



## ND STATE INVESTMENT BOARD SECURITIES LITIGATION COMMITTEE MEETING

Monday May 20, 2019 - 3:00 PM  
North Dakota Retirement and Investment Office (RIO)  
3442 East Century Avenue, Bismarck, ND 58503

### AGENDA

1. Call to Order and Approval of Agenda
2. Minutes (November 5, 2018)
3. Annual SIB Securities Litigation Committee Update (1 hour)
  - a. Securities Litigation Committee, Charter and Policy Background – Mr. Hunter *Informational*
  - b. Financial Recovery Technologies - Ms. Emily Fortin and Mr. Craig D'Alessio **Committee Action**
  - c. Mortgage Related Securities Litigation Update – Mr. Hunter *Informational*
4. Securities Litigation Committee Update – Mr. Hunter (15 minutes)
  - a. Committee Membership *Informational*
  - b. Committee Meeting Schedule *Informational*
  - c. Committee Approved Securities Litigation Firms *Informational*
  - d. Biennial Agenda for 2019-2021 **Committee Action**
5. Other - Next Proposed SIB Securities Litigation Committee Meeting

North Dakota Retirement and Investment Office  
3442 E Century Ave, Bismarck, ND 58503  
Thursday, August 22, 2019 at 3:00 PM
6. Adjournment

Any individual requiring an auxiliary aid or service should contact the Retirement and Investment Office at (701) 328-9885 at least (3) days prior to the scheduled meeting.

**NORTH DAKOTA STATE INVESTMENT BOARD  
SECURITIES LITIGATION SUBCOMMITTEE  
MINUTES OF THE NOVEMBER 5, 2018, MEETING**

**BOARD MEMBERS PRESENT:** Troy Seibel, Chair  
Treasurer Kelly Schmidt, Vice Chair (TLCF)  
Connie Flanagan, Chief Financial Officer  
David Hunter, ED/CIO  
Anders Odegaard, Attorney General's Office

**STAFF PRESENT:** Bonnie Heit, Admin Svs Suprv  
Sara Sauter, Audit Svs Suprv

**GUESTS:** Marc Weinberg, Grant & Eisenhofer  
Kyle McGee, Grant & Eisenhofer

**CALL TO ORDER:**

Mr. Seibel, Chair, called the State Investment Board (SIB) Securities Litigation Committee meeting to order at 3:02 p.m. on Monday, November 5, 2018, at the Retirement and Investment Office, 3442 E Century Ave, Bismarck, ND.

**AGENDA:**

IT WAS MOVED BY MR. ODEGAARD AND SECONDED BY MS. FLANAGAN AND CARRIED BY A VOICE VOTE TO APPROVE THE AGENDA FOR THE NOVEMBER 5, 2018, MEETING.

AYES: TREASURER SCHMIDT, MR. SEIBEL, MR. HUNTER, MS. FLANAGAN, MR. ODEGAARD  
NAYS: NONE  
MOTION CARRIED

**MINUTES:**

IT WAS MOVED BY TREASURER SCHMIDT AND SECONDED BY MR. HUNTER AND CARRIED BY A VOICE VOTE TO ACCEPT THE MINUTES OF THE AUGUST 23, 2018, MEETING AS DISTRIBUTED.

AYES: MS. FLANAGAN, MR. ODEGAARD, TREASURER SCHMIDT, MR. SEIBEL, AND MR. HUNTER  
NAYS: NONE  
MOTION CARRIED

### **CONTINGENT DISCLOSURES:**

Mr. Hunter updated the Securities Litigation Committee on the Tribune and General Motors bankruptcy proceedings in which the SIB has been named as a defendant relating to securities that were purchased by external investment managers in one or more portfolios held by the SIB on behalf of its clients. K & L Gates has been retained for legal representation in the Tribune case and Kasowitz Benson Torres has been retained for legal representation in the General Motors case, as appointed by the ND Office of the Attorney General. As of June 30, 2018, no liability has been recorded for the General Motors bankruptcy proceedings as it is too early in the litigation process to reasonably determine whether any payments will be required, but mediation efforts remain on-going. The claim against the SIB in the Tribune bankruptcy litigation has been dismissed, but a final order has not been entered into because the court has yet to decide the remaining claims in the case against unrelated defendants; however, the US District court has stayed the trustee's request to amend the complaint to add a constructive fraudulent transfer claim pending the Second Circuit's disposition of the unrelated defendant's claims in light of the US Supreme Court's decision in merit management. Any final judgment (including the claim against the SIB) is subject to appeal. Accordingly, no liability has been recorded at this time.

### **EDUCATION:**

Grant & Eisenhofer representatives Mr. Marc Weinberg and Mr. Kyle McGee provided an overview of their firm and reviewed a number of their firms international securities litigation cases.

### **SECURITIES LITIGATION FIRMS:**

Mr. Hunter updated the Securities Litigation Committee on firms the SIB has retained to represent the SIB in securities litigation cases. Kasowitz Benson Torres was retained for the General Motors case, K & L Gates for the Tribune case, and Grant & Eisenhofer for the Volkswagen case. The SIB also engaged Financial Recovery Technologies (FRT) to enhance the SIB's ability to recover investment losses in the US and international securities litigation cases.

In 2018, the Securities Litigation Committee met with the following law firms widely considered to be leading experts in the securities litigation field - Bernstein Litowitz Berger & Grossman, Robbins Geller Rodman & Dowd, Labaton Sucharow, Kaplan Fox, and Grant & Eisenhofer.

