly that you can't do directly, you know. And the chief compliance officer is weighting any conflict between different Highland entities, if we own -- also own debtor equity, making sure it's fair, and really holding tantamount responsibilities we have to investors. Because in the big scheme of things, from a regulatory perspective, regulators don't really care if the mix between a different Highland entity is up by a penny or two. But if anything is done to impair or disadvantage an

investor, they will come after you for that, and you can go to the big house for that. So that's how I would describe their role.

Q. And who is that chief compliance officer at Highland?

A. For almost a decade now it's been Thomas Surgent. But again, he has a staff of at least -- at least three or four, maybe five people working for him, checking everything.

Q. Who does he report to?

A. Well, again, in some sense he reports to nobody. I mean, he reports to -- I mean, he -- he has that much power, you know, period, and I don't do anything about running anything without running everything through him.

I think as far as staffing and operations, he reports up through legal and reports up through Scott Ellington.

Q. What type of access does Mr. Surgent have to you personally?

A. Immediate and constant. He's in my office two or three times every day.

Q. And in the grand scheme of things, and you perhaps touched on this, how -- you have different departments with Highland: front office, back office, accounting, legal, whatever. How important is the compliance department within Highland?

A. Like I said, it's critical. You know, like if we have, like in this case, a former employer that goes to the SEC

three or four times and, you know, complains or makes up stories, you know, he has to be able to dialogue with the SEC. He needs to be able to prepare and coordinate, you know, any responses or any information that they need. It's critical.

Anytime we get an institutional client, the first thing they diligence is the soundness and independence of our compliance office. You know, so it's a real job.

Q. And I take it that conflicts will typically involve legal issues of some kind?

A. Yes.

Q. Are you an attorney?

A. No, I'm not.

Q. Are you, in your mind, qualified to be the one making legal decisions on how to handle conflicts?

A. No.

Q. Now, you're at the top, I think, of the organizational chart for over 1,000, perhaps over 2,000 different entities. How, in general, are conflicts or potential conflicts handled, given these vast number of entities within the Highland structure?

A. Typically, if there's -- there are two sides or two different entities, typically there's an advocate for each side. And they typically, the advocate for each side understands that it needs to be fair. But the advocate for each side ends up presenting or dialoguing with Thomas Surgent

on the final splits. And then he -- he looks at it carefully, and he -- he opines on the -- on any -- anything that overlaps or any final split.

Q. Okay, assume that a certain transaction is not in Highland's best financial interest, but is in the best interest of its equity investors. How in general would that type of conflict be handled?

A. Yeah, I -- I use the word "tantamount" (ph.). Maybe first priority or -- or trium -- it's -- it's -- it's -- it's not an equal -- it's -- it's a -- it's a clear priority to investors. It -- it's -- it trumps any interests or any competing interests of Highland funds, period.

Q. And assume that there was a particular transaction that was not in Acis's financial interest to engage in, but it was in the interest of the investors. How would that be handled?

A. The first and foremost responsibility is to -- is to investors, and the liability from clear regulatory statutes and whatever would be on the manager or anybody who didn't -- or moved adverse to the investors.

Q. Now, have -- you're familiar with the CLO 3 reissuance that was scheduled to close on February 1st, and for obvious reasons did not; you're familiar with that?

A. Yes.

Q. Now, did the investors indicate their interest in proceeding with that transaction?

A. Oh yes.
Q. All right, now, you understand that Mr. Terry argues that as a judgment creditor of Acis it was not in his interest or Acis interest for that transaction to go forward; do you have that understanding?
A. I didn't know he'd be crazy enough to argue that. That'll get you -- that'll get you to --
Q. Okay.
A. -- to the big house.
Q. But just -- just assume for the moment that Mr. Terry's position is because Acis is not getting anything for the transfer of these collateral-management agreements that this transaction should not go forward. Assuming that's his position, how would you reconcile that position with the position of the investors of I want this deal to go through?
A. The investor wishes have to be respected, period. And I think the -- what's happened in the market is two things, right. Like, the -- the cost of borrowing to ninety percent has come down monumentally, like, mortgage rates coming down from five, six percent to two or three percent, right. There -- there's that aspect, but the other aspect is the pool of loans that are being financed used to yield LIBOR plus three, LIBOR plus four, five, six, seven percent.
But as the economy has gotten better, the rates on those have compressed a lot. So what's happened in the equity

investors are getting squeezed by two things. They're getting squeezed by their funding costs are too high and need to be reset lower, but they're getting eaten alive because their assets don't yield as much as they used to.

So every -- every day that goes on where the deals aren't refinanced, the returns to the equity investors are materially less, if not zero, compared to what they would be otherwise.

Q. Okay, and we'll probably return to that in just a bit. Let's talk about duties. Do you understand whether Acis owes a fiduciary duty to anyone or any entity?

A. I -- Acis as the collateral manager signs a collateral-management agreement with each of the CLOs to do its best managing and optimizing the CLOs. So by not refinancing them, it's not -- it's either directly or indirectly violating or violating the intent or the spirit of that collateral-management agreement.

Q. Let's get back to signatures for a minute. Do you have any just ballpark estimate of the number of corporate documents that you sign as officer for Highland or Highland affiliates in the course of a given year?

A. A few hundred a week, I probably signed thirty this morning.

Q. And describe the process on how that is typically carried out in terms of whether you sign or have someone else sign, or do half, whether you typically read the documents or don't

read them. Just give us a general flavor of the thirty documents you signed this morning, how that was carried out.
A. The documents I signed this morning, one was an MOU to partner with a Brazilian latex farmer to form a joint venture on a latex glove company that we have in Brazil that was written in Portuguese.

I also signed a letter of intent on a RIA, registered investment advisory firm out of Denver that we're going to (sic) due diligence to try and buy them.

I also signed the purchase certificates on a company called American Banknote that the shareholder agreement has a ROFR that allows all the shareholders to buy a piece if any seller sells it, whatever, et cetera. So a different owner sold their piece and we had a right to buy it, so we exercised the ROFR.

Yeah, and then I signed some accounting certificates for audits. Year-end audits are being done in a lot of different entities, so just rep letters that say nothing material's happened since whatever.
Q. And how long would you estimate it took you to go through and sign these thirty or so documents you signed this morning?
A. Three minutes, two minutes.
Q. Okay, so you're not generally reading documents when you sign them.
A. Right, like I -- like I -- I'm depending upon protocol

and depending upon good and capable people. We have 150 people working at Highland in the U.S. and another, whatever, half-dozen around the world, but doing various different deals, getting the deals approved through credit committee in the investment process, but then getting the documentation approved through legal before it hits my desk.

Q. And who generally are you relying upon such that you're comfortable signing something without reading it and making sure that it's proper in all respects?

A. I'm depending upon the businesspeople in business issues, and I'm depending upon the lawyers on drafting and compliance on anything that has overlap or competing issues.

Q. Is it common for you to have a big stack of documents waiting for you on your ledge or on your desk, something like that?

A. Yes.

Q. Now, let's talk about how you sign. Do you sometimes physically sign documents?

A. Yes.

Q. And do you ever use a stamp or an electronic signature?

A. No. I'll have my assistant sign if I'm not around or I'm not available.

Q. Okay, so your assistant will sometimes sign documents on your behalf?

A. Yes.

Q. And is there any sort of protocol you have with your assistant by which she knows that she's authorized to sign a particular document?
A. Yeah, I mean, unless it's routine accounting forms or something, that's -- that's the only thing I would say she has kind of full discretion on. But -- but everything else, she'll -- she'll ask me, via text or email, and I'll usually -- I'll just tell her yes.
Q. So again, we have a lot of documents with your signature on them that are exhibits in this case. Should we draw any conclusions if we see your signature on a document that you were the person who negotiated the agreement, for example?
A. Rarely am I involved in any kind of degree on negotiation.
Q. And what it be more common or not that you typically, on transactional-type documents, would not even have read the document, but rather relied upon somebody else to tell you it was okay to sign?
A. That's right.
Q. Okay. Let's talk about authority. I take it you obviously have decision-making authority at Acis.
A. Yes.
Q. And depending on the issue, do you ever have occasion to delegate authority to others?
A. Yes.

Q. In connection with this lawsuit, who have you authorized to make legal decisions or sign legal documents on behalf of Acis?
A. Scott Ellington.
Q. Okay, and what about Mr. Leventon?
A. Yes, I think it's primarily Scott, but yes.
Q. And there's been some questions raised in this case by Mr. Terry and his lawyers about whether Mr. Ellington and Mr. Leventon are authorized to sign documents on behalf of Acis. So what's the answer to that?
A. Yeah, I mean, they're -- they're representing Acis and Acis's interests since Josh left. You know, I'm -- I -- I don't know. I've been -- I don't know the exact signing protocol or whatever.
Q. So maybe a bad question -- is there any -- is it clear that you, in fact, have delegated to Mr. Ellington and/or Mr. Leventon authority to sign documents in this case legal matters?
A. Yeah, and it -- well, yes, and to represent Acis and then there's another in-house attorney on anything Acis related to represent Highland, and then -- but everything then filters up through or gets approved by Thomas Surgent in the middle, as compliance.
Q. Okay. Let's look at a document that you signed. It's Exhibit 13. It is -- it is a notice of list of creditors that

was filed in this case on January 31st.

MR. CRUCIANI: Omar, if we could go to the signature page, please.

Q. And can you tell from this signature whose -- whose signature that is?

A. I mean, it's my signature. I would have -- it looks like my assistant, but you know, whatever. I -- I'm not saying -- I -- I did authorize her.

Q. And that was just a technical question. Whether you can tell from the signature whether it was you signing it or whether it was your assistant signing with your permission.

A. My -- my Ds are usually a little bolder.

Q. So likely your assistant on this one?

A. Yes. Yeah.

Q. Okay. Did you do any type of independent investigation into the creditors listed here, the amounts owed that are listed on this sheet, or did you rely upon others?

A. Yeah, I relied on others.

Q. And who would that have been, what department?

A. I'm -- it would've been both the accounting department and the legal department.

Q. Okay. Let's look at Exhibit 14, please. And let's go to the signature page, which is 15 of 22. And just for reference, this is an agreement for purchase and sale of CLO participation interests between Acis and Highland dated

October 7, 2016. And is that your signature or your authorized signature there?
A. Yeah, I believe that's mine. The D's a little bolder.
Q. Okay, let's go to the beginning of the document, so page 3 of 22, the recitals. And let's put this in a little bit of context. Timing wise, Mr. Terry was terminated by Highland in June of 2016. Does that sound about right?
A. Yes.
Q. Okay, and this document -- and again, if you need ever to see the full document hard copy, let me know, and I'm happy to send it up to you. But this document, the agreement for purchase and sale of CLO participation interest, you'll see it's got a proper mark on that page that it is dated October 7, 2016.
A. Right.
Q. Okay, so this is some four months after Mr. Terry was already gone?
A. Yes.
Q. What -- what in general was taking place in this time period within Acis?
A. Okay, again, repeating what I said earlier, immediately after upon leaving, employees or partners give up interest they have in whatever funds. So immediately upon Josh's leaving back in June, the partnership became just Mark and I. So Acis at this point is just Mark and I, 75/25.

What this transaction was and was meant to be and never was anything more was a tax-planning strategy to reduce taxes. Because Acis was a full taxpaying entity and Highland wasn't. You know, the creation of the note of Highland paying Acis a note, that note -- Highland never got any monies for it. Highland never got any value for it, other than a promise for Acis to pay its management fees over time.

Right, so essentially, it was a selling of the future value of management fees for a note, and the way the note was structured and recommended from the tax attorneys would shift some of the income-tax expense to a lower taxpaying entity at Highland.

Q. I want to make sure we don't gloss over that point. This Is not like I -- for example, I refinanced my house recently, give a note to the bank, but I get cash money at closing from the bank. Are you saying that did not happen here?

A. Correct. In October, Highland got nothing other than a promise for Acis to pay. And all the payment schedule -- the amortization on the note was timed exactly to match the expected management fees as Acis got them in.

Q. Okay.

A. Does that make sense?

Q. Yeah, so -- so what was the basic trade here as you understand, or what was Highland giving to Acis and what was Acis giving to Highland?

A. Highland was giving Acis a note, and Acis gave Highland a promise to pay a discrete amount or percentage management fees going forward. And the two numbers almost net out over time.
Q. And you mentioned an amortization schedule. Let's go to the last page of the document, Exhibit A, which is entitled "Amortization Schedule". And we see the initial note amount of roughly 12.6 million dollars, and then a paydown to 9.5 million dollars in May of 2018, and another paydown of the 4.5 million dollars in May of 2019. So tell us what you mean when you're saying this -- this note amortization schedule was tied to the expected service fees from Acis. How did that work exactly?
A. There's another agreement. There's got to be another agreement of what Acis promised to pay to Highland, right.
Q. Right.
A. And if you look at those percentages or those numbers in aggregate, plus/minus some small interest differential, it equals that 12.6 over the same period.
Q. Okay and, in fact, let's look at paragraph 1.1, purchase price on page 2. And in this document, the seller is Acis and the purchaser is Highland, for ease of reference. So in consideration of the sale of the Acis participation interests to Highland, Highland shall pay 660,000 dollars in cash and deliver a promissory note with the 12.6 million dollars. Do you see that, sir?

A. Yes.
Q. Okay, and then above that, it says the seller, which would be Acis sells to Highland participation interest in the service fees defined as the Acis participation interest in an amount equal to the total servicer fees paid to seller by each of the CLOs, beginning in November 2016 and ending August 2019, and in the aggregate for a particular payment date, less the service fee or retention amount with respect to each CLO as shown on Schedule A. Do you see that?
A. Yes.
Q. Okay, and then let -- let's -- is that what you were referring to earlier?
A. Yes.
Q. Okay.
A. Yes.
Q. And then if we go to page 16 of 22, there's another schedule here, Schedule A participation interest.
A. Right.
Q. And you see there are Acis 1, 3, 4, 5, and 6 in three columns. Can you explain these three columns and economically what this reflects?
A. I'm sorry. I wasn't paying attention to that.
Q. Sure.
A. But -- but -- but essentially, one of those columns reflects the amount that's in the paragraph you were just

highlighting. One of those columns reflects the amounts that are going to be paid to Highland in consideration for the note.

Q. And I think this is defined -- we just got done looking at is the Acis participation interest, so for example, on -- on Acis CLO 1, it shows total servicer fees of fifty pips with the servicer fee retained at Acis of twenty pips, and then Acis transferring thirty pips to Highland. Have I accurately summarized how that works?

A. Yes.

Q. Okay. And do you know why this -- the timing of this went through August 2019 -- from the November 2016 through the August 2019 period in terms of these participation interests?

A. Because that's what it took for it to pay off in full.

Q. You were trying to match the amount of the note in the 600,000 dollars or so of cash?

A. Yes. Just to be clear on the context here; internally, we never thought the Josh dispute was ever more than a million-dollar issue. We thought Acis would continue to exist when he -- when he first left. We hadn't at this point been sued for 210 million dollars. We hadn't gone through a rodeo of defamation and other things.

This was just a tax-planning strategy. This was just a way how can we reduce taxes by a couple million bucks. That was our tax attorneys coming to us and saying well, you have

this full taxpaying entity, Acis over here. Highland pays less than full tax rates over here. You can shift some of the income by selling forward some of the management fees for a note. And that's what this is.

And when you look at all the details like why was there a 600,000-dollar cash payment, it's just because the tax attorneys come back and say well, it can't just be completely notes. There has to be at least ten percent, twenty percent, whatever the percentage is that's noncash et cetera. And it has to go out for longer than a year. That's why it's probably three years, whatever. It can't be a hundred percent of the fees. It needs to be -- that's why there's a split between the retention amount, whatever. But all this detail stuff was driven by taxes.

Q. And you understand you made reference to Mr. Terry already being gone at this point in time four months earlier. You understand that actually Mr. Terry sued Acis in the arbitration claiming this transaction was a fraudulent transfer.

A. I believe so, yes.

Q. You understand that particular claim was rejected by the arbitration panel?

A. Yes.

Q. Did Mr. Terry -- after he was terminated, did he retain any ownership interest of any kind in Acis?

A. No.
Q. Let's just look -- again, I think you've summarized what's going on here, but if I could just walk through a couple of the specifics in the recitals. If we can go to page 3 of 22.
The first recital, first whereas clause -- actually, second whereas clause says, "Whereas, all of the reinvestment periods of the CLOs will have expired by August 2019"; do you see that, sir?
A. Yes.
Q. And we just got done looking -- you don't have to flip there, but the payments went from November 2016 through August 2019. So is that why that end date was chosen?
A. Probably, yeah.
Q. And what is a reinvestment period, by the way?
A. It's a period of time at which the CLO or the pool of loans is allowed to reinvest any loans and payoff, so in other words, it keeps its full balance. After that, it amort -- the balance of the loans is shrinking.
Q. You're basically -- after the reinvestment period, you're just selling off loans but not putting new loans into a CLO?
A. Yes, loans are paying off and then the money is reused to pay down the AAA first, then AA.
Q. The fourth whereas clause says, "Seller has recently engaged an investment bank to actively market a new CLO to

prospective investors." So this was October 2016, which was a full year before the arbitration award; does that sound right, timing wise?

A. Yes.

Q. So to the extent there was any suggestion in this case that this whole CLO restructure process was motivated by an attempt to avoid Mr. Terry's arbitration award without being bankrupt?

A. No.

Q. Then -- now, you were -- you and Mr. Okada were actually at this point receiving or entitled to receive your 75/25 partnership distributions, correct?

A. Correct.

Q. And then look at that, it's the third whereas clause from the bottom. It says, "Whereas, seller has determined to stop making annual distributions of excess cash to seller's partners, while efforts are underway to form new CLOs." Do you see that?

A. Yes.

Q. I think it's been suggested that there was something perhaps untoward that there had been no distributions since 2016. Does this explain why that was the case?

A. Yes. Yes.

Q. Okay, let's go onto another document. Actually, this is the companion document. Let's look at Exhibit 15 signed --

the document signed the same date, October 7, 2016. And let's go to the signature page there of this promissory note. And is that you signing on behalf of Highland Capital Management, L.P.?

A. Yes.

Q. And I think this is probably obvious, but why are Exhibits 14 and 15 both dated October 7, 2016?

A. Because they're paired together.

Q. Okay, and we've looked -- I think it was an exhibit to the other one, the amortization schedule. But let's actually go to the note, the amortization schedule at the end here. Do you know -- it's not reflected in the amortization schedule, but do you know whether Highland, in fact, made that initial 666,000-dollar payment to Acis?

A. I believe we -- we -- we did everything according to schedule, yes.

Q. Okay, and then this first payment that reduced the balance from 12.6 million down to 9.5 million, do you know whether that payment was made?

A. Like I said, I believe we -- we adhered to everything in the document.

Q. Okay. Let's move onto Exhibit 16. This has been the subject of a lot of discussion. It's alleged in this case that this is a fraudulent transfer occurring post-arbitration award. This is an assignment and transfer agreement dated

November 3, 2017. And you'll see at the beginning paragraph the parties are Acis, Highland, and then an entity called Highland CLO Management, Ltd. with a acronym "HCLOM". Do you know the function or purpose of HCLOM?

A. Not -- not specifically.

Q. And there are a lot of acronyms here, so let me maybe help you out on this one if I may. I believe this was the entity designed to be the successor portfolio manager to Acis. Does that perhaps refresh your memory on it?

(Sneeze)

A. Bless you. Yes, okay.

Q. Okay, and let's go back to the signature page here. And there's your signature on behalf of Highland and on behalf of Acis. And then there's actually another signature here on behalf of Highland CLO Management, Ltd. I'm not sure if you can make out that signature or not. Do you know who's actually signing that? Can you tell?

A. No. I imagine it's one of the board members of that entity.

Q. And why is it that this Cayman entity has a -- is a -- is signing this agreement; do you know?

A. I believe -- I would -- I'm guessing it's a -- a requisite for a Cayman Island entity to have approval of the board member -- or a board member.

Q. Okay, and I see this is on behalf of the director, this

signature you see there at the bottom?
A. Yes.
Q. All right, now, this timing wise was entered about two weeks after the arbitration award. So first question is did you have any role in negotiating Exhibit 16?
A. No.
Q. What role, if any, did you play in connection with Exhibit 16?
A. Just final approval.
Q. Do you know -- do you have any understanding about what group of people would have been responsible for putting together the document -- for putting together the document?
A. Sure. Yeah, I mean, the general context is we'd been negotiating for months with a large institutional investor out of Boston to come in for approximately fifty percent of the ALF. And the investor came into fifty percent of the ALF based on a schedule of refining -- refining and redoing of the various different Acis transactions.

The refi -- the refining the whole operation of the ALF post the investor coming in from Boston was all dependent upon getting as far away from Acis and a new collateral manager as possible. And so this was part of that as far as I understand.
Q. To your understanding, was that institutional investor willing to invest if Acis remained as collateral manager?

A. No, the way it was described to me, which I believe and have no reason to disbelieve even at this point, is no investor or no underwriter wanted to have any legacy or reputational exposure to Acis, period.
Q. And again, this is sort of coming full circle. Highland had this problem '08, '09 period and now it's Acis having this brand period.
A. Yeah, I would describe it as different. I mean, Highland back in the day was performance related to real estate. You know, the Acis problem is terrorism around a former employee trying to reputationally tarnish in the press as much as possible a brand.
Q. Okay. Let's look at a couple of the whereas clauses here if we may, on the first page. The third whereas clause says, "Highland has notified Acis that Highland is unwilling to continue to provide support personnel and other critical services to Acis with respect to the CLOs." Did Highland have that right to do that?
A. Yes.
Q. And why was that Highland's position?
A. It -- it's under no obli -- it's under no obligation. As a matter of fact, the -- the only reason why it was at this point was to just facilitate the refinancings, you know, but it -- but it's under no obligation to provide services to a shell.

Q. The next whereas clause says, "Acis has determined that the effect of the notification is that it cannot fulfil its duties as portfolio manager of the CLOs." Why was that the effect of Highland's notification?
A. Because there are no employees and no capacity at Acis to manage the underlying CLOs.
Q. Those last two whereas clauses say, "Acis is expected to incur significant costs and expenses relating to ongoing claims and litigation." Would that be with respect to Mr. Terry?
A. Yes.
Q. And also "is expected to have ongoing accounting and administrative expenses." Do you see that?
A. Yes.
Q. Let's go to the next page, Exhibit 4 -- excuse me, paragraph 4 that addresses these legal and administrative obligations. It says, "In any event Acis delivers written notice to HCLOM that Acis is unable to pay when due any Acis expenses, then HCLOM shall promptly pay to Acis" -- I'm going to paraphrase -- the two million dollars of legal expenses or the one million dollars of administrative expenses. Do you see that?
A. Yes.
Q. So this, to your knowledge, prior to the bank accounts of Acis being garnished by Mr. Terry and him throwing Acis into

involuntary bankruptcy, was there ever an occasion, to your knowledge, where Acis was unable to pay when due its expenses?
A. No, there were none.
Q. Therefore, was there ever any occasion to trigger this particular expense and support provision?
A. No.
Q. Now, if there came a time with litigation costs and other expenses where Acis was unable to pay its expenses when they became due, what was your intent in signing this as to whether or not HCLOM would honor this and make the payment?
A. We would -- we would honor it and -- and pay as appropriate.
Q. Now, you referred to this three million dollars of expense reimbursement in your deposition. I think you called it a windfall to Acis. Do you recall that?
A. Yes.
Q. Can you explain to the Court why you view this as a windfall?
A. Okay, without repeating myself too much, again --
Q. Yeah.
A. -- right, the note was created, became an asset and a liability of Acis long after Josh Terry was there. There was an offsetting asset. There was an offsetting liability. It was -- it was created for tax purposes, and it was created assuming Acis was going to be an ongoing entity and ongoing

operating entity.

In raising money from new investors, and as the litigation got more heated, it was clear Acis wasn't going to be a ongoing entity in any form or fashion with regard to Acis's 1, 2, 3, 4, 5, 6, 7.

The unwinding of the note plus unwinding of the liabilities, which netted each other, which were never an asset of Josh's in any form or fashion and were never really of any net value anyway, the -- giving three million dollars to Acis in terms of expense and fee reimbursement is unwarranted based on the economics and really a gift to Acis, period.

Q. Okay. Well, let's look at that netting that you talked about with respect to the promissory note versus the service fees as reflected in the balance sheets of Acis. And if we can go to Exhibit 177, please.

MR. CRUCIANI: And Omar, if you'll drop down in the middle there under "Other Current Assets". You see there's a line item for HCM loan participation note of the 12.6 million dollars, roughly? There you go.

A. What's the date on this?

Q. I'm sorry, this is December 31, 2016, so shortly after the transaction was made and before there was anything.

A. Okay.

Q. Okay, so there's an asset reflected in the face amount of

the note, correct? Okay, let's go to the second page on the liabilities, again in the middle there you'll see "Due to HCMLP participation fees" 11.9 million dollars. You see that?
A. Yes.
Q. So we've got the asset not exactly offsetting but roughly offsetting liability, correct?
A. That's right.
Q. All right, and then the actual spread there if you did the math is about roughly 700,000 dollars it looks like, the way -- if you compare the note, the asset on the balance sheet versus the liability on the balance sheet.
A. Yes.
Q. All right. Let's go to Exhibit 103, and Exhibit 103 should be an August 31, 2017 balance sheet.
MR. CRUCIANI: And let's go on the first page, Omar, that will be the same -- same spots on the balance sheet. You'll see -- yeah, thank you for doing that.
Q. The HCM loan participation note has now been reduced 9.5 million. Do you see that, sir?
A. Yes.
Q. Then if we go to the next page and look at the corresponding amount -- liability, it's roughly 7.9 million dollars. Do you see that?
A. Yes.
Q. And that's -- if you do that math, it's roughly 1.6

million dollars. Does that sound about right?
A. Yes.
Q. And you'll see the total equity there is 3.3 million dollars. Do you see that?
A. Yes.
Q. So if all you did was focus on the note and only the note, by removing the note from the balance sheet as an asset, that has an effect of reducing the total equity by the amount of the note, 9.5 million. That's all you looked at, right?
A. Right.
Q. But is that the right way, in your view, to look at this transaction?
A. No. They were -- it was -- it was a paired transaction. It always was a paired transaction.
Q. And so in that respect, is it your view that you have to consider the 7.9-million-dollar corresponding liability?
A. Yes.
Q. And by the way, nowhere reflected on here is the -- unless I've missed it -- I don't think I have, is the three-million-dollar windfall that you just got done talking about, that was a receivable to which Acis was entitled, correct?
A. Yeah. I believe the accountants viewed it as contingent and therefore not an asset yet. You know, if it -- if it starts being exercised or applied then it would hit the -- hit

the financials.
Q. Okay, let's do one more on the balance sheet. If we could go to Exhibit 88, the December 31, 2017 balance sheet. And this is shortly after the November transaction we got done looking at. And if you'll look on the asset side, you'll see there is no promissory note here. The total assets at this point are 2.8 million dollars. Do you see that?
A. Yes.
Q. But likewise, there is no -- if you go to the liabilities, there's no corresponding liability on the balance sheet either, correct?
A. Yes.
Q. And we see a total equity of about 863,000, and again, that's not including the three million dollars that we just got done talking about, correct?
A. Correct.
Q. Okay, let me go back in time for just a minute. I want to return to Exhibit 14. And just so I don't whipsaw you on this, Mr. Dondero, this is the original October 2016 transaction that we just got done talking about, okay.
A. Yes.
Q. All right, so it's been pointed out in this proceeding that -- and let's go to paragraph 3.6. That's at the bottom of page 6 or 8 of 22. And it says at the very bottom, "Should the seller's rights with respect to the service fees be

terminated, such termination shall not affect the purchaser's obligations under the note." Do you see that?
A. Yes.
Q. And I believe it's Mr. Terry's position and argument that Exhibit 14 does not condition payment by Highland of the promissory note to receipt of service fees from Acis. So what is your response to that contention?
A. It was always a -- it was always a paired transaction, and the tying of the two together and a recommendation for unwinding or whatever you want to call it, selling the note came to me from counsel and advisors. I mean, does that not answer?
Q. Yeah, well, let me ask you this way. If you just -- if you just stopped here, and what you did was you said okay, Highland, you've paid 600-some-thousand cash up front, and you have to pay the remaining balance on the note, which when coupled with what was paid that would be the 12.6 million face amount. So Highland, you owe Acis thirteen-million-plus dollars, but Acis, you don't need to pay any more fees. And maybe you've paid three or four million dollars in fees to date. Was that the intent behind this transaction?
A. No, never, and you know, to the extent that we did anything convoluted to the disadvantage of the equity holders in the CLOs by trying to keep Acis flows alive so that it could pay the Highland note so that -- or pay the Highland

share so that Highland could pay the note, that would be -- that would be looked at -- I don't need to be a compliance guy to know that that would -- that would be -- that'd be bad.

That would -- that would -- yeah, if -- if we tried to keep the Acis fees alive by keeping the CLOs as they are with the expensive debt nonrefinanced so that Acis could have more sharing to pay Highland as it's supposed to so that Highland could pay the note, that would have been -- we couldn't go down that path.

Q. And there are -- and in both cases, it's not like there are third-party owners of either Highland or Acis. It's essentially 75/25 you and Mr. Okada in both entities, correct?

A. Correct.

Q. So by -- of the remaining 9.5 million dollars in principal and interest payments that Acis would've received, you would've gotten roughly 7 million dollars of that personally or through your work entities, correct?

A. Okay, yeah.

Q. So does this transaction benefit you in any way, given that you're seventy-five-percent ownership in each entity, or was it economically a wash?

A. It's essentially a wash. They're -- yes, it doesn't matter which pocket it goes into.

Q. Okay. Let's move on and talk just briefly about some of

the service agreements, the shared-service agreement and the subadvisory agreement. I'm not going to walk through those, but just generally speaking; are you familiar that there were changes made to the -- to the fee allocations of those agreements from -- over time?

A. Yes.

Q. And while Mr. Terry was the portfolio manager at -- for Acis, do you know if he played any role in negotiating some of the changes to those -- to those fee allocations as between Highland and Acis?

A. Oh yeah. Well, when he was employed --

Q. Yes.

A. -- every -- every year him and Frank would meet for -- Frank Waterhouse the CFO would meet and discuss for weeks, you know, at the end of the year what was -- and debate what was the appropriate shared-services and portfolio fee. When -- after he was gone, you know, he wasn't involved in that, but after he was gone, Acis was using a lot more resources in the company.

Q. And Mr. Terry, while he was there, had a twenty-five-percent ownership interest in Acis, but no ownership interest in Highland, correct?

A. Right.

Q. So economically, was it in Mr. Terry's advantage to negotiate, to lay off onto Highland as many of those fees as

opposed to keeping them at the Acis level?
A. Oh absolutely.
Q. And your understanding of the negotiations he had with Mr. Waterhouse, was he vigorous in advocating his position?
A. Sure, yes.
Q. And did you have any concerns after Mr. Terry was terminated, as you looked at the allocations in these agreements, that his economic interests may have colored how those allocations historically had been made?
A. Yes, yeah. I mean, over advocated, but again, what happened is the costs went up monumentally after he left too, so the -- the accountants or whoever were doing the allocation was -- I mean, after he left, he goes to the SEC, makes all kinds of claims. And then the SEC makes a two-million-page document request of Acis. You know what I mean? So it ends up being a burden on Acis, and it ends up being a burden on Highland to meet those requests.
Q. So those type of actions that Mr. Terry initiated are the very thing that drove up the underlying servicing costs?
A. Post him leaving, absolutely, yeah.
Q. Let me go through, and I'm going to do this briefly because Mr. Okada went through this in some detail talking about the equity. But I'm going to approach it from a little bit different angle with you.
But let's go to PowerPoint slide number 25 if we can. I

believe the Court has seen this, Mr. Okada, part of this, but I just wanted to focus in.

Actually, let's go to PowerPoint slide number 26, for a simple version, where we have the CLO, three basket of loans, the ALF equity, and the bondholders, and this is a super-duper simplified version of CLO 3, correct?

A. Yes.

Q. All right. And then let's go to slide 27, which again, Mr. Okada talked about this so I'm not going to spend much time on it. But just to orient you, is this your understanding of the equity component of CLO 3, where you have this third-party institutional investor at forty-nine percent -- a charitable foundation at forty-nine percent, and that Highland or some of its employees at two percent?

A. Yes.

MR. CRUCIANI: Now, let's go to that donor-advised slide, yeah.

And Your Honor, I don't think we've used this before. If I could have the next demonstrative number, please.

THE COURT: What are we to, 9? Number 9?

MR. CRUCIANI: I'm sorry, that was number 9?

THE COURT: This will be 9.

MR. CRUCIANI: Yes, ma'am, thank you.

Q. Okay, so we have in the middle this donor-advised fund, the DAF called -- CLO HoldCo being the entity. Let me just

start without even reference to the structure here. What is the purpose of the DAF?
A. We decided about a decade ago to set up a charitable foundation. We initially seeded it with forty or fifty million dollars. We added monies to it over the years. We added thirty, forty million to it last year I think. And between that and appreciation, it's grown to about 350 million dollars. It's one of the larger foundations in Dallas.
Q. And just generally speaking, how does it operate? That we see there's four different foundations here. Do you know at what level the funds or the CLOs are actually held?
A. Sure. The assets are held directly by the lower boxes there. It's not a quarter, a quarter, a quarter. I don't know what the exact percentages are. The first three I think are larger than the last one. But they hold the individual assets. To be clear, like the foundation or the charitable -- it's monies we've donated. They're -- they don't come back to Highland. They never can come back to Highland. They've been donated for which we got a tax deduction and can never have claim to those assets again. And those assets have to be -- that are now down in these four underlying entities have to be given to qualified 501(3)(c) charitable organizations.
Q. Okay, and I think we went through some of those organizations with Mr. Okada, so I won't belabor that point.

Who runs The Dallas foundation?
A. Mary Jalonick or -- she just retired. I don't know who she handed it off to.
Q. Okay. Who was she with?
A. The Dallas Foundation.
Q. That's the name of it?
A. Yeah.
Q. Dallas Foundation?
A. It is the name of it, yes.
Q. Okay and does -- you may have said this. Does Highland have any ownership interest whatsoever in the DAF?
A. No. The closest we come to it is we're an advisor. We can make recommendations on asset purchases and sales, but they have to be approved by Grant Scott, the general partner and trustee.
Q. And we see Highland, HCM, up in the top-left corner as advisor. Is that the full trappings of the investment advisor under the security laws?
A. Yes. It's a formal advisory agreement.
Q. Okay, and do you have any ownership interest in the DAF?
A. No.
Q. And to the extent it's been suggested or alluded to in this proceeding that this is all really Mr. Dondero personally behind the equity, is that true?
A. No.

Q. Was it ever true?
A. No.
Q. And the general partner there, DAF GP, LLC, (ph.) Grant Scott managing member, trustee -- whatever his exact title is, who is Mr. Scott?
A. He's a truly independent trustee. I've known him for a long time. He's a patent attorney by training, but he has the time and inclination and he enjoys being involved with the charities.
Q. You said he's independent. In what way is he independent?
A. He's never been an employee or relative or whatever the violations of the independence rules are.
Q. Okay. And it was asked of Mr. Okada and - today and asked of you in the deposition about certain signage rights that Highland gets for places like the Dallas Zoo or the Perot Museum. Why is that? Why does it not say DAF or donor-advised fund at the Dallas Zoo as opposed to Highland Capital?
A. Well, because we gave all the money to the charity, Highland did, I would say as point number one. Plus you could make the signage anything you want. Where anything -- any time we donate money, we can make the signage anything we want, but there's -- DAF doesn't get any benefit for the signage. It helps Highland to be active in the community and charitable in the community, so we generally give the signage

to Highland or NexBank or one of our portfolio companies.
Q. Okay. Now, let's talk about Highland's plans to reissue the Acis CLOs. And I think we've talked about -- we read one of the whereas clauses showing that was taking place back I believe in October 2016 when that process was sort of under way, correct?
A. Yeah.
Q. Okay, now, so did that -- so obviously, that initial decision had nothing to do with the arbitration award by definition, correct?
A. Right.
Q. All right. What are the -- what are the market forces generally speaking that are driving from an economic perspective Highland and other folks in the CLO industry to go through reissuance?
A. The cost of borrowing at ninety percent has come down materially. But also, the yield that you're getting on the portfolio of assets, on the pool of loans has been coming down materially too. In other words, spread compression in the market where everybody's ability to borrow, between fed easing and a better economy is less. The spread that everybody pays is less.
So if you have a historic deal, where your financing costs are high, but in the meantime the yields you're getting on your portfolio of loans is coming down, and you don't refi,

you're just killing your equity.
Q. All right.
A. Does that make any sense?
Q. Absolutely.
A. I hope.
Q. Now, let's talk about sort of the problems with the brand that you touched upon. Now, Mr. Terry as the portfolio manager was more or less the face of the Acis CLOs; was he not?
A. Yes.
Q. Have you ever heard of anybody other than Mr. -- well, let me step back. You became aware that Mr. Terry had secretly tape recorded about 300 conversations while he was at Highland?
A. Yes, I was. Yeah, I was told and for eighteen months I believe too.
Q. Including privileged conversations with counsel?
A. That's what I was told, yes.
Q. Are you aware of anyone else in the CLO industry ever having engaged in such conduct?
A. No.
Q. And what did that do when that became public knowledge, that the portfolio manager of Acis had engaged in this secret tape recording campaign? What did that do to the Acis brand?
A. I mean, that and the commensurate litigation made it

unmarketable. The underwriters wouldn't deal with Acis, but the investors didn't want to have anything to do with Acis either.

Q. Okay, let's -- I'm almost there, by the way, Mr. Dondero. Just so you don't get anxious at this point. Roll of the eyes. All right, let's talk again, Mr. Dondero -- excuse me, Mr. Okada talked about this. I don't want to repeat much of this. But I want to talk about the investors' call rights. What does it mean for an investor to exercise a call?

A. The investors have the right to -- there's a noncall period of which I believe virtually every Acis CLO is beyond the noncall period, where the investors can just call the deal and just have it liquidated.

Q. Did that -- is there any precedent for that having happened with any of the Acis CLOs?

A. Yes, yeah, we called a -- Acis 2, I believe.

Q. And that was due to what reasons?

A. It had -- it was too far beyond its reinvestment period and it shrank too much to reset it or extend it. Once they're beyond their re -- reinvestment period, any payoffs on the loans pay down the debt, so the whole deal shrinks. And it would -- it had -- it was -- it had shrank too much to refi.

Q. And do you have any reason to believe what the investors would choose to do if this case remained stuck in bankruptcy?

A. There's a point at which they start getting eaten alive

by -- even its first month costs several millions of dollars, but more -- more than a million dollars in just a month. Once you get eight or nine months into it, they're getting eaten alive by their financing costs relative to the yield on their portfolio. And it would be -- towards the end of the year, they'd be in -- in -- indifferent between calling the deal and booking the loss or -- or getting eaten alive.

Q. What happens to the CMAs and the associated service fees if the deal gets called?

A. The CMAs go away, yeah.

Q. Now, if when the Court rules her ruling would release Acis from this bankruptcy, what would you plan on doing with respect to the remaining Acis CLOs?

A. We would refinance CLO 3 immediately. It was very -- in the history of Wall Street, it was very rare to price a deal and have it not close. I mean, if that happens once a year, on all of Wall Street, that's unique. But we managed to do that on Acis (sic) 3.

But we would immediately go back to all the investors, that -- that circle, try and get them reconfirmed, and try and do that within a couple of weeks. And then we would try and do 4, 5, and 6 immediately behind.

Q. And if this deal ends up getting called, as a result of Mr. Terry throwing it into bankruptcy, which of the stakeholders ends up bearing the brunt of the economic

damages?
A. Oh, the -- the -- the equity holders, the ALF, which is half the charitable foundation, but half a firm out of Boston that will be furious.
Q. Why would they be furious?
A. Because based on the interference -- and that, I would say, is inappropriate interference -- of Josh Terry, they lost millions of dollars.
Q. All right. Last topic, then I'm done with you. I want to talk about this CMA valuation. You're aware that Mr. Terry has asserted, under oath, multiple times in this case, that the five Acis CLOs are worth well in excess of thirty million dollars? Are you aware of that assertion?
A. Yes.
Q. And he complains that Acis should not transfer the CMAs for no value, but rather should sell them for what the market can get, which he says is thirty million dollars.
So let me ask it of you. Based on your seventy-five percent beneficial ownership interest in Acis, do you have an economic interest in -- if you could -- to sell these CMAs for as much as the market could bear?
A. Sure.
Q. And if Acis was able to sell these CMAs for thirty million dollars, as Mr. Terry asserts they're valued, your seventy-five percent interest would translate into more than

twenty million dollars in your pocket, would it not?
A. Right.
Q. Do you not want to make twenty million dollars?
A. They're not -- they're unsellable. They're -- they're thirty-day contracts. They can be called at any time, for any reason, for -- in -- in thirty days. They -- they have -- it would be like trying to sell your wages.
Q. Okay. Well, Mr. Terry complains you haven't even tried. Why haven't you tried to sell these CMAs to someone?
A. It's -- there's no longevity to them. They can be called at any time, for any reason. There's no hurdle on thirty days' notice on deals that all need to be refinanced in a -- where the counterparty of the CMA is a shell company mirrored -- or mired in contentious litigation. Who's -- who's going to but a thirty-day contract and try and transfer the contracts to their name from a company that's mired in litigation, knowing that they could be dragged into it or --
Q. If Mr. Terry brought you a buyer and said, Mr. Dondero, here's thirty million dollars; sell me the CMAs, are you doing that deal?
A. Yeah. You can have it -- you can have it for five.
Q. Five million?
A. Yeah.
Q. Now, do you have a belief whether you could find a buyer who would pay anything other than negligible value, if that,

for these CMAs?
A. No. They -- yeah. If someone wanted to get involved in the litigation, try and do a transfer, spend the legal work, they would present-value a month or two worth of fees.
MR. CRUCIANI: I pass the witness, Your Honor.
THE COURT: Okay. Why don't we take about a seven-minute break and when we come back, we'll cross?
THE CLERK: All rise.
(Recess from 2:55 p.m. until 3:03 p.m.)
THE COURT: Be seated. All right, and Mr. Dondero was still under oath.
Mr. Shaw, your cross?
MR. SHAW: Yes.
CROSS-EXAMINATION
BY MR. SHAW:
Q. Mr. Dondero, one of the last things you said in your direct testimony was that the collateral-management agreements, of which Acis serves as the portfolio manager and collateral manager, were terminable for any reason. Do you recall that?
A. Yes.
Q. And that's not actually true. Those CMAs are actually only terminable for cause. Isn't that the case?
A. Well, they can be called for any reason.
Q. Okay, but they can't be terminated. The CMAs cannot be

terminated without cause, correct?
A. I'm sorry if I mixed up that difference. Yes, yes -- I don't know.
Q. Highland sold CMAs to Carlyle in 2012, right?
A. Yes.
Q. And that was a thirty- to forty-million-dollar transaction?
A. Yes.
Q. Okay. Those collateral-management agreements, similar to the Acis collateral-management agreements, could also be terminated for cause, correct?
A. I don't know.
Q. I want to make sure I'm clear on this issue. I believe you testified that you had no financial incentive to favor Highland over Acis, is that right?
A. Yes, particularly once Josh was gone.
Q. And I think you also characterized it as it doesn't matter which pocket it goes into, correct?
A. Yes.
Q. Does Highland Capital Management, L.P. have an unstayed judgment against it?
A. Not that I'm aware of.
Q. All right. Has Highland Capital Management been garnished in the last year?
A. No.

Q. MR. Terry does not have a judgement against Highland Capital Management, does he?
A. No.
Q. Are you here today on behalf of Highland Capital Management, as its president, or Acis Capital Management GP, LLC, as its president?
A. I -- I always wear many hats. I -- I believe, on here, I'm both.
Q. And you acknowledge that Highland -- and when I say Highland, can we have the agreement that I'm talking about Highland Capital Management L.P.?
A. Sure.
Q. And when I say Acis, I mean the combination of Acis Capital Management, L.P. and Acis Capital Management, LLC -- I'm sorry, Acis Capital Management GP, LLC. Can we have that agreement?
A. Okay.
Q. So you acknowledge that Highland is a creditor of Acis, correct?
A. Yes, I believe so.
Q. This is a deeply personal dispute with Mr. Terry for you, isn't it?
A. Not particularly.
Q. Well, I heard you characterize Mr. Terry as a terrorist. Did I hear that correctly?

A. Yes.
Q. You said in your direct testimony that you believe that he should go to the "big house". Do you recall that?
A. I think he runs the risk of going to the big house.
Q. You had your deposition taken on Tuesday, right?
A. Yes.
Q. You refused to shake Mr. Terry's hand, didn't you?
A. Yes.
Q. You recall your testimony at that deposition that, "The personalities on both sides are intractable." Do you remember that?
A. I -- I just said I know the personalities on both sides.
Q. Do you recall saying that the personalities on both sides are intractable, under oath?
A. I -- I don't remember that, but that's close enough.
Q. Do you recall saying -- and this is under oath -- "We'll be here a decade from now"?
A. I -- I thought I said five years. I mean, do you want to know the context or --
Q. No. I just want to know --
A. Okay.
Q. -- whether you said, we'll be here a decade from now.
And can we pull up Exhibit 101, please, and go to page 26, line 24? I'm sorry, and this is actually a deposition in arbitration.

MR. CRUCIANI: Hold on one second.

MR. SHAW: Yeah.

MR. CRUCIANI: There is a confidentiality order in place and proffered in the arbitration. I want -- well, I will show it to them. But if it's admitted, then I would just ask that any reference of this be sealed because that arbitration proceeding was supposed to be a sealed proceeding. We have third parties in the room who are copiously taking notes about the protection of Mr. Dondero. And I would not -- in fact, I would ask, to the extent that they use this, that they (indiscernible) coordinate with Mr. (indiscernible), who's a former Highland employee, with the pending litigation, as Mr. (indiscernible).

THE COURT: Okay. Let me back up. This is a deposition from the arbitration?

MR. CRUCIANI: That's correct.

THE COURT: And there is some sort of sealing order or confidentiality order from the arbitration?

MR. CRUCIANI: That's typical and I'm confident -- yeah, I'll let the others who were involved with that address that.

THE COURT: Is there any dispute about that?

MR. SHAW: No. The limited-partnership agreement provided that everything in arbitration was confidential. So there was no order of the arbitrators, but a contractual

agreement of the parties was that it was confidential. So there's no dispute and we have no issue on sealing this particular exhibit, Judge.

THE COURT: All right. Well, then I'll be happy to do a sealing order. I'll leave you all to upload something in the next day or two.

MR. CRUCIANI: Right.

THE COURT: And it -- this is Exhibit what?

MR. CRUCIANI: Exhibit 102.

THE COURT: And that one's already been admitted by stipulation?

MR. SHAW: It has.

THE COURT: All right.

THE COURT: So --

MR. CRUCIANI: And honestly, Your Honor, that was -- I think that was inadvertent. I think it was not appreciated that it was from the arbitration and there was a sealing order there. So --

THE COURT: All right. My point is, just for the clerk's office benefit, I'll need you to submit an order, you know, the next couple of days, before the trial is completed, providing that this exhibit will be kept under seal and that the transcript on, you know, March 23rd, from, you know, 3:10 p.m. -- whatever time through whatever will be -- a redacted copy will be the publicly available copy of the transcript.

And then we'll have an unredacted copy that's sealed.

MR. CRUCIANI: And I would even propose, Your Honor, to the extent that this was sort of like an inadvertent designation of confidentiality, I would assert that now. I did not get the sense that the pending question was anything of any great moment. I think it was five years versus ten years. I think that from the question that he was directing Mr. Dondero to, I would ask, if Mr. Shaw is able to get his testimony without going to the deposition, which should have been sealed, that he would do that.

Alternatively, I would ask that this be withdrawn as having been inadvertently put into the record as opposed to -- I appreciate the Court's willingness to seal.

THE COURT: Okay. Well, why --

MR. CRUCIANI: You know, I don't think this is a big disputed point.

MR. SHAW: We want it in the record. Whether it's sealed or not is -- I can make it the question.

THE COURT: Okay.

MR. SHAW: So --

THE COURT: Okay.

MR. SHAW: But --

THE COURT: You've stipulated; it will be in the record. We'll just have it sealed.

Now, there is someone in the courtroom that you want

to exclude?

MR. CRUCIANI: MR. SHAW: Yeah. Mr. Daugherty has pending litigation.

THE COURT: Is that you? Okay. So the protective order from the arbitration would protect this information from getting in --

MR. CRUCIANI: Public domain.

THE COURT: -- public domain, period.

All right. Mr. Daugherty, it sounds like we have an issue with anyone that a lawyer or a party --

MR. DAUGHERTY: I'm fine with --

THE COURT: -- to that arbitration hearing some testimony that pertains to what was said in the arbitration.

MR. DAUGHERTY: Yeah. If you're asking me to, you know, stand down on that, absolutely.

THE COURT: Okay.

MR. DAUGHERTY: But I am a potential creditor of Acis.

THE COURT: Really?

MR. DAUGHERTY: Yes.

THE COURT: Okay.

MR. CRUCIANI: Oh?

MR. DAUGHERTY: The more I learn about what's going on at Acis, I think the money -- that note might have been mine.

THE COURT: Oh, goodness. Okay. The plot thickens. All right. Well for now, I need to exclude you from the courtroom --

MR. DAUGHERTY: Fair enough.

THE COURT: -- based on what I'm hearing. And I guess as a courtesy, can someone go get him when we're finished with this protected information?

MR. SHAW: And it will be very quick. And I don't think anything -- what I'm actually talking about is anything that's sensitive. I mean, it's -- so --

THE COURT: All right. Well, I'm not flooded volunteers to do that, but, Mr. Larson, since you're standing up --

MR. LARSON: I received your secret code.

MR. DAUGHERTY: Your Honor, I'll just return tomorrow.

THE COURT: Oh, okay. Well, we won't be here Saturday, but --

MR. DAUGHERTY: I'm sorry; Monday.

THE COURT: Monday, all right.

MR. CRUCIANI: Your Honor, before Mr. Daugherty --

THE COURT: See you.

MR. CRUCIANI: -- leaves, he made a comment that obviously surprised everybody, that he believes he might be a creditor of Acis. I'd love to know what he thinks he's owed

and what the basis is. I mean, this is just --

MR. SHAW: He's not been listed as a witness. We have no notice of this.

MR. CRUCIANI: All right. That's fine, Your Honor. I just --

THE COURT: Yeah. We're not going to have --

MR. SHAW: This is not trial by --

THE COURT: Okay. Thank you, Mr. Daugherty.

MR. CRUCIANI: Okay, okay.

MR. DAUGHERTY: Thank you, Your Honor.

THE COURT: Okay. And I don't know what they were rescinding. Did you all completely rule out Monday now?

MR. CRUCIANI: I thought we were doing --

MR. SHAW: We confirmed Tuesday.

MR. CRUCIANI: -- Tuesday and Thursday.

THE COURT: Tuesday and Thursday, okay. I didn't know if Monday was still something you all were -- but, okay, Tuesday.

All right. You may proceed.

MR. SHAW: Let me see if I can get back on track here.

THE COURT: Okay.

MR. SHAW: Okay.

(Portion under seal submitted separately)

THE COURT: Okay.

All right, it's 4:16. Who is your next witness?

MR. CRUCIANI: That will be Mr. Terry.

THE COURT: All right, well, shall we use forty-five minutes, at least? I don't know if you're going to take more than that or not.

MR. CRUCIANI: Oh, I'm going to take more than that. Yeah, I haven't gotten an examination of Mr. Terry --

THE COURT: Right.

MR. CRUCIANI: -- so I'll --

THE COURT: Okay.

MR. CRUCIANI: -- probably have three hours.

THE COURT: Okay.

How much time does Acis have left, Laura, just so that -- you had mentioned --

MR. CRUCIANI: Oh, we have that much? Okay. Okay.

THE COURT: Okay. It -- I mean, shall we go forward? I'm fine with going another forty-five minutes, but I'll --

MR. CRUCIANI: Yeah.

THE COURT: -- defer to the --

MR. SHAW: My --

THE COURT: -- lawyers.

MR. SHAW: My one concern is if they are going to take a position that we can't consult with our client over the weekend, about strategy, whatever -- they've taken that position before -- then we would prefer to put him on fresh on

Monday or whenever we start again. But I do know -- and I have looked into that issue, Judge, about whether or not the Court can restrict --

THE COURT: Right.

MR. SHAW: -- a party's --

THE COURT: Right, right, right.

MR. SHAW: And I -- and from what I've seen, there's no -- there's no clear rule on it. I know in the criminal context that you can't do a full-sale bar --

THE COURT: Right.

MR. SHAW: -- overnight.

THE COURT: It's a balancing thing, right?

MR. SHAW: It's a bal --

THE COURT: Like I said.

MR. SHAW: Exactly --

THE COURT: Um-hum.

MR. SHAW: -- right. Exactly right.

THE COURT: Coaching the witness versus right to assistance of counsel.

MR. SHAW: Right, and you have general, you know --

THE COURT: Um-hum.

MR. SHAW: -- broad discretion --

THE COURT: Um-hum.

MR. SHAW: -- into how to, you know, effectuate the proceedings and how the trial goes, so obviously, we would

defer to your discretion on that. But that would put us in a bad spot if we can't -- you know, if there's --

THE COURT: Okay.

MR. SHAW: -- some issue.

THE COURT: Mr. Cruciani, do you feel comfortable with the honor code applying? I mean, they can -- they can counsel their client, strategize with their client, talk to their client over the weekend, they just can't -- I don't know. They can't coach him, they can't visit with him: hey, you know that answer you just gave right at the end of the day Friday? Why don't you go change that up Monday morning or Tuesday morning?

I mean, it's just -- it's an honor code thing. What can we do except --

MR. CRUCIANI: I --

THE COURT: -- plow ahead.

MR. CRUCIANI: I share your view, Your Honor. I think what they can't do and shouldn't do, and it would be a violation of the honor code, is to specifically discuss his testimony. They could discuss case strategy, PowerPoints, whatever you're going to say in closing argument, but his -- it's the testimony itself that they ought not discuss. Anything else, I don't care.

MR. SHAW: Judge, you know, I -- and I -- and we've discussed this before about finishing. I mean, it's almost

4:30. I realize we have finite time, but why don't we just -- we can -- we can eliminate this as an issue. It's Friday. I mean --

THE COURT: Well, my --

MR. SHAW: -- and come back. I really --

THE COURT: Mm. My problem is I can give you -- what did I -- three hours-ish?

THE CLERK: We're starting at 9.

THE COURT: Oh, we said we were starting at 9.

THE CLERK: Three and a half hours.

THE COURT: No, we're starting in the morning on Thursday.

THE CLERK: Oh, that's right.

THE COURT: I mean, if we stop now, we'll finish the evidence, but we won't get to closing arguments. But we might not even --

MR. CRUCIANI: Yeah, I think --

THE COURT: -- make it.

MR. CRUCIANI: -- I think that what the -- in addition to closing arguments, just maybe get to address scheduling, I understood the Court was, to the extent, not somehow mooted, was going to address the stay issue --

THE COURT: Oh, and they --

MR. CRUCIANI: -- as --

THE COURT: -- needed that. Um-hum.

MR. CRUCIANI: -- as well as the intervention issue.
THE COURT: Um-hum.
MR. CRUCIANI: So that would be some more housekeeping --
THE COURT: Um-hum.
MR. CRUCIANI: -- to deal with.
MR. SHAW: But this forty minutes is probably not going to change -- I mean, make or break us. I don't know. Anyway, that -- my preference would be that we would just call it a week, but obviously, I --
MR. CRUCIANI: I'm -- you know, I'm happy to go forward, Your Honor. I'm happy to stop. I mean, either way, whatever the Court's --
THE COURT: Let's just get --
MR. CRUCIANI: -- preference is.
THE COURT: -- in forty more minutes. Stop at 5 like we said we would.
MR. CRUCIANI: And --
THE COURT: I'm sorry, there's no perfect answer, either --
MR. CRUCIANI: That's fine.
THE COURT: -- but that's the --
MR. CRUCIANI: Can we --
THE COURT: -- best one.
MR. CRUCIANI: Can we just take, perhaps, five or ten

minutes, just to transition?

THE COURT: No problem.

MS. PATEL: Wait, Your Honor, if I could just ask a question? Or we can do this when we come back.

THE COURT: Five minutes.

THE CLERK: All rise.

(Recess from 4:21 p.m. until 4:26 p.m.)

THE CLERK: All rise.

THE COURT: All right, please be seated, those of you here.

MR. SHAW: They said they gave up.

THE COURT: Yeah. I'm sure that's true.

(Off-the-record conversation)

THE COURT: All right, well, are we ready?

MR. CRUCIANI: Yes --

THE COURT: Mr. Terry --

MR. CRUCIANI: -- we are.

THE COURT: -- I guess I need to swear you in again. It's been a couple of days. Please raise your right hand.

(Witness sworn)

THE COURT: All right, please be seated.

DIRECT EXAMINATION

BY MR. CRUCIANI:

Q. Mr. Terry, I want to ask you the same questions I asked you substantively on February 6th and see if, with the passage

of time, you have the same or a different answer. You have an eight-million-dollar judgment on the one hand, and on the other hand, you say there are five CMAs at Acis that are worth at least thirty million dollars, correct?

A. Yes.

Q. All right. So can we all go home right now where you will stipulate on the record that you will release your judgment against Acis and, in return, you can have the CMAs to do with them what you want?

A. No.

Q. You just won't take yes for an answer, will you?

A. Could you --

Q. Why wouldn't you --

A. -- rephrase your --

Q. -- do that?

A. -- question, please?

Q. Why wouldn't you do that? Isn't that what you want the bankruptcy trustee to do, among other things, if one were to be appointed, is to do an auction process, sell these CMAs, get that into the estate, and use it to pay you and any other creditors?

A. Well, number one, I think it would be up to the trustee to decide how to maximize the value of the estate for the benefit of the creditors, and the -- and the entire estate. So one of the paths I believe the trustee could take would be

to auction the CLO contracts off. Another path could be to find new shared-services and subadvisory agreement providers at an arm's-length fee. And then there's a number of other things the trustee could do, as well.

Q. I'm focusing on the auction process. I'm focusing on what you say is the only material asset left in Acis, the CMX. If they're really worth thirty million dollars and you only have an eight-million-dollar claim, then it ought to be a snap to be able to sell those through an auction process and get sufficient funds to pay you off, right?

A. I believe an auction process within this bankruptcy concept -- context could be facilitated. I wouldn't call it a snap, but I think it could probably facil -- be facilitated in less than six months is my general belief based on my prior experience.

Q. Why do we need bankruptcy? Why don't we just agree on who's going to conduct the auction process, we can get out of bankruptcy, and you get the benefit of the auction process?

A. Well, because on one hand, the conduct of Acis was to fraudulently transfer, in my view, the contracts to an affiliate for no value. So the only other alternative would be a venue outside of bankruptcy court. And in that situation, if you look at the portfolio-management agreements, you have numerous removal-for-cause provisions in those types of scenarios that I understand are ipso facto clauses within a

bankruptcy context. Such as we talked before about --
Q. Um-hum.
A. -- the receivership option and that there's a provision -- the removal-for-cause provision in a receivership if a receivership -- if a receiver is appointed over substantially all of the assets.
There's also provisions that discuss if substantially all of the -- all of the assets are enjoined, I believe. And so in that situation, a bankrupt -- a bankruptcy venue, my understanding, would be much better for Acis, in order to maximize the value of Acis, as well as good for its creditors.
Q. You and I share something in common. Neither of us are bankruptcy lawyers. All right? So do you not understand, though, that the process for VCMAs is there will be a sixty-day period, subject to potential extension, to either -- if a trustee is appointed, to either assume or reject these contracts? Do you have that understanding?
A. I don't have that understanding as a nonbankruptcy attorney, either way.
Q. Okay.
A. I know --
Q. And --
A. -- there's an assume -- an assumption or rejection process, but the sixty-day time period is outside of my knowledge.

Q. Do you have the understanding that you can rewrite the terms of the CMAs as part of an auction process, and take out those clauses that would impair the value, potentially, of the CMAs? That the -- that the Court has the power to rewrite the terms of the CMAs; is that your understanding?
A. There are a few parts to your question, and I want to make sure I answer it.
Q. Let me -- sure. You may be right. Is it your understanding that the Court can modify the terms of the CMAs as part of the auction process?
A. My understanding is the Court can render certain provisions unenforceable if -- the ipso facto context -- if in a bankruptcy context -- or if there are certain provisions in the contract that are punitive to the estate or punitive to creditors solely because we're in bankruptcy or similar provisions, my understanding is the Court can render those unenforceable. But that's my understanding as a businessperson and --
Q. Right.
A. -- obviously, not as an attorney.
Q. Mr. Terry, you said in the previous testimony that these contracts were worth thirty million dollars as written, with all of the good, bad, and indifferent provisions in the agreements. Do you stand by that testimony?
A. Yes, the CMAs --

Q. The answer is yes?
A. -- are worth thirty million dollars.
Q. But as written?
A. Can you explain what you mean by "as written"?
Q. You don't know what "as written" means, then?
A. You're talking about the CMAs as written?
Q. Yes, sir.
A. Yes, I agree that they're worth thirty million dollars.
Q. With all the rights that you heard Mr. Okada and Mr. Dondero testify to -- all the call rights that the equity has, the thirty-day termination provisions that Highland has, and other provisions -- they're still worth thirty million dollars as written, is your testimony, right?
A. I disagree with a lot of their testimony, and -- but the answer is yes.
Q. Okay. So you wouldn't need to modify anything as part of an auction process, you wouldn't need to remove some of these provisions you think are -- that can be removed as part as this bankruptcy process. As written, you should be able to sell them for thirty million dollars, right?
MR. SHAW: Judge, I kind of let this go, but I mean, he's not -- he's already testified he's not a bankruptcy lawyer, he's not a bankruptcy expert, he's -- they're -- the questions are calling for legal conclusions. So it's just going way --

THE COURT: Okay.

MR. SHAW: -- far afield.

THE COURT: Sustained.

Q. Mr. Terry, do you recall testifying in this hearing that -- because we had this discussion, and this is page 125 of your -- and if --

MR. CRUCIANI: Why don't you just pull up, I think it's 82, Omar?

It's at the bottom of page 25. I'm sorry, page 125.

Q. The very bottom, you have this discussion. You say, "and if you give me time, I would gladly set up the asset management that could take over as successor manager in lieu of my eight-million-dollar judgment".

Do you see that?

A. Yes, I do.

Q. Do you stand by that?

A. Yes.

Q. How much time do you need?

A. Well, I've got -- to set up an asset manager or a registered investment advisor, I'd have to look into the process for how long it would take for me, personally, to set up a registered investment advisor and have conversations with fund transaction attorneys and that type of thing.

Q. Um-hum.

A. So I -- I would have to really give it some though. It

it's kind of hard to enter that question right now. Maybe six months --

Q. Okay.

A. -- or so to -- to form an asset manager and put the structure on it to have a registered investment advisor. Maybe longer. Optimistically, we -- in an optimistic scenario, maybe shorter.

Q. Okay. So let's just use your six months. If you had -- if we say, here's the CMAs, you have six months, go sell them, you said you're willing to release your eight-million-dollar judgment, right?

A. That's -- can you repeat the question? I'm sorry, the --

Q. Did -- whatever you testified under oath, you would confirm or you're sticking to it, right?

A. Correct.

Q. So could we just shut this down, leave early today, say: here's your CMAs, you've got six months, get a successor -- a successor manager, and you -- in return, you release the eight-million-dollar judgment?

MR. SHAW: I'm going to object, Judge. It's inappropriate for counsel to try to get the witness to make an agreement to settle the case. Is that -- I mean, is that what he's saying? I think it's inappropriate under 408, it an inappropriate mode of examination to try to get him to make some commitment.

THE COURT: Are you making him a settlement offer right now?

MR. CRUCIANI: I'm not quite doing that. I think I'm using the hopeful art of cross-examination to show this is a made-up play. He knows these aren't worth thirty million dollars or else he'd gladly take them, modifies them, (indiscernible) eight-million-dollar judgment. So I'm just seeing if he (indiscernible).

MR. SHAW: And I guess the question is would he do that or, you know, would he be concerned about the further dissipation of assets for Acis or would he trust Acis and Highland to do what they said they're going to do? So --

THE COURT: Okay, I overrule.

MR. SHAW: -- there's a lot of problems.

THE COURT: He can answer. Let's move on.

A. Could you re --

BY MR. CRUCIANI:

Q. Yes, sir.

A. -- repeat, I'm sorry?

Q. Yes, sir. If we say, here are the CMAs, they are yours, we're out of the picture, you have six months to sell them, and in return, you release the eight-million-dollar judgment, are you still prepared to do the deal today that you said on February 6th you were prepared to do?

A. I would like to say I'm still prepared to do the deal

today, but what I've learned since I said that on February 6th or 7th is that, apparently, there's these allegations from these investors in the CLOs to sue -- I don't know if it's Acis or I don't know if it's me personally, which is the same equity in the Clos that you would be selling me. So I don't know if I, personally, am -- would still be willing to do that deal, given the allegations that have been lobbed against me outside of the bankruptcy context, which, my understanding, would oversee everything related to the Acis estate.

Q. Do you -- do you have any evidence to dispute the damage that you've done to the equity by virtue of your actions in filing this involuntary bankruptcy, the difference in cash flows that Mr. Okada testified to?

A. Yes, I could go through the exhibit that you prepared and point out its inaccuracies.

Q. Okay. Is Mr. Okada considered one of the sort of lions of the CLO industry?

A. I would say he's considered one of the most tenured people within the industry, but it, I -- on the other hand, he's also not really, from my experience, that involved anymore, other than at very high-level discussions.

Q. Why did you secretly tape-record about 300 conversations about him?

A. First of all, it wasn't about 300 conversations, but to answer your question --

Q. 270-something?
A. 187, or --
Q. Are you --
A. -- something like that.
Q. -- sure?
A. A hundred percent sure, yes.
Q. 187? Only 187?
A. Well, the -- yes.
Q. Okay. All right. Well, why did you secretly record 187 conversations while being paid millions of dollars by Highland over a nineteen-month period (indiscernible) Highland (indiscernible)? Why did you do that?
A. Because the conver -- the recording began in March of 2015, and at that time, there was heavy regulatory scrutiny on the industry. There was a gentleman that had just pled guilty to fraud to the DOJ that was a well-known CLO trader. And the understanding in the industry was that the DOJ was going after him to get to his boss and to the broader organization. And that brought concern to the industry.
There was also regulatory scrutiny on Highland. And at the time, I was being asked to do things that I had concerns over, I thought they were questionable, but I was being told by internal and out -- by internal counsel that internal counsel had blessed them and external counsel had blessed them.
And I thought, given Mr. Dondero's historical proclivity to

push the envelope, given the regulatory scrutiny on the industry, given the regulatory scrutiny on Highland, which had just received a cease-and-desist order from the SEC a few months prior, that it would be prudent to have an accurate representation of some of the conversations that took place in the office between me and Mr. Dondero, me and Mr. Surgent, and others.

Q. Nobody asked you to record?

A. No.

Q. You mentioned in-house counsel. I didn't know who you were referring to.

You mentioned counsel in that long answer. What --

A. Right.

Q. What counsel were you referring to?

A. Mainly Mr. Surgent. Mr. Thomas Surgent, our --

Q. So --

A. -- chief compliance officer.

Q. So based on things Mr. Surgent, Highland's chief compliance officer, told you, you initiated your tape-recording of him?

A. No, that's not -- that's not what I said.

Q. Well, are -- do you consider yourself to be an honorable man?

A. Yes.

Q. Okay. Do you think the honorable thing to do would be to

say: I'm concerned with Mr. Dondero, I'm concerned with Highland pushing the envelope. I quit.

Would that not have been the honorable thing to do, instead of making millions and millions of dollars while surreptitiously and secretly tape-recording your colleagues? What would have been the more honorable thing for you to do?

A. I would -- it was a difficult scenario. I don't -- I don't know the answer to that question, either way. I really liked my job at Acis. I liked what I did on a day-to-day basis. I liked meeting with investors, I liked the investment process.

And so I was really conflicted with having a job that I liked doing every day with then, on the other hand, having some questionable instructions from either Mr. Dondero or -- or Mr. Surgent, the chief compliance officer, related to more Highland-centric act -- activities.

And I was caught in between those scenarios, and, you know, I -- I don't know -- I've thought about it a lot. Should I have -- trust me, after -- after being fired and sued and everything that they've put me through, I've thought about it a lot. I wish -- maybe I -- I should have quit. I don't know. Maybe I would have been sued, anyway, if I quit. I --

Q. That was a hard moral choice for you? On the one hand, I don't like what's going on here, I'm willing to give up the money I'm making, and I quit, versus continuing to bank

millions of dollars and surreptitiously tape-record your colleagues. That was a hard choice you wrestled with?

MR. SHAW: Judge, I'm going to object to the repetitious -- it's also irrelevant. I've let it go, but there's really -- how is that relevant to anything in this bankruptcy --

MR. CRUCIANI: That --

MR. SHAW: -- proceeding?

MR. CRUCIANI: They've just got done pointing out the personal animosity between Mr. Dondero and Mr. Terry. They have certainly opened the door.

THE COURT: Overruled.

Q. That was a hard moral choice for you? Was -- that's a yes or no. Did you struggle with it?

A. Your prior question used "surreptitious". I -- but yes, I -- I did struggle -- I struggled with it over that --

Q. Okay.

A. -- time period.

Q. And it was surreptitious because surreptitious means you're doing it without telling somebody. You didn't tell anybody at Highland that you were tape-recording them, did you?

A. Okay, I -- if that's the definition of surreptitious, that's correct.

Q. And let's look at Exhibit 42. This is a summary of your

compensation, Mr. Terry. Mr. Dondero helped to make you a rich man, didn't he?
A. I think that's fair. I think part of success in life comes from the opportunities one's given, and I think Mr. Dondero did give me an opportunity.
Q. Okay, and in your Acis distributions, when he gave you a twenty-five percent limited partnership in Acis, you'll see the distribution starting at 2012 for that, alone, is nearly 4.6 million dollars, correct?
A. Correct.
Q. And then you made another 4.3-million-dollar bonus during that -- during your tenure, and another 2.5-million-dollar base for a total of 13.2 million dollars, correct?
A. I obviously haven't verified these numbers. I'll take your word that they're correct, but they look -- they look correct.
Q. Okay. Now, did you have a purpose on either taping for potential claims you may have against Highland or did you have a purpose of potentially taping in order to turn Highland or its personnel into the SEC or some other government body?
A. No, it -- it was defensive. It -- there was no offensive purpose.
Q. But have you ever gone to the SEC?
A. Yes.
Q. How many times?

A. Subsequent to my termination, there were -- probably roughly five meetings at their request subsequent to my termination.
Q. Five separate meetings with the SEC?
A. I believe that's correct. And --
Q. Yeah.
A. -- the DOJ and the FBI also wanted to talk to me about Highland and Mr. Dondero.
Q. And what were you trying to spill the beans on Highland and Mr. Dondero? What were you trying to tell them?
A. Well, I had filed a whistle-blower complaint after my termination, given the nature of what I was terminated for. Also, given some of the allegations that Highland had made up against me to justify a for-cause reason for my termination, I, among other reasons, filed a whistle-blower complaint with the SEC subsequent to my termination. And subsequent to that whistle-blower complaint, they wanted to talk to me about Highland numerous times.
Q. What happened to that complaint?
A. That's a question for the SEC. I don't -- I don't know where it stands right now.
Q. Is it pending?
A. I -- that's a better question for the SEC or, I'm sure, you guys -- I'm sure Highland knows better than I do what the status of that investigation is, but I do understand Highland

is under investigation.
Q. What were you blowing the whistle on?
A. Well, number one, I was terminated because I was told to engage in a transaction that I thought would violate my fiduciary duty to investors. And it was, in my view, a loan taken from the CLOs to benefit Mr. Dondero and Highland Capital, and I thought it was wrong, and I was fired for it. And so I told the SEC all about that transaction. That was one.

Number two, I had been asked to do something called "season trades", which would have the effect of getting around that previous September 2014 cease-and-desist order that had come from the SEC against Highland. I had been told by Highland's compliance team that it was okay. I had kind of -- I have questioned it while I was there. I was told again it was okay. Subsequent to my termination, I retained regulatory counsel. Regulatory counsel informed me that it likely was not okay, I probably should have been in the conversations with counsel. But subsequent to that, that was one of the things that I reported, as well --

Q. So --
A. -- to the SEC.
Q. So you -- you've had five meetings. Is that just with the SEC or is it a combination of DOJ, FBI?
A. There is at least one meeting that the DOJ had reached

out through the SEC because they heard I was a whistle-blower. The SEC, my understanding is the agency cannot divulge the identity of a whistle-blower without the whistle-blower's consent, so the SEC asked me if I would be open to meeting with the DOJ, the FBI, the U.S. Attorney's Office in connection with the questions they had about Highland. I then said it was okay to set up that meeting with the -- with those offices and to give them my identity. And so we then went out and did -- you know, I answered questions they had about Mr. Dondero and -- and Highland Capital.

Q. Do you have a lot of personal, even not (indiscernible)?

A. Not any.

Q. Okay. None has happened. So let me ask you this. Did you ever say to Scott Ellington: pay me ten million dollars to settle my claim or I will take these papers and give them to the SEC? Did you ever say --

A. No, never.

Q. You're denying that under oath?

A. Yes.

Q. And you didn't say that in the presence of Mr. Chalk (ph.)?

A. I don't know what you're talking about.

Q. You didn't say that in the presence of an SEC enforcement attorney?

A. No.

Q. You never said it? You're saying that under oath?
A. Yes.
Q. Let's -- by the way, I never would have gone here, but your lawyer (indiscernible) by talking about your sexual affairs, and he went into the arbitration award. Do you think that's -- do you think your sexual affairs were relevant to this issue?
A. Well, first of all, your statement is incorrect. But second of all, no, I don't think that topic is relevant.
Q. Okay, so we can agree, and I will try to be professional because you said that you were terminated because of things such as not doing -- engaging in conduct that you thought might be a violation of the regulatory laws, because I understand that was at least one of the reasons why you thought you were terminated?
A. Well, I was terminated because Mr. Dondero was angry that I had disagreed with his --
Q. Yeah.
A. -- proposal, and it was found by a three-judge arbitration -- by a three-former-judge arbitration panel that that was the case.
Q. Okay.
A. It's already --
Q. Well --
A. -- been adjudicated.

Q. But since you've opened the door on this subject, weren't you terminated for having an affair with a junior Highland employee?
A. No, I was terminated for refusing Mr. Dondero's wrong-headed plan --
Q. Did --
A. -- and then he subsequently made up a pretextual excuse so he didn't have to pay me under the Acis agreement. And then that -- and that was determined by a three-judge arbitration panel in October 2017.
Q. Did you admit on the record that you had a sexual affair with a Highland --
MR. SHAW: Judge, I'm going to object to the relevance. This idea --
MR. CRUCIANI: Okay --
MR. SHAW: Can I please get my objection out? Thank you, sir.
This idea that I opened the door, it's a -- it's a document that's admitted as Exhibit number 1. The point of my -- of my examination was strictly with regard to Mr. Surgent. It didn't get into sexual affairs, it didn't get into anything. It was strictly on Mr. Surgent's credibility. This idea that we're all going to get in here, and we're going to relitigate issues that have already been determined by a three-judge panel, I think is improper and it's harassing, and

it's just inappropriate.

MR. CRUCIANI: Your Honor --

THE COURT: Response?

MR. CRUCIANI: -- he opened the door, and he said he was terminated for a reason other than one of the reasons that Highland gave and other than one of the reasons that, I understand I wasn't there, but he admitted to in the arbitration. It's like I said, I would not have gone there, but for them opening the door.

MR. SHAW: It's collateral estoppel and res judicata. I mean --

THE COURT: I overrule. A little --

MR. CRUCIANI: Yeah.

THE COURT: -- latitude, but just a little.

MR. CRUCIANI: Well, one -- just one question. Assuming I get a responsive answer.

BY MR. CRUCIANI:

Q. Did you admit to having an affair with a Highland junior employee, yes or no?

A. Yes, I admitted to having an affair --

Q. That's all I want.

A. -- but she was not a Highland employee, she was an employee of an affiliate, but it was -- it was wrong, and I did it.

Q. Okay. And that's all I have on that, sir. Let's go to

Exhibit 50, please, your involuntary petition?

You signed this, sir, page 3, correct?

A. Yes.

Q. And you read the warning that says bankruptcy fraud is a serious crime, on part 4, and can subject you up to twenty years in prison, correct?

A. Correct.

Q. And you swore that: I have examined the information in this document and have a reasonable belief that the information is true and correct?

Do you see that?

A. Yes.

Q. And you say that the debtor is generally not paying its debts as they become due unless they are the subject with a bona fide dispute as to liability of (indiscernible). Do you see that?

A. Yes.

Q. Now, you say your debt is not being paid, right?

A. Correct.

Q. And you know that on -- you filed this at midnight on January 30th, correct?

A. Yes.

Q. And you knew that on January 29th, Acis filed a motion in the 44th District Court to post a supersedeas bond which would have stayed the enforcement of the judgment, correct?

A. I believe that's incorrect.
Q. They filed a supersedeas bond and asked that the Court enter it -- an amount of approximately 500,000?
A. Filed a motion?
Q. Yes.
A. Yes.
Q. Right. And if that -- and do you understand -- I know you're not a lawyer, but do you understand that when supersedeas bond is posted, it stays further enforcement of the judgment? So you have that layman's understanding?
A. If the judge agreed to that --
Q. Right.
A. -- amount that Acis was requesting, then yes, I would -- that's my general layman's understanding.
Q. And then you would have been a judgment creditor whose claim had -- would have been stayed at that point, correct?
A. That's starting to get into legal areas that I don't have any --
Q. So other than --
A. -- understanding of.
Q. -- you -- and you understand there was a bona fide dispute and that Acis had had every intention of filing an appeal or we just got done talking about the bond that it had --
A. My --

Q. -- sought --
A. My understanding is that's not correct, based on case law and that it's an unstayed judgment, so I -- that's getting into bankruptcy law terms, but my understanding of that, that's not correct.
Q. Well, it was -- it was stayed as of the moment you filed the bankruptcy as -- by virtue of the automatic stay, wasn't it?
MR. SHAW: I'm going to object. It calls for a legal conclusion. This witness does not have a basis as a lawyer, he's not been -- not an expert.
MR. CRUCIANI: He just offered an opinion.
THE COURT: I sustain the objection.
MR. CRUCIANI: Okay.
Q. Other than yourself, what other creditors can you point to that were not generally being paid their debts as they became due?
A. As of the date I filed the petition or --
Q. Just --
A. -- today --
Q. No, no.
A. -- today?
Q. I want you to put your January 30th at midnight hat on. Okay? What other creditors were not generally being paid their debts as they became due?

A. So there was accrued audit fees that had been on the balance sheet for some time and had increased. I don't know if I knew that was KPMG at the time or not. Now I know it's KPMG. Highland had had a substantial amount on the balance sheet, and that amount had increased over time. It wasn't able to pay that debt to -- to Highland. It was obviously transferring the assets to Highland. My -- my eight-million-dollar judgment, which wasn't on the Klos affidavit, it's my understanding it's -- the balance sheet provided for this supersedeas bond doesn't include the -- the judgment of -- would -- wouldn't include the judgment in that case, so that's why it wasn't on the balance sheet, but I was obviously aware of it. And then, to the extent there was any other, that it couldn't be paid because Acis was completely dismantling its business, dis --

Q. Mr. --

A. -- dissipating --

Q. Mr. Terry --

A. -- assets below --

Q. Mr. Terry, Mr. Terry, I asked you as of that date --

A. Right.

Q. -- specific creditors, not what may happen in the future. Can you identify every specific creditor you knew of or believed you knew of as of January 30th?

A. Yeah, to the extent, that category of unknown creditors

isn't a specific creditor, then -- then I've named the three that I was aware of from the balance sheet.
Q. And why did you file -- well, let me ask it this way. Let's turn to Exhibit 33, I believe. This was a January 29 -- excuse me, a January 31, 2018 hearing in front of Judge Goldstein the afternoon after the stay had been entered. Let's go to page 8. You were at this hearing, right?
A. Yes, I was.
Q. Okay, and down at starting at line 20, Mr. Shaw is telling Judge Goldstein, "we have filed them into an involuntary bankruptcy. We did so because on Monday we received a sworn affidavit from Acis regarding their net worth". Do you see that?
A. I do.
Q. Is that why you filed Acis into bankruptcy?
A. No, it -- it's not the -- it's not the specific reason why I filed Acis into an involuntary bankruptcy, no.
Q. So the representation that Mr. Shaw made to the court was false is what you're saying?
A. I think Mr. Shaw can obviously speak to the representation that he made. I think he was referring to the last piece of information that we had received prior to filing the involuntary petition, which was a sworn net worth affidavit from Mr. Klos that stated various facts that previously weren't available to us.

Q. So just so I have your testimony, when Mr. Shaw said that the reason that "we", which would be you, Josh Terry, filed Acis into bankruptcy was because of that January 29 Klos affidavit. You said that, but now it's actually not; is that your testimony?
A. That's -- from my perspective, that's not the only -- that's not the reason that we filed Acis into an involuntary bankruptcy, no.
Q. Do you remember -- or you were in the courtroom when Ms. Patel's deposition tape was played, correct?
A. Yes. I think I may have actually run to the restroom while some of the depositions were --
Q. Well --
A. -- up. I think I was here for --
Q. Did --
A. -- the majority of her --
Q. Did you hear the part where she testified (indiscernible) that there just wasn't enough time? It'd be like she'd like to find an asset market (ph.) in the Street, but there just wasn't enough time to do more due diligence. Do you recall the substance of that testimony?
A. Yes, I do.
Q. Okay. Now, that -- and the event that caused there to be not enough time was the scheduled closing of the transaction on February 1st, was it not?

A. I don't know if that's one hundred percent true. I think it was there was a multitude of various things going on at that time, and it wasn't just that transaction. But that certainly was on the forefront of our mind --
Q. There were --
A. -- at that time.
Q. I'm sorry. There were only two events on the short-term time horizon: a temporary injunction during the schedule, for January 31, and the CLO loan closing on February 1. Those were the two short-term events that were coming up that had a relationship (indiscernible); did they not?
A. I think that's true, but there was also a concern that --
Q. So are --
A. -- there was a --
Q. So were --
A. -- the
Q. -- those the two events?
A. Well, I'm -- I'm trying to answer your question and -- as best I can, and I don't think those were just -- the only two events.
Q. Let me ask you this. You testified under oath that there was no time issue. There was no urgency from your standpoint when you filed this on January 30. Do you recall testifying to that?
A. I think that mischaracterizes my testimony.

MR. CRUCIANI: You know what, Your Honor, I think it's 5 o'clock, and maybe we'll pick up with that next week.

THE COURT: All right. So we will recess. I will need you to take all your stuff because we're going to have --

MR. CRUCIANI: Yes, ma'am.

THE COURT: -- different people in here on Monday, but I will see you 9 o'clock Tuesday.

Oh, okay, well, that's true. Your --

MS. PATEL: Your Honor, we ask --

THE COURT: Your boxes --

MS. PATEL: -- if we could just -- we've stacked our up in the back, and that's where we'll just --

THE COURT: That --

MS. PATEL: -- leave them --

THE COURT: That'll be --

MS. PATEL: -- tucked away?

THE COURT: That'll be fine.

MS. CHIARELLO: Thank you, Your Honor.

THE COURT: Boxes against walls --

MR. CRUCIANI: And --

THE COURT: -- are fine.

MR. CRUCIANI: And could I just -- because we've talked about different times, so it's Tuesday 9 until when?

THE COURT: Until -- yeah, because we have a 1:30. We'll stop at 12:30.

MR. CRUCIANI: And Thursday, the time again, please?
THE COURT: We can start at 9, I guess --
MR. CRUCIANI: Is --
THE COURT: -- on Thursday --
MR. CRUCIANI: Is it --
THE COURT: -- as well.
MR. CRUCIANI: -- a morning session on Thursday --
THE COURT: It's a --
MR. CRUCIANI: -- as well?
THE COURT: -- morning session, yeah.
MR. CRUCIANI: So like 9 to 12:30, as well?
THE COURT: 12:30, yeah.
MR. CRUCIANI: Thank you so much for --
THE COURT: All right.
MS. PATEL: Thank you --
MR. CRUCIANI: -- accommodating us.
MS. PATEL: -- Your Honor. I'm just trying to get an understanding because we're trying to now begin, also, the motion for stay pending an appeal --
THE COURT: Um-hum.
MS. PATEL: -- the motion to intervene. And just to make sure that, again, we're prepared at -- whenever those are going to get taken up, what -- are we still thinking both of those are taken up at the end of all of the evidence after closing arguments, before closing arguments?

THE COURT: Well, I don't know, before or after closing arguments. I guess --

MR. WARNER: The stay, we'd appreciate the Court considering that the stay pending appeal consider before ruling. The motion for relief from stay, be --

THE COURT: Oh, that's the different thing, the --

UNIDENTIFIED SPEAKER: Yeah, it's --

THE COURT: -- motion to lift stay.

MR. WARNER: Right.

MS. PATEL: Right, right. Now, and I was referencing specifically --

MR. WARNER: And then there's --

MS. PATEL: -- the motion for relief from stay we've already agreed gets set after the ruling.

MR. WARNER: Right. I'm okay with that after the ruling, the motion for relief from stay.

MS. PATEL: That's the agreement, right.

MR. WARNER: the motion for stay pending appeal before ruling, the motion to intervene, I assume, is before ruling.

MS. PATEL: So I'm just --

THE COURT: Right, but --

MS. PATEL: -- wondering --

THE COURT: -- before or after closing arguments is what we're discussing.

UNIDENTIFIED SPEAKER: Yeah.

MR. CRUCIANI: Can we have a final time count so we can maybe map this out a little bit so --

THE CLERK: Five hours and thirty-nine minutes for you.

And eight hours, thirty-six minutes.

MR. CRUCIANI: Thank you.

THE COURT: I guess what I'm inclined to think is we go ahead and roll to those other motions, and if we run out of time, which I'm very afraid we will, we could come back for closing arguments.

THE CLERK: Oh. I didn't --

THE COURT: Well, wait, how much time do we have? You just told him --

THE CLERK: Three hours and (indiscernible).

MR. CRUCIANI: Little less than --

THE COURT: So we --

MR. CRUCIANI: -- four hours.

THE COURT: Okay, yeah, we can get through it all on Thursday, closing arguments, as well as the two motions.

MR. CRUCIANI: Okay, great. Thank you --

THE COURT: All right?

MR. CRUCIANI: -- Your Honor.

MS. PATEL: So the -- just to be clear, Your Honor, then, so on Tuesday we'll have evidence --

THE COURT: And we'll probably finish or almost finish the evidence.

THE CLERK: Yeah, that would be --

THE COURT: Because we're starting at 9 and --

MS. PATEL: Okay.

THE CLERK: Yeah, I don't think there's going to be (indiscernible).

THE COURT: Thursday, yeah.

MS. PATEL: Thursday --

THE COURT: There's nobody --

MS. PATEL: -- evidence on --

THE COURT: Unless they don't use all their time.

THE CLERK: Evidence on Tuesday.

THE COURT: Which I'm guessing --

MS. PATEL: Evidence on Thursday. Motions on Thursday before or after closing? Your Honor, I'm -- we're just trying to -- again, we've been in this courtroom for the last three days. I've had other people in my office working on things. I need to check with their schedules --

THE COURT: Okay.

MS. PATEL: -- figure out --

THE COURT: We'll do the other --

MS. PATEL: -- who's going to argue stuff.

THE COURT: -- motions -- we'll do the other motions first, and then closing arguments.

MR. CRUCIANI: Not to be a fly in the ointment, but if we could do closing, which I will, I think, be doing, I will not need to be present to argue our motion to lift stay, nor be involved in the intervention motion. As I said, I am relying on an oral argument. And if we have --

THE COURT: Oh, wait, I forgot; when is that?

MR. CRUCIANI: Yeah, it's April 5th, and I'll be leaving on --

THE CLERK: That's after this week --

THE COURT: Yeah, we're --

MR. WARNER: That's the following week.

THE COURT: -- we're going to finish Thursday --

MR. CRUCIANI: Okay --

THE COURT: -- of next week.

MR. CRUCIANI: Are we going to finish -- okay, that was -- I just was concerned that we were going to run out of time to do the two motions and closing argument. But if we're going to finish everything --

THE COURT: We're going to --

MR. CRUCIANI: -- on Thursday, then that's fine.

THE COURT: -- finish Thursday --

MS. PATEL: And Your Honor --

THE COURT: -- even if I have to --

THE CLERK: Have to limit the time --

MR. CRUCIANI: Yeah, I think that --

THE COURT: Yeah, we may --
MR. CRUCIANI: -- makes sense.
MS. PATEL: Right.
THE COURT: -- be doing that.
MS. PATEL: And Your Honor, just again, then we also have a witness issue if we haven't been able to --
MR. CRUCIANI: I think we'll work --
MS. PATEL: -- work through with --
MR. CRUCIANI: I think we'll work that out.
MS. PATEL: Well, I -- but I need to -- I need to know if we've worked it out. If not, I've --
MS. PATEL: -- got to start --
MR. CRUCIANI: We're fine.
MS. PATEL: -- issuing subpoenas.
MR. CRUCIANI: We're --
MS. PATEL: We're good?
MR. CRUCIANI: Yeah, we're good.
MS. PATEL: I don't --
MR. WARNER: You can use the --
MS. PATEL: -- need to issue a subpoena --
MR. WARNER: It's three pages.
MS. PATEL: -- to Lackey? The three pages we sent to you is --
MR. WARNER: The three pages --
UNIDENTIFIED SPEAKER: It's subject to us

supplementing for --

MS. PATEL: You can put in --

UNIDENTIFIED SPEAKER: -- for completeness.

MS. PATEL: -- whatever you like. I just want my three pages in.

MR. CRUCIANI: Yeah.

MS. PATEL: Otherwise, I -- and then I don't need to subpoena a witness. Okay. Thank you.

MR. SHAW: Thank you, guys.

THE CLERK: All rise.

MR. CRUCIANI: Thank you.

(Whereupon these proceedings were concluded at 5:06 p.m.)

I N D E X

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
FOR THE ALLEGED DEBTORS:					
Mark Okada	12	50	81		
James Dondero	108	165			
Joshua Neal Terry	180				
VIA VIDEO DEPOSITION:					
Brian P. Shaw, Esq.	84				
Rakhee Patel, Esq.	98				

EXHIBITS: No.	Description	Marked	Admitted
DEMONSTRATIVE:			
6	Marked-up version of page 32 of Demonstrative 5	5	
8	PowerPoint	50	

C E R T I F I C A T I O N

I, Clara Rubin, the court-approved transcriber, do hereby certify the foregoing is a true and correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.



