

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

CALVIN STUART, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

FS KKR CAPITAL CORP., MICHAEL C.  
FORMAN, and STEVEN LILLY,

Defendants.

Case No.

**CLASS ACTION COMPLAINT FOR  
VIOLATIONS OF THE FEDERAL  
SECURITIES LAWS**

**DEMAND FOR JURY TRIAL**

Plaintiff Calvin Stuart (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his attorneys, alleges the following upon information and belief, except as to those allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff’s information and belief is based upon, among other things, his counsel’s investigation, which includes without limitation: (a) review and analysis of regulatory filings made by FS KKR Capital Corp. (“FS KKR Capital” or the “Company”) with the United States (“U.S.”) Securities and Exchange Commission (“SEC”); (b) review and analysis of press releases and media reports issued by and disseminated by FS KKR Capital; and (c) review of other publicly available information concerning FS KKR Capital.

### **NATURE OF THE ACTION AND OVERVIEW**

1. This is a class action on behalf of persons and entities that purchased or otherwise acquired FS KKR Capital securities between May 8, 2024 and February 25, 2026, inclusive (the “Class Period”). Plaintiff pursues claims against the Defendants under the Securities Exchange Act of 1934 (the “Exchange Act”).

2. FS KKR Capital is a private credit firm, also known a Business Development Company, which specializes in making private loans to companies. FS KKR Capital’s business operates by making loans to other businesses (also called “debt investments”), the Company’s principle source of revenue is then interest income earned on these debt investments, as well as other fees and dividends from the companies it invests in.

3. For five consecutive quarters through the first quarter of 2025, the Company had claimed it was establishing an improved portfolio credit profile, and that any non-accrual issues with legacy investments were being adequately addressed through restructuring.

4. On August 6, 2025, after the market closed, the Company reported second quarter 2025 earnings,<sup>1</sup> revealing that the Company's net asset value had declined to \$21.93 per share, down \$1.44, or 6.2% from the prior quarter, and the total fair value of investments fell **\$474 million**, to \$13,648 million. Moreover, the Company report earnings (loss) per share of negative \$0.75, down \$1.18 or **274.4%** from the prior quarter, and a total net realized and unrealized loss per share of negative \$1.36, down \$1.12 or **466.7%** from the prior quarter. Further, investments on non-accrual status rose to 3.0% and 5.3% of the total investment portfolio at fair value and amortized cost, respectively, compared to 2.1% and 3.5% in the prior quarter. However, the Company maintained that its "operating results and corresponding net asset value" were merely "impacted by *company specific issues* affecting four portfolio companies, each of which have been discussed on prior earnings calls."

5. In an accompanying earnings call held the same day, management identified the four companies at issue as Production Resource Group, 48forty, Kellermeyer Bergensons Services, and Worldwise.

6. On this news, share prices fell \$1.66 or 8.20% to close at \$18.58 per share on August 7, 2025, on unusually heavy trading volume.

7. Then, on February 25, 2026, after the market closed, the Company announced fourth quarter and full year 2025 earnings, revealing net asset value had continued to decline to \$20.89, down \$1.10 or 5% from prior quarter, and the total fair value of investments fell another **\$406 million**, to \$13,009 million. Moreover, the Company report earnings (loss) per share of negative \$0.41, down \$1.17 or **153.9%** from the prior quarter, and a total net realized and

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<sup>1</sup> Unless otherwise stated, all emphasis in bold and italics hereinafter is added, and all footnotes are omitted.

unrealized loss per share of negative \$0.89, down \$1.08 or **568.421%** from the prior quarter. Further, investments on non-accrual status again rose to 3.4% and 5.5% of the total investment portfolio at fair value and amortized cost, respectively, compared to 2.9% and 5.0% in the prior quarter. The Company also “acknowledge[d] specific challenges” with additional companies and cut its dividend to \$0.48 per share (previously \$0.70).

8. In the accompanying earnings call, the Company’s Chief Investment Officer, Pietrzak, was forced to acknowledge that its “recent underperformance reflects challenges in certain legacy investments” in addition to those previously discussed, including Medallia and Cubic Corp. Further, challenges ran much deeper, as the Company revealed issues with the identified companies only accounted for “**50% of net realized and unrealized losses.**” Finally, Pietrzak was forced to “acknowledge that this nonaccrual rate is above the long-term BDC industry average cost basis, nonaccrual rate of approximately 3.8%.”

9. On this news, the Company’s stock price fell \$2.03 or 15.24%, to close at \$11.29 per share on February 26, 2026, on unusually heavy trading volume.

10. Throughout the Class Period, Defendants made materially false and/or misleading statements, as well as failed to disclose material adverse facts about the Company’s business, operations, and prospects. Specifically, Defendants failed to disclose to investors: (1) the Company overstated the effectiveness of its portfolio restructuring efforts for its nonaccrual companies; (2) the Company overstated the valuation of its portfolio investments and/or overstated the effectiveness of the Company’s portfolio valuation process; (3) the Company overstated the durability of its quarterly distribution strategy; and (4) that, as a result of the foregoing, Defendants’ positive statements about the Company’s business, operations, and prospects were materially misleading and/or lacked a reasonable basis.

11. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

### **JURISDICTION AND VENUE**

12. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5).

13. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

14. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)). Substantial acts in furtherance of the alleged fraud or the effects of the fraud have occurred in this Judicial District. Many of the acts charged herein, including the dissemination of materially false and/or misleading information, occurred in substantial part in this Judicial District. In addition, the Company's principal executive offices are located in this District.

15. In connection with the acts, transactions, and conduct alleged herein, Defendants directly and indirectly used the means and instrumentalities of interstate commerce, including the United States mail, interstate telephone communications, and the facilities of a national securities exchange.

### **PARTIES**

16. Plaintiff Calvin Stuart, as set forth in the accompanying certification, incorporated by reference herein, purchased FS KKR Capital securities during the Class Period, and suffered damages as a result of the federal securities law violations and false and/or misleading statements and/or material omissions alleged herein.

17. Defendant FS KKR Capital is incorporated under the laws of Maryland with its principal executive offices located in Philadelphia, Pennsylvania. FS KKR Capital's common stock trade on the New York Stock Exchange ("NYSE") under the symbol "FSK."

18. Defendant Michael C. Forman ("Forman") was the Company's Chief Executive Officer ("CEO") at all relevant times.

19. Defendant Steven Lilly ("Lilly") was the Company's Chief Financial Officer ("CFO") at all relevant times.

20. Defendants Forman and Lilly (together, the "Individual Defendants"), because of their positions with the Company, possessed the power and authority to control the contents of the Company's reports to the SEC, press releases and presentations to securities analysts, money and portfolio managers and institutional investors, i.e., the market. The Individual Defendants were provided with copies of the Company's reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them, the Individual Defendants knew that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public, and that the positive representations which were being made were then materially false and/or misleading. The Individual Defendants are liable for the false statements pleaded herein.

## **SUBSTANTIVE ALLEGATIONS**

### **Background**

21. FS KKR Capital Corp. is a private credit firm, also known as a Business Development Company ("BDC"), which specializes in making private loans to companies. FS KKR's business operates by making loans to other businesses (also known as debt investments), the Company's

principle source of revenue is then interest income earned on these debt investments, as well as other fees and dividends from the companies it invests in.

22. As a BDC, FS KKR is limited by statute in the amount of debt it can incur relative to its NAV. This is to ensure minimum asset coverage requirements are met and protect investors in case of default. If a BDC's portfolio experiences defaults or other issues, the company must assess the fair value of its assets and reduce the NAV it reports. A lower NAV, while debt remains constant, increases the debt-to-equity ratio, potentially forcing the BDC to sell assets to remain compliant with the asset coverage requirement. Thus, investors closely monitor NAV as a key financial metric when determining the overall health of the Company's portfolio. NAV is most often reported in its value relative to the company's shares.

