

IN THE GRAND COURT OF THE CAYMAN ISLANDS

Cause No. 311 of 2007

BETWEEN:

PHOENIX MERIDIAN EQUITY LIMITED

[A company incorporated under the laws of the Cayman Islands]

Plaintiff

AND:

(1) **LYXOR ASSET MANAGEMENT S.A.,**

a wholly owned subsidiary of **SOCIÉTÉ GÉNÉRALE**

[A company incorporated under the laws of France]

(2) **SCOTIABANK & TRUST (CAYMAN) LIMITED**

[A company incorporated under the laws of the Cayman Islands]

Defendants

WRIT OF SUMMONS AND AMENDED STATEMENT OF CLAIM

TO: **LYXOR ASSET MANAGEMENT S.A.**
PO Box 501
The Bank of Nova Scotia Building
Cardinal Avenue
George Town, Grand Cayman

SCOTIABANK & TRUST (CAYMAN) LIMITED
PO Box 501
The Bank of Nova Scotia Building
Cardinal Avenue
George Town, Grand Cayman

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within 14 days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495 GT, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 25th day of July, 2007.

NOTE – This Writ may not be served later than 4 calendar months beginning with the date of issue unless renewed by Order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

AMENDED STATEMENT OF CLAIM

1. Lyxor Asset Management S.A. ["LAM"], a company incorporated under the laws of France, is a wholly owned subsidiary of Société Générale ["SG"].
2. In 2003, SG offered and sold to Phoenix Meridian Equity Ltd. ["the Investor"] four investment products, each of which was created specifically for the Investor and marketed by SG as providing leveraged exposure to a diversified portfolio of alternative investments, as well as some degree of principal protection if held to maturity.
3. The four investment products originally sold to the Investor by SG were subsequently restructured in late 2004 into two investments, which the Investor continues to own, consisting of: -
 - (i) 4,847,383 units issued by Patriot I Protected Fund ["Patriot I"]; and

- (ii) 595,020 units issued by Patriot Focus Protected Fund ["Patriot Focus", and together with Patriot I, "the Funds"].

In total, the Investor invested approximately US\$553 million (including a supplemental investment made in early 2005) of original principal in the above units of the Funds [collectively, "the Investor Units"]. The Investor was the sole subscriber for any units of either Fund.

4. The Funds are each separate investment funds established by supplemental deeds under Patriot Cayman Trust ["the Trust"], an exempted trust established under the Trusts Law of the Cayman Islands by deed of 12 March 2003 ["the Trust Deed"], between LAM as manager and ScotiaBank & Trust (Cayman) Ltd. (formerly, the Bank of Nova Scotia Trust Company (Cayman) Ltd.) ["the Trustee"] as trustee.
5. The Funds are identical in structure, although they differ in the amounts of leverage and principal protection provided, with Patriot I described as offering 25% leverage and 80% principal protection and Patriot Focus described as offering 50% leverage and 50% principal protection. As described below, each Fund owns units of another underlying fund, which in turn owns units of a third underlying fund.
6. Patriot I invested 100 percent of its assets in units of Patriot I Leveraged Fund ["Patriot I Leveraged"], which is itself a separate investment fund established by supplemental deed under the Trust. Patriot I Leveraged in turn invested in units of Patriot Master Fund ["Patriot I Master"], another separate investment fund established by supplemental deed under the Trust. Patriot I Master invests its assets in a diversified portfolio of alternative investments.
7. Similarly, Patriot Focus invested 100 percent of its assets in units of Patriot Focus Leveraged Fund ["Patriot Focus Leveraged"], and together with Patriot I Leveraged, "the

- Leveraged Funds”], which is itself a separate investment fund established by supplemental deed under the Trust. Patriot Focus Leveraged in turn invested in units of Patriot Focus Master Fund [“Patriot Focus Master”, and together with Patriot I Master, “the Master Funds”; the Master Funds, together with the Funds and the Leveraged Funds, “the Investment Funds”], another separate investment fund established by supplemental deed under the Trust. Patriot Focus Master invests its assets in a diversified portfolio of alternative investments.
8. LAM is the manager, the Trustee is the trustee and registrar, and SG is the custodian of each Investment Fund. Permal Investment Management Services Limited is the investment advisor to each Master Fund.
 9. The Trust and the Investment Funds referred to above, as well as the Trust Deed and supplemental deeds creating the Investment Funds, are each subject to and governed by the laws of the Cayman Islands.
 10. The Fund Specific Memorandum [“FSM”] for each Fund, which together with the Explanatory Memorandum for the Trust comprise the official disclosure documents under which each Fund was offered [“the Offering Documents”], describes the investment as follows: -

