

**INSTRUMENT OF INCORPORATION**

**OF**

**ALGEBRIS ETFS (IRELAND) ICAV**

**AN UMBRELLA TYPE IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLE WITH VARIABLE  
CAPITAL AND AN UMBRELLA SCHEME WITH SEGREGATED LIABILITY BETWEEN FUNDS**

**DILLON EUSTACE LLP  
33 SIR JOHN ROGERSON'S QUAY  
DUBLIN 2  
IRELAND**

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**1 DEFINITIONS**

1.1 In this Instrument the words standing in the first column of the table next hereinafter contained, shall bear the meanings set opposite to them respectively in the second column thereof if not inconsistent with the subject or context:

**Accounting Date** means in the case of the ICAV or each Fund, as determined by the Directors and set out in the relevant Supplement or such other date as the Directors may from time to time decide and notify in advance to the Central Bank.

**Accounting Period** means the financial period of the ICAV or each Fund as determined by the Directors and set out in the Prospectus.

**Act** means the Irish Collective Asset-Management Vehicles Act, 2015 and every modification, consolidation, amendment or re-enactment of the same.

**Administrator** means a person or company appointed by the ICAV or the Manager to carry out the day-to-day administration of the ICAV.

**Advanced Electronic Signature** has the meaning given to that expression in the Electronic Commerce Act, 2000 as amended.

**Auditors** means the Auditors for the time being of the ICAV.

**Base Currency** means the currency of account of a Fund as specified in the relevant Supplement relating to that Fund.

**Business Day** means in relation to a Fund such day or days as may be specified in the relevant Supplement for that Fund.

**CBI UCITS Regulations** means the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1) (Undertakings for Collective Investment in Transferable Securities) Regulations 2019 as may be amended, consolidated or substituted from time to time.

**Central Bank** means the Central Bank of Ireland or any successor regulatory authority with responsibility for the authorisation and supervision of the ICAV.

**Central Bank Requirements** means the Regulations, the CBI UCITS Regulations, and any other statutory instrument, regulations, rules, conditions, notices, requirements or legally binding guidance of the Central Bank issued from time to time applicable to the ICAV, any Fund and/or the Depositary.

**Class** means any class of Participating Shares (whether hedged or unhedged) issued by the ICAV in respect of any Fund, details of which are set forth in the relevant Supplement.

**Clear Days** means in relation to a period of notice, the period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.

**Computerised Security** means a Share, title to which is permitted by an Operator to be transferred by means of a Relevant System.

**Dealing Day** means in relation to a Fund such Business Day or Business Days as shall be determined by the Directors from time to time and specified in the relevant Supplement for that Fund provided always that there shall be at least two Dealing Days every month occurring at regular intervals.

**Dealing Deadline** means in relation to a Fund, such time relating to any Dealing Day as may be determined by the Directors and as shall be specified in the relevant Supplement for that Fund.

**Dematerialised or dematerialised form** means in relation to a Participating Share, such reference to a Participating Share, the title to which is recorded on the Register as being held in uncertificated form, and title to which, by virtue of applicable law, may be transferred by an Operator of a Relevant System by means of a Relevant System.

**Depositary** means any corporation appointed and for the time being acting as depositary of the ICAV.

**Depositary Agreement** means any agreement made between the ICAV and the Depositary relating to the appointment and duties of the Depositary as amended, supplemented or otherwise modified from time to time.

**Depot Account** means a depot account maintained by the Depositary (or its delegate) in the relevant clearing and settlement system through which subscription monies and redemption proceeds for the relevant Fund are channelled, the details of which are specified in the application form.

**Directors** means the Directors of the ICAV or any duly authorised committee or delegate thereof.

**Distribution Period** means the Accounting Period or such other period in respect of which a dividend has been or shall be declared and paid by the Directors in respect of a particular Fund or Class of Participating Shares as detailed in the Prospectus or relevant Supplement.

**Distributor** means one or more persons, firms or corporations appointed and for the time being acting as a distributor of Participating Shares in the ICAV.

**Duties and Charges** means all stamp and other duties, taxes, governmental charges, valuation fees, agents fees, brokerage fees, bank charges, transfer fees, registration fees and other charges whether in respect of the constitution or increase of the assets or the creation, exchange, sale purchase or transfer of shares in the ICAV or the purchase or sale or proposed purchase or sale of investments or otherwise which may have become or will become payable in respect of or prior to or upon the occasion of any transaction, dealing or valuation.

**Electronic Signature** has the meaning given to that expression in the Electronic Commerce Act 2000 as amended

**EMIR** means Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories as may be amended, consolidated or substituted from time to time.

**Equalisation Credit** means if Participating Shares are subscribed for at a time when the Net Asset Value per Share is greater than the High Water Mark for the relevant Class (as that term is defined in the Prospectus), the investor will be required to pay an amount in excess of the then current Net Asset Value per Share of that Class equal to such a percentage of the difference between the then current Net Asset Value per Share of that Class (before accrual for the performance fee) and the High Water Mark of that Class as the Directors may decide and as set out in the Prospectus.

**Euro** or € means the lawful currency of the participating member states of the European Union which have adopted the single currency in accordance with the EC Treaty of Rome dated 25th March 1957 (as amended by the Maastricht Treaty dated 7th February 1992).

**Feeder Fund** means a Fund which has been approved by the Central Bank to invest at least 85% of its net assets in shares of another UCITS collective investment scheme or sub-fund thereof.

**Fund** means a sub-fund of the ICAV representing one or more Classes of Participating Shares the proceeds of which are invested in accordance with the investment objective and policies applicable to such sub-fund and which is established by the Directors from time to time with the prior approval of the Central Bank.

**Fund of Funds** means a Fund which, according to its investment policy as set down in the prospectus of the ICAV, invests primarily in other eligible open-ended collective investment schemes.

**Hedged Currency Share Class** means a Class of Participating Shares in respect of which the ICAV will conduct currency hedging transactions, the benefits and costs of which will accrue solely to the holders of Participating Shares in that Class.

**ICAV** means Algebris ETFs (Ireland) ICAV, an Irish collective asset management vehicle registered pursuant to the Act, to which this Instrument relates.

**In writing** or **written** means written, printed, lithographed, photographed, telexed, telefaxed or represented by any other substitute for writing including any means of electronic communication which may be processed to produce a legible text or partly one and partly another.

**Initial Offer Period** means the period determined by the Directors during which the Participating Shares of any Class are made available by the ICAV for purchase at the Initial Price.

**Initial Price** means the initial price applicable to a Participating Share as specified in the relevant Supplement for each Fund.

**Initial Series** means a Series of Participating Shares issued in connection with the initial offering of such Class of Participating Shares.

**Instrument** means this instrument of incorporation as may be amended from time to time

**Investment Advisor** means One or more persons, firms or corporations appointed by the ICAV, the Manager or an Investment Manager (including any sub-investment manager) to provide investment advice in respect of some or all of the assets of a Fund and which does not have any discretionary powers over any of the assets of that Fund.

**Investment Manager** means one or more persons, firms or corporations appointed by the ICAV or the Manager to manage some or all of the assets of a Fund on a discretionary basis and shall include any sub-investment manager appointed by an Investment Manager.

**Investment or Investments** means any of the assets for the time being of the ICAV and any Fund acquired in accordance with the provisions of Clause 16 of this Instrument.

**Ireland** means the Republic of Ireland.

**Manager** means any person, firm or corporation appointed and for the time being acting as manager of the ICAV's affairs.

**Management Agreement** means any management agreement made between the ICAV and the Manager relating to the appointment and duties of the Manager as may be amended from time to time.

**Management Share** means a management share in the capital of the ICAV as more particularly described in Clause 4 of this Instrument.

**Member State** means a member state of the European Union.

**Member** means a Shareholder or a person who is registered as the holder of Management Shares the prescribed particulars of which have been recorded in the Register.

**Minimum Holding** means the minimum number or value of Participating Shares, if any, which must be held by Shareholders in any Fund or Class of Participating Shares as specified in the Prospectus or relevant Supplement.

**Minimum Initial Subscription** means the minimum initial subscription for Participating Shares in any Fund or Class, if any, as set out in the relevant Supplement.

**Minimum Transaction Size** means the minimum value of subsequent subscriptions, redemptions or conversions of Participating Shares of any Fund or Class, if any, as specified in the relevant Supplement.

**Money Market Instrument** means Instruments which are normally dealt in on the money market which are liquid and have a value which can be accurately determined at any time and which comply with the requirements of the Central Bank.

**Month** means calendar month.

**Net Asset Value** means the net asset value of a Fund or attributable to a Class of Participating Shares or where relevant a Series within a Class of Participating Shares (as appropriate) calculated pursuant to Clause 13 of this Instrument.

**Net Asset Value per Share** means the net asset value of a Participating Share calculated pursuant to Clause 13 of this Instrument.

**OECD Member Country** means each of Australia, Austria, Belgium, Canada, Chile, Colombia, Costa Rica, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Turkey, United Kingdom and the United States or other such other members as may be admitted to the OECD from time to time.

**Office** means the registered office of the ICAV.

**Operator** means an operator of a Relevant System.

**Ordinary Resolution** means a resolution of the Members of the ICAV or of the Shareholders of a particular Fund or Class of Participating Shares passed by (i) a simple majority of the votes cast in person or by proxy at a general meeting of the ICAV, Fund or Class of Participating Shares or (ii) a resolution in writing signed by all of the Members (or such other majority of Members as approved by the Directors, permitted under the Act and disclosed in the Prospectus or Supplement for the relevant Fund) of the ICAV, the relevant Fund or Class of Participating Shares for the time being entitled to attend and vote on such resolution at a general meeting.

**Organisational Expenses** means the organisational expenses incurred by the ICAV in the formation and establishment of the ICAV or a Fund or Class and the raising of its share capital including without limitation the fees of the professional advisers of the ICAV, application fees payable to the Central Bank in connection with the authorisation of the ICAV or approval of any Fund by the Central Bank, commissions payable to brokers and others for underwriting placing, selling or guaranteeing or procuring the underwriting, placing, selling of or guaranteeing the subscription for any shares or securities of the ICAV and any costs or expenses (whether incurred directly by the ICAV or not) incurred in connection therewith or with any subsequent application for a listing or quotation of any of the Participating Shares in the ICAV on any Regulated Market or any application for registration, authorisation or recognition of the ICAV in any country and any other expenses which the Directors consider to be in the nature of such expenses.

**OTC** means over-the-counter.

**Participating Share** means a redeemable participating share in the capital of the ICAV as more particularly described in Clause 4 of this Instrument and designated in one or more Funds, issued in accordance with this Instrument and having the rights provided for under this Instrument.

**Prospectus** means the prospectus of the ICAV and any Supplements and addenda thereto issued by the ICAV in accordance with Central Bank Requirements.

**Regulated Market** means any stock exchange or market (including derivatives markets) which meets with the regulatory criteria (regulated, operates regularly is recognised and is open to the public) and which is listed in the Prospectus.

**Redemption Price** means the value payable to the Shareholder for each Participating Share of a Fund or Class redeemed pursuant to this Instrument calculated in accordance with Clause 11.

**Register** means the register maintained by or on behalf of the ICAV in which are listed the names of the Members of the ICAV.

**Regulations** means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 2011 (S.I. No. 352 of 2011) as amended, consolidated or substituted from time to time.

**Relevant System** means a computer-based system and procedures, permitted by applicable law, which enables titles to units of a security to be evidenced and transferred without a written instrument and which facilitate supplementary and incidental matters.

**Seal** means the common seal of the ICAV.

**Secretary** means any person, firm or corporation appointed by the Directors to perform any of the duties of the secretary of the ICAV.

**Securities Act** means the United States Securities Act of 1933, as amended, substituted or enacted from time to time.

**Series** means a series of Participating Shares issued in respect of any Class of one or more Funds of the ICAV, as determined by the Directors from time to time.

**Shareholder** means a person who is registered as the holder of one or more Participating Shares the prescribed particulars of which have been recorded in the Register.

**Signed** means a signature, mark or representation of a signature, affixed by mechanical, electronic or other means.

**Special Resolution** means a special resolution of the Members of the ICAV or the Shareholders of a particular Fund or Class of Participating Shares passed by (i) not less than 75% of the votes cast in person or by proxy at a general meeting of the ICAV, a Fund or Class of Participating Shares or (ii) a resolution in writing signed by all of the Members (or such other majority of Members as approved by the Directors, permitted under the Act and disclosed in the Prospectus or Supplement for the relevant Fund) of the ICAV, the relevant Fund or Class of Participating Shares for the time being entitled to attend and vote on such resolution at a general meeting.

**Subscription Price** means the cost at which each Participating Share of a Fund or Class shall be purchased pursuant to Clause 9 of this Instrument.

**Supplement** means a Supplement to the Prospectus outlining information in respect of a Fund and/or Class.

**UCITS** means an Undertaking for Collective Investment in Transferable Securities established pursuant to EC Council Directive 2009/65/EEC of 13 July, 2009 as amended by Directive 2014/91/EU of the European Parliament and of the Council as amended, consolidated or substituted from time to time.

**Unhedged Currency Share Class** means a Class of Participating Shares where Participating Shares may be subscribed for, dividends are calculated and paid and redemption proceeds are paid in a currency other than the Base Currency of the relevant Fund on the basis of a currency conversion at the prevailing spot currency exchange rate of the Base Currency of the Fund for the currency of the relevant Class.

**United States** means the United States of America (including the States and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction.

**U.S. Person** means a U.S. Person as defined in the Prospectus or otherwise determined by the Directors.

**Valuation Day** means in relation to a Fund such day or days as shall be specified in the relevant Supplement for that Fund and determined by the Directors from time to time.

**Valuation Point** means the time by reference to which the Net Asset Value shall be calculated on or with respect to each Valuation Day as determined by the Directors and specified in the relevant Supplement for each Fund.

- 1.2 In this Instrument, unless there be something in the subject or context inconsistent with such construction:-
  - 1.2.1 words importing the singular number shall include the plural number and vice versa;
  - 1.2.2 words importing the masculine gender only shall include the feminine gender;
  - 1.2.3 words importing persons only shall include companies or associations or bodies of persons, whether corporate or not;
  - 1.2.4 the word "may" shall be construed as permissive and the word "shall" shall be construed as imperative;
  - 1.2.5 all references to a time of day or night shall be to Irish time;

- 1.2.6 all references to "Class" herein shall, to the extent applicable, be deemed to include reference to any Series of Participating Shares created by the Directors;
- 1.2.7 references to enactments and to sections of enactments shall include reference to any modifications or re-enactments thereof for the time being in force; and
- 1.2.8 headings and captions in this Instrument are inserted for convenience of reference only and shall not affect the construction or interpretation of this Instrument.

1.3 Where for the purposes of this Instrument or for any other purpose any amount in one currency is required to be converted into another currency, the Directors may effect such conversion using such rates as are quoted by such banks as the Directors may deem appropriate at the relevant time except where otherwise in this Instrument specifically provided.

1.4 All Members shall be bound by the terms of this Instrument to the same extent as if it had been signed and sealed by each Member and contained covenants by the ICAV and each Member to observe all the provisions of this Instrument and each provision of the Act that is applicable to the ICAV.

## **2 OBJECTIVE**

- 2.1 The sole object of the ICAV is investment in either or both transferable securities and other liquid financial assets referred to in Regulation 68 of the Regulations of capital raised from the public and which operates on the principle of risk spreading.
- 2.2 The ICAV may take any measure and carry out any operations which it may deem useful or necessary to the accomplishment and development of its purpose to the full extent permitted by applicable law.
- 2.3 For the purposes of achieving its object, the ICAV shall, in addition to all powers implied at law or under regulation, also have the following powers:
  - 2.3.1 To carry on business as an Irish collective asset-management vehicle and for that purpose to acquire, dispose of, invest or participate in and hold either in the name of the ICAV or in that of any nominee, by way of investment or otherwise assets including without limitation shares, stocks, warrants, debentures, debenture stock, loan stock bonds, notes, obligations, certificates of deposit, and other instruments creating or acknowledging indebtedness issued by or on behalf of any body corporate, mutual body, government or local authority, treasury bills, trade bills, bank acceptances, bills of exchange, money market instruments, fixed rate securities, variable or floating rate securities, securities in respect of which the return and/or any redemption amount is calculated by reference to any index, price or rate, commercial paper, mortgage or asset backed securities, promissory notes, obligations and stocks, shares, securities and financial instruments of any kind created, issued or guaranteed by any government, sovereign ruler, commissioners, public body or authority, trust, municipal, local, supranational authority agency or division thereof or otherwise in any part of the world or by any bank, financial institution, association, partnership or company, unit trust scheme, mutual fund or collective investment scheme whether with limited or unlimited liability wherever incorporated or carrying on business, policies of assurance and insurance, domestic and foreign currency and any present or future rights or interests to or in any of the foregoing and from time to time to sell, exchange, lend, vary or dispose of and grant and dispose of options over any of the foregoing and to deposit money (or place money on current account) with such persons in such currencies and otherwise on such terms as may seem expedient, in each case as may be permitted by Central Bank Requirements;
  - 2.3.2 To employ, utilise, acquire or dispose of derivative instruments and techniques of all kinds whether for the purposes of investment and/or for the efficient management of the ICAV's

assets as may be permitted by Central Bank Requirements and in particular, without prejudice to the generality of the foregoing, to enter into, accept, issue, write and otherwise deal with forwards, swaps, futures, options or other derivatives on one or more rates, currencies, equity securities or other equity instruments, debt securities or other debt instruments, economic indices or measures of economic risk or value, or other benchmarks against which payments or deliveries are to be made, repurchase transactions, reverse repurchase transactions, buy/sell-back transactions, securities lending transactions, when issued transactions, delayed delivery transactions or forward purchases or sales of a security, or other financial instrument or interest (including any option with respect to any of these transactions) and any combination of these transactions or other instruments which are similar thereto or derived therefrom.

- 2.3.3 To acquire and dispose of any such assets or property specified in 2.3.1 or 2.3.2 above by original subscription, contract, tender, purchase, exchange, transfer, assignment, participation whether in syndicates or otherwise, and whether or not fully paid up and whether or not payment is to be made at the time of issue or on a delayed delivery basis and to subscribe for the same, either conditionally or otherwise, subject to such terms and conditions (if any) as may be thought fit and to exercise and enforce all rights and powers conferred by or incidental to the ownership thereof and advance, deposit or lend securities and/or property (being those items which the ICAV is empowered to invest or otherwise deal in pursuant to Clause 2.3.1 and Clause 2.3.2) to or with such persons and on such terms as may seem expedient and to discount, buy and sell bills, notes, warrants, coupons and other negotiable or transferable instruments, securities or documents of whatsoever nature;
- 2.3.4 To exercise and enforce all rights and powers conferred by or incidental to the ownership of any shares, stocks, obligations, securities or instruments held, dealt or otherwise utilised by the ICAV;
- 2.3.5 To sell, dispose of, or transfer the undertaking of the ICAV or any part thereof whether or not for the purpose of a merger, amalgamation or otherwise for such consideration as the Directors may think fit including without limitation shares, debentures, or securities of any other company;
- 2.3.6 To make, draw, accept, endorse, negotiate, issue, discount, and otherwise deal with debentures, bonds or other obligations, promissory notes, bills of exchange, cheques, letters of credit and other notes;
- 2.3.7 To acquire by purchase, exchange, lease, fee farm grant or otherwise, either for an estate in fee simple or for any lesser estate or other estate or interest, whether immediate or reversionary, and whether vested or contingent, any lands, tenements or hereditaments of any tenure, whether subject or not to any charges or encumbrances which are essential for the direct pursuit of its business;
- 2.3.8 In accordance with Central Bank Requirements, to establish or acquire a wholly owned subsidiary or subsidiaries of the ICAV for the benefit of the ICAV as a whole or one or more Funds, the investments, assets and shares of which are held by the Depositary or a sub-custodian appointed by the Depositary, and to capitalise any such subsidiary in any manner as the Directors may from time to time consider appropriate, including by way of share capital, loan or otherwise.
- 2.3.9 To merge, in accordance with Central Bank Requirements, either on a domestic or cross-border basis any Fund with another collective investment scheme;

- 2.3.10 To amalgamate or enter into any arrangement for sharing profits, union of interest, joint venture, reciprocal concession, co-operation or otherwise with any company carrying on, or engaged in, any business or transaction which the ICAV is authorised to carry on or engage in, or any business or transaction capable of being conducted so as directly or indirectly to benefit the ICAV and to take or otherwise acquire and hold shares or stock in or securities of any such company, to assist any such company, and to sell, hold, or otherwise deal with such shares, stock or securities;
- 2.3.11 To promote any company for the purpose of acquiring all or any of the property or liabilities of the ICAV, or of undertaking any business or operations which may appear likely to assist or benefit the ICAV or to enhance the value of or render more profitable any property, assets or business of the ICAV, or for any other purpose which may seem directly or indirectly calculated to benefit the ICAV and to pay all the expenses of or incidental to such promotion;
- 2.3.12 To promote and aid in promoting, constitute, form or organise any company or companies, syndicates or partnerships of all kinds in any part of the world and to subscribe for shares or participations or other securities thereof for the purpose of carrying on any business which the ICAV is authorised to carry on or of advancing directly or indirectly the objects thereof, or for any other purpose which may seem directly or indirectly calculated to benefit the ICAV;
- 2.3.13 To enter into any arrangements with any government, or authority, supreme, municipal, local or otherwise, and to obtain from any such government or authority any rights, concessions and privileges that may seem conducive to the object of the ICAV;
- 2.3.14 To accumulate capital for any of the purposes of the ICAV and to appropriate any of the ICAV's assets to specific purposes, either conditionally or unconditionally and to admit any class or section of those who have any dealings with the ICAV to any share in the profits thereof or in the profits of any particular branch of the ICAV's business, or to any other special rights, privileges, advantages or benefits;
- 2.3.15 To increase or reduce the capital of the ICAV in any manner not prohibited by law;
- 2.3.16 In accordance with Central Bank Requirements, to borrow and raise money in any manner and to secure with or without consideration the repayment of any money borrowed, raised, or owing by charge, debenture, bond, standard security, lien, assignment or any other security of whatsoever nature upon the ICAV's property or assets (whether present or future) and also by a similar charge, debenture, bond, standard security, indemnity, lien, assignment or security of whatsoever nature to secure and guarantee the performance by the ICAV of any obligation or liability on it or which it may undertake or which may become binding upon it;
- 2.3.17 To create, maintain, invest and deal with any reserve or sinking funds for redemption of obligations of the ICAV, or for depreciation of works or stock, or any other purpose of the ICAV;
- 2.3.18 To distribute among the members of the ICAV in kind any property of the ICAV, or any proceeds of sale or disposal of any assets of the ICAV;
- 2.3.19 To grant indemnities of every description and to undertake obligations of any description;
- 2.3.20 Subject to Central Bank Requirements and applicable law, to transfer any assets of the ICAV or any Fund to a third party which third party may re-use such assets;

- 2.3.21 To sell, let, develop, dispose of or otherwise deal with the undertaking or all or any part of the property real or personal, rights or privileges of the ICAV upon such terms as the ICAV may think fit, with power to accept as consideration therefor, any shares, stocks, debentures, securities or obligations of or interest in any other collective investment scheme or company;
- 2.3.22 To delegate activities to third parties for the purpose of the more efficient conduct of the ICAV's business pursuant to the Act, including but not limited to management companies, investment managers, investment advisors, administrators and distributors;
- 2.3.23 To seek authorisation as a self-managed ICAV pursuant to the Regulations
- 2.3.24 To employ any person, firm, company or other body to provide any other services to the ICAV incidental to the pursuit of its objects and/or to investigate and examine the conditions, prospects, values, character and circumstances of any business concern or undertaking and generally of any assets, concessions, properties or rights;
- 2.3.25 To remunerate any person, firm or company rendering services to the ICAV;
- 2.3.26 To procure the ICAV or its share capital to be registered, authorised or recognised with any body or association in any foreign country, colony, dependency, municipality or place;
- 2.3.27 To the extent permitted by law to obtain and hold, either alone or jointly with any person or company, insurance cover in respect of any risk of the ICAV and any persons who are or were at any time its directors, officers, employees and agents and to pay any premium thereon;
- 2.3.28 To pay all or any expenses of, incidental to or incurred in connection with the formation and registration of the ICAV and the raising of its share capital and the ongoing operation of its business activities, or to contract with any person or company to pay the same, and (subject to the provisions of any statute for the time being in force) to pay commissions to brokers and others for underwriting, placing, selling or guaranteeing or procuring the underwriting, placing, selling of or guaranteeing the subscription for any shares or securities of the ICAV and any other expenses which the Directors consider to be in the nature of such expenses;
- 2.3.29 To apply for, purchase or otherwise acquire any patents, trademarks, copyrights, designs, licences, and like rights, conferring an exclusive or limited right to use, or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the ICAV or the acquisition of which may seem calculated directly or indirectly to benefit the ICAV and to use, exercise, develop, sell, grant licences in respect of, or otherwise turn to account the rights and information so acquired;
- 2.3.30 To pay for any property or rights acquired by the ICAV either in cash or by the issue of fully paid shares of the ICAV;
- 2.3.31 To exercise all or any of the above powers in any part of the world, and as principals, agents, contractors, trustees or otherwise, and either by or through trustees, agents, sub-contractors or otherwise and either alone or in partnership or conjunction with any person or company, and to contract for the carrying on of any operation connected with the ICAV's business by any person or company; and
- 2.3.32 To do all such other things as may be deemed requisite, incidental or conducive to the attainment of the objects of the ICAV.