### **Materially False and Misleading**

#### **Statements Issued During the Class Period**

23. The Class Period begins on May 8, 2024. On that day, FS KKR Capital issued a press release announcing its results for the quarter ended March 31, 2024. The press release touted the Company's supposed financial and operational results for the first quarter of 2024, including that the Company "*made significant progress restructuring certain non-accruing investments*" and the "*long-term earnings power of FSK continues to be healthy, and we have confidence in our ability to continue to reward shareholders with attractive distributions.*" Specifically, the press release stated as follows, in relevant part:

#### **Financial and Operating Highlights for the Quarter Ended March 31, 2024**

- Net investment income of \$0.76 per share, compared to \$0.71 per share for the quarter ended December 31, 2023
- Adjusted net investment income of \$0.73 per share, compared to \$0.75 per share for the quarter ended December 31, 2023

- Net asset value of \$24.32 per share, compared to \$24.46 per share as of December 31, 2023

- Total net realized and unrealized loss of \$0.14 per share, compared to a total net realized and unrealized loss of \$0.39 per share for the quarter ended December 31, 2023

- Adjusted net realized and unrealized loss of \$0.11 per share, compared to adjusted net realized and unrealized loss of \$0.36 per share for the quarter ended December 31, 2023

- Earnings per Share of \$0.62, compared to Earnings per Share of \$0.32 for the quarter ended December 31, 2023

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“We had an active start to 2024, as FSK generated \$0.73 per share of Adjusted Net Investment Income and an annualized ROE of 10%.” said Michael C. Forman, Chief Executive Officer & Chairman. “During the first quarter our investment activity increased, our liquidity position remained strong, and *we made significant progress restructuring certain non-accruing investments. We believe the long-term earnings power of FSK continues to be healthy, and we have confidence in our ability to continue to reward shareholders with attractive distributions.*”

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#### **Portfolio Highlights as of March 31, 2024**

- Total fair value of investments was \$14.2 billion of which 65% was invested in senior secured securities.

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- As of March 31, 2024, investments on non-accrual status represented 4.2% and 6.5% of the total investment portfolio at fair value and amortized cost, respectively, compared to 5.5% and 8.9% as of December 31, 2023.

24. On May 8, 2024, the Company submitted its quarterly report for the period ended March 31, 2024 on a Form 10-Q filed with the SEC, affirming the previously reported financial results as well as the Company’s alleged assets and liabilities, including its net asset value per share for the period. The report further purported to assure investors that “the Company’s board of directors is responsible for overseeing the valuation of the Company’s portfolio” and the Company’s “disclosure controls and procedures were effective” for the relevant period. Specifically, the report stated as follows, in relevant part:

	March 31, 2024 (Unaudited)	December 31, 2023
<b>Assets</b>		
Investments, at fair value		
Non-controlled/unaffiliated investments (amortized cost—\$10,102 and \$11,078, respectively)	\$ 9,763	\$ 10,568
Non-controlled/affiliated investments (amortized cost—\$854 and \$868, respectively)	752	745
Controlled/affiliated investments (amortized cost—\$3,850 and \$3,474, respectively)	3,706	3,336
Total investments, at fair value (amortized cost—\$14,806 and \$15,420, respectively)	\$ 14,221	\$ 14,649
Cash	234	223
Foreign currency, at fair value (cost—\$8 and \$8, respectively)	8	8
Receivable for investments sold and repaid	329	246
Income receivable	300	290
Unrealized appreciation on foreign currency forward contracts	19	13
Deferred financing costs	31	32
Prepaid expenses and other assets	10	8
<b>Total assets</b>	<b>\$ 15,152</b>	<b>\$ 15,469</b>
<b>Liabilities</b>		
Payable for investments purchased	\$ 0	\$ —
Debt (net of deferred financing costs and discount of \$34 and \$36, respectively) <sup>(1)</sup>	7,934	8,187
Unrealized depreciation on foreign currency forward contracts	2	4
Stockholder distributions payable	196	196
Management fees payable	55	56
Subordinated income incentive fees payable <sup>(2)</sup>	43	41
Administrative services expense payable	6	5
Interest payable	91	98
Other accrued expenses and liabilities	13	33
<b>Total liabilities</b>	<b>\$ 8,340</b>	<b>\$ 8,620</b>
Commitments and contingencies <sup>(3)</sup>		
<b>Stockholders’ equity</b>		
Preferred stock, \$0.001 par value, 50,000,000 shares authorized, none issued and outstanding	\$ —	\$ —
Common stock, \$0.001 par value, 750,000,000 shares authorized, 280,066,433 and 280,066,433 shares issued and outstanding, respectively	0	0
Capital in excess of par value	9,437	9,437
Retained earnings (accumulated deficit) <sup>(4)</sup>	(2,625)	(2,588)
<b>Total stockholders’ equity</b>	<b>\$ 6,812</b>	<b>\$ 6,849</b>
<b>Total liabilities and stockholders’ equity</b>	<b>\$ 15,152</b>	<b>\$ 15,469</b>
Net asset value per share of common stock at period end	\$ 24.32	\$ 24.46

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*The Company's board of directors is responsible for overseeing the valuation of the Company's portfolio investments at fair value as determined in good faith pursuant to the Adviser's valuation policy.* The Company's board of directors has designated the Adviser with day-to-day responsibility for implementing the portfolio valuation process set forth in the Adviser's valuation policy.

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### **Evaluation of Disclosure Controls and Procedures**

As required by Rule 13a-15(b) under the Exchange Act, we carried out an evaluation, under the supervision and with the participation of our management, including the chief executive officer and chief financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of March 31, 2024.

*Based on the foregoing, our chief executive officer and chief financial officer concluded that our disclosure controls and procedures were effective to provide reasonable assurance that we would meet our disclosure obligations.*

25. On August 6, 2024, FS KKR Capital issued a press release announcing its results for the quarter ended June 30, 2024. The press release touted the Company's supposed financial and operational results for the second quarter of 2024, including that the "workout team's efforts *further reduced our non-accrual investments,*" and the Company's "results enable us to *continue rewarding shareholders with attractive distributions.*" Specifically, the press release stated as follows, in relevant part:

#### **Financial and Operating Highlights for the Quarter Ended June 30, 2024**

- Net investment income of \$0.77 per share, compared to \$0.76 per share for the quarter ended March 31, 2024
- Adjusted net investment income of \$0.75 per share, compared to \$0.73 per share for the quarter ended March 31, 2024
- Net asset value of \$23.95 per share, compared to \$24.32 per share as of March 31, 2024
- Total net realized and unrealized loss of \$0.39 per share, compared to a total net realized and unrealized loss of \$0.14 per share for the quarter ended March 31, 2024

- Adjusted net realized and unrealized loss of \$0.37 per share, compared to adjusted net realized and unrealized loss of \$0.11 per share for the quarter ended March 31, 2024
- Earnings per Share of \$0.37, compared to Earnings per Share of \$0.62 for the quarter ended March 31, 2024

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“The second quarter represented another solid quarter for FSK, as we generated \$0.75 per share of Adjusted Net Investment Income, our investment activity increased year-over-year, and *our workout team’s efforts further reduced our non-accrual investments*,” said Michael C. Forman, Chief Executive Officer & Chairman. “*Our results enable us to continue rewarding shareholders with attractive distributions*, which we expect will equate to a minimum of \$2.90 per share during 2024.”

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**Portfolio Highlights as of June 30, 2024**

- Total fair value of investments was \$14.1 billion of which 66% was invested in senior secured securities.

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- As of June 30, 2024, investments on non-accrual status represented 1.8% and 4.3% of the total investment portfolio at fair value and amortized cost, respectively, compared to 4.2% and 6.5% as of March 31, 2024.

26. On August 6, 2024, the Company submitted its quarterly report for the period ended June 30, 2024 on a Form 10-Q filed with the SEC, affirming the previously reported financial results as well as the Company’s alleged assets and liabilities, including its net asset value per share for the period. The report further purported to assure investors that “the Company’s board of directors is responsible for overseeing the valuation of the Company’s portfolio” and the Company’s “disclosure controls and procedures were effective” for the relevant period. Specifically, the report stated as follows, in relevant part:

	June 30, 2024 (Unaudited)	December 31, 2023
<b>Assets</b>		
Investments, at fair value		
Non-controlled/unaffiliated investments (amortized cost—\$9,897 and \$11,078, respectively)	\$ 9,553	\$ 10,568
Non-controlled/affiliated investments (amortized cost—\$913 and \$868, respectively)	811	745
Controlled/affiliated investments (amortized cost—\$3,910 and \$3,474, respectively)	3,723	3,336
Total investments, at fair value (amortized cost—\$14,720 and \$15,420, respectively)	\$ 14,087	\$ 14,649
Cash	408	223
Foreign currency, at fair value (cost—\$25 and \$8, respectively)	25	8
Receivable for investments sold and repaid	225	246
Income receivable	317	290
Unrealized appreciation on foreign currency forward contracts	—	13
Deferred financing costs	29	32
Prepaid expenses and other assets	10	8
<b>Total assets</b>	<b>\$ 15,101</b>	<b>\$ 15,469</b>
<b>Liabilities</b>		
Payable for investments purchased	\$ 1	\$ —
Debt (net of deferred financing costs and discount of \$45 and \$36, respectively) <sup>(1)</sup>	7,956	8,187
Unrealized depreciation on foreign currency forward contracts	4	4
Stockholder distributions payable	196	196
Management fees payable	54	56
Subordinated income incentive fees payable <sup>(2)</sup>	44	41
Administrative services expense payable	7	5
Interest payable	117	98
Other accrued expenses and liabilities	15	33
<b>Total liabilities</b>	<b>\$ 8,394</b>	<b>\$ 8,620</b>
Commitments and contingencies <sup>(3)</sup>		
<b>Stockholders' equity</b>		
Preferred stock, \$0.001 par value, 50,000,000 shares authorized, none issued and outstanding	\$ —	\$ —
Common stock, \$0.001 par value, 750,000,000 shares authorized, 280,066,433 and 280,066,433 shares issued and outstanding, respectively	0	0
Capital in excess of par value	9,437	9,437
Retained earnings (accumulated deficit) <sup>(4)</sup>	(2,730)	(2,588)
<b>Total stockholders' equity</b>	<b>\$ 6,707</b>	<b>\$ 6,849</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 15,101</b>	<b>\$ 15,469</b>
Net asset value per share of common stock at period end	\$ 23.95	\$ 24.46

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*The Company's board of directors is responsible for overseeing the valuation of the Company's portfolio investments at fair value as determined in good faith pursuant to the Adviser's valuation policy.* The Company's board of directors has designated the Adviser with day-to-day responsibility for implementing the portfolio valuation process set forth in the Adviser's valuation policy.

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### Evaluation of Disclosure Controls and Procedures

As required by Rule 13a-15(b) under the Exchange Act, we carried out an evaluation, under the supervision and with the participation of our management, including the chief executive officer and chief financial officer, of the effectiveness

of the design and operation of our disclosure controls and procedures as of June 30, 2024.

***Based on the foregoing, our chief executive officer and chief financial officer concluded that our disclosure controls and procedures were effective to provide reasonable assurance that we would meet our disclosure obligations.***

27. On November 6, 2024, FS KKR Capital issued a press release announcing its results for the quarter ended September 30, 2024. The press release touted the Company's supposed financial and operational results for the third quarter of 2024, including that the Company "***further reduced our non-accrual investments.***" Specifically, the press release stated as follows, in relevant part:

**Financial and Operating Highlights for the Quarter Ended September 30, 2024**

- Net investment income of \$0.77 per share, compared to \$0.77 per share for the quarter ended June 30, 2024
- Adjusted net investment income(2) of \$0.74 per share, compared to \$0.75 per share for the quarter ended June 30, 2024
- Net asset value of \$23.82 per share, compared to \$23.95 per share as of June 30, 2024
- Total net realized and unrealized loss of \$0.20 per share, compared to a total net realized and unrealized loss of \$0.39 per share for the quarter ended June 30, 2024
- Adjusted net realized and unrealized loss(2) of \$0.17 per share, compared to adjusted net realized and unrealized loss of \$0.37 per share for the quarter ended June 30, 2024
- Earnings per Share of \$0.57, compared to Earnings per Share of \$0.37 for the quarter ended June 30, 2024

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"During the third quarter FSK outperformed its public guidance by earning \$0.74 per share of Adjusted Net Investment Income. We also originated approximately \$1.1 billion of new investments and ***further reduced our non-accrual investments.*** As we begin focusing on 2025, we are optimistic that the economy's strong underpinnings will help facilitate what could be a measurable increase in M&A activity," stated Michael C. Forman, Chief Executive Officer & Chairman.

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### **Portfolio Highlights as of September 30, 2024**

- Total fair value of investments was \$13.9 billion of which 67% was invested in senior secured securities.

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- As of September 30, 2024, investments on non-accrual status represented 1.7% and 3.8% of the total investment portfolio at fair value and amortized cost, respectively, compared to 1.8% and 4.3% as of June 30, 2024.

28. On November 6, 2024, the Company submitted its quarterly report for the period ended September 30, 2024 on a Form 10-Q filed with the SEC, affirming the previously reported financial results as well as the Company's alleged assets and liabilities, including its net asset value per share for the period. The report further purported to assure investors that "the Company's board of directors is responsible for overseeing the valuation of the Company's portfolio" and the Company's "disclosure controls and procedures were effective" for the relevant period. Specifically, the report stated as follows, in relevant part:

	September 30, 2024 (Unaudited)	December 31, 2023
<b>Assets</b>		
Investments, at fair value		
Non-controlled/unaffiliated investments (amortized cost—\$9,753 and \$11,078, respectively)	\$ 9,407	\$ 10,568
Non-controlled/affiliated investments (amortized cost—\$862 and \$868, respectively)	838	745
Controlled/affiliated investments (amortized cost—\$3,939 and \$3,474, respectively)	3,698	3,336
Total investments, at fair value (amortized cost—\$14,554 and \$15,420, respectively)	13,943	14,649
Cash and cash equivalents	366	223
Foreign currency, at fair value (cost—\$5 and \$8, respectively)	5	8
Receivable for investments sold and repaid	468	246
Income receivable	313	290
Unrealized appreciation on foreign currency forward contracts	0	13
Deferred financing costs	27	32
Prepaid expenses and other assets	27	8
<b>Total assets</b>	<b>\$ 15,149</b>	<b>\$ 15,469</b>
<b>Liabilities</b>		
Payable for investments purchased	\$ 1	\$ —
Debt (net of deferred financing costs and discount of \$42 and \$36, respectively) <sup>(1)</sup>	8,060	8,187
Unrealized depreciation on foreign currency forward contracts	10	4
Stockholder distributions payable	196	196
Management fees payable	54	56
Subordinated income incentive fees payable <sup>(2)</sup>	44	41
Administrative services expense payable	5	5
Interest payable	99	98
Other accrued expenses and liabilities	9	33
<b>Total liabilities</b>	<b>8,478</b>	<b>8,620</b>
Commitments and contingencies <sup>(3)</sup>		
<b>Stockholders' equity</b>		
Preferred stock, \$0.001 par value, 50,000,000 shares authorized, none issued and outstanding	—	—
Common stock, \$0.001 par value, 750,000,000 shares authorized, 280,066,433 and 280,066,433 shares issued and outstanding, respectively	0	0
Capital in excess of par value	9,437	9,437
Retained earnings (accumulated deficit) <sup>(4)</sup>	(2,766)	(2,588)
<b>Total stockholders' equity</b>	<b>6,671</b>	<b>6,849</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 15,149</b>	<b>\$ 15,469</b>
Net asset value per share of common stock at period end	<b>\$ 23.82</b>	<b>\$ 24.46</b>

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*The Company's board of directors is responsible for overseeing the valuation of the Company's portfolio investments at fair value as determined in good faith pursuant to the Adviser's valuation policy.* The Company's board of directors has designated the Adviser with day-to-day responsibility for implementing the portfolio valuation process set forth in the Adviser's valuation policy.

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## Evaluation of Disclosure Controls and Procedures

As required by Rule 13a-15(b) under the Exchange Act, we carried out an evaluation, under the supervision and with the participation of our management, including the chief executive officer and chief financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of September 30, 2024.

*Based on the foregoing, our chief executive officer and chief financial officer concluded that our disclosure controls and procedures were effective to provide reasonable assurance that we would meet our disclosure obligations.*

29. On February 26, 2025, FS KKR Capital issued a press release announcing its results for the quarter and year ended December 31, 2024. The press release touted the Company's supposed financial and operational results for the fourth quarter and full year 2024, including the Company's alleged "*portfolio stability*." Specifically, the press release stated as follows, in relevant part:

**Financial and Operating Highlights for the Quarter Ended December 31, 2024**

- Net investment income of \$0.61 per share, compared to \$0.77 per share for the quarter ended September 30, 2024
- Adjusted net investment income of \$0.66 per share, compared to \$0.74 per share for the quarter ended September 30, 2024
- Net asset value of \$23.64 per share, compared to \$23.82 per share as of September 30, 2024 and \$24.46 per share as of December 31, 2023
- Total net realized and unrealized loss of \$0.09 per share, compared to a total net realized and unrealized loss of \$0.20 per share for the quarter ended September 30, 2024
- Adjusted net realized and unrealized loss of \$0.07 per share, compared to adjusted net realized and unrealized loss of \$0.17 per share for the quarter ended September 30, 2024
- Earnings per Share of \$0.52, compared to Earnings per Share of \$0.57 for the quarter ended September 30, 2024

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**Financial and Operating Highlights for the Year Ended December 31, 2024**

- Net investment income of \$2.90 per share, compared to \$3.18 per share for the year ended December 31, 2023

- Adjusted net investment income of \$2.88 per share, compared to \$3.11 per share for the year ended December 31, 2023

- Total net realized and unrealized loss of \$0.81 per share, compared to a total net realized and unrealized loss of \$0.70 per share for the year ended December 31, 2023

- Adjusted net realized and unrealized loss of \$0.72 per share, compared to adjusted net realized and unrealized loss of \$0.56 per share for the year ended December 31, 2023

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“As we conclude the fourth quarter of 2024, we are pleased with our continued strong performance, highlighted by disciplined capital deployment, portfolio stability, and a well-laddered, diversified capital structure,” said Michael C. Forman, Chief Executive Officer & Chairman. “Looking ahead, our \$4.8 billion of available liquidity will serve as a significant strength as private market activity continues to build.”

