

# **FinEx Funds plc**

**(an umbrella fund with segregated liability between sub-funds)**

A company incorporated with limited liability  
as an open-ended investment company with variable capital  
under the laws of Ireland with  
registered number 476934

## **PROSPECTUS**

This Prospectus is dated 13 August 2013

**The Directors of FinEx Funds plc whose names appear in this Prospectus accept responsibility for the information contained in this Prospectus. To the best of the knowledge and belief of the Directors (who have taken all reasonable care to ensure such is the case) the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information. This Prospectus should be read in conjunction with the Supplements dealing with the relevant Fund(s).**

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## 1 Important Information

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**THIS DOCUMENT IS IMPORTANT. BEFORE YOU PURCHASE ANY OF THE SHARES YOU SHOULD ENSURE THAT YOU FULLY UNDERSTAND THE NATURE OF SUCH AN INVESTMENT, THE RISKS INVOLVED AND YOUR OWN PERSONAL CIRCUMSTANCES. IF YOU ARE IN ANY DOUBT ABOUT THE CONTENTS OF THIS PROSPECTUS YOU SHOULD TAKE ADVICE FROM AN APPROPRIATELY QUALIFIED ADVISOR.**

### Authorisation

**The authorisation of FinEx Funds plc (the "Company") by the Central Bank of Ireland (the "Central Bank") shall not constitute a warranty as to the performance of the Company and the Central Bank shall not be liable for the performance or default of the Company.**

**The value of and income from Shares in the Company may go up or down and you may not get back the amount you have invested in the Company.**

**Information applicable to the Company generally is contained in this Prospectus. Shares constituting each Fund offered by the Company are described in the Supplements to this Prospectus.**

The Company is an umbrella investment company with segregated liability between sub-funds (hereinafter referred to as "Funds") and with variable capital incorporated on 29 October 2009 and is authorised in Ireland as an undertaking for collective investment in transferable securities pursuant to the European Communities ("**Undertakings for Collective Investment in Transferable Securities**") Regulations 2011 (S.I. No. 352 of 2011). **Such authorisation is not an endorsement or guarantee of the Company or any Fund by the Central Bank, nor is the Central Bank responsible for the contents of this Prospectus.**

### General

The Company is structured as an umbrella investment company, in that different Funds may be established from time to time by the Directors with the prior approval of the Central Bank.

The particulars of each Fund will be set out in a separate Supplement. Any such Supplement shall list all of the existing Funds. Shares of more than one Class may be issued in relation to a Fund. Information contained within the Supplements is selective and should be read in conjunction with this Prospectus. The creation of any new Classes of Shares must be notified to and cleared in advance by the Central Bank. On the introduction of any new Class of Shares, the Company will prepare and the Directors will issue documentation setting out the relevant details of each such Class of Shares. A separate portfolio of assets shall be maintained for each Fund and shall be invested in accordance with the investment objective applicable to such Fund.

Shares in any of the Funds may be subscribed for or redeemed in cash or on an in-specie (in-kind) basis. Shares may also be bought or sold on the secondary market (as described below).

The Company may decline any application for Shares in whole or in part without assigning any reason therefore and will not accept an initial subscription for Shares of any amount which is less than the Minimum Subscription Amount as set forth in the Supplement for the relevant Fund, unless the Minimum Subscription Amount is waived by the Directors.

After the initial issue, Shares will be issued and redeemed at the Net Asset Value per Share plus or minus duties and charges (as the case may be) including any Subscription Charge, Redemption Charge or Exchange Charge and any Anti-Dilution Levy specified in the relevant

Supplement. The Net Asset Value of the Shares of each Class and the Issue and Repurchase Prices will be calculated in accordance with the provisions summarised under the heading "**Issue and Repurchase Prices/Calculation of Net Asset Value/Valuation of Assets**" in this Prospectus.

The Shares of each Fund may be listed on one or more Relevant Stock Exchanges and if so listed shall be fully transferable by Shareholders. It is envisaged that Shares will be bought and sold by retail and institutional investors and professional traders in the secondary market like the ordinary shares of a listed company. However, the Company cannot guarantee that a liquid secondary market will develop in relation to the Shares of any particular Fund.

Where the value of the Shares quoted on the secondary market significantly differs or varies from the current Net Asset Value per Share, investors who hold their shares through a secondary market will be permitted, subject to their liaising with the Administrator and complying with any necessary anti-money laundering checks requested by the Administrator, to redeem their shareholding directly from the Company. For example, this may apply in cases of market disruption such as the absence of a market maker. In such situations, information will be communicated to the regulated market indicating that the Company is open for direct redemptions from the Company. Such secondary market investors should refer to section 8 of the Prospectus for details on how to process such redemption requests. Only the actual costs of providing this facility (i.e those costs associated with liquidating any underlying positions) will be charged to such secondary market investors and in any event, the fees in respect of any such redemptions shall not be excessive.

Details of Dealing Days in respect of each Fund are set out in the relevant Supplement.

**A Redemption Charge of up to 3% of the Net Asset Value per Share of a Fund may be charged by the Company. The amount of Redemption Charge (if any) will be set out in the relevant Supplement.**

The amount of Exchange Charge (if any) will be set out in the relevant Supplement.

Before investing in the Company, you should consider the risks involved in such investment. Please see "**Risk Factors**" below and where applicable to each Fund in the relevant Supplement.

Distribution of this Prospectus is not authorised in any jurisdiction unless it is accompanied by a copy of the then latest annual report and audited accounts of the Company and, if published after such report, a copy of the then latest semi-annual report and unaudited accounts. Such reports and this Prospectus together form the prospectus for the issue of Shares in the Company.

Neither the admission of Shares of a Fund to listing on the Official List and trading on the Main Securities Market of the Irish Stock Exchange nor the approval of the Prospectus pursuant to the listing requirements of the Irish Stock Exchange shall constitute a warranty or representation by the Irish Stock Exchange as to the competence of service providers to or any other party connected with a Fund, the adequacy of information contained in the Prospectus or the suitability of a Fund for investment purposes.

All Shareholders are entitled to the benefit of, are bound by and are deemed to have notice of, the provisions of the Articles, copies of which are available upon request.

Defined terms used in this Prospectus shall have the meaning attributed to them in Appendix I.

### **Selling Restrictions**

**This Prospectus may not be used for the purpose of an offer or solicitation in any jurisdiction or in any circumstances in which such offer or solicitation is unlawful or not authorised.**

The Articles of the Company give powers to the Directors to impose restrictions on the holding of Shares by (and consequently to compulsorily redeem Shares held by), or the transfer of Shares to, any United States Persons (unless pursuant to an exemption under US securities laws); or by any person who appears to be in breach of any law or requirement of any country or governmental authority by virtue of which such person is not qualified to hold such Shares; or by any person or persons in circumstances (whether directly or indirectly affecting such person or persons, and whether taken alone or in conjunction with any other 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 Company or the relevant Fund or its Shareholders incurring any liability to taxation or suffering any other pecuniary, regulatory, legal or material administrative disadvantages or being in breach of any law or regulation which the Company or the relevant Fund or its Shareholders might not have otherwise incurred, suffered or breached; or any individual under the age of 18 (or such other age as the Directors think fit) or of unsound mind. The Articles also permit the Directors where necessary to redeem and cancel Shares (including a fraction of portion thereof) held by a person who is an Irish Resident or a person Ordinarily Resident in Ireland on the occurrence of a chargeable event for Irish taxation purposes as described under "**Taxation**" below (together "**Prohibited Persons**").

**Potential subscribers and purchasers of Shares should consult a stockbroker, bank manager, solicitor, accountant or other financial advisor and inform themselves as to (a) the possible tax consequences, (b) the legal requirements, (c) any foreign exchange restrictions or exchange control requirements and (d) any other requisite governmental or other consents or formalities which they might encounter under the laws of the countries of their incorporation, citizenship, residence or domicile and which might be relevant to the subscription, purchase, holding or disposal of Shares.**

This Prospectus may be translated into other languages. Any such translation shall only contain the same information and have the same meanings as this English language document. Where there is any inconsistency between this English language document and the document in another language, this English language document shall prevail except to the extent (but only to the extent) required by the laws of any jurisdiction where the Shares are sold so that in an action based upon disclosure in a document of a language other than English, the language of the document on which such action is based shall prevail, solely for the purposes of such action and to the extent so required.

Any information given, or representations made, by any dealer, salesman or other person not contained in this Prospectus or in any reports and accounts of the Company forming part hereof must be regarded as unauthorised and accordingly must not be relied upon. Neither the delivery of this Prospectus nor the offer, issue or sale of Shares shall under any circumstances constitute a representation that the information contained in this Prospectus is correct as of any time subsequent to the date of this Prospectus. To reflect material changes, this Prospectus may from time to time be updated and intending subscribers should enquire of the Administrator or the Company as to the issue of any later Prospectus or as to the issue of any reports and accounts of the Company.

## **United Kingdom**

The Company is intending to apply for recognition as a recognised collective investment scheme for the purposes of section 264 of the Financial Services and Markets Act 2000 ("**FSMA**") of the United Kingdom. The Prospectus will be distributed in the United Kingdom by or on behalf of the Company and is approved by FinEx Capital Management LLP, which is regulated by Financial Services Authority.

FinEx Capital Management LLP is acting for the Company in relation to the Prospectus and all matters relating to it and FinEx Capital Management LLP or any of its associates may have an interest or position in Shares of the Company. It is not acting for, or advising or treating as its customer, any other person (unless other arrangements apply between FinEx Capital Management LLP and such person) in relation to investment in the Company.

A United Kingdom investor who enters into an investment agreement with the Company to acquire Shares in response to the Prospectus will not have the right to cancel the agreement under the cancellation rules made by the Financial Services Authority in the United Kingdom because that investor will not have received any advice in relation to an investment in a Fund of the Company. The agreement will be binding upon acceptance of the order by the Company.

The Company does not carry on any regulated activities from a permanent place of business in the United Kingdom and United Kingdom investors are advised that most of the protections afforded by the United Kingdom regulatory system will not apply to an investment in a Fund of the Company. Shareholders in the Company may not be protected by the Financial Services Compensation Scheme established in the United Kingdom.

In connection with the Company's recognition under section 264 of the FSMA, the Company has appointed FinEx Capital Management LLP (the "**Facilities Agent**"), to maintain the facilities required of a recognised scheme pursuant to the rules contained in the Collective Investment Schemes Sourcebook ("**COLL**") published by the Financial Services Authority as part of the Financial Services Authority's Handbook of Rules and Guidance governing recognised schemes. The facilities will be located at the offices of the Facilities Agent whose address is outlined under the "Directory" below.

Any investor wishing to make a complaint regarding any aspect of the Company or its operations may do so directly to the Company or through the Facilities Agent at their address.

## **United States**

The Shares offered hereunder have not been and will not be registered under the US Securities Act of 1933, as amended (the "**1933 Act**") for offer or sale as part of their distribution and the Company has not been and will not be registered under the US Investment Company Act of 1940, as amended (the "**1940 Act**"). The Shares offered hereby have not been approved or disapproved by the SEC, by the securities regulatory authority of any US state, or by any similar authority of any other country or jurisdiction, and neither the SEC nor any such authority will do so. Subject to the ultimate discretion of the Directors, the Company generally will not offer or sell Shares in the United States or its territories or possessions and Shares will generally not be offered or sold to or for the benefit of a United States Person, as such term is defined herein and in the Articles. The Articles provide that the Company may refuse to register any transfer of Shares to a United States Person. Each applicant will be required to certify to the Company that, among other things, the Shares are not being acquired and will not at any time be held for the account or benefit, directly or indirectly, of any United States Person except as otherwise authorised by the Directors herein. It is the responsibility of each Shareholder to verify that it is not a United States Person that would be prohibited from owning Shares. The offering and sale of the Shares to Non-United States Persons will be exempt from registration pursuant to Regulation S promulgated under the 1933 Act. If permitted by the Directors, any purchaser of Shares that is a United States Person must be a "**qualified purchaser**" as defined in the 1940 Act and the rules promulgated thereunder and an "**accredited investor**" as defined in Regulation D under the 1933 Act.

Although certain affiliates of the Investment Manager may be registered under the United States Investment Advisers Act of 1940, as amended (the "**Advisers Act**"), because the funds are non-US investment entities, the funds' investors will not have the benefit of the substantive provisions of US law, including the Advisers Act.

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## 2 Directory

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### **COMPANY**

FinEx Funds plc  
2<sup>nd</sup> Floor, Beaux Lane House  
Mercer Street Lower  
Dublin 2  
Ireland

### **DIRECTORS**

Michael Boyce  
Tom Murray  
Simon Luhr

### **PROMOTER, INVESTMENT MANAGER AND (UK) FACILITIES AGENT**

FinEx Capital Management LLP  
4<sup>TH</sup> Floor  
39 Dover Street  
London W15 4NN  
United Kingdom

### **DISTRIBUTOR**

FinEx ETF Limited  
C/o Trident Trust Company (Cayman) Limited  
Fourth Floor, One Capital Place  
P.O. Box 847  
Grand Cayman KY1-1103  
Cayman Islands

### **CUSTODIAN**

BNY Mellon Trust Company (Ireland) Limited  
Guild House  
Guild Street  
IFSC  
Dublin 1  
Ireland

### **ADMINISTRATOR**

BNY Mellon Fund Services (Ireland) Limited  
Guild House  
Guild Street  
IFSC  
Dublin 1  
Ireland

## **SECRETARY**

MFD Secretaries Limited  
2<sup>nd</sup> Floor, Beaux Lane House  
Mercer Street Lower  
Dublin 2  
Ireland

## **AUDITORS**

PricewaterhouseCoopers  
One Spencer Dock  
North Wall Quay  
Dublin 1  
Ireland

## **IRISH LEGAL ADVISERS TO THE COMPANY**

Maples and Calder  
75 St. Stephen's Green  
Dublin 2  
Ireland

## **IRISH SPONSORING BROKER**

Maples and Calder  
75 St. Stephen's Green  
Dublin 2  
Ireland

## **REGISTRAR & TRANSFER AGENT**

Computershare Investor Services (Ireland) Limited  
Heron House  
Corrig Road  
Sandyford Industrial Estate  
Dublin 18  
Ireland

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## 3 Management & Administration

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### 3.1 Directors of the Company

The Directors of the Company are described below:

#### **Tom Murray, B Comm, FCA**

Mr Murray (Irish) is an independent Irish resident director. He is currently a Director of Advent Capital Limited providing general corporate finance advice. He graduated in Commerce from UCD in 1976 and qualified as a Chartered Accountant in 1980. He was CFO of Wang International Finance Ltd (1982-1987), a founding Director of a securities company and Director of Treasury in Investec Ireland (1988-2003). Latterly he was a Director of Merrion Corporate Finance Ltd (2004-2008).

#### **Michael Boyce**

Michael Boyce (Irish) acts as an independent director and a consultant to a number of Irish collective investment schemes. Prior to this, he was Executive Director of Northern Trust Investor Services (Ireland) Limited [formerly Ulster Bank Investment Services Limited (UBIS)] since 1990. He was Managing Director of Ulster Bank Custodial Services which was the Trustee and Custody operation of Ulster Bank fund's business from 1990 - 1997. From 1997 to 2000 he was Managing Director of Ulster Investment Bank Investment Services. Following the purchase of UBIS by Northern Trust in May 2000, he was appointed Director of Client Operations with responsibility for servicing a large range of institutional and retail clients. He has worked in the financial services industry for over 30 years including stockbroking, fund management and fund administration. He is a graduate of the Michael Smurfit School of Business at UCD from which he holds a Diploma in Corporate Governance. He is a member of the Chartered Institute for Securities and Investment and serves on the Committee of the Independent Directors forum. He is also a member of the Institute of Directors Ireland, and a member of the Corporate Governance Association of Ireland.

#### **Simon Luhr**

Mr. Simon Luhr is a partner of the Investment Manager and Promoter FinEx Capital Management LLP. Mr. Luhr is a highly experienced investment banking and investment management professional having established a number of businesses over his 30 years in the business having expertise in identifying opportunities, establishing and managing business on a global scale. Mr. Luhr has been actively involved with the development of the global hedge fund industry, firstly from an investment bank perspective where he established and ran the international equities finance, delta one and prime brokerage businesses at both Morgan Stanley and Nomura later co-founding his own funds Marble Bar Asset Management LLP, SW1 Capital LP and Finex Capital Management LLP.

