Hearing Date and Time: April 26, 2013 at 11:00 a.m. (prevailing U.S. Eastern Time)

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:	:	**Chapter 11**
ARCAPITA BANK B.S.C.(c), ***et al.*****,**	:	**Case No. 12-11076 (SHL)**
Debtors.	:	**Jointly Administered**

DEBTORS' OMNIBUS RESPONSE TO OBJECTIONS TO MOTION FOR ORDER APPROVING THE DISCLOSURE STATEMENT AND SOLICITATION AND VOTING PROCEDURES

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Arcapita Bank B.S.C.(c) and certain of its affiliates, as debtors and debtors in possession (collectively, the "***Debtors***"), hereby respond to objections filed in opposition to the Debtors' motion (the "***Motion***") [Docket No. 828], dated February 8, 2013, for an order (i) approving the disclosure statement (as amended, the "***Disclosure Statement***") filed in support of the proposed *Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and Related Debtors Under Chapter 11 of the Bankruptcy Code* (as amended, the "***Plan***"),[1] and (ii) approving procedures for the solicitation of votes and voting on the Plan, a confirmation hearing date, and procedures for noticing the confirmation hearing and filing objections to the confirmation of the Plan.

I.
PRELIMINARY STATEMENT

The Debtors and their various creditor constituencies have worked diligently over several months to develop a confirmable plan of reorganization and related disclosure statement. On February 8, 2013, the Debtors filed their initial Disclosure Statement [Docket No. 827] which attached the proposed Plan [Docket No. 826], and filed their Motion seeking, among other things, approval of the Disclosure Statement and procedures for soliciting votes to accept or reject the Plan.[2]

Only eight objections to the approval of the Disclosure Statement, and one objection to the solicitation procedures, were filed (collectively, the "***Objections***" and the objecting parties, the "***Objectors***"). The Objectors and the nature of their Objections are as follows:

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[1] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion, the Plan and the Disclosure Statement.

[2] Contemporaneously herewith, the Debtors will file a revised proposed order approving the Motion (the "***Procedures Order***") together with a blackline to the version originally filed as Exhibit A to the Motion, a revised Class 5(a) Ballot together with a blackline to the version originally filed as Exhibit E3 to the Motion, and a Notice of Treatment of Executory Contracts that the Debtors propose to send to counterparties to the Debtors' executory contracts and unexpired leases to inform them of the treatment of executory contracts and unexpired leases under the Plan.

a) **Al Siraj Investment Holding LLC** ("***Al Siraj Objection***") [Docket. No. 897] – Objects to the classification of its claim and argues that the Plan favors AIHL creditors.

b) **Mayhoola for Investment Q.S.P.C.** ("***Mayhoola Objection***") [Docket Nos. 896, 995] – Objects to the third-party releases contained in the Plan.

c) **HarbourVest Partners L.P.** ("***HarbourVest Objection***") [Docket No. 902] – Objects to the alleged lack of disclosure as to (i) post confirmation governance, (ii) the effect of the Plan on existing third-party financing to portfolio companies, and (iii) the treatment of co-investment agreements.

d) **Al Imtiaz Investment Company K.S.C.** ("***Al Imtiaz Objection***") [Docket No. 903] – Objects to the alleged lack of disclosure as to (i) the impact of the Plan on its investment (rather than its claims), (ii) the Debtors' interest in and control of non-debtors, (iii) claims of Transaction Holdcos and Syndication Companies against Arcapita Bank, and (iv) post-confirmation governance. Also objects to the Plan's third-party releases.

e) **Tide Natural Gas Storage I, LP and Tide Natural Gas Storage II, LP** (together, "***Tide***") [Docket No. 898] – Objects to the alleged lack of disclosure as to (i) Falcon's assets, (ii) the treatment of Falcon's executory contracts, and (iii) Falcon's post-effective date board composition. Also objects to the Plan (and related disclosures) based on the following issues: (i) the third-party releases as they relate to creditors of Falcon, (ii) Falcon's release of avoidance actions, (iii) the discharge provision as it relates to Falcon, (iv) the purported limitations on who can object to claims, (v) the subordination of Tide's claims through the Plan, (vi) the purported lack good faith in proposing the Falcon Plan, (vii) feasibility of the Falcon Plan, and (viii) the Falcon Plan's satisfaction of the Best Interests Test. Additionally, Tide filed an Objection to the solicitation procedures.

f) **Dr. Ahmad Hashem, Salma Mohammed S. Al-Mahassni, Nada Nashaat Z. Hashem and the Heirs of Nashaat Zaki A. Hashem** ("***Dr. Hashem Objection***") [Docket No. 920] – Objects to the alleged lack of disclosure as to (i) the classification of (a) the claims of Saudi Industrial Capital I Limited against Arcapita Bank and (b) the Rights Offering Claims, (ii) the current and post-confirmation management of the investment companies, and (iii) the determination of amounts on deposit with Arcapita Bank as of the Petition Date. Also joins in the objection of Mayhoola for Investment Q.S.P.C.

g) **Moajam Limited** ("***Moajam Objection***") – Objects to the alleged lack of disclosure as to the classification of its claim and argues that its claim should be classified as a priority claim.

h) **Standard Chartered Bank** ("***SCB Objection***") [Docket No. 1003] – Objects to the alleged lack of disclosure as to (i) the fact that SCB has not agreed to the treatment in the SCB Term Sheet, and (ii) the risks that the Plan will not be approved by the Cayman Court. Also alleges that the Plan is patently unconfirmable because (i) the Plan purports to require SCB to waive payment of certain administrative expense claims in cash, (ii) the Plan cannot force SCB and SCB China to engage in negotiations regarding the Honiton Facility (as defined in the SCB Objection), (iii) the Plan purports to use SCB's property

to fund the Plan, (iv) the Plan does not satisfy section 1129(a)(10) of the Bankruptcy Code, (v) the Plan cannot be Shari'ah compliant and cramdown SCB, (vi) the Plan is not feasible without committed exit financing, and (vii) the proposed profit rate of the New SCB Facility is substantially lower than market. Also requests (i) that the Court grant relief from the automatic stay to allow for litigation of Cayman issues in the Cayman Court and (ii) expedited discovery in connection with confirmation.

For the convenience of the Court, and to facilitate the Court's consideration of the Objections, a summary of the Debtors' response or proposed resolution to the Objections is set forth in the chart annexed hereto as **Exhibit A**.

The Debtors have reviewed each of the Objections, and have also discussed potential objections proposed by other claimants that did not file formal Objections. Since the February filings, the Debtors and their professionals have worked long hours across many time zones to work with the Committee and other creditor constituencies to identify and resolve remaining issues as to the contents of the Disclosure Statement and the provisions of the Plan. After months of arduous negotiations, including face-to-face meetings in New York, London, and Bahrain, the Debtors have reached agreement with both the Committee and the Ad Hoc Group as to all remaining outstanding issues relating to the Plan and Disclosure Statement and have arrived at a "consensual" Plan expressly supported by both the Committee and the Ad Hoc Group. Of particular note is the resolution of issues relating to the management of Reorganized Arcapita and the mechanism for managing its relationship with its third-party co-investors in the Debtors' investment portfolio.

On April 16, 2013, the Debtors filed their first amended Plan [Docket No. 981] and first amended Disclosure Statement [Docket No. 983] (the "***First Amended Disclosure Statement***") reflecting the agreement of the Debtors, the Committee and the Ad Hoc Group. The major revisions to the Plan and Disclosure Statement generally relate to:

- the post-Effective Date management and governance of Reorganized Arcapita and deposition of assets;

- the cooperation agreement with third-party co-investors regarding the Debtors' investment portfolio and the control over disposition of jointly owned investments;
- the treatment of certain executory contracts and unexpired leases, including the HQ Lease and the agreements related to the Lusail transaction;
- the releases provided under the Plan;
- employee related issues pursuant to the Cooperation Settlement Term Sheet;
- the Convenience Class Election;
- the potential upsizing of the Exit Facility to fund a potential take-out of the SCB Facility;
- the releases of certain Avoidance Actions (preservation of others);
- regulatory issues related to the reorganized corporate structure and new issuances under the Plan; and
- the Falcon Plan.

For the Court's convenience, a summary of the major changes to the Disclosure Statement is contained in a chart annexed hereto as **Exhibit B**.

The Debtors are continuing negotiations with potential providers of exit financing and will file a term sheet with the Bankruptcy Court setting forth the detailed terms of the Exit Facility no later than April 30, 2013. Further, as is typical at the Disclosure Statement approval phase, the Debtors are still in the process of drafting and negotiating definitive documents that will be filed with the Plan Supplement but that are not necessary for disclosure purposes. For the reasons described herein, the Disclosure Statement, as amended, contains adequate disclosure consistent with and as required by section 1125(a)(1) of the Bankruptcy Code.

The Objections calling for additional disclosure truly needed to aid the objecting creditor in deciding how to vote as to the Plan are resolved by the additional disclosure in the First Amended Disclosure Statement. Nonetheless, to the extent that any Objector believes that the disclosures contained in the First Amended Disclosure Statement remain inadequate, the Debtors will consider including in the Disclosure Statement any reasonable language that such party believes is necessary to provide adequate disclosure—subject to the Debtors' right to include a statement that they disagree with the requested disclosure. The Objections not resolved by the extensive additional disclosure in the First Amended Disclosure Statement have no relevance to

the adequacy of the Disclosure Statement or solicitation procedures and, instead, relate to the confirmation of the Plan, state general dissatisfaction with the effects of chapter 11 on creditors and equity holders, or seek information by those in their capacities as third-party co-investors and not as creditors who will vote on the Plan. As described below, there are no valid reasons for confirmation issues to be considered at the hearing to approve the Disclosure Statement. Because the Court cannot find that, on its face, it is impossible for the Plan to be confirmed, the Court should overrule "confirmation" related Objections.

