

December 10, 2010

IN THE MATTER OF
THE SECURITIES LEGISLATION OF NOVA SCOTIA (the “**Jurisdiction**”)

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF GROWTHWORKS ATLANTIC VENTURE FUND LTD. (the “**Filer**”)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the “**Legislation**”) for approval under paragraph 5.5(1)(b) of National Instrument 81-102 *Mutual Funds* (“**NI 81-102**”) of the merger of its Diversified Shares into its Balanced Shares (the “**Conversion**”) (the “**Approval**”).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

- (a) the Nova Scotia Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (“**MI 11-201**”) is intended to be relied upon for each equivalent provision in Alberta, New Brunswick, Newfoundland and Labrador and Prince Edward Island.

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* and MI 11-102 have the same meanings in this decision, unless they are otherwise defined.

Representations

This decision is based on the following facts represented by the Filer:

The Manager

- 1. GrowthWorks Atlantic Ltd. (the “**Manager**”) is the manager of the Filer under a management contract. The Manager’s head office is in Halifax, Nova Scotia.

The Filer

- 2. The Filer is a corporation incorporated under the *Canada Business Corporations Act*.

3. The Filer is registered as a labour-sponsored venture capital corporation or “**LSVCC**” under the *Income Tax Act* (Canada), the *Equity Tax Credit Act* (Nova Scotia) and the *Labour-Sponsored Venture Capital Tax Credit Act* (Newfoundland and Labrador) and is a prescribed registered LSVCC for the 2010 tax year under the *New Brunswick Income Tax Act* (together the “**LSVCC Legislation**”).
4. The Filer primarily invests in small and medium sized businesses across Atlantic Canada region with the objective of achieving long-term capital appreciation and must make “eligible investments” in eligible businesses as prescribed under the LSVCC Legislation.
5. The Filer is a mutual fund in each of Nova Scotia, New Brunswick, Newfoundland, Labrador and Prince Edward Island and Alberta. The Filer has advised that no Class A shares have been sold in Alberta.
6. The Regional Sponsor of the Filer is the Canadian Federation of Labour. The Provincial Sponsors of the Filer are the New Brunswick Federation of Labour, the Nova Scotia Federation of Labour, the Newfoundland and Labrador Federation of Labour and the Prince Edward Island Federation of Labour.
7. The authorized capital of the Filer is as follows:
 - a. an unlimited number of Class A shares, issuable in series, which are widely held, of which there are currently ten created, five issued and outstanding and four offered under the Filer’s current prospectus;
 - b. 1,000 Class B Shares which are held by the Regional Sponsor of the Filer; and
 - c. an unlimited number of Class C shares, of which there are 100 issued to the Manager of the Filer to provide a “participating” or “carried” interest in the Filer’s venture investments.
8. The Filer’s shares are not listed on an exchange. The Filer has a “menu” of Class A share Series (the “**Menu Series**”) currently consisting of four choices: Balanced Shares, Growth Shares, Financial Services Shares and GIC Shares. Balanced Shares, Growth Shares, Financial Services Shares and GIC Shares are offered under the Filer’s current prospectus dated November 18, 2010. The Filer announced on September 20, 2010 that it will no longer offer Diversified Shares for sale and that other Series shares may no longer be switched into Diversified Shares. On September 27, 2010, the Filer filed a material change report and prospectus amendment with respect to the Conversion.
9. The Menu Series have the same venture investment mandate and participate in the same pool of venture investments. However, as indicated by the Menu Series’ names, each offers shareholders a different investment focus for non-venture funds.
10. The NAV of the Filer and the prices for its Class A shares are calculated on the last business day of each week. As at December 1, 2010, the NAV of the Fund was \$31,222,834, of which \$27,568,514 was attributable to the Balanced Shares and \$309,385 was attributable to the Diversified Shares.
11. The Filer is not in default of securities legislation in any jurisdiction.

The Conversion

12. Under NI 81-106, each series of the Filer’s Class A shares that is referable to a separate portfolio of assets is treated as a separate investment fund for the purpose of reporting financial results. At present, the Filer prepares and files five sets of financial statements and MRFPs with respect to its five outstanding series of Class A shares.

