

## FMF CAPITAL GROUP LTD. SECURITIES LITIGATION

### NOTICE OF COURT APPROVAL OF THE SETTLEMENT OF THESE ACTIONS

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

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**CLASS MEMBERS:** All persons who:

(1) purchased Income Participating Securities (“IPSs”) of FMF Capital Group Ltd. (the “Company”) in the Company’s March 2005 initial public offering (“IPO”) (“Class I Members”); and/or

(2) purchased the Company’s IPSs, or any of the securities represented by such IPSs, over the Toronto Stock Exchange (“TSX”) during the period from and including March 24, 2005 to and including November 15, 2005 (“Class II Members”, and together with the Class I Members, the “Global Class Members”).

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**1. PURPOSE OF THIS NOTICE:**

Please be advised that the Ontario Superior Court of Justice (the “Ontario Court”) and the Québec Superior Court of Justice (the “Québec Court”, and collectively with the Ontario Court, the “Canadian Courts”) have approved the Settlement Agreement concerning the class actions initiated in the Canadian Courts against BMO Nesbitt Burns Inc., Blackmont Capital Inc., Canaccord Capital Corporation, National Bank Financial Inc., Sprott Securities Inc., TD Securities Inc., BDO Seidman LLP, the Company, FMF Capital LLC, FMF Holdings LLC, Michigan Fidelity Acceptance Corporation, PKF LLC, Robert Pilcowitz, Edan King, Howard Morof, Michael Hoffman, Eric Slavens, Lorie Waisberg, Thomas Little, and Atul Shah (collectively, the “Defendants”), and in the Sixth Judicial Circuit Court for the State of Michigan (the “Michigan Court”, and together with the Canadian Courts, the “Courts”) against the Defendants, against Harris Nesbitt Corp., and against Phyllis Cane Pilcowitz, the Phyllis Cane Pilcowitz Revocable Trust, the Phyllis Cane Pilcowitz Qualified Annuity Trust, Hilary King, the Hilary King Revocable Trust, and the Hilary King Qualified Annuity Trust (collectively, the “Transferee Defendants”).

The Plaintiffs allege in the Courts that the Defendants or some of them disseminated a prospectus and other information containing various misrepresentations to persons who purchased the Company’s IPSs and, in the Michigan Court, that the Transferee Defendants were unjustly enriched by the actions of some or all of the Defendants.

The Defendants expressly deny any wrongdoing or liability but have agreed to pay, collectively, the sums of US\$21 million and CAN\$4.55 million (the “Settlement Fund”) to settle the claims of all Class Members. Additionally, the Company has agreed to adopt certain technical, clarifying changes to the Company's (i) Mandate of the Board of Directors, and (ii) Audit Committee Charter.

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**2. CLASS MEMBERS' ENTITLEMENT UNDER THE AGREEMENT:**

Class Members will be eligible for compensation from the Settlement Fund if they sustained a net loss on their purchases and sales of the Company's IPSs and if they timely register a valid claim with the Claims Administrator. Class Members will have until **August 13, 2007** to register a claim.

The amount of each Class Member's compensation will depend upon: (1) the number of IPSs purchased by the Class Member during the Class Period, and the prices at which the Settling Class Member purchased and sold such IPSs; (2) whether or not the Settling Class Member sustained a net loss on purchases and sales of IPSs and, if so, the amount of that loss; (3) whether the Class Member purchased IPSs in the Company's initial public offering ("IPO") and/or over the TSX; (4) whether or not the Class Member sold IPSs prior to November 15, 2005; (5) whether the Class Member continued to hold the IPSs acquired during the Class Period beyond November 16, 2005; (6) whether the Class Member is a member of both Class I and Class II and, if so, whether the IPSs purchased by the Class Member in the IPO were commingled with IPSs purchased over the TSX; and (7) the number of IPSs purchased by Class Members who timely file valid Claim Forms with the Claims Administrator. The formulae according to which each Class Member's compensation (if any) will be calculated are set forth in greater detail in the Distribution Protocol attached as Schedule "B" to the Settlement Agreement.

