



## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33068; File No. 812-14601]

Application; Benefit Street Partners BDC, Inc., et al.

April 6, 2018

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the “Act”) and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

Summary of Application: Applicants request an order to permit certain business development companies (“BDC”) and closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

Applicants: Benefit Street Partners BDC, Inc. (“BSP BDC”), Providence Flexible Credit Allocation Fund (“Providence Flexible Credit”), Business Development Corporation of America (“BDCA,” together with BSP BDC and Providence Flexible Credit, the “Existing Regulated Funds”), Providence TMT Debt Opportunity Fund II L.P. (“Fund II”), PECM Strategic Funding L.P. (“Strategic Funding”), SEI Energy Debt Fund, LP (“SEI Fund”), Providence Debt Fund III L.P. (“Fund III”), Providence Debt Fund III Master (Non-US) L.P. (“Fund III Offshore”), Benefit Street Partners Capital Opportunity Fund L.P. (“BSP Capital Fund”), Benefit Street Partners Capital Opportunity Fund II L.P. (“BSP Capital Fund II”), Benefit Street Partners SMA LM L.P. (“Benefit Street LM”), Benefit Street Partners SMA-C L.P. (“Benefit Street SMA-C”), Benefit Street Partners Senior Secured Opportunities Fund L.P. (“Benefit Street Senior Secured”), Benefit Street Partners Senior Secured Opportunities Master Fund (Non-US) L.P.

(“Benefit Street Senior Secured Offshore”), Benefit Street Partners Senior Secured Opportunities (U) Fund (Non-US) L.P. (“Opportunities (U) Fund”), Benefit Street Partners Senior Secured Opportunities (U) Master Fund (Non-US) L.P. (“Opportunities (U) Master Fund”), BSP Special Situations Master A L.P. (“BSP Master A”), BSP Special Situations Master B L.P. (“BSP Master B”), Benefit Street Partners Debt Fund IV L.P. (“Fund IV”), Benefit Street Partners Debt Fund IV Master (Non-US) L.P. (“Fund IV Offshore”), Benefit Street Partners SMA-T L.P. (“SMA-T” and each of Fund II, Strategic Funding, SEI Fund, Fund III, Fund III Offshore, BSP Capital Fund, BSP Capital Fund II, Benefit Street LM, Benefit Street SMA-C, Benefit Street Senior Secured, Benefit Street Senior Secured Offshore, Opportunities (U) Fund, Opportunities (U) Master Fund, BSP Master A, BSP Master B, Fund IV and Fund IV Offshore is referred to as an “Existing Affiliated Fund” and collectively, the “Existing Affiliated Funds”), Providence Equity Capital Markets L.L.C. (“Fund II Affiliated Adviser”), Benefit Street Partners L.L.C. (“BSP Adviser”), BDCA Adviser, LLC (“BDCA Adviser”), and SEI Investments Management Corporation (“SEI Adviser”).

Filing Dates: The application was filed on January 15, 2016, and amended on January 9, 2017, June 23, 2017, and December 13, 2017.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 30, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the

matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-1090. Applicants: BSP BDC, Providence Flexible Credit, BDCA, Fund II, Strategic Funding, Fund III, Fund III Offshore, BSP Capital Fund, BSP Capital Fund II, Benefit Street LM, Benefit Street SMA-C, Benefit Street Senior Secured, Benefit Street Senior Secured Offshore, Opportunities (U) Fund, Opportunities (U) Master Fund, BSP Master A, BSP Master B, Fund IV, Fund IV Offshore, SMA-T, Fund II Affiliated Adviser, BSP Adviser, and BDCA Adviser, 9 West 57th Street, 49th Floor, New York, NY 10019; SEI Fund and SEI Adviser, One Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551-6879 or Robert H. Shapiro, Branch Chief, at (202) 551-6821 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

Applicants' Representations:

1. BSP BDC is a Maryland corporation organized as a closed-end management investment company that intends to elect to be regulated as a BDC under section 54(a) of the Act.<sup>1</sup> BSP BDC's Objectives and Strategies<sup>2</sup> are to generate both current income and capital

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<sup>1</sup> Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such

appreciation by primarily investing in secured debt, unsecured debt, as well as related equity securities issued by private U.S. middle market companies. The board of directors (“Board”) of BSP BDC will be comprised of five directors, three of whom will be persons who are not “interested persons” of BSP BDC as defined in section 2(a)(19) of the Act (“Non-Interested Directors”).