Each of the powers of the ICAV (whether enumerated or not) is to be interpreted and exercised as ancillary to the main object but separate from and ranking equally to any other power.

### **3 PRELIMINARY**

- 3.1 The name of the ICAV is Algebris ETFs (Ireland) ICAV. Any change in name of the ICAV shall be made in accordance with section 30 of the Act. For the purposes of Clause 42, a change in name of the ICAV shall not constitute an alteration to the Instrument.
- 3.2 The business of the ICAV shall be commenced as soon after the date of registration of the ICAV under the Act and authorisation of the ICAV under the Regulations as the Directors think fit.
- 3.3 The Organisational Expenses payable by the ICAV may in the accounts of the ICAV be carried forward and amortised in such manner and over such period as the Directors may determine and the Directors may at any time and from time to time determine to lengthen or shorten any such period. Unless otherwise determined by the Directors, the Organisational Expenses shall initially be paid out of the proceeds of the initial issue of Participating Shares in the initial Fund(s) and then, if further Funds are added, at the discretion of the Directors, each additional Fund may (but shall not be required to) be allocated its pro-rated share of such fees and expenses and the share borne by the initial Fund(s) shall be reduced accordingly.
- 3.4 The ICAV and/or each Fund and, where expenses or liabilities are attributable specifically to a Class, Class may also bear the following expenses and liabilities or, where appropriate, its pro rata share thereof subject to adjustment to take account of expenses and/or liabilities attributable to one or more Classes:-
  - 3.4.1 all fees and expenses, to include reasonable out-of-pocket expenses, payable to or incurred by the ICAV, the Manager, the Depositary, the Administrator, any Investment Manager, any Investment Advisor, any Distributor, any paying agent or other service provider appointed by or on behalf of the ICAV and their respective delegates;
  - 3.4.2 Duties and Charges, interest on borrowings and any administrative costs incurred due to risk management incurred by or on behalf of the ICAV in the course of its business;
  - 3.4.3 all fees and expenses of the Directors, to include reasonable out-of-pocket expenses;
  - 3.4.4 the commissions and expenses incurred or payable in the registration, marketing, promotion and distribution of Participating Shares including without limitation commissions payable to any person under the terms of their subscription or payable to any person in consideration for his procuring or agreeing to procure subscriptions for any Participating Shares in the ICAV and the costs and expenses of preparation and distribution of all marketing material and advertisements;
  - 3.4.5 all fees and expenses connected with the preparation, publication and supply of information to the Shareholders and the public including, without limitation, the cost of preparing, translating, printing, updating and distributing the Prospectus and any Supplements and any periodic updates thereof, the key investor information documents, marketing literature, the annual audited report, the half-yearly reports and any other periodic reports or any other document required to be provided to Shareholders under applicable law and the calculation, publication and circulation of the Net Asset Value per Share, confirmations of ownership and of any notices given to Members in whatever manner;
  - 3.4.6 all fees and expenses incurred in connection with the convening and holding of Members' and Directors' meetings;

- 3.4.7 all statutory fees, regulatory fees or levies imposed by the Central Bank or any other statutory or regulatory body on the ICAV or any Fund;
- 3.4.8 all fees and expenses incurred or payable in registering and maintaining a Fund or Class registered with any governmental and/or regulatory and/or rating agencies, clearance and/or settlement systems and/or any exchanges in any various countries and jurisdictions including, but not limited to, all filing and translation expenses incurred in respect of such registration;
- 3.4.9 all fees and expenses incurred or payable in listing and in maintaining or complying with the requirements for the listing of the Participating Shares on Euronext Dublin or any other exchange to which Participating Shares may be admitted;
- 3.4.10 legal fees and expenses incurred by or on behalf of the ICAV or by or on behalf of the Depositary or any delegates of the ICAV including without limitation legal fees and expenses incurred in any actions taken or proceedings instituted or defended to enforce, protect, safeguard, defend or recover the rights or property of the ICAV;
- 3.4.11 all investment management research fees incurred by the relevant Fund or Class;
- 3.4.12 any amount payable under indemnity provisions contained in this Instrument or in any agreement with any officer, employee, agent or any other person, firm or corporation providing services to the ICAV;
- 3.4.13 all sums payable in respect of any policy of insurance taken out by the ICAV including, without limitation, any policy in respect of directors' and officers' liability insurance cover;
- 3.4.14 all fees and expenses of the Auditors, the Secretary, tax and other professional advisers and any valuer or other supplier of services to the ICAV;
- 3.4.15 all costs incurred by the ICAV or any Fund or Class in complying with the statutory requirements imposed on it;
- 3.4.16 the costs of any amalgamation, merger or restructuring of the ICAV or any Fund or Class as permitted in accordance with Central Bank Requirements;
- 3.4.17 the costs of winding up or liquidation of the ICAV or terminating any Fund;
- 3.4.18 all other liabilities and contingent liabilities of the ICAV or any Fund of whatsoever kind and all fees and expenses incurred in connection with the operation, administration and management of the ICAV or any Fund or as may be deemed incidental or conducive to objectives, powers or policy of the ICAV or the policies of a Fund;

in each case all of the above payable inclusive of any taxes or charges including applicable value added tax (if any).

3.5 All fees and expenses of the ICAV or all fees and expenses attributable to a Fund or Class will be charged against current income and/or against realised and unrealised capital gains of the ICAV and/or if the Directors so determine and subject to Central Bank Requirements, against the capital or assets of the ICAV or against the capital or assets attributable to a Fund or Class and as disclosed in the Prospectus or the relevant Supplement.

#### **4 SHARE CAPITAL**

- 4.1 The Directors are hereby generally and unconditionally authorised to exercise all the powers of the ICAV to allot and issue shares in the ICAV on such terms and in such manner as they may think fit, in each case in accordance with this Instrument, any applicable Central Bank Requirements and the Act.
- 4.2 The share capital of the ICAV shall be equal at all times to the value for the time being of the issued share capital of the ICAV. The actual value of the paid up share capital of the ICAV shall at all times be equal to the value of the assets of the ICAV after deduction of its liabilities. The share capital of the ICAV is to be divided into a specified number of shares without assigning any nominal value to them.
- 4.3 Shares of the ICAV shall be divided into Participating Shares of no nominal value and Management Shares of no nominal value. The authorised share capital of the ICAV is two (2) redeemable Management Shares of no par value and 500,000,000 Participating Shares of no par value provided however that any shares that have been redeemed shall be deemed never to have been issued for the purpose of calculating the maximum amount of shares to be issued. The ICAV may from time to time by Ordinary Resolution increase its share capital by such amount and/or such number of shares as the resolution shall prescribe. The ICAV shall issue shares as fully paid up in accordance with this Instrument, Central Bank Requirements and the Act or as otherwise permitted by the Act. The liability of Members in respect of payment on their shares shall be limited to the amount, if any, unpaid, on the shares respectively held by them. As more specifically described in Clause 11 of this Instrument, Participating Shares shall at the request of any of the Shareholders, be purchased by the ICAV directly or indirectly out of the Investments of the ICAV unless and to the extent as may be provided for in this Instrument, approved by the Central Bank and subject to such requirements as may be imposed by the Central Bank under the Act or any other enactment.
- 4.4 Shareholders shall, in accordance with the terms of this Instrument, have the right to participate in or receive profits or income arising from the acquisition, holding, management or disposal of Investments of the relevant Fund, to vote, in accordance with the terms of this Instrument, at any general meeting of the ICAV or at any meeting of the relevant Fund or Class in respect of which such Participating Shares have been issued and such other rights as may be provided in respect of Participating Shares of a particular Fund or Class in each case as more particularly described in the Prospectus and/or relevant Supplement subject always to Central Bank Requirements and the Act. Holders of Management Shares shall have the right to receive an amount not to exceed the consideration paid for such Management Shares and to vote at any general meeting of the ICAV in accordance with the provisions of this Instrument. Management Shares shall not participate in the dividends or assets attributable to any Fund.
- 4.5 No notice of any trust, express, implied or constructive shall be entered on the Register and no person shall be recognised by the ICAV as holding any shares on trust and the ICAV shall not be bound by or recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any shares or (except only as this Instrument otherwise provides or as by law required) any other right in respect of any share, except an absolute right of title thereto in the registered holder<sup>1</sup>. This shall not preclude the ICAV from requiring a Member or a transferee of shares to furnish the ICAV with information as to the beneficial ownership of any share when such information is required by the ICAV.
- 4.6 The ICAV may, by Ordinary Resolution, alter its share capital by increasing, consolidating, redesignating and/or dividing its share capital into shares of larger amount than its existing shares, subdividing its shares into shares of smaller amount than that fixed by this Instrument, or by cancelling any shares which, at the date of such Ordinary Resolution have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the shares so cancelled.

## **5 CONSTITUTION, RIGHTS, ASSETS AND LIABILITIES OF THE ICAV**

- 5.1 The ICAV is an umbrella type Irish collective asset-management vehicle comprising separate Funds, which may comprise one or more Classes of Participating Shares and with segregated liability between Funds. The Investments of each Fund shall belong exclusively to the relevant Fund and shall not be used to discharge directly or indirectly the liabilities of or claims against any other Fund. No Shareholder shall have any interest in the Investments of any Fund. Subject to the Act, any liability incurred on behalf of or attributable to any Fund shall be discharged solely out of the assets of that Fund.
- 5.2 The Directors may from time to time, with the prior approval of the Central Bank establish additional Funds and may in accordance with the requirements of the Central Bank create additional Classes and issue Participating Shares in such Funds or Classes.
- 5.3 The assets and liabilities of the ICAV shall be allocated to each Fund in the following manner:
  - 5.3.1 for each Fund, the ICAV shall keep separate books and records in which all transactions relating to the relevant Fund shall be recorded and to which the proceeds from the issue of Participating Shares in each Fund and the Investments, liabilities, income and expenditure attributable to each Fund shall be applied subject to the provisions of this Clause 5.3;
  - 5.3.2 each Fund shall be charged with the liabilities, expenses, costs, charges or reserves of the ICAV in respect of or attributable to that Fund;
  - 5.3.3 in circumstances in which an asset or liability is not clearly attributable to a particular Fund or Funds, the Directors shall have the discretion to determine the basis upon which assets and liabilities shall be allocated between Funds and to vary such allocations from time to time.
- 5.4 The Directors may, subject to this Instrument, the Prospectus, Central Bank Requirements and the Act, allot and issue Participating Shares in the ICAV to such persons on such terms and conditions and at such times and in such manner as they may think fit. The Participating Shares shall be divided into such Classes or Funds as the Directors may from time to time determine. On or before the allotment of any Participating Shares, the Directors shall determine the Class or Fund to which such Participating Shares are designated.
- 5.5 In order to facilitate the equitable application to the holding of each Shareholder of any performance fee payable in respect of a Class of Participating Shares, or for any other purpose as determined by the Directors in accordance with Central Bank Requirements, the Directors may create Series of Participating Shares within that Class. An Initial Series of Participating Shares for each relevant Class may be issued at such time as the Directors may determine and thereafter at such times as the Directors determine and disclose in the Prospectus or relevant Supplement. Each subsequent Series of Participating Shares may, at the discretion of the Directors, be re-designated and converted into the Initial Series at such time and in such circumstances as the Directors may determine and disclose as outlined in the Prospectus or relevant Supplement.
- 5.6 Subject to the requirements of the Central Bank, the Directors may in their absolute discretion differentiate between any Class of Participating Shares of the ICAV including without limitation as to currency of denomination, hedging strategies if any applied to the currency of a particular Class, distribution policy, voting rights, the level of fees and expenses to be charged, subscription or redemption procedures or the Minimum Initial Subscription, Minimum Transaction Size and Minimum Holding applicable (if any). Participating Shares of any such Class of the ICAV may have preferred, deferred or other special rights, privileges or restrictions attached thereto.

5.7 Unless otherwise provided by the terms of issue of the Participating Shares of that Class, the rights attaching to any Class of Participating Shares of the ICAV may, whether or not the ICAV is being wound up, be varied or abrogated with the consent in writing of the holders of three-fourths of the issued shares of that Class, or with the sanction of a Special Resolution passed at a separate general meeting of the Shareholders of that Class. To every such separate general meeting the provisions of this Instrument relating to general meetings shall apply provided that the necessary quorum at any such meeting (other than an adjourned meeting) shall be two persons holding or representing by proxy at least one third of the issued shares of the Class of the ICAV in question unless the relevant Class has only one Shareholder, in which case the quorum shall be one. At any adjourned meeting, the quorum at any such meeting shall be one Shareholder of the Class of the relevant Fund in question or his proxy

5.8 The rights conferred upon the holders of the Participating Shares of any Class of the ICAV issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the Participating Shares of that Class of the ICAV, be deemed to be varied by the creation or issue of further Participating Shares ranking pari passu therewith or by the redemption of Participating Shares of any Class of the ICAV or by the liquidation of the ICAV or of any Fund and distribution of their assets to their Shareholders in accordance with their rights or the vesting of assets in trustees for their Shareholders in specie.

5.9 Where a Class is denominated in a currency other than the Base Currency of the relevant Fund, the Directors shall at the time of the creation of such class determine if such Class shall be constituted as a Hedged Currency Share Class or an Unhedged Currency Share Class. Notwithstanding any other provision of the Instrument, the costs and gains/losses of any hedging transactions relating to a Hedged Currency Share Class shall accrue solely to the relevant Class. Any currency hedging transaction relating to a Hedged Currency Share Class shall be valued in accordance with Clause 14 of this Instrument and shall be clearly allocated to the relevant Hedged Currency Share Class. Accordingly any appreciation or depreciation of the Net Asset Value of the relevant Fund resulting from expenses, income, gains and losses that are attributable to any financial derivative instrument utilised in respect of a specific Hedged Currency Share Class shall be attributable solely to the Class to which it relates.

5.10 The Directors may from time to time and after the payment or accrual of all applicable fees and expenses, merge a Class of Participating Shares with any other Class of Participating Shares in the ICAV, provided that Shareholders in such Class or Classes are first notified by the ICAV and given the opportunity to have the Participating Shares redeemed prior to such merger being effected and that the merger of the relevant Class shall not result in affected Shareholders holding Participating Shares which are subject to less favourable terms than those applicable to the original Class. In the event that a merger of a Class is proposed which could result in affected Shareholders holding Participating Shares which are subject to less favourable terms than those applicable to the original Class, the approval of affected Shareholders will be sought in accordance with the terms of this Instrument. A Class of Participating Shares may be re-designated at the discretion of the Directors.

5.11 The ICAV may establish, maintain and operate one or more cash accounts in respect of each Fund and / or umbrella cash accounts and / or cash accounts in which more than one Fund participates, through which subscriptions, redemptions and other cash flows to and from investors can be managed or facilitated in accordance with Central Bank Requirements. Where monies in such an account are treated (at the requirement of the Central Bank or otherwise) as assets of, and attributable to, the relevant Fund, the ICAV shall reflect this in the books and records of the ICAV in accordance with Clause 5.3 of this Instrument.

## **6 CONFIRMATIONS OF OWNERSHIP**

6.1 A Member of the ICAV shall have his title to shares evidenced by having his name, address, details of the number of shares held by him (including without limitation fractions of shares) and such other details

as required pursuant to the Act and by the ICAV entered in the Register. Share certificates shall not be issued and a Member whose name appears in the Register shall be issued with a written confirmation of entry in the Register of the number of shares held by him including without limitation fractions of shares. Subject to Central Bank Requirements, nothing in this Instrument shall preclude title to any shares of the ICAV being recorded other than in writing in accordance with such arrangements as may from time to time be permitted by the Act and approved by the Directors.

- 6.2 To be entered on the Register, applicants for Participating Shares must have applied for and acquired Participating Shares in the ICAV to the value of not less than the Minimum Initial Subscription amount (if any).
- 6.3 The ICAV shall maintain the Register in accordance with the Act. The Register shall be kept available for inspection by any person entitled to inspect it in accordance with the Act and shall be kept at the Office or at such other place within Ireland, as the Directors may determine, subject to the requirements of the Act.
- 6.4 The ICAV shall not be bound to register more than four persons as the joint holders of any share or shares.
- 6.5 Where two or more persons are registered as the holders of any shares they shall be deemed to hold the same as joint holders, subject to the following:-
  - 6.5.1 the joint holders of any shares shall be liable, severally, as well as jointly, in respect of all payments which ought to be made in respect of such shares;
  - 6.5.2 any one of such joint holders of shares may give effectual receipts for any dividend or return of capital payable to such joint holders;
  - 6.5.3 only the first-named of the joint holders of a share shall be entitled to delivery of the confirmation of entry on the Register relating to such share or to receive notices from the ICAV to attend general meetings of the ICAV or the relevant Fund or Class or notices in respect of any other matter relating to the shareholding as the case may be. Any confirmation of entry on the Register delivered to the first-named of joint holders shall be effective delivery to all, and any notice given to the first-named of joint holders shall be deemed notice given to all the joint holders;
  - 6.5.4 the vote of the first-named of joint holders who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders; and
  - 6.5.5 for the purpose of the provisions of this Instrument, the first-named shall be determined by the order in which the names of the joint holders stand in the Register.
- 6.6 Subject to applicable law, the Directors may (without consulting the holders of any Class of Shares) determine that a Share or Shares of any Class is or are to become a Computerised Security or Computerised Securities or that any such Share or Shares must cease to be a Computerised Security or Computerised Securities. Subject to applicable law and the facilities and requirements of the Relevant System, the Directors may implement any arrangements in relation to the holding of Shares in dematerialised form and the transfer of the title to the Shares of that Class by means of a Relevant System.
- 6.7 Subject to applicable law, the facilities and requirements of the Relevant System and the consent of the Directors, a Shareholder may change a Share which is a Computerised Security from a Share held in certificated form to a Share held in dematerialised form and vice versa.

- 6.8 While a Class of Shares is a Computerised Security, this Instrument only applies to a Share of that Class to the extent that it is consistent with the holding of Shares of that Class in dematerialised form, the transfer of title to Shares of that Class by means of a Relevant System and applicable law.
- 6.9 While a Class of Shares is a Computerised Security, the Fund shall enter on the Register the number of Shares each Shareholder holds in dematerialised form and certificated form and shall maintain the Register in accordance with applicable law and the Relevant System.
- 6.10 Notwithstanding any provision of this Instrument, a Class is not to be treated as two Classes by virtue only of that Class comprising both Shares in certificated form and dematerialised form or as a result of any provision of this Instrument or of applicable law applying only in respect of Shares in certificated form or in dematerialised form.
- 6.11 The Register may be kept on magnetic tape or in accordance with some other mechanical or electrical system provided legible evidence can be produced therefrom to satisfy the requirements of applicable law and of this Instrument.

## **7 DEALING DAYS**

### **7.1**

- 7.1.1 All allotments and all issues of Participating Shares in any Fund or Class other than the initial allotment and issue of Participating Shares, subject as provided hereinafter with respect to payment for Participating Shares and provision of such documentation as may be required by the ICAV hereunder, shall be effected or made on or with respect to a Dealing Day for the relevant Fund;
- 7.1.2 All redemptions of Participating Shares in any Fund or Class shall be effected or made on or with respect to a Dealing Day for the relevant Fund;

provided that in the event of any change in a Dealing Day reasonable notice thereof shall be given by the Directors to Shareholders in the relevant Fund or Class. The Directors may, in their absolute discretion, designate additional Dealing Days, Valuation Days and Valuation Points to facilitate the purchase, exchange or redemption of Participating Shares of a Fund.

## **8 ALLOTMENT AND ISSUE OF SHARES**

- 8.1 Subject as hereinafter provided, the ICAV may on or with respect to any Dealing Day on receipt by it or its delegate from an applicant for Participating Shares in a Fund or Class by such time as may from time to time be specified by the Directors of:-

  - 8.1.1 an application for Participating Shares in the relevant Fund or Class in such form as the Directors may from time to time determine;
  - 8.1.2 such declarations as to the applicant's status, identity, residence, tax status and otherwise as the Directors may from time to time require; and
  - 8.1.3 payment for Participating Shares in such manner and within such usual time limits as the ICAV from time to time may specify;

allot and issue Participating Shares in that Fund or Class at the Net Asset Value per Share which shall be available for purchase at the Subscription Price determined in accordance with Clause 9.2 of this Instrument for each such Participating Share. The Directors may, in their discretion, accept an application for processing on a Dealing Day notwithstanding that such application may have been

received after the Dealing Deadline for receipt of applications for such Dealing Day so long as (i) such application is received by or on behalf of the ICAV prior to the Valuation Point for such Dealing Day, (ii) the decision to accept the application after the Dealing Deadline has been approved by Directors and (iii) the exceptional circumstances under which the application is received is fully documented by the Directors. The Dealing Deadline for receipt of applications for Participating Shares will be set out in the Prospectus or the relevant Supplement. Requests for subscription of Participating Shares cannot be withdrawn save with the written consent of the ICAV or its authorised delegate or in the event of suspension of the calculation of the Net Asset Value of the relevant Fund or the suspension of issue of Participating Shares in the relevant Fund pursuant to Clause 13.6 of this Instrument.

