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22-00083

August 19, 2022

Ms. Tory Lawless
Dockets & Records
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, TN 37243

*via electronic filing
and overnight courier*

Re: Notice of Fusion, LLC, and Fusion Cloud Services, LLC, Regarding a
Transaction That Will Result In a Material Change in Their Ultimate Ownership

Dear Ms. Lawless

Fusion, LLC (“Fusion”) and Fusion Cloud Services, LLC (“Fusion Cloud”), (together, the “Fusion Licensees”) respectfully submit this notice (the “Notice”) to apprise the Tennessee Public Utility Commission (the “Commission”) of a proposed transaction that will transfer ultimate control of the Fusion Licensees to the North Haven Entities¹ (the “Transaction”). As explained below, MS Capital Partners Adviser, Inc. (“MS Capital Partners Adviser”), an indirect subsidiary of Morgan Stanley, a multinational investment bank and financial services company, is the investment manager of the North Haven Entities that, together, will directly own a controlling interest in the securities of Fusion Connect, Inc. (“Fusion Connect”), the parent company of the Fusion Licensees.² With the understanding that prior Commission approval is not required to consummate the proposed Transaction, the Fusion Licensees submit this Notice for the Commission’s information.

No assignment by the Fusion Licensees of licenses, assets, or customers to a new provider will occur as a result of the proposed Transaction. Following the consummation of the proposed

¹ The “North Haven Entities” consist of: North Haven Credit Partners II L.P. (“NH II”), North Haven Senior Loan Fund L.P. (“NH Senior Loan Fund”), and NH Credit Partners III Holdings L.P. (“NH III”).

² Fusion and Fusion Cloud, together with Fusion Connect and the other Fusion operating companies described herein, are referred to collectively as the “Fusion Companies.”

Transaction, the Fusion Licensees will continue to provide services to their existing customers in Tennessee and elsewhere pursuant to the same rates, terms, and conditions. Accordingly, the proposed Transaction will be, for all practical purposes, imperceptible to the customers of the Fusion Licensees. The proposed Transaction will not adversely affect competition in the State of Tennessee because it will not result in a reduction of competitors, and customers will continue to have access to the same competitive alternatives they have today. For these reasons, the proposed Transaction is in the public interest.

1. The Parties to the Transaction

A. The Fusion Companies

Fusion Connect is a privately-held Delaware corporation, with headquarters located at 210 Interstate North Parkway, Suite 200, Atlanta, GA 30339. Fusion Connect is authorized by the Federal Communications Commission (“FCC”) to provide interstate and international telecommunications services.³ Fusion Connect, through its operating subsidiaries, provides a wide range of communications services to business customers throughout the United States, including unified communications; digital voice and data communications services, for example hosted Voice over Internet Protocol and Session Initiated Protocol trunking; broadband Internet access service; data networks; cloud-based services; other enhanced communications services and features; and traditional voice solutions. Fusion Connect does not directly hold intrastate telecommunications authorizations.

The Fusion Licensees each hold domestic Section 214 authority to provide interstate telecommunications services and operate pursuant to Fusion Connect’s international Section 214 authority. The Fusion Licensees also hold intrastate telecommunications authorizations issued by the Commission and other state public utility commissions.

Fusion is a New Jersey limited liability company with headquarters located at 210 Interstate North Parkway, Suite 200, Atlanta, GA 30339. In Tennessee, Fusion (formerly known as Network

³ File No. ITC-214-19971001-00592; FCC Filer ID 825160.

Billing Systems, LLC)⁴ is registered to provide resold interexchange services (ID No. 128241). In total, Fusion holds intrastate telecommunications service authority in 47 States and Puerto Rico.

Fusion Cloud is a Georgia limited liability company, also with headquarters located at 210 Interstate North Parkway, Suite 200, Atlanta, GA 30339. In Tennessee, the Commission has authorized Fusion Cloud (formerly known as Birch Communications, LLC)⁵ to provide competitive local exchange and interexchange services (ID No. 128412) in Docket No. 99-00644 on August 18, 1999. In total, Fusion Cloud holds intrastate telecommunications service authority in 46 States and the District of Columbia.

B. The North Haven Entities

Each of the North Haven Entities – NH II, NH Senior Loan Fund, and NH III – is a Delaware limited partnership with headquarters located at 1585 Broadway, 39th Floor, New York, NY 10036. Each of the North Haven Entities has a principal business of investment activities and, as interest holders in Fusion Connect, will act as institutional investors. The securities held or controlled by the North Haven Entities are under the common investment management of MS Capital Partners Adviser, a Securities and Exchange Commission-registered investment adviser, in its capacity as investment manager to the North Haven Entities. The primary business of MS Capital Partners Adviser is to manage pooled investment vehicles, including the North Haven Entities. The North Haven Entities have delegated to MS Capital Partners Adviser, as their investment manager, the full authority to acquire, dispose of, and vote the securities held by the North Haven Entities, including their current and post-Transaction equity interests in Fusion Connect.