II.
THE DISCLOSURE IN THE FIRST AMENDED DISCLOSURE STATEMENT IS MORE THAN ADEQUATE TO ALLOW CREDITORS TO VOTE

Section 1125 of the Bankruptcy Code governs the disclosure and solicitation of a chapter 11 plan. The primary determination to be made in connection with disclosure and solicitation pursuant to section 1125 of the Bankruptcy Code is whether the proposed disclosure statement contains "adequate information" to enable a creditor described as a "hypothetical investor" to make an informed judgment to accept or reject the plan. *See* 11 U.S.C. § 1125(a). The purpose of a disclosure statement approval hearing is not to determine the confirmability of a proposed chapter 11 plan; rather, the Court must determine the adequacy of the information set forth in the disclosure statement. Confirmation issues and challenges are not ripe for determination as part of a section 1125 approval hearing.

To the extent that the Objections raise valid issues regarding the adequacy of information provided in the Disclosure Statement, the Debtors have added additional information in the amended Disclosure Statement to meet the standard set forth in section 1125 of the Bankruptcy Code. *See* Exhibit A – Summary of Objections to Disclosure Statement and Responses.

III.
THE COURT SHOULD NOT CONSIDER OBJECTIONS TO PLAN CONFIRMATION AT THE DISCLOSURE STATEMENT HEARING

A. Objections to Plan Confirmation Are Premature

Certain of the Objections raise issues that relate to the confirmation of the Plan rather than the adequacy of the disclosure contained in the Disclosure Statement. Although bankruptcy courts may consider substantive objections to a plan at a disclosure statement hearing, it is well settled that this discretion must be exercised *sparingly* and only when it is patently obvious, *purely as a matter of law*, and based solely upon the contents of the plan, that the plan cannot possibly be confirmed. *See, e.g.*, *In re Sunshine Precious Metals, Inc.*, 142 B.R. 918, 920 (Bankr. D. Idaho 1992) (refusing to rule on matters that were "confirmation issues" because "the record at present does not justify the conclusion [that] the proposed chapter 11 plan is not confirmable on these grounds as a matter of law"). "Only where the disclosure statement *on its face* relates to a plan that cannot be confirmed does the court have an obligation not to subject the estate to the expense of soliciting votes and seeking confirmation of the plan; otherwise, confirmation issues are left for later consideration." *In re Dakota Rail, Inc.*, 104 B.R. 138, 143 (Bankr. D. Minn. 1989) (emphasis in original). *See also In re Cardinal Congregate I*, 121 B.R. 760, 764 (Bankr. S.D. Ohio 1990) (plan objections may only provide a basis for disapproving a disclosure statement where the plan is "so fatally flawed that confirmation is impossible.").

Unless, on its face, it is impossible for the Plan to be confirmed, all confirmation issues should be addressed at the confirmation hearing, and this Court should not transform the hearing on the Disclosure Statement into a premature confirmation hearing. *In re Copy Crafters Quickprint, Inc.*, 92 B.R. 973, 980 (Bankr. N.D.N.Y. 1988) ("[C]are must be taken to ensure that the hearing on the disclosure statement does not turn into a confirmation hearing, due process considerations are protected and objections are restricted to those defects that could not be cured

by voting and where the pertinent material facts are either not at issue or have been fully developed at the disclosure statement hearing."); *In re Featherworks Corp*., 45 B.R. 455, 457 (Bankr. E.D.N.Y. 1984) (same); *In re Monroe Well Serv., Inc.*, 80 B.R. 324, 333 (Bankr. E.D. Pa. 1987) (same). In approving the disclosure statement, the court in *Featherworks* held that it was "too early before the hearing on confirmation to conclude that the present plan cannot be confirmed. That determination must await examination of the evidence offered at the hearing on confirmation." *In re Featherworks Corp*., 45 B.R. at 457. "[A]pproval of a disclosure statement is an interlocutory action in the progress of a chapter 11 reorganization effort leading to a confirmation hearing at which all parties have ample opportunity to object to confirmation of the plan. *In re Waterville Timeshare Group*, 67 B.R. 412, 413 (Bankr. D.N.H. 1986).

At the Disclosure Statement approval phase, disputes over confirmation issues must be deferred as "the Court ought not to be drawn into the process of drafting of plans." *In re One Canandaigua Properties, Inc.*, 140 B.R. 616, 618 (Bankr. W.D.N.Y. 1992); *In re Waterville Timeshare Group*, 67 B.R. at 414 (a disagreement with respect to a litigation compromise that was an essential part of the plan did not render the debtor's disclosure statement inadequate). This is especially the case here, where the Plan and Disclosure Statement are the products of extensive negotiations among the Debtors, the Committee, the Ad Hoc Group, the JPLs and other constituencies that required the consideration and balancing of multinational issues and assets in many countries. The result is a Plan and Disclosure Statement that, as stated on its face, is supported by both the Committee and the Ad Hoc Group.

To sustain the Objections to the Disclosure Statement based on confirmation issues, the Court must find that, as drafted, it is *utterly impossible* for the Plan to be confirmed. The Objectors bear the very substantial burden of proving that, on its face, it is impossible for the

Plan to be confirmed, and that burden has not been met here. *See In re E. Me. Elec. Coop., Inc.*, 125 B.R. 329, 333 (Bankr. D. Me. 1991). To prevail, an Objector must prove that the Plan is not confirmable as a matter of law because the Plan "is so fatally flawed that confirmation is impossible." *See In re Cardinal Congregate I*, 121 B.R. at 764 (citing *In re Monroe Well Serv., Inc.*, 80 B.R. at 333); accord *In re U.S. Brass Corp.*, 194 B.R. 420, 428 (Bankr. E.D. Tex. 1996). None of the Objections raise any issue that would support a finding by the Court that the hard work of the Debtors, the Committee, the Ad Hoc Group and many others should be overridden and that it is impossible for the proposed Plan to be confirmed as a matter of law.

B. The Third-Party Releases Do Not Make the Plan Impossible to Confirm

Third-party releases are not *per se* impermissible as a matter of law and Chapter 11 plans containing third-party releases are routinely confirmed and confirmation is upheld. *See, e.g.*, *In re Specialty Equip. Cos., Inc.*, 3 F.3d 1043, 1049 (7th Cir. 1993) (approving chapter 11 plan containing release of third-party non-debtors by each creditor who voted to accept the plan where plan was product of lengthy negotiation and releases were essential part of plan); *AOV Indus., Inc. v. Hawley Fuel Coalmart, Inc. (In re AOV Indus. Inc.)*, 792 F.2d 1140, 1152 (D.C. Cir. 1986) (finding as reasonable a plan requiring creditors who were participating in fund created by third parties to release any indirect claims the creditors may have had against those third parties as a result of the third parties' relationship with the debtor); *Munford v. Munford, Inc.* (*In re Munford, Inc.*), 97 F.3d 449, 454 (11th Cir. 1996) (upholding a settlement provision that enjoined non-settling defendants from asserting claims of contribution and indemnity against a non-debtor in accordance with section 105(a) of the Bankruptcy Code); *In re Drexel Burnham Lambert Group, Inc.*, 960 F.2d 285, 293 (2d Cir. 1992) ("[i]n bankruptcy cases, a court may enjoin a creditor from suing a third-party, provided the injunction plays an important part in the

debtor's reorganization"); *United Artists Theatre Co. v. Walton* (*In re United Artists Theatre Co.*), 315 F.3d 217, 227 (3rd Cir. 2003) (discussing the requirements for non-debtor consensual and non-consensual releases); *Menard-Sanford v. Mabey* (*In re A.H. Robins Co., Inc.*), 880 F.2d 694, 702 (4th Cir. 1989) (upholding a plan containing a consensual injunction against non-debtors where the plan was overwhelmingly approved and the reorganization "hinged on the debtor being free from indirect claims such as suits against parties who would have indemnity or contribution claims against the debtor"); *Class Five Nev. Claimants v. Dow Corning Corp.* (*In re Dow Corning Corp.*), 280 F.3d 648, 657 (6th Cir. 2002) (section 524(e) of the Bankruptcy Code does not prohibit the release of a non-debtor).

Even non-consensual third-party releases are permissible where the estate receives substantial consideration or where the enjoined claims would indirectly impact the reorganization "by way of indemnity or contribution." *Deutsche Bank AG v. Metromedia Fiber Network, Inc.* (*In re Metromedia Fiber Network, Inc.*), 416 F.3d 136, 142-43 (2d Cir. 2005). The hallmarks of permissible non-consensual third-party releases are fairness, necessity to the reorganization, and specific factual findings to support these conclusions. *Gillman v. Continental Airlines (In re Continental Airlines)*, 203 F.3d 203, 214 (3d Cir. 2000).

In *Adelphia*, the court permitted release language for post-petition acts that is nearly identical in breadth and depth to that proposed by the Debtors. *In re Adelphia Communications Corp.*, 368 B.R. 140, 266 (Bankr. S.D.N.Y. 2007). There, the court found that "since the third-party releases and exculpation in [the Plan] apply only 'to the extent permitted by applicable law,' the Plan is confirmable without change, and without resolicitation of votes." *Id*. Similarly, in *Mal Dunn*, the court confirmed a plan containing a third-party release provision (similar to

that proposed by the Debtors) that released *pre-petition* claims against officers and directors of the debtor. *In re Mal Dunn Associates, Inc.*, 406 B.R. 622, 628 (Bankr. S.D.N.Y. 2009).

Here, the Plan's narrow third-party releases are important to the Debtors' ability to successfully implement and perform the Plan and realize the maximum benefit from the portfolio assets for the benefit of creditors. Not only are the released parties important to the performance of the Plan, but also the release provisions protect the Debtors' assets by releasing creditors' claims against third parties who could seek contribution or indemnity from the Debtors, which would reduce the Debtors' assets and, thus, the funds available for distribution to legitimate estate creditors (*e.g.*, creditors who properly and timely filed proofs of claims). *See In re Metromedia Fiber Network, Inc*., 416 F.3d 142-43. What's more, the third-party releases are either (i) consensual, or (ii) only given to the extent "permissible under applicable law." In other words, if a creditor does not consent to the releases by voting in favor of the Plan, the only claims and causes of action against the third-party released parties that will be released by that creditor are those that legally can be released pursuant to a chapter 11 plan. Thus, by definition, the third-party releases cannot be too broad.

Since the third-party releases are not per se improper as a matter of law, their inclusion cannot support a finding that it is impossible for the Plan to be confirmed. Instead, confirmation will be dependent on the facts which are only properly considered at the confirmation hearing.

