



**E GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

CAUSE NO. FSD of 2022 (DDJ)

**IN THE MATTER OF SECTION 94 OF THE COMPANIES LAW (2021 REVISION)
AND IN THE MATTER OF SPI INVESTMENT FUND SPC**

PETITION FOR WINDING UP

To: The Grand Court of the Cayman Islands

The humble petition of SPI Investment Fund SPC (the **Company**) of 4th Floor, Harbour Place, 103 South Church Street, PO Box 10260, Grand Cayman, KY1-1102, Cayman Islands shows that:

INTRODUCTION

- 1 The Petition is brought pursuant to section 92(e) of the Companies Act, on the grounds that it is just and equitable that the Company should be wound up.

AUTHORITY

- 2 The Company's Amended and Restated Memorandum and Articles of Association dated 18 April 2016 (**Articles**) expressly provide, at Article 45.5, that the directors may present a winding up petition on behalf of the Company without the prior sanction of the members passed at a general meeting.

- 3 Accordingly, the directors of the Company, being Richard Lewis, Andrew Childe and Michael Pearson of FFP (Directors) Limited (**FFP**) of 2nd Floor Harbour Centre, 159 Mary Street, George Town, Grand Cayman, Cayman Islands, have authority to present this winding up petition (**Petition**) on behalf of the Company pursuant to sections 94(1)(a) and 94(2) of the Companies Act (2021 Revision) (**Companies Act**).
- 4 As more fully set out below, it is noted that the holder of 100% of the management shares in the Company has the power to remove the directors from office.

THE COMPANY AND OTHER KEY PERSONS

- 5 The Company is an exempted company limited by shares, which was incorporated as a segregated portfolio company under the laws of the Cayman Islands on 16 March 2016 (Registration No. 309606).
- 6 The Company is a “*regulated mutual fund*” for the purposes of the Mutual Funds Act (2021 Revision) and has been registered with the Cayman Islands Monetary Authority (**CIMA**) as a mutual fund since 21 April 2016, with reference number 1291371.
- 7 The Company has an authorised share capital of \$50,000 divided into 100 voting non-participating management shares each having a par value of \$0.01 (**Management Shares**) and 4,999,999 non-voting redeemable participating shares each having a par value of \$0.01 (**Participating Shares**). The 100 Management Shares have been issued to Invescap SA (**Invescap**), the Company’s investment manager.
- 8 Save that the Company will not trade in the Cayman Islands with any person, firm or corporation except in furtherance of the business of the Company carried on outside the Cayman Islands, the objects for which the Company is established are unrestricted, and it has full power and authority to carry out any object not prohibited by the Companies Act or any other law of the Cayman Islands.
- 9 The Company currently has one active segregated portfolio, SPI All Yields Fund (AYF) SP (**SPI AYF**). SPI AYF was established under Section 216 of the Companies Act in or around 5 March 2017 and was launched, following a unanimous written resolution of the directors of the Company, on or around 24 October 2017.

