

## **NOTICE OF SETTLEMENT APPROVAL IN ARCTIC GLACIER INCOME FUND SECURITIES LITIGATION**

**This notice is to all individuals and entities, wherever they may reside or be domiciled (other than Excluded Persons as defined below), who purchased Units of Arctic Glacier Income Fund (AG.UN) during the period from March 13, 2002 to September 16, 2008 (the “Class Period”).**

**READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.  
YOU MAY NEED TO TAKE PROMPT ACTION**

### **IMPORTANT DEADLINES**

**Opt-Out Deadline** (for those who wish to exclude themselves from the Class Action and NOT file a claim for compensation. See page 5 for more details.): **August 13, 2012**

**Claims Bar Deadline** (to file a claim for compensation from the Net Settlement Fund. See page 2 for more details.): **September 11, 2012**

***Opt-Out Forms and/or Claim Forms will not be accepted after their respective deadlines. As a result, it is necessary that you act without delay.***

### **COURT APPROVAL OF THE CLASS ACTION SETTLEMENT**

In September 2008, the plaintiffs commenced a class proceeding against Arctic Glacier, Arctic Glacier Inc., and certain officers and directors of Arctic Glacier (the “Defendants”) in the Ontario Superior Court of Justice (the “Court”). The class action arises out of Arctic Glacier’s announcement of an investigation by the United States Department of Justice into anti-competitive conduct in the packaged ice industry. Following that announcement, Arctic Glacier suspended its distributions to its unit-holders, and the trading price of the units declined significantly. By order issued March 1, 2011, the Court certified the class action. The Defendants sought leave to appeal the certification order and leave to appeal was granted on February 1, 2012.

On February 22, 2012, Arctic Glacier and Arctic Glacier Inc. applied for protection from their creditors pursuant to the *Companies’ Creditors Arrangements Act* (the “CCAA”) in the Court of Queen’s Bench of Manitoba (the “CCAA Court”) and pursuant to Chapter 15 of the *United States Bankruptcy Code* in the United States Bankruptcy Court of the District of Delaware. Each of these Courts (the “Restructuring Courts”) granted orders staying all legal proceedings against Arctic Glacier and Arctic Glacier Inc. for the purpose of permitting them to restructure their affairs. Those orders currently prohibit the commencement or prosecution against Arctic Glacier and Arctic Glacier Inc. and certain of their current or former officers and directors. It is not currently known when or if such stays of proceedings will be lifted. Those proceedings may result in further orders of the Restructuring Courts compromising or extinguishing the claims of Class Members.

On April 25, 2012 the parties to the class action executed a Settlement Agreement (the "Settlement"). The Settlement was subject to the approval of the Court. The Settlement provides for the payment of CAD\$13,750,000 (the "Settlement Amount") in full and final settlement of the claims of Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses. In return for the Settlement Amount, the Defendants receive releases and a dismissal of the class action. The Settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault on the part of any of the Defendants, all of whom have denied, and continue to deny, the allegations against them.

A complete copy of the Settlement Agreement is available on the website of Class Counsel: [www.classaction.ca](http://www.classaction.ca).

On June 1, 2012, the Court approved the Settlement and declared that it is fair, reasonable and in the best interests of the Class.

The Court also awarded Class Counsel legal fees, expenses and applicable taxes in the amount of \$4,071,139.85 ("Class Counsel Fees"). As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. The amount awarded for Class Counsel Fees includes \$253,039.85 for the reimbursement of amounts spent by Class Counsel in the conduct of the class action. The remainder, net of applicable taxes, will be Class Counsel's only compensation for conducting the class action. Class Counsel Fees will be deducted from the Settlement Amount before it is distributed to Class Members. Expenses incurred or payable relating to approval, notification, implementation and administration of the Settlement ("Administration Expenses"), will also be paid from the Settlement Amount before it is distributed to Class Members.