IV.
"STRATEGIC OBJECTIONS" TO DISCLOSURE NOT RELATING TO THE VOTE OF SPECIFIC OBJECTOR SHOULD BE GIVEN LITTLE OR NO WEIGHT

While a creditor may have standing to raise general disclosure statement objections, courts often ascribe little weight to disclosure statement objections that, even if not frivolous, would have *no rational effect* on the objecting party's decision with respect to the plan. *See, e.g.*, *In re Zenith Elecs. Corp.*, 241 B.R. 92, 99 (Bankr. D. Del. 1999); *In re Scioto Valley Mortgage*

Co., 88 B.R. 168, 171 (Bankr. S.D. Ohio 1988); *In re Monroe Well Serv.*, 80 B.R. at 331. Disclosure Statement objections asserted to further the objecting creditor's personal agenda and when no amount of disclosure would change that objecting creditor's vote, the motivations underlying the creditor's objections are particularly suspect. *See In re Waterville Timeshare Group*, 67 B.R. at 414 (courts should take "strategic objections" to the adequacy of a disclosure statement with "a grain of salt"); *In re Simplot*, 2007 Bankr. LEXIS 2936, *43 (Bankr. D. Idaho Aug. 28, 2007) (citing *Citicorp Acceptance Co. v. Ruti–Sweetwater (In re Sweetwater)*, 57 B.R. 354, 358 (Bankr. D. Utah 1985)) (same). Accordingly, the Court should carefully scrutinize the Objections that are motivated by interests other than a desire for fulsome disclosure.

A. Tide's Objection Is A Litigation Tactic

Tide's Objection to the Disclosure Statement is the latest in a long line of filings by Tide designed to frustrate the Debtors' efforts to recover more than $70 million of the Falcon estate's funds from escrow. Tide's real motivation is to further another agenda—to improve its prospects in litigation against the Debtors. Indeed, no amount of disclosure will cause Tide to vote in favor of the Plan. Tide has filed suit against Arcapita Bank and Falcon in connection with the sale of Falcon's equity interests in a non-Debtor subsidiary to Tide (the "***District Court Action***") and has thus far successfully prevented the Falcon estate from recovering the escrowed funds that it owns. Through the Plan, Tide's claims are properly subordinated pursuant to section 510(b) of the Bankruptcy Code. Tide is dissatisfied with its treatment under the Plan and apparently believes that employing a scorched-earth litigation strategy will inure to its benefit in the District Court Action. Accordingly, Tide has made every effort, including the filing of an objection to the Disclosure Statement, to obstruct the chapter 11 cases. Tide's objection should be viewed for what it is—a litigation tactic—and accordingly be given little or no weight. Nonetheless, to the

extent the Court considers Tide's objection, the points raised therein have either been resolved through amendments to the Disclosure Statement and Plan, or they should be overruled.

As outlined in Exhibit A, Tide mistakenly argues that Falcon is administratively insolvent. However, as explained in the First Amended Disclosure Statement, Falcon has approximately $6.7 million in cash and other assets, in addition to the $70 million in escrow that is the subject of the District Court Action, and Falcon has only incurred approximately $1.53 million in administrative expenses. Tide also argues that the Disclosure Statement fails to disclose adequate information relating to the propriety releases, the waiver of causes of action, and the Debtors' intent with respect to claims objections. The First Amended Disclosure Statement clarifies that Falcon is not releasing *any* third parties or settling *any* potential causes of actions, and that the Debtors will object to any claims that are not valid. *See* Blackline First Amended Disclosure Statement [Docket No. 984], 71-73, 137-138. Additionally, Tide argues that the Disclosure Statement contains insufficient information with respect to the liquidation analysis, post-confirmation management, and whether Falcon will merge with other Debtors. The First Amended Disclosure Statement addresses these issues by including a liquidation analysis exhibit, identifying the post-confirmation management and clarifying that Falcon will not merge with other Debtors. Tide's lone remaining "disclosure" objection—that the Debtors should disclose what contracts they intend to assume or reject in the Disclosure Statement—should be overruled because the Debtors are not required to make a determination as to which contracts they will assume or reject in the Disclosure Statement. *See* 11 U.S.C. § 365(d). Each of Tide's remaining arguments relates to confirmation of the Plan and is not a basis on which to deny approval of the Disclosure Statement. *See supra* Section III; Exhibit A, at 9-11.

B. Many Other Objections Pertain to the Parties' Interests in Capacities Other Than as Creditors

Each of the other Objections (with the exception of SCB's Objection) was also filed by parties with interests beyond, and in some cases at odds with, their interests as creditors of these estates seeking information about the Plan. These are summarized below:

- **Al Siraj Investment Holding LLC** – dissatisfied with the classification of its Claim and seeks different treatment. *See* Al Siraj Objection, at ¶ 7-9.
- **Mayhoola for Investment Q.S.P.C.** – sole purpose of Objection is to preserve the right to prosecute causes of action against non-Debtors. *See* Mayhoola Objection, at ¶ 4. Indeed, Mayhoola has served discovery requests upon the Debtors in furtherance of their intentions to prosecute such causes of action.
- **HarbourVest Partners L.P.** – concerned with the impact of the Plan on its investment in, and relationship with, non-Debtor entities. *See* HarbourVest Objection, at ¶ 1-3, 8.
- **Al Imtiaz Investment Company K.S.C.** – concerned with the impact of the Plan on its investment in, and relationship with, non-Debtor entities. *See* Al Imtiaz Objection, at ¶ 2.
- **Dr. Ahmad Hashem, *et al.*** – concerned with the impact of the Plan on its investment in, and relationship with, non-Debtor entities. *See* Dr. Hashem Objection, ¶ 7, 12-14.
- **Moajam Limited** – dissatisfied with the classification of its Claim and seeks different treatment. *See* Moajam Objection, at 1-2.

Given these individualized interests, the Objections lodged by these parties must be taken with a grain of salt. In many cases, the additional disclosures requested would have no effect on the Objectors' decision to vote to accept or reject the Plan and thus they do not have standing with respect to those requested disclosures. Even where the Objectors do have legal standing, their Objections must be carefully scrutinized in light of the broad-based support for the Plan.

V.
OBJECTIONS TO SOLICITATION PROCEDURES

As part of its scorched-earth litigation strategy, Tide also filed an Objection to the solicitation procedures proposed by the Debtors. A summary of the Debtors' responses can be found at page 17 of Exhibit A.

First, Tide requests that the Court issue an order stating that parties in interest may object to proofs of claim filed against Falcon for voting purposes. As acknowledged by Tide, section

502(a) of the Bankruptcy Code explicitly states that parties in interest may object to claims. Therefore, an express statement that section 502 applies to the Chapter 11 Cases is unnecessary.

Second, Tide argues that insider votes should not count for Plan confirmation purposes. Tide, however, misconstrues the application of section 1129(a)(10) of the Bankruptcy Code, which does not provide that votes of insiders will not be counted to determine the acceptance of any impaired class. The votes of insiders are disregarded for the limited purpose of determining whether *at least one* impaired class has accepted the plan. The Procedures Order does not override the application of section 1129(a)(10) of the Bankruptcy Code.

Third, Tide requests that the Procedures Order state that section 1129(a)(10) applies on a subplan basis and that creditors may only vote in the subplan where they have a claim. Whether the Court even needs to decide if section 1129(a)(10) applies on a subplan basis will not be relevant until after voting results are tabulated. Thus, this issue should be deferred until the confirmation hearing. Moreover, the Procedures Order merely addresses the timing and method for voting and scheduling confirmation of the Plan – it does not address substantive confirmation issues such as whether section 1129(a)(10) of the Bankruptcy Code has been satisfied.

Fourth, Tide seeks clarification that any estimation of its claims pursuant to a Temporary Allowance Motion shall be for voting purposes only, and shall have no effect on, among other things, the District Court Action or the ultimate amount or allowance of the Tide Claims. This request is unnecessary, however, because the Procedures Order is clear that the effect of any order related to a Temporary Allowance Motion is for the purposes of voting only.

Fifth, Tide seeks to prevent the Debtors from subordinating Tide's claim. Tide argues that Bankruptcy Rule 7001(8) requires subordination to be sought through an adversary proceeding. However, Bankruptcy Rule 7001(8) explicitly states that an adversary proceeding is

unnecessary if a chapter 11 plan provides for subordination of the claim. The dispute regarding the level to which Tide's claim should be subordinated will be addressed in connection with the confirmation of the Plan.

Sixth, Tide objects to the procedure through which the Debtors will determine the amount and classification of claims. The Procedures Order provides a mechanism for claimants to contest their voting status and classification through the filing of a Temporary Allowance Motion. This mechanism provides Tide, and other parties, with sufficient opportunity to request reclassification for voting purposes. The Procedures Order provides that, absent a Claims Objection (and certain other enumerated exceptions), a filed proof of claim shall govern the amount of a claim for voting purposes. However, proofs of claim do not (and cannot) specify a class in the Plan into which they are to be placed. Classification of claims is within the Debtors' discretion, subject to section 1122 of the Bankruptcy Code and any objection is a confirmation issue.

Because the above-stated Objections raise issues that are either already addressed in the Procedures Order or are not ripe for consideration, they should be overruled.

VI.
CONCLUSION

It is in the best interests of the Debtors, their estates and all parties in interest that the Disclosure Statement and solicitation procedures be approved and that the solicitation process commence as soon as possible. Approval of the Disclosure Statement and the commencement of solicitation will enable the Debtors to promptly proceed to seek the confirmation and consummation of the Plan and the expeditious closing of the administration of these chapter 11 cases. The Debtors request the Court deny or overrule the Objections as they relate to

confirmation issues without prejudice to the claimants' right to prosecute confirmation objections as appropriate at the confirmation hearing.