- 10 In addition to SPI AYF, the Company has two further segregated portfolios:
- (a) SPI Capital Preservation Fund SP (*SPI Capital*), which was terminated following written resolutions of the directors dated 20 August 2021 and following the submission of redemption requests in respect of all shares in SPI Capital (albeit, on information and belief, no all investor proceeds have been paid).
 - (b) SPI Yield Enhancement Fund SP, in respect of which, on information and belief, there are currently no investors or assets.
- 11 At all material times the Company has offered its Participating Shares upon the terms of a private placement memorandum dated 20 April 2016, subsequently amended and re-issued to investors on or around 19 April 2017 (*PPM*). The PPM is to be read together with the supplement (*Supplement*) relating to each of the Company's segregated portfolios, as such Supplement is amended from time to time. There are five classes of Participating Shares in issue in respect of SPI AYF: Class A (USD) shares (denominated in USD), Class B (EUR) shares (denominated in Euros), Class C (CHF) shares (denominated in Swiss Francs); Class D (CAD) shares (denominated in Canadian dollars) and Class E (GBP) shares (denominated in pounds Sterling). Some of those classes of shares are divided into sub-classes. Shares are offered for subscription to investors pursuant to subscription agreements between investors and the Company acting on behalf of SPI AYF.
- 12 As more fully set out below, the previous directors of the Company have now all resigned - Mr Jacques Leuba, on 28 May 2021¹; Mr Damian Juric, on 18 October 2021; and Mr Jonathan Bain, on 18 October 2021. The current directors of the Company were appointed on 3 October 2021, after the date of the Suspensions (as such term is defined at paragraph 31 below).
- 13 *Invescap*, a company incorporated under the laws of Switzerland, acted as the Company's investment manager during the period 18 April 2016 to 1 October 2021, most recently pursuant to an Amended and Restated Investment Management Agreement dated September 2020 (*Invescap IMA*). The *Invescap IMA* was terminated pursuant to a termination agreement dated 1

¹ Prior to that, Mr George Bashforth was a director of the Company from 11 April 2016 to 19 April 2017. Mr Bashforth was replaced by Mr Leuba, who was appointed on 19 April 2017. Mr Leuba resigned on 28 May 2021 and was replaced, on 26 May 2021, by Mr Juric.

- October 2021 (**Termination Agreement**), but then reinstated on 2 October 2021, subject to various restrictions as set out in a letter from the directors to Invescap dated 24 September 2021.
- 14 On information and belief, one of the directors of Invescap is Marc-Andre Pepin.
- 15 *SPI Investment Management (SPI Investment Management)*, a Cayman Islands exempted company whose registered office was, on information and belief, formerly at One Nexus Way, Camana Bay, George Town, Cayman Islands, was the Company's investment manager from one day, from 1 October 2021 to 2 October 2021, prior to the reinstatement of Invescap as investment manager on 2 October 2021, as more fully set out above.
- 16 *Caceis (Switzerland) SA*, a company incorporated under the laws of Switzerland, acted as the Company's administrator (**Administrator**) pursuant to an Administration Agreement dated 18 April 2016 (**Administration Agreement**). The Administration Agreement was terminated by Caceis, with effect from 31 January 2022, by letter dated 28 October 2021.
- 17 *Caceis Bank Luxembourg, Nyon Branch*, a company incorporated under the laws of Switzerland, has at all material times acted as the Company's custodian and transfer agent (**Custodian**) pursuant to, inter alia, a Share Class Hedging Agreement dated 5 July 2016 (**Share Class Hedging Agreement**) and related ISDA Agreement dated 13 June 2021. The ISDA Agreement was terminated by Caceis "with effect from 21 October 2021" by letter dated 21 October 2021.
- 18 *PricewaterhouseCoopers* and *PricewaterhouseCoopers SA* (together, **PWC**) was formerly the Company's auditors. As more fully set out below, PWC resigned on 21 September 2021.
- 19 The directors believe that the Company is solvent and that upon liquidation there will be a surplus for shareholders.

FALSIFICATION OF THE COMPANY'S AUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDING 31 DECEMBER 2020

- 20 On 30 July 2021, PWC issued a report on its audit of the 2020 financial statements of the Company (**PwC Report**). Based on its audit, PwC concluded that the Company's financial statements gave a true and fair view of the financial position of the Company, with the exception of the matters

described in a section of the report entitled “Basis for qualified opinion”. The PwC Report was unable to provide an unqualified audit opinion because:

