



# Illinois Metropolitan Investment Fund

Investing together for  
our communities

## IMET PARTICIPANT UPDATE AUGUST 3, 2017

**Christy Powell**  
Superintendent of Finance  
& Personnel  
Geneva Park District  
*Chairman*

**Gary Szott**  
Director of Finance/Treasurer  
Village of Bloomingdale  
*Treasurer*

**John Harrington**  
Director of Finance  
Village of Minooka  
*Secretary*

**Scott Anderson**  
Director of Finance & General  
Services  
Village of Buffalo Grove  
*Trustee*

**Chris Minick**  
Director of Finance  
City of St. Charles  
*Trustee*

**Brian Murphy**  
Village Administrator  
Village of Plainfield  
*Trustee*

**Sofia Anastopoulos, CFA**  
*Executive Director*

**Debra A. Zimmerman**  
*Associate Director*

Dear IMET Liquidating Trust Participant:

The following is to update you on certain developments relating to the First Farmers Financial repo matter.

### Update on Mediation with Pennant Entities

As we previously advised, IMET, along with the other direct investors in the First Farmer's Financial Repo (the "FFF Repo") reached a settlement with Pennant, Great Banc, and U.S. Fiduciary (collectively the "Pennant Entities") and the Pennant Entities' respective insurers for the sum of \$10,125,000 (the "Settlement Amount") to be paid to the investors. Based on IMET's pro-rata share of losses, IMET's share of this recovery is approximately 29% of the Settlement Amount. The United States Department of Labor ("DOL") actively participated in the mediation as numerous employee stock ownership plans ("ESOPs") were invested in the FFF Repo through the Salem Short Term Investment Fund, an affiliate of Pennant. The DOL has been working with the Pennant Entities to memorialize a separate settlement agreement which will cover the ESOPs. The Pennant Entities' insurers will not be funding their respective portions of the Settlement Amount until the separate settlement agreement between the DOL and the Pennant Entities is finalized and signed by each of the ESOPs. This process may take a number of months to be completed. IMET's share of the Settlement Amount will be put in IMET's Liquidating Trust to be distributed in accordance with the terms of the Liquidating Trust.

### Update on USDA Litigation

On August 31, 2016, IMET and six other direct investors victimized by the First Farmers' fraud filed a lawsuit against the USDA in the United States District Court for the Northern District of Florida. IMET and the other investors alleged that the USDA was negligent, among other things, in approving First Farmers as a certified lender under the USDA's Business and Industry Guaranteed Loan Program.

On December 5, 2016, the USDA filed a Motion to Dismiss asserting, among other things, that the Court lacks subject matter jurisdiction to hear the claim, that the complaint fails to state a claim upon which relief can be granted and that the venue in Florida is improper. IMET's outside counsel in the matter, René A. Torrado, Jr. of Corboy & Demetrio P.C., was granted leave to take certain limited depositions of USDA officials in order to respond to the USDA's Motion to Dismiss. On July 17, 2017, Mr. Torrado, on behalf of IMET and other investors, filed a 39 page response to the USDA's Motion to Dismiss. The USDA has until August 10, 2017 to file its reply in support of its Motion to Dismiss. The Court has no deadline in which it must rule on the USDA's Motion to Dismiss and may request oral argument from the parties before ruling.

### Update on Criminal Proceedings Against Nikesh Patel and Timothy Fisher

The sentencing hearing for Nikesh Patel who plead guilty to five counts of wire fraud has been continued until August 29, 2017 at 9:45 am. at the United States District Court for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, Courtroom 2325. The sentencing hearing for Timothy Fisher who plead guilty to one count of money laundering has been continued until September 12, 2017 at 9:45 a.m. at the United States District Court for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, Courtroom 2325. At the sentencing hearings for both Mr. Patel and Mr. Fisher, victims of their fraud, including IMET and its participants, may be permitted to make statements regarding the impact of their crimes. If you would like to make such a victim impact statement at the sentencing hearings of Mr. Patel and/or Mr. Fisher, please contact Felice D. Weiler, the Victim Witness Coordinator for the United States Attorney's Office at 312-886-4196.



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**IRS Claim Subordination Update**

The IRS has advised the Overall Receiver that it requires tax returns to be filed by Nikesh Patel, First Farmers and certain related entities prior to making a determination on whether it will subordinate its claims in favor of the investors. The Overall Receiver has been working with Nikesh Patel's accountant/tax preparer in providing information and documentation necessary for the preparation of certain tax returns of Mr. Patel and his related entities. While the actual filing date for the returns by Mr. Patel's accountant/tax preparer is outside of the control of the Overall Receiver, the Overall Receiver has advised that he expects the returns to be filed within the next month or two. Once the returns are filed, the Overall Receiver will resume discussions with the IRS regarding subordination of the IRS claims in favor of the investors.

**Banes Litigation Update**

As we previously advised, the Overall Receiver filed a lawsuit in the United States District Court for the Northern District of Illinois against the BCM High Income Fund, LP and BCM High Income GP, LLC (collectively "Banes"), two entities to which the Overall Receiver asserts that Nikesh Patel and First Farmers paid over \$22 million in investor funds. The Overall Receiver alleges that the transfer of funds from First Farmers to Banes was a fraudulent transfer and seeks to recover for the benefit of the Overall Receivership Estate the more than \$22 million transferred. The Overall Receiver is also seeking an injunction to prohibit redemptions from the Banes funds at issue.

On May 4, 2017, counsel for Banes and the Overall Receiver agreed to abide by a prior 'Standstill Agreement' that prohibits all redemptions from the Banes funds outside the ordinary course of business. The Standstill Agreement remains in place, although Banes has challenged the Court's ability to freeze such redemptions. The Court has yet to rule on the Overall Receiver's request for an injunction or the propriety of certain affirmative defenses Banes has asserted. We expect a ruling in the near future on these items. Fact discovery in this matter is to be completed by November 30, 2017.

**Update on Overall Receivership Cash on Hand**

As of July 24, 2017, the Overall Receiver had a cash balance on hand of approximately \$74.9 million. As previously reported, distributions by the Overall Receiver cannot be made until the Overall Receiver resolves potential priority claims of the USDA and the IRS.

Should you have any questions, don't hesitate to call Sofia Anastopoulos at IMET or IMET's outside counsel, Randall Lending of Vedder Price (312-609-7500).