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#### **Portfolio Highlights as of December 31, 2024**

- Total fair value of investments was \$13.5 billion of which 63.8% was invested in senior secured securities.

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- As of December 31, 2024, investments on non-accrual status represented 2.2% and 3.7% of the total investment portfolio at fair value and amortized cost, respectively, compared to 1.7% and 3.8% as of September 30, 2024.

30. On February 26, 2025, the Company submitted its annual report for the fiscal year ended December 31, 2024 on a Form 10-K filed with the SEC (the “FY24 10-K”). The FY24 10-K affirmed the previously reported financial results as well as the Company’s alleged assets and liabilities, including its net asset value per share for the period, as follows in relevant part:

	December 31,	
	2024	2023
<b>Assets</b>		
Investments, at fair value		
Non-controlled/unaffiliated investments (amortized cost—\$8,830 and 11,078, respectively)	\$ 8,573	\$ 10,568
Non-controlled/affiliated investments (amortized cost—\$1,128 and \$868, respectively)	1,140	745
Controlled/affiliated investments (amortized cost—\$4,086 and \$3,474, respectively)	3,777	3,336
Total investments, at fair value (amortized cost—\$14,044 and \$15,420, respectively)	13,490	14,649
Cash	278	223
Foreign currency, at fair value (cost—\$17 and \$8, respectively)	18	8
Receivable for investments sold and repaid	186	246
Income receivable	187	290
Unrealized appreciation on foreign currency forward contracts	3	13
Deferred financing costs	26	32
Prepaid expenses and other assets	31	8
<b>Total assets</b>	<b>\$ 14,219</b>	<b>\$ 15,469</b>
<b>Liabilities</b>		
Payable for investments purchased	\$ 2	\$ —
Debt (net of deferred financing costs and discount of \$49 and \$36, respectively) <sup>(1)</sup>	7,351	8,187
Unrealized depreciation on foreign currency forward contracts	1	4
Stockholder distributions payable	—	196
Management and investment adviser fees payable	53	56
Subordinated income incentive fees payable <sup>(2)</sup>	35	41
Administrative services expense payable	3	5
Interest payable	108	98
Other accrued expenses and liabilities	44	33
<b>Total liabilities</b>	<b>7,597</b>	<b>8,620</b>
Commitments and contingencies <sup>(3)</sup>		
<b>Stockholders' equity</b>		
Preferred stock, \$0.001 par value, 50,000,000 shares authorized, none issued and outstanding	—	—
Common stock, \$0.001 par value, 750,000,000 shares authorized, 280,066,433 and 280,066,433 shares issued and outstanding, respectively	0	0
Capital in excess of par value	9,284	9,437
Retained earnings (accumulated deficit) <sup>(4)</sup>	(2,662)	(2,588)
<b>Total stockholders' equity</b>	<b>6,622</b>	<b>6,849</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 14,219</b>	<b>\$ 15,469</b>
Net asset value per share of common stock at year end	\$ 23.64	\$ 24.46

31. The FY24 10-K further purported to describe the Company's valuation process for its portfolio investments, and assure investors that "the Company's board of directors is responsible for overseeing the valuation of the Company's portfolio." Specifically, the FY24 10-K stated as follows, in relevant part:

### **Valuation of Portfolio Investments**

*Our board of directors is responsible for overseeing the valuation of our portfolio investments at fair value as determined in good faith pursuant to the Adviser's valuation policy.* As permitted by Rule 2a-5 of the 1940 Act, our board of directors has designated the Adviser as our valuation designee with day-to-day responsibility for implementing the portfolio valuation process set forth in the Adviser's valuation policy.

*The Adviser determines the fair value of our investment portfolio each quarter. Securities that are publicly-traded with readily available market prices will be valued at the reported closing price on the valuation date. Securities that are not publicly-traded with readily available market prices will be valued at fair value as determined in good faith by the Adviser.* In connection with that determination, the Adviser will prepare portfolio company valuations which are based on relevant inputs, including, but not limited to, indicative dealer quotes, values of like securities, recent portfolio company financial statements and forecasts, and valuations prepared by independent third-party pricing and valuation services.

32. The FY24 10-K further alleged the Company’s “internal control over financial reporting was effective” and “disclosure controls and procedures were effective” during the relevant period, as follows in relevant part:

#### **MANAGEMENT’S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. In connection with the preparation of our annual financial statements, management has conducted an assessment of the effectiveness of our internal control over financial reporting based on the framework set forth in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission in 2013 (“COSO”). Management’s assessment included an evaluation of the design of our internal control over financial reporting and testing of the operational effectiveness of those controls. ***Based on this evaluation, we have concluded that, as of December 31, 2024, our internal control over financial reporting was effective to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America.*** Our internal control over financial reporting as of December 31, 2024 has been audited by our independent registered public accounting firm.

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#### **Evaluation of Disclosure Controls and Procedures**

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports filed under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms and that such information is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well

designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management is required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As required by Exchange Act Rule 13(a)-15(b), we carried out an evaluation under the supervision and with the participation of our management, including our chief executive officer and chief financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of December 31, 2024. ***Based on the foregoing, our chief executive officer and chief financial officer concluded that our disclosure controls and procedures were (a) designed to ensure that the information we are required to disclose in our reports under the Exchange Act is recorded, processed and reported in an accurate manner and on a timely basis and the information that we are required to disclose in our Exchange Act reports is accumulated and communicated to management to permit timely decisions with respect to required disclosure and (b) operating in an effective manner.***

33. The FY24 10-K purported to warn of risks which “*could*” or “*may*” negatively impact the Company, including that it is “required to carry [] investments at market value or, if no market value is ascertainable, at fair value” and that “impairments of the market values or fair market values of [its] investments, ***even if unrealized, must be reflected in our financial statements*** for the applicable period as unrealized depreciation, ***which could result in a significant reduction to our net asset value for a given period.***” Specifically, the FY24 10-K stated as follows, in relevant part:

***Declines in market values or fair market values of our investments could result in significant net unrealized depreciation of our portfolio, which in turn would reduce our net asset value.***

Under the 1940 Act, we are required to carry our investments at market value or, if no market value is ascertainable, at fair value, in accordance with policies and procedures approved by our board of directors. While most of our investments are not publicly traded, applicable accounting standards require us to assume as part of our valuation process that our investments are sold in a principal market to market participants (even if we plan on holding an investment through its maturity) and impairments of the market values or fair market values of our investments, even if unrealized, must be reflected in our financial statements for the applicable period as unrealized depreciation, which could result in a significant reduction to our net asset value for a given period.

34. The FY24 10-K further purported to warn that a “significant portion” of the Company’s “investment portfolio does not have a readily available market price and is and will be recorded at fair value in accordance with policies and procedures approved by our board of directors” and, as a result its “*fair value determinations may cause our net asset value on a given date to materially understate or overstate the value* that we may ultimately realize upon the sale of one or more of our investments.” Specifically, the FY24 10-K stated as follows, in relevant part:

***A significant portion of our investment portfolio does not have a readily available market price and is and will be recorded at fair value in accordance with policies and procedures approved by our board of directors and, as a result, there is and will be uncertainty as to the value of our portfolio investments.***

Under the 1940 Act, we are required to carry our portfolio investments at market value or, if there is no readily available market value, at fair value, in accordance with policies and procedures approved by our board of directors. There is not a public market for the securities of the privately held companies in which we invest. Most of our investments are not publicly traded or actively traded on a secondary market but are, instead, traded on a privately negotiated OTC secondary market for institutional investors or are not traded at all. As a result, the Adviser, with oversight from our board of directors, will value these securities quarterly at fair value.