Discussion followed on the firms and the process the SIB would utilize if future legal representation would be needed. The Securities Litigation Committee felt it important to identify at least three firms for future consideration. After discussion,

**IT WAS MOVED BY TREASURER SCHMIDT AND SECONDED BY MR. HUNTER AND CARRIED BY A ROLL CALL VOTE TO IDENTIFY BERNSTEIN LITOWITZ BERGER & GROSSMAN, LABATON SUCHAROW, AND GRANT & EISENHOWER AS THE SECURITIES LITIGATION FIRM'S THE SIB WILL CONSIDER IF LEGAL REPRESENTATION IS NEEDED IN THE FUTURE.**

**AYES: MR. ODEGAARD, MR. HUNTER, MS. FLANAGAN, TREASURER SCHMIDT, AND MR. SEIBEL**

**NAYS: NONE**

**MOTION CARRIED**

**MEETING SCHEDULE:**

Mr. Hunter presented a draft meeting schedule for 2019 for the Securities Litigation Committee's consideration.

**IT WAS MOVED BY MR. ODEGAARD AND SECONDED BY MS. FLANAGAN AND CARRIED BY A VOICE VOTE TO ACCEPT THE 2019 MEETING SCHEDULE.**

**AYES: MR. HUNTER, MS. FLANAGAN, MR. SEIBEL, TREASURER SCHMIDT, AND MR. ODEGAARD**

**NAYS: NONE**

**MOTION CARRIED**

**OTHER:**

The next Securities Litigation Committee meeting is scheduled for February 14, 2019, at the Retirement and Investment Office, 3442 East Century Avenue, Bismarck, ND.

**ADJOURNMENT:**

With no further business to come before the Committee, Mr. Seibel adjourned the meeting at 3:57 p.m.

---

Mr. Seibel, Chair

---

Bonnie Heit  
Recording Secretary

***Informational***

**TO:** SIB Securities Litigation Committee  
**FROM:** Dave Hunter and Connie Flanagan  
**DATE:** May 15, 2019  
**SUBJECT:** Annual SIB Securities Litigation Committee Update

---

**Securities Litigation Committee, Charter and Policy Background:**

Committee - On January 26, 2018, the SIB established a new five member Securities Litigation Committee including Chief Deputy Attorney General Troy Seibel, State Treasurer Kelly Schmidt, Assistant Attorney General Patrick Brooke, RIO Chief Financial Officer Connie Flanagan and RIO Executive Director Dave Hunter.

Charter and Policy - On April 27, 2018, the SIB unanimously approved the following Securities Litigation Committee Charter and Securities Monitoring and Litigation Policy.

**CHARTER OF THE  
SECURITIES LITIGATION COMMITTEE OF THE  
NORTH DAKOTA STATE INVESTMENT BOARD**

**PURPOSE**

The Securities Litigation Committee (the Committee) is a standing committee of the North Dakota State Investment Board (SIB) created to assist in fulfilling its fiduciary oversight responsibilities of monitoring the investment of assets entrusted to it by the various statutory and contracted funds, and to serve as a communications link for the SIB, RIO's management and staff, third party securities litigation firms, and others.

The Committee will determine when an active role should be pursued in regards to securities litigation affecting securities within the SIB's portfolios.

**AUTHORITY**

The Committee is authorized to:

- draft policy (to be formally approved by SIB) regarding dollar and/or risk thresholds for determining when to opt-out of class actions and/or seek direct litigation or lead plaintiff status;
- based on SIB approved policy, make decisions on the level of participation the SIB will take in direct litigation, opt-in or group litigation, anti-trust and other class actions; and
- approve the selection of special assistant attorneys in cases of direct litigation.

## **COMPOSITION**

The Committee will consist of the Executive Director of RIO, one member of RIO fiscal or investment staff, RIO general counsel, and two members of the SIB appointed by the Chair.

Membership on the Committee will be for one year or termination of term on the SIB. Vacancies will be filled by the SIB Chair at the first scheduled meeting following the vacancy. There will be no limit to the number of terms served on the Committee.

The Committee will elect a Chair and a Vice Chair. The Chair will preside at all meetings of the Committee and serve as the liaison to the SIB. In the absence of the Chair, the Vice Chair will perform the duties of the Chair. The liaison will report at least four times a year to the SIB on the activities of the Committee and other pertinent information.

The Committee may form, and delegate authority to, subcommittees when it deems appropriate.

## **MEETINGS**

The Committee will meet generally four times a year, with authority to convene additional meetings, as circumstances require or to adequately fulfill all the obligations and duties as outlined in this charter.

Meeting agendas will be prepared by the Executive Director and approved by the Committee Chair, unless otherwise directed by the Committee and will be provided to the Committee members along with briefing materials before the scheduled committee meeting.

Committee members are expected to attend each meeting, in person or via tele- or video-conference. RIO's executive management and others necessary to provide information and to conduct business will attend meetings. The Committee may invite staff of RIO or others to attend meetings, as necessary. The Committee may hold executive sessions as allowed under state law.

The Committee will act only on the affirmative vote of three of the committee members at a meeting. To conduct business, a quorum will be three members of the Committee. Should a quorum not be present before a scheduled meeting or during a meeting, the Chair will announce the absence of a quorum and the members will disburse. Meetings unable to transact business for lack of a quorum are not considered meetings. Meeting minutes will be prepared by RIO, or as otherwise directed by the Committee. Approved meeting minutes of the Committee will be submitted to the SIB.

