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### Headnote

Securities Act s. 91 Financial Statements & Reports - Exemption from the filing and delivery requirements for financial statements, annual reports, and quarterly reports - An issuer wants relief from the requirements to file and deliver interim financial statements for a particular period. - The issuer's principal regulator does not require interim financial statements where the interim period is less than 3 months in length; if National Instrument 81-106 were in force, the issuer would not have to file financial statements for the specific interim period; the prospectus discloses in detail the proposed investment strategy for the issuer

### Exemption Order

#### Fairway Investment Grade Income Fund (the Trust)

#### Section 91(1)(b) of the Securities Act R.S.B.C. 1996, c. 418

### Background

- ¶ 1 The Trust applied for an exemption from the requirements of Section 144(1) of the *Securities Rules*, B.C. Reg. 194/97 to prepare and file interim financial statements for the period beginning February 25, 2005, the date on which the Trust was established, and ending March 31, 2005 (the financial disclosure requirements).

### Representations

- ¶ 2 The Trust represents that:
1. the Trust is an investment fund established under the laws of Ontario under a declaration of trust made as of February 25, 2005 and amended and restated on March 15, 2005; Fairway Advisors Inc. is the manager and trustee of the Trust;
  2. the address and head office of the Trust is in Toronto;
  3. the Trust is authorized to issue an unlimited number of units each of which represents an equal, undivided interest in the net assets of the Trust;
  4. the Trust became a reporting issuer or its equivalent in each of the provinces of Canada (the jurisdictions) on February 28, 2005 when a receipt was issued for its prospectus dated February 25, 2005 (the prospectus);

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5. as of the date hereof, the Trust is not in default of any requirements of the Act or the Rules;
6. on March 16, 2005, the Trust completed its initial public offering under the prospectus (the offering); on April 12, 2005, Trust issued additional units under the prospectus on exercise of the over-allotment option granted to the agents of the offering;
7. the units of the Trust are listed on the Toronto Stock Exchange;
8. the prospectus disclosed in detail the proposed investment strategy of the Trust; the Trust was created to provide unitholders with stable monthly distributions while preserving and enhancing the net asset value per unit; the net proceeds of the offering were invested in a portfolio consisting primarily of investment grade corporate bonds and investment grade hybrid preferred securities of principally United States and Canadian issuers;
9. the fiscal year end of the Trust is December 31; the Trust's first interim period ended March 31, 2005;
10. the Trust did not carry on any business from February 25, 2005 to March 16, 2005;
11. during the remaining 11 business days in March, the Trust commenced investment of the net proceeds of the offering in accordance with the terms of the prospectus;
12. the Trust is a non-redeemable investment fund and therefore is not subject to the financial disclosure requirements in National Instrument 51-102 – *Continuous Disclosure Obligations*;
12. its principal regulator is the Ontario Securities Commission, which does not require interim financial statements for any period that is less than three months in length;
13. it is not required to file financial statements for the interim period ended March 31, 2005 in any other jurisdiction other than the province of Quebec, where similar relief has been requested;
14. it will be subject to National Instrument 81-106 *Investment Fund Continuous Disclosure*, which would only require the issuer to file interim unaudited financial statements for a 6 month period and annual audited financial statements; and

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15. the cost of complying with the financial disclosure requirement for the interim period outweighs any benefit that the Trust's unitholders or the public will receive from the financial statements.

### **Order**

¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders under section 91(1)(b) of the Act that the Trust is exempt from the financial disclosure requirements, provided that:

1. the Fund's financial information for the period from formation on February 25, 2005 to March 31, 2005 will be included in the Fund's (a) financial statements for the interim period ending June 30, 2005, (b) financial statements for the interim period ending September 30, 2005, and (c) audited annual financial statements for the period ending December 31, 2005; and
2. the Fund issues a press release disclosing the details of this order.

¶ 4 May 25, 2005

Martin Eady, CA  
Director, Corporate Finance  
British Columbia Securities Commission