## **ADMINISTRATOR**

The Court has appointed NPT RicePoint as the Administrator of the Settlement. The Administrator will, among other things: (i) receive and process the Claim Forms and Opt-Out Forms; (ii) make determinations of Class Members' eligibility for compensation pursuant to the Plan of Allocation; (iii) communicate with Class Members regarding their eligibility for compensation; and (iv) manage and distribute the Settlement Amount. The Administrator can be contacted at:

Telephone: **1-866-432-5534**

Mailing Address: **Arctic Glacier Income Fund Securities Litigation  
Claims Administrator  
P.O. Box 3355  
London, ON N6A 4K3**

Website: **[www.nptricepoint.com](http://www.nptricepoint.com)**

## **CLASS MEMBERS' ENTITLEMENT TO COMPENSATION**

Class Members will be eligible for compensation pursuant to the Settlement if they sustained a Net Loss on their Class Period transactions and if they timely submit a complete Claim Form, including any supporting documentation with the Administrator. To be eligible for compensation under the Settlement, Class Members must submit their Claim Form postmarked **no later than September 11, 2012**, (the "Claims Bar Deadline").

"Excluded Persons" are not permitted to participate in the Settlement. Excluded Persons are the Defendants, members of the immediate families of the Defendants, any officers, directors or employees of the Income Fund or Arctic or any subsidiary of the Income Fund or Arctic, any entity in respect of which any such person has a legal or *de facto* controlling interest, and any legal representatives, heirs, successors or assigns of any such person or entity.

The remainder of the Settlement Amount, after deduction of Class Counsel Fees and Administration Expenses (the "Net Settlement Amount") will be distributed to Class Members in accordance with the Plan of Allocation.

The Plan of Allocation uses the following definitions, in addition to those contained in the Settlement:

- (a) "**Acquisition Expense**" means the total monies paid by the Claimant (including brokerage commissions) to acquire Eligible Units;
- (b) "**Claimant**" means a Class Member who submits a properly completed Claim Form and all required supporting documentation to the Administrator, on or before the Claims Bar Deadline;
- (c) "**Disposition Proceeds**" means the total proceeds paid to the Claimant (without deducting any commissions paid in respect of the dispositions) in consideration of the sale of all of his/her/its Eligible Units; provided, however, that with respect to any Eligible Units that the Claimant continues to hold, they shall be deemed to have been disposed of for an amount equal to the number of Eligible Units still held, multiplied by \$1.84 [being the 10 trading day volume weighted average trading price of Arctic Glacier Units on the TSX from September 17, 2008 to September 30, 2008 inclusive];
- (d) "**FIFO**" means the principle of first-in, first-out, wherein Units are deemed to be sold in the same order that they were purchased (i.e. the first Units purchased are deemed to be the first sold); and which requires, in the case of a Claimant who held Units of Arctic Glacier at the commencement of the Class Period, that those Units be deemed to have been sold completely before Eligible Units are sold or deemed sold;
- (e) "**Net Loss**" means that the Claimant's Disposition Proceeds are less than the Claimant's Acquisition Expense;
- (f) "**Net Settlement Amount**" means the Escrow Settlement Amount remaining after payment of Administration Expenses and Class Counsel Fees; and

- (g) “**Nominal Entitlement**” means a Claimant’s nominal damages as calculated pursuant to the formula set forth herein, and which forms the basis upon which each Claimant’s *pro rata* share of the Net Settlement Amount is determined.

A Claimant must have sustained a Net Loss in order to be eligible to receive a payment from the Net Settlement Amount. A Claimant who has not suffered a net loss as calculated under the Plan of Allocation will not be entitled to receive any portion of the Net Settlement Amount.

The Administrator shall first determine whether a Claimant sustained a Net Loss. If the Claimant has sustained a Net Loss, the Claimant becomes an Authorized Claimant, and the Administrator will proceed to calculate his/her/its Nominal Entitlement.

No Nominal Entitlement shall be allocated in respect Eligible Units acquired by a Class Member in its capacity as an underwriter to an offering of Units made during the Class Period.

The Administrator will apply FIFO to distinguish the sale of Arctic Glacier Units held at the beginning of the Class Period from the sale of Eligible Units, and will continue to apply FIFO to determine the purchase transactions which correspond to the sale of Eligible Units. The Administrator will use this data in the calculation of an Authorized Claimant’s Nominal Entitlement according to the formulas listed below.

The date of a purchase, sale or deemed disposition shall be the trade date, as opposed to the settlement date, of the transaction.

For the purposes of any calculation under the Plan of Allocation, the Administrator will account for any unit splits or consolidations that occur during and after the Class Period, such that the Claimants’ holdings for the purposes of the calculations are completed in units equivalent to those traded during the Class Period.

