

Date: January 20, 2020

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 (the Application) from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) exempting the Filer from the requirements that:

- (a) the portfolio assets of the Filer be held under the custodianship of one custodian that satisfies the requirements of Part 6 of National Instrument 81-102, *Investment Funds* (NI 81-102) (Custodian Requirements);
- (b) the Filer calculate its net asset value on a weekly basis in accordance with the requirements of Part 14 of National Instrument 81-106, *Investment Fund Continuous Disclosure* (NI 81-106) (NAV Calculation Requirements);
- (c) the Filer prepare, file and deliver to its shareholders interim and annual management reports of Filer performance (MRFP), including the requirements under Parts 2, 4 and 5 of NI 81-106 with respect to interim financial reports and interim and annual MRFP (Financial Reporting Requirements);
- (d) the Filer prepare and file an annual information form (AIF) pursuant to Part 9 of NI 81-106 (AIF Requirement); and
- (e) the Filer prepare and file an independent valuation relating to the value of venture investments or the net assets of the Filer as a precondition to rely on the exemption from the requirement to disclose individual current values for venture investments pursuant to Part 8 of NI 81-106 (Independent Valuation Requirement)

(collectively, the Exemptive Relief Sought).

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

- (a) the Nova Scotia Securities Commission (Principal Regulator) 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 11-102) is intended to be relied upon in Alberta, New Brunswick, Prince Edward Island and Newfoundland and Labrador (collectively with Nova Scotia, the Jurisdictions).

Interpretation

Terms defined in National Instrument 14-101, *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The Filer was incorporated under the *Canada Business Corporations Act* (CBCA) on November 16, 2004.
2. GrowthWorks Atlantic Ltd. (the Manager) was incorporated under the CBCA on August 19, 2004.
3. The registered and head offices of the Filer and the Manager are located in Halifax, Nova Scotia.
4. The Filer is a reporting issuer, or the equivalent, in each of the Jurisdictions and, to its knowledge, is not in default of the securities legislation in any of the Jurisdictions.
5. The Filer is registered as a labour-sponsored venture-capital corporation 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 labour-sponsored venture capital corporation under the *New Brunswick Income Tax Act* (collectively, LSVCC Legislation).
6. The Filer is authorized to issue an unlimited number of Class A shares, issuable in series (Class A Shares), an unlimited number of Class B shares (Class B Shares) and an unlimited number of Class C shares (IPA Shares).
7. The Class A Shares are voting, entitled to discretionary dividends, convertible, redeemable by the holder at the net asset value per Class A Share less any redemption fee and the holders are entitled to elect 5 of the 13 members of the board of directors of the Filer (the Board).

8. The Filer has authorized three types of Class A Shares: the Balanced Series of Class A Shares (Balanced Series Shares), the GIC Series of Class A Shares (GIC Series Shares) and the Conversion Series of Class A Shares (Conversion Series Shares).
9. As of the date of the Application, an aggregate of 3,041,173 Balanced Series Shares are issued and outstanding. There are no Conversion Series Shares nor GIC Series Shares outstanding as of the date of the Application.
10. The Class B Shares are voting, not entitled to dividends, and entitled to elect 8 of the 13 members of the Board, and are issuable only to the sponsor of the Filer
11. As of the date of the Application, an aggregate of 1,000 Class B Shares are issued and outstanding and held by the sponsors of the Filer: the New Brunswick Federation of Labour, the Newfoundland and Labrador Federation of Labour, the Nova Scotia Federation of Labour, the Prince Edward Island Federation of Labour and the Canadian Federation of Labour.
12. The purpose of the Class B Shares is to satisfy requirements under the LSVCC Legislation and the Filer does not expect to issue or redeem any Class B Shares in the normal course of the Filer's operations in the future.
13. The IPA Shares are non-voting, issuable only to the Manager and entitled to receive dividends based on the realized gains and income from each of the Filer's Venture Investments (as hereinafter defined) calculated in relation to the fair market value of the investments as of August 1, 2015, subject to certain conditions.
14. Following the redemption described in paragraph 26 and as of the date of the Application, there are no IPA Shares outstanding.
15. In accordance with the LSVCC Legislation, the Filer's portfolio assets consist mainly of venture investments in small and medium sized businesses in the Atlantic Provinces (Venture Investments) and limited liquid non-venture investments for working capital purposes (Non-Venture Investments).
16. In 2014, the Filer suspended sales and weekly redemptions and the Filer does not expect to offer any additional Class A Shares for sale in the future and, accordingly, expects that it will receive cash only from the sale or maturity of its Venture Investments and Non-Venture Investments.
17. In 2015, the Board designated the Strategic Review Committee (the SRC) to consider, in conjunction with the Filer and the Manager, the options available to the Filer to restructure its operations in the best interests of the Filer's shareholders.
18. On November 20, 2015, the Board announced that it had accepted the unanimous recommendation of the SRC and approved, subject to shareholder ratification and any necessary regulatory approval, the Pro Rata Redemption Plan to distribute available cash

generated from an orderly realization of value from dispositions of the Filer's Venture Investments.

