

January 4, 2019

Mr. Brent J. Fields  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: Administrative Proceeding File No. 3-16776

Dear Mr. Fields:

As counsel to Fortress Investment Group and certain of its affiliates (collectively, “*Fortress*”), we write to comment on the Proposed Plan of Distribution (the “*Plan*”) in *In the Matter of Taberna Capital Management, LLC, Michael Fralin, and Raphael Licht*, Administrative Proceeding File No. 3-16776. Capitalized terms used but not defined herein have the meanings ascribed to them in the Plan.

Fortress served as collateral manager or collateral manager-designee for each of the Taberna CDOs and also held (or holds) several tranches of Securities, including Harmed Securities. Fortress comments on the Plan solely in its capacity as a Potential Claimant.

First, a review of Schedule A, the Schedule of Harmed Securities, reveals that several tranches of Harmed Securities were not included on the schedule. The omitted tranches include the following:

Taberna Preferred Funding VI, Ltd. A2 87331AAD6  
Taberna Preferred Funding VI, Ltd. B 87331AAE4  
Taberna Europe CDO I plc A2 XS0278170765  
Taberna Europe CDO II plc A2 XS0311585672

We believe that this omission is neither fair nor reasonable to Potential Claimants,<sup>1</sup> and we respectfully urge the Commission to amend the Plan to correct this obvious error.

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<sup>1</sup> See *Official Committee of Unsecured Creditors of Worldcom, Inc. v. SEC*, 467 F.3d 73, 85 (2d Cir. 2006) (“The district court was required only to determine that the SEC’s distribution plan *fairly and reasonably* distributed the limited Fair Fund proceeds among the potential claimants.”)(emphasis added).

Mr. Brent J. Fields  
January 4, 2019  
Page 2

Second, the Plan defines “Excluded Parties” in relevant part as “The Respondents and any assigns, heirs, spouses, parents, dependents or controlled entities of any of the Respondents; and the Fund Administrator, its employees, and those persons assisting the Fund Administrator in its role as Fund Administrator.” Potential Claimants may have acquired their rights to the Harmed Securities in arm’s-length transactions with Taberna, including by means of assignment and assumption agreements or similar legal documents. The Plan could thus be read to exclude such persons. We believe the intent of “Excluded Parties” is to prevent the Respondents (or persons acting on their behalf) from obtaining recoveries under the Fair Fund, not to exclude unrelated third parties who transacted with them in bona fide transactions. We therefore respectfully request that the definition of “Excluded Parties” be amended to reflect this distinction, as follows:

*Excluded Parties.* The Respondents and any assigns, heirs, spouses, parents, dependents or controlled entities of any of the Respondents; and the Fund Administrator, its employees, and those persons assisting the Fund Administrator in its role as Fund Administrator. **For avoidance of doubt, no person who acquired (by assignment or otherwise) rights in Securities or rights under management agreements respecting management of Taberna CDOs in respect of periods after the periods which were the subject of matters described in the Order from the Respondents, in bona fide transactions for value, shall be deemed an “Excluded Party”.** The Claim Form will require all Potential Claimants to certify that they are not an Excluded Party.

Thank you for your consideration of these comments, and we are available to discuss them further with the Commissioners or Staff at your convenience.

Very truly yours,



Scott H. Kimpel

Cc: John R. Schneider, Hunton Andrews Kurth LLP