A Claimant’s Nominal Entitlement will be calculated as follows:

- I. No Nominal Entitlement shall be attributed to any Eligible Units *disposed of* prior to the first alleged corrective disclosure, that is, *prior to March 6, 2008*.**
- II. For Eligible Units *disposed of* between the first alleged corrective disclosure and the end of the 10 trading day period following the final alleged corrective disclosure on September 17, 2008, that is, *on or between March 6, 2008 and September 30, 2008*, the Nominal Entitlement shall be:**
  - A. an amount equal to the number of Eligible Units thus disposed of, multiplied by the difference between the volume weighted average price paid for those Eligible Units (including any commissions paid in respect thereof) and the average price per share received upon the disposition of those Eligible Units (without deducting any commissions paid in respect of the disposition).
- III. For Eligible Units *disposed of* after the 10 trading day period following the second alleged corrective disclosure, that is, *on or after September 30, 2008*, the Nominal Entitlement shall be the lesser of:**

- A. an amount equal to the number of Eligible Units thus disposed of, multiplied by the difference between the volume weighted average price paid for those Eligible Units (including any commissions paid in respect thereof) and the price per share received upon the disposition of those Eligible Units (without deducting any commissions paid in respect of the disposition); and
- B. an amount equal to the number of Eligible Units thus disposed of, multiplied by the difference between the volume weighted average price paid for those Eligible Units (including any commissions paid in respect thereof) and \$1.84 [being the 10 trading day volume weighted average trading price of Arctic Glacier Units on the TSX from September 17, 2008 to September 30, 2008 inclusive].

**IV. For Eligible Units still held at the time the Claim Form is completed, the Nominal Entitlement shall be:**

- A. an amount equal to the number of Eligible Units still held, multiplied by the difference between the volume weighted average price paid for those Eligible Units (including any commissions paid in respect thereof) and \$1.84 [being the 10 trading day volume weighted average trading price of Arctic Glacier Units on the TSX from September 18, 2008 to September 30, 2008 inclusive].

Each Claimant's actual compensation shall be the portion of the Net Settlement Amount equivalent to the ratio of his/her/its Nominal Entitlement to the total Nominal Entitlements of all Authorized Claimants multiplied by the Net Settlement Amount, as calculated by the Administrator.

The Administrator will not distribute entitlements of less than \$1.00 to Class Members. Such amounts will instead be redistributed pro rata to the other Authorized Claimants.

**REQUESTING EXCLUSION FROM THE CLASS**

All persons and entities that fall within the definition of the Class will automatically be considered Class Members unless and until they exclude themselves from the Class ("opt out"). This means that Class Members will not be able to bring or maintain any other claim or legal proceeding against the Defendants, or any other person released by the Settlement in relation to the matters alleged in the class action.

If you do not want to be bound by the Settlement you must opt out. Please note, however, that by opting out you will also be barred from making a claim and receiving compensation from the Settlement Amount. If you are considering opting out, you should have specific regard to the impact of the orders which have been or may be made by the Restructuring Courts on your ability to pursue litigation against the Defendants in this action. Those orders may severely limit or eliminate your ability to commence or continue litigation against the Defendants named in this action.

If you wish to opt out, you may do so by completing the "Opt-Out Form" enclosed with this notice. In order to successfully opt out, you must include all of the information and documentation requested by the Opt-Out Form.

If you wish to opt out, you must submit your Opt-Out Form and the required supporting documentation to the Administrator at the above-noted address, **no later than August 13, 2012.**

### **IMPORTANT DEADLINES**

**Opt-Out Deadline: August 13, 2012**

**Claims Bar Deadline: September 11, 2012**

*Opt-Out Forms and/or Claim Forms will not be accepted after their respective deadlines. As a result, it is necessary that you act without delay.*

### **CLASS COUNSEL**

The law firm of Siskinds LLP is counsel to the Plaintiffs in the class proceeding, and can be reached by telephone, toll free, at 1-800-461-6166 ext. 2380. Email inquiries may be sent to nicole.young@siskinds.com.

### **INTERPRETATION**

If there is a conflict between the provisions of this notice and the Settlement, the terms of the Settlement will prevail.

Please do not direct inquiries about this notice to the Court. All inquiries should be directed to the Administrator or Siskinds LLP.

**DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED  
BY THE ONTARIO SUPERIOR COURT OF JUSTICE**