19. The Filer received shareholder approval of the Pro Rata Redemption Plan on February 16, 2016 and, as set out below, it received regulatory approval of the Pro Rata Redemption Plan on December 24, 2015. The SRC recommended that the Filer adopt the Pro Rata Redemption Plan for a number of reasons with an overarching focus on maximizing potential returns to shareholders and ensuring fairness among all shareholders. In accepting the unanimous recommendation of the SRC to adopt the Pro Rata Redemption Plan, the Board determined that the manner in which the Filer distributes available cash to shareholders should be changed from distributions by way of redemptions on a "first redemption request in, first paid out" basis to distributions by way of redemptions to all shareholders on a pro rata basis.
20. With the aim of securing cost savings for the benefit of the Filer's shareholders, the Filer applied to the Principal Regulator and obtained certain exemptive relief from the Securities Legislation in 2015.
21. In particular, by order dated August 21, 2015 (the August 2015 Order), the Principal Regulator granted the Filer relief from the following requirements:
 - a. the Custodian Requirements;
 - b. the NAV Calculation Requirements; and
 - c. that the Filer comply with the disclosure requirements for a change in the auditors of the Filer contained in Subsection 5.3.1(b) and (c) of NI 81-102;

(collectively, the August 2015 Granted Relief).

22. Further, by order dated December 24, 2015 (the December 2015 Order), the Principal Regulator granted the Filer relief from the following requirements:
 - a. that the Filer not pay, or enter into arrangements that would require it to pay, a fee that is determined by the performance of the Filer, except as permitted under Section 7.1 of NI 81-102; and
 - b. that the Filer obtain the approval of the securities regulatory authority or regulator before suspending (other than under Section 10.6 of NI 81-102) the rights of securityholders to request that the Filer redeem their securities, in accordance with Section 5.5(1)(d) of NI 81-102;

(collectively, the December 2015 Granted Relief).

23. Further, by orders dated August 9, 2018 (collectively, the 2018 Orders), the Principal Regulator granted the Filer relief from the following requirements:

- a. The Financial Reporting Requirements;
- b. The AIF Requirement;
- c. The Independent Valuation Requirement;
- d. The Custodian Requirements; and
- e. The NAV Calculation Requirements;

(collectively, the 2018 Granted Relief and together with the August 2015 Granted Relief and the December 2015 Granted Relief, the Prior Relief).

24. In consultation with the SRC and the Principal Regulator, the Filer developed a plan to restructure the Filer's operations (the Restructuring Plan), which included the reduction of its operational costs through the Prior Relief and other cost reduction measures.
25. As part of the Restructuring Plan, among other things, the management agreement between the Filer and the Manager has been amended to reduce the management fee payable to the Manager to 1%, payable only upon receipt of funds by the Filer and provided that there is a corresponding amount distributed to the holders of the Class A Shares.
26. Effective February 1, 2019, the Management Agreement was further amended to reflect a revised compensation arrangement for the Manager with the goal of further aligning the interests of the Filer's shareholders and the Manager. The Filer's shareholders approved the new compensation structure and the related changes to the Management Agreement at the Filer's annual and special meeting of shareholders on December 11, 2018. The key terms of the new compensation structure include: (a) elimination of the 1% management fee payable to the Manager; (b) elimination of the dividend payable on the IPA Shares by the redemption of the IPA Shares for a nominal amount; (c) a 50% reduction in the compensation and expenses of employees of the Manager in connection with Filer business currently covered by the Filer in its annual operating budget; and (d) accrual of 7.5% of the value of net proceeds (net of transaction specific expenses such as legal fees) from any Venture Investments (the Divestment Amount) payable to the Manager. The Divestment Amount would only be paid to the Manager concurrent with a declaration (and payment into trust) of a cash distribution to shareholders (whether under the Pro Rata Redemption Plan) in an aggregate amount at least equal to the amount of the Divestment Amount paid to the Manager.
27. While the operating expenses of the Filer have been reduced by over 50% since obtaining the Prior Relief, the Filer and the Manager have continued to seek alternatives to further reduce operating expenses to extend the timeframe for seeking and executing exit transactions of the Venture Investments in the normal course and provide for additional distributions under the Pro Rata Redemption Plan.