Dated: New York, New York
April 23, 2013

Respectfully submitted,

/s/ Michael Rosenthal
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ATTORNEYS FOR THE DEBTORS AND
DEBTORS IN POSSESSION

EXHIBIT A

In re ARCAPITA BANK B.S.C. (c)

SUMMARY OF OBJECTIONS TO DISCLOSURE STATEMENT AND RESPONSES

A. Objections to Disclosure Statement and/or Plan

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
Al Siraj Investment Holding LLC **("Al Siraj")** **Docket No. 897**	• Claims to be a participant in an investment in Arcapita GCC Industrial Yield III Fund that purchased a real estate asset in Oman. • Claims that the investment was in the form of a $1 million Murabaha loan and the investment was linked to the performance of the underlying asset.	**1) Claim is Misclassified in Class 5(a)** • Objector claims that its Murabaha loan is secured because (i) it was "linked" to an underlying asset, and (ii) it was guaranteed by Arcapita Bank.	**The Objection raises a confirmation issue alone.** **1) Classification** • Classification of claims under section 1122 of the Bankruptcy Code is a confirmation issue that should be deferred to the Confirmation Hearing. • If the Objector believes that its claim is misclassified, the Voting Procedures provide procedures for the Objector to file a Temporary Allowance Motion. • The Objector presents no evidence to substantiate that its claim is secured and the Debtors are not aware of any evidence of a secured claim.
		2) Plan Impermissibly Favors AIHL Creditors • AIHL creditors should not be senior to Arcapita Bank creditors merely because of the AIHL guarantee. • AIHL is merely an investment subsidiary, with no staff or ability to raise funds. • Alleges without proof that Arcapita Bank has been transferring assets to AIHL at hugely discounted values.	**2) Structural Seniority of AIHL** • Objections to the structural seniority of Claims against AIHL are confirmation issues and should be deferred to the Confirmation Hearing. The Disclosure as to the relative rights of creditors of Arcapita Bank vis-à-vis creditors of AIHL is more than adequate. • The First Amended Disclosure Statement addresses substantive consolidation issues. The allocation of consideration between Arcapita Bank creditors and AIHL creditors resulted from the extensive analysis of the Committee and reflects the risks of, among other things, the substantive consolidation of AIHL and Arcapita Bank. • The First Amended Disclosure Statement addresses Intercompany claims between Arcapita Bank and AIHL and the extent of those claims. The risk of recharacterization of those Claims as equity has been factored into the value

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
			allocation between creditors of Arcapita Bank and AIHL creditors.
Mayhoola for Investment Q.S.P.C. ("Mayhoola") **Docket No. 896**	• Claims to have invested $7 million in AKID I by buying an equity interest in Saudi Industrial Capital I Limited ("SIC") seven weeks before the bankruptcy filing. • Purports to have claims against the Debtors' officers, directors and employees due to (i) the timing of the solicitation of Mayhoola's investment, and (ii) the fact that funds were purportedly placed in commingled account.	• The Third-Party Releases in the Plan violates *Metromedia* because: • No substantial contribution by officers/directors; • Enjoined claims are not channeled to settlement fund; • There is nothing in Disclosure Statement that released claims against officers and directors would impact reorganization; and, • Mayhoola does not consent to the release. • The Disclosure Statement contains no evidentiary support for the Releases.	**The Objection raises a confirmation issue alone.** • The scope and propriety of the Third-Party Releases is a confirmation issue and should be deferred to the Confirmation Hearing. • The First Amended Disclosure Statement adequately describes the scope of the Third-Party Releases, as well as the identities of the parties who will receive Releases. This information is sufficient to allow a creditor to make an informed judgment as to the Plan. • Legal and evidentiary support for the Releases will be provided in the Debtors' brief in support of Confirmation of the Plan (the "***Confirmation Brief***"). • The scope of the Third-Party Releases has been substantially narrowed in First Amended Disclosure Statement. The Third-Party Release, as revised, releases parties generally indemnified by the Debtors and, therefore, the release of these claims will have an impact on the Debtors' reorganization. The Third-Party Release is also only binding on non-consenting parties to the "extent permissible under applicable law." Accordingly, the third-party releases comply with *Metromedia*.
HarbourVest Partners L.P. ("HarbourVest") **Docket No. 902**	• Claims to have entered into a series of indirect investments in Arcapita portfolio companies through purchases of equity in Cayman Islands holding companies in 2010. • Claims that the Investment Arrangement Agreements governing the investments provide HarbourVest with certain purported rights, including restrictions on transfer of		**The Debtors are optimistic that they will be able to resolve HarbourVest's objections through discussions now ongoing.** ____________________________ **As amended, the Debtors believe that the Disclosure Statement provides adequate disclosure. However, to the extent that HarbourVest contends that additional disclosure is necessary, the Debtors will work with HarbourVest to add language to the Disclosure Statement that provides the additional disclosure requested by HarbourVest.**

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
	interests and the right to appoint directors in certain circumstances. • HarbourVest alleges that, as of the petition date, Arcapita Bank held $1.5 million in funds due to HarbourVest .	**1) Post-Confirmation Governance** • The Disclosure Statement does not specify who will be responsible for managing the business post-confirmation. • The Disclosure Statement fails to disclose whether the post-Confirmation governance structure will have an effect on the co-investment and management contracts.	**1) Post-Confirmation Governance Issues** • The First Amended Disclosure Statement now includes substantial disclosure concerning the post-Effective Date management structure as to portfolio companies. • The assets will be managed by AIM, with decisions related to dispositions to be made by the Disposition Committees subject to the terms of the Cooperation Agreement. *See* Blackline of First Amended Disclosure Statement (cited as "***FADS***"), 3-27. • The First Amended Disclosure Statement describes the terms of the Cooperation Agreement between the Debtors and the Syndication Companies, PVs and PNVs, which are co-investors in the Debtors' portfolio assets. *See* FADS, 23-27, 101-104, Exh. L. • The First Amended Disclosure Statement now addresses change of control issues at the portfolio level. *See* FADS, 172-174. Excessive detail as to change of control issues could be used to harm the Debtors' estates. • The Cooperation Agreement will further mitigate any of "change of control" issues, in co-investment agreements or otherwise, as it provides that the current Management Agreements, Administration Agreements and Syndication Company Proxies to remain in place. *See* FADS, 173-174. • The boards of directors of each of the non-Debtor Syndication Companies, Transaction Holdcos, PVs and PNVs will not be affected by the Plan; the composition of those boards will be determined by the respective board succession provisions contained in the governing documents of each of these non-Debtors. A general description of these board succession provisions is provided in the Disclosure Statement. *See* FADS, 46. • Despite the measures taken to prevent a change of control, the First Amended Disclosure Statement discloses the risk that change of control provisions in financing arrangements at the portfolio level may be triggered. *See* FADS, 172-173.

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
		• The Disclosure Statement does not disclose whether the Debtors will need to seek consents from co-investors, such as HarbourVest to avoid changes of control. • The Disclosure Statement should include a "risk factor" that obtaining any necessary consent may be difficult/impossible.	• The First Amended Disclosure Statement also adds the disclosure of additional disclosure of risk factors surrounding "change of control" issues which include that, if a change of control trigger is unavoidable, it may be difficult to obtain the required consents to waive the default. *See* FADS, 173.
		2) Effect of Plan on Third-Party Financing Arrangements at Portfolio Company Level • The Disclosure Statement does not state (i) steps to minimize risks of triggering any change of control provisions (ii) the governance structure of the portfolio companies following Confirmation, or (iii) whether any change of control will cause the breach of investment agreements (which restrict transfers of interests). • The Disclosure Statement does not include a risk factor that, as a result of the above risks associated with financing agreement defaults, HarbourVest and similarly situated co-investors may not support the Plan and may assert contractual and legal rights.	**2) Effect of Plan on Third-Party Financing at the Portfolio Company Level** • The First Amended Disclosure Statement describes in some detail the implementation of the Plan and also attaches the Implementation Memorandum, which generally describes the steps the Debtors will take. *See* FADS, 17-18;Exh. E. • The First Amended Disclosure Statement now includes additional disclosure of the risk of triggering change of control provisions and that HarbourVest, or similarly situated parties, may not support the Plan and may seek to assert contractual rights.
		3) Treatment of Co-Investment Agreements • HarbourVest cannot determine what claims it holds against the Debtors absent disclosure relating to assumption/rejection of executory contracts. As such, the Disclosure Statement should specify: (i) whether the co-investment agreements are executory;(ii) whether the co-investment agreements will be	**3) Treatment of Co-Investor Agreements** • The Debtors are not required to make a determination at the Disclosure Statement approval phase whether to assume or reject an executory contract. The Debtors are also not required to state in the Disclosure Statement their legal opinion as to whether a specific contract is executory or not. • The First Amended Disclosure Statement describes the mechanism for the Debtors to identify contracts to be assumed, to identify cure amounts and the procedure for

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
		assumed or rejected; (iii) what the cure amounts are; (iv) the rights of investors with respect to assumption/rejection; and (v) the impact of assumption or rejection on the wind-down plan.	objecting to assumption or cure. *See* FADS, 127-130. • The Projections embody the Debtors' view of the value to be derived (net of costs) from executing the wind-down plan, and the Debtors' decisions relative to executory contracts are reflected in the Projections.
Al Imtiaz Investment Company K.S.C. **("<u>Al Imtiaz</u> ")** **Docket No. 903**	• Claims that, from 2005-2011, it entered into 10 investments in Syndication Companies and Transaction Holdcos. • Claims that it does not know the status of its investments.	**1) General Disclosure Objections** • The Disclosure Statement should be subject to heightened scrutiny as a large number of investors are located abroad. • The Disclosure Statement lacks sufficient information for co-investors (like Al Imtiaz) to determine the impact of the Plan on its investments and interests in non-debtors. **2) Debtors' Interests in and Control of Non-Debtors:** • The business plan provides that the Debtors will liquidate the portfolio, but it does not disclose specific details on the investments of the Debtors. • The Disclosure Statement fails to provide sufficient details regarding the Debtors' ability to control the portfolio companies prior to and following bankruptcy. • The Disclosure Statement should provide	**As amended, the Disclosure Statement provides adequate disclosure and an objection to releases is a confirmation issue.** **1) General Disclosure Objections** • The First Amended Disclosure Statement has been prepared with the participation of the Committee and the JPLs both of which represent the interests of creditors wherever located. Indeed many of the members of the Committee are based abroad. • The First Amended Disclosure Statement contains adequate information sufficient to allow a typical investor/creditor to decide whether to accept or reject the plan. • The First Amended Disclosure Statement discloses that the Plan is not intended to affect any interests in non-Debtors, other than with respect to the modified governance regime implemented by the Cooperation Term Sheet. Nevertheless, the Disclosure Statement discloses risks associated with a trigger of change of control. *See* FADS, 172-174. **2) Debtors' Interests in and Control of Non-Debtors** • In addition to the extensive information in the First Amended Disclosure Statement, the Debtors have provided detailed information regarding its interest in portfolio investments and other holdings in their Bankruptcy Rule 2015.3. The First Amended Disclosure Statement describes these reports and how they may be obtained. • The First Amended Disclosure Statement now contains substantial information concerning the prepetition and post-Effective Date management of and control over the Debtors' portfolio investments. The portfolio investments will be