- 8.2 Without prejudice to the provisions of Clause 8.6 of this Instrument, the allotment and issue of Participating Shares shall (unless the Directors otherwise agree) be made on terms that (unless settlement has already been effected) the applicant shall effect settlement within such period and in such currency or currencies as the Directors or their delegate may determine to be appropriate to receive subscription monies and otherwise in the manner determined by the Directors as disclosed in the Prospectus. If the ICAV receives payment for Participating Shares in a currency other than the designated currency of the relevant Class, the Directors or their delegate may convert or arrange for the conversion of such monies received into the designated currency of the relevant Class and shall be entitled to deduct therefrom all expenses incurred in such conversion.
- 8.3 Without prejudice to Clause 8.6 of this Instrument, the Directors shall not be bound but shall be entitled to await the arrival of cleared funds in the designated currency of the relevant Class in settlement before proceeding to issue the Participating Shares.
- 8.4 The ICAV may (at the option of the Directors) satisfy any application for the issue of Participating Shares by procuring the transfer to the applicant of fully paid Participating Shares. In such case, references in this Instrument to allotting and issuing Participating Shares shall, where appropriate, be taken as references to procuring the transfer of Participating Shares.
- 8.5 No allotment or issue of Participating Shares shall be made under Clause 8.1 in respect of an application which would result in the applicant subscribing less than the Minimum Initial Subscription (in the case of initial subscriptions into the relevant Fund or Class) or any Minimum Transaction Size (in the case of subsequent subscriptions into the relevant Fund or Class) or holding less than any Minimum Holding provided that the Directors may, subject to Central Bank Requirements and in their discretion, waive or reduce the Minimum Initial Subscription, Minimum Transaction Size or Minimum Holding (or permit the Manager, if any, to waive or reduce the Minimum Initial Subscription, Minimum Transaction Size or Minimum Holding) with respect to any Shareholder or applicant for Participating Shares. Subject to prior notification to the holders of Participating Shares in the affected Fund or Class, the Directors may in their discretion increase the Minimum Holding amounts applicable to that Fund or Class.
- 8.6 Allotment and issue of Participating Shares may take place notwithstanding that cleared funds specified in Clause 8.1.3 of this Instrument have not been received by the ICAV or its authorised delegate PROVIDED THAT if such funds have not been received within the usual time limits which the Directors may determine as reasonable and disclose in the Prospectus, the applicant may be charged interest together with an administration fee. Alternatively, any allotment of Participating Shares may be cancelled by the Directors. The Directors shall have the power to effect a compulsory redemption of any such Participating Shares in accordance with the provisions of Clause 10 of this Instrument provided that no redemption proceeds will be paid to the relevant Shareholder. The ICAV may charge the applicant for any loss, cost, expense or fees suffered by the ICAV, the Manager (if any) and/or the Investment Manager as a result of such non-receipt or non-clearance of subscription monies and may compulsorily redeem or sell all or part of the applicant's existing holding of Participating Shares and

use the proceeds thereof to satisfy and make good the ICAV, the Manager and/or the Investment Manager for any such loss, cost, expense or fees suffered.

- 8.7 The Directors may decline to accept, in whole or in part, any application for the issue of Participating Shares without assigning any reason therefor. The Directors may also determine that it would be detrimental for existing Shareholders to accept an application for Participating Shares in cash or in specie, representing more than a particular percentage of the Net Asset Value of a Fund as disclosed in the Prospectus or relevant Supplement. In such circumstances, the Directors may decide to defer all or part of the application for Participating Shares in excess of the relevant threshold disclosed in the Prospectus or relevant Supplement until the next Dealing Day or postpone the application and, in consultation with the relevant investor, require such investor to stagger the proposed application over an agreed period of time. If the Directors decide to defer or postpone all or part of the application for shares in excess of the relevant threshold, the applicants shall be informed prior to the deferral taking place.
- 8.8 The Directors reserve the right from time to time to resolve to close any Fund, Class or Classes of Participating Shares to new subscriptions from existing Shareholders and/or new applicants, for (i) a specified period, (ii) until they otherwise determine or (iii) on a permanent basis. During any such period, Participating Shares of that Fund or Class(es) will not be available for subscription and the Directors are not required to provide advance notice of such closure to Shareholders.
- 8.9 The Directors shall be entitled to issue fractions of Participating Shares where the subscription monies received by the ICAV are insufficient to purchase an integral number of Participating Shares, provided, however, that fractional Participating Shares shall not carry any voting rights and where applicable the Net Asset Value of a fractional Participating Share of any Fund or Class shall be adjusted by the ratio which such fractional Participating Share bears to an integral Participating Share of that Fund or Class at the time of issue and any dividend payable on such fractional Participating Shares shall be adjusted in like manner. Any other rights, entitlements and benefits of a Shareholder are granted to a Shareholder holding a fractional Participating Share in proportion to the fraction of a Participating Share held by him and, except where the context otherwise requires or is provided herein, reference in this Instrument to "Participating Share" shall include a fraction of a Participating Share. Any balance of subscription moneys representing less than 0.01 of a Participating Share will be retained by the ICAV in order to defray administration costs.
- 8.10 Participating Shares may be issued in dematerialised (or uncertificated) form and the Funds may apply for admission for clearing and settlement through a clearing system. To facilitate this arrangement, the Depositary (or its delegate) will maintain a Depot Account at the relevant clearing and settlement system. Settlement of subscriptions for shares by an authorised participant may take place on a delivery versus payment ("DVP") basis at the relevant clearing and settlement system. An authorised participant will arrange for delivery of the subscription monies to the Depot Account maintained by the Depositary (or its delegate) who, in turn, will arrange for the simultaneous delivery to the authorised participant of the shares for which it has subscribed.

## **9      TERMS OF SUBSCRIPTION**

- 9.1 The Initial Offer Period and terms upon which the initial offer or placing of Participating Shares shall be made shall be determined by the Directors. The Directors shall also determine the Initial Price per Participating Share at which the Participating Shares of any Class shall be allotted and issued and the commission payable, if any, on the Initial Price.
- 9.2 Any allotment and issue of a Participating Share after the Initial Offer Period shall be made at a Subscription Price per Participating Share ascertained by:-

- 9.2.1 determining the Net Asset Value per Share as at the Valuation Point for the relevant Dealing Day in accordance with Clause 13 of this Instrument;
- 9.2.2 in the event of subscription applications exceeding redemption requests for the relevant Fund on any Dealing Day (taking into account any subscriptions or redemptions effected as a result of requests to switch from one Fund into another Fund) and if the Directors so determine, adding to the Net Asset Value per Share such provision representing an anti-dilution levy to cover dealing costs and preserve the Net Asset Value per Share of the relevant Fund as the Directors may determine; and/or
- 9.2.3 where applicable, adding to the Net Asset Value per Share an additional amount as an Equalisation Credit details of which shall be disclosed in the Prospectus or relevant Supplement; and/or
- 9.2.4 rounding the resulting total to such number of decimal places as the Directors may determine and as set out in the Prospectus.

A sales charge not exceeding five per cent (5%) of the Net Asset Value per Share (or such other amount as may be permitted by the Central Bank and disclosed in the Prospectus) may be added to the Subscription Price for the absolute use and benefit of the ICAV or as the ICAV may direct either upon the issue of Participating Shares or on a contingent deferred basis and the Directors may at their discretion, in accordance with Central Bank Requirements waive either wholly or partially, such sales charge or differentiate between Shareholders or applicants for Participating Shares as to the amount of such sales charge, if any, within the permitted limit, which discretion may be delegated to the Manager or an Investment Manager.

- 9.3 The Directors may on or with respect to any Dealing Day allot and issue Participating Shares in any Fund on terms that settlement shall be made by the vesting in the ICAV for the account of the relevant Fund assets the nature of which would qualify as Investments of the relevant Fund in accordance with its investment objective, policies and restrictions and otherwise upon such terms as the Directors may think fit provided that:

- 9.3.1 no Participating Shares shall be issued until the Investments have been vested or arrangements are made to vest the Investments with the Depositary or its sub-custodian to the Depositary's satisfaction;
- 9.3.2 any such exchange shall be effected on terms that the number of Participating Shares to be issued shall not exceed the number of Participating Shares (including, at the Directors discretion, fractions of Participating Shares) which would have been issued for the cash equivalent of the value of the Investments as calculated in accordance with Clause 14. The Directors may require that the applicant pays such sum as it considers represents an appropriate provision for Duties and Charges arising in connection with the vesting of the Investments in the Depositary for the account of the relevant Fund;
- 9.3.3 the Investments to be transferred to the ICAV shall be valued by applying the rules relating to valuation of Investments contained in Clause 14;
- 9.3.4 there may be paid to the incoming Shareholder out of the Investments of the relevant Fund a sum in cash equal to the value at the current price of any fraction of a Participating Share excluded from the calculation aforesaid; and
- 9.3.5 the Depositary shall be satisfied that the terms of such exchange shall not be such as are likely to result in any material prejudice to the existing Shareholders.

The Directors have the right to refuse the securities proposed and have a period of seven (7) Business Days (or such other timeframe as specified in the Prospectus or relevant Supplement) from the time they are deposited to provide notification of their decision.

- 9.4 No Participating Shares shall be issued in respect of any Dealing Day on which the determination of the Net Asset Value of the relevant Fund is temporarily suspended pursuant to Clause 13.6 of this Instrument.
- 9.5 In the event of subscription applications exceeding redemption requests for the relevant Fund on any Dealing Day (taking into account any subscriptions or redemptions effected as a result of requests to switch from one Fund into another Fund) and if the Directors so determine, the Directors may deduct from the subscription proceeds received from any investor subscribing for Participating Shares on such Dealing Day such sum representing an anti-dilution levy to provide for dealing costs and preserve the Net Asset Value per Share of the Fund as the Directors may determine and disclose in the Prospectus.
- 9.6 An Equalisation Credit may be charged in such manner and at such a rate as the Directors may decide, details of which shall be disclosed in the Prospectus.

## **10 QUALIFIED HOLDERS AND COMPULSORY REDEMPTION**

- 10.1 The Directors may impose such restrictions as they may think necessary for the purpose of ensuring that no Participating Shares in the ICAV are acquired or held directly or beneficially by an Ineligible Applicant. An Ineligible Applicant is a person who, or entity which:
  - 10.1.1 is in breach of the law or requirements of any country or governmental authority by virtue of which such person is not qualified to hold Participating Shares including without limitation any exchange control regulations;
  - 10.1.2 holds Participating Shares in circumstances (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other person or persons connected or not, or any other circumstances appearing to the Directors to be relevant) which in the opinion of the Directors might result in the ICAV, the Shareholders as a whole or any Fund or Class incurring any liability to taxation or suffering legal, fiscal, pecuniary, regulatory liability or disadvantage or other material disadvantage which the ICAV or the Shareholders as a whole or any Fund or Class might not otherwise have incurred or suffered or whose holding may, in the opinion of the Directors, affect the tax status of the ICAV or any Fund or which results or may result in the ICAV or any Fund being deemed to be offered or sold to or held by any person or entity in contravention of applicable securities laws or which could result in the Manager, Investment Manager, Administrator, Depositary or Distributor contravening any applicable securities or other applicable laws;
  - 10.1.3 does not provide cleared settlement monies by the relevant subscription settlement date set down in the Prospectus or the relevant Supplement;
  - 10.1.4 does not supply any information, documentation or declarations required by the Directors within such time as disclosed in the Prospectus or otherwise notified in writing by the Directors, including without limitation documents required to verify the identity of an applicant, a Shareholder or beneficial owner of Participating Shares in order to comply with applicable anti-money laundering, counter-terrorist financing laws or documentation required to be provided in order for the ICAV to comply with any applicable tax information exchange requirements or anti-bribery or anti-corruption laws;
  - 10.1.5 otherwise than as a result of depreciation in the value of the holding, holds less than the Minimum Holding;

- 10.1.6 is a transferee of Participating Shares unless that person or entity would, following such transfer, be the holder of Participating Shares equal to or greater than the Minimum Initial Subscription;
- 10.1.7 has breached or falsified representations on subscription documents; or
- 10.1.8 such other category of investor as may be disclosed in the Prospectus or relevant Supplement from time to time.

and the Directors (or any duly appointed delegate on behalf of the ICAV) may reject in their discretion any application for Participating Shares by, or any transfer of Participating Shares to, any Ineligible Applicant.

- 10.2 The Directors shall be entitled to assume without enquiry that none of the Participating Shares are held in such a way as to entitle the Directors to give a notice in respect thereof pursuant to Clause 10.4 or Clause 10.5 below provided that the Directors may upon an application for Participating Shares or at any other time and from time to time require such evidence, undertakings and/or further information to be furnished to them in connection with the matters stated in Clause 10.1 as they shall in their discretion deem sufficient.
- 10.3 If an Ineligible Applicant becomes aware that he is holding or owning Participating Shares in contravention of Clause 10.1 he shall notify the ICAV forthwith in writing and may be required by the ICAV to redeem such Participating Shares in accordance with Clause 11 of this Instrument or transfer such Participating Shares to a person duly qualified to hold the same unless he has already received a notice under Clause 10.4 of this Instrument.
- 10.4 If it shall come to the notice of the Directors or if the Directors shall have reason to believe that any Participating Shares are owned directly or beneficially by an Ineligible Applicant, the Directors shall be entitled to give notice (in such form as the Directors deem appropriate) to such person requiring him to:
  - 10.4.1 transfer such Participating Shares to a person or entity who is qualified or entitled to own the same without contravening any restriction imposed by the Directors, or
  - 10.4.2 request in writing the redemption of such Participating Shares in accordance with Clause 11.

If any person upon whom such a notice is served as aforesaid does not within 28 days after such notice has been served (or such extended time as the Directors in their absolute discretion consider reasonable):

- (a) transfer the Participating Shares the subject matter of the notice;
- (b) request in writing the ICAV to redeem the Participating Shares; or
- (c) establish to the satisfaction of the Directors that he is not an Ineligible Applicant,

he shall be deemed forthwith upon the expiration of the said 28 days (or such extended time as detailed in the relevant notice from the ICAV) to have requested the redemption of all his Participating Shares the subject of such notice whereupon the ICAV shall be deemed to be appointed his attorney with authority to appoint any person to sign on his behalf such documents as may be required for the purposes of the redemption. Subject to Clause 10.6, to any such redemption the provisions of Clause 11 shall apply below save that the deemed request to redeem the Participating Shares may not be withdrawn notwithstanding that the determination of the Net Asset Value of the relevant Fund or Class

of Participating Shares or the redemption of Participating Shares may have been suspended under Clause 13.6 of this Instrument.

10.5 The Directors shall be entitled to give notice (in such form as the Directors deem appropriate) of their intention to compulsorily redeem some or all of the Participating Shares held by any Shareholder on the relevant Dealing Day specified in the notice to the Shareholder in the following circumstances:

- 10.5.1 where it comes to the notice of the Directors or their delegate or if the Directors or their delegate shall have reason to believe that any Participating Shares are owned directly or beneficially by an Ineligible Applicant;
- 10.5.2 where such redemption is required for the purposes of satisfying any performance fee payable by that Shareholder to the Manager or any Investment Manager in respect of a particular Fund or Class;
- 10.5.3 in order to discharge any tax or other liability of the ICAV or any Fund arising as a result of the holding of Participating Shares by such person or beneficial ownership of Participating Shares by a third party, including any interest or penalties payable thereon;
- 10.5.4 where the Shareholders of a Fund or Class pass a Special Resolution providing for such redemption at general meeting of the holders of the Participating Shares of that Fund or Class;
- 10.5.5 in circumstances where a Fund is unable to track or replicate the relevant Index and unable to substitute another index for the Index, the Directors may resolve to compulsorily redeem investors and may subsequently terminate the Fund;
- 10.5.6 circumstances where it is or becomes impossible or impractical for the ICAV to enter into, continue with or maintain FDIs relating to the Index for a Fund or to invest in stocks comprised within the particular Index, the Directors may resolve to compulsorily redeem investors and may subsequently terminate the Fund;
- 10.5.7 Directors may on any Dealing Day on giving reasonable notice to affected Shareholders redeem all of the Shares in any Fund or Class not previously redeemed at the Redemption Price, if the Net Asset Value of such Fund or Class on such Dealing Day is less than the minimum viable size as may be determined by the Directors from time to time;
- 10.5.8 If so determined by the Directors, provided that not less than 21 days' notice, or such longer notice period as may be specified in the Prospectus, in writing has been given to the holders of the Shares of the ICAV or relevant Fund or Class, as appropriate, that all of the Shares of the ICAV, the relevant Fund or the class, as the case may be, shall be redeemed by the ICAV; or
- 10.5.9 for any other purposes as may be determined by the Directors in accordance with the requirements of the Central Bank and applicable law and disclosed in the Prospectus.

10.6 In the event of a redemption effected pursuant to this Clause 10, the Redemption Price per Participating Share will be determined as of the Valuation Point in respect of the relevant Dealing Day on which the Participating Shares are redeemed as specified by the Directors in their notice to the relevant Shareholder. Notwithstanding any other provision of this Instrument, the Directors may apply some or all of the proceeds of any redemption effected pursuant to Clause 10.4 or Clause 10.5 of this Instrument (i) in the discharge of any taxation or withholding tax or other liability arising to the ICAV or any third party as a result of the holding of Participating Shares by a relevant Shareholder or beneficial ownership of such Participating Shares by a third party including any interest or penalties payable thereon or (ii)

in order to discharge any legal, accounting or administration costs associated with any redemption effected pursuant to this Clause 10. Subject to the foregoing and subject to Clause 10.8 of this Instrument, the proceeds of any redemption effected pursuant to this Clause 10 shall be paid in accordance with Clause 11 of this Instrument.

- 10.7 Any person or persons to whom Clauses 10.1, 10.4 or 10.5 shall apply shall indemnify the ICAV, the Directors, the Manager (if any), any Investment Manager, the Administrator, any Distributor, the Depositary and any Member for any loss suffered by any or all of them as a result of such person or persons acquiring or holding Participating Shares in the ICAV.
- 10.8 In circumstances where the ICAV has compulsorily redeemed Participating Shares as a result of the failure on the part of the Shareholder to provide documents to verify the identity of the Shareholder or any beneficial owner in order to comply with applicable anti-money laundering and terrorist financing, any such redemption proceeds shall be held as determined by the Directors and in accordance with any applicable Central Bank Requirements.
- 10.9 The Directors shall not be required to give any reasons for any decision, determination or declaration taken or made in accordance with this Clause 10. The exercise of the powers conferred by this Clause 10 shall not be questioned or invalidated provided that the powers of the Directors hereunder shall at all times be exercised in good faith.

## **11 REDEMPTION OF SHARES**

- 11.1 As is more specifically described herein, the ICAV has the power to redeem its own outstanding fully paid Participating Shares on or with respect to any Dealing Day. A Shareholder may at any time request the ICAV to redeem all or any of his Participating Shares in the ICAV in such manner as the Directors may from time to time decide. Subject to Clause 11.11, any such request shall be irrevocable save with the consent in writing of the Directors.
- 11.2 A redemption request shall not be processed until the ICAV has received a completed redemption request and, if applicable, evidence satisfactory to the ICAV of the requesting party's entitlement to the Participating Shares from the Shareholder and such other information or documentation as the ICAV may require by such time as may from time to time be specified in the Prospectus or relevant Supplement. Where a redemption request is processed in circumstances where the relevant Shareholder has failed to provide documentation required to allow the ICAV to comply with its obligations under any applicable anti-money laundering or counter-terrorist financing legislation or guidance, such redemption proceeds shall not be released to the relevant Shareholder and shall be held as determined by the Directors in accordance with any Central Bank Requirements. The Directors may, in their absolute discretion, reject a request to redeem Participating Shares in whole or in part where the Directors have reason to believe that the request is being made fraudulently. Where redemption monies cannot be paid to a Shareholder due to incorrect bank account details being furnished to the ICAV, such monies shall be held by the ICAV as determined by the Directors and in accordance with any Central Bank Requirements.
- 11.3 In the event of receipt of a valid redemption request in the form and by the Dealing Deadline specified by the ICAV, the ICAV shall redeem the Participating Shares the subject of the request subject to Clause 11.8 and Clause 13.6 of this Instrument. The Directors may, in their discretion in exceptional circumstances, accept a redemption request for processing on a Dealing Day notwithstanding that such request may have been received by or on behalf of the ICAV after the Dealing Deadline for the relevant Dealing Day provided that (i) such redemption request is received by or on behalf of the ICAV prior to the Valuation Point for such Dealing Day, (ii) the decision to accept the redemption request after the Dealing Deadline has been approved by the Directors and (iii) the exceptional circumstances under which the application has been received is fully documented by the Directors. In all other circumstances,

where a redemption request is received by or on behalf of the ICAV after the relevant Dealing Deadline, such request will be treated as having been received prior to the following Dealing Deadline. Participating Shares in the capital of the ICAV which are redeemed by the ICAV shall be cancelled and the amount of issued share capital of the ICAV shall be reduced by the amount of consideration paid by the ICAV for the redemption or other transfer of the Participating Shares. Upon the redemption of a Participating Share being effected, the Shareholder shall cease to be entitled to any rights in respect thereof (excepting always the right to receive a dividend which has been declared in respect thereof prior to such redemption being effected) and accordingly his name shall be removed from the Register with respect thereto.

For the avoidance of doubt, the ICAV may, for the account of a Fund, acquire by subscription or transfer for consideration, Participating Shares of any Class representing other Funds of the ICAV.

- 11.4 Following the processing of a redemption request, the Shareholder will be paid a price per Participating Share equal to the Redemption Price per Participating Share ascertained by:-
  - 11.4.1 determining the Net Asset Value per Share as at the Valuation Point for the relevant Dealing Day in accordance with the provisions of Clause 14 of this Instrument;
  - 11.4.2 in the event of requests for redemption exceeding subscription applications for the relevant Fund on any Dealing Day (taking into account any subscriptions or redemptions effected as a result of requests to switch from one Fund into another Fund) and if the Directors so determine, deducting therefrom such provision representing an anti-dilution levy to cover dealing costs and preserve the Net Asset Value per Share of the Fund as the Directors determine; and
  - 11.4.3 rounding the resulting total to such number of decimal places as the Directors may determine and as set out in the Prospectus.
- 11.5 A redemption charge not exceeding 3% of the Net Asset Value per Share may be deducted from the redemption proceeds for the absolute use and benefit of the ICAV, or as the Directors may otherwise direct. The Directors may, subject to Central Bank Requirements, at their discretion waive, either wholly or partially, such redemption charge or differentiate between Shareholders as to the amount of such redemption charge, if any, within the permitted limit, which discretion may be delegated to the Manager (if any) or an Investment Manager. The ICAV shall not increase the maximum redemption charge without prior approval of the Shareholders of the relevant Fund or Class given on the basis of an Ordinary Resolution. In the event of an increase in the redemption charge a reasonable notification period will be provided by the ICAV to enable Shareholders redeem their Participating Shares prior to the implementation of the increase.
- 11.6 Any amount payable to a Shareholder under this Clause 11 shall be paid in the currency in which the relevant Shares are designated or such other currency or currencies as the Directors shall have determined as appropriate and shall, subject to the satisfactory receipt of all requested information and documentation from the Shareholder by the Administrator, be dispatched within ten (10) Business Days of the relevant Dealing Deadline. If the amount to be paid by the ICAV as aforesaid shall not be expressed in the currency in which the Participating Shares which the ICAV has redeemed were designated then the rate of exchange between that currency and the currency agreed for payment shall be such rate as the Directors shall consider appropriate. Where deemed appropriate by the Directors, the cost of conversion (if any) shall be debited from the converted payment. The certificate of the ICAV as to the conversion rate applicable and as to the cost of conversion shall be conclusive and binding on all persons.
- 11.7 The minimum value of Participating Shares which a Shareholder may redeem in any one transaction (if any) shall be the Minimum Transaction Size specified in the relevant Supplement provided that the

Directors, may, in their discretion, waive or reduce the Minimum Transaction Size with respect to any Shareholder in accordance with Central Bank Requirements which discretion may be delegated to the Manager and/or an Investment Manager. If a redemption of part only of a Shareholder's holding of Participating Shares would leave the Shareholder holding less than the Minimum Holding, the ICAV may refuse the application or may redeem the whole of that Shareholder's holding provided that the Directors may, in their discretion, waive or reduce the Minimum Holding (or permit the Manager to waive or reduce the Minimum Holding) with respect to any Shareholders or applicant for Participating Shares.