## **RESPONSIBILITIES**

RIO's management is responsible for ongoing monitoring of securities litigation and claims filing. Based on SIB approved policy guidelines, the Committee has the responsibility to provide oversight in the areas of:

- policy development
- determination on direct litigation and/or lead plaintiff status
- approval of special assistant attorneys (outside counsel)

To this end, the Committee will:

- Develop initial policy and periodically review policy to determine if changes are needed.
- Review reports from RIO staff and third parties in order to maintain awareness of potential and actual securities litigation affecting the SIB portfolios.
- Make decisions on whether to pursue direct litigation and/or lead plaintiff status on cases exceeding policy thresholds for passive participation.
- Select third party litigation firms when deemed appropriate.
- Perform other activities related to this charter as requested by the SIB.
- Review and assess the adequacy of the Committee charter annually, requesting the SIB approval for proposed changes.
- Confirm annually the review of all responsibilities outlined in this charter.

### **Reporting Responsibilities**

- Report to the SIB about the Committee's activities, issues, and related recommendations.
- Provide a written report annually to the SIB, describing the Committee's composition, responsibilities and how they were discharged, and any other information required.

**DATE SECURITIES LITIGATION COMMITTEE CHARTER ADOPTED:** April 27, 2018

## **POLICY TITLE: SECURITIES MONITORING AND LITIGATION POLICY**

### **General Purpose**

1. The North Dakota State Investment Board (“SIB”) is a fiduciary for assets held in trust for the benefit of SIB clients, including their beneficiaries.
2. In order to carry out its fiduciary duty to prudently invest and diversify the assets of the various investment funds, the SIB invests considerable assets in global public securities markets.
3. The efficient and effective deployment of plan assets requires that in seeking returns market risks must be prudently assumed and managed. Investing in publicly-traded securities in regulated markets under accounting, disclosure and business practice laws and regulations provides general, but not perfect assurance that the information forming the basis for investments is accurate, conforms with accepted accounting practices, and is not distorted due to misfeasance, malfeasance or nonfeasance, or the timing of information disclosures by persons or entities with the ability to affect market prices of the investment securities.
4. Legal action is sometimes necessary to attempt to recover all or part of losses the funds may incur due to alleged improper action or inaction which results in the impairment of the value of the funds’ security holdings.
5. Most such actions will be prosecuted through class action litigation whether or not the SIB takes an active role as a plaintiff or a passive role as a member of a certified class of plaintiffs. Any ultimate award or settlement from a class action will be ratably allocated among legitimate claimants.
6. The SIB will generally only consider pursuing active participation in securities actions when such a role is expected to add value by enhancing the prospect for recovery, increasing the amount of recovery, assuring more efficient and effective prosecution of the case, or identifying and addressing corporate governance issues through litigation.

For purposes of this Policy, “active participation” means seeking status as lead plaintiff, co-lead plaintiff, or filing separate legal action.

### **Non-Active Recovery and Filing**

1. SIB will require as part of its agreement with its custodial bank or other designated agent, that adequate securities class action monitoring is maintained on an ongoing basis, sufficient to assure that most of the actual awards and settlements for such cases are tracked and identified and that proof of claim forms, including supporting documentation, will be properly and timely filed.



2. SIB may engage one or more legal firms that specialize in prosecuting security class-action cases; any such engagement is subject to the special appointment requirements of N.D.C.C. § 54-12-08. For these purposes only, such firm(s) may be granted ongoing access to security holdings information through the custodian bank or other designated agent.
3. An agreement with any law firm for non-litigation services will not commit SIB to employing said firm in the event that it seeks to represent SIB as an active participant in any securities related litigation. Such representation must be effected by a separate retainer agreement between the SIB and said firm, or another, depending on such factors as the potential monetary scope, the nature of the case and industry specialty that may be required, the allocation of current or past cases among candidate firms, the likely duration and cost of prosecuting such a case, retainer fees or contingency splits, the venue in which the case is to be filed, and other considerations.
4. The custodial bank or other designated agent will be required to provide the Retirement and Investment Office (“RIO”) with periodic reports that detail class action cases monitored, claims filed, and award or settlement distributions received. RIO will maintain these records and provide an update to the SIB or Securities Litigation Committee (Committee) with regards to accounting information on distributions received on claims filed by the custodian bank or other designated agent on our behalf.

#### Active Participation in Cases

1. The Executive Director will initiate active participation in securities cases only upon prior review and approval of the SIB or Committee. Before bringing any recommendations to the SIB or Committee, the Executive Director, with significant assistance from legal counsel from the Office of the Attorney General, will assess the merits and prospects for active participation by reference to the criteria and factors outlined in this section.
2. Decision Criteria and Factors:
  - a. The decision to participate in an active capacity in security litigation should be based on the totality of the circumstances. Dollar loss amounts are important, but not the sole or overriding factor to consider in making such recommendations by the Executive Director, or determinations by the SIB or Committee.
  - b. Potential losses to SIB clients must be significant in order to warrant participation as a lead plaintiff, co-lead plaintiff, or separate litigant in U.S.

or Canadian cases. Generally, in cases where the potential loss does not exceed the \$5 million, the SIB will generally avoid active participation.