28. In particular, in February 2018, the Filer disposed of its holdings in one portfolio company and used the funds generated from the disposition to repay outstanding liabilities and distribute an aggregate of \$750,000 to shareholders under the Pro Rata Redemption Plan. The initial distribution to all shareholders was completed on May 1, 2018, and a supplemental distribution to GIC Series shareholders on August 24, 2018.
29. In November 2018, the Filer announced that, as a result of triggering certain transitional rules in the *Income Tax Act* (Canada), and confirmation by applicable provincial LSVCC regulators, shares issued for less than 8 years and redeemed by the Filer in accordance with the provisions of the Pro Rata Redemption Plan and share rights can be done without repayment of federal and provincial tax credits.
30. Under the Pro Rata Redemption Plan, each shareholder's proportionate amount of the distribution will be used to redeem, to the extent possible, mature shares (being shares issued for more than 8 years) held by the shareholder at NAV per share at that time and for any remaining balance, by converting on a one for one basis a portion of non-mature shares (being shares issued for less than 8 years) held by the shareholder into Conversion Series Shares.
31. Conversion Series Shares are expected to be redeemed at essentially the same NAV per share after they become mature or at any time provided the shareholder repay applicable tax credits.
32. Effective November 2, 2018, the Filer redeemed all issued and outstanding shares of the following series at the same NAV per share as the relevant distribution:
 - a. Conversion Series Balanced WOF 440 at \$2.88/share;
 - b. Conversion Series GIC WOF 430 at \$5.54/share; and
 - c. Conversion Series GIC WOF 432 at \$5.35/share.
33. Under the Pro Rata Redemption Plan, the Board has the discretion to provide limited priority for processing redemptions in hardship cases such as death, terminal illness and disability. Exercising this discretion, in September 2019, the Filer redeemed 2,351 Balanced Series AVF 433 Shares at \$1.75/share and in October 2019, the Filer redeemed 3,642 Balanced Series AVF 433 Shares at \$1.73/share.
34. The Filer intends to continue to seek exits in its Venture Investments and distribute cash to shareholders as part of an orderly realization of value.
35. The 2018 Granted Relief is subject to a sunset provision under which the 2018 Granted Relief will expire on January 31, 2020.
36. The Filer and the Manager continue to evaluate the Filer's status on an ongoing basis and consider potential courses of action. It is contemplated that as part of the evaluation, the Board consistent with its objective to maximize shareholder value will be in a position on before July 31, 2021, to determine a plan for the future of the Filer, including the orderly

winding up of the Filer or another appropriate course of action and to submit a proposal to shareholders to implement the plan.

37. Due to the composition of the Filer's portfolio assets, comprised primarily of only a few Venture Investments and liquid Non-Venture Investments for working capital purposes, the Filer does not expect a significant number of changes in its financial position throughout each year.
38. As part of the Restructuring Plan, the Filer does not intend to make any further Venture Investments. Accordingly, the Filer expects that it will receive cash only on the sale or maturity of its Venture Investments and Non-Venture Investments.
39. As of the date of the Application, the custodian for the portfolio assets of the Filer is RBC Investor Services Trust.

Custodianship of Portfolio Assets

32. Pursuant to the Custodian Requirements, the Filer's portfolio assets must be held by a custodian that satisfies the requirements of Part 6 of NI 81-102.
33. The August 2015 Granted Relief and the 2018 Granted Relief exempted the Filer from the Custodian Requirements.
34. The 2018 Granted Relief is subject to a sunset provision under which the 2018 Granted Relief expired on January 31, 2020.
35. If the Exempted Relief Sought is granted, the Filer's practices and procedures relating to Venture Investments will include the following consistent with the 2018 Orders:
 - a. at the time of purchase, all security certificates representing Venture Investments are and will be registered in the Filer's name;
 - b. any request to a private company for transfers of certificates will require certain authorizing documentation, including the signatures of executive officers of the Manager on behalf of the Filer on an instrument of transfer;
 - c. any request to a private company for changes of any kind to a certificate (such as a replacement or splitting of a certificate) will require signatures of executive officers of the Manager on behalf of the Filer; and
 - d. security certificates representing Venture Investments will be held off-site with the private company's corporate records, which are typically located at the offices of the private company's legal counsel, or with the Filer's legal counsel.
36. A record of the Venture Investments is typically held by the private company's records office in the company's securities register, and can be used to verify the existence, date of issuance and amount of the Venture Investment.

