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ANCIENT SPIRIT, MODERN MIND

REPORT TO THE PEOPLE'S ASSEMBLY

***TFL 44 Special Investment Bodies
Regulation Amendment Regulation, 2020***

**FOR CONSIDERATION AT THE
SPECIAL PEOPLE'S ASSEMBLY**

July 25, 2020

Prepared by: Ratcliff & Co. LLP, on behalf of the Executive Director

Date: June 29, 2020

INTRODUCTION

The People's Assembly will be asked to consider the following motion:

The People's Assembly hereby approves the amendments to the *TFL 44 Special Investment Bodies Regulation* set out in the attached *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020*.

DISCUSSION

Executive Council has approved the *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020* (the "amending regulation") in order to amend the *TFL 44 Special Investment Bodies Regulation* (the "Regulation"). The changes set out in the amending regulation require People's Assembly approval before they can come into force.

The amendments relate to the restrictions imposed under HUU-AY-AHT law on HUU-AY-AHT bodies before they can borrow certain amounts of money and, in particular, to the ability of HUU-AY-AHT special investment bodies, such as Huumiis Ventures Limited Partnership ("Huumiis"), to incur debt for a specific purpose. The Regulation sets out the entities considered special investment bodies, the amount of money HUU-AY-AHT or other HUU-AY-AHT bodies, including special investment bodies, may borrow so that special investment bodies can pursue their objectives and the conditions for such borrowing. The Regulation came into force in early 2019 pursuant to the *Financial Administration Act* to enable Huumiis to complete the acquisition of an initial seven percent interest in TFL 44 Limited Partnership ("TFL44LP") from Western Forest Products Inc. ("WFP") on March 29, 2019.

On March 16, 2020, Huumiis and WFP announced that they had reached an agreement for Huumiis to acquire a majority interest in TFL44LP and a seven percent interest in a newly formed limited partnership that will hold the Alberni Pacific Division sawmill and related assets. The reason for the amending regulation is to allow for Huumiis to obtain the financial tools to finalize this latter agreement with WFP as permitted under HUU-AY-AHT law and in accordance with the terms of the proposed transaction with WFP. More specifically, the amending regulation increases the borrowing amount from \$8 million to \$40 million, updates the Regulation to reflect Huumiis' change of name from its formation name (HFN Investing Limited Partnership) and the conditions for borrowing, and expands the purpose for which the borrowing may be incurred to capture the proposed transaction with WFP for the acquisition of a majority interest in TFL44LP.

OPTIONS & IMPLICATIONS

People's Assembly approval is required before the amending regulation can be brought into force.

The current Regulation, without amendment, would foreclose the ability of HUU-AY-AHT special investment bodies from participating in the proposed transaction with WFP. Unless and until the amending regulation is brought into force, Huumiis will not be able to proceed with the acquisition of a majority interest in TFL44LP.

RECOMMENDATION

The *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020* was recommended by the Finance Committee, supported by the Hāwiih Council and approved by Executive Council before being presented to People's Assembly. A recommendation resolution approving the amendments set out in the *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020* is attached.



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**TFL 44 SPECIAL INVESTMENT
BODIES REGULATION
AMENDMENT REGULATION, 2020**

REGISTRY OF LAWS CERTIFICATION

I certify that the *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020* was passed by Executive Council on:

Chief Councillor, Robert Dennis

I certify that the *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020* is enacted as law on:

Ta'yii Hawilth, Derek Peters

I certify that the *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020* came into force on:

Coraleah Bauer, Law Clerk

TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020

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- 1 Amendments
- 2 Commencement
- 3 Consolidation

Amendments

1 *The TFL 44 Special Investment Bodies Regulation, 2/2019, is amended as follows:*

(a) *In Section 1, by adding the following immediately after the definition of “Act”:*

“Permitted Purpose” means:

- (i) the Transaction Agreement; and
- (ii) any subsequent acquisitions of interests from Western Forest Products Inc. related to tree farm licence 44 or forestry or milling operations previously owned by Western Forest Products Inc.;

(b) *In section 2(1):*

(i) *by replacing paragraph (a) with:*

- (a) Huumiis Ventures Limited Partnership, previously known as HFN Investing Limited Partnership;

(ii) *by replacing paragraph (b) with:*

- (b) Huumiis Ventures Corporation, previously known as HFN Investing Corporation;

(c) *In section 3(2)(a), by replacing “\$8,000,000” with “\$40,000,000”;*

(d) *In section 3(2)(b), by replacing “purpose of completing the transactions contemplated by the Transaction Agreement” with “Permitted Purpose”;*

(e) *In section 3(2)(c), by replacing “April 1, 2022” with “December 31, 2045”;*

(f) *In section 3(3)(iii), by replacing “HFN Investing” with “Huumiis Ventures” and adding the following immediately after “Transaction Agreement”:*

or any further agreements arising out of transactions entered into by a Huu-ay-aht special investment body for the Permitted Purpose.

- (g) *In section 4, by replacing the reference to “section 2” with a reference to “section 3”.*

Commencement

- 2 This regulation comes into force on the date of its enactment by Executive Council.

Consolidation

- 3 The Law Clerk is directed to consolidate the *TFL 44 Special Investment Bodies Regulation, 2/2019*.