- c. The *prima facie* merits of the claim for loss, and the factual basis for the action, recognizing that the full discovery process will not commence until the class has been certified by the court in which such case is to be filed.
  - d. The availability of witnesses, and possible support that may be obtained from investment managers, consultants, and the custodial bank through discovery.
  - e. The potential that any defendants or insurers will be able to pay an adequate recovery to the class, without impairing the value of any current security holdings SIB may yet hold in the issuer in the portfolio.
  - f. The ability of the law firm recommending action on the part of SIB to prosecute the case effectively, in the venue where such case is likely to be filed, and the experience of the firm in managing such cases individually or in partnership with other firms.
  - g. Potential long-term benefits from corporate governance changes from pursuing litigation.
  - h. The ability of SIB to serve as a fiduciary on behalf of all class members in the case, especially in relative terms to other institutional investors that may be considering the same case.
  - i. Potential costs that may be incurred. Special consideration must be given to any case that must be filed in a non-U.S. venue under the “Morrison” criteria established by the U. S. Supreme Court in a 2010 decision, since costs of litigation and potential liabilities of unsuccessful claims may be significant.
  - j. Current workload and staffing resources required for the fulfillment of SIB’s primary member service functions, and whether participation might displace time and staff resources needed for core business functions.
3. Decision Criteria and Factors for cases filed in a non-U.S. venue: In addition to the Criteria and Factors set forth in Subsection 2, the SIB or Committee may consider the following:
- a. The proposed funding arrangements for the action.
  - b. Evaluate the merits and risks of the case in light of the law of the jurisdiction in which the action would be brought. Generally, in cases where the potential loss does not exceed the Jurisdictional Thresholds

referenced in Exhibit A, the SIB will avoid opt-in or group litigation participation.

#### Roles in Managing & Monitoring Litigation

1. The SIB or Committee will make the final determination of whether it is in the SIB's best interest to pursue active participation in any case and whether to engage any law firm and the terms of such engagement.
2. Decisions regarding the conduct and implementation of the SIB's or Committee's decision to participate will be the responsibility of the Executive Director, or an approved member of the management staff if he so delegates. When feasible and advisable, the Executive Director shall seek advice and direction from the SIB or Committee on strategic and legal issues that may arise in prosecuting the action on behalf of the SIB and its clients. The Executive Director shall timely report to the SIB or Committee on the progress of the litigation.
3. The Executive Director shall be responsible for management of the relationship with any portfolio monitoring law firm or organization for such purpose. Based on the need for additional coverage, the Executive Director and Committee will determine whether one or several firms are needed to fulfill the goals of this Policy and may terminate such monitoring agreements as judgment advises.
4. Any agreement for portfolio monitoring services that includes a fee or subscription cost must first be approved by the SIB or Committee before execution by the Executive Director.

#### Policy Review

1. The Committee and SIB shall review this policy at least every three years to ensure that it remains relevant and appropriate.

#### **Policy Review Update – May 20, 2019:**

**In order to adhere to industry best practices, RIO has requested Financial Recovery Technologies (FRT), to provide an annual review of our own securities litigation monitoring and claims filing policies including: 1) "U.S. Opt-out" settlements; 2) "International Opt-in" Actions and Jurisdictions; and 3) Global Anti-Trust activity.**

**FRT's review will include a review of recent litigation activity and make a recommendation to lower the International "Opt-In" threshold from \$20,000 to zero for "Passive/Very Low Risk Jurisdictions". RIO supports this recommendation.**

## Exhibit A

### Non-US Opt-In and Group Litigation Jurisdictional Thresholds

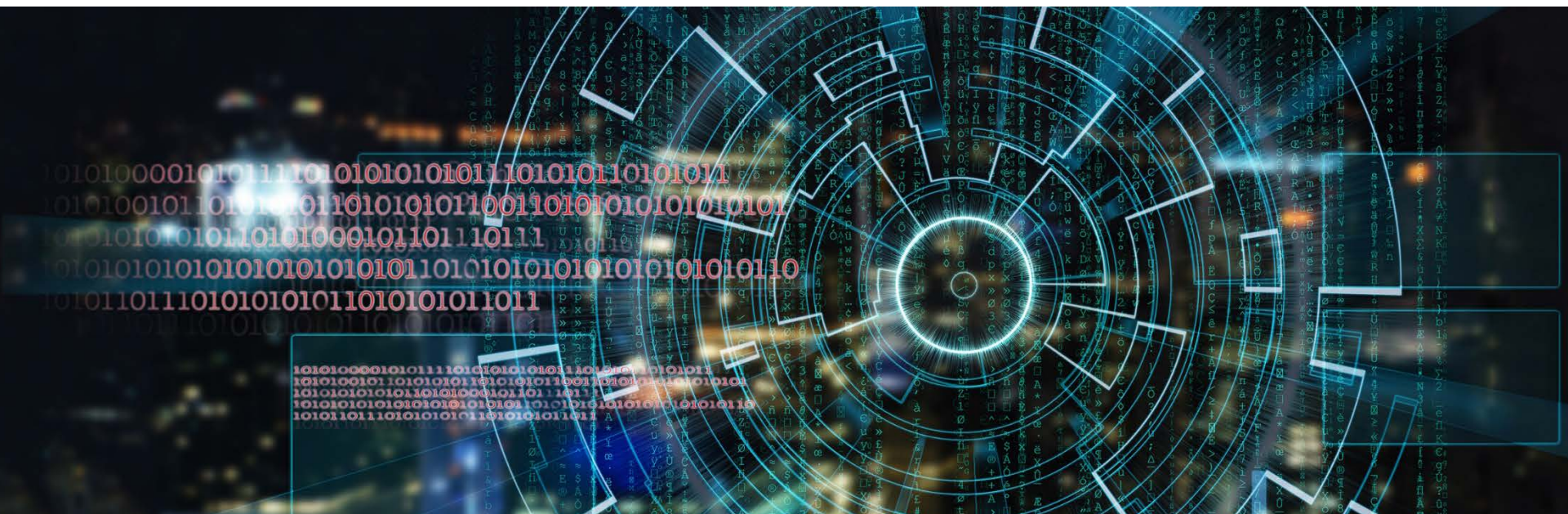
Jurisdictional Description	Threshold
Passive/very low risk jurisdictions, simple registration or claim filing (no participation in litigation required, strong anonymity, very low costs) including, but potentially not limited to: Australia, Israel, Netherlands (including Dutch Foundations), regulatory funds (e.g. Compensation Schemes in UK)	<b>\$20,000 (FRT proposal to lower to zero)</b>
Low risk jurisdictions (no discovery, low cost) including, but potentially not limited to: Japan	<b>\$1 million</b>
Moderate risk jurisdictions (moderate cost, funded/insured to protect from cost shifting, some restricted discovery, not fully public) including but potentially not limited to: Germany, Austria, Belgium, Switzerland, Denmark, Spain, Finland, France, Hong Kong, Indonesia, Ireland, Italy, Korea, Luxembourg, Malaysia, Norway, New Zealand, Portugal, Sweden, and Thailand	<b>\$5 million</b>
High risk jurisdictions (potential in-person discovery, no anonymity, uncapped fees) including, but potentially not limited to: Taiwan, United Kingdom, Singapore, Brazil	<b>\$10 million</b>