The Distribution Protocol includes a procedure for Class Members to dispute decisions of the Claims Administrator (a "Dispute"). Class Members may bring the Dispute before a bilingual Referee appointed by the Canadian Courts for that purpose. The Honourable Fred Kaufman has been appointed by the Courts to serve in that capacity. Class Members may initiate Disputes by submitting written correspondence to the Claims Administrator within twenty (20) days of the date of the Class Member's notice from the Claims administrator of the partial or complete rejection of the Class Member's claim (the "Rejection Notice"). The correspondence must state the Class Member's reasons for the Dispute, and must be accompanied by a certified cheque or money order, payable to the Claims Administrator, in the amount of CAN\$250, which will be applied to the cost of the reference. Upon receiving notice from a Class Member of a Dispute, the Claims Administrator must advise Ontario Class Counsel (if the Class Member resides outside of Québec) or Québec Class Counsel (if the Class Member resides in Québec), as well as the Referee, in writing of the initiation of the Dispute and of the Claims Administrator's reasons for having rendered the decision to which the Dispute relates (with a copy to the Class Member), and will provide to Ontario or Québec Class Counsel (as the case may be) and the Referee a copy of the Class Member's correspondence stating the reasons for the Dispute. Within twenty (20) days of their receipt of the Class Member's and the Claims Administrator's written submissions with respect to the Dispute, Ontario Class Counsel or Québec Class Counsel (as the case may be) shall deliver to the Referee (with copies to the Claims Administrator and to the Class Member initiating the Dispute) a written statement of their position (if any) with

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respect to the Dispute.

All Disputes shall be resolved on the basis of written submissions, and in no case on the basis of an in-person or other oral hearing. The Referee will render his decision with respect to all Disputes within thirty (30) days of the date by which Class Counsel is required to state their position with respect to the Dispute.

The Referee shall distribute a copy of the decision to the objecting Class Member, the Claims Administrator and Class Counsel. If the Settling Class Member is in any way successful on the reference, the CAN\$250 deposit shall be returned to the Settling Class Member, but if totally unsuccessful, the CAN\$250 deposit shall be applied to the cost of the Referee. A Class Member may appeal the decision of the Referee to the applicable Canadian Court. Any such appeal shall be limited to review for palpable and overriding error and shall otherwise be subject to the Rules of the Court in that jurisdiction.

#### **Final Distribution**

No later than sixty (60) days following the adjudication of all Disputes, the Claims Administrator will make final distributions of compensation to the Class Members. In so doing, the Claims Administrator will deduct from any payments otherwise due to the Québec Class Members any amounts owing to the Québec *Fonds d'Aide*.

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### **3. CLAIMS ADMINISTRATOR:**

Deloitte and Touche <sup>LLP</sup> has been appointed by the Courts to be the Claims Administrator who will administer the Settlement Fund. Please contact the Claims Administrator as follows:

Email: [fmfclassaction@deloitte.ca](mailto:fmfclassaction@deloitte.ca)

Telephone: **1-866-669-6615**

Mailing Address:

Claims Administrator – FMF Class Action Settlement

Deloitte & Touche LLP

Suite 1700

5140 Yonge Street

Toronto, ON M2N 6L7

Website: <http://www.classactionsettlement.ca/fmf> [English]

<http://www.classactionsettlement.ca/fmf/index-fr.html> [French]

A complete copy of the Settlement Agreement is available on the websites of Ontario Class Counsel and Michigan Class Counsel at [www.classaction.ca](http://www.classaction.ca) and [www.jruslaw.com](http://www.jruslaw.com).

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#### **4. REGISTERING A CLAIM**

All claims will be administered through an online claims submission process. Those Class Members who wish to take part in the Settlement must register a claim with the Claims Administrator no later than **August 13, 2007**.

In order to register a claim with the Claims Administrator please go to <http://www.classactionsettlement.ca/fmf>, and sign in as a New Claimant, to obtain a login ID and create a password for your secure access to your Claim Form. On subsequent visits to the website you will be able to login using this information. Once logged in you will be required to complete, print and sign the online Claim Form before faxing it, along with the appropriate supporting documentation, to the Claims Administrator. The information will be uploaded to your online Claim where you may review the completeness and status of your claim.