“The Fund has been established to provide investors with the opportunity to benefit from the performance of [the Leveraged Fund], a Cayman Islands unit trust....which gives [125%/150%] exposure to a dedicated [Master Fund] specialized in alternative investment strategies....whilst guaranteeing investors a minimum realisation value of [80/50] per cent of their initial investment if they realise their Units on the Maturity Date.” [p. 4 of each FSM]

11. Each FSM also states that, on launch date, the Fund will invest 100 per cent of its assets in units of the corresponding Leveraged Fund and simultaneously enter into swap and option transactions with SG. The swap and option transactions are further described as follows: -

“The swap and option strategy will provide investors with partial protection of the principal of their investment.....The Fund will receive from [SG] (i) a put option on zero coupon and (ii) a put option on units of the [Leveraged Fund], and give [SG] the right to borrow units of the [Leveraged Fund] for hedging purposes.” [p. 4 of each FSM]
12. The put option on zero coupon is described in each FSM as “protection of the value of the Fund’s assets against a rise in long term interest rates until March 16, 2007”. The put option on units of the Leveraged Fund is described as giving “the Fund the right (but not the obligation) to sell, on the Maturity Date, units of the [Leveraged Fund] for a price equal to [80%/50%] of the price paid by the Fund on the Launch Date”. Thus, the put option on Leveraged Fund units ensures the return of at least such amount to investors in such Fund. [p. 5 of each FSM]
13. Each FSM further provides that, after the launch date, the Fund shall not invest in any financial instruments other than those described in paragraphs 11 and 12 above, and that the Fund “may sell the requisite portion of the [Leveraged Fund] units and unwind part of the swap and option transactions with [SG] prior to Maturity Date, only and exclusively if the Fund receives requests for redemption of units or the Fund is terminated before Maturity Date”. [p. 5 of each FSM]
14. The swap and option transactions referred to in paragraph 11 above were implemented for each Fund pursuant to a Confirmation of Stock Lending Agreement executed between LAM, as manager on behalf of the Fund, and SG [each, a “Confirmation”], under a

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- Master Agreement For Loans of Securities between LAM and SG [“the Master Agreement”], which provides the general terms and conditions for loans of securities between the parties.
15. Each Confirmation provided for a swap of the two put options referred to in paragraphs 11 and 12 above (which were provided by SG to each Fund) in exchange for a loan of 50% of the Leveraged Fund units owned by such Fund (which were provided by each Fund to SG). No cash payments were made to or by the Funds or SG in connection with the swap or any component thereof. In other words, the compensation paid by each Fund to SG in full consideration for the put options was the making of the loan by such Fund to SG (subject to and on the terms and conditions set forth in the Master Agreement and the Confirmations), and the compensation paid by SG to each Fund in full consideration for such loans was the provision of the two put options.
 16. The net asset value per unit [“NAV”] for each of the Investment Funds is published weekly on the website of LAM. In light of the positive performance of the Master Funds since inception, coupled with the positive impact the leveraged exposure (net of all disclosed financing, management and other fees payable by the Funds) should have had on the Funds’ performance, the Investor expected the NAV of each Fund to be at least equal to, if not greater than, that of the corresponding Master Fund. However, the NAV published by LAM for each Fund soon began to lag significantly, not only behind that of the corresponding Leveraged Fund, but that of the Master Fund as well. The divergence has grown considerably larger since that time.
 17. Because the Defendants had continuously failed to provide any financial statements for the Investment Funds or any predecessor investment funds, as required by the Trust Deed, for any period since their inception, representatives of the Investor attempted, over the course of almost two years, to determine the cause of the dramatic divergence in value through direct inquiry and correspondence with LAM and SG.

18. LAM and SG indicated in various written and oral communications that the negative variance being shown between the NAV of the Funds and that of the corresponding other Investment Funds was primarily due to “the principal protection feature” (which, as described in paragraph 12 above, was provided by the put option on Leveraged Fund units). However, precisely how, based on the instruments that were executed when the Funds were structured, this feature could impair the Funds’ values to such an extent was never explained.
19. Finally, on April 2, 2007, after repeated requests from the Investor’s representatives, Reports and Financial Statements [“Financial Statements”] for the fiscal years ended January 31, 2005 and 2006 were delivered and presented to the Investor’s representatives as final and approved by the Defendants. Financial Statements for the period ended January 31, 2007 were delivered on June 1, 2007.
20. In the Financial Statements for each Fund, there appears on the Balance Sheet, as of the end of each year, a line item under “Liabilities”, which is described as follows: -

“Derivatives 1, 2(c), 14
- Over The Counter option”

The amount shown under “Liabilities” for Patriot I and indicated as attributable to the Over The Counter option as of January 31, 2007 is US\$68,339,256.58.