No Director has:

- (i) any unspent convictions in relation to indictable offences; or
- (ii) been bankrupt or the subject of an involuntary arrangement, or has had a receiver appointed to any asset of such Director; or

- (iii) been a director of any company which, while he was a director with an executive function or within 12 months after he ceased to be a director with an executive function, had a receiver appointed or went into compulsory liquidation, creditors voluntary liquidation, administration or company voluntary arrangements, or made any composition or arrangements with its creditors generally or with any class of its creditors; or
- (iv) been a partner of any partnership, which while he was a partner or within 12 months after he ceased to be a partner, went into compulsory liquidation, administration or partnership voluntary arrangement, or had a receiver appointed to any partnership asset; or
- (v) had any public criticism by statutory or regulatory authorities (including recognised professional bodies); or
- (vi) been disqualified by a court from acting as a director or from acting in the management or conduct of affairs of any company.

Save for the information disclosed herein, no further information is required to be given in respect of the Directors pursuant to the listing requirements of the Irish Stock Exchange.

For the purposes of this Prospectus, the address of all the Directors is the registered office of the Company.

### 3.2 Promoter

FinEx Capital Management LLP (the “**Promoter**”) is the promoter of FinEx Funds plc. The Promoter is registered as a limited partnership in England and Wales and is authorised and regulated by the Financial Services Authority (FSA Registration Number 550784).

### 3.3 Investment Manager

The Company has delegated the powers of the investment management of each Fund to FinEx Capital Management LLP pursuant to an Investment Management Agreement dated 17 December 2012.

### 3.4 Distributor

The Company has appointed FinEx ETF Limited as distributor of Shares of the Company pursuant to the Distribution Agreement dated 17 December 2012.

The Distributor is registered as a limited company registered in the Cayman Islands under Company Registration Number 263561.

### 3.5 Custodian

The Company has appointed BNY Mellon Trust Company (Ireland) Limited as custodian of its assets pursuant to the Custodian Agreement.

The Custodian is a private limited liability company incorporated in Ireland on 13 October 1994. The principal activity of the Custodian is to act as the custodian and trustee of the assets of collective investment schemes. The Custodian is authorised by the Central Bank under the Investment Intermediaries Act, 1995.

The Custodian is a wholly-owned indirect subsidiary of The Bank of New York Mellon Corporation. The Bank of New York Mellon Corporation is a global financial services company focused on helping clients manage and service their financial assets, operating in 36 countries and serving more than 100 markets. The Bank of New York Mellon Corporation is a leading provider of financial services for institutions, corporations and high-net-worth individuals, providing superior asset management and wealth management, asset servicing, issuer services, clearing services and treasury services through a worldwide client-focused team. As 30 June 2012, it had US\$27.1 trillion in assets under custody and administration, US\$1.3 trillion in assets under management, serviced US\$11.5 trillion in outstanding debt and processed global payments averaging US\$1.4 trillion per day.

The Custodian is responsible for the safe-keeping of the assets of the Company. The Custodian may, however, appoint any person or persons to be the sub-custodian of such assets but any liability of the Custodian shall not be affected by the fact that it has entrusted some or all of the assets in its safekeeping to any third party.

The Company and the Custodian acknowledge that the Central Bank considers that in order to discharge its responsibility under the Regulations, the Custodian must exercise care and diligence in choosing and appointing such third parties so as to ensure that the third party has and maintains, the expertise, competence and standing appropriate to discharge the responsibilities concerned. The Custodian must maintain an appropriate level of supervision over the third party and shall make appropriate enquiries, from time to time, to confirm that the obligations of the third party continue to be competently discharged. This does not purport to be a legal interpretation by the Central Bank of the Regulations and the corresponding provisions of the UCITS Directive.

As the Company may invest in markets where custodial and/or settlement systems are not fully developed, the assets of the Company which are traded on such markets and which have been entrusted to sub-custodians, in circumstances where the use of such sub-custodians is necessary, may be exposed to risk in circumstances whereby the Custodian will have no liability. Please see the "Risk Factors" section below. This will however be without prejudice to the obligations of the Custodian to exercise care and diligence in appointing such sub-custodian and to maintain an appropriate level of supervision over such sub-custodian, although the parties hereby acknowledge that there may be circumstances whereby the Custodian's ability to comply with these obligations is constrained, for example where there is only one sub-custodian which can be used in a market.

### 3.6 Administrator

The Company has delegated responsibility for the administration (including acting as registrar and transfer agent) of the Company to BNY Mellon Fund Services (Ireland) Limited.

The Administrator is a private limited company incorporated in Ireland on 31 May 1994 and is engaged in the provision of fund administration, accounting, registration, transfer agency, and related shareholder services to collective investment schemes and investment funds. The Administrator is authorised by the Central Bank under the Investment Intermediaries Act, 1995. The registered office of the Administrator is Guild House, Guild Street, IFSC, Dublin 1, Ireland.

The Administrator is responsible for providing administrative services to the Company including the calculation of the Net Asset Value and the Net Asset Value per Share, serving as the Company's agent for the issue and repurchase of Shares and acting as registrar of the Company.

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## 4 Investment Objective & Policies

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### 4.1 Investment Objective and Policies

The Articles provide that the investment objective and policies for each Fund will be formulated by the Directors at the time of the creation of the Fund and will be set out in the Supplement for the relevant Fund.

The investment objective of each Fund will be to seek to provide Shareholders with a return (either at the relevant Scheduled Maturity Date or on each Dealing Day) linked to a Reference Index or Reference Asset.

**The return that the Shareholder will receive will be dependent on the performance of the relevant transferable securities, other eligible assets and financial derivative instruments including OTC derivatives owned by the Fund, and the performance of any efficient portfolio management technique or other techniques used to link the transferable securities, other eligible assets, financial derivative instruments and OTC derivatives to the Reference Index or Reference Asset (where appropriate). Thus the return Shareholders receive may not wholly correspond to the performance of the Reference Index or Reference Asset. There is no assurance that the investment objective of any Fund whose performance is linked to the Reference Index or Reference Asset will actually be achieved.**

While it is not the Company's intention that any Fund be leveraged (unless disclosed in the Supplement for the relevant Fund), any leverage resulting from the use of FDIs will be in accordance with the requirements of the Central Bank.

Any change in the investment objective or any material change to the investment policies of a Fund may only be made with the approval of an ordinary resolution of the Shareholders of the Fund or with the approval in writing of all the Shareholders. Subject and without prejudice to the preceding sentence of this paragraph, in the event of a change of investment objective and/or policies of a Fund, a reasonable notification period must be given to each Shareholder of the Fund to enable a Shareholder to have its Shares redeemed prior to the implementation of such change.

Further details of the investment objective and policies for each Fund are set out in the relevant Supplement.

### 4.2 Additional information relating to the Reference Index or Reference Asset

A number of circumstances may arise in respect of the replication of or delivery of the performance of a Reference Index or Reference Asset by a Fund. These include, but are not limited to, the following:

- (a) Each Fund is subject to the Regulations which include, inter alia, certain restrictions on the proportions of that Fund's Net Asset Value which may be held in individual securities. Depending on the concentration of the Reference Index or Reference Asset a Fund may also hold synthetic securities which are correlated to, or the return on which is based on, securities which form part of the Reference Index or Reference Asset within the limits set out in the Prospectus.
- (b) The constituent securities of the Reference Index or Reference Asset change from time to time. The Investment Manager may adopt a variety of strategies when managing a Fund to bring it in line with the changed Reference Index or Reference Asset. For example, where a security which forms part of the Reference Index or Reference Asset is not available or a market for such security does not exist, a Fund may instead hold depository receipts relating to such securities (e.g. ADRs and GDRs and other equity-related securities).

- (c) From time to time securities in the Reference Index or Reference Asset may be subject to corporate actions. The Investment Manager has discretion to manage these events as appropriate.
- (d) Securities included in the Reference Index or Reference Asset may, from time to time, become illiquid or otherwise unobtainable at fair value. In these circumstances, the Investment Manager may use a number of techniques, including purchasing securities whose returns, individually or collectively, are seen to be well-correlated to the constituents of the Reference Index or Reference Asset.
- (e) Where the Fund uses one or more FDIs to gain exposure to the Reference Index or Reference Asset, the relevant Calculation Agent will have the discretion to make such changes to the FDI(s) to preserve the economic effect of the transaction for both the Approved Counterparty and the Fund in accordance with the detailed provisions of such FDI.

#### 4.3 Change or Substitution of Reference Index or Reference Asset

The Directors may decide, if they consider it to be in accordance with the Investment Restrictions and the Regulations and in the interest of the Company or any relevant Fund, to change or substitute the existing Reference Index or Reference Asset of a Fund with one or more Reference Indices or Reference Assets.

The Board of Directors may, for instance, decide to substitute such a Reference Index or Reference Asset in the following circumstances:

- (a) the transferable securities, swaps or other techniques or instruments described under "**Investment Restrictions**" which are necessary for the implementation of the relevant Fund's investment objective cease to be available in a manner which is regarded as acceptable by the Directors;
- (b) the quality, accuracy and availability of data of a particular Reference Index or Reference Asset has deteriorated;
- (c) the components of the Reference Index or Reference Asset would cause the Fund (if it were to follow the Reference Index or Reference Asset closely) to be in breach of the limits set out under "**Investment Restrictions**" and/or materially affect the taxation or fiscal treatment of the Company or any of its Shareholders;
- (d) the particular Reference Index or Reference Asset ceases to exist or, in the determination of the Directors, there is (or there is expected to be) a material change in the formula for or the method of calculating a component of the Reference Index or Reference Asset or there is (or there is expected to be) a material modification of a component of the Reference Index or Reference Asset;
- (e) the Directors become aware that there is limited liquidity in one or more component securities of the Reference Index or Reference Asset, or it becomes impractical to invest in the components of the Reference Index or Reference Asset;
- (f) the Index Provider increases its licence fees to a level which the Directors consider excessive;
- (g) a change of ownership of the relevant Index Provider and/or a change of name of the Relevant Index;
- (h) any successor Index Provider is not considered acceptable by the Directors; or
- (i) a new Reference Index or Reference Asset becomes available which supersedes the existing Reference Index or Reference Asset.

The above list is indicative only and cannot be understood as being exhaustive in respect of the ability of the Directors to change the Reference Index or Reference Asset in any other circumstances as they consider appropriate. Any proposal by the Directors to

change a Reference Index or Reference Asset shall be (a) subject to the prior approval of the Shareholders of the relevant Fund by ordinary resolution or with the approval in writing of all the Shareholders; or (b) notified to Shareholders in the circumstances set out in (g) above. The Prospectus and any of the relevant Supplements will be updated in the case of substitution or change of the existing Reference Index or Reference Asset of a Fund for another Reference Index or Reference Asset, or in the event of (g) above in accordance with the requirements of the Central Bank.

#### 4.4 Mitigation of Counterparty Risk Exposure

When applying the investment restrictions specified in Section 5.5 in respect of an OTC derivative, reference must be made to the net counterparty risk exposure as determined pursuant to the Regulations. In order to reduce its net counterparty risk exposure, the Company may in relation to any of its Funds avail itself of all mitigation techniques such as netting and financial collateral techniques which are or may become authorised by the Regulations.

In particular, the Company may reduce the overall counterparty risk of each Fund's OTC derivative by causing the counterparty to deliver Collateral (which will comply with the requirements of the Central Bank) to the Custodian (or as otherwise permitted by the Central Bank). Such Collateral will be enforceable by the Company at all times and will be marked to market on a daily basis. The amount of Collateral to be delivered will be at least equal to the value by which the overall exposure limit as determined pursuant to the Regulations has been exceeded.

The Company may also reduce the overall counterparty risk of the Fund's OTC derivative by resetting the OTC derivative. The effect of resetting the OTC derivative is to reduce the mark to market value of the OTC derivative and, thereby, reduce the net counterparty exposure accordingly.

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## 5 Investment Restrictions

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The particular investment restrictions for each Fund will be formulated by the Directors at the time of the creation of the Fund and will appear in the Supplement for the relevant Fund.

Details of the investment restrictions laid down in accordance with the Regulations in respect of each Fund are set out below:

### 5.1 Permitted Investments

Investments of each Fund are confined to:

- (a) Transferable securities and money market instruments (in each case as defined in the Central Bank's UCITS notices) which are either admitted to official listing on a stock exchange in a Member State or non-Member State or which are dealt on a market which is regulated, operates regularly, recognised and open to the public in a Member State or non-Member State (and which in each case is listed in Appendix II).
- (b) Recently issued transferable securities which will be admitted to official listing on a stock exchange or other market (as described above) within a year.
- (c) Money market instruments other than those dealt on a regulated market.
- (d) Units of UCITS.
- (e) Units of non-UCITS as set out in the Central Bank's guidance note 2/03.

- (f) Deposits with credit institutions as prescribed in the Central Bank's UCITS notices.
- (g) Financial derivative instruments (FDI) as prescribed in the Central Bank's UCITS notices.

## 5.2 Investment Restrictions

- (a) Each Fund may invest no more than 10% of net assets in transferable securities and money market instruments other than those referred to in paragraph 5.1.
- (b) Each Fund may invest no more than 10% of net assets in recently issued transferable securities which will be admitted to official listing on a stock exchange or other market (as described in paragraph 5.1) within a year. This restriction will not apply in relation to investment by each Fund in certain US securities known as Rule 144A securities provided that:
  - (i) the securities are issued with an undertaking to register with the US Securities and Exchanges Commission within one year of issue; and
  - (ii) the securities are not illiquid securities i.e. they may be realised by each Fund within seven days at the price, or approximately at the price, at which they are valued by the Fund.
- (c) Each Fund may invest no more than 10% of net assets in transferable securities or money market instruments issued by the same body provided that the total value of transferable securities and money market instruments held in the issuing bodies in each of which it invests more than 5% is less than 40%.
- (d) Subject to the prior approval of the Central Bank, the limit of 10% in 5.2(c) is raised to 25% in the case of bonds that are issued by a credit institution which has its registered office in a Member State and is subject by law to special public supervision designed to protect bond-holders. If a Fund invests more than 5% of its net assets in these bonds issued by one issuer, the total value of these investments may not exceed 80% of the net asset value of the Fund.
- (e) The limit of 10% in 5.2(c) is raised to 35% if the transferable securities or money market instruments are issued or guaranteed by a Member State or its local authorities or by a non-Member State or public international body of which one or more Member States are members.
- (f) The transferable securities and money market instruments referred to in 5.2(d) and 5.2(e) shall not be taken into account for the purpose of applying the limit of 40% referred to in 5.2(c).
- (g) Each Fund may not invest more than 20% of net assets in deposits made with the same credit institution.

Deposits with any one credit institution, other than credit institutions authorised in the European Economic Area ("**EEA**") or credit institutions authorised within a signatory state (other than an EEA Member State) to the Basle Capital Convergence Agreement of July 1998 or a credit institution authorised in Jersey, Guernsey, the Isle of Man, Australia or New Zealand, held as ancillary liquidity, must not exceed 10% of net assets.

This limit may be raised to 20% in the case of deposits made with the Custodian.

- (h) The risk exposure of each Fund to a counterparty in an over the counter ("**OTC**") derivative transaction may not exceed 5% of net assets.

This limit is raised to 10% in the case of credit institutions authorised in the EEA or credit institutions authorised within a signatory state (other than an EEA Member State) to the Basle Capital Convergence Agreement of July 1998 or a credit institution authorised in Jersey, Guernsey, the Isle of Man, Australia or New Zealand.