- 11.8 If (i) the number of Participating Shares of a particular Fund in respect of which redemption requests have been received on any Dealing Day exceeds at least 10% or more of the total number of Participating Shares in issue in that particular Fund; or (ii) the value of Participating Shares of a particular Fund in respect of which redemption requests have been received on any Dealing Day exceeds at least 10% of the Net Asset Value of the Fund, the Directors may in their discretion refuse to redeem, in the case of (i) above, any Participating Shares in that Fund in excess of 10% of the total number of Participating Shares in issue in that Fund or, in the case of (ii) above, any Participating Shares in that Fund in excess of 10% of the Net Asset Value of the relevant Fund. If the Directors exercise the foregoing power, the requests for redemption on such Dealing Day shall be reduced pro rata so that all Shareholders wishing to redeem their shareholding in that Fund will realise the same proportion of their redemption request. The Participating Shares to which each request relates which are not redeemed by reason of such reduction shall be treated as if a request for redemption had been made in respect of each subsequent Dealing Day until all the Participating Shares to which the original request related have been redeemed. Requests for redemption which have been carried forward from an earlier Dealing Day shall (subject always to the foregoing limits) be complied with as determined by the Directors and disclosed in the Prospectus.
- 11.9 The ICAV may, at the discretion of the Directors and with the consent of the relevant Shareholder, satisfy any request for redemption of Participating Shares by the transfer in specie to the redeeming Shareholder of Investments of the relevant Fund having a value (calculated in accordance with Clause 14) equal to the Net Asset Value per Share for the Participating Shares redeemed as if the redemption proceeds were paid in cash less any redemption charge, any anti-dilution levy and other expenses of the transfer as the Directors may determine. A determination to provide redemption in specie may be solely at the discretion of the Directors where the redeeming Shareholder requests redemption of a number of Participating Shares that represents 5% or more of the Net Asset Value of the relevant Fund. In this event, the ICAV will, if requested, sell any Investments and distribute to such Shareholder the cash proceeds less the costs of such sale which shall be borne by the relevant Shareholder. In all cases, the nature and type of Investments to be transferred in specie to each Shareholder shall be determined by the Directors or their delegate (subject to the approval of the Depositary as to the allocation of Investments) on such basis as the Directors or their delegate in their discretion shall deem equitable. Where there is a sale of Investments pursuant to this Clause 11.9, (i) the ICAV shall forthwith notify the Depositary of that fact and shall arrange for the sale of the Investments that would have otherwise been transferred to the redeeming Shareholder (other than Investments which are cash in the relevant currency for the purposes of the redemption) and (ii) the Depositary shall on receipt of such evidence of title as it may require, pay to the redeeming Shareholder the net proceeds of the sale and any relevant amounts held in cash Investments.
- 11.10 If the ICAV becomes liable to account for tax including any penalties and interest thereon upon the occurrence of certain events such as the encashment, transfer, redemption, disposal or deemed disposal of Participating Shares by, or payment of distribution to, a Shareholder, the Directors may deduct or arrange for the deduction from the proceeds due to be paid to a Shareholder of a cash amount equal to the liability or, in accordance with the procedures in Clause 10 of this Instrument, may arrange for the compulsory redemption and cancellation of such number of Participating Shares of such Shareholder as is sufficient after the deduction of any redemption charges to discharge any such liability

and the relevant Shareholder shall indemnify and keep indemnified the ICAV against any loss suffered by it by reason of it becoming liable to account for such tax.

- 11.11 If the determination of the Net Asset Value of any Fund or the redemption of Participating Shares has been suspended pursuant to Clause 13.6 of this Instrument the right of a Shareholder to have his Participating Shares redeemed pursuant to this Clause 11.11 shall be similarly suspended and during the period of suspension he may withdraw any request for redemption of his Participating Shares. Any withdrawal of a request for redemption under the provisions of this Clause 11.11 shall be made in writing and shall only be effective if actually received by the ICAV before termination of the suspension. If the request is not withdrawn during the period of suspension the redemption of Participating Shares shall be dealt with on the Dealing Day next following the end of the suspension.
- 11.12 Where all the Participating Shares in a Class or Fund have been redeemed, the Directors may subsequent to such redemption make a subsequent issue of Participating Shares in that Class or Fund at a Subscription Price per Participating Share determined by the Directors. Any such issue of Participating Shares pursuant to this Clause 11.12 shall be in accordance with any applicable requirements of the Central Bank.
- 11.13 Where relevant, if a redeeming Shareholder owns Participating Shares of more than one Series within a Class, Participating Shares will, save where otherwise determined by the Directors be redeemed on a "first in-first out" basis for the purposes of determining the Redemption Price. Accordingly, Participating Shares of the earliest issued Series owned by the Shareholder will be redeemed first, at the relevant Redemption Price for Participating Shares of such Series, until the redeeming Shareholder no longer owns any Participating Shares attributable to such Series.
- 11.14 Notwithstanding Clauses 11.4 and 11.6 or any other provision of this Instrument, where the redemption proceeds payable to a Member are exceeded by the cost of dispatching, transmitting, effecting or otherwise making such payments to the Member, such redemption proceeds may be retained by the relevant Fund and reinvested within and for the benefit of the relevant Fund or Class.
- 11.15 At any time, subject to the Act, the ICAV shall be entitled to redeem all or some of the issued Management Shares or to procure the transfer of the issued Management Shares to any person(s) entitled to hold shares in the ICAV. On any such redemption, the holder of the Management Share(s) shall be entitled to receive an amount not to exceed the consideration paid for such Management Share(s).
- 11.16 Where a redemption of Participating Shares pursuant to this Clause 11 or pursuant to Clause 36 of this Instrument would result in the number of Members falling below two or would result in the issued share capital of the ICAV falling below such minimum amount as the ICAV may be obliged to maintain pursuant to applicable law, the ICAV may defer the redemption of such Participating Shares, the redemption of which would result in such number or amount not being satisfied, until the ICAV is wound up or until the ICAV procures the issue of sufficient Participating Shares to ensure that the aforesaid number and amount are satisfied. The ICAV shall be entitled to select the Participating Shares for such deferred redemption in such manner as it may deem to be fair and reasonable.
- 11.17 In the event of redemption requests exceeding subscription requests for the relevant Fund on any Dealing Day (taking into account any subscriptions or redemptions effected as a result of requests to switch from one Fund into another Fund) and if the Directors so determine, the Directors may deduct from the redemption proceeds payable to any investor redeeming Participating Shares on such Dealing Day such sum representing an anti-dilution levy to provide for dealing costs and to preserve the Net Asset Value per Share of the relevant Fund as the Directors may determine and disclose in the Prospectus.

- 11.18 A Shareholder may be entitled to receive additional redemption proceeds if any Equalisation Credit paid at the time of subscription has not been fully applied by the ICAV as at the relevant Dealing Day on which Participating Shares are to be redeemed.
- 11.19 The Directors may require repayment of redemption proceeds previously paid to an investor in the event that the original Net Asset Value per Share at which the Participating Shares were redeemed is incorrectly calculated or in such other circumstances in which the relevant Fund is compelled under law, regulation, contract or otherwise to return distributions or other payments previously received by that Fund.

## 12 CONVERSION OF SHARES

- 12.1 Subject as hereinafter provided, subject to the Minimum Initial Subscription, Minimum Holding and any Minimum Transaction Size requirements of the relevant Fund or Classes (if any) and to any other restrictions imposed on conversions by the Directors pursuant to this Instrument or set down in the Prospectus or relevant Supplement, a Shareholder of any Fund or Class (the “**Original Fund**”) may request the conversion of all or any Participating Shares held by him into Participating Shares of a Class of another Fund or another Class in the same Fund (the “**New Fund**”) either existing or established as provided herein. The Directors may refuse to accept a conversion request without assigning any reason therefor.
- 12.2 A Shareholder may request the conversion of Participating Shares by giving to the ICAV a notice (a “**Conversion Notice**”) in such form and by such time and means as the Directors may from time to time determine together with such evidence of title as the Directors may require. Conversion requests will only be accepted where cleared funds and completed documents are in place from original subscriptions.
- 12.3 Following receipt by the ICAV of a Conversion Notice, provided that the Shareholder otherwise satisfies the criteria determined by the Directors for investment in the New Fund, the conversion of Participating Shares specified in a Conversion Notice shall be effected on a day which is a Dealing Day for the Original Fund and the New Fund or on such other Dealing Days as the Directors may determine PROVIDED THAT the Directors may, subject to Central Bank Requirements, in their discretion, accept a conversion request for processing on a Dealing Day notwithstanding that such request may have been received after relevant Dealing Deadlines so long as such conversion request is received prior to the Valuation Point for the relevant Dealing Days. The ICAV may charge an applicant for any costs or expenses incurred in respect of any currency transaction which may be required in respect of an exchange of Participating Shares.
- 12.4 A Shareholder requesting conversion shall not, without the written consent of the ICAV or its authorised delegate, be entitled to withdraw a Conversion Notice duly made in accordance with this Clause 12 except in the event of a suspension of calculation of the Net Asset Value or the suspension of the issue or redemption of Participating Shares of either Fund in respect of which the conversion request was made.
- 12.5 Conversion of Participating Shares specified in a Conversion Notice may, subject to this Instrument and any requirements of the Central Bank, be effected in such manner as may be determined by the Directors and without prejudice to the generality of the foregoing may be effected by the redemption of Participating Shares of the Original Fund (save that the redemption monies shall not be released to the Shareholder requesting conversion) and application of the net proceeds of such redemption to the purchase of Participating Shares in the New Fund.
- 12.6 Participating Shares in an Original Fund may not be exchanged for Participating Shares in a New Fund during any period in which the calculation of the Net Asset Value or issue or redemption of Participating

Shares of either the Original Fund or the New Fund is suspended pursuant to Clause 13.6 of this Instrument.

12.7 The number of Participating Shares of the New Fund to be allotted and issued on conversion shall be determined by the Directors in accordance (or as nearly as may be in accordance) with the following formula:

$$(R \times NAV \times ER) - F = S$$

SP

where:-

S = the number of Participating Shares of the New Fund to be allotted and issued;

R = the number of Participating Shares of the Original Fund to be redeemed;

NAV = is the Net Asset Value per Share of the Original Fund for the relevant Dealing Day;

ER = is the rate of exchange (if any) as determined by the Administrator which may be charged to the relevant Shareholder;

F = is the conversion charge (if any) as determined by the Directors and disclosed in the Prospectus or relevant Supplement;

SP = the Net Asset Value per Share of the New Fund at the Valuation Point on the relevant Dealing Day.

12.8 Upon conversion of Participating Shares as provided for herein the Directors shall cause assets or cash equal to the value of "S" as defined in Clause 12.7 to be transferred to the New Fund.

12.9 The Directors may charge a fee on the conversion of Participating Shares in an Original Fund into Participating Shares in a New Fund as may be disclosed in the Prospectus or relevant Supplement.

12.10 Where a conversion request would result in a Shareholder holding a number of Participating Shares in either the Original Fund or the New Fund which would be less than the Minimum Holding for the relevant Fund, the Directors may, if they think fit, convert the whole of such Shareholder's holding in the Original Fund to Participating Shares in the New Fund or refuse to effect any conversion from the Original Fund.

12.11 Fractions of Participating Shares of the New Fund may be issued on conversion subject to Clause 8.9.

12.12 The ICAV may compulsorily exchange all or any Participating Shares of one Class in a Fund (the "**X Class**") for Participating Shares of any Class of the same Fund (the "**Y Class**") on advance written notice to holders of Participating Shares in the X Class (the "**Compulsory Exchange Notice**") on the following terms:-

12.12.1 The exchange of the Participating Shares specified in the Compulsory Exchange Notice pursuant to this Article shall occur on the Dealing Day specified in the Compulsory Exchange Notice;

12.12.2 Exchange of the Participating Shares of the X Class as specified in the Compulsory Exchange Notice shall be effected in the following manner, that is to say:-

(a) such Participating Shares of the X Class shall be redeemed by the issue of Participating Shares of the Y Class;

- (b) the Participating Shares of the Y Class shall be issued in respect of and in proportion to (or as nearly as may be in proportion to) the holding of the Participating Shares of the X Class which is being exchanged; and
- (c) the proportion in which Participating Shares of the Y Class are to be issued in respect of Participating Shares of the X Class shall be determined in accordance with the following provisions of this Clause 12.

12.12.3 The Directors shall determine the number of Participating Shares of the Y Class to be issued on exchange in accordance with the formula as outlined in Clause 12.7;

12.12.4 A compulsory exchange of Participating Shares as an initial investment in a Class or Fund will only be made if the value of the Participating Shares to be exchanged is equal to or exceeds the Minimum Initial Subscription for the relevant Class;

12.12.5 In the event of a compulsory exchange as set out in this Clause 12, the holder of Participating Shares of the X Class must satisfy the criteria laid down by the Directors for investment in the Y Class of Participating Shares in the Fund; and

12.12.6 The compulsory exchange shall not result in the Shareholders holding Participating Shares of the Y Class which are subject to less favourable terms than those terms applicable to the X Class.

### **13 DETERMINATION OF NET ASSET VALUE**

13.1 The Directors shall on or with respect to each Valuation Day determine (i) the Net Asset Value of each Fund, (ii) if there are different Classes within a Fund, the Net Asset Value of each Fund attributable to each Class and (iii) the Net Asset Value per Share in accordance with the following provisions. The Directors may delegate to any duly authorised person, firm or corporation, including the Administrator, the duties of calculating the Net Asset Values as outlined in this Clause 13 and Clause 14. The Directors may instruct any such delegate to recalculate a previously calculated Net Asset Value per Share where they have determined that the Net Asset Value per Share has not been calculated correctly in accordance with the valuation provisions applicable to the relevant Fund and may instruct the Administrator to make such appropriate adjustments to the Register to reflect the revised Net Asset Value per Share and/or take such other steps as are deemed necessary in the circumstances.

13.2 The Net Asset Value of a Fund shall be determined as at the Valuation Point for the relevant Valuation Day by ascertaining the value of the assets of the Fund pursuant to Clause 14.1 of this Instrument and deducting the liabilities of the relevant Fund, having regard to the principles determined by the Directors in their absolute discretion as appropriate to be observed in determining the Net Asset Value of each Fund and set down in the Prospectus from time to time. In circumstances in which an asset or liability is not clearly attributable to a particular Fund or Funds, the Directors shall have the discretion to determine the basis upon which assets and liabilities shall be allocated between Funds based on their respective Net Asset Value or on any other reasonable basis approved by the Directors.

13.3 The Net Asset Value attributable to a Class shall be determined as at the Valuation Point for the relevant Valuation Day by calculating that portion of the Net Asset Value of the relevant Fund attributable to the relevant Class by reference to the number of Participating Shares in issue or deemed to be in issue in each Class on the relevant Valuation Day subject to adjustment to take account of assets and/or liabilities attributable to each Class. Where hedging strategies are used in relation to a particular Class in accordance with Central Bank Requirements, the financial instruments used to implement such strategies shall be deemed to be assets or liabilities (as the case may be) of the relevant Fund as a whole but the gains/losses on, and the costs of, the relevant financial instruments will accrue solely to the relevant Class. Fees or expenses which are not attributable to a particular Class may be allocated

amongst the Classes based on their respective Net Asset Value or on any other reasonable basis approved by the Directors.

- 13.4 The Net Asset Value per Share shall be determined as at the Valuation Point on or with respect to each Valuation Day by dividing the Net Asset Value of the relevant Fund or attributable to a Class by the total number of Participating Shares in issue or deemed to be in issue in such Fund or Class at the relevant Valuation Point and rounding the resulting total to two decimal places or such other number of decimal places as the Directors may determine and disclose in the Prospectus.
- 13.5 The Net Asset Value of a Fund, a Class or any Participating Share will be expressed in the currency in which the Fund, the Class or Participating Share is designated or in such other currency as the Directors may determine from time to time.
- 13.6 The Directors may at any time and from time to time temporarily suspend the determination of the Net Asset Value of a Fund and the issue, redemption or conversion of Participating Shares in any Fund, in the following instances:
  - 13.6.1 during the whole or part of any period (other than ordinary holidays or customary weekends) when any of the Regulated Markets on which Investments of the relevant Fund are quoted, listed, traded or dealt are closed or during which dealings therein are restricted or suspended or trading is suspended or restricted;
  - 13.6.2 during the whole or part of any period when circumstances outside the control, responsibility and power of the Directors exist as a result of which any disposal or valuation of Investments or a substantial portion of Investments of the relevant Fund is not reasonably practicable or would be detrimental to the interests of Shareholders of the relevant Fund or if, in the opinion of the Directors, the Net Asset Value of the Fund cannot be fairly calculated or if or it is not possible to transfer monies involved in the acquisition or disposition of Investments to or from the account of the relevant Fund;
  - 13.6.3 during the whole or part of any period when any breakdown occurs in the means of communication normally employed in determining the value of any of the Investments of the relevant Fund;
  - 13.6.4 during the whole or part of any period when, for any reason, the value of any Investments of the relevant Fund cannot be reasonably, promptly or accurately ascertained;
  - 13.6.5 during any period where the effects of redemption would otherwise jeopardise the tax status of any Fund or Class thereof;
  - 13.6.6 during the whole or part of any period when subscription proceeds cannot be transmitted to or from the account of any Fund or the ICAV is unable to repatriate funds required for making redemption payment or when such payments cannot, in the opinion of the Directors, be carried out at normal rates of exchange;
  - 13.6.7 where the imposition of a deferred redemption schedule as described in Clause 11.8 is not considered by the Directors to be an appropriate measure to take in the circumstances to protect the best interests of the Shareholders;
  - 13.6.8 during any period during which dealings in a collective investment scheme in which a Fund has invested a significant portion of its assets are suspended;

- 13.6.9 where it is or becomes impossible or impractical to enter into, continue with or maintain financial derivative instruments relating to the index which the relevant Fund replicates or tracks, or to invest in stocks comprised within the particular index;
- 13.6.10 where necessary to facilitate the merger of a Fund with another collective investment scheme;
- 13.6.11 where necessary to facilitate the winding up the ICAV or any Fund, the closure of any Fund or Class or the compulsory redemption of Participating Shares by the ICAV;
- 13.6.12 during any other period when the Directors determine that it is in the best interests of the relevant Fund (or Shareholders in the relevant Fund or Class) to do so;
- 13.6.13 any period in which the redemption of the Shares would, in the opinion of the Directors, result in a violation of applicable laws; or
- 13.6.14 where so instructed by the Central Bank to do so.

13.7 Notice of any suspension of redemptions of Participating Shares shall be provided without delay to the Central Bank and to the competent authorities of the Member States in which the Participating Shares of the relevant Fund are marketed.

13.8 No Participating Shares will be issued, redeemed or exchanged on any Dealing Day when the determination of the Net Asset Value per Share and the issue, redemption and conversion of Participating Shares is suspended. In such circumstances, a Shareholder may withdraw his application or conversion or redemption request (as the case may be), provided that a withdrawal notice is actually received by the Administrator before the suspension is terminated. Unless withdrawn, applications, conversions and redemption requests for Participating Shares will be acted upon on the first relevant Dealing Day after the suspension is lifted at the relevant Subscription Price or Redemption Price (as the case may be) prevailing on that day, or such additional Dealing Day as may be determined by the Directors in their discretion.

13.9 Notwithstanding any other provision of this Instrument, the Directors may declare a temporary suspension of subscriptions, conversions or redemptions in any Fund during any of the circumstances listed in Clause 13.6 but may permit the determination of the Net Asset Value of the Fund and the Net Asset Value per Share to continue provided that such Net Asset Value figures shall be indicative only and shall not be used as the basis for dealing in Participating Shares. In such circumstances, a Shareholder may withdraw his application, conversion or redemption request in accordance with the provisions set down in Clause 13.8

13.10 The Directors or their delegate shall ensure that the Net Asset Value per Share is made available promptly to Shareholders upon request.

## **14 VALUATION OF INVESTMENTS**

14.1 The value of the Investments of each Fund shall be determined as at the Valuation Point in accordance with the following rules and as set out in the Prospectus:-

- 14.1.1 Save as otherwise provided herein, Investments which are listed or traded on a Regulated Market will be valued at the closing or last known market price. For such purposes, the closing or last known market price shall, save where otherwise disclosed in the relevant Supplement, constitute the last traded price. Where disclosed in the Prospectus or relevant Supplement for a Fund, an offer price or an offer quotation may be used in certain circumstances identified in the Prospectus.

14.1.2 Where an Investment is listed or dealt in on more than one Regulated Market, the relevant exchange or market shall be (i) the market that constitutes the main market or (ii) the market which the Directors determine provides the fairest criteria in determining a value for the relevant Investment. Investments listed or traded on a Regulated Market, but acquired or traded at a premium or at a discount outside or off the relevant market may be valued taking into account the level of premium or discount at the Valuation Point.

14.1.3 Any Investment which is not listed or traded on a Regulated Market or which is so listed or traded but for which no such market price is available or the available market price is not representative shall be valued using its probable realisation value as estimated with care and good faith by

- (a) the Directors or, where a Manager is appointed, the Manager;
- (b) a competent person, firm or corporation (including any Investment Manager) appointed by the Directors or, where a Manager is appointed, the Manager and approved for the purpose by the Depositary; or
- (c) any other means, provided that the value is approved by the Depositary.

In ascertaining such value, the Directors are entitled to accept an estimated valuation from a market-maker or other person qualified in the opinion of the Directors and approved for the purpose by the Depositary to value the relevant securities.

Where reliable market quotations are not available for fixed income securities, the value of such securities may be determined using a matrix methodology compiled by any party referred to in (a), (b) or (c) above. The securities used in the matrix must be comparable in rating, yield, due date and other characteristics. Matrix pricing shall not ignore a reliable market quotation.

14.1.4 Cash in hand or on deposit will be valued at its nominal/face value plus accrued interest;

14.1.5 Derivative contracts traded on a Regulated Market including without limitation futures and options contracts (including index futures) shall be valued at the settlement price as determined by the relevant market. If the settlement price is not available, the value shall be the probable realisation value estimated with care and in good faith in accordance with paragraph 14.1.3 of this Instrument.

14.1.6 OTC derivative contracts must be subject to reliable and verifiable valuation on a daily basis. Subject to the provisions of EMIR which requires OTC derivative contracts which are not cleared with a clearing counterparty to be valued on the basis of a mark to market value of the derivative contract (or if market conditions prevent marking to market, a reliable and prudent marking to model), OTC derivative contracts may be valued either using the counterparty valuation or an alternative valuation.

14.1.7 Units in collective investment schemes shall be valued at the latest available net asset value per unit or bid price as published by the relevant collective investment scheme or, where consistent with the valuation policy relating to a particular Fund, on a mid-price or offer price basis. Alternatively, if the relevant collective investment scheme is listed or traded on a Regulated Market, the units of the relevant collective investment scheme shall be valued in accordance with (a) above.

14.1.8 Where it is not the intention or the objective of the Directors to value the portfolio of the relevant Fund as a whole using the amortised cost method of valuation, Money Market

Instruments may be valued using the amortised cost method of valuation in accordance with the Central Bank's Requirements.

- 14.1.9 Notwithstanding the above provisions, the Directors may adjust the value of any Investment if having regard to its currency, marketability, dealing costs and/or any other considerations which are deemed relevant, it considers that such adjustment is required to reflect the fair value thereof. The Directors shall document clearly the rationale for adjusting the value of any such Investment.
- 14.1.10 Any value (whether of an Investment or cash) expressed otherwise than in the Base Currency of the relevant Fund or designated currency of the relevant Class may be converted into the Base Currency of the relevant Fund or designated currency of the relevant Class (as the case may be) at a prevailing exchange rate (whether official or otherwise) deemed appropriate by the ICAV.
- 14.1.11 Where the value of any Investment is not ascertainable as described above, the value shall be the probable realisation value estimated in accordance with 14.1.3 above.
- 14.1.12 Notwithstanding the above provisions, where the Directors deems it necessary to do so, a specific Investment may be valued using an alternative method of valuation provided that the alternative method of valuation is approved by the Depositary and the rationale and methodologies used are clearly documented.

14.2 In determining the value of Investments of a Fund the Directors may, where so specified in the Prospectus or the Supplement for the relevant Fund, value the Investments of a Fund at bid prices on any Dealing Day where the value of all redemption requests received exceeds the value of all applications for Participating Shares received for that Dealing Day or at offer prices where on any Dealing Day the value of all applications for Participating Shares received for that Dealing Day exceeds the value of all redemption requests received for that Dealing Day, provided that this valuation methodology is applied, unless otherwise permitted by the Central Bank, on a consistent basis throughout the life of the relevant Fund for as long as it is operated on a going concern basis

14.3 For the purposes of this Clause 14.3, the following terms shall have the following meanings:

**"Net Capital Activity"** means the net cash movement of subscriptions and redemptions into and out of a particular Fund across all Classes on a given Dealing Day (taking into account subscriptions and/or redemptions which would be effected as a result of requests for conversion from one Fund into another Fund).