Jurisdictional Thresholds are developed in consultation with legal counsel including other designated agents which are experts in global securities litigation matters.

**Policy Implemented:** November 20, 2015

**Policy Amended:** April 27, 2018

## Program Update – North Dakota State Investment Board



# OVERVIEW AND UPDATE

- Jan 2018 - NDSIB engaged with FRT to provide a comprehensive Governance Solution for Securities Monitoring and Litigation
- Apr 2018 – Securities Monitoring and Litigation Policy finalized
- Since the Policy has been in place FRT has increased and improved the coverage for all potential recovery opportunities and has shown demonstrable improvements in the following areas:
  - **FRT Filing** – Opt-out Settlements
  - **FRT Global\*** – Opt-in Jurisdictions
  - **FRT Antitrust\***

\* Coverage not available from Northern Trust

# FRT FILING: OPT-OUT SETTLEMENTS

FRT assumed responsibility for US passive claims filing in March 2018.

- FRT has employed its proprietary pre-filing analytics methodology. To date the following cases have been identified as benefiting from our capabilities:

## CLAIMS FILED SUMMARY: AGGREGATE LEVEL

Case Name	Claim Deadline	Settlement Fund	Est Pay Date	Disaggregate Recognized Loss	Aggregate Recognized Loss	Difference
WELLS FARGO & COMPANY	1/23/2019	\$ 480,000,000.00	4/30/2020	\$ 159,709.97	\$ 278,293.53	\$ 118,583.57
LEAPFROG ENTERPRISES, INC.,	8/8/2018	\$ 5,500,000.00	11/30/2019	\$ 1,054.00	\$ 2,361.00	\$ 1,307.00
BIG LOTS, INC.	10/8/2018	\$ 38,000,000.00	1/31/2020	\$ 35,161.42	\$ 35,264.22	\$ 102.80
SYMBOL TECHNOLOGIES, INC.	11/29/2018	\$ 15,000,000.00	9/30/2019	-	\$ 23,105.47	\$ 23,105.47
CITIGROUP, INC.,	7/1/2018	\$ 75,000,001.00	10/31/2019	\$ 82,603.39	\$ 102,999.15	\$ 20,395.76
MEDTRONIC, INC.	1/2/2019	\$ 43,000,000.00	9/30/2019	\$ 45,727.97	\$ 52,812.30	\$ 7,084.33
Total Recognized Loss Increase:						<b>\$170, 578.93</b>

*\* Historical pro-rata payouts for settlements is between 4-6% on average*

**Expected Recovery Increase (6% Pro-rata\*): \$10,235**



# FRT FILING: REPORTING

Monthly Status Reports provide a summary of NDSIB's Claim Filing activity

## North Dakota State Investment Board

Period from 2019-04-01 to 2019-04-30

### Status Report: Account Details

Claim Status Summary					
Status	# Cases	Settlement Fund	Total Recognized Loss	Pro Rata Shares	\$ Recovered
Newly Filed	2	\$164,850,000	\$28,769	0	-
Newly Paid	1	\$9,500,000	\$11,549	-	\$4,573
Previously Filed	29	\$4,489,535,726	\$635,730	3,775	-
<b>Total</b>	<b>32</b>	<b>\$4,663,885,726</b>	<b>\$676,048</b>	<b>3,775</b>	<b>\$4,573</b>

### Anti-Trust Claim Status Summary (please refer to EFR Portal for filing details)

Status	# Cases	Settlement Fund	# Claims	\$ Recovered
Previously Filed	7	\$3,699,775,000	456	-
<b>Total</b>	<b>7</b>	<b>\$3,699,775,000</b>	<b>456</b>	<b>\$0</b>