The amount shown under “Liabilities” for Patriot Focus and indicated as attributable to the Over The Counter option as of January 31, 2007 is US\$14,648,856.88.

The references to “1, 2(c), 14” are to the “Notes to the Financial Statements” attached thereto.

21.(i) Note 1 to the Financial Statements refers to the swap and option transactions described in the FSMs and in paragraph 11 above.

(ii) Note 2(c) states: -

“Financial assets and liabilities have been designated by management at fair value through profit or loss.

The investment comprised:

- units of [the Leveraged Fund]
- a loan of units of [the Leveraged Fund]
- an Over The Counter (“OTC”) option.

The units of [the Leveraged Fund] are valued at the last net asset value per unit, as provided by the underlying Fund’s administrator or investment manager.

The loan of units of [the Leveraged Fund] is valued at the last net asset value per unit, as provided by the underlying Fund’s administrator or investment manager.

The OTC option is valued at its fair value based on the price provided by [SG].”

(iii) Note 14 is entitled “Related parties transactions” and describes the investments in financial assets and liabilities issued and/or managed by SG or its subsidiary, LAM. This refers to each of the same items referred to in subparagraph (ii) above: Financial Assets (i.e., the units of the Leveraged Funds), Loaned Financial Assets (i.e., the loaned units of the Leveraged Fund) and the OTC option.

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22. In a conference call on April 3, 2007 between representatives of the Investor, on the one hand, and SG and LAM, on the other, wherein the Investor's representatives attempted to obtain details regarding the "Liabilities" shown on the Balance Sheets, SG and LAM confirmed that: -
- (i) The "OTC option" referred to on the Balance Sheets of the Financial Statements and in Notes 2(c) and 14, is the same as the "swap and option transactions" described in Note 1, which are also referred to in each FSM and described in paragraph 11 above; and
 - (ii) The OTC option/swap and option transactions for each Fund were entered into pursuant to the Confirmations described in paragraphs 14 and 15 above, which had previously been provided to the Investor's representatives by SG.
23. The OTC option/swap and option transactions, as described in paragraph 11 above, in each FSM and in each Confirmation, are comprised of three components: -
- (i) a put option on zero coupon, which was provided by SG to the Fund;
 - (ii) a put option on Leveraged Fund units, which was provided by SG to the Fund; and
 - (iii) a loan of Leveraged Fund units, which was provided by the Fund to SG.
24. Upon execution of each Confirmation, the put options became assets of the Funds and, as such, were capable of increasing or decreasing in value (or even expiring worthless), as a function of volatility, time, interest rates, underlying investment performance (in the case of the put option on Leveraged Fund units) and/or other factors. However, neither could be assigned a value of less than zero (i.e., neither could result in a liability to the Funds).
25. Pursuant to the Confirmations, and as consideration in full for the put options provided to the Funds by SG, the Leveraged Fund units were loaned by the Funds to SG. No

collateral was provided by SG for such loans, and no interest or other remuneration was paid by SG to the Funds in consideration for such borrowings.

26. By their express terms, the loans to SG are cancelable by either party at any time. Upon cancellation, the Confirmations require only the repayment by SG to the Funds of the borrowed Leveraged Fund units, or their then current fair market value, in cash. See Section 2 (Specific Provisions – Modification of the Quantity of the Securities) of the Confirmations and Article 8 (Calculation and Payment of the Termination Balance) of the Master Agreement. There are no payment obligations whatsoever on the part of the Funds in connection with the loans, including in connection with the early cancellation thereof. Accordingly, such loans do not and cannot result in a liability to the Funds.
27. As set forth above, no component of the OTC options/swap and option transactions executed pursuant to the Confirmations did or could impose any liability, actual or contingent, on the Funds. Accordingly, the “Liabilities” recorded on the Balance Sheets in the Financial Statements referred to in paragraph 20 hereof as attributable thereto are erroneous, improper and unenforceable, thereby rendering the Financial Statements materially incorrect.
28. As set out in the FSMs: -
 - (i) Unit holders are entitled to redeem their holdings in the Funds on any dealing day after March 16, 2007 [“the Lock-Up Date”], notwithstanding the scheduled maturity date of the Funds of December 31, 2015.
 - (ii) Unit holders who choose to realise their units prior to the maturity date will receive on redemption a price in cash calculated by reference to the NAV of their units at the time of realisation.