**"Swing Factor"** means such amount, as determined by the Directors, by which the Net Asset Value per Share may be adjusted upwards or downwards in order to take account of dealing, other costs and fiscal charges, provided that where disclosed in the relevant Supplement, the Swing Factor shall not exceed such amount of the Net Asset Value as disclosed in the relevant Supplement and provided further that, for the purposes of calculating the expenses of a Fund, the Administrator may, where specified in the relevant Supplement, continue to use the unswung Net Asset Value.

Where the Net Capital Activity in respect of a Fund on a given Dealing Day leads to (i) a net inflow of assets in the relevant Fund, the Directors may determine that the Net Asset Value per Share used to process all subscriptions, redemptions or conversions in that Fund on that Dealing Day be adjusted upwards by the Swing Factor or (ii) a net outflow of assets in the relevant Fund, the Directors may determine that the Net Asset Value per Share used to process all subscriptions, redemptions or conversions in that Fund on that Dealing Day be adjusted downwards by the Swing Factor, subject to any conditions set down in the Prospectus or relevant Supplement from time to time.

- 14.4 Save where otherwise determined by the Directors, in the event that the ICAV or a Fund receives a settlement, tax reclaim, class action award, other ad hoc payment, windfall or similar payment (each a “**payment**”), the payment shall be deemed to be for to the benefit of the ICAV or relevant Fund as a whole, rather than to any particular class of investor, as at the date of receipt of such payment.
- 14.5 Without prejudice to Clause 24.1 of this Instrument, the Directors may delegate any of their powers, authorities and discretions in relation to the determination of the value of any Investment to a committee of the Directors or to any other duly authorised person and may delegate the calculation of Net Asset Value to any duly authorized person, firm or corporation (including the Administrator) in accordance with Central Bank Requirements.

## **15 TRANSFER AND TRANSMISSION OF SHARES**

- 15.1 The transfer of shares shall be effected in such denomination as the Directors may from time to time decide in accordance with the following provisions.
- 15.2 No transfer of Management Shares may be effected without the prior written consent of the ICAV.
- 15.3
  - 15.3.1 Transfer of shares may be effected by transfer in writing or such other form as determined by the Directors accompanied by such evidence of ownership as the Directors may require to prove the right of the transferor to make the transfer (“**Instrument of Transfer**”), signed by or on behalf of the transferor and every transfer shall state the full name and address of the transferor and transferee.
  - 15.3.2 The Directors may from time to time specify a fee for the registration of an Instrument of Transfer (provided that in relation to a transfer of Participating Shares the maximum fee may not exceed 5% of the Net Asset Value of the Participating Shares the subject matter of the transfer on the Dealing Day immediately preceding the date of the transfer) and which may be retained for the sole use and benefit of the ICAV or its delegate as the Directors in their absolute discretion may determine. Subject to Central Bank Requirements, the Directors reserve the right to reduce or waive any transfer fee and may distinguish between Members accordingly.
- 15.4 The Instrument of Transfer shall be signed by or on behalf of the transferor and need not be signed by the transferee. The signature on the Instrument of Transfer may be affixed manually or electronically and may be an actual signature or a facsimile signature or any form of signature approved by the Directors. The Directors shall not be bound to enquire as to the genuineness of any signature. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in respect thereof.

Nothing herein shall prejudice the power of the ICAV to register as a Member any person to whom the rights to any shares in the ICAV has been transmitted by operation of law.

- 15.5 The Directors may, before the end of the period of two months commencing with the date of receipt of the Instrument of Transfer, decline to register the transfer in the following circumstances:
  - 15.5.1 in circumstances where the transfer would not in the best interests of the ICAV;
  - 15.5.2 if in consequence of such transfer, the holder of Shares shall be an Ineligible Applicant;

- 15.5.3 if in consequence of such transfer, the transferor or the transferee would hold a number of Participating Shares less than the Minimum Holding, or save where otherwise determined by the Directors, the transferee would hold less than the Minimum Initial Subscription.
- 15.5.4 if all applicable taxes and/or stamp duties have not been paid in respect of the Instrument of Transfer or if the Instrument of Transfer is not deposited at the Office or such other place as the Directors may require, accompanied by such relevant information and declarations as the Directors may require from the transferee including without limitation, information and declarations of the type which may be requested from an applicant for shares in the ICAV and such fee as may from time to time be specified by the Directors for the registration of any Instrument of Transfer;
- 15.5.5 where the Directors are aware or believe the transfer would result in the direct or beneficial ownership of Participating Shares by a person in contravention of any restrictions on ownership imposed by the Directors or might result in legal, fiscal, regulatory or pecuniary liability or disadvantage or other material disadvantage to the ICAV, a Fund, a Class of Participating Shares or Shareholders as a whole;
- 15.5.6 if in consequence of such transfer, any provisions of this Instrument would be contravened or the transfer would produce a result inconsistent with any provisions of the Prospectus or any provision of law (including any law that is for the time being in force in a country or territory other than Ireland); or
- 15.5.7 in any other circumstances determined by the Directors and detailed in the Prospectus.

15.6 If the Directors decline to register a transfer of any share they shall send to the transferee written notice of such refusal, provided that the Directors are not required to give notice to any person of a refusal to register a transfer where the giving of the notice would result in a contravention of any provision of law (including any law that is for the time being in force in a country or territory other than Ireland).

15.7 The registration of transfers may be suspended at such times and for such periods as the Directors may from time to time determine, PROVIDED ALWAYS that such registration of transfers shall not be suspended for more than thirty days in any year.

15.8 All Instruments of Transfer evidencing a transfer of shares which shall be registered shall be retained by the ICAV, but any Instrument of Transfer relating to a transfer of shares which the Directors may decline to register shall (except in the case of fraud) be returned to the person depositing the same.

15.9 In the case of the death of a Member, the survivors or survivor where the deceased was a joint holder, and the executors or administrators or other personal representative of the deceased where he was a sole or surviving holder, shall be the only person(s) recognised by the ICAV as having title to his interest in the shares, but nothing in this Clause 15 shall release the estate of the deceased holder whether sole or joint from any liability in respect of any share solely or jointly held by him.

15.10 Any guardian of an infant Member and any guardian or other legal representative of a Member under legal disability and any person entitled to a share in consequence of the death, insolvency or bankruptcy of a Member or otherwise by operation of law shall, upon producing such evidence of his title as the Directors may require, have the right either to be registered himself as the holder of the share or shares or to elect to have some person nominated by him registered as the transferee thereof but the Directors shall, in either case, have the same right to refuse or suspend registration as it would have had in the case of a transfer of the share by the infant or the deceased, insolvent or bankrupt Member before the death, insolvency or bankruptcy of the Member or a Member under a legal disability before such disability. If the person so becoming entitled elects to be registered himself, he shall deliver or send to the ICAV a notice in writing signed by him stating that he so elects. If he shall elect to have his nominee

registered, he shall signify his election by signing and delivering or sending to the ICAV an Instrument of Transfer of such share or shares in favour of his nominee. Any transfer by such person so entitled shall be as valid as if they had been a Member at the time of the execution of the Instrument of Transfer.

- 15.11 All the limitations, restrictions and provisions of this Instrument relating to the right to transfer and the registration of transfers of shares shall be applicable to any notice or Instrument of Transfer given or made pursuant to Clause 15.10 as if the death or bankruptcy of the Member or other event giving rise to the transmission had not occurred and the notice of Instrument of Transfer were an Instrument of Transfer signed by that Member.
- 15.12 A person so becoming entitled to a share in consequence of the death, insolvency or bankruptcy of a Member or otherwise by operation of law shall, upon production of such evidence of his title as the Directors may require, have the right to receive and may give a discharge for all moneys payable or other advantages due on or in respect of the share, but he shall not be entitled to receive notice of or to attend or vote at meetings of the ICAV, nor, save as aforesaid, to any of the rights or privileges of a Member unless and until he shall be registered as a Member in respect of the share PROVIDED ALWAYS that the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share and if the notice is not complied with such reasonable time as determined by the Directors, the Directors may thereafter withhold all moneys payable or other advantages due in respect of the share until the requirements of the notice have been complied with.
- 15.13 A transfer of shares or other interest of a deceased Member made by the deceased Member's personal representative shall, although the personal representative is not a Member of the ICAV, be valid as if they had been such a Member at the time of the execution of the Instrument of Transfer.
- 15.14 No person whatsoever shall be entitled to be registered on the Register until such person has provided the Directors with such relevant information and/or documentation as they may require.
- 15.15 The Directors may redeem and cancel such number of Participating Shares held by the transferor in accordance with the procedures set down in Clause 10 of this Instrument as is sufficient to discharge any tax liability payable to any tax authorities arising from the transfer of Participating Shares or may withhold from future distributions to a transferee such cash amount as is necessary to discharge any tax liability owing to any tax authorities arising as a result of a transfer of shares by a Member.
- 15.16 A transfer of a Participating Share in dematerialised form shall be made in accordance with and subject to the facilities and requirements of the Relevant System and in accordance with any arrangements made by the Board of Directors pursuant to this Instrument.

## **16 INVESTMENT OBJECTIVES**

- 16.1 The ICAV and each Fund may invest only in those Investments permitted by the Regulations and the CBI UCITS Regulations subject to the limitations and restrictions set out in the Regulations and the CBI UCITS Regulations and any derogations therefrom permitted by the Central Bank.

With the exception of permitted investments in unlisted instruments, a Fund will only invest in those securities or financial derivative instruments which are listed or traded on a Regulated Market (including derivative markets) which meets with the regulatory criteria (regulated, operate regularly, be recognized and open to the public) and which is listed in the Prospectus.

The specific investment objectives, investment policies and investment restrictions of each Fund will be set out in the relevant Supplement to the Prospectus and will be approved by the Directors at the time of the creation of the relevant Funds.

16.2 Subject to authorisation by the Central Bank, each Fund may invest, in accordance with the principle of risk-spreading, up to 100% of its net assets in different transferable securities and Money Market Instruments issued or guaranteed by any Member State, its local authorities, a third country or public international bodies of which one or more Member States are members, drawn from the following list:

OECD Member Country (provided the relevant issues are investment grade)

Government of Singapore

Government of the People's Republic of China

Government of Brazil (provided the issues are investment grade)

Government of India (provided the issues are investment grade)

European Investment Bank

European Bank for Reconstruction & Development

International Finance Corporation

International Monetary Fund

Euratom

The Asian Development Bank

Council of Europe

Eurofima

African Development Bank

The International Bank for Reconstruction & Development (the World Bank)

The Inter American Development Bank

European Union

European Central Bank

Federal National Mortgage Association

Federal Home Loan Mortgage Corporation

Government National Mortgage Association

Student Loan Marketing Association

Federal Home Loan Bank

Federal Farm Credit Bank

Tennessee Valley Authority

Straight-A Funding LLC<sup>2</sup>

Provided that if a Fund holds 100% of its net assets in any one such issuer, the Fund must hold securities from at least 6 different issues, with securities from any one issue not exceeding 30% of net assets.

- 16.3 The ICAV or a Fund may, with the prior approval of the Central Bank and subject to the conditions specified under Central Bank Requirements, own all the issued share capital of any private company or be the sole participant, beneficiary or holder of units or interest in any other vehicle whether incorporated or established by contract or otherwise, which in the interests of Shareholders, the Directors consider it necessary or desirable for the ICAV to incorporate or acquire or utilise in connection with the ICAV or a Fund. The shares/interests issued by such a company/vehicle and all of its assets will be held by the Depositary or its sub-custodian or nominee.
- 16.4 Subject to the investment objectives, policies and restrictions determined or approved by the Directors and in accordance with Central Bank Requirements, the ICAV and each Fund may employ derivative instruments and techniques and instruments for the purposes of investment and efficient portfolio management. The ICAV and each Fund may (but are not obliged to) employ hedging techniques at the level of one or more Classes whereby the ICAV seeks to hedge the denominated currency of the relevant Class against its exposure to the Base Currency of the Fund or for any other purpose permitted by the Central Bank.
- 16.5 For the purpose of providing margin or collateral in respect of transactions in and the use of derivative instruments and other efficient portfolio management techniques and instruments or for any other purpose permitted under applicable law, the ICAV shall be entitled to transfer, deposit, mortgage, charge or otherwise encumber any undertaking, property or assets (whether present or future) or any part thereof of the relevant Fund to such person or entity as may be determined by the Directors. The ICAV may also give or obtain the guarantee of a bank (and to provide any necessary counter-security therefor) and deposit such guarantee or cash with such entity or person as determined by the ICAV from time to time.
- 16.6 A Fund may in accordance with Central Bank Requirements replicate the composition of a stock or debt securities or other financial index which is recognised by the Central Bank.
- 16.7 A Fund may hold ancillary liquid assets.
- 16.8 No more than 10% of the net assets of a Fund (except a Fund that is established as a Fund of Funds or a Feeder Fund or a Fund that may, according to its investment policy as set down in the prospectus of the ICAV, invest more than 10% of its net assets in other collective investment schemes) may be invested in other eligible collective investment undertakings of the open-ended type. Subject to Central Bank Requirements, a Fund may invest in other collective investment schemes with which the ICAV is linked by common management or control or by a substantial direct or indirect holding.
- 16.9 The investment objective of a Fund may not be altered and material changes to the investment policy of a Fund may not be made without the approval of Shareholders of the relevant Fund (i) on the basis of an Ordinary Resolution passed (i) at a general meeting of the relevant Fund or (ii) by resolution in writing that is described as an Ordinary Resolution and which has been signed in accordance with the provisions of Clause 19.13 of this Instrument.

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<sup>2</sup> Client to confirm if Import-Export Bank should be included on this list. If so, the full name must be disclosed (as these exist in a number of different countries) and an explanation of how it qualifies under Regulation 72 must also be submitted to the Central Bank;

## 17 GENERAL MEETINGS

- 17.1 All general meetings of the ICAV shall be held in Ireland.
- 17.2 Subject to Clauses 17.3 and 17.5, the ICAV shall in each year hold a general meeting as its annual general meeting in addition to any other meetings, where general or otherwise, it may hold in that year.
- 17.3 If the ICAV holds its first annual general meeting within 18 months after the date on which the registration order made by the Central Bank in respect of the ICAV comes into operation, the ICAV shall not be required to hold any other meeting as its annual general meeting in the year of its registration or in the following year.
- 17.4 Subject to Clauses 17.3 and 17.5, not more than 15 months may elapse between the date of one annual general meeting of the ICAV and the date of the next.
- 17.5 The Directors of the ICAV may elect to dispense with the holding of an annual general meeting by giving 60 days' written notice to all of the ICAV's Members. Any election made hereunder shall have effect for the year in which it is made and subsequent years, but does not affect any liability already incurred by reason of default in holding an annual general meeting. However, where an election made hereunder has effect for a year, (i) one or more Members of the ICAV holding, or together holding, not less than 10 per cent of the voting rights in the ICAV or (ii) the Auditors may require the ICAV to hold an annual general meeting in that year by giving notice in writing to the ICAV in the previous year or at least one month before the end of that year and the ICAV shall hold the required meeting.
- 17.6 All general meetings (other than annual general meetings) shall be called extraordinary general meetings.
- 17.7 The Directors may call an extraordinary general meeting whenever they think fit.
- 17.8 If at any time, there are not sufficient Directors capable of acting to form a quorum, any Director or Member of the ICAV may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.
- 17.9 One or more Members of the ICAV holding, or together holding, at any time not less than 50 per cent of the voting rights in the ICAV may convene an extraordinary general meeting of the ICAV.
- 17.10 The Directors of the ICAV shall, at the request of one or more Members holding, or together holding, at the date of the making of the request, not less than 10 per cent of the voting rights in the ICAV, proceed to convene an extraordinary general meeting of the ICAV. The request shall state the objects of the meeting and shall be signed by those making the request and deposited at the Office of the ICAV and may consist of several documents in like form each signed by one or more of those making the request. If the Directors do not within 21 days after the date of the deposit of the request proceed to convene a meeting to be held within 2 months after that date, those making the request, or any of them representing more than 50 per cent of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held more than 3 months after the date the request was first made. Any reasonable expenses incurred by those making the request by reason of the failure of the Directors duly to convene a meeting shall be repaid to those making the request by the ICAV and any sum so repaid shall be retained by the ICAV out of any sums due or to become due from the ICAV by way of fees or other remuneration in respect of their services to such of the Directors as were in default. In the case of a meeting at which a special resolution is to be proposed, the Directors shall be deemed not to have duly convened any such meeting if they do not give such due notice of it.
- 17.11 A meeting convened by Members under Clause 17.9 or Clause 17.10 shall be convened in the same manner as nearly as possible as that in which meetings of Members are to be convened by Directors.

## **18 NOTICE OF GENERAL MEETINGS**

- 18.1 Each annual general meeting and extraordinary general meeting (called for the passing of a Special Resolution or Ordinary Resolution) shall be called by not less than fourteen Clear Days' notice which, in each case, shall specify the place, the day and the hour of the meeting, and in the case of special business the general nature of such business (and in the case of an annual general meeting that the meeting is an annual general meeting) and shall be given in the manner hereinafter provided to such persons as are under the provisions of this Instrument or the conditions of issue of the shares held by them entitled to receive notices from the ICAV.
- 18.2 The Directors and the Auditors shall be entitled to receive notice of and attend and speak at any general meeting of the ICAV. The Directors may in their discretion consider requests from other parties.
- 18.3 In every notice calling a meeting of the ICAV, there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend and vote instead of him and that a proxy need not also be a Member.
- 18.4 The accidental omission to give notice to or the non-receipt of notice by any person entitled to receive notice shall not invalidate the proceedings at any general meeting nor shall it invalidate that person's entitlement to vote at the relevant meeting.

## **19 PROCEEDINGS AT GENERAL MEETINGS**

- 19.1 All business shall be deemed special that is transacted at an extraordinary general meeting, as shall all business that is transacted at an annual general meeting (with the exception of the consideration of the annual accounts prepared in accordance with the provisions of the Act and the reports of the Directors and Auditors thereon, the election and re-election of Directors, the appointment or re-appointment of the Auditors and the fixing of the remuneration of the Auditors).
- 19.2 No business shall be transacted at any general meeting unless a quorum is present. Subject to Clause 5.7, two Members present either in person or by proxy shall be a quorum for a general meeting of the ICAV, Fund(s) or Class(es) of Participating Shares unless the relevant Fund or Class has only one Member, in which case the quorum shall be one. A representative of a corporation authorised pursuant to Clause 20.12 of this Instrument and present at any meeting of the ICAV or at any meeting of a Fund or Class or Classes of Members shall be deemed to be a Member for the purpose of constituting a quorum.
- 19.3 If within half an hour after the time appointed for a meeting a quorum is not present, the meeting, if convened on the requisition of or by Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present shall be a quorum and in the case of a meeting of a Class convened to consider the variation of rights of Members in such Class the quorum shall be one Member holding shares of the Class in question or his proxy.
- 19.4 The chairperson, if one is appointed or, if he is absent, some other Director nominated by the Directors shall preside as chairperson at every general meeting of the ICAV, but if at any meeting neither the chairperson nor such other Director is present within fifteen minutes after the time appointed for holding the meeting, or if none of them be willing to act as chairperson, the Directors present shall choose some Director present to be chairperson, or if no Directors are present, or if all the Directors present decline to take the chair, the Members present shall choose some Member present to be chairperson.

- 19.5 The chairperson may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for fourteen days or more, ten Clear Days' notice at least specifying the place, the day and the hour of the adjourned meeting, shall be given as in the case of the original meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at the adjourned meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 19.6 At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless before or upon the declaration of the result of the show of hands a poll is demanded by (i) the chairperson or (ii) by at least two Members present in person or by proxy or (iii) any Member or Members present in person or by proxy representing at least one tenth of the shares in issue having the right to vote at the meeting. Unless a poll is so demanded, a declaration by the chairperson that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book containing the minutes of the proceedings of the ICAV shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 19.7 If a poll is duly demanded, it shall be taken in such manner and at such place as the chairperson may direct (including the use of ballot or voting papers or tickets) and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 19.8 The chairperson may, in the event of a poll, appoint scrutineers and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.
- 19.9 A poll demanded on the election of a chairperson and a poll demanded on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and place as the chairperson directs not being more than thirty days from the date of the meeting or adjourned meeting at which the poll was demanded.
- 19.10 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
- 19.11 A demand for a poll may be withdrawn and no notice need be given of a poll not taken immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case, at least 7 Clear Days' notice shall be given specifying the time and place at which the poll is to be taken.
- 19.12 A resolution in writing signed by all the Members of the ICAV, Fund or Class for the time being entitled to attend and vote on such resolution at a general meeting (or being bodies corporate by their duly appointed representatives) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the ICAV, Fund or Class duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more Members, and if described as an ordinary resolution or a special resolution shall be deemed to be an Ordinary Resolution or Special Resolution (as the case may be) within the meaning of this Instrument. A resolution passed in accordance with this Clause 19.12 may consist of several documents in like form each signed by or on behalf of one or more Members. In the case of a corporation a resolution in writing may be signed on its behalf by a director or the secretary thereof or by its duly appointed attorney or duly authorised representative.
- 19.13 Subject to the Central Bank's Requirements and the provisions of the Act, a resolution in writing that is described as being an Ordinary Resolution or a Special Resolution which is signed by such majority of

Members as approved by the Directors, permitted under the Act and disclosed in the Prospectus or relevant Supplement, who at that time, would have the right to attend and vote at a general meeting of the ICAV or relevant Fund or Class shall be as valid and effective for all purposes as if the Ordinary Resolution or Special Resolution, as the case may be, had been passed at a general meeting of the ICAV or relevant Fund or Class duly convened and held. A resolution passed in accordance with this Clause 19.13 may consist of several documents in like form each signed by or on behalf of one or more Members. In the case of a corporation a resolution in writing may be signed on its behalf by a director or the secretary thereof or by its duly appointed attorney or duly authorised representative.

19.14 The provisions of this Clause 19 and of Clauses 17, 18 and 19 shall, save to the extent expressly provided in this Instrument with respect to meetings of a Fund or Class, apply mutatis mutandis to separate meetings of each Fund or Class of Members and all references to Member(s) therein shall be read as references to the Shareholder(s) of the relevant Fund or Class of Participating Shares where the context so requires.

## **20 VOTES OF MEMBERS**

20.1 Each Class of Participating Shares may be issued with such voting rights or restrictions on voting rights as the Directors determine in their absolute discretion, including non-voting Classes. The voting rights attaching to Participating Shares shall be set out in the Prospectus or relevant Supplement. In circumstances where a Class of Participating Shares issues non-voting Participating Shares, the decision to invest in such Class shall rest solely with the relevant investor. The non-voting Participating Shares shall not carry any right to attend or vote at general meetings of the ICAV or any Fund or Class, however shall carry a right to be notified of any matter requiring Shareholder approval so that the holders of such non-voting Participating Shares shall be given reasonable notice of any proposed change to enable them to redeem their Participating Shares prior to the implementation of such change. In accordance with the requirements of the Central Bank, any Shareholder who holds non-voting Participating Shares shall, in accordance with Clause 12 of this Instrument, have the right to switch their holding to Participating Shares with voting rights without being subject to any fee or charge in respect of such exchange.

20.2 Subject to any rights or restrictions for the time being attached to any Class or Classes of shares in accordance with the requirements of the Central Bank, on a show of hands every Shareholder (with applicable voting rights) present in person or by proxy shall be entitled to one vote in respect of all Participating Shares held in the relevant Fund or Class as the case may be and a holder of Management Shares shall be entitled to one vote in respect of all Management Shares.

20.2.1 Subject to sub-paragraph (20.3.2) and save where otherwise specified in the relevant Supplement, on a poll every Shareholder (with applicable voting rights) present in person or by proxy shall be entitled to one vote in respect of each Participating Share held by him and a holder of Management Shares shall be entitled to one vote in respect of all Management Shares held by him.