March 27, 2018

CLARA RUBIN

DATE

A

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HCLOM00247174

EXHIBIT 78

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	)	CASE NO. 18-30264-SGJ7
	)	
ACIS CAPITAL MANAGEMENT L.P.,	)	CHAPTER 7
	)	
	)	
ALLEGED DEBTOR.	)	

IN RE:	)	CASE NO. 18-30265-SGJ7
	)	
ACIS CAPITAL MANAGEMENT GP, L.L.C.,	)	CHAPTER 7
	)	
	)	
ALLEGED DEBTOR.	)	

****

ORAL AND VIDEOTAPED/REALTIMED DEPOSITION OF

JAMES DONDERO - 30(b)(6)

AS CORPORATE REPRESENTATIVE OF

HIGHLAND CAPITAL MANAGEMENT, LP

MARCH 19, 2018

****

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****

ORAL AND VIDEOTAPED/REALTIMED DEPOSITION OF
JAMES DONDERO - 30(b)(6)
AS CORPORATE REPRESENTATIVE OF
HIGHLAND CAPITAL MANAGEMENT, LP
MARCH 19, 2018

****

ORAL AND VIDEOTAPED/REALTIMED DEPOSITION OF JAMES DONDERO, produced as a witness at the instance of the Petitioning Creditor Joshua N. Terry and duly sworn, was taken in the above-styled and numbered cause on MARCH 19, 2018, from 2:04 p.m. to 5:42 p.m., before Karen L. D. Schoeve, CSR, RDR, CRR, in and for the State of Texas, reported by computerized machine shorthand, at the law offices of McKool Smith, 300 Crescent Court, Suite 1500, Dallas, Texas, pursuant to the Federal Rules of Bankruptcy Procedure and the provisions stated on the record or attached hereto.

It is further agreed that Rule 30(b)(5) is waived by agreement of the parties.

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Scott B. Ellington, Chief Legal Officer and General Counsel, Highland Capital Management LP
Jerry Miller, Videographer

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REPORTER'S NOTE 1: Please be advised that an UNCERTIFIED ROUGH DRAFT version of this transcript exists. If you are in possession of said rough draft, please replace it immediately with this CERTIFIED FINAL TRANSCRIPT.

REPORTER'S NOTE 2: Quotation marks are used for clarity and do not necessarily reflect a direct quote.

PROCEEDINGS

THE VIDEOGRAPHER: This is the videotaped deposition of James Dondero. The date is March 20th, 2018. The time is approximately 2:04 p.m.

Will counsel present please identify yourself and who you represent, and will the court reporter please swear in the witness.

MR. SHAW: Brian Shaw and Rahkee Patel on behalf of Joshua Terry.

MR. CRUCIANI: Gary Cruciani with Carson Young and Scott Ellington on behalf of Acis and Mr. Dondero.

JAMES DONDERO,

having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, so help him God, testified as follows:

EXAMINATION

BY MR. SHAW:

Q. State your name.

A. James Dondero.

Q. Mr. Dondero, you're the president of Acis Capital Management GP, L.L.C., correct?

A. I don't know if I still am, but . . .

Q. You were the president of Acis Capital Management, GP, L.L.C., at some point, correct?

A. I believe so.

(Trial Exhibit 110 referenced.)

Q. (BY MR. SHAW) Let me show you what's been marked as Exhibit 110.

MR. CRUCIANI: Are these gonna correspond to the trial exhibits?

MR. SHAW: They are.

Q. (BY MR. SHAW) This is a consent of the sole member of Acis Capital Management, GP, L.L.C. Do you see that?

A. Yes.

Q. And you see under the second "Resolve further" -- you see that there -- or actually the first "Resolve further"?

A. Yes.

Q. It names you as the president of Acis Capital Management, GP, L.L.C., correct?

A. Yes.

Q. And Mr. Waterhouse is the treasurer as of June 10th, 2016, of Acis Capital Management, GP, L.L.C.?

A. Yes.

Q. Is there some subsequent document that removed you as president of Acis Capital Management, GP, L.L.C.?

A. I don't know.

Q. If I say "Acis, GP," can we have the agreement that we're talking about Acis Capital Management, GP, L.L.C.?

MR. CRUCIANI: That's fine.

A. Okay.

Q. (BY MR. SHAW) And if I say "Acis, LP," I'm talking about Acis Capital Management, LP. Do you understand that?

A. What's the difference?

Q. One is a general partner, and one is the limited partnership.

A. Okay.

Q. Now, Acis, GP, controls and runs Acis, LP, correct?

A. Controls and runs . . . It's the general partner.

Q. Is there anyone at Acis, LP, or Acis, GP, that is higher on the organizational chart than you?

A. I don't believe so.

Q. Mr. Waterhouse, he is listed in Exhibit 110 as the treasurer of Acis, GP. Do you see that?

A. Yes.

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Q. He's also an employee of Highland Capital Management, correct?
A. Yes.
Q. Does Mr. Waterhouse have the authority to transfer any assets of Acis, LP, without your approval?
A. I don't know.
Q. Has Mr. Waterhouse ever transferred any assets of Acis, LP, without your approval?
A. I don't know.
Q. The ownership of Acis, LP, you are a beneficiary of the Dugaboya Investment Trust, right?
A. Wait a minute, benefit . . . Yes, I believe so.
Q. That's a private express trust that has Nancy Dondero, your sister, as its trustee, right?
A. I -- I don't know. She's the trustee.
Q. The ownership of Acis, LP, at one point, the majority owner was the Dugaboya Investment Trust, of which you are a beneficiary, correct?
A. I believe that's true.
Q. All right. Dugaboya Investment Trust no longer has an ownership interest directly in Acis, LP, right?
A. I do not believe so.

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Q. And the Dugaboya Investment Trust transferred its interest in Acis, LP, to an entity called Neutra, N-e-u-t-r-a, Limited; is that right?
A. I don't know.
Q. Do you have a -- any actual or beneficial ownership in Neutra?
A. I -- I believe it's an affiliate of Highland.
Q. You are a majority owner of the Highland Capital Management, LP, right?
A. No.
Q. You are a majority owner of Highland Capital Management, LP, through various entities -- I believe you previously testified -- around 75 percent of Highland Capital Management, LP?
A. No.
Q. Do you have any ownership of -- do you or any entity in which you have an ownership interest, or trust in which you are a beneficiary, have an ownership interest in Highland Capital Management, LP?
A. I do not believe so.
Q. Who owns Highland Capital Management, LP?
A. A trust. A -- a taxing -- a trust in a insured -- insurance vehicle that owes Mark Okada

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and I a note in interest for our shares, and then the residuals spills out to -- once the notes are paid off in full, the residual interests spills out to charity.
Q. Have you ever described yourself as an ownership of Highland Capital Management, LP?
A. Before -- yeah -- before -- yes.
Q. Have you ever described yourself as a majority owner of Highland Capital Management, LP?
A. I'm sure I did when I was.
Q. And when did you cease becoming a majority owner of Highland Capital Management, LP?
A. When -- we call the transaction the "Rand transaction" internally, whenever that Rand transaction was completed.
Q. If Highland Capital Management liquidated, who would -- what flesh and blood individuals would receive the proceeds from that liquidation?
A. It -- it spills to charity. It will -- it would pay off the principal and interest of the notes that remain to Mark Okada and I first. And if it liquidated, whatever residual left goes to a series of charities, primarily Catholic charities and a couple others.
Q. There are no other flesh and blood

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individuals who would receive the proceeds from a liquidation of the Highland Capital Management other than you and Mr. Okada; is that correct?
A. We wouldn't receive proceeds from the liquidation. We would receive principal and interest on the established notes. Any residual amount would go to charities, no individuals that I'm aware of.
Q. You are the president of Highland Capital Management, LP, right?
A. Yeah, I believe -- yes, I believe so.
Q. There is no one higher on the organizational chart for Highland Capital Management, LP, than James Dondero, right?
A. Correct.
Q. Highland is a creditor of Acis, LP, correct?
A. I -- I don't know.
Q. You don't know if Highland Capital Management, LP, is a creditor of Acis, LP?
A. I -- I'm not up to speed on specific accounting at all.
Q. Let me see if I can refresh your memory.
(Trial Exhibit 13 referenced.)
Q. (BY MR. SHAW) I'm showing you what's been

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marked as Acis Exhibit 13.
MR. CRUCIANI: Can I just ask for the record, Brian. So you've marked the first one as Trial Exhibit 110. This is -- is not Trial Exhibit 13. It's a different Exhibit 13.
MR. SHAW: I believe it's Trial Exhibit 13, but I could be wrong.
MR. CRUCIANI: Okay. Because the first one says "Exhibit 110" and this one says "Acis Exhibit 13," and so I just want to make sure there's no confusion on the numbering.
MR. SHAW: You know, I just printed it off of the documents that you gave us --
MR. CRUCIANI: Okay.
MR. SHAW: -- for your exhibits, so if it doesn't have a marking there, then I think we can pretty easily identify it, though.
MR. CRUCIANI: Okay.
Q. (BY MR. SHAW) Do you recognize that document, Mr. Dondero?
A. No.
Q. Okay. Do you see the page -- the third page there?
A. Yes.
Q. Do you recognize that signature?

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A. Looks like my assistant's.
Q. That's your assistant's signature?
A. I believe so.
Q. She's signing for you?
A. I believe so.
Q. Does she regularly sign documents filed in court pleadings on your behalf?
A. Yes.
Q. Did you authorize her to sign this on your behalf?
A. Yes.
Q. Did you review the document before you signed it -- or you had her sign it?
A. No.
Q. Page 2 of Exhibit 13, if you look at the eighth creditor down, it says, "Highland, LP," Do you see that?
A. Yes.
Q. And you're aware of the relationship between Acis, LP, and Highland Capital Management, LP?
A. Yes.
Q. You understand that there are subadvisory -- there's subadvisory agreements and shared services agreements between Acis, LP, and

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Highland Capital Management, LP?
A. Yes.
Q. And if I say "Highland," can we have the agreement that I mean Highland Capital Management, LP?
A. Yes.
Q. And you see they're listing $2.77 million as a creditor of Acis, LP?
A. Yes.
Q. Does that refresh your memory as to whether or not Highland is a creditor of Acis, LP?
A. I'm sure, with painstaking accuracy, my accountants and my lawyers put this together and double-checked it.
Q. And no reason to disagree with that document that was filed with the bankruptcy court?
A. I have no reason to disagree with it.
Q. Who represents Highland in this bankruptcy proceeding?
MR. CRUCIANI: Objection; assumes facts not in evidence.
A. Represents Highland in . . . Highland's not a party, right?
Q. (BY MR. SHAW) So are there any lawyers that are representing Highland in the bankruptcy

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proceeding?
A. I don't know.
Q. Is McKool Smith representing Highland in this bankruptcy proceeding?
A. I -- I don't know.
Q. Is Cole Schotz representing Highland in this bankruptcy proceeding?
A. I -- I don't -- I don't know the slate for sure. I would -- I mean, don't know. I don't know exactly what parties they're representing.
Q. You understand that McKool Smith and Cole Schotz, at a minimum, represent Acis, LP, in this bankruptcy proceeding?
A. I'm -- I'm saying I do- -- I don't know. I rely on my capable internal counsel to build the appropriate slate of supporting external counsel.
Q. Who is paying McKool Smith and Cole Schotz for the representation in this bankruptcy proceeding?
A. I don't know.
Q. Now, as the president of Acis, GP, have you had communications with outside counsel with regard to this bankruptcy?
MR. CRUCIANI: You can answer "yes" or "no," whether you've had communications.

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A. I -- I don't know. I mean, I -- I don't know with what regard my conversations with counsel have been.

Q. (BY MR. SHAW) So you don't know if they were in your role as the president of Acis, GP, or if they were in your role as the president of Highland?

A. Correct.

Q. You have in-house counsel at Highland, correct?

A. Yes.

Q. All right. Mr. Ellington and Mr. Leventon are two of the members of Highland's legal team?

A. Yes.

Q. And they provide legal services to Highland, right?

A. In some -- in some matters, yes.

Q. Are they also providing legal services to Acis, LP, or Acis, GP?

A. I believe in this matter, the Acis matters, Scott Ellington's been representing Acis.

Q. Is Mr. Ellington the -- the lead attorney -- in-house attorney for Acis in this bankruptcy proceeding?

A. I believe so.

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Q. And Acis opposes the entry of an order of relief in the bankruptcy proceeding, correct?

MR. CRUCIANI: Objection; vague as to "order of relief." I'm not sure he knows what that is, but you can ask him.

Q. (BY MR. SHAW) You can answer the question.

A. What do you mean by "order of relief"?

Q. I knew that was gonna be your next question.

Acis, GP, and LP does not want to be in bankruptcy, correct?

A. I -- yeah. It's my belief it shouldn't be in bankruptcy.

Q. And Highland also does not want Acis, GP, or Acis, LP, to be in bankruptcy either, right?

A. It's -- yeah, it's not -- it's not right for Acis to be in bankruptcy, and it potentially creates issues for Highland, too.

(Deposition Exhibit 1 marked for identification.)

Q. (BY MR. SHAW) Let me show you what's been marked as Exhibit 1 to your deposition. I know we're kind of getting confusing on our -- on our exhibits, but I'm doing the best I can.

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A. (Examined exhibit.)

Q. Do you recognize this document?

A. No.

Q. Did you authorize the Bell Nunnally law firm to file a notice of appearance in bankruptcy court on behalf of Highland CLO Funding, Ltd., CLO Holdco, Ltd., or Neutra, Ltd.?

A. No. This would have been a tactical strategic decision of in-house or out-of-house counsel. It wouldn't have been my decision.

Q. Now, CLO Holdco, Ltd., that's commonly known as the DAF, right?

A. I don't know.

Q. You've heard of the DAF before?

A. Yes.

Q. What do you understand the DAF to mean?

A. The DAF, I don't know what the abbreviation for it is.

Q. The Donor Advised Fund?

A. No. I know that abbreviation. I don't know which one of these entities it is.

Q. And Mr. Scott is the trustee of the DAF, right?

A. Mr. Scott -- you mean Mr. Grant Scott?

Q. Yes.

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A. Yes, I think he's the independent trustee.

Q. Did he authorize the filing of this notice of appearance?

A. I don't know.

Q. The entities listed here, Highland CLO Funding Limited, CLO Holdco Limited, and Neutra Limited, do you or does Highland have any ownership interest in any of those entities?

MR. CRUCIANI: Objection; compound.

A. I believe I said Neutra is an affiliated entity. I -- the DAF is completely separate, independent, irrevocable to the extent one of those represents the DAF, and I -- I don't know what the other one is.

Q. (BY MR. SHAW) You don't know what Highland CLO Funding Limited is?

A. Well, I'm taking your word that one of them is the DAF. And I'm just saying the DAF, it's an independent, irrevocable, charitable structure.

Q. I understand your position on that.

My question was with regards to Highland CLO Funding Limited, that first entity that's listed there.

A. I don't know. I don't know what it means.

Q. Does Highland have or its affiliates have

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any control over the Highland CLO Funding Limited?
A. We have no control over anything related to the DAF. I don't know what the other entity is.
Q. The DAF, Highland advises, though, right?
A. We -- we advise on some -- yes, on some of the portfolio assets, yes.
Q. And the DAF, is a -- some sort of charitable entity; is that right?
A. Yes. It's an irrevocable pool of funds that eventually spill out to charities a certain amount each year.
Q. But Highland has no control over the DAF. Is that what you're saying?
A. Right. It has independent trustees invested in three or four subsidiary charities, and we can make a recommendation to it, but it -- as an investment advisor, but it doesn't have to take our investment advice.
Q. I went to the Dallas Zoo recently with my wife and son and saw that Highland purports to sponsor the Dallas Zoo. Is that -- is that accurate, or is it the DAF that's supporting the Dallas Zoo?
A. We made -- the donation, I believe, comes from the -- the donation comes from the DAF, but

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because all the original moneys put into the DAF came from Highland, Highland typically gets signage on the ultimate donations made by the DAF.
Q. Same response for, say, the Perot -- Perot Museum?
A. Yes.
Q. And same response, say, for the George W. Bush Library?
A. Yes.
(Trial Exhibit 1 referenced.)
Q. (BY MR. SHAW) I'm showing you what's been marked as Exhibit Number 1.
A. (Examined exhibit.)
Q. Do you recognize that document?
A. No.
Q. Have you ever read the arbitration award that was entered by JAMS in the arbitration between Mr. Terry and the parties listed on the second page to Exhibit Number 1?
A. No.
Q. You've never read that document?
A. Never glanced at it.
Q. Were you aware that an arbitration award was entered against Acis Capital Management, LP, and Acis Capital Management, GP, L.L.C.?

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A. Yes.
Q. Were you made aware of that on October 20th, 2017?
A. I don't remember.
Q. Where were you when you were made aware of the roughly $8 million arbitration award against Acis, GP, and Acis, LP?
A. I don't remember.
Q. Is an $8 million arbitration award a significant event?
MR. CRUCIANI: Objection; vague.
A. It -- yes. It's particularly significant to Acis, yes.
Q. (BY MR. SHAW) And you, in fact, testified at the arbitration hearing, right?
A. Yes.
Q. You testified at a -- in a deposition in the arbitration, right?
A. Yes.
Q. Mr. Okada, the -- the co-owner of Highland also testified in that arbitration?
A. Yes.
Q. Various other employees at Highland, including Mr. Surgent and Mr. Ellington, outside counsel, Mr. Katz, also testified in that

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arbitration hearing. Do you recall that?
A. I was only there for mine, but I -- but I believe there was a parade of people, yes.
Q. And you actually issued a -- a pretty extensive press release once the outcome of this arbitration award was made public, right?
A. I believe so.
Q. And that was in response to an article by The Wall Street Journal?
A. Yes.
Q. And did you author that press release?
A. No.
Q. Who did?
A. PR Legal Compliance.
Q. Did you approve of the issuance and publication of that press release?
A. Yes.
Q. Yet you didn't even review the underlying arbitration award?
A. Correct.
Q. At some point, you became aware of the roughly $8 million arbitration award entered against Acis, GP, and Acis, LP, right?
A. Yes.

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Q. But you can't recall where you were when you received that information?
A. No.
Q. After you received notice that this arbitration award had been entered, did you have any conversations with any Highland employees about transferring Acis, LP's or Acis, GP's assets?
MR. CRUCIANI: I'm just gonna instruct you not to answer to the extent you had any discussions with your legal counsel. Otherwise you may answer.
A. Yeah, not that I recall.
Q. (BY MR. SHAW) All right. So excluding counsel, right? Is that -- is that the answer?
A. Right.
Q. So you didn't have any conversations about -- with Mr. Covitz about transferring Acis, LP, or Acis, GP's assets after the entrance of the arbitration award on October 20th, 2017?
A. No, not that I recall.
Q. I know that I'm gonna get an objection to this, but -- and an instruction not to answer.
But did you have any conversations with counsel with regard to transferring the assets of Acis, LP, or Acis, GP, after October 20th, 2017?

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MR. CRUCIANI: And I -- I would instruct you not to answer.
Q. (BY MR. SHAW) Are you refusing to answer based upon your instructions from your attorney?
A. Sounds good.
Q. Is that a "yes"?
MR. CRUCIANI: He's gonna follow my instruction, yes.
A. Yes. I'm following his instructions.
Q. (BY MR. SHAW) So I don't need to follow up with that ques- -- with that question after? If he instructs you not to answer, I can assume that you're following your --
A. Yes.
Q. -- attorney's instructions? Okay. Thanks.
Are Acis -- strike that.
You've received, personally or through the Dugaboya Investment Trust, roughly $11 million in distributions from Acis, LP; is that right?
A. I have no idea.
(Trial Exhibit 23 referenced.)
Q. (BY MR. SHAW) Let me show you what's been marked as Exhibit Number 23.
Go to the second page there.

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A. (Complied.)
Q. Do you see the listing for Equity, it says, "James Dondero draws"?
Do you see that, sir?
A. Yes.
Q. Any reason to dispute the fact that you have received, according to Acis's own balance sheet, a little over $11 million in draws?
A. Yes.
Q. You have reason to dispute that or you have no reason to dispute it?
A. No, I have reason to dispute it. It's -- it's under a column saying "Estimated Value" on something that was prepared a month or two before the actual distributions were made.
Q. Well, you've been receiving distributions from Acis -- well, at least you started receiving distributions from Acis in 2011 and received distributions into 2016, right?
A. I -- I don't know.
Q. You have not received any distributions nor has any -- nor have any of the other partners of Acis, LP, since Mr. Terry was terminated in June of 2016, right?
A. I don't even know that.

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Q. Let's talk about the assets of Acis on October 20th, 2017.
That's the date of the arbitration award. Okay?
(Trial Exhibit 15 referenced.)
Q. (BY MR. SHAW) Let me show you what's been marked as Exhibit Number 15, Acis 15.
Do you see that document?
A. Yes.
Q. Have you ever seen it before?
A. (Examined exhibit.) Not that I recall.
Q. Go to the second to last page there and tell me if that's your signature?
A. It looks like it.
Q. All right. And this Promissory Note reflects that Highland, of which you're the president, was the maker under a promissory note in favor of Acis, LP; is that right?
A. Yes.
Q. All right. And that's a $12.6 million promissory note?
A. Yes.
Q. And you're a -- credit expert. This promissory note was an asset of Acis, LP, on October 20th, 2017, right?

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A. Yes.
Q. The underlying transaction for which Acis received this promissory note, are you familiar with that transaction?
A. Just generally.
Q. What's your general understanding of the -- of that transaction?
A. That it was a note payable for a future stream of payments that Acis was going to give Highland for --
Q. So Acis -- Acis had a right to an income stream under these collateral management agreements, and in exchange for the note, Acis transferred that fee stream to Highland.
Is that your general understanding of the transaction?
A. Right. That there was no actual value times zero received by Highland for the note. Each -- each side promised streams to the other.
Q. And did you feel like that was a fair and arm's length transaction?
A. It -- I believe it was meant to offset. It was primarily due for tax planning, if I recall. That was my general understanding.
Q. And -- and you were on both sides of that

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transaction. On the Highland side as the president of Highland, and on the Acis side as the president of Acis, GP, right?
A. Yes.
Q. And presumably, you thought that was a fair deal for both Highland and for Acis?
A. I -- yeah. At the time that was recommended by our tax accountants.
Q. And you wouldn't have done the deal if it wasn't fair to both sides, both to Acis, LP, and to Ac- -- and to Highland, right?
A. Yeah, we -- yes.
Q. All right. So we've got one asset of Acis, LP, as of October 20th, 2017. I want us to talk about additional assets. And because there's a lot of names here, I want to help you and show you . . .
(Deposition Exhibit 2 marked for identification.)
Q. (BY MR. SHAW) I'm going to show you what's been marked as Depo Exhibit 2.
A. (Examined exhibit.)
Q. All right. And go to -- if you will, just look at that document. This is a transaction entered into between Acis Capital Management, on the

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one hand, and Highland CLO Holdings Limited, Caymans. It's a Cayman entity.
Do you see that in the first paragraph?
A. Yes.
Q. And if you look down into the Recitals, it discusses the assets that are being transferred, and the -- one, two, three -- fourth whereas paragraph down, are you there with me? It says, "Whereas, in satisfaction of the transfer receivable, Acis proposes a transfer to HCLOH, 100 hundred percent of Acis's ownership interest in the assets listed in Exhibit A hereto."
Did I read that correctly?
A. Yes.
Q. All right. So let's go back and look at Exhibit A.
A. (Complied.)
Q. And that Schedule A there says, "The assets are a limited liability company interest in Acis CLO Management Intermediate Holdings I, LLC; Acis CLO Management GP, LLC; and a limited partnership interest in Acis CLO Management Holdings, LP."
Did I read that correctly?

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A. Yes.
Q. All right. As of October 20th, 2017, Acis owned those assets listed in Schedule A, right?
A. I don't know, but I would assume.
Q. Acis can't transfer something that it doesn't already own, right?
A. That's what I would assume, but I have no knowledge.
Q. And that doesn't refresh your memory at all on Schedule A about what entity interest or partnership interest that Acis owned on October 20th, 2017?
A. No.
Q. Are you familiar with an entity called Acis Loan Funding Limited?
A. I'm -- not specifically.
Q. You've heard of the acronym "ALF," right?
A. Yes.
Q. And ALF, you understand, is repre- -- is short for Acis Loan Funding?
A. Yes.
Q. On October 20th, 2017, Acis owned an interest in ALF, right?
A. I -- I don't know.
Q. All right. As of October 20th, 2017, Acis

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was the portfolio manager under various collateralized -- or collateral management agreements; is that right?

A. I believe so.

Q. All right. Let's talk about the Acis liabilities as of October 20th, 2017. You have a list of creditors there that we've already talked about that was marked as an exhibit.

Will you look at that, please, again, for me?

A. (Examined exhibit.)

(Trial Exhibit 40 referenced.)

Q. (BY MR. SHAW) And then I want to show you an additional exhibit which is Trial Exhibit 40, Acis 40.

A. (Examined exhibit.)

Q. And this is a document that was filed in the bankruptcy proceeding.

Do you see that document?

A. Yes.

Q. As of October 20th, 2017, Acis had creditors for which it has not paid outstanding invoices; is that right?

A. I mean, I'm not the guy to answer that for you. I -- I don't know.

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Q. Okay. Well, let's look at Exhibit Number 40 and see if this helps you. This is a document that was filed by Acis in the bankruptcy court, and on page 2 -- let's see. Let's go to page 3 of Exhibit 40 and line 16, Reid Collins Tsai.

Are you familiar with that law firm?

A. Yes.

Q. They apparently did some work for Acis in the Terry matter, right?

A. I don't know.

Q. And that law firm has also represented Highland or Highland's affiliates in -- in other litigation too, correct?

A. It's represented Highland and other Highland affiliates in other litigation, but I have no idea what they did here.

Q. Are you familiar with a lawyer named James Stanton?

A. Yes.

Q. And James Stanton is a former judge, right?

A. I believe so.

Q. And he also was co-counsel with Reid Tsai in litigation before Judge Tillery in Dallas County, right?

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A. Years ago, I believe so.

Q. Now, the Stanton Law Firm on number 18, Exhibit Number 40, is listed as a creditor of Acis.

Do you see that?

A. Yes.

Q. And that invoice date is 10-18-2016?

A. Yes.

Q. Now, after 10-18-2016, you authorized on behalf of Acis, LP, and Highland the payment by Acis to Highland of amounts due under the shared services agreement and subadvisory agreements, right?

A. What was the first part of the sentence? I -- I authorized? Is that what you're saying?

Q. Yes.

A. It was part of the operating agreement. I mean, I didn't specifically authorize it, but . . .

Q. So under the operating procedure for Acis, when an amount was due to Highland under the shared services agreement or subadvisory agreement, did Mr. Covitz just have authority to unilaterally pay Ac-- -- pay from Acis to Highland those amounts?

A. You're talking in a time period after Josh is gone?

Q. Correct.

A. After Josh was gone, it would have been

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between legal, accounting. There would have been a -- a consensus of when and how to pay or who to pay or whatever.

Q. And did you have any involvement in that consensus?

A. No.

Q. Legal bills for Highland and its affiliates, including Acis, what is the procedure for the approval and payment of those legal bills?

MR. CRUCIANI: Objection; overbroad.

A. Scott and his team decide timing and amounts, and if it aggregates to a large number, they bring it by me for overall signoff. If it's a lesser amount, they don't.

Q. (BY MR. SHAW) So there are times when you are involved in the approval or disapproval of certain payments to legal providers?

A. Generally.

Q. Have there been times that Mr. Leventon has brought you in a stack of legal bills and you've thrown some of those away and approved some of them and not approved others?

A. Not that I recall with that specificity.

Q. Why hasn't former Judge Stanton been paid from this 2016 invoice?

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A. I don't know.
Q. Who would know that?
A. Scott and his team.
Q. Same question for Reid Collins Tsai, this law firm that's represented Highland or its affiliates in other litigation. That's an invoice from 8-31-2017.
Why hasn't that been paid?
A. I don't know.
Q. But we do know that despite the fact that this invoice has been outstanding since August 2017, that Highland has received payments after that 8-31-2017 invoice, right?
A. I don't know that answer either.
Q. Let me show you what's been marked as Exhibit Number 111, Trial Exhibit 111.
(Trial Exhibit 111 referenced.)
A. (Examined exhibit.)
Q. (BY MR. SHAW) The cover sheet there is Carson Young. He's an attorney with McKool Smith, sitting here today, and this is transfer -- historical transfers from NexBank for Acis.
Do you see that?
MR. CRUCIANI: Again, just for the record, I think this just reflects that it was

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printed out by Carson Young --
MR. SHAW: Sure.
MR. CRUCIANI: -- as opposed to being from or to.
MR. SHAW: Sure. Sorry about that.
MR. CRUCIANI: And I'm sorry. What -- what was the question, or was there a question?
Q. (BY MR. SHAW) All right. This document, Exhibit 111, reflects historical transfers from the NexBank account for Acis to an acronym HCMLP.
Do you see that?
A. Yep.
Q. And HCMLP is Highland, right?
A. Yes.
Q. And you see there that there are multiple transfers of amounts of money that occur after Reid Collins invoiced Acis, after Stanton Law Firm invoiced Acis, right?
A. Yes.
Q. Who makes the decision at Acis to pay Highland as opposed to one of these other creditors?
A. My general understanding, for a long time shared services was a basis point equation when Josh was there. That stepped up, what -- over the years, even while Josh was there. After Josh was there,

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whether -- what it stepped up to or how much was basis points, how much was not included in the basis points, like how much was for a la carte structuring or legal stuff, I don't know.
And the specific timing on when to pay what lawyers how much was handled by Scott and his group. I think that answers all your questions, at least as far as I know.
Q. Respectfully, I don't -- I don't agree with that -- that it answers the question.
So I'm gonna ask it again, which is, we know that we have a creditor, which is Highland, right, of Acis? We've established that.
There's -- there's no contest that Highland is a creditor of Acis, right?
A. Right.
Q. All right. And then we have a listing of -- of other alleged creditors that's in Exhibit Number 40, right?
A. Well, I wouldn't -- we presented them as factual, so I wouldn't say "alleged," but okay.
Q. Okay. And what I'm asking is: Who makes the decision to pay Highland as a creditor as opposed to one of these other parties, these other creditors?

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MR. CRUCIANI: Objection; asked and answered.
A. Yeah, I think I've answered it.
Do you want me to say it again?
Q. (BY MR. SHAW) I want you to answer the question I've asked.
So who makes that decision? Do you make the decision?
A. No, I don't make the decision. I'm saying anything regarding legal payments and the timing thereof is determined by Scott and his group, period, and then --
Q. And -- okay.
A. -- and then the shared services and the basis points and how much Young gets paid and who does that calculation and whatever would be calculated more by the accountants.
Q. Is Mr. Ellington acting on behalf of Acis when he makes that determination or whom?
A. You need to talk to Mr. Ellington on -- on that one. It's -- he uses his -- he uses his judgment, and he can tell you why.
Q. Are you aware that individuals who are employees at Highland had communications with Goldman Sachs regarding a refinance or reset of

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various Acis CLOs?
A. Yes.
Q. How did you become aware of that?
A. From counsel.
Q. Anybody else?
A. No. It's pretty much counsel.
Q. Did you direct Mr. Covitz to have communications with Goldman with regard to a refinance or reset of Acis CLOs?
A. I believe Mr. Covitz was the business person, but there were a lot of legal issues, so I believe there was always -- or virtually always lawyers on the phone.
Q. Did you have conversations with Mr. Covitz with regard to a refi or reset of Acis CLOs?
A. Not that I recall other than, generally, that it needed to happen because not refinancing was killing the equity.
Q. Did you have any written communications with Mr. Covitz with regard to a refi or reset of Acis CLOs?
A. I don't recall. I mean, I might have pushed him and asked him status, but . . .
(Trial Exhibit 21 referenced.)
Q. (BY MR. SHAW) I'm going to show you

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what's been marked as Exhibit Number 21 to the trial.
A. (Examined exhibit.)
Q. Are you familiar with Mr. Amit at Goldman Sachs?
A. No.
Q. Have you ever seen this e-mail?
A. No.
Q. And you note that this e-mail, October 27th, is seven days after the arbitration award?
A. Okay.
Q. No reason to disagree with that, right?
A. Right.
Q. I want to make it abundantly clear, if I didn't ask it before.
Did you direct any person to transfer Acis, LP, assets after the arbitration award?
MR. CRUCIANI: I think this was the same question asked previously, and I think my instruction to that was, and is, to the extent you had discussions with businesspeople, feel free to answer. To the extent you had discussions with counsel, I would instruct you not to answer.
Q. (BY MR. SHAW) All right. And so with any

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businesspeople, did you have that conversation?
A. No.
Q. And are you familiar with any of the written communications with Goldman Sachs?
A. No.
Q. Did you have any written communications with any businesspeople with regards to the transfer of management contracts -- collateral management contracts from Acis to a Highland affiliate?
A. No.
Q. Does anybody have authority at Acis, other than you, to -- to pursue a strategy of transferring the management of Acis collateral management agreements to a Highland affiliate?
MR. CRUCIANI: Objection; vague, assumes facts not in evidence.
A. Yeah, you need to rephrase that question for me.
Q. (BY MR. SHAW) I mean, what I'm getting at is, could this happen without James Dondero's approval? Could a collateral management agreement that was formerly in the name of Acis, LP, be transferred to a Highland affiliate without your approval?
A. Well, I mean, ultimately, it comes to my

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desk, but it -- but it's -- yeah, it would have -- I was gonna say at the -- it wasn't orch- -- not at my orchestration, but as approval of something that was -- not a transfer, but a result of a refi and a market demanding a distancing from Acis. It -- I would just recharacterize the whole context differently.
MR. CRUCIANI: Whenever you're at a breaking point. We've been going about an hour. If this is good, we can take a break. If you're in the middle of something, we can wait.
MR. SHAW: That's fine. We can take a break.
THE VIDEOGRAPHER: We're off the record. The time is approximately 3:00 p.m.
(A recess was taken from 3:00 p.m. to 3:10 p.m.)
THE VIDEOGRAPHER: We are back on the record. The time is approximately 3:10 p.m.
(Trial Exhibit 173 referenced.)
Q. (BY MR. SHAW) Mr. Dondero, I'm going to show you what's marked as Trial Exhibit 173.
A. (Examined exhibit.)
Q. You're familiar with ALF Loan Funding, correct?

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A. Not in any kind of detail, but yes.
Q. All right. And you're -- you're familiar with the ALF Loan Funding as an affiliate of Highland?
A. I don't know that.
Q. You're familiar with Mr. Waterhouse, right?
A. Yes.
Q. You're familiar with Mr. Scott, Grant Scott, right?
A. Yes.
Q. And this document, Exhibit Number 173, was executed on October 24th, 2017.
Do you see that?
A. Yes.
Q. All right. That's four days after the arbitration award.
Any reason to dispute that?
A. No.
Q. And if you look on Exhibit 173, first page, that number 1 says, "The Company be and is hereby specifically empowered, authorized and directed to acquire 966,679 ordinary shares of no par value in the capital of the Company."
Do you see that?

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A. Yes.
Q. And the Company is defined as "Acis Loan Funding Limited," right? First line, it says, "Acis Loan Funding."
Is that --
A. Sure.
Q. -- the Company?
A. Yes.
Q. Okay. And then it says, "To be entered into between the Company," that's Acis Loan Funding Limited, "and Acis Capital Management."
Do you see that?
A. Yes.
Q. And that's the entity in which you served as the president of the general partner?
A. Yes.
Q. And that document's signed by Mr. Waterhouse as treasurer of Acis?
A. Yes.
Q. Did you have a discussion with Mr. Waterhouse with regard to the transaction that's reflected in Exhibit Number 173?
A. No, not that I recall.
Q. Did you have any communications at all with Mr. Waterhouse with regard to the transaction

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reflected in Exhibit Number 173?
A. No, not that I recall at all.
Q. So at the beginning of your testimony, we talked about Mr. Waterhouse's role and whether Mr. Waterhouse had the authority to transfer assets out of Acis without your approval.
Do you recall that?
A. Yes.
Q. And you correct me if I'm wrong, but I believe you testified that he did not have the authority to transfer assets from Acis without your approval?
MR. CRUCIANI: Objection; misstates his testimony.
A. Yeah. This is a de minimis amount of shares, and I -- I'm not sure this is anything more than an accounting cleanup, right? I think it's just moving it from one entity to a related entity, right?
I mean, I -- I don't have an awareness of what it is, but if you're asking me did Frank overstep his bounds or do something untoward, I don't -- I don't think so. I think this was probably a cleanup item, probably something that came from legal, and Frank -- Frank's a trustworthy

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CFO.
Q. (BY MR. SHAW) Did you authorize this transaction?
A. No, not that I recall.
Q. And Mr. Waterhouse, who you referred to as Frank, he is both an employee of Highland on the one hand and also the treasurer of Acis, LP -- or I'm sorry, Acis GP, correct?
A. I don't know if he is now. As -- as of the date of whatever you showed me, he was, but I have no idea if he is now.
Q. Okay. What was the purpose of this transaction reflected in Exhibit Number 173?
A. I don't know.
Q. What did Acis, LP, receive for transferring this interest in Acis Loan Funding, Limited, to Acis Loan Funding, Limited?
A. USD 991,180.13.
Q. So it received --
MR. CRUCIANI: I think your -- I think, by the way, your last question had Acis Loan Funding, Limited, at both ends, so you might want to --
MR. SHAW: And that's what the transaction was.

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MR. CRUCIANI: Whatever.
A. All right. I was trying to be clever. I don't have an awareness of this.
It says, if you read it, that the shares were transferred for U.S. dollar consideration. Beyond what it says there, I don't have an awareness.
Q. (BY MR. SHAW) Did Acis receive $991,000 for the transfer of these shares?
A. I don't know specifically.
Q. And you said something about this is just an accounting transaction.
I mean, is $991,000, in your opinion, just a minor cleanup, accounting transaction?
MR. CRUCIANI: Objection; vague.
A. It could be.
Q. (BY MR. SHAW) Do you believe that Exhibit Number 173 was in Acis, LP's best interest?
A. I've no reason to think it's not. I don't have an awareness of it.
(Trial Exhibit 43 referenced.)
Q. (BY MR. SHAW) I'm showing you what's been marked as Exhibit Number 43 -- Trial Exhibit 43.
A. (Examined exhibit.)
Q. Have you ever seen this document?

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A. No.
Q. Are you aware that seven days after the arbitration award this portfolio management agreement was executed?
A. No.
Q. Are you aware that Acis was formally the portfolio manager and was terminated on October 27th, 2017?
A. (Examined exhibit.)
Q. Do you see number 1 on page 1, "Termination of the Portfolio Services Agreement"?
Do you see that there?
A. Yes.
Q. All right. You see it's effective -- "As of the effective date, the Predecessor Portfolio Management Agreement is hereby canceled"?
Did I read that correctly?
A. Yes.
Q. And in the first paragraph, Predecessor Portfolio Manager is defined as Acis Capital Management.
Do you see that?
A. Yes.
Q. And you see that the new portfolio manager is Highland HCF Advisor, Limited?

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A. Yes.
Q. Who is Highland HCF Advisor, Limited?
A. It's affiliated with Highland of some sort -- in some way, but I -- I don't know.
Q. Do you have any ownership interest in Highland HCF Advisor, Limited?
A. I would have no idea.
Q. And who would?
A. Corporate rep or ask the lawyers.
Q. Page 18, will you turn to that, please.
A. Yes.
Q. Is that your signature there?
A. (Examined exhibit.) No.
Q. Whose signature is it?
A. It's -- I got a blank page with no signature.
Q. The very last page at the bottom, you see where it says, "Consented and Agreed, Acis Capital Management"?
A. Yes.
Q. All right. Is that your signature there?
A. Looks like my assistant's. But if -- if it is, it's authorized by me.
Q. How often does your assistant sign documents on your behalf?

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A. Often.
Q. And how does that go? Do you direct her to sign a particular document or does she just get a document and sign it without any authorization from you? I mean, what's the protocol there?
A. Well, I travel a lot. I'm out of the office a lot, you know. She'll call or she'll text and say, "The lawyers or the accountants need whatever it is signed. Can I sign it for you?"
And -- and most of the time I can say yes, just based on her saying what it is.
Q. Do you review these documents that your assistant signs on your behalf?
A. No. We -- we have a lot of entities and a lot of companies and -- and I sign hundreds of things a week.
Q. Now, this portfolio management -- management agreement that removes Acis as the portfolio manager and then substitutes in Highland HCF Advisor, Limited, this was done seven days after the arbitration award.
How is this in Acis's best interest?
A. Because Acis had no ability to provide the services. I mean, Acis would have just had the liability.

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Q. How does Acis historically make money?
A. By putting together and managing the CLOs.
Q. And the management of those CLOs pays fees, right?
And I might -- let me restate that because I don't think it was a good question.
Acis receives fees for managing the CLOs pursuant to collateralized management agreements or also known as portfolio management agreements; is that right?
A. Yes.
Q. So in this document, Exhibit Number 43, Acis is giving up its right to receive those fees under the existing portfolio management agreement and now Highland HCF Advisor, Limited, will be the entity that has the right to those fees?
MR. CRUCIANI: Objection; mischaracterizes the document.
A. Rephrase the question for me.
Q. (BY MR. SHAW) Before this agreement was executed -- this portfolio management agreement that's Exhibit Number 43 --
Do you see that?
A. Yes.
Q. Before that was executed, Acis had the

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right to the fees under the portfolio management agreement that was in existence, right?
MR. CRUCIANI: Objection; mischaracterizes the document.
A. (No response.)
Q. (BY MR. SHAW) Can you answer the question or not?
A. No.
(Trial Exhibit 16 referenced.)
Q. (BY MR. SHAW) All right. I'm showing you what's been marked as Exhibit Number 16 -- Trial Exhibit 16.
This is a document entitled "Assignment and Transfer Agreement." It's dated November 3rd, 2017.
Do you see that?
A. (Examined exhibit.) Yes.
Q. And this is a document that was signed by you on the last page, if you'll turn with me to the last page.
A. Yes.
Q. Is that your actual signature or is that your assistant's signature?
A. That one looks more like mine.
Q. All right. Now, this document,

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November 3rd, 2017, that is 13 days after the arbitration award that occurred on October 20th, 2017, and it's between Acis, Highland, and Highland CLO Management, Limited.
Do you see that?
A. Yes.
Q. Who owns Highland CLO Management, Limited?
A. I don't know.
Q. Who controls Highland CLO Management, Limited?
A. Beyond it being an affiliate of Highland, I don't know.
Q. Do you ultimately control all of the affiliates of Highland?
MR. CRUCIANI: Objection; overbroad.
A. No.
Q. (BY MR. SHAW) All right. This document, Exhibit Number 16, I want you to look in the recitals.
So the first recital talks about "Acis is a portfolio manager under certain collateralized loan obligations listed in Schedule A of the purchase agreement and is entitled to fee compensation in connection therewith as set forth therein."

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That's what we were just discussing with regard to how Acis makes money, right?
A. Right.
Q. And then the second paragraph says that "Whereas Acis and HCM entered into the purchase agreement whereby Acis sold a portion of its future service fees to HCM in exchange for cash flows for HC- -- from HCM in each case as set forth in the note."
And that's that promissory note that we referred to earlier in your deposition, right?
A. Right.
Q. So the third "whereas" paragraph says, "Whereas HCM has notified Acis that HCM is unwilling to continue to provide support personnel and other critical services to Acis with respect to the CLOs."
Do you see that?
A. Yes.
Q. All right. Who made the determination that HCM, Highland, was unwilling to continue to provide support personnel and other critical services to Acis?
A. I -- that was a thoughtful, considering all facts and circumstances, decision made by our counsel -- internal and external counsel.

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Q. Were you involved in that decision?
A. I was aware of it, and I agreed with it, but . . .
Q. What external counsel was involved in that determination?
A. You'll have to ask Scott Ellington.
Q. And the internal counsel that was involved in that determination was who?
A. Tim.
Q. That's Tim Cournoyer?
A. Yes.
Q. Was Mr. Ellington involved in that decision?
A. I don't know.
Q. Now, when Highland notified Acis that Highland was no longer to provide the support and personnel and other critical services to Acis with respect to the CLOs, what did Acis do to go out to the market to try to get those support services and personnel from other service providers?
A. I don't know.
Q. Did it do anything to go out and say, "Hey, Highland's no longer gonna provide these shared services and subadvisory services, so we need to find somebody else to provide those"?

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A. I -- I don't know. I don't know if it did. I don't know if it would have been plausible, but I -- I don't know.
Q. Who would know that?
A. Check with Scott.
Q. All right. The next paragraph says, "Whereas Acis has determined that the effect of the notification is that it cannot fulfill its duties as portfolio manager of the CLOs, and in order to ensure the continued operation of such CLOs and protection for its stakeholders, it must assign its rights as portfolio manager in the CLOs to a qualified successor portfolio manager pursuant to the CLO documents."
Did I read that correctly?
A. Yes.
Q. What efforts did Acis make to sell its rights as a portfolio manager in the CLOs as opposed to just transferring them to a Highland affiliate?
A. I don't know, but I want to focus on my second comment I said -- last time I said I don't know. I don't believe it would have been a plausible errant.
I don't know what efforts were made, but you had deals that were priced off market that

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needed to be refinanced that weren't likely to be outstanding for any length of time to -- for a third party to get involved and to try and take over the deals for a very short period of time and be potentially subject to litigation or be subject to not being paid because litigation was somehow slowing or taking money or whatever.
I'm not sure that errand would have been -- I'm not sure there would have been interest from anybody under any circumstance -- any plausible circumstance that I can imagine --
Q. But we don't know --
A. -- anybody interested in buying it.
Q. I'm sorry. I didn't mean to cut you off there.
But we don't know because, no, we don't -- we're unaware of any efforts that were made to -- to determine that, right?
A. Yeah. The -- those efforts wouldn't have been made at my level. But I'm -- I'm just saying I have a hard time seeing how it would have been plausible, but you can -- you can ask Scott and other people.
Q. All right. So this -- this transfer agreement contemplates the transfer of these

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collateralized management agreements from Acis to Highland CLO Management, Limited.
That's that Cayman entity, right?
A. Yes.
Q. All right. What efforts did Acis make to obtain or to get from Highland CLO Management, Limited, some amount of money for the transfer of those portfolio management agreements?
A. Then maybe this is the crux of everything. It's hard to see how they have any value.
Q. Is it your position that those portfolio management agreements, or often called collateral management agreements, have no value?
A. When I have 30 or 60 days of tenure and they're mirrored in a pile of litigation, yeah, I'd say they have limited to zero value.
Q. When you entered into the note transaction, when Highland took a note in exchange for part of the fees under those collateralized management agreements, that was done at a time that there was pending litigation between Mr. Terry and Acis, right?
A. I -- I don't recall that timing, but it was -- I don't -- yeah, I don't -- I don't recall -- I thought it was before that. But if it -- but

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that -- wasn't that completely held valid in arbitration anyway?

But anyway, I don't -- I don't know the time. If you want to --

Q. So the promissory note is dated October 7th, 2016.

Any reason --

A. Okay.

Q. -- to disagree with that? All right.

And you -- and you recall that in September of 2016 was when Highland filed a lawsuit -- public lawsuit against Mr. Terry.

Mr. Terry filed an arbitration against Highland and Acis in September of 2016 as well, right?

A. Okay. Yes.

Q. Highland CLO Management, Limited, since it became an entity, what -- what assets does Highland CLO Management, Limited, have?

A. I have no idea.

Q. All right. Go to the second page of Exhibit 16.

A. (Complied.)

Q. So this is the actual agreement, not the recitals, but it talks in number 1, "Succession,

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Acis shall promptly provide the controlling class with notice that Highland" -- this Cayman entity -- "will be the portfolio manager," in number 1.

Do you see that?

A. Um-hum.

Q. Is that a "yes"?

A. Yes, I see it. Yes.

Q. And then we have number 2, "There is a successor manager, each of Acis and HCLOM shall promptly pursue successor management appointment of this Highland Cayman entity."

Do you see that?

A. Yes.

Q. All right. And then number 3 is an assignment and transfer of the promissory note. And the promissory note is that document that we were referring to earlier. It's dated October 7th, 2016. That's the note from Highland to Acis.

Do you recall that?

A. Yes.

Q. All right. And so the first paragraph there transfers the note from Acis to HCLOM.

Do you see that?

A. Yes.

Q. So do you recall too we discussed on

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October 20th, 2017, the note was an asset of Acis, right?

A. (Examined exhibit.) Yes.

Q. All right. And now this agreement effectuates the transfer of that asset of Acis to HCLOM?

A. Yes.

Q. Now, number 4 says, "Expense Support," and it says, "In the event Acis delivers written notice to HCLOM that Acis is unable to pay when due any Acis expenses, then HCLOM shall promptly pay to Acis" -- and then it goes on and on to say "an aggregate of $3 million of Acis's administrative fees and legal expenses."

Do you see that?

A. Yes.

Q. Prior to the filing of the bankruptcy, did Acis ever deliver written notice to HCLOM that Acis was unable to pay any Acis expenses?

A. I think you mixed up parties.

Could you say it one more time.

Q. Prior to the filing of the bankruptcy, did Acis deliver a written notice to HCLOM that Acis was unable to pay when due any Acis expenses?

A. Not that I'm aware of.

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Q. Why not?

A. I don't know. I think it was paying all expenses when it was due and payable.

Q. Well, was it?

A. It wasn't -- yeah. I believe so.

Q. Well, we have a creditor list that you've reviewed earlier, for example, James Stanton, whose bill was invoiced in October of 2016, that has not been paid for legal expenses.

Why did Acis not send the notice to HCLOM, "Hey, we've got James Stanton. He hasn't been paid since 2016. We want some of this expense support under this assignment and transfer agreement"?

A. From an Acis standpoint, it -- it wasn't past due. I mean, it -- bills, especially legal fees -- bills and structuring fees, get paid over extended period of times are adjusted downward or -- or blended into other deals or -- or whatever. Again, that would be determined by Scott and his team.

But from an Acis perspective, there were no overdue or defaulted bills or payments.

Q. Same thing for Andrews Kurth.

Is that right, those bills that were

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due to Andrews Kurth?
A. Correct.
Q. You say that as of the date of this agreement here, that those were not due and payable?
A. Correct.
(Mr. Carson Young left the room.)
A. But they weren't in default or they weren't beyond payment date.
Q. (BY MR. SHAW) Nothing in this agreement requires Acis to deliver this written notice, right?
A. Nothing requires -- doesn't some -- number 4, first sentence require Acis?
Q. That -- the question is to you: In the event Acis delivers written notice, are you aware of any requirement that Acis deliver that notice to HCLOM, or could A- -- could Acis just say, "You know what, we're not gonna send the notice because we don't want to"?
A. Well, I think the way that paragraph is written, they have to send a notice if they want to draw on the 2 million for legal expenses or 1 million for administrative expenses.
I mean, they -- they don't have to, but then I don't think they ever had a chance at getting those moneys.

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Q. So we know the overall effect of this Exhibit Number 1 -- 16 is, number 1, to transfer the promissory note, the maker of which was Highland, that had roughly $9 million left to be paid.
That was transferred out, right, pursuant to this agreement?
A. Yes.
Q. All right. And we know that the intent was to transfer the management of these collateralized management -- collateral -- collateral management agreements to this Highland affiliate as well, right?
A. Yes.
Q. And what did Acis get out of this Exhibit Number 16?
A. A $3 million windfall. $3 million it would have never gotten otherwise. I mean, it's a gigantic windfall.
You've got to remember the creation of that note never put any value in Highland's pocket. It's not like Highland got 12 million of cash and signed a $12 million note.
Highland got a promise of fees that Acis is never gonna deliver against that note. This transaction was trying to be very fair to everybody

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and everybody -- everybody knew it would be scrutinized in hindsight.
But the purpose of putting that $3 million in there was to create an abundance and a windfall for the benefit of Acis that the assets couldn't be questioned in terms of their value.
Q. Why did you know that it was gonna be scrutinized in hindsight?
A. What? I just -- the level of litigation was -- was high and the -- the personalities on both sides were intractable. We'll be here a decade from now.
Q. And you're saying the personalities on both sides are intractable?
A. Oh, yeah.
Q. Now, Highland did receive participation fees pursuant to that note transaction, didn't it?
A. I'm sorry. Say that again. Highland . . .
Q. Highland did receive participation fees pursuant to that note transaction?
MR. CRUCIANI: For clarity, I think you're referring to the first as opposed to the second note transaction. You just might want to make that clear.

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Q. (BY MR. SHAW) Yeah. So Highland received fees pursuant to the first note transaction which assigned out the interest in the collateral management agreements to Highland. It received fees pursuant to that underlying transaction in October of 2016.
And I'm not saying the fees were received in October of 2016, but that's the transaction I'm referring to.
MR. CRUCIANI: I'm sorry. Objection; vague.
A. I couldn't follow that either. I couldn't follow that either.
Q. (BY MR. SHAW) All right. There was a transaction in October of 2016 where Highland gave a note to Acis and Acis transferred an interest in fees under the collateralized management agreements.
Do you recall that transaction?
A. Yes. But to be clear, Highland got nothing for its promissory note but a promise or a potential capture of future fees.
Q. And those future fees were paid to Highland?
A. For a little while, and then Highland paid on the note for a little while also.

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Q. Until this transaction occurred in Exhibit Number 16?
A. Yes, because with the refinancings that were necessary being demanded by the equity investors would eliminate the manage- -- the management fees to Acis, and Acis was in no position to provide the services anyway.
Q. Was part of the goal in this Exhibit Number 16 also to avoid Acis having to go into bankruptcy?
A. I don't think -- I -- not that I'm aware of. I couldn't see that far in advance. I don't know what other people were thinking.
It was to provide real value -- real value for assets that had negligible value.
Q. And you believe Acis received that real value pursuant to this agreement, Exhibit 16?
A. Yes. I believe -- yes. I believe it -- it removed itself from an inability to perform, and I believe it got more value in paragraph 4 than it ever would have received otherwise.
Q. But Acis hasn't received 1 cent under Paragraph Number 4, has it?
A. Not yet. It's early.
Q. And you, as Acis's president as it stands,

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get to determine whether or not Acis gets that $3 million or if it doesn't get that $3 million in expense support?
(Mr. Carson Young entered the room.)
MR. CRUCIANI: Objection; misstates evidence that we're in bankruptcy.
A. If this was -- if this was -- this agreement operated in the normal course like it should have, that would have come across my desk, yes.
Q. (BY MR. SHAW) I'm saying outside of bankruptcy --
A. Right.
Q. -- we know that Acis never received a dollar under Exhibit -- under Paragraph Number 4, right?
A. Right, not yet.
Q. And we know that Acis gets to make the determination of when and whether it files this written notice to HCLOM that it wants this money.
A. Right, which Highland operates in good faith. HCLOM -- HCLOM will operate in good faith. Acis has operated in good faith. And if it gets to the point where this paragraph is properly triggered, it will do what it's supposed to do.

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Q. And you, as the president of Acis, GP, get to make the determination, under paragraph 4, whether you serve that written notice or not?
A. A better way to describe it is I would approve it as the agreement would be administered by somebody else.
Q. And why hasn't that happened prior to the bankruptcy?
A. Again, because it hasn't been triggered yet.
Q. And where is the trigger in your opinion, where, okay, this is the -- this is the number -- the dollar number or the -- or the age of the receivable or the payable, that's gonna trigger me to say, "Me, Jim Dondero, as president of the general partner of Acis, sends this notice to HCLOM to pay"?
A. It would have to come from either accounting or legal. The people who would administer this agreement, if they would come and say, "Okay. This is the current facts and circumstances. We need to do the following. We recommend you do the following."
Q. And those are all Highland employees, right, that would make that determination?

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A. Yeah. In the normal course, there's no ability for Acis to operate. There's no employees there, so that kind of stuff would be done via a shared services responsibilities.
Q. And we talked about this before.
Does HCLOM have $3 million in cash to pay Acis?
A. I -- I don't know.
Q. If HCLOM didn't have the cash to pay Acis -- so let's -- the scenario that Acis sends the notice, and HCLOM says, "We don't have the cash to pay."
Would you, as Acis, go out and sue HCLOM to compel the payment of this $3 million support fee?
MR. CRUCIANI: Objection; calls for speculation.
A. Yeah. I mean, we'd expect the agreement to be honored, and we would operate accordingly, but I don't want to speculate on what we would do when.
Q. (BY MR. SHAW) Why was HCLOM set up as a Cayman entity as opposed to like Acis, a Delaware entity or like Highland, a Delaware entity?
A. Because the whole structured product world is offshore. All the risk retention stuff is in

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Guernsey. All the CLOs are created in Cayman. All the -- it makes more -- most sense or more sense for it to be there than anywhere else.

Q. Yeah. But this is -- we're talking about an asset manager, right? You'd know the difference between an asset manager as opposed to the underlying entities that run -- that are the CLOs or the risk retention people, right?

A. Yes.

Q. All right. And Acis was the asset manager of these Acis CLOs and it was a Delaware entity, right?

A. I believe so.

Q. Now, this Exhibit Number 16, we talked about the fact that it contemplates the transfer of the collateralized management agreements.

If -- we know that those collateralized management agreements -- as we sit here today, all of those have not been transferred to HCLOM, right?

A. I don't know.

Q. So you don't know, as we sit here today, whether Acis is the portfolio manager under any collateralized management agreements?

A. I -- I think the ones that were about to

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be refinanced that got stopped in mid-refi, which you guys will be liable for, I believe those are still at Acis.

Q. All right. Had this -- had that not been stopped, right, or had that -- had that gone through, what -- what assets would Acis have left over?

A. Like I said, I don't know. I don't know about what latter CLOs are still there, but -- I don't know.

Q. Well, we know it wouldn't have the note, right?

A. We know it wouldn't have the note.

Q. We know that there were interests in various entities. We looked at those lists in that Schedule A that it no longer has, right?

A. Right.

Q. We know that if this transaction had gone through, that it would no longer be the portfolio manager under any collateralized management agreements, right?

MR. CRUCIANI: Could I just make a question? You were talking about the one transaction and then you talked about globally other collateral management agreements. I just want to

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make sure you match.

You either just talk about CLO3 or if you're talk about all the CLO management agreements, if you'll look at your question.

Q. (BY MR. SHAW) I'm just talking about Exhibit 16.

Had Exhibit 16 gone through as planned, what --

MR. CRUCIANI: I'm sorry. You said Exhibit 16. That's my point. You're talking about just CLO3, because part of your question was -- it seemed to be directed just to CLO3, and then part of your question seemed directed to the other collateral management agreements for the other CLOs. I'm just asking for clarification on that.

MR. SHAW: Okay. Well, I think it was clear, so I appreciate that, but . . .

Q. (BY MR. SHAW) Exhibit 16 contemplates the transfer of the promissory note, correct? And it did effectuate the transfer of the promissory note.

A. Right.

Q. We know that Acis had -- strike that.

We know that this document also contemplates that Acis be replaced as the portfolio manager under various collateralized management

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agreements, right?

A. Right.

Q. So had that gone through, what would Acis have had left?

MR. CRUCIANI: Objection; vague.

A. Yeah, like I said, I'm not the person to answer that.

But for sure, it would have had cash. It would have had the $3 million asset to trigger under this agreement, and I don't know what other assets, from this other thing, right.

It got 900,000 in cash or something, I don't know, whatever. But there -- there would be cash -- I don't know what other incidental assets.

And then there would be $3 million of receivables from HCLOM.

Q. (BY MR. SHAW) Who would know the -- the answer to that question?

A. A corporate rep.

Q. And you understand that Mr. Leventon was designated as the corporate rep for Acis in this bankruptcy proceeding?

A. I don't know.

Q. Does Mr. Leventon have any day-to-day business side operation role in Acis?

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A. I don't know.
Q. Who does run the day-to-day business side operations of Acis?
A. I -- I don't know.
Q. I mean, Mr. Covitz?
A. He runs the portfolios. I -- I don't who, on Frank's team -- who manages the Acis stuff.
Q. Mr. Simek?
A. No.
Q. What does Mr. Simek do?
A. He helps find primarily AAA, AA, A investors and CLOs. He has input into structuring.
Q. This Exhibit 16, did you have any written communications with anybody with regard to this transaction and -- and that's reflected in Exhibit -- Exhibit 16?
A. No.
Q. Did you have any oral conversations with anybody on the business side, nonattorneys, with regards to Exhibit Number 16?
A. No.
Q. What role did you play in Exhibit 16 in that transaction?
A. I just had a general awareness of it.
Q. Was Exhibit 16 done at your behest?

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A. No.
Q. Whose behest was it done at?
A. Legal, internal/external.
Q. Did you direct legal to do that?
A. I'm not a lawyer by training. This is a lot of legal dancing.
Q. But did you direct legal to --
A. No, I did not.
Q. Let me finish the question.
Did you direct legal to effectuate Exhibit Number 16?
MR. CRUCIANI: Objection; vague.
A. I didn't -- I -- I didn't ord- -- I didn't tell anybody to effectuate anything.
Q. (BY MR. SHAW) You approve of Exhibit 16, though, correct?
A. Yes.
THE WITNESS: Is this a good time for a break?
MR. CRUCIANI: Sure. We've been going --
MR. SHAW: Sure.
MR. CRUCIANI: Take a break.
THE VIDEOGRAPHER: We're off the record. The time is approximately 3:56 p.m.

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(A recess was taken from 3:56 p.m. to 4:12 p.m.)
THE VIDEOGRAPHER: We are back on the record. The time is approximately 4:12 p.m.
Q. (BY MR. SHAW) Prior to the filing of the involuntary bankruptcy petitions, was Acis, LP, net negative cash flow?
MR. CRUCIANI: Objection; vague.
A. I don't know.
Q. (BY MR. SHAW) Who would know that?
A. The accountants, I would think, and I don't know who else.
Q. And the accountants, who -- who handles the accounting for Acis?
A. I don't know.
Q. Mr. Klos?
A. I don't know.
(Trial Exhibit 104 referenced.)
Q. (BY MR. SHAW) I'm showing you what's been marked as Exhibit 104.
A. (Examined exhibit.)
Q. Do you recognize that document?
A. No.
Q. Go to page 12 of 19.
A. (Complied.)

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Q. Are you there with me?
A. Yes.
Q. Is that your signature for Highland CLO Management, L.L.C.?
A. Yes.
Q. Are you familiar with this document?
A. No.
Q. Are you aware that Mizuho was handling the refi or reset for various Acis CLOs?
A. I know the businesspeople and the lawyers had talked to Mizuho. I think maybe before that Goldman, or Goldman after Mizuho. And then -- or Goldman before. I don't -- whatever.
They -- they talked to two or three different underwriters, and they tried to negotiate something similar to this.
Q. Mizuho was the only investment bank that was willing to do the deal, though, right?
A. I -- I don't know.
Q. Are you aware that Goldman passed on handling the refi or reset?
A. Yes.
Q. How'd you become aware of that?
A. From counsel.
Q. So Exhibit 104, who -- who was negotiating

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that agreement on behalf of Acis?
A. I believe Scott Ellington.
Q. Now, Mr. Ellington has no formal role with Acis, right? I mean, he's not the -- an officer or director of Acis, LP, or Acis, GP?
A. Okay. Then his contact comes in via the shared services.
Q. Do you have any e-mail communications with regard to the Mizuho transaction?
A. No.
Q. What was the purpose of the Mizuho agreement and the contemplated refi or reset?
A. Financing rates, like mortgage rates on your house, had come down materially for CLOs, and the ability to refinance or refinance and extend the deal for the benefit of the shareholders or the equity holders was clear and possible for the Acis transactions.
Q. Who are the equity holders in the Acis CLOs that are listed here on Exhibit Number 104?
A. Primarily the ALF, I guess, which is primarily DAF investors and primarily one large institutional investor.
Q. So we've got the institutional investor, and we've got the DAF.

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Anybody else who owns equity in these CLOs that are reflected in Exhibit Number 104?
A. I don't know. If not, it'd be small. Even if there is, they're small. I don't know.
Q. Now, the transaction that's contemplated by Exhibit 104 is not simply a reset or a refi.
It's a reset or refi together with a transfer of the management agreement -- or management agreements from Acis to Highland CLO Management, L.L.C., right?
A. Yes. I believe so.
Q. The second part of that, the transfer of the management agreements, why is that necessary?
A. The way it was described to me was no one wanted to be near the Acis brand. They -- they wanted it to be a functioning Highland subsidiary, not a nonfunctioning litigation mess.
Q. This nonfunctioning Highland subsidiary that would take over the management of these CLOs, they're taking over the management because they want to reap the benefits of the collateralized -- collateral management agreements, right?
A. No.
Q. Why are they taking it over?
A. To prevent the shareholders or the equity holders from suffering and being crushed by an expensive cap structure and to prevent or mitigate any claims against Acis for not refinancing the deals.
Q. Is Acis required to refinance a deal?
A. It's required to do what's in the best interest of its equity investors that hired him that it has fiduciary responsibility to.
Q. Is Acis required to refi any of the CLOs?
A. Fiduciary -- fiduciarily "obligated" may be a better word than "required" because it's not a contractual requirement.
But it's a -- it's something that -- an opportunity that I think they could be held liable or negligent for if they didn't do.
And that's why I believe you guys ultimately would be liable for delaying it.
Q. The outside investor that you mentioned that controls the equity along with the DAF, when did that outside investor take a piece of the equity?
A. Last fall.
Q. Was that equity investor apprised of the pendency of the arbitration between Mr. Terry and Acis?

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A. Yes. We kept them fully informed.
Q. So they knew coming in that the deal had some hair on it?
MR. CRUCIANI: Objection; vague.
A. I'm gonna force you to give me more specific words than "hair on it."
Q. (BY MR. SHAW) Well, they came in knowing that there was litigation in which Acis, the portfolio -- the current portfolio manager, was a party and could be liable to Mr. Terry.
A. Yes. They were aware of that risk, so they underwrote that risk.
Q. And did they buy the equity at a discount based upon that risk?
A. No. They bought it at a fair market value.
Q. How was the fair market value of the equity determined?
A. I don't know the specifics. I -- I just know the prices were between 40, 60 cents on the dollar.
It was about 20 to 30 percent less than similar deals done in the market of similar vintage, so they were -- but the -- the -- the methodology was scrutinized heavily by both sides.

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and I know it was a -- as fair a market value as they could get to it at the time.

Q. Who was negotiating on behalf of Acis with regard to bringing in this third-party investor in the equity of the CLOs?

A. I would -- it would have been Hunter and Price in the portfolio.

As a business person, Trey was involved also on bringing the investor in. And then there would have been somebody from legal on the team too.

Q. And you're talking about Trey Parker?

A. Yes.

Q. If these refis and resets, coupled with a transfer of the management agreements, went forward, this Highland affiliate, Highland CLO Management, L.L.C., would receive the revenue from the CLOs under these new collateral management agreements, right?

A. Yeah. The revenue and -- and all the work and responsibility in terms of managing them, administering them, keeping the accounting, and doing everything else that is -- is part of that business. It's not a high-margin business.

Q. The margins depend on, to some degree, the

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arrangement between Highland, who is providing the shared services and the subadvisory agreement or services, and the portfolio manager, whether that be Acis or this new Highland CLO Management, L.L.C., right?

A. I mean, some of it depends on the transfer pricing being accurate, which I think is what you're asking.

But across the industry, it's no more than a 15 to 20 percent margin business, period. Where we're not the only ones who do CLOs, it's at best 15, 20, 25 percent margin business in the best of cases.

Q. Did -- was there a discussion or any kind of communications with regard to between Highland CLO Management, L.L.C., and Highland with regard to what fees would be charged pursuant to the shared services and subadvisory agreements that would be required to -- to have Highland CLO Management manage these collateral -- collateral management agreements?

A. Not that I'm aware of.

Q. Do you know why Goldman passed on this deal?

MR. CRUCIANI: Objection; asked and

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answered.

A. Do you want more specifics?

Q. (BY MR. SHAW) I just asked the question. If you got an answer, then let me know.

A. The Acis brand is toxic. I think taping and baiting partners for a year-and-a-half, suing your former employer aggressively, I mean, just nobody wants to get near it.

Q. When do you believe that the Acis brand became toxic?

A. I don't know, as -- as everything became public.

Q. All right. Became public in September of 2016, right?

A. Let's see.

Q. In September of 2016?

A. Thereabouts or thereafter.

Q. And it became public through a lawsuit filed by Highland against Mr. Terry, right?

A. I think -- I don't remember exactly, but I think ours was very brief and not specific and nonsalacious.

Q. You didn't accuse Mr. Terry of having a sexual relationship with an attorney that worked for Highland in that pleading?

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A. I thought it was multiple. But I don't -- I don't know. I don't remember specifically.

Q. I guess salacious is in the eye of the beholder, right?

A. Yes.

(Trial Exhibit 105 referenced.)

Q. (BY MR. SHAW) I'm showing you what's been marked as Exhibit Number 105.

A. (Examined exhibit.)

Q. Have you ever seen that document?

A. No.

Q. You've never seen the judgment that was entered against Acis Capital Management and Acis Capital Management, GP, L.L.C.?

A. Nope.

Q. Are you aware that a final judgment was entered by the state court against Acis, GP, and Acis, LP?

A. I -- I don't know if it was valid or held to be valid. I don't -- I -- I'd be -- I don't know.

Q. All right. So this was -- this Acis or this judgment was entered on December 18th, 2017. The next day, December 19th, 2017, this agreement was executed, Exhibit Number 184.

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(Trial Exhibit 184 referenced.)
A. (Examined exhibit.)
Q. (BY MR. SHAW) Do you recognize that document?
A. No.
Q. You're familiar with your sister's handwriting and signature that's on page 8 of 12?
A. That looks like it.
Q. And then the next page is Mr. Okada, right?
A. Yep.
Q. And you worked with Mr. Okada for a long time, correct?
A. Yes.
Q. Did you talk to Mr. Okada about this assignment transfer and amendment agreement?
A. No.
Q. When was the last time you talked to Mr. Okada?
MR. CRUCIANI: About anything, you mean, or . . .
Q. (BY MR. SHAW) About anything.
A. Yesterday.
Q. So the Dugaboya Investment Trust, we know that you're a ultimate beneficiary of that trust,

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right?
A. Yes.
Q. All right. And this document, Exhibit Number 184, executed the day after the judgment was entered, the Dugaboya trust transfers its interests in Acis, LP, and Acis, GP, to Neutra Limited.
Do you see that?
A. Yes.
Q. Why?
A. You'll have to ask -- you'll have to ask the -- and I don't think there's a structuring. You'll have to ask the lawyers and -- I was going to say the accountants, but the accountants wouldn't know. You'd have to ask the lawyers.
But it seems -- assumes, like, there was consistency to get a Cayman business in the Caymans, you know, between the manager and the -- the interests here too, but I -- I don't -- you'll have to ask the lawyers.
Q. Did you talk to Nancy Dondero, your sister, about why she signed this agreement transferring the trust's interest in Acis to a Cayman entity?
A. No, I have -- even more so my sister. I

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think, and I trust, are capable as internal and external counsel, so no.
Q. Did you ask anybody to divest the trust of its interest in Acis, LP, or Acis GP?
A. I -- I don't recall.
Q. Did you have any written communications with regard to this Neutra transfer?
A. No.
Q. Who owns Neutra?
A. I don't know.
Q. Who would?
A. I'd have to check with counsel.
Q. When you say "counsel," do you mean internal or external?
A. Internal.
Q. So would that be Mr. Ellington?
A. Or Isaac, if Isaac was the corporate rep.
Q. And when you say "Isaac," you mean Mr. Leventon?
A. Yes.
Q. Who controls Neutra?
A. It's -- it's affiliated with Highland, but I -- I don't know.
Q. Okay. There was an Exhibit Number 184 in front of you, I believe.

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MR. CRUCIANI: What is it?
MR. SHAW: It's the assignment transferring the amendment agreement that's regarding -- let's see. Am I on the right one? I might be on the wrong one. Hold on. That's the wrong one. My apologies.
Q. (BY MR. SHAW) Real quick. Does -- does internal counsel for Highland represent your sister, Ms. Dondero?
MR. CRUCIANI: Objection; overbroad.
A. Sometimes, but not always.
Q. (BY MR. SHAW) How is that determined?
A. I don't know.
Q. There is a document in front of you called "Assignment and Transfer Agreement." It's one of the documents we reviewed early on to talk about the assets of Acis as of October 20th, 2017.
MR. CRUCIANI: Is that the December 19, Dondero 2?
MR. SHAW: Yes.
MR. CRUCIANI: It's this one. You can use my copy.
A. (Examined exhibit.) Okay.
Q. (BY MR. SHAW) All right. So this is -- we've got the judgment entered on December 18th, and

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then we have this document on December 19th, the same date as the -- that Neutra transaction we were just talking about.

Are you familiar with this document?

A. (Examined exhibit.) No.

Q. If you go to page 233 at the bottom right-hand corner.

A. (Complied.) Yes.

Q. Is that your signature or is that your assistant's signature?

A. (Examined exhibit.) Looks like mine.

Q. Did you review this document before you signed it?

A. No. I reviewed it when we talked about it earlier.

Q. Did you authorize, on behalf of Acis, the transfer of these interests that are listed in Schedule A to this Highland Holdings, Limited, this Cayman entity?

A. Yes, I approved it.

Q. Why?

A. Because I was told or advised by counsel to do it.

MR. CRUCIANI: And that's fine. Just don't get into any of the substance, but your answer

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as it was is fine.

THE WITNESS: Yeah.

MR. CRUCIANI: Are you done with that?

THE WITNESS: Yeah. Sorry.

Q. (BY MR. SHAW) I assume you're gonna tell the bankruptcy judge when you testify at trial that none of these transactions were intended to make it harder for Mr. Terry to collect his judgment. Is that fair?

MR. CRUCIANI: Objection; speculation as to what he may or may not tell the bankruptcy judge.

A. I'd rather keep it a secret.

Q. (BY MR. SHAW) Will you tell the bankruptcy judge that none of the transactions that we've talked about today were done in order to make it more difficult for Mr. Terry to collect his judgment?

MR. CRUCIANI: Same objection; speculation on what his testimony may be at trial.

A. I'd like to keep my trial testimony secret until I'm . . .

Q. (BY MR. SHAW) Okay.

A. Yeah.

Q. Well, then I'll ask you the question as

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opposed to posing the question that way.

Were any of these transactions that we've discussed today intended to make it more difficult for Mr. Terry to collect his judgment?

A. Not that I'm aware of or not that I orchestrated or not that I approved. Everything was done to react to changes in facts and circumstances and do what was best for the investors that are suffering the longer these deals don't refinance.

Q. What about doing what's best for Acis? How does doing what's best for Acis and its creditors factor into your decision to enter into the transactions we've talked about today?

A. Again, the first obligation is to the investors. Any obligation to Acis is secondary to that. The obligations to Acis are fairly and honorably weighed, alongside obligations and fairness to Highland and other constituents.

Q. You have many masters, right?

MR. CRUCIANI: Objection; vague.

A. Are you waiting for me?

Q. (BY MR. SHAW) Yeah.

A. What do you mean by "masters"?

Q. Well, you wear a lot of different hats. Is that fair?

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MR. CRUCIANI: Objection; vague.

A. What do you mean by "wear a lot of hats"?

Q. (BY MR. SHAW) Okay. Let's just talk about two of the hats you wear. One hat is that you are the president of Acis, GP, right?

A. Yes.

Q. Another hat that you wear is that you are the president of Highland, correct?

A. Yes.

Q. And Highland, we know, is a creditor of Acis, right?

A. And it's also a service provider.

Q. And it's a service provider, and the creditor status of -- of Highland is by virtue of that sev- -- those services?

A. That's a transaction we talked about earlier, right, the note and the -- is that what you're speaking of or just the services in general or . . .

Q. The services in general -- I mean, part of Highland's status as a creditor of Acis is by virtue of amounts owed to it under shared services agreement and subadvisory agreements?

A. Yes.

Q. You also have -- wear the hat as the

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ultimate authority for Highland and these Highland affiliates, where these assets are being transferred to, for example, the Highland CLO Holdings, Limited, that became an entity?

MR. CRUCIANI: Objection; vague.

A. The Highland entities are affiliates of Highland.

Q. (BY MR. SHAW) Right. For example, Highland CLO Holdings, Limited, which is the transferee of particular assets from Acis, that's an entity that is affiliated with Highland, right?

A. Right.

Q. And you are the ultimate authority at Highland?

A. I'm the ultimate authority at Highland, but I've never seen a document regarding HC or whatever, and I've never -- whatever. I've never seen a document, and I've never been to the location where it's located. I've never -- you know, whatever, so, I mean, it's affiliated, but I -- "control" isn't the right word.

Q. Throughout the litigation with Mr. Terry, Acis has paid all of the legal expenses incurred.

MR. CRUCIANI: May I ask for a clarification whether you're talking about the

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arbitration agreement or these bankruptcy proceedings?

MR. SHAW: Well, I guess if Highland's paying for the -- I -- I don't know. Is Highland paying for the bankruptcy proceedings? I --

MR. CRUCIANI: I -- I -- no, I'm --

MR. SHAW: I thought I asked that question.

MR. CRUCIANI: -- I'm just asking for clarification is all. I'm not suggesting anything by it. I'm just asking for clarification. But that's fine. If you don't want to clarify it, that's fine.

Q. (BY MR. SHAW) I mean, is Highland paying for --

A. I don't know.

Q. Let me -- let me get the question out because it doesn't read very well if we do that.

But is Highland paying for any of the attorneys in this room?

A. I mean, clearly our internal counsel, right, but otherwise, I -- I don't know.

Q. Now, with regard to the arbitration and the state court proceedings, up and to -- up until the date that the involuntary petitions were filed,

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Acis was footing the bill for the Terry litigation.

Do you have any reason to dispute that?

A. I don't know, so . . .

Q. And who would?

A. Corporate rep or you could ask Scott.

Q. All right. Now, after Mr. Terry was terminated in June of 2016, Highland and Acis renegotiated the terms of the shared services agreements and the subadvisory agreements.

Do you recall that?

A. Generally.

Q. And that was done on multiple occasions? Are you familiar with that?

A. And if you say so, but I don't know.

Q. The fees paid to Highland under those shared services agreements and subadvisory agreements were increased. Is that fair?

A. I believe that's the case.

Q. Why was that done?

A. You'll -- you'll have to ask the accountants and lawyers, but I would suggest that they looked at the cost of operating Acis, managing the Acis CLOs with a more objective light subsequent to Josh being gone.

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Q. And when you say "a more objective light," what -- what do you mean?

A. I -- I think the expenses or the shared services allocations were light compared to the amount of people at Highland working on Acis-related things, and I -- I think there was an adjustment to make it -- the shared services basis points more reflective of actual costs. That's my understanding of it.

Q. The increase in the costs for shared services and subadvisories has decreased the financial performance of Acis, LP, right?

A. I -- I would guess.

Q. You're aware that Acis was -- or Acis's bank accounts were garnished at the end of 2017?

A. I -- what is -- what do you mean by "garnished"?

Q. Frozen.

A. I believe -- yeah, I believe I heard -- heard something like that. I know the accounts were frozen somewhere.

Q. Acis opened a new bank account. Are you aware of that?

A. No.

Q. So you don't know anything about Texas

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Capital Bank and a bank account that was opened for Acis?

A. No.

Q. So we talked about, in general, those changes in the subadvisory agreement and shared services.

Who, on behalf of Acis, negotiated the terms of the shared services and subadvisory agreements?

A. I -- I believe when we divided responsibilities trying to get to overall balance of fairness, I think it was Scott that oversaw and negotiated that.

Q. So, I mean, was it a scenario where Scott is sitting there saying, "Well, no, Jim, you're -- you're trying to charge Acis too much on behalf of Highland, so I think you ought to decrease the amount of basis points that you're charging for the services"?

A. I -- I wasn't -- I'm not -- I'm not the ringmaster in these -- middle of these conversations. These were conversations had between Scott, other attorneys internally, most likely Tim representing Highland, and then with the accountants, and then probably the blessing of

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external, whatever, but I'm not in those meetings.

Q. But ultimately, you approved those shared services agreement amendments and subadvisory amendments, right?

A. Yeah, ultimately, I get something like this, sign this, you know, and so it gets signed.

MR. SHAW: Let's take a quick break, if you don't mind. I might be kinda close.

MR. CRUCIANI: Sure.

THE VIDEOGRAPHER: We're off the record at 4:50 p.m.

(A recess was taken from 4:50 p.m. to 5:07 p.m.)

THE VIDEOGRAPHER: We are back on the record. The time is approximately 5:07 p.m.

Q. (BY MR. SHAW) You previously testified that the Acis brand is -- is, quote/unquote, "toxic"; is that right?

A. Toxic, tarnished, whatev- -- yes, whatever.

Q. And in your role as the president of Acis, GP, do you have an intent to -- outside this bankruptcy, if this bankruptcy was not there, to wind down the operations of Acis?

MR. CRUCIANI: Objection; vague, calls

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for speculation.

A. No. I mean, the -- the intent is to do what's best for the investors in Acis, and -- yeah, I don't know what business Acis would do in the future, maybe more work again with Josh and he can find investors that want to come into Acis. I -- I don't know. But we need to take care of the investors that are in there.

Q. (BY MR. SHAW) Well, I guess my question is: If you transfer the management of all of these CLOs to a Highland affiliate --

A. I -- I wouldn't characterize it that way.

Q. How would you characterize it?

A. These deals have to be refinanced. It's like having a 9 percent home mortgage when you could have a 3 percent home mortgage. To the extent that you don't, you're killing your equity holders, the equity has to be refinanced.

There's no investors and there's no underwriters that will deal with Acis on a refi. So you have to refi with a manager beyond Acis, right? And that's what we're trying to do here.

Q. Does it have to be a Highland affiliate who you refi and transfer the management agreements to?

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A. The investors would have to believe that another entity other than Highland could do a better job than Highland, and the investors would have to find a manager willing to -- in each of these transactions, it takes a few million dollars to handle the risk retention or bridge it. I don't know exactly what for. But on each of them, the businesspeople have come to me and say it takes two or three million dollars more to refinance them.

So they'd have to find somebody who they think could do a better job and who'd be willing to put in a -- a few million dollars to make the transactions happen, which I think would be difficult.

Q. But we don't know because we haven't tried, right?

A. You mean, have we explored moving or refinancing the Acis deals away from Acis but to somebody other than Highland?

Q. Right. Like say Angelo Gordon or Carlisle and get some compensation flowing to Acis in exchange for the transfer of the collateral management agreement?

MR. CRUCIANI: Objection; assumes facts not in evidence.

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A. Yeah, they wouldn't -- they wouldn't give any money for it -- I mean, they -- they would -- if -- they would refinance the deals and want the management fee going forward. They wouldn't pay anything to Acis for refinancing.

Q. (BY MR. SHAW) They wouldn't pay anything to Acis for transferring the management agreements either.

Is that what your testimony is?

A. Because it wouldn't be transferring, it would be refinancing. They have to refinance them with somebody, and Carlisle or KKR would say thank you for picking us, but they wouldn't pay for that.

Q. Now, kind of getting back to the -- my original question was: If these collateral management agreements are transferred -- and I know that you have a problem with that because it's a reset and a refi. But if it's a reset and a refi, the ultimate -- ultimately, if that goes through, Acis will no longer be the collateral manager of those CLOs, right?

A. Yes.

Q. What would Acis do if it's no longer the collateral manager under any of these collateral management agreements?

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A. It has very good claims against your firm and Josh Terry that could be worth boatloads of money down the road.

Q. What is your theory against my law firm?

MR. CRUCIANI: Objection. Don't get into any --

THE WITNESS: Yeah, yeah. I can't --

MR. CRUCIANI: Excuse me, excuse me. Let me make my objection.

THE WITNESS: Sorry. Okay.

MR. CRUCIANI: Do not get into any discussions you've had with counsel about any potential claims against Mr. Shaw's law firm.

Q. (BY MR. SHAW) Okay. I don't want to hear what you talked to your lawyer about.

But what theories do you have, not based upon what you've talked to your lawyers about, against my law firm?

MR. CRUCIANI: And if you can answer that without disclosing, that's fine --

THE WITNESS: Yeah, I was going to say.

MR. CRUCIANI: -- but if you can't --

A. All -- all my theories come from the -- the lawyers.

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Q. (BY MR. SHAW) What about Ms. Patel's firm, are you gonna threaten them as well?

MR. CRUCIANI: Objection; assumes facts not in evidence.

A. We don't threaten, ever. And I'm -- I'm not aware of liability that she has yet.

Q. (BY MR. SHAW) You've sued law firms before on behalf of Highland, haven't you?

A. I believe we have.

Q. All right. You've sued Lackey -- and let's see. Lackey -- you had Lackey Hershman file a lawsuit against Looper Reed, right, in the Pat Daugherty litigation?

A. Yes.

Q. And that case was dismissed and affirmed on appeal, right?

A. I -- I don't know.

Q. Highland sued Haynes and Boone before, right?

A. I don't -- I don't recall that one. I -- I recall the $12 million we got from Orrick, but I don't recall the Haynes Boone one, though.

Q. Highland sued Winstead, PC, right?

A. Yes. We've gotten a firm to take it on contingency there, so we're optimistic on that one.

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Q. So other than these litigation claims that you say would remain, is there anything else that Acis would do?

If it's not managing collateralized management agreements . . .

A. Well, the -- there's -- I don't know. I mean, there'll be some assets left in there, and there's always an ability for an RIA to resurrect its reputation, and if it's got a unique and differentiated product offering, you can raise money for new investors.

Performance -- performance is always the Phoenix, so -- but I do believe the litigation business is a good business. I mean, we -- we -- we run six, eight litigators internally. It's a big business for us. I think it could be an important part of Acis going forward.

Q. Yeah, you have a litigation claims business that you're a partner in with Mr. Ellington, right?

A. Yes.

Q. Now, you've been in the kind of distressed debt space for a long time. Is that fair?

A. Yes.

Q. You've been involved in involuntary

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bankruptcy petitions before?
A. Very rarely. You have to be careful. I usually get advised by counsel not to do it because it opens up a whole can of worms and liabilities if you're not careful. So, yes, we are -- we are -- we are aware of distress situations.
Q. And you recall the Seven Seas bankruptcy?
A. Vaguely.
Q. That was one where Highland or its affiliates put a debtor into an involuntary bankruptcy?
A. Yeah, that was -- yeah, that was -- it was a fraud on a mine or an oil discovery that didn't exist, but I don't remember much beyond that.
Q. Now, you said that you were going to -- or looking to sue my law firm and --
A. I didn't say that.
MR. CRUCIANI: Yeah, don't misquote him.
Q. (BY MR. SHAW) Let's -- let's go back up to that. Let's see where that was.
I believe you said that the ongoing business -- this is your quote -- was -- and this is my question:
"What would Acis do if it's no longer

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the collateral manager under any of these collateral manager agreements?"
And your answer was, "It was very -- it has very good claims against your firm and Josh Terry that would be worth boatloads of money down the road."
Do you recall that statement?
A. Yes.
Q. And you understand you're under oath today, right?
A. Yes.
Q. And when you say my firm, you mean my law firm, right?
A. Yes.
Q. And so you're saying that Acis would have a claim against my law firm?
MR. CRUCIANI: And, again, don't get into any privileged discussions you've had with respect to the nature of any discussions or the nature of any types of claims. I think you've testified you believe you have it, so you've already testified to that, but don't get into anything --
A. Yeah, that's -- that's how I'd like to leave it. We're a very righteous group. We like to hold people accountable. We believe in fairness in

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the long run, and that's how we've operated.
Q. (BY MR. SHAW) You said that you have claims against my firm, and you've never made that threat before in the arbitration, right?
A. I -- I don't -- I don't know.
Q. So is the -- this threat based upon the filing of the bankruptcy petition?
MR. CRUCIANI: Objection; mischaracterizes. Never used the word "threat." That's your word.
A. Yeah, that's -- I objected to that once already, but I -- I never used the word "threat."
Q. (BY MR. SHAW) Yeah. Because I -- and I don't know if you told your counsel to say this, but Mr. Cruciani, at a hearing after we filed the involuntary bankruptcy court petition in state court, told us that we needed to go talk to our insurance carrier.
Did you tell Mr. Cruciani to say that?
A. He's a smart man. He didn't need me to tell you that.
Q. Did you tell Mr. Cruciani to threaten my law firm with a lawsuit?
A. No, I never told him that.
Q. Now, you said that this refi transaction

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that was slated to go forward in February did not go forward because of some action taken by Mr. Terry; is that right?
A. Yes.
Q. And what action was that?
A. The filing of the bankruptcy and the freezing of activity or -- or whatever. I don't -- I don't know exactly, but it's very rare for a transaction to get pulled between pricing and close. I think that happens once a decade, but we managed to have a transaction that priced but didn't close.
Q. You were aware that Judge Jernigan told Mr. Warner on the record that she would consider a motion filed, and to approve the transaction if Acis put up a adequate protection-like payment.
Are you aware of that?
MR. CRUCIANI: Objection; mischaracterizes the record. If you have something to show him instead of mischaracterizing it, I'm happy to have him answer that question.
A. I don't have any awareness of that anyway.
Q. (BY MR. SHAW) Your counsel did not seek any relief with the bankruptcy court and request that that transaction be approved with the payment of an adequate protection payment?

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A. I have no awareness.
Q. You're aware that Judge Goldstein, the state court judge, entered various orders in that case.
Are you familiar with that?
A. No.
Q. Are you familiar with the fact that she ordered that the manager not be changed until further order, and that was on January 24th?
A. No.
Q. What duty does Josh Terry owe to these investors that you claim are going to pursue him?
MR. CRUCIANI: Objection; mischaracterizes his testimony. And objection to the extent it calls for a legal conclusion.
A. And I'd like that to be the answer. I don't want to make a legal conclusion.
Q. (BY MR. SHAW) Have you directed any of the investors to pursue Mr. Terry with a lawsuit?
A. No.
Q. You didn't call Grant Scott, your college roommate, and tell him to file an appearance in this case?
A. No.
Q. Who controls the Acis bank accounts?

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MR. CRUCIANI: You mean before they were garnished or now?
MR. SHAW: Whichever.
MR. CRUCIANI: Well, object; it's vague, then. Please clarify.
Q. (BY MR. SHAW) Who controls the Acis bank accounts?
A. I don't know.
Q. Who approves wire transfers from the Acis bank accounts?
A. I don't know.
Q. So you knew that the November 3rd transaction, 2017, was going to be scrutinized afterwards, right?
A. I knew this was going to be a heavy, extended litigation.
Q. And you knew the transaction would be scrutinized, right?
A. Yes.
Q. So why not go out and get outside valuations for what -- for that transaction, for the November 3rd transaction? Why not get a third party to say -- come out and bless it, say this is reasonable equivalent value, that Acis isn't getting in return for transferring this $9 million

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promissory note and all of its collateral management agreements?
MR. CRUCIANI: And I don't -- I don't know that it does, Mr. Dondero, but given the nature of the question, to the extent that your answer would involve any privileged communications, don't answer. If you can otherwise answer, please do.
A. It's -- I think I testified already, it's advice of counsel was that it wasn't necessary --
MR. CRUCIANI: Wait, wait, wait, wait.
THE WITNESS: Or I'm sorry. Or I --
MR. CRUCIANI: Timeout. Just stop talking for one second. The instruction was -- and you may have to repeat the question, given the interchange. But the pending was if you can answer it without getting into advice of counsel, do so.
If you cannot --
THE WITNESS: Okay.
MR. CRUCIANI: -- then I'm going to instruct you not to answer. If you need the question repeated so you know what it was at this point.
THE WITNESS: No, I -- I can . . .
MR. CRUCIANI: Okay.
Q. (BY MR. SHAW) Can you answer the question

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without revealing any attorney/client privileged information?
A. Yeah. I just said, repeating pieces of prior testimony, we did not believe it was plausible to market contracts that would have 30 or 60 days left to run and would be in an entity mired in complex, cantankerous litigation. We didn't believe it was plausible or likely to result in any meaningful number. That was -- that's what I testified to earlier, so repeat that as Point Number 1.
Point Number 2, under abundance of caution, we made the consideration be $3 million more than it needed or should have been, to maintain clean hands and maintain clean behavior in terms of the whole process.
Q. Why not test that idea of plausibility?
MR. CRUCIANI: Objection; asked and answered.
A. You know what, I can't say for sure other people -- I -- I know I never pointed anybody to that direction because I didn't think it was plausible or reasonable or whatever. I don't know if other people tried. I don't know if that was a hurdle mentioned by you guys earlier or if anybody

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tried.
But my -- my testimony -- my recollection, my opinion is that it was -- would have been a -- a fool's errand. People -- it -- to make decisions, any financial institution that it keeps throwing out KKR, Carlisle or whatever, it takes them 30 days to make a decision, 45 days to make a decision for something that's gonna last 60 days.
I mean, like I said, it's comical, but maybe someone else in the organization tried or looked at it differently or maybe counsel looked at it different, but I -- I have no idea.
Q. (BY MR. SHAW) What do you mean it was gonna last 60 days?
A. Because in fairness and in obligation to the investors that we, as manager, or Acis, as manager, or Highland, to all of our investors have, first obligation that you guys will be held accountable for screwing over to the extent that you're involved in that. Okay?
It -- they deserve to have a 3 percent mortgage if interest rates are 3 percent instead of having a 10 percent mortgage. And every day you prevent them from doing that, you're harming them.