2. Providence Flexible Credit is a Massachusetts business trust organized as closed-end investment company registered under the Act. Providence Flexible Credit’s Objectives and Strategies are to seek total return through a combination of current income and capital appreciation. Providence Flexible Credit will seek to achieve its investment objective by investing primarily in a portfolio of (i) secured loans made primarily to companies whose debt is below investment grade quality; (ii) corporate bonds that are expected to be primarily high yield issues of below investment grade quality; and (iii) debt investment opportunities in middle market companies in the United States that are of below investment grade quality. Providence Flexible Credit will have a Board with a majority of trustees that are Non-Interested Directors.

3. BDCA is a Maryland corporation organized as a closed-end management investment company that has elected to be regulated as a BDC under the Act. BDCA’s Objectives and Strategies are to generate both current income and capital appreciation by primarily investing in senior secured loans and mezzanine debt issued by middle market companies. BDCA’s Board consists of seven members, a majority of whom are Non-Interested Directors.

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securities.

<sup>2</sup> “Objectives and Strategies” means a Regulated Fund’s investment objectives and strategies, as described in the Regulated Fund’s registration statement on Form N-2, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 (the “Securities Act”), or under the Securities Exchange Act of 1934, and the Regulated Fund’s reports to shareholders.

4. Each of the Affiliated Funds (defined below) would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. Each Affiliated Fund has, or will have, investment objectives and strategies that are similar to or that overlap with the Regulated Funds' Objectives and Strategies.

5. Fund II Affiliated Adviser, BSP Adviser, and BDCA Adviser are each Delaware limited liability companies registered as investment advisers under the Investment Advisers Act of 1940 (the "Advisers Act"). Applicants state that the Providence Advisers (defined below) are controlled by their principal owners (the "Principals") and are thus affiliated persons of each other as described by section 2(a)(3)(C) of the Act. Fund II Affiliated Adviser serves as investment adviser to Fund II and Strategic Funding. BSP Adviser serves as investment adviser to BSP BDC, Providence Flexible Credit, Fund III, Fund III Offshore, BSP Capital Fund, BSP Capital Fund II, Benefit Street LM, Benefit Street SMA-C, Benefit Street Senior Secured, Benefit Street Senior Secured Offshore, Opportunities (U) Fund, Opportunities (U) Master Fund, BSP Master A, BSP Master B, Fund IV, Fund IV Offshore, and SMA-T. In addition, BSP Adviser serves as sub-adviser to SEI Fund, whose investment adviser, SEI Adviser, is not affiliated with BSP Adviser. BDCA Adviser serves as investment adviser to BDCA.

6. SEI Adviser is a Delaware corporation registered as an investment adviser under the Advisers Act. SEI Adviser serves as investment adviser to SEI Fund. As noted above, BSP Adviser serves as Sub-Adviser to SEI Fund. SEI Adviser is not an affiliated person of any Providence Adviser.

7. Applicants seek to supersede the Prior Order<sup>3</sup> to permit one or more Regulated Funds<sup>4</sup> and/or one or more Affiliated Funds<sup>5</sup> to participate in the same investment opportunities

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<sup>3</sup> The requested order (the "Order") would supersede an exemptive order issued by the

through a proposed co-investment program (the “Co-Investment Program”) where such participation would otherwise be prohibited under section 57(a)(4) and rule 17d-1 by (a) co-investing with each other in securities issued by issuers in private placement transactions in which an Adviser negotiates terms in addition to price;<sup>6</sup> and (b) making additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers (“Follow-On Investments”). “Co-Investment Transaction” means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Sub, as defined below) participated together with one or more other Regulated Funds and/or one or more Affiliated Funds in reliance on the requested Order. “Potential Co-Investment Transaction” means any investment opportunity in which a Regulated Fund (or its

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Commission on June 23, 2015 (the “Prior Order”) that was granted pursuant to sections 57(a)(4) and 57(i) and rule 17d-1, with the result that no person will continue to rely on the Prior Order if the Order is granted. Benefit Street Partners BDC, Inc., et al., Investment Company Act Release Nos. 31651 (May 27, 2015) (notice) and 31686 (Jun. 23, 2015) (order).