MS Capital Partners Adviser is a Delaware corporation with headquarters located at 1585 Broadway, New York, NY 10036. MS Capital Partners Adviser is a wholly-owned direct

⁴ The Commission was notified in March , 2019 by Network Billing Systems, L.L.C. that it had changed its name to Fusion, LLC.

⁵ The Commission was notified in 2019 that Birch Communications, LLC had changed its name to Fusion Cloud Services, LLC.

subsidiary of MS Holdings Incorporated (“MS Holdings”), a Delaware corporation. MS Holdings is, itself, a wholly-owned direct subsidiary of Morgan Stanley, a Delaware corporation. In addition, MS Holdings wholly-owns and controls MS Credit Partners II GP Inc. and MS Credit Partners III GP Inc., which are the general partners of MS Credit Partners II GP L.P. and MS Credit Partners III GP L.P., respectively, which are themselves the general partners of NH II and NH III, two of the North Haven Entities which together, post-Transaction, will hold direct and indirect interests totaling approximately 77.7% in Fusion Connect. The headquarters of MS Holdings, MS Credit Partners II GP Inc., MS Credit Partners III GP Inc., MS Credit Partners II GP L.P., and MS Credit Partners III GP L.P., are located at 1585 Broadway, New York, NY 10036.

Morgan Stanley is also headquartered at 1585 Broadway, New York, NY 10036. Morgan Stanley has offices throughout the United States and in more than 42 countries and has more than 60,000 employees. Morgan Stanley, through its affiliates and subsidiaries, advises and originates, trades, manages, and distributes capital for institutions, governments, and individuals. Morgan Stanley operates in three business segments: institutional securities, wealth management, and investment management.

None of the Morgan Stanley Entities⁶ operates in the telecommunications industry. None of the Morgan Stanley Entities will have any active role in the day-to-day activities of the Fusion Companies.

2. Description of the Proposed Transaction

Currently, no entity or individual holds a majority or controlling interest in Fusion Connect. Three groups of investment funds under the control or management of (i) Vector Capital Management, L.P., and Mr. Alex Slusky (the “Vector Funds”), (ii) Invesco Limited, and (iii) CBAM CLO Management, LLC, or CBAM Partners, LLC (the “CBAM Entities”), respectively,

⁶ The “Morgan Stanley Entities” include the North Haven Entities, MS Credit Partners II GP Inc., MS Credit Partners III GP Inc., MS Credit Partners II GP L.P., MS Credit Partners III GP L.P., the other North Haven Funds (as defined below in note 9), MS Capital Partners Adviser, MS Holdings, and Morgan Stanley. See **Exhibit 1** which depicts the interrelationships of the various Morgan Stanley Entities.

as well as certain Morgan Stanley/North Haven Entities (consisting of NH II, NH Senior Loan Fund, and Morgan Stanley Senior Funding, Inc.) hold, respectively, approximately 25.12%, 10.35%, 11.38%, and 12.81% of the current shares of Fusion Connect's voting stock. The remaining interests in Fusion Connect are widely held by a number of investors in amounts below ten percent (10%).

As proposed in this Notice, following receipt of all required regulatory approvals and the occurrence of certain events,⁷ the North Haven Entities, post-Transaction, will directly own approximately 67.77% of Fusion Connect's voting stock and will indirectly own approximately 13.09% of Fusion Connect's voting stock, for a total control of approximately 80.86% of the voting equity of Fusion Connect.⁸ Specifically, the North Haven Entities propose to obtain indirect control of the Fusion Licensees through the following simultaneous events: (1) certain North Haven Funds⁹ will exercise options that they secured from several current stockholders of Fusion

⁷ The Fusion Licensees are filing applications with the FCC and those States where prior approval of the proposed Transaction is required.

⁸ As detailed below, post-Transaction, NH III will directly and indirectly own approximately 33.43% and 13.09%, respectively, of Fusion Connect's voting equity, and NH II will directly own approximately 31.20% of Fusion Connect's voting equity. The NH Senior Loan Fund will directly own approximately 3.14% of Fusion Connect's voting equity. NH III is the sole member of the following seven limited liability companies (collectively, the "NHCP III LLCs") each of which will hold, after the proposed Transaction, approximately 1.87% direct interest in the voting equity of Fusion Connect (for a total of approximately 13.09%): NHCP III Holdings 1 LLC, NHCP III Holdings 2 LLC, NHCP III Holdings 3 LLC, NHCP III Holdings 4 LLC, NHCP III Holdings 5 LLC, NHCP III Holdings 6 LLC, and NHCP III Holdings 7 LLC. The projected post-Transaction interests in the Fusion Companies may vary slightly (in non-material amounts) based upon the extent to which certain of the transactional steps are fully executed. See, e.g., note 11.