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So they need -- all those deals need to be refinanced as quickly as possible; otherwise, it starts shredding the equity value of those investors.
Q. Do you have communications with those investors wherein they're making this request for this refi or reset?
MR. CRUCIANI: Objection; vague.
A. Not that I'm aware of.
Q. (BY MR. SHAW) Why hadn't this been done before the arbitration award?
A. The mark- --
MR. CRUCIANI: Objection; assumes facts not in evidence.
A. We tried at different times. The market didn't move enough for these deals to refinance until more recently, and it was -- I think it was started -- it was actually started in the months beforehand, but the market wasn't -- rates weren't low enough to get it done sooner.
Q. (BY MR. SHAW) Now, in your business -- you obviously know it a lot better than I do -- but there are instances where you go out and get marks on particular assets, some third-party determination about the value of a particular asset. Is that

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fair?
A. Yes.
Q. So that's not a foreign concept to you, that -- that in order to provide transparency and in order that a transaction does not look conflicted, you go out and get a third-party valuation so that you have some check on a potential conflict of interest; isn't that right?
A. If it's a security. If it's an asset. If you ask me to go price, how about I take the garbage out before 7:00 every day for the next two weeks instead of doing it at 8:00, how much is that worth? Get three major firms to give me a bid on that service that's gonna end in two weeks, how much is it worth to do it an hour earlier?
Q. Well, how about a 9 --
A. But that's --
MR. CRUCIANI: Let's -- I'm sorry. I don't think he's finished.
Q. (BY MR. SHAW) Sorry.
A. But that's -- it's -- something -- something that's got 30 or 60 days to run that's mired in conflict, that needs to be refinanced, doesn't have value or it's got negligible value. It's not a security, and it's not something that's

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significant or defiant.
Q. What about that 9 -- promissory note, the original amount was $12.6 million is worth 9 on -- when it was transferred to the Cayman entity. That's a good quality asset, isn't it?
A. No, it's not.
Q. Why not?
A. What did Highland get when the note was put in place? It's a $12 million note. Did Highland get $12 million? Did Highland get $13 million? Did Highland get an asset? No.
Highland got a promise from Acis to pay it management fees that Acis was gonna get over the next three or four years, and the amortization was tied to fees as they came in, and Highland got them.
So when Highland got fees, it paid down -- it paid the money to Acis to pay off the note. But there was -- you refinance those deals. There's no more money coming into Acis. There was -- no more moneys gonna be paid to Highland. You finance those deals over the next 60 days, Highland got nothing for its $9 million.
Was Highland supposed to give $9 million to Acis for nothing? There's no -- there

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was no value, and the value that was to be given to Highland was never gonna happen. $3 million was a gift. That loan -- that -- that note for the next 60 days wasn't gonna be worth a million dollars.

Q. And I guess I'm wondering what hat you're wearing when you're talking about whether that was a good asset or not. Are you talking about -- are you wearing your hat as -- as Highland's president or it wasn't a good asset as Acis's president?

MR. CRUCIANI: Objection; vague.

A. The responsibility to the investors trump it all. Beyond that, there needs to be fairness and spirit of agreements between related entities, especially when Highland is the dominant partner in all of them, right? You know, there needs -- there needs to be fairness, and trying to pay one entity that Highland owns all of $9 million it doesn't deserve from another entity that Highland controls more of wouldn't be fair. You have to look at things in the context of facts and circumstances and what's happened since and over time.

Q. (BY MR. SHAW) But that's the deal you struck. I mean, you struck it on both sides of that deal. You gave -- you gave High -- you gave Acis a note from Highland for $12.6 million that had -- was

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not -- did not have any precondition about the payments. It was just due.

And so that's what I don't understand. How was that not a good asset, that promissory note that was transferred out? It's a promise to pay. It's not conditioned on the performance of the CLOs.

A. And there's facts and circumstances, and Acis was supposed to pay an annuity stream equal to more than the $12 million for Highland to pay the $12 million back. It was a tax transaction. It was never an economic transaction there.

Q. But even presuming what you're saying is true, that -- that it was a bad deal for Highland, tough luck, Highland, right? If you struck a bad deal, you gave them a $12 million promissory note that you say ended up not being a good deal, doesn't mean that you can just transfer the asset out, does it?

A. That's -- I don't want to repeat myself anymore.

Q. So going back to it, why not go out and say, hey, we've got this $9 million promissory note that Highland Capital Management is the maker on, what would this sell for out on the market?

A. We didn't do that.

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MR. SHAW: Just a three-minute break, and then I'm probably done.

THE WITNESS: I don't -- I don't need a break.

MR. CRUCIANI: Well, let's keep going.

MR. SHAW: Well, I want a break, so I can take a break when I want one.

MR. CRUCIANI: You can, but let's keep it -- and I think we're almost out of time.

So how much time do we have?

THE VIDEOGRAPHER: You have 11 minutes left.

MR. SHAW: All right.

MR. CRUCIANI: Okay. Is three minutes enough?

MR. SHAW: All right. Just -- let me just clean up. I may -- I might be done, Mr. Dondero.

MR. CRUCIANI: Okay. Fair enough.

THE VIDEOGRAPHER: We're off the record at 5:36 p.m.

(A recess was taken from 5:36 p.m. to 5:41 p.m.)

THE VIDEOGRAPHER: We are back on the record. The time is approximately 5:41 p.m.

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Q. (BY MR. SHAW) What entities do you believe have claims against Mr. Terry with regard to the filing of the involuntary petitions?

MR. CRUCIANI: Objection; calls for speculation, calls for a legal conclusion.

Instruct you not to answer to the extent it's based on discussions with counsel.

A. I can't answer, given that.

Q. (BY MR. SHAW) What entities do you believe have claims against Clouse Dunn by virtue of the filing of the involuntary bankruptcy petitions?

MR. CRUCIANI: Same question; object as calling for speculation, calling for a legal conclusion.

Instruct you not to answer to the extent it's based on discussions with counsel.

A. Yeah, same answer. I -- you guys are smart. You can put it together, but I can't say anything.

MR. SHAW: Pass the witness.

MR. CRUCIANI: Okay. Shall we? Thanks, guys.

MR. SHAW: Thank you.

THE VIDEOGRAPHER: We are off the record. The time is approximately 5:42 p.m.

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THE COURT REPORTER: I have a question.

MR. CRUCIANI: Yes, ma'am.

THE COURT REPORTER: Would you like the witness to read and sign?

MR. CRUCIANI: Yes. I know it's expedited, but we'd like the witness to read and sign.

(Deposition concluded at 5:42 p.m., March 20, 2018.)

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CHANGES AND SIGNATURE

WITNESS NAME: JAMES DONDERO

DATE: MARCH 20, 2018

PAGE/LINE CHANGE REASON

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I, JAMES DONDERO, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

_____

JAMES DONDERO

THE STATE OF _____)

COUNTY OF _____)

Before me, _____, on this day personally appeared JAMES DONDERO, known to me (or proved to me under oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 2018.

_____

NOTARY PUBLIC IN AND FOR THE STATE OF _____

Page 129

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:) CASE NO. 18-30264-SGJ7
)
ACIS CAPITAL MANAGEMENT L.P.,) CHAPTER 7
)
ALLEGED DEBTOR.)

IN RE:) CASE NO. 18-30265-SGJ7
)
ACIS CAPITAL MANAGEMENT GP, L.L.C.,) CHAPTER 7
)
ALLEGED DEBTOR.)

REPORTER'S CERTIFICATE

DEPOSITION OF JAMES DONDERO - 30(b)(6)

TAKEN MARCH 20, 2018

I, Karen L. D. Schoeve, Certified Shorthand Reporter, Registered Diplomate Reporter, Certified Realtime Reporter, and Realtime Systems Administrator, residing in the State of Texas, do

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hereby certify that the foregoing proceedings were reported by me and that the foregoing transcript constitutes a full, true, and correct transcription of my stenographic notes, to the best of my ability and hereby certify to the following:

That the witness, JAMES DONDERO, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the original deposition was delivered to GARY CRUCIANI, custodial attorney;

That a copy of this certificate was served on all parties and/or the witness shown herein on _____.

I further certify that pursuant to FRCP No. 30(f)(i) that the signature of the deponent was requested by the deponent or a party before the completion of the deposition and the signature is to be returned within 30 days from date of receipt of the transcript.

If returned, the attached Changes and Signature Page contains any changes and the reasons therefore.

That pursuant to information given to the deposition officer at the time said testimony was

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taken, the following includes counsel for all parties of record:

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I further certify that I am neither counsel for, related to, nor employed by any of the parties

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in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Subscribed and sworn to on this the 20th day of March, 2018.

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Realtime Systems Administrator
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Date: Thu, 12 Oct 2017 00:32:31 +0000
Importance: Normal
Attachments: Highland_CLO_Funding_-_2017_-_Private_Placement_Memorandum_(10_11_17).docx; CPO_-_Highland_CLO_Funding_-_2017_-_Private_Placement_Memorandum_(10_11_....pdf

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All,

Please see attached an updated draft of the private placement memorandum for Highland CLO Funding.

Please let us know if you have any questions or comments on the attached.

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All,

Please see attached an updated draft private placement memorandum with redline to the draft previously distributed. We have included descriptions of the planned ability to call funds through subscriptions during the investment period subject to review and refinement by our Guernsey colleagues.

Please let us know if you have any questions or comments on the attached.

Thanks!

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From: Bumgarner, John
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To: Darren Bacon <Darren.Bacon@mourantozannes.com>; Richard Holden <Richard.Holden@mourantozannes.com>; Catie Le Prevost <Catie.LePrevost@mourantozannes.com>; Madeleine Church <Madeleine.Church@mourantozannes.com>; 'Dylan Latimer' <Dylan.Latimer@mourantozannes.com>; Trey Parker <TParker@HighlandCapital.com>; Hunter Covitz <HCovitz@HighlandCapital.com>; Thomas Surgent <TSurgent@HighlandCapital.com>; 'Tim Cournoyer' <TCournoyer@HighlandCapital.com>; 'Tanyth Opie' <Tanyth.Opie@ais.statestreet.com>; Lisa Garnham <Lisa.Garnham@ais.statestreet.com>
Cc: Timperio, John <John.Timperio@dechert.com>; Bear, Mary <mary.bear@dechert.com>
Subject: Highland CLO Funding (formerly Acis Loan Funding) - Draft Private Placement Memorandum 10 01 17

All,

Please see attached an updated draft private placement memorandum reflecting the planned update of the portfolio manager to Highland Capital Management, and corresponding update in fund name, as well as certain updated terms.

Please let us know if you have any questions or comments on the attached.

JCB

John C. Bumgarner
Associate

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PRIVILEGE WARNING: The sender or recipient of this message is a member of the legal department at Highland Capital Management. This message and any attachments hereto may constitute attorney work product or be protected by the attorney-client privilege. Do not disclose this message or any attachments hereto without prior consent of a member of the legal department at Highland Capital Management.

*The draft Offering Memorandum ("**Offering Memorandum**") for Highland CLO Funding, Ltd. (the "**Company**") has been prepared by Highland Capital Management, L.P. for persons reasonably believed by it to be of the kind to whom it is permitted to give preliminary information about the investment proposition described therein. It is a confidential communication to, and solely for the use of, the recipient.*

The information contained in the Offering Memorandum is subject to updating, completion, modification and amendment. The purpose of the Offering Memorandum is to give initial detail in order to gauge investor interest, so that the parties concerned can decide whether to bring the project to the point where a formal proposal may be put to investors.

The Offering Memorandum does not constitute an offer or solicitation to anyone in any jurisdiction, and may not be used for the purposes of any such offer or solicitation in any jurisdiction, in which such offer or solicitation is not authorised, or to any person to whom it is unlawful to make such offer or solicitation. Therefore, no person receiving a copy of the Offering Memorandum may treat it as constituting an offer or invitation to him to buy investments, nor may he copy it for transmission to another person. If, however, an offer to sell investments is made in the future, it will be subject only to information circulated at the time in the final offering memorandum.

*No person (unless otherwise expressly authorised by the Company) has been authorised to make any representations or give any information with respect to the shares of the Company (the "**Shares**") except the information contained therein, and any information or representation not contained therein (unless otherwise expressly authorised by the Company) must not be relied upon as having been authorised. Neither the delivery of the Offering Memorandum nor the issue of Shares shall, under any circumstances, create any implication that there has been no change in the affairs of the Company since the date of the Offering Memorandum.*

Applications to subscribe for Shares described in the Offering Memorandum may only be made, and will only be considered, on the basis of the final offering memorandum, the final application form and the articles of association of the Company, and the contents of the Offering Memorandum are qualified in their entirety by each such document. In the event of any conflict between the contents of the Offering Memorandum and the final offering memorandum (or any supplements thereto, if any), the contents of the final offering memorandum (including any supplements thereto) will prevail; in the event of any conflict between the contents of the final offering memorandum (or any supplements thereto) and the final application form, the final application form will prevail; in the event of any conflict between the contents of the final offering memorandum (or any supplements thereto) and the final articles of association of the Company, the contents of the final articles of association of the Company will prevail.

It is the responsibility of every person reading the Offering Memorandum to satisfy himself as to the full observance of the laws of any country relevant to him, including obtaining any government or other consent which may be required, and/or observing any other formality which needs to be observed in that country.

The Offering Memorandum is written for the benefit of the category of persons described above. It is not addressed to any other person and may not be used by them for any purpose whatsoever. It expresses no views as to the suitability of the investments described therein to the individual circumstances of any recipient.

THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. If you are in any doubt as to the action you should take or the contents of this document, you are recommended to seek your own independent financial advice immediately from your stockbroker, bank, solicitor, accountant, or other appropriate independent financial adviser, who is authorised under the Financial Services and Markets Act 2000, as amended ("FSMA") if you are in the United Kingdom, or from another appropriately authorised independent financial adviser if you are in a territory outside the United Kingdom.

A copy of this document, which comprises an offering memorandum (the "Offering Memorandum") relating to Highland CLO Funding, Ltd. (the "Company") in connection with the issue of Placing Shares in the Company, is available at the Company's registered office upon request.

The Placing Shares are only suitable for investors: (i) who understand the potential risk of capital loss and that there may be limited liquidity in the underlying investments of the Company; (ii) for whom an investment in the Placing Shares is part of a diversified investment programme; and (iii) who fully understand and are willing to assume the risks involved in such an investment programme. It should be remembered that the price of the Placing Shares and the income from them can go down as well as up and that investors may not receive, on the sale or cancellation of the Placing Shares, the amount that they invested.

The Company and its directors (whose names appear in the section of this Offering Memorandum entitled "*Company Directors and Administration*") (the "**Directors**") accept responsibility for the information contained in this Offering Memorandum. To the best of the knowledge of the Company and the Directors (who have taken all reasonable care to ensure that such is the case), the information contained in the Offering Memorandum is in accordance with the facts and contains no omission likely to affect its import. The Directors have taken all reasonable care to ensure that the facts stated in the Offering Memorandum are true and accurate in all material respects, and that there are no other facts the omission of which would make misleading any statement in this Offering Memorandum, whether of facts or of opinion. All the Directors accept responsibility accordingly.

Potential investors should read the whole of this Offering Memorandum when considering an investment in the Placing Shares and, in particular, attention is drawn to the section of this Offering Memorandum entitled "*Risk Factors*" on pages [•] to [•] of this Offering Memorandum.

HIGHLAND CLO FUNDING, LTD.

(a closed-ended investment company limited by shares incorporated under the laws of Guernsey with registered number 60120)

Placing for a target issue in excess of [•] million Placing Shares at

U.S. $~~1.00~~[•] per Placing Share

This Offering Memorandum does not constitute or form part of any offer or invitation to sell, or the solicitation of an offer to acquire or subscribe for, any securities other than the securities to which it relates or any offer or invitation to sell or issue, or any solicitation of any offer to purchase or subscribe for such securities by any person in any circumstances in which such offer or solicitation is unlawful.

The Placing Shares have not been and will not be registered under the U.S. Securities Act of 1933 (the "**U.S. Securities Act**") or under the securities laws of any state or other jurisdiction of the United States. The Placing Shares may not be offered, sold, exercised, resold, transferred or delivered, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. Persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the U.S. Securities Act and in compliance with any applicable securities laws of any state or other jurisdiction in the United States.

The Company has not been and will not be registered under the U.S. Investment Company Act of 1940, as amended (the "**U.S. Investment Company Act**") and investors will not be entitled to the benefits of the U.S. Investment Company Act. There will be no public offer of the Placing Shares in the United States.

Neither the U.S. Securities and Exchange Commission (the "SEC") nor any state securities commission has approved or disapproved of the Placing Shares or passed upon or endorsed the merits of the offering of the

SUMMARY

The following is an overview of the transaction structure and is qualified in its entirety by, and should be read in conjunction with, the more detailed information appearing elsewhere in this Offering Memorandum and related documents referred to herein. Capitalised terms not specifically defined in this Offering Memorandum have the meanings set out in the section of this Offering Memorandum entitled "*Definitions*" below. For a discussion of certain risk factors to be considered in connection with an investment in the Shares, see "*Risk Factors*".

The Company:

Highland CLO Funding, Ltd. (formerly known as Acis Loan Funding, Ltd.) (the "**Company**") is a closed-ended investment company limited by shares incorporated on 30 March 2015 under the laws of Guernsey with registered number 60120. The Company changed its name from Acis Loan Funding, Ltd. to Highland CLO Funding, Ltd. on [●], 2017.

The Company holds a partial, indirect ownership in Highland CLO Management, LLC ("**Highland CLO Management**"), a Delaware series limited liability company established to manage Highland CLOs, act as a "majority-owned affiliate" for purposes of the U.S. Risk Retention Rules and as an "originator" for purposes of EU Retention Requirements and to hold with respect to Highland CLOs the required risk retention interests required under, and in accordance with, the U.S. Retention Rules and/or the EU Retention Requirements, as applicable (such interests with respect to any CLO, the applicable "**Retention Interest**"). Highland CLO Management is also partly held (on an indirect basis) by Highland Capital Management, L.P. ("**Highland**"), a Delaware limited partnership, which controls the major economic decisions of Highland CLO Management.

The Company holds a partial, indirect ownership in ACIS CLO Management, LLC ("**Acis CLO Management**" and together with Highland CLO Management, the "**CLO Management Companies**" and each, a "**CLO Management Company**"), a Delaware series limited liability company established to manage Acis CLO 2017-7, Ltd. ("**Acis CLO 7**"), act as a "majority-owned affiliate" for purposes of the U.S. Risk Retention Rules and to hold the Retention Interests with respect to Acis CLO 7 required under, and in accordance with, the U.S. Retention Rules. Acis CLO Management is also partly held (on an indirect basis) by Acis Capital Management, L.P. ("**Acis**"), a Delaware limited partnership, which controls the major economic decisions of Acis CLO Management.

Investment Objective:

The Company's investment objective is to provide Shareholders with stable and growing income returns, and to grow the capital value of the investment portfolio through opportunistic exposure to CLO Notes, investments in new issue CLOs sponsored by Highland and Acis CLO 7 through its interests in the Management Companies and CLO Income Notes, respectively, and senior secured loans primarily for the purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements, on both a direct basis and indirect basis, through the use of the investments described in its investment policy and through use of leverage, including ~~repurchase facilities and~~, any Revolving Credit Facility, Warehouse Loan Facilities, total return swaps or repurchase agreements, in addition to secured loan facilities.

- a limit on the weighted average life of the portfolio;
- a limit on the weighted average rating of the portfolio;
- a limit on the maximum amount of portfolio assets with a rating lower than B-/B3/B-; and
- a limit on the minimum diversity of the portfolio.
- a limit on the minimum weighted average of the prescribed rating agency recovery rate;
- a limit on the minimum amount of senior secured assets;
- a limit on the maximum aggregate exposure to second lien loans, high yield bonds, mezzanine loans and unsecured loans;
- a limit on the maximum portfolio exposure to covenant-lite loans;
- an exclusion of project finance loans;
- an exclusion of structured finance securities;
- an exclusion on investing in the debt of companies domiciled in countries with a local currency sub investment grade rating; and
- an exclusion of leases.

The above are not intended to be an exhaustive list of the eligibility criteria and portfolio limits within a typical CLO and the inclusion or exclusion of such limits and their absolute levels are subject to change depending on market conditions.

Act as Risk Retention Provider

The Company may also invest in, provide loans to, or purchase performance-linked notes from, asset management subsidiaries, affiliated with the Company, Highland, Acis or the Management Companies and which may act as the asset manager of certain U.S. or European CLOs in order to satisfy the U.S. Risk Retention Rules or EU Retention Requirements.

Allocation of Investment Opportunities

Highland CLO Management will serve as CLO Manager to each newly-issued Highland CLO during the Investment Period.

During the Investment Period, the Company shall receive priority allocations with respect to all CLO Income Note investment opportunities with respect to new issue Highland CLOs, over the account of the Portfolio Manager, its affiliates and other clients, including other investment funds and client accounts, including those which follow an investment program substantially similar to that of the Business (such other clients, funds and accounts, collectively, the "**Other Accounts**"). For the avoidance of doubt, the Portfolio Manager shall otherwise allocate investment opportunities among the Company and Highland and its affiliates and Other Accounts in accordance with its allocation policy which requires allocations among clients to be fair and equitable over time. *See "Risk Factors—Risks Relating to Conflicts of Interest—The Company will be subject to various conflicts of*

interest involving the Portfolio Manager and its affiliates".

Investment Restrictions:

During the Investment Period, the Company may invest up to $250,000,000 in CLO Income Notes for new Highland CLOs as follows: (a) up to $150,000,000 in the aggregate from new capital contributions; and (b) up to $100,000,000 in the aggregate from proceeds received from existing seed portfolio investments and investments in new Highland CLOs, net of dividends paid, and amortization and interest payments on Company borrowings from committed credit facilities.

The Company may, without the consent of the Advisory Board, invest in any CLO Notes or CLO Income Notes of new Highland CLOs (a) pursuant to which Highland, Highland CLO Management or any of its affiliates does not charge subordinate management fees in excess of 0.00%, senior management fees in excess of 0.15% or incentive management fees in excess of 0.00% or (b) does not have a reinvestment period longer than 5 years (such CLOs, "**Qualifying CLOs**"); *provided* that, if the Portfolio Manager has provided reasonable evidence to the Advisory Board that a substantial portion of new issue CLOs have reinvestment periods longer than 5 years (the "**RP Condition**"), the consent of the Advisory Board to invest in any Highland CLO that meets clause (a) of the definition of Qualifying CLOs only shall not be unreasonably withheld, conditioned or delayed.

During the Investment Period, the Company shall be permitted to invest in a "reset" with respect to the following CLOs (which may extend the re-investment period and/or term of such CLOs) managed by Highland affiliates (the "**Designated CLO Resets**"):

Acis CLO 2013-1, Ltd.
Acis CLO 2015-6, Ltd.

During the Investment Period, the Company shall be permitted to invest in a refinancing with respect to the following CLOs (which may not extend the re-investment period or term of such CLOs) managed by Highland affiliates (the "**Designated CLO Refinancings**"):

Acis CLO 2014-3, Ltd.
Acis CLO 2014-4, Ltd.
Acis CLO 2014-5, Ltd.
Acis CLO 2017-7, Ltd.

For the avoidance of doubt, following the expiration of the Investment Period, the Company shall not consummate an investment in any "reset" with respect to CLO Income Notes held by the Company.

The Company shall not invest in the CLO Income Notes of a new issue Highland CLO unless it is the 100% owner of the CLO Income Notes not forming part of the Retention Interest acquired by Highland CLO Management.

Indirect Actions

Neither the Portfolio Manager nor the Company may take any action indirectly through controlled subsidiaries that either the Portfolio Manager or the Company is not permitted to undertake directly as set forth herein.

Borrowing:

It is expected that the Company will have access to one or more committed credit facilities and will use advances under such facilities, together with the proceeds of the Shares, to purchase future senior secured loans (for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements) or other assets. Such facilities may take the form of any Revolving Credit Facility, Warehouse Loan Facilities, total return swaps or repurchase agreements, in addition to secured loan facilities. In addition to such facilities, the Company will be permitted to borrow money for day to day administration and cash management purposes.

Borrowing Limits

Notwithstanding the foregoing or anything to the contrary set forth herein, as of the time any such debt is incurred, the Company's maximum gross leverage exposure (excluding the Warehouse Loan Facilities) pursuant to (a) committed secured loan facilities and any other borrowing (other than described in clause (b)) shall not exceed the greater of (x) 15% of the Company's gross asset value and (y) $50,000,000, and (b) repurchase agreements shall not exceed 75% of the Company's gross asset value.

For purposes of the limits regarding repurchase agreements set forth in clause (b) above, the "gross asset value" of the Company shall exclude financing for CLO Notes held by a Management Company as part of a "vertical" Retention Interest (including for the Designated CLO Resets), the NexBank Credit Facility, any Warehouse Loan Facilities and cash equivalents.

Warehouse Loan Facilities

One or more multi-currency warehouse lending facilities may be entered into from time to time between (i) the Company and (ii) a warehouse provider (the "**Warehouse Loan Facilities**"), pursuant to which the Company is able to draw multi-currency loans from time to time in order to purchase assets for its portfolio. The Warehouse Loan Facilities will be entered into on market standard terms, as negotiated between the Company and the relevant warehouse provider in each case and will include a senior security package in favour of the warehouse provider.

Hedging and Derivatives

The Company may use hedging or derivatives (both long and short) for the purposes of efficient portfolio management (other than with respect to credit risk under or associated with the CLO Retention Notes).

Repurchase Agreements

The Company may not use repurchase agreements to finance the purchase of CLO Income Notes, however, the may pledge any already owned CLO Income Notes as additional collateral under repurchase agreements.

Revolving Credit Facility

The Company may enter into a secured revolving credit facility with a committed amount of ~~$15,000,000~~50,000,000 for working capital purposes (a "**Revolving Credit Facility**")

NexBank Credit Facility

The Company currently has a secured term credit facility provided by NexBank SSB, a Texas savings bank, with a principal amount of ~~$23,000,000~~22,158,337, as of September 30, 2017 (the "**NexBank Credit Facility**"). The Company may, from time to time, increase its borrowing under the NexBank Credit Facility up to a maximum principal amount of $30,000,000 at any time without the consent of the Advisory Board, but subject to the limitations set forth above in "*—Borrowing Limits*".

Advisory Board:

The Company shall form and assemble an advisory board (the "**Advisory Board**") composed of individuals who shall be representatives of certain Shareholders selected by Highland in its sole discretion in order to (a) provide advice to Highland with respect to certain issues involving conflicts of interest in any transaction or relationship between the Company and Highland or any of its employees or affiliates that are presented to the Advisory Board by Highland, and (b) be required to approve the following actions:

- Any extension of the Investment Period;
- Any extension of the Term (other than an automatic extension following an extension of the Investment Period that has been approved by the Advisory Board);
- Any allotment of additional equity securities by the Company; and
- Any investment in a Related Obligation or any other transaction between the Company or any entity in which the Company holds a direct or indirect interest, on the one hand, and Highland or any of its affiliates, on the other hand.

Notwithstanding the foregoing or anything to the contrary set forth herein, no transaction that is specifically authorized in the governing documents of the Company shall require approval of the Advisory Board, including, without limitation, sales or securitizations of all or a portion of the Company's loan portfolio into new Qualifying CLOs and investments in CLO Notes issued by CLOs managed by Highland affiliates and the NexBank Credit Facility.

Notwithstanding the foregoing or anything to the contrary set forth herein, without the consent of the Advisory Board, the Company may raise additional funds, including through the allotment of additional equity securities (subject to the pre-emption rights of the Shareholders to invest in such additional equity securities *pro rata*) or acceptance of contributions, if determined by the Board of Directors to be necessary to protect the Company, consistent with the Board's duties to the Company.

No voting member of the Advisory Board shall be a controlled affiliate of Highland.

Each member of the Advisory Board shall owe no fiduciary or other duties to the Company or the shareholders and may act solely in the interest of the shareholder that it represents.

Neither the Advisory Board nor any member thereof shall have the power to bind or act for or on behalf of the Company in any manner, and no shareholder who appoints a member of the Advisory Board shall be deemed

to be an affiliate of the Company or Highland solely by reason of such appointment.

Investment Period:

The Company's assets may be invested and, subject to the terms and conditions set forth in the "*Dividend Policy*" section below, reinvested for a period commencing on the Closing Date of the Placing and ending on [April 30, 2020] (the "**Investment Period**"), subject to two additional one-year extensions with the consent of the Advisory Board (as hereinafter defined) and the Portfolio Manager; provided that the Term will automatically be extended by an identical length of time in the event of an extension of the Investment Period.

Termination of Investment Period following Key Person Event

The Portfolio Manager will promptly provide each Shareholder with written notice in the event that any three of James Dondero, Mark Okada, Trey Parker or Hunter Covitz (the "**Key Persons**") cease to devote such time to the affairs of the Company as is sufficient to effectively manage the operations of the Company (a "**Key Person Event**"), as determined by the Portfolio Manager in its reasonable discretion, taking into account such factors as it shall deem relevant in its reasonable discretion. The Portfolio Manager will promptly provide each Shareholder with written notice in the event of the termination of employment of any Key Person. From and after the occurrence of a Key Person Event, until the 60th day following the date of the applicable notice to the Shareholders (or until earlier reinstatement of the Investment Period, if applicable), the Company (or the Portfolio Manager, on behalf of the Company) may not enter into a letter of intent, written agreement in principle or legally binding agreement to make any acquisition of any investment and the Portfolio Manager may not deliver any drawdown notice for any new Commitments, and may only deliver a drawdown notice that would otherwise be permitted to be delivered by the Portfolio Manager following the termination of the Investment Period.

The Investment Period will be terminated effective on the 60th day following the date of notice to the Shareholders of a Key Person Event unless, on or before such 60th day (i) the Portfolio Manager obtains or receives notice of the written election or vote of the Advisory Board to reinstate the Investment Period, or (ii) one or more Qualified Replacements (as defined below) are appointed in place of (or in addition to) the then existing Key Persons to cure the Key Person Event, in which event the Investment Period will continue until its termination as otherwise described herein without further regard to such Key Person Event.

For purposes of this Offering Memorandum, a "**Qualified Replacement**" means a person nominated by the Portfolio Manager and approved by the [Advisory Board], such approval not to be unreasonably withheld, conditioned or delayed, as a replacement for any existing Key Person or as an additional Key Person.

Term:

The term of the Company will commence on the date of the Placing and will end (and the Company thereafter will be wound up and dissolved) on the ten-year anniversary of the date of the Placing (the "**Term**"), subject to (a) automatic extension in the event of an extension of the Investment Period and (b) two additional one-year extension with the consent of the Portfolio Manager and the Advisory Board, or such earlier date after the end of the Investment Period on which the Portfolio Manager determines to terminate and wind up the Company following the receipt by the Company of all

amounts reasonably expected by the Portfolio Manager to be received with respect to the Company's assets or the sale thereof during the term and in a manner that will not cause the Company, Highland, Acis, the Management Companies or any subsidiary thereof to violate any applicable law or contract.

The Company has been established as a closed-ended vehicle. Accordingly, there is no right or entitlement attaching to Shares that allows them to be redeemed or repurchased by the Company at the option of the Shareholder. [NTD: Articles to be amended to reflect closed end term.]

Placing Arrangements – Investment Period Subscription Commitment:

[The Company is seeking aggregate subscriptions to purchase Placing Shares in an aggregate amount of up to approximately $[●] million.

Placees will commit under the subscription agreements to purchase Shares to be settled from time to time during the Investment Period. The Portfolio Manager may call such Shares for settlement from time to time on a pro rata basis upon 10 Business Days' notice to the Placees in such amounts as may be specified by the Portfolio Manager.

Upon the expiration of the Investment Period, all Placees will be released from any further obligation with respect to purchase Shares under their subscriptions, except to the extent necessary to:

(i) complete the purchase of Shares pursuant to written commitments, letters of intent or similar contractual commitments that were in process as of the end of the Investment Period; and

(ii) fund any indebtedness of the Company permitted hereunder incurred prior to the end of the Investment Period (including to repay outstanding indebtedness under any Warehouse Loan Facilities).

Shares will be issued at a price ~~equal to U.S. $1.00~~ per Share based on the then current NAV of the Company.

The maximum number of Shares to be issued by the Company is [●] million and the minimum number is [●] million. Fractions of Placing Shares will not be issued.

On the Closing Date, Placees will acquire ~~of~~ Shares of existing Shareholders at a price per Share based on the current NAV of the Company such that Placees and existing Shareholders will hold currently existing Shares on a *pro rata* basis and existing Shareholders will commit, as Placees under subscription agreements, to purchase Shares such that new and existing Shareholders will hold both existing Shares and commitments on *pro rata* basis.

The Board may deduct from any dividend payable to any Shareholder on or in respect of a Share all sums of money (if any) presently payable by him to the Company on account of calls with respect to existing Shares, or calls of commitments to purchase Shares pursuant to the subscription agreements or otherwise.

The Board may retain any dividend or other monies payable on or in respect of a Share on which the Company has a lien and may apply the same in or towards satisfaction of the liabilities or obligations in respect of which the

capacities, any person who serves at the request of the Portfolio Manager or the Board pursuant to the Articles, on behalf of the Company as an officer, director, manager, partner, member, employee, stockholder, agent or legal representative of any other person serving at the request of the Portfolio Manager or the Board pursuant to the Articles on behalf of the Company in such capacity as listed above, each member of the Advisory Board and each member of any subcommittee thereof (including, solely in connection with matters relating to the Advisory Board or such subcommittee, the Shareholder and/or other person on whose behalf the Advisory Board member or subcommittee member is serving and such Shareholder's and/or other person's affiliates) and any assignees or successors of the foregoing (each, an "**Indemnified Person**") will incur no liability to the Company or any Shareholder in the absence of a finding by any court or governmental body of competent jurisdiction in a final, non-appealable judgment that the commission by such person of an action, or the omission by such person to take an action, constitutes bad faith, gross negligence or wilful misconduct (a "**Triggering Event**"), except as otherwise required by applicable law. Any claims arising from a Triggering Event shall be limited to actual out-of-pocket damages incurred as a direct consequence of the Triggering Event, and shall not include punitive, consequential or other damages or lost profits.

Indemnification:

To the fullest extent permitted by applicable law, the Company will be required to indemnify each Indemnified Person for any losses, claims, damages or liabilities incurred by such Indemnified Person or to which such Indemnified Person may be subject by reason of its activities in connection with the conduct of the business or affairs of the Fund and/or a Portfolio Company, unless such losses result from an Indemnified Person's Triggering Event.

The Indemnified Persons shall be entitled to advancement of expenses as they are incurred in connection with the investigation, defence or resolution of any claim that may be subject to indemnification, subject to providing an undertaking to repay any amounts ultimately determined not to be subject to indemnification due to a Triggering Event.

Each member of the Advisory Board and each member of any subcommittee thereof and, solely in connection with matters relating to the Advisory Board or such subcommittee, the Shareholder and/or other person or entity on whose behalf such Advisory Board member or subcommittee member serves, will have the benefit of similar exculpation and indemnification rights unless it has not acted in good faith.

Notwithstanding the foregoing or anything to the contrary set forth herein, the Company will not provide for the exculpation or indemnification of any Indemnified Person for any liability (including liability under U.S. federal securities laws which, under certain circumstances, impose liability even on persons that act in good faith), to the extent that such liability may not be waived, modified or limited under applicable law.

Regulatory status of Portfolio Manager:

Highland Capital Management, L.P. is an investment adviser registered under the Investment Advisers Act of 1940, as amended (the "**Investment Advisers Act**") and, as such, is subject to the provisions of the Investment Advisers Act.

Regulatory status of Custodian: The Custodian of the Company is State Street Custodial Services (Ireland) Limited, which is authorised as an Investment Business Firm under Section 10 of the Irish Investment Intermediaries Act, 1995 (as amended), will provide custody and banking services.

Calculation of Net Asset Value: The Company intends to publish the Net Asset Value per Share on a quarterly basis, within 15 Business Days following the relevant quarter-end. Notice will be provided by the Administrator by e-mail.

Portfolio: The Company is currently invested in CLO Income Notes in the following Managed CLOs in the following amounts:

~~[~~**Acis CLOs:**	**Aggregate Outstanding Amount (U.S.$)**
ACIS CLO 2013-1 Ltd.	$~~18,600,000~~18,558,000.00
ACIS CLO 2014-3 Ltd.	$~~50,800,000~~39,750,000.00
ACIS CLO 2014-4 Ltd.	$~~53,000,000~~50,750,000.00
ACIS CLO 2014-5 Ltd.	$53,000,000.00
ACIS CLO 2015-6, Ltd.	$~~51,900,000~~51,850,000.00
~~ACIS CLO 2017-7, Ltd.~~	~~$17,900,000~~

Highland Legacy CLOs:	**Aggregate Outstanding Amount (U.S.$)**
Rockwall CDO, Ltd.	$~~12,000,000~~14,000,000.00
Brentwood CLO, Ltd.	$~~12,000,000~~12,000,000.00
Grayson CLO, Ltd.	$~~5,900,000~~5,900,000.00
Liberty CLO, Ltd.	$~~17,000,000~~17,000,000.00
HP CDO, Ltd.	$~~1,800,000~~1,621,542.70
Greenbriar CLO, Ltd.	$~~18,000,000~~18,000,000.00
Gleneagles CLO, Ltd.	$~~1,300,000]~~1,250,000.00

ACIS CLO Management	**Aggregate Outstanding Amount (U.S.$)**
Acis CLO 7	$17,850,000.00

Net Asset Value: As at the latest practicable date prior to the publication of this Offering Memorandum, the unaudited net asset value per share of the Net Asset Value was [●].

Type and class of securities: The Shares being offered under the Placing are ordinary shares of no par value in the capital of the Company.

Currency of the securities issue: U.S. Dollar

Number of securities in issue: It is expected that the issued share capital of the Company (all of which shares will be fully paid) immediately following the Placing will consist of in excess of [●] million Shares.

Administration—Portfolio Manager—Highland Fees".

Administrator

Under the terms of the Administration Agreement, the Administrator is entitled to an annual administration fee of up to [•] per cent per annum of the Net Asset Value [NTD: To conform to updated fee schedule.] of the Company per annum, payable monthly in arrears, and other miscellaneous fees and expenses reimbursed, in each case, as determined in the agreement.

Registrar

The Registrar is entitled to an annual fee of £[2,500•] from the Company for creation and maintenance of the share register. Other registrar activity is charged for in accordance with the Registrar's normal tariff as published from time to time.

Custodian

Under the terms of the Custody Agreement, the Custodian is entitled to receive transaction charges and sub custodian charges will be recovered by the Custodian from the Company as they are incurred by the relevant sub custodian. All such charges shall be charged at normal commercial rates.

Directors

The Directors are remunerated for their services at a fee of £35,000 per annum (£40,000 for the Chairman). For more information in relation to the remuneration of the Directors, please refer to the section of this Offering Memorandum entitled "Memorandum and Articles" in "Additional Information on the Company".

Other operational expenses

All other ongoing operational expenses of the Company (excluding fees paid to service providers as detailed above) are borne by the Company including, without limitation: the incidental costs of making its investments and the implementation of its investment objective and policy; travel, accommodation and printing costs; the cost of directors' and officers' liability insurance; corporate brokers' fees; audit and legal fees; and brokerage fees. All reasonably and properly incurred out-of-pocket expenses of the Administrator, the Registrar, the Custodian, and the Directors relating to the Company are borne by the Company.

Save to the extent disclosed in the sections set out above, there is no specific monetary cap on the amount of fees, charges, and expenses which are directly or indirectly borne by investors. The amount of charges and expenses which are borne by an investor may vary from year to year.

For more information on expenses charged during the most recent financial year, prospective investors should review the Company's annual audited financial statements (if any) for the prior financial year.

Terms and conditions of the offer:

[•] million Shares are being marketed and are available under the Placing.

Shares will be issued under the Placing at a price ~~of U.S. $1.00~~ per Share based on the then current NAV of the Company. The maximum number of

Shares to be issued by the Company is 325 million and the minimum number of Shares will be [•] million.

Placees may acquire of Shares pursuant a combination of issuance and transfer from existing Shareholders.

Placees may also enter into commitments to acquire Shares pursuant a combination of issuance and transfer from existing Shareholders.

The Placing is not being underwritten.

No fractions of Shares will be issued. If a fractional entitlement to a Share arises on an application, the number of Shares issued will be rounded down to the nearest whole number. Any rounding will be retained for the benefit of the Company.

Press Releases:

Neither the Portfolio Manager, the Company nor any Shareholder shall~~,~~ issue or approve any press release or other announcement referring to the identity of a Shareholder without the prior written consent of the ~~Portfolio Manager and a majority of the Shareholders, issue or approve any press release or other announcement referring to the Company, the Shareholders or the matters contemplated in this Offering Memorandum~~applicable Shareholder.

Retention Requirements, the relevant CLO Retention Notes will not be permitted to be sold, transferred or liquidated during this time. In addition, even after an early redemption option is permitted to be exercised, such an option usually contains a number of conditions to its exercise including, but not limited to, a threshold that the liquidation value of the CLO collateral exceed an amount which would pay (a) all expenses of the CLO and (b) principal and accrued interest on the CLO Notes senior to the CLO Income Notes. If the liquidation value of the portfolio will not achieve this threshold at the time the Company intends to exercise its early redemption option, the CLO will not be able to be optionally redeemed by the Company at such time. In such circumstances, the Company or the applicable Management Company may not redeem the CLO Retention Notes until their final stated maturity (which may be in excess of 12 years), therefore producing no proceeds to pay to Shareholders until this point.

Potential non-compliance with or changes to the United States and European risk retention requirements

The purchase and retention of the CLO Retention Notes in a CLO will be undertaken by the Company or the applicable Management Company with the intention of achieving compliance with the U.S. Risk Retention Rules and/or the EU Retention Requirements by the relevant CLO.

The U.S. Risk Retention Rules and/or EU Retention Requirements may be amended, supplemented or revoked from time to time. There is no guarantee that existing CLOs or future CLOs will be grandfathered into the regime which results from such amendments, supplements or revocations and, as such, the CLOs in which the applicable Management Company is retaining the CLO Retention Notes, may become non-compliant with the U.S. Risk Retention Rules and/or EU Retention Requirements.

Liability for breach of a risk retention letter

The arranger of a CLO and certain other parties of a CLO in which a Management Company agrees to hold the CLO Retention Notes (in such capacity, the "**Retention Holder**") will require the applicable Management Company to execute a risk retention letter. Under a risk retention letter the applicable Retention Holder will typically be required to, amongst other things, make certain representations, warranties and undertakings: (a) in relation to its acquisition and retention of the CLO Retention Notes for the life of the CLO; and (b) regarding its agreement to sell assets to the relevant CLO from time to time. If the applicable Retention Holder sells or is forced to sell the CLO Retention Notes prior to the maturity of the relevant CLO, or the applicable Retention Holder holds insufficient cash or investments to continually sell the assets to the CLO as described above or for any other reason the applicable Retention Holder is not considered to be an "originator" (as such term is defined in the CRR), the Company may be in breach of the terms of the related risk retention letter. In such circumstances the arranger of the relevant CLO and the other parties to the related risk retention letter would have recourse to the applicable Retention Holder for losses incurred as a result of such breach. Such claims may reduce, or entirely diminish any cash or assets of the Company which may have been available to make payments on the Shares.

[RISKS RELATING TO HIGHLAND AND ACIS

Past Performance Not Indicative of Future Results

The past performance of Highland and Acis and their principals and affiliates in other portfolios or investment vehicles, including, without limitation ~~its~~their outstanding CLO transactions, ~~[Hewett's Island CLO I-R, ACIS CLO 2013-1, ACIS CLO 2013-2, ACIS CLO 2014-3, ACIS CLO 2014-4, ACIS CLO 2014-5, ACIS CLO 2015-6 and ACIS CLO 2017-7] [To be updated to include Highland Legacy CLOs]~~ may not be indicative of the results that the Company may be able to achieve. Similarly, the past performance of Highland, Acis and their principals and affiliates over a particular period may not necessarily be indicative of the results that may be expected in future periods. Furthermore, the nature of, and risks associated with, the Company's investments may differ substantially from those investments and strategies undertaken historically by Highland, Acis and their principals and affiliates. There can be no assurance that Highland's or Acis' investment recommendations will perform as well as past investments of Highland or Acis or their principals and affiliates, that the Company will be able to avoid losses or that the Company will be able to make investments similar to the past investments of Highland, Acis and their principals and affiliates. In addition, such past investments may have been made utilizing a leveraged capital structure, an asset mix and fee arrangements that are different from the anticipated capital structure, asset mix and fee arrangements of the Company. Moreover, because the investment criteria that govern investments in the Company's portfolio do not govern the investments and investment strategies of Highland,

As part of their regular business, Highland, its affiliates and their respective officers, directors, trustees, shareholders, members, partners, personnel and employees and their respective funds and investment accounts (collectively, the "**Related Parties**") hold, purchase, sell, trade or take other related actions both for their respective accounts and for the accounts of their respective clients, on a principal or agency basis, with respect to loans, securities and other investments and financial instruments of all types. Highland, its affiliates and their respective officers, directors, shareholders, members, partners, personnel and employees also provide investment advisory services, among other services, and engage in private equity, real estate and capital markets-oriented investment activities. The Related Parties will not be restricted in their performance of any such services or in the types of debt or equity investments which they may make. The Related Parties may have economic interests in or other relationships with obligors or issuers in whose obligations or securities or credit exposures the Company and/or the Managed CLOs may invest. In particular, the Related Parties may make and/or hold an investment in an obligor's or issuer's securities that may be *pari passu*, senior or junior in ranking to an investment in such obligor's or issuer's securities made and/or held by the Company and/or the Managed CLOs, or in which partners, security holders, members, officers, directors, agents, personnel or employees of such Related Parties serve on boards of directors or otherwise have ongoing relationships. Each of such ownership and other relationships may result in securities laws restrictions on transactions in such securities by the Company and/or the Managed CLOs and otherwise create conflicts of interest for the Company and/or the Managed CLOs. In such instances, the Related Parties may in their discretion make investment recommendations and decisions that may be the same as or different from those made with respect to the Company's and/or the Managed CLOs' investments. In connection with any such activities described above, the Related Parties may hold, purchase, sell, trade or take other related actions in securities or investments of a type that may be suitable to be included as investments by the Company and/or Managed CLOs. Other than with respect to new issue Highland CLOs as described below, the Related Parties will not be required to offer such securities or investments to the Company or Managed CLOs or provide notice of such activities to the Company or Managed CLOs. In addition, in providing services under the Portfolio Management Agreement and the CLO Management Agreements, Highland may take into account its relationship or the relationships of its affiliates with obligors and their respective affiliates, which may create conflicts of interest. Furthermore, in connection with actions taken in the ordinary course of business of Highland in accordance with its fiduciary duties to its other clients, Highland may take, or be required to take, actions which adversely affect the interests of the Company and/or Managed CLOs. ~~The~~Except as otherwise set forth herein, including with respect to Qualifying CLOs, Designated CLO Resets, Designated CLO Refinancings and the NexBank Facility, the consent of the Advisory Board will be required with respect to transactions with any Related Party.

The Related Parties invested and may continue to make investments that would also be appropriate for the Company, Highland CLO Management, Highland CLO Management and/or the Highland CLOs. Such investments may be different from those recommended to the Company or made on behalf of the Highland CLOs, Highland CLO Management or Highland CLO Management. Neither Highland nor any Related Entity has any duty, in making or maintaining such investments, to act in a way that is favorable to the Company, Highland CLO Management, Highland CLO Management and/or the Manged CLOs or to offer any such opportunity to the Company, other than with respect to new issue Highland CLOs as described below, or the Managed CLOs. The investment policies, fee arrangements and other circumstances applicable to such other parties may vary from those applicable to the Company, Highland, Acis, the Management Companies and the Managed CLOs. Highland and/or any Related Entity may also provide advisory or other services for a customary fee to issuers or obligors whose debt obligations or other securities are held by the Company, Highland, Acis, the Management Companies and/or the Managed CLOs, and neither the Shareholders nor the Company shall have any right to such fees. Highland, Acis, the Management Companies and/or any Related Entity may also have ongoing relationships with, render services to or engage in transactions with other clients, including other issuers of collateralized loan obligations and collateralized debt obligations, who invest in assets of a similar nature to those of the Company, Highland, Acis, the Management Companies and/or the Managed CLOs, and with companies whose securities or loans are acquired by the Company, Highland, Acis, the Management Companies and/or the Managed CLOs, and may own equity or debt securities issued by obligors of debt held by the Company, Highland, Acis, the Management Companies and/or the Managed CLOs. In connection with the foregoing activities, Highland, Acis, the Management Companies and/or any Related Entity may from time to time come into possession of material nonpublic information that limits the ability of Highland to advise the Company or the Management Companies or effect a transaction for Managed CLOs, and the Company's, the Management Companies' and/or the Managed CLOs' investments may be constrained as a consequence of Highland's or Acis' inability to use such information

for advisory purposes or otherwise to effect transactions that otherwise may have been initiated on behalf of its clients, including the Company, the Management Companies and/or the Managed CLOs. In addition, officers or affiliates of Highland, Acis and/or Related Parties may possess information relating to obligors of debt held by the Company, the Management Companies and/or the Managed CLOs that is not known to the individuals at Highland responsible for monitoring such investments and performing the other obligations under the Portfolio Management Agreement or CLO Management Agreements.

During the Investment Period, the Company shall receive priority allocations with respect to all CLO Income Note investment opportunities with respect to new issue Highland CLOs, over the account of the Portfolio Manager, its affiliates and Other Accounts. For the avoidance of doubt, the Portfolio Manager shall otherwise allocate investment opportunities among the Company and Highland and its affiliates and Other Accounts in accordance with its allocation policy which requires allocations among clients to be fair and equitable over time as described below. Highland, Acis and their affiliates may, from time to time, be presented with investment opportunities, other than with respect to new issue Highland CLOs during the Investment Period, that fall within the investment objectives of the Company, the Management Companies and/or the Managed CLOs and other clients, funds or other investment accounts managed by Highland, Acis or their affiliates, and in such circumstances, Highland, Acis and their affiliates expect to allocate such opportunities among the Company, the Management Companies and/or the Managed CLOs and such other clients, funds or other investment accounts on a basis that Highland, Acis and their affiliates determine in good faith is appropriate taking into consideration such factors as the fiduciary duties owed to the Company, the Management Companies, the Managed CLOs and such other clients, funds or other investment accounts, the primary mandates of the Company, the Management Companies, the Managed CLOs and such other clients, funds or other investment accounts, the capital available to the Company, the Management Companies, the Managed CLOs and such other clients, funds or other investment accounts, any restrictions on investment, the sourcing of the transaction, the size of the transaction, the amount of potential follow-on investing that may be required for such investment and the other investments of the Company, the Management Companies, the Managed CLOs and such other clients, funds or other investment accounts, the relation of such opportunity to the investment strategy of the Company, the Management Companies and/or the Managed CLOs and such other clients, funds or other investment accounts, reasons of portfolio balance and any other consideration deemed relevant by Highland, Acis and their affiliates in good faith. Subject to the Company's priority allocation with respect to new issue Highland CLOs, Highland will allocate investment opportunities across the entities for which such opportunities are appropriate, consistent with (1) its internal conflict of interest and allocation policies and (2) the requirements of the Investment Advisers Act. Highland will seek to allocate investment opportunities among such entities in a manner that is fair and equitable over time and consistent with its allocation policy. However, there is no assurance that such investment opportunities will be allocated to the Company, the Management Companies and/or the Managed CLOs fairly or equitably in the short term or over time and there can be no assurance that the Company, the Management Companies and/or any of the Managed CLOs will be able to participate in all such investment opportunities that are suitable for it.

Although the professional staff of Highland will devote as much time to the Company as Highland deems appropriate to perform its duties in accordance with the Portfolio Management Agreement and in accordance with reasonable commercial standards, the staff may have conflicts in allocating its time and services among the Company and Highland's other accounts.

The directors, officers, personnel, employees and agents of Highland and its Related Parties may, subject to applicable law, serve as directors (whether supervisory or managing), officers, personnel, employees, partners, agents, nominees or signatories, and receive arm's length fees in connection with such service, for the Company or entities that operate in the same or a related line of business as the Company or the Management Companies, or of other clients managed by Highland or its affiliates, or for any obligor or issuer in respect of the debt, equity securities or other investments held by the Company, the Management Companies and/or Managed CLOs, or any affiliate thereof, to the extent permitted by their governing instruments, or by any resolutions duly adopted by the Company, such other entities, or any obligor or issuer (or any affiliate thereof) in respect of any of the debt, equity securities or other investments held by the Company, the Management Companies and/or Managed CLOs pursuant to their respective governing instruments, and neither the Company, The applicable Management Company nor the Managed CLOs shall have the right to any such fees.

COMPANY, ITS INVESTMENT OBJECTIVE, POLICY AND STRATEGY

COMPANY

Highland CLO Funding, Ltd. (formerly known as Acis Loan Funding, Ltd.) (the "**Company**") was incorporated on 30 March 2015 and registered under the laws of Guernsey (registration number 60120) pursuant to the Companies Law. The Company changed its name on [•], 2017. The Company is an investment company established to provide its investors with exposure CLO Notes on both a direct basis and indirect basis and senior secured loans on an indirect basis, through the use of the investments described in its investment policy, including through the Management Companies.

The Company is seeking to raise in excess of U.S. $[•] million through the Placing to invest in accordance with its investment objective and policy. Applications to an appropriate securities exchange may be made when deemed appropriate by the Company.

Investment in the Company is only suitable for institutional, professional and high net worth investors, private client fund managers and brokers and other investors who understand the risks involved in investing in the Company and/or who have received advice from their fund manager or broker regarding investment in the Company.

INVESTMENT OBJECTIVE

The Company's investment objective is to provide Shareholders with stable and growing income returns, and to grow the capital value of the investment portfolio through opportunistic exposure to CLO Notes, investments in new issue CLOs sponsored by Highland and Acis CLO 7 through its interests in the Management Companies and CLO Income Notes, respectively, and senior secured loans primarily for the purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements, on both a direct basis and indirect basis, through the use of the investments described in its investment policy and through use of leverage, ~~including repurchase facilities and~~any Revolving Credit Facility, Warehouse Loan Facilities, total return swaps or repurchase agreements, in addition to secured loan facilities.

Highland, in its capacity as the Portfolio Manager under the Portfolio Management Agreement, will manage the Company's investments. In addition, Highland, Highland CLO Management, or another affiliate of Highland, in the capacity of the CLO Manager, may also manage Highland CLOs and Highland, Acis, Acis CLO Management, or another affiliate of Acis, in the capacity of the CLO Manager, may also manage Managed CLOs, in each case, pursuant to CLO Management Agreements to be entered into from time to time.

INVESTMENT POLICY

Overview

The Company's investment policy is to focus on synergistic investments in the following areas.

Loan Investments

The Company will invest on an indirect basis in a diverse portfolio of predominantly floating rate senior secured loans (or on a direct basis for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements), all of which will have at least one rating, which may be public or private, from Moody's, S&P or Fitch. Initially, the Company's loan investments will be focused in the U.S., but depending on market conditions the Company may also invest in similar types of loans in Europe. Accordingly, there is no limit on the maximum U.S. or European exposure. Investments in U.S. or European loans may be made through a U.S. or European originator subsidiary of the Company. The Company intends to invest directly only in those senior secured loans to obligors with total potential indebtedness under all applicable loan agreements, indentures and other underlying instruments at least $250,000,000 that would generally satisfy the eligibility criteria for Highland CLOs and set forth in "*Summary—Investment Policy—Loan Investments*".

Financing of Loan Portfolios / Securitization

It is intended that the Company will periodically seek to sell or securitise all or a portion of its loan portfolio, held directly or indirectly, into new Highland CLOs where Highland CLO Management acts as CLO Manager. In doing so, Highland CLO Management may seek to adopt the "originator" model to address the Origination Requirements (as defined below) applicable to such Highland CLOs to the extent such Highland CLOs sought to comply with EU Retention Requirements. As a result, Highland CLO Management, will be required to commit to: (a) establishing the relevant CLO and (b) selling certain loan investments to the relevant CLO which it has purchased for its own account initially. In addition, under current guidance, prior to closing date of the relevant CLO, Highland CLO Management expects to sell investments to the relevant CLO to satisfy the Origination Requirements.

CLO Notes

The Company will from time to time invest directly or indirectly (through affiliates and subsidiaries, including the Management Companies, as more fully described below) in CLO Notes issued by Managed CLOs or CLOs managed by other asset managers as set forth in "*Summary—Investment Policy—CLO Notes*".

The Company is currently invested in CLO Income Notes issued by Managed CLOs managed by Highland, Acis and Acis CLO Management. Following the Placing, the Company will invest indirectly through the Management Companies in CLO Notes.

Act as Risk Retention Provider

The Company may also invest in, provide loans to, or purchase performance-linked notes from asset management subsidiaries, affiliated with the Company, Highland or Acis and which may act as the asset manager of certain U.S. or European CLOs in order to satisfy certain U.S. Risk Retention Rules or EU Retention Requirements.

Allocation of Investment Opportunities

Highland CLO Management will serve as CLO Manager to each newly-issued Highland CLO during the Investment Period.

During the Investment Period, the Company shall receive priority allocations with respect to all CLO Income Note investment opportunities with respect to new issue Highland CLOs, over the account of the Portfolio Manager, its affiliates and Other Accounts as set forth in "*Summary—Investment Policy—Allocation of Investment Opportunities*".

INVESTMENT RESTRICTIONS

The Company will, at all times, invest and manage its assets in a way which is consistent with its object of spreading investment risk and in accordance with the investment policy set out in "*—Investment Policy*".

In the event of any breach of the Company's investment policy or of the investment restrictions applicable to the Company, Shareholders will be informed of the actions to be taken by the Company (at the time of such a breach) by an announcement issued by the Administrator.

During the Investment Period, the Company may invest up to $250,000,000 in CLO Income Notes for new Highland CLOs as follows: (a) up to $150,000,000 in the aggregate from new capital contributions; and (b) up to $100,000,000 in the aggregate from proceeds received from existing seed portfolio investments and investments in new Highland CLOs, net of dividends paid, and amortization and interest payments on Company borrowings from committed credit facilities.

The Company may, without the consent of the Advisory Board, invest in any CLO Notes or CLO equity of Qualifying CLOs as set forth in "*Summary—Investment Restrictions*"; provided that, if the Portfolio Manager has satisfied the RP Condition, the consent of the Advisory Board to invest in any Highland CLO that meets clause (a) of the definition of Qualifying CLOs only shall not be unreasonably withheld, conditioned or delayed.

During the Investment Period, the Company shall be permitted to invest in "resets" with respect to the Designated CLO Resets and refinancings with respect to the Designated CLO Refinancings, each as set forth in "*Summary—Investment Restrictions*".

The Company shall not invest in the CLO Income Notes of a new-issue Highland CLO unless it is the 100% owner of the ~~non-risk retention equity of such~~CLO Income Notes not forming part of the Retention Interest acquired by Highland CLO Management.

BORROWING

Subject to the limitations set forth in "*Summary-Borrowing*", it is expected that the Company will have access to one or more committed credit facilities. Such facilities may take the form of any Revolving Credit Facility, Warehouse Loan Facilities, total return swaps or repurchase agreements, in addition to secured loan facilities. It is expected that the Company will use advances under such facilities, together with the proceeds of the Shares, to purchase future senior secured loans (acquired for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements) and other assets. In addition to such facilities, the Company will be permitted to borrow money for day to day administration and cash management purposes.

CHANGES TO INVESTMENT OBJECTIVE AND POLICY

Any material change to the investment objective and policy of the Company would be made only with the approval of Shareholders.

INVESTMENT STRATEGY

Whether the senior secured loans or other assets are held directly by the Company (with respect to senior secured loans for the purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements) or indirectly via CLO Notes or its investment in the applicable Management Company it is the Company's intention that, in any case, the portfolios will be actively managed (by Highland, Acis, the applicable Management Company, an asset manager subsidiary or the applicable CLO Manager, as the case may be) to minimise default risk and potential loss through comprehensive credit analysis performed by Highland, Acis, the applicable Management Company or the applicable CLO Manager (as applicable).

Whilst the intention is to pursue an active, non-benchmark total return strategy, Highland as the Company's Portfolio Manager will be cognisant of the positioning of the loan portfolios against relevant indices. Accordingly, Highland will track the returns and volatility of such indices, while seeking to outperform them on a consistent basis. In-depth, fundamental credit research dictates name selection and sector over-weights/under-weights relative to the benchmark, backstopped by constant portfolio monitoring and risk oversight. Highland will typically look to diversify the Company's portfolios to avoid the risk that any one obligor or industry will adversely impact overall returns. The investment strategy also places an emphasis on loan portfolio liquidity to ensure that if the Company's credit outlook changes, it is free to respond quickly and effectively to reduce or mitigate risk in its portfolio. Highland believes this investment strategy will be successful in the future as a result of its emphasis on risk management, capital preservation and fundamental credit research. Highland believes the best way to control and mitigate risk is by remaining disciplined in market cycles, by making careful credit decisions and maintaining adequate diversification.

Leverage and Expected Returns

It is anticipated that any borrowing for the purpose of investing directly in senior secured loans (acquired for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements) will be in the form of a term Warehouse Loan Facility, however the Company has entered into ~~a Revolving Credit Facility and~~ the NexBank Credit Facility and may enter into any Revolving Credit Facility, Warehouse Loan Facilities, total return swaps, repurchase agreements or other facilities to facilitate the acquisition or financing of loans. Loans purchased using such borrowings will typically be held for no more than 12 months before being sold to a Highland CLO. Except in relation to the CLO Retention Notes it holds, the Company may enter into hedging and derivatives transactions pursuant to its investment activities, for the purposes of efficient portfolio management.

To the extent the Company does not have available funds on hand to meet the Target Dividend with respect to any Quarterly Payment Date, the Portfolio Manager may suspend dividends if, in consultation with the Board of Directors, it determines that a sale of assets to produce proceeds to meet the Target Dividend would not be in the best interests of the Company and/or would not produce a sale price reflective of the value of the assets.

The Board may deduct from any dividend payable to any Shareholder on or in respect of a Share all sums of money (if any) presently payable by him to the Company on account of calls with respect to existing Shares, or calls of commitments to purchase Shares pursuant to the subscription agreements or otherwise.

The actual dividend generated by the Company in pursuing its investment objective will, however, depend on a wide range of factors including, but not limited to, general economic and market conditions, fluctuations in currency exchange rates, prevailing interest rates and credit spreads, the terms of the investments made by the Company and the risks highlighted in the "*Risk Factors*" section of this Offering Memorandum. Dividend payments may be suspended by the Portfolio Manager in its absolute discretion, including, without limitation, in the event of adverse, or perceived adverse, market conditions.

The Articles permit the Directors, in their absolute discretion, to offer a scrip dividend alternative to Shareholders when a cash dividend is declared from time to time. In the event a scrip dividend is offered in future, an electing Shareholder would be issued new, fully paid up Shares (or Shares sold from treasury) pursuant to the scrip dividend alternative. The scrip dividend alternative would be available only to those Shareholders to whom Shares might lawfully be marketed by the Company.

The Target Total Return and the Target Dividend should not be taken as an indication of the Company's expected future performance or results. The Target Total Return and the Target Dividend are targets only and there is no guarantee that they can or will be achieved and should not be seen as an indication of the Company's expected or actual return. Target returns are hypothetical and are neither guarantees nor predictions or projections of future performance. Actual events and conditions may differ materially from the assumptions used to establish the Target Total Return and Target Dividend. Accordingly, investors should not place any reliance on the Target Total Return or the Target Dividend in deciding whether to invest in Shares.

Furthermore, the future performance of the Company may be materially adversely affected by the risks discussed in the section of this Offering Memorandum entitled "*Risk Factors*".

FURTHER ISSUES OF SHARES

The Directors will have authority to allot further Shares in the share capital of the Company following the Placing. Further issues of Shares would only be made subject to consent of the Advisory Board, as described in "*Summary—Advisory Board*" if the Directors determine such issues to be necessary to protect the Company, consistent with the Board's duties to the Company, and in the best interests of Shareholders and the Company as a whole. Relevant factors in making such determination include net asset performance, share price rating and perceived investor demand. In the case of further issues of Shares (or sales of Shares from treasury), except as permitted by the Shareholders, such Shares will only be issued at prices which are not less than the then prevailing Net Asset Value per Share (as estimated by the Directors).

There are no provisions of Guernsey law which confer rights of pre-emption in respect of the allotment of Shares. The Articles, however, contain pre-emption rights in relation to allotments of Shares for cash.

VALUATION

Net Asset Value

As at the latest practicable date prior to the publication of this Offering Memorandum, the unaudited net asset value per share of the Net Asset Value was [●].

Publication of Net Asset Value

The Company intends to publish the Net Asset Value per Share as calculated in accordance with the process described below, on a quarterly basis (within 15 Business Days following the relevant month-end). Notice will be

statement of comprehensive income, statement of financial position, statement of cash flows, statement of changes in equity, related notes and any additional information that the Board deems appropriate or that is required by applicable law.

It is expected that the CLOs and any Warehouse Loan Facilities established will not be consolidated in the Company's GAAP financial statements, although such assessment will depend on the facts and circumstances.

Any disclosures required to be made to Shareholders pursuant to the AIFMD will be contained either in the Company's periodic reports or communicated to Shareholders in written form.

CURRENT CLO PORTFOLIO

The Company is currently invested in CLO Income Notes in the following Managed CLOs in the following amounts (the "**Current CLO Portfolio**"):

CLOs:	Aggregate Outstanding Amount (U.S.$)
~~|~~ACIS CLO 2013-1 Ltd.	$~~18,600,000~~18,558,000.00
ACIS CLO 2014-3 Ltd.	$~~50,800,000~~39,750,000.00
ACIS CLO 2014-4 Ltd.	$~~53,000,000~~50,750,000.00
ACIS CLO 2014-5 Ltd.	$53,000,000.00
ACIS CLO 2015-6, Ltd.	$~~51,900,000~~51,850,000.00
~~ACIS~~Acis CLO 2017-7, Ltd.	$~~17,900,000~~17,850,000.00
Rockwall CDO, Ltd.	$~~12,000,000~~14,000,000.00
Brentwood CLO, Ltd.	$~~12,000,000~~12,000,000.00
Grayson CLO, Ltd.	$~~5,900,000~~5,900,000.00
Liberty CLO, Ltd.	$~~17,000,000~~17,000,000.00
HP CDO, Ltd.	$~~1,800,000~~1,621,542.70
Greenbriar CLO, Ltd.	$~~18,000,000~~18,000,000.00
Gleneagles CLO, Ltd.	$~~1,300,000~~1,250,000.00

Valuation of the Current Portfolio

[The Current Portfolio was valued as of [●] 2017 at $[●] million [based on valuations provided by an independent third party valuation firm, [●] ("[●]"). The valuation procedures undertaken by [●] to value the Current Portfolio were reviewed by the Company's auditors and were deemed to be consistent with the requirements outlined in the Company's valuation policy.

(i) Acis CLO 2013-1

Acis CLO 2013-1 is an Acis CLO managed by Acis.

The closing date of Acis CLO 2013-1 occurred on 18 March 2013 with the first payment made in July 2013. This CLO had a two-year non-call period and a four-year reinvestment period. Its weighted average spread at issue was [●]% over LIBOR and its average cost of capital is [●]% over LIBOR. The top 5 assets of this CLO include [●], [●], [●], [●] and [●]. The final capital structure of Acis CLO 2013-1 as of [●] is as follows:

Class	Ratings (S&P/Moody's)	Par Amount	% of Total	Coupon
Class X	AAA(sf)/Aaa(sf)	$[4,000,000]	[●]%	LIBOR + 1.00%
Class A-1	AAA(sf)/Aaa(sf)	$190,750,000	[●]%	LIBOR + 0.87%
Class A-2A	AAA(sf)/Aaa(sf)	$115,750,000	[●]%	LIBOR + 1.25%
Class A-2B	AAA(sf)/Aaa(sf)	$10,250,000	[●]%	LIBOR + 1.65%
Class B	AA(sf)/NA	$62,500,000	[●]%	LIBOR + 1.95%
Class C	A(sf)/NA	$39,500,000	[●]%	LIBOR + 2.95%
Class D	BBB(sf)/NA	$21,500,000	[●]%	LIBOR + 4.50%
Class E	BB(sf)/NA	$19,500,000	[●]%	LIBOR + 5.60%
Class F	B(sf)/NA	$10,000,000	[●]%	LIBOR + 6.50%
Combination	A(sf)/NA	$193,000,000	[●]%	LIBOR + 1.227%
Subordinated	NA	$51,750,000	[●]%	NA

Class A-1	AAA(sf)/Aaa(sf)	$280,750,000	[•]%	LIBOR + 1.51%
Class A-2	AAA(sf)/Aaa(sf)	$30,000,000	[•]%	3.5346%
Class B	AA(sf)/NA	$68,000,000	[•]%	LIBOR + 2.34%
Class C-1	A(sf)/NA	$25,000,000	[•]%	LIBOR + 3.40%
Class C-2	A(sf)/NA	$25,000,000	[•]%	5.8265%
Class D	BBB(sf)/NA	$7,000,000	[•]%	LIBOR + 4.34%
Class E-1	BB(sf)/NA	$26,000,000	[•]%	LIBOR + 6.52%
Class E-2	BB(sf)/NA	$10,500,000	[•]%	LIBOR + 5.30%
Subordinated	NA	$53,000,000	[•]%	NA

(v) ACIS CLO 2015-6

ACIS CLO 2015-6 is an Acis CLO managed by Acis.

The closing date of ACIS CLO 2015-6 occurred on 16 April 2015 with the first payment made in May 2015. This CLO had a 1.5-year non-call period and a four-year reinvestment period. Its weighted average spread at issue was [•]% over LIBOR and its average cost of capital is [•]% over LIBOR. The top 5 assets of this CLO include [•], [•], [•], [•] and [•]. The final capital structure of ACIS CLO 2015-6 as of [•] is as follows:

Class	Ratings (S&P/Moody's)	Par Amount	% of Total	Coupon
Class A-1	AAA(sf)/Aaa(sf)	$280,750,000	[•]%	LIBOR + 1.51%
Class A-2	AAA(sf)/Aaa(sf)	$30,000,000	[•]%	3.5346%
Class B	AA(sf)/NA	$68,000,000	[•]%	LIBOR + 2.34%
Class C-1	A(sf)/NA	$25,000,000	[•]%	LIBOR + 3.40%
Class C-2	A(sf)/NA	$25,000,000	[•]%	5.8265%
Class D	BBB(sf)/NA	$7,000,000	[•]%	LIBOR + 4.34%
Class E-1	BB(sf)/NA	$26,000,000	[•]%	LIBOR + 6.52%
Class E-2	BB(sf)/NA	$10,500,000	[•]%	LIBOR + 5.30%
Subordinated	NA	$53,000,000	[•]%	NA

(vi) ACIS CLO 2017-7

ACIS CLO 2017-7 is managed by, and held through, Acis CLO Management.

The closing date of ACIS CLO 2017-7 occurred on 20 April 2017 with the first payment to be made in November 2017. This CLO had a two-year non-call period and a two-year reinvestment period. Its weighted average spread at issue was [•]% over LIBOR and its average cost of capital is [•]% over LIBOR. The top 5 assets of this CLO include [•], [•], [•], [•] and [•]. The final capital structure of ACIS CLO 2017-7 as of [•] is as follows:

Class	Ratings (Moody's)	Par Amount	% of Total	Coupon
Class A-1	Aaa(sf)	$85,750,000	[•]%	LIBOR + 1.35%
Class A-2	Aaa(sf)	$175,000,000	[•]%	LIBOR + 1.35%
Class B	Aa2(sf)	$50,250,000	[•]%	LIBOR + 1.75%
Class C	A2(sf)	$20,250,000	[•]%	LIBOR + 2.70%
Class D	Baa3(sf)	$26,250,000	[•]%	LIBOR + 3.90%
Class E	Ba3(sf)	$15,500,000	[•]%	LIBOR + 6.00%
Sr Subordinated	NA	$11,500,000	[•]%	LIBOR + 7.75%
Jr Subordinated	NA	$21,000,000	[•]%	NA

(vii) [To be updated]

INVESTMENT PROCESS

Highland as Portfolio Manager and CLO Manager

The Company has entered into a Portfolio Management Agreement with Highland as the Portfolio Manager. Pursuant to the Portfolio Management Agreement, Highland will, at its discretion, select the portfolio of investments and instruct the Custodian with respect to any acquisition, disposition or sale of investments and provide certain support services to the Company. The performance of the Company's portfolio will depend heavily on the skills of Highland in analyzing, selecting and managing the investments. The Portfolio Manager has entered into Service Agreements with ~~Acis~~Highland Capital Management, L.P. ~~(an affiliate of Highland)~~ under which the Portfolio Manager has agreed to make its investment research and recommendations and back-office support services available to Acis. Further details are set out in the section of this offering memorandum entitled "Investment Process" and "Additional Information on the Company".

Based in Dallas, Texas, Highland is an SEC Registered Investment Adviser founded in 1993 that specializes in senior secured bank loans, high yield bonds, structured products and equities. Highland issued its first CLO in 1996, and Highland and its affiliates have since issued and managed over U.S. $28 billion of CLOs and CDOs consisting of 40 separate vehicles. As of August 31, 2017, Highland and its affiliates, managed or serviced approximately U.S. $13.4 billion in senior secured bank loans, high yield bonds, structured products and other assets for banks, insurance companies, pension plans, foundations and high net worth individuals.

Highland, Acis and/or the Management Companies, may act as CLO Manager(s) in relation to the Managed CLOs pursuant to CLO Management Agreements. ~~As at [●], 2017, Acis and Acis CLO Management had U.S. $[●] billion of CLO assets under management.~~ Highland, Acis and/or the applicable Management Company as CLO Manager is responsible for purchasing and selling of collateral obligations and performing certain other advisory and administrative tasks for and on behalf of the Managed CLOs in each case subject to the provisions of the applicable CLO Management Agreement and any applicable provisions of the indenture.

Highland is an SEC Registered Investment Adviser and currently manages ~~[●][To be updated to include Highland Legacy CLOs].~~ CLOs and other managed accounts and investment funds. Highland CLO Management is a relying adviser of Highland and will manage Highland CLOs. Highland CLO Management has the HCLOM Service Agreements in place with Highland, pursuant to which Highland provides credit research and operational support to Highland CLO Management, including services in connection with determining the composition, nature and timing of changes to the Highland CLO Management portfolio, the due diligence of actual or potential investments, the execution of investment transactions approved by Highland CLO Management, and certain loan services and administrative services.

Acis is an SEC Registered Investment Adviser and currently manages ~~Hewett's Island CLO I-R, ACIS CLO 2013-1, ACIS CLO 2013-2, ACIS CLO 2014-3, ACIS CLO 2014-4, ACIS CLO 2014-5, ACIS CLO 2015-6~~CLOs and other managed accounts and investment funds. Acis CLO Management is a relying adviser of Acis and currently manages ACIS CLO 2017-7. Acis is an affiliate of Highland and is 100% owned by Highland senior management, and was established by James Dondero and Mark Okada to focus on managing traditional CLOs that invest in liquid, broadly syndicated bank loans and secondary CLO investments. Acis has the ACM Service Agreements in place with Highland, pursuant to which Highland provides investment research and recommendations and operational support to Acis, including services in connection with the Portfolio Manager's recommendations with respect to the composition, nature and timing of changes to the Company's portfolio, the due diligence of actual or potential investments, the execution of investment transactions, and certain loan services and administrative services. Acis CLO Management has the ACLOM Service Agreements in place with Acis, pursuant to which Acis provides credit research and operational support to Acis CLO Management, including services in connection with determining the composition, nature and timing of changes to the ACIS CLO Management portfolio, the due diligence of actual or potential investments, the execution of investment transactions approved by ACIS CLO Management, and certain loan services and administrative services. ~~Highland CLO Management has the HCLOM Service Agreements in place with Highland, pursuant to which Highland provides credit research and operational support to Highland CLO Management, including services in connection with determining the composition, nature and timing of changes to the Highland CLO Management portfolio, the due diligence of actual or potential investments, the execution of~~

~~investment transactions approved by Highland CLO Management, and certain loan services and administrative services.~~ All final credit decisions are made by the Highland ~~and Acis~~ individuals referenced ~~above~~below.

~~Based in Dallas, Texas, Highland is an SEC Registered Investment Adviser founded in 1993 that specializes in senior secured bank loans, high yield bonds, structured products and equities. Highland issued its first CLO in 1996, and has since issued over U.S. $[●] billion of CLOs and CDOs consisting of [●] separate vehicles. As of [●], 2017, Highland and its affiliate advisers, managed or serviced approximately U.S. $[●] billion in senior secured bank loans, high yield bonds, structured products and other assets for banks, insurance companies, pension plans, foundations and high net worth individuals.~~

Investment Philosophy

~~[Highland's investment philosophy combines bottom-up credit analysis with top-down sector rotation and technical trading considerations to optimize the risk-adjusted performance of collateral it manages. This process is a joint effort among Highland's Credit Research Team, Trading Desk and the Acis CLO Team.~~ Highland's investment philosophy centers on being investors first. The firm has 25 years of experience investing in alternative strategies through multiple cycles. Highland is a recognized pioneer in bank loan asset management and CLO issuance. The firm invests a meaningful amount of capital in the portfolios they manage, with market value in excess of $250 million invested alongside our clients, as of September 30, 2017.

Highland's investment philosophy is rooted in a value-driven approach that combines rigorous bottom-up credit underwriting with top-down risk analysis to optimize risk-adjusted performance of portfolios. The firm integrates risk management throughout its investment process and maintains a culture of a high level of compliance. Highland focuses on attractive risk/return arbitrage opportunities where the firm can add value. Highland seeks to generate alpha by implementing checks and balances that allow the firm to identify risks, mitigate volatility, and quickly ascertain and sell losers.

~~Highland's Credit Research Team is led by its Head of Credit Research, with three Managing Directors reporting directly to that individual. Each Managing Director is responsible for managing one to two specific industry sectors as well as managing one to four Directors of credit research that report to them. Each Director is responsible for managing one to three specific industry sectors, and on average Highland credit research analysts manage 20 to 25 credits per analyst. As conditions in the credit markets develop and Highland grows their assets under management, Highland will increase their investment staff as needed.~~While participating in the larger, liquid bank loan asset class, Highland continues to capture market inefficiencies in this over the counter (OTC) market through mispricings that it identifies via robust fundamental analysis, proactive diligence and monitoring, and nimble trading capabilities. Given the scale of the firm's investment resources, Highland is able to follow and manage investment portfolio names more closely. Highland credit research analysts manage 20-30 credits per analyst versus most peers, who manage 40-50 credits per analyst. In addition, the firm's dedicated trading desk and active dialogue with the Street enable Highland to identify technical dislocations and opportunities. The firm's high conviction investment philosophy and active portfolio management style versus peers have been key drivers of creating alpha for clients over time.

~~Highland believes this low credits per analyst ratio is optimal, as it allows each of its analysts to maintain regular dialogue with company management, financial sponsors, rating agency analysts, broker/dealer research analysts and traders, and other relevant parties to monitor each credit. Additionally, along with other advantages, it allows each analyst time to build customized, detailed financial models and thoroughly analyze credit agreements, indentures, inter-creditor agreements and other relevant documents for each credit the analyst manages.~~

~~Highland's Trading Desk is led by its Head of Trading, with a CLO trader, Loan Trader, and Trading Assistant reporting to that individual. Highland sources from major trading desks across Wall Street, as Highland's size has made its Trading Desk one of the major broker/dealers' top counterparties by volume for many years. Highland traders keep regular dialogue with numerous broker/dealers to identify secondary trading opportunities and new issue bank loan investment opportunities that are coming to market.~~

~~Highland's investment philosophy is rooted in a valued-oriented approach, which combines bottom-up research and top-down technical market analysis. Each of Highland and Acis take this approach with respect to the CLOs it~~

~~manages and applies it to large, liquid, broadly syndicated loans. Since the Highland portfolios consist of only large, liquid loans, Highland is able to frequently trade the portfolio, regularly taking advantage of market volatility and relative value opportunities. Highland's sourcing advantage and robust information and research expertise allows it to comprehensively analyze and monitor a higher percentage of the credit universe. Highland follows a rigorous and time-tested process of credit analysis. A bottom-up credit analysis is performed on each credit Highland manages. Highland has devised and applied an institutionalized process of credit evaluation and approval, via its Investment Committee. Highland's large investment team allows Highland to add enormous value and experience.~~

Investment Monitoring and Risk Management

Risk management is integrated into all levels of the investment process, from research, to portfolio construction and management, to ongoing monitoring. Highland conducts extensive position and portfolio monitoring activities on a daily basis. Portfolio risk is reviewed using internally generated daily, weekly, and monthly reports which measure transaction compliance including investor-mandated metrics such as portfolio concentrations or required test scores, as well as compliance with evolving internal positioning targets. Individual position risk is monitored in a number of ways, including Highland's extensive proprietary intranet system (Highland Online Management Engine or "**HOME**"), which pulls together data from their various data providers (Wall Street Office, LPC, Moody's, S&P, MarkIt, S&P LCD, CSFB Index) to provide a comprehensive portfolio/risk management system. The system allows the CLO team to monitor metrics at any level of aggregation (instrument, issuer, portfolio, fund and across the platform). Additionally, the system is designed to be scalable and with flexibility to enable future data inputs and reporting requirements.

For both Managed CLOs and for the underlying loans, the HOME intranet system allows Highland to monitor portfolios on a real-time, ongoing basis by receiving alerts showing positions with the largest daily/weekly/monthly mark change, as well as alerts on downgrades/upgrades, and when their credit analyst has changed his opinion on a broadly syndicated loan.

Allocation Policy

Highland and its affiliates may, from time to time, be presented with investment opportunities that fall within the investment objectives of the Company and the Managed CLOs and other clients, funds or other investment accounts managed by Highland or its affiliates, and in such circumstances, subject to the Company's priority allocation with respect to CLO Income Notes of new issue Highland CLOs Highland and its affiliates expect to allocate such opportunities among the Company, the Managed CLOs and such other clients, funds or other investment accounts on a basis that Highland and its affiliates determine in good faith is appropriate taking into consideration such factors as the fiduciary duties owed to the Company, the Managed CLOs and such other clients, funds or other investment accounts, the primary mandates of the Company, the Managed CLOs and such other clients, funds or other investment accounts, the capital available to the Company, the Managed CLOs and such other clients, funds or other investment accounts, any restrictions on investment, the sourcing of the transaction, the size of the transaction, the amount of potential follow-on investing that may be required for such investment and the other collateral obligations of the Company, the Managed CLOs and such other clients, funds or other investment accounts, the relation of such opportunity to the investment strategy of the Company, the Managed CLOs and such other clients, funds or other investment accounts, reasons of portfolio balance and any other consideration deemed relevant by Highland and its affiliates in good faith. Subject to the Company's priority allocation with respect to CLO Income Notes of new issue Highland CLOs, Highland will allocate investment opportunities across the entities for which such opportunities are appropriate, consistent with (1) its internal conflict of interest and allocation policies and (2) the requirements of the Investment Advisers Act. Highland will seek to allocate investment opportunities among such entities in a manner that is fair and equitable over time and consistent with its allocation policy. However, there is no assurance that such investment opportunities will be allocated to the Company and the Managed CLOs fairly or equitably in the short term or over time and there can be no assurance that the Company and the Managed CLOs will be able to participate in all such investment opportunities that are suitable for it.

Biographies of the Highland ~~Investment Committee~~Key Personnel

The ~~Investment Committee comprises Jim Dondero, Mark Okada, Trey Parker and Hunter Covitz~~Portfolio Manager will use the services of the key personnel set forth below, although it may not necessarily continue to use their services during the entire term of the Portfolio Management Agreement. Of these, Trey Parker and Hunter Covitz

(and such other personnel as may be determined from time to time) will be made available by Highland to the Company pursuant to the Portfolio Management Agreement.

Although the persons described above are currently employed by Highland and are engaged in the activities of the Portfolio Manager, such persons may not necessarily continue to be employed by Highland during the entire term of the Portfolio Management Agreement and, if so employed, may not remain engaged in the activities of the Portfolio Manager.

James Dondero, CFA, CMA

Co-Founder, President

Mr. Dondero is President of Highland CLO Management and Acis CLO Management, LLC and Co-Founder and President of Highland Capital Management, L.P. (an alternative asset manager specializing in high-yield fixed income investments) and Acis Capital Management, L.P. Mr. Dondero has over 30 years of experience in the credit and equity markets, focused largely on high-yield and distressed investing. Under Mr. Dondero's leadership, Highland and Acis have been a pioneer in both developing the collateralized loan obligation (CLO) market and advancing credit-oriented solutions for institutional and retail investors worldwide, including product offerings such as institutional separate accounts, CLOs, hedge funds, private equity funds, mutual funds, REITs, and ETFs. Mr. Dondero is the Chairman and President of NexPoint Residential Trust, Inc. (NYSE:NXRT), is Chairman of NexBank Capital, Inc., Cornerstone Healthcare Group Holding, Inc., and CCS Medical, Inc., and a board member of Jernigan Capital, Inc. (NYSE:JCAP), and MGM Holdings, Inc. He also serves on the Southern Methodist University Cox School of Business Executive Board. A dedicated philanthropist, Mr. Dondero actively supports initiatives in education, veterans affairs, and public policy. Prior to founding Highland in 1993, Mr. Dondero was involved in creating the GIC subsidiary of Protective Life, where as Chief Investment Officer he helped take the company from inception to over $2 billion between 1989 and 1993. Between 1985 and 1989, Mr. Dondero was a corporate bond analyst and then portfolio manager at American Express. Mr. Dondero began his career in 1984 as an analyst in the JP Morgan training program. Mr. Dondero graduated from the University of Virginia where he earned highest honors (Beta Gamma Sigma, Beta Alpha Psi) from the McIntire School of Commerce with dual majors in accounting and finance. He has received certification as Certified Public Accountant (CPA) and Certified Managerial Accountant (CMA) and has earned the right to use the Chartered Financial Analyst (CFA) designation.

Mark Okada, CFA

Co-Founder, Co-Chief Investment Officer

Mr. Okada is Co-Founder of Highland CLO Management and Acis CLO Management, LLC and Co-Founder and Co-Chief Investment Officer of Highland Capital Management, L.P. and Acis Capital Management, L.P. Responsible for overseeing investment activities for various strategies within Highland and Acis, Mr. Okada is a pioneer in the development of the bank loan market and has over 30 years of credit experience. He is responsible for structuring one of the industry's first arbitrage CLOs and was actively involved in the development of Highland's bank loan separate account and mutual fund platforms. Mr. Okada received a BA in Economics and a BA in Psychology, cum laude, from the University of California, Los Angeles. He has earned the right to use the Chartered Financial Analyst designation. Mr. Okada is a Director of NexBank, Chairman of the Board of Directors of Common Grace Ministries, Inc., is on the Board of Directors for Education is Freedom, and also serves on the GrowSouth Fund advisory board.

Trey Parker

Partner, Portfolio Manager and Co-Chief Investment Officer

Mr. Parker is Partner, Portfolio Manager and Co-Chief Investment Officer at Highland Capital Management, L.P., and serves on the Investment Manager's Investment Committee. Prior to his current role, Mr. Parker was Head of Credit and covered a number of the industrial verticals, as well as parts of tech, media and telecom for the Investment Manager and worked on the Distressed & Special Situations investment team at Highland. Prior to joining Highland in March 2007, Mr. Parker was a Senior Associate at Hunt Special Situations Group, L.P., a Private Equity group focused on distressed and special situation investing. Mr. Parker was responsible for sourcing,

executing and monitoring control Private Equity investments across a variety of industries. Prior to joining Hunt, Mr. Parker was an analyst at BMO Merchant Banking, a Private Equity group affiliated with the Bank of Montreal. While at BMO, Mr. Parker completed a number of LBO and mezzanine investment transactions. Prior to joining BMO, Mr. Parker worked in sales and trading for First Union Securities and Morgan Stanley. Mr. Parker received an MBA with concentrations in Finance, Strategy and Entrepreneurship from the University of Chicago Booth School of Business and a BA in Economics and Business from the Virginia Military Institute. Mr. Parker serves on the Board of Directors of ~~Euramax~~Omnimax Holdings, Inc., TerreStar Corporation, JHT Holdings, Inc., and a non-profit organization, the Juvenile Diabetes Research Foundation (Dallas chapter).

Hunter Covitz, CPA

Managing Director, Structured Products

Mr. Covitz is a Managing Director and Portfolio Manager at Highland Capital Management, L.P. He is responsible for all CLOs, separate accounts, and hedge funds managed by Acis Capital Management, L.P., as well as all CLOs managed by Highland. Mr. Covitz serves on Highland's investment committee and leads the structured products investment team. Since joining Highland in 2003, Mr. Covitz has been instrumental in the structuring, warehousing, ramping, and ongoing portfolio management of over 30 Highland and Acis-originated CLOs. Prior to joining Highland, Mr. Covitz served as a tax consultant at Deloitte & Touche and KBA Group LLP, where he focused on high-net worth individuals and middle-market companies. He received both his MS and BBA in Accounting from the University of Oklahoma. Mr. Covitz is a licensed Certified Public Accountant.

Neil Desai

Director, Structured Products

Mr. Desai is a Director of Structured Products at Highland Capital Management, L.P. He is focused on sourcing and trading structured products for Highland's CLOs, hedge funds, mutual funds and separate accounts in the primary and secondary markets. Prior to joining Highland in August 2015, Mr. Desai was a Director in Pfizer Inc.'s Treasury organization where he built and ran Pfizer's structured products business. Prior to Pfizer, Mr. Desai spent several years structuring and trading various structured products at Barclays Capital and its spin-off hedge fund, C12 capital. Mr. Desai received both a Bachelor's and Master's degree in Computer Science & Electrical Engineering from MIT.]

COMPANY DIRECTORS AND ADMINISTRATION

DIRECTORS

The Directors are responsible for managing the business affairs of the Company in accordance with the Articles and have overall responsibility for the Company's activities including the appointment of the service providers. The Directors may delegate certain functions to other parties such as the Administrator and the Registrar. The Directors have appointed Highland as Portfolio Manager and delegated the investment management and risk management of the Company's investments to the Portfolio Manager pursuant to the Portfolio Management Agreement.

The Board comprises [~~four~~two] Directors, ~~two~~both of whom are independent of Highland~~, Acis and the Shareholders, and two of whom are appointed by certain Shareholders and will comprise the Advisory Board~~ and Acis.