<sup>4</sup> “Regulated Fund” means any of the Existing Regulated Funds and any Future Regulated Fund. “Future Regulated Fund” means any closed-end management investment company (a) that is registered under the Act or has elected to be regulated as a BDC, (b) whose investment adviser is a Providence Adviser, and (c) that intends to participate in the Co-Investment Program. The term “Providence Adviser” means (a) BSP Adviser, (b) BDCA Adviser, (c) Fund II Affiliated Adviser, and (d) any future investment adviser, other than Providence Equity Partners L.L.C., that controls, is controlled by or is under common control with BSP Adviser, BDCA Adviser and Fund II Affiliated Adviser and is registered under the Advisers Act. The term “Adviser” means any Providence Adviser and SEI Adviser. Providence Equity Partners L.L.C. is excluded from the definition of Adviser because none of its clients will participate in any Co-Investment Transaction.

<sup>5</sup> “Affiliated Fund” means (a) the Existing Affiliated Funds and (b) any Future Affiliated Fund. “Future Affiliated Fund” means any entity (a) whose investment adviser is a Providence Adviser, (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (c) that intends to participate in the Co-Investment Program.

<sup>6</sup> The term “private placement transactions” means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act.

Wholly-Owned Investment Sub) could not participate together with one or more Affiliated Funds and/or one or more other Regulated Funds without obtaining and relying on the Order.<sup>7</sup>

8. Applicants state that a Regulated Fund may, from time to time, form a Wholly-Owned Investment Sub.<sup>8</sup> Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any Affiliated Fund or Regulated Fund because it would be a company controlled by its parent Regulated Fund for purposes of section 57(a)(4) and rule 17d-1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the requested order, as though the parent Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Regulated Fund's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Regulated Fund's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If the Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its

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<sup>7</sup> All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

<sup>8</sup> The term "Wholly-Owned Investment Sub" means an entity (i) that is wholly-owned by a Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Fund; (iii) with respect to which the Regulated Fund's Board has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

9. When considering Potential Co-Investment Transactions for any Regulated Fund, the Adviser (or Advisers if there are more than one) will consider only the Objectives and Strategies, investment policies, investment positions, capital available for investment (“Available Capital”), and other pertinent factors applicable to that Regulated Fund. The Advisers expect that any portfolio company that is an appropriate investment for a Regulated Fund should also be an appropriate investment for one or more other Regulated Funds and/or one or more Affiliated Funds, with certain exceptions based on Available Capital or diversification. The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

10. Applicants state that SEI Adviser serves as investment adviser to SEI Fund, while BSP Adviser serves as sub-adviser. Applicants represent that SEI Adviser is responsible for the overall management of SEI Fund’s activities, and BSP Adviser is responsible for the day-to-day management of SEI Fund’s investment portfolio. Applicants represent that although BSP Adviser identifies and recommends investments for SEI Fund, SEI Adviser has ultimate authority with respect to SEI Fund’s investments.

11. Applicants represent that each Providence Adviser has adopted allocation policies and procedures which are designed to allocate investment opportunities fairly and equitably among their clients over time. Applicants state that in the case of a Potential Co-Investment Transaction, the applicable Providence Adviser applies its allocation policies and procedures in determining the proposed allocation for the applicable Regulated Fund consistent with the requirements of condition 2(a). Applicants state that, as a result, all Potential Co-Investment

Transactions that are presented to any Providence Adviser would also be presented to each Providence Adviser advising or sub-advising a Regulated Fund, which, as required by condition 1, would make an independent determination of the appropriateness of the investments for such Regulated Fund.

12. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the applicable Adviser(s) will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote under section 57(o) of the Act (“Eligible Directors”), and the “required majority,” as defined in section 57(o) of the Act (“Required Majority”)<sup>9</sup> will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

13. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) the proposed participation of each Regulated Fund and Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund’s participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Fund’s Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its

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<sup>9</sup> In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to section 57(o).

approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

14. No Non-Interested Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than indirectly through share ownership in one of the Regulated Funds.

15. Under condition 15, if the Providence Advisers, the Principals, or any person controlling, controlled by, or under common control with the Providence Advisers or the Principals, and the Affiliated Funds (collectively, the “Holders”) own in the aggregate more than 25% of the outstanding voting securities of a Regulated Fund (“Shares”), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the condition. Applicants believe that this condition will ensure that the Non-Interested Directors will act independently in evaluating the Co-Investment Program, because the ability of the Providence Advisers or the Principals to influence the Independent Directors by a suggestion, explicit or implied, that the Non-Interested Directors can be removed will be limited significantly. Applicants represent that the Non-Interested Directors will evaluate and approve any such independent party, taking into account its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

Applicants’ Legal Analysis:

1. Section 17(d) of the Act and rule 17d-1 under the Act prohibit participation by a registered investment company and an affiliated person in any “joint enterprise or other joint arrangement or profit-sharing plan,” as defined in the rule, without prior approval by the Commission by order upon application. Section 17(d) of the Act and rule 17d-1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

Similarly, with regard to BDCs, section 57(a)(4) of the Act generally prohibits certain persons specified in section 57(b) from participating in joint transactions with the BDC or a company controlled by the BDC in contravention of rules as prescribed by the Commission. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d-1 also applies to joint transactions with Regulated Funds that are BDCs.