- (a) In respect of SPI AYF:
 - (i) As at 31 December 2020, SPI AYF held an investment in a non-quoted investee fund which was valued at US\$6.9m, representing 9.5% of SPI AYF’s net assets as at that date. The board of directors of that investee fund had suspended the net asset value (**NAV**) calculation and subscriptions and redemptions of shares of the investee fund effective 13 September 2019 and the audited financial statements for the investee fund for the period ending 31 December 2020 were not yet available. Given those matters and the illiquid nature of this investment, PwC was unable to obtain sufficient appropriate audit evidence about the valuation of the investment as at 31 December 2020. Consequently, PwC was unable to determine whether any adjustments might be necessary to the carrying value of the investment on the statements of assets and liabilities as at 31 December 2020 or the related net change in unrealised gains/losses on investments, derivatives and foreign currency transactions in the statement of operations for the year ended 31 December 2020.
 - (ii) In addition, there was included in the receivable from investments sold balance as at 31 December 2020 a receivable from the redemption of an investment in an unlisted investee fund amounting to \$4.8m, representing 6.6% of SPI AYF’s net assets as at that date. The board of directors of that investee fund had suspended the net asset value calculation and subscriptions and redemptions of shares of the investee fund since October 2020 and the audited financial statements for the investee fund for the period ending 31 December 2020 were not yet available. Given those matters PwC was unable to obtain sufficient appropriate audit evidence on the recoverability of the receivable from the investee fund at 31 December 2020. Consequently, PwC was unable to determine whether any adjustments might be necessary to the carrying amount of the receivable from investments sold on the statement of assets and liabilities as at 31 December 2020

or to the total operating profit in the statement of operations for the year ended 31 December 2020.

- (b) In respect of SPI Capital, as at 31 December 2020, SPI Capital held an investment in SPI AYF which was valued at \$4.1m, representing 71.9% of SPI Capital's net assets as at that date. In the light of the matters addressed above concerning the basis for the qualified opinion in respect of SPI AYF, PwC was unable to obtain sufficient appropriate evidence on the carrying value of certain investments and receivables held by SPI AYF as at 31 December 2020, which represented 11.5% of the net assets of SPI Capital on a look through basis as at 31 December 2020. Consequently, PwC was unable to determine whether any adjustments might be necessary to the carrying value of the investments on the statement of assets and liabilities, or to the related net change in unrealised gains/loss on investments, derivatives and foreign currency transactions in the statement of operations for the year ended 31 December 2020

(together, the **Qualifications**).

- 21 Throughout August and September 2021, Mr Pepin, on behalf of Invescap and without the prior knowledge or authority of PwC or the then directors of the Company, sent emails to several (in excess of 20) investors in the Company attaching a heavily doctored version of the PwC Report.
- 22 The various modifications to the PwC Report included but were not limited to:
- (a) the removal of the Qualifications. The fact that PwC audit opinion was qualified was removed and replaced by a statement that: "*Financial statements give a true and fair view of the financial position*";
 - (b) the basis for the Qualifications was removed in its entirety and replaced by a statement that: "*We conducted our audit in accordance with International Standards on Auditing ... We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion*";
 - (c) the original PwC signature was removed from the PwC Report and replaced with the PwC signature that had appeared in audited accounts for the year ending 31 December 2019;

- (d) several paragraphs had been amended, and the 'notes' to financial statements and the statement of assets and liabilities were removed.
- 23 On 16 September 2021, Jean-Sebastien Lassonde, a Partner at PwC in Switzerland, sent an email to Mr Pepin stating that he became aware that Mr Pepin had been circulating a modified version of the PwC Report to investors and that he was deeply concerned that this had occurred. Mr Lassonde sought certain information from Mr Pepin, including: (i) why the changes were made; (ii) who the changes were made by; and (iii) the names of all investors which were sent the amended version of the PwC Report.
- 24 On 19 September 2021, Mr Pepin responded to Mr Lassonde's email *inter alia* as follows:

"...I refer to your email dated September 16, 2021 in which I realized, to my dismay, that an amended version of the annual audit of the SPI Investment Fund SPC for year closing on December 31, 2021 appears to be in circulation.

After carrying an internal review, I found out that this is the result of an unfortunate sequence of errors and miscommunications ending up in my company sending these amended reports.

