

# TLH QSF FAIR FUND STATEMENT TO AFFECTED ADVISORY CLIENTS

## INTRODUCTION

The *TLH QSF Fair Fund* arose out of *In the Matter of BETTERMENT LLC, Respondent* (“Betterment”), United States Securities and Exchange Commission (“SEC”) Administrative Proceeding File No. File No. 3-21373. As a result of the settlement in this matter, you as an advisory client (“Affected Advisory Client”) will receive a distribution payment or credit (“Distribution Payment”).

The settlement primarily covered certain disclosure and operational issues involving automated tax loss harvesting (“TLH”) between January 2016 and April 2019. Pursuant to the settlement, Betterment has deposited funds into a “Fair Fund” to compensate impacted clients for potential tax benefits missed due to the legacy TLH issues.

While Betterment reached a settlement with the SEC, it neither admits nor denies any wrongdoing. It fully cooperated with the SEC’s inquiry and is pleased to have reached a resolution on these issues. The order entered by the SEC acknowledges that Betterment addressed the TLH-related coding and disclosure issues by 2019. In the years since 2019, Betterment has also made significant investments to build and strengthen its compliance program.

Distribution Payments to Affected Advisory Clients were determined based on a calculation methodology reviewed and approved by the SEC. Please see the website [www.tlhqsfairfund.com](http://www.tlhqsfairfund.com) for additional information or email [qsf@betterment.com](mailto:qsf@betterment.com).

This Statement to Affected Advisory Clients (“SAC”) provides information to help you and your tax advisor determine the U.S. federal, state, local, non-US or other tax consequences of the Distribution Payment if you are a citizen or resident of the U.S. for U.S. federal income tax purposes.

The TLH QSF Fair Fund is a Qualified Settlement Fund (“QSF”) under the Internal Revenue Code (“IRC”). Betterment retained Miller Kaplan Arase LLP (“MKA”) as a tax advisor to the Fair Fund.

**MKA has prepared this SAC but is not providing tax services or tax advice to you or any other Affected Advisory Client receiving a Distribution Payment.**

Some Affected Advisory Clients may be subject to special tax rules, including, without limitation, if you are a non-U.S. investor. Note that this SAC does not address the tax consequences to you, or the tax reporting or paying obligations you may have, under any state, local or non-U.S. tax laws, or the alternative minimum tax provisions of the IRC.

## **THE DISTRIBUTION PAYMENT**

**CAUTION: YOU SHOULD NOT RELY ON THIS STATEMENT AS TAX ADVICE RELATED TO YOUR PERSONAL CIRCUMSTANCES.**

**CONSULT WITH YOUR TAX ADVISOR WITH RESPECT TO THE TAX CONSEQUENCES OF THE DISTRIBUTION PAYMENT, INCLUDING THE EFFECTS OF U.S. FEDERAL, STATE, LOCAL AND NON-U.S. TAX RULES AND THE EFFECT OF POSSIBLE CHANGES IN LAWS.**

If you have any questions related to a Distribution Payment check, please contact the Fair Fund Administrator, SS&C GIDS, Inc., by using the toll-free number on the statement accompanying your Distribution Payment check. If you have any questions related to a Distribution Payment credit issued to your account, please contact Betterment at [qsf@betterment.com](mailto:qsf@betterment.com).

Your Distribution Payment is comprised of two (2) components: (i) an amount representing the missed tax benefits associated with the SEC's allegations (the "Base Component"); and (ii) an amount representing interest (the "Interest Component") that you could have earned from the time of the missed benefit until the time of this Distribution Payment.

### **Base Component**

The Fair Fund will not issue a Form 1099 or other tax reporting form to you with respect to the Base Component portion of your payment. However, the Base Component may still have taxable consequences for you, and we therefore recommend that you consult your tax advisor regarding how you should treat the Base Component for tax purposes based on your situation.

### **Interest Component.**

Your Distribution Payment includes an Interest Component. You will receive a Form 1099-INT from the Fair Fund only if the Interest Component is \$600 or more. If you are, or are presumed to be, a non-resident alien of the U.S., or a payee subject to withholding under the Foreign Account Tax Compliance Act, you may instead receive a Form 1042-S with respect to the Interest Component.

### **AFFECTED ADVISORY CLIENTS WHO RECEIVED A SOLICITATION TO COMPLETE AN IRS FORM**

Affected Advisory Clients may find themselves in various factual circumstances with respect to the Distribution Payment. In some cases, it has been or will be necessary for the Fair Fund to request (*i.e.*, solicit) completion of a Form W-9 or a Form W-8 series from Affected Advisory Clients. If you received a solicitation for such a form but did not return it, the Interest Component of your Distribution Payment may be subject to

mandatory tax withholding at a rate determined by your U.S. tax status. If an amount has been withheld from your Distribution Payment, it will be deposited with the IRS on your behalf and will be reflected on a Form 1099-INT or Form 1042-S issued to you by the Fair Fund. You will be able to claim this withholding when you file your U.S. tax return. The Fair Fund cannot refund the withholding to you once it has been deposited with the IRS on your behalf.

END.