### Newly Filed Claims

Case Name / Account Name	Claim Deadline	Settlement Fund	Class Period	Total Recognized Loss	Pro Rata Shares	Est Pay Date
COBALT INTERNATIONAL ENERGY, INC.,	4/4/2019	\$146,850,000	2/28/2011 10/11/2018	\$0	0	9/30/2019
NDINS LA CAPITAL ENHANCED -SL	4/4/2019	\$146,850,000	2/28/2011 10/11/2018	\$0	-	9/30/2019
NDINS LA CAPITAL GROWTH -SL	4/4/2019	\$146,850,000	2/28/2011 10/11/2018	\$0	-	9/30/2019
NDINS PIMCO RAE SMALL CAP-SL	4/4/2019	\$146,850,000	2/28/2011 10/11/2018	\$0	-	9/30/2019
NDK09-NDPEN LOOMIS SA	4/4/2019	\$146,850,000	2/28/2011 10/11/2018	\$0	-	9/30/2019
NDLEG PIMCO RAE SMALL CAP -SL	4/4/2019	\$146,850,000	2/28/2011 10/11/2018	\$0	-	9/30/2019
NDLEG-LA CAPITAL ENHANCEMENT-SL	4/4/2019	\$146,850,000	2/28/2011 10/11/2018	\$0	-	9/30/2019
NDPEN L.A. CAPITAL	4/4/2019	\$146,850,000	2/28/2011 10/11/2018	\$0	-	9/30/2019
NDPEN LA CAPITAL	4/4/2019	\$146,850,000	2/28/2011 10/11/2018	\$0	-	9/30/2019
INVESTMENT TECHNOLOGY GROUP, INC.,	4/4/2019	\$18,000,000	2/27/2011 10/30/2015	\$28,769	0	7/31/2020
NDINS PIMCO RAE SMALL CAP-SL	4/4/2019	\$18,000,000	2/27/2011 10/30/2015	\$6,278	0	7/31/2020
NDLEG PIMCO RAE SMALL CAP -SL	4/4/2019	\$18,000,000	2/27/2011 10/30/2015	\$22,492	0	7/31/2020

### Newly Paid Claims



# FRT GLOBAL: GOVERNANCE POLICY

## Policy Review

1. The Committee and SIB shall review this policy at least every three years to ensure that it remains relevant and appropriate.

## Exhibit A Non-US Opt-In and Group Litigation Jurisdictional Thresholds

Jurisdictional Description	Threshold
Passive/very low risk jurisdictions, simple registration or claim filing (no participation in litigation required, strong anonymity, very low costs) including, but potentially not limited to: Australia, Israel, Netherlands (including Dutch Foundations), regulatory funds (e.g. Compensation Schemes in UK)	\$20,000
Low risk jurisdictions (no discovery, low cost) including, but potentially not limited to: Japan	\$1 million
Moderate risk jurisdictions (moderate cost, funded/insured to protect from cost shifting, some restricted discovery, not fully public) including but potentially not limited to: Germany, Austria, Belgium, Switzerland, Denmark, Spain, Finland, France, Hong Kong, Indonesia, Ireland, Italy, Korea, Luxembourg, Malaysia, Norway, New Zealand, Portugal, Sweden, and Thailand	\$5 million
High risk jurisdictions (potential in-person discovery, no anonymity, uncapped fees) including, but potentially not limited to: Taiwan, United Kingdom, Singapore, Brazil	\$10 million

Jurisdictional Thresholds are developed in consultation with legal counsel including other designated agents which are experts in global securities litigation matters.

# FRT GLOBAL: OPT-IN OPPORTUNITIES

The securities class action landscape has evolved significantly in recent years with increased settlements in Global Group Litigations.

- Northern Trust does not offer this coverage

PASSIVE/VERY LOW RISK JURISDICTIONS				
Case Name	Jurisdiction	Type	Loss Calculation*	Opt-in Deadline
CIMIC GROUP (MAURICE BLACKBURN)	Australia	Passive	\$25,336 (ORG)	FILED
FORTIS (AGEAS) DUTCH FOUNDATION	Netherlands	Passive	\$74,814 (FRT)	7/31/2019
TESCO PLC DUTCH FOUNDATION (MORGANTI)	Netherlands	Active	\$766,700 (FRT)	TBD
VOLKSWAGEN AG DUTCH FOUNDATION (LABATON SUCHAROW)	Netherlands	Active	\$311,576 (FRT)	TBD

LOW RISK JURISDICTIONS				
Case Name	Jurisdiction	Type	Loss Calculation*	Opt-in Deadline
TOSHIBA (ATSUMI AND SAKAI) JAPANESE SECURITIES LITIGATION	Japan	Active	\$25,764 (FRT)	CLOSED
TOSHIBA CORP., SECURITIES LITIGATION (TILP)	Japan	Active	\$256,499 (FRT)	CLOSED
TOSHIBA CORPORATION (DRRT) SECURITIES LITIGATION	Japan	Active	\$256,499 (FRT)	CLOSED

\* Losses in USD

# FRT GLOBAL: OPT-IN OPPORTUNITIES (CONTINUED)

MODERATE RISK JURISDICTIONS				
Case Name	Jurisdiction	Type	Loss Calculation*	Opt-in Deadline
DAIMLER AG (ROTTER RECHTSANWAELTE)	Germany	Active	\$64,752 (FRT)	6/15/2019
DAIMLER AG (TILP)	Germany	Active	\$322,978 (FRT)	6/15/2019
DANSKE BANK (Burford)	Denmark	Active	\$679,164 (FRT)	6/20/2019
DANSKE BANK (DEMINOR)	Denmark	Active	\$686,940 (ORG)	6/20/2019
DANSKE BANK (GRANT & EISENHOFER , DRRT)	Denmark	Active	\$2,182,596 (ORG)	6/20/2019
DANSKE BANK (IMF Bentham)	Denmark	Active	\$679,164 (FRT)	6/20/2019
DANSKE BANK (ISAF ET AL)	Denmark	Active	\$1.212.676 (ORG)	6/20/2019
DANSKE BANK (STEWARTS)	Denmark	Active	\$679,164 (FRT)	6/20/2019