- (i) Notwithstanding paragraphs 5.2(c), 5.2(g) and 5.2(h) above, a combination of two or more of the following issued by, or made or undertaken with, the same body may not exceed 20% of net assets:
  - (i) investments in transferable securities or money market instruments;
  - (ii) deposits, and/or
  - (iii) risk exposures arising from OTC derivatives transactions.
- (j) The limits referred to in 5.2(c), 5.2(d), 5.2(e), 5.2(g), 5.2(h) and 5.2(i) above may not be combined, so that exposure to a single body shall not exceed 35% of net assets.
- (k) Group Companies are regarded as a single issuer for the purposes of 5.2(c), 5.2(d), 5.2(e), 5.2(g), 5.2(h) and 5.2(i). However, a limit of 20% of net assets may be applied to investment in transferable securities and money market instruments within the same group.
- (l) Each Fund may invest up to 100% of net assets in transferable securities and money market instruments issued or guaranteed by any Member State, local authorities, non-member States or public international body of which one or more Member States are members or by Japan, Canada, New Zealand, Australia, Norway, United States of America, Switzerland or any other OECD member country (provided they are investment grade). Individual issuers may be drawn from the following list: European Union, European Investment Bank, European Central Bank, Euratom, Eurofima, Council of Europe, The Asian Development Bank, Inter-American Development Bank, European Bank for Reconstruction and Development, International Bank for Reconstruction and Development, (the "**World Bank**"), International Finance Corporation, International Monetary Fund, the Government National Mortgage Association ("**Ginnie Mae**"), Federal Home Loan bank ("**FHLB**"), Federal Farm Credit Bank ("**FFCB**"), Tennessee Valley Authority ("**TVA**") and the Student Loan Marketing Association ("**Sallie Mae**").
- (m) Each Fund must hold securities from at least 6 different issues, with securities from any one issue not exceeding 30% of net assets.

### 5.3 Investment in Collective Investment Schemes

- (a) A Fund may invest up to 10% of its net assets in collective investment schemes ("**CIS**") of the open ended type if the CIS are (i) CIS within the meaning of Regulation 3(2); and (ii) prohibited from investing more than 10% of net asset in other open-ended CIS.
- (b) Investments in Non-UCITS may not in aggregate exceed 30% of net assets.
- (c) When a Fund invests in the units of other CIS that are managed, directly or by delegation by the Fund's investment manager or by any other company with which the investment manager is linked by common management or control, or by a substantial direct or indirect holding, neither the investment manager nor that other company may charge subscription, conversion or redemption fees on account of that Fund's investment in the units of such other CIS. Maximum management fees or TER invoiced by such other CIS will be set out in the Supplement for each Fund that elected for investing in such other CIS.

- (d) Where a commission (including a rebated commission) is received by a Fund's investment manager by virtue of an investment in the units of another CIS, this commission must be paid into the property of the Fund.

#### 5.4 General Provisions

- (a) The Company may not acquire any shares carrying voting rights which would enable it to exercise significant influence over the management of an issuing body.
- (b) Each Fund may acquire no more than:
  - (i) 10% of the non-voting shares of any single issuing body;
  - (ii) 10% of the debt securities of any single issuing body;
  - (iii) 25% of the units of any single CIS;
  - (iv) 10% of the money market instruments of any single issuing body.

NOTE: The limits laid down in (ii), (iii) and (iv) above may be disregarded at the time of acquisition if at that time the gross amount of the debt securities or of the money market instruments or the net amount of the securities in issue cannot be calculated.

- (c) 5.4(a) and 5.4(b) shall not be applicable to:
  - (i) transferable securities and money market instruments issued or guaranteed by a Member State or its local authorities;
  - (ii) transferable securities and money market instruments issued or guaranteed by a non-Member State;
  - (iii) transferable securities and money market instruments issued by public international bodies of which one or more Member States are members;
  - (iv) shares held by each Fund in the capital of a company incorporated in a non-member State which invests its assets mainly in the securities of issuing bodies having their registered offices in that State, where under the legislation of that State such a holding represents the only way in which each Fund can invest in the securities of issuing bodies of that State. This waiver is applicable only if in its investment policies the company from the non-Member State complies with the limits laid down in 5.2(c) to 5.2(k), 5.3(a), 5.3(b), 5.4(a), 5.4(b), 5.4(d), 5.4(e) and 5.4(f) and provided that where these limits are exceeded, 5.4(e) and 5.4(f) are observed;
  - (v) shares held by the Fund in the capital of subsidiary companies carrying on only the business of management, advice or marketing in the country where the subsidiary is located, in regard to the redemption of shares at Shareholders' request exclusively on their behalf.
- (d) A Fund need not comply with the investment restrictions herein when exercising subscription rights attaching to transferable securities or money market instruments which form part of their assets.
- (e) The Central Bank may allow recently authorised Funds to derogate from the provisions of 5.2(c) to 5.2(l), 5.3(a), 5.3(b), 5.6(a) and 5.6(b) for six months following the date of their authorisation, provided they observe the principle of risk spreading.

- (f) If the limits laid down herein are exceeded for reasons beyond the control of a Fund, or as a result of the exercise of subscription rights, the Fund must adopt as a priority objective for its sales transactions the remedying of that situation, taking due account of the interests of its shareholders.
- (g) A Fund may not carry out uncovered sales of:
  - (i) transferable securities;
  - (ii) money market instruments;
  - (iii) units of CIS; or
  - (iv) financial derivative instruments ("**FDIs**").
- (h) A Fund may hold ancillary liquid assets.

## 5.5 Financial Derivative Instruments

- (a) A Fund may invest in FDIs dealt in over the counter provided that:
  - (i) The counterparty is a credit institution authorised in the EEA or a credit institution authorised within a signatory state (other than an EEA Member State) to the Basle Capital Convergence Agreement of July 1998 or a credit institution authorised in Jersey, Guernsey, the Isle of Man, Australia and New Zealand; or an investment firm, authorised in accordance with the Markets in Financial Derivative Instruments Directive, in an EEA Member State, or is any entity subject to regulation as a Consolidated Supervised Entity ("**CSE**") by the Securities and Exchange Commission.
  - (ii) The counterparty has a minimum credit rating of A2/P2 or equivalent, or is deemed by the Company to have an implied rating of A2/P2. Alternatively, an unrated counterparty will be acceptable where each Fund is indemnified against losses suffered as a result of a failure by the counterparty, by an entity which has and maintains a rating of A2/P2.
  - (iii) The Investment Manager must be satisfied that the counterparty will value the transactions within reasonable accuracy and on a reliable basis and will close out the transactions at any time at the request of the Investment Manager at fair value.
- (b) Position exposure to the underlying assets of FDI, including embedded FDI in transferable securities or money market instruments, when combined where relevant with positions resulting from direct investments, may not exceed the investment limits set out in the Central Bank's UCITS notices. (This provision does not apply in the case of index based FDI provided the underlying index is one which meets with the criteria set out in the Central Bank's UCITS notices.)
- (c) Each Fund's global exposure measured in accordance with the "commitment approach" under the Central Bank's guidance note 3/03, relating to FDI must not exceed its total net asset value.
- (d) A transaction in FDI which gives rise to a future commitment on behalf of each Fund must be covered as follows:
  - (i) in the case of FDI which require physical delivery of the underlying asset, the asset must be held at all times by the Fund;

- (ii) in the case of FDI which automatically, or at the discretion of the Fund, are cash settled, each Fund must hold, at all times, liquid assets which are sufficient to cover the exposure.

It is intended that each Fund should have the power to avail of any change in the law, regulations or guidelines which would permit investment in assets and securities on a wider basis.

The Company will not amend such investment restrictions except in accordance with the requirements of the Central Bank.

## 5.6 Index Tracking Funds

- (a) Notwithstanding the provisions of paragraph 5.2(c), a Fund may, in accordance with the Articles, invest up to 20 per cent. of its net assets in shares and/or debt securities issued by the same body where the investment policy of the Fund is to replicate or reference an index. The index must be recognised by the Central Bank in accordance with the Central Bank's UCITS notices.
- (b) The limit in paragraph 5.6(a) may be raised to 35%, and applied to a single issuer, where this is justified by exceptional market conditions.
- (c) The reference in paragraph 5.6(a) to replication of the composition of a shares or debt securities index shall be understood as replication of the composition of the underlying assets of the index, including the use of derivatives or other techniques as referred to in Regulation 48A.

## 5.7 Use of Financial Derivative Instruments and Efficient Portfolio Management

Subject to the Regulations and to the conditions within the limits laid down by the Central Bank, the Company, on behalf of a Fund may invest in FDIs dealt on a regulated market and/or over the counter derivatives ("**OTCs**") which will be used for investment purposes, hedging and/or efficient portfolio management purposes. Details of any FDIs and/or OTCs in which a Fund may invest shall be set out in the relevant Supplement.

The FDIs in which a Fund may invest include options and futures transactions, swaps, forward contracts, credit derivatives, spot foreign exchange transactions, caps and floors, contracts for differences or other derivative transactions, further details of which will be set out in the relevant Supplement.

The Company must employ through its service providers a risk management process which enables it to monitor, measure and manage at any time the risks attached to a Fund's FDI positions and their contribution to the overall risk profile of the portfolio of assets of a Fund. It must employ a process for accurate and independent assessment of the value of OTC FDI. The Company must provide the Central Bank with details of its FDI activity and risk assessment methodology and, in accordance with particular requirements of the Central Bank shall specify, for that purpose, the permitted types of FDI, the underlying risks, the quantitative limits and how these will be monitored and enforced and the methods which are chosen in order to estimate the risks associated with transactions in any FDI applicable to a Fund. A Fund may only employ FDIs that have been specified in the risk management process that the Company has submitted to the Central Bank. The Company will ensure that a Fund's global exposure to FDIs is measured using the "commitment approach" in accordance with the Central Bank's Guidance Note 3/03 and does not exceed the total net asset value of its portfolio and that counterparty risk exposure to any OTC derivative transactions never exceeds the limits permitted under the Regulations. A Fund may in certain circumstances where the investment objective and policy require, utilise the "Value-at-Risk" or "VaR" approach to measure the Fund's market risk in order to ensure that the leverage effect of utilising FDI is not significant enough to cause disproportionate losses to the relevant Fund's overall

value. Where the Value-at-Risk approach is used, details in respect of the relevant VaR limit will be set out in the Supplement for the relevant Fund.

The Company will, on request, provide supplementary information to Shareholders relating to the risk management methods employed, including the quantitative limits that are applied and any recent developments in the risk and yield characteristics of the main categories of investments in respect of the relevant Fund.

A Fund may also employ techniques and instruments relating to transferable securities and/or other financial instruments in which it invests for efficient portfolio management purposes, a list of which are set out in the relevant Supplement. Use of such techniques and instruments should be in line with the best interests of Shareholders and will generally be made for one or more of the following reasons:

- (a) the reduction of risk;
- (b) the reduction of cost; or
- (c) the generation of additional capital or income for the relevant Fund with an appropriate level of risk, taking into account the risk profile of the Fund as described in this Prospectus and the relevant Supplement and the risk diversification rules set out in the Central Bank Notices.

For example, such use may include using swaps to exchange the performance of the securities held by a Fund for the performance of the Reference Index or Reference Asset.

In addition, the use of such techniques and instruments must be realised in a cost-effective way and must not result in a change to the investment objective of the Fund or add supplementary risks not covered in this Prospectus. Please refer to the section of this Prospectus entitled "Risk Factors; EPM Risk" for more details. The risks arising from the use of such techniques and instruments shall be adequately captured in the Company's risk management process.

All the revenues arising from efficient portfolio management techniques shall be returned to the relevant Fund following the deduction of any direct and indirect operational costs and fees arising. Such direct and indirect operational costs and fees (which are all fully transparent) shall include fees and expenses payable to counterparties engaged by the Company from time to time and shall not include hidden revenue. Such fees and expenses of any counterparties engaged by the Company, which will be at normal commercial rates together with VAT, if any, thereon, will be borne by the relevant Fund in respect of which the relevant party has been engaged. Details of Fund revenues arising and attendant direct and indirect operational costs and fees as well as the identity of any counterparties engaged by the Company from time to time shall be included in the Company's semi-annual and annual reports.

Such techniques and instruments may also include foreign exchange transactions which alter the currency characteristics of assets held by the relevant Fund.

Assets of a Fund may be denominated in a currency other than the Base Currency of the Fund and changes in the exchange rate between the Base Currency and the currency of the asset may lead to a depreciation of the value of the Fund's assets as expressed in the Base Currency. The Investment Manager may seek to mitigate this exchange rate risk by using FDI.

## 5.8 Borrowing and Lending Powers

The Company may borrow up to 10% of a Fund's net assets at any time for the account of any Fund and the Custodian may charge the assets of such Fund as security for any such borrowing, provided that such borrowing is only for temporary purposes. Any particular borrowing restrictions for a Fund will appear in the Supplement for the relevant Fund. Without prejudice to the powers of the Fund to invest in transferable securities, the

Company may not lend cash to, or act as guarantor on behalf of, third parties. A Fund may acquire debt securities and securities which are not fully paid.

#### 5.9 Repurchase/Reverse Repurchase Agreements and Securities Lending

The Company has the power to lend on an exclusive basis or otherwise any or all of the securities of each Fund to one or several financial institutions experienced in such transactions, or via a central counterparty or standardised lending system operated by a securities clearing institution, and may do so from time to time in accordance with applicable laws, regulations and market practice for the purposes of efficient portfolio management. Any such securities lending arrangements, whether entered into on an exclusive basis or not, will be in compliance with the requirements of the Central Bank, will be with counterparties that are institutions of appropriate financial standing which engage in these types of arrangements and approved by the Directors, will be on normal commercial terms negotiated at arm's length and any fees under such arrangements will be charged at normal commercial rates together with VAT, if any, thereon. In accordance with normal market practice, counterparties to such securities lending arrangements will be required to provide Collateral to the Company on behalf of the relevant Fund(s) (or as otherwise permitted by the Central Bank) of a value of at least equal to the market value of any securities loaned to the counterparty. The Collateral will comply with the Company's Collateral Policy as detailed below. Under a securities lending arrangement, the requisite eligible Collateral may be transferred to and held in one or several accounts maintained in the name of the relevant Fund, or the Company with the securities borrowing counterparty, Affiliate(s) of the securities borrowing counterparty or a custodian bank, clearing institution or provider of collateral managements services ("**Company Collateral Account**"). The title of any Company Collateral Account(s) will make it clear that Collateral credited to such accounts belongs to the Company and such accounts will be separate from any accounts in which the securities borrowing counterparty, its Affiliate(s), custodian bank, clearing institution or provider of collateral managements services holds any of its own assets, and at all times in accordance with the requirements of the Central Bank.

Any Fund that seeks to engage in securities lending should ensure that it is able at any time to recall any security that has been lent out or terminate any securities lending agreement into which it has entered.

The Company has the power to enter into Repurchase Transactions, acting as either buyer or seller, on an exclusive basis or otherwise, with one or more counterparties that are financial institutions experienced in such transactions, which transactions may involve a central counterparty or other settlement system, and may do so from time to time in accordance with applicable laws, regulations and market practice for the purposes of efficient portfolio management. Any such Repurchase Transactions, whether entered into on an exclusive basis or not, will be in compliance with the requirements of the Central Bank, will be with counterparties that are institutions of appropriate financial standing which engage in these types of arrangements and approved by the Directors, will be on normal commercial terms negotiated at arm's length and any fees under such arrangements will be charged at normal commercial rates together with VAT, if any, thereon. In accordance with normal market practice, counterparties to such Repurchase Transactions will be required to provide Collateral to the Company (or as otherwise permitted by the Regulator) of a value of at least equal to the cash leg of the Repurchase Transaction. The Collateral will comply with the requirements of the Company's Collateral Policy as detailed below. Under a Repurchase Transaction, if any, the requisite eligible Collateral may be transferred to one or several Company Collateral Accounts. The title of any Company Collateral Account(s) will make it clear that Collateral credited to such accounts belongs to the Company and such accounts will be separate from any accounts in which the counterparty, its Affiliate(s), custodian bank, clearing institution or provider of collateral managements services holds any of its own assets, and at all times in accordance with the requirements of the Central Bank.

A Fund that enters into a repurchase agreement should ensure that it is able at any time to recall any securities subject to the repurchase agreement or to terminate the repurchase agreement into which it has entered. Fixed-term repurchase and reverse repurchase agreements that do not exceed seven days should be considered as arrangements on terms that allow the assets to be recalled at any time by the Fund.

Any Fund that enters into a reverse repurchase agreement should ensure that it is able at any time to recall the full amount of cash or to terminate the reverse repurchase agreement on either an accrued basis or a mark-to-market basis. When the cash is recallable at any time on a mark-to-market basis, the mark-to-market value of the reverse repurchase agreement should be used for the calculation of the Net Asset Value of the Fund.