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29. The realisation price payable on the Investor Units in the event of redemption prior to the maturity date is to be calculated in accordance with the Trust Deed.
30. Schedule 1 of the Trust Deed contains the Valuation Rules: -
- (i) Rule 2 provides that the NAV of an Investment Fund (such as the Funds) shall be calculated by valuing the assets of each Investment Fund in accordance with Rules 4 and 5 and deducting the liabilities attributable to such Investment Fund in accordance with Rule 5.
 - (ii) Rule 4 deals with the determination of the value of various types of investments.
 - (iii) Rule 5 deals with certain valuation rules applicable under various circumstances, and Rule 5.5 in particular provides that liabilities attributable to an Investment Fund shall include: -
 - (a) accrued and unpaid management and trustee fees;
 - (b) accrued and unpaid taxes on capital gains;
 - (c) amounts outstanding under any borrowing effected for the account of such Investment Fund;
 - (d) any other costs and expenses which are expressly authorised by the terms of the Trust Deed to be payable out of each Investment Fund;
 - (e) an appropriate allowance for any contingent liabilities.
31. Since there are no management and/or trustee fees payable by the Funds, no accrued and unpaid taxes and no borrowings that have been incurred by the Funds, any potential liabilities of the Funds can only be contingent liabilities or liabilities that are attributable to other costs and expenses expressly authorised by the terms of the Trust Deed. No such other liabilities, costs or expenses are indicated in any of the Financial Statements, other

than the potential "Due to bank" liability described below. Accordingly, the NAV and realisation price to be paid to the unit holder upon redemption of the Investor Units cannot include any liability attaching as a result of any other item described in Rule 5.5 of the Valuation Rules in Schedule 1 of the Trust Deed, nor (as explained in paragraphs 23 through 27 above) to the OTC options/swap and option transactions.

32. Based on the foregoing, the proper valuation of each Fund as of January 31, 2007 must be determined by eliminating the OTC option "liabilities" being erroneously accounted for on the Balance Sheets. The remaining assets and liabilities consist principally of Financial Assets plus Loaned Financial Assets at fair value (i.e., 100% of the Leveraged Fund units owned by the Fund, valued at such Leveraged Fund's NAV). The only other assets (Cash at Bank) or liabilities (Due to the bank) shown on the Balance Sheet for any Fund for any period are nil to de minimis: for each Fund for the years ended January 2005, 2006 and 2007, the Cash at Bank assets ranged from US\$0.00 to US\$0.32, and the Due to bank liability ranged from US\$0.00 to US\$927.86.
33. Since each Fund has issued and outstanding the same number of units as it owns of the corresponding Leveraged Fund, the correct NAV for each Fund as of the Financial Statement dates, calculated based on the proper valuation of such Fund as set forth above (i.e., the total number of Leveraged Fund units owned by such Fund, valued at such Leveraged Fund's NAV, divided by the number of outstanding units of such Fund), should equal the NAV of the corresponding Leveraged Fund as of the same date.
34. Although financial statements are not available for any period subsequent to January 31, 2007, the NAV for each Investment Fund shown on the LAM website as of each January 31 is identical to that shown in the Financial Statements for the corresponding date.
35. The above indicates that the calculations used by LAM in determining the weekly Investment Fund NAVs are consistent with those used to prepare the Financial

Statements and that the Fund NAVs shown on the LAM website also improperly include the erroneous “liability”. Therefore, the correct NAV of each Fund for any date can be assumed to be identical to that shown on the LAM website for the corresponding Leveraged Fund NAV.