HIGH RISK JURISDICTIONS				
Case Name	Jurisdiction	Type	Loss Calculation*	Opt-in Deadline
GLENCORE PLC (QUINN EMANUEL)	United Kingdom	Active	\$2,404,628 (FRT)	TBD
JBS S.A. Securities Litigation (GRANT & EISENHOFER)	Brazil	Active	\$33,615 (FRT)	TBD
TESCO PLC UK SECURITIES LITIGATION (BOIES SCHILLER & FLEXNER)	United Kingdom	Active	\$ 733,324 (FRT)	CLOSED
TESCO PLC UK SECURITIES LITIGATION (HAUSFELD)	United Kingdom	Active	\$146,759 (FRT)	CLOSED
TESCO PLC UK SECURITIES LITIGATION (INNSWORTH/STEWARTS)	United Kingdom	Active	\$152,673 (ORG)	CLOSED
TESCO PLC UK SECURITIES LITIGATION (SCOTT AND SCOTT)	United Kingdom	Active	\$406,319 (FRT)	CLOSED

## FRT GLOBAL: DISBURSED ACTIONS

While recoveries have been modest to date, FRT expects more opportunities for NDSIB to file and recover in Jurisdictions outside the US/CA

### REMITTANCE SUMMARY

Case Name	Jurisdiction	Status	Remit Date	\$ Recovered
Tesco PLC Compensation Scheme (KPMG)	UK/Comp Scheme	PAID	11/20/2018	\$36,473.64

# FRT ANTITRUST

- Currently, there are more than **40** active antitrust cases, **8** of which have already recovered more than **\$3B** in partial settlements
  - Recoveries in the Foreign Exchange Benchmark Antitrust Litigation (currently over \$2B+) could ultimately total more than an entire year of settled securities class actions.
- At FRT, we are actively monitoring over 40 non-securities cases

ANTITRUST CASE FILING SUMMARY				
Case Name	Settlement Amounts	Claim Deadline	Eligible?	Number of Claims Filed
(FX CANADA) STAINES V. ROYAL BANK OF CANADA ET AL	\$106,747,205	08/19/2019	TBD	CA Entities Only
(EURIBOR) SULLIVAN V. BARCLAYS PLC ET AL – Round 2	\$182,500,000	7/31/2019	YES	10
ISDAfix Second Settlement (BNP, Morgan Stanley, et al.)	\$96,000,000	12/23/2018	YES	56
(LIBOR OTC) DEUTSCHE BANK AND HSBC SETTLEMENTS	\$340,000,000	12/20/2018	YES	21
Lenders LIBOR - Citibank, HSBC, and Barclays Settlement	\$31,000,000	11/20/2018	NO	N/A
(EUROYEN) The Bank of Tokyo-Mitsubishi, UFJ, Ltd.	\$30,000,000	9/25/2018	YES	14
(EURIBOR) SULLIVAN V. BARCLAYS PLC ET AL	\$309,000,000	8/1/2018	YES	10
ISDAfix First Settlement (BOA, Goldman Sachs, et al.)	\$408,500,000	7/16/2018	YES	56
(FX or FOREX) FOREIGN EXCHANGE BENCHMARK RATES ANTITRUST LITIGATION (13CV07789)	\$2,310,275,000	5/16/2018	YES	286
(EUROYEN) Laydon v. Mizuho Bank, Ltd. et al	\$206,000,000	2/20/2018	YES	14
(LIBOR OTC) BARCLAYS AND CITIGROUP	\$250,000,000	12/21/2017	YES	21

**MORTGAGE RELATED SECURITIES LITIGATION RECOVERIES**

<b>CASE_NAME</b>	<b>FILING_CLAIM_DEADLINE_D ATE</b>	<b>DISBURSEMENT_DATE</b>	<b>Amount Recovered</b>
J.P. MORGAN RMBS BULK SETTLEMENT PRACTICE FAIR FUND	11/28/2017	4/16/2019	4,585.13
GOLDMAN SACHS & COMPANY Securities Litigation	5/13/2016	10/31/2018	-
CREDIT SUISSE SECURITIES (USA) LLC, Securities Litigation (3-15098) (Bulk Settlement)	11/15/2016	10/3/2018	Ineligible
BANK OF AMERICA NA Securities Litigation	4/20/2015	11/21/2017	38,107.98
INDYMAC MORTGAGE BACKED Securities Litigation	1/28/2015	6/5/2017	3,660.85
J.P. MORGAN CHASE & COMPANY Securities Litigation	12/16/2015	3/10/2017	18,118.49
COUNTRYWIDE FINANCIAL CORPORATION Securities Litigation	12/15/2013	11/30/2016	106,076.39
RESIDENTIAL CAPITAL LLC Securities Litigation	7/3/2015	9/23/2016	
BEAR STEARNS CERTIFICATE SETTLEMENT Securities Litigation	7/6/2015	8/26/2016	-
MORGAN STANLEY RMBS Securities Litigation	1/15/2015	7/27/2016	-
J.P. MORGAN ACCEPTANCE Securities Litigation	9/6/2014	10/26/2015	452,305.97
BLACKROCK WELLS FARGO TRUSTEE CLASS ACTION	7/2/2019		
<b>Interim Summary of RMBS Claims Activity as of April 30, 2019</b>			<b>\$ 622,854.81</b>

Footnote: The above information was based on the best available data using our prior claims filing agent. Please note that no conclusions should be drawn from individual line items or "Amount Recovered" in relation to "Total RL" (Reconized Loss) due to different methodologies used to derive a historical estimate. The main point to be drawn is that clients of the North Dakota State Investment Board have recovered at least \$622,854 of cash proceeds from class action claims filings relating to mortgage related securities litigation actions as of April 30, 2019.