All the revenues arising from repurchase/reverse repurchase agreements and securities lending shall be returned to the relevant Fund following the deduction of any direct and indirect operational costs and fees arising. Such direct and indirect operational costs and fees (which are all fully transparent) shall include fees and expenses payable to repurchase/reverse repurchase agreements counterparties and/or securities lending agents engaged by the Company from time to time. Such fees and expenses of any repurchase/reverse repurchase agreements counterparties and/or securities lending agents engaged by the Company, which will be at normal commercial rates together with VAT, if any, thereon, will be borne by the Company or the Fund in respect of which the relevant party has been engaged. Details of Fund revenues arising and attendant direct and indirect operational costs and fees as well as the identity of any specific repurchase/reverse repurchase agreements counterparties and/or securities lending agents engaged by the Company from time to time shall be included in the Company's semi-annual and annual reports.

From time to time, a Fund may engage repurchase/reverse repurchase agreements counterparties and/or securities lending agents that are related parties to the Custodian or other service providers of the Company. Such engagement may on occasion cause a conflict of interest with the role of the Custodian or other service provider in respect of the Company. Please refer to section 13.1 "Conflicts of Interest" for further details on the conditions applicable to any such related party transactions. The identity of any such related parties will be specifically identified in the Company's semi-annual and annual reports.

Repurchase/reverse repurchase agreements or securities lending do not constitute borrowing or lending for the purposes of Regulation 103 and Regulation 111 respectively.

The Directors will, at least annually, review and/or confirm the arrangements for securities lending and Repurchase Transactions and associated fees invoiced to the relevant Fund, if any.

## 5.10 Collateral Policy

In the context of efficient portfolio management techniques and/or the use of FDI for hedging or investment purposes, collateral may be received from a counterparty for the benefit of a Fund or posted to a counterparty by or on behalf of a Fund. Any receipt or posting of collateral by a Fund will be conducted in accordance with the requirements of the Central Bank and the terms of the Company's collateral policy outlined below.

### 5.10.1 Collateral – received by the UCITS

Collateral posted by the counterparty for the benefit of a Fund may be taken into account as reducing the exposure to such counterparty. Each Fund will require receipt of the necessary level of collateral so as to ensure counterparty exposure limits are not breached. Counterparty risk may be reduced to the extent that the value of the collateral received corresponds with the value of the amount exposed to counterparty risk at any given time.

The Investment Manager will liaise with the Custodian in order to manage all aspects of the counterparty collateral process.

Risks linked to the management of collateral, such as operational and legal risks, shall be identified, managed and mitigated by the Company's risk management process. A Fund receiving collateral for at least 30% of its assets should have an appropriate stress testing policy in place to ensure regular stress tests are carried out under normal and exceptional liquidity conditions to enable the Fund to assess the liquidity risk attached to the collateral. The liquidity stress testing policy will at least prescribe the following:

- (a) Design of stress test scenario analysis including calibration, certification and sensitivity analysis;
- (b) Empirical approach to impact assessment, including back-testing of liquidity risk estimates;
- (c) Reporting frequency and limit/loss tolerance threshold/s; and
- (d) Mitigation actions to reduce loss including haircut policy and gap risk protection.

For the purpose of providing margin or collateral in respect of transactions in techniques and instruments, the Fund may transfer, mortgage, pledge, charge or encumber any assets or cash forming part of the Fund in accordance with normal market practice and the requirements outlined in the Central Bank's Notices.

All assets received by a Fund in the context of repurchase/reverse repurchase agreements and securities lending shall be considered as collateral and must comply with the terms of the Company's collateral policy.

#### 5.10.1.1 Non-cash Collateral

Collateral received must, at all times, meet with the following criteria:

- (i) Liquidity: Collateral received other than cash should be highly liquid and traded on a regulated market or multilateral trading facility with transparent pricing in order that it can be sold quickly at a price that is close to pre-sale valuation. Collateral received should also comply with the provisions of Regulation 74 of the Regulations.
- (ii) Valuation: Collateral received should be valued on at least a daily basis and assets that exhibit high price volatility should not be accepted as collateral unless suitably conservative haircuts are in place.
- (iii) Issuer credit quality: Collateral received should be of high quality.
- (iv) Correlation: Collateral received should be issued by an entity that is independent from the counterparty and is not expected to display a high correlation with the performance of the counterparty.
- (v) Diversification (asset concentration): Collateral should be sufficiently diversified in terms of country, markets and issuers with a maximum exposure to a given issuer of 20% of the Fund's Net Asset Value. When the Fund is exposed to different counterparties, the different baskets of collateral should be aggregated to calculate the 20% limit of exposure to a single issuer.
- (vi) Immediately available: Collateral received should be capable of being fully enforced by the Fund at any time without reference to or approval from the counterparty.
- (vii) Safe-keeping: Collateral received on a title transfer basis should be held by the Custodian or its agent. For other types of collateral arrangement, the collateral can be held by a third party custodian which is subject to prudential supervision, and which is unrelated to the provider of the collateral.

- (viii) Haircuts: The Investment Manager, on behalf of each Fund, shall apply suitably conservative haircuts to assets being received as collateral where appropriate on the basis of an assessment of the characteristics of the assets such as the credit standing or the price volatility, as well as the outcome of any stress tests performed as referred to above. The Investment Manager has determined that generally if issuer or issue credit quality of the collateral is not of the necessary quality or the collateral carries a significant level of price volatility with regard to residual maturity or other factors, a conservative haircut must be applied in accordance with more specific guidelines as will be maintained in writing by the Investment Manager on an ongoing basis. However, the application of such a haircut will be determined on a case by case basis, depending on the exact details of the assessment of the collateral. The Investment Manager, in its discretion, may consider it appropriate in certain circumstances to resolve to accept certain collateral with more conservative, less conservative or no haircuts applied if it so determines, on an objectively justifiable basis. Any extenuating circumstances that warrant the acceptance of relevant collateral with haircut provisions other than the guideline levels must be outlined in writing. Documentation of the rationale behind this is imperative.

Non-cash collateral cannot be sold, pledged or re-invested.

#### 5.10.1.2 Cash Collateral

Cash collateral may not be invested other than in the following:

- (i) deposits with relevant institutions;
- (ii) high-quality government bonds;
- (iii) reverse repurchase agreements provided the transactions are with credit institutions subject to prudential supervision and the Fund is able to recall at any time the full amount of cash on an accrued basis;
- (iv) short-term money market funds as defined in the ESMA Guidelines on a Common Definition of European Money Market Funds (ref CESR/10-049).

Invested cash collateral should be diversified in accordance with the diversification requirement applicable to non-cash collateral outlined above in Section 5.10.1.1(v). Invested cash collateral may not be placed on deposit with the counterparty or a related entity. Exposure created through the reinvestment of collateral must be taken into account in determining risk exposures to a counterparty. Re-investment of cash collateral in accordance with the provisions above can still present additional risk for the Fund. Please refer to the section of this Prospectus entitled "Risk Factors; Reinvestment of Cash Collateral Risk" for more details.

#### 5.10.2 Collateral – posted by the UCITS

Collateral posted to a counterparty by or on behalf of the Fund must be taken into account when calculating counterparty risk exposure. Collateral posted to a counterparty and collateral received by such counterparty may be taken into account on a net basis provided the Fund is able to legally enforce netting arrangements with the counterparty.

#### 5.11 Hedged Classes

The Company may (but is not obliged to) enter into certain currency-related transactions in order to hedge the currency exposure of the assets of a Fund attributable to a particular Class into the currency of denomination of the relevant Class for the purposes of efficient portfolio management.

The Company may also (but is not obliged to) enter into certain currency-related transactions in order to hedge the currency exposure of a Fund where the Fund invests in assets denominated in currencies other than the Base Currency. In addition, a Class designated in a currency other than the Base Currency may be hedged against exchange rate fluctuation risks between the designated currency of the Class and the Base

Currency. Any financial instruments used to implement such strategies with respect to one or more Classes shall be assets/liabilities of the Fund as a whole but will be attributable to the relevant Class(es) and the gains/losses on, and the costs of, the relevant financial instruments will accrue solely to the relevant Class. However, investors should note that there is no segregation of liability between Share Classes. Shareholders are therefore exposed to the risk that hedging transactions undertaken in one class may impact negatively on the Net Asset Value of another Class.

Where a Class of Shares is to be hedged, this will be disclosed in the Supplement for the Fund in which such Class is issued. Any currency exposure of a Class may not be combined with or offset against that of any other Class of a Fund. The currency exposure of the assets attributable to a Class may not be allocated to other Classes. Where the Investment Manager seeks to hedge against currency fluctuations, while not intended, this could result in over-hedged or under-hedged positions due to external factors outside the control of the Company. However, over-hedged positions will not exceed 105% of the Net Asset Value and hedged positions will be kept under review to ensure that over-hedged positions do not exceed the permitted level which review will also incorporate a procedure to ensure that positions in excess of 100% of Net Asset Value will not be carried forward from month to month. To the extent that hedging is successful for a particular Class, the performance of the Class is likely to move in line with the performance of the underlying assets, with the result that investors in that Class will not gain/ lose if the Class currency falls/ rises against the Base Currency.

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## 6 Risk Factors

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### 6.1 General

The discussion below is of general nature and is intended to describe various risk factors which may be associated with an investment in the Shares of a Fund to which the attention of investors is drawn. See also the section of the relevant Supplement for a discussion of any additional risks particular to Shares of that Fund. However, these are not intended to be exhaustive and there may be other considerations that should be taken into account in relation to an investment. Investors should consult their own advisors before considering an investment in the Shares of a particular Fund. What factors will be of relevance to the Shares of a particular Fund will depend upon a number of interrelated matters including, but not limited to, the nature of the Shares, the Reference Index or Reference Asset (if applicable), the investments and assets of the Fund and the techniques used to link the investments and assets of the Fund to the Reference Index or Reference Asset (if applicable).

No investment should be made in the Shares of a particular Fund until careful consideration of all those factors has been made.

The investments of the Company in securities are subject to normal market fluctuations and other risks inherent in investing in securities. **The value of investments and the income from them, and therefore the value of and income from Shares relating to each Fund can go down as well as up and an investor may not get back the amount they invest.** Changes in exchange rates between currencies or the conversion from one currency to another may also cause the value of the investments to diminish or increase. **Due to the Subscription Charge and/or Redemption Charge and any Anti-Dilution Levy which may be payable on the Shares, an investment in Shares (where such charges are levied) should be viewed as medium to long term. An investment in a Fund should not constitute a substantial proportion of an investment portfolio and may not be appropriate for all investors.**

Risk factors may occur simultaneously and/or may compound each other resulting in an unpredictable effect on the value of the Shares. No assurance can be given as to the effect that any combination of risk factors may have on the value of the Shares.

**Achievement of Investment Objective:** There is no assurance that any Fund will achieve its investment objective. The following are some, but not necessarily all, of the factors which may result in the value of the Shares varying from the value of the Reference Index or Reference Asset: investments in assets other than the constituents of the Reference Index or Reference Asset may give rise to delays or additional costs and taxes compared to an investment in the constituents of the Reference Index or Reference Assets; investment or regulatory constraints may affect the Company but not the constituents of the Reference Index or Reference Asset; the fluctuation in value of Fund's assets; and the existence of a cash position held by a Fund.

**Segregation of Liability:** Under the provisions of the Companies Acts, the Directors shall maintain for each Fund a separate portfolio of assets. As between Shareholders, each portfolio of assets shall be invested for the exclusive benefit of the relevant Fund. The Shareholders shall only be entitled to the assets and profits of that Fund in which they participate. The Company shall be considered one single legal entity. With regard to third parties, in particular towards the Company's creditors, the Company shall be responsible for all liabilities incurred by a Fund exclusively based on the assets of this relevant Fund. Among the Shareholders, the liabilities of each Fund shall only be incurred to the respective Fund. While the provisions of the Companies Acts provide for segregated liability between Funds, these provisions have yet to be tested in foreign courts, in particular, in satisfying local creditors' claims. Accordingly, it is not free from doubt that the assets of any Fund of the Company may not be exposed to the liabilities of other Funds of the Company. As at the date of this Prospectus, the Directors are not aware of any existing or contingent liability of any Fund of the Company.

**Legal and Regulatory:** The Company must comply with regulatory constraints or changes in the laws affecting it, the Shares, or the Investment Restrictions, which might require a change in the investment policy and objectives followed by a Fund. A Fund's assets may also be subject to change in laws or regulations and/or regulatory action which may affect their value. Two examples in particular are (1) The European Union (Short Selling) Regulations 2012 implementing the EU Short Selling Regulation 236/2012 (the "SSR") and (2) the recently enacted US piece of legislation, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act."). The SSR aims to address certain systemic risk concerns with naked or uncovered short selling by providing for, amongst other things, enhanced transparency relating to significant net short positions in specific financial instruments. Please refer to the section entitled "Short Selling Risk" in this prospectus for further information. The Dodd-Frank Act contains a range of measures designed to address systemic risk in the financial services sector and will significantly increase US regulation of investment funds and managers of investment funds. These and other significant changes in global financial regulation may present the Company with significant challenges and could result in losses to the Company.

**Listing:** There can be no certainty that a listing on any stock exchange applied for by the Company will be achieved and/or maintained or that the conditions of listing will not change. Further, trading in Shares on a Relevant Stock Exchange may be halted pursuant to that Relevant Stock Exchange's rules due to market conditions and investors may not be able to sell their Shares until trading resumes.

**Nominee Arrangements:** Where an investor holds Shares via an Authorised Participant on the Secondary Market or other nominee or intermediary such investor will typically not appear on the Register of the Company and may not therefore be able to exercise voting or other rights available to those persons appearing on the Register.

**Political Factors, Emerging Market and Non-OECD Member State Assets:** The performance of the Shares and/or the possibility to purchase, sell, or repurchase the Shares may be affected by changes in general economic conditions and uncertainties such as political developments, changes in government policies, the imposition of restrictions on the transfer of capital and changes in regulatory requirements. Such risks can be heightened in investments in, or relating to, emerging markets or non-OECD

member states. In addition, local custody services remain underdeveloped in many non-OECD and emerging market countries and there is a transaction and custody risk involved in dealing in such markets. In certain circumstances, a Fund may not be able to recover or may encounter delays in the recovery of some of its assets. Furthermore, the legal infrastructure and accounting, auditing and reporting standards in emerging markets or non-OECD member states, may not provide the same degree of investor information or protection as would generally apply to major markets.

**Fund Expenses:** Returns on Shares will be net of all fees and expenses incurred in the establishment and ongoing running of the relevant Fund and may not be directly comparable to the yields which could be earned if any investment were instead made directly in the assets of the relevant Fund or the constituents of the Reference Index or directly in the Reference Asset.

**Delivery Failure:** In some securities markets, deliveries of securities and other Fund Assets and payments therefor may not be or are not customarily made simultaneously. Further due to the nature of the investment policy and structuring of transactions involving the Fund Assets the deliveries of securities and payments may not be made simultaneously. The Custodian or a sub-custodian may make or accept payment for or delivery of Fund Assets in such form and manner and shall not be contrary to the customs prevailing in the relevant market or among securities dealers or in accordance with the terms of the Custodian Agreement. The Company shall bear the risk that:-(i) the recipient of Fund Assets delivered by the Custodian or any sub-custodian may fail to make payment, for or return such Fund Assets or hold such Fund Assets or the proceeds of their sale in trust for the Custodian or the Company; and (ii) the recipient of payment for Fund Assets made by the Custodian or any sub-custodian including without limitation amounts paid as premium or margin on derivatives contracts may fail to deliver the Fund Assets (such failure to include, without limitation, delivery of forged or stolen Fund Assets) or to return such payment, or hold such payment in trust for the Custodian or the Company in each case whether such failure is total or partial or merely a failure to perform on a timely basis. Neither the Custodian nor any sub-custodian shall be liable to the Company for any loss resulting from any of the foregoing events or from the liquidation, insolvency or bankruptcy of such recipient.

**Failure to Reproduce the Composition of a Reference Index or Reference Asset:** The intention is that each Fund will seek to achieve a return by replicating the relevant Reference Index or Reference Asset. Investors should, however, be aware that the Fund incurs expenses and fees which reduce returns accordingly, and that when dividends are paid by the issuers of the securities the Fund's income may be reduced by tax at source, such taxes not being reflected in the return on the Reference Index or Reference Asset concerned.

While the Company will, in the event of changes to the composition of the Reference Index or Reference Asset, seek to adjust the portfolio composition of the Fund, it should also be noted that a period of time generally elapses between any change in the composition of the Reference Index or Reference Asset and the corresponding adjustment being made to the composition of the Fund's portfolio.