Pursuant to Rule 2a-5 under the 1940 Act, our board has designated the Adviser to perform, subject to board oversight, fair value determinations of our investments. Certain factors that may be considered in determining the fair value of our investments include dealer quotes for securities traded on the secondary market for institutional investors, the nature and realizable value of any collateral, the portfolio company’s earnings and its ability to make payments on its indebtedness, the markets in which the portfolio company does business, comparison to comparable publicly traded companies, discounted cash flows and other relevant factors. Because such valuations, and particularly valuations of private securities and private companies, are inherently uncertain, may fluctuate over short periods of time and may be based on estimates, our determinations of fair value may differ materially from the values that would have been used if a ready market for these non-traded securities existed. Due to this uncertainty, our fair value determinations may cause our net asset value on a given date to materially understate or overstate the value that we may ultimately realize upon the sale of one or more of our investments.

35. On May 7, 2025, FS KKR Capital issued a press release announcing its results for the quarter ended March 31, 2025. The press release touted the Company’s supposed financial and

operational results for the first quarter of 2025, including that the Company’s “strategy of building spillover income during prior periods of elevated interest rates *supports the continued stability of our \$0.64 base and \$0.06 supplemental quarterly distributions* amid the current market volatility.” Specifically, the press release stated as follows, in relevant part:

**Financial and Operating Highlights for the Quarter Ended March 31, 2025**

- Net investment income of \$0.67 per share, compared to \$0.61 per share for the quarter ended December 31, 2024
- Adjusted net investment income(2) of \$0.65 per share, compared to \$0.66 per share for the quarter ended December 31, 2024
- Net asset value of \$23.37 per share, compared to \$23.64 per share as of December 31, 2024
- Total net realized and unrealized loss of \$0.24 per share, compared to a total net realized and unrealized loss of \$0.09 per share for the quarter ended December 31, 2024
- Adjusted net realized and unrealized loss of \$0.22 per share, compared to adjusted net realized and unrealized loss of \$0.07 per share for the quarter ended December 31, 2024

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“We are pleased to deliver a strong start to the year, generating \$0.65 per share of Adjusted Net Investment Income and originating approximately \$2.0 billion of new investments,” said Michael C. Forman, Chief Executive Officer & Chairman. “*Our strategy of building spillover income during prior periods of elevated interest rates supports the continued stability of our \$0.64 base and \$0.06 supplemental quarterly distributions amid the current market volatility.*”

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**Portfolio Highlights as of March 31, 2025**

- Total fair value of investments was \$14.1 billion of which 63.3% was invested in senior secured securities.

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- As of March 31, 2025, investments on non-accrual status represented 2.1% and 3.5% of the total investment portfolio at fair value and amortized cost, respectively, compared to 2.2% and 3.7% as of December 31, 2024.

36. On May 7, 2025, the Company submitted its quarterly report for the period ended March 31, 2025 on a Form 10-Q filed with the SEC, affirming the previously reported financial results as well as the Company’s alleged assets and liabilities, including its net asset value per share for the period. The report further purported to assure investors that “the Company’s board of directors is responsible for overseeing the valuation of the Company’s portfolio” and the Company’s “disclosure controls and procedures were effective” for the relevant period. Specifically, the report stated as follows, in relevant part:

	March 31, 2025 (Unaudited)	December 31, 2024
<b>Assets</b>		
Investments, at fair value		
Non-controlled/unaffiliated investments (amortized cost—\$9,307 and \$8,830, respectively)	\$ 9,109	\$ 8,573
Non-controlled/affiliated investments (amortized cost—\$1,192 and \$1,128, respectively)	1,184	1,140
Controlled/affiliated investments (amortized cost—\$4,191 and \$4,086, respectively)	3,829	3,777
Total investments, at fair value (amortized cost—\$14,690 and \$14,044, respectively)	14,122	13,490
Cash and cash equivalents	289	278
Foreign currency, at fair value (cost—\$183 and \$17, respectively)	183	18
Receivable for investments sold and repaid	65	186
Income receivable	180	187
Unrealized appreciation on foreign currency forward contracts	0	3
Deferred financing costs	26	26
Prepaid expenses and other assets	50	31
<b>Total assets</b>	<b>\$ 14,915</b>	<b>\$ 14,219</b>
<b>Liabilities</b>		
Payable for investments purchased	\$ 3	\$ 2
Debt (net of deferred financing costs and discount of \$49 and \$49, respectively) <sup>(1)</sup>	7,989	7,351
Unrealized depreciation on foreign currency forward contracts	8	1
Stockholder distributions payable	196	—
Management fees payable	52	53
Subordinated income incentive fees payable <sup>(2)</sup>	39	35
Administrative services expense payable	5	3
Interest payable	65	108
Other accrued expenses and liabilities	12	44
<b>Total liabilities</b>	<b>8,369</b>	<b>7,597</b>
Commitments and contingencies <sup>(3)</sup>		
<b>Stockholders' equity</b>		
Preferred stock, \$0.001 par value, 50,000,000 shares authorized, none issued and outstanding	—	—
Common stock, \$0.001 par value, 750,000,000 shares authorized, 280,066,433 and 280,066,433 shares issued and outstanding, respectively	0	0
Capital in excess of par value	9,284	9,284
Retained earnings (accumulated deficit) <sup>(4)</sup>	(2,738)	(2,662)
<b>Total stockholders' equity</b>	<b>6,546</b>	<b>6,622</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 14,915</b>	<b>\$ 14,219</b>
Net asset value per share of common stock at period end	<b>\$ 23.37</b>	<b>\$ 23.64</b>

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### *Valuation of Portfolio Investments*

***Our board of directors is responsible for overseeing the valuation of our portfolio investments at fair value as determined in good faith pursuant to the Adviser's valuation policy.*** As permitted by Rule 2a-5 of the 1940 Act, our board of directors has designated the Adviser as our valuation designee with day-to-day responsibility for implementing the portfolio valuation process set forth in the Adviser's valuation policy.

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### **Evaluation of Disclosure Controls and Procedures**

As required by Rule 13a-15(b) under the Exchange Act, we carried out an evaluation, under the supervision and with the participation of our management, including the chief executive officer and chief financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of March 31, 2025.

***Based on the foregoing, our chief executive officer and chief financial officer concluded that our disclosure controls and procedures were effective to provide reasonable assurance that we would meet our disclosure obligations.***

37. The above statements identified in ¶¶23-36 were materially false and/or misleading, and failed to disclose material adverse facts about the Company's business, operations, and prospects. Specifically, Defendants failed to disclose to investors: (1) the Company overstated the effectiveness of its portfolio restructuring efforts for its nonaccrual companies; (2) the Company overstated the valuation of its portfolio investments and/or overstated the effectiveness of the Company's portfolio valuation process; (3) the Company overstated the durability of its quarterly distribution strategy; and (4) that, as a result of the foregoing, Defendants' positive statements about the Company's business, operations, and prospects were materially misleading and/or lacked a reasonable basis.

38. The truth began to partially emerge on August 6, 2025, after the market closed, when the Company reported second quarter 2025 earnings, revealing that its net asset value

declined to \$21.93 per share, down \$1.44, or 6.2% from the prior quarter and the total fair value of investments fell **\$474 million**, to \$13,648 million. Moreover, the Company report earnings (loss) per share of negative \$0.75, down \$1.18 or **274.4%** from the prior quarter, and a total net realized and unrealized loss per share of negative \$1.36, down \$1.12 or **466.7%** from the prior quarter. Further, investments on non-accrual status rose to 3.0% and 5.3% of the total investment portfolio at fair value and amortized cost, respectively, compared to 2.1% and 3.5% in the prior quarter. However, the Company maintained that its “operating results and corresponding net asset value” were merely “impacted by **company specific issues** affecting four portfolio companies, each of which have been discussed on prior earnings calls.”