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
		more disclosure regarding the Debtors' investments in portfolio companies. **3) Claims of Transaction Holdcos and Syndication Companies:** • The Disclosure Statement should state with particularity each Transaction Holdco and Syndication Company that holds Claims against Arcapita Bank, and in what amounts. **4) Post Confirmation Governance:** • The Disclosure Statement fails to provide adequate disclosure relating to the post-Effective Date organization structure and management. Specifically, the Implementation Memorandum fails to provide details regarding how the reorganization will impact the Syndication Companies and Transaction Holdcos, or whether the Debtors will continue to hold interests in these entities.	managed by AIM, with decisions related to dispositions of investment to be made by Disposition Committees formed as to each investment, subject to the terms of the Cooperation Agreement. *See* FADS, 23-27. • Specific information regarding the valuation of the portfolio investments is confidential commercial information protected from disclosure by section 107 of the Bankruptcy Code and Bankruptcy Rule 9018. The Cooperation Settlement Term Sheet attached to the First Amended Disclosure Statement (Exh. L) provides the methodology for determining a disposition price for the portfolio investments. Disclosing specific details regarding the value of any particular investment would adversely impact the price that may be achieved in a sale. **3) Claims of Transaction Holdcos and Syndication Companies** • The Debtors have provided information regarding each of the Claims of Syndication Companies and Transaction Holdcos in their schedules and statements filed with the Court (Dkt. Nos. 212-232, 821-822). The First Amended Disclosure Statement describes the schedules and statements and how they may be obtained. *See* FADS 59-60. **4) Postpetition Governance** • The First Amended Disclosure Statement and the Implementation Memorandum now provide detailed disclosure of the Debtors' post-effective date organization structure, including that the Reorganized Debtors will continue to maintain their interests in the Syndication Companies and the Transaction Holdcos. *See* FADS, 17-18, 20-24 Exh. E. • The First Amended Disclosure Statement now contains substantial additional disclosure of the post-Effective Date management of the Debtors' portfolio investments. Portfolio investments will be managed by AIM, with decisions related to dispositions to be made by the Disposition Committees, subject to the terms of the Cooperation Agreement. *See* FADS, 23-27.

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
		5) Third-Party Releases: • The Third-Party Release is overbroad. • The Disclosure Statement should provide information regarding the specific affiliates and individuals being released and their role/position in the operation/management of the Debtors' investments in the Syndication Companies or Transaction Holdcos. • The Disclosure Statement fails to provide sufficient information relating to the scope of the releases. While not clear, it would appear to release directors of Syndication Companies and Transaction Holdcos (as these individuals are Arcapita Bank employees), and employees of AIML.	**5) Third-Party Releases** • The scope and propriety of the Third-Party Releases is an issue relating to Confirmation and should be deferred to the Confirmation Hearing. • The First Amended Disclosure Statement adequately describes the scope of the Third-Party Releases, as well as the identities of the parties who will receive releases. This information is sufficient to allow a creditor to make an informed judgment as to the Plan. *See* FADS, 137-139, Exh. A. • Legal and evidentiary support for the releases will be provided in the Debtors' Confirmation Brief. • The scope of the Third-Party Release has been substantially narrowed in the First Amended Disclosure Statement. The Third-Party Release, as revised, releases parties generally indemnified by the Debtors and, therefore, the release of these claims will have an impact on the Debtors' reorganization. The Third-Party Release is also only binding on non-consenting parties to the "extent permissible under applicable law." Accordingly, the third-party releases comply with *Metromedia*. • The First Amended Disclosure Statement clarifies that directors and officers of the Syndication Companies, PVs and PNVs will be released as part of the settlement relating to the Cooperation Term Sheet and only to the extent that such entities are Affiliates of the Debtors. *See* FADS, 102-103. The First Amended Disclosure Statement further clarifies that the releases of officers, directors and employees are only "in their capacity" as officers, directors and employees and the releases to do not apply to these parties acting in other capacities.

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
Tide Natural Gas Storage I, LP and Tide Natural Gas Storage II, LP ("Tide") **Docket No. 898**	• Asserts a $50 Million secured Claim and $70 million unsecured claim against Falcon and Arcapita Bank for alleged damages in Tide's Purchase of NorTex from Falcon.	**1) The Disclosure Statement Lacks Adequate Information as to the Falcon Plan** • The Disclosure Statement provides that, pursuant to the Plan Settlements, administrative expenses are to be allocated equitably among the Debtors. As Falcon is administratively insolvent, the amount attributable to Falcon is a critical issue and should be disclosed. • The Disclosure Statement fails to provide information regarding how Falcon intends to fund the $5 million necessary to resolve the District Court action. • The Disclosure Statement fails to disclose adequate information to justify the Third-Party Releases. • The Disclosure Statement fails to disclose potential outcomes if Tide is successful in the District Court Action and if a party with standing seeks to avoid transfers made to the Hopper Parties under the prepetition settlement agreement. • The Disclosure Statement fails to disclose the priority of claims and likely litigation/claim objections under the Falcon Plan. The Disclosure Statement should address the	**As amended, the Disclosure Statement provides adequate disclosure and an objection to releases is a confirmation issue.** **1) Lack of Adequate Information as to Falcon Plan** • Falcon is not administratively insolvent. In addition to the $70 million in escrow, it has assets of approximately $6.7 million. • The First Amended Disclosure Statement clarifies that the District Court Action will be funded from the assets of the Falcon estate, as described above. *See* FADS, 70. • **Releases:** The First Amended Disclosure Statement clarifies that Falcon is not releasing any claims or causes of action, and that Holders of Claims and Interests in Falcon are not releasing any claims or causes of action through the Plan. • **Avoidance Actions:** The First Amended Disclosure Statement now provides that the property of the Falcon Estate available for distribution to holders of Allowed Claims and Interests will depend, in part, on the outcome of any Avoidance Actions brought by Reorganized Falcon or any other party in interest with standing. *See* FADS, 73. • **Claims:** The First Amended Disclosure Statement provides that Falcon will object to claims it deems to be invalid, including duplicative claims, and will seek to subordinate, as it sees fit, claims that are susceptible to subordination. *See* FADS, 71, 73. The First Amended Disclosure Statement also reports Tide's assertion that Tide

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
		Debtors' intent as to duplicative claims and other non-Tide claims against Falcon. The Disclosure Statement should state that, in the absence of action by Falcon, Tide may assert objections to claims, and even seek to subordinate claims asserted against Falcon.	may seek to object to claims, or subordinate claims, if Falcon determines not to. *See* FADS, p. 73.
		• The Plan provides that, in connection with implementation of the Plan, the Debtors may merge or consolidate, without further authorization. The Disclosure Statement should disclose who has the ability to make this decision, what the criteria will be, and how Falcon distributions will be effected.	• The First Amended Disclosure Statement clarifies that Falcon shall not be subject to any merger or consolidation with the other Debtors or any other entity. *See* FADS, 121-122.
		• The Disclosure Statement lacks a liquidation analysis and debtors cannot evaluate best interests test under 1129(a)(7).	• The First Amended Disclosure Statement contains a liquidation analysis. *See* Exhibit B to FADS.
		• The Disclosure Statement fails to adequately disclose post-confirmation management and conflicts of interest.	• **Board Composition:** The First Amended Disclosure Statement discloses the current, and anticipated post-Effective Date members of the Board of Directors of Falcon. *See* FADS, 123. The Debtors do not believe that the pre- or post-Effective Date composition of the Falcon Board of Directors presents any conflict of interest. The members of the Falcon Board are independent and do not sit on any of the Boards of Directors of the other Debtors.
		• The Disclosure Statement fails to disclose whether Falcon has any executory contracts and whether it intends to accept or reject these contracts.	• **Executory Contracts:** The Debtors are not required to make a determination to assume or reject a contract in the Disclosure Statement.
		2) The Falcon Plan is Patently Unconfirmable	**2) Confirmability of the Falcon Plan**
		• Discharge is not appropriate pursuant to section 1141(d)(3) of the Bankruptcy Code.	• **Discharge:** The First Amended Disclosure Statement excludes Falcon from the discharge provision of the Plan. *See* FAD, 136.

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
		• The Plan purports to release valuable Avoidance Actions against the Released Parties, without consideration flowing to the Falcon estate. • The Plan was not formed in good faith – the Plan was negotiated between the Debtors, the UCC, and the JPLs – to the exclusion of Falcon creditors. These parties are conflicted with respect to the formulation of the Falcon Plan. • The Plan is not feasible because Falcon is administratively insolvent and lacks funds to successfully restructure. • The Disclosure Statement is ambiguous as to subordination of Tide's Claims. To the extent that the Plan seeks to automatically subordinate Tide's claims, it abrogates Tide's due process rights and violates the Bankruptcy Rules. • The Falcon Plan is not in creditors' best interests when compared to a chapter 7 liquidation because under a chapter 7 liquidation, (i) a trustee would be required to file an adversary proceeding to subordinate Tide's claims (rather than automatically subordinating Tide's claims as under the Plan); (ii) Falcon's $15 million claim against Arcapita Bank would not be compromised, (iii) Avoidance Actions against Arcapita Bank would not be released, (iv) Arcapita's equity value in Falcon would not be inflated to $515 million, (v) Falcon would not be made liable on the Exit Facility, New SCB Facility and Sukuk Facility, (vi) Avoidance Actions against the Hopper Parties would not be released, and (vii) subordination of the Hopper Party Claims and Thronson Claims would be explored.	• **Avoidance Actions**: The First Amended Disclosure Statement excludes Falcon from the release of Avoidance Actions. *See* FADS, 137-138. At this time, the Debtors do not believe that Falcon possesses any valuable Avoidance Actions. *See* FADS, 73. • **Good Faith:** Whether the Falcon Plan is proposed in good faith is an issue relating to Confirmation and should be deferred to the Confirmation Hearing. Legal and evidentiary support for the Debtors' compliance with the "good faith" requirement of section 1129(a)(3) of the Bankruptcy Code will be provided in the Debtors' brief in support of Confirmation. • The Debtors do not believe that there are any conflicts of interest with respect to the Falcon Plan. • **Subordination:** The Subordination of Tide's claims is a confirmation issue. The Subordination of Tide's claims through the Plan expressly complies with section 510(b) of the Bankruptcy Code and applicable case law. The subordination of a claim does not present a conflict of interest. • **Feasibility:** The feasibility of the Falcon Plan is an issue relating to Confirmation and should be deferred to the Confirmation Hearing. • Falcon is not administratively insolvent. In addition to the $70 million in escrow, it has assets of approximately $6.7 million. Falcon has sufficient Cash to pay its current and anticipated Administrative Claims and to pay for defense of the District Court Action. • **Subordination:** The Plan and Disclosure Statement provide for the subordination of Tides claims as expressly allowed in Bankruptcy Rule 7001(8). An adversary proceeding is not required when subordination is sought pursuant to a chapter 11 plan. • **Best Interests Test**: Whether the Falcon Plan satisfies the "best interests of the creditors" test is a Confirmation Issue.