To achieve the investment objective, the Fund may also employ derivatives. However, prices of futures develop differently from the underlying securities. No guarantee can therefore be given that the return on the Fund concerned will at all times be identical to that of the Reference Index or Reference Asset.

**Interest and Exchange Rate Fluctuations:** Each Fund may enter into hedging transactions on currencies to protect against a decline in the value of investments denominated in currencies other than the reference currency, and against any increase in the cost of investments denominated in currencies other than the reference currency.

The Net Asset Value of a Fund invested in fixed-interest securities will change in response to fluctuations in interest rates and currency exchange rates. Except to the extent that values are independently affected by exchange rate fluctuations, when interest

rates decline the value of fixed-income securities can generally be expected to rise. Conversely, when interest rates rise, the value of fixed-income securities can generally be expected to decline. The performance of investments in fixed-interest securities denominated in a specific currency will also depend on the interest rate environment in the country issuing the currency. As the Net Asset Value of a Fund is calculated in its reference currency, the performance of investments denominated in a currency other than the reference currency will depend on the strength of such currency against the reference currency and on the interest rate environment in the country issuing the currency. In the absence of other events that could otherwise affect the value of non-reference currency investments (such as a change in the political climate or an issuer's credit quality), an appreciation in the value of the non-reference currency can generally be expected to increase the value of a Fund's non-reference currency investments in terms of the reference currency. A rise in interest rates or decline in the value of non-reference currencies relative to the reference currency can generally be expected to depress the value of a Fund's non-reference currency investments.

**Non-Voting Shares:** The Non-Voting Shares do not carry any voting rights. Changes may not be made in respect of the Class of Shares of the relevant Fund to which those Non-Voting Shares relate.

**Securities Lending Arrangements and Repurchase Transactions:** The Company may engage in securities lending or Repurchase Transactions over a period of time with one or more counterparties for the purposes of efficient portfolio management, which could include an exclusive arrangement (as further described in the section above headed "Repurchase/Reverse Repurchase Agreements and Securities Lending"). Collateral which meets the requirements of the Company's Collateral Policy will be posted by the relevant counterparty. A default by the counterparty to such a securities lending arrangement or Repurchase Transaction, or a fall in the value of the Collateral posted in connection with such transactions below that of the value of the securities lent or the cash leg of the Repurchase Transaction may result in a reduction in the value of the relevant Fund and the Fund may suffer loss as a result. The Company will use reasonable endeavours to ensure that any Collateral transferred to it in connection with such transactions will be segregated from the bankruptcy estate of the counterparty and not available to the creditors of the counterparty. Shareholders are advised, however, that third parties may seek to challenge such segregation which, if successful, would result in a total loss of both the Collateral and the assets of the Fund that were lent or otherwise transferred. In the case of cash Collateral, as a matter of applicable law, such cash Collateral might not be held in a segregated manner in favour of the Company, which may result in a total loss of cash Collateral upon insolvency of the relevant counterparty.

**Reinvestment of Cash Collateral:** As a Fund may reinvest cash collateral received, subject to the conditions and within the limits laid down by the Central Bank, a Fund reinvesting cash collateral will be exposed to the risk associated with such investments, such as failure or default of the issuer of the relevant security.

**Investments in Small and Mid-Cap Companies:** The equity securities of smaller and mid-cap companies tend to be more volatile and less liquid than the equity securities of large companies. As smaller companies may experience more market price volatility than equity securities of larger companies, the Net Asset Value of any Funds which invest in such companies may reflect this volatility. Smaller companies, as compared with larger companies, may have a shorter history of operations, may not have as great an ability to raise additional capital, may have a less diversified product line making them susceptible to market pressure and may have a smaller public market for their shares.

Investment in such companies may involve relatively higher investment costs and accordingly investment in a Fund which invests in smaller and mid-cap companies should be viewed as a long-term investment. Such a Fund may however dispose of an investment made by it within a relatively short period of time, for example, to meet requests for redemption of shares.

**Corporate Bonds:** A corporate bond focused Fund may invest in corporate bonds from companies with a range of credit worthiness. A default by the issuer of a bond may result in a reduction in the value of that Fund.

Although a Fund will invest in bonds that invest and trade in the secondary market, the secondary market for corporate bonds can often be illiquid and therefore it may be difficult to achieve fair value on purchase and sale transactions.

Cash interest rates vary over time. The price of bonds will generally be affected by changing interest rates and credit spread.

**Covered Bonds:** Where a Fund invests in covered bonds, such covered bonds will be of a high quality however, there is no guarantee that such covered bonds will be free from counterparty default.

The price of bonds will generally be affected by changing interest rates and credit spread.

**Government Bonds:** Although a government bond focused Fund will invest in government bonds that invest and trade in the secondary market, the secondary market for government bonds or government issued inflation linked bonds can become illiquid and therefore it may be more difficult to achieve fair value on purchase and sale transactions.

The price of bonds will generally be affected by changing interest rates.

In periods of low inflation the positive growth of a government bond focussed Fund may be limited.

**Structured Finance and Other Securities:** A Fund may be exposed directly or indirectly to Structured Finance Securities and other assets which involve substantial financial risk, including distressed debt and low quality credit securities, asset-backed securities and credit-linked securities. These securities may entail a higher liquidity risk than exposure to sovereign or corporate bonds. The Fund's primary credit risk would be to the issuer of the Structured Finance Security.

**Concentration Risk:** If the Reference Index or Reference Asset of a Fund concentrates in a particular industry, group of industries or sector, that Fund may be adversely affected by the performance of those securities and may be subject to price volatility. In addition, a Fund that concentrates in a single industry or group of industries may be more susceptible to any single economic, market, political or regulatory occurrence affecting that industry or group of industries.

**Leverage Risk:** The Fund Assets, Reference Index or Reference Asset and the derivative techniques used to link the two may comprise elements of leverage (or borrowings) which may potentially magnify losses and may result in losses greater than the amount borrowed or invested.

**Index Licences:** Investors should note that there may be instances where, under the terms of an index licence agreement between the Company or the Investment Manager and an Index Provider (relating to a Reference Index), the Index Provider has limited or excluded its liability under such index licence agreement. In such circumstances, and for example where an Index Provider miscalculates the value or level of a Reference Index, the Fund and/or Shareholders may have no recourse against the relevant Index Provider and as a result Shareholders in the relevant Fund may incur a loss.

**Index calculation risk:** the values of Reference Indices are calculated and published on a regular basis by the respective Index Provider or their delegates, and the published values can form an integral part of the value of the swap agreement and consequently of the Net Asset Value of the Fund. Investors are therefore subject to the risk that the levels of the Reference Indices are calculated incorrectly or inaccurately. In situations where, subsequent to the initial publication of the levels for any day and subsequent to the release of the Net Asset Value for that day, the levels of the Reference Indices are revised, the Net Asset Value of the Fund for that day will not be amended to reflect the new levels of the Reference Indices.

**Short Selling Risk:** Although the Regulations prohibit the short selling of physical securities, UCITS are permitted to create synthetic short positions through the use of FDIs. A short sale means any sale of a security which the seller does not own at the time of entering into the agreement to sell including such a sale where at the time of entering into the agreement to sell the seller has borrowed or agreed to borrow the security for delivery at settlement. The seller sells the borrowed or agreed to be borrowed securities in anticipation of a decline in price of the relevant security. The benefit to the seller where the value of the security declines is the difference between the price at which the security is sold and the cost of repurchasing the borrowed security in order to return it to the person from whom it was borrowed. A synthetic short position allows a fund to achieve a similar economic outcome without short selling the physical securities.

Synthetic short selling may be achieved through the use of a variety of FDIs including contracts for differences, futures and options. Please refer to the section 'Derivative Risk' for further details in relation to the risks attached to trading each of these FDIs.

#### *Short Selling Regulations*

Pursuant to the EU Short Selling Regulation 236/2012 (the "SSR"), information on net short positions, in shares admitted to trading on a trading venue in the EU (except where the principal trading venue of that instrument is outside the EU) or sovereign debt issued by a Member State or the EU, is required to be notified to the relevant competent authority as prescribed in the SSR and the delegated regulations adopted by the European Commission to supplement the SSR. In brief, under the SSR, a short position may be generated either by the short selling of physical shares or sovereign debt or by entering into a transaction relating to a financial instrument, other than shares or sovereign debt, where the effect is to confer a financial advantage on the person entering in to the transaction in the event of a decrease in the price or value of the relevant share or sovereign debt instrument. The term 'financial instrument' is defined by reference to Annex I, section C of the Markets in Financial Instruments Directive (**MiFID**) and includes transferable securities, money market instruments, units in collective investment schemes and a broad range of derivatives referencing various underlying investments. Accordingly, the SSR notification requirements cover net short positions created by the use of FDIs such as options, futures, index-related instruments, contracts for differences and spread bets relating to shares or sovereign debt.

The SSR and the delegated regulations set out the deadlines by which notifications of net short positions must be made to the relevant competent authority and the thresholds at which a notification requirement is triggered. The thresholds, in the case of shares, are set by reference to the value of the short position relative to the issued share capital of the issuer and, in the case of sovereign debt, by reference to the total amount of outstanding issued sovereign debt. Depending on the value of the short position, notifications may constitute private notifications to the relevant competent authority or public disclosure where information on net short positions notified will be available to the public.

In order to comply with the SSR, where a Fund is engaging in synthetic shorting of shares or sovereign debt, the Company must be aware of the notification and disclosure obligations under the SSR. Failure to adhere to the notification and disclosure requirements under the SSR could result in losses to the Company.

Compliance with the SSR and the delegated regulations may represent a significant increase in the administrative burden on the Company in respect of Funds impacted by the SSR with inevitable adverse cost implications.

## **Use of Derivatives:**

*General:* While the prudent use of such derivatives can be beneficial, derivatives also involve risks which, in certain cases, can be greater than the risks presented by investing directly in the constituents of the Reference Index or Reference Asset. There may be transaction costs associated with the use of derivatives.

*Control and Monitoring:* Derivative products are highly specialised instruments that require investment techniques and risk analysis different from those associated with equity and fixed income securities. The use of derivative techniques requires an understanding not only of the relevant Reference Index or Reference Asset but also of the derivative itself. In particular, the use and complexity of derivatives require the maintenance of adequate controls to monitor the transactions entered into, the ability to assess the risk that a derivative adds to a Fund and the ability to forecast the relative price, interest rate or currency rate movements correctly.

*Liquidity Risk:* Liquidity risk exists when a particular instrument is difficult to purchase or sell. If a derivative transaction is particularly large or if the relevant market is illiquid as is the case with many privately negotiated derivatives, it may not be possible to initiate a transaction or liquidate a position at an advantageous price, or at all.

*Credit Risk and Counterparty Risk:* The Company on behalf of a Fund may enter into transactions in over-the-counter markets, which will expose the Fund to the credit of its counterparties with whom they transact or place margin or collateral in respect of such transactions and their ability to satisfy the terms of such contracts. For example, the Company on behalf of the Fund may enter into repurchase agreements (for efficient portfolio management purposes), forward contracts, options and swap arrangements or other derivative techniques, each of which exposes the Fund to the risk that the counterparty may default on its obligations to perform under the relevant contract. In the event of the bankruptcy or insolvency of a counterparty, the Fund could experience delays in liquidating the position and significant losses, including declines in the value of its investment during the period in which the Company seeks to enforce its rights, inability to realise any gains on its investment during such period and fees and expenses incurred in enforcing its rights. There is also a possibility that the above agreements and derivative techniques are terminated due, for instance, to bankruptcy, supervening illegality or change in the tax or accounting laws relative to those at the time the agreement was originated. In such circumstances, investors may be unable to recover any losses incurred. Derivative contracts such as swaps entered into by the Company on behalf of a Fund on the advice of the Investment Manager involve credit risk that could result in a loss of the Fund's entire investment as the Fund may be fully exposed to the credit worthiness of a single Approved Counterparty where such an exposure will be collateralised.

*Legal Risk:* The Company must comply with regulatory constraints or changes in the laws affecting it, the Shares, or the Investment Restrictions, which might require a change in the investment policy and objectives followed by a Fund. The Fund Assets, the Underlying and the derivative techniques used to link the two may also be subject to changes in law or regulations and/or regulatory action which may affect their value.

*Settlement Risk:* Some of the markets in which a Fund may effect derivative transactions are "over-the-counter" or "interdealer" markets, which may be illiquid and are sometimes subject to larger spreads than exchange-traded derivative transactions. The participants in such markets are typically not subject to credit evaluation and regulatory oversight, which would be the case with members of "exchange-based" markets. This exposes the Fund to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a credit or liquidity problem with the counterparty. Delays in settlement may also result from disputes over the terms of the contract (whether or not bona fide) since such markets may lack the established rules and procedures for swift settlement of disputes among market participants found in "exchange-based" markets. These factors may cause a Fund to suffer a loss due to adverse market movements while replacement transactions are executed or otherwise.

*Contracts for Differences:* Futures and options contracts can also be referred to, as well as include, contracts for differences. These can be options and futures on any index, as well as currency and interest rate swaps. However, unlike other futures and options, these contracts can only be settled in cash. Investing in a contract for differences carries the same risks as investing in a future or option. Transactions in contracts for differences may also have a contingent liability and an investor should be aware of the implications of this as set out below.

*Contingent Liability Transactions:* Contingent liability transactions which are margined require the Fund to make a series of payments against the purchase price, instead of paying the whole purchase price immediately. If the Fund trades in futures, contracts for differences or sells options, the Fund may sustain a total loss of the margin it deposits with the broker to establish or maintain a position. If the market moves against the Fund, the Fund may be called upon to pay substantial additional margin at short notice to maintain the position. If the Fund fails to do so within the time required, its position may be liquidated at a loss and the Fund will be liable for any resulting deficit. Even if a transaction is not margined, it may still carry an obligation to make further payments in certain circumstances over and above any amount paid when the contract was entered into. Contingent liability transactions which are not traded on or under the rules of a recognised or designated investment exchange may expose you to substantially greater risks.

*Other Risks:* Other risks in using derivatives include the risk of differing valuations of derivatives arising out of different permitted valuation methods and the inability of derivatives to correlate perfectly with underlying securities, rates and indices. Many derivatives, in particular OTC derivatives, are complex and often valued subjectively and the valuation can only be provided by a limited number of market professionals which often are acting as counterparties to the transaction to be valued. Inaccurate valuations can result in increased cash payment requirements to counterparties or a loss of value to a Fund. The value of any OTC derivatives shall be the value obtained from the counterparty, the Administrator or another party and shall be valued daily. Such valuations will be approved or verified at least weekly by a party independent of the counterparty who may either be the Investment Manager, the Administrator or sourced by the Administrator as appropriate and who has been approved for such purpose by the Custodian. Derivatives do not always perfectly or even highly correlate or replicate the value of the securities, rates or indices they are designed to replicate. Consequently, a Fund's use of derivative techniques may not always be an effective means of, and sometimes could be counterproductive to, following such Fund's investment objective.

*EPM Risk:* The Company on behalf of a Fund may employ techniques and instruments relating to Transferable Securities, Money Market Instruments and/or other financial instruments in which it invests for efficient portfolio management purposes. Many of the risks attendant in utilising derivatives, as disclosed in the section entitled "Use of Derivatives" above, will be equally relevant when employing such efficient portfolio management techniques. In addition to the sub-section entitled "General", particular attention is drawn to the sub-sections entitled "Credit Risk and Counterparty Risk" and "Securities Lending Arrangements and Repurchase Transactions". Investors should also be aware that from time to time, a Fund may engage with repurchase/reverse repurchase agreements counterparties and/or securities lending agents that are related parties to the Custodian or other service providers of the Company. Such engagement may on occasion cause a conflict of interest with the role of the Custodian or other service provider in respect of the Company. Please refer to section 13.1 "Conflicts of Interest" for further details on the conditions applicable to any such related party transactions. The identity of any such related parties will be specifically identified in the Company's semi-annual and annual reports.

## 6.2 Secondary Market Trading Risk

Even though the Shares are to be listed on one or more Relevant Stock Exchanges, there can be no certainty that there will be liquidity in the Shares on any Relevant Stock Exchange or that the market price at which the Shares may be traded on a Relevant Stock Exchange will be the same as or approximately equal to the Net Asset Value per Share. However, as the Shares may be dealt in by means of subscription and redemption, the Directors consider that large discounts or premiums in the Net Asset Value of a Fund would not be sustainable. There can be no guarantee that once the Shares are listed on a Relevant Stock Exchange they will remain listed or that the conditions of listing will not change.