**Informational**

**TO:** State Investment Board  
**FROM:** Dave Hunter  
**DATE:** May 20, 2019  
**SUBJECT:** **SIB Securities Litigation Committee Update**

---

State Treasurer Kelly Schmidt has indicated that she no longer desires to serve on the SIB Securities Litigation Committee after the next committee meeting on May 20<sup>th</sup>. RIO provided this update to the SIB at our last meeting and requested interested board members to contact the Lt. Governor or Executive Director if they were interested in serving on the SIB Securities Litigation Committee. RIO will provide an update of recent board member interest and share this information with the SIB on May 24, 2019. New committee members will be appointed by the SIB Chairman at our July board meeting which will also include an election of officers for the upcoming year.

***Informational***

**TO:** SIB Securities Litigation Committee  
**FROM:** Dave Hunter  
**DATE:** May 20, 2019  
**SUBJECT:** **Current Meeting Schedule for 2019**

---

On November 5, 2018, the Securities Litigation Committee approved the following meeting dates for 2019:

February 14, 2019 (Thursday) [no meeting was held](#)  
May 16, 2019 (Thursday) [changed to May 20, 2019 \(Monday\)](#)  
[August 22, 2019 \(Thursday\)](#)  
[November 7, 2019 \(Thursday\)](#)

RIO will establish our 2020 meeting schedule at our November 7, 2019 committee meeting.



*Informational*

**TO:** SIB Securities Litigation Committee

**FROM:** Dave Hunter, ED/CIO

**DATE:** May 20, 2019

**SUBJECT: Summary of Securities Litigation Representation Firms**

---

The Board has currently engaged two law firms to defend the SIB in two securities litigation cases:

- 1.) **Kasowitz Benson Torres** on General Motors; and
- 2.) **K&L Gates** on Tribune.

In 2016, the Board engaged **Grant & Eisenhofer** (as a plaintiff's attorney) to recover investment losses resulting from international securities litigation involving VW and other related parties.

In 2018, the Board engaged **Financial Recovery Technologies** (FRT) to enhance our ability to recover investment losses in U.S. and international securities litigation cases including those involving anti-trust actions in addition to our continuing U.S. class action claims filing activity since March 1, 2018. Northern Trust, as our custodian, continues to seek U.S. class action claim filing recoveries prior to March 1, 2018 (when we transitioned from Northern Trust to FRT).

Since 2011, annual cash recoveries have varied significantly ranging from a low of \$153,480 in fiscal 2014 to a high of \$692,958 in fiscal 2012, noting the annual recoveries are often materially impacted by the occurrence (or absence) of one or two major cases in any year. Securities litigation recoveries approximated \$189,000 for the SIB in the fiscal year ended June 30, 2018. **RIO will provide an update of securities litigation recoveries for the fiscal year ended June 30, 2019, at our next Committee meeting on August 22, 2019.**

In 2018, the Securities Litigation Committee met with several prominent law firms widely considered to be leading experts in the securities litigation field including: Bernstein Litowitz Berger & Grossman; Robbins Geller Rodman & Dowd; Labaton Sucharow; Kaplan Fox; and Grant & Eisenhofer.

On November 5, 2019, the Committee identified: 1) Bernstein Litowitz Berger & Grossman; 2) Grant & Eisenhofer; and 3) Labaton Sucharow to serve as our pre-approved law firms to be utilized on a case by case basis to provide expert advice when new securities litigation related cases are raised for further consideration by our global securities litigation monitoring firm, FRT.

***Board Action Requested***

**TO:** SIB Securities Litigation Committee

**FROM:** Dave Hunter, ED/CIO

**DATE:** May 20, 2019

**SUBJECT: Annual Review of Biennial Agenda for 2019-21**

---

If the Securities Litigation Committee so desires, the may review and approve the proposed biennial agenda for the 2019-21, which will serve as a guide for our four annual meetings in the upcoming biennium.

**SIB Securities Litigation Committee  
Biennial Agenda**

Fiscal 2019-20	August	November	February	May
	Annual Election of Committee Officers	Approve 2020 Committee Meeting Schedule	Annual Review of Committee Charter and Policies	Annual FRT Securities Litigation Review
	Annual Review of Litigation Recoveries	Board Education on Securities Litigation	Annual Review of Approved Law Firms	Annual Review of Biennial Agenda

Fiscal 2020-21	August	November	February	May
	Annual Election of Committee Officers	Approve 2021 Committee Meeting Schedule	Annual Review of Committee Charter and Policies	Annual FRT Securities Litigation Review
	Annual Review of Litigation Recoveries	Board Education on Securities Litigation	Annual Review of Approved Law Firms	Annual Review of Biennial Agenda