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**TFL 44 SPECIAL INVESTMENT
BODIES REGULATION**

PROPOSED AMENDMENTS

Provisions of the Financial Administration Act, HFNA 7/2011, relevant to the enactment of this Act/Regulation: sections 1, 62.1(6), 62.1(9).

TFL 44 SPECIAL INVESTMENT BODIES REGULATION

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- 1 Definitions
- 2 Designation of HUU-AY-AHT special investment bodies
- 3 Specifications of authorized borrowing
- 4 Limit on aggregate amounts borrowed and loans guaranteed does not apply
- 5 Commencement

Definitions

1 In this regulation:

“**Act**” means the *Financial Administration Act*;

“**Permitted Purpose**” means:

(i) [the Transaction Agreement](#); and

(ii) [any subsequent acquisitions of interests from Western Forest Products Inc. related to tree farm licence 44 or forestry or milling operations previously owned by Western Forest Products Inc.](#)

“**Transaction Agreement**” means the agreement between the HUU-AY-AHT and Western Forest Products Inc. dated December 13, 2018.

Designation of HUU-AY-AHT special investment bodies

- 2 (1) The following entities and bodies are designated as special investment bodies under section 62.1 of the Act:
 - (a) ~~HFN Investing~~ [Huumiis Ventures Limited Partnership](#); ~~(b)~~, [previously known as HFN Investing Limited Partnership](#);
 - (b) [Huumiis Ventures Corporation, previously known as HFN Investing Corporation](#);
 - (c) HFN Forestry Consulting Services Limited Partnership; and
 - (d) HFN Forestry Consulting Services Corporation.
- (2) Executive Council may, by resolution, change the names of the entities and bodies prescribed in subsection (1).

Specifications of authorized borrowing

- 3 (1) Subject to subsection (2), all HUU-AY-AHT bodies are authorized to borrow money for purposes of investing in any of the HUU-AY-AHT special investment bodies prescribed in section 2.
- (2) Any borrowing authorized under subsection (1) must:
 - (a) not exceed, in aggregate, a total sum of ~~\$8,000,000~~ [40,000,000](#);

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- (b) be for the ~~purpose of completing the transactions contemplated by the Transaction Agreement~~Permitted Purpose and pursuing related investments;
 - (c) not exceed a term ending on ~~April 1, 2022~~December 31, 2045; and
 - (d) be repaid by some or all of the following:
 - (i) revenue generated from the sale of timber pursuant to a non-replaceable forest licence to be issued by the government under the *Land Act* on or near the closing date of the transactions contemplated by the Transaction Agreement;
 - (ii) revenue generated from distributions by the Huu-ay-aht special investment bodies prescribed in section 2; or
 - (iii) sources otherwise designated by Executive Council.
- (3) Any borrowing authorized under subsection (1) may be secured by some or all of the following:
- (i) a guarantee by the government;
 - (ii) an assignment of proceeds from the sale of timber pursuant to a non-replaceable forest licence to be issued by the government under the *Land Act* at the same time as the closing of the transactions contemplated by the Transaction Agreement; or
 - (iii) first call on returns due to ~~HFN Investing~~Huumiis Ventures Limited Partnership as a result of the Transaction Agreement or any further agreements arising out of transactions entered into by a Huu-ay-aht special investment body for the Permitted Purpose.

Limit on aggregate amount borrowed and loans guaranteed does not apply

- 4 Any amount borrowed by Huu-ay-aht bodies under section ~~23~~ or loan guaranteed by Huu-ay-aht bodies under section 62.1(7) of the Act will not be included when calculating the aggregate amount of money borrowed and loans guaranteed for purposes of section 69(6) of the Act.

Commencement

- 5 This regulation comes into force on the date of its enactment by Executive Council.



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WRITTEN MOTION of the PEOPLE'S ASSEMBLY

(Government Act, s. 86)

For ease of reference, this motion may be referred to as:

Motion Regarding Approval of the *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020*

Whereas:

- a) Legal counsel has recommended that amendments be made to the *TFL 44 Special Investment Bodies Regulation* to enable Huu-ay-aht special investment bodies to participate in the proposed transaction involving Western Forest Products Inc.;
- b) The Law Clerk drafted the attached *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020* (the "proposed regulation"), which updates certain aspects of the original regulation, including, increasing the borrowing amount from \$8 million to \$40 million, revising the conditions of borrowing, acknowledging the change of name from "HFN Investing" to "Huumiis Ventures", and confirming the uses of the borrowed money;
- c) The Hāwīih Council has indicated its support for the proposed regulation and Finance Committee has recommended the proposed regulation for approval;
- d) Executive Council has approved the proposed regulation; and
- e) People's Assembly approval is required for the proposed amendments to the *TFL 44 Special Investment Bodies Regulation*.

Be it resolved that the People's Assembly hereby approves the amendments to Huu-ay-aht legislation set out in the *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020*.

Appendices attached to Motion:

Written report prepared by Ratcliff and Co. LLP

The following documents:

- *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020*.
- Blackline showing proposed amendments to the *TFL 44 Special Investment Bodies Regulation*.

Introduced by: _____

Date: July 25, 2020

DATE OF PEOPLE'S ASSEMBLY

Administrative Requirements

If the proposed motion is passed by the People's Assembly, the Law Clerk will put "Enactment of the *TFL 44 Special Investment Bodies Regulation Amendment Regulation, 2020*" on the agenda for an upcoming meeting of Executive Council.