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
		• The Disclosure Statement fails to disclose identity of management and their conflicts of interest – to the extent management stays the same, it is in violation of §1129(a)(5)(ii) because of the inherent conflicts of interest described above.	• (i) Tide's argument that in a chapter 7 proceedings there would be no plan and a trustee would be required to file an adversary action has no relation to the "best interest" test. Given the nature of Tide's claims and applicable law, a chapter 7 trustee would seek to subordinate Tide's claims. • (ii) The First Amended Disclosure Statement clarifies that Falcon's claims against Arcapita Bank are not treated as Intercompany Claims, and shall instead be treated in in class 5(a). *See* FADS, 8. • (iii) Falcon is excluded from the provision of the Plan releasing Avoidance Actions. *See* FADS, 137-138. • (iv) The First Amended Disclosure Statement amends the calculation of Arcapita's equity value in Falcon to eliminate any potential "double-counting" of value which may have been distributed to equity owners. *See* FADS, 9-10. • (v) The First Amended Disclosure Statement clarifies that Falcon will not be an obligor on the Exit Facility, New SCB Facility or the Sukuk Facility. *See* FADS, 120. • (vi) The Plan does not release Avoidance Actions against the Hopper Parties. • (vii) The Debtor and the Committee have analyzed the Hopper Party claims and the Thronson claims. The Plan provides for the subordination of the Thronson claims. The Debtor does not believe that there is strong legal basis for the subordination of the Hopper Party claims, and the legal arguments will be the same in a chapter 7 liquidation. The Debtors have now reported that Tide contends that the Hopper Party Claims are subject to subordination pursuant to section 510(b) and that Tide may seek to subordinate those Claims. *See* FADS, 73. • **Management:** The First Amended Disclosure Statement discloses the current, and anticipated post-Effective Date members of the Board of Directors of Falcon. *See* FADS, 123. The Debtors do not believe that the pre- or post-Effective Date composition of the Falcon Board of Directors

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
			presents any conflict of interest. The members of the Falcon Board are independent and do not sit on any of the Boards of the other Debtors. • The right of a debtor to object to the allowance of a particular claim, or to seek subordination of a claim, does not present a conflict of interest and is expressly allowed by the Bankruptcy Code.
Moajam Limited **Docket No. [N/A]**	• Contends that it filed a proof of claim in the amount of approximately $6.4 million for funds on deposit with Arcapita Bank. • Contends that approximately $6.0 million of its claim is entitled to priority treatment.	**Objects to Classification of its Claim** • The Disclosure Statement does not provide information concerning the classification of objector's claim. • The Objector's claims should be classified as a priority claims because the claimant made demands prepetition for the withdrawal of its funds on deposit.	**The Objection raises a confirmation issue alone.** • Proper classification of claims under section 1122 of the Bankruptcy Code is a confirmation issue that should be deferred to the Confirmation Hearing. • The First Amended Disclosure Statement contains substantial information regarding the types of claims that comprise each of the Plan classes. The First Amended Disclosure Statement describes Investor Claims and their inclusion in class 5(a) of the Plan. • If the Objector believes that its claim is misclassified, the Voting Procedures provide the procedures for the Objector to file a Temporary Allowance Motion.
Dr. Ahmad Hashem, Salma Mohammed S. Al-Mahassni, Nada Nashaat Z. Hashem and the Heirs of Nashaat Zaki A. Hashem **Docket No. 920**	• Claims to hold interests in SIC/AKID I. SIC has a scheduled claim against Arcapita Bank. • Claims to have direct claims against Arcapita Bank based upon a prepetition rights offering.	**Objects to lack of disclosure as to classification of SIC and Rights Offering Claims** • The Disclosure Statement provides no information regarding the classification of (i) the claims of SIC against Arcapita Bank or (ii) the Rights Offering Claims. • The Disclosure Statement does not disclose the manner or method of classification of the SIC claims or the Rights Offering Claims against Arcapita Bank, and whether any classification decision was free of conflicts.	**As amended, the Disclosure Statement provides adequate disclosure.** **Classification of SIC and Rights Offering Claims**: The First Amended Disclosure Statement contains substantial information regarding the claims of Syndication Companies and Transaction Holdcos, as well as the claims of Rights Offering Participants. See FADS, 51-53. • All claims of Syndication Companies and Transaction Holdcos (including SIC) against Arcapita Bank are General Unsecured Claims that are classified in Class 5(a). • All claims of Rights Offering Participants are subordinated pursuant to section 510(b) of the Bankruptcy Code and are classified in Class 8(a). • The First Amended Disclosure Statement specifically states that claims have been classified pursuant to section

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
			1122 of the Bankruptcy Code and applicable case law. *See* FADS, 36, 109-111. • Any objection to classification, including any objection based on an alleged conflict of interest, is a confirmation issue. However, an overlap in management of a debtor's parent company and operating companies is not a basis for finding the classification scheme to be tainted by conflicts of interest.
		Objects to lack of disclosure as to management of investment companies • The Disclosure Statement does not disclose the current management of, or the proposed post-confirmation management of the investment companies, such as SIC.	• **Management**: The First Amended Disclosure Statement discloses the current composition of the boards of the Syndication Companies, Transaction Holdcos, PVs and PNVs. *See* FADS, 46-47. • The boards of each of the Syndication Companies, Transaction Holdcos, PVs and PNVs will not be affected by the Plan; the composition of those boards will be determined by the respective board succession provisions contained in the governing documents of each entity. A general description of these board succession provisions is provided in the First Amended Disclosure Statement. *See* FADS, 46. • The First Amended Disclosure Statement now contains additional disclosure of the post-Effective Date management of the Debtors' portfolio investments. .*See* FADS, 23-27.
		Objects to disclosure as to the determination of amounts on deposit with Arcapita Bank • The Disclosure Statement does not disclose whether there was an independent determination of (i) which investment vehicles had placed money with Arcapita Bank on the Petition Date, or (ii) whether the Rights Offering Proceeds were held in Arcapita Bank's bank accounts on the Petition Date. In addition, the Disclosure Statement does not disclose the movements or location of such funds.	• **Deposits at Arcapita Bank**: The First Amended Disclosure Statement provides a description of the Debtors' cash management system, which details the prepetition and post-petition cash movements and investments of cash held at Arcapita Bank. *See* p. FADS, 58-59. • The First Amended Disclosure Statement discloses that the Debtors prepared their schedules and statements with the assistance of their advisors, but the schedules and statements were not independently audited. *See* FADS, 59. The First Amended Disclosure Statement describes how the schedules and statements may be obtained.
		Joins in Objection of Mayhoola • Claimant joins the objections of Mayhoola with respect to the Third-Party Releases.	• **Mayhoola Joinder***: See* response to Mayhoola objections *supra*.

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
Standard Chartered Bank ("SCB") **Docket No. [1003]**	The Debtors (other than Falcon) are party to two secured Murabaha financing transactions with SCB that have an aggregate cost price (on the Petition Date) of approximately $96.6 million.	**1) Disclosure Issues** • The Disclosure Statement fails to disclose that SCB has not agreed to the treatment in the SCB Term Sheet and intends to object to the Plan. • The Disclosure Statement fails to disclose the risks of non-approval of the Cayman Court.	**As amended, the Disclosure Statement provides adequate disclosure and the remainder of the objection raises confirmation issues.** **1) Response to Disclosure Objections** • The Disclosure Statement will be amended to include a statement that, to date, SCB has not agreed to the treatment in the SCB Term Sheet and that SCB currently intends to object to the Plan. • The Disclosure Statement clearly provides adequate disclosure concerning the Cayman proceeding and the risks associated with the failure to obtain the Cayman Order. See FADS, 164.
		2) Plan Is Patently Unconfirmable • The Plan purports to require SCB to waive payment of certain administrative expense claims in cash. • The Plan cannot force SCB and SCB China to engage in negotiations with respect to the Honiton Facility.	**2) Responses to Objections Regarding Plan Objections** • **Confirmabilit**y: The confirmability of the Plan is a confirmation issue that should be deferred to the Confirmation Hearing. The Plan is premised on SCB's consent to the treatment in the SCB Term Sheet, which provides for converting a portion of SCB's administrative expense claim into the principal amount of new SCB Facility. If SCB consents to this treatment, then there is no issue under 1129(a)(9) of the Bankruptcy Code. The First Amended Disclosure Statement provides that the Plan may be amended to take-out the SCB Facility (in whole or in part) through an increase of the Exit Facility. In the event that SCB does not consent to the treatment in the SCB Term Sheet, its administrative expense claims will be resolved through cash payments in full from proceeds of the Exit Facility. • **Honiton**: The SCB Term Sheet merely incorporates an aspirational goal of good faith negotiations between the parties to reach a consensual resolution with respect to disputed issues concerning the Honiton Facility. To the extent that SCB or SCB China do not wish to engage in good faith negotiations, the Plan does not purport to force the