13. The Conversion is aimed at achieving a more efficient process for compiling and reporting financial results and, given the Diversified Shares' and Balanced Shares' overlapping non-venture investment mandates, a more streamlined offering in light of the low level of sales of the Diversified Shares.
14. The Diversified Shares and the Balanced Shares non-venture investment mandates overlap in the areas of high quality debt, high yield investments and bank investments. The Diversified Shares' non-venture mandate consists of high quality debt, high yield investments, investments linked to publicly traded equities and equity and debt securities of issuers in the financial services sector (including banks) and resource sectors. The non-venture investment mandate for the Balanced Shares consists of high quality debt instruments, high yield investments and bank securities.
15. The rights and restrictions attached to the Diversified Shares are the same as those attached to the Balanced Shares.
16. The rights and restrictions attached to each Menu Series contain a conversion feature that permits the Filer, by resolution of the Board, to convert a Series into another Series that participates in the same venture portfolio and has the same fee structure if: (i) the net asset value of a Series is less than a minimum amount set by the Board (currently \$1 million); (ii) it is not anticipated that sales of that Series over the next 12 month period will bring the net assets over the minimum amount; and (iii) feedback the Filer obtains from investment advisors and other industry participants suggests that interest in the particular Series is unlikely to increase over the medium term. In such cases, the Filer may direct a switch from that particular Series into another Series, provided that such conversion takes place so that the number of shares issued upon conversion is based on the relative Net Asset Value per Series share on the conversion date. A description of these rights and restrictions has been included in each of the Filer's renewal prospectuses since the Menu Series' inception.
17. After canvassing selected investment advisors, the Manager does not expect interest in the Diversified Shares to increase over the next 12-36 months so as to bring the NAV of the series over \$1 million. Accordingly, the Board approved the Conversion on September 17, 2010. The Filer's Independent Review Committee also reviewed the proposed conversion and recommended that the Manager proceed with the Conversion.
18. The Conversion is expected to occur on or around December 17, 2010. In accordance with the Filer's Articles, the Conversion will be based on the NAV per Series Share of the Diversified Shares relative to the NAV per Series Share of the Balanced Shares on the date of conversion, which are expected to be different. Accordingly, for holders of Diversified Shares, the Conversion will result in a change in the number of the shares held but will not change the value of the shareholder's investment.
19. Holders of Diversified Shares approved the Conversion at the Filer's annual and special meeting of shareholders held on December 3, 2010 ("**AGM**") by separate ordinary resolution. In connection with the AGM, shareholders received an information circular (the "**Circular**") that contained details of the Conversion, including income tax considerations associated with the Conversion, and incorporated by reference the Filer's prospectus dated November 12, 2009, as amended. This prospectus qualified the sale of the Balanced Shares, GIC Shares, Diversified Shares, Financial Services Shares and Growth Shares as part of the Filer's continuous offering of such Class A shares. The Filer subsequently filed its renewal prospectus referred to above.
20. While the conversion of Diversified Shares into Balanced Shares will not represent a "qualifying exchange" under section 132.2 of the Income Tax Act (Canada) (the "**Tax Act**") or a tax deferred transaction under subsection 85(1), 85.1(1), 86(1) or 87(1) of the Tax Act, the conversion will

qualify as a tax-deferred transaction under other provisions of the Tax Act. A holder's adjusted cost base of Balanced Shares received on conversion of their Diversified Shares will be deemed to be equal to the average of the adjusted cost base of the converted Diversified Shares and the adjusted cost base of the other Balanced Shares held by the holder at the time of the conversion.

21. Generally, holders of Class A shares of a particular Menu Series may switch into any other Menu Series. In connection with the proposed Conversion, the Filer announced on September 20, 2010 that it will no longer offer Diversified Shares and that the Menu Series may no longer switch into Diversified Shares. Diversified Shares may continue to switch into Menu Series until a date designated by the Filer which is expected to be shortly before the effective date of the proposed Conversion.
22. The Filer has complied with Part 11 of NI 81-106 in connection with the Conversion.
23. The costs of implementing the Conversion will be borne by the Manager of the Filer.

Approval of the Conversions

24. Approval for the Conversion is required because it does not satisfy all of the criteria for pre-approved reorganizations and transfers set out in section 5.6(1) of NI 81-102 for the following reasons:
 - (a) A reasonable person might not consider the investment objectives of the Diversified Shares to be substantially similar to the investment objectives of the Balanced Shares as required by section 5.6(1)(a)(ii) of NI 81-102;
 - (b) The Conversion will not represent a "qualifying exchange" within the meaning of section 132.2 of the Tax Act or a tax-deferred transaction under sections 85(1), 85.1(1), 86(1) or 87(1) of the Tax Act, as required by Section 5.6(1)(b) of NI 81-102;
 - (c) The materials sent to shareholders did not include copies of the Filer's November 12, 2009 renewal prospectus, as amended, or copies of the annual and interim financial statements of the Filer, as required by Section 5.6(1)(f)(ii) of NI 81-102. However, the Circular sent to shareholders instead did:
 - (i) contain details of the Conversion, including income tax considerations associated with the Conversion;
 - (ii) as permitted by NI 81-106 and National Instrument 51-102 *Continuous Disclosure Obligations*, incorporate by reference the Filer's then current renewal prospectus, which in turn incorporated by reference the most recently filed annual and interim financial statements of the Filer; and
 - (iii) disclose that shareholders can obtain a copy of the Filer's then current renewal prospectus and financial statements at no cost by accessing the SEDAR website at www.sedar.com, by accessing the Filer's website at www.growthworks.ca or by calling a toll-free telephone number (in which case the Manager would cause the requested material to be mailed to the requesting shareholder).

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Approval is granted.

“Kevin G. Redden”

Kevin G. Redden, Director
Corporate Finance
NOVA SCOTIA SECURITIES COMMISSION