So, here is the sequence of events leading to this situation:

As I received the final audit report, I was wondering if a more succinct version of the report could be feasible and acceptable by PwC. Hence, I undertook some edition of the document with the aim at presenting them to you for review and discussion. From my side this was work in progress for the purpose of a discussion with you only. It was never intended to circulate an unapproved version of the report on the market, never. For a reason that I ignore, the policy character of the signature apparently changed. The signature was the same but the policy didn't and this is not my handwriting neither nor anybody that I know of. Looking at it a different way, if I had have any wrong intention, why on earth would I have changed an existing signature? In the midst of things between calls and other demands, I did not notice any of this. So, I saved the document on our server where many other documents are stored. I made that draft shortly after receiving the report.

From August 4th, at the request of a limited amount of people fortunately, the draft document was inadvertently sent to them as opposed to the original one. I only realized

that when I received your email last Thursday. We normally sent several documents in each emails and dozens of emails per day, so a single wrong file attachment can lead to an error especially considering the overall high amount of information we send and receive every day...

... ..

As you will certainly agree, we have always been supportive of best practices in all areas of our activities. As our business is growing well, we always want to make sure that we keep good control on our activities and avoid any mistakes at all times. As you know so well yourself, the amount of information exchanged had increased enormously in recent years and this experience is highlighting us the importance of further investing in the best information management systems and procedures available going forward. Speaking of which, I would like to know if PwC has these types of competences in its vast consultant pool so that we can be supported in these efforts which we are formally undertaking.”

- 25 On 20 September 2021, Mr Pepin sent an email to certain investors stating that the version of the PwC Report that had been sent to them had been sent erroneously, should not be used and should be deleted. The email also stated: *“Should you have forwarded this email to anyone else please share this message.”*
- 26 On 21 September 2021, Mr Pepin sent an email to the then directors of the Company (Messrs Bain and Juric) and the Company’s Cayman Islands attorneys, Harney Westwood & Riegels (**Harneys**), stating that: *“According to Tessian’s research nearly half of employees in the US and UK admit to attaching wrong files in emails, while **42 percent have sent** attachments to the wrong person, so it’s clearly a widespread issue”* (emphasis in the original). The email contained a link to a webpage.
- 27 Also on 21 September 2021, Mr Pepin sent a further email to the then directors of the Company, to explain how the falsified PwC report had come to be sent.
- 28 The directors have reviewed the explanation given by Mr. Pepin for sending the emails attaching the doctored version of the PwC Report and have concluded that it is highly improbable that it was sent in error and appears likely that it was sent to induce new investment and that the improvement in the financials reflected a positive decision made by Mr. Pepin to show a materially improved position.

SUBSEQUENT EVENTS

- 29 On 21 September 2021, PwC resigned as auditor of the Company.
- 30 Also on 21 September 2021, the directors of the Company wrote to CIMA to inform them of PwC's resignation and the reasons for it.
- 31 On 22 September 2021, the directors of the Company resolved to suspend share subscriptions, redemptions and redemption payments with immediate effect and, subsequently, the calculation of the NAV (the **Suspensions**), in order to allow the Company time to investigate and determine appropriate next steps.
- (a) Also on 23 September 2021, the Company:
- (i) informed Caceis (the Administrator and Custodian) that no instructions from Mr Pepin or Invescap were to be acted upon without the approval of the directors of the Company;
 - (ii) wrote to Caceis directing that it freeze the Company's accounts pending investigations into the matter and, specifically, not to execute or otherwise perform any transactions (including any transfers of monies held in the Company's accounts) unless and until they receive further written notice from the directors of the Company to the contrary.
- 32 On 24 September 2021, the Company wrote to Mr Pepin referring to PwC's resignation and notifying him that (among other things):
- (a) all of Invescap's investment management powers under the Invescap IMA had been suspended;
 - (b) the Portfolio (as defined in the Invescap IMA) had become subject to an investment restriction whereby no transactions in relation to the Portfolio shall be effected by or on behalf of Invescap (or any other person) without the express written approval of the Company's directors.
- 33 On 26 September 2021, Mr Pepin sent an email to Harneys stating, *inter alia*, that he had been in discussions with clients and that the suspension of the Company's trading was unacceptable to

them and further, that all of them had requested that the directors be removed. Mr Pepin's email attached two letters, dated 24 September 2021, addressed to each of Mr Bain and Juric respectively, purporting to remove them as directors of the Company with immediate effect.