20.2.2 On a poll of all the Shareholders in a Fund, where there is more than one class of Participating Shares in existence in that Fund, the voting rights of such Shareholders may be calculated based on such other calculation mechanism as determined by the Directors and disclosed in the Prospectus or relevant Supplement.

20.2.3 A Shareholder entitled to more than one vote need not cast all his votes, or cast all the votes he uses in the same way. In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

- 20.3 In the case of joint holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the shares.
- 20.4 A Member of unsound mind in respect of whom an order has been made by any court having appropriate jurisdiction, may vote whether on a show of hands or on a poll, by his committee, receiver, guardian or other person in the nature of a committee, receiver, guardian appointed by such court and such committee, receiver, guardian or other persons may on a poll vote by proxy, provided that such evidence as the Directors may require of the authority of the persons claiming to vote shall have been deposited at the Office or such other place as is specified in accordance with this Instrument not less than such minimum specified before the time appointed for holding the relevant meeting or adjourned meeting such other time as may be specified by the Directors from time to time) before the time for holding the meeting or adjourned meeting at which such person claims to vote.
- 20.5 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.
- 20.6 On a poll votes may be given either personally (to include by telephone and electronic means provided that there are reasonable procedures in place to verify that the instructions have been given by the relevant Member(s)) or by proxy. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or if the appointor is a corporation, either under its common seal or under the hand of an officer or attorney so authorised. An instrument of proxy shall be in any usual form or in such form as the Directors may approve PROVIDED ALWAYS that such form shall give the Member the choice of authorising his/her proxy to vote for or against each resolution.
- 20.7 Any person (whether a Member or not) may be appointed to act as a proxy. A Member may appoint more than one proxy to attend on the same occasion.
- 20.8 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority, shall be deposited at the Office or at such other place as is specified for that purpose in the notice of meeting or in the instrument of proxy issued by the ICAV or may be effected by communicating the instrument of proxy to the ICAV by electronic means not less than such minimum time specified before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid. The instrument appointing a proxy shall be valid in respect of any adjournment of the meeting as for the meeting to which it relates. Deposit of an instrument of proxy in respect of a meeting or adjourned meeting shall not preclude a Member from attending and voting at the meeting or at any adjournment thereof provided that such instrument of proxy so deposited shall then be declared null and void.
- 20.9 No instrument appointing a proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution, except at an adjourned meeting or on a poll demanded at a meeting or an adjourned meeting in cases where the meeting was originally held within twelve months from such date.
- 20.10 The Directors may at the expense of the ICAV send, by post or otherwise, to the Members instruments of proxy (with or without prepaid postage for their return) for use at any general meeting of the ICAV or at any meeting of any Fund or Class, either in blank or nominating in the alternative any one or more of the Directors or any other person(s). If for the purpose of any meeting invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the expense of the

ICAV, such invitations shall be issued to all (and not to some only) of the Members entitled to be sent a notice of the meeting and to vote thereafter by proxy.

- 20.11 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal or the revocation of the instrument of proxy, or revocation of the authority under which the instrument of proxy was executed, or the transfer of the shares in respect of which the instrument of proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the ICAV at the Office, at least one hour before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used.
- 20.12 Any body corporate which is a Member, may authorise by resolution of its directors or other governing body such person as it thinks fit to act as its representative at any meeting of the ICAV and the person so authorised shall be entitled to exercise the same powers on behalf of the body corporate which he represents as that body corporate could exercise if it were an individual Member and such body corporate shall for the purposes of this Instrument be deemed to be present in person at any such meeting if a person so authorised is present in person or by proxy thereat.

## **21 DIRECTORS**

- 21.1 The ICAV shall have at least two Directors..
- 21.2 A Director need not be a Member.
- 21.3 This Instrument contains no provisions requiring Directors to retire on attaining a particular age or to retire on rotation.
- 21.4 The provisions of the Act relating to restrictions on directors of an insolvent company or disqualifying persons from being appointed or acting as a director or other officer, statutory auditor, receiver or liquidator, or being in any way (directly or indirectly) concerned or taking part in the promotion, formation or management of a company shall apply to the ICAV.
- 21.5 A Director may vote and be counted in the quorum at a meeting to consider the appointment or the fixing or variation of the terms of appointment of any Director to any office or employment with the ICAV or any company in which the ICAV is interested, but a Director may not vote or be counted in the quorum on a resolution concerning his own appointment.
- 21.6 Subject to the requirements of the Act, the Directors of the ICAV for the time being are entitled to such remuneration as may be determined by the Directors and disclosed in the Prospectus issued by the ICAV from time to time. Any Director who is appointed as chairman or deputy chairman or who serves on any committee or who otherwise performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director may be paid such extra remuneration as the Directors may determine. The Directors may also be reimbursed all reasonable travel, hotel and other incidental expenses incurred in connection with the business of the ICAV or the discharge of their duties. The ICAV shall not make to any Director any payment by way of compensation for loss of office, or as consideration for or in connection with retirement from office, unless the following conditions are satisfied, (a) that particulars relating to the proposed payment (including its amount) are disclosed to Members, and (b) that the proposal is approved by Ordinary Resolution of the ICAV in a general meeting.
- 21.7 The Directors may in addition to such remuneration as is referred to in Clause 23.6 of this Instrument grant special remuneration to any Director who, being called upon, shall perform any special or extra services to or at the request of the ICAV.

21.8 Subject to the requirements of the Central Bank, any Director may at any time by instrument in writing under his hand and deposited at the Office, or delivered at a meeting of the Directors, appoint any Director or other person to be his alternate Director and may in like manner at any time terminate such appointment. Save as otherwise provided in this Instrument, an alternate Director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults.

21.9 The appointment of an alternate Director shall terminate if his appointor dies or ceases to be a Director or on the happening of any event with respect to the alternate Director which if he were a Director would cause him to vacate such office. However, if a Director retires by rotation or otherwise but is re-appointed or deemed to have been re-appointed at the meeting at which he retires, any appointment of an alternate Director made by him which was in force immediately prior to this retirement shall continue after his re-appointment.

21.10 An alternate Director shall be entitled to receive notices of meetings of the Directors and shall be entitled to attend and vote as a Director at any such meeting at which the Director appointing him is not personally present and generally to perform all functions and exercise all powers, rights and duties of his appointor as a Director (other than the right to appoint an alternate Director) and for the purposes of the proceedings at any meeting of the Directors the provisions of this Instrument shall apply as if he (instead of his appointor) were a Director. If he himself shall be a Director or attends a meeting as an alternate for more than one Director, his voting rights shall be cumulative, provided however, that he shall count as one for the purposes of determining a quorum. To such extent as the Directors may from time to time determine in relation to any committee of the Directors, the foregoing provisions of this paragraph shall also apply mutatis mutandis to any meeting of any such committee of which his appointor is a member.

21.11 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent mutatis mutandis as if he were a Director but he shall not be entitled to receive from the ICAV in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the ICAV from time to time direct.

21.12 The office of a Director shall be vacated in any of the following events namely:-

- 21.12.1 if he resigns his office by notice in writing signed by him and left at the Office;
- 21.12.2 if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
- 21.12.3 if, in the opinion of a majority of the Directors, he becomes of unsound mind;
- 21.12.4 if he is absent from meetings of the Directors for six successive months without leave expressed by a resolution of the Directors, and the Directors resolve that his office be vacated;
- 21.12.5 if he ceases to be a Director by virtue of, or becomes prohibited or restricted from being a Director by reason of, an order made under the provisions of any law or enactment;
- 21.12.6 if he is requested by a majority of the other Directors (not being less than two in number) to vacate office;
- 21.12.7 if he is removed from office by Ordinary Resolution of the ICAV in accordance with the provisions of the Act, as set out in Clause 21.13; or

21.12.8 if he ceases to be approved to act as a Director by the Central Bank.

21.13 The ICAV may by Ordinary Resolution of which extended notice has been given in accordance with the provisions of the Act remove a Director before the end of the Director's period of office despite anything in this Instrument or in any agreement between the ICAV and the Director and may, by Ordinary Resolution, appoint another Director in his stead, in accordance with the provisions of the Act. Nothing in this Clause 21 shall be taken as depriving a person removed hereunder of compensation or damages payable to him in respect of the termination of this appointment as Director or of any appointment terminating with that of the Director.

21.14 The Directors may, whether by standing resolution or otherwise, delegate all their powers to any duly authorised Officer or other person or committee subject to such terms and conditions as the Directors in their absolute discretion may resolve.

21.15 Subject to Central Bank Requirements, the Directors shall have power at any time and from time to time to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors.

21.16 The Members shall have the power at a general meeting of the ICAV to appoint any person to be a Director provided that a motion for the appointment of two or more persons as Directors of the ICAV by a single resolution shall not be made unless a resolution that it shall be so made has first been agreed to by the meeting without any vote being given against it.

21.17 To be eligible for appointment as a Director at a general meeting of the ICAV, a person must be recommended by the Directors or, not less than 21 days before the day appointed for the relevant meeting, a notice in writing shall be given to the ICAV of the intention of any Shareholder or Shareholders to propose any person other than a retiring Director for election to the office of Director and such notice shall be accompanied by notice in writing signed by the person to be proposed confirming his willingness to be appointed.

## **22 TRANSACTIONS WITH DIRECTORS**

22.1 A Director may hold any other office or place of profit under the ICAV (other than the office of Auditor) in conjunction with his office of Director on such terms as to tenure of office and otherwise as the Directors may determine.

22.2

22.2.1 No Director or intending Director shall be disqualified by his office from contracting with the ICAV either as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the ICAV in which any Director is in any way interested be liable to be avoided, nor shall any Director so contracting or being so interested be liable to account to the ICAV for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established, but the nature of his interest must be declared by him. It shall be the duty of a Director of the ICAV who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the ICAV to declare the nature of his or her interest at a meeting of the Directors of the ICAV.

22.2.2 This Clause does not apply in relation to an interest that cannot reasonably be regarded as likely to give rise to a conflict of interest. The declaration required by this Clause to be made by a Director shall (a) in the case of a proposed contract, be made at the meeting of the Directors at which the question of entering into the contract is first taken into consideration, or if the Director was not at the date of that meeting interested in the proposed contract, at

the next meeting of the Directors held after he or she became so interested, (b) in a case where the Director becomes interested in a contract after it is made, be made at the first meeting of the Directors held after the Director becomes so interested.

22.2.3 A general notice in writing given to the Directors by any Director to the effect that (a) he is a shareholder of any specified company or firm, and is to be regarded as interested in any contract which may thereafter be made with that company or firm or (b) he is to be regarded as interested in any contract which may after the date of the notice be made with a specified person who is connected with him or her (within the meaning of Part 4, Chapter 2 of the Act) shall (if such Director shall give the same at a meeting of the Directors or shall take reasonable steps to secure that the same is brought up and read at the next meeting of the Directors after it is given) be deemed a sufficient declaration of interest in relation to any contract or arrangement made. For the purpose of this Clause, an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his; and

22.2.4 A copy of every declaration made and notice given under this Clause shall be entered within three days after the date of making or giving thereof in a book kept for this purpose. Such book shall be open for inspection during normal business hours without charge by any Director, Secretary, Auditor or Shareholder at the registered office of the ICAV and shall be produced at every general meeting of the ICAV and at any meeting of the Directors if any Director so requests in sufficient time to enable the book to be available at the meeting.

22.3 Unless otherwise determined at a meeting of Directors of the ICAV, a Director shall be entitled to vote and be counted in the quorum in respect of any contract or proposed contract or arrangement required to be notified to the ICAV pursuant to Clause 22.2.1 of this Instrument.

22.4 In accordance with the provisions of the Act, a Director has a duty to disclose payments made where in connection with the transfer of Participating Shares in the ICAV payment is to be made to the Director by way of compensation for loss of office, or as consideration for or in connection with retirement from office.

22.5 Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employment with the ICAV or any company in which the ICAV is interested, such proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not otherwise debarred from voting) shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.

22.6 If any question shall arise at any meeting as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question shall be referred to the chairman of the meeting and his ruling in relation to any Director shall be final and conclusive except in a case where the nature or extent of the interests of the Director concerned has not been fairly disclosed.

22.7 For the purpose of this Clause, an interest of a person who is connected with a Director (i.e. within the meaning of Part 4, Chapter 2, of the Act) shall be treated as an interest of the Director and, in the case of an alternate Director, an interest of his appointor shall be treated as an interest of the alternate Director.

22.8 Any Director may act by himself or through his firm in a professional capacity for the ICAV, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director, provided that nothing herein contained shall authorise a Director or his firm to act as Auditor.

22.9 The Directors may from time to time appoint one or more of their body to be the holder of any executive office on such terms and for such period as they may determine and, without prejudice to the terms of any contract entered into in any particular case, may at any time revoke any such appointment.

22.10 The Directors may entrust to and confer upon any Director holding any executive office any of the powers exercisable by them as Directors upon such terms and conditions and with such restrictions as they think fit, and either collaterally with or to the exclusion of their own powers, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

22.11 Subject to Clause 22.2 of this Instrument, any Director may continue to be or become a director, managing director, manager or other officer or shareholder of any company in which the ICAV may be interested or associated in business, and no such Director shall be accountable for any remuneration or other benefits received by him as a director, managing director, manager, or other officer or shareholder of any such other company. The Directors may exercise the voting power conferred by the shares in any other company held or owned by the ICAV or exercisable by them as directors of such other company, in such manner in all respects as they think fit (including the exercise thereof in favour of any resolution appointing themselves or any of them directors, managing directors, managers or other officers of such company, or voting or providing for the payment of remuneration to the directors, managing directors, managers or other officers of such company).

22.12 In accordance with the provisions of the Act, the ICAV shall keep a register showing, in relation to each Director and Secretary of the ICAV, the number, description and amount of any shares of (a) the ICAV, or (b) any other body corporate which is the ICAV's subsidiary or holding company, or a subsidiary of the ICAV's holding company, which are held by, or in trust for, him or her, his or her spouse or any child of his or hers of which he or she has any right to become the holder (whether on payment or not). The register shall be kept at the same office as the register of Members is kept, and shall be open to inspection during normal business hours (subject to such reasonable restrictions as the Directors may determine and impose generally or in a general meeting so that not less than two hours in each day be allowed for inspection) by any Member of the ICAV. The register shall also be produced at the commencement of the ICAV's annual general meeting and shall remain open and accessible during the continuation of the meeting to any person attending the meeting.

22.13 The ICAV may by Ordinary Resolution suspend or relax the provisions of this Clause 22 to any extent or ratify any transaction not duly authorised by reason of a contravention of this Instrument.

## **23 POWERS AND DUTIES OF DIRECTORS**

23.1 The business of the ICAV shall be managed by the Directors, who may exercise all such powers of the ICAV as are not required by the Act or by this Instrument to be exercised by the ICAV in general meeting, subject, nevertheless to the provisions of the Act, and to such directions, being not inconsistent with this Instrument or the Act, as may be given by the ICAV in general meeting, provided that no such direction given by the ICAV in general meeting shall invalidate any prior act of the Directors which would have been valid if such direction had not been given. The general powers given by this Clause shall not be limited or restricted by any special authority or power given to the Directors by this or any other Clause.

23.2 All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable instruments drawn on the ICAV, and all receipts for moneys paid to the ICAV shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by such persons and in such manner as the Directors shall from time to time by resolution determine.

23.3 The Directors, from time to time and at any time by power of attorney under the Seal or otherwise, may appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the ICAV for such purposes and with such

powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Instrument) and for such period and subject to such conditions as they may think fit, including without limitation to execute deeds or do any other matter on their behalf whether inside or outside the State. Any such power of attorney may contain such provisions for the protection of persons dealing with any such attorney as the Directors may think fit, may contain indemnities in favour of such attorney and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him. Any deed signed by such attorney on behalf of the ICAV shall bind the ICAV and have the same effect as if it were under its common seal.

- 23.4 The Directors may delegate any of their powers or authorities or the exercise of discretion (not exceeding those vested in or exercisable by the Directors under this Instrument of Incorporation) to committees consisting of such members of their body as they think fit. Any such delegation may be made subject to any conditions that the Directors may impose and may be revoked. The meetings and proceedings of any such committee shall conform to the requirements as to quorum imposed under the provisions of Clause 27.3 and shall be governed by the provisions of this Instrument regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations imposed on them by the Directors.
- 23.5 Pursuant to the provisions of Clause 23.4, the Directors may delegate their powers relating to the declaration of dividends to a committee consisting of two or more Directors.
- 23.6 Subject as provided in this Clause, the Directors may exercise all the powers of the ICAV to invest all or any funds of the ICAV or the subscription proceeds of any Participating Shares in any securities and other assets authorised by Clause 16 of this Instrument.
- 23.7 A Director of the ICAV shall owe the principal fiduciary duties to the ICAV (and the ICAV alone) as set out in the Act.
- 23.8 If a Director of the ICAV considers in good faith that it is in the interests of the ICAV or relevant Fund for a transaction or engagement to be entered into and carried into effect, a Director may restrict his power to exercise an independent judgement in the future by agreeing to act in a particular way to achieve this.
- 23.9 The acts of a Director of the ICAV shall be valid despite any defect which may be discovered in the relevant Director's appointment or qualification.
- 23.10 The ICAV may appoint one or more persons, firms or corporations to act as a service provider to the ICAV or in respect of a Fund (a "**Service Provider**"), for such purposes and to perform such functions as the Directors in their discretion consider necessary or beneficial, upon such terms and conditions including the right to remuneration payable by the ICAV as the Directors may from time to time determine. The appointment of a Service Provider shall be made in accordance with any applicable requirements of the Central Bank.
- 23.11 The Directors, on behalf of the ICAV, may in accordance with the provisions of the Regulations, form one or more wholly-owned subsidiary or subsidiaries of the ICAV for the benefit of the ICAV as a whole or one or more Funds, the investments, assets and shares of which will be held by the Depositary or its nominee or otherwise in accordance with the Central Bank Requirements. The ICAV shall have the power to capitalise any such subsidiary in any manner as the Directors may from time to time consider appropriate, including by way of share capital, loan or otherwise.

## **24 DELEGATION BY THE DIRECTORS**

- 24.1 Subject to Central Bank Requirements, the Directors may, whether by standing resolution, power of attorney or otherwise, delegate all or part of their powers, authorities or discretions for such period and

subject to such conditions as they may think fit to the Manager (if any) or any duly authorised company, firm or other person and subject to the Act and Central Bank Requirements, may also authorise the Manager (if any) or any such company, firm or person to delegate all or any of the powers, authorities and discretions so delegated. The terms of any such delegation or appointment may contain certain indemnities in favour of the relevant delegate or appointee as the Directors may think fit.

24.2 Without prejudice to the generality of the foregoing, the ICAV may, with the prior approval of the Central Bank, appoint a person, firm or corporation to act as Manager of the ICAV's affairs upon such terms and conditions, including the right to remuneration payable by the ICAV and with such powers, entitlement to indemnities and such restrictions as it (with the agreement of the Manager) thinks fit. A Manager appointed by the ICAV shall be approved by the Central Bank and the terms of any Management Agreement shall be in accordance with Central Bank Requirements. The terms of appointment of any Manager may authorise such Manager to appoint (with the powers of sub-delegation) agents or delegates at the expense of the ICAV or otherwise as determined by the ICAV and the Manager. The maximum fee that may be charged by the Manager and the maximum fee payable to any Investment Manager where such fee is discharged out of the assets of the ICAV (as detailed in the Prospectus or relevant Supplement and which for the avoidance of doubt shall include any performance related fee payable to the Manager or any Investment Manager) shall not be increased without approval of the Shareholders of the relevant Fund or Class on the basis of (i) an Ordinary Resolution passed at a general meeting of the relevant Fund or Class or (ii) by way of a written resolution signed in accordance with Clause 19.13 of this Instrument. The ICAV shall provide Shareholders with reasonable notice in the event of an increase of the maximum fee payable to the Manager to enable a Shareholder to redeem some or all of their Participating Shares prior to the implementation of the proposed increase.

Where the CBI UCITS Regulations or the Central Bank impose an obligation on the "responsible person" with respect to any matter contained herein, the Directors shall, subject to any limitations thereon as determined by the Directors, be deemed to have authorised any Manager appointed by the ICAV to exercise such powers on their behalf.

24.3 Subject to the terms of the Management Agreement, either party to the Management Agreement may terminate the Management Agreement upon providing the relevant notice and in such circumstances as set out in the Management Agreement. In the event of the Manager desiring to retire or the ICAV desiring to remove the Manager from office and the Directors determining to appoint a Manager in lieu of the Manager retiring or being replaced, the Directors of the ICAV shall use their reasonable endeavours to find a person, firm or corporation willing to act as Manager and subject to the prior approval of the Central Bank, the Directors shall appoint such person, firm or corporation to be Manager in place of the former Manager. Any such replacement of the Manager will be carried out in such a manner that ensures the protection of Shareholders.

The Manager may not retire or be removed from office until (i) the Directors shall have found a corporation willing to act as Manager and such corporation shall have been appointed Manager in place of the former Manager or (ii) the Directors shall have determined to seek authorisation from the Central Bank as a self managed ICAV pursuant to the UCITS Regulations and such authorisation has been obtained.

The Manager may also be replaced by the Central Bank in accordance with the provisions of the Regulations.

24.4 The ICAV, or in the event of the appointment of a Manager by the ICAV, the Manager may appoint

- 24.4.1 one or more persons, firms or corporations to act as Investment Manager for the purpose of managing the investment and reinvestment of the Investments of the ICAV attributable to one or more Funds on a discretionary basis;
- 24.4.2 One or more persons, firms or corporations to act as Investment Advisor to the ICAV in respect of one or more Funds;
- 24.4.3 a person, firm or corporation to act as Administrator of the ICAV (or any Fund thereof) for the purpose of administering the affairs of the ICAV; or
- 24.4.4 a person, firm or corporation to act as Distributor for the purposes of marketing and distributing Participating Shares of the ICAV

and, in each case, to perform such other duties upon such terms and conditions including without limitation the right to remuneration, reimbursement of expenses and indemnification and such powers of delegation as may be agreed between the parties from time to time.

The appointment of any Administrator, Investment Manager, Investment Advisor or Distributor to the ICAV or any Fund thereof shall be effected in accordance with any applicable requirements of the Central Bank.

## **25 APPOINTMENT OF DEPOSITORY**

- 25.1 Subject to the prior approval of the Central Bank, the ICAV shall appoint a Depositary to be responsible for the safe-keeping of all the Investments of the ICAV and to perform each of its other duties set down in the Regulations and such other duties upon such terms and conditions (including without limitation the right to remuneration payable by the ICAV, reimbursement of expenses and indemnifications) as the Directors may from time to time (with the agreement of the said Depositary) determine.
- 25.2 The Depositary shall be a company approved for the purpose by the Central Bank and the terms of any Depositary Agreement shall be in accordance with the requirements of the Central Bank.
- 25.3 In consideration for its services as a depositary, the Depositary shall be entitled to be paid by or on behalf of the ICAV out of the property of the ICAV such fees as are agreed in writing in the Depositary Agreement and all reasonable expenses and disbursements incurred by the Depositary in the performance of its duties and all other fees or charges expressly authorised by the Depositary Agreement.
- 25.4 The terms of appointment of any Depositary may authorise such Depositary to appoint (with powers of sub-delegation) sub-depositaries, nominees, agents or delegates at the expense of the ICAV or otherwise as determined by the Depositary and the ICAV to perform, in accordance with Central Bank Requirements, certain of its duties under the Depositary Agreement.
- 25.5 In the event of the Depositary desiring to retire or the ICAV desiring to remove the Depositary from office, the Directors shall use their reasonable endeavours to find a corporation willing to act as depositary and subject to the prior approval of the Central Bank the Directors shall appoint such corporation to be Depositary in place of the former Depositary. The Depositary may not retire or be removed from office until the Directors shall have found a corporation willing to act as Depositary and such corporation shall have been approved to act as Depositary by the Central Bank and appointed Depositary in place of the former Depositary. Any such replacement of the Depositary shall be carried out in such a manner that ensures the protection of Shareholders.
- 25.6 If, despite attempts by the Directors to appoint a new Depositary, within a period of twelve months or such other period as agreed under the terms of the Depositary Agreement from the date on which (a)

the Depositary notifies the ICAV of its desire to retire in accordance with the terms of the Depositary Agreement and has not withdrawn notice of its intention to so retire; (b) the appointment of the Depositary is terminated by the ICAV in accordance with the terms of the Depositary Agreement; or (c) the Depositary ceases to be approved by the Central Bank to act as depositary, no new Depositary has been appointed, the Directors shall instruct the secretary of the ICAV to convene an extraordinary general meeting of the ICAV at which there shall be proposed an Ordinary Resolution to wind up the ICAV in accordance with the provisions of the Act relating to a winding-up on the occurrence of an event. Notwithstanding anything set out above, the Depositary's appointment shall only terminate on revocation of the ICAV's authorisation by the Central Bank.