⁹ The complete group of affiliated entities – together, the "North Haven Funds" – whose shares in Fusion Connect will be under MS Capital Partners Adviser's common management are as follows:

- The North Haven Entities
- The NHCP III LLCs
- North Haven Senior Loan Fund (Alma) Designated Activity Company
- North Haven Senior Loan Fund Offshore L.P.
- North Haven Senior Loan Fund Unleveraged Offshore L.P.
- North Haven Unleveraged Senior Loan Fund (Yen) L.P.

The North Haven Funds, which operate as institutional investors, each have delegated the authority to acquire, dispose of, and vote the securities held by the North Haven Funds to MS Capital Partners Adviser as investment manager.

Connect to purchase those stockholders' shares of Fusion Connect common stock (the "Common Stock");¹⁰ (2) additional voting rights associated with Fusion Connect's Series A preferred stock will activate; (3) Fusion Connect's non-voting Series B preferred stock will convert into newly issued shares of Common Stock; and (4) the holders of three tranches of warrants (the "Warrants") issued by Fusion Connect in January 2022 will have the right to exercise those Warrants and purchase additional, newly issued, shares of Common Stock.¹¹

The voting shares of Fusion Connect owned or controlled by the North Haven Entities will be under the common investment management of MS Capital Partners Adviser. Post-Transaction, MS Capital Partners Adviser will have under its investment management a total of approximately 82.65% of the voting equity of Fusion Connect, which will be held directly by the North Haven Entities and certain affiliated entities.

For the Commission's convenience, pre- and post-Transaction corporate organizational structure charts for the Fusion Companies are appended as **Exhibit 1**.

3. Public Interest Considerations

The Fusion Licensees submit that the proposed Transaction will promote the public interest, convenience, and necessity. Indeed, a competitive telecommunications market depends upon the commercial flexibility for providers to engage in just such changes to their corporate

¹⁰ The North Haven Funds with an option to buy the Common Stock held by the Vector Funds are NH II and NH III, two of the North Haven Entities. The North Haven Funds with an option to buy the Common Stock held by the CBAM Entities include each of the North Haven Entities and North Haven Senior Loan Fund (Alma) Designated Activities Company; North Haven Senior Loan Fund Offshore L.P.; North Haven Unleveraged Senior Loan Fund (Yen) L.P.; and North Haven Senior Loan Fund Unleveraged Offshore L.P.

¹¹ One tranche of the Warrants (the "Equityholder Warrants") may not be exercised unless and until Fusion Connect achieves specified enterprise valuations, if ever. These Equityholder Warrants are not expected to be exercised as part of the proposed Transaction, unlike the other two tranches of Warrants. Consequently, the final post-close percentages of interests held in the Fusion Companies may differ slightly from those stated herein. Nevertheless, even if the Equityholder Warrants are excluded from the calculations, the North Haven Entities will acquire through the proposed Transaction indirect control of the Fusion Licensees, collectively having, under common management, approximately 80.88% of Fusion Connect's issued voting equity.

ownership and resources. Similarly, it is well-established telecommunications regulatory policy that the public interest is best served by assuring the sustained presence of numerous successful telecommunications competitors in the market. Accordingly, it is important to allow a company to organize its corporate structure in the manner that best supports the company's business operations provided that such actions are consistent with law and have no adverse impact on the public.

The proposed Transaction is entirely consistent with federal and state telecommunications laws, including those of Tennessee. The proposed Transaction will have no adverse effects upon the operations of the Fusion Licensees, their customers, or the markets they serve.

Following consummation of the proposed Transaction, the Fusion Licensees will continue to provide a comprehensive suite of advanced and quality services to existing and future customers, without any interruption or diminishment of service quality. Existing customers in Tennessee will continue to receive the same services as they did previously, pursuant to the same rates, terms, and conditions. Consequently, the proposed Transaction will not reduce the range or quality of service options available to Tennessee business customers.

Similarly, the proposed Transaction presents no anti-competitive concerns and will have no adverse effects upon either the intrastate Tennessee or interstate telecommunications market. The Fusion Licensees have a small share of the intrastate Tennessee telecommunications market and, together, the Fusion Companies have a small share of the interstate telecommunications market. The proposed Transaction will not increase the Fusion Licensees' share of these markets or otherwise adversely impact competition therein. Significantly, the proposed Transaction will not eliminate any market participants, nor will it, in any respect, reduce the service choices available to customers.