Trading in Shares on a Relevant Stock Exchange, or the requirement for market makers to make two way prices on a Relevant Stock Exchange, may be halted or suspended due to market conditions, or because the Relevant Stock Exchange considers that trading in the Shares is inadvisable, or the discontinuance in the calculation or publication of the Reference Index or Reference Asset or a component thereof, or otherwise pursuant to the Relevant Stock Exchange's rules. If trading on a Relevant Stock Exchange is halted or suspended, investors in Shares may not be able to sell their Shares until trading resumes however such investors should be able to apply to the Company to redeem Shares in accordance with the provisions set out below.

## 6.3 Taxation

Investors in the Shares should be aware that they may suffer income tax, withholding tax, capital gains tax, wealth tax, stamp taxes or any other kind of tax on distributions or deemed distributions of the Fund, capital gains within the Fund, whether realised or unrealised, income received or accrued or deemed received within the Fund etc., subject to the laws and practices of the country where the Shares are purchased, sold, held or redeemed and subject to the country of tax residence or nationality of the Shareholder.

Investors should be aware of the fact that they might have to pay taxes on income or deemed income received by or accrued within a Fund. Taxes may be calculated based on income received and/or deemed to be received and/or accrued in the Fund in relation to the assets of a Fund, whereas the performance of the Fund, and subsequently the return investors receive after redemption of the Shares, might partially or fully depend on the performance of the Reference Index or Reference Asset.

Investors who are in any doubt as to their tax position should consult their own independent tax advisors. In addition, investors should be aware that tax regulations and their application or interpretation by the relevant taxation authorities' change from time to time. Accordingly, it is not possible to predict the precise tax treatment, which will apply at any given time.

## 6.4 Consequences of winding-up proceedings

If the Company fails for any reason to meet its obligations or liabilities, or is unable to pay its debts, a creditor may be entitled to make an application for the winding-up of the Company. The commencement of such proceedings may entitle creditors (including Approved Counterparties) to terminate contracts with the Company (including Fund's assets) and claim damages for any loss arising from such early termination. The commencement of such proceedings may result in the Company being dissolved at a time and its assets (including the assets of all Funds) being realised and applied to pay the fees and expenses of the appointed liquidator or other insolvency officer, then in satisfaction of debts preferred by law and then in payment of the Company's liabilities, before any surplus is distributed to the Shareholders of the Company. In the event of proceedings being commenced, the Company may not be able to pay the full amounts anticipated by the Supplement in respect of any Fund.

## 6.5 Potential Conflicts of Interest

The Promoter, the Directors, the Investment Manager, the Distributor, the Custodian, the Administrator, the Index Provider, any Approved Counterparty, any Shareholder, any Authorised Participant or market maker which has been appointed to offer prices for the Shares on any Relevant Stock Exchange on which the Classes to which the Shares belong are listed (for the purposes hereof, a Market Maker) and any of their respective subsidiaries, Affiliates, associates, agents or delegates (for the purposes hereof, Connected Persons and each a Connected Person) may:

- (a) contract or enter into any financial, banking or other transactions or arrangements with one another or with the Company including, without limitation, investment by the Company in securities or investment by any Connected Persons in any company or body any of whose investments form part of the assets of the Company or be interested in any such contracts or transactions;
- (b) invest in and deal with shares, securities, assets or any property of the kind included in the property of the Company for their respective individual accounts or for the account of a third party; and
- (c) deal as agent or principal in the sale or purchase of securities and other investments to or from the Company through or with any Connected Person.

Any assets of the Fund in the form of cash or securities may be deposited with any Connected Person. Any assets of the Fund in the form of cash may be invested in certificates of deposit or banking investments issued by any Connected Person. Banking or similar transactions may also be undertaken with or through a Connected Person.

In addition, in many cases each Approved Counterparty may be required to provide valuations of financial derivative instruments entered into between the relevant Fund and the Approved Counterparty. These daily valuations will form the basis upon which the value of certain assets of a Fund is calculated. The Directors acknowledge that each Approved Counterparty or the relevant Affiliates may have a potential conflict of interest by virtue of acting as the Approved Counterparty and/or providing such valuations. However, the Directors believe that such conflicts can be adequately managed, and expect that each Approved Counterparty or one of its Affiliates will be suitable and competent to provide such valuations and will do so at no further cost to the relevant Fund than would be the case if the services of a third party were engaged to provide valuations. In addition the valuation provided by the Approved Counterparty will be verified by an entity independent of the Approved Counterparty.

Each Approved Counterparty or one of its Affiliates may also act as an Authorised Participant and may also act as the Index Provider, the Market Maker and/or the sub-custodian to the Company all in accordance with the relevant agreements which are in place. The Directors acknowledge that, by virtue of the functions which each Approved Counterparty and/or its Affiliate will perform in connection with the Company, potential conflicts of interest are likely to arise. In such circumstances, each Approved Counterparty and its Affiliate has undertaken to use its reasonable endeavours to resolve any such conflicts of interest fairly (having regard to its respective obligations and duties) and to ensure that the interests of the Company and the Shareholders are not unfairly prejudiced. The Directors believe that each Approved Counterparty and/or its Affiliate are suitable and competent to perform such functions.

Further details of any risk factors which are applicable to a particular Fund are set out in the relevant Supplement. The risk factors set out in this Prospectus do not purport to be an exhaustive or complete explanation of all the risks. Investors should seek professional advice before investing.

## 6.6 Investment in Russia

### (a) Political and Social Risks

Since 1985, Russia has been undergoing a substantial political transformation from a centrally controlled command economy under communist rule to a pluralist market-oriented democracy. A significant number of changes were undertaken during these years but there is still no assurance that the political and economic reforms necessary to complete such a transformation will continue or will be successful.

Russia is a federation composed of republics, regions, areas, cities of federal importance, autonomous districts and one autonomous region. The delineation of authority among the constituent entities of the Russian Federation and federal governmental authorities is subject to change from time to time. This process exists alongside the structure of Presidential representatives in the regions. The lack of consensus between local and regional authorities and the federal governmental authorities often result in the enactment of conflicting legislation at various levels, and may result in political instability and legal uncertainty. It may lead to negative economic effects on the Fund, which could have a material adverse effect on its business, financial conditions or ability to fulfil its investment objective.

In addition, ethnic, religious, and other social divisions periodically give rise to tensions and, in certain cases armed conflicts. In Chechnya, Russian armed forces have conducted anti-terrorist operations for a number of years, and some of them still remain there to keep law and order. Any escalation of violence may entail grave political consequences, which may adversely impact the investment climate in the Russian Federation.

### (b) Economic Risks

Simultaneously with the enactment of political reforms, the Russian Government has been attempting to implement policies of economic reform and stabilisation. These policies have involved liberalising prices, reducing defence expenditures and subsidies, privatising state-owned enterprises, reforming the tax and bankruptcy systems and introducing legal structures designed to facilitate private, market-based activities, foreign trade and investment.

The Russian economy has been subject to abrupt downturns. The events and aftermath of 17 August 1998 (the date of the Russian government's default on its short-term Rouble denominated treasury bills and other Rouble-denominated securities, the abandonment by the Central Bank of Russia of its efforts to maintain the Rouble/US dollar rate within the Rouble currency band and the temporary moratorium on certain hard-currency payments to foreign counterparties) led to a severe devaluation of the Rouble, a sharp increase in the rate of inflation, a significant decrease in the credibility of the country's banking system with Western financial institutions, significant defaults on hard currency obligations, a significant decline in the prices of Russian debt and equity securities and an inability to raise funds on international capital markets. While the condition of the Russian economy has improved in a number of respects since 1998, there can be no assurance that this improvement will continue or that it will not be reversed.

The Rouble is not convertible outside Russia. A market exists within Russia for the conversion of Roubles into other currencies, but it is limited in size and is subject to rules limiting the purposes for which conversion may be effected. There can be no assurance that such a market will continue indefinitely.

### (c) Legal Risks

Risks associated with the Russian legal system include (i) the untested nature of the independence of the judiciary and its immunity from economic, political or nationalistic influences; (ii) inconsistencies among laws, Presidential decrees and Government and ministerial orders and resolutions; (iii) the lack of judicial and administrative guidance on

interpreting applicable laws; (iv) a high degree of discretion on the part of government authorities; (v) conflicting local, regional and federal laws and regulations; (vi) the relative inexperience of judges and courts in interpreting new legal norms and (vii) the unpredictability of enforcement of foreign judgements and foreign arbitration awards.

There is no guarantee that further judicial reform aimed at balancing the rights of private and governmental authorities in courts and reducing grounds for re-litigation of decided cases will be implemented and succeed in building a reliable and independent judicial system.

Whilst fundamental reforms relating to securities investments and regulations have been initiated in recent years there may still be certain ambiguities in interpretation and inconsistencies in their application. Monitoring and enforcement of applicable regulations remains uncertain.

Equity securities in Russia are dematerialised and the only evidence of ownership is entry of the shareholder's name on the Share register of the issues. The concept of fiduciary duty is not well established and shareholders may, therefore, suffer dilution or loss of investment due to the actions of management without satisfactory legal remedy.

Rules regulating corporate governance are undeveloped and therefore may offer little protection to shareholders.

## 6.7 Disruption Events

Upon the occurrence of a Disruption Event (including an Index Disruption and Adjustment Event as defined below, and without limitation to the Directors' personal powers as further described herein):

- (a) to the extent that the Fund has entered into FDIs, an Approved Counterparty (whether acting as the relevant Calculation Agent or otherwise) may either (i) terminate one or more of the relevant FDIs, or (ii) adjust the terms of the relevant FDIs held by the Fund to account for such event, including adjustment to or substitution of the Reference Index, the calculation of the Reference Index level or the valuation of the FDI (and, provided that the Investment Manager (and where appropriate the Approved Counterparty) considers that it is commercially reasonable to do so, the relevant Fund may continue to operate by using such formula for and method of calculating the Reference Index level last in effect prior to the occurrence of any such event with such adjustments as the Investment Manager may deem necessary for the purpose of continuing the operation of the relevant Fund), and such adjustment(s) may have a positive or negative impact on the Net Asset Value of the relevant Fund; and/or
- (b) the Directors may temporarily suspend the calculation of the Net Asset Value and any subscription, redemption and exchange of Shares and payment of redemption proceeds in accordance with the provisions under the section 7.3 "Suspension of Calculation of Net Asset Value"; and/or
- (c) if the Directors shall have resolved that it is impracticable or inadvisable for a Fund to continue to operate having regard to the market conditions (taking into account such disruption or adjustment events and the best interests of the Shareholders), the Directors shall terminate the Fund.

Any change of a Reference Index shall be subject to (i) the prior approval of the Shareholders of the relevant Fund by ordinary resolution or with the approval in writing of all the Shareholders; or (ii) shall be notified to Shareholders in the circumstances set out in Section 4.3(g) above.

Certain events ("**Index Disruption and Adjustment Events**") may occur with respect to a Reference Index or the ability of an Approved Counterparty to perform its obligations under one or more derivative contracts. These events include, but are not limited to, those items in section 4.3 above and the events below:

- (i) the Reference Index is deemed to be inaccurate or does not reflect actual market developments;
- (ii) the Reference Index is permanently cancelled by the Index Provider;
- (iii) the Index Provider fails to calculate and announce the Reference Index level;
- (iv) the Index Provider makes a material change in the formula for or the method of calculating the Reference Index (other than a modification prescribed in that formula or method to maintain the calculation of the Reference Index level in the event of changes in the constituent components and weightings and other routine events);
- (v) the licence to use and reference the Reference Index by the Company is terminated;
- (vi) it becomes impossible or commercially unreasonable, in the determination of the Investment Manager, for the Approved Counterparty to continue to perform its obligations under the derivatives;
- (vii) to the extent the Fund has entered into FDIs, and / or options or futures contracts on the Reference Index where (a) the costs associated with the Approved Counterparty hedging its liability and obligations under the relevant FDIs and / or options or futures contracts on the Reference Index increase; or (b) the ability of the Approved Counterparty to hedge its liability becomes impaired or commercially unreasonable or impracticable; or
- (viii) if any law shall be passed or change in law is implemented which renders it illegal, impracticable or inadvisable to (a) continue to reference or replicate the relevant Reference Index; or (b) for the Approved Counterparty to continue to perform its obligations under one or more derivative contracts.

The provisions in this Section 6.6 apply to Reference Assets in the same way as they apply to a Reference Index.

Further details of any risk factors which are applicable to a particular Fund are set out in the relevant Supplement. The risk factors set out in this Prospectus do not purport to be an exhaustive or complete explanation of all the risks. Investors should seek professional advice before investing.

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## **7 Issue and Repurchase Prices/Calculation of Net Asset Value/ Valuation of Assets**

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### **7.1 Issue and Repurchase Prices/Calculation of Net Asset Value**

The Initial Issue Price for Shares of each Fund shall be the amount(s) set out in the Supplement for the relevant Fund.

The price at which Shares of any Fund will be issued on a Dealing Day, after the initial issue, is calculated by ascertaining the Net Asset Value of the relevant Fund (i.e. the value of the assets of the Fund having deducted the liabilities of the Fund therefrom) as at the Valuation Point for that Fund for the relevant Dealing Day. The Net Asset Value per Share of the relevant Fund is calculated by dividing the Net Asset Value of the relevant Fund by the total number of Shares in issue in the Fund at the relevant Valuation Point and rounding the result to up to four decimal places. Where applicable, the Net Asset Value per Share of each Class in a Fund is calculated by determining that portion of the

Net Asset Value of the Fund which is attributable to the relevant Class and by dividing this sum by the total number of Shares of the relevant Class in issue at the relevant Valuation Point and rounding the resulting amount to up to four decimal places. If a Fund has more than one Class of Share, additional fees may be charged against certain Classes, and details of such fees will be set forth in the Supplement for the relevant Fund. This may result in the Net Asset Value per Share of each Class being different. The Valuation Point for each Fund is set out in the Supplement for the relevant Fund.

The price at which Shares will be issued on a Dealing Day is, subject as hereinafter provided, the Net Asset Value per Share of the relevant Class which is calculated in the manner described above. The Company may, in calculating such price, add to the Net Asset Value per Share of the relevant Class, for its own account, a charge sufficient to cover stamp duties, Transfer Taxes (if applicable) or other taxation (if any), fiscal and purchase charges (including but not limited to spreads and any transaction-driven custody charges) in respect of the issue of Shares in the relevant Fund (the "**Issue Price**"). Applicants may also be charged a Subscription Charge and/or an Anti-Dilution Levy as may be specified in the relevant Supplement.

The price at which Shares will be redeemed on a Dealing Day is subject as hereinafter provided, the Net Asset Value per Share of the relevant Class which is calculated in the manner described above. The Company may, in calculating such price, deduct from the Net Asset Value per Share of the relevant Class, for its own account, a charge in respect of any fiscal and sales charges (including but not limited to spreads and any transaction-driven custody charges) or Transfer Taxes (if applicable) in respect of the redemption of Shares in the relevant Fund (the "**Repurchase Price**"). Applicants may also be charged a Redemption Charge and/or an Anti-Dilution Levy as may be specified in the relevant Supplement.

In respect of the Anti-Dilution Levy, the Directors or the Investment Manager as approved by the Directors may adjust the Issue Price and/or the Repurchase Price by adding to or deducting from (as appropriate) the Issue Price per Share and/or the Repurchase Price per Share such a levy, where there are net subscriptions and net redemptions, respectively, for retention as part of the assets of the Fund. This Anti-Dilution Levy will cover dealing costs to preserve the value of the assets of the Fund.

## 7.2 Valuation of Assets

The Articles provide for the method of valuation of the assets and liabilities of each Fund.

In particular, the Articles provide that the value of any investments listed or dealt in on a Market shall be the last traded price for equity securities and the closing mid-market price for fixed-income securities on the relevant Market at the relevant Valuation Point. Where any investment is listed or dealt in on more than one Market, the Directors shall select the Market which constitutes the main Market for such investment or which they determine provides the fairest criteria in a value for the security.