34 On 3 October 2021, as set out above, Messrs Lewis, Childe and Pearson of FFP were appointed directors of the Company.

35 On 12 October 2021, both Mr Bain and Mr Juric resigned from their positions as directors of the Company.

SIGNIFICANT AND SERIOUS CONCERNS AS TO THE RELIABILITY OF THE COMPANY'S NAV; THE NEED FOR (FURTHER) INVESTIGATION

36 Following their appointment in October 2021, the directors of the Company engaged a financial consultancy Group, the Brattle Group (**Brattle**) in order to conduct an investigation into the Company's financial health, structure and processes. The directors have, in addition, engaged US and Cayman counsel in order to advise in respect of certain aspects (in particular, security) of the Company's investments (as more fully described below).

37 As a result of those investigations, the directors have significant concerns as to the reliability of the Company's NAV and have formed the view that it is in the interests of stakeholders that the Company be wound up in order that further investigations may be made and appropriate action taken.

38 The directors' concerns arise as a result of the following matters.

Qualifications contained in the PWC audit

39 The PWC audit was qualified, for the reasons set out above. Mr Pepin falsified the audited financial statements and circulated a doctored and forged version to investors.

SPI AYF's investments

Prudent Group

40 As at 30 September 2021, according to the SPI AYF Portfolio Reconciliation Spreadsheet (**PRS**) appended to the Company's NAV statement, 96.9% of the reported fair market value of SPI AYF

derives from direct or indirect investments in entities controlled by the Prudent Group (**Prudent**) and/or its chairman Mr Dennis Klemming.

41 Prudent has been involved in several difficulties, including:

- (a) In May 2021, Mr Klemming notified investors (including SPI AYF) that they should expect a 20-30% reduction in the valuation of the portfolio of the Prudent Diversified Corporate Lending Fund.
- (b) In October 2021, the Board of Directors of Prudent Investment Fund notified investors that there would be a 25% reduction in valuations of the assets in the PIF relative to the last NAV for that fund. The correspondence also suggests that normal course distributions to redeeming investors had been blocked, and that only distributions to investors who had previously redeemed prior to a delisting would be eligible for distributions as per the CSSF, a regulatory body in Luxembourg.

Exposure to medical receivables financing: Sinai Holdings LLC

42 In respect of SPI AYF's investments in Prudent, of particular concern are two portfolio holdings referred to in the PRS as the *Term Deposits* and the *Alphanotes ETP (Sinai Loans)*. The Term Deposits and Alphanotes together comprised 76.1% of the reported fair market value of SPI AYF's assets as at 30 September 2021.

43 The Term Deposits and the Alphanotes are essentially loans (according to SPI AYF's NAV reports as at 31 December 2021, in the aggregate value of c.\$140 million, including accrued interest) made by SPI AYF, directly or indirectly, to two intermediary entities controlled by Mr Klemming:

- (a) International Capital Allocation Ltd (**ICA**); and
- (b) International Portfolio Allocation Ltd (**IPA**).

44 In turn, ICA and IPA purportedly provide medical receivables financing to a company called Sinai Holdings LLC (**Sinai Holdings**) under the terms of master loan agreements dated 18 August 2020 (between ICA as lender and Sinai Holdings as borrower) and 21 January 2021 (between IPA as lender and Sinai Holdings and borrower) respectively. On information and belief, Sinai Holdings then advances some portion of those funds to certain of its subsidiaries operating medical clinics

or practices (*Sinai Subsidiaries*) in exchange for a pledge or other interest in the receivables generated by the Sinai Subsidiaries in the ordinary course of their business (*Receivables*). The Receivables are for the most part paid by government payors (for example, Medicare) and private insurers.