37. Any changes to a security certificate representing a Venture Investment, including a transfer, will typically require a resolution of the board of directors of the private company and the private company's legal counsel would typically be responsible for processing any such changes.
38. The Filer will typically be aware of any requested changes to a security certificate representing a Venture Investment, as an investment manager of the Filer may be a director of the private company or the Filer's approval may be required to complete the requested change.
39. In the event that a security certificate representing a Venture Investment is lost or stolen, it can be replaced by the Filer by complying with the procedures established by the private company for the replacement of lost or stolen certificates.
40. There is typically no liquid market for Venture Investment securities, so they cannot be readily sold if lost or stolen.
41. If the Exempted Relief Sought is granted, the Filer's practices and procedures relating to Non-Venture Investments will include the following consistent with the 2018 Orders:
 - e. Non-Venture Investments are and will be registered in the Filer's name when issued and held by the Filer's broker;
 - f. the Filer will receive account statements from its broker, which will be reviewed by the Filer for accuracy against the Filer's financial records and for changes against previous statements;
 - g. the Filer's broker will require the following documents and forms to be completed to deposit, transfer or withdraw Non-Venture Investments:
 - i. the original security certificate (in the case of a deposit only);
 - ii. a power of attorney to transfer authorizing the brokerage firm to receive, transfer or issue the certificate and which must be signed by certain executive officers of the Manager on behalf of the Filer and guaranteed in accordance with applicable policies of the third party broker; and
 - iii. a duly signed and authorized certificate from the Filer certifying that the Manager is authorized to act for, in the name of and on behalf of the Filer;
 - h. any request for changes of any kind to a certificate (such as a replacement or splitting of a certificate) will require signatures of executive officers of the Manager on behalf of the Filer; and
 - i. any sale of Non-Venture Investments will require written authority from certain executive officers of the Manager on behalf of the Filer.

42. Any changes to a security certificate representing a Non-Venture Investment will involve a review of the requested action by the company's transfer agent and the agent will typically require documents and forms, including affidavits, powers of attorney and/or certified copies of resolutions, requiring signatures of executive officers of the Manager on behalf of the Filer.
43. Non-Venture Investments held in deposit at a brokerage firm will also be subject to the safekeeping controls of that brokerage firm, which includes custodial services and related controls, and in the event that a brokerage firm loses or damages a certificate representing a Non-Venture Investment, the brokerage firm will be responsible for any resulting liability.
44. In the event that a lost, stolen or destroyed certificate representing a Non-Venture Investment needs to be replaced, this can be done by the company's transfer agent, with supporting documentation and fees from the Filer.
45. The Filer's internal policies and procedures manual includes a section, a copy of which has previously been provided to the Principal Regulator, covering the safekeeping of cash and portfolio investments.
46. The Filer will not offer any additional Class A Shares for sale in the future and, accordingly, expects that it will receive cash only on the sale or maturity of its Venture Investments and Non-Venture Investments.

Net Asset Value Calculations

47. Pursuant to the NAV Calculation Requirements, the Filer must calculate its net asset value on a not less than weekly basis.
48. The August 2015 Granted Relief and the 2018 Granted Relief exempted the Filer from the NAV Calculation Requirements.
49. At an annual and special meeting of the shareholders of the Filer held on February 16, 2016, shareholders of the Filer approved a decrease in the frequency of the calculation of the Filer's net asset value per security in accordance with the August 2015 Granted Relief.
50. The 2018 Granted Relief is subject to a sunset provision under which the 2018 Granted Relief expired on January 31, 2020.
51. The Filer submits that consistent with the 2018 Granted Relief, the Filer will calculate its net asset value on a not less than quarterly basis and will complete an additional calculation of its net asset value within five business days if at any time there is an increase or decrease in its most recently calculated net asset value of 10% or more.

52. The Filer will make the most recent calculation of its net asset value made as described in paragraph 53 above available to the public on its website, through the Globe Investor website and upon request by any shareholder to the Filer.
53. Due to the composition of the Filer's portfolio assets, comprised primarily of Venture Investments, the Filer does not expect any significant changes in its net asset value in each quarter.
54. As part of the Restructuring Plan, except for the purchase of short term cash equivalent investments used to hold divestment proceeds pending distributions pursuant to the Pro Rata Redemption Plan, the Filer does not intend to make any further Venture Investments or Non-Venture Investments in the future.