The address of the Directors, all of whom are non-executive, is the registered office of the Company. The Directors of the Company are as follows:

William Scott (Chairman)

William Scott, a Guernsey resident, acts as an independent Director of the Company. Mr. Scott also currently serves as independent non-executive director of a number of investment companies and funds. From 2003 to 2004, Mr. Scott worked as Senior Vice President with FRM Investment Management Limited. Previously, Mr. Scott was a director at Rea Brothers (which became part of the Close Brothers group in 1999 and where he was a director of Close Bank Guernsey Limited) (1989-2002) and Assistant Investment Manager with the London Residuary Body Superannuation Scheme (1987-1989). Mr. Scott graduated from the University of Edinburgh in 1982 and is a Chartered Accountant having qualified with Arthur Young (now E&Y) in 1987. Mr. Scott also holds the Securities Institute Diploma and is a Chartered Fellow of the Chartered Institute for Securities & Investment. He is also a Chartered Wealth Manager.

Heather Bestwick

Heather Bestwick, a Jersey resident, has been a financial services professional for over 25 years, onshore in the City of London and offshore in the Cayman Islands and Jersey. She qualified as an English solicitor, specialising in ship finance, with City firm Norton Rose, and worked in their London and Athens offices for eight years. In 1999 she joined global offshore law firm Walkers in the Cayman Islands, qualifying as a Cayman Islands attorney and Notary Public, and became a partner in 2003. Her practice encompassed hedge funds, private equity, structured finance, secured lending and yacht registration and finance. Ms. Bestwick moved to Jersey in 2007 to become Managing Partner of the Walkers Jersey office. She joined Jersey Finance in 2010 as Technical Director and Deputy Chief Executive, leading the development of finance industry legislation on behalf of industry (including the introduction of the Jersey Private Placement Fund and the AIFMD compliant regime; overseeing the amendments to the Companies and Trusts Laws) and liaising with the regulator and government. Ms. Bestwick is now an independent non-executive director, and is registered with the Jersey Financial Services Commission. She is a member of the Channel Islands committee of the Association of Investment Companies.

~~**[Director Appointed by CLO HoldCo]**~~

~~[Biography.]~~

~~**[Director Appointed by HV]**~~

~~[Biography.]~~

Management functions of the Board of Directors

As there are no employees of the Company, the Board performs certain management functions, which include the overseeing of the Company's the supervision of any delegated responsibilities to third-party service providers, and will have the ultimate responsibility for the management and operations of the Company.

PLACING ARRANGEMENTS

THE PLACING

The target number of Placing Shares to be issued pursuant to the Placing is in excess of [●] million. As at the date of this Offering Memorandum, the actual number of Placing Shares to be issued under the Placing is not known.

The results of the Placing will be released by the Company, including details of the number of Placing Shares allotted (or such other date as may be notified by the Company). Whilst it is expected that all Placing Shares will be issued in uncertificated form, if any Placing Shares are issued in certificated form it is expected that share certificates would be despatched approximately two weeks after settlement of the Placing. No temporary documents of title will be issued.

[The Company is seeking aggregate subscriptions to purchase Placing Shares in an aggregate amount of up to approximately $[●] million.

Placees will commit under the subscription agreements to purchase Shares to be settled from time to time during the Investment Period. The Portfolio Manager may call such Shares for settlement from time to time on a pro rata basis upon 10 Business Days' notice to the Placees in such amounts as may be specified by the Portfolio Manager.

Upon the expiration of the Investment Period, all Placees will be released from any further obligation with respect to purchase Shares under their subscriptions, except to the extent necessary to:

(i) complete the purchase of Shares pursuant to written commitments, letters of intent or similar contractual commitments that were in process as of the end of the Investment Period; and

(ii) fund any indebtedness of the Company permitted hereunder incurred prior to the end of the Investment Period (including to repay outstanding indebtedness under any Warehouse Loan Facilities).

Shares will be issued at a price ~~equal to U.S. $1.00~~ per Share based on the then current NAV of the Company.

The maximum number of Shares to be issued by the Company is [●] million and the minimum number is [●] million. Fractions of Placing Shares will not be issued.

On the Closing Date, Placees will acquire ~~of~~ Shares of existing Shareholders at a price per Share based on the current NAV of the Company such that Placees and existing Shareholders will hold currently existing Shares on a *pro rata* basis and existing Shareholders will commit, as Placees under subscription agreements, to purchase Shares such that new and existing Shareholders will hold both existing Shares and commitments on pro rata basis.

The Board may deduct from any dividend payable to any Shareholder on or in respect of a Share all sums of money (if any) presently payable by him to the Company on account of calls with respect to existing Shares, or calls of commitments to purchase Shares pursuant to the subscription agreements or otherwise.

The Board may retain any dividend or other monies payable on or in respect of a Share on which the Company has a lien and may apply the same in or towards satisfaction of the liabilities or obligations in respect of which the lien exists.]

Highland Principal Commitment

[Certain principals of Highland will subscribe for Shares of [●] in the aggregate.]

TIME AND DATE OF THE OPENING AND CLOSING OF THE OFFER

This subscription is open for a fixed offer period only. This period runs from [●], the offer opening date, until 17:00 in Guernsey on the Closing Date. Only fully completed applications received by this date with cleared funds in the Companies' nominated account will be acceptable for investment.

Under the Portfolio Management Agreement, the Portfolio Manager agrees to the provision of certain human resources as may be necessary to enable the Company to conduct any matters related to its portfolio of assets.

Under the Portfolio Management Agreement, the Company shall pay to the Portfolio Manager an amount equivalent to all reasonable third party costs and expenses incurred by the Portfolio Manager in the performance of its obligations thereunder, together with any irrecoverable VAT arising on such costs and expenses.

The Portfolio Management Agreement is governed by the laws of the State of Texas.

Predecessor Portfolio Management Agreement and Termination

Prior to the current Portfolio Management Agreement, the Company held a Portfolio Management Agreement dated 22 December 2016 (the "**Predecessor Portfolio Management Agreement**") between (i) the Company and (ii) Acis as the predecessor portfolio manager (the "**Predecessor Portfolio Manager**"), pursuant to which the Company appointed Acis as the Predecessor Portfolio Manager to select the portfolio of investments and instruct the Custodian with respect to any acquisition, disposition or sale of investments and provide certain support and assistance (including back and middle office functions), personnel and credit and market research and analysis in connection with the investment and ongoing management of the portfolio.

The terms of the Predecessor Portfolio Management Agreement were substantially similar to the terms of the Portfolio Management Agreement.

The Predecessor Portfolio Management Agreement was governed by the laws of the State of Texas.

The Predecessor Portfolio Management Agreement was terminated pursuant to a Termination of Management Agreement dated [•] 2017 (the "**Termination Agreement**") between (i) the Company and (ii) the Predecessor Portfolio Manager. Pursuant to the Termination Agreement, (x) the Predecessor Portfolio Management Agreement was cancelled and terminated in its entirety, (y) each party released the other party from all claims, suits or causes of action arising out of or relating to the Management Agreement and (z) each party ratified prior transactions effected in accordance with the Predecessor Portfolio Management Agreement.

NexBank Credit Facility

The Company currently has the NexBank Credit Facility with a principal amount of ~~$23,000,000~~22,158,337, as of September 30, 2017. The NexBank Credit Facility is governed by an Amended and Restated Loan Agreement dated as of 17 January 2017 that provides for quarterly payments of principal and interest at 5.00% *per annum* and a maturity on November 23, 2021.

Warehouse Loan Facilities

One or more multi-currency Warehouse Loan Facilities may be entered into from time to time between (i) the Company and (ii) a warehouse provider as described in "*Summary-Borrowing-Warehouse Loan Facilities*".

Forward Purchase Agreements

Forward Purchase Agreements may be entered into from time to time, between (i) the Company and (ii) a CLO (each, a "**Forward Purchase Agreement**"), pursuant to which the Company may from time to time enter into sale and purchase contracts with a CLO with respect to the assets of the Company ("**Forward Sales**"). Such Forward Sales are with a view to effectively managing its access to wholesale funding and exposure to unnecessary market price volatilities of its portfolio. Such Forward Purchase Agreements may be entered into at the same time or shortly after the origination or acquisition of the relevant asset by the Company, at a later date, or not at all. Where a loan becomes subject to a Forward Purchase Agreement, the Company will (subject to the conditions set out below) neither receive the gain nor bear the loss that occurs between the date when the loan is added to the Forward Purchase Agreement and the date when the transfer occurs.

Each Forward Sale will be conditional upon:

- the occurrence of the closing date of the relevant CLO; and

PLACING STATISTICS

Placing Price per Share	U.S. $~~1.00~~[●]
Target Gross Placing Proceeds*	U.S. $[●] million
Minimum expected initial Net Asset Value per Share**	U.S. $~~1.00~~[●]

* The target size of the Placing is in excess of U.S. $[●] million, with the actual size of the Placing being subject to investor demand. The number of Placing Shares to be issued, and therefore the Gross Placing Proceeds, is not known as at the date of this Offering Memorandum.

** NAV per Share immediately following Placing.

	Issuer" as such term is defined in rule 3b-4(c) under the U.S. Exchange Act; (v) may result in a person holding shares in violation of the transfer restrictions published by the Company, from time to time; and (vi) may cause the Company to be a "controlled foreign corporation" for the purposes of the U.S. Tax Code
"**Offering Memorandum**"	this offering memorandum
"**Ordinary Shares**"	ordinary shares of no par value each in the capital of the Company
"**Placee**"	a person subscribing for Shares under the Placing
"**Placing**"	the placing of Placing Shares at the Placing Price to one or more investors
"**Placing Price**"	U.S. ~~$1.00~~[•]
"**Placing Shares**"	Shares to be issued by the Company pursuant to the Placing
"**POI Law**"	The Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended
"**Portfolio Management Agreement**"	the agreement dated 22 December 2016 between the Company and the Portfolio Manager pursuant to which the Portfolio Manager will provide certain support and personnel to the Company
"**Portfolio Manager**"	Highland acting as Portfolio Manager to the Company pursuant to the Portfolio Management Agreement
"**Prospectus Directive**"	Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading
"**Provider**"	the provider of any Warehouse Loan to the Company
"**Qualified Institutional Buyers**"	has the meaning given in Regulation 144A of the U.S. Securities Act
"**Qualified Purchasers**"	has the meaning given in the U.S. Investment Company Act
"**RCIS Rules**"	the Registered Collective Investment Schemes Rules 2015
"**Register**"	the register of Shareholders
"**Registrar**"	[•], or such other person or persons from time to time appointed by the Company
"**Registrar Agreement**"	the agreement dated 10 August 2015 between the Company and the Registrar, a summary of which is set out in the section of this Offering Memorandum entitled "*Additional Information on the Company*"
"**Regulation S**"	Regulation S promulgated under the U.S. Securities Act
"**Relevant Member State**"	each member state of the European Economic Area which has implemented the Prospectus Directive
"**Restricted Shareholders**"	Shareholders who are resident in, or citizens of, a Restricted Territory
"**Restricted Territory**"	the United States and any other jurisdiction where the extension or availability of the Placing would breach any applicable law
"**RTS**"	the Regulatory Technical Standards, published by the European Commission

*The draft Offering Memorandum ("**Offering Memorandum**") for Highland CLO Funding, Ltd. (the "**Company**") has been prepared by Highland Capital Management, L.P. for persons reasonably believed by it to be of the kind to whom it is permitted to give preliminary information about the investment proposition described therein. It is a confidential communication to, and solely for the use of, the recipient.*

The information contained in the Offering Memorandum is subject to updating, completion, modification and amendment. The purpose of the Offering Memorandum is to give initial detail in order to gauge investor interest, so that the parties concerned can decide whether to bring the project to the point where a formal proposal may be put to investors.

The Offering Memorandum does not constitute an offer or solicitation to anyone in any jurisdiction, and may not be used for the purposes of any such offer or solicitation in any jurisdiction, in which such offer or solicitation is not authorised, or to any person to whom it is unlawful to make such offer or solicitation. Therefore, no person receiving a copy of the Offering Memorandum may treat it as constituting an offer or invitation to him to buy investments, nor may he copy it for transmission to another person. If, however, an offer to sell investments is made in the future, it will be subject only to information circulated at the time in the final offering memorandum.

*No person (unless otherwise expressly authorised by the Company) has been authorised to make any representations or give any information with respect to the shares of the Company (the "**Shares**") except the information contained therein, and any information or representation not contained therein (unless otherwise expressly authorised by the Company) must not be relied upon as having been authorised. Neither the delivery of the Offering Memorandum nor the issue of Shares shall, under any circumstances, create any implication that there has been no change in the affairs of the Company since the date of the Offering Memorandum.*

Applications to subscribe for Shares described in the Offering Memorandum may only be made, and will only be considered, on the basis of the final offering memorandum, the final application form and the articles of association of the Company, and the contents of the Offering Memorandum are qualified in their entirety by each such document. In the event of any conflict between the contents of the Offering Memorandum and the final offering memorandum (or any supplements thereto, if any), the contents of the final offering memorandum (including any supplements thereto) will prevail; in the event of any conflict between the contents of the final offering memorandum (or any supplements thereto) and the final application form, the final application form will prevail; in the event of any conflict between the contents of the final offering memorandum (or any supplements thereto) and the final articles of association of the Company, the contents of the final articles of association of the Company will prevail.

It is the responsibility of every person reading the Offering Memorandum to satisfy himself as to the full observance of the laws of any country relevant to him, including obtaining any government or other consent which may be required, and/or observing any other formality which needs to be observed in that country.

The Offering Memorandum is written for the benefit of the category of persons described above. It is not addressed to any other person and may not be used by them for any purpose whatsoever. It expresses no views as to the suitability of the investments described therein to the individual circumstances of any recipient.

THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. If you are in any doubt as to the action you should take or the contents of this document, you are recommended to seek your own independent financial advice immediately from your stockbroker, bank, solicitor, accountant, or other appropriate independent financial adviser, who is authorised under the Financial Services and Markets Act 2000, as amended ("FSMA") if you are in the United Kingdom, or from another appropriately authorised independent financial adviser if you are in a territory outside the United Kingdom.

A copy of this document, which comprises an offering memorandum (the "Offering Memorandum") relating to Highland CLO Funding, Ltd. (the "Company") in connection with the issue of Placing Shares in the Company, is available at the Company's registered office upon request.

The Placing Shares are only suitable for investors: (i) who understand the potential risk of capital loss and that there may be limited liquidity in the underlying investments of the Company; (ii) for whom an investment in the Placing Shares is part of a diversified investment programme; and (iii) who fully understand and are willing to assume the risks involved in such an investment programme. It should be remembered that the price of the Placing Shares and the income from them can go down as well as up and that investors may not receive, on the sale or cancellation of the Placing Shares, the amount that they invested.

The Company and its directors (whose names appear in the section of this Offering Memorandum entitled "*Company Directors and Administration*") (the "**Directors**") accept responsibility for the information contained in this Offering Memorandum. To the best of the knowledge of the Company and the Directors (who have taken all reasonable care to ensure that such is the case), the information contained in the Offering Memorandum is in accordance with the facts and contains no omission likely to affect its import. The Directors have taken all reasonable care to ensure that the facts stated in the Offering Memorandum are true and accurate in all material respects, and that there are no other facts the omission of which would make misleading any statement in this Offering Memorandum, whether of facts or of opinion. All the Directors accept responsibility accordingly.

Potential investors should read the whole of this Offering Memorandum when considering an investment in the Placing Shares and, in particular, attention is drawn to the section of this Offering Memorandum entitled "*Risk Factors*" on pages [●] to [●] of this Offering Memorandum.

HIGHLAND CLO FUNDING, LTD.

(a closed-ended investment company limited by shares incorporated under the laws of Guernsey with registered number 60120)

Placing for a target issue in excess of [●] million Placing Shares at

U.S. $[●] per Placing Share

This Offering Memorandum does not constitute or form part of any offer or invitation to sell, or the solicitation of an offer to acquire or subscribe for, any securities other than the securities to which it relates or any offer or invitation to sell or issue, or any solicitation of any offer to purchase or subscribe for such securities by any person in any circumstances in which such offer or solicitation is unlawful.

The Placing Shares have not been and will not be registered under the U.S. Securities Act of 1933 (the "**U.S. Securities Act**") or under the securities laws of any state or other jurisdiction of the United States. The Placing Shares may not be offered, sold, exercised, resold, transferred or delivered, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. Persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the U.S. Securities Act and in compliance with any applicable securities laws of any state or other jurisdiction in the United States.

The Company has not been and will not be registered under the U.S. Investment Company Act of 1940, as amended (the "**U.S. Investment Company Act**") and investors will not be entitled to the benefits of the U.S. Investment Company Act. There will be no public offer of the Placing Shares in the United States.

Neither the U.S. Securities and Exchange Commission (the "SEC") nor any state securities commission has approved or disapproved of the Placing Shares or passed upon or endorsed the merits of the offering of the Placing Shares or the adequacy or accuracy of this Offering Memorandum. Any representation to the contrary is a criminal offence in the United States.

Except with the express written consent of the Company given in respect of an investment in the Company, the Placing Shares may not be acquired by: (i) investors using assets of: (A) an "employee benefit plan" as defined in Section 3(3) of the United States Employee Retirement Income Security Act of 1974, as amended ("**ERISA**") that is subject to Title I of ERISA; (B) a "plan" as defined in Section 4975 of the United States Internal Revenue Code of 1986, as amended (the "**U.S. Tax Code**"), including an individual retirement account or other arrangement that is subject to Section 4975 of the U.S. Tax Code; or (C) an entity whose underlying assets are considered to include "plan assets" by reason of investment by an "employee benefit plan" or "plan" described in preceding clause (A) or (B) in such entity pursuant to the U.S. Plan Assets Regulations; or (ii) a governmental, church, non-U.S. or other employee benefit plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the U.S. Tax Code, unless its purchase, holding, and disposition of the Placing Shares will not constitute or result in a non-exempt violation of any such substantially similar law.

The distribution of this Offering Memorandum and the offer of the Placing Shares in certain jurisdictions may be restricted by law. No action has been or will be taken to permit the possession, issue or distribution of this Offering Memorandum (or any other offering or publicity material relating to the Placing Shares) in any jurisdiction where action for that purpose may be required or doing so is restricted by law. Accordingly, neither this Offering Memorandum, nor any advertisement, nor any other offering material may be distributed or published in any jurisdiction except under circumstances that will result in compliance with any applicable laws and regulations. Persons into whose possession this Offering Memorandum comes should inform themselves about and observe any such restrictions. None of the Company or any of its affiliates or advisors accepts any legal responsibility for any breach by any person, whether or not a prospective investor, of any such restrictions.

In addition, the Placing Shares are subject to restrictions on transferability and resale in certain jurisdictions and may not be transferred or resold except as permitted under applicable securities laws and regulations. Investors may be required to bear the financial risks of their investment in the Placing Shares for an indefinite period of time. Any failure to comply with these restrictions may constitute a violation of the securities laws of any such jurisdictions. For further information on restrictions on offers, sales and transfers of the Placing Shares, please refer to the section of this Offering Memorandum entitled "*Purchase and Transfer Restrictions*" in "*Placing Arrangements*".

In making an investment decision, each investor must rely on their own examination, analysis and enquiry of the Company and the terms of the Placing including the merits and risks involved. The investors also acknowledge that they have relied only on the information contained in this document. No person has been authorised to give any information or make any representations other than those contained in this Offering Memorandum and, if given or made, such information or representations must not be relied on as having been so authorised. Neither the delivery of this Offering Memorandum nor any subscription or sale made under it shall, under any circumstances, create any implication that there has been no change in the affairs of the Company since the date of this document or that the information in it is correct as of any subsequent time.

None of the Company or any of its representatives is making any representation to any prospective investor in respect of the Placing Shares regarding the legality of an investment in the Placing Shares by such prospective investor under the laws applicable to such prospective investor.

The contents of this Offering Memorandum should not be construed as legal, financial or tax advice. Each prospective investor should consult his, her or its own legal, financial or tax adviser for legal, financial or tax advice.

The Company is a registered closed-ended collective investment scheme pursuant to The Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended and the Registered Collective Investment Schemes Rules 2015 issued by the Guernsey Financial Services Commission. Neither the Guernsey Financial Services Commission nor the States of Guernsey take any responsibility for the soundness of the Company or for the correctness of any statements made or opinions expressed with regard to it.

If you are in any doubt about the contents of this Offering Memorandum you should consult your accountant, legal or professional adviser or financial adviser.

This Offering Memorandum has not been reviewed by the Guernsey Financial Services Commission and, in granting registration, the Guernsey Financial Services Commission has relied upon specific warranties provided by State Street (Guernsey) Limited, the Company's designated administrator.

It should be remembered that the price of securities and the income from them can go down as well as up.

You are wholly responsible for ensuring that all aspects of the Company are acceptable to you. Investment in the Company may involve special risks that could lead to a loss of all or a substantial portion of such investment. Unless you fully understand and accept the nature of the Company and the potential risks inherent in this Company you should not invest in the Company.

This Offering Memorandum is dated [●].

IMPORTANT NOTICES

Investors should rely only on the information contained in this Offering Memorandum. No person has been authorised to give any information or to make any representations in connection with the Placing other than those contained in this Offering Memorandum and, if given or made, such information or representations must not be relied upon as having been authorised by or on behalf of the Company. Neither the delivery of this Offering Memorandum nor any subscription or sale made under this Offering Memorandum shall, under any circumstances, create any implication that there has been no change in the business or affairs of the Company since the date of this Offering Memorandum or that the information contained in this Offering Memorandum is correct as of any time subsequent to its date.

The contents of this Offering Memorandum are not to be construed as legal, financial, business, investment or tax advice. Each prospective investor should consult his or her own legal adviser, financial adviser or tax adviser for legal, financial or tax advice in relation to any purchase or proposed purchase of Placing Shares.

An investment in the Placing Shares is suitable only for institutional, professional and high net worth investors, private client fund managers and brokers and other investors who are capable of evaluating the merits and risks of such an investment and/or who have received advice from their fund manager or broker regarding such an investment and who have sufficient resources to be able to bear losses (which may equal the whole amount invested) that may result from such an investment. An investment in the Placing Shares should constitute part of a diversified investment portfolio. Accordingly, typical investors in the Company are expected to be institutional, professional and high net worth investors, private client fund managers and brokers and other investors who understand the risks involved in investing in the Company and/or who have received advice from their fund manager or broker regarding investment in the Company.

In making an investment decision, each investor must rely on their own examination, analysis and enquiry of the Company and the terms of the Placing including the merits and risks involved. Investors who purchase Placing Shares will be deemed to have acknowledged that no person has been authorised to give any information or make any representations other than those contained in this Offering Memorandum and, if given or made, such information or representations must not be relied on as having been authorised by the Company.

General

Prospective investors should not treat the contents of this Offering Memorandum as advice relating to legal, taxation, investment or any other matters. Prospective investors should inform themselves as to: (a) the legal requirements within their own countries for the purchase, holding, transfer, redemption or other disposal of Placing Shares; (b) any foreign exchange restrictions applicable to the purchase, holding, transfer, redemption or other disposal of Placing Shares which they might encounter; and (c) the income and other tax consequences which may apply in their own countries as a result of the purchase, holding, transfer, redemption or other disposal of Placing Shares. Prospective investors must rely on their own representatives, including their own legal advisers, financial advisers and accountants, as to legal, tax, investment or any other related matters concerning the Company and an investment therein.

Statements made in this Offering Memorandum are based on the law and practice currently in force and are subject to changes therein. This Offering Memorandum should be read in its entirety before making any application for Placing Shares.

Application will be made to the appropriate securities exchange for the Placing Shares to be admitted when deemed appropriate by the Company.

All times and dates referred to in this Offering Memorandum are, unless otherwise stated, references to Guernsey times and dates and are subject to change without further notice.

Capitalised terms contained in this Offering Memorandum shall have the meanings set out in the Offering memorandum and/or in the section of this Offering Memorandum entitled "*Definitions*", save where the context indicates otherwise.

Restrictions on distribution and sale

The distribution of this Offering Memorandum and the offering and sale of securities offered hereby in certain jurisdictions may be restricted by law. Persons in possession of this Offering Memorandum are required to inform themselves about and observe any such restrictions. This Offering Memorandum may not be used for, or in connection with, and does not constitute, any offer to sell, or solicitation to purchase, any such securities in any jurisdiction in which solicitation would be unlawful.

For a description of restrictions on offers, sales and transfers of Shares, please refer to the sections of this Offering Memorandum entitled "*Selling restrictions*" below and "*Purchase and Transfer Restrictions*" in "*Placing Arrangements*". Save as set out in these sections, there are no restrictions on the transfer of Shares under the Articles.

Forward-looking statements

This Offering Memorandum includes statements that are, or may be deemed to be, "forward-looking statements". These forward-looking statements can be identified by the use of forward-looking terminology, including the terms "believes", "estimates", "anticipates", "expects", "intends", "plans", "projects", "targets", "aims", "may", "will" or "should" or, in each case, their negative or other variations or comparable terminology. These forward-looking statements include all matters that are not historical facts. They appear in a number of places throughout this Offering Memorandum and include statements regarding the intentions, beliefs or current expectations of the Company concerning, amongst other things, the investment objective and investment policy, investment strategy, financing strategies, investment performance, results of operations, financial condition, prospects, and dividend/distribution policy of the Company, and the markets in which the Company, and their respective portfolios of investments, invest and/or operate. By their nature, forward-looking statements involve risks (including those set out in the section of this Offering Memorandum entitled "*Risk Factors*") and uncertainties because they relate to events and depend on circumstances that may or may not occur in the future. Forward-looking statements are not guarantees of future performance. The Company's actual investment performance, results of operations, financial condition, dividend policy and the development of its investment strategy financing strategies may differ materially from the impression created by the forward-looking statements contained in this Offering Memorandum. In addition, even if the investment performance, results of operations, financial condition of the Company, and the development of its financing strategies, are consistent with the forward-looking statements contained in this Offering Memorandum, those results or developments may not be indicative of results or developments in subsequent periods. Important factors that could cause these differences include, but are not limited to:

- changes in economic conditions generally and the Company's ability to achieve its investment objective and target returns and target dividends for investors;
- the ability of the Company to invest the cash on its balance sheet and the proceeds of the Placing on a timely basis within the investment objective and investment policy;
- foreign exchange mismatches with respect to exposed assets;
- changes in the interest rates and/or credit spreads, as well as the success of the Company's investment strategy in relation to such changes and the management of the un-invested proceeds of the Placing;
- impairments in the value of the investments;
- the availability and cost of capital for future investments;
- the departure of key personnel employed by the Portfolio Manager;

- changes in laws or regulations, including tax laws, or new interpretations or applications of laws and regulations, that are applicable to the Company; and
- general economic trends and other external factors, including those resulting from war, incidents of terrorism or responses to such events.

Given these uncertainties, prospective investors are cautioned not to place any undue reliance on such forward-looking statements. Prospective investors should carefully review the "*Risk Factors*" section of this Offering Memorandum before making an investment decision. Forward-looking statements speak only as at the date of this Offering Memorandum. Although the Company undertakes no obligation to revise or update any forward-looking statements contained herein (save where required by the Offering Memorandum Rules), whether as a result of new information, future events, conditions or circumstances, any change in the Company's expectations with regard thereto or otherwise, prospective investors are advised to consult any communications made directly to them by the Company and/or any additional disclosures through announcements that the Company may make through a website to be created or through the Administrator.

Selling Restrictions

This Offering Memorandum does not constitute, and may not be used for the purposes of, an offer or an invitation to apply for any Placing Shares by any person: (i) in any jurisdiction in which such offer or invitation is not authorised; or (ii) in any jurisdiction in which the person making such offer or invitation is not qualified to do so; or (iii) to any person to whom it is unlawful to make such offer or invitation. The distribution of this Offering Memorandum and the offering of Placing Shares in certain jurisdictions may be restricted. Accordingly, persons into whose possession this Offering Memorandum comes are required to inform themselves about and observe any restrictions as to the offer or sale of Placing Shares and the distribution of this Offering Memorandum under the laws and regulations of any jurisdiction in connection with any applications for Placing Shares, including obtaining any requisite governmental or other consent and observing any other formality prescribed in such jurisdiction.

Bailiwick of Guernsey

The Company has been established in Guernsey as a registered collective investment scheme under the RCIS Rules.

Further information in relation to the regulatory treatment of registered closed-ended investment funds domiciled in Guernsey may be found on the website of the Guernsey Financial Services Commission at www.gfsc.gg.

This Offering Memorandum is prepared, and a copy of it has been sent to the Guernsey Financial Services Commission, in accordance with the RCIS Rules.

The Commission takes no responsibility for the financial soundness of the Company or for the correctness of any statements made or opinions expressed with regard to it.

The applicant is strongly recommended to read and consider this Offering Memorandum before completing an application.

This Offering Memorandum has not been approved by the GFSC and neither the GFSC nor the States of Guernsey Policy Council takes any responsibility for the financial soundness of the Company or for the correctness of any of the statements made or opinions expressed with regard to it.

European Economic Area

In relation to each member state of the European Economic Area which has implemented the Prospectus Directive (each, a "**Relevant Member State**"), no Placing Shares have been offered or will be offered pursuant to the Placing to the public in that Relevant Member State prior to the publication of a prospectus in relation to the Placing Shares which has been approved by the competent authority in that Relevant Member State, or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive, except that offers of Placing Shares to the public may be made at any time

under the following exemptions under the Prospectus Directive, if they are implemented in that Relevant Member State:

(a) to any legal entity which is a qualified investor as defined in the Prospectus Directive;

(b) to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) in such Relevant Member State; or

(c) in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Placing Shares shall result in a requirement for the publication of a prospectus pursuant to Article 3 of the Prospectus Directive or a supplemental prospectus pursuant to Article 16 of the Prospectus Directive or any measure implementing the Prospectus Directive in a Relevant Member State and each person who initially acquires any Placing Shares or to whom any offer is made under the Placing will be deemed to have represented, acknowledged and agreed that it is a "qualified investor" within the meaning of Article 2(1)(e) of the Prospectus Directive.

For the purposes of this provision, the expression an "**offer to the public**" in relation to any offer of Placing Shares in any Relevant Member State means a communication in any form and by any means presenting sufficient information on the terms of the offer and any Placing Shares to be offered so as to enable an investor to decide to purchase or subscribe for the Placing Shares, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State and the expression "**Prospectus Directive**" means Directive 2003/71/EC (and the amendments thereto, including 2010 PD Amending Directive, to the extent implemented in the Relevant Member State) and includes any relevant implementing measure in each Relevant Member State and the expression "**2010 PD Amending Directive**" means Directive 2010/73/EU.

The distribution of this Offering Memorandum in other jurisdictions may be restricted by law and therefore persons into whose possession this Offering Memorandum comes should inform themselves about and observe any such restrictions.

The Company is an alternative investment fund for the purpose of the AIFMD. The Placing Shares may only be marketed to prospective investors which are domiciled or have a registered office in a member state of the European Economic Area ("**EEA Persons**") in which marketing has been registered or authorised (as applicable) under the relevant national implementation of Article 42 of AIFMD and in such cases only to EEA Persons which are Professional Investors or any other category of person to which such marketing is permitted under the national laws of such member state.

This Offering Memorandum is not intended for, should not be relied on by and should not be construed as an offer (or any other form of marketing) to any other EEA Person.

A "Professional Investor" is an investor who is considered to be a professional client or who may, on request, be treated as a professional client within the relevant national implementation of Annex II of Directive 2004/39/EC (Markets in Financial Instruments Directive) and the AIFMD.

Each EEA Person who initially acquires Placing Shares or to whom any offer is made will be deemed to have represented, warranted to and agreed with the entity placing such shares and the Company that (a) it is a "qualified investor" within the meaning of the law in that relevant member state implementing Article 2.1(e) of the Prospectus Directive and (b) , that it is a Professional Investor or other person to whom Placing Shares in the Company may lawfully be marketed under the AIFMD or under the national laws of that relevant member state.

The distribution of this Offering Memorandum in other jurisdictions may be restricted by law and therefore persons into whose possession this Offering Memorandum comes should inform themselves about and observe any such restrictions

Switzerland

This Offering Memorandum may only be freely circulated and Shares in the Company may only be freely offered, distributed or sold to regulated financial intermediaries such as banks, securities dealers, fund management companies,

asset managers of collective investment schemes and central banks as well as to regulated insurance companies. Circulating this Offering Memorandum and offering, distributing or selling Shares in the Company to other persons or entities including qualified investors as defined in the Federal Act on Collective Investment Schemes ("**CISA**") and its implementing Ordinance ("**CISO**") may trigger, in particular, (i) licensing/prudential supervision requirements for the distributor, (ii) a requirement to appoint a representative and paying agent in Switzerland and (iii) the necessity of a written distribution agreement between the representative in Switzerland and the distributor. Accordingly, legal advice should be sought before providing this Offering Memorandum to and offering, distributing, selling or on-selling Shares of the Company to any other persons or entities. This Offering Memorandum does not constitute an issuance prospectus pursuant to Articles 652a or 1156 of the Swiss Code of Obligations and may not comply with the information standards required thereunder. The Shares will not be listed on the SIX Swiss Exchange, and consequently, the information presented in this document does not necessarily comply with the information standards set out in the relevant listing rules. The documentation of the Company has not been and will not be approved, and may not be able to be approved, by the Swiss Financial Market Supervisory Authority ("**FINMA**") under the CISA. Therefore, investors do not benefit from protection under the CISA or supervision by the FINMA. This Offering Memorandum does not constitute investment advice. It may only be used by those persons to whom it has been handed out in connection with the Shares and may neither be copied or directly/indirectly distributed or made available to other persons.

United States

The Placing Shares have not been and will not be registered under the U.S. Securities Act or with any securities regulatory authority of any state or other jurisdiction of the United States and the Placing Shares may not be offered, sold, exercised, resold, transferred or delivered, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. Persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the U.S. Securities Act and in compliance with any applicable securities laws of any state or other jurisdiction in the United States. There will be no public offer of the Placing Shares in the United States.

Subject to certain exceptions as described herein, the Placing is only being made outside the United States to non-U.S. Persons in reliance on Regulation S under the U.S. Securities Act.

In addition, prospective investors should note that, except with the express written consent of the Company given in respect of an investment in the Company, the Placing Shares may not be acquired by: (i) investors using assets of: (A) an "employee benefit plan" as defined in Section 3(3) of ERISA that is subject to Title I of ERISA; (B) a "plan" as defined in Section 4975 of the U.S. Tax Code, including an individual retirement account or other arrangement that is subject to Section 4975 of the U.S. Tax Code; or (C) an entity whose underlying assets are considered to include "plan assets" by reason of investment by an "employee benefit plan" or "plan" described in preceding clause (A) or (B) in such entity pursuant to the U.S. Plan Assets Regulations; or (ii) a governmental, church, non-U.S. or other employee benefit plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the U.S. Tax Code, unless its purchase, holding, and disposition of the Placing Shares will not constitute or result in a non-exempt violation of any such substantially similar law.

If 25 per cent or more of any class of equity in the Company is owned, directly or indirectly, by U.S. Plan Investors that are subject to Title I of ERISA or Section 4975 of the U.S. Tax Code, the assets of the Company will be deemed to be "plan assets", subject to the constraints of ERISA and Section 4975 of the U.S. Tax Code. This would result, among other things, in: (i) the application of the prudence and fiduciary responsibilities standards of ERISA to investments made by the Company, and (ii) the possibility that certain transactions that the Company and its subsidiaries might enter into, or may have entered into in the ordinary course of business, might constitute or result in non-exempt prohibited transactions under Section 406 of ERISA and/or Section 4975 of the U.S. Tax Code and might have to be rescinded. A non-exempt prohibited transaction may also result in the imposition of an excise tax under the U.S. Tax Code upon a "party in interest" (as defined in ERISA) or "disqualified person" (as defined in the U.S. Tax Code), with whom a plan engages in the transaction. The Company will use commercially reasonable efforts to restrict ownership by U.S. Plan Investors of equity in the Company. However, no assurance can be given that investment by U.S. Plan Investors will not exceed 25 per cent or more of any class of equity in the Company.

For a description of restrictions on offers, sales and transfers of Placing Shares, please refer to the section of this Offering Memorandum entitled "*Purchase and Transfer Restrictions*" in "*Placing Arrangements*".

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SUMMARY

The following is an overview of the transaction structure and is qualified in its entirety by, and should be read in conjunction with, the more detailed information appearing elsewhere in this Offering Memorandum and related documents referred to herein. Capitalised terms not specifically defined in this Offering Memorandum have the meanings set out in the section of this Offering Memorandum entitled "*Definitions*" below. For a discussion of certain risk factors to be considered in connection with an investment in the Shares, see "*Risk Factors*".

The Company:

Highland CLO Funding, Ltd. (formerly known as Acis Loan Funding, Ltd.) (the "**Company**") is a closed-ended investment company limited by shares incorporated on 30 March 2015 under the laws of Guernsey with registered number 60120. The Company changed its name from Acis Loan Funding, Ltd. to Highland CLO Funding, Ltd. on [●], 2017.

The Company holds a partial, indirect ownership in Highland CLO Management, LLC ("**Highland CLO Management**"), a Delaware series limited liability company established to manage Highland CLOs, act as a "majority-owned affiliate" for purposes of the U.S. Risk Retention Rules and as an "originator" for purposes of EU Retention Requirements and to hold with respect to Highland CLOs the required risk retention interests required under, and in accordance with, the U.S. Retention Rules and/or the EU Retention Requirements, as applicable (such interests with respect to any CLO, the applicable "**Retention Interest**"). Highland CLO Management is also partly held (on an indirect basis) by Highland Capital Management, L.P. ("**Highland**"), a Delaware limited partnership, which controls the major economic decisions of Highland CLO Management.

The Company holds a partial, indirect ownership in ACIS CLO Management, LLC ("**Acis CLO Management**" and together with Highland CLO Management, the "**CLO Management Companies**" and each, a "**CLO Management Company**"), a Delaware series limited liability company established to manage Acis CLO 2017-7, Ltd. ("**Acis CLO 7**"), act as a "majority-owned affiliate" for purposes of the U.S. Risk Retention Rules and to hold the Retention Interests with respect to Acis CLO 7 required under, and in accordance with, the U.S. Retention Rules. Acis CLO Management is also partly held (on an indirect basis) by Acis Capital Management, L.P. ("**Acis**"), a Delaware limited partnership, which controls the major economic decisions of Acis CLO Management.

Investment Objective:

The Company's investment objective is to provide Shareholders with stable and growing income returns, and to grow the capital value of the investment portfolio through opportunistic exposure to CLO Notes, investments in new issue CLOs sponsored by Highland and Acis CLO 7 through its interests in the Management Companies and CLO Income Notes, respectively, and senior secured loans primarily for the purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements, on both a direct basis and indirect basis, through the use of the investments described in its investment policy and through use of leverage, including, any Revolving Credit Facility, Warehouse Loan Facilities, total return swaps or repurchase agreements, in addition to secured loan facilities.

Investment policy:

The Company's investment policy is to focus on synergistic investments in the following areas.

Loan Investments

The Company will invest on an indirect basis in a diverse portfolio of predominantly floating rate senior secured loans (or on a direct basis for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements), all of which will have at least one rating, which may be public or private, from Moody's Investor Services, Inc. ("**Moody's**"), Standard & Poor's Financial Services LLC ("**S&P**") or Fitch Group, Inc. ("**Fitch**"). Initially, the Company's loan investments will be focused in the U.S., but depending on market conditions the Company may also invest in similar types of loans in Europe. Accordingly, there is no limit on the maximum U.S. or European exposure. Investments in U.S. or European loans may be made through a U.S or European originator subsidiary of the Company. The Company intends to invest directly only in those senior secured loans to obligors with total potential indebtedness under all applicable loan agreements, indentures and other underlying instruments at least $250,000,000 that would generally satisfy the eligibility criteria for Highland CLOs and (without limiting the foregoing):

- Such loan is not currently deferring the payment of any accrued and unpaid interest that otherwise would have been due and continues to remain unpaid;
- Such loan provides for a fixed amount of principal payable in cash on scheduled payment dates and/or at maturity and does not by its terms provide for earlier amortization or prepayment at a price less than par;
- Such loan is not an obligation issued by Highland, any of its controlled affiliates that are investment funds or any other investment fund whose investments are primarily managed by Highland or any affiliate or company that is controlled by Highland, an affiliate thereof, or an account, fund, client or portfolio established and controlled by Highland or an affiliate thereof (a "**Related Obligation**");
- Such loan is neither an equity security nor by its terms is convertible into or exchangeable for an equity security and does not include an attached warrant to purchase equity securities;
- Such loan is not a bridge loan; and
- Such loan is not a zero coupon loan.

Financing of Loan Portfolios / Securitization

It is intended that the Company will periodically seek to sell or securitise all or a portion of its loan portfolio, held directly or indirectly, into new Highland CLOs where Highland CLO Management acts as CLO Manager. In doing so, Highland CLO Management may seek to adopt the "originator" model to address the Origination Requirements (as defined below) applicable to such

Highland CLOs to the extent such Highland CLOs sought to comply with EU Retention Requirements. As a result, Highland CLO Management will be required to commit to: (a) establishing the relevant CLO and (b) selling certain loan investments to the relevant CLO which it has purchased for its own account initially. In addition, under current guidance, prior to closing date of the relevant CLO, Highland CLO Management expects to sell investments to the relevant CLO such that the required percentage of the total securitised exposures held by the CLO issuer will have come from Highland CLO Management (collectively, the "**Origination Requirements**").

CLO Notes

The Company will from time to time invest directly or indirectly (through affiliates and subsidiaries, including the Management Companies, as more fully described below) in CLO Notes issued by Acis CLO 7, Highland CLOs, CLOs where Acis is the CLO Manager, ("**Acis Legacy CLOs**"), CLOs where Highland is the CLO Manager, ("**Highland Legacy CLOs**" and together with the Highland CLOs, Acis CLO 7 and the Acis Legacy CLOs, the "**Managed CLOs**") or CLOs managed by other asset managers.

With respect to each such investment, Highland CLO Management, and Acis CLO Management with respect to Acis CLO 7, will acquire the percentages and tranches of CLO Notes necessary to enable the related CLO to meet the U.S. Risk Retention Rules and, if applicable, the EU Retention Requirements.

With respect to any such investments in Highland CLOs where Highland CLO Management acts as CLO Manager, it is expected that Highland CLO Management will be a "relying adviser" of Highland. With respect to Acis CLO 7, Acis CLO Management is a "relying adviser" of Acis. It is further expected that Highland or Acis, as applicable, will act as a "sponsor" of such Managed CLOs for purposes of the U.S. Risk Retention Rules and will treat the applicable Management Company as its "majority-owned affiliate" under the U.S. Risk Retention Rules. All management and incentive fees received from such Managed CLO will be paid to the applicable Management Company pursuant to the relevant portfolio management agreement, which will then pay the majority of such fees to Highland or Acis, as applicable, in its roles as Staff and Services Provider and as Sub-Advisor. The applicable Management Company may also seek to act as "originator" for purposes of the EU Retention Requirements with respect to such Managed CLOs as described above.

Each CLO in which the Company directly or indirectly holds CLO Notes will have its own eligibility criteria and portfolio limits. These limits are designed to ensure the portfolio of loans within the CLO meets a prescribed level of diversity and quality as set by the relevant rating agencies rating securities issued by such CLO. The applicable CLO Manager, including Highland CLO Management with respect to new Highland CLOs or Acis CLO Management with respect to Acis CLO 7, intends to identify and actively manage loans which meet those criteria and limits within each CLO. The eligibility criteria and portfolio limits within a CLO will typically include the following required criteria and may include some or all of the following expected criteria:

- a limit on the weighted average life of the portfolio;
- a limit on the weighted average rating of the portfolio;

- a limit on the maximum amount of portfolio assets with a rating lower than B-/B3/B-; and
- a limit on the minimum diversity of the portfolio.
- a limit on the minimum weighted average of the prescribed rating agency recovery rate;
- a limit on the minimum amount of senior secured assets;
- a limit on the maximum aggregate exposure to second lien loans, high yield bonds, mezzanine loans and unsecured loans;
- a limit on the maximum portfolio exposure to covenant-lite loans;
- an exclusion of project finance loans;
- an exclusion of structured finance securities;
- an exclusion on investing in the debt of companies domiciled in countries with a local currency sub investment grade rating; and
- an exclusion of leases.

The above are not intended to be an exhaustive list of the eligibility criteria and portfolio limits within a typical CLO and the inclusion or exclusion of such limits and their absolute levels are subject to change depending on market conditions.

Act as Risk Retention Provider

The Company may also invest in, provide loans to, or purchase performance-linked notes from, asset management subsidiaries, affiliated with the Company, Highland, Acis or the Management Companies and which may act as the asset manager of certain U.S. or European CLOs in order to satisfy the U.S. Risk Retention Rules or EU Retention Requirements.

Allocation of Investment Opportunities

Highland CLO Management will serve as CLO Manager to each newly-issued Highland CLO during the Investment Period.

During the Investment Period, the Company shall receive priority allocations with respect to all CLO Income Note investment opportunities with respect to new issue Highland CLOs, over the account of the Portfolio Manager, its affiliates and other clients, including other investment funds and client accounts, including those which follow an investment program substantially similar to that of the Business (such other clients, funds and accounts, collectively, the "**Other Accounts**"). For the avoidance of doubt, the Portfolio Manager shall otherwise allocate investment opportunities among the Company and Highland and its affiliates and Other Accounts in accordance with its allocation policy which requires allocations among clients to be fair and equitable over time. *See "Risk Factors—Risks Relating to Conflicts of Interest—The Company will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates".*

Investment Restrictions: During the Investment Period, the Company may invest up to $250,000,000 in CLO Income Notes for new Highland CLOs as follows: (a) up to

$150,000,000 in the aggregate from new capital contributions; and (b) up to $100,000,000 in the aggregate from proceeds received from existing seed portfolio investments and investments in new Highland CLOs, net of dividends paid, and amortization and interest payments on Company borrowings from committed credit facilities.

The Company may, without the consent of the Advisory Board, invest in any CLO Notes or CLO Income Notes of new Highland CLOs (a) pursuant to which Highland, Highland CLO Management or any of its affiliates does not charge subordinate management fees in excess of 0.00%, senior management fees in excess of 0.15% or incentive management fees in excess of 0.00% or (b) does not have a reinvestment period longer than 5 years (such CLOs, "**Qualifying CLOs**"); *provided* that, if the Portfolio Manager has provided reasonable evidence to the Advisory Board that a substantial portion of new issue CLOs have reinvestment periods longer than 5 years (the "**RP Condition**"), the consent of the Advisory Board to invest in any Highland CLO that meets clause (a) of the definition of Qualifying CLOs only shall not be unreasonably withheld, conditioned or delayed.

During the Investment Period, the Company shall be permitted to invest in a "reset" with respect to the following CLOs (which may extend the re-investment period and/or term of such CLOs) managed by Highland affiliates (the "**Designated CLO Resets**"):

Acis CLO 2013-1, Ltd.
Acis CLO 2015-6, Ltd.

During the Investment Period, the Company shall be permitted to invest in a refinancing with respect to the following CLOs (which may not extend the re-investment period or term of such CLOs) managed by Highland affiliates (the "**Designated CLO Refinancings**"):

Acis CLO 2014-3, Ltd.
Acis CLO 2014-4, Ltd.
Acis CLO 2014-5, Ltd.
Acis CLO 2017-7, Ltd.

For the avoidance of doubt, following the expiration of the Investment Period, the Company shall not consummate an investment in any "reset" with respect to CLO Income Notes held by the Company.

The Company shall not invest in the CLO Income Notes of a new issue Highland CLO unless it is the 100% owner of the CLO Income Notes not forming part of the Retention Interest acquired by Highland CLO Management.

Indirect Actions

Neither the Portfolio Manager nor the Company may take any action indirectly through controlled subsidiaries that either the Portfolio Manager or the Company is not permitted to undertake directly as set forth herein.

Borrowing:

It is expected that the Company will have access to one or more committed credit facilities and will use advances under such facilities, together with the proceeds of the Shares, to purchase future senior secured loans (for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements) or other assets.

Such facilities may take the form of any Revolving Credit Facility, Warehouse Loan Facilities, total return swaps or repurchase agreements, in addition to secured loan facilities. In addition to such facilities, the Company will be permitted to borrow money for day to day administration and cash management purposes.

Borrowing Limits

Notwithstanding the foregoing or anything to the contrary set forth herein, as of the time any such debt is incurred, the Company's maximum gross leverage exposure (excluding the Warehouse Loan Facilities) pursuant to (a) committed secured loan facilities and any other borrowing (other than described in clause (b)) shall not exceed the greater of (x) 15% of the Company's gross asset value and (y) $50,000,000, and (b) repurchase agreements shall not exceed 75% of the Company's gross asset value.

For purposes of the limits regarding repurchase agreements set forth in clause (b) above, the "gross asset value" of the Company shall exclude financing for CLO Notes held by a Management Company as part of a "vertical" Retention Interest (including for the Designated CLO Resets), the NexBank Credit Facility, any Warehouse Loan Facilities and cash equivalents.

Warehouse Loan Facilities

One or more multi-currency warehouse lending facilities may be entered into from time to time between (i) the Company and (ii) a warehouse provider (the "**Warehouse Loan Facilities**"), pursuant to which the Company is able to draw multi-currency loans from time to time in order to purchase assets for its portfolio. The Warehouse Loan Facilities will be entered into on market standard terms, as negotiated between the Company and the relevant warehouse provider in each case and will include a senior security package in favour of the warehouse provider.

Hedging and Derivatives

The Company may use hedging or derivatives (both long and short) for the purposes of efficient portfolio management (other than with respect to credit risk under or associated with the CLO Retention Notes).

Repurchase Agreements

The Company may not use repurchase agreements to finance the purchase of CLO Income Notes, however, the may pledge any already owned CLO Income Notes as additional collateral under repurchase agreements.

Revolving Credit Facility

The Company may enter into a secured revolving credit facility with a committed amount of $50,000,000 for working capital purposes (a "**Revolving Credit Facility**")

NexBank Credit Facility

The Company currently has a secured term credit facility provided by NexBank SSB, a Texas savings bank, with a principal amount of $22,158,337, as of September 30, 2017 (the "**NexBank Credit Facility**"). The Company may, from time to time, increase its borrowing under the NexBank Credit Facility up to a maximum principal amount of $30,000,000 at any time

without the consent of the Advisory Board, but subject to the limitations set forth above in "*—Borrowing Limits*".

Advisory Board:

The Company shall form and assemble an advisory board (the "**Advisory Board**") composed of individuals who shall be representatives of certain Shareholders selected by Highland in its sole discretion in order to (a) provide advice to Highland with respect to certain issues involving conflicts of interest in any transaction or relationship between the Company and Highland or any of its employees or affiliates that are presented to the Advisory Board by Highland, and (b) be required to approve the following actions:

- Any extension of the Investment Period;
- Any extension of the Term (other than an automatic extension following an extension of the Investment Period that has been approved by the Advisory Board);
- Any allotment of additional equity securities by the Company; and
- Any investment in a Related Obligation or any other transaction between the Company or any entity in which the Company holds a direct or indirect interest, on the one hand, and Highland or any of its affiliates, on the other hand.

Notwithstanding the foregoing or anything to the contrary set forth herein, no transaction that is specifically authorized in the governing documents of the Company shall require approval of the Advisory Board, including, without limitation, sales or securitizations of all or a portion of the Company's loan portfolio into new Qualifying CLOs and investments in CLO Notes issued by CLOs managed by Highland affiliates and the NexBank Credit Facility.

Notwithstanding the foregoing or anything to the contrary set forth herein, without the consent of the Advisory Board, the Company may raise additional funds, including through the allotment of additional equity securities (subject to the pre-emption rights of the Shareholders to invest in such additional equity securities *pro rata*) or acceptance of contributions, if determined by the Board of Directors to be necessary to protect the Company, consistent with the Board's duties to the Company.

No voting member of the Advisory Board shall be a controlled affiliate of Highland.

Each member of the Advisory Board shall owe no fiduciary or other duties to the Company or the shareholders and may act solely in the interest of the shareholder that it represents.

Neither the Advisory Board nor any member thereof shall have the power to bind or act for or on behalf of the Company in any manner, and no shareholder who appoints a member of the Advisory Board shall be deemed to be an affiliate of the Company or Highland solely by reason of such appointment.

Investment Period:

The Company's assets may be invested and, subject to the terms and conditions set forth in the "*Dividend Policy*" section below, reinvested for a period commencing on the Closing Date of the Placing and ending on [April 30, 2020] (the "**Investment Period**"), subject to two additional one-year extensions with the consent of the Advisory Board (as hereinafter defined) and the Portfolio Manager; provided that the Term will automatically be

extended by an identical length of time in the event of an extension of the Investment Period.

Termination of Investment Period following Key Person Event

The Portfolio Manager will promptly provide each Shareholder with written notice in the event that any three of James Dondero, Mark Okada, Trey Parker or Hunter Covitz (the "**Key Persons**") cease to devote such time to the affairs of the Company as is sufficient to effectively manage the operations of the Company (a "**Key Person Event**"), as determined by the Portfolio Manager in its reasonable discretion, taking into account such factors as it shall deem relevant in its reasonable discretion. The Portfolio Manager will promptly provide each Shareholder with written notice in the event of the termination of employment of any Key Person. From and after the occurrence of a Key Person Event, until the 60th day following the date of the applicable notice to the Shareholders (or until earlier reinstatement of the Investment Period, if applicable), the Company (or the Portfolio Manager, on behalf of the Company) may not enter into a letter of intent, written agreement in principle or legally binding agreement to make any acquisition of any investment and the Portfolio Manager may not deliver any drawdown notice for any new Commitments, and may only deliver a drawdown notice that would otherwise be permitted to be delivered by the Portfolio Manager following the termination of the Investment Period.

The Investment Period will be terminated effective on the 60th day following the date of notice to the Shareholders of a Key Person Event unless, on or before such 60th day (i) the Portfolio Manager obtains or receives notice of the written election or vote of the Advisory Board to reinstate the Investment Period, or (ii) one or more Qualified Replacements (as defined below) are appointed in place of (or in addition to) the then existing Key Persons to cure the Key Person Event, in which event the Investment Period will continue until its termination as otherwise described herein without further regard to such Key Person Event.

For purposes of this Offering Memorandum, a "**Qualified Replacement**" means a person nominated by the Portfolio Manager and approved by the [Advisory Board], such approval not to be unreasonably withheld, conditioned or delayed, as a replacement for any existing Key Person or as an additional Key Person.

Term:

The term of the Company will commence on the date of the Placing and will end (and the Company thereafter will be wound up and dissolved) on the ten-year anniversary of the date of the Placing (the "**Term**"), subject to (a) automatic extension in the event of an extension of the Investment Period and (b) two additional one-year extension with the consent of the Portfolio Manager and the Advisory Board, or such earlier date after the end of the Investment Period on which the Portfolio Manager determines to terminate and wind up the Company following the receipt by the Company of all amounts reasonably expected by the Portfolio Manager to be received with respect to the Company's assets or the sale thereof during the term and in a manner that will not cause the Company, Highland, Acis, the Management Companies or any subsidiary thereof to violate any applicable law or contract.

The Company has been established as a closed-ended vehicle. Accordingly, there is no right or entitlement attaching to Shares that allows them to be

	redeemed or repurchased by the Company at the option of the Shareholder. [NTD: Articles to be amended to reflect closed end term.]
Placing Arrangements – Investment Period Subscription Commitment:	[The Company is seeking aggregate subscriptions to purchase Placing Shares in an aggregate amount of up to approximately $[•] million. Placees will commit under the subscription agreements to purchase Shares to be settled from time to time during the Investment Period. The Portfolio Manager may call such Shares for settlement from time to time on a pro rata basis upon 10 Business Days' notice to the Placees in such amounts as may be specified by the Portfolio Manager. Upon the expiration of the Investment Period, all Placees will be released from any further obligation with respect to purchase Shares under their subscriptions, except to the extent necessary to: (i) complete the purchase of Shares pursuant to written commitments, letters of intent or similar contractual commitments that were in process as of the end of the Investment Period; and (ii) fund any indebtedness of the Company permitted hereunder incurred prior to the end of the Investment Period (including to repay outstanding indebtedness under any Warehouse Loan Facilities). Shares will be issued at a price per Share based on the then current NAV of the Company. The maximum number of Shares to be issued by the Company is [•] million and the minimum number is [•] million. Fractions of Placing Shares will not be issued. On the Closing Date, Placees will acquire Shares of existing Shareholders at a price per Share based on the current NAV of the Company such that Placees and existing Shareholders will hold currently existing Shares on a *pro rata* basis and existing Shareholders will commit, as Placees under subscription agreements, to purchase Shares such that new and existing Shareholders will hold both existing Shares and commitments on *pro rata* basis. The Board may deduct from any dividend payable to any Shareholder on or in respect of a Share all sums of money (if any) presently payable by him to the Company on account of calls with respect to existing Shares, or calls of commitments to purchase Shares pursuant to the subscription agreements or otherwise. The Board may retain any dividend or other monies payable on or in respect of a Share on which the Company has a lien and may apply the same in or towards satisfaction of the liabilities or obligations in respect of which the lien exists.] *Highland Principal Commitment* [Certain principals of Highland will subscribe for Shares of [•] in the aggregate.]
Regulatory status:	The Company is a registered closed-ended investment company incorporated in Guernsey with limited liability on 30 March 2015 under the provisions of the Companies Law, with registered number 60120. The Company is

regulated by the GFSC, and is not regulated by any regulator other than the GFSC.

Typical investors: Investment in the Company is only suitable for Professional Investors as defined in the AIFMD and any other person to whom the Placing Shares may be lawfully offered.

Applicant's service providers: *Portfolio Manager*

Highland has been appointed as the Portfolio Manager to the Company pursuant to the Portfolio Management Agreement. In that capacity, the Portfolio Manager will select the portfolio of investments and instruct the Custodian with respect to any acquisition, disposition or sale of investments and provide certain support and assistance (including back and middle office functions), personnel and credit and market research and analysis in connection with the origination and ongoing management of the portfolio by the Company. Under the Portfolio Management Agreement, the Company shall pay to the Portfolio Manager an amount equivalent to all reasonable third party costs and expenses incurred by the Portfolio Manager in the performance of its obligations thereunder, together with any irrecoverable VAT arising on such costs and expenses.

Highland CLO Management has a Master Sub-Advisory Agreement (the "**HCLOM Sub-Advisory Agreement**") and a Staff and Services Agreement (the "**HCLOM Staff and Services Agreement**", together with the HCLOM Sub-Advisory Agreement, the "**HCLOM Service Agreements**") in place with Highland, pursuant to which Highland provides credit research and operational support to Highland CLO Management, including services in connection with determining the composition, nature and timing of changes to portfolios of Highland CLOs for which Highland CLO Management acts as CLO Manager, the due diligence of actual or potential investments, the execution of investment transactions approved by the Highland CLO Management, and certain loan services and administrative services.

Acis (an affiliate of Highland) has entered into a Master Sub-Advisory Agreement (the "**ACM Sub-Advisory Agreement**") and a Staff and Services Agreement (the "**ACM Staff and Services Agreement**", together with the ACM Sub-Advisory Agreement, the "**ACM Service Agreements**") with Highland under which Highland provides investment research and recommendations and operational support to Acis, including services in connection with determining the composition, nature and timing of changes to portfolios of Acis CLOs for which Acis acts as CLO Manager, the due diligence of actual or potential investments, the execution of investment transactions approved by Acis, and certain loan services and administrative services.

Acis CLO Management has entered into a Master Sub-Advisory Agreement (the "**ACLOM Sub-Advisory Agreement**", and together with the HCLOM Sub-Advisory Agreement and the ACM Sub-Advisory Agreement, the "**Sub-Advisory Agreements**") and a Staff and Services Agreement (the "**ACLOM Staff and Services Agreement**", and the ACLOM Staff and Services Agreement together with the HCLOM Staff and Services Agreement and the ACM Staff and Services Agreement, the "**Staff and Services Agreements**" and, and the ACLOM Staff and Services Agreement together with the Sub-Advisory Agreement, the "**ACLOM Service Agreements**" and the ACLOM Service Agreements with the ACM Service Agreements and the HCLOM Service Agreements, the "**Service Agreements**") in place with Acis, pursuant

to which Acis provides credit research and operational support to Acis CLO Management, including services in connection with determining the composition, nature and timing of changes to portfolios of Acis CLO 7 for which Acis CLO Management acts as CLO Manager, the due diligence of actual or potential investments, the execution of investment transactions approved by Acis CLO Management, and certain loan services and administrative services.

Administrator

State Street (Guernsey) Limited has been appointed as administrator to the Company pursuant to the Administration Agreement. In such capacity, the Administrator is responsible for the day-to-day administration of the Company. Under the terms of the Administration Agreement, the Administrator is entitled to an annual administration fee of up to [•] per cent per annum of the Net Asset Value of the Company [NTD: To conform to updated fee schedule.] calculated and payable monthly in arrears, and other miscellaneous fees and expenses reimbursed, in each case, as determined in the Administration Agreement.

Registrar

State Street (Guernsey) Limited has been appointed as Registrar of the Company. Under the terms of the Registrar Agreement, the Registrar is entitled to receive an annual fee of [•].

Operating Expenses:

Except as provided below, the Portfolio Manager will pay all of its own Overhead without reimbursement by the Company.

Subject to the following paragraph, the Company shall pay or reimburse the Portfolio Manager and its affiliates for all Operating Expenses. See "Company Directors and Administration—The Portfolio Manager—Highland Fees".

Exculpation:

The Portfolio Manager will assume no responsibility under the Portfolio Management Agreement other than to render the services called for thereunder and affecting the duties and functions that have been delegated to it thereunder in good faith and, subject to the standard of conduct described in the next succeeding sentence. The Portfolio Manager will not be responsible for any action or inaction of the Company in declining to follow any advice, recommendation or direction of the Portfolio Manager.

The Portfolio Manager, its affiliates, any officer, director, manager, employee or any direct or indirect partner, member, stockholder, agent or legal representative (e.g., executors, guardians and trustees) of the Portfolio Manager and its affiliates, including persons formerly serving in such capacities, any person who serves at the request of the Portfolio Manager or the Board pursuant to the Articles, on behalf of the Company as an officer, director, manager, partner, member, employee, stockholder, agent or legal representative of any other person serving at the request of the Portfolio Manager or the Board pursuant to the Articles on behalf of the Company in such capacity as listed above, each member of the Advisory Board and each member of any subcommittee thereof (including, solely in connection with matters relating to the Advisory Board or such subcommittee, the Shareholder and/or other person on whose behalf the Advisory Board member or subcommittee member is serving and such Shareholder's and/or other person's affiliates) and any assignees or successors of the foregoing (each, an

	"**Indemnified Person**") will incur no liability to the Company or any Shareholder in the absence of a finding by any court or governmental body of competent jurisdiction in a final, non-appealable judgment that the commission by such person of an action, or the omission by such person to take an action, constitutes bad faith, gross negligence or wilful misconduct (a "**Triggering Event**"), except as otherwise required by applicable law. Any claims arising from a Triggering Event shall be limited to actual out-of-pocket damages incurred as a direct consequence of the Triggering Event, and shall not include punitive, consequential or other damages or lost profits.
Indemnification:	To the fullest extent permitted by applicable law, the Company will be required to indemnify each Indemnified Person for any losses, claims, damages or liabilities incurred by such Indemnified Person or to which such Indemnified Person may be subject by reason of its activities in connection with the conduct of the business or affairs of the Fund and/or a Portfolio Company, unless such losses result from an Indemnified Person's Triggering Event. The Indemnified Persons shall be entitled to advancement of expenses as they are incurred in connection with the investigation, defence or resolution of any claim that may be subject to indemnification, subject to providing an undertaking to repay any amounts ultimately determined not to be subject to indemnification due to a Triggering Event. Each member of the Advisory Board and each member of any subcommittee thereof and, solely in connection with matters relating to the Advisory Board or such subcommittee, the Shareholder and/or other person or entity on whose behalf such Advisory Board member or subcommittee member serves, will have the benefit of similar exculpation and indemnification rights unless it has not acted in good faith. Notwithstanding the foregoing or anything to the contrary set forth herein, the Company will not provide for the exculpation or indemnification of any Indemnified Person for any liability (including liability under U.S. federal securities laws which, under certain circumstances, impose liability even on persons that act in good faith), to the extent that such liability may not be waived, modified or limited under applicable law.
Regulatory status of Portfolio Manager:	Highland Capital Management, L.P. is an investment adviser registered under the Investment Advisers Act of 1940, as amended (the "**Investment Advisers Act**") and, as such, is subject to the provisions of the Investment Advisers Act.
Regulatory status of Custodian:	The Custodian of the Company is State Street Custodial Services (Ireland) Limited, which is authorised as an Investment Business Firm under Section 10 of the Irish Investment Intermediaries Act, 1995 (as amended), will provide custody and banking services.
Calculation of Net Asset Value:	The Company intends to publish the Net Asset Value per Share on a quarterly basis, within 15 Business Days following the relevant quarter-end. Notice will be provided by the Administrator by e-mail.
Portfolio:	The Company is currently invested in CLO Income Notes in the following Managed CLOs in the following amounts:

Acis CLOs:	**Aggregate Outstanding Amount (U.S.$)**
ACIS CLO 2013-1 Ltd.	$18,558,000.00
ACIS CLO 2014-3 Ltd.	$39,750,000.00
ACIS CLO 2014-4 Ltd.	$50,750,000.00
ACIS CLO 2014-5 Ltd.	$53,000,000.00
ACIS CLO 2015-6, Ltd.	$51,850,000.00

Highland Legacy CLOs:	**Aggregate Outstanding Amount (U.S.$)**
Rockwall CDO, Ltd.	$14,000,000.00
Brentwood CLO, Ltd.	$12,000,000.00
Grayson CLO, Ltd.	$5,900,000.00
Liberty CLO, Ltd.	$17,000,000.00
HP CDO, Ltd.	$1,621,542.70
Greenbriar CLO, Ltd.	$18,000,000.00
Gleneagles CLO, Ltd.	$1,250,000.00

ACIS CLO Management	**Aggregate Outstanding Amount (U.S.$)**
Acis CLO 7	$17,850,000.00

Net Asset Value: As at the latest practicable date prior to the publication of this Offering Memorandum, the unaudited net asset value per share of the Net Asset Value was [•].

Type and class of securities: The Shares being offered under the Placing are ordinary shares of no par value in the capital of the Company.

Currency of the securities issue: U.S. Dollar

Number of securities in issue: It is expected that the issued share capital of the Company (all of which shares will be fully paid) immediately following the Placing will consist of in excess of [•] million Shares.

There are no non-paid up Shares in issue.

Description of the rights attaching to the securities: The holders of the Shares shall be entitled to receive, and to participate in, any dividends declared in relation to the Shares that they hold.

On a winding-up or a return of capital by the Company, the net assets of the Company attributable to the Shares shall be divided pro rata among the holders of the Shares.

The Shares shall carry the right to receive notice of, attend and vote at general meetings of the Company.

Unless otherwise authorised by a special resolution, the Company shall not allot equity securities on any terms unless the Company has first made an offer to each person who holds Shares to allot to him, on the same or more favourable terms, such proportion of those equity securities that is as nearly as practicable (fractions being disregarded) equal to the proportion held by the relevant person of the Shares.

Restrictions on the free transferability of the securities: The Company has elected to impose certain restrictions (pursuant to its Articles) on the Placing and on the future trading of the Shares so that the Company will not be required to register the offer and sale of the Shares under the U.S. Securities Act, so that the Company will not have an obligation to

register as an investment company under the U.S. Investment Company Act and related rules and to address certain ERISA, U.S. Tax Code and other considerations. These transfer restrictions, which will remain in effect until the Company determines in its sole discretion to remove them, may adversely affect the ability of Shareholders to trade the Shares. Due to the restrictions described below, potential investors in the United States and U.S. Persons (including persons acting for the account or benefit of any U.S. Person) are advised to consult legal counsel prior to making any offer, resale, exercise, pledge or other transfer of the Shares.

Subject to certain exceptions, the Placing is only being made outside the United States to non-U.S. Persons in reliance on Regulation S under the U.S. Securities Act.

Dividend policy:

Whilst not forming part of the investment objective or policy of the Company, dividends will be payable in respect of each calendar quarter, payable in the month following the end of such quarter. During the Investment Period excess cash or interest from the portfolio will be reinvested by the Company with the objective of growing the NAV.

During the Investment Period, on the 15th of February, May, August and November of each calendar year. beginning May 15, 2018 (each a "**Quarterly Dividend Date**"), the Company will target a dividend to each Shareholder at a rate of at least 8% per annum, based on such Shareholder's aggregate capital contributions as of the prior Quarterly Dividend Date (the "**Target Dividend**").

Following the Investment Period, excess cash or, interest and proceeds from the realization of portfolio investments after satisfaction of all expenses, debts, liabilities and obligations of the Company will be distributed by the Company to the Shareholders as a dividend on the Quarterly Dividend Date in accordance with the distribution priority as follows (the "**Distribution Priority**"):

First, 100% to the Shareholders *pro rata* based on the number of Shares held until each Shareholder has received aggregate distributions from the Company equal to all capital contributions made by such Shareholder plus an amount necessary for such Shareholder to receive a cumulative rate of return of 8.0% per annum, compounded annually;

Second, 100% to the Portfolio Manager until the Portfolio Manager has received aggregate distributions from the Company equal to 20% of the sum of all distributions made in excess of aggregate capital contributions made by Shareholders;

Third, 80% to the Shareholders *pro rata* based on the number of Shares held and 20% to the Portfolio Manager until each Shareholder has received aggregate distributions from the Company equal to all capital contributions made by such Shareholder plus an amount necessary for such shareholder to receive a cumulative rate of return of 16% per annum, compounded annually; and

Thereafter, 70% to the Shareholders *pro rata* based on the number of Shares held and 30% to the Portfolio Manager.

The total net proceeds and an estimate of the total expenses of the issue/offer, including estimated expenses charged to the investor by the issuer or the offeror:	On the basis that [●] million Shares are issued under the Placing, Net Placing Proceeds are expected to be approximately U.S. $[●]. The initial expenses of the Company are those which are necessary for the Placing, and are expected to be less than [●] per cent of the Gross Placing Proceeds. These expenses will be paid on or around the Placing and will include, without limitation: the cost of settlement and escrow arrangements; printing, advertising and distribution costs; legal fees; and any other applicable expenses.
Reasons for the offer and use of proceeds:	The Company is making the offer in order to raise the Net Placing Proceeds which will be invested in accordance with the Company's investment objective and policy, including its indirect investment the Management Companies.
Expenses related to the Placing:	The expenses of the Company related to the Placing are expected to be less than [●] per cent of the Gross Placing Proceeds. These expenses will be paid on or around the Placing and will include, without limitation: the cost of settlement and escrow arrangements; printing, advertising and distribution costs; legal fees; and any other applicable expenses. All costs associated with the Placing will be borne by the Company after the Placing and therefore the Net Placing Proceeds will be lower than the Gross Placing Proceeds immediately following the Placing.
Ongoing annual expenses:	Based on Gross Placing Proceeds of U.S. $[●] million the Company's total annual expenses are estimated to be approximately U.S. $[●], or less than [●] per cent of the net proceeds. These expenses will include the following: *Highland, Acis and the Management Companies* Please see above in section titled "*Company Directors and Administration—Portfolio Manager—Highland Fees*". *Administrator* Under the terms of the Administration Agreement, the Administrator is entitled to an annual administration fee of up to [●] per cent per annum of the Net Asset Value [NTD: To conform to updated fee schedule.] of the Company per annum, payable monthly in arrears, and other miscellaneous fees and expenses reimbursed, in each case, as determined in the agreement. *Registrar* The Registrar is entitled to an annual fee of £[2,500●] from the Company for creation and maintenance of the share register. Other registrar activity is charged for in accordance with the Registrar's normal tariff as published from time to time. *Custodian* Under the terms of the Custody Agreement, the Custodian is entitled to receive transaction charges and sub custodian charges will be recovered by the

Custodian from the Company as they are incurred by the relevant sub custodian. All such charges shall be charged at normal commercial rates.

Directors

The Directors are remunerated for their services at a fee of £35,000 per annum (£40,000 for the Chairman). For more information in relation to the remuneration of the Directors, please refer to the section of this Offering Memorandum entitled "Memorandum and Articles" in "Additional Information on the Company".

Other operational expenses

All other ongoing operational expenses of the Company (excluding fees paid to service providers as detailed above) are borne by the Company including, without limitation: the incidental costs of making its investments and the implementation of its investment objective and policy; travel, accommodation and printing costs; the cost of directors' and officers' liability insurance; corporate brokers' fees; audit and legal fees; and brokerage fees. All reasonably and properly incurred out-of-pocket expenses of the Administrator, the Registrar, the Custodian, and the Directors relating to the Company are borne by the Company.

Save to the extent disclosed in the sections set out above, there is no specific monetary cap on the amount of fees, charges, and expenses which are directly or indirectly borne by investors. The amount of charges and expenses which are borne by an investor may vary from year to year.

For more information on expenses charged during the most recent financial year, prospective investors should review the Company's annual audited financial statements (if any) for the prior financial year.

Terms and conditions of the offer:

[•] million Shares are being marketed and are available under the Placing.

Shares will be issued under the Placing at a price per Share based on the then current NAV of the Company. The maximum number of Shares to be issued by the Company is 325 million and the minimum number of Shares will be [•] million.

Placees may acquire of Shares pursuant a combination of issuance and transfer from existing Shareholders.

Placees may also enter into commitments to acquire Shares pursuant a combination of issuance and transfer from existing Shareholders.

The Placing is not being underwritten.

No fractions of Shares will be issued. If a fractional entitlement to a Share arises on an application, the number of Shares issued will be rounded down to the nearest whole number. Any rounding will be retained for the benefit of the Company.

Press Releases:

Neither the Portfolio Manager, the Company nor any Shareholder shall issue or approve any press release or other announcement referring to the identity of a Shareholder without the prior written consent of the applicable Shareholder.

RISK FACTORS

Investment in the Company should be regarded as long term in nature and involving a high degree of risk. Accordingly, prospective investors should consider carefully all of the information set out in this Offering Memorandum and the risks relating to the Company and the Shares including, in particular, the risks described below which are not presented in any order of priority and may not be an exhaustive list or explanation of all the risks which investors may face when making an investment in the Shares and should be used as guidance only.

Only those risks which are believed to be material and currently known to the Company in relation to itself and its industry as at the date of this Offering Memorandum have been disclosed. Additional risks and uncertainties not currently known, or deemed immaterial at the date of this Offering Memorandum, may also have an adverse effect on the business, results of operations, financial conditions and prospects of the Company and its net asset value. Potential investors should review this Offering Memorandum carefully and in its entirety and consult with their professional advisers before making an application to invest in the Shares.

Prospective investors should note that the risks relating to the Company and the Shares summarised in the section of this document headed "Summary" are the risks that the Directors believe to be the most essential to an assessment by a prospective investor of whether to consider an investment in the Shares. However, as the risks which the Company faces relate to events and depend on circumstances that may or may not occur in the future, prospective investors should consider not only the information on the key risks summarised in the section of this document headed "*Summary*" but also, among other things, the risks and uncertainties described below.

RISKS RELATING TO THE COMPANY

The Company is a recently incorporated company incorporated under the laws of Guernsey with limited history

The Company was incorporated under the laws of Guernsey on 30 March 2015. It commenced operations after the initial Placing in August 2015. As the Company has a limited operating history, investors have limited information on which to evaluate the Company's ability to achieve its investment objective or implement its investment strategy and provide a satisfactory investment return. An investment in the Company is therefore subject to all the risks and uncertainties associated with a recently formed business, including the risk that the Company will not achieve its investment objective and that the value of an investment in the Company could decline substantially as a consequence. Any failure by the Company to do so may adversely affect its business, financial condition, results of operations and/or its NAV.

The Company's returns and operating cash flows depend on many factors, including the price and performance of the investments, the availability and liquidity of investment opportunities falling within the Company's investment objective and policy, the level and volatility of interest rates, readily accessible short-term borrowings, the conditions in the financial markets and economy, the financial performance of obligors under the investments and the Company's ability successfully to operate its business and execute its investment strategy. There can be no assurance that the Company's investment strategy will be successful.

The Company's target return and target dividend yield are based on estimates and assumptions that are inherently subject to significant business and economic uncertainties and contingencies, and the actual return and dividend yield may be materially lower than the target return and target dividend yield and could be negative

The Company's target return and target dividend yield set forth in this Offering Memorandum are targets only and are based on estimates and assumptions concerning the performance of its investment portfolio which will be subject to a variety of factors including, without limitation, the availability of investment opportunities, asset mix, value, volatility, holding periods, performance of underlying portfolio debt issuers, investment liquidity, borrower default, changes in current market conditions, interest rates, government regulations or other policies, the worldwide economic environment, changes in law and taxation, natural disasters, terrorism, social unrest and civil disturbances or the occurrence of risks described elsewhere in this Offering Memorandum, which are inherently subject to significant business, economic and market uncertainties and contingencies, all of which are beyond the control of the Company and which may adversely affect the Company's ability to achieve its target return and target dividend yield. Such

targets are based on market conditions and the economic environment at the time of assessing the proposed targets and the assumption that the Company will be able to implement its investment policy and strategy successfully, and are therefore subject to change. There is no guarantee or assurance that the target return and/or target dividend yield can be achieved at or near the levels set forth in this Offering Memorandum. Accordingly, the Company's actual rate of return and actual dividend yield achieved may be materially lower than the targets, or may result in a loss. A failure to achieve the target return and/or target dividend yield set forth in this Offering Memorandum may adversely affect the Company's business, financial condition, results of operations and/or its NAV.

An investment in the Company will be a speculative investment of a long-term nature and involving a high degree of risk. Shareholders could lose all or a substantial portion of their investment in the Company. Shareholders must have the financial ability, sophistication, experience and willingness to bear the risks of an investment in the Company.

Material changes affecting global debt and equity capital markets may have a negative effect on the Company's business, financial condition, results of operations, and/or its NAV

The global financial markets have experienced extreme volatility and disruption in recent years, as evidenced by a lack of liquidity in the equity and debt capital markets, significant write-offs in the financial services sector, the repricing of credit risk in the credit market and the failure of major financial institutions. Despite actions of governmental authorities, these events contributed to general economic conditions that have materially and adversely affected the broader financial and credit markets and reduced, and in certain circumstances, significantly reduced, the availability of debt and equity capital.

Further, within the banking sector, the default of any institution could lead to defaults by other institutions. Concerns about, or default by, one institution could lead to significant liquidity problems, losses or defaults by other institutions, because the commercial soundness of many financial institutions may be closely related as a result of their credit, trading, clearing or other relationships. This risk is sometimes referred to as "systemic risk" and may adversely affect other third parties with whom the Company deals. The Company may therefore be exposed to systemic risk when the Company deals with various third parties whose creditworthiness may be exposed to such systemic risk.

Recurring market deterioration may materially adversely affect the ability of an issuer whose debt obligations form part of the Company's portfolio, or an issuer whose debt obligations form part of a CLO in which the Company holds CLO Notes, to service its debts or refinance its outstanding debt. Further, such financial market disruptions may have a negative effect on the valuations of the investments (and, by extension, on the Company's NAV), and on the potential for liquidity events involving such investments. In the future, non-performing assets in the Company's portfolio may cause the value of that portfolio to decrease (and, by extension and/or its the NAV to decrease). Adverse economic conditions may also decrease the value of any security obtained in relation to any of the investments.

Conversely, in the event of sustained market improvement, the Company may have access to a reduced number of attractive potential investment opportunities, which also may result in limited returns to Shareholders.

The Company's NAV is subject to valuation risk and the Company can provide no assurance that the NAVs it records from time to time will ultimately be realised

The Company's NAV will be calculated by third parties and will be subject to valuation risk (see the risk factor entitled "*The investments may be difficult to value accurately and, as a result, the Company may be subject to valuation risk*"). If a valuation estimate provided to the Company by a third party subsequently proves to be incorrect, no adjustment to any previously calculated NAV will be made. Any acquisitions or disposals of Shares based on previous erroneous NAVs may result in losses for shareholders.

The investments held by the Company will be valued quarterly and the Company's Net Asset Value will be calculated based on these values. Therefore, the actual value of the investments at any given time may be different from the value based on which the Company's latest Net Asset Value has been calculated.

Investors should note that where a loan becomes subject to a Forward Purchase Agreement (described further in the section of this Offering Memorandum entitled "*Additional Information on the Company*") the Company will (subject to certain conditions as set out in the section of this Offering Memorandum entitled "*Additional Information on the*

Company") neither receive the gain nor bear the loss that occurs between the date when the loan is added to the Forward Purchase Agreement and the date when the transfer occurs.

Each of the Company, Acis and the Management Companies is reliant on Highland (acting in its different capacities), asset management subsidiaries and other third party service providers to carry on their businesses and a failure by one or more service providers may materially disrupt the business of the Company and or the Management Companies

The Company has no employees and its directors have all been appointed on a non-executive basis. Highland will, as part of the services to be provided under the terms of the Portfolio Management Agreement, be responsible for selecting the portfolio of investments and the acquisition, disposition or sale of investments and providing the Company with the necessary personnel, credit research and other resources to perform the functions necessary to the business of the Company. In addition, Highland or its affiliates, including Acis or the Management Companies, may also act as CLO Manager in respect of the Managed CLOs from time to time. The Company may also invest in, provide debt financing to, or purchase performance-linked notes from, asset management subsidiaries, affiliated with the Company, Highland or Acis, including the Management Companies, and which may act as the asset manager of certain U.S. or European CLOs in order to satisfy certain U.S. or European risk retention requirements. Therefore, the Company is reliant upon the performance of Highland and/or its affiliates, asset management subsidiaries of the Company and other third party service providers for the performance of certain functions.

Highland CLO Management relies on Highland for access to its employees (which are shared with Highland). Acis CLO Management relies on Acis for access to its employees (which are shared with Acis). Highland and Acis, as applicable, will, as part of the services to be provided under the terms of the Staff and Services Agreements, be responsible for providing the Company with the necessary credit research, back office and other resources to perform the functions necessary to the business of each of the Management Companies, including its management of CLOs. Therefore, each of the Management Companies is reliant upon the performance of Highland and Acis, as applicable, for the performance of essential functions, and may be unable to properly manage CLOs without the support of Highland or Acis, as applicable.

Failure by any service provider to carry out its obligations to the Company or the applicable Management Company in accordance with the applicable duty of care and skill, or at all, or termination of any such appointment may adversely affect the Company's or the applicable Management Company's, as applicable, business, financial condition, results of operations and/or its NAV.

In the event that it is necessary for the Company or the applicable Management Company to replace any third party service provider, it may be that the transition process takes time, increases costs and may adversely affect the Company's or the applicable Management Company's, as applicable, business, financial condition, results of operations and/or its NAV.

The Shares will be subordinated to the rights of any secured Warehouse Loan Facility Provider or holder of any other future indebtedness or preference shares of the Company.

The Company is permitted to issue preference shares and incur indebtedness, including secured debt in the form of one or more Warehouse Loan Facilities or other lending facilities. Such preference shares and indebtedness will rank ahead of the Shares in respect of any distributions or payments by the Company to Shareholders. In an enforcement scenario under any Warehouse Loan Facility, the provider(s) of such facilities will have the ability to enforce their security over the assets of the Company and to dispose of or liquidate (on their own behalf or through a security trustee or receiver) the assets of the Company in a manner which is beyond the control of the Company. In such an enforcement scenario, there is no guarantee that there will be sufficient proceeds from the disposal or liquidation of the Company assets to repay any amounts due and payable on the Shares and this may adversely affect the performance of the Company's business, financial condition, results of operations and/or its NAV.

Exculpation and Indemnification

The Articles contain provisions that, subject to applicable law, reduce or modify the duties that the Indemnified Persons would otherwise owe to the Company and the Shareholders. Under the Articles, the Company will indemnify each Indemnified Person against all losses, liabilities, damages, expenses or costs (including any claim, judgment,

award, settlement, reasonable legal and other professional fees and disbursements and other costs or expenses incurred in connection with the defence of any proceeding, whether or not matured or unmatured or whether or not asserted or brought due to contractual or other restrictions, joint or several) (collectively, the "**Indemnified Losses**") to which an Indemnified Person may become subject by reason of any acts or omissions or any alleged acts or omissions arising out of such Indemnified Person's or any other person's activities in connection with the conduct of the business or affairs of the Company and/or an investment as the Portfolio Manager, its affiliates, any officer, director, manager, employee or any direct or indirect partner, member, stockholder, agent or legal representative (e.g., executors, guardians and trustees) of the Portfolio Manager and its affiliates, including persons formerly serving in such capacities, any person who serves at the request of the Portfolio Manager or the Board pursuant to the Articles on behalf of the Company as an officer, director, manager, partner, member, employee, stockholder, agent or legal representative of any other person serving at the request of the Portfolio Manager or the Board pursuant to the Articles on behalf of the Company in such capacity as listed above, each member of the Advisory Board and each member of any subcommittee thereof (including, solely in connection with matters relating to the Advisory Board or such subcommittee, the Shareholder and/or other person on whose behalf the Advisory Board member or subcommittee member is serving and such Shareholder's and/or other person's affiliates) and any assignees or successors of the foregoing, unless such Indemnified Losses result from any action or omission which constitutes, with respect to such person, a Triggering Event; provided, that notwithstanding the foregoing, the members of the Advisory Board or members of any subcommittee thereof (including, solely in connection with matters relating to the Advisory Board or such subcommittee, the Shareholder and/or other person on whose behalf the Advisory Board member or subcommittee member is serving and such Shareholder's and/or other person's affiliates) shall be subject only to a duty of good faith (it being understood that, to the fullest extent permitted by law, any such member, in determining to take or refrain from taking any action, shall be permitted to take into consideration only the interests of the Shareholder and/or other person represented by such member and, in so doing, shall, to the fullest extent permitted by law, be considered to have acted in good faith). Any claims arising from a Triggering Event shall be limited to actual out-of-pocket damages incurred as a direct consequence of the Triggering Event, and shall not include punitive, consequential or other damages or lost profits.

The fees, costs and expenses (whether or not advanced) and other liabilities resulting from the Fund's indemnification obligations are generally operating expenses and will be paid by or otherwise satisfied out of the assets of the Company. The application of the foregoing standards may result in Shareholders having a more limited right of action in certain cases than they would in the absence of such standards. In particular, a "gross negligence" standard of care has been held in some jurisdictions to involve conduct that is closer to wilful misconduct. As a result of these considerations, even though such provisions in the Articles will not act as a waiver on the part of any Shareholder of any of its rights under applicable U.S. securities laws or other laws, the applicability of which is not permitted to be waived, the Company may bear significant financial losses even where such losses were caused by the negligence (even if heightened) of such Indemnified Persons. Such financial losses may have an adverse effect on the returns to the Shareholders and, if the assets of the Company are insufficient to satisfy the Company's indemnification obligations, may result in the recall by the Board of distributions previously made to the Shareholders, subject to certain limitations set forth in the Articles.

RISKS RELATING TO THE INVESTMENT STRATEGY

General Background relating to the United States and European Risk Retention Requirements

Effective for CLOs on December 24, 2016, the so-called "risk retention" rules promulgated by U.S. federal regulators under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "**Dodd-Frank Act**") require a "securitizer" or "sponsor" (which in the case of a CLO is considered the collateral manager) to retain directly or through a "majority-owned affiliate" at least 5% of the credit risk of the securitized assets. Highland CLO Management is being formed with intention of acting as a "majority-owned affiliate" of Highland as a "sponsor" for purposes of holding the applicable Retention Interest under U.S. Risk Retention Rules with respect to Managed CLOs and to provide a vehicle whereby the Company can invest in Managed CLOs. Acis CLO Management is being formed with intention of acting as a "majority-owned affiliate" of Acis as a "sponsor" for purposes of holding the applicable Retention Interest under U.S. Risk Retention Rules with respect to Acis CLO 7 and to provide a vehicle whereby the Company can invest in Acis CLO 7.

The CLOs in which the Company invests may be structured with the intent to be compliant with the European risk retention requirements for securitisation transactions, meaning, collectively, (i) Articles 404-410 of Regulation (EU)

No 575/2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 (the "**CRR**") as supplemented by Commission Delegated Regulation (EU) No. 625/2014 (the "**CRR Retention Requirements**") (ii) Articles 51-54 of the Commission Delegated Regulation (EU) No 231/2013 (the "**AIFMD Level 2 Regulation**") implementing Article 17 of Directive 2011/61/EU on Alternative Investment Fund Managers (the "**AIFMD**"), and (iii) Article 254-257 of the Commission Delegated Regulation (EU) 2015/35 implementing Article 135(2) of Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance, as amended by Directive 201/51/EU (and as supplemented by Articles 254-257 of Commission Delegated Regulation (EU) 2015/35) (the "**Solvency II Level 2 Regulation**"), each together with any applicable guidance, technical standards and related documents published by any European regulator in relation thereto and any implementing laws or regulations in force in any Member State of the European Union (together with the CRR Retention Requirements and the AIFMD Level 2 Regulation, the "**EU Retention Requirements**" and, together with the risk retention requirements under the U.S. Risk Retention Rules, the "**Retention Requirements**"). Any such Company investments in CLOs intended to be compliant with the EU Retention Requirements will continue to be subject to the EU Retention Requirements. However, it is expected that, going forward, the Company's investments in CLOs will be done primarily on an indirect basis through its indirect interest in the Management Companies. As used herein, any reference to the Company's investments in CLOs or CLO Retention Notes shall be deemed to refer primarily to (i) prior to the formation of the Management Companies, the CLO securities the Company acquired directly and (ii) following the formation of the Management Companies, the indirect interests in CLOs it intends to hold through the applicable Management Company. Furthermore, any reference to Managed CLOs or CLOs managed by Highland, Acis and the Management Companies shall be deemed to refer primarily to (i) for CLOs formed prior to the formation of Acis, CLOs managed by Highland (ii) for CLOs formed after the formation of Acis and prior to the formation of Acis CLO Management, CLOs managed by Acis, (iii) for CLOs formed following the formation of Acis CLO Management and prior to the formation of Highland CLO Management, CLOs managed by Acis CLO Management and (iv) for CLOs formed following the formation of Highland CLO Management, CLOs managed by Highland CLO Management.

Although the Company and the Management Companies intend to comply with the Retention Requirements, there has been no explicit guidance regarding how entities may be structured for this purpose and therefore the regulatory environment in which the CLOs intend to operate is highly uncertain. There can be no assurance that applicable governmental authorities will agree that any of the transactions, structures or arrangements entered into by the Company or the applicable Management Company, and the manner in which it expects to hold retention interests, will satisfy the Retention Requirements. If such transactions, structures or arrangements are determined not to comply with the Retention Requirements, the applicable Management Company or the Company (as applicable) could become subject to regulatory action which could in turn materially and adversely affect the Company and/or the potential return to shareholders. The impact of the Retention Requirements on the securitization market is also unclear and such rules may negatively impact the value of the CLOs and their underlying assets.

The investments may be difficult to value accurately and, as a result, the Company may be subject to valuation risk

The Company's portfolio may at any given time include, directly and indirectly, securities or other financial instruments or obligations which are very thinly traded, for which no market exists or which are restricted as to their transferability under applicable securities laws. These investments may be extremely difficult to value accurately. Further, because of overall size or concentration in particular markets of positions held by the Company, the value of its investments which can be liquidated may differ, sometimes significantly, from their valuations. Third party pricing information may not be available for certain positions held by the Company. Investments to be held by the Company may trade with significant bid-ask spreads. The Company is entitled to rely, without independent investigation, upon pricing information and valuations furnished by third parties, including pricing services and valuation sources. In the absence of fraud, gross negligence (under New York law), bad faith or manifest error, valuation determinations in accordance with the Company's valuation policy will be conclusive and binding.