- 45 Under this structure, the directors' understanding in simple terms is that money flows from SPI AYF to IPA/ICA, and then in turn from IPA/ICA to Sinai Holdings, and then in turn, at least in part, from Sinai Holdings to the Sinai Subsidiaries. Receivables generated by the Sinai Subsidiaries flow upwards to Sinai Holdings and then to IPA/ICA. Those funds are perpetually reinvested by ICA/IPA unless SPI AYF makes a demand for repayment.
- 46 Consequently, SPI AYF receives no current payment of interest or other current return relating to its indirect exposure to the Receivables. Instead, interest is accrued on SPI AYF's exposure to IPA and ICA and is reported in the NAV statement. That interest, which is not currently being paid, represents in large part the reported investment performance of SPI AYF (as at 30 September 2021, SPI AYF reported in its NAV statements a fair market value of \$133.9 million. Approximately 10% of this amount is attributable to accrued interest).
- 47 Sinai Holdings is a private company that appears to be majority owned and controlled by a Mr Jacob Gitman, who, on information and belief, has previously been found guilty of fraud by the Kansas District Court of Barton County. The directors understand that Mr Gitman has previously acted as an advisor to certain Prudent funds. The precise history, nature and extent of that relationship between Mr Gitman and Mr Klemming/Prudent is, however, unknown at this time, albeit the directors understand that there is a strong relationship between the families lasting a number of decades.
- 48 The PWC audit did not address, *at all*, SPI AYF's indirect exposure to the Receivables through IPA/ICA, Sinai Holdings and the Sinai Subsidiaries. Accordingly, the valuation protocols applied by the Company for its exposure to the Receivables were not reviewed by valuation specialists at PWC as part of the 2020 audit or otherwise. It is currently unclear to the directors why not. The fact that the valuation protocols were not reviewed by PWC is itself a matter that may require further investigation.

- 49 In addition to the matters set out above, in respect of the Term Deposits and Alphanotes, following preliminary investigations the directors have reason to believe the fair market value is significantly less than is reported in the PRS.
- 50 In particular, the directors' concerns include but are not limited to the following:
- (a) An asset-based lender would typically lend to a borrower based on an advance rate against assets resulting in a loan to value ratio (*LTV*). Mr Klemming has represented to Brattle that collections on the Receivables are approximately 65-70% of the face amount of the invoice, and that IPA and ICA were lending to Sinai at a 50% advance rate as against the face amount. However, there is reason to doubt that collection rate. On a preliminary analysis:
 - (i) to September 2021, Sinai Holdings and the Sinai Subsidiaries have collected only 15% on average of the face amount of Receivables booked in 2020; and
 - (ii) there are indications that 74% of the Receivables for medical procedures purportedly performed in 2020 have received zero payment to 30 September 2021.
 - (b) Brattle was provided with an LTV analysis by Mr Klemming, purporting to show the value of the Receivables and other assets relative to loans outstanding to Sinai Holdings as at 30 September 2021. There is reason to believe that Mr Klemming's LTV analysis is flawed in several respects.
 - (c) As at year end 2020, according to its year-end financial statements, Sinai Holdings:
 - (i) purportedly held \$106m in trade receivables, against which it took a bad debt provision of \$75m (leaving a net receivable value on the books of \$31m);
 - (ii) carried \$60m of debt (as compared to net receivables with an ascribed value of \$31m);
 - (iii) held \$24m in "*other receivables*", in respect of which no further detail is provided; and