39. In the accompanying earnings call on the same date, the Company’s Co-President, Chief Investment Officer & Director, Daniel Ryan Pietrzak (“Pietrzak”), provided details on the “specific situations with 4 companies” which accounted for the negative move in net asset value during the quarter, including that “[t]hree of these companies are larger investments in our portfolio.” Pietrzak identified the four companies as “Production Resource Group, or PRG,” which “has significantly underperformed expectations in 2025”; “48forty” which “has been negatively impacted by post- COVID normalization trends such as inventory destocking”; “Kellermeyer Bergensons Services, or KBS” which had “**completed a consensual restructuring in early 2024**” but was “added to nonaccrual” in the quarter; and “Worldwise”, which “was **restructured during the fourth quarter of 2024**” but was also put on nonaccrual. Pietrzak nonetheless purported to assure investors “[w]e are actively implementing strategic initiatives aimed at stabilizing operations and realizing meaningful cost efficiencies.” Specifically, during the earnings call, Pietrzak stated as follows, in relevant part:

While our portfolio and the private credit market in general both continue to demonstrate stability, **we experienced an increase in nonaccruals this quarter due**

*to specific situations with 4 companies. Three of these companies are larger investments in our portfolio, which accounted for the negative move in our net asset value during the quarter.* Comments regarding the 4 companies are as follows. Our first lien, last-out positions in ***Production Resource Group, or PRG, were added to nonaccrual, contributing \$198 million of cost and \$122 million of fair value collectively.*** PRG is a legacy investment, which was initially restructured in 2020. Industry-wide stress and heightened competition has led to significant pricing erosion, and as such, ***the company's performance has significantly underperformed expectations in 2025.*** As a result, we reduced the value of our investment and placed our first lien, last-out securities on nonaccrual. We are working toward a full restructuring of the business, and we'll provide updates as they become available.

Our first lien senior secured positions in ***48forty were added to nonaccrual*** during the quarter, contributing \$188 million of cost and \$91 million of fair value collectively. 48forty is one of the nation's largest wood pallet manufacturers and recyclers. ***The company has been negatively impacted by post-COVID normalization trends such as inventory destocking.*** While the company has continued to make interest payments, we made the decision to place the investment on nonaccrual status as we work through next steps with the company and the sponsor.

FSK's second-out first lien loan to ***Kellermeyer Bergensons Services, or KBS, was added to nonaccrual,*** contributing \$94 million of cost and \$48 million of fair value. KBS is a large provider of janitorial and cleaning services to nationwide retailers and offices. ***The company completed a consensual restructuring in early 2024*** and since then has successfully focused on new business development, value creation, operational improvements and cost reductions. ***The company's performance has stabilized, and we have received indications of interest in purchasing the business from strategic third parties.*** This process is evolving, and we will update the market as we learn more.

Lastly, our first lien and second lien investments in ***Worldwise were added to nonaccrual,*** contributing \$20 million of costs and \$11 million of fair value collectively. The company is a pet products provider, ***which was restructured during the fourth quarter of 2024.*** In connection with the restructuring, the sponsor contributed \$42 million of equity, resulting in a \$30 million debt paydown at par across KKR funds. ***Following the restructuring, the business has faced headwinds from tariffs and softer consumer demand.*** We are actively implementing strategic initiatives aimed at stabilizing operations and realizing meaningful cost efficiencies.

While each of these situations is unique to the issuer, our workout team remains actively engaged and is working closely with our advisers and management teams to effectuate the best outcomes possible.

40. On this news, share prices fell \$1.66 or 8.20% to close at \$18.58 per share on August 7, 2025, on unusually heavy trading volume.

41. On August 6, 2025, the Company submitted its quarterly report for the period ended June 30, 2025 on a Form 10-Q filed with the SEC, affirming the previously reported financial results as well as the Company’s alleged assets and liabilities, including its net asset value per share for the period. The report further purported to assure investors that “the Company’s board of directors is responsible for overseeing the valuation of the Company’s portfolio” and the Company’s “disclosure controls and procedures were effective” during the relevant period. Specifically, the report stated as follows, in relevant part:

	June 30, 2025 (Unaudited)	December 31, 2024
<b>Assets</b>		
Investments, at fair value		
Non-controlled/unaffiliated investments (amortized cost—\$9,072 and \$8,830, respectively)	\$ 8,930	\$ 8,573
Non-controlled/affiliated investments (amortized cost—\$1,180 and \$1,128, respectively)	1,111	1,140
Controlled/affiliated investments (amortized cost—\$4,119 and \$4,086, respectively)	3,607	3,777
Total investments, at fair value (amortized cost—\$14,371 and \$14,044, respectively)	\$ 13,648	\$ 13,490
Cash and cash equivalents	244	278
Foreign currency, at fair value (cost—\$68 and \$17, respectively)	68	18
Receivable for investments sold and repaid	320	186
Income receivable	194	187
Unrealized appreciation on foreign currency forward contracts	—	3
Deferred financing costs	24	26
Prepaid expenses and other assets	95	31
<b>Total assets</b>	<b>\$ 14,593</b>	<b>\$ 14,219</b>
<b>Liabilities</b>		
Payable for investments purchased	\$ 3	\$ 2
Debt (net of deferred financing costs and discount of \$44 and \$49, respectively) <sup>(1)</sup>	8,041	7,351
Unrealized depreciation on foreign currency forward contracts	18	1
Stockholder distributions payable	196	—
Management fees payable	53	53
Subordinated income incentive fees payable <sup>(2)</sup>	36	35
Administrative services expense payable	6	3
Interest payable	80	108
Other accrued expenses and liabilities	19	44
<b>Total liabilities</b>	<b>8,452</b>	<b>7,597</b>
Commitments and contingencies <sup>(3)</sup>		
<b>Stockholders’ equity</b>		
Preferred stock, \$0.001 par value, 50,000,000 shares authorized, none issued and outstanding	—	—
Common stock, \$0.001 par value, 750,000,000 shares authorized, 280,066,433 and 280,066,433 shares issued and outstanding, respectively	0	0
Capital in excess of par value	9,284	9,284
Retained earnings (accumulated deficit) <sup>(4)</sup>	(3,143)	(2,662)
<b>Total stockholders’ equity</b>	<b>6,141</b>	<b>6,622</b>
<b>Total liabilities and stockholders’ equity</b>	<b>\$ 14,593</b>	<b>\$ 14,219</b>
Net asset value per share of common stock at period end	<b>\$ 21.93</b>	<b>\$ 23.64</b>

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*The Company's board of directors is responsible for overseeing the valuation of the Company's portfolio investments at fair value as determined in good faith pursuant to the Adviser's valuation policy.* The Company's board of directors has designated the Adviser with day-to-day responsibility for implementing the portfolio valuation process set forth in the Adviser's valuation policy.

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### **Evaluation of Disclosure Controls and Procedures**

As required by Rule 13a-15(b) under the Exchange Act, we carried out an evaluation, under the supervision and with the participation of our management, including the chief executive officer and chief financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of June 30, 2025.

*Based on the foregoing, our chief executive officer and chief financial officer concluded that our disclosure controls and procedures were effective to provide reasonable assurance that we would meet our disclosure obligations.*

42. On November 5, 2025, FS KKR Capital issued a press release announcing its results for the quarter ended September 30, 2025. The press release touted the Company's supposed financial and operational results for the third quarter of 2025, including the Company's "**2026 quarterly distribution strategy which we currently believe will result in an annualized yield of approximately 10% on our Net Asset Value**, consistent with the BDC industry's long term yield of 9.0% to 10.0%. We believe this distribution will be attractive on both a relative and absolute basis." Specifically, the press release stated as follows, in relevant part:

#### **Financial and Operating Highlights for the Quarter Ended September 30, 2025**

- Net investment income of \$0.57 per share, compared to \$0.62 per share for the quarter ended June 30, 2025
- Adjusted net investment income of \$0.57 per share, compared to \$0.60 per share for the quarter ended June 30, 2025
- Net asset value of \$21.99 per share, compared to \$21.93 per share as of June 30, 2025

- Total net realized and unrealized gain of \$0.19 per share, compared to a total net realized and unrealized loss of \$1.36 per share for the quarter ended June 30, 2025
- Adjusted net realized and unrealized gain(2) of \$0.21 per share, compared to adjusted net realized and unrealized loss of \$1.34 per share for the quarter ended June 30, 2025
- Earnings (Loss) per Share of \$0.76, compared to Earnings (Loss) per Share of \$(0.75) for the quarter ended June 30, 2025

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“During the third quarter FSK generated \$0.57 per share of Adjusted Net Investment Income, and our Net Asset Value per share increased to \$21.99,” said Michael C. Forman, Chief Executive Officer and Chairman. *“We are pleased to announce our 2026 quarterly distribution strategy which we currently believe will result in an annualized yield of approximately 10% on our Net Asset Value, consistent with the BDC industry’s long term yield of 9.0% to 10.0%. We believe this distribution will be attractive on both a relative and absolute basis.”*

#### **Distribution for Fourth Quarter 2025**

As previously announced, on October 8, 2025, FSK’s board of directors declared a distribution for the fourth quarter of \$0.70 per share, consisting of a base distribution of \$0.64 per share and a supplemental distribution of \$0.06 per share, which will be paid on or about December 17, 2025 to stockholders of record as of the close of business on December 3, 2025.