36. The Investor has desired to redeem the Investor Units in both Funds since the Lock-Up Date, but its representatives have been informed by LAM and SG that the realisation price that would be paid by LAM upon redemption would be based on the Fund NAVs shown on the LAM website. As discussed above, this valuation incorrectly takes into account the alleged “liability” referred to in paragraph 20, such that a realisation price based thereon would result in significant monetary loss and damage to the Investor, who would be deprived of a substantial portion of the value of the Investor Units. (As of July 16, 2007, the Fund NAV shown on the LAM website for Patriot I and Patriot Focus was US\$125.61 and US\$121.31, respectively, compared with US\$144.6774 and US\$155.6714 for Patriot I Leveraged and Patriot Focus Leveraged, respectively, as of July 17, 2007, which implies that the Fund NAVs understate the value of the Investor Units by improperly taking into account a combined total of US\$112,872,710.84 in alleged “liabilities”.)
37. The position taken by LAM and SG referred to in the previous paragraph is wrongful and impermissible for the reasons indicated above. The realisation price payable on the Investor Units should be calculated without taking account of any part of the alleged “liabilities” referred to in paragraph 20 hereof and should instead be calculated based on the Leveraged Fund NAVs.
38. By taking the position referred to in the previous paragraph, and by materially misrepresenting the value of the Funds and the Investor Units on the LAM website and in the Financial Statements, in favor of its own affiliate (i.e., SG), LAM is breaching its

duties as manager to act in the best interests of the unit holder, as well as its duty to allow the redemption of Investor Units at the proper Fund NAVs.

39. At all material times since the Lock-Up Date, the Investor Units have been redeemable at the option of the holder at an NAV calculated without taking into account the alleged “liabilities”.
40. If this court grants a declaration that the Investor Units have at all material times since the Lock-Up Date been redeemable on the basis set forth in the previous paragraphs and are now redeemable on that basis, the Investor will, by reason of the breaches of duty on the part of LAM referred to in paragraph 38, suffer loss and damage.

PARTICULARS

The nature of the above case is that the loss to the Investor will be equal to either: (i) the amount of the incremental management fees charged by LAM and paid by the Leveraged Funds from and after the Lock-Up Date to the time of redemption, ~~over and above the rate applicable prior to the Lock-Up Date or~~ and (ii) if and to the extent the NAV of either or both Funds at the time of redemption is lower than that which would have been applicable to a redemption requested at the expiration of the Lock-Up Date, the difference between (a) the proper redemption amount for the Investor Units had they been redeemed at the first available date following the Lock-Up Date, plus interest thereon, and (b) the actual redemption amount that is realized upon the redemption of the Investor Units effected after the grant of the declaratory relief herein.

41. In connection with the realisation of units by holders of any Investment Fund, the Trustee is obligated under the Trust Deed and the supplemental deeds creating the Investment Funds, to pay to the manager (LAM), for the manager’s payment on to the unit holders in

the Funds, the proper realisation price, and hence a value for the Investor Units calculated without reference to the alleged “liabilities” referred to in paragraph 20 hereof.

AND the Investor claims: -

Against LAM and the Trustee

- A. A Declaration that the figures set forth on the Balance Sheets in the Funds’ Financial Statements under “Liabilities” and attributable to the OTC option, as described in paragraph 20 hereof, should not appear as a liability in any accounts properly prepared and approved by the Defendants for the Funds for any period, and that the Fund valuations as of each Financial Statement date are therefore understated by the amount of such figures.
- B. A Declaration that, in calculating the weekly Fund NAV and therefore the realisation price payable on the Investor Units at any time, including before the maturity date, no account may be taken by the Defendants of any alleged “liabilities” referred to in paragraph A above, in respect of the OTC option/swap and option transactions (or any component thereof), or otherwise.
- C. A Declaration that, based on the historical Financial Statements, corrected to eliminate the “liability” erroneously recorded on the Balance Sheets, the proper NAV of each Fund at any time is identical to the NAV of the corresponding Leveraged Fund, and the realisation price of the Investor Units should therefore be calculated by reference to the same.
- D. An Order that the Defendants forthwith permit the immediate redemption by the Investor of the Investor Units at a realisation price, payable in cash, calculated based on the Leveraged Fund NAVs and in accordance with the preceding Declarations.

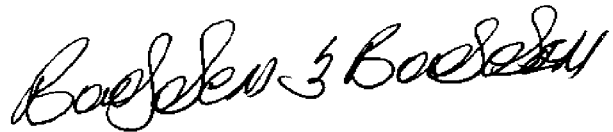
E. Such further or other relief as may be just.

Against LAM

- F. An enquiry as to damages under paragraph 40 hereof.
- G. Interest thereon at such rate as the court shall think just, on any amount found due upon such enquiry.
- H. Any necessary accounts, audits, directions and enquiries.
- I. Costs.

Dated this 25th Day of July 2007

Re-dated this 25th Day of September 2007



BODDEN & BODDEN

Attorneys for the Plaintiff