Market factors may result in the failure of the investment strategy

Strategy risk is associated with the failure or deterioration of an investment strategy such that most or all investment managers employing that strategy suffer losses. Strategy-specific losses may result from excessive concentration by multiple market participants in the same investment or general economic or other events that adversely affect particular strategies (for example the disruption of historical pricing relationships). Furthermore, an imbalance of supply and demand favouring borrowers could result in yield compression, higher leverage and less favourable terms to the

detriment of all investors in the relevant asset class. The investment strategy employed by the Company is speculative and involves substantial risk of loss in the event of a failure or deterioration in the financial markets, although the Company has certain investment limits which define to a degree how it invests. As a result, the Company's investment strategy may fail, and it may be difficult for the Company to amend its investment strategy quickly or at all should certain market factors appear, which may adversely affect the Company's business, financial condition, results of operations and/or its NAV.

The investment strategy of the Company includes investing predominantly in CLO Notes, and, under certain circumstances, asset management subsidiaries, all of which are subject to a risk of loss of principal

The investment strategy of the Company consists of investing predominantly in CLO Notes, directly and indirectly through its investment in the Management Companies, and, under certain circumstances, asset management subsidiaries. The company may also invest in senior secured loans (for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements). Such investments may be considered to be subject to a level of risk in the case of deterioration of general economic conditions, which might increase the risk of loss of principal or investment. This could result in losses to the Company which could have a material adverse effect on the Company's business, financial condition, results of operations and/or its NAV.

In the event of a default in relation to an investment, the Company or the CLO in which the Company holds CLO Notes will bear a risk of loss of principal, and accrued interest

Performance and investor yield on the Company's investments (including both direct investments by the Company in senior secured loans (for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements) and investments in senior secured loans held by CLOs in which the Company holds CLO Notes) may be affected by the default or perceived credit impairment of such investments and by general or sector specific credit spread widening. Credit risks associated with the investments include (among others): (i) the possibility that earnings of an obligor may be insufficient to meet its debt service obligations; (ii) an obligor's assets declining in value; and (iii) the declining creditworthiness, default and potential for insolvency of an obligor during periods of rising interest rates and economic downturn. An economic downturn and/or rising interest rates could severely disrupt the market for the investments and adversely affect the value of the investments and the ability of the obligors thereof or the CLO to repay principal and interest. In turn, this may adversely affect the Company's business, financial condition, results of operations and/or its NAV.

In the event of a default in relation to an investment held by the Company or a CLO in which the Company holds CLO Notes, the Company will bear a risk of loss of principal and accrued interest on that investment. Any such investment may become defaulted for a variety of reasons, including non-payment of principal or interest, as well as breaches of contractual covenants. A defaulted investment may become subject to workout negotiations or may be restructured by, for example, reducing the interest rate, a write-down of the principal, and/or changes to its terms and conditions. Any such process may be extensive and protracted over time, and therefore may result in substantial uncertainty with respect to the ultimate recovery on the defaulted investment. In addition, significant costs might be imposed on the lender, further affecting the value of the investment. The liquidity in such defaulted investments may also be limited and, where a defaulted investment is sold, it is unlikely that the proceeds from such sale will be equal to the amount of unpaid principal and interest owed on that investment. This would adversely affect the value of the Company's investment portfolio and, by extension, its business, financial condition, results of operations and/or its NAV.

In the case of secured loans, restructuring can be an expensive and lengthy process which could have a material negative effect on the Company's anticipated return on the restructured loan. By way of example, it would not be unusual for any costs of enforcement to be paid out in full before the repayment of interest and principal. This would substantially reduce the Company's anticipated return on the restructured loan.

The illiquidity of investments may have an adverse impact on their price and the Company's ability to trade in them or require significant time for capital gains to materialise

Credit markets may from time to time become less liquid, leading to valuation losses on the investments making it difficult to acquire or dispose of them at prices the Company considers their fair value. Accordingly, this may impair the Company's ability to respond to market movements and the Company may experience adverse price movements

upon liquidation of such investments. Liquidation of portions of the portfolio under these circumstances could produce realised losses. The size of the Company's positions may magnify the effect of a decrease in market liquidity for such instruments. Settlement of transactions may be subject to delay and uncertainty. Such illiquidity may result from various factors, such as the nature of the instrument being traded, or the nature and/or maturity of the market in which it is being traded, the size of the position being traded, or lack of an established market for the relevant securities. Even where there is an established market, the price and/or liquidity of instruments in that market may be materially affected by certain factors.

The investment objective of the Company is to provide investors with stable income returns and capital appreciation from exposure on an indirect basis to a portfolio of predominantly floating rate senior secured loans, CLO Notes and, under certain circumstances, asset management subsidiaries. Investments which are in the form of loans are not as easily purchased or sold as publicly traded securities due to the unique and more customised nature of the debt agreement and the private syndication process. As a result, there may be a significant period between the date that the Company makes an investment and the date that any capital gain or loss on such investment is realised. Moreover, the sale of restricted and illiquid securities may result in higher brokerage charges or dealer discounts and other selling expenses than the sale of securities eligible for trading on national securities exchanges or in the over-the-counter markets. Further, the Company may not be able readily to dispose of such illiquid investments and, in some cases, may be contractually prohibited from disposing of such investments for a specified period of time, which could materially and adversely affect the Company's business, financial condition, results of operations and/or its NAV. See further the risk factor titled "*The Company will be unable to liquidate, sell, hedge or otherwise mitigate its credit risk under or associated with the CLO Retention Notes until such time as the securities of the relevant CLO have been redeemed in full (whether at final maturity or early redemption)*" below.

The Company may hold a relatively concentrated portfolio

The Company may hold a relatively concentrated portfolio. There is a risk that the Company could be subject to significant losses if any obligor, especially one with whom the Company had a concentration of investments, were to default or suffer some other material adverse change. The level of defaults in the portfolio and the losses suffered on such defaults may increase in the event of adverse financial or credit market conditions. Any of these factors could adversely affect the value of the Company's investment portfolio and, by extension, its business, financial condition, results of operations and/or its NAV.

A significant portion of the Company's investment portfolio is expected to comprise directly or indirectly of Managed CLOs advised by Highland, Acis or a Management Company, as the CLO Manager. The performance of the Company's portfolio depends heavily on the skills of Highland, Acis and the Management Companies, as applicable, in analyzing, selecting and managing the relevant CLOs. See further the sections titled "*Risks Relating to Highland and Acis*" and "*Conflicts of Interest*" below.

The Company may be exposed to foreign exchange risk, which may have an adverse impact on the value of its assets and on its results of operations

The base currency of the Company is the U.S. Dollar. Certain of the Company's assets may be invested in securities and other investments which are denominated in other currencies. Accordingly, the Company will necessarily be subject to foreign exchange risks and the value of its assets may be affected unfavourably by fluctuations in currency rates. Although the Company may utilise financial instruments to hedge against declines in the value of such assets as a result of changes in currency exchange rates, it is not obliged to do so and may terminate any hedge contract at any time. Moreover, it may not be possible for the Company to hedge against a particular change or event at an acceptable price or at all. In addition, there can be no assurance that any attempt to hedge against a particular change or event would be successful, and any such hedging failure could materially and adversely affect the Company's business, financial condition, results of operations and/or its NAV.

The hedging arrangements of the Company may not be successful

The Company's economic risks cannot be effectively hedged. However, in connection with the financing of certain investments, the Company may employ hedging techniques designed to reduce the risks of adverse movements in interest rates, securities' prices and/or currency exchange rates. However, some residual risk may remain as a result of imperfections and inconsistencies in the market and/or in the hedging contract. While such hedging transactions

may reduce certain risks, they create others. The Company directly or indirectly (through affiliates and subsidiaries) will not be permitted to enter into hedging with respect to the CLO Retention Notes.

The Company may utilise certain derivative instruments (including, without limitation, single-name credit default swaps, credit default swap and loan credit default swap indexes, equity futures and equity indexes) for hedging purposes. However, even if used primarily for hedging purposes, the prices of derivative instruments are highly volatile, and acquiring or selling such instruments involves certain leveraged risks. There may be an imperfect correlation between the instrument acquired for hedging purposes and the investments or market sectors being hedged, in which case, a speculative element is added to the highly leveraged position acquired through a derivative instrument primarily for hedging purposes. In particular, the investments which are in the form of loans may, in certain circumstances, be repaid at any time on short notice at no cost, and accordingly the hedging of interest rate or currency risk in such circumstances may be less precise than is the case with investments in the public securities market.

Furthermore, default by any hedging counterparty in the performance of its obligations could subject the investments to unwanted credit and market risks. Accordingly, although the Company may benefit from the use of hedging strategies, failure to properly hedge the market risk in the investments and/or default of a counterparty in the performance of its obligations under a hedging contract may have a material adverse effect on the Company's business, financial condition, results of operations and/or its NAV, and such material adverse effects may exceed those which may have resulted had no hedging strategy been employed.

Under certain hedging contracts that the Company may enter into, the Company may be required to grant security interests over some of its assets to the relevant counterparty as collateral

In connection with certain hedging contracts, the Company may be required to grant security interests over some of its assets to the relevant counterparty to such hedging contract as collateral. Such hedging contracts typically will give the counterparty the right to terminate the agreement upon the occurrence of certain events. Such termination events may include, among others, a failure by the Company to pay amounts owed when due, a failure to provide required reports or financial statements, a decline in the value of the investments secured as collateral, a failure to maintain sufficient collateral coverage, a failure by the Company to comply with its investment policy and any investment restrictions, key changes in the Company's management, a significant reduction in the Company's Net Asset Value, and material violations of the terms, representations, warranties or covenants contained in the hedging contract, as well as other events determined by the counterparty. If a termination event were to occur, there may be a material adverse effect on the Company's business, financial condition, results of operations and/or its NAV.

The use of leverage by the Company may increase the volatility of returns and providers of leverage would rank ahead of investors in the Company in the event of insolvency

The Company may employ leverage in order to increase investment exposure with a view to achieving its target return, in the form of one or more committed credit facilities. Leverage may come in the form of CLO securitizations.

While leverage presents opportunities for increasing total returns, it can also have the effect of increasing the volatility of the Shares, including the risk of total loss of the amount invested. If income and capital appreciation on investments made with borrowed funds are less than the costs of the leverage, the Net Asset Value will decrease. The effect of the use of leverage is to increase the investment exposure, the result of which is that, in a market that moves adversely, the possible resulting loss to investors' capital would be greater than if leverage were not used. As a result of leverage, small changes in the value of the underlying assets may cause a relatively large change in the value of the Company. Many financial instruments used to employ leverage are subject to variation or other interim margin requirements, which may force premature liquidation of investments. Investors should be aware that the use of leverage by the Company can be considered to multiply the leverage effect on their investment returns in the Company. As described above, while this effect may be beneficial when markets' movements are favourable, it may result in a substantial loss of capital when markets' movements are unfavourable.

In addition, such leverage may involve granting of security or the outright transfer of specific investments in the portfolio. Since there is no security created in respect of the Shares, any insolvency of the Shareholders could rank behind the Company's financing and hedging counterparties, whose claims will be considered as indebtedness of the Company and may be secured. Leverage does create opportunities for greater total returns on the investments but

simultaneously may create special risk considerations by exaggerating changes in the total value of the Net Asset Value and in the yield on the investments held by the Company.

In addition, to the extent leverage is employed, the Company may be required to refinance transactions from time to time. On each refinancing, the applicable counterparty may choose to re-negotiate the terms of each transaction or indeed not to refinance the transaction at all. To the extent refinancing facilities are not available in the market at economic rates or at all, the Company may be required to sell assets at disadvantageous prices. Any such deleveraging may result in losses on investments which could be severe and accordingly could have a material adverse effect on the Company's business, financial condition, results of operations and/or its NAV.

Interest rate fluctuations could expose the Company to additional costs and losses

The prices of the investments that may be held by the Company tend to be sensitive to interest rate fluctuations and unexpected fluctuations in interest rates could cause the corresponding prices of a position to move in directions which were not initially anticipated. In addition, interest rate increases generally will increase the interest carrying costs of borrowed securities and leveraged investments. Further, the Company may invest in both floating and fixed rate securities and interest rate movements will affect those respective securities differently. In particular, when interest rates rise significantly the value of fixed interest rate securities often fall. Furthermore, to the extent that interest rate assumptions underlie the hedging of a particular position, fluctuations in interest rates could invalidate those underlying assumptions and expose the Company to additional costs and losses. Any of the above factors could materially and adversely affect the Company's business, financial condition, results of operations and/or its NAV.

Additional Information about LIBOR

In a speech on 27 July 2017, Andrew Bailey, the Chief Executive of the Financial Conduct Authority ("**FCA**"), announced the FCA's intention to cease sustaining LIBOR from the end of 2021.

The FCA has statutory powers to compel panel banks to contribute to LIBOR where necessary. The FCA has decided not to ask, or to require, that panel banks continue to submit contributions to LIBOR beyond the end of 2021. The FCA has indicated that the current panel banks will voluntarily sustain LIBOR until the end of 2021. The FCA does not intend to sustain LIBOR through using its influence or legal powers beyond that date. The FCA's intention is that after 2021, it will no longer be necessary for the FCA to persuade, or to compel, banks to submit to LIBOR due to the development of alternative benchmark rates, which the FCA suggested should be based on transactions and not on reference rates that do not have active underlying markets to support them. As of the date of this Offering Memorandum, no specific alternative rates have been generally agreed in the CLO market.

It is possible that the LIBOR administrator, ICE Benchmark Administration, and the panel banks could continue to produce LIBOR on the current basis after 2021, if they are willing and able to do so. However, the survival of LIBOR in its current form, or at all, is not guaranteed after 2021 and, if LIBOR in its current form does not survive, it could cause a disruption in the credit markets generally, which could negatively impact the market value and/or transferability of the Notes.

It is currently unclear how LIBOR would be determined pursuant to existing underlying CLO indentures if LIBOR ceased to exist. If an alternative or a successor benchmark rate were determined, it may increase the risk of a mismatch between the interest rate applicable to the underlying loan assets and the interest rate applicable to the underlying collateral obligations of the CLOs held by the Company. Such mismatch could have a material adverse effect on the value and liquidity of the CLO Notes held by the Company.

Investors should be aware that: (a) any of these changes or any other changes to LIBOR could affect the level of the published rate, including to cause it to be lower and/or more volatile than it would otherwise be; (b) if the applicable rate of interest on any collateral obligation held by the Company is calculated with reference to a currency or tenor which is discontinued, such rate of interest will then be determined by the provisions of the affected collateral obligation, which may include determination by the relevant calculation agent in its discretion; (c) the administrator of LIBOR will not have any involvement in the collateral obligations or notes linked to those obligations and may take any actions in respect of LIBOR without regard to the effect of such actions on the collateral obligations or the notes; and (d) any uncertainty in the value of LIBOR or the admissions made by financial institutions that LIBOR has been manipulated or any uncertainty in the prominence of LIBOR as a benchmark interest rate due to the recent

regulatory reforms may adversely affect liquidity of the collateral obligations or the notes in the secondary market and their market value. Any of the above or any other significant change to the setting of LIBOR could materially and adversely affect the Company's business, financial condition, results of operations and/or its NAV.

In the event of the insolvency of an obligor in respect of an investment, or of an underlying obligor in respect of an investment, the return on such investment to the Company may be adversely impacted by the insolvency regime or insolvency regimes which may apply to that obligor or underlying obligor and any of their respective assets

In the event of the insolvency of an obligor in respect of an investment (and in the case of the CLO Notes, the obligors of the assets within the relevant CLO's portfolio), the Company's (or the CLO issuer's, in the case of CLO Notes) recovery of amounts outstanding in insolvency proceedings may be impacted by the insolvency regimes in force in the jurisdiction of incorporation of such obligor or in the jurisdiction in which such obligor mainly conducts its business (if different from the jurisdiction of incorporation), and/or in the jurisdiction in which the assets of such obligor are located. Such insolvency regimes impose rules for the protection of creditors and may adversely affect the ability to recover such amounts as are outstanding from the insolvent obligor under the investment, which may adversely affect the Company's business, financial condition, results of operations and/or its NAV.

Similarly, the ability of obligors to recover amounts owing to them from insolvent underlying obligors may be adversely impacted by any such insolvency regimes applicable to those underlying obligors, which in turn may adversely affect the abilities of those obligors to make payments due under the investment to the Company on a full or timely basis.

In particular, it should be noted that the United States and a number of European jurisdictions operate unpredictable insolvency regimes which may cause delays to the recovery of amounts owed by insolvent obligors or underlying obligors subject to those regimes. The different insolvency regimes applicable in the different jurisdictions result in a corresponding variability of recovery rates for senior secured loans, entered into or issued in such jurisdictions, any of which may have a material adverse effect on the performance of a CLO and, by extension, the Company's business, financial condition, results of operations and/or its NAV.

A CLO issuer may be subject to losses on investments as a result of insolvency or clawback legislation and/or fraudulent conveyance findings by courts

Various laws enacted for the protection of creditors and stakeholders may apply to certain investments that are debt obligations, although the existence and applicability of such laws will vary between jurisdictions. For example, if a court were to find that an obligor did not receive fair consideration or reasonably equivalent value for incurring indebtedness evidenced by an investment and the grant of any security interest securing such investment, and, after giving effect to such indebtedness, the obligor: (i) was insolvent; (ii) was engaged in a business for which the assets remaining in such obligor constituted unreasonably small capital; or (iii) intended to incur, or believed that it would incur, debts beyond its ability to pay such debts as they mature, such court may: (a) invalidate such indebtedness and such security interest as a fraudulent conveyance; (b) subordinate such indebtedness to existing or future creditors of the obligor; or (c) recover amounts previously paid by the obligor (including to a CLO issuer) in satisfaction of such indebtedness or proceeds of such security interest previously applied in satisfaction of such indebtedness. In addition, if an obligor in whose debt a CLO issuer has an investment becomes insolvent, any payment made on such investment may be subject to avoidance, cancellation and/or clawback as a "preference" if made within a certain period of time (which for example under some current laws may be as long as two years) before insolvency.

In general, if payments on an investment are voidable, whether as fraudulent conveyances, extortionate transactions or preferences, such payments may be recaptured either from the initial recipient or from subsequent transferees of such payments. To the extent that any such payments are recaptured from a CLO issuer, there will be an adverse effect on the performance of the CLO issuer and, by extension, on the Company's business, financial condition, results of operations and/or its NAV.

The due diligence process that the Company plans to undertake in evaluating specific investment opportunities may not reveal all facts that may be relevant in connection with such investment opportunities and any corporate

mismanagement, fraud or accounting irregularities may materially affect the integrity of the Company's due diligence on investment opportunities

When conducting due diligence and making an assessment regarding an investment, the Company will be required to rely on resources available to it, including internal sources of information as well as information provided by existing and potential obligors, any equity sponsor(s), lenders and other independent sources. The due diligence process may at times be required to rely on limited or incomplete information.

The Portfolio Manager will select investments on the Company's behalf in part on the basis of information and data relating to potential investments filed with various government regulators and publicly available or made directly available to the Portfolio Manager by the entities filing such information or third parties. Although the Portfolio Manager will evaluate all such information and data and seek independent corroboration when it considers it appropriate and reasonably available, the Portfolio Manager will not be in a position to confirm the completeness, genuineness or accuracy of such information and data. The Portfolio Manager is dependent upon the integrity of the management of the entities filing such information and of such third parties as well as the financial reporting process in general.

The value of an investment made by the Portfolio Manager on the Company's behalf may be affected by fraud, misrepresentation or omission on the part of an obligor, underlying obligor, any related parties to such obligor or underlying obligor, or by other parties to the investment (or any related collateral and security arrangements). Such fraud, misrepresentation or omission may adversely affect the value of the investment and/or the value of the collateral underlying the investment in question and may adversely affect the ability of the Portfolio Manager's on the Company's behalf to enforce its contractual rights relating to that investment or the relevant obligor's ability to repay the principal or interest on the investment.

Investment analysis and decisions by the Portfolio Manager may be undertaken on an expedited basis in order to make it possible for the Portfolio Manager to take advantage of short-lived investment opportunities. In such cases, the available information at the time of an investment decision may be limited, inaccurate and/or incomplete. Furthermore, the Portfolio Manager may not have sufficient time to evaluate fully such information even if it is available.

Accordingly, the Portfolio Manager cannot guarantee that the due diligence investigation it carries out with respect to any investment opportunity will reveal or highlight all relevant facts that may be necessary or helpful in evaluating such investment opportunity. Any failure by the Portfolio Manager to identify relevant facts through the due diligence process may cause it to make inappropriate investment decisions, which may have a material adverse effect on the Company's business, financial condition, results of operations and/or its NAV.

The collateral and security arrangements attached to an investment may not have been properly created or perfected, or may be subject to other legal or regulatory restrictions

The collateral and security arrangements in relation to secured obligations in which the Company may invest (and the security arrangements relating to the underlying assets of CLOs) will be subject to such security or collateral having been correctly created and perfected and any applicable legal or regulatory requirements which may restrict the giving of collateral or security by an obligor, such as, for example, thin capitalisation, over-indebtedness, financial assistance and corporate benefit requirements. If the investments do not benefit from the expected collateral or security arrangements, this may adversely affect the value of, or in the event of a default, the recovery of principal or interest from, such investments. Accordingly, any such failure properly to create or perfect collateral and security interests attaching to the investments may adversely affect the performance of the CLO issuer and/or the Company and, by extension, the Company's business, financial condition, results of operations and/or its NAV.

The investments will be based in part on valuations of collateral which are subject to assumptions and factors that may be incomplete, inherently uncertain or subject to change

A component of the Company's analysis of the desirability of making a given investment relates to the estimated residual or recovery value of such investments in the event of the insolvency of the obligor (and in the case of the CLO Notes, the obligors of the assets within the relevant CLO's portfolio). This residual or recovery value will be driven primarily by the value of the anticipated future cash flows of the obligor's business and by the value of any

underlying assets constituting the collateral for such investment. The anticipated future cash flows of the obligor's business and the value of collateral can, however, be extremely difficult to predict as in certain circumstances market quotations and third party pricing information may not be available. If the recovery value of the collateral associated with the investments in which the Company or a CLO issuer invests decreases or is materially worse than expected by the Company or a CLO issuer (as applicable), such a decrease or deficiency may affect the value of the investments made by the Company or a CLO issuer. Accordingly, there will be an adverse effect on the performance of the CLO issuer and/or the Company and, by extension, on the Company's business, financial condition, results of operations and/or its NAV.

CLO Income Notes are volatile and interest and principal payments payable on the CLO Income Notes are not fixed

CLO Income Notes are the most subordinated tranche of a CLO and all payments of principal and interest on such CLO Income Notes are fully subordinated. Interest and principal payments are not fixed but are based on residual amounts available to make such payments. As a result, payments on such CLO Income Notes will be made by the CLO issuer to the extent of available funds, and no payments thereon will be made until amongst other things (a) the payment of certain costs, fees and expenses have been made and (b) interest and principal (respectively) has been paid on the more senior notes of the CLO. Non-payment of interest or principal on such CLO Income Notes will be unlikely to cause an event of default in relation to the CLO issuer.

CLO Income Notes represent a highly leveraged investment in the underlying assets of the CLO issuer. Accordingly, it is expected that changes in the market value of such CLO Income Notes will be greater than changes in the market value of the underlying assets of the CLO issuer, which themselves are subject to credit, liquidity, interest rate and other risks. Utilisation of leverage is a speculative investment technique and involves certain risks to investors and will generally magnify the CLO Income Notes investors' opportunities for gain and risk of loss. In certain scenarios, the CLO Income Notes may be subject to a partial or a 100 per cent loss of invested capital. CLO Income Notes represent the most junior securities in a leveraged capital structure. As a result, any deterioration in performance of the asset portfolio of a CLO issuer, including defaults and losses, a reduction of realised yield or other factors, will be borne first by holders of such CLO Income Notes prior to the rest of the capital structure.

CLO Income Notes are a limited recourse obligation of the CLO issuer

CLO Income Notes are a limited recourse obligation of a CLO issuer and amounts payable on CLO Income Notes are payable solely from amounts received in respect of the collateral of the CLO issuer. Payments on CLO Income Notes prior to and following enforcement of the security over the collateral of a CLO issuer are subordinated to the prior payment of certain costs, fees and expenses of, or payable by, the CLO issuer and to payment of principal and interest on more senior notes of the CLO issuer. The holders of CLO Income Notes must rely solely on distributions on the collateral of the CLO for payment of principal and interest, if any, on the CLO Income Notes. There can be no assurance that the distributions on the collateral of a CLO will be sufficient to make payments on the CLO Income Notes. If distributions are insufficient to make payments on the CLO Income Notes, no other assets of the CLO issuer will be available for payment of the deficiency and following realisation of the collateral and the application of the proceeds thereof, the obligations of the CLO issuer to pay such deficiency shall be extinguished. Such shortfall will be borne in the first instance by the CLO Income Notes.

In addition, at any time whilst the CLO Income Notes are outstanding in a CLO, no CLO Income Notes holder shall be entitled to institute against the related CLO issuer, or join in any institution against such CLO issuer of, any bankruptcy, reorganization, arrangement, insolvency, examinership, winding up or liquidation proceedings under any applicable bankruptcy or similar law in connection with any obligations of the CLO issuer relating to the CLO Income Notes or otherwise owed to the CLO Income Notes holder, save for lodging a claim in the liquidation of the CLO issuer which is initiated by another party or taking proceedings to obtain a declaration as to the obligations of the CLO issuer, nor shall it have a claim arising in respect of the share capital of the CLO issuer.

Furthermore, following the establishment of the Management Companies, CLO Income Notes may not be held directly by the Company. As such the Company's interest in the CLO Income Notes may be indirect, and the Management Company, not the Company, will be entitled to exercise voting rights associated with the CLO Income Notes.

CLO Notes have limited liquidity

In addition to the restrictions mentioned in the section titled "*The Company will be unable to liquidate, sell, hedge or otherwise mitigate its credit risk under or associated with the CLO Retention Notes until such time as the securities of the relevant CLO have been redeemed in full (whether at final maturity or early redemption)*", there will usually be a limited market for notes representing collateralised loan obligations (including the CLO Notes). There is no guarantee that any party to a CLO transaction will make a secondary market in relation to the CLO Notes. There can be no assurance that a secondary market for any CLO Notes will develop or, if a secondary market does develop, that it will provide the holders of CLO Notes with liquidity of investment or that it will continue for the life of such notes. As a result, the Company may have to hold the CLO Notes for an indefinite period of time or until their early redemption date or maturity date. Where a market does exist, to the extent that an investor wants to sell the CLO Notes, the price may, or may not, be at a discount from the outstanding principal amount. There may be additional restrictions on divestment in the terms and conditions of CLO Notes.

Investments in asset management subsidiaries may subject the Company to increased regulatory scrutiny or disputes related to CLOs or other investments managed by such asset management subsidiaries

As part of its business, the Portfolio Manager may advise the Company to invest in asset management subsidiaries, affiliated with the Company, Highland, Acis or the Management Companies and which may act as the asset manager of certain U.S. or European CLOs in order to satisfy certain U.S. or European risk retention requirements. Asset managers of U.S. or European CLOs operate in a highly regulated environment, and are subject to a comprehensive statutory and regulatory regime as well as oversight by governmental agencies. In light of the current conditions in the global financial markets and economy, regulators have increased their focus on the regulation of asset managers in the U.S. and Europe. New or modified regulations and related regulatory guidance, including under Basel III and the Dodd-Frank Act, may have unforeseen or unintended adverse effects on asset managers of CLOs. These international regulations could limit an asset management subsidiary from pursuing certain business opportunities and/or impose additional costs, and otherwise indirectly materially adversely affect the Company's business operations and have other negative consequences.

Investors will not have control over the CLO management activities of Highland, Acis or the Management Companies in CLOs

Highland, Acis and/or the Management Companies, in the capacity of CLO Manager of a CLO, will have the discretion to make collateral management decisions for such CLO, including with respect to asset selection, disposition and amendments of the underlying loans. In exercising such discretion, Highland, Acis and/or the applicable Management Company will be responsible to act solely in the best interests of the applicable CLO issuer, not the Company or any Investor. Any amendment, waiver or modification of an investment could postpone the receipt of payments in respect of such investment and/or reduce distributions to Investors. The shareholders will have no right to compel Highland, Acis or the Management Companies, in their roles as CLO Manager to take or refrain from taking any actions or decisions, and the actions or decisions taken by Highland, Acis or the Management Companies as CLO Manager may expose the Investors to losses on their investment.

United States retention requirements may affect future actions of the Company and negatively impact the leveraged loan market

As part of its business, the Company may invest in asset management subsidiaries, affiliated with the Company, Highland, Acis or the Management Companies and which may act as the asset manager of certain CLOs in order to satisfy the U.S. Risk Retention Rules.

On October 21, 2014, the U.S. Risk Retention Rules were issued and became effective on December 24, 2016 with respect to asset-backed securities collateralized by assets other than residential mortgages. The statements contained herein regarding how compliance with the U.S. Risk Retention Rules may be achieved by a CLO are solely based on publicly available information as of the date hereof. Except with respect to asset-backed securities transactions that satisfy certain exemptions, the U.S. Risk Retention Rules generally require one of the sponsors of asset-backed securities or a "majority-owned affiliate" thereof to retain not less than 5% of the credit risk of the assets collateralizing asset-backed securities. The preamble to the rule text in the U.S. Risk Retention Rules indicates that a party that organizes and initiates a securitization would be the "sponsor." In the case of many collateralized loan obligation

transactions, the entity acting as collateral manager typically organizes and initiates transaction and, therefore, would be considered the "sponsor" for U.S. Risk Retention Rules purposes, as further discussed in the preamble. The U.S. Risk Retention Rules provide that if there is more than one "sponsor" of a securitization transaction, each "sponsor" is to ensure that at least one "sponsor" (or its "majority-owned affiliate") retains the requisite U.S. Retention Interest.

It is expected that Highland or Acis, as applicable, will agree to act as "sponsor" for purposes of Managed CLOs in which the Company invests, but there can be no assurance, and no representation, made that any Governmental Authority will agree that such is the case. Highland intends to treat Highland CLO Management as its "majority-owned affiliate" due to its holding of a controlling financial interest in Highland CLO Management as determined under GAAP, although there can be no assurance that Highland CLO Management will be treated as a "majority-owned affiliate" of Highland given the lack of guidance in the U.S. Risk Retention Rules on such affiliated situations. Moreover, there can be no guarantee that Highland will be able to maintain the treatment of Highland CLO Management as a "majority-owned affiliate," particularly if GAAP regulations or interpretations change over time. Acis intends to treat Acis CLO Management as its "majority-owned affiliate" due to its holding of a controlling financial interest in Acis CLO Management as determined under GAAP, although there can be no assurance that Acis CLO Management will be treated as a "majority-owned affiliate" of Acis given the lack of guidance in the U.S. Risk Retention Rules on such affiliated situations. Moreover, there can be no guarantee that Acis will be able to maintain the treatment of Acis CLO Management as a "majority-owned affiliate," particularly if GAAP regulations or interpretations change over time.

At this time, each potential investor should understand that there is uncertainty with respect to what is required to comply with the U.S. Risk Retention Rules in certain circumstances, and therefore there can be no assurance that, with respect to any Managed CLO or other CLO in which the Company invests, the applicable credit risk retention and disclosures with respect to such CLO will enable the applicable CLO Manager or U.S. retention holder to comply with the U.S. Risk Retention Rules.

In addition, there are a number of future uncertainties surrounding, U.S. Risk Retention Rules for CLO Managers, including: (i) the ultimate results of litigation currently in process brought by the Loan Syndications and Trading Association (LSTA), a major industry trade association, challenging, among other things, the regulators' application of U.S. Risk Retention Rules to collateral managers of typical so-called open market CLOs, (ii) proposed legislation designed to exclude from U.S. Risk Retention Rules, collateral managers of certain defined "QCLOs" (qualified CLOs) and (iii) future directives and interpretations by Governmental Authorities with respect to the U.S. Risk Retention Rules. If such publicly available information is altered as a result of the foregoing (or anything else), there can be no assurance that, with respect to any Managed CLO or other CLO in which the Company invests, the applicable credit risk retention and disclosures would be viewed by any Governmental Authority as sufficient to meet the requirements under the U.S. Risk Retention Rules. The failure to satisfy the requirements of the U.S. Risk Retention Rules may have a material and adverse effect on the market value and/or liquidity of the applicable CLO Notes and on Highland, Acis and the Management Companies and the Company's investments therein.

The failure by Highland, Acis and/or the Management Companies to comply with the U.S. Risk Retention Rules may have a material and adverse effect on the Company and/or the Portfolio Manager

The failure by Highland, Acis and/or the applicable Management Company to comply with the U.S. Risk Retention Rules with respect to any Managed CLO may result in regulatory actions and other proceedings being brought against Highland, Acis and/or the applicable Management Company, which could result in such person being required, among other things, to pay damages, transfer interests and/or acquire additional CLO Notes (which may or may not be available at such time for acquisition) or be subject to cease and desist orders or other regulatory action. In addition, a failure to remedy non-compliance with the U.S. Risk Retention Rules may also trigger a "cause" event under the applicable CLO Management Agreement and/or subject Highland, Acis and/or the applicable Management Company to adverse publicity and reputational risk resulting from such non-compliance. In addition, given the lack of clarity under the U.S. Risk Retention Rules with respect to the identity of the party responsible for holding U.S. risk retention interests upon a resignation or removal of a CLO Manager, if Highland, Acis and/or the applicable Management Company resigns or the applicable holders of desire to remove the Portfolio Manager in connection with any such "cause" event, there may be no successor CLO Manager willing to accept appointment as such, in which case Highland, Acis and/or the applicable Management Company will be required to continue to act as CLO Manager under the applicable CLO Management Agreement. As a result of any of the foregoing, the failure of Highland, Acis and/or the applicable Management Company to comply with the U.S. Risk Retention Rules may have a material and

adverse effect on the market value and/or liquidity of the Company's investment in the applicable CLO Notes as well as on the business, condition (financial or otherwise), assets, operations or prospects of Highland, Acis and/or the applicable Management Company and the Company.

The Company will be unable to liquidate, sell, hedge or otherwise mitigate its credit risk under or associated with the CLO Retention Notes until such time as the securities of the relevant CLO have been redeemed in full (whether at final maturity or early redemption)

In connection with the intention to comply with the Retention Requirements, each Management Company will need to, amongst other things, (a) on the closing date of a Managed CLO, commit to purchase and retain CLO Notes held in the form and at least the minimum required under the applicable Retention Requirements, as applicable, for the relevant CLO (the "**CLO Retention Notes**") and (b) undertake that, for so long as any securities of the CLO remain outstanding (including the CLO Retention Notes), it will retain its interest in the CLO Retention Notes and will not (except to the extent permitted by the EU Retention Requirements, the accompanying regulatory technical standards or any other related guidance published by the European Securities and Markets Authority) sell, hedge or otherwise mitigate its credit risk under or associated with such CLO Retention Notes. The Company or the applicable Management Company, as applicable, may make certain representations and/or give certain undertakings in favour of Managed CLOs (and/or certain other transaction parties) in respect of its ongoing retention of the CLO Retention Notes and regarding its agreement to sell certain assets to such Managed CLOs from time to time. There are currently transactions in the market which are similar to the Managed CLOs, however if an applicable regulatory authority supervising investors in a Managed CLO were to conclude that the applicable Management Company was not holding the CLO Retention Notes in accordance with the CRR, it is possible, but far from certain, that this may negatively impact the investors in such Managed CLO. If such investors decided to take action against the Company or the applicable Management Company as a result of any negative impact, this may have an adverse effect on the Company's financial performance and prospects.

In addition, with the intention of achieving classification as an "originator" (as defined in the CRR) and complying with the CRR Retention Requirements if applicable to the relevant CLO, the applicable Management Company would be required to meet the Origination Requirements.

As a result of the above commitments, the applicable Management Company will be unable to liquidate, sell, hedge or otherwise mitigate its credit risk under or associated with the CLO Retention Notes until such time as the securities of the relevant CLO have been redeemed in full (whether at final maturity or early redemption). Consequently, if any shares were to become due and repayable in connection with any resolution for their redemption, the Company, the applicable Management Company will not be obliged to immediately sell, transfer or liquidate the CLO Retention Notes and the proceeds of such CLO Retention Notes (if any) will not be available until the final maturity or early redemption in full of the securities of the relevant CLO. In addition, cash held by the Company will not be able to be used to repay any shares to the extent that such repayment could leave the Company unable to continue to originate and sell assets to the CLO issuers in order to ensure that during the relevant CLO's reinvestment period the Company, the applicable Management Company has met the Origination Requirements.

The Company or the applicable Management Company directly or indirectly, may hold a controlling equity stake in the Managed CLOs; accordingly, upon exercise by the Company or the applicable Management Company an early redemption option will result in a full redemption of the applicable CLO securities. Neither the Company nor the applicable Management Company will generally be able to exercise any early redemption options during a "non-call period" (generally lasting two years) after the closing date of the CLO. As a result of this feature and the EU Retention Requirements, the relevant CLO Retention Notes will not be permitted to be sold, transferred or liquidated during this time. In addition, even after an early redemption option is permitted to be exercised, such an option usually contains a number of conditions to its exercise including, but not limited to, a threshold that the liquidation value of the CLO collateral exceed an amount which would pay (a) all expenses of the CLO and (b) principal and accrued interest on the CLO Notes senior to the CLO Income Notes. If the liquidation value of the portfolio will not achieve this threshold at the time the Company intends to exercise its early redemption option, the CLO will not be able to be optionally redeemed by the Company at such time. In such circumstances, the Company or the applicable Management Company may not redeem the CLO Retention Notes until their final stated maturity (which may be in excess of 12 years), therefore producing no proceeds to pay to Shareholders until this point.

Potential non-compliance with or changes to the United States and European risk retention requirements

The purchase and retention of the CLO Retention Notes in a CLO will be undertaken by the Company or the applicable Management Company with the intention of achieving compliance with the U.S. Risk Retention Rules and/or the EU Retention Requirements by the relevant CLO.

The U.S. Risk Retention Rules and/or EU Retention Requirements may be amended, supplemented or revoked from time to time. There is no guarantee that existing CLOs or future CLOs will be grandfathered into the regime which results from such amendments, supplements or revocations and, as such, the CLOs in which the applicable Management Company is retaining the CLO Retention Notes, may become non-compliant with the U.S. Risk Retention Rules and/or EU Retention Requirements.

Liability for breach of a risk retention letter

The arranger of a CLO and certain other parties of a CLO in which a Management Company agrees to hold the CLO Retention Notes (in such capacity, the "**Retention Holder**") will require the applicable Management Company to execute a risk retention letter. Under a risk retention letter the applicable Retention Holder will typically be required to, amongst other things, make certain representations, warranties and undertakings: (a) in relation to its acquisition and retention of the CLO Retention Notes for the life of the CLO; and (b) regarding its agreement to sell assets to the relevant CLO from time to time. If the applicable Retention Holder sells or is forced to sell the CLO Retention Notes prior to the maturity of the relevant CLO, or the applicable Retention Holder holds insufficient cash or investments to continually sell the assets to the CLO as described above or for any other reason the applicable Retention Holder is not considered to be an "originator" (as such term is defined in the CRR), the Company may be in breach of the terms of the related risk retention letter. In such circumstances the arranger of the relevant CLO and the other parties to the related risk retention letter would have recourse to the applicable Retention Holder for losses incurred as a result of such breach. Such claims may reduce, or entirely diminish any cash or assets of the Company which may have been available to make payments on the Shares.

RISKS RELATING TO HIGHLAND AND ACIS

Past Performance Not Indicative of Future Results

The past performance of Highland and Acis and their principals and affiliates in other portfolios or investment vehicles, including, without limitation their outstanding CLO transactions, may not be indicative of the results that the Company may be able to achieve. Similarly, the past performance of Highland, Acis and their principals and affiliates over a particular period may not necessarily be indicative of the results that may be expected in future periods. Furthermore, the nature of, and risks associated with, the Company's investments may differ substantially from those investments and strategies undertaken historically by Highland, Acis and their principals and affiliates. There can be no assurance that Highland's or Acis' investment recommendations will perform as well as past investments of Highland or Acis or their principals and affiliates, that the Company will be able to avoid losses or that the Company will be able to make investments similar to the past investments of Highland, Acis and their principals and affiliates. In addition, such past investments may have been made utilizing a leveraged capital structure, an asset mix and fee arrangements that are different from the anticipated capital structure, asset mix and fee arrangements of the Company. Moreover, because the investment criteria that govern investments in the Company's portfolio do not govern the investments and investment strategies of Highland, Acis and their principals and affiliates generally, such investments conducted in accordance with such criteria, and the results they yield, are not directly comparable with, and may differ substantially from other investments undertaken by Highland, Acis and their principals and affiliates.

Acis, as CLO Manager, Relies on Highland to Perform Certain Services

Acis currently relies on Highland, a U.S. SEC-registered investment adviser under common control with Acis, pursuant to the ACM Service Agreements, to provide investment research and recommendations and operational support to Acis, including services in connection with credit research, due diligence of actual or potential investments, the execution of investment transactions, and certain loan services and administrative services. If Highland does not continue to provide such services to Acis, or there is a departure or inability of certain Highland personnel to provide such services to Acis, there can be no assurances that Acis would be able to find a substitute service provider with the

same experience as, or on the same terms as its ACM Service Agreements with, Highland. The inability of Acis to perform its duties under the applicable CLO Management Agreements or the ACLOM Services Agreements in accordance with the standard of care specified therein due to the termination of the Service Agreements could result in removal of Acis or Acis CLO Management, as applicable, under the applicable CLO Management Agreements for the Acis CLOs and Acis CLO 7.

Litigation Involving Highland and Acis

[Highland and Acis currently are and have been previously subject to various legal proceedings, many of which have been due to the nature of operating in the distressed loan business in the U.S. The legal process is often the route of last resort to recover amounts due from delinquent borrowers. The following provides a summary description of certain pending litigation against Highland and its affiliates unrelated to its distressed business. We currently do not anticipate these proceedings will have a material negative impact to Highland or Acis.

UBS: Highland and certain affiliated investment vehicles are defendants in a complaint filed on February 24, 2009 New York state court by UBS Securities LLC and UBS AG, London Branch relating to a CLO warehouse facility with respect to which UBS is attempting to extend liability beyond the two entities that bore sole risk of loss under the governing documents. On February 19, 2010, the court dismissed all claims against Highland Capital Management. UBS since has filed additional claims against Highland Capital Management and certain additional investment vehicles. On July 21, 2011, the First Appellate Division again dismissed two of UBS's four claims against Highland Capital, severely limiting the remaining two claims. The underlying trial court proceeding has been stayed pending Appellate Division review of certain of UBS's remaining claims.

Disgruntled Employees: From time to time Highland is party to disputes with disgruntled former employees. One such matter involves a former employee that improperly recorded internal Highland conversations in violation of Highland's internal policies and procedures and potentially certain criminal and regulatory provisions. The former employee has asserted counterclaims related to his time at Highland. The matter has been referred to arbitration.

In another matter, a Court ruled that a former employee breached his fiduciary duty to Highland, owed damages to Highland, and ordered the former employee to cease using or disclosing Highland's confidential information. Additionally, an award was entered in favor of the employee against a separate incentive compensation entity for an interest that was already escrowed in his name prior to trial and in which he was already vested. The dispute over the amount of his vested interest is on-going. Additionally, Highland from time to time must take action to enforce the permanent injunction against the former employee's continuing improper disclosures of Highland's confidential information.

Fund Wind-Down: Highland is engaged in litigation with a group of investors relating to the post-financial crisis wind down and distribution of the remaining assets in the Crusader hedge fund vehicle.]

Failure to Comply with Investment Advisers Act May Have an Adverse Effect on the Portfolio Manager's Performance

Highland CLO Management is a relying adviser of Highland, and Highland is a registered investment adviser registered under the Investment Advisers Act and, as such, is subject to the provisions of the Investment Advisers Act. Acis CLO Management is a relying adviser of Acis, and Acis is a registered investment adviser registered under the Investment Advisers Act and, as such, is subject to the provisions of the Investment Advisers Act. Failure to comply with the requirements imposed on Acis and/or Acis CLO Management under the Investment Advisers Act may have a significant adverse effect on Highland, Acis and/or the applicable Management Company. Highland's, Acis' and/or the applicable Management Company's ability to act as CLO Manager for Managed CLOs in which the Company holds CLO Notes may also be adversely affected by negative publicity arising from any regulatory compliance failures or other inappropriate behavior attributed to or any other negative publicity related to Highland, Acis and/or the applicable Management Company, any affiliate thereof or any of their respective investment professionals.

SEC enforcement actions

There can be no assurance that Highland, Acis and/or the Management Companies or their affiliates will avoid regulatory examination and possibly enforcement actions. Recent SEC enforcement actions and settlements involving U.S.-based private fund advisers have involved a number of issues, including the undisclosed allocation of the fees, costs and expenses related to unconsummated co-investment transactions (i.e., the allocation of broken deal expenses), undisclosed legal fee arrangements affording the applicable adviser with greater discounts than those afforded to funds advised by such adviser. Although each of Highland, Acis and the Management Companies believe the foregoing practices to have been common historically amongst private fund advisers within the U.S. private funds industry, if the SEC or any other governmental authority, regulatory agency or similar body may take issue with, or in the case of insufficient disclosure regarding acceleration of certain special fees as described below, may continue to take issue with, past or future practices of Highland, Acis or the Management Companies or any of their affiliates as they pertain to any of the foregoing. In such instances, Highland, Acis or the Management Companies and/or such affiliates may be at risk for regulatory sanction. Even if an investigation or proceeding did not result in a sanction or the sanction imposed against Highland, Acis or the Management Companies was small in monetary amount, Highland, Acis and/or the applicable Management Company or their respective affiliates may be subject to adverse publicity relating to the investigation, proceeding or imposition of any such sanction.

Potential litigation and regulatory actions may materially and adversely affect Highland, Acis and/or the Management Companies

There can be no assurance that Highland, Acis and/or the Management Companies or their affiliates will avoid potential third party or other litigation or regulatory actions under existing laws (including the U.S. Risk Retention Requirements) or laws enacted in the future. Recent SEC enforcement actions and settlements involving U.S.-based private fund advisers have involved a number of issues, including undisclosed legal fee arrangements affording the applicable adviser with greater discounts than those afforded to funds advised by such adviser and the undisclosed acceleration of certain special fees. In addition, the failure by Highland, Acis and/or the Management Companies to comply with the U.S. Risk Retention Rules may result in regulatory actions and other proceedings being brought against Highland, Acis and/or the Management Companies. If the SEC or any other Governmental Authority takes issue with the practices of Highland, Acis and/or the Management Companies or any of their affiliates as they pertain to any of the foregoing, Highland, Acis and/or the Management Companies and/or any such affiliates will be at risk for regulatory sanction. Even if an investigation or proceeding did not result in a sanction or the sanction imposed against Highland, Acis and/or the Management Companies and/or such affiliates was small in monetary amount, the adverse publicity relating to the investigation, proceeding or imposition of these sanctions could harm the Company, Highland, Acis and/or the Management Companies and/or their respective affiliates' reputations which may adversely affect the market value and/or liquidity of the Debt. There is also a material risk that Governmental Authorities in the United States and beyond will continue to adopt new laws or regulations (including tax laws or regulations), or change existing laws or regulations, or enhance the interpretation or enforcement of existing laws and regulations including the U.S. Risk Retention Rules. Any such events or changes could occur during the term of the Debt and may materially and adversely affect Highland, Acis and/or the Management Companies and its ability to operate and/or pursue its management strategies on behalf of the Issuer. Such risks are often difficult or impossible to predict, avoid or mitigate in advance.

Dependence on Highland, Acis and other collateral managers of CLOs

A significant portion of the Company's investment portfolio will comprise of its investment in the Management Companies and in Managed CLOs. The Company's investment portfolio may also include CLOs managed by other asset managers. The performance of the Company's portfolio depends heavily on the skills of Highland, Acis, the Management Companies or such other asset managers in analyzing, selecting and managing the relevant CLOs. As a result, the Company and the CLOs will be highly dependent on the financial and managerial experience of certain investment professionals associated with Highland, Acis, the Management Companies and the other asset managers, none of whom is under any contractual obligation to the Company or such CLOs to continue to be associated with Highland, Acis, the applicable Management Company or such other collateral manager for the term of the Company or any particular CLO. The loss of one or more of these individuals could have a material adverse effect on the performance of the Company and the relevant CLO.

Furthermore, Highland has informed the Company that these investment professionals are also actively involved in other investment activities and will not be able to devote all of their time to the Company's business and affairs. In

addition, individuals not currently associated with Highland may become associated with Highland and the performance of the Company and the Managed CLOs may also depend on the financial and managerial experience of such individuals. Moreover, the Portfolio Management Agreement may be terminated under certain circumstances.

The Company generally may not terminate the Portfolio Management Agreement, even in the event of the Portfolio Manager's poor performance

The Portfolio Management Agreement was negotiated between related parties and its terms may not be as favorable as if it had been negotiated with unaffiliated third parties. The Company may choose not to enforce, or to enforce less vigorously, certain of its rights under the Portfolio Management Agreement in an effort to maintain its ongoing relationship with the Portfolio Manager or Highland Capital Management, L.P., as the case may be.

Termination of the Portfolio Management Agreement is difficult and costly. In order to terminate the Portfolio Management Agreement without cause, the Company must (i) be required to register as an investment company under the provisions of the Investment Company Act of 1940 and it must notify the Portfolio Manager of such requirement, (ii) the portfolio must be liquidated in full and its financing arrangements must have been terminated or redeemed in full, or (iii) it must reach a mutual agreement with the Portfolio Manager to terminate the agreement. The initial term of the Portfolio Management Agreement is three years, with automatic renewals of three years thereafter. The Company may not choose to not renew the Portfolio Management Agreement.

The Company's ability to terminate the Portfolio Management Agreement for "cause" is limited, including grounds of wilful violation of the Portfolio Management Agreement by the Portfolio Manager and fraud or criminal activity. However, poor performance by the Portfolio Manager is not grounds for termination for cause under the Portfolio Management Agreement. See "*Material Contracts*"

RISKS RELATING TO CONFLICTS OF INTEREST

Various Potential and Actual Conflicts of Interest

Various potential and actual conflicts of interest may arise from the overall investment activity of Highland, its clients and its affiliates. The following briefly summarizes some of these conflicts, but is not intended to be an exhaustive list of all such conflicts.

The Company will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates

The following briefly summarizes certain potential and actual conflicts of interest which may arise from the overall investment activity of Highland, its clients and its affiliates, but is not intended to be an exhaustive list of all such conflicts. The scope of the activities of Highland, its affiliates, and the funds and clients managed or advised by Highland or any of its affiliates may give rise to conflicts of interest or other restrictions and/or limitations imposed on the Company in the future that cannot be foreseen or mitigated at this time.

As part of their regular business, Highland, its affiliates and their respective officers, directors, trustees, shareholders, members, partners, personnel and employees and their respective funds and investment accounts (collectively, the "**Related Parties**") hold, purchase, sell, trade or take other related actions both for their respective accounts and for the accounts of their respective clients, on a principal or agency basis, with respect to loans, securities and other investments and financial instruments of all types. Highland, its affiliates and their respective officers, directors, shareholders, members, partners, personnel and employees also provide investment advisory services, among other services, and engage in private equity, real estate and capital markets-oriented investment activities. The Related Parties will not be restricted in their performance of any such services or in the types of debt or equity investments which they may make. The Related Parties may have economic interests in or other relationships with obligors or issuers in whose obligations or securities or credit exposures the Company and/or the Managed CLOs may invest. In particular, the Related Parties may make and/or hold an investment in an obligor's or issuer's securities that may be *pari passu*, senior or junior in ranking to an investment in such obligor's or issuer's securities made and/or held by the Company and/or the Managed CLOs, or in which partners, security holders, members, officers, directors, agents, personnel or employees of such Related Parties serve on boards of directors or otherwise have ongoing relationships. Each of such ownership and other relationships may result in securities laws restrictions on

transactions in such securities by the Company and/or the Managed CLOs and otherwise create conflicts of interest for the Company and/or the Managed CLOs. In such instances, the Related Parties may in their discretion make investment recommendations and decisions that may be the same as or different from those made with respect to the Company's and/or the Managed CLOs' investments. In connection with any such activities described above, the Related Parties may hold, purchase, sell, trade or take other related actions in securities or investments of a type that may be suitable to be included as investments by the Company and/or Managed CLOs. Other than with respect to new issue Highland CLOs as described below, the Related Parties will not be required to offer such securities or investments to the Company or Managed CLOs or provide notice of such activities to the Company or Managed CLOs. In addition, in providing services under the Portfolio Management Agreement and the CLO Management Agreements, Highland may take into account its relationship or the relationships of its affiliates with obligors and their respective affiliates, which may create conflicts of interest. Furthermore, in connection with actions taken in the ordinary course of business of Highland in accordance with its fiduciary duties to its other clients, Highland may take, or be required to take, actions which adversely affect the interests of the Company and/or Managed CLOs. Except as otherwise set forth herein, including with respect to Qualifying CLOs, Designated CLO Resets, Designated CLO Refinancings and the NexBank Facility, the consent of the Advisory Board will be required with respect to transactions with any Related Party.

The Related Parties invested and may continue to make investments that would also be appropriate for the Company, Highland CLO Management, Highland CLO Management and/or the Highland CLOs. Such investments may be different from those recommended to the Company or made on behalf of the Highland CLOs, Highland CLO Management or Highland CLO Management. Neither Highland nor any Related Entity has any duty, in making or maintaining such investments, to act in a way that is favorable to the Company, Highland CLO Management, Highland CLO Management and/or the Manged CLOs or to offer any such opportunity to the Company, other than with respect to new issue Highland CLOs as described below, or the Managed CLOs. The investment policies, fee arrangements and other circumstances applicable to such other parties may vary from those applicable to the Company, Highland, Acis, the Management Companies and the Managed CLOs. Highland and/or any Related Entity may also provide advisory or other services for a customary fee to issuers or obligors whose debt obligations or other securities are held by the Company, Highland, Acis, the Management Companies and/or the Managed CLOs, and neither the Shareholders nor the Company shall have any right to such fees. Highland, Acis, the Management Companies and/or any Related Entity may also have ongoing relationships with, render services to or engage in transactions with other clients, including other issuers of collateralized loan obligations and collateralized debt obligations, who invest in assets of a similar nature to those of the Company, Highland, Acis, the Management Companies and/or the Managed CLOs, and with companies whose securities or loans are acquired by the Company, Highland, Acis, the Management Companies and/or the Managed CLOs, and may own equity or debt securities issued by obligors of debt held by the Company, Highland, Acis, the Management Companies and/or the Managed CLOs. In connection with the foregoing activities, Highland, Acis, the Management Companies and/or any Related Entity may from time to time come into possession of material nonpublic information that limits the ability of Highland to advise the Company or the Management Companies or effect a transaction for Managed CLOs, and the Company's, the Management Companies' and/or the Managed CLOs' investments may be constrained as a consequence of Highland's or Acis' inability to use such information for advisory purposes or otherwise to effect transactions that otherwise may have been initiated on behalf of its clients, including the Company, the Management Companies and/or the Managed CLOs. In addition, officers or affiliates of Highland, Acis and/or Related Parties may possess information relating to obligors of debt held by the Company, the Management Companies and/or the Managed CLOs that is not known to the individuals at Highland responsible for monitoring such investments and performing the other obligations under the Portfolio Management Agreement or CLO Management Agreements.

During the Investment Period, the Company shall receive priority allocations with respect to all CLO Income Note investment opportunities with respect to new issue Highland CLOs, over the account of the Portfolio Manager, its affiliates and Other Accounts. For the avoidance of doubt, the Portfolio Manager shall otherwise allocate investment opportunities among the Company and Highland and its affiliates and Other Accounts in accordance with its allocation policy which requires allocations among clients to be fair and equitable over time as described below. Highland, Acis and their affiliates may, from time to time, be presented with investment opportunities, other than with respect to new issue Highland CLOs during the Investment Period, that fall within the investment objectives of the Company, the Management Companies and/or the Managed CLOs and other clients, funds or other investment accounts managed by Highland, Acis or their affiliates, and in such circumstances, Highland, Acis and

their affiliates expect to allocate such opportunities among the Company, the Management Companies and/or the Managed CLOs and such other clients, funds or other investment accounts on a basis that Highland, Acis and their affiliates determine in good faith is appropriate taking into consideration such factors as the fiduciary duties owed to the Company, the Management Companies, the Managed CLOs and such other clients, funds or other investment accounts, the primary mandates of the Company, the Management Companies, the Managed CLOs and such other clients, funds or other investment accounts, the capital available to the Company, the Management Companies, the Managed CLOs and such other clients, funds or other investment accounts, any restrictions on investment, the sourcing of the transaction, the size of the transaction, the amount of potential follow-on investing that may be required for such investment and the other investments of the Company, the Management Companies, the Managed CLOs and such other clients, funds or other investment accounts, the relation of such opportunity to the investment strategy of the Company, the Management Companies and/or the Managed CLOs and such other clients, funds or other investment accounts, reasons of portfolio balance and any other consideration deemed relevant by Highland, Acis and their affiliates in good faith. Subject to the Company's priority allocation with respect to new issue Highland CLOs, Highland will allocate investment opportunities across the entities for which such opportunities are appropriate, consistent with (1) its internal conflict of interest and allocation policies and (2) the requirements of the Investment Advisers Act. Highland will seek to allocate investment opportunities among such entities in a manner that is fair and equitable over time and consistent with its allocation policy. However, there is no assurance that such investment opportunities will be allocated to the Company, the Management Companies and/or the Managed CLOs fairly or equitably in the short term or over time and there can be no assurance that the Company, the Management Companies and/or any of the Managed CLOs will be able to participate in all such investment opportunities that are suitable for it.

Although the professional staff of Highland will devote as much time to the Company as Highland deems appropriate to perform its duties in accordance with the Portfolio Management Agreement and in accordance with reasonable commercial standards, the staff may have conflicts in allocating its time and services among the Company and Highland's other accounts.

The directors, officers, personnel, employees and agents of Highland and its Related Parties may, subject to applicable law, serve as directors (whether supervisory or managing), officers, personnel, employees, partners, agents, nominees or signatories, and receive arm's length fees in connection with such service, for the Company or entities that operate in the same or a related line of business as the Company or the Management Companies, or of other clients managed by Highland or its affiliates, or for any obligor or issuer in respect of the debt, equity securities or other investments held by the Company, the Management Companies and/or Managed CLOs, or any affiliate thereof, to the extent permitted by their governing instruments, or by any resolutions duly adopted by the Company, such other entities, or any obligor or issuer (or any affiliate thereof) in respect of any of the debt, equity securities or other investments held by the Company, the Management Companies and/or Managed CLOs pursuant to their respective governing instruments, and neither the Company, The applicable Management Company nor the Managed CLOs shall have the right to any such fees.

As further described below, Highland and its Related Parties may effect client cross-transactions where Highland advises the Company or a Management Company, or causes a Managed CLO, to effect a transaction between the Company, the applicable Management Company or such Managed CLO, as applicable, and another client advised by Highland or any of its affiliates. Highland may engage in a client cross-transaction involving the Company, the Management Companies and/or Managed CLOs any time that Highland believes such transaction to be fair to the Company, the applicable Management Company and/or the Managed CLOs, as applicable, and such other client. By purchasing Shares of the Company, a Shareholder is deemed to have consented to such client cross-transactions between the Company, the applicable Management Company and another client of Highland or one of its Related Parties.

As further described below, Highland may effect principal transactions where Highland advises the Company, or causes a Managed CLO, to make and/or hold an investment, including an investment in securities, in which Highland and/or its affiliates have a debt, equity or participation interest, in each case in accordance with applicable law, which may include Highland obtaining the consent and approval of the Advisory Board of the Company prior to engaging in any such principal transaction between the Company and Highland or its affiliates. By purchasing Shares of the Company, a Shareholder is deemed to have consented to such procedures relating to principal transactions between the Company and Highland or its Related Entities, subject to consent of the Advisory Board. In addition, in the event

a Managed CLO engages in a principal trade, consent of the client may consist of consent of the board of directors of such Managed CLO (or certain professionals contracted by the board of directors, to the extent relevant), and none of the Company or its shareholders will have any additional consent rights with respect to such transaction.

Highland may advise the Company, or direct the Managed CLOs, to acquire or dispose of investments in cross trades between the Company or the Managed CLOs, as applicable, and other clients of Highland or its affiliates in accordance with applicable legal and regulatory requirements. In addition, the Company and/or the Managed CLOs may invest in securities of obligors or issuers in which Highland and/or its affiliates have a debt, equity or participation interest, and the holding and sale of such investments by the Company and/or Managed CLOs may enhance the profitability of Highland's own investments in such companies. Moreover, the Company and Managed CLOs may invest in assets originated by Highland or its affiliates. In each such case, Highland and such affiliates may have a potentially conflicting division of loyalties and responsibilities regarding the Company or the Managed CLOs, as applicable, and the other parties to such trade. Under certain circumstances, Highland and its affiliates may determine that it is appropriate to mitigate such conflicts by selling an investment at a fair value that has been calculated pursuant to Highland's valuation procedures to another client managed or advised by Highland or such affiliates. In addition, Highland may enter into agency cross-transactions where it or any of its affiliates acts as broker for the Company or a Managed CLO, as applicable, and for the other party to the transaction, to the extent permitted under applicable law. Highland may obtain the Company's written consent as provided herein if any such transaction requires the consent of the Company under Section 206(3) of the Investment Advisers Act.

Highland and/or its Related Parties may participate in creditor committees or other committees with respect to the bankruptcy, restructuring or workout of obligors or issuers of debt obligations or securities held by the Company and/or the Managed CLOs. In such circumstances, Highland may take positions on behalf of itself or Related Parties that are adverse to the interests of the Company or the Managed CLOs in the relevant investment.

Highland and/or its Related Parties may act as an underwriter, arranger or placement agent, or otherwise participate in the origination, structuring, negotiation, syndication or offering of CLOs or any senior secured loans purchased by the Company. Such transactions are on an arm's-length basis and may be subject to arm's-length fees. There is no expectation for preferential access to transactions involving CLOs or senior secured loans that are underwritten, originated, arranged or placed by Highland and/or its affiliates and the Company shall not have any right to any such fees.

There is no limitation or restriction on Highland or any of its Related Parties with regard to acting as investment adviser or collateral manager (or in a similar role) to other parties or persons. This and other future activities of Highland and/or its Related Parties may give rise to additional conflicts of interest. Such conflicts may relate to obligations that Highland's investment committee, Highland or its affiliates have to other clients.

The members of Highland's investment committee serve or may serve as personnel, officers, directors or principals of entities that operate in the same or a related line of business as the Company, or of other clients managed by Highland or its affiliates. In serving in these multiple capacities, they may have obligations to such other clients or investors in those entities, the fulfillment of which may not be in the best interests of the Company. The Company may compete with other entities managed by Highland and its affiliates for capital and investment opportunities.

There are generally no ethical screens or information barriers among Highland and certain of its affiliates of the type that many firms implement to separate persons who make investment decisions from others who might possess material, non-public information that could influence such decisions. If Highland, any of its personnel or its affiliates were to receive material non-public information about a particular obligor, issuer or CLO, or have an interest in causing the Company or a Managed CLO to acquire a particular CLO security, Highland may be prevented from causing the Company or Managed CLO to purchase or sell such asset due to internal restrictions imposed on Highland. Notwithstanding the maintenance of certain internal controls relating to the management of material non-public information, it is possible that such controls could fail and result in Highland, or one of its investment professionals, buying or selling an asset while, at least constructively, in possession of material non-public information. Inadvertent trading on material non-public information could have adverse effects on Highland's reputation, result in the imposition of regulatory or financial sanctions, and as a consequence, negatively impact Highland's ability to perform its portfolio management services to the Company and the Managed CLOs. In addition, while Highland and certain of its affiliates currently operate without information

barriers on an integrated basis, such entities could be required by certain regulations, or decide that it is advisable, to establish information barriers. In such event, Highland's ability to operate as an integrated platform could also be impaired, which would limit Highland's access to personnel of its affiliates and potentially impair its ability to advise the Company and manage the Managed CLOs' investments.

RISKS RELATING TO AN INVESTMENT IN THE SHARES

Shareholders have no right to have their Shares redeemed or repurchased by the Company

The Company has been established as a closed-ended vehicle. Accordingly, there is no right or entitlement attaching to the Shares that allows them to be redeemed or repurchased by the Company at the option of the Shareholder.

There is no public market for the Shares, and a market for the Shares may never develop, which could result in Shareholders being unable to monetize their investment.

The Shares have not been registered under any securities exchange, and, unless so registered, may not be offered or sold except pursuant to an exemption from the applicable securities exchange regulator. It is not expected that the Shares will be listed on any securities exchange in the future. The Shares are newly issued securities for which there is no established trading market. In the absence of an active trading market, Shareholders may be unable to resell the Shares at the time and for the price desired or at all. The Company can provide no assurances that the Shares will not subsequently trade below the price at which they are purchased pursuant to this Offering Memorandum.

In connection with the Company filing any registration for any securities exchange, the Company will agree to use commercially reasonable efforts to satisfy the criteria for listing and list and thereafter maintain the listing on such exchange or market so long as it is in the best interests of the Company. Each market or exchange has initial listing criteria, including criteria related to minimum bid price, public float, market makers, minimum number of round lot holders and board independence requirements that the Company can give no assurance that it will meet. The Company's inability to list or include the Shares on a securities exchange could affect the ability of Shareholders to sell their Shares subsequent to the declaration of the effectiveness of any registration statement, and consequently adversely affect the value of such Shares. In such case, Shareholders would find it more difficult to dispose of, or to obtain accurate quotations as to the market value of, the Shares. In addition, the Company would have more difficulty attracting the attention of market analysts to cover it in their research. If the Shares are approved for listing or inclusion on a securities exchange, the Company will have no prior reporting history, and thus there is no way to determine the prices or volumes at which the Shares will trade. The Company can give no assurances as to the development or liquidity of any trading market for the Shares. Shareholders may not be able to resell their Shares at or near their original acquisition price, or at any price.

In the event a market for the Shares does develop, the Shares may trade at a discount to the Net Asset Value per Share and Shareholders may be unable to realise their Shares at the Net Asset Value per Share or at any other price

The Shares may trade at a discount to the Net Asset Value per Share for a variety of reasons, including due to market or economic conditions or to the extent investors undervalue the Company.

Subject to the Companies Law, under its Articles, the Company may issue additional securities, including Shares, for any purpose. Any additional issuances by the Company, or the possibility of such issue, may cause the price of the Shares to decline.

The existence of a liquid market in the Shares cannot be guaranteed

The Shares may be admitted to a securities exchange at some point in the future, however there can be no guarantee that a liquid market in the Shares will develop or be sustained or that the Shares will trade at prices close to the Net Asset Value per Share. The number of Shares to be issued pursuant to the Placing is not yet known, and there may be a limited number of holders of Shares. Limited numbers and/or holders of Shares may mean that there is limited liquidity in such Shares which may affect: (i) a Shareholder's ability to realise some or all of their investment; (ii) the price at which such Shareholder can effect such realisation; and/or (iii) the price at which Shares trade in the secondary market. Accordingly, Shareholders may be unable to realise their investment at Net Asset Value per Share or at all.

The Shares will be subject to purchase and transfer restrictions in the Placing and in secondary transactions in the future

The Company intends to restrict the ownership and holding of its Shares so that none of its assets will constitute "plan assets" under the U.S. Plan Assets Regulations. The Company intends to impose such restrictions based on deemed representations in the case of a subscription of Shares. If the Company's assets were deemed to be "plan assets" of any plan subject to Title I of ERISA or Section 4975 of the U.S. Tax Code ("**U.S. Plan**"), pursuant to Section 3(42) of ERISA and U.S. Department of Labor regulations promulgated under ERISA by the U.S. Department of Labor and codified at 29 C.F.R. Section 2510.3-101 as amended by Section 3(42) of ERISA (collectively, the "**U.S. Plan Asset Regulations**") then: (i) the prudence and other fiduciary responsibility standards of ERISA would apply to investments made by the Company; and (ii) certain transactions that the Company or a subsidiary of the Company may enter into, or may have entered into, in the ordinary course of business might constitute or result in non-exempt prohibited transactions under Section 406 of ERISA or Section 4975 of the U.S. Tax Code and might have to be rescinded. Governmental plans and certain church plans, while not subject to Title I of ERISA or Section 4975 of the U.S. Tax Code, may nevertheless be subject to other State, local or other laws or regulations that would have the same effect as the U.S. Plan Asset Regulations so as to cause the underlying assets of the Company to be treated as assets of an investing entity by virtue of its investment (or any beneficial interest) in the Company and thereby subject the Company (or other persons responsible for the investment and operation of the Company assets) to laws or regulations that are similar to the fiduciary responsibility or prohibited transaction provisions contained in Title I of ERISA or Section 4975 of the U.S. Tax Code.

Each purchaser and subsequent transferee of the Shares will be deemed to represent and warrant that no portion of the assets used to acquire or hold its interest in the Shares constitutes or will constitute the assets of any U.S. Plan. The Articles of the Company provide that the Board of Directors may refuse to register a transfer of Shares to any person they believe to be a Non-Qualified Holder or a U.S. Plan investor. If any Shares are owned directly or beneficially by a person believed by the Board of Directors to be a Non- Qualified Holder or a U.S. Plan investor, the Board of Directors may give notice to such person requiring him either (i) to provide the Board of Directors within 30 days of receipt of such notice with sufficient satisfactory documentary evidence to satisfy the Board of Directors that such person is not a Non-Qualified Holder or a U.S. Plan investor, or (ii) to sell or transfer their Shares to a person qualified to own the same within 30 days and within such 30 days to provide the Board of Directors with satisfactory evidence of such sale or transfer. Where condition (i) or (ii) is not satisfied within 30 days after the serving of the notice, the person will be deemed, upon the expiration of such 30 days, to have forfeited their Shares.

In addition, the Placing Shares may not be offered, sold, exercised, resold, transferred or delivered, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. Persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the U.S. Securities Act and in compliance with any applicable securities laws of any state or other jurisdiction in the United States. For more information, refer to "Risks relating to regulation and taxation - The Company is not, and does not intend to become, registered in the United States as an investment company under the U.S. Investment Company Act and related rules" in this section of this Offering Memorandum.

For more information on purchase and transfer restrictions, prospective investors should refer to the section of this Offering Memorandum entitled "*Purchase and Transfer Restrictions*" in "*Placing Arrangements*".

RISKS RELATING TO REGULATION AND TAXATION

Changes in law or regulations, or a failure to comply with any laws or regulations, may adversely affect the respective businesses, investments and performance of the Company

The Company is subject to laws and regulations enacted by national and local governments.

On June 23, 2016, in a public referendum, the United Kingdom voted to leave the European Union. On March 29, 2017, the United Kingdom triggered Article 50 of the Treaty on European Union ("**Article 50**") by formally notifying the European Council of the United Kingdom's intention to withdraw from the European Union. In accordance with Article 50, the European Union shall negotiate and conclude a withdrawal agreement with the United Kingdom within 2 years of the United Kingdom triggering Article 50, although the European Council in agreement with the United Kingdom may decide to extend this period. The United Kingdom's decision to leave the European Union has caused,

and is anticipated to continue to cause, significant new uncertainties and instability in both domestic and global financial markets. These uncertainties could have a material adverse effect on the various obligors' ability to make payments due under the assets within the CLO portfolios, which in turn could have a material adverse effect on the Company's financial condition, results of operations and/or its NAV.

The Company is subject to, and is required to comply with, certain regulatory requirements that are applicable to registered investment schemes which are domiciled in Guernsey.

The laws and regulations affecting the Company are evolving and any changes in such laws and regulations may have an adverse effect on the ability of the Company to carry on its business. Any such changes may also have an adverse effect on the ability of the Company to pursue the investment policies, and may adversely affect the Company's business, financial condition, results of operations and/or its NAV.

Certain income of the Company may be subject to U.S. withholding tax, and changes in tax law may adversely affect the Company

The Company intends to make loan investments in the United States that will qualify for the "portfolio interest exemption" from U.S. withholding on interest. However, if the Company is not eligible for the portfolio interest exemption with respect to a loan paying U.S.-source interest, interest payments to the Company could be subject to a 30% withholding tax. In addition, there can be no assurance that, as a result of any change in any applicable law, rule or regulation or interpretation thereof, U.S.-source interest or other payments on the loans that were not subject to withholding tax when purchased will not in the future become subject to U.S. or other withholding tax or that the amount or rate of withholding tax to which a payment on a loan is subject might not increase.

In addition, if the Company acquires equity interests in U.S. entities, either as a result of a direct purchase or as a result of loans previously purchased by the Company being converted into equity interests, the Company could be subject to 30% U.S. withholding tax on any U.S.-source dividends. If the Company is deemed to be engaged in a trade or business in the United States as a result of its ownership of an equity interest in an entity treated as fiscally transparent in the United States or certain other investments, the Company could be subject to a tax on net income with respect to income from such equity interest or other investments, as well as a "branch profits" tax, with a combined U.S. tax rate with respect to such equity interest or other investments of approximately 54%.

If the Company is subject to U.S. withholding tax on payments from investments or is subject to U.S. net income tax, such tax would reduce the amounts available to make payments on the Placing Shares. The extent to which other source country withholding taxes may apply to the Issuer's income will depend on the actual composition of its assets.

The European Directive on Alternative Investment Fund Managers may impair marketing of the Shares to EU investors

The AIFMD was transposed into the national legislation of a number of EEA member states on 22 July 2013. The Company will be considered an Alternative Investment Fund ("**AIF**") for the purposes of AIFMD. AIFMD will allow the continued marketing of AIFs, such as the Company, under national private placement regimes where EEA member states choose to implement AIFMD national private placement regimes. In relation to the Company, such marketing will be subject to registration under the AIFMD in those EU member states where there will be marketing of the Shares to investors. To permit marketing, appropriate cooperation agreements must be in place between the supervisory authorities of the relevant EEA member states in which the Shares are being marketed and the jurisdiction of both the Company and the Portfolio Manager, as the AIFM of the Company.

Accordingly, the ability of the Portfolio Manager to market the Shares in the EEA will depend on the relevant EEA state permitting the marketing of non-EEA managed funds, the continuing status of Guernsey and the USA in relation to AIFMD and the Portfolio Manager's willingness to comply with the relevant provisions of AIFMD and the other requirements of the national private placement regimes of individual EEA states, the requirements of which may restrict the Company's ability to raise additional capital from the issue of new Shares in one or more EEA state.

Additionally, it should be noted that what is and what is not "marketing" under AIFMD can vary between EEA member states, in some cases covering most promotional activity in respect of a fund and in some cases covering only material that is sufficiently specific or precise in respect of information relating to the terms of the fund that it could

alone form the basis of a decision to invest in the fund. This in turn means that the type of promotional activity that will require registration under AIFMD can also vary between EEA member states.

However, what is and what is not "marketing" under AIFMD remains a developing area and regulatory guidance in many EEA member states is limited. It is possible that European Securities and Markets Authority ("**ESMA**") or an EEA national regulator may change its policy approach in the future or that ESMA, the European Commission or another European entity, regulatory or legislative body may have a different interpretation at a later date of what constitutes marketing under AIFMD.

If it was held that certain promotional material in respect of the fund constitutes marketing under AIFMD and was provided to investors in an EEA member state without the Company having been registered in that EEA member state for marketing under AIFMD by the Portfolio Manager, the Portfolio Manager may face regulatory sanctions as a result of non-compliance with AIFMD, and the enforceability of agreements with Shareholders may be affected.

ESMA has also consulted on the possible extension of the passport for marketing and managing under AIFMD to non-EEA based managers (the marketing and managing passports are currently only available to EEA based AIFMs) and delivered advice to the European Commission on 18 July 2016 on whether, amongst other things, the passporting regime should be extended to the management and/or marketing of AIFs by non-EEA based managers.

This advice regarding extending the passport to US domiciled AIFMs was qualified, meaning it is currently not clear if the passporting regime will be extended to the Portfolio Manager as an AIFM, nor is it clear that the European Commission consider that this advice contains a positive assessment of a sufficient number of non-EEA countries to extend the passport to these countries. If the European Commission were to consider there were sufficient grounds to extend the passport and adopted the requisite delegated act extending the passport, the national private placement regimes which are currently applicable to non-EEA AIFMs and non-EEA AIFs in EEA member states will temporarily continue to co-exist with this new non-EEA passport (the "**Third Country Passport**").

However, three years after the adoption of this delegated act, ESMA is required to issue an opinion on the functioning of the Third Country Passport and advise on the potential termination of the current national private placement regimes. If the national private placement regimes were then abolished, an AIF could not be marketed into Europe by a non-EEA AIFM except by way of the Third Country Passport, meaning in this scenario the Portfolio Manager would not be able to market the Shares in the Company in the EEA.

Any regulatory changes arising from implementation of the AIFMD (or otherwise) that limit the Company's ability to carry on its business or to market future issues of its Shares may materially adversely affect the Company's ability to carry out its investment policy successfully and to achieve its investment objective, which in turn may adversely affect the Company's business, financial condition, results of operations and/or its NAV.

Final regulations implementing the "Volcker Rule" in the United States of America were issued in December 2013 and became effective by operation of law on 1 April 2014, subject to a conformance period. The final Volcker Rule regulations revised the November 2011 proposed regulations and include certain changes to the treatment of foreign funds and non-U.S. bank investors. If the Volcker Rule applies to an investor's ownership of Shares, the investor may be forced to sell its shares, or the continued ownership of such shares may be subject to certain restrictions.

On 21 July 2010, U.S. President Barack Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act and certain provisions therein known as the "Volcker Rule." On 10 December 2013, the final Volcker Rule regulations (the "**Final Regulations**") were issued by U.S. regulators. The Final Regulations are effective from 1 April 2014, subject to a conformance period ending on 21 July 2015 (which may be extended). The Volcker Rule generally restricts certain non-U.S. banks and affiliated financial firms, collectively identified as "banking entities," from investing in and sponsoring "covered funds." In the event that a non-U.S. bank is deemed to be a "banking entity" and the Company is deemed to be a "covered fund" for purposes of the Volcker Rule, the non-U.S. bank's ownership of the Shares may be subject to investment restrictions. If so, the non-U.S. bank may be required to divest the Shares by the end of the conformance period. Depending on market conditions and other factors, if an investor is required to liquidate its investment in the Shares during the conformance period, it may suffer a loss from the price at which it purchased the Shares.

If the Company becomes subject to tax on a net income basis in any tax jurisdiction, including Guernsey or the United Kingdom, the Company's financial condition and prospects could be materially and adversely affected

The Company intends to conduct its affairs so that it will not be treated as UK resident for taxation purposes, or as having a permanent establishment or otherwise being engaged in a trade or business, in the UK. The Company intends that it will not be subject to tax on a net income basis in any country. There can be no assurance, however, that the net income of the Company will not become subject to income tax in one or more countries, including Guernsey and the United Kingdom, as a result of unanticipated activities performed by the Company, adverse developments or changes in law, contrary conclusions by the relevant tax authorities, changes in the Directors' personal circumstances or management errors, or other causes. The imposition of any such unanticipated net income taxes could materially reduce the post-tax returns available for distributions on the Shares, and consequently may adversely affect the Company's business, financial condition, results of operations and/or its NAV.

The Company may be unable to maintain its non-UK tax resident status, which would adversely affect its financial and operating results, the value of the Shares and the after-tax return to Shareholders

In order to maintain its non-UK tax resident status, the Company is required to be controlled and managed outside the United Kingdom. The composition of the Board of Directors, the place of residence of the individual Directors and the location(s) in which the Board of Directors makes decisions will be important in determining and maintaining the non-UK tax resident status of the Company. Although the Company is established outside the United Kingdom and all of the Directors live outside the United Kingdom, continued attention must be given to ensure that major decisions are not made in the United Kingdom or the Company may lose its non-UK tax resident status. As such, changes in Directors' personal circumstances or management errors could potentially lead to the Company being considered UK resident which would adversely affect the Company's business, financial condition, results of operations, NAV, the price of the Shares and/or the after-tax return to its shareholders. It is to be noted that provisions have been drafted as part of the UK Finance Bill 2014 which may result in the Company being considered as non-UK tax resident even if central management and control is in the UK. These provisions are still in draft though and remain subject to change.

Changes in taxation legislation, or the rate of taxation, may adversely affect the Company

Any change in the tax status of the Company, or in taxation legislation or practice in Guernsey, the United Kingdom or elsewhere could affect the value of the investments held by the Company or the Company's ability to achieve its investment objectives or alter the post-tax returns to Shareholders. Statements in this Offering Memorandum concerning the taxation of Shareholders and/or the Company are based upon current Guernsey and United Kingdom law and published practice as at the date of this Offering Memorandum, which law and practice is, in principle, subject to change (potentially with retrospective effect) that could adversely affect the ability of the Company to meet its investment objective and which could adversely affect the taxation of Shareholders and/or the Company.

Potential investors are urged to consult their tax advisers with respect to their particular tax situations and the tax effect of an investment in the Company.

Possible Financial Transaction Tax

On 14 February 2013, the European Commission issued proposals, including a draft Directive (the "Commission's Proposal") for a financial transaction tax ("**FTT**") to be adopted in certain participating EU member states (including Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia (the "Participating Member States"), although Estonia has since stated that it will not participate). If the Commission's Proposal was adopted in its current form, the FTT would be a tax primarily on "financial institutions" in relation to "financial transactions" (which would include the conclusion or modification of derivative contracts and the purchase and sale of financial instruments).

Under the Commission's Proposal, the FTT could apply in certain circumstances to persons both within and outside of the Participating Member States. Generally, it would apply where at least one party is a financial institution, and at least one party is established in a Participating Member State. A financial institution may be, or be deemed to be, "established" in a Participating Member State in a broad range of circumstances, including (a) by transacting with a

person established in a Participating Member State or (b) where the financial instrument which is subject to the financial transaction is issued in a Participating Member State.

The FTT proposal remains subject to negotiation between the Participating Member States. It may therefore be altered prior to implementation, the timing of which remains unclear. Additional EU member states may decide to participate.

In addition to the FTT, certain countries (such as France and Italy) have unilaterally introduced or announced their own financial transaction tax, and other countries may follow suit. There is therefore a risk that a financial transaction tax may be incurred on certain transactions entered into by the Company. Any such financial transaction tax may adversely affect the cost of investment or hedging strategies pursued by the Company as well as the value and liquidity of certain assets within the Company, such as securities, derivatives and structured finance securities.

Different regulatory, tax or other treatment of the Company or the Shares in different jurisdictions, or changes to such treatment in different jurisdictions, may adversely impact shareholders in certain jurisdictions

For regulatory, tax and other purposes, the Company and the Shares may be treated in different ways in different jurisdictions. For instance, in certain jurisdictions and for certain purposes, the Shares may be treated as more akin to holding units in a collective investment scheme. Furthermore, in certain jurisdictions, the treatment of the Company and/or the Shares may be uncertain or subject to change, or it may differ depending on the availability of certain information or disclosure by the Company of that information. The Company may be subject, therefore, to financially and logistically onerous requirements to disclose any or all of such information or to prepare or disclose such information in a form or manner which satisfies the regulatory, tax or other authorities in certain jurisdictions. The Company may elect not to disclose such information or prepare such information in a form which satisfies such authorities. Therefore Shareholders in such jurisdictions may be unable to satisfy the regulatory requirements to which they are subject.

The Company is not, and does not intend to become, registered in the United States as an investment company under the U.S. Investment Company Act and related rules

The Company has not, does not intend to, and may be unable to, become registered in the United States as an investment company under the U.S. Investment Company Act. The U.S. Investment Company Act provides certain protections to U.S. investors and imposes certain restrictions on companies that are registered as investment companies. As the Company is not so registered, and does not intend to so register, none of these protections or restrictions is or will be applicable to the Company. In addition, to avoid being required to register as an investment company under the U.S. Investment Company Act and to avoid violating the U.S. Investment Company Act, the Company has implemented restrictions on the purchase of the Shares by persons who are located in the United States or are U.S. Persons (or are acting for the account or benefit of any U.S. Person). For more information, prospective investors should refer to the section of this Offering Memorandum entitled "*Purchase and Transfer Restrictions*" in in "*Placing Arrangements*".

Certain payments to the Company will in the future be subject to 30 per cent withholding tax unless the Company agrees to certain reporting and withholding requirements and certain Shareholders will be required to provide the Company with required information so that the Company may comply with its obligations under FATCA

Under Sections 1471 through 1474 of the U.S. Internal Revenue Code (commonly referred to as "**FATCA**"), Financial Institutions are required to use enhanced due diligence procedures to identify U.S. persons who have invested in either non-U.S. financial accounts or non-U.S. entities. Pursuant to FATCA, certain payments of (or attributable to) U.S.-source income, and the proceeds of sales of property that give rise to U.S.-source payments, will be subject to 30 per cent withholding tax with effect from 1 July 2014 unless the Company agrees to certain reporting and withholding requirements.

The United States and Guernsey have entered into an Intergovernmental Agreement ("**US IGA**") to implement FATCA. Under the terms of the US IGA, the Company may be obliged to comply with the provisions of FATCA as enacted by the Guernsey legislation implementing the US IGA (the "**Guernsey IGA Legislation**"), rather than directly complying with the U.S. Treasury Regulations implementing FATCA. Under the terms of the US IGA, Guernsey resident entities that comply with the requirements of the Guernsey IGA Legislation will be treated as compliant with

FATCA and, as a result, will not be subject to withholding tax under FATCA ("**FATCA Withholding**") on payments they receive and will not be required to withhold under FATCA on payments they make.

The Company expects that it will be considered to be a Guernsey resident financial institution and therefore will be required to comply with the requirements of the Guernsey IGA Legislation.

Under the Guernsey IGA Legislation, the Company will be required to register with the United States Internal Revenue Service ("**IRS**") and report to the Guernsey Minister for Treasury and Resources certain holdings by and payments made to certain U.S. investors in the Company, as well as to non-U.S. financial institutions that do not comply with the terms of the Guernsey IGA Legislation. Under the terms of the US IGA, such information will be onward reported by the Guernsey Minister for Treasury and Resources to the United States under the general information exchange provisions of the United States-Guernsey Agreement for the Exchange of Information Relating to Taxes.

Further, even if the Company is not characterised under FATCA as a Financial Institution, it nevertheless may become subject to such 30 per cent withholding tax on certain U.S.-source payments to it unless it either provides information to withholding agents with respect to its U.S. Controlling Persons or certifies that it has no such U.S. Controlling Persons.

As a result, Shareholders may be required to provide any information that the Company determines necessary in order to allow the Company to satisfy its obligations under FATCA.

Additional intergovernmental agreements similar to the US IGA have been entered into or are under discussion by other jurisdictions with the United States. Different rules than those described above may apply depending on whether a payee is resident in a jurisdiction that has entered into an intergovernmental agreement to implement FATCA.

In addition to the US IGA, Guernsey and the United Kingdom have entered into an inter-governmental agreement ("**UK IGA**") for the implementation of information exchange arrangements, based on FATCA, whereby relevant financial information held in Guernsey in respect of a person or entity who is resident in the UK for tax purposes will be reported to Guernsey Minister for Treasury and Resources for onward reporting to the UK's HM Revenue and Customs. Under the UK IGA, the Company may be required to provide information to the Guernsey authorities about investors and their interests in the Company in order to fully discharge its reporting obligations and, in the event of any failure or inability to comply with the proposed arrangements, may suffer a financial penalty or other sanction under Guernsey law.

The scope and application of FATCA Withholding and information reporting pursuant to the terms of FATCA and the IGAs are subject to review by the United States, the United Kingdom, Guernsey and other IGA governments, and the rules may change. Although the UK IGA and US IGA have been ratified by Guernsey's parliament, guidance published to date has been in draft format only and therefore, while the Company intends to comply with applicable law, it cannot be predicted at this time what the full impact on the Company and the Company's reporting responsibilities pursuant to the UK IGA and US IGA will be. Shareholders should consult with their own tax advisors regarding the application of FATCA to their particular circumstances.

OECD's Base Erosion Profit Shifting ("BEPS") Action Points

In 2013, the OECD published its report on Addressing Base Erosion and Profit Shifting ("**BEPS**") and its Action Plan on BEPS. The aim of the report and Action Plan was to address and reduce aggressive international tax planning. BEPS remains an ongoing project. On 5 October 2015, the OECD published its final reports, analyses and sets of recommendations (deliverables) with a view to implementing internationally agreed and binding rules which could result in material changes to relevant tax legislation of participating OECD countries. The final package of deliverables was subsequently approved by the G20 Finance Ministers on 8 October 2015. On 24 November 2016, the OECD announced that more than 100 jurisdictions concluded negotiations on a multilateral instrument that will amend their respective tax treaties (more than 2,000 tax treaties worldwide) in order to implement the tax treaty-related BEPS recommendations, although the effective date of such multilateral instrument remains uncertain. A first high level signing ceremony took place on 7 June 2017 where 68 countries signed the multilateral instrument. It is currently anticipated that the multilateral instrument will enter into force after five countries have ratified it. The multilateral instrument will then enter into effect for a specific tax treaty after all parties to that treaty have ratified the multilateral instrument. The final actions to be implemented in the tax legislation of the countries in which the Company will have

investments, in the countries where the Company is domiciled or resident, or changes in tax treaties negotiated by these countries, could adversely affect the returns from the Company to its investors.

COMPANY, ITS INVESTMENT OBJECTIVE, POLICY AND STRATEGY

COMPANY

Highland CLO Funding, Ltd. (formerly known as Acis Loan Funding, Ltd.) (the "**Company**") was incorporated on 30 March 2015 and registered under the laws of Guernsey (registration number 60120) pursuant to the Companies Law. The Company changed its name on [●], 2017. The Company is an investment company established to provide its investors with exposure CLO Notes on both a direct basis and indirect basis and senior secured loans on an indirect basis, through the use of the investments described in its investment policy, including through the Management Companies.

The Company is seeking to raise in excess of U.S. $[●] million through the Placing to invest in accordance with its investment objective and policy. Applications to an appropriate securities exchange may be made when deemed appropriate by the Company.

Investment in the Company is only suitable for institutional, professional and high net worth investors, private client fund managers and brokers and other investors who understand the risks involved in investing in the Company and/or who have received advice from their fund manager or broker regarding investment in the Company.

INVESTMENT OBJECTIVE

The Company's investment objective is to provide Shareholders with stable and growing income returns, and to grow the capital value of the investment portfolio through opportunistic exposure to CLO Notes, investments in new issue CLOs sponsored by Highland and Acis CLO 7 through its interests in the Management Companies and CLO Income Notes, respectively, and senior secured loans primarily for the purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements, on both a direct basis and indirect basis, through the use of the investments described in its investment policy and through use of leverage, any Revolving Credit Facility, Warehouse Loan Facilities, total return swaps or repurchase agreements, in addition to secured loan facilities..

Highland, in its capacity as the Portfolio Manager under the Portfolio Management Agreement, will manage the Company's investments. In addition, Highland, Highland CLO Management, or another affiliate of Highland, in the capacity of the CLO Manager, may also manage Highland CLOs and Highland, Acis, Acis CLO Management, or another affiliate of Acis, in the capacity of the CLO Manager, may also manage Managed CLOs, in each case, pursuant to CLO Management Agreements to be entered into from time to time.

INVESTMENT POLICY

Overview

The Company's investment policy is to focus on synergistic investments in the following areas.

Loan Investments

The Company will invest on an indirect basis in a diverse portfolio of predominantly floating rate senior secured loans (or on a direct basis for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements), all of which will have at least one rating, which may be public or private, from Moody's, S&P or Fitch. Initially, the Company's loan investments will be focused in the U.S., but depending on market conditions the Company may also invest in similar types of loans in Europe. Accordingly, there is no limit on the maximum U.S. or European exposure. Investments in U.S. or European loans may be made through a U.S. or European originator subsidiary of the Company. The Company intends to invest directly only in those senior secured loans to obligors with total potential indebtedness under all applicable loan agreements, indentures and other underlying instruments at least $250,000,000 that would generally satisfy the eligibility criteria for Highland CLOs and set forth in "*Summary—Investment Policy—Loan Investments*".