25.7 The Depositary may also be replaced by the Central Bank in accordance with the provisions of the Regulations.

## **26 BORROWING POWERS**

26.1 Subject to any limits imposed by the UCITS Regulations or the CBI UCITS Regulations and any derogations therefrom permitted by the Central Bank from time to time and any limits or conditions set forth in the Prospectus, the Directors may exercise all powers of the ICAV to borrow money or securities and to transfer, mortgage or charge or pledge or transfer its undertaking, property and assets, or any part thereof and to issue secured and unsecured debentures.

## **27 PROCEEDINGS OF DIRECTORS**

27.1 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. The Directors may all meet together, or in part or form a committee to carry out any of their powers (subject to having a minimum quorum). Questions arising at any meeting shall be determined by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors. All Directors shall be entitled to reasonable notice of any meeting of the Directors. Notice of a meeting of the Directors shall be deemed to be duly given to a Director if it is given to him personally or sent in writing by delivery, post, electronic email, telefax or any other means of communications approved by the Directors. Any Director may waive notice of any meeting and any such waiver may be retrospective.

27.2 Subject as hereinafter provided, each Director present and voting shall have one vote and in addition to his own vote shall be entitled to one vote in respect of each other Director not present at the meeting who shall have authorised him in respect of such meeting to vote for such other Director in his absence. Any such authority may relate generally to all meetings of the Directors or to any specified meeting or meetings and must be in writing and may be sent by delivery, post, telefax, electronic mail or any other means of communication approved by the Directors and may bear a printed or facsimile signature of the Director giving that authority. The authority must be delivered to the Secretary for filing prior to or must be produced at the first meeting at which a vote is to be cast pursuant thereto provided that no Director shall be entitled to any vote at a meeting on behalf of another Director pursuant to this paragraph if the other Director shall have appointed an alternate Director and that alternate Director is present at the meeting at which the Director proposes to vote pursuant to this paragraph.

27.3 The quorum necessary for the transaction of business of the Directors may be fixed by the Directors, and unless so fixed at any other number shall be two.

27.4 The Directors may from time to time elect and remove a chairman and, if they think fit, a deputy chairman and determine the period for which they respectively are to hold office. The chairman or, failing him, the deputy chairman shall preside at all meetings of the Directors, but if there is no chairman or deputy chairman, or if at any meeting the chairman or deputy chairman is not present within five

minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman of the meeting.

- 27.5 Any Director or alternate Director may participate in a meeting of the Directors or any committee of the Directors by means of conference telephone or other telecommunications equipment (whether in use when this Instrument of Incorporation is adopted or developed subsequently) by means of which all persons participating in the meeting can hear each other speak and such participation in a meeting shall constitute presence in person at the meeting and shall be counted for the purposes of determining whether a quorum is present at the meeting.
- 27.6 A resolution in writing (in electronic form or otherwise) signed by all the Directors (whether by Electronic Signature, Advanced Electronic Signature or otherwise approved by the Directors) for the time being entitled to receive notice of a meeting of the Directors or of a committee established by the Directors and to vote thereat shall be as valid and effectual as a resolution passed at a meeting of the Directors or a committee of Directors (as the case may be) duly convened and held and may consist of several documents in the like form each signed by one or more of the Directors, and for the purposes of the foregoing signature by any alternate Director shall be as effective as the signature of the Director by whom he is appointed and for all purposes, shall take effect from the date that it is signed by the last Director.
- 27.7 A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all powers, authorities and discretions for the time being exercisable by the Directors.
- 27.8 All acts done by any meeting of Directors, or of a committee of Directors or by any person acting as a Director shall, notwithstanding it be afterwards discovered that there was some defect in the appointment of any such Directors or person acting as aforesaid, or that they or any of them were disqualified, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed, and was qualified and had continued to be a Director and had been entitled to vote.
- 27.9 The Directors shall cause minutes to be made of:-
  - 27.9.1 all appointments of officers and committees made by the Directors;
  - 27.9.2 the names of the Directors present at each meeting of the Directors and of any committee of Directors; and
  - 27.9.3 all resolutions and proceedings of all meetings of the ICAV (including any meetings of Shareholders of any Fund or Class) and of the Directors and of committees of Directors.
- 27.10 Any such minutes as are referred to in Clause 27.9 of this Instrument, if purporting to be signed by the chairman of the meeting at which the proceedings took place, or by the chairman of the next succeeding meeting, shall, until the contrary be proved, be conclusive evidence of their proceedings.
- 27.11 Where minutes have been made of the proceedings at any general meeting of the ICAV (or any general meeting of a Fund or Class of Participating Shares) or meeting of directors or committee of directors then, until the contrary is shown, the meeting shall be deemed to have been duly held and convened, and all proceedings at the meeting to have been duly had, and all appointments of directors or liquidators shall be deemed to be valid.

## **28 SECRETARY**

28.1 The ICAV shall have a Secretary who shall be appointed by the Directors. Anything required or authorised to be done by or to the Secretary may, if the office is vacant or there is for any other reason no Secretary capable of acting, be done by or to any assistant or deputy Secretary or if there is no assistant or deputy Secretary capable of acting, by or to any officer of the ICAV authorised generally or specially in that behalf by the Directors PROVIDED THAT any provisions of this Instrument requiring or authorising anything to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of, the Secretary.

## **29 THE SEAL & AUTHORISED SIGNATORIES**

29.1 Where the ICAV provides itself with a Seal, the Directors shall provide for its safe custody. The Seal shall be used only by the authority of the Directors or of a committee of Directors authorised by the Directors in that behalf. Any document to which the Seal is affixed must be:

29.1.1 signed by a Director of it or by some other person appointed for the purpose by its Directors or by a foregoing committee of them; and

29.1.2 counter-signed by the Secretary of the ICAV or by a second Director or by some other person appointed for the purpose by its Directors or by a foregoing committee of them.

29.2 Where the ICAV does not provide itself with a Seal as permitted by the Act, or where the ICAV does have a Seal, any document shall have the same effect as executed under the Seal if it is expressed (in whatever form of words) to be executed by the ICAV by two authorised signatories (each of the following being, for this purpose, a Director, the Secretary, or such other persons as authorised by the Directors in accordance with this Instrument) or by a Director alone provided that such signature is attested by a witness.

29.3 The Directors may from time to time as they think fit appoint one or more persons as authorised signatories of the ICAV for the purposes of signing and/or executing documents and for such other purposes as are provided for in the resolution, power of attorney, authorised signatory list or other authorisation granted by the Directors.

## **30 DISTRIBUTIONS**

30.1 Subject to any policy statement in relation to dividends in the Prospectus or any Supplement with respect to any Fund or Class of Participating Shares, the Directors may declare and pay such dividends on any Class of Participating Shares in any Fund that appear to the Directors to be justified. The Directors may in their absolute discretion differentiate between Participating Shares in different Classes within the same Fund as to the dividends declared on such Participating Shares. The distribution policy for each Class of Participating Shares will be specified in the relevant Supplement.

30.2 Holders of Management Shares shall not be entitled to receive any dividend in respect of such Management Shares.

30.3 Participating Shares of any Class may, at the discretion of the Directors, be issued on the basis that no dividends will be declared in respect of those Participating Shares and that any income and profits available for distribution will form part of the assets of the relevant Fund and will be applied when calculating the Net Asset Value of the relevant Class as part of the proportion of the relevant Fund which is attributable to the Shareholders of the relevant Class.

30.4 Participating Shares of any Class may, at the discretion of the Directors, be issued on the basis that any dividends declared in respect of such Participating Shares will automatically be reinvested and form

part of the assets of the relevant Fund and will be applied when calculating the Net Asset Value of the relevant Class as part of the proportion of the relevant Fund which is attributable to the Shareholders in the relevant Class.

30.5 Subject to Clause 30.5.2 of this Instrument, where provided for in the relevant Supplement, the Directors may determine that Shareholders will be entitled to receive in lieu of any cash dividend (or part thereof) in respect of any Participating Shares in any Fund or Class an issue of additional Participating Shares in proportion to the number of Participating Shares held by them in the relevant Fund or Class credited as fully paid and in any such case the following provisions shall apply:-

30.5.1 the number of additional Participating Shares (including any fractional entitlement) to be issued in lieu of any amount of dividend shall be as nearly as possible equal in value to but not in excess of the amount of such dividend at the date of issue of such additional Participating Shares;

30.5.2 for such purpose the Directors shall capitalise a sum equal to the aggregate value of dividends in respect of which additional Participating Shares are proposed to be issued and apply the same in paying up in full the appropriate number of additional Participating Shares for issue to the relevant Shareholders credited as fully paid up;

30.5.3 the additional Participating Shares so issued shall rank pari passu in all respects with the fully-paid Participating Shares then in issue save only as regards participation in the relevant dividend (or share election in lieu);

30.5.4 the Directors may do all acts and things considered necessary or expedient to give effect to any such capitalisation, with full power to the Directors to make such provision as they may think fit in the case of Participating Shares becoming distributable in fractions so that fractional entitlements are disregarded or rounded up or the benefit of fractional entitlements accrues to the ICAV or the ICAV issues fractions of Participating Shares; and

30.5.5 the Directors may on any occasion and at their discretion determine that Participating Shares in lieu of dividends shall not be issued to a Shareholder who has failed to supply any information, documentation or declarations required by the Directors within the timeframe specified by the Directors or a Shareholder with a registered address in any territory in which, in the absence of a registration statement or other special formalities, the issue of additional Participating Shares would or might be unlawful and in such event the provisions aforesaid shall be read and construed subject to such determination.

30.5.6

(a) An applicant for, or transferee of, Participating Shares may elect by service of notice in writing on the ICAV, at the time of application for or other acquisition of Participating Shares, to receive cash in lieu of additional Participating Shares in satisfaction of the whole of any dividends that may be payable on all Participating Shares of the particular Fund or Class which may thereafter be registered in his name and may on the giving of one month's notice in writing to the ICAV or such lesser period as the Directors may determine revoke any election so made with respect to dividends declared after the expiration of such notice period.

(b) An election made pursuant to this sub-Clause (b) shall be personal to the Shareholder concerned in his capacity as a holder and, in respect of any Participating Shares transferred, shall automatically cease to have effect upon registration of the transfer or transmission of the relevant Participating Shares but shall continue in effect in respect of Participating Shares retained.

30.6 At the request of any Shareholder in a particular Fund or Class, the Directors may apply all dividends declared on all Participating Shares held by such Shareholder in the issue to that Shareholder of such number of additional Participating Shares in the relevant Class at the Net Asset Value per Share calculated in respect of the relevant Dealing Day on which the dividends are declared as are as nearly as possible equal in value to but not in excess of the amount of such dividends at the date of issue of such additional Participating Shares and otherwise on such terms as the Directors from time to time may resolve provided however that such Shareholder shall be entitled to revoke such request with respect to all Participating Shares in the relevant Fund or Class held by him and instead receive a cash dividend in respect of such Participating Shares.

30.7 Subject to Clause 30.1, the amount available for distribution in respect of any Distribution Period shall be:

- 30.7.1 the net income received by the ICAV in respect of Investments of the relevant Fund during the Distribution Period (being income in the form of dividends, interest or otherwise received during the Distribution Period); and/or
- 30.7.2 realised gains net of realized and unrealized losses; or
- 30.7.3 realized and unrealized gains net of realized and unrealized losses and/or;
- 30.7.4 subject to Central Bank Requirements, the capital of the relevant Fund attributable to the relevant Class of Participating Shares.

subject to such adjustments as may be appropriate under the following headings:-

- (a) addition or deduction of a sum by way of adjustment to allow for the effect of sales or purchases, cum or ex-dividend;
- (b) addition of a sum representing any interest or dividend or other income accrued but not received by the ICAV in respect of the relevant Fund or Class at the end of the Distribution Period and deduction of a sum representing (to the extent that an adjustment by way of addition has been made in respect of any previous Distribution Period) interest or dividends or other income accrued at the end of the previous Distribution Period;
- (c) addition of the amount (if any) available for distribution in respect of the last preceding Distribution Period but not distributed in respect thereof;
- (d) addition of a sum representing the estimated or actual repayment of tax resulting from any claims in respect of corporation tax relief or double taxation relief or otherwise;
- (e) deduction of the amount of any tax or other estimated or actual liability properly payable out of the income or gains of the ICAV in respect of the relevant Fund or Class;
- (f) deduction of a sum representing participation in income paid upon the cancellation of Participating Shares during the Distribution Period;
- (g) deduction of such sum as the Directors may think appropriate including but not limited to the Organisational Expenses, Duties and Charges or other expenses to the extent that such sum has not already been, nor will be deducted pursuant to Clause 3.4 of this Instrument; and/or

(h) such other adjustment(s) as determined by the Directors from time to time

- 30.8 The Directors may, subject to and in accordance with any applicable Central Bank Requirements, satisfy any dividend due to Shareholders in whole or in part by distributing to them in specie any of the assets of the relevant Fund, including without limitation any requirement imposed by the Central Bank to sell any such assets proposed to be distributed in specie where so requested by the relevant Shareholder.
- 30.9 All Participating Shares, unless otherwise determined by the Directors or issued on terms providing that they shall rank for dividend as and from or after a particular date or to a particular extent, shall rank for dividend as from the beginning of the Distribution Period in which they are issued.
- 30.10 Any resolution of the Directors declaring a dividend on any Participating Shares may specify that the same shall be payable to the persons registered as Shareholders of such Participating Shares at the close of business on a particular date, notwithstanding that it may be a date prior to that on which the resolution is passed, and thereupon the dividend shall be payable to them in accordance with their respective holdings so registered, but without prejudice to the rights *inter se* of transferors and transferees of such Participating Shares in respect of such dividend.
- 30.11 The ICAV may transmit any dividend or other amount payable in respect of any Participating Share at the risk and cost of the relevant Shareholder by wire or electronic transfer to a designated account or in the case of joint holders, to the designated account of that Shareholder who appears first on the Register. If so requested, the ICAV may transmit any such dividend or other amount payable in respect of any Participating Share by cheque sent by ordinary post to the registered address of the holder, or in the case of joint holders, to the person whose name and address appears first on the Register. Transmission by wire or electronic transfer or payment of every such cheque shall constitute a good discharge to the ICAV and the ICAV shall not be responsible for any loss arising in respect of such payment or transmission. Any dividend payable on or in respect of a Participating Share shall be expressed and paid in the currency in which the relevant Class is designated or in such other currency as the Directors may determine either generally or in relation to a particular Class. In circumstances where a Shareholder has failed to provide documentation or information required to allow the ICAV to comply with its obligations under applicable anti-money laundering or counter-terrorist financing legislation or guidance, such dividend proceeds shall not be released to the relevant Shareholder and shall be held as determined by the Directors in accordance with any Central Bank Requirements.
- 30.12 No dividend or other amount payable to any Shareholder shall bear interest against the ICAV. Subject to Clause 37.6 and any applicable Central Bank Requirements, any dividend unclaimed after 6 years (or such shorter period as may be agreed by the Shareholder) from the date when it first became payable shall be forfeited without the necessity for any declaration or other action by the ICAV.
- 30.13
  - 30.13.1 Where the amount of any distribution payable to an individual Shareholder would be less than €100.00 (or its foreign currency equivalent) or such other amount as may be determined by the Directors, the Directors in their sole discretion may determine that such amount shall not be distributed but shall be retained and reinvested within and for the benefit of the relevant Fund or Class.
  - 30.13.2 Where the amount of any dividend payable to an individual Shareholder would be less than €100.00 (or its foreign equivalent) or such other amount as may be determined by the Directors, the Directors in their sole discretion may determine not to pay any such dividend and instead issue and credit to the account of the relevant Shareholder such number of Participating Shares in the relevant Fund or Class as are as nearly as possible equal in value

to but not in excess of the amount of such dividends. A sales charge shall not be deducted from such amount.

- 30.14 Before recommending any dividend, whether preferential or otherwise, the Directors may carry to reserve out of the profits of the relevant Fund such sums as they think proper. All sums standing to reserve may be applied from time to time in the discretion of the Directors for any purpose to which the profits of the relevant Fund may be properly applied and at the like discretion may be either employed in the business of the relevant Fund or invested in such Investments as the Directors may lawfully determine. The Directors may divide the reserve into such special funds as they think fit and may consolidate into one fund any special funds or any parts of any special funds into which the reserve may have been divided as they may lawfully determine. Any sum which the Directors may carry to reserve out of the unrealised profits of the relevant Fund shall not be mixed with any reserve to which profits available for distribution have been carried. The Directors may also carry forward, without placing the same to reserve, any profits which they may think it prudent not to divide.
- 30.15 If the ICAV is required to deduct, withhold or account for tax including any penalties and interest thereon upon the payment of a distribution to a Shareholder (whether in cash or otherwise), the provisions of Clause 11.10 of this Instrument shall apply mutatis mutandis as if repeated in full herein.
- 30.16 The Directors may, on advance written notice to affected Shareholders, change the dividend policy applicable to a Class of Participating Shares.

### **31 CAPITALISATION OF PROFITS AND RESERVES**

- 31.1 The Directors may determine that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the ICAV's reserve accounts (including capital reserves) or to the credit of the profit and loss account or which is otherwise available for distribution and not required for payment of dividend on any Participating Shares with a preferential right to dividend amongst the Shareholders who would have been entitled thereto if distributed by way of dividend and in the same proportion on condition that the same be not paid in cash but be applied either in or towards paying up in full unissued Participating Shares of the ICAV to be allotted and distributed credited as fully paid up to and amongst such Shareholders in the proportion aforesaid, or partly in one way and partly in the other, and the Directors shall give effect to such resolution.
- 31.2 The Directors may determine that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the ICAV's reserve accounts or to the credit of the profit and loss account which is not available for distribution by applying such sum in paying up in full unissued Participating Shares to be allotted as fully paid bonus Participating Shares to those Shareholders of the ICAV who would have been entitled to that sum if it were distributable and had been distributed by way of dividend (and in the same proportions) and the Directors shall give effect to such resolution.
- 31.3 The Directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby and all allotments and issues of fully paid Participating Shares, if any, and generally shall do all acts and things required to give effect thereto with full power to the Directors to make such provisions as they shall think fit for payment in cash or otherwise in the case of Participating Shares becoming distributable in fractions and to authorise any person to enter on behalf of all the Shareholders entitled thereto into an agreement with the ICAV providing for the allotment to them respectively, credited as fully paid up, of any further Participating Shares to which they may become entitled upon such capitalisation or (as the case may require) for the payment up by the ICAV on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing Participating Shares, and any agreement made under such authority shall be effective and binding on all such Shareholders.

## 32 EQUALISATION ACCOUNT

32.1 The Directors may from time to time at their discretion operate an equalisation account in respect of one or more Funds or Classes on such basis as may be determined by them and disclosed in the Prospectus. In such circumstances, subject to the terms of the Prospectus, a portion of the Subscription Price estimated by the Directors as attributable to accrued income up to the date of subscription may be paid into such equalisation account (an "**Equalisation Payment**") and the dividend declared in respect of the Distribution Period in which an Equalisation Payment was made to the equalisation account may be deemed to include a payment of capital typically equal to the amount of the equalisation payment. Where disclosed in the Prospectus, the Redemption Price of a Participating Share may also include an Equalisation Payment in respect of accrued income attributable to the relevant Class up to the Dealing Day on which the relevant Participating Shares are redeemed.

## 33 ACCOUNTS

33.1 The Directors shall keep or cause to be kept adequate accounting records in accordance with the requirements of the Act and so as to enable the accounts of the ICAV to be prepared.

33.2 The accounting records shall be kept at the Office, or at such other place or places as the Directors shall think fit. If accounting records are kept at a place outside the State, there shall be sent to and kept at a place in the State and be at all reasonable times open to inspection by the Directors such information and returns relating to the business dealt with in the accounting records so kept as will:-

- 33.2.1 disclose with reasonable accuracy the financial position of that business at intervals not exceeding 6 months, and
- 33.2.2 enable to be prepared, in accordance with the Act, the ICAV's balance sheet, its profit and loss account or income and expenditure account and any other document containing information which is required by the Act.

33.3 The accounting records and any information and returns containing information required pursuant to the Act, shall be kept by the ICAV for a period of at least 6 years after the latest date to which they relate. The accounting records of the ICAV shall at all reasonable times be open to the inspection of the Directors and officers of the ICAV and the Auditors.

33.4 The Directors of the ICAV shall prepare accounts for each financial year as at each Accounting Date. The accounts shall include the following:

- 33.4.1 a balance sheet or statement of the assets and liabilities attributable to the ICAV;
- 33.4.2 a detailed income and expenditure account for the financial year; and
- 33.4.3 such other information provided for in the Act.

The annual accounts shall give a true and fair view of the assets, liabilities and financial position of the ICAV at the end of the financial year and of the profit or loss of the ICAV for the financial year. The annual accounts shall be prepared in accordance with Central Bank Requirements and shall also contain such information as required by Central Bank Requirements.

33.5 The annual accounts of the ICAV shall, in accordance with the provisions of the Act, contain, so far as the information is contained in the ICAV's accounting records or the ICAV has the right to obtain it from the persons concerned –

- 33.5.1 the aggregate amount of the Directors' emoluments,

- 33.5.2 the aggregate amount of Directors', or former directors', pensions, and
- 33.5.3 the aggregate amount of any compensation to Directors or former directors in respect of loss of office.

33.6 The annual accounts may be prepared in accordance with generally accepted accounting practice in the State, international financial reporting standards, or an alternative body of accounting standards.

33.7 The accounts of the ICAV shall for each financial year include a report from the Directors dealing, so far as is material for the appreciation of the state of the ICAV's affairs (and, if it has subsidiaries, of the affairs of the ICAV and its subsidiaries as a group), with:-

- 33.7.1 any change during the financial year in the nature of the business of the ICAV or of the ICAV's subsidiaries in the classes of business in which the ICAV has an interest whether as a member of another ICAV or a company or otherwise, and
- 33.7.2 the amount, if any, which they recommend should be paid by way of dividend and the amount, if any, which they propose to carry to reserves.

The Directors' report shall be approved by the Board of Directors and signed on behalf of the ICAV by any two Directors.

The Directors' report shall contain the information prescribed in accordance with the Act.

33.8 The Directors shall arrange to have the Auditor to (i) audit the annual accounts prepared in accordance with Clause 33.4 and (ii) make a report on the audit to the Members of the ICAV as of the Accounting Date in each year. A copy of the Auditor's report shall be attached to the annual accounts and Director's report for the financial year to which the report relates. The Auditors' report shall state clearly the statutory auditors' opinion as to (a) whether the annual accounts give a true and fair view of (i) in the case of a balance sheet, of the assets, liabilities and financial position of the ICAV at the end of the financial year, (ii) in the case of a profit and loss account, of the profit or loss of the ICAV for the financial year, and (b) whether the annual accounts have been properly prepared in accordance with the relevant financial reporting framework.. In preparing the Auditors' report, the Auditor shall (a) consider whether the information given in the Directors' report relating to the financial year is consistent with the accounts prepared by the ICAV for that year; and (b) state in the report whether, in the Auditor's opinion that information is, or is not, consistent with those accounts.