The value of any investment which is not listed or dealt in on a Market or of any investment which is normally listed or dealt in on a Market but in respect of which the closing price is currently unavailable or the current price of which does not in the opinion of the Directors represent fair market value, shall be the probable realisation value thereof estimated with care and in good faith by the Directors or by a competent person appointed by the Directors and approved for such purpose by the Custodian. In determining the probable realisation value of any such investment, a certified valuation thereof provided by a competent independent person or in the absence of any independent person, the Investment Manager, who in each case shall have been approved for such purposes by the Custodian, shall be sufficient (for further information in respect of "**Conflicts of Interest**", see section 13.1 below).

Cash and other liquid assets will be valued at their face value plus interest accrued, where applicable.

The value of any prepaid expenses, cash dividends and interest declared or accrued and not yet received as at a Valuation Point shall be deemed to be the face value thereof unless in any case the Directors are of the opinion that the same is unlikely to be paid or received in full in which case the value thereof shall be arrived at after making such discount as the Directors may consider appropriate in such case to reflect the true value thereof as at any Valuation Point.

The value of any demand notes, promissory notes and accounts receivable shall be deemed to be the face value or full amount thereof after making such discount as the Directors may consider appropriate to reflect the true current value thereof as at any Valuation Point.

Forward foreign exchange contracts shall be valued by reference to freely available market quotations as at the Valuation Point or if unavailable in accordance with the provisions for off-exchange derivative contracts below.

The value of any exchange traded futures contracts, share price index futures contracts, options and other quoted derivatives shall be based on the settlement price as determined by the Market in question as at the Valuation Point. Where the settlement price is not available the value of such contract shall be its probable realisation value which must be estimated with care and in good faith by a competent person appointed by the Directors and approved for the purpose by the Custodian.

The value of any off-exchange derivative contracts shall be the quotation from the counterparty to such contracts or another party at the Valuation Point and shall be valued daily. The valuation will be approved or verified at least weekly by a party independent of the counterparty who may be the Investment Manager and who has been approved for such purpose by the Custodian. Alternatively, the value of any over-the-counter derivative contract may be the quotation from an independent pricing vendor or that calculated by the Company itself and shall also be valued daily. Where this alternative valuation is used the Company must follow international best practice and adhere to specific principles on such valuations of OTC instruments established by bodies such as IOSCO and AIMA as specified by the Central Bank in Guidance Note 1/00. Any such alternative valuation must be provided by a competent person appointed by the Company or the Investment Manager and approved for the purpose by the Custodian, or a valuation by any other means provided that the method is approved by the Custodian. Any such alternative valuation must be reconciled to the counterparty valuation on a monthly basis. Where significant differences arise these must be promptly investigated and explained.

The valuation of units or shares or other similar participations in any collective investment scheme which provides for the units or shares or other similar participations therein to be redeemed at the option of the holder out of the assets of that undertaking shall be the last available net asset value per unit or share or other relevant participation as published by the scheme as at the relevant Valuation Point, or (if bid and offer prices are published), at the last bid price.

The Directors or their delegates may, at their discretion in relation to any particular Fund which is a money market fund, value any investment using the amortised cost method of valuation where such fund complies with the Central Bank's requirements for money market funds and where a review of the amortised cost valuation vis-à-vis market valuation will be carried out in accordance with the Central Bank's guidelines.

The Directors or their delegate may at their discretion in relation to any particular Fund which is not a money market fund but which invests in money market instruments on the basis of amortised cost provided that each such security being valued using the

amortised cost basis of valuation shall have a residual maturity not exceeding 3 months and will have no specific sensitivity to market parameters, including credit risk.

If in any case a particular value is not ascertainable as provided above, the method of valuation of the relevant investment shall be such as the Directors, with the approval of the Custodian, shall decide.

Any value expressed otherwise than in the Base Currency of the relevant Fund (whether of any investment or cash) and any non-base currency borrowing shall be converted into the Base Currency at the rate (whether official or otherwise) available to the Administrator.

Notwithstanding the generality of the foregoing, the Directors may with the approval of the Custodian adjust the value of any investment if taking into account currency, marketability and/or such other considerations as they may deem relevant, such as, applicable rate of interest, anticipated rate of dividend, maturity or liquidity, they consider that such adjustment is required to reflect the fair value thereof.

### 7.3 Suspension of Calculation of Net Asset Value

The Company may at any time temporarily suspend the calculation of the Net Asset Value of any Fund and the subscription, redemption or exchange of Shares and the payment of repurchase proceeds of any Class during (i) any period when any of the principal Markets on which a substantial part of the direct or indirect investments of the relevant Fund are quoted is closed, otherwise than for ordinary holidays, or during which dealings therein are restricted or suspended; (ii) any period when, as a result of political, economic, military or monetary events or any circumstances outside the control, responsibility and power of the Directors, disposal or valuation of investments of the relevant Fund is not reasonably practicable without this being seriously 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 fairly be calculated; (iii) any breakdown in the means of communication normally employed in determining the price of any of the relevant Fund's investments and other assets or when for any other reason the current prices on any Market of any assets of the relevant Fund cannot be promptly and accurately ascertained; (iv) any period during which any transfer of funds involved in the realisation or acquisition of investments or payments due on redemption of Shares cannot, in the opinion of the Directors, be effected at normal prices or rates of exchange; or (v) any period during which the Company is unable to repatriate funds required for the purpose of making payments due on redemption of Shares of any Class in the relevant Fund; or (vi) any period where in the opinion of the Directors such suspension is justified having regard to the interests of the Company and/or the relevant Fund; or (vii) following the circulation to the relevant Shareholders of a notice of a general meeting at which a resolution proposing to wind-up the Company or terminate the relevant Fund is to be considered. The calculation of the Net Asset Value of a Fund may also be suspended where such suspension is required by the Central Bank in accordance with the Regulations. The Company will, whenever possible, take all reasonable steps to bring any period of suspension to an end as soon as possible.

Shareholders who have requested issue or redemptions of Shares of any Class or exchanges of Shares of one Fund to another will be notified of any such suspension in such manner as may be directed by the Directors and their requests will be dealt with on the first Dealing Day after the suspension is lifted. Any such suspension shall be notified immediately, and in any event within the same business day, on which the suspension occurred, to the Central Bank, to the competent authorities in any jurisdiction where the Company (and its relevant Funds) are registered for sale and to the Relevant Stock Exchanges (if any) where the Shares of the relevant Fund are listed. Details of any such suspension will also be notified to all Shareholders and will be published in a newspaper circulating in an appropriate jurisdiction, or such other publications as the Directors may determine if, in the opinion of the Directors, it is likely to exceed 14 days.

## 7.4 Listing on a Stock Exchange

Some of the Funds of the Company (through having their Shares listed on one or more Relevant Stock Exchanges) shall qualify as an exchange traded fund ("**ETF**"). In certain circumstances a Fund may be established which is listed on a stock exchange but does not qualify as an ETF. In the case of ETFs, as part of those listings there is an obligation on one of more members of the Relevant Stock Exchange to act as market makers offering prices at which the Shares can be purchased or sold by investors. The spread between those purchase and sale prices may be monitored and regulated by the relevant stock exchange authority.

Unless otherwise stated in the Supplement for the relevant Fund, it is contemplated that application will be made to list the Shares of each Fund on Relevant Stock Exchanges.

The Company does not charge any transfer fee for purchases of Shares on the secondary market.

Orders to buy Shares through the Relevant Stock Exchanges can be placed via a member firm or stockbroker. Such orders to buy Shares may incur costs over which the Company has no control.

The approval of any listing particulars pursuant to the listing requirements of the Relevant Stock Exchange does not constitute a warranty or representation by such Relevant Stock Exchange as to the competence of the service providers or as to the adequacy of information contained in the listing particulars or the suitability of the Shares for investment or for any other purpose.

If the Directors decide to create additional Funds or Classes it may in its discretion apply for the Shares of such Funds to be listed on the Relevant Stock Exchange. For so long as the Shares of any Fund are listed on any Relevant Stock Exchange, the Fund shall endeavour to comply with the requirements of the Relevant Stock Exchange relating to those Shares. For the purposes of compliance with the national laws and regulations concerning the offering and/or listing of the Shares outside Ireland this document may have attached to it one or more documents setting out information relevant for the jurisdictions in which the Shares are offered for subscription.

Each Class of Shares of a Fund may be listed on one or more Relevant Stock Exchanges, further details of which will be set out in the relevant Supplement.

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## 8 Share Dealing

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### 8.1 General Information in respect of Applications for Shares

All applicants applying for the first time for Shares in the Company must complete the Account Opening Form prescribed by the Directors. Account Opening Forms and Dealing Forms may be obtained from the Company or the Administrator. Measures aimed at the prevention of anti-money laundering may require an applicant to provide verification of identity to the Company and/or the Administrator. Details of these requirements are set out in the Account Opening Form. Any amendment to an Account Opening Form may only be effected upon receipt by the Administrator of a revised original Account Opening Form.

In no event shall initial applications be processed until (i) the original Account Opening Form has been received by the Administrator from the investor and (ii) all of the necessary anti-money laundering checks have been carried out.

The Directors may restrict or prevent the ownership of Shares by (i) any person, or persons in circumstances (whether directly or indirectly affecting such 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 Company or the relevant Fund or

its Shareholders incurring any liability to taxation or suffering other pecuniary, regulatory, legal or material administrative disadvantages or being in breach of any law or regulation which the Company or the relevant Fund or its Shareholders might not otherwise have incurred, suffered or breached; or (ii) any person who appears to be in breach of any law or requirement of any country or governmental authority or by virtue of which such person is not qualified to hold such Shares; or (iii) any United States Person (unless pursuant to an exemption under US securities laws); or (iv) any individual under the age of 18 (or such other age as the Directors think fit) or of unsound mind (such persons, firms or corporate bodies to be determined by the Directors being herein referred to as "**Prohibited Persons**").

Each applicant agrees in the Account Opening Form to hold harmless and indemnify the Company and the Administrator and agrees to keep them indemnified against any direct or indirect loss of any nature whatsoever arising to it as a result of their acting upon or pursuant to facsimile instructions (or such other electronic means deemed acceptable by the administrator and approved by the Central Bank of Ireland) reasonably believed in good faith to be genuine and to be signed by properly authorised persons. The Administrator may rely conclusively upon and shall incur no liability in respect of any action taken upon any notice, consent, request, instruction or other instrument reasonably believed in good faith by it to be genuine and to be signed by such properly authorised persons.

Joint applicants must each sign the Account Opening Form unless an acceptable power of attorney or other written authority is provided.

As with other Irish companies limited by shares, the Company is required to maintain a register of Shareholders. The Directors have resolved that Shares in the Funds will be issued in dematerialised (or uncertificated) form and that the Funds will apply for admission for clearing and settlement through a clearing system. As the Company is an Irish company, the operation of a clearing system in respect of these Shares is governed by the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996.

## 8.2 Subscription of Shares

Investors can subscribe for their Shares (i) for cash; and/or (ii) in-kind, on the relevant Dealing Day (where appropriate and depending on the relevant Fund). Subscription proceeds (including any Subscription Charge or Anti-Dilution Levy) should be paid in the base currency of the share class. It may also be possible for investors to buy their Shares on the Secondary Market (as described below). The Company will not issue fractions of Shares. The details on the specific cash and in-kind subscription procedures are set out below under the headings "**Cash Subscriptions and Redemptions**" and "**In-kind Subscriptions and Redemptions**", respectively. **A Subscription Charge of up to 6% of the Initial Issue Price or the Net Asset Value per Share, as appropriate, may be charged by the Company for payment to the Company on the issue of Shares. The amount of any Subscription Charge or any Anti-Dilution Levy (if applicable), will be set out in the relevant Supplement.**

**It is envisaged by the Directors that investors will generally buy and sell their Shares through the Secondary Market (as set out under section 9 of this Prospectus), given the nature of the Funds of the Company and the terms and conditions relating to the subscription and redemption of Shares other than on the Secondary Market.**

Existing Shareholders may subscribe for further Shares by making an application in writing using a Dealing Form obtainable from the Company or the Administrator, or by fax provided that all ongoing anti-money laundering and client identification checks are complete. Applications made by fax will be at the risk of the applicant. The Directors have also decided that initial and subsequent subscription applications may be made by electronic or other means (provided that (i) a duly completed Account Opening Form is received for initial subscription applications and (ii) such electronic or other means are in accordance with the requirements of the Central Bank).

The Net Asset Value per Share of each Class in each Fund will be published in its respective Base Currency. Details of the Minimum Subscription Amount for each Fund will be set out in the relevant Supplement.

The Directors retain the right to offer only one Class of Shares for purchase by investors in any particular jurisdiction in order to conform to local law, custom or business practice. The Directors also reserve the right to adopt standards applicable to classes of investors or transactions that permit or require the purchase of a particular Class of Shares.

The Directors reserve the right to reject, in whole or in part, any application for Shares without providing reason for such rejection. In particular, if the Directors determine that it would be detrimental to the existing Shareholders to accept applications for Shares of any Fund which represents more than 10% of the Net Asset Value of such Fund, the Directors may decide that all or part of the application for Shares in excess of 10% be deferred until the next Dealing Day. If the Directors decide to defer all or part of the application in excess of 10%, the Administrator shall use best endeavours to inform the applicants prior to the deferral taking place.

Activities which may adversely affect the interests of the Shareholders (for example, activities that disrupt the Company's investment strategies or impact expenses for the Company) are not permitted. The Directors may, in their discretion, if they deem such activities adversely affect the interests of the Shareholders, take action as appropriate to deter such activities.

Each applicant agrees in the Account Opening Form to indemnify the Company and its delegates against any losses, damages, liabilities or reasonable costs arising directly from any non-delivery or late delivery of cash or the securities in respect of the applicant's subscription for Shares.

### 8.3 Redemption of Shares

Investors can redeem their Shares (i) for cash; and/or (ii) in-kind, on the relevant Dealing Day. It is also possible for investors to sell their Shares on the Secondary Market (as described below). The details on the specific cash and in-kind redemption procedures are set out below under the headings "**Cash Subscriptions and Redemptions**" and "**In-kind Subscriptions and Redemptions**", respectively. **A Redemption Charge of up to 3% of the Net Asset Value per Share of a Fund may be charged by the Company. The amount of any Redemption Charge or any Anti-Dilution Levy (if applicable) will be set out in the relevant Supplement.**

**It is envisaged by the Directors that investors will generally buy and sell their Shares through the Secondary Market (as set out under section 9 of this Prospectus), given the nature of the Funds of the Company and the terms and conditions relating to the subscription and redemption of Shares other than on the Secondary Market.**

Details of the Minimum Redemption Amount for each Fund will be set out in the relevant Supplement. The Directors or their delegate reserve the right from time to time to waive any requirements relating to a Minimum Redemption Amount when it determines in its absolute discretion.

Shareholders wishing to have all or some of their Shares redeemed by the Company may make an application for redemption in writing, by fax using a Dealing Form obtainable from the Company or the Administrator, provided that (i) payment shall be made to the account on record (any changes to the account on record may only be made upon receipt of original written instructions) and (ii) an original Account Opening Form has been received and all anti-money laundering and client identification checks are completed. The Directors may also permit such applications to be made by electronic or other means subject to the approval of the Administrator and the Central Bank. The Company and the Administrator shall not be liable for any delay or failure to process the application for redemption where the Shareholder fails or delays to provide such verification information. Applications must include details of the name of the Fund, Class of Share, the number of

Shares or the amount the Shareholder wishes to have redeemed, the Shareholder's details, the Shareholder's account number and any other information required by the Dealing Form. Failure to provide any of this information may result in delay of the application for redemption whilst verification (which may be requested in writing) is sought from the Shareholder.

The payment of redemption proceeds will be made to the bank account detailed on the original Account Opening Form or as may be subsequently notified to the Administrator in writing by authorised signatories on the account.

Applications for redemptions will be irrevocable unless the Directors, or a delegate, otherwise agree. Written confirmations may be required by the Company and must be duly signed by all registered holders, unless in the case of joint registered holders, each such holder has sole signing authority.

In no event shall applications for redemption be processed until the original Account Opening Form has been received by the Administrator from the investor and all of the necessary anti-money laundering checks have been carried out.

The Company is entitled to limit the number of Shares of any Fund redeemed on any Dealing Day to Shares representing not more than 10% of the Net Asset Value of that Fund on that Dealing Day. In this event, the limitation will apply *pro rata*, so that all Shareholders wishing to redeem their shareholding in that Fund on the relevant Dealing Day will realise the same proportion of their redemption request. Shares not redeemed but which would otherwise have been redeemed, will be carried forward for repurchase on the next Dealing Day and will be dealt with in priority (on a *pro rata* basis as detailed above) to redemption requests received subsequently. If requests for redemptions are so carried forward, the Administrator will inform the Shareholders affected.