Financing of Loan Portfolios / Securitization

It is intended that the Company will periodically seek to sell or securitise all or a portion of its loan portfolio, held directly or indirectly, into new Highland CLOs where Highland CLO Management acts as CLO Manager. In doing so, Highland CLO Management may seek to adopt the "originator" model to address the Origination Requirements (as defined below) applicable to such Highland CLOs to the extent such Highland CLOs sought to comply with EU Retention Requirements. As a result, Highland CLO Management, will be required to commit to: (a) establishing the relevant CLO and (b) selling certain loan investments to the relevant CLO which it has purchased for its own account initially. In addition, under current guidance, prior to closing date of the relevant CLO, Highland CLO Management expects to sell investments to the relevant CLO to satisfy the Origination Requirements.

CLO Notes

The Company will from time to time invest directly or indirectly (through affiliates and subsidiaries, including the Management Companies, as more fully described below) in CLO Notes issued by Managed CLOs or CLOs managed by other asset managers as set forth in "*Summary—Investment Policy—CLO Notes*".

The Company is currently invested in CLO Income Notes issued by Managed CLOs managed by Highland, Acis and Acis CLO Management. Following the Placing, the Company will invest indirectly through the Management Companies in CLO Notes.

Act as Risk Retention Provider

The Company may also invest in, provide loans to, or purchase performance-linked notes from asset management subsidiaries, affiliated with the Company, Highland or Acis and which may act as the asset manager of certain U.S. or European CLOs in order to satisfy certain U.S. Risk Retention Rules or EU Retention Requirements.

Allocation of Investment Opportunities

Highland CLO Management will serve as CLO Manager to each newly-issued Highland CLO during the Investment Period.

During the Investment Period, the Company shall receive priority allocations with respect to all CLO Income Note investment opportunities with respect to new issue Highland CLOs, over the account of the Portfolio Manager, its affiliates and Other Accounts as set forth in "*Summary—Investment Policy—Allocation of Investment Opportunities*".

INVESTMENT RESTRICTIONS

The Company will, at all times, invest and manage its assets in a way which is consistent with its object of spreading investment risk and in accordance with the investment policy set out in "*—Investment Policy*".

In the event of any breach of the Company's investment policy or of the investment restrictions applicable to the Company, Shareholders will be informed of the actions to be taken by the Company (at the time of such a breach) by an announcement issued by the Administrator.

During the Investment Period, the Company may invest up to $250,000,000 in CLO Income Notes for new Highland CLOs as follows: (a) up to $150,000,000 in the aggregate from new capital contributions; and (b) up to $100,000,000 in the aggregate from proceeds received from existing seed portfolio investments and investments in new Highland CLOs, net of dividends paid, and amortization and interest payments on Company borrowings from committed credit facilities.

The Company may, without the consent of the Advisory Board, invest in any CLO Notes or CLO equity of Qualifying CLOs as set forth in "*Summary—Investment Restrictions*"; provided that, if the Portfolio Manager has satisfied the RP Condition, the consent of the Advisory Board to invest in any Highland CLO that meets clause (a) of the definition of Qualifying CLOs only shall not be unreasonably withheld, conditioned or delayed.

During the Investment Period, the Company shall be permitted to invest in "resets" with respect to the Designated CLO Resets and refinancings with respect to the Designated CLO Refinancings, each as set forth in "*Summary—Investment Restrictions*".

The Company shall not invest in the CLO Income Notes of a new-issue Highland CLO unless it is the 100% owner of the CLO Income Notes not forming part of the Retention Interest acquired by Highland CLO Management.

BORROWING

Subject to the limitations set forth in "*Summary-Borrowing*", it is expected that the Company will have access to one or more committed credit facilities. Such facilities may take the form of any Revolving Credit Facility, Warehouse Loan Facilities, total return swaps or repurchase agreements, in addition to secured loan facilities. It is expected that the Company will use advances under such facilities, together with the proceeds of the Shares, to purchase future senior secured loans (acquired for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements) and other assets. In addition to such facilities, the Company will be permitted to borrow money for day to day administration and cash management purposes.

CHANGES TO INVESTMENT OBJECTIVE AND POLICY

Any material change to the investment objective and policy of the Company would be made only with the approval of Shareholders.

INVESTMENT STRATEGY

Whether the senior secured loans or other assets are held directly by the Company (with respect to senior secured loans for the purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements) or indirectly via CLO Notes or its investment in the applicable Management Company it is the Company's intention that, in any case, the portfolios will be actively managed (by Highland, Acis, the applicable Management Company, an asset manager subsidiary or the applicable CLO Manager, as the case may be) to minimise default risk and potential loss through comprehensive credit analysis performed by Highland, Acis, the applicable Management Company or the applicable CLO Manager (as applicable).

Whilst the intention is to pursue an active, non-benchmark total return strategy, Highland as the Company's Portfolio Manager will be cognisant of the positioning of the loan portfolios against relevant indices. Accordingly, Highland will track the returns and volatility of such indices, while seeking to outperform them on a consistent basis. In-depth, fundamental credit research dictates name selection and sector over-weights/under-weights relative to the benchmark, backstopped by constant portfolio monitoring and risk oversight. Highland will typically look to diversify the Company's portfolios to avoid the risk that any one obligor or industry will adversely impact overall returns. The investment strategy also places an emphasis on loan portfolio liquidity to ensure that if the Company's credit outlook changes, it is free to respond quickly and effectively to reduce or mitigate risk in its portfolio. Highland believes this investment strategy will be successful in the future as a result of its emphasis on risk management, capital preservation and fundamental credit research. Highland believes the best way to control and mitigate risk is by remaining disciplined in market cycles, by making careful credit decisions and maintaining adequate diversification.

Leverage and Expected Returns

It is anticipated that any borrowing for the purpose of investing directly in senior secured loans (acquired for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements) will be in the form of a term Warehouse Loan Facility, however the Company has entered into the NexBank Credit Facility and may enter into any Revolving Credit Facility, Warehouse Loan Facilities, total return swaps, repurchase agreements or other facilities to facilitate the acquisition or financing of loans. Loans purchased using such borrowings will typically be held for no more than 12 months before being sold to a Highland CLO. Except in relation to the CLO Retention Notes it holds, the Company may enter into hedging and derivatives transactions pursuant to its investment activities, for the purposes of efficient portfolio management.

The Company does not currently grant any guarantee under any leveraging arrangement. The grant of any such guarantee would be disclosed to investors in accordance with the AIFMD Rules.

Any proposed changes to the Company's investment objective and policy will be subject to the process described in the section titled "*Changes to Investment Objective and Policy*" above in this section of the Offering Memorandum.

Collateral and Asset Re-use Arrangements

Any collateral and asset re-use arrangements of the Company will vary according to the brokers and/or trading counterparties which it may use (each a "**Trading Counterparty**").

The Company may be required to deliver collateral from time to time to its Trading Counterparties, under the terms of the relevant trading agreements, by posting initial margin and/or variation margin and on a mark-to-market basis. The Company may also deposit collateral as security with a Trading Counterparty. The treatment of such collateral varies according to the type of transaction and where it is traded. Under such arrangements, the cash, securities and other assets deposited as collateral will generally become the absolute property of the Trading Counterparty, the Trading Counterparty will have the right to use such collateral.

Where collateral is reused by a Trading Counterparty, the Company will have an unsecured right to the return of equivalent assets and such collateral will be at risk in the event of the insolvency of a Trading Counterparty.

Any changes to the right of re-use of collateral will be disclosed to investors in accordance with the AIFMD Rules.

Current Investments of the Company

In order to facilitate a timely investment of the proceeds of the Placing and to take advantage of existing opportunities, the Company is currently invested in CLO Income Notes issued by Managed CLOs managed by Highland, Acis and Acis CLO Management. The details of such CLOs are set out in "*The Current CLO Portfolio*".

Following the Placing, the Company will acquire further assets and fund origination by Highland CLO Management of new Highland CLOs and it is expected that the Net Placing Proceeds will be substantially invested in CLO Notes upon closing. The Company may also, from time to time: (i) hold assets within its portfolio to maturity; (ii) sell assets within its portfolio to the market; or (iii) sell assets within its portfolio to another CLO which is not Managed CLO.

TARGET RETURN AND DIVIDEND POLICY

Target Total Return

Whilst not forming part of the investment objective or policy of the Company, on the basis of current market conditions as at the date of this Offering Memorandum, the Company is targeting an annualised mid-teen total return over the medium-term, once the Net Placing Proceeds are substantially invested (through the Company) in CLO Notes (the "**Target Total Return**"). The Company intends to seek to deliver this return through a combination of dividend payments and capital appreciation.

Target Dividend Yield and Policy

Whilst not forming part of the investment objective or policy of the Company, dividends will be payable in respect of each calendar quarter, payable in the month following the end of such quarter.

During the Investment Period, on each Quarterly Dividend Date, beginning May 15, 2018, the Company will target the Target Dividend. During the Investment Period, excess cash or interest from the portfolio will be reinvested by the Company with the objective of growing the NAV.

Following the Investment Period, excess cash, interest and proceeds from the realization of portfolio investments after satisfaction of all expenses, debts, liabilities and obligations of the Company will be distributed by the Company to the Shareholders as a dividend on the Quarterly Dividend Date in accordance with the Distribution Priority as set forth in "*Summary-Dividend Policy*".

To the extent the Company does not have available funds on hand to meet the Target Dividend with respect to any Quarterly Payment Date, the Portfolio Manager may suspend dividends if, in consultation with the Board of Directors,

it determines that a sale of assets to produce proceeds to meet the Target Dividend would not be in the best interests of the Company and/or would not produce a sale price reflective of the value of the assets.

The Board may deduct from any dividend payable to any Shareholder on or in respect of a Share all sums of money (if any) presently payable by him to the Company on account of calls with respect to existing Shares, or calls of commitments to purchase Shares pursuant to the subscription agreements or otherwise.

The actual dividend generated by the Company in pursuing its investment objective will, however, depend on a wide range of factors including, but not limited to, general economic and market conditions, fluctuations in currency exchange rates, prevailing interest rates and credit spreads, the terms of the investments made by the Company and the risks highlighted in the "*Risk Factors*" section of this Offering Memorandum. Dividend payments may be suspended by the Portfolio Manager in its absolute discretion, including, without limitation, in the event of adverse, or perceived adverse, market conditions.

The Articles permit the Directors, in their absolute discretion, to offer a scrip dividend alternative to Shareholders when a cash dividend is declared from time to time. In the event a scrip dividend is offered in future, an electing Shareholder would be issued new, fully paid up Shares (or Shares sold from treasury) pursuant to the scrip dividend alternative. The scrip dividend alternative would be available only to those Shareholders to whom Shares might lawfully be marketed by the Company.

The Target Total Return and the Target Dividend should not be taken as an indication of the Company's expected future performance or results. The Target Total Return and the Target Dividend are targets only and there is no guarantee that they can or will be achieved and should not be seen as an indication of the Company's expected or actual return. Target returns are hypothetical and are neither guarantees nor predictions or projections of future performance. Actual events and conditions may differ materially from the assumptions used to establish the Target Total Return and Target Dividend. Accordingly, investors should not place any reliance on the Target Total Return or the Target Dividend in deciding whether to invest in Shares.

Furthermore, the future performance of the Company may be materially adversely affected by the risks discussed in the section of this Offering Memorandum entitled "*Risk Factors*".

FURTHER ISSUES OF SHARES

The Directors will have authority to allot further Shares in the share capital of the Company following the Placing. Further issues of Shares would only be made subject to consent of the Advisory Board, as described in "*Summary—Advisory Board*" if the Directors determine such issues to be necessary to protect the Company, consistent with the Board's duties to the Company, and in the best interests of Shareholders and the Company as a whole. Relevant factors in making such determination include net asset performance, share price rating and perceived investor demand. In the case of further issues of Shares (or sales of Shares from treasury), except as permitted by the Shareholders, such Shares will only be issued at prices which are not less than the then prevailing Net Asset Value per Share (as estimated by the Directors).

There are no provisions of Guernsey law which confer rights of pre-emption in respect of the allotment of Shares. The Articles, however, contain pre-emption rights in relation to allotments of Shares for cash.

VALUATION

Net Asset Value

As at the latest practicable date prior to the publication of this Offering Memorandum, the unaudited net asset value per share of the Net Asset Value was [●].

Publication of Net Asset Value

The Company intends to publish the Net Asset Value per Share as calculated in accordance with the process described below, on a quarterly basis (within 15 Business Days following the relevant month-end). Notice will be provided either by a website to be created or investors may elect to be contacted by the Administrator by e-mail. The Net Asset

Value will be calculated by the Administrator on the basis of the valuation policy established by the Directors from time to time. The Company's initial valuation policy is described below.

Valuation of the portfolio

It is intended that, in accordance with its investment objective and policy set out above, the Company will invest in: (a) senior secured loans and other debt securities on both a direct basis (for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements) and indirect basis, including through the use of leverage via repurchase facilities and Warehouse Loan Facilities, and for the purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements; (b) CLO Notes, and any other assets held by management subsidiaries; and (c) interests in the Management Companies, and will value such instruments in accordance with the valuation policy established by the Portfolio Manager from time to time.

The Company (meaning for the purposes of the valuation of assets described herein, the Company itself, the Portfolio Manager or the Administrator under the ultimate supervision of the Board) will generally compute the value of the instruments and other assets of the Company as of the close of business on the last day of each fiscal period and on any other date selected by the Board in its sole discretion. In addition, the Company must compute the value of the instruments that are being distributed in-kind as of their date of distribution in accordance with the Company's Memorandum and Articles of Association. In determining the value of the assets of the Company, no value is placed on the goodwill or name of the Company, or the office records, files, statistical data or any similar intangible assets of the Company not normally reflected in the Company's accounting records, but there must be taken into consideration any related items of income earned but not received, expenses incurred but not yet paid, liabilities fixed or contingent, prepaid expenses to the extent not otherwise reflected in the books of account, and the value of options or commitments to purchase or sell instruments pursuant to agreements entered into on or prior to such valuation date.

A copy of the Company's valuation policy is available upon request.

The value of each instrument and other asset of the Company and the net worth of the Company as a whole determined pursuant the Company's Memorandum and Articles of Association are conclusive and binding on all of the members of the Company and all persons claiming through or under them.

Suspension of the calculation of Net Asset Value

[The Directors may at any time, but are not obliged to, temporarily suspend the calculation of the NAV and NAV per Share during any period when, as a result of political, economic, military or monetary events or any circumstances outside the control, responsibility and power of the Directors, disposal or valuation of a substantial part of the portfolio is, in the opinion of the Directors, not reasonably practicable without this being seriously detrimental to the interests of the Company or if, in the opinion of the Directors, the NAV and/or NAV per Share, as the case may be, cannot be fairly calculated.]

Shareholders will be informed by e-mail from the Administrator in the event that the calculation of the NAV per Share is suspended as described above.

REPORTS AND ACCOUNTS

The accounting period of the Company ends on 31 December, in each year, and the audited annual accounts will be provided to Shareholders within four months of the year end to which they relate. The Company shall report its results of operations and financial position in U.S. Dollars. The Company's first accounts were prepared for the period ending 31 December 2015.

The audited annual accounts will also be available at the registered office of the Administrator and the Company.

The financial statements of the Company will be prepared in accordance with GAAP, and the annual accounts will be audited. The Company's financial statements, which will be the responsibility of its Board, will consist of a statement of comprehensive income, statement of financial position, statement of cash flows, statement of changes in equity, related notes and any additional information that the Board deems appropriate or that is required by applicable law.

It is expected that the CLOs and any Warehouse Loan Facilities established will not be consolidated in the Company's GAAP financial statements, although such assessment will depend on the facts and circumstances.

Any disclosures required to be made to Shareholders pursuant to the AIFMD will be contained either in the Company's periodic reports or communicated to Shareholders in written form.

THE CURRENT CLO PORTFOLIO

CURRENT CLO PORTFOLIO

The Company is currently invested in CLO Income Notes in the following Managed CLOs in the following amounts (the "**Current CLO Portfolio**"):

CLOs:	Aggregate Outstanding Amount (U.S.$)
ACIS CLO 2013-1 Ltd.	$18,558,000.00
ACIS CLO 2014-3 Ltd.	$39,750,000.00
ACIS CLO 2014-4 Ltd.	$50,750,000.00
ACIS CLO 2014-5 Ltd.	$53,000,000.00
ACIS CLO 2015-6, Ltd.	$51,850,000.00
Acis CLO 2017-7, Ltd.	$17,850,000.00
Rockwall CDO, Ltd.	$14,000,000.00
Brentwood CLO, Ltd.	$12,000,000.00
Grayson CLO, Ltd.	$5,900,000.00
Liberty CLO, Ltd.	$17,000,000.00
HP CDO, Ltd.	$1,621,542.70
Greenbriar CLO, Ltd.	$18,000,000.00
Gleneagles CLO, Ltd.	$1,250,000.00

Valuation of the Current Portfolio

[The Current Portfolio was valued as of [●] 2017 at $[●] million [based on valuations provided by an independent third party valuation firm, [●] ("[●]"). The valuation procedures undertaken by [●] to value the Current Portfolio were reviewed by the Company's auditors and were deemed to be consistent with the requirements outlined in the Company's valuation policy.

(i) Acis CLO 2013-1

Acis CLO 2013-1 is an Acis CLO managed by Acis.

The closing date of Acis CLO 2013-1 occurred on 18 March 2013 with the first payment made in July 2013. This CLO had a two-year non-call period and a four-year reinvestment period. Its weighted average spread at issue was [●]% over LIBOR and its average cost of capital is [●]% over LIBOR. The top 5 assets of this CLO include [●], [●], [●], [●] and [●]. The final capital structure of Acis CLO 2013-1 as of [●] is as follows:

Class	Ratings (S&P/Moody's)	Par Amount	% of Total	Coupon
Class X	AAA(sf)/Aaa(sf)	$[4,000,000]	[●]%	LIBOR + 1.00%
Class A-1	AAA(sf)/Aaa(sf)	$190,750,000	[●]%	LIBOR + 0.87%
Class A-2A	AAA(sf)/Aaa(sf)	$115,750,000	[●]%	LIBOR + 1.25%
Class A-2B	AAA(sf)/Aaa(sf)	$10,250,000	[●]%	LIBOR + 1.65%
Class B	AA(sf)/NA	$62,500,000	[●]%	LIBOR + 1.95%
Class C	A(sf)/NA	$39,500,000	[●]%	LIBOR + 2.95%
Class D	BBB(sf)/NA	$21,500,000	[●]%	LIBOR + 4.50%
Class E	BB(sf)/NA	$19,500,000	[●]%	LIBOR + 5.60%
Class F	B(sf)/NA	$10,000,000	[●]%	LIBOR + 6.50%
Combination	A(sf)/NA	$193,000,000	[●]%	LIBOR + 1.227%
Subordinated	NA	$51,750,000	[●]%	NA

(ii) ACIS CLO 2014-3

ACIS CLO 2014-3 is an Acis CLO managed by Acis.

The closing date of ACIS CLO 2014-3 occurred on 25 February 2014 with the first payment made in August 2014. This CLO had a two-year non-call period and a five-year reinvestment period. Its weighted average spread at issue was [●]% over LIBOR and its average cost of capital is [●]% over LIBOR. The top 5 assets of this CLO include [●], [●], [●], [●] and [●]. The final capital structure of ACIS CLO 2014-3 as of [●] is as follows:

Class	Ratings (S&P)	Par Amount	% of Total	Coupon
Class A-1A	AAA(sf)	$205,000,000	[●]%	LIBOR + 1.51%
Class A-1F	AAA(sf)	$25,000,000	[●]%	3.70%
Class A-2A	AAA(sf)	$15,000,000	[●]%	LIBOR + 1.55%
Class A-2B	AAA(sf)	$2,000,000	[●]%	LIBOR + 2.00%
Class A-X	AAA(sf)	$3,500,000	[●]%	LIBOR + 1.35%
Class B	AA(sf)	$56,000,000	[●]%	LIBOR + 2.23%
Class C	A(sf)	$29,000,000	[●]%	LIBOR + 2.50%
Class D	BBB(sf)	$19,000,000	[●]%	LIBOR + 3.12%
Class E	BB(sf)	$17,500,000	[●]%	LIBOR + 4.75%
Class F	B+(sf)	$5,000,000	[●]%	LIBOR + 5.60%
Subordinated	NA	$39,750,000	[●]%	NA

(iii) ACIS CLO 2014-4

ACIS CLO 2014-4 is an Acis CLO managed by Acis.

The closing date of ACIS CLO 2014-4 occurred on 5 June 2014 with the first payment made in November 2014. This CLO had a two-year non-call period and a five-year reinvestment period. Its weighted average spread at issue was [●]% over LIBOR and its average cost of capital is [●]% over LIBOR. The top 5 assets of this CLO include [●], [●], [●], [●] and [●]. The final capital structure of ACIS CLO 2014-4 as of [●] is as follows:

Class	Ratings (S&P/Moody's)	Par Amount	% of Total	Coupon
Class A-X	AAA(sf)/NA	$4,000,000	[●]%	LIBOR + 1.00%
Class A	AAA(sf)/Aaa(sf)	$296,000,000	[●]%	LIBOR + 1.42%
Class B	AA(sf)/NA	$68,000,000	[●]%	LIBOR + 1.77%
Class C	A(sf)/NA	$33,000,000	[●]%	LIBOR + 2.55%
Class D	BBB(sf)/NA	$28,500,000	[●]%	LIBOR + 3.10%
Class E	BB(sf)/NA	$20,500,000	[●]%	LIBOR + 4.80%
Class F	B+(sf)/NA	$4,000,000	[●]%	LIBOR + 5.15%
Combination	AA(sf)/NA	364,000,000	[●]%	LIBOR + 1.4853%
Subordinated	NA	$39,750,000	[●]%	NA

(iv) ACIS CLO 2014-5

ACIS CLO 2014-5 is an Acis CLO managed by Acis.

The closing date of ACIS CLO 2014-5 occurred on 18 November 2014 with the first payment made in May 2015. This CLO had a two-year non-call period and a five-year reinvestment period. Its weighted average spread at issue was [●]% over LIBOR and its average cost of capital is [●]% over LIBOR. The top 5 assets of this CLO include [●], [●], [●], [●] and [●]. The final capital structure of ACIS CLO 2014-5 as of [●] is as follows:

Class	Ratings (S&P/Moody's)	Par Amount	% of Total	Coupon

Class A-1	AAA(sf)/Aaa(sf)	$280,750,000	[●]%	LIBOR + 1.51%
Class A-2	AAA(sf)/Aaa(sf)	$30,000,000	[●]%	3.5346%
Class B	AA(sf)/NA	$68,000,000	[●]%	LIBOR + 2.34%
Class C-1	A(sf)/NA	$25,000,000	[●]%	LIBOR + 3.40%
Class C-2	A(sf)/NA	$25,000,000	[●]%	5.8265%
Class D	BBB(sf)/NA	$7,000,000	[●]%	LIBOR + 4.34%
Class E-1	BB(sf)/NA	$26,000,000	[●]%	LIBOR + 6.52%
Class E-2	BB(sf)/NA	$10,500,000	[●]%	LIBOR + 5.30%
Subordinated	NA	$53,000,000	[●]%	NA

(v) ACIS CLO 2015-6

ACIS CLO 2015-6 is an Acis CLO managed by Acis.

The closing date of ACIS CLO 2015-6 occurred on 16 April 2015 with the first payment made in May 2015. This CLO had a 1.5-year non-call period and a four-year reinvestment period. Its weighted average spread at issue was [●]% over LIBOR and its average cost of capital is [●]% over LIBOR. The top 5 assets of this CLO include [●], [●], [●], [●] and [●]. The final capital structure of ACIS CLO 2015-6 as of [●] is as follows:

Class	Ratings (S&P/Moody's)	Par Amount	% of Total	Coupon
Class A-1	AAA(sf)/Aaa(sf)	$280,750,000	[●]%	LIBOR + 1.51%
Class A-2	AAA(sf)/Aaa(sf)	$30,000,000	[●]%	3.5346%
Class B	AA(sf)/NA	$68,000,000	[●]%	LIBOR + 2.34%
Class C-1	A(sf)/NA	$25,000,000	[●]%	LIBOR + 3.40%
Class C-2	A(sf)/NA	$25,000,000	[●]%	5.8265%
Class D	BBB(sf)/NA	$7,000,000	[●]%	LIBOR + 4.34%
Class E-1	BB(sf)/NA	$26,000,000	[●]%	LIBOR + 6.52%
Class E-2	BB(sf)/NA	$10,500,000	[●]%	LIBOR + 5.30%
Subordinated	NA	$53,000,000	[●]%	NA

(vi) ACIS CLO 2017-7

ACIS CLO 2017-7 is managed by, and held through, Acis CLO Management.

The closing date of ACIS CLO 2017-7 occurred on 20 April 2017 with the first payment to be made in November 2017. This CLO had a two-year non-call period and a two-year reinvestment period. Its weighted average spread at issue was [●]% over LIBOR and its average cost of capital is [●]% over LIBOR. The top 5 assets of this CLO include [●], [●], [●], [●] and [●]. The final capital structure of ACIS CLO 2017-7 as of [●] is as follows:

Class	Ratings (Moody's)	Par Amount	% of Total	Coupon
Class A-1	Aaa(sf)	$85,750,000	[●]%	LIBOR + 1.35%
Class A-2	Aaa(sf)	$175,000,000	[●]%	LIBOR + 1.35%
Class B	Aa2(sf)	$50,250,000	[●]%	LIBOR + 1.75%
Class C	A2(sf)	$20,250,000	[●]%	LIBOR + 2.70%
Class D	Baa3(sf)	$26,250,000	[●]%	LIBOR + 3.90%
Class E	Ba3(sf)	$15,500,000	[●]%	LIBOR + 6.00%
Sr Subordinated	NA	$11,500,000	[●]%	LIBOR + 7.75%
Jr Subordinated	NA	$21,000,000	[●]%	NA

(vii) [To be updated]

Information on the historic performance of the Company is available upon request from the [*Portfolio Manager*][*Administrator*]. Such information will be updated periodically in accordance with the AIFMD Rules.]

MARKET OPPORTUNITY

INVESTMENT OPPORTUNITY

The Company intends to invest in CLO Notes of CLOs which are compliant with the U.S. Risk Retention Rules and which may be compliant with the EU Retention Requirements (as defined above) and in senior secured loans (for the primary purpose of enabling Highland CLO Management to qualify as an "originator" for purposes of the EU Retention Requirements). In pursuance of this intention, the Company will invest in each of the Management Companies which will, pursuant to the EU Retention Requirements, need to, amongst other things: (a) on the closing date of a CLO it establishes, commit to purchase "material net economic interest" equal to at least five per cent of the maximum portfolio principal amount of the assets in the CLO and (b) undertake that, for so long as any securities of the CLO remain outstanding (including any CLO Retention Notes), it will retain its interest in the CLO and will not (except to the extent permitted by the EU Retention Requirements) sell, hedge or otherwise mitigate its credit risk under or associated with such CLO. This five per cent material net economic interest in the CLO can, amongst other methods, be retained through the holding of a vertical strip of all issued tranches (AAA-rated notes to equity) or a retention holding in the first loss tranche or a combination thereof. The EU Retention Requirements prohibit many significant European investors from investing in any securitisation which does not comply with them.

In addition, with the intention of achieving classification as an "originator" (as defined in the CRR) and complying with the CRR Retention Requirements with respect to Highland CLOs, Highland CLO Management will be required to meet the Origination Requirements.

Highland CLO Management may seek to adopt the "originator" model to address the EU Retention Requirements for its CLOs and intends to be treated as a "majority-owned affiliated" of Highland in order to comply with the U.S. Risk Retention Rules.

In addition to its current holdings, the Company may buy floating rate senior secured loans from the primary and secondary market before selling the assets to one or more CLOs which it establishes and for which Highland CLO Management will act as a retention provider, thereby offering investors wholesale access to senior secured loans acquired by the Company and retained CLO Income Notes.

Highland will be responsible for selecting and monitoring the performance of the investments. The Company's purchase and sale decisions (with certain exceptions) will be taken by Highland as Portfolio Manager pursuant to the Portfolio Management Agreement. Further details on the investment process are set out in the section of this Offering Memorandum entitled "*Investment Process*".

INVESTMENT PROCESS

Highland as Portfolio Manager and CLO Manager

The Company has entered into a Portfolio Management Agreement with Highland as the Portfolio Manager. Pursuant to the Portfolio Management Agreement, Highland will, at its discretion, select the portfolio of investments and instruct the Custodian with respect to any acquisition, disposition or sale of investments and provide certain support services to the Company. The performance of the Company's portfolio will depend heavily on the skills of Highland in analyzing, selecting and managing the investments. The Portfolio Manager has entered into Service Agreements with Highland Capital Management, L.P. under which the Portfolio Manager has agreed to make its investment research and recommendations and back-office support services available to Acis. Further details are set out in the section of this offering memorandum entitled "Investment Process" and "Additional Information on the Company".

Based in Dallas, Texas, Highland is an SEC Registered Investment Adviser founded in 1993 that specializes in senior secured bank loans, high yield bonds, structured products and equities. Highland issued its first CLO in 1996, and Highland and its affiliates have since issued and managed over U.S. $28 billion of CLOs and CDOs consisting of 40 separate vehicles. As of August 31, 2017, Highland and its affiliates, managed or serviced approximately U.S. $13.4 billion in senior secured bank loans, high yield bonds, structured products and other assets for banks, insurance companies, pension plans, foundations and high net worth individuals.

Highland, Acis and/or the Management Companies, may act as CLO Manager(s) in relation to the Managed CLOs pursuant to CLO Management Agreements. Highland, Acis and/or the applicable Management Company as CLO Manager is responsible for purchasing and selling of collateral obligations and performing certain other advisory and administrative tasks for and on behalf of the Managed CLOs in each case subject to the provisions of the applicable CLO Management Agreement and any applicable provisions of the indenture.

Highland is an SEC Registered Investment Adviser and currently manages CLOs and other managed accounts and investment funds. Highland CLO Management is a relying adviser of Highland and will manage Highland CLOs. Highland CLO Management has the HCLOM Service Agreements in place with Highland, pursuant to which Highland provides credit research and operational support to Highland CLO Management, including services in connection with determining the composition, nature and timing of changes to the Highland CLO Management portfolio, the due diligence of actual or potential investments, the execution of investment transactions approved by Highland CLO Management, and certain loan services and administrative services.

Acis is an SEC Registered Investment Adviser and currently manages CLOs and other managed accounts and investment funds. Acis CLO Management is a relying adviser of Acis and currently manages ACIS CLO 2017-7. Acis is an affiliate of Highland and is 100% owned by Highland senior management, and was established by James Dondero and Mark Okada to focus on managing traditional CLOs that invest in liquid, broadly syndicated bank loans and secondary CLO investments. Acis has the ACM Service Agreements in place with Highland, pursuant to which Highland provides investment research and recommendations and operational support to Acis, including services in connection with the Portfolio Manager's recommendations with respect to the composition, nature and timing of changes to the Company's portfolio, the due diligence of actual or potential investments, the execution of investment transactions, and certain loan services and administrative services. Acis CLO Management has the ACLOM Service Agreements in place with Acis, pursuant to which Acis provides credit research and operational support to Acis CLO Management, including services in connection with determining the composition, nature and timing of changes to the ACIS CLO Management portfolio, the due diligence of actual or potential investments, the execution of investment transactions approved by ACIS CLO Management, and certain loan services and administrative services. All final credit decisions are made by the Highland individuals referenced below.

Investment Philosophy

Highland's investment philosophy centers on being investors first. The firm has 25 years of experience investing in alternative strategies through multiple cycles. Highland is a recognized pioneer in bank loan asset management and CLO issuance. The firm invests a meaningful amount of capital in the portfolios they manage, with market value in excess of $250 million invested alongside our clients, as of September 30, 2017.

Highland's investment philosophy is rooted in a value-driven approach that combines rigorous bottom-up credit underwriting with top-down risk analysis to optimize risk-adjusted performance of portfolios. The firm integrates risk management throughout its investment process and maintains a culture of a high level of compliance. Highland focuses on attractive risk/return arbitrage opportunities where the firm can add value. Highland seeks to generate alpha by implementing checks and balances that allow the firm to identify risks, mitigate volatility, and quickly ascertain and sell losers.

While participating in the larger, liquid bank loan asset class, Highland continues to capture market inefficiencies in this over the counter (OTC) market through mispricings that it identifies via robust fundamental analysis, proactive diligence and monitoring, and nimble trading capabilities. Given the scale of the firm's investment resources, Highland is able to follow and manage investment portfolio names more closely. Highland credit research analysts manage 20-30 credits per analyst versus most peers, who manage 40-50 credits per analyst. In addition, the firm's dedicated trading desk and active dialogue with the Street enable Highland to identify technical dislocations and opportunities. The firm's high conviction investment philosophy and active portfolio management style versus peers have been key drivers of creating alpha for clients over time.

Investment Monitoring and Risk Management

Risk management is integrated into all levels of the investment process, from research, to portfolio construction and management, to ongoing monitoring. Highland conducts extensive position and portfolio monitoring activities on a daily basis. Portfolio risk is reviewed using internally generated daily, weekly, and monthly reports which measure transaction compliance including investor-mandated metrics such as portfolio concentrations or required test scores, as well as compliance with evolving internal positioning targets. Individual position risk is monitored in a number of ways, including Highland's extensive proprietary intranet system (Highland Online Management Engine or "**HOME**"), which pulls together data from their various data providers (Wall Street Office, LPC, Moody's, S&P, MarkIt, S&P LCD, CSFB Index) to provide a comprehensive portfolio/risk management system. The system allows the CLO team to monitor metrics at any level of aggregation (instrument, issuer, portfolio, fund and across the platform). Additionally, the system is designed to be scalable and with flexibility to enable future data inputs and reporting requirements.

For both Managed CLOs and for the underlying loans, the HOME intranet system allows Highland to monitor portfolios on a real-time, ongoing basis by receiving alerts showing positions with the largest daily/weekly/monthly mark change, as well as alerts on downgrades/upgrades, and when their credit analyst has changed his opinion on a broadly syndicated loan.

Allocation Policy

Highland and its affiliates may, from time to time, be presented with investment opportunities that fall within the investment objectives of the Company and the Managed CLOs and other clients, funds or other investment accounts managed by Highland or its affiliates, and in such circumstances, subject to the Company's priority allocation with respect to CLO Income Notes of new issue Highland CLOs Highland and its affiliates expect to allocate such opportunities among the Company, the Managed CLOs and such other clients, funds or other investment accounts on a basis that Highland and its affiliates determine in good faith is appropriate taking into consideration such factors as the fiduciary duties owed to the Company, the Managed CLOs and such other clients, funds or other investment accounts, the primary mandates of the Company, the Managed CLOs and such other clients, funds or other investment accounts, the capital available to the Company, the Managed CLOs and such other clients, funds or other investment accounts, any restrictions on investment, the sourcing of the transaction, the size of the transaction, the amount of potential follow-on investing that may be required for such investment and the other collateral obligations of the Company, the Managed CLOs and such other clients, funds or other investment accounts, the relation of such opportunity to the investment strategy of the Company, the Managed CLOs and such other clients, funds or other investment accounts, reasons of portfolio balance and any other consideration deemed relevant by Highland and its affiliates in good faith. Subject to the Company's priority allocation with respect to CLO Income Notes of new issue Highland CLOs, Highland will allocate investment opportunities across the entities for which such opportunities are appropriate, consistent with (1) its internal conflict of interest and allocation policies and (2) the requirements of the Investment Advisers Act. Highland will seek to allocate investment opportunities among such entities in a manner that is fair and equitable over time and consistent with its allocation policy. However, there is no assurance that such

investment opportunities will be allocated to the Company and the Managed CLOs fairly or equitably in the short term or over time and there can be no assurance that the Company and the Managed CLOs will be able to participate in all such investment opportunities that are suitable for it.

Biographies of the Highland Key Personnel

The Portfolio Manager will use the services of the key personnel set forth below, although it may not necessarily continue to use their services during the entire term of the Portfolio Management Agreement. Of these, Trey Parker and Hunter Covitz (and such other personnel as may be determined from time to time) will be made available by Highland to the Company pursuant to the Portfolio Management Agreement.

Although the persons described above are currently employed by Highland and are engaged in the activities of the Portfolio Manager, such persons may not necessarily continue to be employed by Highland during the entire term of the Portfolio Management Agreement and, if so employed, may not remain engaged in the activities of the Portfolio Manager.

James Dondero, CFA, CMA

Co-Founder, President

Mr. Dondero is President of Highland CLO Management and Acis CLO Management, LLC and Co-Founder and President of Highland Capital Management, L.P. (an alternative asset manager specializing in high-yield fixed income investments) and Acis Capital Management, L.P. Mr. Dondero has over 30 years of experience in the credit and equity markets, focused largely on high-yield and distressed investing. Under Mr. Dondero's leadership, Highland and Acis have been a pioneer in both developing the collateralized loan obligation (CLO) market and advancing credit-oriented solutions for institutional and retail investors worldwide, including product offerings such as institutional separate accounts, CLOs, hedge funds, private equity funds, mutual funds, REITs, and ETFs. Mr. Dondero is the Chairman and President of NexPoint Residential Trust, Inc. (NYSE:NXRT), is Chairman of NexBank Capital, Inc., Cornerstone Healthcare Group Holding, Inc., and CCS Medical, Inc., and a board member of Jernigan Capital, Inc. (NYSE:JCAP), and MGM Holdings, Inc. He also serves on the Southern Methodist University Cox School of Business Executive Board. A dedicated philanthropist, Mr. Dondero actively supports initiatives in education, veterans affairs, and public policy. Prior to founding Highland in 1993, Mr. Dondero was involved in creating the GIC subsidiary of Protective Life, where as Chief Investment Officer he helped take the company from inception to over $2 billion between 1989 and 1993. Between 1985 and 1989, Mr. Dondero was a corporate bond analyst and then portfolio manager at American Express. Mr. Dondero began his career in 1984 as an analyst in the JP Morgan training program. Mr. Dondero graduated from the University of Virginia where he earned highest honors (Beta Gamma Sigma, Beta Alpha Psi) from the McIntire School of Commerce with dual majors in accounting and finance. He has received certification as Certified Public Accountant (CPA) and Certified Managerial Accountant (CMA) and has earned the right to use the Chartered Financial Analyst (CFA) designation.

Mark Okada, CFA

Co-Founder, Co-Chief Investment Officer

Mr. Okada is Co-Founder of Highland CLO Management and Acis CLO Management, LLC and Co-Founder and Co-Chief Investment Officer of Highland Capital Management, L.P. and Acis Capital Management, L.P. Responsible for overseeing investment activities for various strategies within Highland and Acis, Mr. Okada is a pioneer in the development of the bank loan market and has over 30 years of credit experience. He is responsible for structuring one of the industry's first arbitrage CLOs and was actively involved in the development of Highland's bank loan separate account and mutual fund platforms. Mr. Okada received a BA in Economics and a BA in Psychology, cum laude, from the University of California, Los Angeles. He has earned the right to use the Chartered Financial Analyst designation. Mr. Okada is a Director of NexBank, Chairman of the Board of Directors of Common Grace Ministries, Inc., is on the Board of Directors for Education is Freedom, and also serves on the GrowSouth Fund advisory board.

Trey Parker

Partner, Portfolio Manager and Co-Chief Investment Officer

Mr. Parker is Partner, Portfolio Manager and Co-Chief Investment Officer at Highland Capital Management, L.P., and serves on the Investment Manager's Investment Committee. Prior to his current role, Mr. Parker was Head of Credit and covered a number of the industrial verticals, as well as parts of tech, media and telecom for the Investment Manager and worked on the Distressed & Special Situations investment team at Highland. Prior to joining Highland in March 2007, Mr. Parker was a Senior Associate at Hunt Special Situations Group, L.P., a Private Equity group focused on distressed and special situation investing. Mr. Parker was responsible for sourcing, executing and monitoring control Private Equity investments across a variety of industries. Prior to joining Hunt, Mr. Parker was an analyst at BMO Merchant Banking, a Private Equity group affiliated with the Bank of Montreal. While at BMO, Mr. Parker completed a number of LBO and mezzanine investment transactions. Prior to joining BMO, Mr. Parker worked in sales and trading for First Union Securities and Morgan Stanley. Mr. Parker received an MBA with concentrations in Finance, Strategy and Entrepreneurship from the University of Chicago Booth School of Business and a BA in Economics and Business from the Virginia Military Institute. Mr. Parker serves on the Board of Directors of Omnimax Holdings, Inc., TerreStar Corporation, JHT Holdings, Inc., and a non-profit organization, the Juvenile Diabetes Research Foundation (Dallas chapter).

Hunter Covitz, CPA

Managing Director, Structured Products

Mr. Covitz is a Managing Director and Portfolio Manager at Highland Capital Management, L.P. He is responsible for all CLOs, separate accounts, and hedge funds managed by Acis Capital Management, L.P., as well as all CLOs managed by Highland. Mr. Covitz serves on Highland's investment committee and leads the structured products investment team. Since joining Highland in 2003, Mr. Covitz has been instrumental in the structuring, warehousing, ramping, and ongoing portfolio management of over 30 Highland and Acis-originated CLOs. Prior to joining Highland, Mr. Covitz served as a tax consultant at Deloitte & Touche and KBA Group LLP, where he focused on high-net worth individuals and middle-market companies. He received both his MS and BBA in Accounting from the University of Oklahoma. Mr. Covitz is a licensed Certified Public Accountant.

Neil Desai

Director, Structured Products

Mr. Desai is a Director of Structured Products at Highland Capital Management, L.P. He is focused on sourcing and trading structured products for Highland's CLOs, hedge funds, mutual funds and separate accounts in the primary and secondary markets. Prior to joining Highland in August 2015, Mr. Desai was a Director in Pfizer Inc.'s Treasury organization where he built and ran Pfizer's structured products business. Prior to Pfizer, Mr. Desai spent several years structuring and trading various structured products at Barclays Capital and its spin-off hedge fund, C12 capital. Mr. Desai received both a Bachelor's and Master's degree in Computer Science & Electrical Engineering from MIT.]

COMPANY DIRECTORS AND ADMINISTRATION

DIRECTORS

The Directors are responsible for managing the business affairs of the Company in accordance with the Articles and have overall responsibility for the Company's activities including the appointment of the service providers. The Directors may delegate certain functions to other parties such as the Administrator and the Registrar. The Directors have appointed Highland as Portfolio Manager and delegated the investment management and risk management of the Company's investments to the Portfolio Manager pursuant to the Portfolio Management Agreement.

The Board comprises [two] Directors, both of whom are independent of Highland and Acis.

The address of the Directors, all of whom are non-executive, is the registered office of the Company. The Directors of the Company are as follows:

William Scott (Chairman)

William Scott, a Guernsey resident, acts as an independent Director of the Company. Mr. Scott also currently serves as independent non-executive director of a number of investment companies and funds. From 2003 to 2004, Mr. Scott worked as Senior Vice President with FRM Investment Management Limited. Previously, Mr. Scott was a director at Rea Brothers (which became part of the Close Brothers group in 1999 and where he was a director of Close Bank Guernsey Limited) (1989-2002) and Assistant Investment Manager with the London Residuary Body Superannuation Scheme (1987-1989). Mr. Scott graduated from the University of Edinburgh in 1982 and is a Chartered Accountant having qualified with Arthur Young (now E&Y) in 1987. Mr. Scott also holds the Securities Institute Diploma and is a Chartered Fellow of the Chartered Institute for Securities & Investment. He is also a Chartered Wealth Manager.

Heather Bestwick

Heather Bestwick, a Jersey resident, has been a financial services professional for over 25 years, onshore in the City of London and offshore in the Cayman Islands and Jersey. She qualified as an English solicitor, specialising in ship finance, with City firm Norton Rose, and worked in their London and Athens offices for eight years. In 1999 she joined global offshore law firm Walkers in the Cayman Islands, qualifying as a Cayman Islands attorney and Notary Public, and became a partner in 2003. Her practice encompassed hedge funds, private equity, structured finance, secured lending and yacht registration and finance. Ms. Bestwick moved to Jersey in 2007 to become Managing Partner of the Walkers Jersey office. She joined Jersey Finance in 2010 as Technical Director and Deputy Chief Executive, leading the development of finance industry legislation on behalf of industry (including the introduction of the Jersey Private Placement Fund and the AIFMD compliant regime; overseeing the amendments to the Companies and Trusts Laws) and liaising with the regulator and government. Ms. Bestwick is now an independent non-executive director, and is registered with the Jersey Financial Services Commission. She is a member of the Channel Islands committee of the Association of Investment Companies.

Management functions of the Board of Directors

As there are no employees of the Company, the Board performs certain management functions, which include the overseeing of the Company's the supervision of any delegated responsibilities to third-party service providers, and will have the ultimate responsibility for the management and operations of the Company.

The Company has appointed Highland as Portfolio Manager and delegated the investment management and risk management of the Company's investments to the Portfolio Manager pursuant to the Portfolio Management Agreement.

CORPORATE GOVERNANCE

The Directors are committed to maintaining high standards of corporate governance. Insofar as the Directors believe it to be appropriate and relevant to the Company, it is their intention that the Company should comply with best practice standards for the business carried on by the Company.

On 1 January 2012, the GFSC's Finance Sector Code of Corporate Governance (the "**GFSC Code**") came into effect. The GFSC has stated in the GFSC Code that companies which report against the UK Corporate Governance Code or the AIC Code are deemed to meet the requirements of the GFSC Code, and need take no further action. Other than as set out below, the Company currently complies with, and will comply with, the GFSC Code.

The Directors recognise the value of the AIC Code and have taken appropriate measures to ensure that the Company complies, so far as is possible given the Company's size and nature of business, with the AIC Code. Save as set out below, the Company currently complies, and will continue to comply, with the AIC Code.

There is no chief executive or senior independent director within the Company, which means that the Company cannot comply with Principle 1 of the AIC Code. As an investment company, all the Directors are non-executive and the Company has no employees. Accordingly, Principle 1 of the AIC Code is not relevant to the Company. The Company does not have a senior independent director because all of its Directors are non-executive and the Company has a Chairman. There are no other instances of non-compliance with the UK Corporate Governance Code by the Company as at the date of this Offering Memorandum.

Audit Committee

The Company has established an Audit Committee, which comprises [all] the Directors. The Company's Audit Committee will meet formally at least twice a year for the purpose, amongst other things, of considering the appointment, independence and remuneration of the Auditor and to review the Company's annual financial reports. Where audit-related and/or non-audit services are to be provided by the Auditors, full consideration of the financial and other implications on the independence of the Auditors arising from any such engagement will be considered before proceeding. Heather Bestwick will act as chairman of the Audit Committee. The responsibilities of the Audit Committee will include monitoring the integrity of the Company's results and financial statements, reviewing reports received from the Administrator on the adequacy and the effectiveness of the Company's internal controls and risk management systems, considering annually whether there is a need for an effectiveness of the Company's internal audit function and assessing the ongoing suitability of the Auditors and ensuring their co-ordination with any internal audit function.

The chairmanship of the Audit Committee and each Director's performance is reviewed annually by the Chairman and the performance of the Chairman will be assessed by the other Directors.

Advisory Board

The Company has established an Advisory Board, which composed of individuals who shall be representatives of certain Shareholders. See "*Summary—Advisory Board*".

Remuneration and Nomination Committee

The Company has established a Remuneration and Nomination Committee, which comprises all the Directors. The Remuneration and Nomination Committee will meet not less than once a year and will have responsibility for considering the remuneration of the Directors. It will also: (i) identify individuals qualified to become Board members and select the Director nominees for election at general meetings of the Shareholders or for appointment to fill vacancies; (ii) determine Director nominees for each committee of the Board; and (iii) consider the appropriate composition of the Board and its committees.

PORTFOLIO MANAGER

Highland will act as Portfolio Manager to the Company (pursuant to the Portfolio Management Agreement) and may act (either itself or through an affiliate) as the CLO Manager to Managed CLOs.

Pursuant to the Portfolio Management Agreement, the Portfolio Manager will select the portfolio of investments and instruct the Custodian with respect to any acquisition, disposition or sale of investments and be responsible for the business decisions and carry on the day-to-day management of the Company's business and implementation of its investment objective and policy.

Highland Fees

Highland will receive, in consideration for its services pursuant to the Portfolio Management Agreement, an amount equivalent to all Operating Expenses incurred by the Portfolio Manager in the performance of its obligations thereunder as described below, together with any irrecoverable VAT arising on such costs and expenses. Except as provided below, the Portfolio Manager will pay all of its own operating, overhead and administrative expenses, including all costs and expenses on account on employee compensation, employee benefits and rent ("**Overhead**") without reimbursement by the Company.

The Company shall pay or reimburse the Portfolio Manager and its affiliates for all expenses related to the services hereunder, including, but not limited to, reasonable third party costs and expenses, investment-related expenses, brokerage commissions and other transaction costs, expenses related to clearing and settlement charges, professional fees relating to legal, auditing or valuation services, any governmental, regulatory, licensing, filing or registration fees incurred in compliance with the rules of any self-regulatory organization or any federal, state or local laws, research-related expenses (including, without limitation, news and quotation equipment and services, investment and trading-related software, including, without limitation, trade order management software (i.e., software used to route trade orders)), accounting (including accounting software), tax preparation expenses, costs and expenses associated with reporting and providing information to the Company, any taxes imposed upon the Company (including, but not limited to, any irrecoverable VAT arising on such costs and expenses), fees relating to valuing the financial instruments, extraordinary expenses and the Company's indemnification obligations (including those incurred in connection with indemnifying indemnified persons, including advancing such amounts) (collectively, the "**Operating Expenses**").

For the avoidance of doubt, (i) the cost of all third party expenses incurred by Highland in connection with the Portfolio Management Agreement shall not exceed standard market rates (which may include standard soft dollar arrangements) and (ii) to the extent any of the foregoing expenses were incurred on behalf of, or benefit of a number of Portfolio Manager's advised accounts, such expenses shall be allocated pro rata among such accounts.

To the extent that expenses to be borne by the Company are paid by the Portfolio Manager or by any services provider, the Company shall reimburse the Portfolio Manager (or the relevant services provider, as applicable) for such expenses so long as such expenses are determined on an arm's length basis.

Highland will also receive a distributions pursuant to the Distribution Priority following the Investment Period, after satisfaction of all expenses, debts, liabilities and obligations of the Company and the Shareholders have receive a cumulative rate of return of 8.0% per annum, compounded annually. See "*Summary—Dividend Policy*".

Further details regarding Highland and its relationship with Highland are set out in the section of this Offering Memorandum entitled "*Investment Process*". Further details regarding the Portfolio Management Agreement are set out in the section of this Offering Memorandum entitled "*Additional Information on the Company*".

CLO MANAGER

In addition, Highland, Acis and/or the Management Companies (or one of their affiliates), as CLO Manager, may also manage Managed CLOs pursuant to management agreements ("**CLO Management Agreements**") to be entered into from time to time. The applicable CLO Manager will receive customary fees, in consideration for its services as the CLO Manager, from each of the Managed CLOs it manages.

ADMINISTRATOR

State Street (Guernsey) Limited has been appointed as Administrator of the Company pursuant to the Administration Agreement (further details of which are set out in the section of this Offering Memorandum entitled "*Material Contracts*" in "*Additional Information on the Company*"). In such capacity, the Administrator is responsible for the day-to-day administration of the Company (including but not limited to the calculation and publication of the estimated quarterly NAV) and general secretarial functions required by the Companies Law (including but not limited to the maintenance of the Company's accounting and statutory records). Prospective investors should note that it is not possible for the Administrator to provide any investment advice to investors.

The Administrator is a private limited company, created under the laws of Guernsey on 17 March 2000 whose registered office is situated at First Floor, Dorey Court, Admiral Park, St Peter Port, Guernsey GY1 6HJ, Channel Islands. The Administrator is licensed under the POI Law, with the GFSC to carry out controlled investment business. The Administrator's principal business activity is providing securities services.

REGISTRAR

State Street (Guernsey) Limited has been appointed as Registrar of the Company pursuant to the Registrar Agreement (further details of which are set out in the section of this Offering Memorandum entitled "*Material Contracts*" in "*Additional Information on the Company*".

The Registrar is a private limited company, created under Guernsey law on [•] whose registered office is situated at First Floor, Dorey Court Admiral Park, St Peter Port, Guernsey GY1 6HJ. The Registrar is licensed by the Commission under the POI Law to act as registrar of Guernsey-based collective investment schemes.

CUSTODIAN

State Street Custodial Services (Ireland) Limited has been appointed as Custodian of the Company pursuant to the Custody Agreement (further details of which are set out in the section of this Offering Memorandum entitled "*Material Contracts*" in "*Additional Information on the Company*"). In acting as custodian of the Company's investments, the Custodian shall provide for the safekeeping of certificates of deposit, shares, notes and in general any instrument evidencing the ownership of securities and may take custody of cash and other assets. Assets will be held in a custody account and registered in the name of the Company or the Custodian, its delegate or a nominee.

The Custodian, which is authorised as an Investment Business Firm under Section 10 of the Irish Investment Intermediaries Act, 1995 (as amended), will provide custody and banking services.

FEES AND EXPENSES

The expenses of the Company related to the Placing are described in "*Summary—Expenses related to the Placing*".

The Company's ongoing expenses are described in "*Summary—Ongoing annual expenses*".

For more information on expenses charged during the most recent financial year, prospective investors should review the Company's annual audited financial statements (if any) for the prior financial year.

MEETINGS AND REPORTS TO SHAREHOLDERS

All general meetings of the Company shall be held in Guernsey.

The Company's audited annual report and accounts will be prepared to 31 December, each year, and it is expected that copies will be sent to Shareholders at the end of April each year. Shareholders will also receive an unaudited interim report each year covering the six months from 1 January to 30 June, expected to be despatched at the end of August each year.

The Company's accounts are drawn up in U.S. Dollars and in compliance with GAAP.

The following information will be disclosed to investors at the same time as the annual financial statements and may be provided at other times by way of a report and/or letter sent to investors by the [*Portfolio Manager*][*Administrator*]:

(a) the percentage of the assets of the Company that are subject to special arrangements arising from their illiquid nature;

(b) any new arrangements for managing the liquidity of the Company;

(c) the current risk profile of the Company and the risk management systems employed by the Portfolio Manager to manage those risks; and

(d) the total amount of leverage employed by the Company.

Any changes to the following information will be provided by the [*Portfolio Manager*][*Administrator*] to investors without undue delay and may be provided by email:

(a) the maximum level of leverage which the Portfolio Manager may employ on behalf of the Company;

(b) the right of re-use of collateral or any changes to any guarantee granted under any leveraging arrangement; and

(c) activation of liquidity management tools.

PLACING ARRANGEMENTS

THE PLACING

The target number of Placing Shares to be issued pursuant to the Placing is in excess of [●] million. As at the date of this Offering Memorandum, the actual number of Placing Shares to be issued under the Placing is not known.

The results of the Placing will be released by the Company, including details of the number of Placing Shares allotted (or such other date as may be notified by the Company). Whilst it is expected that all Placing Shares will be issued in uncertificated form, if any Placing Shares are issued in certificated form it is expected that share certificates would be despatched approximately two weeks after settlement of the Placing. No temporary documents of title will be issued.

[The Company is seeking aggregate subscriptions to purchase Placing Shares in an aggregate amount of up to approximately $[●] million.

Placees will commit under the subscription agreements to purchase Shares to be settled from time to time during the Investment Period. The Portfolio Manager may call such Shares for settlement from time to time on a pro rata basis upon 10 Business Days' notice to the Placees in such amounts as may be specified by the Portfolio Manager.

Upon the expiration of the Investment Period, all Placees will be released from any further obligation with respect to purchase Shares under their subscriptions, except to the extent necessary to:

(i) complete the purchase of Shares pursuant to written commitments, letters of intent or similar contractual commitments that were in process as of the end of the Investment Period; and

(ii) fund any indebtedness of the Company permitted hereunder incurred prior to the end of the Investment Period (including to repay outstanding indebtedness under any Warehouse Loan Facilities).

Shares will be issued at a price per Share based on the then current NAV of the Company.

The maximum number of Shares to be issued by the Company is [●] million and the minimum number is [●] million. Fractions of Placing Shares will not be issued.

On the Closing Date, Placees will acquire Shares of existing Shareholders at a price per Share based on the current NAV of the Company such that Placees and existing Shareholders will hold currently existing Shares on a *pro rata* basis and existing Shareholders will commit, as Placees under subscription agreements, to purchase Shares such that new and existing Shareholders will hold both existing Shares and commitments on pro rata basis.

The Board may deduct from any dividend payable to any Shareholder on or in respect of a Share all sums of money (if any) presently payable by him to the Company on account of calls with respect to existing Shares, or calls of commitments to purchase Shares pursuant to the subscription agreements or otherwise.

The Board may retain any dividend or other monies payable on or in respect of a Share on which the Company has a lien and may apply the same in or towards satisfaction of the liabilities or obligations in respect of which the lien exists.]

Highland Principal Commitment

[Certain principals of Highland will subscribe for Shares of [●] in the aggregate.]

TIME AND DATE OF THE OPENING AND CLOSING OF THE OFFER

This subscription is open for a fixed offer period only. This period runs from [●], the offer opening date, until 17:00 in Guernsey on the Closing Date. Only fully completed applications received by this date with cleared funds in the Companies' nominated account will be acceptable for investment.

USE OF PROCEEDS

The Net Placing Proceeds will depend on the number of Placing Shares issued pursuant to the Placing. The Portfolio Manager intends to invest the Net Placing Proceeds in accordance with the Company's investment policy (further details of the Company's investment process and strategy are set out in the section of this Offering Memorandum entitled "*Company, its Investment Objective, Policy and Strategy*").

DEALINGS

The Company does not guarantee that at any particular time any market maker(s) will be willing to make a market in the Placing Shares, nor does it guarantee the price at which a market will be made in the Placing Shares. Accordingly, the dealing price of the Placing Shares may not necessarily reflect changes in the Net Asset Value per Share. Furthermore, the level of the liquidity in the Placing Shares can vary significantly.

SCALING BACK AND ALLOCATION

If aggregate applications for Placing Shares exceed 325 million Shares, being the maximum number of Shares to be issued pursuant to the Placing, it will be necessary to scale back applications under the Placing. The Company reserves the right to decline in whole or in part any application for Placing Shares pursuant to the Placing.

GENERAL

Pursuant to anti-money laundering laws and regulations with which the Company must comply in the UK and Guernsey, the Company (and its agents) may require evidence in connection with any application for Placing Shares, including further identification of the applicant(s), before any Placing Shares are issued.

In the event that there are any significant changes affecting any of the matters described in this Offering Memorandum or where any significant new matters have arisen after the publication of this Offering Memorandum, the Company will publish a notice to investors. Such notice will give details of the significant change(s) or the significant new matter(s). In the event that the Company is required to publish any notice, applicants who have applied for Placing Shares shall have at least two clear business days following the publication of the relevant notice within which to withdraw their offer to subscribe for Placing Shares in its entirety. The right to withdraw an application to subscribe for Placing Shares in these circumstances will be available to all investors in the Placing. If the application is not withdrawn within the time limits set out in the relevant notice, any application for Placing Shares will remain valid and binding.

The Directors may, in their absolute discretion, waive the minimum application amounts in respect of any particular application for Placing Shares under the Placing.

Should the Placing be aborted or fail to complete for any reason, monies received will be returned without interest at the risk of the applicant to the bank account from which the money was received forthwith following such abort or failure, as the case may be.

CLEARING AND SETTLEMENT

Payment for the Placing Shares should be made in accordance with settlement instructions to be provided to Placees by or on behalf of the Company. To the extent that any application for Placing Shares is rejected in whole or in part (whether by scaling back or otherwise), monies received will be returned without interest at the risk of the applicant.

PURCHASE AND TRANSFER RESTRICTIONS

This Offering Memorandum does not constitute an offer to sell, or the solicitation of an offer to acquire or subscribe for, Placing Shares in any jurisdiction where such an offer or solicitation is unlawful or would impose any unfulfilled registration, qualification, publication or approval requirements on the Company.

The Company has elected to impose the restrictions described below on the Placing and on the future trading of the Placing Shares so that the Company will not be required to register the offer and sale of the Placing Shares under the U.S. Securities Act, so that the Company will not have an obligation to register as an investment company under the

U.S. Investment Company Act and related rules and to address certain ERISA, U.S. Tax Code and other considerations. The Company and its agents will not be obligated to recognise any resale or other transfer of the Placing Shares made other than in compliance with the restrictions described below.

Restrictions due to lack of registration under the U.S. Securities Act and U.S. Investment Company Act

The Placing Shares have not been and will not be registered under the U.S. Securities Act or with any securities regulatory authority of any state or other jurisdiction of the United States and the Placing Shares may not be offered, sold, exercised, resold, transferred or delivered, directly or indirectly, within the United States or to, or for the account or benefit of, U.S. Persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the U.S. Securities Act and in compliance with any applicable securities laws of any state or other jurisdiction in the United States. There will be no public offer of the Placing Shares in the United States.

Subject to certain exceptions as described herein, the Placing is only being made outside the United States to non-U.S. Persons in reliance on Regulation S under the U.S. Securities Act.

In addition, except with the express written consent of the Company given in respect of an investment in the Company, the Placing Shares may not be acquired by (i) investors using assets of (A) an "employee benefit plan" as defined in section 3(3) of ERISA that is subject to Title I of ERISA; (B) a "plan" as defined in Section 4975 of the U.S. Code, including an individual retirement account or other arrangement that is subject to Section 4975 of the U.S. Code; or (C) an entity which is deemed to hold the assets of any of the foregoing types of plans, accounts or arrangements that is subject to Title I of ERISA or Section 4975 of the U.S. Code; or (ii) a governmental, church, non-U.S. or other employee benefit plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the U.S. Code, unless its purchase, holding, and disposition of the Placing Shares will not constitute or result in a non-exempt violation of any such substantially similar law.

Subscriber and Shareholder warranties

By participating in the Placing, each subscriber acknowledges and agrees that it will (for itself and any person(s) procured by it to subscribe for Shares and any nominee(s) for any such person(s)) be further deemed to represent and warrant to each of the Company and the Registrar that:

(a) if it is located outside the United States, it is not a U.S. Person, it is acquiring the Shares in an offshore transaction meeting the requirements of Regulation S and it is not acquiring the Shares for the account or benefit of a U.S. Person;

(b) if it is located inside the United States or is a U.S. Person, it is an Eligible U.S. Investor and has received, read, understood and, prior to its receipt of any Shares pursuant to the Placing, returned an executed a U.S. Investor Letter to the Company;

(c) it acknowledges that the Shares have not been and will not be registered under the U.S. Securities Act or with any securities regulatory authority of any state or other jurisdiction of the United States and may not be offered or sold in the United States or to, or for the account or benefit of, U.S. Persons absent registration or an exemption from registration under the U.S. Securities Act;

(d) it acknowledges that the Company has not registered under the U.S. Investment Company Act and that the Company has put in place restrictions for transactions not involving any public offering in the United States, and to ensure that the Company is not and will not be required to register under the U.S. Investment Company Act;

(e) unless the Company expressly consents in writing otherwise, no portion of the assets used to purchase, and no portion of the assets used to hold, the Shares or any beneficial interest therein constitutes or will constitute the assets of (i) an "employee benefit plan" as defined in Section 3(3) of ERISA that is subject to Title I of ERISA; (ii) a "plan" as defined in Section 4975 of the U.S. Code, including an individual retirement account or other arrangement that is subject to Section 4975 of the U.S. Code; or (iii) an entity which is deemed to hold the assets of any of the foregoing types of plans, accounts or arrangements that is subject to Title I of ERISA or Section 4975 of the U.S. Code. In addition, if an investor is a governmental, church, non-U.S. or

other employee benefit plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the U.S. Code, its purchase, holding, and disposition of the Shares must not constitute or result in a non-exempt violation of any such substantially similar law;

(f) that if any Shares offered and sold are issued in certificated form, then such certificates evidencing ownership will contain a legend substantially to the following effect unless otherwise determined by the Company in accordance with applicable law:

"THE COMPANY HAS NOT BEEN REGISTERED UNDER THE UNITED STATES INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE "INVESTMENT COMPANY ACT") AND THE SECURITY EVIDENCED HEREBY HAS NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) OUTSIDE THE UNITED STATES TO A NON-US PERSON (AS DEFINED IN RULE 902 OF REGULATION S, "US PERSON") THAT IS NOT A US RESIDENT FOR THE PURPOSES OF THE INVESTMENT COMPANY ACT (A "US RESIDENT") IN ACCORDANCE WITH RULE 903 OR 904 OF REGULATION S UNDER THE SECURITIES ACT (AND NOT IN A PRE- ARRANGED TRANSACTION RESULTING IN THE RESALE OF SUCH SECURITY INTO THE UNITED STATES) OR (B) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT AND UNDER CIRCUMSTANCES WHICH WILL NOT REQUIRE THE COMPANY TO REGISTER UNDER THE INVESTMENT COMPANY ACT (PROVIDED THAT, IF SUCH TRANSFER PURSUANT TO THIS CLAUSE (B) IS TO A US PERSON OR A US RESIDENT, THE PURCHASER IS A QUALIFIED PURCHASER WITHIN THE MEANING OF SECTION 3(c)(7) OF THE INVESTMENT COMPANY ACT) AND, IN EACH CASE IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES AND OTHER JURISDICTIONS. THE HOLDER OF THIS SECURITY AGREES THAT IT WILL COMPLY WITH THE FOREGOING RESTRICTIONS. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF ANY EXEMPTION UNDER THE SECURITIES ACT FOR RESALES OF THE SECURITY.

THE HOLDER ACKNOWLEDGES THAT THE COMPANY RESERVES THE RIGHT PRIOR TO ANY SALE OR OTHER TRANSFER TO REQUIRE THE DELIVERY OF SUCH CERTIFICATIONS, LEGAL OPINIONS AND OTHER INFORMATION AS THE COMPANY MAY REASONABLY REQUIRE TO CONFIRM THAT THE PROPOSED SALE OR OTHER TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

IF A BENEFICIAL OWNER OF THIS SECURITY WHO IS REQUIRED TO BE A QUALIFIED PURCHASER WITHIN THE MEANING OF SECTION 3(c)(7) OF THE INVESTMENT COMPANY ACT IS AT ANY TIME NOT SUCH A QUALIFIED PURCHASER, THE COMPANY MAY (A) REQUIRE SUCH BENEFICIAL OWNER TO SELL THIS SECURITY TO A PERSON WHO IS NOT A US PERSON OR A US RESIDENT OR WHO IS A US PERSON WHO IS ALSO A QUALIFIED PURCHASER AND WHO IS OTHERWISE QUALIFIED TO PURCHASE SUCH SECURITY IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT OR (B) SELL THIS SECURITY ON BEHALF OF THE BENEFICIAL OWNER AT THE BEST PRICE REASONABLY OBTAINABLE TO A PERSON WHO IS NOT A US PERSON OR WHO IS A US PERSON OR A US RESIDENT WHO IS ALSO A QUALIFIED PURCHASER AND WHO IS OTHERWISE QUALIFIED TO PURCHASE SUCH SECURITY IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE SECURITIES ACT.

THE HOLDER OF THIS SECURITY IS DEEMED TO HAVE ACKNOWLEDGED THAT THIS LEGEND WILL NOT BE REMOVED FROM THIS SECURITY FOR AS LONG AS THE COMPANY RELIES ON SECTION 3(c)(7) OF THE INVESTMENT COMPANY ACT";

(g) if in the future the investor decides to offer, sell, transfer, assign or otherwise dispose of the Shares, it will do so only in compliance with an exemption from the registration requirements of the U.S. Securities Act and under circumstances which will not require the Company to register under the U.S. Investment Company Act. It acknowledges that any sale, transfer, assignment, pledge or other disposal made other than in

compliance with such laws and the above stated restrictions will be subject to the compulsory transfer provisions as provided in the Articles;

(h) if in the future it decides to offer, resell, pledge or otherwise transfer any of the Shares, such Shares may be offered, resold, pledged or otherwise transferred only (A) outside the United States to persons not known to be U.S. Persons in an offshore transaction in accordance with Rule 904 of Regulation S under the U.S. Securities Act, (B) in a transaction that does not require registration under the U.S. Securities Act or any applicable United States securities laws and regulations or require the Company to register under the U.S. Investment Company Act, subject to, if requested by the Company, delivery of an opinion of counsel of recognised standing in form and substance reasonably satisfactory to the Company, or (C) to the Company;

(i) it is purchasing the Shares for its own account or for one or more investment accounts for which it is acting as a fiduciary or agent, in each case for investment only, and not with a view to or for sale or other transfer in connection with any distribution of the Shares in any manner that would violate the U.S. Securities Act, the U.S. Investment Company Act or any other applicable securities laws;

(j) it acknowledges that the Company reserves the right to make inquiries of any holder of the Shares or interests therein at any time as to such person's status under the U.S. federal securities laws and to require any such person that has not satisfied the Company that holding by such person will not violate or require registration under the U.S. securities laws to transfer such Shares or interests in accordance with the Articles;

(k) it acknowledges and understands that the Company is required to comply with FATCA and that the Company will follow FATCA's extensive reporting and withholding requirements. The subscriber agrees to furnish any information and documents the Company may from time to time request, including but not limited to information required under FATCA;

(l) it is entitled to acquire the Shares under the laws of all relevant jurisdictions which apply to it, it has fully observed all such laws and obtained all governmental and other consents which may be required thereunder and complied with all necessary formalities and it has paid all issue, transfer or other taxes due in connection with its acceptance in any jurisdiction of the Shares and that it has not taken any action, or omitted to take any action, which may result in the Company or its directors, officers, agents, employees and advisers being in breach of the laws of any jurisdiction in connection with the Placing or its acceptance of participation in the Placing;

(m) it has received, carefully read and understands this Offering Memorandum, and has not, directly or indirectly, distributed, forwarded, transferred or otherwise transmitted this Offering Memorandum or any other presentation or offering materials concerning the Shares to within the United States or to any U.S. Persons, nor will it do any of the foregoing; and

(n) if it is acquiring any Shares as a fiduciary or agent for one or more accounts, the investor has sole investment discretion with respect to each such account and full power and authority to make such foregoing representations, warranties, acknowledgements and agreements on behalf of each such account.

The Company and its directors, officers, agents, employees, advisers and others will rely upon the truth and accuracy of the foregoing representations, warranties, acknowledgments and agreements.

If any of the representations, warranties, acknowledgments or agreements made by the investor are no longer accurate or have not been complied with, the investor will immediately notify the Company.

TAXATION

[GENERAL

The information below, which relates only to Guernsey and UK taxation, summarises the advice received by the Board and is applicable to the Company (except insofar as express reference is made to the treatment of other persons) to persons who are resident or ordinarily resident in Guernsey or the United Kingdom for taxation purposes and who hold Placing Shares as an investment. It is based on current Guernsey and UK tax law and published practice, respectively, which law or practice is, in principle, subject to any subsequent changes therein (potentially with retrospective effect). Certain Shareholders, such as dealers in securities, collective investment schemes, insurance companies and persons acquiring their Placing Shares in connection with their employment may be taxed differently and are not considered. The tax consequences for each Shareholder of investing in the Company may depend upon the Shareholder's own tax position and upon the relevant laws of any jurisdiction to which the Shareholder is subject.

If you are in any doubt about your tax position, you should consult your professional adviser.

GUERNSEY

The Directors intend to conduct the Company's affairs such that, based on current law and practice of the relevant tax authorities, the Company will not become resident for tax purposes in any other territory other than Guernsey.

The Company

The Company has been granted tax exempt status by the Director of Income Tax in Guernsey pursuant to the Income Tax (Exempt Bodies) (Guernsey) Ordinance, 1989. The Company will need to reapply annually for exempt status, an application that currently incurs a fee of £1,200 per annum. It is expected that the Company will continue to apply for exempt status annually.

Once exempt status has been granted, the Company is not considered resident in Guernsey for Guernsey income tax purposes and will be exempt from tax in Guernsey on both bank deposit interest and any income that does not have its source in Guernsey. It is not anticipated that any income other than bank deposit interest will arise in Guernsey and therefore the Company is not expected to incur any additional liability to Guernsey tax.

Shareholders

Non-Guernsey resident Shareholders will not be subject to any income tax in Guernsey in respect of or in connection with the acquisition, holding or disposal of any shares owned by them. Such Shareholders will receive dividends without deduction of Guernsey income tax.

Any Shareholders who are resident in Guernsey will be subject to Guernsey income tax on any dividends paid to such persons but will not suffer any deduction of tax by the Company from any such dividends payable where the Company is granted tax exempt status. The Company is however required to provide the Director of Income Tax the names, addresses and gross amount of any income paid to Guernsey resident shareholders during the previous year when renewing the Company's exempt tax status each year.

At present Guernsey does not levy taxes upon capital gains, capital transfer, wealth, sales or turnover (unless the varying of investments and turning of such investments to account is a business or part of a business), nor are there any estate duties save for registration fees and an ad valorem duty for a Guernsey grant of representation where the deceased dies leaving assets in Guernsey which require presentation of such a grant. No stamp duty is chargeable in Guernsey on the issue, transfer, switching or redemption of Shares in the Company.

FATCA, Common Reporting Standard and BEPS

Foreign Account Tax

The US Hiring Incentives to Restore Employment Act resulted in the introduction of legislation in the US known as the Foreign Account Tax Compliance Act (**FATCA**) which has the effect that a 30 per cent withholding tax may be imposed on payments of US source income and certain payments of proceeds from the sale of property that could give

rise to US source income unless there is compliance with requirements for the Company to report on an annual basis the identity of, and certain other information about, direct and indirect US investors in the Company to the relevant Guernsey authority for onward transmission to the US Internal Revenue Service (**IRS**). An investor that fails to provide the required information to the Company may be subject to the 30 per cent withholding tax with respect to its share of any such payments directly or indirectly attributable to US investments of the Company, and the Company might be required to terminate such investor's investment in the Company.

On 13 December 2013 an intergovernmental agreement was entered into between Guernsey and the US in respect of FATCA (the **IGA**), which agreement was enacted into Guernsey law as of 30 June 2014 by the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014. Guidance notes currently in draft form have been issued by the relevant Guernsey authority to provide practical assistance on the reporting obligations of affected businesses under the IGA.

Although the Company will attempt to satisfy any obligations imposed on it to avoid the imposition of such withholding tax, no assurance can be given that the Company will be able to satisfy these obligations. If the Company becomes subject to a withholding tax as a result of FATCA, the return of all Shareholders may be materially affected.

This summary of Guernsey taxation issues can only provide a general overview of this area and it is not a description of all the tax considerations that may be relevant to a decision to invest in the Company. The summary of certain Guernsey tax issues is based on the laws and regulations in force as of the date of this document and may be subject to any changes in Guernsey law occurring after such date. Legal advice should be taken with regard to individual circumstances. Any person who is in any doubt as to his tax position or where he is resident, or otherwise subject to taxation, in a jurisdiction other than Guernsey, should consult his professional adviser.

UNITED KINGDOM

The following statements are intended as a general guide to certain UK tax considerations relating to an investment in Shares and do not purport to be a complete analysis of all potential UK tax consequences of holding Shares. They are based on current UK legislation and current published practice of HMRC, which may change, possibly with retroactive effect. Except insofar as express reference is made to the treatment of non-UK tax residents and non-UK domiciled individuals, they apply only to Shareholders who are resident and domiciled (in the case of individuals) or resident (in the case of companies) for tax purposes in (and only in) the UK, who hold their Shares as an investment (other than under an individual savings account) and who are the absolute beneficial owners of both the Shares and any dividends paid on them. The statements are not addressed to Shareholders who hold Shares in connection with a trade, profession or vocation carried on in the UK through a branch or agency (or, in the case of a corporate Shareholder, in connection with a trade in the UK carried on through a permanent establishment or otherwise). The tax position of certain categories of Shareholders who are subject to special rules (such as persons acquiring their Shares in connection with employment, dealers in securities, insurance companies and collective investment schemes) is not considered.

Taxation of the Company

As the Company is an alternative investment fund for the purpose of the Alternative Investment Fund Managers Regulations 2013, it should not be considered to be UK resident for UK tax purposes. Accordingly, and provided that the Company does not carry on a trade in the UK through a permanent establishment situated therein for UK corporation tax purposes or through a branch or agency situated in the UK which would bring it within the charge to income tax, the Company will not be subject to UK corporation tax or income tax on income and capital gains arising to it save as noted below in relation to possible withholding tax on certain UK source income. The Directors intend that the affairs of the Company are conducted so that no such permanent establishment, branch or agency will arise insofar as this is within their control, but it cannot be guaranteed that the conditions necessary to prevent any such permanent establishment, branch or agency coming into being will at all times be satisfied.

Interest and other income received by the Company which has a UK source may be subject to withholding taxes in the UK.

Disposals of Shares

Each class of Shares will constitute a relevant interest in an "offshore fund" for the purposes of UK taxation. Under the UK's offshore fund legislation, any gain arising on the sale, redemption or other disposal of shares in an offshore fund (which may include an in specie redemption by the Company) held by persons who are resident in the UK for tax purposes will be taxed at the time of such sale, disposal or redemption as income and not as a capital gain. This does not apply, however, where the relevant offshore fund is accepted by HMRC as a "reporting fund" throughout the period during which the relevant interests were held.

It is not currently intended that the Company will apply for reporting fund status under the offshore funds regime in respect of any Shares. Accordingly, Shareholders who are resident in the UK for taxation purposes may be liable to UK income taxation in respect of gains arising from the sale, redemption or other disposal of their Shares. Such gains may remain taxable notwithstanding any general or specific UK capital gains tax exemption or allowance available to a Shareholder and may result in certain Shareholders incurring a proportionately greater UK taxation charge. Any losses arising on the disposal of Shares by Shareholders who are resident in the UK will be eligible for capital gains loss relief. The Directors may launch one or more classes of Shares in future certified by HMRC as reporting funds for the purposes of UK taxation.

Dividends

Any dividends received by UK resident individual Shareholders (or deemed to be received in the case of any future class of Shares with reporting fund status) will generally be subject to UK income tax whether or not such distributions are reinvested.

Dividends received by a UK resident Shareholder (or deemed to be received in the case of any future class of Shares with reporting fund status) within the charge to corporation tax should be exempt from tax in respect of dividends paid by the Company, although it should be noted that this exemption is subject to certain exclusions and specific anti-avoidance rules (particularly in the case of "small companies", as defined in section 931S of the Corporation Tax Act 2009 ("CTA 2009")).

Other UK taxation considerations

The attention of non-corporate Shareholders who are resident in the UK is drawn to the provisions of Chapter 2 of Part 13 of the UK Income Tax Act 2007. These provisions are aimed at preventing the avoidance of income tax by individuals through transactions resulting in the transfer of assets or income to persons (including companies) resident or domiciled abroad and may render them liable for income tax in respect of undistributed income and profits of the Company. This legislation will, however, not apply if such a Shareholder can satisfy HMRC that either:

(i) it would not be reasonable to draw the conclusion from all the circumstances of the case, that the purpose of avoiding liability to taxation was the purpose, or one of the purposes, for which the relevant transactions or any of them were effected;

(ii) all the relevant transactions are genuine commercial transactions and it would not be reasonable to draw the conclusion, from all the circumstances of the case, that any one or more of the transactions was more than incidentally designed for the purpose of avoiding liability to taxation; or

(iii) all the relevant transactions were genuine, arm's length transactions and if the Shareholder were liable to tax under Chapter 2 of Part 13 in respect of such transactions such liability would constitute an unjustified and disproportionate restriction on a freedom protected by Title II or IV of Part Three of the Treaty on the Functioning of the European Union or Part II or III of the EEA Agreement.

Chapter 3 of Part 6 of the CTA 2009 provides that, if at any time in an accounting period a corporate Shareholder within the charge to UK corporation tax holds an interest in an offshore fund and there is a time in that period when that fund fails to satisfy the "non-qualifying investments test", the interest held by such a corporate Shareholder will be treated for the accounting period as if it were rights under a creditor relationship for the purposes of the rules relating to the taxation of most corporate debt contained in the CTA 2009 (the "Corporate Debt Regime"). Shares will (as explained above) constitute interests in an offshore fund and, on the basis of the current investment policies of the Company, it is likely that the "non-qualifying investments test" will not be met. In circumstances where the test is not

so satisfied (for example where the Company invests in cash, securities or debt instruments or open-ended companies that themselves do not satisfy the "non-qualifying investments test" and the market value of such investments exceeds 60 per cent. of the market value of all its investments at any time), the Shares in the relevant class will be treated for corporation tax purposes as within the Corporate Debt Regime. As a consequence, all returns on the Shares in respect of each corporate Shareholder's accounting period during which the test is not met (including gains, profits and deficits and exchange gains and losses) will be taxed or relieved as an income receipt or expense on a fair value accounting basis. Accordingly, a corporate Shareholder in the Company may, depending on its own circumstances, incur a charge to corporation tax on an unrealised increase in the value of its holding of Shares (and, likewise, obtain relief against corporation tax for an unrealised reduction in the value of its holding of Shares). The provisions relating to non-reporting funds (outlined above) would not then apply to such corporate shareholders and the effect of the provisions relating to holdings in controlled foreign companies (outlined below) would then be substantially mitigated.

Part 9A of TIOPA 2010 subjects UK resident companies to tax on the profits of companies not so resident (such as the Company) in which they have an interest. The provisions, broadly, affect UK resident companies which hold, alone or together with certain other associated persons, shares which confer a right to at least 25 per cent. of the profits of a non-resident company (a "25% Interest") where that non-resident company is controlled by persons who are resident in the UK and is subject to a lower level of taxation in its territory of residence. The legislation is not directed towards the taxation of capital gains. In addition, these provisions will not apply if the shareholder reasonably believes that it does not hold a 25% Interest in the Company throughout the relevant accounting period.

The attention of persons resident in the UK for taxation purposes is drawn to the provisions of section 13 of the Taxation of Chargeable Gains Act 1992 ("section 13"). Section 13 applies to a "participator" for UK taxation purposes (which term includes a shareholder) if at any time when any gain accrues to the Company which constitutes a chargeable gain for those purposes, at the same time, the Company is itself controlled by a sufficiently small number of persons so as to render the Company a body corporate that would, were it to have been resident in the UK for taxation purposes, be a "close" company for those purposes. The provisions of section 13 could, if applied, result in any such person who is a "participator" in the Company being treated for the purposes of UK taxation of chargeable gains as if a part of any chargeable gain accruing to the Company had accrued to that person directly, that part being equal to the proportion of the gain that corresponds on a just and reasonable basis to that person's proportionate interest in the Company as a "participator". No liability under section 13 could be incurred by such a person however, where such proportion does not exceed one quarter of the gain. In addition, exemptions may also apply where none of the acquisition, holding or disposal of the assets had a tax avoidance main purpose or where the relevant gains arise on the disposal of assets used only for the purposes of genuine, economically significant business activities carried on outside the UK.

In the case of UK resident individuals domiciled outside the UK, section 13 applies only to gains relating to UK situate assets of the Company and gains relating to non-UK situate assets if such gains are remitted to the UK.

Stamp duty and stamp duty reserve tax

No UK stamp duty or stamp duty reserve tax will be payable on an issue of Shares. UK stamp duty at the rate of 0.5% of the value of the consideration for the transfer of any Shares (rounded up where necessary to the nearest £5) may become payable on any instrument of transfer of the Shares which is executed within the UK, or which relates to any property situated, or to any matter or thing done or to be done, in the UK. Provided, as is the intention, that the Shares are not registered in any register kept in the UK by or on behalf of the Company and are not paired with shares issued by a body corporate incorporated in the UK, any agreement to transfer the Shares will not be subject to stamp duty reserve tax.

Inheritance tax

A liability to UK inheritance tax on Shares may arise in the event of the death of or on the making of certain categories of lifetime transfers by an individual Shareholder domiciled or deemed to be domiciled in the UK for inheritance tax purposes.

The Common Reporting Standard

Drawing extensively on the intergovernmental approach to implementing US FATCA, the OECD developed the Common Reporting Standard ("CRS") to address the issue of offshore tax evasion on a global basis. Aimed at maximizing efficiency and reducing cost for financial institutions, the CRS provides a common standard for due diligence, reporting and exchange of financial account information. Pursuant to the CRS, tax authorities in participating CRS jurisdictions will obtain from reporting financial institutions, and automatically exchange with other participating tax authorities in which the Shareholders of the reporting financial institution are resident on an annual basis, financial account and personal information with respect to all reportable accounts identified by financial institutions on the basis of common due diligence and reporting procedures. The first information exchanges are expected to begin in September 2017. Guernsey has legislated to implement the CRS. As a result, the Company will be required to comply with the CRS due diligence and reporting requirements, as adopted by Guernsey. Shareholders may be required to provide additional information to the Company to enable the Company to satisfy its obligations under the CRS. Failure to provide requested information may subject a Shareholder to liability for any resulting penalties or other charges and/or mandatory termination of its interest in the Company.

If you are in any doubt as to your tax position, you should consult your professional adviser.

SHAREHOLDERS OF THE COMPANY

So far as the Company is aware, as at [•] 2017 (being the latest practicable date prior to publication of this document) the following persons hold directly or indirectly 5% or more of the Company's voting rights or will do so immediately following the Placing: [Current shareholdings to be updated per State Street records.]

	Immediately prior to the Placing		Immediately following the Placing	
Name	**Number of Shares**	**% of voting rights in respect of the issued share capital**	**Number of Shares**	**% of voting rights in respect of the issued share capital**
CLO HoldCo, Ltd.	143,454,001	100	[•]	[•]
Acis Capital Management, L.P.	966,679	0	[•]	[•]
[•]	0	0	[•]	[•]

Save as set out above in this section of this Offering Memorandum, the Company is not aware of any person who holds, or who will immediately following the Placing hold, as shareholder directly or indirectly, 5% or more of the voting rights of the Company.

None of the Shareholders referred to in the table set forth in above has voting rights which differ from those of any other Shareholder in respect of any Shares held by them.

Save as set out in this above in this section of this Offering Memorandum, the Company is not aware of any person who immediately following the Placing directly or indirectly, jointly or severally, will own sufficient shares to exercise control over the Company.

ADDITIONAL INFORMATION ON THE COMPANY

INCORPORATION AND ADMINISTRATION

The Company is a registered closed-ended investment company incorporated in Guernsey with limited liability on 30 March 2015 under the provisions of the Companies Law, with registered number 60120. The Company continues to be registered and domiciled in Guernsey. The registered office and principal place of business of the Company is First Floor, Dorey Court, Admiral Park, St Peter Port, Guernsey GY1 6HJ, Channel Islands (telephone number 01481 715601). The statutory records of the Company are kept at this address. The Company operates and issues shares in accordance with the Companies Law and ordinances and regulations made thereunder and has no employees. The Company shall have an unlimited life.

The Company is regulated by the GFSC and is not regulated by any regulator other than the GFSC.

The Company's accounting period will end on 31 December, of each year, with the first year end on 31 December 2015.

PricewaterhouseCoopers CI LLP of Royal Bank Place, 1 Glategny Esplanade, St Peter Port, Guernsey GY1 4ND has been the only Auditors of the Company since incorporation. PricewaterhouseCoopers CI LLP is a member of the Institute of Chartered Accountants of England & Wales. The Shareholders have the power, under the Companies Law, to appoint the auditor at each AGM or remove the auditor by ordinary resolution.

The annual report and accounts will be prepared according to GAAP.

Save for its entry into the material contracts summarised in "*—Material Contracts*" of this section of this Offering Memorandum and certain non-material contracts, [since its incorporation the Company has not incurred borrowings, issued any debt securities, incurred any contingent liabilities or made any guarantees, nor granted any charges or mortgages]. [Highland to confirm.]

Save as set out in "*Share Capital*" below, there have been no changes to the issued share capital of the Company since incorporation.

SHARE CAPITAL

On incorporation, the share capital of the Company consisted of one ordinary share of no par value. The Placing Shares will be issued in the form of participating ordinary shares having the rights set out in the Articles. Shareholders have no right to have their Shares redeemed.

As at the date of this Offering Memorandum, the Company's issued and fully paid up share capital is [144,420,680] shares of no par value. [Subject to State Street confirmation.] The total assets of the Company will have increased by U.S. $[•] million immediately following the Placing and would have been earnings neutral.

None of the Shareholders has voting rights attaching to Shares that they hold which are different to the voting rights attached to any other Shares of the same class in the Company.

As at the date of this Offering Memorandum, the memorandum of incorporation provides that there is no limit on the number of shares of any class which the Company is authorised to issue.

The Directors have absolute authority under the Articles to allot the Shares to be issued pursuant to the Placing and are expected to do so shortly prior to the Placing.

No share or loan capital of the Company is under option or has been agreed, conditionally or unconditionally, to be put under option.

DIRECTORS' AND OTHER INTERESTS

[NTD: Subject to review and update by current directors].

As at the date of this Offering Memorandum, none of the Directors or any person connected with any of the Directors has a Shareholding or any other interest in the share capital of the Company. The Directors and their connected persons may, however, subscribe for Shares pursuant to the Placing.

The Directors are not aware of any person or persons who, following the Placing, will or could, directly or indirectly, jointly or severally, exercise control over the Company and there are no arrangements known to the Directors the operation of which may subsequently result in change of control of the Company.

There are no outstanding loans from the Company to any of the Directors or any outstanding guarantees provided by the Company in respect of any obligation of any of the Directors.

The aggregate remuneration and benefits in kind of the Directors in respect of the Company's accounting period ending on 31 December 2017, which will be payable out of the assets of the Company, is not expected to exceed £[●]. Each of the Directors is entitled to receive £[35,000] per annum, and the Chairman who is entitled to receive £[40,000] per annum. No amount has been set aside or accrued by the Company to provide pension, retirement or other similar benefits.

No Director has a service contract with the Company, nor are any such contracts proposed. The Directors have been appointed through letters of appointment which can be terminated in accordance with the Articles and without compensation. The notice period specified in the Articles for the removal of Directors is one month. The Articles provide that the office of Director shall be terminated by, among other things: (i) written resignation; (ii) unauthorised absences from board meetings for 12 months or more; (iii) written request of the other Directors; and (iv) an ordinary resolution.

None of the Directors has, or has had, an interest in any transaction which is or was unusual in its nature or conditions or significant to the business of the Company and which has been effected by the Company since its incorporation.

In addition to their directorships of the Company, the Directors hold or have held the directorships and are or were members of the partnerships, as listed in the table below, over or within the past five years.