33.9 Copies of the said annual accounts shall be made available by the ICAV to all Members in the manner specified in the Prospectus not later than four months after the end of the period to which they relate.

33.10 Separate accounts may be prepared and presented in respect of a Fund or Funds which may have different Accounting Dates and all references in this Clause 33 to the ICAV be read as, where appropriate, referring to the Fund or Funds in respect of which the separate accounts are to be prepared.

33.11 The Directors of the ICAV shall prepare or cause to be prepared unaudited half-yearly reports covering the first six months of the financial year which shall contain such information as required pursuant to Central Bank Requirements. Copies of the said unaudited half-yearly accounts shall be made available to all Members not later than two months from the end of the period to which they relate.

#### **34 AUDITORS**

34.1 The ICAV shall at each annual general meeting appoint an Auditor or Auditors to hold office until the conclusion of the next annual general meeting.

34.2 The first Auditors shall be appointed by the Directors before the first general meeting, and they shall hold office until the conclusion of the first annual general meeting. Where no appointment is made by the Directors before the first general meeting, the first Auditors may be appointed in general meeting.

34.3 On the date on which the holding of an annual general meeting is dispensed with in accordance with the Act, any Auditor or Auditors appointed in accordance with Clause 34.2 cease to hold office and the Directors shall immediately reappoint the Auditor or Auditors or appoint a new auditor or auditors.

34.4 Where the ICAV has dispensed of the requirement to hold annual general meetings in accordance with Clause 17.5 the Directors shall appoint the Auditor or Auditors.

34.5 Where, in any case, no Auditors are appointed as required by Clause 34.4, the Central Bank may appoint a person to fill the vacancy.

34.6 The appointment, removal and resignation of Auditors and the determination of eligibility for appointment as Auditors to the ICAV shall be governed by the provisions of the Act.

34.7 The remuneration of the Auditors who are appointed by the ICAV in general meeting shall be approved by the ICAV in general meeting or in such manner as the ICAV in general meeting may determine.

34.8 The remuneration of the Auditors who are appointed by the Directors or the Central Bank shall be fixed by the Directors or the Central Bank (and be payable by the ICAV in the case where it is fixed by the Bank).

34.9 The Auditors shall at all times have the right of access to the ICAV's accounting records and shall be entitled to require from the Directors and officers of the ICAV such information and explanations as the Auditors consider necessary for the performance of their duties.

34.10 The Auditors shall be entitled to (i) receive all notices of, and other communications relating to, any general meeting which any Member is entitled to receive, (ii) to attend any general meeting of the ICAV and (iii) to be heard at any general meeting at which any business of the meeting concerns them as Auditors. The right of an Auditor to attend and be heard at a general meeting is exercisable in the case of a body corporate or partnership by an individual authorised by it in writing to act as its representative at the meeting.

## 35 NOTICES

35.1 Any notice or other document required to be served upon or sent to a Member or the first named of joint Members shall be deemed to have been duly given as follows:

MEANS OF DISPATCH	DEEMED RECEIVED
Delivery by Hand (Personally)	The day of delivery or next following working day if delivered outside usual business hours.
Post	24 hours after posting. In proving such service, it shall be sufficient to prove that the letter containing the notice or other document was properly addressed, stamped and posted.
By Courier	24 hours after sending

Subject to such Member's consent to electronic communications, by email or other electronic means	12 hours after sending
Subject to such Member's consent to the use of a website, by publication of an electronic record of it on a website and notification of such publication (which shall include the address of the website and the place of the website where the document may be found)	12 hours after it has been published.
Publication	The day of publication in a daily newspaper or other medium circulating in the country or countries where Participating Shares are marketed.
Via exchange	The day on which the announcement or publication is released by the relevant exchange.

35.2 Service of a notice or document on the first named of several joint Members shall be deemed effective service on himself and the other joint Members.

35.3 Any requirement in this Instrument of Incorporation for the consent of a Member with regard to electronic communications and the use of a website shall be deemed to have been satisfied where the Member subscribes for or holds shares in the ICAV as the Member is bound by this Instrument of Incorporation as if they had been signed by such Member. The Member may at any time revoke such consent by requesting the ICAV to communicate with that Member in documented form; provided however, that this requirement to communicate in documented form shall not take effect until 30 days after written notice of the requirement is received by the ICAV.

35.4 Any notice or document sent by post or courier to or left at the registered address of a Member or delivered via electronic mail to an email address provided by a Member in pursuance of this Instrument or via the use of a website shall notwithstanding that such Member be then dead or bankrupt and whether or not the ICAV or its delegate has notice of his death or bankruptcy be deemed to have been duly served, sent or delivered and such service shall be deemed a sufficient service on or receipt by all persons interested (whether jointly with or as claiming through or under him) in the shares concerned.

35.5 Any certificate or notice or other document which is sent in accordance with this Clause or dispatched by or on behalf of the ICAV, its delegate or the Depositary in accordance with the Member's instructions shall be so sent, left or dispatched at the risk of such Member.

35.6 Any notice in writing or other document in writing required to be served upon or sent to the ICAV shall be deemed to have been duly given if sent by post to the Office or left at the Office or in accordance with any procedures specified in the Prospectus with respect to service of notice to the ICAV in specific circumstances.

35.7 A Member present, either in person or by proxy, at any meeting of the ICAV or the Shareholders of any Fund or Class present, either in person or by proxy, at any meeting of the relevant Fund or Class, shall be deemed to have received notice of the meeting, and where requisite, of the purposes for which it was called.

## 36 CLOSURE OF FUNDS OR CLASSES

36.1 The Directors may, in their sole and absolute discretion, redeem at the Redemption Price on the relevant Dealing Day, all of the Participating Shares in any Fund or all Funds in issue in the following circumstances:

- 36.1.1 if at any time the Net Asset Value of the relevant Fund shall be less than the Minimum Fund Size (if any) determined by the Directors at their discretion in respect of that Fund;
- 36.1.2 the Shareholders resolve by Special Resolution that the relevant Fund be wound up;
- 36.1.3 if any Fund shall cease to be authorised or otherwise officially approved;
- 36.1.4 if any law shall be passed or regulatory requirement introduced which renders it illegal or in the opinion of the Directors impracticable or inadvisable or not commercially viable or excessively onerous from a compliance perspective to continue the relevant Fund;
- 36.1.5 if there is a change in material aspects of business or in the economic or political situation relating to a Fund which the Directors consider would have material adverse consequences on the investments of the Fund; or
- 36.1.6 if the Directors shall have resolved that it is impracticable or inadvisable for a Fund to continue to operate having regard to prevailing market conditions and the best interests of the Shareholders.

The Directors shall give notice of the proposed compulsory redemption to the holders of Participating Shares in the relevant Fund and by such notice, fix the date at which such compulsory redemption is to be effected, which date shall be for such period after the service of notice as the Directors shall at their discretion determine. Without prejudice to the generality of the foregoing, any notice given in relation to a proposed compulsory redemption to be effected under Clause 36.1.1 shall be for a period of at least two weeks.

Shares may be compulsorily redeemed by the ICAV on one or more Dealing Day(s) as may be determined by the Directors taking into account the best interests of all Shareholders in the relevant Fund in order to ensure the orderly liquidation of the assets held by the relevant Fund at the relevant Redemption Price calculated with respect to such Dealing Day(s).

36.2 Where a compulsory redemption of Participating Shares is to be effected in accordance with Clause 36.1, the Directors may instruct the Investment Manager on or before the relevant Dealing Day(s) on which any or all outstanding Participating Shares are to be redeemed under Clause 36.1 of this Instrument, to realise all of the Investments then comprised in the relevant Fund (which realisation shall be carried out and completed in such manner and within such period as the Directors think appropriate, acting in the best interests of all Shareholders of the relevant Fund).

36.3 The Directors may resolve in their absolute discretion to retain sufficient assets prior to effecting a total redemption of Participating Shares pursuant to Clause 36.1 to cover the costs associated with the subsequent termination or closure of the relevant Fund or the liquidation of the ICAV.

36.4 If all of the Participating Shares in a particular Fund are to be redeemed in accordance with Clause 36.1 for the purposes of closing the relevant Fund, the Directors may, in accordance with the requirements set down in Clause 11.9 of this Instrument, divide amongst the Shareholders or any individual Shareholder who so consents in specie all or part of the assets of the relevant Fund according to the Net Asset Value of the Participating Shares then held by each Shareholder in the relevant Fund in accordance with Clause 13 of this Instrument.

- 36.5 If any of the assets of a Fund are proposed to be transferred or sold to another company in contemplation of the liquidation of assets in connection with the closure or termination of a Fund effected in accordance with this Clause 36 (hereinafter called "the **Transferee**"), which for the avoidance of doubt may be any entity established by or on behalf of, and at the cost of, the relevant Fund, the ICAV may, in accordance with any applicable Central Bank Requirements and with the sanction of an Ordinary Resolution of the relevant Fund conferring either a general authority on the Directors or an authority in respect of any particular arrangement, arrange for the relevant Shareholders to receive in compensation or part compensation for such transfer or sale shares, units, claims, policies or other like interests or property ("**Interests**") in or of the Transferee or in lieu of receiving Interests or in addition thereto may participate in the profits of or receive any other benefit from the Transferee.
- 36.6 Without prejudice to Clause 30 of this Instrument, the Directors may, having taken a decision to close a Fund, distribute Investments held by the relevant Fund to Shareholders of that Fund in accordance with any applicable Central Bank Requirements prior to compulsorily redeeming all Participating Shares in issue in accordance with Clause 36.1 of this Instrument.
- 36.7 The decision of the Directors in any of the events specified herein shall be final and binding on all the parties concerned but the Directors shall be under no liability on account of any failure to close the relevant Fund pursuant to this Clause 36 or otherwise.
- 36.8 Where a decision has been taken by the Directors to close a Fund in accordance with Clause 36.1 of this Instrument and a Shareholder has failed to provide necessary documentation required by the ICAV to allow it to comply with its obligations under applicable law, the Directors may effect a compulsory redemption of such Shares in accordance with Clause 36.1 of this Instrument and pay the net proceeds of such compulsory redemption to such entity or person as the Directors may in their discretion determine provided always that any such action is consistent with any applicable Central Bank Requirements or any other applicable law. Any other unclaimed monies shall be paid to such entity or person as the Directors may in their discretion determine provided always that any such action is consistent with any applicable Central Bank Requirements.

Where any such residual monies represent a de-minimus amount as detailed in the Prospectus from time to time or where the cost of dispatching, transmitting, effecting or otherwise making such payments exceed such residual monies, these monies may be paid back into the relevant Fund prior to its closure or may be paid into and for the benefit of the ICAV as a whole or as otherwise determined by the Directors from time to time.

- 36.9 All references to "Fund" in this Clause 36 shall be deemed to refer equally to "Class of Participating Share" so that the Participating Shares of an individual Class may be compulsorily redeemed in full without any other Class in the same Fund or the Fund itself having to be closed and the provisions of this Clause shall apply so that all references to "Fund" shall be deemed to refer equally to "Class of Participating Share".

## **37 WINDING UP**

- 37.1 The Members may resolve to wind up the ICAV by Special Resolution in accordance with the summary approval procedure as provided for in the Act.
- 37.2 The assets available for distribution amongst the Members shall be applied as follows:
  - 37.2.1 Firstly, in the payment to the holders of the Participating Shares of each Class or Fund of a sum in the Base Currency (or in any other currency selected by the liquidator) in the proportion that the number of Participating Shares held by each Shareholder bears to the total number of Participating Shares in issue in the relevant Class or Fund at the date of the winding up.

- 37.2.2 Secondly, in the payment to the holders of Management Shares of sums up to the consideration paid therefor out of the assets of the ICAV not comprised within any Funds provided that if there are insufficient assets to enable such payment in full to be made, no recourse shall be had to the assets comprised in any of the Funds;
- 37.2.3 Thirdly in the payment to the holders of Participating Shares of each Class or Fund of any balance then remaining in the relevant Class or Fund, such payment being made in proportion to the number of Participating Shares of the relevant Class or Fund held; and
- 37.2.4 Fourthly, any balance then remaining and not attributable to any Fund or Class of Participating Shares shall be apportioned between the Funds and Classes of Participating Shares pro-rata to the Net Asset Value of each Fund or Class of Participating Shares immediately prior to any distribution to Shareholders and the amounts so apportioned shall be paid to Shareholders pro-rata to the number of Participating Shares in that Fund or Class held by them.

- 37.3 Subject to the provisions of the Act, in the event of the winding up of the ICAV, the liquidator shall apply the assets of the ICAV in such manner and order as he thinks fit in satisfaction of creditors' claims relating to the ICAV.
- 37.4 The liquidator may with the authority of an Ordinary Resolution of the ICAV or with the prior written approval of all Members of the ICAV, divide among the Members (pro rata to the value of their respective shareholdings in the ICAV) in specie the whole or any part of the assets of the ICAV, and whether or not the assets shall consist of property of a single kind provided that any Member shall be entitled to request the sale of any asset or assets proposed to be so distributed and the distribution to such Member of the cash proceeds of such sale. The costs of any such sale shall be borne by the relevant Member. The liquidator may, with the like authority, vest any part of the assets of the ICAV in trustees upon such trusts for the benefit of the Members as the liquidator shall think fit and the liquidation of the ICAV may be closed and the ICAV dissolved provided that no Member shall be compelled to accept any assets in respect of which there is a liability.
- 37.5 Notwithstanding any other provision contained in this Instrument, should the Directors at any time and in their absolute discretion resolve that it would be in the best interests of the Members to wind up the ICAV, then any such winding up shall be commenced in accordance with the summary approval procedure as provided for in the Act.
- 37.6 Any unclaimed dividends or unapplied balances in existence following the winding up of the ICAV shall be dealt with in accordance with Section 154(1) of the Act.
- 37.7 A Fund may be wound up as if the Fund were a separate ICAV in accordance with the provisions of this Clause 37 but, in any such case, the appointment of a liquidator or any provisional liquidator and the powers, rights, duties and responsibilities of the liquidator or any provisional liquidator shall be confined to the Fund or Funds which is or are being wound up. For such purposes, all references to the ICAV in this Clause 37 shall be read as referring to the Fund or Funds which are being wound up, all references to the Members shall be read as referring to the holders of Shares in the relevant Fund and all references to creditors shall be read as referring to creditors of the relevant Fund.

## **38 WINDFALL PAYMENTS**

- 38.1 In the event that a Fund receives a settlement, tax reclaim, class action award or other ad-hoc or windfall payment (each a "payment"), the payment shall, save where otherwise determined by the Directors, be deemed to be for the benefit of the relevant Fund as a whole at the date of receipt of such payment rather than for the benefit for any particular group of Shareholders.

38.2 In the event that a payment is received following the closure of a Fund, such payment shall, at the discretion of the Directors, be made to (i) the Shareholder(s) on the Register for the relevant Fund on the final Dealing Day on which Shares are redeemed, (ii) such other Shareholders as determined by or on behalf of the Directors from time to time or (iii) as otherwise determined by or on behalf of the Directors.

## **39 INDEMNITY AND INSURANCE**

39.1 Subject to the provisions of Section 190 of the Act, every person or body corporate who is or has been a Director or Secretary of the ICAV or any person or body corporate who is or has acted as auditor of the ICAV and such person's heirs, administrators and executors, shall be indemnified and secured harmless out of the assets and profits of the ICAV from and against all actions, costs, charges, losses, damages and expenses, which they or any of them, their or any of their heirs, administrators or executors shall or may incur or sustain by reason of any contract entered into or any act done, concurred in, or omitted in or about the execution of their duty or supposed duty in their respective offices and the amount for which such indemnity is provided shall immediately attach as a lien on the property of the ICAV. The ICAV may indemnify any Director, Secretary, or any auditor against any liability incurred by him in defending proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted. The rights of indemnification herein provided shall be severable, shall not affect any other rights to which any Director, Secretary or auditor may now or hereafter be entitled and shall have effect in so far as they are not avoided by section 190 of the Act. The ICAV may make advances of expenses or other amounts incurred in the defence of any claim, action, suit or proceedings against any person whom the ICAV is obliged to indemnify pursuant to this Clause 39.

39.2 In accordance with Section 190 of the Act, the Directors shall have the power to purchase and maintain for the benefit of any persons who are or were at any time Directors, Secretary or Auditors of the ICAV insurance against any liability incurred by such persons in respect of any act or omission in the execution or discharge of their duties or in the exercise of their powers, and the Directors shall be entitled to vote and be counted in the quorum in respect of any resolution concerning the purchase of such insurance. A Director for the purposes of this Clause shall include any alternate Director appointed by a Director from time to time in accordance with this Instrument.

39.3 Subject to the provisions of and insofar as may be permitted by Central Bank Requirements, the Manager (if any), the Administrator, the Depositary, any Investment Manager, any Distributor and any other service provider appointed in respect of the ICAV or any Fund and any directors, officers, managers, partners, members, shareholders, principals, employees or other agents and legal representatives of the foregoing or any counterparty or other person or entity shall be entitled to such indemnity from the ICAV out of the assets of the relevant Fund(s) upon such terms and subject to such conditions and exceptions and with such entitlement to have recourse to the assets of the ICAV with a view to meeting and discharging the cost thereof as determined by the Directors or any delegate so empowered by the Directors and detailed in the relevant agreement except in the case of the Depositary where no such indemnity shall extend to any matters arising from a breach of the minimum standard of liability applicable to the Depositary pursuant to the Regulations. The Directors may, upon such terms and conditions as they determine, grant any service provider appointed by the ICAV the power to grant an indemnity out of the assets of the ICAV or any Fund to any delegate of such service provider.

## **40 DESTRUCTION OF DOCUMENTS**

40.1 Subject and without prejudice to any applicable timeframes set down under the Central Bank Requirements, other applicable law or any contractual requirements to which the ICAV may be bound, the ICAV may destroy or otherwise dispose of any documents relating to the ICAV.

## **41 SCHEMES OF MERGER, RECONSTRUCTION AND/OR AMALGAMATION**

41.1 The Directors shall have the power to merge, reconstruct and amalgamate the ICAV or any Fund on such terms and conditions as set out in a scheme of merger, reconstruction and amalgamation approved by the Directors subject to the following conditions namely:

- 41.1.1 That, where so required pursuant to the Central Bank Requirements, the prior approval of the Central Bank has been obtained; and
- 41.1.2 that the Shareholders of the ICAV or of the relevant Fund have been circulated with particulars of the scheme in the form approved by the Directors and a Special Resolution of the Shareholders of the ICAV or of the relevant Fund has been passed approving the said scheme;

in which case the relevant scheme of merger, reconstruction and amalgamation shall take effect upon such conditions being satisfied or upon such later date as the scheme may provide whereupon the terms of such scheme shall be binding upon all the Shareholders who shall be bound to give effect thereto and the Directors shall do all such acts and things as may be necessary for the implementation thereof.

## **42 AMENDMENT OF THIS INSTRUMENT**

42.1 This Instrument shall not be amended other than in accordance with the requirements of the Central Bank and only when such amendment(s) have been approved by the Members or certified by the Depositary in accordance with the provisions of the Act.

## **43 GOVERNING LAW**

43.1 This Instrument and any non-contractual obligations arising out of or in connection with this Instrument shall be governed by and construed in accordance with the laws of Ireland.

## **44 OVERRIDING PROVISIONS**

44.1 In the event of there being any conflict between the provisions of this Instrument and the Act or Central Bank Requirements, the Act or Central Bank Requirements shall prevail. Notwithstanding any other provision of these presents, the Directors shall have the power to (i) avail of any derogation or waiver granted to the ICAV by the Central Bank from any of Central Bank Requirements as reflected herein or otherwise and (ii) avail of any other changes in Central Bank Requirements or applicable law which at the date of these presents is currently restricted or prohibited under Central Bank Requirements or applicable law which would permit the ICAV to avail of greater flexibility than currently afforded by these presents provided always that the exercise of such powers shall be in accordance with Central Bank Requirements and applicable law.

## **45 SEGREGATION OF LIABILITY**

45.1 Notwithstanding any statutory provision or rule of law to the contrary, any liability incurred on behalf of or attributable to any Fund shall be discharged solely out of the assets of that Fund, and no Director, receiver, examiner, liquidator, provisional liquidator or other person shall apply or be obliged to apply the assets of any such Fund in satisfaction of any liability incurred on behalf of or attributable to any other Fund.

45.2 The assets allocated to a Fund shall be applied solely in respect of the Participating Shares of such Fund and no Shareholder relating to such Fund shall have any claim or right to any asset allocated to any other Fund.

- 45.3 Any asset or sum recovered by the ICAV by any means whatsoever or wheresoever shall, after the deduction or payment of any costs of recovery, be applied to the Fund affected. In the event that assets attributable to a Fund are taken in execution of a liability not attributable to that Fund, and in so far as such assets or compensation in respect of this Instrument cannot otherwise be restored to that Fund, the Directors with the consent of the Depositary, shall certify or cause to be certified, the value of the assets lost to the Fund affected and transfer or pay from the assets of the Fund or Funds to which the liability was attributable, in priority to all other claims against such Fund or Funds, assets or sums sufficient to restore to the Fund affected, the value of the assets or sums lost to it.
- 45.4 The ICAV may sue and be sued in respect of a particular Fund and may exercise the same rights of set-off, if any, as between its Funds as apply at law in respect of an ICAV and the property of a Fund is subject to orders of the Irish courts as it would have been if the Fund were a separate legal person.
- 45.5 In any proceedings brought by any Shareholder of a particular Fund, any liability of the ICAV to such Shareholder in respect of such proceeding shall only be settled out of the assets of the Fund corresponding to such Participating Shares without recourse in respect of such liability or any allocation of such liability to any other Fund of the ICAV.
- 45.6 Nothing in this Clause shall prevent the application of any enactment or rule of law which would require the application of the assets of any Fund in discharge of some or all of the liabilities of any other Fund on the grounds of fraud or misrepresentation.
- 45.7 Where a Fund enters into financial derivative transactions for and on behalf of a particular Class the gains and losses attributable to such transactions shall accrue solely to the Shareholders of the Shares in that Class. The relevant transaction will be valued in accordance with the provisions of this Instrument and shall be clearly attributable to the specific Class. The counterparty to any such transaction shall have their recourse limited to the particular Class's proportionate participation in the assets of the relevant Fund represented by the Net Asset Value of such Class. The ICAV may, for the purposes of meeting any such claim, apply the assets representing that particular Class's participation in the relevant Fund in discharging its obligations under the financial derivative transaction. Upon exhaustion of the particular Class's participation in the assets of the relevant Fund, such counterparty's claim shall be fully satisfied by the payment of such amounts as are available to be paid from that Class and any claim for further payment shall be extinguished.

## **46 SEVERABILITY**

- 46.1 If any term, provision, covenant or restriction of this Instrument is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable or against its regulatory policy, the remainder of the terms, provisions, covenants and restrictions of this Instrument shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

## **47 CROSS INVESTMENT**

- 47.1 Subject to the provisions of section 47 of the Act and the Central Bank Requirements, the ICAV may on behalf of a Fund acquire Shares in another Fund or any class or series thereof.

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We, the persons whose names, addresses and descriptions are subscribed, wish to be formed into an ICAV in pursuance of this Instrument of Incorporation and we agree to subscribe our names to this Instrument of Incorporation.

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### **Names, Addresses and Descriptions of Subscribers**

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Subscriber: Algebris Strategies Holdco Limited  
Address: 11 Waterloo Place  
London SW1Y 4AU  
United Kingdom

Signed:   
for and on behalf of  
Algebris Strategies Holdco Limited

Witness to the above signature(s):

  
Name: Peter Mabe  
Address: 11 Waterloo Place,  
London, SW1Y 4AU

Subscriber: Davide Serra  
Address: Via Pantano 026  
20122 Milano MI  
Italy

Signed:   
Davide Serra

Witness to the above signature:

  
Name: Peter Mabe  
Address: 11 Waterloo Place,  
London, SW1Y 4AU

Dated 21 June 2024