- (iv) Held a portfolio of marketable securities with a stated value of \$5.8m as of year-end 2020 (increasing to \$13.1m at 30 September 2021).
- (d) Following a preliminary review of the bank statements of certain (but not all) Sinai entities for the month of September 2021, the directors are concerned that there have been significant cash outflows from the Sinai group. There are indications that Sinai cash has been used to fund other ventures affiliated with Mr Gitman and potentially for personal expenses.
- (e) There are significant doubts as to the validity and/or enforceability and/or extent of security arrangements in place between the various entities. We understand from Mr. Pepin that no independent counsel, either in the US or Cayman, has ever reviewed the security arrangements put in place for the Sinai Loans.
- (f) Brattle has requested documentation from Invescap and Mr. Klemming evidencing the advances made by Sinai Holdings to the Sinai Subsidiaries, and any security arrangements that may be in place. No documentation has been received. There are doubts as to the nature of Sinai Holdings' interest in the Receivables.
- (g) Based on Brattle's findings, there is evidence of cash leakage from the structure, in the form of consulting and arranger fees paid by IPA/ICA to unknown parties, distributions to the owners of IPA/ICA, and distributions to Sinai shareholders.
- (h) Once cash is collected by IPA/ICA, the cash should be recycled to acquire additional receivables on a 2:1 basis (i.e. \$1 million investment/loan should increase receivables by \$2 million). However, based on documents produced by Mr. Klemming purporting to show a reconciliation of the cash collected against outstanding receivables (**Reconciliation Spreadsheets**), there is evidence that the collected cash amounts are being used by Sinai to make private equity acquisitions in new (subsidiary) clinics, instead of purchasing receivables at the stated LTV.
- (i) There is also evidence that IPA/ICA is in contravention to its own investment policies. Mr. Klemming informed the Directors of SPI AYF that once a receivable remains uncollected after 18 months, it is written down to nil value and replaced with "fresh collateral". Based

on the Reconciliation Spreadsheets, receivables with an aggregate value of approximately \$1 million remains uncollected after 18 months, yet there is no evidence that such receivables have (1) been written down, or (2) been replaced with new collateral.

- (j) In relation to the Term Deposits specifically:
- (i) The PRS lists the accrued interest on the Term Deposits at 18% simple interest per annum. The PRS includes this accrued interest in the Company's fair market value calculation.
- (ii) However, in fact, under no circumstances would the Company ever actually receive an interest rate of 18% simple interest per annum in respect of the Term Deposits. Under the respective master loan agreements:
- the total interest rate that accrues over the first 12 months is 18% per annum;
 - that 18% rate decreases over the 10-year term of the loan such that the overall interest rate is 12% per annum over the 10 years (whereby, for example, the interest rate over the last two years is 6% per annum);
 - under no circumstances, however, can SPI AYF ever receive 18% per annum in simple interest in respect of the Term Deposits (under the terms of the loans that SPI AYF makes to IPA and ICA, interest is only payable when the principal amount of the loan is repaid, and if the loan is repaid prior to the maturity date then the rate of interest on the loan reverts back to 12%).
- (iii) That being the case, the Company's reporting in respect of the Term Deposits is misleading.

Exposure to TCA Global Credit Fund

- 51 As at 30 September 2021, the Company was invested in a fund called the TCA Global Credit Fund. On 11 May 2020, the SEC appointed a receiver over various TCA entities, including the TCA Global

Credit Fund, having alleged that it was engaged in a fraudulent scheme to inflate asset values and performance returns.

Summary

52 As a result of the matters set out above, significant investor funds have been subscribed to the Company in 2021 on the basis of a NAV that is or may be unreliable and ought to be subject to high degree of professional scepticism.

IN THE CIRCUMSTANCES IT IS JUST AND EQUITABLE THAT THE COMPANY BE WOUND UP

53 It is just and equitable that the Company should be wound up. There is an urgent need for an investigation into the Company's affairs for the following reasons:

- (a) Mr Pepin, acting on behalf of Invescap, has engaged in fraudulent misconduct and mismanagement to relation to the Company by falsifying the PWC Report and distributing that falsified version to investors.
- (b) The Company's NAV is or may be unreliable, for the reasons set out above.
- (c) There are significant doubts as to the validity and/or enforceability and/or extent of security arrangements. Mr Pepin holds 100% of the management shares in the Company, which enables him to continue to exercise power over the Company.
- (d) Winding up the Company is necessary in order to preserve the assets of the Company and safeguard the interests of its stakeholders.

