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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

First Trust/Highland Capital Floating Rate Income Fund

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

Background

- ¶ 1 The Fund has applied for an exemption from the requirement in section 144(1)(a) of the *Securities Rules*, B.C. Reg. 194/97 to prepare and file interim financial statements for the period from January 27, 2005, the date of its inception, to March 31, 2005, the end of its first fiscal quarter (the financial requirements).

Representations

- ¶ 2 The Fund represents that:
1. the Fund is a non-redeemable investment trust established by declaration of trust dated January 27, 2005 under the laws of Ontario;
 2. it is a reporting issuer in all the provinces of Canada and is not in default of any requirement of applicable securities legislation;
 3. its fiscal year end is December 31;
 4. it carried out its initial public offering under a prospectus dated January 27, 2005; the prospectus disclosed in detail the proposed investment strategy of the Fund;
 5. it closed the initial public offering of its units on February 17, 2005;

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6. the units of the Fund are listed on the Toronto Stock Exchange under the symbol FHT.UN;
7. the primary undertaking of the Fund is the holding of a portfolio of senior secured floating rate corporate loans of debtors that are primary U.S. issuers;
8. in the period ending March 31, 2005, the Fund actively carried on business from February 17, 2005 until March 31, 2005; before February 17, 2005, the Fund had no significant assets and operations;
9. for the period that the Fund actively carried on business, the business of the Fund consisted of investing the net proceeds of the initial public offering and the over-allotment offering, together with amounts drawn on the Fund's secured credit facility, as disclosed in the prospectus;
10. there have been no material changes in the Fund since the date of the prospectus other than as contemplated by the prospectus or as disclosed to the public;
11. 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;
12. 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;
13. 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
14. the cost of complying with the financial disclosure requirement for the interim period outweighs any benefit that the Fund'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 Fund is exempt from the financial requirements, provided that:

1. the Fund's financial information for the period from formation on January 27, 2005 to March 31, 2005 will be included in the Fund's (a) financial statements

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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 27, 2005

Noreen Bent
Manager, Corporate Finance
British Columbia Securities Commission