[Name	*Current directorships/partnerships*	*Past directorships/partnerships*
William Scott	Aberdeen Global Infrastructure GP Limited	BMS Specialist Debt Fund Limited
	Aberdeen Global Infrastructure GP II Limited	FCA Catalyst Fund SPC
	Aberdeen Infrastructure Finance GP Limited	FCA Catalyst Master Fund SPC
	Absolute Alpha Fund PCC Limited	FCA Trading SPC
	AcenciA Debt Strategies Limited	Financial Risk Management Matrio Fund Limited
	AHL Strategies PCC Limited	FRM Access II Fund SPC
	Axiom European Financial Debt Limited	FRM Equity Opportunity Fund SPC
	Cinven Capital Management (V) General Partner Limited	FRM Equity Opportunity Master Fund SPC
	Cinven Capital Management (G3) Limited	FRM Credit Strategies Fund PCC Limited
	Cinven Capital Management (G4) Limited	FRM Credit Strategies Master Fund PCC Limited
	Cinven Limited	FRM Diversified III Fund PCC Limited
	Financial Risk Management Diversified Fund Limited	FRM Diversified III Master Fund Limited
	Financial Ventures Limited	FRM Global Diversified Fund
	FRM Customised Diversified Fund Limited	FRM Global Equity Fund SPC
	FRM Diversified II Fund SPC	FRM Global Equity Master Fund SPC
	FRM Diversified II Master Fund Limited	FRM Phoenix Fund Limited

	FRM Equity Alpha Limited	FRM Strategic Fund PCC Limited
	FRM Sigma Fund Limited	FRM Strategic Master Fund Limited
	Hanseatic Asset Management LBG	FRM Tail Hedge Limited
	Invista European Real Estate Trust SICAF	FRM Thames Fund General Partner 1 Limited
	KCSB Properties Limited	Land Race Limited
	MAN AHL Diversified PCC Limited	Ocean Capital 3 (Opportunities Fund) Limited
	Pershing Square Holdings, Ltd	PIG Fund Horsham SPV Limited
	Sandbourne Asset Management Guernsey Limited	Principia TR-S 40 Ltd
	Sandbourne Fund	Property Income & Growth Fund Limited
	Savile Durham 1 Limited	PSource Structured Debt Fund Limited
	Savile Exeter 1 Limited	PSource Structured Debt SPV1 Limited
	Savile AD4 Limited	PSource Structured Debt SPV II Inc
	Savile AD7 Limited	Savile AD2 Limited
	Savile AD8 Limited	Savile ANG1 Limited
	Savile AD9 Limited	Savile APG1 Limited
	SPL Guernsey ICC Limited	Savile APG3 Limited
	TBH Guernsey Limited	Savile ML1 Limited
	The Flight and Partners Recovery Fund Limited	Secured Real Estate Finance Limited
	UCAP Investment Management Limited	SPL Multi Strategy ICC Limited
	UCAP Investment Management Fund PCC Limited	Threadneedle Asset Backed Income Limited
	Highland CLO Funding, Ltd.	WyeTree RMBS Opportunities Fund Limited
Heather Bestwick	Invision Capital Partners IV Limited	Altair Partners Limited
	Invision IV Co-invest General Partner Limited	Jersey Finance Limited
	Invision Capital Partners V Limited	Walkers Limited
	Triton Advisers Limited	Walkers Capital Markets Limited
	GCP Infrastructure OEIC Limited	Walkers Pension Services (Jersey) Limited
	Andium Homes Limited	Walkers Property Services (Jersey) Limited
	Fundamental Global Corporate Secured Loan Fund Limited	Homelink (Jersey) Limited
	Deutsche International Corporate Services Limited	Altamas Resources Limited
	Cyan Blue Topco Limited	BSREP Marina Village (Jersey) Limited
	Equiom (Jersey) Limited	
	Century Limited	
	Highland CLO Funding, Ltd.	
	AEP 2003 Limited	
	AEP 2008 Limited	
	AEP 2012 Limited	
	Rokos Capital Management (GP) Ltd	
	Rokos Intermediate (Jersey) Ltd	
	Equiom (Guernsey) Limited]	

As at the date of this Offering Memorandum, there are no potential conflicts of interest between any duties to the Company of any of the Directors and their private interests and/or other duties. There are no lock up provisions regarding the disposal by any of the Directors of any Shares.

Save as set out in immediately following paragraph below, as at the date of this Offering Memorandum:

(a) none of the Directors has had any convictions in relation to fraudulent offences for at least the previous five years;

(b) save as detailed above, none of the Directors was a director of a company, a member of an administrative, management or supervisory body or a senior manager of a company within the previous five years which has entered into any bankruptcy, receivership or liquidation proceedings;

(c) none of the Directors has been subject to any official public incrimination and/or sanctions by statutory or regulatory authorities (including designated professional bodies) or has been disqualified by a court from acting as a member of the administrative, management or supervisory bodies of an issuer or from acting in the management or conduct of the affairs of any issuer for at least the previous five years; and

(d) none of the Directors are aware of any contract or arrangement subsisting in which they are materially interested and which is significant to the business of the Company which is not otherwise disclosed in this Offering Memorandum.

In respect of the declaration in the immediately preceding paragraph above, certain of the Directors have been directors of entities which have been dissolved. To the best of each Director's knowledge, no such entity, upon its dissolution, was insolvent or owed any amounts to creditors.

The Company maintains directors' and officers' liability insurance on behalf of the Directors at the expense of the Company.

No employees of the Administrator have any service contracts with the Company.

MATERIAL CONTRACTS

The following are all of the contracts, not being contracts entered into in the ordinary course of business, that have been entered into by the Company since its incorporation and are, or may be, material or that contain any provision under which the Company has any obligation or entitlement which is or may be material to it as at the date of this Offering Memorandum.

Administration Agreement

[Highland to confirm regarding any amendments to the Administration Agreement.] An administration agreement dated 10 August 2015 between (i) the Company and (ii) the Administrator, whereby the Administrator was appointed to act as administrator of the Company and provide related administrative, compliance and treasury services (the "**Administration Agreement**").

Under the terms of the Administration Agreement, the Administrator is entitled to an annual administration fee of up to [•] per cent per annum of the Net Asset Value [NTD: To conform to updated fee schedule.] of the Company per annum, payable monthly in arrears, and other miscellaneous fees and expenses reimbursed, in each case, as determined in the Administration Agreement.

The Administration Agreement may be terminated by either party on not less than three months written notice (or such shorter notice as the parties may agree). The Administration Agreement may be terminated immediately by either party: (i) in the event that either party shall go into liquidation or receivership or an examiner shall be appointed to the Company (except for a voluntary liquidation for the purposes of reconstruction or amalgamation upon terms

previously approved in writing by the notifying party, such approval not to be unreasonably withheld or delayed) or be unable to pay its debts as they fall due or commits any act of bankruptcy under the laws of an applicable jurisdiction; or (ii) if the other party commits any material breach of the provisions of the Administration Agreement and, if such breach is capable of remedy shall not have remedied that within 30 days after the service of written notice requiring it to be remedied; (iii) if it shall become illegal or impossible without breach of any applicable laws and for reasons reasonably outside the control of the relevant party for any party to fulfil its obligations hereunder; or (iv) if any changes to the Administration Agreement are required as a consequence of any financial services regulation which may in the future bind any of the parties thereto and which cannot be agreed between the parties. The appointment of the Administrator shall also automatically terminate forthwith if the Administrator shall become or be deemed to become resident for tax purposes in the United Kingdom or in any other place or places outside Guernsey in circumstances which cause the Company to become liable to pay any taxes which it would not otherwise be liable to pay.

The Company has given certain market standard indemnities in favour of the Administrator in respect of the Administrator's potential losses in carrying out its responsibilities under the Administration Agreement.

The Administration Agreement is governed by the laws of Guernsey.]

Portfolio Management Agreement

A Portfolio Management Agreement dated [●] between (i) the Company and (ii) the Portfolio Manager (the "**Portfolio Management Agreement**"), pursuant to which the Company appointed the Portfolio Manager to select the portfolio of investments and instruct the Custodian with respect to any acquisition, disposition or sale of investments and provide certain support and assistance (including back and middle office functions), personnel and credit and market research and analysis in connection with the investment and ongoing management of the portfolio.

The Portfolio Management Agreement may be terminated in the event of (A) the Company determining in good faith that the Company or the portfolio has become required to register as an investment company under the provisions of the Investment Company Act (where there is no available exemption), and the Company has given prior notice to the Portfolio Manager of such requirement, (B) the date on which the portfolio has been liquidated in full and the Company's financing arrangements have been terminated or redeemed in full and (C) such other date as agreed between the Company and the Portfolio Manager.

In addition, the Portfolio Management Agreement may be terminated, and the Portfolio Manager removed for "Cause" by the Advisory Board or by the Board of Directors upon 10 business days' prior written notice to the Portfolio Manager.

As defined in the Portfolio Management Agreement, "Cause" means any one of the following events: (a) the Portfolio Manager wilfully violates, or takes any action that it knows breaches any material provision of the Portfolio Management Agreement or the Offering Memorandum applicable to it in bad faith (not including a wilful and intentional breach that results from a good faith dispute regarding reasonable alternative courses of action or interpretation of instructions); (b) the Portfolio Manager breaches in any respect any provision of the Portfolio Management Agreement or any terms of the Offering Memorandum applicable to it (other than as covered by clause (a) and except for any such violations or breaches that have not had, or could not, either individually or in the aggregate, reasonably be expected to have, a material adverse effect on the Company) and fails to cure such breach within 30 days of the Portfolio Manager receiving notice of such breach, unless, if such breach is remediable, the Portfolio Manager has taken action that the Portfolio Manager believes in good faith will remedy such breach, and such action does remedy such breach, within sixty (60) days after the Portfolio Manager receives notice thereof; (c) the Portfolio Manager is wound up or dissolved or there is appointed over it or a substantial portion of its assets a receiver, administrator, administrative receiver, trustee or similar officer; or the Portfolio Manager (i) ceases to be able to, or admits in writing its inability to, pay its debts as they become due and payable, or makes a general assignment for the benefit of, or enters into any composition or arrangement with, its creditors generally; (ii) applies for or consents (by admission of material allegations of a petition or otherwise) to the appointment of a receiver, trustee, assignee, custodian, liquidator or sequestrator (or other similar official) of the Portfolio Manager or of any substantial part of its properties or assets, or authorizes such an application or consent, or proceedings seeking such appointment are commenced without such authorization, consent or application against the Portfolio Manager and continue undismissed for sixty (60) days; (iii) authorizes or files a voluntary petition in bankruptcy, or applies for or

consents (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, arrangement, readjustment of debt, insolvency or dissolution, or authorizes such application or consent, or proceedings to such end are instituted against the Portfolio Manager without such authorization, application or consent and are approved as properly instituted and remain undismissed for sixty (60) days or result in adjudication of bankruptcy or insolvency; or (iv) permits or suffers all or any substantial part of its properties or assets to be sequestered or attached by court order and the order remains undismissed for sixty (60) days; (d) the occurrence of an act by the Portfolio Manager that constitutes fraud or criminal activity in the performance of its obligations under the Portfolio Management Agreement (as determined pursuant to a final adjudication by a court of competent jurisdiction), or the Portfolio Manager being indicted for a criminal offense materially related to its business of providing asset management services; or (e) any Key Person of the Portfolio Manager (in the performance of his or her investment management duties) is convicted for a criminal offense materially related to the business of the Portfolio Manager providing asset management services and continues to have responsibility for the performance by the Portfolio Manager hereunder for a period of ten (10) days after such conviction.

The Portfolio Management Agreement provides that if any of the events specified in the definition of "Cause" occurs, the Portfolio Manager will give prompt written notice thereof to the Company upon the Portfolio Manager's becoming aware of the occurrence of such event. The Advisory Board and/or the Board of Directors may waive any event described in (a), (b), (d), or (e) above as a basis for termination of the Portfolio Management Agreement and removal of the Portfolio Manager under the terms of the Portfolio Management Agreement.

Any resignation or removal of the Portfolio Manager will only be effective on the satisfaction of certain conditions set out in the Portfolio Management Agreement.

Under the Portfolio Management Agreement, the Portfolio Manager agrees to perform its obligations thereunder, with reasonable care (a) using a degree of skill and attention no less than that which the Portfolio Manager exercises with respect to comparable assets that it manages for itself and others having similar investment objectives and restrictions, and (b) to the extent not inconsistent with the foregoing, in a manner consistent with the Portfolio Manager's customary standards, policies and procedures in performing its duties under the Portfolio Management Agreement (the "**Standard of Care**"); provided that the Portfolio Manager will not be liable for any loss or damages resulting from any failure to satisfy the Standard of Care except to the extent any act or omission of the Portfolio Manager constitutes a Portfolio Manager Breach (as defined below). The Standard of Care may change from time to time to reflect changes by the Portfolio Manager to its customary standards, policies and procedures provided that such customary standards, policies and procedures are at least as rigorous as the foregoing.

The Portfolio Manager will not be liable (whether directly or indirectly, in contract or in tort or otherwise) to the Company under the Portfolio Management Agreement for liabilities incurred by the Company as a result of or arising out of or in connection with the performance by the Portfolio Manager under the Portfolio Management Agreement, or for any losses or damages resulting from any failure to satisfy the Standard of Care except to the extent such liabilities were incurred by reason of acts or omissions constituting bad faith, fraud, wilful misconduct or due to the gross negligence (with such term given its meaning under New York law) or reckless disregard of the duties and obligations of the Portfolio Manager (a "**Portfolio Manager Breach**").

Under the Portfolio Management Agreement, the Company will be required to indemnify the Portfolio Manager and its affiliates, managers, directors, officers, partners, agents and employees, from and against all liabilities incurred in connection with the Portfolio Management Agreement (except to the extent such liabilities are incurred as a result of any acts or omissions of the Portfolio Manager which constitute a Portfolio Manager Breach).

The Portfolio Manager is able to resign its role under the Portfolio Management Agreement upon 90 days' written notice to the Company. Whilst the resignation will not be effective until the date as of which a successor adviser has been appointed, it may be difficult to locate an alternative adviser as a successor. In addition, the Portfolio Manager may immediately resign by providing written notice to the Company upon the occurrence of certain events relating to the Company such as, amongst others, the failure of the Company to comply in any material respect with any investment policy or investment objective to which it is bound to comply, a wilful breach or knowing violation by the Company of a material provision of the Portfolio Management Agreement or the occurrence of insolvency proceedings in respect of the Company.

Under the Portfolio Management Agreement, the Portfolio Manager agrees to the provision of certain human resources as may be necessary to enable the Company to conduct any matters related to its portfolio of assets.

Under the Portfolio Management Agreement, the Company shall pay to the Portfolio Manager an amount equivalent to all reasonable third party costs and expenses incurred by the Portfolio Manager in the performance of its obligations thereunder, together with any irrecoverable VAT arising on such costs and expenses.

The Portfolio Management Agreement is governed by the laws of the State of Texas.

Predecessor Portfolio Management Agreement and Termination

Prior to the current Portfolio Management Agreement, the Company held a Portfolio Management Agreement dated 22 December 2016 (the "**Predecessor Portfolio Management Agreement**") between (i) the Company and (ii) Acis as the predecessor portfolio manager (the "**Predecessor Portfolio Manager**"), pursuant to which the Company appointed Acis as the Predecessor Portfolio Manager to select the portfolio of investments and instruct the Custodian with respect to any acquisition, disposition or sale of investments and provide certain support and assistance (including back and middle office functions), personnel and credit and market research and analysis in connection with the investment and ongoing management of the portfolio.

The terms of the Predecessor Portfolio Management Agreement were substantially similar to the terms of the Portfolio Management Agreement.

The Predecessor Portfolio Management Agreement was governed by the laws of the State of Texas.

The Predecessor Portfolio Management Agreement was terminated pursuant to a Termination of Management Agreement dated [•] 2017 (the "**Termination Agreement**") between (i) the Company and (ii) the Predecessor Portfolio Manager. Pursuant to the Termination Agreement, (x) the Predecessor Portfolio Management Agreement was cancelled and terminated in its entirety, (y) each party released the other party from all claims, suits or causes of action arising out of or relating to the Management Agreement and (z) each party ratified prior transactions effected in accordance with the Predecessor Portfolio Management Agreement.

NexBank Credit Facility

The Company currently has the NexBank Credit Facility with a principal amount of $22,158,337, as of September 30, 2017. The NexBank Credit Facility is governed by an Amended and Restated Loan Agreement dated as of 17 January 2017 that provides for quarterly payments of principal and interest at 5.00% *per annum* and a maturity on November 23, 2021.

Warehouse Loan Facilities

One or more multi-currency Warehouse Loan Facilities may be entered into from time to time between (i) the Company and (ii) a warehouse provider as described in "*Summary-Borrowing-Warehouse Loan Facilities*".

Forward Purchase Agreements

Forward Purchase Agreements may be entered into from time to time, between (i) the Company and (ii) a CLO (each, a "**Forward Purchase Agreement**"), pursuant to which the Company may from time to time enter into sale and purchase contracts with a CLO with respect to the assets of the Company ("**Forward Sales**"). Such Forward Sales are with a view to effectively managing its access to wholesale funding and exposure to unnecessary market price volatilities of its portfolio. Such Forward Purchase Agreements may be entered into at the same time or shortly after the origination or acquisition of the relevant asset by the Company, at a later date, or not at all. Where a loan becomes subject to a Forward Purchase Agreement, the Company will (subject to the conditions set out below) neither receive the gain nor bear the loss that occurs between the date when the loan is added to the Forward Purchase Agreement and the date when the transfer occurs.

Each Forward Sale will be conditional upon:

- the occurrence of the closing date of the relevant CLO; and

- the assets that are the subject of such Forward Sale satisfying a set of eligibility criteria on the closing date of the relevant CLO as agreed between the Company and the relevant CLO.

The Forward Purchase Agreements will contain standard limited recourse and non-petition provisions with respect to the Company and with respect to the relevant CLO.

The governing law of the Forward Purchase Agreements will be English or New York law.

Registrar Agreement

A registrar agreement dated [•] between (i) the Company and (ii) the Registrar (the "**Registrar Agreement**"), pursuant to which the Company appointed the Registrar to act as registrar of the Company for an annual fee of £[•] payable by the Company.

[The Registrar Agreement shall continue for a period of three years from its effective date (the "**Initial Period**"). At the expiry of the Initial Period, the Registrar Agreement shall automatically renew for successive periods of 12 months, unless or until terminated by either party, either in accordance with its terms, or: (a) at the end of the Initial Period, provided written notice is given to the other party at least 6 months prior to the end of the Initial Period; or (b) at the end of any successive 12 month period, provided written notice is given to the other party at least six months prior to the end of such successive 12 month period.

The Registrar Agreement may also be terminated by either the Company or the Registrar (a) by giving to the other not less than three months' written notice, should the parties not reach an agreement regarding any increase of the fees; (b) upon service of written notice if the other party commits a material breach of its obligations under the Registrar Agreement (including any payment default) which that party has failed to remedy within 45 days of receipt of a written notice to do so from the first party; or (c) upon service of written notice if a resolution is passed or an order made for the winding up, dissolution or administration of the other party, or if the other party is declared insolvent or if an administrator, administrative receiver, manager or provisional liquidator (or similar officer to any of the foregoing in the relevant jurisdiction) is appointed over the whole of or a substantial part of the other party or its assets or undertakings.

The Company has given certain market standard indemnities in favour of the Registrar in respect of the Registrar's potential losses in carrying on its responsibilities under the Registrar Agreement.] [Description to be confirmed in reference to new registrar agreement.]

The Registrar Agreement is governed by the laws of Guernsey.

Custody Agreement

A custody agreement dated 10 August 2015 between (i) the Company and (ii) the Custodian (the "**Custody Agreement**"), whereby the Custodian was appointed to act as custodian of the Company's investments, cash and other assets.

The Custodian provides custody services in respect of such of the property of the Company which is delivered to and accepted by the Custodian as and when such custody services may be required. Securities are held by the Custodian in one or more accounts registered in the name of the Company or of the Custodian, its delegate or a nominee. The securities are separately designated in the books of the Custodian as belonging to the Company.

Under the terms of the Custody Agreement, the Custodian is entitled to receive transaction charges and sub-custodian charges will be recovered by the Custodian from the Company as they are incurred by the relevant sub-custodian. All such charges shall be charged at normal commercial rates. [MO: To be updated per fee schedule to the Custody Agreement (i.e. the basis point fee and the monthly minimum fee of $1,000).]

The Custody Agreement shall continue for an initial period of six months and thereafter may be terminated by either of the parties hereto on giving ninety (90) days' prior written notice to the other party hereto, provided that the appointment of the Custodian shall not terminate before the appointment of a replacement Custodian provided always if a replacement custodian is not appointed within six months from the date of the relevant termination notice, the

Custody Agreement shall terminate in any event. It may be terminated without notice in certain specified circumstances including the insolvency of either party.

The Custodian has a market standard indemnity from the Company in relation to liabilities incurred other than as a result of its negligence, fraud, bad faith, wilful default or recklessness in carrying out its responsibilities under the Custody Agreement.

The Custody Agreement is governed by the laws of Ireland.

MEMORANDUM AND ARTICLES

Memorandum of Incorporation

The Memorandum of Incorporation provides that the Company's objects are unrestricted and it shall therefore have the full power and authority to carry out any object not prohibited by the Companies Law, or any other law of Guernsey.

Articles of Incorporation

The Articles of Incorporation of the Company contain provisions, *inter alia*, to the following effect.

Share Capital

The Company may issue an unlimited number of Shares of no par value each.

Ordinary Shares

The rights attaching to the Ordinary Shares shall be as follows:

(a) As to income – subject to the rights of any Ordinary Shares which may be issued with special rights or privileges, the Ordinary Shares of each class carry the right to receive all income of the Company attributable to the Ordinary Shares, and to participate in any distribution of such income by the Company, pro rata to the relative Net Asset Values of each of the classes of Ordinary Shares and, within each such class, income shall be divided *pari passu* amongst the holders of Ordinary Shares of that class in proportion to the number of Ordinary Shares of such class held by them.

(b) As to capital – on a winding up of the Company or other return of capital (other than by way of a repurchase or redemption of Ordinary Shares in accordance with the provision of the Articles and the Companies Law), the surplus assets of the Company attributable to the Ordinary Shares remaining after payment of all creditors shall, subject to the rights of any Ordinary Shares that may be issued with special rights or privileges, be divided amongst the holders of Ordinary Shares of each class pro rata to the relative Net Asset Values of each of the classes of the Ordinary Shares and, within each such class, such assets shall be divided *pari passu* amongst the holders of Ordinary Shares of that class in proportion to the number of Ordinary Shares of that class held by them.

(c) As to voting – the holders of the Ordinary Shares shall be entitled to receive notice of and to attend, speak and vote at general meetings of the Company.

General

Without prejudice to any special rights previously conferred on the holders of any existing Shares or class of Shares, any Share (or option, warrant or other right in respect of a Share) in the Company may be issued with such preferred, deferred or other special rights or restrictions, whether as to dividend, voting, return of capital or otherwise, as the Board may determine.

To the extent required by section 292 of the Companies Law, the Board is authorised to issue an unlimited number of shares (or options, warrants or other rights in respect of Shares) which authority shall expire five years after the date of adoption of the Articles; in the event that the restrictions in section 292(3)(a) and/or (b)(i) of the Companies Law

are amended or removed, such authority shall be to the extent and for as long as is legally permissible. This authority may be further extended in accordance with the provisions of the Companies Law.

Offers to Shareholders to be on a pre-emptive basis

(a) The Company shall not allot equity securities to a person on any terms unless:

(i) it has made an offer to each person who holds equity securities of the same class in the Company to allot to him on the same or more favourable terms a proportion of those securities that is as nearly as practicable equal to the proportion in number held by him of the share capital of the Company; and

(ii) the period during which any such offer may be accepted has expired or the Company has received notice of the acceptance or refusal of every offer so made.

(b) Securities that the Company has offered to allot to a holder of equity securities in accordance with the preceding may be allotted to him, or anyone in whose favour he has renounced his right to their allotment, without contravening the restriction referred to in above.

(c) Shares held by the Company as treasury shares shall be disregarded for the purposes of the restriction referred to in the second preceding paragraph, so that the Company is not treated as a person who holds equity shares; and the treasury shares are not treated as forming part of the equity share capital of the Company.

(d) Any offer required to be made by the Company pursuant to the restriction referred to above should be made by a notice (given in accordance with "*—Notices*" below) and such offer must state a period during which such offer may be accepted and such offer shall not be withdrawn before the end of that period. Such period must be a period of at least 21 days beginning on the date on which such offer is deemed to be delivered or received (as the case may be), pursuant to "*—Notices*" below.

(e) The restriction referred to above shall not apply in relation to the allotment of bonus shares, shares issued pursuant to "*—Scrip Dividends*" below or to a particular allotment of equity securities if these are, or are to be, wholly or partly paid otherwise than in cash.

(f) The Company may by special resolution resolve that the restriction referred to above shall be excluded or that the restriction referred to in above shall apply with such modifications as may be specified in the resolution:

(i) generally in relation to the allotment by the Company of equity securities;

(ii) in relation to allotments of a particular description; or

(iii) in relation to a specified allotment of equity securities;

and any such resolution must: (A) state the maximum number of equity securities in respect of which the restriction referred to above is excluded or modified; and (B) specify the date on which such exclusion or modifications will expire, which must be not more than five years from the date on which the resolution is passed.

(g) Any resolution passed pursuant to the provisions referred to in the preceding paragraph may:

(i) be renewed or further renewed by special resolution of the Company for a further period not exceeding five years; and

(ii) be revoked or varied at any time by special resolution of the Company.

(h) Notwithstanding that any such resolution referred to in the two preceding paragraphs has expired, the Directors may allot equity securities in pursuance of an offer or agreement previously made by the Company if the resolution enabled the Company to make an offer or agreement that would or might require equity securities to be allotted after it expired.

(i) In relation to an offer to allot securities, a reference (however expressed) to the holder of shares of any description is to whoever was the holder of shares of that description at the close of business on a date to be specified in the offer and the specified date must fall within the period of 28 days immediately before the date of the offer.

Issue of Shares

Subject to the authority to issue Shares referred to in "*—Share Capital*" or any extension thereof and to "*—Offers to Shareholders to be on a pre-emptive basis*", the unissued Shares shall be at the disposal of the Board, which may allot or grant options, warrants or other rights over or otherwise dispose of them to such persons on such terms and conditions and at such times as the Board determines but so that no Share shall be issued at a discount except in accordance with the Companies Law and so that the amount payable on application on each Share shall be fixed by the Board.

Variation of class rights

If at any time the share capital is divided into different classes of Shares, the rights attached to any class (unless otherwise provided by the terms of issue) may, whether or not the Company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued Shares of that class or with the sanction of a special resolution of the holders of the Shares of that class.

Winding up

The term of the Company will commence on the date of the Placing and will end (and the Company thereafter will be wound up and dissolved) at the end of the Term, subject to extension as described in "*Summary-Term*".

If the Company is wound up whether voluntarily or otherwise the liquidator may with the sanction of a special resolution divide among the Shareholders in specie any part of the assets of the Company and may with the like sanction vest any part of the assets of the Company in trustees upon such trusts for the benefit of the Shareholders as the liquidator with the like sanction shall think fit.

If any of the securities or other assets to be divided as aforesaid involve a liability to calls or otherwise any person entitled under such division to any of the said assets may within fourteen (14) clear days after the passing of the special resolution, by notice in writing, direct the liquidator to sell his proportion and pay him the net proceeds and the liquidator shall, if practicable, act accordingly.

Disclosure of Third Party Interests in Shares

The Directors shall have power by notice in writing to require any Shareholder to disclose to the Company the identity of any person (other than the Shareholder) who has an interest in the Shares held by the Shareholder and the nature of such interest. Any such notice shall require any information in response to such notice to be given in writing within the prescribed period which is 28 days after service of the notice or 14 days if the Shares concerned represent 0.25 per cent or more in value of the issued Shares of the relevant class or such other reasonable period as the Directors may determine. If any Shareholder has been duly served with such a notice and is in default for the prescribed period in supplying to the Company the information required by such notice, the Directors may serve a direction notice upon such Shareholder. The direction notice may direct that in respect of the Shares in respect of which the default has occurred (the "default Shares") and any other Shares held by the Shareholder, the Shareholder shall not be entitled to vote (either personally or by representative or by proxy) in general meetings or class meetings. Where the default Shares represent at least 0.25 per cent of the class of Shares concerned, the direction notice may additionally direct that dividends on such shares will be retained by the Company (without interest) and that no transfer of the Shares (other than a transfer approved under the Articles) shall be registered until the default is rectified.

Dividends

Subject to compliance with section 304 of the Companies Law and the Distribution Priority, the Board may at any time declare and pay such dividends as appear to be justified by the position of the Company. The Board may also declare and pay any fixed dividend which is payable on any Shares half-yearly or otherwise on fixed dates whenever the position, in the opinion of the Board, so justifies. Dividend payments may be suspended by the Directors in their absolute discretion, including, without limitation, in the event of adverse, or perceived adverse, market conditions.

The method of payment of dividends shall be at the discretion of the Board and the Portfolio Manager.

No dividend shall be paid in excess of the amounts permitted by the Companies Law or approved by the Board.

Unless and to the extent that the rights attached to any Shares or the terms of issue thereof otherwise provide, all dividends shall be declared and paid pro rata according to the number of Shares held by each Shareholder. For the avoidance of doubt, where there is more than one class of Shares in issue, dividends declared in respect of any class of Share shall be declared and paid pro rata according to the number of Shares of the relevant class held by each Shareholder.

With the sanction of the Company in general meeting by way of a special resolution, any dividend may be paid wholly or in part by the distribution of specific assets and, in particular, of paid-up Shares of the Company. Where any difficulty arises in regard to such distribution, the Board may settle the same as it thinks expedient and in particular may issue fractional Shares and fix the value for distribution of such specific assets and may determine that cash payments shall be made to any Shareholders upon the basis of the value so fixed in order to adjust the rights of Shareholders and may vest any such specific assets in trustees for the Shareholders entitled as may seem expedient to the Board.

Any dividend interest or other monies payable in cash in respect of Shares may be paid by cheque or warrant sent through the post to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register. Any one of two or more joint holders may give effectual receipts for any dividends, interest or other monies payable in respect of their joint holdings. In addition, any such dividend or other sum may be paid by any bank or other funds transfer system or such other means (including, in relation to any dividend or other sum payable in respect of Shares held in uncertificated form, by means of a computer-based system and procedures such as CREST in any manner permitted by the rules of the relevant system concerned) and to or through such person as the holder or joint holders (as the case may be) may in writing direct, and the Company shall have no responsibility for any sums lost or delayed in the course of any such transfer or where it has acted on any such directions. Any one of two or more joint holders may give effectual receipts for any dividends, interest, bonuses or other monies payable in respect of their joint holdings.

No dividend or other monies payable on or in respect of a Share shall bear interest against the Company.

All unclaimed dividends may be invested or otherwise made use of by the Board for the benefit of the Company until claimed and the Company shall not be constituted a trustee in respect thereof. All dividends unclaimed for a period of six years after having been declared shall be forfeited and shall revert to the Company.

Scrip Dividends

The Board may, if authorised by an ordinary resolution of the Company, offer any holders of any particular class of Shares (excluding treasury shares) the right to elect to receive further Shares (whether or not of that class), credited as fully paid, instead of cash in respect of all or part of any dividend specified by the ordinary resolution (a "**Scrip Dividend**") in accordance with the following provisions.

The ordinary resolution may specify a particular dividend (whether or not already declared) or may specify all or any dividends declared within a specified period, but such period may not end later than the conclusion of the fifth annual general meeting of the Company to be held following the date of the meeting at which the ordinary resolution is passed.

The basis of allotment shall be decided by the Board so that, as nearly as may be considered convenient, the value of the further Shares, including any fractional entitlement, is equal to the amount of the cash dividend which would otherwise have been paid.

The Board shall give notice to the Shareholders of their rights of election in respect of the Scrip Dividend and shall specify the procedure to be followed in order to make an election.

The dividend or that part of it in respect of which an election for the Scrip Dividend is made shall not be paid and instead further Shares of the relevant class shall be allotted in accordance with elections duly made and the Board shall capitalise a sum to the aggregate amount of the Shares to be allotted out of such sums available for the purpose as the Directors may consider appropriate.

The further Shares so allotted shall rank *pari passu* in all respects with the fully paid Shares of the same class then in issue except as regards participation in the relevant dividend.

The Board may decide that the right to elect for any Scrip Dividend shall not be made available to Shareholders resident in any territory where, in the opinion of the Board, compliance with local laws or regulations would be impossible or unduly onerous.

The Board may do all acts and things considered necessary or expedient to give effect to the provisions of a Scrip Dividend election and the issue of any Shares in accordance with the provisions of this paragraph and the Companies Law, and may make such provisions as they think fit in the case of Shares becoming distributable in fractions (including provisions under which, in whole or in part, the benefit of the fractional entitlements accrues to the Company rather than to the Shareholders concerned).

The Board may from time to time establish or vary a procedure for election mandates, under which a Shareholder may, in respect of any future dividends for which a right of election pursuant to this paragraph is offered, elect to receive Shares in lieu of such dividend on the terms of such mandate.

The Board shall not make a Scrip Dividend available unless the Company has sufficient unissued shares and undistributed profits or reserves to give effect to elections which could be made to receive that Scrip Dividend.

For the avoidance of doubt, Shares allotted pursuant to this paragraph in respect of all or part of any dividend shall not be treated as allotted for cash for the purposes of paragraph (a) and paragraph (e) of the section of this Offering Memorandum entitled *"—Offers to Shareholders to be on a pre-emptive basis*" above.

Uncertificated Shares – general powers

Subject to the Companies Law and the Guernsey Regulations, the Board may permit any class of Shares to be held in uncertificated form and to be transferred by means of a relevant system and may revoke any such permission. In relation to any Share which is for the time being held in uncertificated form, the Company may utilise the relevant system in which it is held to the fullest extent available from time to time in the exercise of any of its powers or functions under the Guernsey Regulations or the Articles or otherwise in effecting any actions, and the Board may from time to time determine the manner in which such powers, functions and actions shall be so exercised or effected. Any provision in the Articles in relation to the uncertificated Shares which is inconsistent with (a) the holding of that Share in uncertificated form or transfer of title to that Share by means of a relevant system, (b) any other provision of the Guernsey Regulations relating to Shares held in uncertificated form or (c) the exercise of any powers or functions by the Company or the effecting by the Company of any actions by means of a relevant system, shall not apply. Subject to the Guernsey Regulations, the Company may, by notice to the holder of that Share, require the holder to change the form of such Share to certificated form within such period as may be specified in the notice. For the purpose of effecting any action by the Company, the Board may determine that Shares held by a person in uncertificated form shall be treated as a separate holding from Shares held by that person in certificated form, but Shares of a class held by a person in uncertificated form shall not be treated as a separate class from Shares of that class held by that person in certificated form.

Transfer of Shares

Subject to such of the restrictions of the Articles as may be applicable (which such restrictions are described in the paragraphs immediately following this paragraph), any Shareholder may transfer all or any of his uncertificated Shares by means of a relevant system authorised by the Board in such manner provided for, and subject as provided, in the Guernsey Regulations or such as may otherwise from time to time be adopted by the Board on behalf of the Company and the rules of any relevant system, and accordingly no provision of the Articles shall apply in respect of an uncertificated Share to the extent that it requires or contemplates the effecting of a transfer by an instrument in writing or the production of a certificate for the Shares to be transferred. Any Shareholder may transfer all or any of his certificated Shares by an instrument of transfer in any usual or common form or in any other form which the Board may approve. The instrument of transfer of a certificated Share shall be signed by or on behalf of the transferor and, unless the Share is fully paid, by or on behalf of the transferee. An instrument of transfer of a certificated Share need not be under seal.

The Board may, in its absolute discretion and without giving a reason, decline to transfer, convert or register any transfer of any Share in certificated form or (to the extent permitted by the Guernsey Regulations) uncertificated form which is not fully paid or on which the Company has a lien. The Directors may also decline to register a transfer of Shares unless it is in respect of only one class of Shares, it is in favour of a single transferee or not more than four joint transferees; and in the case of a Share in certificated form, having been delivered for registration to the Office or such other place as the Board may decide, it is accompanied by the certificate(s) for the Shares to which it relates and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer.

The Board may, in its absolute discretion, decline to register a transfer of any Shares to any person whose ownership may result in a person holding Shares in violation of the transfer restrictions published by the Company, from time to time.

The Board may also decline to register a transfer of an uncertificated Share which is traded through the relevant system and in accordance with the Guernsey Regulations, where, in the case of a transfer to joint holders, the number of joint holders to whom the uncertificated Share is to be transferred exceeds four.

The Directors may, in their absolute discretion, refuse to register a transfer of any Shares to a person that they have reason to believe is (i) an "employee benefit plan" (within the meaning of Section 3(3) of ERISA) that is subject to Part 4 of Title 1 of ERISA, (ii) a plan, individual retirement account or other arrangement that is subject to Section 4975 of the U.S. Internal Revenue Code of 1986, as amended (the "**U.S. Tax Code**") or any other state, local laws or regulations that would have the same effect as regulations promulgated under ERISA by the U.S. Department of Labor and codified at 29 C.F.R. Section 2510.3-101 to cause the underlying assets of the Company to be treated as assets of that investing entity by virtue of its investment (or any beneficial interest) in the Company and thereby subject the Company and the Investment Adviser (or other persons responsible for the investment and operation of the Company's assets) to laws or regulations that are similar to the fiduciary responsibility or prohibited transaction provisions contained in Title I of ERISA or Section 4975 of the U.S. Tax Code, (iii) an entity whose underlying assets are considered to include "plan assets" of any such plan, account or arrangement (each of (i), (ii) and (iii) in this paragraph a "**Plan**") or (iv) any person in circumstances where the holding of Shares by such person would (a) give rise to an obligation on the Company to register as an "investment company" under the Investment Company Act (as defined in the Articles) (including because the holder of the Shares is not a "qualified purchaser" as defined in the Investment Company Act), (b) preclude the Company from relying on the exception to the definition of "investment company" contained in Section 3(c)(7) of the Investment Company Act, (c) give rise to an obligation on the Company to register its Shares under the Exchange Act, the Securities Act or any similar legislation (each as defined in the Articles), (d) result in the Company not being considered a "Foreign Private Issuer" as that term is defined by Rule 3b-4(c) promulgated under the Exchange Act, (e) give rise to an obligation on the Investment Adviser to register as a commodity pool operator or commodity trading advisor under the U.S. Commodity Exchange Act of 1974, as amended, (f) cause the Company to be a "controlled foreign corporation" for the purposes of the U.S. Tax Code, or cause the Company to suffer any pecuniary disadvantage (including any excise tax, penalties or liabilities under ERISA or the U.S. Tax Code), or (g) give rise to the Company or the Investment Adviser becoming subject to any U.S. law or regulation determined to be detrimental to it (each such person in this paragraph a "**Prohibited U.S. Person**"). Each person acquiring Shares shall by virtue of such acquisition be deemed to have represented to the Company that they are not a Prohibited U.S. Person.

If the Board refuses to register the transfer of a Share it shall, within two months after the date on which the transfer was lodged with the Company, send notice of the refusal to the transferee.

Subject to the provisions of the Guernsey Regulations, the registration of transfers may be suspended at such times and for such periods (not exceeding 30 days in the aggregate in any one calendar year) as the Board may decide on giving notice in *La Gazette Officielle* and either generally or in respect of a particular class of Share except that, in respect of any Shares which are participating shares held in a relevant system, the register of members shall not be closed without the consent of the authorised operator of the relevant system.

Alteration of capital and purchase of shares

The Company may by ordinary resolution: consolidate and divide all or any of its share capital into shares of larger or smaller amounts than its existing Shares; subdivide all or any of its Shares into shares of a smaller amount subject to the paragraph below; cancel Shares which, at the date of the passing of the resolution, have not been taken up or agreed to be taken up by any person, and diminish the amount of its share capital by the amount of Shares so cancelled; convert all or any of its Shares, the nominal amount of which is expressed in a particular currency or former currency into Shares of a nominal amount of a different currency, the conversion being effected at the rate of exchange (calculated to not less than three significant figures) current on the date of the resolution or on such other day as may be specified therein; or where its share capital is expressed in a particular currency or former currency, denominate or redenominate it, whether by expressing its amount in units or subdivisions of that currency or former currency, or otherwise.

In any subdivision under the paragraph above the proportion between the amount paid and the amount, if any, unpaid on each reduced Share shall be the same as that proportion in the case of the Share from which the reduced Share was derived.

The Company may reduce its share capital, any capital account or any share premium account in any manner and with and subject to any authorisation or consent required by the Companies Law.

The Company may, at the discretion of the Board, purchase any of its own Shares, whether or not they are redeemable, and may pay the purchase price in respect of such purchase to the fullest extent permitted by the Companies Law.

Notices

A notice or other communication may be given by the Company to any Shareholder either personally or by sending it by prepaid post addressed to such Shareholder at his registered address (or, subject to the provisions below, in electronic form) or if he desires that notices shall be sent to some other address or person to the address or person nominated for such purpose.

Any notice or other document, if served by post (including registered post, recorded delivery service or ordinary letter post), shall be deemed to have been served 48 hours after the time when the letter containing the same is posted and in proving such service it shall be sufficient to prove that the letter containing the notice or document was properly posted.

Any notice or other document that may be sent by the Company by courier will be deemed to be received 24 hours after the time at which it was despatched.

Service of a document sent by post shall be proved by showing the date of posting, the address thereon and the fact of pre-payment.

Any notice or other document, if transmitted by electronic communication, facsimile transmission or other similar means which produces or enables the production of a document containing the text of the communication, shall, if so transmitted, be deemed to be received at the expiration of 24 hours after the time it was sent.

A notice may be given by the Company to the joint holders of a Share by giving the notice to the joint holder first named in the register in respect of the Share.

Any notice or other communication sent to the address of any Shareholder shall, notwithstanding the death, disability or insolvency of such Shareholder and whether the Company has notice thereof, be deemed to have been duly served in respect of any Share registered in the name of such Shareholder as sole or joint holder and such service shall, for all purposes, be deemed a sufficient service of such notice or document on all persons interested (whether jointly with or as claiming through or under him) in any such Share.

All Shareholders shall be deemed to have agreed to accept communication from the Company by electronic means in accordance with sections 524 and 526 and schedule 3 of the Companies Law unless a Shareholder notifies the Company otherwise. Such notification must be in writing and signed by the Shareholder and delivered to the Company's registered office or such other place as the Board directs. A Shareholder shall be entitled to require the Company to send him a version of a document or information in hard copy form.

General meetings

General meetings shall be held once at least in each calendar year in accordance with Section 199 of the Companies Law but so that not more than fifteen (15) months may elapse between one annual general meeting and the next. At each such annual general meeting shall be laid copies of the Company's most recent accounts, Directors' report and, if applicable, the auditor's report in accordance with Section 252 of the Companies Law. The requirement for an annual general meeting may be waived by the shareholders in accordance with Section 201 of the Companies Law. Other meetings of the Company shall be called extraordinary general meetings.

All general meetings shall be held in Guernsey.

A shareholder participating by video link or telephone conference call or other electronic or telephonic means of communication in a meeting at which a quorum is present shall be treated as having attended that meeting, provided that the shareholders present at the meeting can hear and speak to the participating shareholder.

A video link or telephone conference call or other electronic or telephonic means of communication in which a quorum of shareholders participates and all participants can hear and speak to each other shall be a valid meeting which shall be deemed to take place where the Chairman is present unless the shareholders resolve otherwise.

Any general meeting convened by the Board, unless its time shall have been fixed by the Company in a general meeting or unless convened in pursuance of a requisition, may be postponed by the Board by notice in writing and the meeting shall, subject to any further postponement or adjournment, be held at the postponed date for the purpose of transacting the business covered by the original notice.

The Board may, whenever it thinks fit, and shall on the requisition of shareholders who hold more than ten per cent (10%) of such of the capital of the Company as carries the right to vote at general meetings (excluding any capital held as treasury shares) in accordance with Sections 203 and 204 of the Companies Law, proceed to convene a general meeting.

Notice of general meetings

A general meeting of the Company (other than an adjourned meeting) must be called by notice of at least 14 clear days.

A general meeting may be called by shorter notice than otherwise required if all the Shareholders entitled to attend and vote so agree.

Notices and other documents may be sent in electronic form or published on a website in accordance with section 208 of the Companies Law.

Notice of a general meeting of the Company must be sent to every Shareholder (being only persons registered as a Shareholder), every Director and every alternate Director registered as such.

Notice of a general meeting of the Company must state the time and date of the meeting, state the place of the meeting, specify any special business to be put to the meeting (as defined in the Articles), contain the information required under section 178(6)(a) of the Companies Law in respect of a resolution which is to be proposed as a special resolution

at the meeting, contain the information required under section 179(6)(a) of the Companies Law in respect of a resolution which is to be proposed as a waiver resolution at the meeting, and contain the information required under section 180(3)(a) of the Companies Law in respect of a resolution which is to be proposed as a unanimous resolution at the meeting.

Notice of a general meeting must state the general nature of the business to be dealt with at the meeting.

The accidental omission to give notice of any meeting to or the non-receipt of such notice by any Shareholder shall not invalidate any resolution or any proposed resolution otherwise duly approved.

Conflicts of interest

A Director must, immediately after becoming aware of the fact that he is interested in a transaction or proposed transaction with the Company, disclose to the Board in accordance with section 162 of the Companies Law:

(a) if the monetary value of the Director's interest is quantifiable, the nature and monetary value of that interest; or

(b) if the monetary value of the Director's interest is not quantifiable, the nature and extent of that interest.

The obligation referred to above does not apply if:

(a) the transaction or proposed transaction is between the Director and the Company; and

(b) the transaction or proposed transaction is or is to be entered into in the ordinary course of the Company's business and on usual terms and conditions.

A general disclosure to the Board to the effect that a Director has an interest (as director, officer, employee, member or otherwise) in a party and is to be regarded as interested in any transaction which may after the date of the disclosure be entered into with that party is sufficient disclosure of interest in relation to that transaction.

Nothing referred to above in this section applies in relation to:

(a) remuneration or other benefit given to a Director;

(b) insurance purchased or maintained for a Director in accordance with section 158 of the Companies Law; or

(c) a qualifying third party indemnity provision provided for a Director in accordance with section 159 of the Companies Law.

Subject to the paragraph below, a Director is interested in a transaction to which the Company is a party if such Director:

(a) is a party to, or may derive a material benefit from, the transaction;

(b) has a material financial interest in another party to the transaction;

(c) is a director, officer, employee or member of another party (other than a party which is an associated company) who may derive a material financial benefit from the transaction;

(d) is the parent, child or spouse of another party who may derive a material financial benefit from the transaction; or

(e) is otherwise directly or indirectly materially interested in the transaction.

A Director is not interested in a transaction to which the Company is a party if the transaction comprises only the giving by the Company of security to a third party which has no connection with the Director, at the request of the

third party, in respect of a debt or obligation of the Company for which the Director or another person has personally assumed responsibility in whole or in part under a guarantee, indemnity or security.

Save as provided in the Articles, a Director shall not vote in respect of any contract or arrangement or any other proposal whatsoever in which he has any material interest otherwise than by virtue of his interest in Shares or debentures or other securities of or otherwise through the Company. A Director may be counted in the quorum at a meeting in relation to any resolution on which he is debarred from voting.

A Director shall (in the absence of some other material interest than is indicated below) be entitled to vote (and be counted in the quorum) in respect of any resolution concerning any of the following matters, namely:

(a) the giving of any guarantee, security or indemnity to him in respect of money lent or obligations incurred by him at the request of or for the benefit of the Company or any of its subsidiaries;

(b) the giving of any guarantee, security or indemnity to a third party in respect of a debt or obligation of the Company or any of its subsidiaries for which he himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security;

(c) any proposal concerning an offer of Shares or debentures or other securities of or by the Company or any of its subsidiaries for subscription or purchase in which offer he is or is to be interested as a participant in the underwriting or sub-underwriting thereof; or

(d) any proposal concerning any other company in which he is interested, directly or indirectly and whether as an officer or shareholder or otherwise howsoever, provided that he is not the holder of or beneficially interested in one per cent or more of the issued shares of such company (or of any third company through which his interest is derived) or of the voting rights available to shareholders of the relevant company (any such interest being deemed for these purposes to be a material interest in all circumstances).

Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employment with the Company or any company in which the Company is interested, the Directors may be counted in the quorum for the consideration of such proposals and such proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not debarred from voting under the provisions referred to above) shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his own appointment.

If any question shall arise at any meeting as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question shall be referred to the chairman of the meeting and his ruling in relation to any other Director shall be final and conclusive except in a case where the nature or extent of the interests of the Director concerned have not been fairly disclosed.

The Company may by ordinary resolution suspend or relax the provisions referred to above to any extent or ratify any transaction not duly authorised by reason of a contravention of any of the paragraphs above.

Subject to the provisions referred to above the Directors may exercise the voting power conferred by the shares in any other company held or owned by the Company or exercisable by them as directors of such other company in such manner in all respects as they think fit (including the exercise thereof in favour of any resolution appointing themselves or any of them director, managing director, managers or other officer of such company or voting or providing for the payment or remuneration to the directors, managing director, manager or other officer of such company).

A Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director on such terms as to tenure of office or otherwise as the Directors may determine.

Subject to due disclosure in accordance with the provisions referred to in this section, no Director or intending Director shall be disqualified by his office from contracting with the Company as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director is in

any way interested render the Director liable to account to the Company for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established.

Any Director may act by himself or his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as if he were not a Director, provided that nothing herein contained shall authorise a Director or his firm to act as Auditor to the Company.

Any Director may continue to be or become a director, managing director, manager or other officer or member of any company in which the Company may be interested and (unless otherwise agreed) no such Director shall be accountable for any remuneration or other benefits received by him as a director, managing director, manager or other officer or member of any such other company.

Remuneration and appointment of Directors

The ordinary remuneration of the Directors who do not hold executive office for their services (excluding amounts payable under any other sub-paragraph of the Articles) shall not exceed in aggregate £[150,000] per annum or such higher amount as the Company may from time to time by ordinary resolution determine. Such remuneration shall be deemed to accrue from day to day. The Directors shall also be paid all reasonable out-of-pocket travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings of the Company or in connection with the business of the Company. In addition, the Board may award additional remuneration to any Director engaged in exceptional work at the request of the Board on a time spent basis.

The Board shall have power at any time to appoint any person eligible in accordance with section 137 of the Companies Law to be a Director either to fill a casual vacancy or as an addition to the existing Directors but so that the total number of Directors shall not at any time exceed the number, if any, fixed pursuant to the Articles. Any Director so appointed shall hold office only until the next following annual general meeting and shall then be eligible for re-election. Without prejudice to the powers of the Board, the Company in general meeting may appoint any person to be a Director either to fill a casual vacancy or as an additional Director.

The Directors may at any time appoint one or more of their body (other than a Director resident in the United Kingdom) to the office of managing director for such term and at such remuneration and upon such terms as they determine.

Disqualification and retirement of Directors

No person other than a Director retiring at a general meeting shall, unless recommended by the Directors, be eligible for election by the Company to the office of Director unless, not less than 14 clear days before the date appointed for the meeting there shall have been left at the Company's registered office notice in writing signed by a Shareholder duly qualified to attend and vote at the meeting for which such notice is given of his intention to propose such person for election together with notice in writing signed by that person of his willingness to be elected.

A Director shall cease to hold office: (i) if the Director (not being a person holding for a fixed term an executive office subject to termination if he ceases for any reason to be a Director) resigns his office by written notice signed by him sent to or deposited at the registered office of the Company, (ii) if he shall have absented himself from meetings of the Board for a consecutive period of 12 months and the Board resolves that his office shall be vacated, (iii) if he dies or becomes of unsound mind or incapable, (iv) if he becomes insolvent, suspends payment or compounds with his creditors, (v) if he is requested to resign by written notice signed by all his co-Directors, (vi) if the Company in general meeting shall declare that he shall cease to be a Director, (vii) if he becomes resident in the United Kingdom and, as a result thereof, a majority of the Directors are resident in the United Kingdom, (viii) if he becomes ineligible to be a Director in accordance with section 137 of the Companies Law or (ix) if he becomes prohibited from being a Director by reason of any order made under any provisions or any law or enactment.

Indemnity

The Directors, company secretary and officers for the time being of the Company and their respective heirs and executors shall, to the extent permitted by section 157 of the Companies Law, be fully indemnified out of the assets and profits of the Company from and against all actions, expenses and liabilities which they or their respective heirs

or executors may incur by reason of any contract entered into or any act in or about the execution of their respective offices or trusts except such (if any) as they shall incur by or through their own negligence, default, breach of duty or breach of trust respectively and none of them shall be answerable for the acts, receipts, neglects or defaults of the others of them or for joining in any receipt for the sake of conformity or for any bankers or other person with whom any monies or assets of the Company may be lodged or deposited for safe custody or for any bankers or other persons into whose hands any money or assets of the Company may come or for any defects of title of the Company to any property purchased or for insufficiency or deficiency of or defect in title of the Company to any security upon which any monies of the Company shall be placed out or invested or for any loss, misfortune or damage resulting from any such cause as aforesaid or which may happen in or about the execution of their respective offices or trusts, except if the same shall happen by or through their own negligence, default, breach of duty or breach of trust.

Borrowing powers

The Board may exercise all the powers of the Company to borrow money (in whatever currency the Board determines from time to time) and to mortgage, hypothecate, pledge or charge all or part of its undertaking property and uncalled capital and to issue debentures and other securities, whether outright or as collateral security for any liability or obligation of the Company or of any third party, subject to any limits on borrowings adopted by the Board from time to time. The Board may exercise all the powers of the Company to engage in currency or interest rate hedging in the interests of efficient portfolio management.

Forfeiture and surrender of Shares

Any Share in respect of which a notice requiring payment of an unpaid call or instalment, together with any interest which may have accrued and any expenses which may have been incurred, has been served may, at any time before payment has been made, be forfeited by a resolution of the Directors to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited Share and not actually paid before the forfeiture.

The Board may accept from any Shareholder on such terms as agreed a surrender of any Shares in respect of which there is a liability for calls. Any surrendered Share may be disposed of in the same manner as a forfeited share.

If any Shares are owned directly or beneficially by a person believed by the Directors to be a Prohibited U.S. Person, the Directors may give notice to such person requiring them either (i) to provide the Directors within 30 days of receipt of such notice with sufficient satisfactory documentary evidence to satisfy the Directors that such person is not a Prohibited U.S. Person or (ii) to sell or transfer their Shares to a person qualified to own the same within 30 days and within such 30 days to provide the Directors with satisfactory evidence of such sale or transfer. Where condition (i) or (ii) is not satisfied within 30 days after the serving of the notice, the person will be deemed, upon the expiration of such 30 days, to have forfeited their Shares.

LITIGATION

[There are no, and have not been in the last 12 months, any governmental, legal or arbitration proceedings, nor, so far as the Company is aware, are any such proceedings pending or threatened, which may have, or have in the recent past had, a significant effect on the Company's financial position or profitability.] [Highland to confirm]

RELATED PARTY TRANSACTIONS

Other than as set out in the section of this Offering Memorandum entitled "*—Material Contracts*" (including the NexBank Credit Facility), "*Investment Policy—Company Borrowing*" and cross-transactions as described in "*Risk Factors—Risks Relating to Conflicts of Interest—The Company will be subject to various conflicts of interest involving the Portfolio Manager and its affiliates*" the Company has not entered into any related party transactions. The consent of the Advisory Board will be required with respect to transactions with any Related Party.

GENERAL

Highland may be regarded as the promoter of the Company. Save as disclosed in this section of this Offering Memorandum, no amount or benefit has been paid, or given, to the promoter or any of its subsidiaries since the incorporation of the Company and none is intended to be paid, or given. Highland is a limited partnership, established

under the laws of the State of Delaware in the U.S. with its registered office at 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801.

The Net Placing Proceeds available for investment by the Company following the Placing will be approximately U.S. $[•] (less any amounts retained for working capital purposes) and these proceeds will be invested in accordance with the Company's investment policy described in the section of this Offering Memorandum entitled "*The Company*". Since incorporation, the Company has not commenced operations, and therefore has not generated earnings. As the Shares do not have a par value, the Placing Price consists solely of share premium.

None of the Shares available under the Placing are being underwritten.

Application will be made to the appropriate securities exchange for the Placing Shares to be admitted when deemed appropriate by the Company.

The Company does not own any premises and does not lease any premises.

THIRD PARTY SOURCES

Where third party information has been referenced in this Offering Memorandum, the source of that third party information has been disclosed. Where information contained in this Offering Memorandum has been so sourced, the Company confirms that such information has been accurately reproduced and, as far as the Company is aware and able to ascertain from information published by such third parties, no facts have been omitted which would render the reproduced information inaccurate or misleading.

Highland has given and not withdrawn its written consent to the issue of this Offering Memorandum with references to its name in the form and context in which such references appear. Highland accepts responsibility for information attributed to it in this Offering Memorandum and declares that, having taken all reasonable care to ensure that such is the case, the information attributed to it in this Offering Memorandum is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

Highland has given and, as at the date of this Offering Memorandum, has not withdrawn its written consent to the issue of this Offering Memorandum with references to its name in the form and context in which such references appear. Highland accepts responsibility for information attributed to it in this Offering Memorandum and declares that, having taken all reasonable care to ensure that such is the case, the information attributed to it in this Offering Memorandum is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

Each of the Management Companies has given and, as at the date of this Offering Memorandum, has not withdrawn its written consent to the issue of this Offering Memorandum with references to its name in the form and context in which such references appear. Each of the Management Companies accepts responsibility for information attributed to it in this Offering Memorandum and declares that, having taken all reasonable care to ensure that such is the case, the information attributed to it in this Offering Memorandum is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

WORKING CAPITAL

The Company is of the opinion that the working capital available to the Group is sufficient for the present requirements of the Company, that is, for at least the next 12 months from the date of this Offering Memorandum.

CAPITALISATION AND INDEBTEDNESS

As at [•], 2017, the Company:

(a) does not have any secured, unsecured or unguaranteed indebtedness, including indirect and contingent, other than the NexBank Credit Facility;

(b) has not granted any mortgage or charge over any of its assets, other than that granted under the NexBank Credit Facility; and

(c) does not have any contingent liabilities or guarantees.

As at the date of this Offering Memorandum, the Company's issued and fully paid up share capital consisted of [•] Shares of [•] par value.

DOCUMENTS AVAILABLE FOR INSPECTION

Copies of the Articles, the constitutional documents of the Company, the material contracts referred to in "*—Material Contracts*" above and this Offering Memorandum will be available for inspection at the registered office of the Company during normal business hours on any weekday (Saturdays and public holidays excepted) up to and including the date of the Placing.

Copies of this Offering Memorandum may be obtained, free of charge during normal business hours on any weekday (bank and public holidays excepted) at the Company's registered office up to and including the date of the Placing.

RELATIONSHIP BETWEEN SHAREHOLDERS, THE COMPANY AND SERVICE PROVIDERS

The Company is a registered closed-ended investment company incorporated in Guernsey with limited liability on 30 March 2015. While prospective investors will acquire an interest in the Company on subscribing for Placing Shares, the Company is the sole legal and/or beneficial owner of its investments. Consequently, Shareholders have no direct legal or beneficial interest in those investments. The liability of Shareholders for the debts and other obligations of the Company is limited to the amount unpaid, if any, on the Placing Shares held by them.

Shareholders' rights in respect of their investment in the Company are governed by the Articles, the Companies Law and the investment terms set out in this Offering Memorandum.

RIGHTS AGAINST THIRD PARTIES, INCLUDING THIRD PARTY SERVICE PROVIDERS

As the Company has no employees and the Directors have all been appointed on a non-executive basis, the Company is reliant on the performance of service providers listed in this Offering Memorandum (the "**Service Providers**").

Without prejudice to any potential right of action in tort that a Shareholder may have to bring a claim against a Service Provider, each Shareholder's contractual relationship in respect of its investment in Shares is with the Company only. Therefore, no Shareholder will have any contractual claim against any Service Provider with respect to such Service Provider's default.

JURISDICTION AND APPLICABLE LAW

As noted above, Shareholders' rights are governed by the Articles, the Companies Law and the terms set out in this Offering Memorandum. By subscribing for Placing Shares, investors agree to be bound by the Articles, the Companies Law and the terms set out in this Offering Memorandum.

Information on the existence or not of any legal instruments providing for the recognition and enforcement of judgments in the territory where the Company is established is as follows. A final and conclusive judgement under which a sum of money is payable (not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or penalty) obtained in the superior courts in the reciprocating countries set out in the Judgments (Reciprocal Enforcement) (Guernsey) Law 1957 (the "**1957 Law**") (which includes the Supreme Court and the Senior Courts of England and Wales, excluding the Crown Court), after a hearing on the merits would be recognised as a valid judgement by the Guernsey courts and would be enforceable in accordance with and subject to the provisions of the 1957 Law.

The Guernsey courts would also recognise, without reconsideration of the merits and assuming proper service of process and assumption of jurisdiction in accordance with the laws of the relevant jurisdiction, any final and conclusive judgement under which affixed or ascertainable sum of money is payable (not being a sum payable in respect of taxes or other charges or a like nature or in respect of a fine or other penalty) obtained in a court not recognised by the 1957 Law provided that the judgment was not obtained by fraud or in a manner opposed to the principles of natural justice and recognition of the judgment is not contrary to public policy as applied by the Guernsey courts.

FAIR TREATMENT AND PREFERENTIAL TREATMENT OF INVESTORS

The Directors owe certain fiduciary duties to the Company which require them, among other things, to act in good faith and in what they consider to be the best interests of the Company. In doing so, the Directors will act in a manner that ensures the fair treatment of investors.

Under the AIFMD Rules, the Portfolio Manager as AIFM must treat all investors fairly. The Portfolio Manager ensures the fair treatment of investors through its decision-making procedures and organisational structure which (1) identify any preferential treatment, or the right thereto, accorded to investors and (2) ensure that any such preferential treatment does not result in an overall disadvantage to other investors.

In addition, the Portfolio Manager monitors the terms of side arrangements entered into with investors in relation to their investment in the Company to seek to ensure the fair treatment of investors. In so doing, the Portfolio Manager takes into consideration whether such side arrangements are in accordance with side arrangements previously entered into.

The Portfolio Manager may enter into side letters in relation to the Company and its investments with certain individual investors covering, inter alia, [*capacity, provision of additional information, fees, most favoured investor commitments, individual investor approval requirements, transfer rights and confirmations of how expenses will be borne*]. Such information may provide the recipient greater insights into the Company activities than is included in standard reports to investors. In entering into any side letters, the Company will act in the best interests of the investors as a whole.

Information on such side letters will be disclosed to investors in accordance with the AIFMD.

TERMS AND CONDITIONS OF THE PLACING

INTRODUCTION

Each Placee which confirms its agreement (whether orally or in writing) to subscribe for Placing Shares under the Placing will be bound by these terms and conditions and will be deemed to have accepted them.

The Company may require any Placee to agree to such further terms and/or conditions and/or give such additional warranties and/or representations as it (in its absolute discretion) sees fit and/or may require any such Placee to execute a separate placing letter (a "**Placing Letter**").

AGREEMENT TO SUBSCRIBE FOR PLACING SHARES

Any Placee agrees to become a member of the Company and agrees to subscribe for those Placing Shares allocated to it at the Placing Price in respect of the Placing Shares allocated to the Placee. To the fullest extent permitted by law, each Placee acknowledges and agrees that it will not be entitled to exercise any remedy of rescission at any time. This does not affect any other rights the Placee may have.

PAYMENT FOR PLACING SHARES

Each Placee must pay the Placing Price for the Placing Shares issued to the Placee in the manner and by the time directed by the Company. If any Placee fails to pay as so directed and/or by the time required, the relevant Placee's application for Placing Shares shall be rejected.

REPRESENTATIONS AND WARRANTIES

By agreeing to subscribe for Placing Shares, each Placee which will enter into a commitment to subscribe for Placing Shares will (for itself and any person(s) procured by it to subscribe for Placing Shares and any nominee(s) for any such person(s)) agree, represent and warrant to each of the Company and the Registrar that:

(a) in agreeing to subscribe for Placing Shares under the Placing, it is relying solely on this Offering Memorandum and any subsequent notice published by the Company subsequent to the date of this Offering Memorandum and not on any other information given, or representation or statement made at any time, by any person concerning the Company or the Placing. It agrees that none of the Company or the Registrar, nor any of their respective officers, agents or employees, will have any liability for any other information or representation. It irrevocably and unconditionally waives any rights it may have in respect of any other information or representation;

(b) if the laws of any territory or jurisdiction outside the United Kingdom are applicable to its agreement to subscribe for Placing Shares under the Placing, it warrants that it has complied with all such laws, obtained all governmental and other consents which may be required, complied with all requisite formalities and paid any issue, transfer or other taxes due in connection with its placing commitment in any territory and that it has not taken any action or omitted to take any action which will result in the Company, the Registrar or any of their respective officers, agents, affiliates or employees acting in breach of the regulatory or legal requirements, directly or indirectly, of any territory or jurisdiction outside the United Kingdom in connection with the Placing;

(c) it does not have a registered address in, and is not a citizen, resident or national of, any jurisdiction in which it is unlawful to make or accept an offer of the Placing Shares and it is not acting on a non-discretionary basis for any such person;

(d) it agrees that, having had the opportunity to read this Offering Memorandum, it shall be deemed to have had notice of all information and representations contained in this Offering Memorandum, that it is acquiring Placing Shares solely on the basis of this Offering Memorandum and any subsequent notice published by the Company subsequent to the date of this Offering Memorandum and no other information and that in accepting a participation in the Placing it has had access to all information it believes necessary or appropriate in connection with its decision to subscribe for Placing Shares;

(e) it acknowledges that no person is authorised in connection with the Placing to give any information or make any representation other than as contained in this Offering Memorandum and any subsequent notice published by the Company subsequent to the date of this Offering Memorandum and, if given or made, any information or representation must not be relied upon as having been authorised by the Company;

(f) it is not applying as, nor is it applying as nominee or agent for, a person who is or may be liable to notify and account for tax under the Stamp Duty Reserve Tax Regulations 1986 at any of the increased rates referred to in section 67, 70, 93 or 96 (depository receipts and clearance services) of the Finance Act 1986;

(g) it accepts that none of the Placing Shares have been or will be registered under the laws of any Restricted Territory. Accordingly, the Placing Shares may not be offered, sold, issued or delivered, directly or indirectly, within any Restricted Territory unless an exemption from any registration requirement is available;

(h) if it is receiving the offer in circumstances under which the laws or regulations of a jurisdiction other than the United Kingdom would apply, that it is a person to whom the Placing Shares may be lawfully offered under that other jurisdiction's laws and regulations;

(i) if it is a resident in the EEA (other than the United Kingdom), it is a "Qualified Investor" within the meaning of the law in the Relevant Member State implementing Article 2(1)(e)(i), (ii) or (iii) of the Prospectus Directive;

(j) if it is outside the United Kingdom, neither this Offering Memorandum nor any other offering, marketing or other material in connection with the Placing constitutes an invitation, offer or promotion to, or arrangement with, it or any person whom it is procuring to subscribe for Placing Shares pursuant to the Placing unless, in the relevant territory, such offer, invitation or other course of conduct could lawfully be made to it or such person and such documents or materials could lawfully be provided to it or such person and Placing Shares could lawfully be distributed to and subscribed and held by it or such person without compliance with any unfulfilled approval, registration or other regulatory or legal requirements;

(k) it acknowledges the representations, warranties and agreements set out in this Offering Memorandum, including those set out in the section of this Offering Memorandum entitled "*Purchase and Transfer Restrictions*" in "*Placing Arrangements*", and further acknowledges that it is not a U.S. Person, it is not located within the United States, it is subscribing for Placing Shares in an "offshore transaction" as defined in Regulation S and it is not acquiring the Placing Shares for the account or benefit of a U.S. Person, and where it is subscribing for Placing Shares for one or more managed, discretionary or advisory accounts, it is authorised in writing for each such account: (i) to subscribe for the Placing Shares for each such account; (ii) to make on each such account's behalf the representations, warranties and agreements set out in this Offering Memorandum or in any Placing Letter, where relevant; and (iii) to receive on behalf of each such account any documentation relating to the Placing in the form provided by the Company. It agrees that the provision of this paragraph shall survive any resale of the Placing Shares by or on behalf of any such account;

(l) it is acting as principal only in respect of the Placing, or, if it is acting for any other person (i) it is and will remain liable to the Company for the performance of all its obligations as a placee in respect of the Placing (regardless of the fact that it is acting for another person), (ii) it is both an "authorised person" for the purposes of FSMA and a "qualified investor" as defined at Article 2.1(e)(i) of Directive 2003/71/EC (known as Prospectus Directive) acting as agent for such person, and (iii) such person is either (1) a FSMA Qualified Investor or (2) its "client" (as defined in section 86(2) of FSMA) that has engaged it to act as his agent on terms which enable it to make decisions concerning the Placing or any other offers of transferable securities on his behalf without reference to him;

(m) it has not and will not offer or sell any Placing Shares to persons in the United Kingdom, except to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their business or otherwise in circumstances which

have not resulted and which will not result in an offer to the public in the United Kingdom within the meaning of section 102B of the FSMA;

(n) it is an "eligible counterparty" within the meaning of Chapter 3 of the FCA's Conduct of Business Sourcebook and it is subscribing for or purchasing the Shares for investment only and not for resale or distribution;

(o) it irrevocably appoints any Director of the Company to be its agent and on its behalf (without any obligation or duty to do so), to sign, execute and deliver any documents and do all acts, matters and things as may be necessary for, or incidental to, its subscription for all or any of the Placing Shares for which it has given a commitment under the Placing, in the event of its own failure to do so;

(p) it accepts that if the Placing does not proceed or such Placing Shares are not admitted to a securities exchange for any reason whatsoever, then none of the Company or any of its affiliates, nor persons controlling, controlled by or under common control with any of them nor any of their respective employees, agents, officers, members, stockholders, partners or representatives, shall have any liability whatsoever to it or any other person;

(q) it has not taken any action or omitted to take any action which will or may result in the Company or any of its directors, officers, agents, affiliates, employees or advisers being in breach of the legal or regulatory requirements of any territory in connection with the Placing or its subscription of Placing Shares pursuant to the Placing;

(r) in connection with its participation in the Placing it has observed all relevant legislation and regulations, in particular (but without limitation) those relating to money laundering and countering terrorist financing and that its placing commitment is only made on the basis that it accepts full responsibility for any requirement to identify and verify the identity of its clients and other persons in respect of whom it has applied. In addition, it warrants that it is a person: (i) subject to the Money Laundering Regulations 2007 in force in the United Kingdom; or (ii) subject to the Money Laundering Directive (2005/60/EC of the European Parliament and of the EC Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing); or (iii) subject to the Guernsey AML Requirements; or (iv) acting in the course of a business in relation to which an overseas regulatory authority exercises regulatory functions and is based or incorporated in, or formed under the law of, a country in which there are in force provisions at least equivalent to those required by the Money Laundering Directive;

(s) due to anti-money laundering and the countering of terrorist financing requirements, the Company may require proof of identity of the Placee and related parties and verification of the source of the payment before the placing commitment can be processed and that, in the event of delay or failure by the Placee to produce any information required for verification purposes, the Company may refuse to accept the placing commitment and the subscription moneys relating thereto. It holds harmless and will indemnify the Company against any liability, loss or cost ensuing due to the failure to process the placing commitment, if such information as has been required has not been provided by it or has not been provided timeously;

(t) any person in Guernsey involved in the business of the Company who knows or suspects or has reasonable grounds for knowing or suspecting that any other person (including the Company or any person subscribing for Placing Shares) is involved in money laundering activities, is under an obligation to report such suspicion to the relevant authorities pursuant to the Guernsey AML Requirements. Similar disclosures may be required under other legislation;

(u) it and each person or body (including, without limitation, any local authority or the managers of any pension fund) on whose behalf it accepts Placing Shares pursuant to the Placing or to whom it allocates such Placing Shares have the capacity and authority to enter into and to perform their obligations as a Placee of the Placing Shares and will honour those obligations;

(v) it confirms that it is not acquiring the Placing Shares using the assets of: (i)(A) an "employee benefit plan" as defined in Section 3(3) of ERISA that is subject to Title I of ERISA; (B) a "plan" as defined in Section 4975 of the U.S. Tax Code, including an individual retirement account or other arrangement that is subject to Section 4975 of the U.S. Tax Code; or (C) an entity whose underlying assets are considered to include "plan assets" by reason of investment by an "employee benefit plan" or "plan" described in preceding clause (A) or (B) in such entity pursuant to the U.S. Plan Assets Regulations; or (ii) a governmental, church, non-U.S. or other employee benefit plan that is subject to any federal, state, local or non-U.S. law that is substantially similar to the provisions of Title I of ERISA or Section 4975 of the U.S. Tax Code, unless its purchase, holding, and disposition of the Placing Shares will not constitute or result in a non-exempt violation of any such substantially similar law;

(w) the representations, undertakings and warranties contained in this Offering Memorandum or in any Placing Letter, where relevant, are irrevocable. It acknowledges that the Company and its affiliates will rely upon the truth and accuracy of such representations and warranties and it agrees that if any of the representations or warranties made or deemed to have been made by its subscription of the Shares are no longer accurate, it shall promptly notify the Company;

(x) nothing has been done or will be done by it in relation to the Placing that has resulted or could result in any person being required to publish a prospectus in relation to the Company or to any ordinary shares in accordance with FSMA or the Prospectus Rules or in accordance with any other laws applicable in any part of the European Union or the European Economic Area;

(y) it accepts that the allocation of Placing Shares shall be determined by the Company in its absolute discretion and that such persons may scale down any placing commitments for this purpose on such basis as they may determine; and

(z) time shall be of the essence as regards its obligations to settle payment for the Placing Shares and to comply with its other obligations under the Placing; and

(aa) it has been provided an opportunity to ask questions of, and have received satisfactory answers thereto from, the Company, Highland, Acis and/or their respective affiliates, as applicable, regarding the Company's assets and the terms and conditions of the offering of the Placing Shares, and it and its representatives have obtained all additional information requested of the Company, Highland, Acis and/or their respective affiliates, as applicable and to the extent such information is in their possession or reasonably obtainable thereby without undue expense or burden, in order to respond to any inquiries it has made regarding the offering of the Placing Shares. In connection with the offering of the Shares, it is not relying upon any statements other than those statements contained in the Offering Memorandum. It are not relying on the Company, Highland, Acis and/or their respective any of its respective affiliates or any of its partners, members, managers, shareholders, officers, employees, shared personnel, representatives, consultants, advisors, attorneys or agents for legal, investment or tax advice. It has sought independent legal, investment and tax advice to the extent that it has deemed necessary or appropriate in connection with its decision to subscribe for the Placing Shares.

SUPPLY AND DISCLOSURE OF INFORMATION

If the Registrar or the Company or any of their agents request any information in connection with a Placee's agreement to subscribe for Placing Shares under the Placing or to comply with any relevant legislation, such Placee must promptly disclose it to them.

DATA PROTECTION

Pursuant to the Data Protection (Bailiwick of Guernsey) Law, 2001, as amended (the "**DP Law**") and any successor legislation, the Company, the Registrar and/or the Administrator may hold personal data (as defined in the DP Law) relating to past and present Shareholders.

Such personal data held is used by those parties in relation to the Placing and to maintain a register of the Shareholders and mailing lists and this may include sharing such data with third parties in one or more of the countries mentioned

below when (a) effecting the payment of dividends and redemption proceeds to Shareholders (in each case, where applicable) and, if applicable, the payment of commissions to third parties; and (b) filing returns of Shareholders and their respective transactions in shares with statutory bodies and regulatory authorities. Personal data may be retained on record for a period exceeding six years after it is no longer used.

The countries referred to above include, but need not be limited to, those in the European Economic Area or the European Union and any of their respective dependent territories overseas, Andorra, Argentina, Canada, State of Israel, New Zealand, Switzerland and the Eastern Republic of Uruguay.

By becoming registered as a holder of Placing Shares in the Company a person becomes a data subject (as defined in the DP Law) and is deemed to have consented to the processing by the Company, the Administrator and the Registrar of any personal data relating to them in the manner described above.

The Company will be the "data controller" in respect of the personal data, but has appointed the Administrator and the Registrar as "data processors" of such data (each as defined in the DP Law). Details of the registration of the Company as data controller can be found on the website of the Guernsey Data Protection Commissioner: www.dpr.gov.gg.

MISCELLANEOUS

The rights and remedies of the Company, the Registrar and the Administrator under these terms and conditions are in addition to any rights and remedies which would otherwise be available to each of them and the exercise or partial exercise of one will not prevent the exercise of others.

On the acceptance of their placing commitment, if a Placee is a discretionary fund manager, that Placee may be asked to disclose in writing or orally the jurisdiction in which its funds are managed or owned. All documents provided in connection with the Placing will be sent at the Placee's risk. They may be returned by post to such Placee at the address notified by such Placee.

Each Placee agrees to be bound by the Articles (as amended from time to time) once the Placing Shares, which the Placee has agreed to subscribe for pursuant to the Placing, have been acquired by the Placee. The contract to subscribe for Placing Shares under the Placing and the appointments and authorities mentioned in this Offering Memorandum will be governed by, and construed in accordance with, the laws of England. For the exclusive benefit of the Company, the Registrar and the Administrator, each Placee irrevocably submits to the jurisdiction of the courts of England and Wales and waives any objection to proceedings in any such court on the ground of venue or on the ground that proceedings have been brought in an inconvenient forum. This does not prevent an action being taken against a Placee in any other jurisdiction.

In the case of a joint agreement to subscribe for Placing Shares under the Placing, references to a "Placee" in these terms and conditions are to each of the Placees who are a party to that joint agreement and their liability is joint and several.

The Company expressly reserves the right to modify the Placing (including, without limitation, its timetable and settlement) at any time prior to the date of the Placing.

PLACING STATISTICS

Placing Price per Share	U.S. $[●]
Target Gross Placing Proceeds*	U.S. $[●] million
Minimum expected initial Net Asset Value per Share**	U.S. $[●]

* The target size of the Placing is in excess of U.S. $[●] million, with the actual size of the Placing being subject to investor demand. The number of Placing Shares to be issued, and therefore the Gross Placing Proceeds, is not known as at the date of this Offering Memorandum.

** NAV per Share immediately following Placing.

DEFINITIONS

The following definitions apply in this Offering Memorandum unless the context otherwise requires:

"**2010 PD Amending Directive**"	Directive 2010/73/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market
"**Acis**"	Acis Capital Management, L.P.
"**Acis CLO Management**"	Acis CLO Management, LLC
"**Acis Legacy CLO**"	a CLO in which Acis is the CLO manager
"**Administration Agreement**"	the agreement dated 10 August 2015 between the Company and the Administrator, a summary of which is set out in the section of this Offering Memorandum entitled "*Additional Information on the Company*"
"**Administrator**"	State Street (Guernsey) Limited, or such other person or persons from time to time appointed by the Company
"**AIC**"	the Association of Investment Companies
"**AIC Code**"	the AIC Code of Corporate Governance
"**AIF**"	an alternative investment fund, as defined in the AIFMD
"**AIFM**"	an alternative investment fund manager, as defined in the AIFMD
"**AIFMD**"	Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directive 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010
"**AIFMD Rules**"	any implementing legislation and regulations under AIFMD including, without limitation, Commission Delegated Regulation (EU) No 231/2013 supplementing the AIFMD with regard to exemptions, general operating conditions, depositaries, leverage, transparency, supervision and other applicable regulations implementing the AIFMD, in each case as may be altered, amended, added to or cancelled from time to time
"**Application Form**"	the application form for Shares, which is available upon request;
"**Approved Pricing Source**"	in relation to loans, Markit Partners or any other entity appointed from time to time and in relation to CLO Notes, Thomson Reuters or any other entity appointed from time to time
"**Articles**"	the articles of incorporation of the Company
"**Audit Committee**"	the audit committee of the Company, as more fully described in the section of this Offering Memorandum entitled "*Audit Committee*" in "*Company Directors and Administration*"

"**Auditor**"	PricewaterhouseCoopers CI LLP, or such other person or persons from time to time appointed by the Company
"**bps**"	basis point
"**Business Day**"	a day on which the banks in Guernsey and the United Kingdom are normally open for business
"**certificated**" or "**certificated form**"	not in uncertificated form
"**Chairman**"	the chairman of the Board
"**CLO**"	a special purpose vehicle which issues notes backed by a pool of collateral consisting primarily of loans
"**CLO Income Notes**"	the most subordinated tranche of debt issued by a CLO (which may be represented by a debt or equity security)
"**CLO Manager**"	the entity acting as manager in a CLO pursuant to the relevant CLO Management Agreement
"**CLO Notes**"	notes representing tranches of debt issued by a CLO, including CLO Income Notes (which may be represented by a debt or equity security)
"**Closing Date**"	[•]
"**Companies Law**"	the Companies (Guernsey) Law 2008, as amended, extended or replaced and any ordinance, statutory instrument or regulation made thereunder
"**Company**"	Highland CLO Funding, Ltd., a closed-ended investment company incorporated in Guernsey under the Companies Law on 30 March 2015 with registration number 60120
"**CREST**"	the facilities and procedures for the time being of the relevant system of which Euroclear has been approved as operator pursuant to the CREST Regulations
"**CREST Regulations**"	the Uncertificated Securities Regulations 2001 of the United Kingdom (SI No. 2001/3755) as amended from time to time
"**CRR**"	Regulation 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms
"**CRR Retention Requirements**"	the retention requirements contained in the CRR as amended from time to time and including any guidance or any technical standards published in relation thereto
"**Custodian**"	State Street Custodial Services (Ireland) Limited
"**Custody Agreement**"	the agreement dated 10 August 2015 between the Company and the Custodian, further details of which are set out in the section of this Offering Memorandum entitled "*Additional Information on the Company*"
"**Directors**" or "**Board**" or "**Board of Directors**"	the directors of the Company

"**DP Law**"	The Data Protection (Bailiwick of Guernsey) Law, 2001, as amended
"**EEA**"	the European Economic Area being the countries included as such in the Agreement on European Economic Area, dated 1 January 1994, among Iceland, Liechtenstein, Norway, the European Community and the EU Member States, as may be modified, supplemented or replaced
"**Eligible U.S. Investor**"	a U.S. Person who is reasonably believed to be a Qualified Institutional Buyer and a Qualified Purchaser and to whom the Company is privately placing a certain number of the Placing Shares in reliance on exemptions from registration under the U.S. Securities Act and the U.S. Investment Company Act and without the involvement of the Placing Agents
"**ERISA**"	the U.S. Employee Retirement Income Security Act of 1974, as amended from time to time, and the applicable regulations thereunder
"**EU**"	the European Union
"**EU Member State**"	a member country of the EU
"**EU Retention Requirements**"	has the meaning given to it in the section of this Offering Memorandum entitled "*Risk Factors*"
"**EU Savings Tax Directive**"	Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments
"**EURIBOR**"	Euro interbank offered rate, a benchmark interest rate
"**Euro**" or "**€**"	the lawful currency of the EU
"**Euroclear**"	Euroclear UK & Ireland Limited
"**FATCA**"	the U.S. Foreign Account Tax Compliance Act 2010
"**FATCA Withholding**"	has the meaning given to it in the section of this Offering Memorandum entitled "*Risk Factors*"
"**Financial Conduct Authority**" or "**FCA**"	the UK Financial Conduct Authority and any successor regulatory authority
"**Forward Purchase Agreement**"	agreements which may be entered into from time to time between the Company and a CLO pursuant to which the Company may, from time to time, enter into sale and purchase contracts with a CLO with respect to certain assets of the Company
"**FSMA**"	the Financial Services and Markets Act 2000 of the United Kingdom, as amended
"**FTT**"	the European Commission's proposal for a Directive for a common financial transaction tax in certain EU Member States
"**GFSC**" or "**Commission**"	the Guernsey Financial Services Commission
"**GFSC Code**"	the Finance Sector Code of Corporate Governance published by the Commission
"**Gross Placing Proceeds**"	the aggregate value of the Placing Shares

"**Guernsey AML Requirements**"	The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, the Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations 2007 and the Handbook of Financial Services Business (in each case as amended) and any other regulations relating to prevention of use of the financial system for the purpose of money laundering and made pursuant thereto
"**Guernsey IGA Legislation**"	Guernsey legislation implementing the IGA
"**Guernsey Regulations**"	the Uncertificated Securities Guernsey Regulations 2009, as amended from time to time
"**Highland**"	Highland Capital Management, L.P.
"**Highland CLO**"	a CLO in which Highland or Highland CLO Management (or their affiliate) or a wholly owned subsidiary of the Company advised by Highland is the collateral manager
"**Highland CLO Management**"	Highland CLO Management, LLC
"**Highland Legacy CLO**"	a CLO in which Highland is the CLO manager
"**HMRC**"	Her Majesty's Revenue and Customs
"**IRR**"	internal rate of return
"**IRS**"	U.S. Internal Revenue Service
"**LIBOR**"	London interbank offered rate, a benchmark interest rate
"**Managed CLO**"	any Acis Legacy CLO, Acis CLO 7, any Highland CLO or any Highland Legacy CLO
"**Market Abuse Directive**"	Directive 2003/6/EC of the European Parliament and of the Council on insider dealing and market manipulation (market abuse)
"**Memorandum**"	the memorandum of incorporation of the Company
"**Money Laundering Directive**"	2005/60/EC of the European Parliament and of the EC Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing
"**NAV Calculation Date**"	the relevant date for the calculation of NAV
"**Net Asset Value**" or "**NAV**"	gross assets less liabilities (including accrued but unpaid fees) determined in accordance with the section of this Offering Memorandum entitled "*Net Asset Value*" in "*The Company*"
"**Net Asset Value per Share**" or "**NAV per Share**"	the Net Asset Value divided by the number of Shares in issue at the relevant time
"**Net Placing Proceeds**"	the Gross Placing Proceeds less any offering expenses and any amounts retained for working capital purposes
"**Non-Qualified Holder**"	any person whose ownership of Shares (i) may result in the U.S. Plan Threshold being exceeded causing the Company's assets to be deemed "plan assets" for the purpose of ERISA or the U.S. Tax Code; (ii) may

	cause the Company to be required to register as an "investment company" under the U.S. Investment Company Act (including because the holder of the shares is not a "qualified purchaser" as defined in the U.S. Investment Company Act) or to lose an exemption or a status thereunder to which it might be entitled; (iii) may cause the Company to have to register under the U.S. Exchange Act or any similar legislation; (iv) may cause the Company not to be considered a "Foreign Private Issuer" as such term is defined in rule 3b-4(c) under the U.S. Exchange Act; (v) may result in a person holding shares in violation of the transfer restrictions published by the Company, from time to time; and (vi) may cause the Company to be a "controlled foreign corporation" for the purposes of the U.S. Tax Code
"**Offering Memorandum**"	this offering memorandum
"**Ordinary Shares**"	ordinary shares of no par value each in the capital of the Company
"**Placee**"	a person subscribing for Shares under the Placing
"**Placing**"	the placing of Placing Shares at the Placing Price to one or more investors
"**Placing Price**"	U.S. $[•]
"**Placing Shares**"	Shares to be issued by the Company pursuant to the Placing
"**POI Law**"	The Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended
"**Portfolio Management Agreement**"	the agreement dated 22 December 2016 between the Company and the Portfolio Manager pursuant to which the Portfolio Manager will provide certain support and personnel to the Company
"**Portfolio Manager**"	Highland acting as Portfolio Manager to the Company pursuant to the Portfolio Management Agreement
"**Prospectus Directive**"	Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading
"**Provider**"	the provider of any Warehouse Loan to the Company
"**Qualified Institutional Buyers**"	has the meaning given in Regulation 144A of the U.S. Securities Act
"**Qualified Purchasers**"	has the meaning given in the U.S. Investment Company Act
"**RCIS Rules**"	the Registered Collective Investment Schemes Rules 2015
"**Register**"	the register of Shareholders
"**Registrar**"	[•], or such other person or persons from time to time appointed by the Company
"**Registrar Agreement**"	the agreement dated 10 August 2015 between the Company and the Registrar, a summary of which is set out in the section of this Offering Memorandum entitled "*Additional Information on the Company*"
"**Regulation S**"	Regulation S promulgated under the U.S. Securities Act

"**Relevant Member State**"	each member state of the European Economic Area which has implemented the Prospectus Directive
"**Restricted Shareholders**"	Shareholders who are resident in, or citizens of, a Restricted Territory
"**Restricted Territory**"	the United States and any other jurisdiction where the extension or availability of the Placing would breach any applicable law
"**RTS**"	the Regulatory Technical Standards, published by the European Commission
"**SDRT**"	UK Stamp Duty Reserve Tax
"**SEC**"	the U.S. Securities and Exchange Commission
"**Service Agreements**"	the Staff and Services Agreement and the Sub-Advisory Agreement
"**Share**"	a share in the capital of the Company (of whatever class, denominated in such currency) as the Directors may determine in accordance with the Articles and having such rights and being subject to such restrictions as are contained in the Articles
"**Shareholder**"	a holder of Shares
"**Shareholding**"	a holding of Shares
"**UK**" or "**United Kingdom**"	the United Kingdom of Great Britain and Northern Ireland
"**UK Corporate Governance Code**"	the UK Corporate Governance Code as published by the Financial Reporting Council
"**uncertificated**" or "**uncertificated form**"	recorded on the register as being held in uncertificated form in CREST and title to which may be transferred by means of CREST
"**United States**" or "**U.S.**"	the United States of America, its territories and possessions, any state of the United States of America and the District of Columbia
"**U.S. Dollar**" or "**U.S.$**"	the lawful currency of the United States
"**U.S. Exchange Act**"	the U.S. Securities Exchange Act of 1934, as amended
"**U.S. Investment Company Act**"	the U.S. Investment Company Act of 1940, as amended
"**U.S. Person**"	has the meaning given in Regulation S under the U.S. Securities Act
"**U.S. Plan**"	any plan subject to Title 1 of ERISA or section 4975 of the U.S. Tax Code
"**U.S. Plan Assets Regulations**"	the regulations promulgated by the U.S. Department of Labor at 29 CFR 2510.3-101, as modified by section 3(42) of ERISA
"**U.S. Plan Investor**"	(i) an "employee benefit plan" as defined in section 3(3) of ERISA that is subject to Title I of ERISA; (ii) a "plan" as defined in Section 4975 of the U.S. Tax Code, including an individual retirement account or other arrangement that is subject to Section 4975 of the U.S. Tax Code; or (iii) an entity whose underlying assets are considered to include "plan assets" by reason of investment by an "employee benefit plan" or "plan" described in the preceding clause (i) or (ii) in such entity pursuant to the U.S. Plan Assets Regulations

"**U.S. Plan Threshold**"	ownership by benefit plan investors, as defined under section 3(42) of ERISA, in the aggregate of 25 per cent or more of the value of any class of equity in the Company (calculated by excluding the value of any equity interest held by any person (other than a benefit plan investor, as defined under section 3(42) of ERISA) that has discretionary authority or control with respect to the assets of the Company or that provides investment advice for a fee (direct or indirect) with respect to such assets, or any affiliate of such a person); the term shall be amended to reflect such new ownership threshold that may be established by a change in the U.S. Plan Asset Regulations or other applicable law
"**U.S. Risk Retention Rules**"	the United States federal interagency credit risk retention rules, codified at 17 C.F.R. Part 246.
"**U.S. Securities Act**"	the U.S. Securities Act of 1933, as amended
"**U.S. Tax Code**"	the U.S. Internal Revenue Code of 1986, as amended
"**VAT**"	value added tax or a similar consumption tax

DIRECTORS, ADVISERS AND SERVICE PROVIDERS

Directors
Heather Bestwick
William Scott

All c/o the Company's registered office

Registered Office
First Floor, Dorey Court
Admiral Park
St Peter Port
Guernsey
GY1 6HJ
Channel Islands

Portfolio Manager and Adviser
Highland Capital Management, L.P.
300 Crescent Court, Suite 700
Dallas, Texas 75201
USA

Legal Advisers to the Company (as to Guernsey law)
Mourant Ozannes
PO Box 186
1 Le Marchant Street
St Peter Port
Guernsey GY1 4HP
Channel Islands

Legal Advisers to the Company
(as to English law)
Dechert LLP
160 Queen Victoria Street
London
EC4V 4QQ
United Kingdom

Administrator/Company Secretary
State Street (Guernsey) Limited
First Floor, Dorey Court
Admiral Park
St Peter Port, Guernsey GY1 6HJ
Channel Islands

Registrar
[•]

Custodian & Principal Bankers
State Street Custodial Services (Ireland) Limited
No. 78
Sir John Rogerson's Quay
Dublin
Ireland

Corporate Services Provider
State Street Guernsey (Limited)
First Floor, Dorey Court
Admiral Park,
St Peter Port, Guernsey GY1 6HJ
Channel Islands

Auditors
PricewaterhouseCoopers CI LLP
Royal Bank Place
1 Glategny Esplanade
St Peter Port
Guernsey
GY1 4ND
Channel Islands

EXHIBIT 80

From: "Roy, Amit" <Amit.Roy@gs.com>
To: 'Hunter Covitz' <HCovitz@HighlandCapital.com>, "Chung, Leonard" <Leonard.Chung@gs.com>
Cc: "gs-clo-desk-ny@ny.email.gs.com" <gs-clo-desk-ny@gs.com>, Thomas Surgent <TSurgent@HighlandCapital.com>, Tim Cournoyer <TCournoyer@HighlandCapital.com>, Neil Desai <NDesai@HighlandCapital.com>, "Saunders, Tim" <Tim.Saunders@gs.com>, "Conner, Robbin" <Robbin.Conner@gs.com>, "Roloff, Riva" <riva.roloff@gs.com>, "'richard.reilly@dlapiper.com'" <richard.reilly@dlapiper.com>
Subject: RE: Acis CLOs
Date: Mon, 06 Nov 2017 17:22:51 +0000
Importance: Normal
Inline-Images: image001.jpg

Hunter –

Just so we are all on the same page, given the arbitration award, we had expressed concerns around both (i) doing a refinancing for a transaction managed by ACIS on a going-forward basis, and (ii) transferring the existing contract from ACIS to an affiliate.