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
			parties to engage in these negotiations.
		• The Plan purports to utilize SCB's "trust property" to fund the Plan. This "trust property" is not property of the estate. Additionally, under the laws of the Cayman Islands, equitable title to the shares of LT Holdings, AEID II, WindTurbine and RailInvest (the "***Owned Shares***") passed to SCB upon entry into the SCB Facilities.	• **Trust Property/Owned Shares:** The determination of whether the assets in question are property of the estate is a confirmation issue that should be deferred to the Confirmation Hearing. In any event, the Debtors contest the assertion that the assets in question are not property of the estate, and the legal and factual basis supporting the Debtors' position will be set forth in the Debtors' Confirmation Brief.
		• The Plan does not satisfy section 1129(a)(10) of the Bankruptcy Code.	• **1129(a)10):** SCB has not yet voted to accept or reject the Plan, so it is premature to argue that the Plan fails to satisfy section 1129(a)(10) of the Bankruptcy Code. If, however, SCB votes to reject the Plan, the Plan still complies with section 1129(a)(10) of the Bankruptcy Code under applicable case law. The legal and factual basis supporting a finding that section 1129(a)(10) of the Bankruptcy code has been satisfied will be set forth in the Debtors' Confirmation Brief.
		• SCB's claims cannot be crammed down under 1129(b) because: (i) the Bankruptcy Court does not have the power to force SCB to purchase precious metals in connection with a new Shari'ah-compliant facility; and (ii) pursuant to Arcapita Bank's charter, Arcapita Bank may only enter into Shari'ah compliant transactions.	• **Shari'ah Compliance**: (i) Purchasing precious metals is a device by which ordinary credit agreements that normally charge interest (impermissible under Shari'ah law) are converted into a commodity sale with a profit component (permissible under Shari'ah law and acts as a substitute for interest). Accordingly, this objection is one of form over substance. (ii) The Plan provides that the New SCB Facility will be Shari-ah-compliant. However, in the event that the Bankruptcy Court determines that SCB's claims may not be crammed down through a Shari'ah compliant facility, the Plan will be amended to provide SCB with a non-Shari'ah compliant facility with the same economic terms. The obligors under the New SCB Facility may not be entities that are exclusively required to enter into Shari'ah compliant transactions.
		• The Exit Facility must be finalized prior	• **Exit Facility**: The Exit Facility Term Sheet will be final on or before April 30, 2013 -- well before the voting deadline.

Party	Relevant Background	Objections to Plan/Disclosure Statement	Debtors' Response
		to solicitation. • The proposed profit rate of the New SCB Facility is substantially lower than a market rate • The Plan is designed to avoid a scheme of arrangement under Cayman law.	• **Profit Rate:** The determination of the adequacy of the profit rate for the New SCB Facility, in the context of a cramdown of SCB's claims, is a confirmation issue that should be deferred to the Confirmation Hearing. In any event, it is the Debtors' view that the profit rate provided in the SCB Term Sheet is an appropriate rate based on applicable case law. The legal and factual basis supporting the proposed profit rate will be set forth in the Debtors' Confirmation Brief. • **Cayman Proceeding**: The Plan is not proposed in bad faith. Before the confirmation hearing, the Grand Court of the Cayman Islands will be asked to approve the sale of the AIHL assets as provided in the Plan and the Cayman Islands Court will rule upon the proper application of Cayman law. SCB will have an opportunity to raise any objections it wishes in the Cayman Islands.
		3) Court Should Grant Relief from Stay to Litigate in Cayman Court • SCB requests that the Court grant limited relief of the automatic stay in order to litigate the Cayman Islands legal issues in the Cayman Court.	**3) Response to Request to Lift Stay** • The Disclosure Statement clearly provides that entry of the Cayman Order is a condition precedent to the Effective Date. As currently contemplated, the Cayman Court will conduct a hearing to consider giving effect to the Plan in the Cayman Islands on May 31, 2013 prior to the Confirmation Hearing. SCB will have the opportunity to address any Cayman law issues at the hearing before the Cayman Court. Consequently, relief from stay is unnecessary as this Court will have the benefit of the Cayman Court's views in connection with confirmation.
		4) Expedited Discovery is Warranted • SCB requests expedited discovery in connection with confirmation in the event that the Disclosure Statement is approved. SCB suggests that the 28 day objection period may be insufficient to complete the necessary discovery.	**2) Response to Request for Expedited Discovery** • As the Debtors' only secured lender, and in light of its activity throughout these cases (particularly substantial diligence and negotiations in connection with the DIP financing and the proposed EuroLog IPO), SCB has had considerable access to the Debtors' documentation and information, including access to the Debtors' management. Accordingly, if in fact discovery is indeed required, it should not be extensive and the 28-day objection period is more than sufficient.

B. Objections to Procedures Motion

Party	Relevant Background	Objections to Procedures	Debtors' Response
Tide Natural Gas Storage I, LP and Tide Natural Gas Storage II, LP **Docket No. 899**		• The Procedures Order should provide that parties in interest (i.e. Tide) may object to proofs of claim filed against Falcon for voting purposes. • The Procedures Order should provide that the votes of insiders (i.e. the votes of Arcapita as equity owner of Falcon) should not count for purposes of determining whether an impaired class has accepted the Plan. • The Procedures Order should specify that §1129(a)(10) applies on a subplan basis and creditors may only vote in the subplan where they have a claim. • The Procedures Order should specify that any estimation of Tide's Claims that may occur pursuant to a Temporary Allowance Motion shall be for voting purposes only with no effect on the allowance of Tide's Claims (or the District Court Action). • The Procedures Order should specify that, absent a final order of the Court pursuant to an adversary proceeding, Tide's Claims will not be treated as subordinated for voting purposes. • The Procedures Order should specify that a filed proof of claim governs the classification and amount of a claim for voting purposes – it should not be based on the amount or class "believed" to be correct by the Debtors.	• The Procedures Order does not abrogate any rights that Tide may have as a party in interest to object to a proof of claim. An express statement that section 502 of the Bankruptcy Code applies to the Chapter 11 Cases is not necessary. • Tide misconstrues the application of section 1129(a)(10) of the Bankruptcy Code, which does not provide that votes of insiders will not be counted to determine the acceptance of any impaired class. The votes of insiders are disregarded for the limited purpose of determining whether *at least one* impaired class has accepted the plan. The Procedures Order does not override the application of section 1129(a)(10) of the Bankruptcy Code. • The application of section 1129(a)(10) of the Bankruptcy Code is a confirmation issue that should be addressed in the confirmation order. The Procedures Order merely addresses the timing and method for voting and scheduling confirmation of the Plan – it does not address substantive confirmation issues such as whether section 1129(a)(10) of the Bankruptcy Code has been satisfied. • The Procedures Order is clear that the effect of any order related to a Temporary Allowance Motion is for the purposes of voting only. • The Plan and Disclosure Statement appropriately seeks the subordination of the claims of Tide through the Plan and without the filing of an adversary proceeding, pursuant to Bankruptcy Rule 7001(8). • The Procedures Order provides a mechanism for claimants to contest their voting status and classification through the filing of a Temporary Allowance Motion. This mechanism provides Tide, and other parties, with sufficient opportunity to request reclassification for voting purposes.

Party	Relevant Background	Objections to Procedures	Debtors' Response
			• The Procedures Order provides that, absent a Claims Objection (and certain other enumerated exceptions), a filed proof of claim shall govern the amount of a claim for voting purposes. *See* Procedures Order ¶ 17. However, proofs of claim do not (and cannot) specify a class in the Plan into which they are to be placed. Classification of claims is within the Debtors' discretion, subject to section 1122 of the Bankruptcy Code and any objection is a confirmation issue.

EXHIBIT B

ARCAPITA – FIRST AMENDED DISCLOSURE STATEMENT SIGNIFICANT CHANGES

Topic	Significant Changes
Committee/Ad Hoc Support	• Added disclosure highlighting Committee/Ad Hoc Group support of the Plan after extensive negotiations (2).[1] • Added disclosure regarding payment of Ad Hoc Group's reasonable fees (111-112).
Post Effective Date Management and Governance/Management and Control of Portfolio Company Investments/Cooperation with Third-Party Investors	• Added disclosure describing revised corporate structure and potential creation of Bahraini entities (4, 17-20). • Deletions reflect reformatting of language (*see* 12-16 and 17-20). • Added disclosure describing consensual resolution among the Debtors, the Committee, and the Ad Hoc Group, relating to the management of post-emergence Reorganized Arcapita (i.e. retention of AIM and AIM's role in managing the portfolio assets and orderly wind-down) and the relationship with co-investors in the Debtors' investment portfolio and the control over disposition of jointly owned investments (4, 23-27, 77-78, 101, 123, 158). • Added disclosure regarding additional Plan Settlement relating to the Cooperation Agreement. Specifically, added (i) description of the consideration provided by both the Debtors (including releases) and the Third-Party Investors/Syndication Companies, and (ii) description regarding the Cooperation Term Sheet's mitigation of the risks to the Debtors and their creditors arising from a potential lack of control over the disposition of minority-owned investments (77-78, 101, 171-174). • Added disclosure clarifying that the Reorganized Debtors are entitled, but not required, to participate in follow-on Deal Fundings (in a pro rata amount) (77). • Revised section describing post-Effective Date management, (i.e., make-up and voting power of the New Board of New Arcapita Topco and related corporate governance) based on consensual deal with the Committee (21-23). • Added disclosure regarding Reorganized Arcapita Groups' retention of the right to inspect the book and records of AIM (123). • Added disclosure providing that confirmation of the Plan constitutes approval of the Cooperation TS (127). • Added disclosure providing that approval of Cooperation Term Sheet as condition to confirmation (142). • Added disclosure providing that entry into definitive documents implementing the Cooperation Term Sheet is a condition to Effective Date (143). • Added corresponding risk factor regarding non-occurrence of definitive documents implementing Cooperation Term Sheet (164). • The Equity Term Sheet and Implementation Memorandum (attached as Exhibits D and E to the Disclosure Statement) were revised to reflect the new corporate structure, management and governance.

[1] The page references are to the Blackline of the First Amended Disclosure Statement [Docket No. 984].

