

## HEARING NOTICE

**Dear [MERGE FIELD – insert class members’ field name],**

District Representative Action

**Were you a District Depositor in the ABC District Lutheran Church Extension Fund Program, who suffered a loss on your investment and did not opt-out of the Representative Action sanctioned by the Court of King’s Bench of Alberta in the related CCAA Proceedings (ABQB No. 1501-00955)?**

*This notice may affect your legal rights. Please read it carefully.*

A class action has been commenced against various Defendants on behalf of the following proposed Class (the "District Representative Action Class"):

- i. a class of people resident in Alberta, including persons, estates of depositors, corporations and societies, sole proprietorships and partnerships and congregations affiliated with the Lutheran-Church Canada (the “**Alberta Lutheran Sub-Class**”); and
- ii. an extra-provincial class of people resident outside of Alberta, including persons, estates of depositors, corporations and societies, sole proprietorships and partnerships and congregations affiliated with the Lutheran-Church Canada (the “**Extra-Provincial Lutheran Sub-Class**”); and
- iii. a class of people resident in Alberta who were resident in Alberta, and the estates of such persons, who were not members of a Lutheran-Church congregation, including corporations and societies, sole proprietorships and partnerships and any other depositors (the “**Alberta Non-Lutheran Sub-Class**”); and
- iv. an extra-provincial class of people resident outside of Alberta, and the estates of such persons, who were not members of a Lutheran-Church congregation, including corporations and societies, sole proprietorships and partnerships and any other depositors (the “**Extra-Provincial Non-Lutheran Sub-Class**”); AND WHO
- v. invested in the Lutheran-Church-Canada Alberta and British Columbia District’s Church Extension Fund (the “CEF”) as depositors toward the fund.

Except for “**Excluded Persons**” which shall be defined as follows:

- i. A Defendant in this class action; or

- ii. Any past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, successors, predecessors, and assigns of the Defendants; or
- iii. all members of the putative Classes or Sub-Classes who submitted no later than December 15, 2016 an opt-out form in the manner prescribed by the District Sanction Order filed August 5, 2016 in Alberta Court of King's Bench Action No. 1501-00955 (the "CCAA Proceedings").

Following the partial settlement approved by the Court in this Action on November 25, 2021, an additional partial settlement has been reached in this Action with Prince of Peace Lutheran Church of Calgary (the "Settling Defendant"). The Settling Defendant, while not admitting liability, has agreed to a settlement of their portion of this lawsuit subject to court approval and certification of the Action, on terms as set out in a settlement agreement dated April 5, 2022, a copy of which is available for viewing on [www.higgertylaw.ca](http://www.higgertylaw.ca) (the "Settlement Agreement"). All capitalized groups of words in this Hearing Notice which are defined in the Settlement Agreement have the same definition in this Hearing Notice.

If you are a member of the District Representative Action Class, **you will automatically be included** in this Representative Action and are not required to take any further steps at this stage.

#### **The Terms of the Proposed Settlement**

The Settlement Funds paid by the Settling Defendant are to be allocated to augment the existing litigation holdback fund to cover costs associated with the approval process, potential future costs and disbursements in the Representative Action, and to cover ("self-insure") the Representative Plaintiffs in this Action against potential adverse court costs, or in such other amount as the court may direct. **The settlement funds to be paid are not substantial enough to warrant a feasible cash distribution amongst the large number of Class Members.**

**Accordingly, if the settlement is approved, and subject to court approval, members of the Representative Action Class will not be paid a proportionate share of the Settlement Funds at this stage in the litigation. The Subcommittee's intention is that any unexpended holdback funds at the conclusion of this Class Action would be subject to a final distribution amongst the District Depositors.**

The net Settlement Funds will be allocated to augment the existing litigation fund based on the following calculation:

**Total Settlement  
Amount**

\$□

**LESS**

\$□ estimated class counsel legal fees  
disbursements and GST subject to  
  
approval by the Court.

**LESS**

\$□ Estimated third-party professional fees  
related to court approval, including  
legal, accounting and IT charges

**Net Amount of  
Settlement Funds  
available for  
allocation to the  
existing litigation  
holdback**

\$□

\*Note that the above bulleted points are to remain undisclosed but are still part of the above calculation.

A copy of the Settlement Agreement, redacted for the Consideration, can be found on Class Counsel's website ([higgertylaw.ca](http://higgertylaw.ca)).

**The Partial Settlement Approval and Partial Certification Hearing and Your Right to Observe or Participate**

An Application to approve the partial settlement of this Action and to partially certify this Action as a class proceeding for the purpose of approving such partial settlement only, is scheduled to be heard on October 7, 2022, at 10:00 am, at the Court of King's Bench of Alberta in Calgary, Alberta at 601 5 St SW remotely by Webex. Class Counsel will also ask the Court to approve an award of fees and disbursements for their work in achieving the settlement.

If you agree with the proposed settlement and wish to participate in it, you do not have to do anything at this time this time.

The Application will proceed before the Court by videoconference. If you wish to attend the Application as an observer, you may do so by using the videoconference link and password found on Class Counsel's website.

If you disagree with the proposed settlement, you have the right to object. To object, you must provide a letter to Class Counsel. Your letter must include your name, contact information, and a brief statement of the nature and reasons for your objection, and be received no later than September 29, 2022. If you wish to attend the Application to speak about your objection, you must also provide a further letter in the same fashion to Class Counsel. Upon such request, you will be provided with a separate password which, when used in conjunction with the videoconference link on Class Counsel's website, will enable the Court to hear you. The Court will decide during the hearing of the Application whether you will be permitted to speak about your objection.

### **What are the Financial Consequences?**

No member of the Representative Action Class, other than the Representative Plaintiffs, will be liable for costs.

Class Counsel has entered into an agreement with the Representative Plaintiffs and the CEF Subcommittee, which was established in the CCAA Proceedings, with respect to legal fees and disbursements. This agreement provides that counsel will not receive payment for their work unless and until the District Representative Action is successful or monies are recovered from the Defendants. The agreement must be approved by the Court.

### **Definitions**

Except as otherwise defined in this Notice, all capitalized words or phrases in this Notice which are defined in the Settlement Agreement have the same definition in this Plan.

**FOR MORE INFORMATION, TO MAKE INQUIRIES ABOUT THIS ACTION, PLEASE CONTACT:**

#### **HIGGERTY LAW (Putative Class Counsel)**

Attention: Patrick Higgerty, Q.C. Biscuit Block  
– Fifth Floor  
500, 438 – 11<sup>th</sup> Ave SE  
Calgary, AB T2G 0Y4  
Tel: 403-503-8888 Fax: 587-316-2260  
Email: [CEF.Action@higgertylaw.ca](mailto:CEF.Action@higgertylaw.ca)  
For further information go to [www.higgertylaw.ca](http://www.higgertylaw.ca)

#### **MNP LLP (Notice Administrator) Attention: Rick**

Anderson  
1500, 640 – 5 Ave SW  
Calgary, AB T2P 3G4 Tel:  
403-538-3187  
Email: [ceflccsettlement@mnp.ca](mailto:ceflccsettlement@mnp.ca)  
For further information: [www.mnp.ca/ceflccsettlement](http://www.mnp.ca/ceflccsettlement)