Ms. Tory Lawless
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August 19, 2022

Conclusion

The Fusion Licensees respectfully request that the Commission note the proposed Transaction for its records. Please contact the undersigned counsel for Fusion if there are any questions regarding this informational filing.

Respectfully Submitted,



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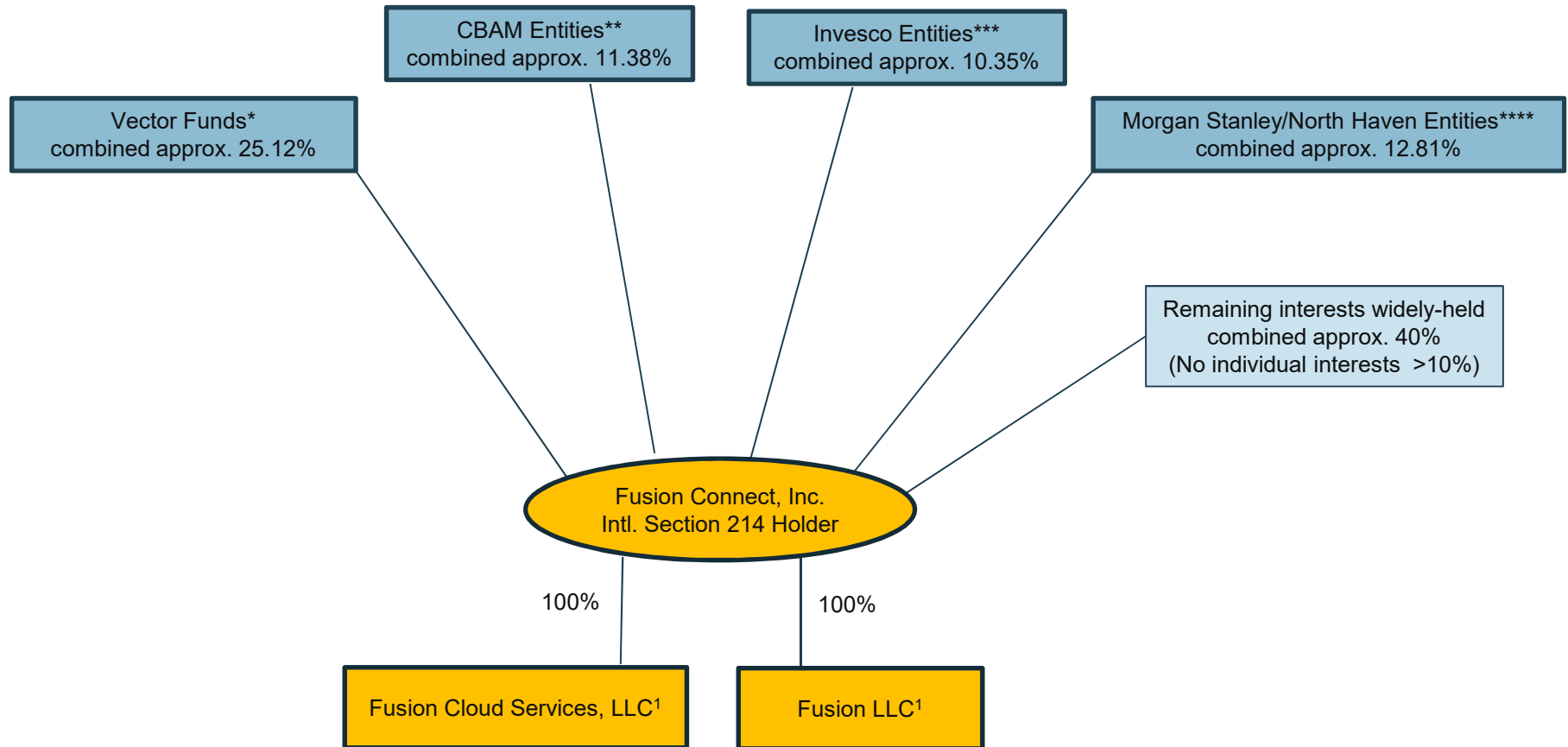
Counsel for the Fusion Companies

cc: J. Prenetta, Fusion Connect, Inc.
D. Abramovitz, MS Capital Partners Adviser, Inc.

EXHIBIT 1

Pre- and Post-Transaction Organizational Charts for the Fusion Companies

THE FUSION COMPANIES (Pre-Close)



¹ The chart only includes Fusion Connect, Inc. subsidiaries that are licensed providers in the state.