Financial Reporting, AIF and Independent Valuations

55. Pursuant to the Financial Reporting Requirements, the Filer must prepare, file and deliver to its shareholders annual and interim financial reports and corresponding annual and interim MRFP for each interim and annual period.
56. The 2018 Granted Relief exempted the Filer from the Financial Reporting Requirements, the AIF Requirement and the Independent Valuation Requirement.
57. The 2018 Granted Relief is subject to a sunset provision under which the 2018 Granted Relief expired on January 31, 2020.
58. Due to the composition of the Filer's portfolio assets, comprised primarily of only a few Venture Investments and liquid non-venture investments for working capital purposes, the Filer does not expect a significant number of changes in its financial position throughout each year.
59. As part of the Restructuring Plan, the Filer does not intend to make any further Venture Investments.
60. The Filer will continue to prepare, file and deliver to its shareholders interim and annual financial statements for the Filer in accordance with NI 81-106.
61. The Filer will include disclosure of its management expense ratio calculated in accordance with Part 15 of NI 81-106 in its interim and annual financial statements.
62. If there is a material change in the business or affairs of the Filer, the Filer will comply with the material change reporting requirements under applicable laws, including pursuant to NI 81-106.
63. With the adoption of the Pro Rata Redemption Plan, the disclosure otherwise required but for the Exempted Relief Sought does not provide information that could assist in a decision to hold shares of the Filer. Accordingly, the Filer submits that the Exempted

Relief Sought is appropriate in the circumstances and will not impact shareholders' investment decisions regarding the Filer.

64. The Filer also submits the following additional reasons as support for the Requested Relief:

- a. Given the limited range of business activities to be conducted by the Filer and the fact that the Filer does not expect a significant number of changes in its business activity and financial position from year to year, the provision by the Filer of an interim and annual MRFP and an AIF will not be of significant benefit to the shareholders of the Filer.
- b. If the Filer were to prepare an AIF, there would be little, if any, updates to provide shareholders of the Filer on a year to year basis from the information presented in the last AIF filed by the Filer dated November 27, 2017, and any applicable changes will be disclosed in accordance with the material change reporting requirements.
- c. Given the fact that the Filer is currently operating to realize its greatest value in an orderly fashion and not making any new investments, preparing independent valuations to comply with the Independent Valuation Requirement will not be of significant benefit to the shareholders of the Filer.
- d. As the Filer's operating expenses are generally constant and predictable throughout the year and from year to year, providing interim and annual MRFPs would offer little additional insight to shareholders regarding the Filer's financial results and position.

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.

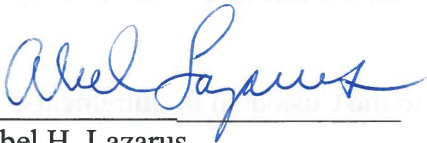
The decision of the principal regulator under the Legislation is that the Exemptive Relief Sought is granted provided that:

(a) in respect of the Exemptive Relief Sought with respect to the Custodian Requirements:

- (i) the Filer will maintain internal controls for its Venture Investments and Non-Venture Investments at least as onerous as those described in representations 35 and 41, respectively, for the term of the relief; and
- (ii) the Filer will not hold any original security certificates representing its investments on its own premises;

(b) in respect of the Exemptive Relief Sought with respect to the NAV Calculation Requirements:

- (i) the Filer will not make any investments in any securities of companies or persons not currently in the Filer's portfolio;
 - (ii) the Filer calculates its net asset value not less than quarterly;
 - (iii) the Filer completes an additional calculation of its net asset value within five business days if at any time there is an increase or decrease in its most recently calculated net asset value of 10% or more; and
 - (iv) the Filer makes the most recent calculation of its net asset value available to the public on its website, through the Globe Investor website and upon request by any shareholder to the Filer; and
- (c) in respect of the Exemptive Relief Sought with respect to the Financial Reporting Requirements, the AIF Requirement and the Independent Valuation Requirement:
- (i) the Filer continues to prepare, file and deliver to its shareholders interim and annual financial statements in accordance with NI 81-106;
 - (ii) the interim and annual financial statements of the Filer will include disclosure on the Filer's management expense ratio calculated in accordance with Part 15 of NI 81-106;
 - (iii) if there is a material change in the business or affairs of the Filer, the Filer will comply with the material change reporting requirements under applicable laws, including pursuant to NI 81-106;
 - (iv) the Filer will not make any investments in any securities of companies or persons not currently in the Filer's portfolio;
 - (v) the Filer will not file a future prospectus; and
- (d) this decision terminates on July 31, 2021.



Abel H. Lazarus
Director, Corporate Finance
Nova Scotia Securities Commission