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#### **Portfolio Highlights as of September 30, 2025**

- Total fair value of investments was \$13.4 billion of which 63.2% was invested in senior secured securities.

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- As of September 30, 2025, investments on non-accrual status represented 2.9% and 5.0% of the total investment portfolio at fair value and amortized cost, respectively, compared to 3.0% and 5.3% as of June 30, 2025.

43. On November 5, 2025, the Company submitted its quarterly report for the period ended September 30, 2025 on a Form 10-Q filed with the SEC, affirming the previously reported financial results as well as the Company’s alleged assets and liabilities, including its net asset value per share for the period. The report further purported to assure investors that “the Company’s board

of directors is responsible for overseeing the valuation of the Company’s portfolio” and the Company’s “disclosure controls and procedures were effective” for the relevant period. Specifically, the report stated as follows, in relevant part:

	September 30, 2025 (Unaudited)	December 31, 2024
<b>Assets</b>		
Investments, at fair value		
Non-controlled/unaffiliated investments (amortized cost—\$9,075 and \$8,830, respectively)	\$ 8,888	\$ 8,573
Non-controlled/affiliated investments (amortized cost—\$1,149 and \$1,128, respectively)	1,085	1,140
Controlled/affiliated investments (amortized cost—\$3,814 and \$4,086, respectively)	3,442	3,777
Total investments, at fair value (amortized cost—\$14,038 and \$14,044, respectively)	\$ 13,415	\$ 13,490
Cash and cash equivalents	119	278
Foreign currency, at fair value (cost—\$36 and \$17, respectively)	36	18
Receivable for investments sold and repaid	48	186
Income receivable	209	187
Unrealized appreciation on foreign currency forward contracts	—	3
Deferred financing costs	36	26
Prepaid expenses and other assets	46	31
<b>Total assets</b>	<b>\$ 13,909</b>	<b>\$ 14,219</b>
<b>Liabilities</b>		
Payable for investments purchased	\$ 2	\$ 2
Debt (net of deferred financing costs and discount of \$50 and \$49, respectively) <sup>(1)</sup>	7,356	7,351
Unrealized depreciation on foreign currency forward contracts	15	1
Stockholder distributions payable	196	—
Management fees payable	51	53
Subordinated income incentive fees payable <sup>(2)</sup>	33	35
Administrative services expense payable	7	3
Interest payable	70	108
Other accrued expenses and liabilities	20	44
<b>Total liabilities</b>	<b>7,750</b>	<b>7,597</b>
Commitments and contingencies <sup>(3)</sup>		
<b>Stockholders’ equity</b>		
Preferred stock, \$0.001 par value, 50,000,000 shares authorized, none issued and outstanding	—	—
Common stock, \$0.001 par value, 750,000,000 shares authorized, 280,066,433 and 280,066,433 shares issued and outstanding, respectively	0	0
Capital in excess of par value	9,284	9,284
Retained earnings (accumulated deficit) <sup>(4)</sup>	(3,125)	(2,662)
<b>Total stockholders’ equity</b>	<b>6,159</b>	<b>6,622</b>
<b>Total liabilities and stockholders’ equity</b>	<b>\$ 13,909</b>	<b>\$ 14,219</b>
Net asset value per share of common stock at period end	\$ 21.99	\$ 23.64

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*The Company’s board of directors is responsible for overseeing the valuation of the Company’s portfolio investments at fair value as determined in good faith pursuant to the Adviser’s valuation policy.* The Company’s board of directors has designated the Adviser with day-to-day responsibility for implementing the portfolio valuation process set forth in the Adviser’s valuation policy.

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## **Evaluation of Disclosure Controls and Procedures**

As required by Rule 13a-15(b) under the Exchange Act, we carried out an evaluation, under the supervision and with the participation of our management, including the chief executive officer and chief financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of September 30, 2025.

***Based on the foregoing, our chief executive officer and chief financial officer concluded that our disclosure controls and procedures were effective to provide reasonable assurance that we would meet our disclosure obligations.***

44. The above statements identified in ¶¶38-39, 41-43 were materially false and/or misleading, and failed to disclose material adverse facts about the Company's business, operations, and prospects. Specifically, Defendants failed to disclose to investors: (1) the Company overstated the effectiveness of its portfolio restructuring efforts for its nonaccrual companies; (2) the Company overstated the valuation of its portfolio investments and/or overstated the effectiveness of the Company's portfolio valuation process; (3) the Company overstated the durability of its quarterly distribution strategy; and (4) that, as a result of the foregoing, Defendants' positive statements about the Company's business, operations, and prospects were materially misleading and/or lacked a reasonable basis.

### **Disclosures at the End of the Class Period**

45. The truth fully emerged on February 25, 2026, after the market closed, when the Company announced fourth quarter and full year 2025 earnings, revealing net asset value had continued to decline to \$20.89, down \$1.10 or 5% from prior quarter, and the total fair value of investments fell another **\$406 million**, to \$13,009 million. Moreover, the Company report earnings (loss) per share of negative \$0.41, down \$1.17 or **153.9%** from the prior quarter, and a total net realized and unrealized loss per share of negative \$0.89, down \$1.08 or **568.421%** from the prior quarter. Further, investments on non-accrual status again rose to 3.4% and 5.5% of the total investment portfolio at fair value and amortized cost, respectively, compared to 2.9% and 5.0% in

the prior quarter. The Company “*acknowledge[d] specific challenges*” in an array of additional companies. The Company also cut its dividend to \$0.48 per share (previously \$0.70).

46. In the accompanying earnings call, the Company’s Chief Investment Officer, Pietrzak, was forced to acknowledge that its “recent underperformance reflects challenges in certain legacy investments, including Production Resource Group, as well as challenges in certain current adviser originated investments such as Medallia, Cubic Corp, KBS and 48forty.” Further, challenges ran much deeper as issues with those four companies only accounted for “*50% of net realized and unrealized losses.*” Finally, Pietrzak was forced to “acknowledge that this nonaccrual rate is above the long-term BDC industry average cost basis, nonaccrual rate of approximately 3.8%.” Specifically, during the earnings call, Pietrzak stated as follows, in relevant part:

Thanks, Michael. I’d like to start by focusing on FSK’s recent performance. As Michael noted, our recent underperformance reflects challenges in certain legacy investments, including *Production Resource Group, as well as challenges in certain current adviser originated investments such as Medallia, Cubic Corp, KBS and 48forty.*

We are actively engaged in each of these situations and are pursuing company-specific solutions to stabilize performance and maximize recoveries, although we acknowledge each company faces challenges unique to a specific business. We also acknowledge that our nonaccrual assets are higher than we would like, which tempers our near- to intermediate-term view from an NII standpoint.

*Specifically, this means that our 2026 dividend, which we originally believed would equate to approximately 10% of net asset value, may now be more in the range of 9% of net asset value.* Stepping back a bit, focusing on the current adviser’s long-term performance. Since the formation of the FS/KKR Advisor 8 years ago, we have originated \$34 billion of investments in FSK, generating an unlevered IRR of 9.1% since inception.

\* \* \*

During the fourth quarter, *approximately 50% of net realized and unrealized losses were attributable to 4 investments:* Production Resource Group, Medallia, Peraton and Cubic Corp.

\* \* \*

Nonaccruals relating to the 90% of our portfolio, which has been originated by KKR Credit were 5.1% on a cost basis and 3.1% on a fair value basis as of the end of the fourth quarter. This compares to 3.4% on a cost basis and 1.8% on a fair value basis as of the end of the third quarter.

And while *we acknowledge that this nonaccrual rate is above the long-term BDC industry average cost basis*, nonaccrual rate of approximately 3.8%, we also recognize that this measure is a point-in-time data point. KKR's long-term average cost basis nonaccrual rate since April 2018 is 1.2%.

47. On this news, the Company's stock price fell \$2.03 or 15.24%, to close at \$11.29 per share on February 26, 2026, on unusually heavy trading volume.

### **CLASS ACTION ALLEGATIONS**

48. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that purchased or otherwise acquired FS KKR Capital securities between May 8, 2024 and February 25, 2026, inclusive, and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which Defendants have or had a controlling interest.

49. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, FS KKR Capital's shares actively traded on the NYSE. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are at least hundreds or thousands of members in the proposed Class. Millions of FS KKR Capital shares were traded publicly during the Class Period on the NYSE. Record owners and other members of the Class may be identified from records maintained by FS KKR Capital or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

50. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

51. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

52. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the federal securities laws were violated by Defendants' acts as alleged herein;

(b) whether statements made by Defendants to the investing public during the Class Period omitted and/or misrepresented material facts about the business, operations, and prospects of FS KKR Capital; and

(c) to what extent the members of the Class have sustained damages and the proper measure of damages.

53. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

#### **UNDISCLOSED ADVERSE FACTS**

54. The market for FS KKR Capital's securities was open, well-developed and efficient at all relevant times. As a result of these materially false and/or misleading statements, and/or failures to disclose, FS KKR Capital's securities traded at artificially inflated prices during the

Class Period. Plaintiff and other members of the Class purchased or otherwise acquired FS KKR Capital's securities relying upon the integrity of the market price of the Company's securities and market information relating to FS KKR Capital, and have been damaged thereby.

55. During the Class Period, Defendants materially misled the investing public, thereby inflating the price of FS KKR Capital's securities, by publicly issuing false and/or misleading statements and/or omitting to disclose material facts necessary to make Defendants' statements, as set forth herein, not false and/or misleading. The statements and omissions were materially false and/or misleading because they failed to disclose material adverse information and/or misrepresented the truth about FS KKR Capital's business, operations, and prospects as alleged herein.

56. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading statements about FS KKR Capital's financial well-being and prospects. These material misstatements and/or omissions had the cause and effect of creating in the market an unrealistically positive assessment of the Company and its financial well-being and prospects, thus causing the Company's securities to be overvalued and artificially inflated at all relevant times. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at artificially inflated prices, thus causing the damages complained of herein when the truth was revealed.

#### **LOSS CAUSATION**

57. Defendants' wrongful conduct, as alleged herein, directly and proximately caused the economic loss suffered by Plaintiff and the Class.

58. During the Class Period, Plaintiff and the Class purchased FS KKR Capital's securities at artificially inflated prices and were damaged thereby. The price of the Company's securities significantly declined when the misrepresentations made to the market, and/or the information alleged herein to have been concealed from the market, and/or the effects thereof, were revealed, causing investors' losses.

### **SCIENTER ALLEGATIONS**

59. As alleged herein, Defendants acted with scienter since Defendants knew that the public documents and statements issued or disseminated in the name of the Company were materially false and/or misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, the Individual Defendants, by virtue of their receipt of information reflecting the true facts regarding FS KKR Capital, their control over, and/or receipt and/or modification of FS KKR Capital's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning FS KKR Capital, participated in the fraudulent scheme alleged herein.

### **APPLICABILITY OF PRESUMPTION OF RELIANCE (FRAUD-ON-THE-MARKET DOCTRINE)**

60. The market for FS KKR Capital's securities was open, well-developed and efficient at all relevant times. As a result of the materially false and/or misleading statements and/or failures to disclose, FS KKR Capital's securities traded at artificially inflated prices during the Class Period. On February 19, 2025, the Company's share price closed at a Class Period high of \$24.06 per share. Plaintiff and other members of the Class purchased or otherwise acquired the Company's

securities relying upon the integrity of the market price of FS KKR Capital's securities and market information relating to FS KKR Capital, and have been damaged thereby.

61. During the Class Period, the artificial inflation of FS KKR Capital's shares was caused by the material misrepresentations and/or omissions particularized in this Complaint causing the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading statements about FS KKR Capital's business, prospects, and operations. These material misstatements and/or omissions created an unrealistically positive assessment of FS KKR Capital and its business, operations, and prospects, thus causing the price of the Company's securities to be artificially inflated at all relevant times, and when disclosed, negatively affected the value of the Company shares. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at such artificially inflated prices, and each of them has been damaged as a result.

62. At all relevant times, the market for FS KKR Capital's securities was an efficient market for the following reasons, among others:

(a) FS KKR Capital shares met the requirements for listing, and was listed and actively traded on the NYSE, a highly efficient and automated market;

(b) As a regulated issuer, FS KKR Capital filed periodic public reports with the SEC and/or the NYSE;

(c) FS KKR Capital regularly communicated with public investors via established market communication mechanisms, including through regular dissemination of press releases on the national circuits of major newswire services and through other wide-ranging public

disclosures, such as communications with the financial press and other similar reporting services; and/or

(d) FS KKR Capital was followed by securities analysts employed by brokerage firms who wrote reports about the Company, and these reports were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

63. As a result of the foregoing, the market for FS KKR Capital's securities promptly digested current information regarding FS KKR Capital from all publicly available sources and reflected such information in FS KKR Capital's share price. Under these circumstances, all purchasers of FS KKR Capital's securities during the Class Period suffered similar injury through their purchase of FS KKR Capital's securities at artificially inflated prices and a presumption of reliance applies.

64. A Class-wide presumption of reliance is also appropriate in this action under the Supreme Court's holding in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972), because the Class's claims are, in large part, grounded on Defendants' material misstatements and/or omissions. Because this action involves Defendants' failure to disclose material adverse information regarding the Company's business operations and financial prospects—information that Defendants were obligated to disclose—positive proof of reliance is not a prerequisite to recovery. All that is necessary is that the facts withheld be material in the sense that a reasonable investor might have considered them important in making investment decisions. Given the importance of the Class Period material misstatements and omissions set forth above, that requirement is satisfied here.

## **NO SAFE HARBOR**

65. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this Complaint. The statements alleged to be false and misleading herein all relate to then-existing facts and conditions. In addition, to the extent certain of the statements alleged to be false may be characterized as forward looking, they were not identified as “forward-looking statements” when made and there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. In the alternative, to the extent that the statutory safe harbor is determined to apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the speaker had actual knowledge that the forward-looking statement was materially false or misleading, and/or the forward-looking statement was authorized or approved by an executive officer of FS KKR Capital who knew that the statement was false when made.

## **FIRST CLAIM**

### **Violation of Section 10(b) of The Exchange Act and**

### **Rule 10b-5 Promulgated Thereunder**

### **Against All Defendants**

66. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

67. During the Class Period, Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; and (ii) cause Plaintiff and other members of the Class to purchase FS KKR Capital’s securities at artificially inflated prices.

In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each defendant, took the actions set forth herein.

68. Defendants (i) employed devices, schemes, and artifices to defraud; (ii) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (iii) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for FS KKR Capital's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5. All Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

69. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about FS KKR Capital's financial well-being and prospects, as specified herein.

70. Defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of FS KKR Capital's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and/or omitting to state material facts necessary in order to make the statements made about FS KKR Capital and its business operations and future prospects in light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities during the Class Period.

71. Each of the Individual Defendants' primary liability and controlling person liability arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of these defendants, by virtue of their responsibilities and activities as a senior officer and/or director of the Company, was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of these defendants enjoyed significant personal contact and familiarity with the other defendants and was advised of, and had access to, other members of the Company's management team, internal reports and other data and information about the Company's finances, operations, and sales at all relevant times; and (iv) each of these defendants was aware of the Company's dissemination of information to the investing public which they knew and/or recklessly disregarded was materially false and misleading.

72. Defendants had actual knowledge of the misrepresentations and/or omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing FS KKR Capital's financial well-being and prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by Defendants' overstatements and/or misstatements of the Company's business, operations, financial well-being, and prospects throughout the Class Period, Defendants, if they did not have actual knowledge of the misrepresentations and/or omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

73. As a result of the dissemination of the materially false and/or misleading information and/or failure to disclose material facts, as set forth above, the market price of FS KKR Capital's securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of the Company's securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, or upon the integrity of the market in which the securities trades, and/or in the absence of material adverse information that was known to or recklessly disregarded by Defendants, but not disclosed in public statements by Defendants during the Class Period, Plaintiff and the other members of the Class acquired FS KKR Capital's securities during the Class Period at artificially high prices and were damaged thereby.

74. At the time of said misrepresentations and/or omissions, Plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the other members of the Class and the marketplace known the truth regarding the problems that FS KKR Capital was experiencing, which were not disclosed by Defendants, Plaintiff and other members of the Class would not have purchased or otherwise acquired their FS KKR Capital securities, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

75. By virtue of the foregoing, Defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

76. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

## **SECOND CLAIM**

### **Violation of Section 20(a) of The Exchange Act**

#### **Against the Individual Defendants**

77. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

78. Individual Defendants acted as controlling persons of FS KKR Capital within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions and their ownership and contractual rights, participation in, and/or awareness of the Company's operations and intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading. Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public filings, and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

79. In particular, Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

80. As set forth above, FS KKR Capital and Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their position as controlling persons, Individual Defendants are liable pursuant to Section 20(a)

of the Exchange Act. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- (a) Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;
- (b) Awarding compensatory damages in favor of Plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
- (c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- (d) Such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.