* Under the control or management of Vector Capital Management, L.P. and Mr. Alex Slusky.

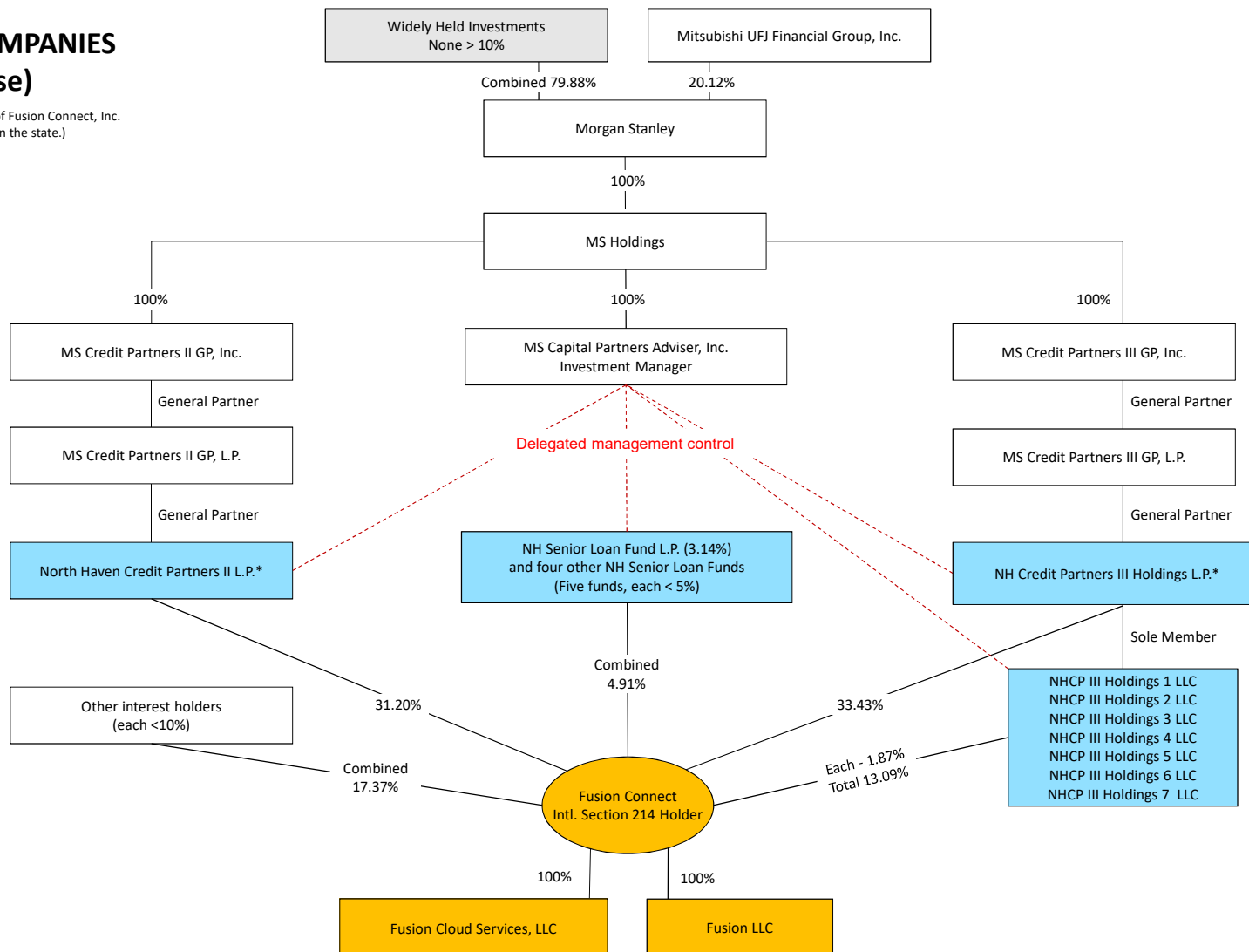
** Under the control or management of CBAM CLO Management, LLC or CBAM Partners, LLC.

*** Under the control or management of Invesco Limited.

**** Consisting of North Haven Credit Partners II L.P., NH Senior Loan Fund L.P., and Morgan Stanley Senior Funding, Inc.

THE FUSION COMPANIES (Post-Close)

(The chart only includes subsidiaries of Fusion Connect, Inc. that are licensed providers in the state.)



* No person or entity has a large enough interest in the limited partnership, alone or in combination with interests in other North Haven Funds, that constitutes a 10% or greater indirect interest in the Fusion Licensees.