54 In the circumstances, the Company seeks an order from this Honourable Court that the Company be wound up on the just and equitable basis.

MANAGEMENT SHAREHOLDER

55 As noted above, Invescap holds 100% of the management shares in the Company, which enables Mr Pepin (acting through Invescap) to exercise power over the Company, including the power to remove the current directors from office.

YOUR PETITIONERS THEREFORE HUMBLY PRAY THAT:

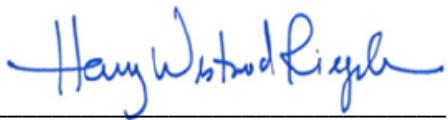
- (1) The Company be wound up pursuant to section 92(e) of the Companies Act. John Royle of Grant Thornton, 2nd Floor, Century Yard, Cricket Square, and Margot Macinnis of Grant Thornton, 2nd Floor, Century Yard, Cricket Square, be appointed as joint official liquidators (the **JOLs**) of the Company.
- (2) The JOLs shall not be required to give security for their appointment.
- (3) The JOLs have the power to act jointly and severally in their capacity as liquidators of the Company.
- (4) The JOLs be authorised to take any such action as may be necessary or desirable obtain recognition of the JOLs and/or their appointment in any other relevant jurisdiction and to make applications to the courts of such jurisdictions for that purpose.
- (5) The Liquidators shall be authorised to exercise the following powers conferred on them by section 110(2) of Part I of Schedule 3 to the Companies Law without the further sanction or intervention of the Court:
 - (a) The Liquidators shall be at liberty to appoint counsel, attorneys and/or other professional advisors, whether in the Cayman Islands or elsewhere as they may consider necessary to advise and assist them in the performance of their duties and on such terms as they may think fit and to remunerate them out of the assets of the Company.
 - (b) The Liquidators shall have the power to pursue applications and/or proceedings in any other jurisdiction for recognition of the liquidation and/or their appointment and/or to obtain information they require to perform their duties.
 - (c) The Liquidators shall have the power to engage staff (whether or not as employees of the Company) to assist them in the performance of their functions.
- (6) The Liquidators shall have the authority and are directed to take possession of, collect and get in any property of the Company in the name of the Company and for that purpose to take any proceedings in any jurisdiction that they consider necessary.
- (7) The Liquidators' remuneration and expenses be paid out of the assets of the Company in accordance with the Companies Winding Up Rules 2018 and Part III of the Insolvency Practitioners' Regulations 2018.

- (8) The costs of the Petitioner be paid out of the assets of the Company as an expense of the liquidation, such costs to be taxed if not agreed with the Liquidators.
- (9) The Liquidators be at liberty to apply generally.
- (10) Such other relief be granted as the Court deems appropriate.

AND your Petitioners will ever pray, etc.

Dated the 31st day of January 2022

Filed the 31st day of January 2022



Harney Westwood & Riegels

Attorneys-at-Law for the Company

NOTE: This petition is intended to be served on the Cayman Islands Monetary Authority at 171 Elgin Avenue, George Town, SIX, Cricket Square, Grand Cayman KY1-1001, Cayman Islands

THIS PETITION is filed by Harney Westwood & Riegels, Attorneys-at-Law for the Company, whose address for service is 3rd Floor, Harbour Place, 103 South Church Street, Grand Cayman KY1-1002 (048000.0003/NXH/JYE/RZ)

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on **25 March 2022 at 10:00am**.

Any correspondence or communication with the Court relating to the hearing of this petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman, KY1-1106, telephone 345 949 4296.