Happy to discuss live later today or tomorrow. Please let us know when works best for you.

Amit

From: Hunter Covitz [mailto:HCovitz@HighlandCapital.com]
Sent: Monday, November 06, 2017 11:18 AM
To: Roy, Amit [IBD]; Chung, Leonard [IBD]
Cc: gs-clo-desk-ny; Thomas Surgent; Tim Cournoyer; Neil Desai; Hunter Covitz
Subject: Acis CLOs

Amit, as a follow-up to our conversation last week:

- We understand that as a result of the arbitration award and ongoing dispute with Mr. Terry that Goldman is unwilling to continue with a refinancing of any Acis CLO until Acis Capital Management is replaced as collateral manager.
- Based on this, we agree with your conclusion that we should either
  - seek and receive consent from the Controlling Class (AAA noteholders) of the Acis CLOs to a clean replacement affiliated collateral manager prior to moving forward with any refinancing of such CLOs or
  - the equity in each such CLO should call each such CLO to facilitate a Risk Retention-Compliant "re-set" with a clean affiliated manager.
- Accordingly, after discussing these options with the equity holders of each such CLO, we have concluded that we would like to proceed with 2 year to 3 year "re-sets" of Acis 2014-3, Acis 2014-4, and Acis 2014-5 as soon as possible, with Goldman Sachs as underwriter.

Let's try to discuss next steps later today.

Thank you,
Hunter

HUNTER COVITZ | MANAGING DIRECTOR

HIGHLAND CAPITAL MANAGEMENT, LP

300 Crescent Court | Suite 700 | Dallas, Texas 75201
O: 972.628.4124 | C: 214.394.5510
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EXHIBIT 81

From: Isaac Leventon <ILeventon@HighlandCapital.com>
To: Jim Dondero <JDondero@HighlandCapital.com>
Subject: Accepted: Mtg w/Thomas, JP, Tim & Isaac re: Terry
Date: Fri, 03 Nov 2017 19:06:52 +0000
Importance: Normal
Attachments: unnamed

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EXHIBIT 82

From: Hunter Covitz <HCovitz@HighlandCapital.com>
To: Hunter Covitz <HCovitz@HighlandCapital.com>
Subject: Reset WAL - Harbourvest
Date: Fri, 03 Nov 2017 16:48:19 +0000
Importance: Normal
Inline-Images: image001.jpg

Pros and cons of 2 yr re-sets rather than the discussed refis:

1. The Reinvestment Periods (RP) would be extended from current status. However, we still believe monetization of these CLOs past the new RPs can occur naturally on the same dates we have been modeling, and as such, will not change HCF's WAL and payback expectations.

	Refi	Reset	Refi	Reset
CLO	RP Date	RP Date*	Refi Redemption	Re-Set Redemption
Acis 2014-3	2/1/2019	2/1/2020	8/1/2020	8/1/2020
Acis 2014-4	6/5/2019	2/1/2020	2/1/2021	2/1/2021
Acis 2014-5	11/18/2019	2/1/2020	8/1/2021	8/1/2021

** Estimated*

2. The AAA buyer base for refi CLOs with ~15 months to ~2 years left in the RP is the same buyer base that would buy 2 year re-set CLOs. So pricing should be pretty similar in their scenario.

3. Each CLO would be able to reinvest and enjoy the increased arbitrage for a longer time period than currently contemplated.

4. The Weighted Average Life (WAL) test on the loan portfolio in each CLO would be re-set, allowing us to have much more freedom in managing the portfolio and broadening our options in the investible loan universe.

5. These CLOs will now become risk retention-compliant and as such

- Highland Capital will contribute $3mm-$4mm per CLO to issue additional equity shares, which will increase cushion on OC Tests.
- Highland CLO Management (the MOA) will earn the 0.40% annual management fee, and .04% will remain in the MOA, accruing to HCF.
- Acis Capital Management will be replaced and no longer manage these CLOs.

HUNTER COVITZ | MANAGING DIRECTOR

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EXHIBIT 83

Terry Arbitration Confirmation: Legal Issues

- Where: Texas State Court, new proceeding.
- What will be in the new case to confirm? Terry can file the entire detail of the award, but not the award itself.
- When: Monday, November 6.
- When will Terry file the award document? November 13.
- Next steps: Highland files a notice of related case; moves to transfer the new case to the current case in the 162nd District Court.
- How long until Terry confirms: Depends. If the new case and the pending case are combined, then most likely 9-12 months. If the new case stays separate, then within 3 – 4 months.
- Upon confirmation: ACM/GP files a notice of appeal; posts a bond for 50% of net worth, which delays collection.
- Collection: Must collect where the bank accounts are located; Delaware (not quite, it depends on the banks and where they do business; if banks do business/subject to jurisdiction in TX, Terry could file garnishments in TX even if accounts are based elsewhere; otherwise Terry would have to domesticate judgments in other states/jurisdictions where assets are located and pursue there). If not assets in Delaware, then chase in Cayman. Will be multiple years to collect.
- Other issues:
    - Media statement: Lucy working on draft bullets
    - SEC may investigate
    - Terry may file claims against Acis CLO Value Fund II LP, GP LLC, Master Fund LP, and/or HCM re retirement accounts.
    - Highland's employment and breach of fiduciary duty claims against Terry
- Timing: HarbourVest closing on Monday

PRIVILEGED – ATTORNEY WORK PRODUCT / ATTORNEY CLIENT COMMUNICATION

Acis Restructuring

- ALF: Assign IMA to CaymanCo Advisor (completed)
- Highland Shared Services and Subadvisory with ACM
  - Give 30 days' notice to terminate
- Acis 1, 3 – 6
  - Option 1: Assign to new manager and then refinance
    - GS considering participating in this structure
    - Will need AAA consent to assign to new manager
  - Option 2: Reset deals with new manager
  - Assignment of ACM-Highland Note from ACM to CaymanCo Advisor (assignment has been drafted)
- Acis 2
  - Deal has been called
- Acis 7: Issue: Risk retention compliance
  - Option 1: Keep with ACM
  - Option 2: Assign IMA to new C-MOA structure. Assignment of Risk Retention Equity ($2.8m) in exchange for $2.8m reduction of ACM's past-due fees payable
- BVK: strategy TBD

EXHIBIT 84

From: John Cullinane <john.cullinane@sml.ky>
To: John Cullinane <john.cullinane@sml.ky>
Subject: FW: Highland CLO Management, Ltd.
Date: Fri, 27 Apr 2018 20:44:03 +0000
Importance: Normal
Inline-Images: image001.jpg

From: JP Sevilla [mailto:JSevilla@HighlandCapital.com]
Sent: Friday, January 19, 2018 5:04 PM
To: John Cullinane ; David Egglishaw
Subject: RE: Highland CLO Management, Ltd.

Thanks very much. Please see my responses in CAPS

From: John Cullinane [mailto:john.cullinane@sml.ky]
Sent: Friday, January 19, 2018 3:59 PM
To: JP Sevilla <JSevilla@HighlandCapital.com>; David Egglishaw <david.egglishaw@sml.ky>
Subject: RE: Highland CLO Management, Ltd.

JP
See attached. A few questions:
The acknowledgment and waiver refers to the appointment of a collateral manager. Should it state Portfolio Manager as in the Transfer and Assignment Agreement? THESE TERMS ARE BEING USED INTERCHANGEABLY
Does Highland CLO Management, LLC replace Highland CLO Management, Ltd (HCLOM) and if so is there any need now for HCLOM? THE LLC ENTITY IS ASSUMING UNDERTAKINGS BUT THE LTD STILL IS NECESSARY UNDER THE BROADER STRUCTURE.
Regards

John Cullinane
Director
Summit Management Limited
Suite # 4-210
Governors Square
23 Lime Tree Bay Avenue
PO Box 32311
Grand Cayman, KY1-1209
Cayman Islands
Main: +1 345 945 7676
Mobile: +1 345 916 6001
Facsimile: +1 345 946 3101
Email: john.cullinane@sml.ky
Web: www.sml.ky

From: JP Sevilla [mailto:JSevilla@HighlandCapital.com]
Sent: Friday, January 19, 2018 4:17 PM
To: John Cullinane <john.cullinane@sml.ky>; David Egglishaw <david.egglishaw@sml.ky>
Subject: Highland CLO Management, Ltd.

Gentlemen, please see attached an acknowledgment and waiver to be provided by each of Highland Capital Management, LP and Highland CLO Management, Ltd. to Acis Capital Management with respect to certain timing undertakings in the November 3 Transfer Agreement entered into by such parties. Please review and let us know if you have any questions and pending your approval, please send scans of executed signature page at your earliest convenience (I understand Monday is a holiday in Cayman).
Many thanks.

From: Tim Cournoyer
Sent: Friday, January 19, 2018 2:36 PM
To: JP Sevilla <JSevilla@HighlandCapital.com>
Cc: Thomas Surgent <TSurgent@HighlandCapital.com>; Isaac Leventon <ILeventon@HighlandCapital.com>
Subject: PRIVILEGED

As discussed, please send to Summit for execution on behalf of Highland CLO Management, Ltd.

TIMOTHY J. COURNOYER | ASSISTANT GENERAL COUNSEL

HIGHLAND CAPITAL MANAGEMENT

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EXHIBIT 85

SHARED SERVICES AGREEMENT

by and between

HIGHLAND CLO HOLDINGS, LTD.

and

HIGHLAND CAPITAL MANAGEMENT, L.P.

Dated December 19, 2017

SHARED SERVICES AGREEMENT

This Shared Services Agreement (as amended, modified, waived, supplemented or restated from time to time in accordance with the terms hereof, this "Agreement"), dated as of December 19, 2017, is entered into by and between Highland CLO Holdings, Ltd., a Cayman Islands exempted company, as the management company hereunder (in such capacity, the "Management Company"), and Highland Capital Management, L.P., a Delaware limited partnership ("Highland"), as the staff and services provider hereunder (in such capacity, the "Staff and Services Provider" and together with the Management Company, the "Parties").

R E C I T A L S

WHEREAS, the Staff and Services Provider is a registered investment adviser under the Investment Advisers Act of 1940, as amended (the "Advisers Act");

WHEREAS, the Staff and Services Provider and the Management Company are engaged in the business of providing investment management services;

WHEREAS, the Staff and Services Provider is hereby being retained to provide certain back- and middle-office services and administrative, infrastructure and other services to assist the Management Company in conducting its business, and the Staff and Services Provider is willing to make such services available to the Management Company on the terms and conditions hereof;

WHEREAS, the Management Company may employ certain individuals to perform portfolio selection and asset management functions for the Management Company, and certain of these individuals may also be employed simultaneously by the Staff and Services Provider during their employment with the Management Company;

WHEREAS, each Person employed by both the Management Company and the Staff and Services Provider as described above (each, a "Shared Employee"), if any, is and shall be identified on the books and records of each of the Management Company and the Staff and Services Provider (as amended, modified, supplemented or restated from time to time);

WHEREAS, reference is hereby made to that certain Fourth Amended and Restated Shared Services Agreement, dated March 17, 2017, by and between Acis Capital Management, L.P., a Delaware limited partnership ("Acis"), and Highland (as amended, modified, waived, supplemented or restated from time to time, the "Existing Shared Services Agreement");

WHEREAS, as of November 30, 2017, Acis owes $1,189,117 to Highland pursuant to the Existing Shared Services Agreement (the "Outstanding Receivables"); and

WHEREAS, Highland desires to transfer and assign to the Management Company, and the Management Company desires to accept and assume from Highland, $874,637 of the Outstanding Receivables (the "Transferred Receivables").

NOW, THEREFORE, for good and valuable consideration, including, without limitation, the representations, promises, agreements and covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows.

ARTICLE I

DEFINITIONS

Section 1.01 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Advisers Act" shall have the meaning set forth in the Recitals to this Agreement.

"Advisory Restriction" shall have the meaning set forth in Section 5.01(b).

"Affiliate" shall mean with respect to a Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the first Person. The term "control" means (i) the legal or beneficial ownership of securities representing a majority of the voting power of any person or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether by contract or otherwise.

"Agreement" shall have the meaning set forth in the Preamble to this Agreement.

"Applicable Asset Criteria and Concentrations" means any applicable eligibility criteria, portfolio concentration limits and other similar criteria or limits which the Management Company instructs in writing to the Staff and Services Provider in respect of the Portfolio or one or more CLOs or Accounts, as such criteria or limits may be modified, amended or supplemented from time to time in writing by the Management Company;

"Applicable Law" shall mean, with respect to any Person or property of such Person, any action, code, consent decree, constitution, decree, directive, enactment, finding, guideline, law, injunction, interpretation, judgment, order, ordinance, policy statement, proclamation, formal guidance, promulgation, regulation, requirement, rule, rule of law, rule of public policy, settlement agreement, statute, writ, or any particular section, part or provision thereof, including the Risk Retention Rules, of any Governmental Authority to which the Person in question is subject or by which it or any of its property is bound.

"CLO or Account" shall mean a collateralized loan obligation transaction, including any type of short-term or long-term warehouse or repurchase facility in connection therewith, or a fund or account advised by the Management Company or its controlled Affiliates, as applicable.

"Covered Person" shall mean the Staff and Services Provider, any of its Affiliates, and any of their respective managers, members, principals, partners, directors, officers, shareholders, employees and agents (but shall not include the Management Company, its subsidiaries or member(s) and any managers, members, principals, partners, directors, officers, shareholders, employees and agents of the Management Company or its subsidiaries or member(s) (in their capacity as such)).

"Governmental Authority" shall mean (i) any government or quasi-governmental authority or political subdivision thereof, whether national, state, county, municipal or regional, whether U.S. or non-U.S.; (ii) any agency, regulator, arbitrator, board, body, branch, bureau, commission,

corporation, department, master, mediator, panel, referee, system or instrumentality of any such government, political subdivision or other government or quasi-government entity, whether non-U.S. or U.S.; and (iii) any court, whether U.S. or non-U.S.

"Highland" shall have the meaning set forth in the preamble to this Agreement.

"Indebtedness" shall mean: (a) all indebtedness for borrowed money and all other obligations, contingent or otherwise, with respect to surety bonds, guarantees of borrowed money, letters of credit and bankers' acceptances whether or not matured, and hedges and other derivative contracts and financial instruments; (b) all obligations evidenced by notes, bonds, debentures, or similar instruments, or incurred under bank guaranty or letter of credit facilities or credit agreements; (c) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to any property of the Management Company or any subsidiary; (d) with respect to the Management Company, all indebtedness relating to the acquisition by the EU Originator Series of a collateral obligation that failed to settle (including any ineligible or defaulted collateral obligation) into a CLO; (e) all capital lease obligations; (f) all indebtedness guaranteed by such Person or any of its subsidiaries; (g) all capital lease obligations; (h) all indebtedness guaranteed by such Person or any of its subsidiaries.

"Management Company" shall have the meaning set forth in the preamble to this Agreement.

"Operating Guidelines" means any operating guidelines attached to any portfolio management agreement, investment management agreement or similar agreement entered into between the Management Company or any of its controlled Affiliates and a CLO or Account.

"Parties" shall have the meaning set forth in the preamble to this Agreement.

"Portfolio" means the Management Company's and its controlled Affiliates' portfolio of collateral loan obligations, debt securities (including equity investments or subordinated securities in a CLO such as a Retention Interest), other similar obligations, preferred return notes, financial instruments, securities or other assets held directly or indirectly by, or on behalf of, the Management Company from time to time;

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Staff and Services Fee" shall have the meaning set forth in Section 3.01 of this Agreement.

"Staff and Services Provider" shall have the meaning set forth in the preamble to this Agreement.

"Shared Employee" shall have the meaning set forth in the Recitals to this Agreement.

Section 1.02 Interpretation. The following rules apply to the use of defined terms and the interpretation of this Agreement: (i) the singular includes the plural and the plural includes the singular; (ii) "or" is not exclusive (unless preceded by "either") and "include" and "including" are not limiting; (iii) unless the context otherwise requires, references to agreements shall be deemed to mean and include such agreements as the same may be amended, supplemented, waived and

otherwise modified from time to time; (iv) a reference to a law includes any amendment or modification to such law and any rules or regulations issued thereunder or any law enacted in substitution or replacement therefor; (v) a reference to a Person includes its successors and assigns; (vi) a reference to a Section without further reference is to the relevant Section of this Agreement; (vii) the headings of the Sections and subsections are for convenience and shall not affect the meaning of this Agreement; (viii) "writing", "written" and comparable terms refer to printing, typing, lithography and other shall mean of reproducing words in a visible form (including telefacsimile and electronic mail); (ix) "hereof", "herein", "hereunder" and comparable terms refer to the entire instrument in which such terms are used and not to any particular article, section or other subdivision thereof or attachment thereto; and (x) references to any gender include any other gender, masculine, feminine or neuter, as the context requires.

ARTICLE II

SERVICES AND TRANSFERRED RECEIVABLES

Section 2.01 General Authority. Highland is hereby appointed as Staff and Services Provider for the purpose of providing such services and assistance as the Management Company may request from time to time to, and to make available the Shared Employees to, the Management Company in accordance with and subject to the provisions of this Agreement and the Staff and Services Provider hereby accepts such appointment. The Staff and Services Provider hereby agrees to such engagement during the term hereof and to render the services described herein for the compensation provided herein, subject to the limitations contained herein.

Section 2.02 Provision of Services. Without limiting the generality of Section 2.01 and subject to Section 2.04 (Applicable Asset Criteria and Concentrations) below, the Staff and Services Provider hereby agrees, from the date hereof, to provide the following back- and middle-office services and administrative, infrastructure and other services to the Management Company.

(a) *Back- and Middle-Office*: Assistance and advice with respect to back- and middle-office functions including, but not limited to, accounting, payments, operations, technology and finance;

(b) *Legal/Compliance/Risk Analysis*. Assistance and advice with respect to legal issues, compliance support and implementation and general risk analysis;

(c) *Management of Collateral Obligations and CLOs and Accounts*. Assistance and advice with respect to (i) the adherence to Operating Guidelines by the Management Company, and (ii) performing any obligations of the Management Company under or in connection with any back- and middle-office function set forth in any portfolio management agreement, investment management agreement or similar agreement in effect between the Management Company and any CLO or Account from time to time.

(d) *Valuation*. Advice relating to the appointment of suitable third parties to provide valuations on assets comprising the Portfolio and including, but not limited to, such valuations required to facilitate the preparation of financial statements by the Management Company or the provision of valuations in connection with, or preparation of reports otherwise

relating to, a CLO or Account for which the Management Company serves as portfolio manager or investment manager or in a similar capacity;

(e) *Execution and Documentation.* Assistance relating to the negotiation of the terms of, and the execution and delivery by the Management Company of, any and all documents which the Management Company considers to be necessary in connection with the acquisition and disposition of an asset in the Portfolio by the Management Company or a CLO or Account managed by the Management Company, CLO transactions involving the Management Company, and any other rights and obligations of the Management Company;

(f) *Marketing*. Provide access to marketing team representatives to assist with the marketing of the Management Company and any specified CLOs or Accounts managed by the Management Company conditional on the Management Company's agreement that any incentive compensation related to such marketing shall be borne by the Management Company;

(g) *Reporting*. Assistance relating to any reporting the Management Company is required to make in relation to the Portfolio or any CLO or Account, including reports relating to (i) purchases, sales, liquidations, acquisitions, disposals, substitutions and exchanges of assets in the Portfolio, (ii) the requirements of an applicable regulator, or (iii) other type of reporting which the Management Company and Staff and Services Provider may agree from time to time;

(h) *Administrative Services*. The provision of office space, information technology services and equipment, infrastructure and other related services requested or utilized by the Management Company from time to time;

(i) *Shared Employees*. The provision of Shared Employees and such additional human capital as may be mutually agreed by the Management Company and the Staff and Services Provider in accordance with the provisions of Section 2.03 hereof;

(j) *Ancillary Services*. Assistance and advice on all things ancillary or incidental to the foregoing; and

(k) *Other.* Assistance and advice relating to such other back- and middle-office services in connection with the day-to-day business of the Management Company as the Management Company and the Staff and Services Provider may from time to time agree.

For the avoidance of doubt, none of the services contemplated hereunder shall constitute investment advisory services, and the Staff & Services Provider shall not provide any advice to the Management Company or perform any duties on behalf of the Management Company, other than the back- and middle-office services contemplated herein, with respect to (a) the general management of the Management Company, its business or activities, (b) the initiation or structuring of any CLO or Account or similar securitization, (c) the substantive investment management decisions with respect to any CLO or Account or any related collateral obligations or securitization, (d) the actual selection of any collateral obligation or assets by the Management Company, (e) binding recommendations as to any disposal of or amendment to any Collateral Obligation or (f) any similar functions.

Section 2.03 Shared Employees.

(a) The Staff and Services Provider hereby agrees and consents that each Shared Employee, if any, shall be employed by the Management Company, and the Management Company hereby agrees and consents that each Shared Employee, if any, shall be employed by the Staff and Services Provider. The name, location and such other matters as the Parties desire to reflect with respect to each Shared Employee, if any, shall be identified on the books and records of each of the Management Company and the Staff and Services Provider, which may be amended in writing from time to time by the Parties to add or remove any Shared Employee to reflect the employment (or lack thereof) of such employee. Except as may otherwise separately be agreed in writing between the applicable Shared Employee and the Management Company and/or the Staff and Services Provider, in each of their discretion, each Shared Employee, if any, is an at-will employee and no guaranteed employment or other employment arrangement is agreed or implied by this Agreement with respect to any Shared Employee, and for avoidance of doubt this Agreement shall not amend, limit, constrain or modify in any way the employment arrangements as between any Shared Employee and the Staff and Services Provider or as between any Shared Employee and the Management Company, it being understood that the Management Company may enter into a short-form employment agreement with any Shared Employee memorializing such Shared Employee's status as an employee of the Management Company. If at any time any Shared Employee (or any other person employed by the Staff and Services provider who also provides services to the Management Company) shall be terminated from employment with the Staff and Services Provider or otherwise resigns or is removed from employment with the Staff and Services Provider, then such person may only serve as a separate direct employee of the Management Company upon the approval of the Management Company. The Staff and Services Provider shall ensure that the Management Company has sufficient access to the Shared Employees so that the Shared Employees spend adequate time to provide the services required hereunder. The Staff and Services Provider may also employ the services of persons other than the Specified Persons as it deems fit in its sole discretion

(b) Notwithstanding that the Shared Employees, if any, shall be employed by both the Staff and Services Provider and the Management Company, the Parties acknowledge and agree that any and all salary and benefits of each Shared Employee shall be paid exclusively by the Staff and Services Provider and shall not be paid or borne by the Management Company and no additional amounts in connection therewith shall be due from the Management Company to the Staff and Services Provider.

(c) To the extent that a Shared Employee participates in the rendering of services to the Management Company's clients, the Shared Employee shall be subject to the oversight and control of the Management Company and such services shall be provided by the Shared Employee exclusively in his or her capacity as a "supervised person" of, or "person associated with", the Management Company (as such terms are defined in Sections 202(a)(25) and 202(a)(17), respectively, of the Advisers Act).

(d) Each Party may continue to oversee, supervise and manage the services of each Shared Employee in order to (1) ensure compliance with the Party's compliance policies and procedures, (2) ensure compliance with regulations applicable to the Party and (3) protect the interests of the Party and its clients; *provided* that Staff and Services Provider shall (A) cooperate

with the Management Company's supervisory efforts and (B) make periodic reports to the Management Company regarding the adherence of Shared Employees to Applicable Law, including but not limited to the 1940 Act, the Advisers Act and the United States Commodity Exchange Act of 1936, as amended, in performing the services hereunder.

(e) Where a Shared Employee provides services hereunder through both Parties, the Parties shall cooperate to ensure that all such services are performed consistently with Applicable Law and relevant compliance controls and procedures designed to prevent, among other things, breaches in information security or the communication of confidential, proprietary or material non-public information.

(f) The Staff and Services Provider shall ensure that each Shared Employee has any registrations, qualifications and/or licenses necessary to provide the services hereunder.

(g) The Parties will cooperate to ensure that information about the Shared Employees is adequately and appropriately disclosed to clients, investors (and potential investors), investment banks operating as initial purchaser or placement agent with respect to any CLO or Account, and regulators, as applicable. To facilitate such disclosure, the Staff and Services Provider agrees to provide, or cause to be provided, to the Management Company such information as is deemed by the Management Company to be necessary or appropriate with respect to the Staff and Services Provider and the Shared Employees (including, but not limited to, biographical information about each Shared Employee).

(h) The Parties shall cooperate to ensure that, when so required, each has adopted a Code of Ethics meeting the requirements of the Advisers Act ("Code of Ethics") that is consistent with applicable law and which is substantially similar to the other Party's Code of Ethics.

(i) The Staff and Services Provider shall make reasonably available for use by the Management Company, including through Shared Employees providing services pursuant to this Agreement, any relevant intellectual property and systems necessary for the provision of the services hereunder.

(j) The Staff and Services Provider shall require that each Shared Employee:

(i) certify that he or she is subject to, and has been provided with, a copy of each Party's Code of Ethics and will make such reports, and seek prior clearance for such actions and activities, as may be required under the Codes of Ethics;

(ii) be subject to the supervision and oversight of each Party's officers and directors, including without limitation its Chief Compliance Officer ("CCO"), which CCO may be the same Person, with respect to the services provided to that Party or its clients;

(iii) provide services hereunder and take actions hereunder only as approved by the Management Company;

(iv) provide any information requested by a Party, as necessary to comply with applicable disclosure or regulatory obligations;

(v) to the extent authorized to transact on behalf of the Management Company or a CLO or Account, take reasonable steps to ensure that any such transaction is consistent with any policies and procedures that may be established by the Parties and all Applicable Asset Criteria and Concentrations; and

(vi) act, at all times, in a manner consistent with the fiduciary duties and standard of care owed by the Management Company to its members and direct or indirect investors or to a CLO or Account as well as clients of Staff and Services Provider by seeking to ensure that, among other things, information about any investment advisory or trading activity applicable to a particular client or group of clients is not used to benefit the Shared Employee, any Party or any other client or group of clients in contravention of such fiduciary duties or standard of care.

(k) Unless specifically authorized to do so, or appointed as an officer or authorized person of the Management Company with such authority, no Shared Employee may contract on behalf or in the name of the Management Company, acting as principal.

Section 2.04 Applicable Asset Criteria and Concentrations. The Management Company will promptly inform the Staff and Services Provider in writing of any Applicable Asset Criteria and Concentrations to which it agrees from time to time and the Staff and Services Provider shall take such Applicable Asset Criteria and Concentrations into account when providing assistance and advice in accordance with Section 2.02 above and any other assistance or advice provided in accordance with this Agreement.

Section 2.05 Compliance with Management Company Policies and Procedures. The Management Company will from time to time provide the Staff and Services Provider and the Shared Employees with any policy and procedure documentation which it establishes internally and to which it is bound to adhere in conducting its business pursuant to regulation, contract or otherwise. Subject to any other limitations in this Agreement, the Staff and Services Provider will use reasonable efforts to ensure any services it and the Shared Employees provide pursuant to this Agreement complies with or takes account of such internal policies and procedures.

Section 2.06 Authority. The Staff and Services Provider's scope of assistance and advice hereunder is limited to the services specifically provided for in this Agreement. The Staff and Services Provider shall not assume or be deemed to assume any rights or obligations of the Management Company under any other document or agreement to which the Management Company is a party. Notwithstanding any other express or implied provision to the contrary in this Agreement, the activities of the Staff and Services Provider pursuant to this Agreement shall be subject to the overall policies of the Management Company, as notified to the Staff and Services Provider from time to time. The Staff and Services Provider shall not have any duties or obligations to the Management Company unless those duties and obligations are specifically provided for in this Agreement (or in any amendment, modification or novation hereto or hereof to which the Staff and Services Provider is a party).

Section 2.07 Third Parties.

(a) The Staff and Services Provider may employ third parties, including its affiliates, to render advice, provide assistance and to perform any of its duties under this Agreement; *provided* that notwithstanding the employment of third parties for any such purpose, the Staff and Services Provider shall not be relieved of any of its obligations or liabilities under this Agreement.

(b) In providing services hereunder, the Staff and Services Provider may rely in good faith upon and will incur no liability for relying upon advice of nationally recognized counsel (which may be counsel for the Management Company, a CLO or Account or any Affiliate of the foregoing), accountants or other advisers as the Staff and Services Provider determines, in its sole discretion, is reasonably appropriate in connection with the services provided by the Staff and Services Provider under this Agreement.

Section 2.08 Management Company to Cooperate with the Staff and Services Provider. In furtherance of the Staff and Services Provider's obligations under this Agreement the Management Company shall cooperate with, provide to, and fully inform the Staff and Services Provider of, any and all documents and information the Staff and Services Provider reasonably requires to perform its obligations under this Agreement.

Section 2.09 Power of Attorney. If the Management Company considers it necessary for the provision by the Staff and Services Provider of the assistance and advice under this Agreement (after consultation with the Staff and Services Provider), it may appoint the Staff and Services Provider as its true and lawful agent and attorney, with full power and authority in its name to sign, execute, certify, swear to, acknowledge, deliver, file, receive and record any and all documents that the Staff and Services Provider reasonably deems appropriate or necessary in connection with the execution and settlement of acquisitions of assets as directed by the Management Company and the Staff and Services Provider's powers and duties hereunder (which for the avoidance of doubt shall in no way involve the discretion and/or authority of the Management Company with respect to investments). Any such power shall be revocable in the sole discretion of the Management Company.

Section 2.10 Transferred Receivables. Highland hereby irrevocably transfers, assigns and conveys to the Management Company, and the Management Company hereby accepts and assumes from Highland, all right, title and interest in, to and under the Transferred Receivables.

ARTICLE III

CONSIDERATION AND EXPENSES

Section 3.01 Consideration. As compensation for its performance of its obligations as Staff and Services Provider under this Agreement and the transfer of the Transferred Receivables, the Staff and Services Provider will be entitled to receive the Staff and Services Fee payable thereto. The "Staff and Services Fee" shall be payable in accordance with Appendix A attached hereto, as such appendix may be amended by the Parties from time to time.

From time to time, the Management Company may enter into shared services agreements with certain management companies on similar terms to this Agreement. Promptly following the receipt of any fees pursuant to such shared services agreements, the Management Company shall pay 100% of such fees to the Staff and Services Provider.

Section 3.03 Costs and Expenses. Each party shall bear its own expenses; *provided* that the Management Company shall reimburse the Staff and Services Provider for any and all costs and expenses that may be borne properly by the Management Company.

Section 3.04 Deferral. Notwithstanding anything to the contrary contained herein, if on any date the Management Company determines that it would not have sufficient funds available to it to make a payment of Indebtedness, it shall have the right to defer any all and amounts payable to the Staff and Services Provider pursuant to this Agreement, including any fees and expenses; *provided* that the Management Company shall promptly pay all such amounts on the first date thereafter that sufficient amounts exist to make payment thereof.

ARTICLE IV

REPRESENTATIONS AND COVENANTS

Section 4.01 Representations. Each of the Parties hereto represents and warrants that:

(a) It has full power and authority to execute and deliver, and to perform its obligations under, this Agreement;

(b) this Agreement has been duly authorized, executed and delivered by it and constitutes its valid and binding, obligation, enforceable in accordance with its terms except as the enforceability hereof may be subject to (i) bankruptcy, insolvency, reorganization moratorium, receivership, conservatorship or other similar laws now or hereafter in effect relating to creditors' rights and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding, in equity or at law);

(c) no consent, approval, authorization or order of or declaration or filing with any Governmental Authority is required for the execution of this Agreement or the performance by it of its duties hereunder, except such as have been duly made or obtained; and

(d) neither the execution and delivery of this Agreement nor the fulfillment of the terms hereof conflicts with or results in a breach or violation of any of the terms or provisions of, or constitutes a default under, (i) its constituting and organizational documents; or (ii) the terms of any material indenture, contract, lease, mortgage, deed of trust, note, agreement or other evidence of indebtedness or other material agreement, obligation, condition, covenant or instrument to which it is a party or by which it is bound.

ARTICLE V

COVENANTS

Section 5.01 Compliance; Advisory Restrictions.

(a) The Staff and Services Provider shall reasonably cooperate with the Management Company in connection with the Management Company's compliance with its policies and procedures relating to oversight of the Staff and Services Provider. Specifically, the Staff and Services Provider agrees that it will provide the Management Company with reasonable access to information relating to the performance of Staff and Services Provider's obligations under this Agreement.

(b) This Agreement is not intended to and shall not constitute an assignment, pledge or transfer of any portfolio management agreement or any part thereof. It is the express intention of the parties hereto that this Agreement and all services performed hereunder comply in all respects with all (a) applicable contractual provisions and restrictions contained in each portfolio management agreement, investment management agreement or similar agreement and each document contemplated thereby; and (b) Applicable Laws (collectively, the "Advisory Restrictions"). If any provision of this Agreement is determined to be in violation of any Advisory Restriction, then the services to be provided under this Agreement shall automatically be limited without action by any person or entity, reduced or modified to the extent necessary and appropriate to be enforceable to the maximum extent permitted by such Advisory Restriction.

Section 5.02 Records; Confidentiality.

The Staff and Services Provider shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Management Company and its accountants and other agents at any time during normal business hours and upon not less than three (3) Business Days' prior notice; *provided* that the Staff and Services Provider shall not be obligated to provide access to any non-public information if it in good faith determines that the disclosure of such information would violate any applicable law, regulation or contractual arrangement.

The Staff and Services Provider shall follow its customary procedures to keep confidential any and all information obtained in connection with the services rendered hereunder that is either (a) of a type that would ordinarily be considered proprietary or confidential, such as information concerning the composition of assets, rates of return, credit quality, structure or ownership of securities, or (b) designated as confidential obtained in connection with the services rendered by the Staff and Services Provider hereunder and shall not disclose any such information to non-affiliated third parties, except (i) with the prior written consent of the Management Company, (ii) such information as a rating agency shall reasonably request in connection with its rating of notes issued by a CLO or supplying credit estimates on any obligation included in the Portfolio, (iii) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions on behalf of the Management Company or any CLO or Account for which the Management Company serves as portfolio manager or investment manager

or in a similar capacity, (iv) as required by (A) Applicable Law or (B) the rules or regulations of any self-regulating organization, body or official having jurisdiction over the Staff and Services Provider or any of its Affiliates, (v) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (vi) such information as shall have been publicly disclosed other than in known violation of this Agreement or shall have been obtained by the Staff and Services Provider on a non-confidential basis, (vii) such information as is necessary or appropriate to disclose so that the Staff and Services Provider may perform its duties hereunder, (viii) as expressly permitted in the final offering memorandum or any definitive transaction documents relating to any CLO or Account, (ix) information relating to performance of the Portfolio as may be used by the Staff and Services Provider in the ordinary course of its business or (xx) such information as is routinely disclosed to the trustee, custodian or collateral administrator of any CLO or Account in connection with such trustee's, custodian's or collateral administrator's performance of its obligations under the transaction documents related to such CLO or Account. Notwithstanding the foregoing, it is agreed that the Staff and Services Provider may disclose without the consent of any Person (1) that it is serving as staff and services provider to the Management Company, (2) the nature, aggregate principal amount and overall performance of the Portfolio, (3) the amount of earnings on the Portfolio, (4) such other information about the Management Company, the Portfolio and the CLOs or Accounts as is customarily disclosed by staff and services providers to management vehicles similar to the Management Company, and (5) the United States federal income tax treatment and United States federal income tax structure of the transactions contemplated by this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them relating to such United States federal income tax treatment and United States income tax structure. This authorization to disclose the U.S. tax treatment and tax structure does not permit disclosure of information identifying the Staff and Services Provider, the Management Vehicles, the CLOs or Accounts or any other party to the transactions contemplated by this Agreement (except to the extent such information is relevant to U.S. tax structure or tax treatment of such transactions).

ARTICLE VI

EXCULPATION AND INDEMNIFICATION

Section 6.01 Standard of Care. Except as otherwise expressly provided herein, each Covered Person shall discharge its duties under this Agreement with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. To the extent not inconsistent with the foregoing, each Covered Person shall follow its customary standards, policies and procedures in performing its duties hereunder. No Covered Person shall deal with the income or assets of the Management Company in such Covered Person's own interest or for its own account. Each Covered Person in its respective sole and absolute discretion may separately engage or invest in any other business ventures, including those that may be in competition with the Management Company, and the Management Company will not have any rights in or to such ventures or the income or profits derived therefrom

Section 6.02 Exculpation. To the fullest extent permitted by law, no Covered Person will be liable to the Management Company, any Member, or any shareholder, partner or member thereof, for (i) any acts or omissions by such Covered Person arising out of or in connection with

the conduct of the business of the Management Company or its General Partner, or any investment made or held by the Management Company or its General Partner, unless such act or omission was made in bad faith or is determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, to be the result of gross negligence or to constitute fraud or willful misconduct (as interpreted under the laws of the State of Delaware) (each, a "Disabling Conduct") on the part of such Covered Person, (ii) any act or omission of any Investor, (iii) any mistake, gross negligence, misconduct or bad faith of any employee, broker, administrator or other agent or representative of such Covered Person, *provided* that such employee, broker, administrator or agent was selected, engaged or retained by or on behalf of such Covered Person with reasonable care, or (iv) any consequential (including loss of profit), indirect, special or punitive damages. To the extent that, at law or in equity, any Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the Management Company or any Member, no Covered Person acting under this Agreement shall be liable to the Management Company or to any such Member for its good-faith reliance on the provisions of this Agreement.

To the fullest extent permitted by law, no Covered Person shall have any personal liability to the Management Company or any Member solely by reason of any change in U.S. federal, state or local or foreign income tax laws, or in interpretations thereof, as they apply to the Management Company or the Members, whether the change occurs through legislative, judicial or administrative action.

Any Covered Person in its sole and absolute discretion may consult legal counsel, accountants or other advisers selected by it, and any act or omission taken, or made in good faith by such Person on behalf of the Management Company or in furtherance of the business of the Management Company in good-faith reliance on and in accordance with the advice of such counsel, accountants or other advisers shall be full justification for the act or omission, and to the fullest extent permitted by applicable law, no Covered Person shall be liable to the Management Company or any Member in so acting or omitting to act if such counsel, accountants or other advisers were selected, engaged or retained with reasonable care.

Section 6.03 Indemnification by the Management Company. The Management Company shall and hereby does, to the fullest extent permitted by applicable law, indemnify and hold harmless any Covered Person from and against any and all claims, demands, liabilities, costs, expenses, damages, losses, suits, proceedings, judgments, assessments, actions and other liabilities, whether judicial, administrative, investigative or otherwise, of whatever nature, known or unknown, liquidated or unliquidated ("Claims"), that may accrue to or be incurred by any Covered Person, or in which any Covered Person may become involved, as a party or otherwise, or with which any Covered Person may be threatened, relating to or arising out of the investment or other activities of the Management Company or its General Partner, or activities undertaken in connection with the Management Company or its General Partner, or otherwise relating to or arising out of this Agreement, including amounts paid in satisfaction of judgments, in compromise or as fines or penalties, and attorneys' fees and expenses incurred in connection with the preparation for or defense or disposition of any investigation, action, suit, arbitration or other proceeding (a "Proceeding"), whether civil or criminal (all of such Claims, amounts and expenses referred to therein are referred to collectively as "Damages"), except to the extent that it shall have been determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, that such Damages arose primarily from Disabling Conduct of such Covered Person.

The termination of any Proceeding by settlement, judgment, order, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that any Damages relating to such settlement, judgment, order, conviction or plea of nolo contendere or its equivalent or otherwise relating to such Proceeding arose primarily from Disabling Conduct of any Covered Persons.

Expenses (including attorneys' fees) incurred by a Covered Person in defense or settlement of any Claim that may be subject to a right of indemnification hereunder may be advanced by the Management Company prior to the final disposition thereof upon receipt of a written undertaking by or on behalf of the Covered Person to repay the amount advanced to the extent that it shall be determined ultimately by a court of competent jurisdiction that the Covered Person is not entitled to be indemnified hereunder. The right of any Covered Persons to the indemnification provided herein shall be cumulative of, and in addition to, any and all rights to which the Covered Person may otherwise be entitled by contract or as a matter of law or equity and shall be extended to the Covered Person's successors, assigns and legal representatives. Any judgments against the Management Company and/or any Covered Persons in respect of which such Covered Person is entitled to indemnification shall first be satisfied from the assets of the Management Company, including Drawdowns, before such Covered Person is responsible therefor.

Notwithstanding any provision of this Agreement to the contrary, the provisions of this Section 6.03 shall not be construed so as to provide for the indemnification of any Covered Person for any liability (including liability under Federal securities laws which, under certain circumstances, impose liability even on persons that act in good faith), to the extent (but only to the extent) that such indemnification would be in violation of applicable law, but shall be construed so as to effectuate the provisions of this Section 6.03 to the fullest extent permitted by law.

Section 6.04 Other Sources of Recovery etc. The indemnification rights set forth in Section 6.03 are in addition to, and shall not exclude, limit or otherwise adversely affect, any other indemnification or similar rights to which any Covered Person may be entitled. If and to the extent that other sources of recovery (including proceeds of any applicable policies of insurance or indemnification from any Person in which any of the CLOs or Accounts has an investment) are available to any Covered Person, such Covered Person shall use reasonable efforts to obtain recovery from such other sources before the Company shall be required to make any payment in respect of its indemnification obligations hereunder; *provided* that, if such other recovery is not available without delay, the Covered Person shall be entitled to such payment by the Management Company and the Management Company shall be entitled to reimbursement out of such other recovery when and if obtained.

Section 6.05 Rights of Heirs, Successors and Assigns. The indemnification rights provided by Section 6.03 shall inure to the benefit of the heirs, executors, administrators, successors and assigns of each Covered Person.

Section 6.06 Reliance. A Covered Person shall incur no liability to the Management Company or any Member in acting upon any signature or writing reasonably believed by him, her or it to be genuine, and may rely in good faith on a certificate signed by an officer of any Person in order to ascertain any fact with respect to such Person or within such Person's knowledge. Each Covered Person may act directly or through his, her or its agents or attorneys.

ARTICLE VII

TERMINATION

Section 7.01 Termination. Either Party may terminate this Agreement at any time upon at least thirty (30) days' written notice to the other.

ARTICLE VIII

MISCELLANEOUS

Section 8.01 Amendments. This Agreement may not be amended or modified except by an instrument in writing signed by each Party.

Section 8.02 Assignment and Delegation.

(a) Neither Party may assign, pledge, grant or otherwise encumber or transfer all or any part of its rights or responsibilities under this Agreement, in whole or in part, except (i) as provided in clauses (b) and (c) of this Section 8.02, without the prior written consent of the other Party and (ii) in accordance with Applicable Law.

(b) Except as otherwise provided in this Section 8.02, the Staff and Services Provider may not assign its rights or responsibilities under this Agreement unless (i) the Management Company consents in writing thereto and (ii) such assignment is made in accordance with Applicable Law.

(c) The Staff and Services Provider may, without satisfying any of the conditions of Section 8.02(a) other than clause (ii) thereof, (1) assign any of its rights or obligations under this Agreement to an Affiliate; *provided* that such Affiliate (i) has demonstrated ability, whether as an entity or by its principals and employees, to professionally and competently perform duties similar to those imposed upon the Staff and Services Provider pursuant to this Agreement and (ii) has the legal right and capacity to act as Staff and Services Provider under this Agreement, or (2) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity; *provided* that, at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Staff and Services Provider under this Agreement generally (whether by operation of law or by contract) and the other entity is a continuation of the Staff and Services Provider in another corporate or similar form and has substantially the same staff; *provided further* that the Staff and Services Provider shall deliver ten (10) Business Days' prior notice to the Management Company of any assignment or combination made pursuant to this sentence. Upon the execution and delivery of any such assignment by the assignee, the Staff and Services Provider will be released from further obligations pursuant to this Agreement except to the extent expressly provided herein.

Section 8.03 Non-Recourse; Non-Petition.

(a) The Staff and Services Provider agrees that the payment of all amounts to which it is entitled pursuant to this Agreement shall be payable by the Management Company only to the extent of assets held in the Portfolio.

(b) Notwithstanding anything to the contrary contained herein, the liability of the Management Company to the Staff and Services Provider hereunder is limited in recourse to the Portfolio, and if the proceeds of the Portfolio following the liquidation thereof are insufficient to meet the obligations of the Management Company hereunder in full, the Management Company shall have no further liability in respect of any such outstanding obligations, and such obligations and all claims of the Staff and Services Provider or any other Person against the Management Company hereunder shall thereupon extinguish and not thereafter revive. The Staff and Services Provider accepts that the obligations of the Management Company hereunder are the corporate obligations of the Management Company and are not the obligations of any employee, member, officer, director or administrator of the Management Company and no action may be taken against any such Person in relation to the obligations of the Management Company hereunder.

(c) Notwithstanding anything to the contrary contained herein, any Staff and Services Provider agrees not to institute against, or join any other Person in instituting against, the Management Company any bankruptcy, reorganization, arrangement, insolvency, moratorium or liquidation proceedings, or other proceedings under United States federal or state bankruptcy laws, or similar laws until at least one year and one day (or, if longer, the then applicable preference period plus one day) after the payment in full all amounts payable in respect of any Indebtedness incurred to finance any portion of the Portfolio; *provided* that nothing in this provision shall preclude, or be deemed to stop, the Staff and Services Provider from taking any action prior to the expiration of the aforementioned one year and one day period (or, if longer, the applicable preference period then in effect plus one day) in (i) any case or proceeding voluntarily filed or commenced by the Management Company, or (ii) any involuntary insolvency proceeding filed or commenced against the Management Company by a Person other than the Staff and Services Provider.

(d) The Management Company hereby acknowledges and agrees that the Staff and Services Provider's obligations hereunder shall be solely the corporate obligations of the Staff and Services Provider, and are not the obligations of any employee, member, officer, director or administrator of the Staff and Services Provider and no action may be taken against any such Person in relation to the obligations of the Staff and Services Provider hereunder.

(e) The provisions of this Section 8.03 shall survive termination of this Agreement for any reason whatsoever.

Section 8.04 Governing Law.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas. The Parties unconditionally and irrevocably consent to the exclusive jurisdiction of the courts located in the State of Texas and waive any objection with respect thereto,

for the purpose of any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

(b) The Parties irrevocably agree for the benefit of each other that the courts of the State of Texas and the United States District Court located in the Northern District of Texas in Dallas are to have exclusive jurisdiction to settle any disputes (whether contractual or non-contractual) which may arise out of or in connection with this Agreement and that accordingly any action arising out of or in connection therewith (together referred to as "Proceedings") may be brought in such courts. The Parties irrevocably submit to the jurisdiction of such courts and waive any objection which they may have now or hereafter to the laying of the venue of any Proceedings in any such court and any claim that any Proceedings have been brought in an inconvenient forum and further irrevocably agree that a judgment in any Proceedings brought in such courts shall be conclusive and binding upon the Parties and may be enforced in the courts of any other jurisdiction.

Section 8.05 WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR ITS ENTERING INTO THIS AGREEMENT.

Section 8.06 Severability. The provisions of this Agreement are independent of and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties.

Section 8.07 No Waiver. The performance of any condition or obligation imposed upon any Party may be waived only upon the written consent of the Parties. Such waiver shall be limited to the terms thereof and shall not constitute a waiver of any other condition or obligation of the other Party. Any failure by any Party to enforce any provision shall not constitute a waiver of that or any other provision or this Agreement.

Section 8.08 Counterparts. This Agreement may be executed in any number of counterparts by facsimile or other written or electronic form of communication, each of which shall be deemed to be an original as against any Party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the Parties reflected hereon as the signatories.

Section 8.09 Third Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their permitted assigns and nothing herein express or implied shall give or be construed to give to any Person, other than the Parties hereto and such permitted assigns, any legal or equitable rights hereunder. For avoidance of doubt, this Agreement is not for the benefit or and

is not enforceable by any Shared Employee, CLO or Account or any investor (directly or indirectly) in the Management Company.

Section 8.10 No Partnership or Joint Venture. Nothing set forth in this Agreement shall constitute, or be construed to create, an employment relationship, a partnership or a joint venture between the Parties. Except as expressly provided herein or in any other written agreement between the Parties, no Party has any authority, express or implied, to bind or to incur liabilities on behalf of, or in the name of, any other Party.

Section 8.11 Independent Contractor. Notwithstanding anything to the contrary, the Staff and Services Provider shall be deemed to be an independent contractor and, except as expressly provided or authorized herein, shall have no authority to act for or represent the Management Company or any CLO or Account in which the Management Company acts as portfolio manager or investment manager or in a similar capacity in any manner or otherwise be deemed an agent of the Management Company or any CLO or Account in which the Management Company acts as portfolio manager or investment manager or in a similar capacity.

Section 8.12 Written Disclosure Statement. The Management Company acknowledges receipt of Part 2 of the Staff and Services Provider's Form ADV, as required by Rule 204-3 under the Advisers Act, on or before the date of execution of this Agreement.

Section 8.13 Headings. The descriptive headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 8.14 Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, between the Parties with respect to such subject matter.

Section 8.15 Notices. Any notice or demand to any Party to be given, made or served for any purposes under this Agreement shall be given, made or served by sending the same by overnight mail or email transmission or by delivering it by hand as follows:

(a) If to the Management Company:

Highland CLO Holdings, Ltd.
PO Box 309
Ugland House
Grand Cayman KY1-1104
Cayman Islands

(b) If to the Staff and Services Provider:

Highland Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

or to such other address or email address as shall have been notified to the other Parties.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed as of the date hereof by its duly authorized representative.

HIGHLAND CLO HOLDINGS, LTD.

By:_____
Name: Summit Management Limited
Title: Director

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its General Partner

By:_____
Name: James Dondero
Title: President

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed as of the date hereof by its duly authorized representative.

HIGHLAND CLO HOLDINGS, LTD.

By:_____
Name: Summit Management Limited
Title: Director

HIGHLAND CAPITAL MANAGEMENT, L.P.

By: Strand Advisors, Inc., its General Partner

By:_____
Name: James Dondero
Title: President

Appendix A

The Management Company shall pay to the Staff and Services Provider a Staff and Services Fee for the services for the CLOs or Accounts in an amount equal to the aggregate management fees that would be received by the Management Company for such CLOs or Accounts if such management fees were calculated in exact conformity with the calculation of management fees for such CLOs or Accounts, except that the management fee rates applied in such calculation were replaced by the fee rate set forth in the following table. Such fees shall be payable promptly (or at such time as is otherwise agreed by the parties) following the Management Company's receipt of management fees for such CLOs or Accounts, it being understood that none of the foregoing shall prohibit the Management Company from waiving or entering into side letters with respect to management fees for such CLOs or Accounts; provided that any such waived or reduced amounts shall not be recognized for purposes of calculating the fees payable by the Management Company hereunder. Notwithstanding the foregoing, the parties may agree to a different allocation from that set forth during any period in order to reflect the then current fair market value of the Services rendered.

Issuer / Borrower / Fund / Account	**Management Agreement**	**Related Agreements**	**Date of Management Agreement**	**Annualized Staff and Services Fee Rate (bps)**
[__]	[__]	[__]	[__]	[__]

EXHIBIT 86

SUB-ADVISORY AGREEMENT

by and between

HIGHLAND CLO HOLDINGS, LTD.

and

HIGHLAND CAPITAL MANAGEMENT, L.P.

Dated December 19, 2017

SUB-ADVISORY AGREEMENT

This Sub-Advisory Agreement (as amended, modified, waived, supplemented or restated from time to time in accordance with the terms hereof, this "Agreement"), dated as of December 19, 2017, is entered into by and between Highland CLO Holdings, Ltd., a Cayman Islands exempted company, as the management company hereunder (in such capacity, the "Management Company"), and Highland Capital Management, L.P., a Delaware limited partnership ("Highland"), as the sub-advisor hereunder (in such capacity, the "Sub-Advisor" and together with the Management Company, the "Parties").

R E C I T A L S

WHEREAS, the Management Company from time to time may enter into portfolio management agreements, investment management agreements and/or similar agreements (each such agreement as amended, modified, waived, supplemented or restated, subject in each case to the requirements of Section 8, a "Management Agreement") and related indentures, credit agreements, collateral administration agreements, service agreements or other agreements (each such agreement as amended, modified, waived, supplemented or restated, subject in each case to the requirements of Section 8, a "Related Agreement"), in each case as set forth on Appendix A hereto, as amended from time to time, pursuant to which the Management Company has agreed to provide portfolio and/or investment management services to certain funds and accounts and to certain collateralized loan obligation issuers and to borrowers in certain short-term or long-term warehouse or repurchase facilities in connection therewith (any such transaction, a "Transaction", any fund, account, issuer, warehouse borrower or repurchase agreement seller in respect of any such Transaction, an "Account", and the assets collateralizing each such Transaction and/or comprising the portfolio of such Account, a "Portfolio");

WHEREAS, the Management Company and the Sub-Advisor desire to enter into this Agreement in order to permit the Sub-Advisor to provide certain limited services to assist the Management Company in performing certain obligations under the Management Agreements Related Agreements;

WHEREAS, reference is hereby made to that certain Third Amended and Restated Sub-Advisory Agreement, dated March 17, 2017, by and between Acis Capital Management, L.P., a Delaware limited partnership ("Acis"), and Highland (as amended, modified, waived, supplemented or restated from time to time, the "Existing Sub-Advisory Agreement");

WHEREAS, as of November 30, 2017, Acis owes $2,625,069 to Highland pursuant to the Existing Sub-Advisory Agreement (the "Outstanding Receivables"); and

WHEREAS, Highland desires to transfer and assign to the Management Company, and the Management Company desires to accept and assume from Highland, $1,930,233 of the Outstanding Receivables (the "Transferred Receivables").

NOW, THEREFORE, in consideration of the foregoing recitals, and the receipt of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree that the Existing Agreement is hereby amended, restated and replaced in its entirety as follows.

1. Appointment; Limited Scope of Services; Transferred Receivables.

(a) Highland is hereby appointed as Sub-Advisor to the Management Company for the purpose of assisting the Management Company in managing the Portfolios of each Account pursuant to the related Management Agreement and Related Agreements, in each case that have been included in the scope of this Agreement pursuant to the provisions of Section 8, subject to the terms set forth herein and subject to the supervision of the Management Company, and Highland hereby accepts such appointment.

(b) Without limiting the generality of the foregoing, the Sub-Advisor shall, during the term and subject to the provisions of this Agreement:

(i) make recommendations to the Management Company in its capacity as portfolio manager, investment manager or any similar capacity for any applicable Account as to the general composition and allocation of the Portfolio with respect to such Account among various types of securities, the nature and timing of the changes therein and the manner of implementing such changes, including recommendations as to the specific loans and other assets to be purchased, retained or sold by any such Account;

(ii) place orders with respect to, and arrange for, any investment by or on behalf of such Account (including executing and delivering all documents relating to such Account's investments on behalf of such Account or the Management Company, as applicable), upon receiving a proper instruction from the Management Company;

(iii) identify, evaluate, recommend to the Management Company, in its capacity as portfolio manager for such Account, and, if applicable, negotiate the structure and/or terms of investment opportunities within the specific investment strategy of the Management Company for such Account;

(iv) assist the Management Company in its capacity as portfolio manager for such Account in performing due diligence on prospective Portfolio investments by such Account;

(v) provide information to the Management Company in its capacity as portfolio manager for such Account regarding any investments to facilitate the monitoring and servicing of such investments and, if requested by the Management Company, provide information to assist in monitoring and servicing other investments by such Account

(vi) assist and advise the Management Company in its capacity as portfolio manager for such Account with respect to credit functions including, but not limited to, credit analysis and market research and analysis; and

(vii) assist the Management Company in performing any of its other obligations or duties as portfolio manager for such Account.

The foregoing responsibilities and obligations are collectively referred to herein as the "Services."

Notwithstanding the foregoing, all investment decisions will ultimately be the responsibility of, and will be made by and at the sole discretion of, the Management Company. Furthermore, the parties acknowledge and agree that the Sub-Advisor shall be required to provide only the services expressly described in this Section 1(b), and shall have no responsibility hereunder to provide any other services to the Management Company or any Transaction, including, but not limited to, administrative, management or similar services.

(c) The Sub-Advisor agrees during the term hereof to furnish the Services on the terms and conditions set forth herein and subject to the limitations contained herein. The Sub-Advisor agrees that, in performing the Services, it will comply with all applicable obligations of the Management Company set forth in the Management Agreements and the Related Agreements. In addition, with respect to any obligation that would be part of the Services but for the fact that the relevant Management Agreement or Related Agreement does not permit such obligation to be delegated by the Management Company to the Sub-Advisor, the Sub-Advisor, upon request in writing by the Management Company, shall work in good faith with the Management Company and shall use commercially reasonable efforts to assist the Management Company in satisfying all such obligations.

(d) Highland hereby irrevocably transfers, assigns and conveys to the Management Company, and the Management Company hereby accepts and assumes from Highland, all right, title and interest in, to and under the Transferred Receivables.

2. Compensation.

(a) As compensation for its performance of its obligations as Sub-Advisor under this Agreement in respect of any Transaction and the transfer of the Transferred Receivables, the Sub-Advisor will be entitled to receive the Sub-Advisory Fee payable thereto. The "Sub-Advisory Fee" shall be payable in accordance with Appendix A attached hereto, as such appendix may be amended by the Parties from time to time.

(b) Each party shall bear its own expenses; *provided* that the Management Company shall reimburse the Sub-Advisor for any and all costs and expenses that are properly Company Expenses or that may be borne by the Management Company under the Management Company LLC Agreement.

(c) Notwithstanding anything to the contrary contained herein, if on any date the Management Company determines that it would not have sufficient funds available to it to make a payment of Indebtedness, it shall have the right to defer any and all amounts payable to the Sub-Advisor pursuant to this Agreement, including any fees and expenses; *provided* that the Management Company shall promptly pay all such amounts on the first date thereafter that sufficient amounts exist to make payment thereof.

(d) From time to time, the Management Company may enter into sub-advisory agreements with certain management companies on similar terms to this Agreement. Promptly following the receipt of any fees pursuant to such sub-advisory agreements, the Management Company shall pay 100% of such fees to the Sub-Advisor.

3. Representations and Warranties.

(a) Each of the Management Company and the Sub-Advisor represents and warrants, as to itself only, that:

(i) it has full power and authority to execute and deliver, and to perform its obligations under, this Agreement;

(ii) this Agreement has been duly authorized, executed and delivered by it and constitutes its valid and binding, obligation, enforceable in accordance with its terms except as the enforceability hereof may be subject to (i) bankruptcy, insolvency, reorganization moratorium, receivership, conservatorship or other similar laws now or hereafter in effect relating to creditors' rights and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding, in equity or at law);

(iii) no consent, approval, authorization or order of or declaration or filing with any government, governmental instrumentality or court or other person or entity is required for the execution of this Agreement or the performance by it of its duties hereunder, except such as have been duly made or obtained; and

(iv) neither the execution and delivery of this Agreement nor the fulfillment of the terms hereof conflicts with or results in a breach or violation of any of the terms or provisions of, or constitutes a default under, (A) its constituting and organizational documents; (B) the terms of any material indenture, contract, lease, mortgage, deed of trust, note, agreement or other evidence of indebtedness or other material agreement, obligation, condition, covenant or instrument to which it is a party or by which it is bound; (C) any statute applicable to it; or (D) any law, decree, order, rule or regulation applicable to it of any court or regulatory, administrative or governmental agency, body of authority or arbitration having or asserting jurisdiction over it or its properties, which, in the case of clauses (B) through (D) above, would have a material adverse effect upon the performance of its duties hereunder.

(b) The Sub-Advisor represents and warrants to the Management Company that it is a registered investment adviser under the Investment Advisers Act of 1940, as amended (the "Advisers Act").

(c) The Management Company acknowledges that it has received Part 2 of Highland Capital Management, L.P.'s Form ADV filed with the Securities and Exchange Commission. The Sub-Advisor will provide to the Management Company an updated copy of Part 2 of its Form ADV promptly upon any amendment to such Form ADV being filed with the Securities and Exchange Commission.

4. Standard of Care; Liability; Indemnification.

(a) Sub-Advisor Standard of Care. Subject to the terms and provisions of this Agreement, the Management Agreements and/or the Related Agreements, as applicable, the Sub-

Advisor will perform its obligations hereunder and under the Management Agreements and/or the Related Agreements in good faith with reasonable care using a degree of skill and attention no less than that which the Sub-Advisor uses with respect to comparable assets that it manages for others and, without limiting the foregoing, in a manner which the Sub-Advisor reasonably believes to be consistent with the practices and procedures followed by institutional managers of national standing relating to assets of the nature and character of the Portfolios, in each case except as expressly provided otherwise under this Agreement, the Management Agreements and/or the Related Agreements. To the extent not inconsistent with the foregoing, the Sub-Advisor will follow its customary standards, policies and procedures in performing its duties hereunder, under the Management Agreements and/or under the Related Agreements.

(b) Exculpation. To the fullest extent permitted by law, none of the Sub-Advisor, any of its affiliates, and any of their respective managers, members, principals, partners, directors, officers, shareholders, employees and agents (but shall not include the Management Company, its subsidiaries or member(s) and any managers, members, principals, partners, directors, officers, shareholders, employees and agents of the Management Company or its subsidiaries or member(s) (in their capacity as such)) (each a "Covered Person") will be liable to the Management Company, any Member, any shareholder, partner or member thereof, any Account (or any other adviser, agent or representative thereof), or to any holder of notes, securities or other indebtedness issued by any Account (collectively, the "Management Company Related Parties"), for (i) any acts or omissions by such Covered Person arising out of or in connection with the provision of the Services hereunder, for any losses that may be sustained in the purchase, holding or sale of any security or debt obligation by any Account, or as a result of any activities of the Sub-Advisor, the Management Company or any other adviser to or agent of the Account or any other sub-advisor appointed by the Management Company to provide portfolio management services to any other delegatee of the Management Company or any other person or entity, unless such act or omission was made in bad faith or is determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, to be the result of gross negligence or to constitute fraud or willful misconduct (as interpreted under the laws of the State of Delaware) (each, a "Disabling Conduct") on the part of such Covered Person, (ii) any mistake, gross negligence, misconduct or bad faith of any employee, broker, administrator or other agent or representative of the Sub-Advisor, *provided* that such employee, broker, administrator or agent was selected, engaged or retained by or on behalf of the Sub-Advisor with reasonable care, or (iii) any consequential (including loss of profit), indirect, special or punitive damages. To the extent that, at law or in equity, any Covered Person has duties (including fiduciary duties) and liabilities relating thereto to any Management Company Related Party, no Covered Person acting under this Agreement shall be liable to such Management Company Related Party for its good-faith reliance on the provisions of this Agreement.

To the fullest extent permitted by law, no Covered Person shall have any personal liability to any Management Company Related Party solely by reason of any change in U.S. federal, state or local or foreign income tax laws, or in interpretations thereof, as they apply to any such Management Company Related Party, whether the change occurs through legislative, judicial or administrative action.

Any Covered Person in its sole and absolute discretion may consult legal counsel, accountants or other advisers selected by it, and any act or omission taken, or made in good faith

by such Person on behalf of the Management Company or in furtherance of the business of the Management Company in good-faith reliance on and in accordance with the advice of such counsel, accountants or other advisers shall be full justification for the act or omission, and to the fullest extent permitted by applicable law, no Covered Person shall be liable to any Management Company Related Party in so acting or omitting to act if such counsel, accountants or other advisers were selected, engaged or retained with reasonable care

(c) Indemnification. The Management Company shall and hereby does, to the fullest extent permitted by applicable law, indemnify and hold harmless any Covered Person from and against any and all claims, demands, liabilities, costs, expenses, damages, losses, suits, proceedings, judgments, assessments, actions and other liabilities, whether judicial, administrative, investigative or otherwise, of whatever nature, known or unknown, liquidated or unliquidated ("Claims"), that may accrue to or be incurred by any Covered Person, or in which any Covered Person may become involved, as a party or otherwise, or with which any Covered Person may be threatened, relating to or arising out of the Services, the activities of the Management Company Related Parties, or activities undertaken in connection with the Management Company Related Parties, or otherwise relating to or arising out of this Agreement, any Management Agreement and/or the Related Documents, including amounts paid in satisfaction of judgments, in compromise or as fines or penalties, and attorneys' fees and expenses incurred in connection with the preparation for or defense or disposition of any investigation, action, suit, arbitration or other proceeding (a "Proceeding"), whether civil or criminal (all of such Claims, amounts and expenses referred to therein are referred to collectively as "Damages"), except to the extent that it shall have been determined ultimately by a court of competent jurisdiction, in a final nonappealable judgment, that such Damages arose primarily from Disabling Conduct of such Covered Person. The termination of any Proceeding by settlement, judgment, order, conviction or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that any Damages relating to such settlement, judgment, order, conviction or plea of nolo contendere or its equivalent or otherwise relating to such Proceeding arose primarily from Disabling Conduct of any Covered Persons.

Expenses (including attorneys' fees) incurred by a Covered Person in defense or settlement of any Claim that may be subject to a right of indemnification hereunder may be advanced by the Management Company prior to the final disposition thereof upon receipt of a written undertaking by or on behalf of the Covered Person to repay the amount advanced to the extent that it shall be determined ultimately by a court of competent jurisdiction that the Covered Person is not entitled to be indemnified hereunder. The right of any Covered Persons to the indemnification provided herein shall be cumulative of, and in addition to, any and all rights to which the Covered Person may otherwise be entitled by contract or as a matter of law or equity and shall be extended to the Covered Person's successors, assigns and legal representatives. Any judgments against the Management Company and/or any Covered Persons in respect of which such Covered Person is entitled to indemnification shall first be satisfied from the assets of the Management Company, including Drawdowns, before such Covered Person is responsible therefor.

Notwithstanding any provision of this Agreement to the contrary, the provisions of this Section 4(c) shall not be construed so as to provide for the indemnification of any Covered Person for any liability (including liability under Federal securities laws which, under certain circumstances, impose liability even on persons that act in good faith), to the extent (but only to

the extent) that such indemnification would be in violation of applicable law, but shall be construed so as to effectuate the provisions of this Section 4(c) to the fullest extent permitted by law

(d) Other Sources of Recovery etc. The indemnification rights set forth in Section 4(c) are in addition to, and shall not exclude, limit or otherwise adversely affect, any other indemnification or similar rights to which any Covered Person may be entitled. If and to the extent that other sources of recovery (including proceeds of any applicable policies of insurance or indemnification from any Person in which any of the Transactions has an investment) are available to any Covered Person, such Covered Person shall use reasonable efforts to obtain recovery from such other sources before the Company shall be required to make any payment in respect of its indemnification obligations hereunder; *provided* that, if such other recovery is not available without delay, the Covered Person shall be entitled to such payment by the Management Company and the Management Company shall be entitled to reimbursement out of such other recovery when and if obtained

(e) Rights of Heirs, Successors and Assigns. The indemnification rights provided by Section 4(c) shall inure to the benefit of the heirs, executors, administrators, successors and assigns of each Covered Person

(f) Reliance. A Covered Person shall incur no liability to any Management Company Related Party in acting upon any signature or writing reasonably believed by him, her or it to be genuine, and may rely in good faith on a certificate signed by an officer of any Person in order to ascertain any fact with respect to such Person or within such Person's knowledge. Each Covered Person may act directly or through his, her or its agents or attorneys.

(g) Rights Under Management Agreements and Related Agreements. The Management Company will ensure that the Sub-Advisor is provided substantially similar indemnification and exculpation rights as are afforded to the Management Company in its role as portfolio manager under any future Management Agreement or Related Agreement encompassed within the Services hereunder, and it is expressly acknowledged by the Parties that the Sub-Advisor may not consent to including a Management Agreement and the related Transaction and Related Agreements within the scope of this Agreement pursuant to Section 8 if such indemnification and exculpation rights are not reasonably acceptable to it.

5. Limitations on Employment of the Sub-Advisor; Conflicts of Interest.

(a) The services of the Sub-Advisor to the Management Company are not exclusive, and the Sub-Advisor may engage in any other business or render similar or different services to others including, without limitation, the direct or indirect sponsorship or management of other Transactions, investment-based accounts or commingled pools of capital, however structured, having investment objectives similar to those of the Management Company or the Accounts. Moreover, nothing in this Agreement shall limit or restrict the right of any manager, partner, officer or employee of the Sub-Advisor to engage in any other business or to devote his or her time and attention in part to any other business, whether of a similar or dissimilar nature to the Management Company or any Account, or to receive any fees or compensation in connection therewith.

(b) So long as this Agreement or any extension, renewal or amendment of this Agreement remains in effect, the Sub-Advisor shall be the only portfolio management sub-advisor for the Management Company. The Sub-Advisor assumes no responsibility under this Agreement other than to render the services called for hereunder. It is understood that directors, officers, employees, members and managers of the Management Company are or may become interested in the Sub-Advisor and its Affiliates as directors, officers, employees, partners, stockholders, members, managers or otherwise, and that the Sub-Advisor and directors, officers, employees, partners, stockholders, members and managers of the Sub-Advisor and its Affiliates are or may become similarly interested in the Management Company as members or otherwise.

(c) The Management Company acknowledges that various potential and actual conflicts of interest may exist with respect to the Sub-Advisor as described in the Sub-Advisor's Form ADV Part 2A and as described in Appendix B hereto, and the Management Company expressly acknowledges and agrees to the provisions contained in such Appendix B, as amended from time to time with mutual consent of the Parties.

6. Termination; Survival.

(a) This Agreement may be terminated, in its entirety or with respect to any Management Agreement, at any time without payment of penalty, by the Management Company upon 30 days' prior written notice to the Sub-Advisor.

(b) This Agreement shall terminate automatically with respect to any Management Agreement on the date on which (i) such Management Agreement has been terminated (and, if required thereunder, a successor portfolio manager has been appointed and accepted) or discharged; or (ii) the Management Company is no longer acting as portfolio manager, investment manager or in a similar capacity (whether due to removal, resignation or assignment) under such Management Agreement and the Related Agreements. Upon the termination of this Agreement with respect to any Management Agreement the Management Company shall provide prompt notice thereof to the Sub-Advisor, and Appendix A hereto shall be deemed to be amended by deleting such Management Agreement and the Related Agreements related thereto.

(c) All accrued and unpaid financial and indemnification obligations with respect to any conduct or events occurring prior to the effective date of the termination of this Agreement shall survive the termination of this Agreement.

7. Cooperation with Management Company. The Sub-Advisor shall reasonably cooperate with the Management Company in connection with the Management Company's compliance with its policies and procedures relating to oversight of the Sub-Advisor. Specifically, the Sub-Advisor agrees that it will provide the Management Company with reasonable access to information relating to the performance of Sub-Advisor's obligations under this Agreement.

8. Management Agreements and Related Agreements. The Sub-Advisor's duty to provide Services in connection with any Management Agreement shall not commence until (a) Appendix A to this Agreement has been amended by mutual agreement of the Parties to include such Management Agreement and the related Account, fund and/or account and Related Agreements and (b) the Sub-Advisor acknowledges receipt of such Management Agreement and

each Related Agreement. The Sub-Advisor shall not be bound to comply with any amendment, modification, supplement or waiver to any Management Agreement or any Related Agreement until it has received a copy thereof from the Management Company. No amendment, modification, supplement or waiver to any Management Agreement or Related Agreement that, when applied to the obligations and rights of the Management Company under such Management Agreement or Related Agreement, affects (i) the obligations or rights of the Sub-Advisor hereunder; (ii) the amount of priority of any fees or other amounts payable to the Sub-Advisor hereunder; or (iii) any definitions relating to the matters covered in clause (i) or (ii) above, will apply to the Sub-Advisor under this Agreement unless in each such case the Sub-Advisor has consented thereto in writing (such consent not to be unreasonably withheld or delayed unless the Sub-Advisor determines in its reasonable judgment that such amendment, modification, supplement or waiver could have a material adverse effect on the Sub-Advisor).

9. Amendments; Assignments.

(a) Neither Party may assign, pledge, grant or otherwise encumber or transfer all or any part of its rights or responsibilities under this Agreement, in whole or in part, except (i) as provided in clauses (b) and (c) of this Section 9, without the prior written consent of the other Party and (ii) in accordance with the Advisers Act and other applicable law.

(b) Except as otherwise provided in this Section 9, the Sub-Advisor may not assign its rights or responsibilities under this Agreement unless (i) the Management Company consents in writing thereto and (ii) such assignment is made in accordance with the Advisers Act and other applicable law.

(c) The Sub-Advisor may, without satisfying any of the conditions of Section 9(a) other than clause (ii) thereof (so long as such assignment does not constitute an assignment within the meaning of Section 202(a)(1) of the Advisers Act), (1) assign any of its rights or obligations under this Agreement to an affiliate; *provided* that such affiliate (i) has demonstrated ability, whether as an entity or by its principals and employees, to professionally and competently perform duties similar to those imposed upon the Sub-Advisor pursuant to this Agreement and (ii) has the legal right and capacity to act as Sub-Advisor under this Agreement, or (2) enter into (or have its parent enter into) any consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all of its assets to, another entity; *provided* that, at the time of such consolidation, merger, amalgamation or transfer the resulting, surviving or transferee entity assumes all the obligations of the Sub-Advisor under this Agreement generally (whether by operation of law or by contract) and the other entity is a continuation of the Sub-Advisor in another corporate or similar form and has substantially the same staff; provided, further, that the Sub-Advisor shall deliver ten (10) Business Days' prior notice to the Management Company of any assignment or combination made pursuant to this sentence. Upon the execution and delivery of any such assignment by the assignee, the Sub-Advisor will be released from further obligations pursuant to this Agreement except to the extent expressly provided herein.

10. Advisory Restrictions. This Agreement is not intended to and shall not constitute an assignment, pledge or transfer of any Management Agreement or any part thereof. It is the express intention of the parties hereto that (i) the Services are limited in scope; and (ii) this Agreement complies in all respects with all applicable (A) contractual provisions and restrictions

contained in each Management Agreement and each Related Agreement and (B) laws, rules and regulations (collectively, the "Advisory Restrictions"). If any provision of this Agreement is determined to be in violation of any Advisory Restriction, then the Services to be provided under this Agreement shall automatically without action by any person or entity be limited, reduced or modified to the extent necessary and appropriate to be enforceable to the maximum extent permitted by such Advisory Restriction.

11. Records; Confidentiality.

(a) The Sub-Advisor shall maintain or cause to be maintained appropriate books of account and records relating to its services performed hereunder, and such books of account and records shall be accessible for inspection by representatives of the Management Company and its accountants and other agents at any time during normal business hours and upon not less than three (3) Business Days' prior notice; provided, that the Sub-Advisor shall not be obligated to provide access to any non-public information if it in good faith determines that the disclosure of such information would violate any applicable law, regulation or contractual arrangement.

(b) The Sub-Advisor shall follow its customary procedures to keep confidential any and all information obtained in connection with the services rendered hereunder that is either (a) of a type that would ordinarily be considered proprietary or confidential, such as information concerning the composition of assets, rates of return, credit quality, structure or ownership of securities, or (b) designated as confidential obtained in connection with the services rendered by the Sub-Advisor hereunder and shall not disclose any such information to non-affiliated third parties except (i) with the prior written consent of the Management Company, (ii) such information as a rating agency shall reasonably request in connection with its rating of notes issued in connection with a Transaction or supplying credit estimates on any obligation included in the Portfolios, (iii) in connection with establishing trading or investment accounts or otherwise in connection with effecting transactions on behalf of the Management Company or any Account for which the Management Company serves as portfolio manager, (iv) as required by (A) applicable law or (B) the rules or regulations of any self-regulating organization, body or official having jurisdiction over the Sub-Advisor or any of its affiliates, (v) to its professional advisors (including, without limitation, legal, tax and accounting advisors), (vi) such information as shall have been publicly disclosed other than in known violation of this Agreement or shall have been obtained by the Sub-Advisor on a non-confidential basis, (vii) such information as is necessary or appropriate to disclose so that the Sub-Advisor may perform its duties hereunder, (viii) as expressly permitted in the final offering memorandum or any definitive transaction documents relating to any Transaction, or (ix) information relating to performance of the Portfolios as may be used by the Sub-Advisor in the ordinary course of its business. Notwithstanding the foregoing, it is agreed that the Sub-Advisor may disclose without the consent of any Person (1) that it is serving as Sub-Advisor to the Management Company and each Account, (2) the nature, aggregate principal amount and overall performance of the Portfolios, (3) the amount of earnings on the Portfolios, (4) such other information about the Management Company, the Portfolios and the Transactions as is customarily disclosed by Sub-Advisors to management vehicles similar to the Management Company, and (5) the United States federal income tax treatment and United States federal income tax structure of the transactions contemplated by this Agreement and the related documents and all materials of any kind (including opinions and other tax analyses) that are provided to them

relating to such United States federal income tax treatment and United States income tax structure. This authorization to disclose the U.S. tax treatment and tax structure does not permit disclosure of information identifying the Sub-Advisor, the Management Company, the Accounts or any other party to the transactions contemplated by this Agreement (except to the extent such information is relevant to U.S. tax structure or tax treatment of such transactions).

12. Notice. Any notice or demand to any party to this Agreement to be given, made or served for any purposes under this Agreement shall be given, made or served by sending the same by overnight mail, facsimile or email transmission or by delivering it by hand as follows (or to such other address, email address or facsimile number as shall have been notified to the other parties hereto):

(a) If to the Management Company:

Highland CLO Holdings, Ltd.
PO Box 309
Ugland House
Grand Cayman KY1-1104
Cayman Islands

(b) If to the Sub-Advisor:

Highland Capital Management, L.P.
300 Crescent Court
Suite 700
Dallas, TX 75201

13. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Texas. The parties unconditionally and irrevocably consent to the exclusive jurisdiction of the courts located in the State of Texas and waive any objection with respect thereto, for the purpose of any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

14. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT IT HAS RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR ITS ENTERING INTO THIS AGREEMENT.

15. Severability. The provisions of this Agreement are independent of and severable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties.

16. No Waiver. The performance of any condition or obligation imposed upon any party hereunder may be waived only upon the written consent of the parties hereto. Such waiver shall be limited to the terms thereof and shall not constitute a waiver of any other condition or obligation of the other party under this Agreement. Any failure by any party to this Agreement to enforce any provision shall not constitute a waiver of that or any other provision or this Agreement.

17. Counterparts. This Agreement may be executed in any number of counterparts by facsimile or other written form of communication, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

18. Third Party Beneficiaries. Nothing in this Agreement will be construed to give any person or entity other than the parties to this Agreement, the Accounts and any person or entity with indemnification rights hereunder any legal or equitable right, remedy, or claim under or with respect to this Agreement or any provision of this Agreement. Except as provided in the foregoing sentence, this Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Agreement and their successors and assigns.

19. No Partnership or Joint Venture. Nothing set forth in this Agreement shall constitute, or be construed to create, an employment relationship, a partnership or a joint venture between the parties. Except as expressly provided herein or in any other written agreement between the parties, no party has any authority, express or implied, to bind or to incur liabilities on behalf of, or in the name of, any other party.

20. Entire Agreement. This Agreement, together with each Management Agreement and Related Agreement, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, between the parties with respect to such subject matter.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
as the Sub-Advisor

By: Strand Advisors, Inc., its General Partner

By:_____
Name: James Dondero
Title: President

HIGHLAND CLO HOLDINGS, LTD.
as the Management Company

By:_____
Name: Summit Management Limited
Title: Director

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

HIGHLAND CAPITAL MANAGEMENT, L.P.,
as the Sub-Advisor

By: Strand Advisors, Inc., its General Partner

By:_____
Name: James Dondero
Title: President

HIGHLAND CLO HOLDINGS, LTD.
as the Management Company

By:_____
Name: Summit Management Limited
Title: Director

Appendix A

The Management Company shall pay to the Sub-Advisor a Sub-Advisory Fee for the Services for the Accounts in an amount equal to the aggregate management fees that would be received by the Management Company for such Accounts if such management fees were calculated in exact conformity with the calculation of management fees for such Accounts, except that the management fee rates applied in such calculation were replaced by the fee rate set forth in the following table. Such fees shall be payable promptly (or at such time as is otherwise agreed by the parties) following the Management Company's receipt of management fees for such Accounts, it being understood that none of the foregoing shall prohibit the Management Company from waiving or entering into side letters with respect to management fees for such Accounts; provided that any such waived or reduced amounts shall not be recognized for purposes of calculating the fees payable by the Management Company hereunder. Notwithstanding the foregoing, the parties may agree to a different allocation from that set forth during any period in order to reflect the then current fair market value of the Services rendered.

Issuer / Borrower / Fund / Account	Management Agreement	Related Agreements	Date of Management Agreement	Annualized Sub-Advisory Fee Rate (bps)
[__]	[__]	[__]	[__]	[__]

APPENDIX B

Purchase and Sale Transactions; Brokerage

The Management Company acknowledges and agrees that the Sub-Advisor or any of its affiliates may acquire or sell obligations or securities, for its own account or for the accounts of its customers, without either requiring or precluding the acquisition or sale of such obligations or securities for the account of any Account. Such investments may be the same or different from those made by or on behalf of the Management Company or the Accounts.

Additional Activities of the Sub-Advisor

Nothing herein shall prevent the Sub-Advisor or any of its clients, its partners, its members, funds or other investment accounts managed by it or any of its affiliates, or their employees and their affiliates (collectively, the "Related Entities"), from engaging in other businesses, or from rendering services of any kind to the Management Company, its affiliates, any Account or any other Person or entity regardless of whether such business is in competition with the Management Company, its affiliates, such Account or otherwise. Without limiting the generality of the Sub-Advisor and its Related Entities may:

(a) serve as managers or directors (whether supervisory or managing), officers, employees, partners, agents, nominees or signatories for the Management Company or any affiliate thereof, or for any obligor or issuer in respect of any of the Portfolio Assets or any affiliate thereof, to the extent permitted by their respective organizational documents and underlying instruments, as from time to time amended, or by any resolutions duly adopted by the Management Company, any Account, their respective affiliates or any obligor or issuer in respect of any of the Portfolio Assets (or any affiliate thereof) pursuant to their respective organizational documents;

(b) receive fees for services of whatever nature rendered to the obligor or issuer in respect of any of the Portfolio Assets or any affiliate thereof;

(c) be retained to provide services unrelated to this Agreement to the Management Company, any Account or their respective affiliates and be paid therefor, on an arm's-length basis;

(d) be a secured or unsecured creditor of, or hold a debt obligation of or equity interest in, the Management Company, any Account or any affiliate thereof or any obligor or issuer of any Portfolio Asset or any affiliate thereof;

(e) sell any Portfolio Asset to, or purchase or acquire any Portfolio Asset from, any Account while acting in the capacity of principal or agent; *provided, however*, that any such sale or purchase effected by the Sub-Advisor shall be subject to applicable law and any applicable provisions of this Agreement, the related Management Agreement and Related Agreements, as applicable;

(f) underwrite, arrange, structure, originate, syndicate, act as a distributor of or make a market in any Portfolio Asset;

(g) serve as a member of any "creditors' board", "creditors' committee" or similar creditor group with respect to any Portfolio Asset; or

(h) act as portfolio manager, portfolio manager, investment manager and/or investment adviser or sub-advisor in collateralized bond obligation vehicles, collateralized loan obligation vehicles and other similar warehousing, financing or other investment vehicles.

As a result, such individuals may possess information relating to obligors and issuers of Portfolio Assets that is (a) not known to or (b) known but restricted as to its use by the individuals at the Sub-Advisor responsible for monitoring the Portfolio Assets and performing the Services under this Agreement. Each of such ownership and other relationships may result in securities laws restrictions on transactions in such securities by the Management Company and/or any Account and otherwise create conflicts of interest for the Management Company and/or any Account. The Management Company acknowledges and agrees that, in all such instances, the Sub-Advisor and its affiliates may in their discretion make investment recommendations and decisions that may be the same as or different from those made by the Management Company with respect to the investments of any Account and they have no duty, in making or managing such investments, to act in a way that is favorable to any Account.

The Management Company acknowledges that there are generally no ethical screens or information barriers between the Sub-Advisor and certain of its affiliates of the type that many firms implement to separate Persons who make investment decisions from others who might possess applicable material, non-public information that could influence such decisions. The officers or affiliates of the Sub-Advisor may possess information relating to obligors or issuers of Portfolio Assets that is not known to the individuals at the Sub-Advisor responsible for providing the Services under this Agreement. As a result, the Sub-Advisor may from time to time come into possession of material nonpublic information that limits the ability of the Sub-Advisor to effect a transaction for the Management Company and/or any Account, and the Management Company and/or such Account's investments may be constrained as a consequence of the Sub-Advisor's inability to use such information for advisory purposes or otherwise to effect transactions that otherwise may have been initiated on behalf of its clients, including the Management Company and/or such Account.

Unless the Sub-Advisor determines in its sole discretion that such Transaction complies with the conflicts of interest provisions set forth in the applicable Management Agreement and Related Agreements, he Sub-Advisor will not direct any Account to acquire or sell loans or securities entered into or issued by (i) Persons of which the Sub-Advisor, any of its affiliates or any of its officers, directors or employees are directors or officers, (ii) Persons of which the Sub-Advisor or any of its respective affiliates act as principal or (iii) Persons about which the Sub-Advisor or any of its affiliates have material non-public information which the Sub-Advisor deems would prohibit it from advising as to the trading of such securities in accordance with applicable law.

It is understood that the Sub-Advisor and any of its affiliates may engage in any other business and furnish investment management and advisory services to others, including Persons which may have investment policies similar to those followed by the Management Company with respect to the Portfolio Assets and which may own securities or obligations of the same class, or which are of the same type, as the Portfolio Assets or other securities or obligations of the obligors or issuers of the Portfolio Assets. The Sub-Advisor and its affiliates will be free, in their sole discretion, to

make recommendations to others, or effect transactions on behalf of themselves or for others, which may be the same as or different from those effected with respect to the Collateral. Nothing in this Agreement, in the Management Agreements or in the Related Agreements shall prevent the Sub-Advisor or any of its affiliates, acting either as principal or agent on behalf of others, from buying or selling, or from recommending to or directing any other account to buy or sell, at any time, securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same obligor or issuer, as those directed by the Sub-Advisor to be purchased or sold on behalf of an Account. It is understood that, to the extent permitted by applicable law, the Sub-Advisor, its Related Entities, or any of their owners, directors, managers, officers, stockholders, members, partners, partnership committee members, employees, agents or affiliates or the other Covered Persons or any member of their families or a Person or entity advised by the Sub-Advisor may have an interest in a particular transaction or in securities or obligations of the same kind or class, or securities or obligations of a different kind or class of the same issuer, as those that may be owned or acquired by an Account. The Management Company agrees that, in the course of providing the Services, the Sub-Advisor may consider its relationships with other clients (including obligors and issuers) and its affiliates.

The Management Company agrees that neither the Sub-Advisor nor any of its affiliates is under any obligation to offer any investment opportunity of which they become aware to the Management Company or any Account or to account to the Management Company or any Account for (or share with the Management Company or any Account or inform the Management Company or any Account of) any such transaction or any benefit received by them from any such transaction. The Management Company understands that the Sub-Advisor and/or its affiliates may have, for their own accounts or for the accounts of others, portfolios with substantially the same portfolio criteria as are applicable to the Accounts. Furthermore, the Sub-Advisor and/or its affiliates may make an investment on behalf of any client or on their own behalf without offering the investment opportunity or making any investment on behalf of the Management Company or any Account and, accordingly, investment opportunities may not be allocated among all such clients. The Management Company acknowledges that affirmative obligations may arise in the future, whereby the Sub-Advisor and/or its affiliates are obligated to offer certain investments to clients before or without the Sub-Advisor offering those investments to the Management Company or any Account.

The Management Company acknowledges that the Sub-Advisor and its affiliates may make and/or hold investments in an obligor's or issuer's obligations or securities that may be *pari passu*, senior or junior in ranking to an investment in such obligor's or issuer's obligations or securities made and/or held by the Management Company or any Account, or in which partners, security holders, members, officers, directors, agents or employees of the Sub-Advisor and its affiliates serve on boards of directors, or otherwise have ongoing relationships or otherwise have interests different from or adverse to those of the Management Company and the Accounts.

Defined Terms

For purposes of this Appendix B, the following defined terms shall have the meanings set forth below:

"Portfolio" shall mean, with respect to any Account and/or Transaction, the assets held by or in the name of the Account or any subsidiary of the Account in respect of such Transaction,

whether or not for the benefit of the related secured parties, securing the obligations of such Account.

"Portfolio Asset" shall mean any loan, eligible investment or other asset contained in the Portfolio.

"Transaction" shall mean any action taken by the Sub-Advisor on behalf of any Account with respect to the Portfolio, including, without limitation, (i) selecting the Portfolio Assets to be acquired by the Account, (ii) investing and reinvesting the Portfolio, (iii) amending, waiving and/or taking any other action commensurate with managing the Portfolio and (iv) instructing the Account with respect to any acquisition, disposition or tender of a Portfolio Asset or other assets received in respect thereof in the open market or otherwise by the Account.

EXHIBIT 87

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "HIGHLAND CLO MANAGEMENT, LLC", FILED IN THIS OFFICE ON THE NINETEENTH DAY OF OCTOBER, A.D. 2017, AT 5:52 O`CLOCK P.M.





6582916 8100
SR# 20176700703

Authentication: 203431480
Date: 10-20-17

You may verify this certificate online at corp.delaware.gov/authver.shtml

State of Delaware
Secretary of State
Division of Corporations
Delivered 05:52 PM 10/19/2017
FILED 05:52 PM 10/19/2017
SR 20176700703 - File Number 6582916

STATE OF DELAWARE
CERTIFICATE OF FORMATION
OF
HIGHLAND CLO MANAGEMENT, LLC

The undersigned authorized person, desiring to form a limited liability company pursuant to the Limited Liability Company Act of the State of Delaware, hereby certifies as follows:

1. The name of the limited liability company is **Highland CLO Management, LLC**.

2. The Registered Office of the limited liability company in the State of Delaware is located at 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801. The name of the Registered Agent at such address upon whom process against this limited liability company may be served is The Corporation Trust Company.

3. Notice is hereby given pursuant to Section 18.215(b) of the Delaware Limited Liability Company Act (6 Del. C. 18-101 et seq.) that the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series of the limited liability company, shall be enforceable against the assets of such series only and not against the assets of the limited liability company generally, or any other series thereof, and none of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to the limited liability company generally, or any other series thereof, shall be enforceable against the assets of such series.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation on this 19th day of October, 2017.

Timothy J. Cournoyer, Authorized Person