2. In passing upon applications under rule 17d-1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants submit that each of the other Regulated Funds and the Affiliated Funds may be deemed to be affiliated persons of a Regulated Fund within the meaning of section 2(a)(3)(C) of the Act by reason of common control because (i) a Providence Adviser may be deemed to control each of the Existing Regulated Funds and the Existing Affiliated Funds, (ii) a Providence Adviser may be deemed to control any Future Regulated Funds or Future Affiliated Funds, (iii) the Providence Advisers are owned and controlled by the Principals and (iv) a Providence Adviser sub-advises SEI Fund and, therefore, SEI Fund may be deemed to be under common control with the Existing Regulated Funds. As a result, a Regulated Fund and one or more other Regulated Funds and/or one or more Affiliated Funds would be prohibited from participating in Co-Investment Transactions by sections 17(d) or 57(a)(4) of the Act, and rule 17d-1 of the Act.

4. Applicants state that in the absence of the requested relief, in some circumstances the Regulated Funds would be limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions of the application will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and would be done in a manner that is not different from, or less advantageous than, that of other participants.

Applicants' Conditions:

Applicants agree that the Order will be subject to the following conditions:

1. Each time a Providence Adviser considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, each Adviser to the Regulated Fund will make an independent determination of the appropriateness of the investment for such Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If each Adviser to a Regulated Fund deems the participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, the Adviser (or Advisers if there are more than one) will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the Adviser (or Advisers if there are more than one) to a Regulated Fund to be invested by the Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other

participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's Available Capital, up to the amount proposed to be invested by each. The Adviser (or Advisers if there are more than one) to each participating Regulated Fund will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's Available Capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the Adviser to the Regulated Fund (or Advisers if there are more than one) will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and Affiliated Fund) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) the terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

- (A) the interests of the shareholders of the Regulated Fund; and
- (B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or any Affiliated Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of other Regulated Funds or Affiliated Funds; provided that, if any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) the Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the Adviser to the Regulated Fund (or Advisers if there are more than one) agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Affiliated Fund or any Regulated Fund or any affiliated person of any Affiliated Fund or Regulated Fund receives in connection with the right of an Affiliated Fund or a Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who each may, in turn,

share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Affiliated Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by section 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The Adviser to the Regulated Fund (or Advisers if there are more than one) will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,<sup>10</sup> a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated

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<sup>10</sup> This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

Fund, Affiliated Fund, or any affiliated person of another Regulated Fund or Affiliated Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Fund. The grant to an Affiliated Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Affiliated Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Providence Adviser will:

(i) notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Funds and Regulated Funds.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) the proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the

issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser to the Regulated Fund (or Advisers if there are more than one) will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Affiliated Fund and each Regulated Fund will bear its own expenses in connection with any such disposition.

8. (a) If any Affiliated Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Providence Adviser will:

(i) notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) the proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability

to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser to the Regulated Fund (or Advisers if there are more than one) will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) the amount of the opportunity is not based on the Affiliated Funds' and the Regulated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Adviser(s) to be invested by each Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the participating Affiliated Funds in the same transaction, exceeds the amount of the opportunity;

then the amount invested by each such party will be allocated among them pro rata based on each participant's Available Capital, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Non-Interested Directors

may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an “affiliated person” (as defined in the Act) of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective investment advisory agreements with the Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee<sup>11</sup> (including break-up or commitment fees but excluding broker’s fees contemplated by section 17(e) or 57(k) of the Act, as applicable), received in connection with a Co-Investment Transaction will be distributed to the participating Regulated

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<sup>11</sup> Applicants are not requesting and the staff of the Commission is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by such Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Advisers, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C), and (b) in the case of an Adviser, investment advisory fees paid in accordance with the agreement between the Adviser and the Regulated Fund or Affiliated Fund).

14. If the Holders own in the aggregate more than 25% of the Shares of a Regulated Fund, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable State law affecting the Board's composition, size or manner of election.

15. Each Regulated Fund's chief compliance officer, as defined in rule 38a-1(a)(4), will prepare an annual report for its Board that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,  
Assistant Secretary.

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