If you have trouble accessing the online system, do not have internet access, or prefer to not to register your claim online, please contact the Claims Administrator directly by emailing [fmfclassaction@deloitte.ca](mailto:fmfclassaction@deloitte.ca), telephoning **1-866-669-6615**, or writing to Claims Administrator - FMF Class Action Settlement, Deloitte & Touche LLP, Suite 1700, 5140 Yonge Street, Toronto, ON, M2N 6L7, and they will assist you in obtaining a hard copy Claim Form.

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#### **5. OPTING OUT:**

All persons who come within the definition of the Class will automatically be included in the Class unless they exclude themselves from the Class (“Opt Out”).

If you Opt Out, you will not be bound by the Settlement Agreement, but you will not be eligible for any of the benefits of the Settlement Agreement. This means that you will be barred from making a claim and receiving payment pursuant to the Settlement Agreement.

If you wish to Opt Out of the settlement, you must complete an online Claim Form by going to <http://www.classactionsettlement.ca/fmf>, and signing in as a New Claimant. You will be asked whether you would like to Opt Out of the settlement and you must indicate “Yes” in order to validly Opt Out (an “Opt Out Claim”).

If you reside outside the Province of Québec and wish to Opt Out, you will have to register your claim with the Claims Administrator by the Opt Out Deadline, **July 16, 2007**. Residents of Québec however, must, in addition to registering with the Claims Administrator, print and send a complete copy of their Opt Out Claim to the Clerk of the Québec Court, at the address indicated at below, all not later than **July 16, 2007**.

The address for the clerk of the Québec Court is: **Québec Superior Court, Québec City Court House, 300, boul. Jean-Lesage, Québec City, Québec, G1K 8K6**.

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**6. IMPORTANT DEADLINES:**

**July 16, 2007 – Opt Out Deadline**

**August 13, 2007 – Claims Deadline**

**Because of the deadlines, you must act without delay.**

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**7. CLASS COUNSEL:**

A. Dimitri Lascaris and Charles M. Wright of the law firm of *Siskinds<sup>LLP</sup>* are counsel to the Plaintiffs in the Ontario class proceeding (“Ontario Class Counsel”). Ontario Class Counsel can be reached by telephone, toll free, at **1-800-461-6166, Ext. 2380**.

Simon Hébert of the law firm of *Siskinds, Desmeules<sup>S.E.N.C.R.L.</sup>* is counsel to the Petitioners in the Québec class proceeding (“Québec Class Counsel”). Québec Class Counsel can be reached by telephone at **(418) 694-2009**.

Henry Juroviesky of the Ontario-based law firm of *Juroviesky and Ricci<sup>LLP</sup>* and the Michigan-based law firm of *Frank, Haron, Weiner and Navarro<sup>PLC</sup>* are counsel to the Plaintiffs in the Michigan Action (“Michigan Class Counsel”, and together with Ontario and Québec Class Counsel, “Class Counsel”). Michigan Class Counsel can be reached at 4950 Yonge Street, Suite 904, Toronto, Ontario, M2N 6K1, Attention: Henry Juroviesky.

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**8. LEGAL FEES:**

The Courts collectively have awarded legal fees, expenses and applicable taxes to Ontario, Québec and Michigan Class Counsel (as defined below) in the total amount of CAN\$6,318,138.22 (the “Fee”). Class Counsel were retained on a contingent basis such that they were only to be paid if they were successful in the litigation. Class Counsel were responsible for funding all disbursements incurred in pursuing this litigation. The Fee will be deducted from the Settlement Fund.

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**9. INTERPRETATION:**

If there is a conflict between the provisions of this Notice and the Settlement Agreement and any of its Schedules, the terms of the Settlement Agreement will prevail.

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PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO SUPERIOR COURT OF JUSTICE AND THE QUÉBEC SUPERIOR COURT OF JUSTICE