Topic	Significant Changes
Employee Issues	• Revised sections describing post-Effective Date employment issues, based on the Cooperation Term Sheet, to reflect that Reorganized Arcapita Group is not anticipated to employ a significant number of remaining employees and added disclosure describing the responsibility regarding the separation obligations related thereto (Intro page iii, 27-28, 63, 107-108, 124-125). • Added approval of Senior Management Global Settlement Term Sheet as condition to confirmation (142). • The Senior Management Global Settlement Term Sheet (attached to the Disclosure Statement as Exhibit J) was revised to reflect the related terms under the Cooperation Term Sheet.
Division of Plan Consideration/Projected Recoveries/Updated Exit Values	• Revised allocation of Sukuk Obligations and New Arcapita Class A Shares based on updated projected claims amounts (7). • Based upon an agreement with the Committee relating to the Equity Term Sheet, added disclosure describing the subdivision of New Arcapita Class A Shares and New Arcapita Ordinary Shares into subclasses with differing voting right; removed the concept of Shareholder Reserved Matters (15-17). • Updated projected recoveries (30-32). • Revised "Updated Exit Values" to reflect further analysis related to the timing and potential value of exited investments (76, 81). • Added disclosure regarding projected recoveries at a range of increased Updated Exit Values (76, Exhibit M).
Liquidation Preference/Dividend Threshold	• Based upon an agreement with the Committee and as part of the overall global Plan Settlements, revised (i) the aggregate Liquidation Preference amount to $810M, which revised amount is intended to provide payment in full to Holders of Claims against AIHL upon satisfaction of the Liquidation Preference; and (ii) the Dividend Threshold to $1,425M, which revised amount is intended to provide payment in full to Holders of Claims against Arcapita Bank upon satisfaction of the Dividend Threshold (15-16).
Convenience Class	• Added disclosure clarifying that making the Convenience Class Election constitutes a vote to accept the Plan (2, 7, 31, 114-115). • Revised assumption of convenience class opt-in from $200,000 to $175,000 based on updated data with respect to General Unsecured Claims against Arcapita Bank. The amount of General Unsecured Claims against Arcapita Bank was updated to reflect projected claims following application of the Plan Settlements and Plan treatment for certain Claims (6, 67). • Added $9.7M cap regarding aggregate Cash consideration payable to Holders of Allowed Convenience Claims (7, 33, 116).

Topic	Significant Changes
Exit Facility/New SCB Facility	• Revised language to reflect current state of negotiations for Exit financing, and providing for range with respect to the ultimate terms of a deal (6, 19-20). • Added disclosure regarding the potential upsize of the Exit Facility to a fund take-out of the SCB Facility (6, 20, 29, 120). • Added risk factor regarding uncertainties relating to ultimate terms of exit financing (165).
Avoidance Actions/Arcsukuk Guarantee	• At the Committee's request, added language regarding the preservation of the potential avoidance of AIHL's guarantee of the Arcsukuk Facility; added a contingent claim to Class 4(a)-(b) based on same; noted that upon successful avoidance of AIHL's guarantee of the Arcsukuk Facility, the projected recovery to creditors of AIHL will be affected (6, 16, 29-30, 50, 104, 113-114, 131). • Added corresponding risk factor regarding Committee's position relating to the potential avoidance of AIHL's guarantee of the Arcsukuk Facility and related impact on projected recoveries under the Plan (173). • Provided additional support for the Debtors' position regarding Avoidance Actions and added disclosure regarding the Committee's contrary position with respect to certain Avoidance Actions (104-106).
Regulatory Issues	• Added disclosure regarding (i) potential subjection of Reorganized Arcapita to laws of other jurisdictions, and (ii) the potential formation of, and regulation of, a new Bahraini subsidiary of New Arcapita Topco by the CBB and/or the Bahrain Ministry of Industry and Commerce (18, 168-169). • In order to comply with U.S. securities laws, added concept that if any Holder entitled to receive Sukuk Obligations, New Arcapita Shares or New Arcapita Warrants is U.S. person who is not either a Qualified Purchaser or a Knowledgeable Employee will not receive such distribution and will instead be liquidated (10, 17, 30-32, 34, 113-117, 175).
Releases	• In response to objections to the releases in the Disclosure Statement, the scope of the third party releases has been substantially narrowed in the FADS. Currently, the third party releases consist of the current and former officers, board members, employees, managers, and professionals to or for the Debtors or the Debtors' Affiliates (137-140). • As part of the global settlement memorialized by the Cooperation Term Sheet, the Debtors (other than Falcon) agreed to provide, as additional consideration to the Syndication Companies, PVs, PNVs and the Third-Party Investors, certain Debtor releases. Accordingly, currently, the Debtors' (other than Falcon) releases include releases of the following claims against: o Third-Party Investors (unless such party is a Placement Bank) o AHQ Cayman I Investors o current and former officers, board members, employees, managers, professionals and agents of the Syndication Companies, PVs, and the PNVs that are Affiliates of the Debtors

Topic	Significant Changes
	o Holders of Interests in Arcapita Bank o CBB • In connection with the global settlement memorialized by the Cooperation term Sheet, and as part of the Plan Settlements and at the request of the Committee, the Debtors have modified the releases of Avoidance Actions under the Plan. Currently, the following parties receive releases of avoidance actions: o The aforementioned parties receiving Debtor releases o any Persons that have had funds on deposit with Arcapita Bank in a RIA or URIA o QIB and QInvest LLC (only with respect to any payments received in connection with the Lusail Transaction) provided that they provide all necessary consents with respect to the assumption and assignment of the QRE Letter Agreement, the Lusail Lease, and the Lease Option (102-103, 137-138). ❖ However, at the Committee's request, the Plan preserves (i) potential avoidance of AIHL's guarantee of the Arcsukuk Facility, (ii) Avoidance Actions relating to Placement Banks and (iii) Avoidance Actions relating to certain purchasers of the Debtors' exited investments (106, 126, 174).
Falcon	• Added disclosure clarifying that Claims of Falcon against other Debtors are not Intercompany Claims (8, 51). • Revised language to accurately reflect the approximate equity value of Falcon following the Nortex Sale ($70M) (9-10, 34, 36, 117-118). • Added disclosure clarifying that Falcon will not be a party or obligor with respect to the Sukuk Facility, the Exit Facility, or the New SCB Facility (6, 14, 19-20, 120). • Added disclosure clarifying that Tide's claims, if Allowed, will be treated in Classes 10(a) and 10(g) pursuant to the Plan (70). • Added disclosure describing that Tide asserts that there may be a valuable Avoidance Action that could be brought against Arcapita Bank and/or the Hopper Parties; and that Tide asserts that the Claims filed by Hopper Parties are subject to subordination and that it will file an adversary proceeding (73). • In response to Tide's Objection to the Disclosure Statement, added clarifying language regarding Falcon's administrative solvency (83). • Added disclosure clarifying that, with respect to Falcon, only administrative expenses that are directly attributable to the Falcon case will be allocated to Falcon, and that current administrative expenses are approximately $1.53M (83, 159). • In response to Tide's Objection to the Disclosure Statement, added disclosure that Falcon may not be merged into any other Debtor (121). • In response to Tide's Objection to the Disclosure Statement, added disclosure removing (i) Falcon from the Discharge and the Debtor releases, and (ii) Falcon's creditors from the third-party releases (136-139). • In response to Tide's objection to the Disclosure Statement, added additional clarity regarding Falcon's post-Effective Date board (123).

Topic	Significant Changes
HQ Lease	• Revised language describing the terms of the HQ Settlement as a Plan Settlement based on successful negotiations between the Debtors and the AHQ Cayman I Investors related to the Sale-Leaseback Transaction, (including the new-lease option); and revised language to provide that the HQ Lease will be rejected (11, 20, 78, 99-101). • Added language that confirmation of the Plan constitutes approval of the HQ Settlement (127). • Added language providing that approval of HQ Settlement is a condition to confirmation (142). • Added language providing that that entry into definitive documents implementing the HQ Settlement is condition to Effective Date (144). • Added corresponding risk factor regarding non-occurrence of definitive documents implementing HQ Settlement (164).
QRE	• Added disclosure regarding the assumption and assignment of the QRE Letter Agreement, the Lease and the Option to one of the New Holding Companies on modified terms (20-21, 51, 91). • Updated section describing QRE's treatment. Added disclosure that QRE will receive payment in full, upon the sale of the Lusail JV, as a result of the assumption of the QRE Letter Agreement on modified terms (51-52, 91).
Committee Specific Issues	• Added disclosure providing that the Committee may enforce any Causes of Action that it has standing to prosecute and that the Debtors will not oppose the Committee's standing to prosecute avoidance of (i) AIHL's guarantee of the Arcsukuk Facility, (ii) Avoidance Actions relating to Placement Banks or (iii) certain purchasers of the Debtors' exited investments (106, 126, 174). • Added disclosure clarifying that the Committee will not be dissolved until all preserved actions that it has standing to pursue have been resolved (141). • At the Committee's request, clarified that the Committee's right to challenge certain postpetition profit under the SCB Facilities will only terminate if (i) SCB receives the treatment set forth in the SCB Term Sheet, and (ii) SCB votes to accept the plan (142). • Added Committee consent right over waivers to conditions precedent (144). • Added disclosure regarding Committee consent over Plan amendments relating to the cancellation of Arcapita Bank interests (34-35, 117-118).
Misc.	• **Pre-Emergence Board Modifications** – Added disclosure regarding the modification of the boards of certain Syndication Companies, PNVs and PVs in February 2013 (46-47). • **Schedule Amendment -** In response to [Bill Kerr]'s objection to the Disclosure Statement, added language providing that the Debtors prepared the schedules and statements with the assistance of their advisors, but such schedules and statements were not independently audited (59).

Topic	Significant Changes
	• **Insurance -** Added language providing that the Debtors believe that their insurance policies and proceeds thereof are property of the estate (61). • **Admin Claim Bar Date -** Added requirement that parties with Administrative Expense Claims be required to file a proof of claim within 30 days of the Effective Date (110). • **Professional Compensation Claims Escrow Account –** Added concept that Debtors will establish an escrow account for payment of professional compensation claims post-Effective Date (110-111). • **Liquidation analysis -** Added a brief summary of the liquidation analysis (157). • **Tax** – Added additional tax disclosure.