The Articles contain special provisions with respect to a redemption request received from a Shareholder which would result in Shares representing more than 5% of the Net Asset Value of any Fund being redeemed by the Company on any Dealing Day. In such a case the Company, at the discretion of the Directors (and with the Shareholder's consent, unless the original subscription was made in specie) may satisfy the redemption request in whole or in part by a distribution of investments of the relevant Fund *in specie*, provided that such a distribution would not be prejudicial to the interests of the remaining Shareholders of that Fund. The assets to be transferred shall be selected at the discretion of the Investment Manager, subject to the approval of the Custodian, and taken at their value used in determining the repurchase price of the Shares being repurchased. Where a Shareholder requesting such repurchase receives notice of the Company's intention to elect to satisfy the repurchase request by such a distribution of assets, the Shareholder may require that the Company, instead of transferring those assets, arrange for their sale and the payment of the net proceeds of sale to that Shareholder.

#### 8.4 Cash Subscriptions and Redemptions

An investor may subscribe for or redeem Shares for cash on each Dealing Day (except during any period in which the calculation of the Net Asset Value is suspended) as described below.

Applications for cash subscriptions or redemptions received by the Administrator on any Business Day before the relevant Dealing Deadline will be processed by the Administrator on that Business Day at the next calculated Net Asset Value per Share. Applications received after the Dealing Deadline for the relevant Dealing Day shall be deemed to have been received by the next Dealing Deadline. For the avoidance of doubt the Minimum Subscription Amount and the Minimum Redemption Amount shall be set out in the Supplement for the relevant Fund and may be expressed by reference to a "Basket" and the cash equivalent of that Basket and the Directors may in their sole and absolute discretion accept applications for subscriptions and redemptions which represent a fraction of the relevant Basket. Applications for subscriptions will be irrevocable unless the Directors, or a delegatee, otherwise agree. If requested, the Directors may, in their

absolute discretion and subject to the prior approval of the Custodian, agree to designate additional Dealing Days and Valuation Points in respect of those Dealing Days for the purchase of Shares relating to any Fund which will be open to all Shareholders. Shareholders will be notified in advance of any such additional Dealing Days. Payment in respect of subscriptions (including any Subscription Charge or Anti-Dilution Levy) must be received by the relevant Settlement Date. If payment in cleared funds in respect of a subscription has not been received within the currency deadline as set out in the relevant Supplement for the Fund on the relevant Settlement Date, the Directors may cancel the allotment and/or the applicant may be charged interest. In addition, the Directors will have the right to sell all or part of the applicants holding of Shares in the relevant Fund or in any other Fund of the Company in order to meet these charges.

Shareholders wishing to subscribe for or redeem Shares must complete the Dealing Form. Account Opening Forms and Dealing Forms may be obtained from the Administrator. Dealing Forms may be sent by fax at the risk of the applicant. Any changes to the account details will only be accepted by the Administrator in writing by authorised signatories on the account.

Payment for Shares redeemed will be effected by the Settlement Date as specified in the Supplement for the relevant Fund (assuming the Shares have been transferred into the Company's account at a clearing system). Redemption payments (net of any Redemption Charge or Anti-Dilution Levy) will be paid in the base currency of the share class and will be made electronically to the bank account detailed on the original Account Opening Form or as subsequently notified to the Administrator in writing by authorised signatories on the account.

#### 8.5 In-kind Subscriptions and Redemptions

Investors may subscribe for Shares in-kind on each Dealing Day except during any period in which the calculation of the Net Asset Value is suspended. For the avoidance of doubt the Minimum Subscription Amount and the Minimum Redemption Amount shall be set out in the Supplement for the relevant Fund and may be expressed by reference to a "Basket" and the Directors may in their sole and absolute discretion accept applications for subscriptions and redemptions which represent a fraction of the relevant Basket. "**In-kind**" means that, rather than receiving cash in respect of a subscription and delivering cash proceeds in respect of a redemption, the Fund will receive securities (or predominantly securities) acceptable to the Investment Manager.

The Company will publish a file (the "**Portfolio Composition File**") for the Funds setting out the form of securities and/or the amount of cash (the "**Cash Component**") to be delivered (a) by Shareholders in the case of subscriptions; or, (b) by the Company in the case of redemptions, in return for Shares in the relevant Fund. The Company's current intention is that the Portfolio Composition File will normally stipulate that securities must be in the form of the constituents of the Reference Index or Reference Asset. Only securities which form part of the investment objective and policy of a Fund will be included in the Portfolio Composition File. The Cash Component may include any or all of the following three elements:

- the accrued dividend attributable to Shareholders of the relevant Fund (generally dividends and interest earned, less fees and expenses incurred since the previous distribution);
- cash amounts representing (1) amounts arising as a result of rounding the number of shares to be delivered (2) capital cash held by the relevant Fund or (3) amounts representing differences between the weightings of the Portfolio Composition File and the relevant Fund; and
- any duties and charges which may be payable in connection with the in kind transfer of securities.

The Portfolio Composition File for each of the Funds for each Dealing Day will be published by the Company on that Dealing Day via the official website [www.FinExETF.com](http://www.FinExETF.com). This information will also be available upon request from the Administrator.

In the case of in-kind redemptions, the transfer of securities and Cash Component by the Company will normally take place not later than two Business Days after Shares have been returned to the Company's account at the relevant Clearing Agent.

The settlement of any in kind redemption may include the payment of a Redemption Dividend. Any Redemption Dividend so payable will be included in the Cash Component paid to the redeeming Shareholder. The "**Redemption Dividend**" shall represent the accrued dividends related to a cash redemption or related to the securities transferred to a Shareholder in satisfaction of a valid in kind redemption request. Such a dividend will become due immediately prior to the redemption of the Shares and paid to the Shareholder as part of the cash amount in the case of a cash redemption or as part of the Cash Component in the case of an in kind redemption.

The value attributed to securities delivered in connection with in-kind subscription or redemption requests will be equivalent to that for cash subscriptions/redemptions, and no Shares shall be issued until all securities and cash payable to the Custodian (or a permitted collateral amount) are in the possession of, or properly credited to the account of, the Custodian.

Any costs resulting from a subscription or redemption in-kind (including any Subscription Charge or Redemption Charge) will be borne exclusively by the relevant Shareholder.

(a) Applications for Subscription

Applications for in-kind subscriptions must be made to the Administrator on or prior to the relevant Dealing Deadline. Dealing Days, Dealing Deadlines and the relevant Minimum Subscription Amount relating to each Fund are specified in the relevant Supplement. The Directors or their delegate reserve the right from time to time to waive any requirements relating to a Minimum Subscription Amount as and when it determines in its absolute discretion. Applications received after the Dealing Deadline for the relevant Dealing Day shall be deemed to have been received by the next Dealing Deadline. Applications for subscriptions will be irrevocable unless the Directors, or a delegatee, otherwise agree. If requested, the Directors may, in their absolute discretion and subject to the prior approval of the Custodian, agree to designate additional Dealing Days and Valuation Points in respect of those Dealing Days for the purchase of Shares relating to any Fund which will be open to all Shareholders. Shareholders will be notified in advance of any such additional Dealing Days. Except when the calculation of the Net Asset Value per Share is suspended in accordance with Section 7.3 "**Suspension of Calculation of Net Asset Value**" all applications for in-kind subscriptions will be binding and irrevocable. The Directors may in their sole discretion decide to reject any application for subscription in whole or in part without providing any reason for such rejection.

Investors should note that they may be unable to subscribe for Shares via an Authorised Participant on days that any such Authorised Participant is not open for business.

(vii) Settlement Period

As set out above, standard settlement period for in-kind subscriptions is generally three Business Days following the Dealing Day in respect of which the application for subscription is accepted, but this may vary depending upon the standard settlement periods of the different stock exchanges on which the shares are traded and the nature of the securities but shall not (in the absence of appropriate collateral being posted) in any event exceed ten Business Days from the relevant Dealing Deadline. No Shares will be issued to the applicant until all the securities being subscribed in kind have been received

by the Custodian and any applicable Subscription Charge and/or Anti-Dilution Levy or Transfer Taxes have been received (as appropriate).

(viii) Failure to Deliver Securities

In the event that an applicant fails to deliver to the Custodian one or more of the securities by the designated time, the Company may reject the application for subscription, or may require the applicant to pay to it a collateral sum at least equal to 115% of the closing value of such undelivered securities as at the Valuation Point for the relevant Dealing Day, marked to market until the date of delivery of such undelivered securities or the date on which the Company acquires such securities in the open market, plus any costs or expenses and, if applicable, Transfer Taxes associated with the purchase by the Company of those securities or may require a letter of credit acceptable to it for such purpose. On the payment of such amounts, the Shares will be issued. In the event that the actual cost to the Company of acquiring the securities (including costs or expenses and any Transfer Taxes) exceeds the aggregate of the value of such securities as at the Valuation Point for the relevant Dealing Day, any applicable Subscription Charge, Anti-Dilution Levy or the Transfer Taxes paid by the applicant, the applicant will be required to promptly reimburse the Company the difference on demand. The Company will have the right to sell or redeem all or part of the applicant's holding of Shares in the Fund (or any other Fund) in order to meet some or all of these charges.

(b) Applications for Redemption

Applications for in-kind redemptions of Shares must be made to the Administrator on or prior to the relevant Dealing Deadline in accordance with the specific procedures made available by the Administrator. Dealing Days, Dealing Deadlines and the relevant Minimum Redemption Amount relating to each Fund are specified in the relevant Supplement. Applications received after the Dealing Deadline for the relevant Dealing Day shall be deemed to have been received by the next Dealing Deadline. Applications will be irrevocable unless the Directors, or a delegate, otherwise agree. If requested, the Directors may, in their absolute discretion and subject to the prior approval of the Custodian, agree to designate additional Dealing Days and Valuation Points in respect of those Dealing Days for the purchase of Shares relating to any Fund which will be open to all Shareholders. Shareholders will be notified in advance of any such additional Dealing Days.

No delivery instructions will be issued by the Administrator to the Custodian in relation to the securities or cash until the Administrator has accepted the application for redemption in relation to all Shares being redeemed (such day, the "**Cancellation Day**") and the Administrator has confirmed receipt of the returned Shares in the relevant Fund. Delivery of securities will be on a free delivery settlement basis. The cost of any settlement, including but not limited to, by electronic transfer will be charged to and payable by the applicant for redemption.

Investors should note that they may be unable to redeem Shares via an Authorised Participant on days that any such Authorised Participant is not open for business.

(i) Settlement Period

The standard settlement period for in-kind redemptions is three Business Days following the Dealing Day in respect of which the application for redemption is accepted but may vary depending upon the standard settlement periods of the different stock exchanges on which the Shares are traded and the in-kind securities. Any cash to be paid in respect of an in-kind redemption will be for value on the same day as settlement of the securities.

(ii) Partial Cash Settlement

The Company may, in its absolute discretion, satisfy part of the application for in-kind redemption in cash, for example in cases in which it believes that a security held by a Fund is unavailable for delivery or where it believes that an insufficient amount of that security is held for delivery to the applicant for redemption in-kind.

## 8.6 Form of the Shares and Register

The Shares may be issued in the form of Registered Shares. Registered Shares may be represented by a Global Share Certificate.

The Administrator will maintain the register for the Company and will be responsible for the issue of Shares.

### (a) Registered Shares

The Shares may be issued in registered form and the Shareholders' register is conclusive evidence of the ownership of such Shares. Registered Shares shall be issued without share certificates. The uncertified form enables the Company to effect redemption instructions without undue delay.

### (b) Registered Shares represented by Global Share Certificates

Such Global Share Certificates will be issued in the name of the Company and deposited with the Clearing Agents. Such Registered Shares represented by a Global Share Certificate are freely transferable subject to and in accordance with the rules of the relevant Clearing Agent. Shareholders who are not participants in such systems will only be able to transfer such Registered Shares represented by a Global Share Certificate through a financial intermediary who is a participant in the settlement system of the relevant Clearing Agent.

## 8.7 General Provisions

The Directors reserve the right to reject any application in whole or in part. Furthermore, the Directors reserve the right at any time, without notice, to discontinue the issue and sale of Shares of any Fund of the Company.

No Shares will be issued during any period when the calculation of the Net Asset Value per Share of the relevant Fund is suspended pursuant to the Articles and as discussed herein under "**Suspension of Calculation of Net Asset Value**".

Notice of any such suspension will be given to applicants for Shares and applications made or pending during such suspension may be withdrawn by notice in writing received by the Company prior to the end of such suspension. Applications which are not withdrawn will be considered on the first Dealing Day following the end of the suspension period.

Measures provided for in the Criminal Justice Act (Money Laundering and Terrorist Financing) 2010 (as amended and supplemented from time to time) which are aimed towards the prevention of money laundering may require detailed verification of each applicant's identity; for example an individual may be required to produce a duly certified copy of his passport or identification card together with evidence of his address such as a utility bill or bank statement and his date of birth. In the case of corporate applicants this may require production of a certified copy of the certificate of incorporation (and any change of name), memorandum and articles of association (or equivalent), the names, occupations, dates of birth and residential and business address of the directors of the company.

Depending on the circumstances of each application, a detailed verification may not be required where; (a) the application is made through a recognised intermediary, or (b) investment is made by a recognised intermediary or financial institution. These exceptions will only apply if the financial institution or intermediary referred to above is located in a country which has equivalent anti money laundering legislation to that in place in Ireland. Applicants may contact the Authorised Participant or the Administrator in order to determine whether they meet the above exceptions.

The Administrator reserves the right to request such information as is necessary to verify the identity of an applicant. In the event of delay or failure by the applicant to produce

any information required for verification purposes, the Administrator may refuse to accept the application and subscription monies at the cost and risk of the applicant.

Each applicant agrees in the Account Opening Form to hold harmless and indemnify the Company and its delegates against any loss arising as a result of a failure to process any application for Shares due to the applicant failing to provide the necessary identification requirements under the (Money Laundering and Terrorist Financing), 2012 (as amended and supplemented from time to time). Furthermore, each applicant agrees to indemnify and keep indemnified the Company and its delegates against any losses arising to any of them as a result of any breach of any representation, statement, warranty, covenant or confirmation by the applicant or any failure by the applicant to disclose any relevant details or to provide any information reasonably requested of them, other than where such failure results from legal or regulatory prohibitions imposed on the applicant or where such loss has been caused by the negligence, wilful default or fraud of the Company or its delegates.

#### 8.8 Compulsory Redemption

The Company may compulsorily repurchase all of the Shares of any Fund if the Net Asset Value of the relevant Fund is less than the Minimum Fund Size (if any) specified in the relevant Supplement and in accordance with the terms of the Supplement for the relevant Fund.

The Company reserves the right to repurchase any Shares which are or become owned, directly or indirectly by a Prohibited Person as set out under the heading "**General Information in respect of Applications for Shares**".

Where Irish Residents or persons Ordinarily Resident in Ireland acquire and hold Shares, the Company shall, where necessary for the collection of Irish tax, repurchase and cancel Shares held by a person who is or is deemed to be an Irish Resident or a person Ordinarily Resident in Ireland or is acting on behalf of an Irish Resident or a person Ordinarily Resident in Ireland on the occurrence of a chargeable event for taxation purposes and to pay the proceeds thereof to the Irish Revenue Commissioners.

#### 8.9 Exchange of Shares

Shareholders (with the exception of Shareholders holding Shares through the secondary market) will be able to apply to exchange on any Dealing Day all or part of their holding of Shares of any Class of one Fund (the "**Original Class**") for Shares of another Class in the same Fund which is being offered at that time (the "**New Class**") provided that all the criteria for applying for Shares in the New Class have been met, by giving notice to the Administrator on behalf of the Company on or prior to the Dealing Deadline for the relevant Valuation Point. The Directors may not be able to exercise this discretion in all circumstances, for example where requests for exchanges of Shares are made via dealing platforms or other electronic means. Shareholders making requests for exchanges via dealing platforms or other electronic means are reminded that they must refer to the provider of the dealing platform or electronic means for the procedures that apply to such trading arrangements.

The general provisions and procedures relating to redemptions will apply equally to exchanges. All exchanges will be treated as a redemption of the Shares of the Original Class and application of the net proceeds to the purchase of Shares of the New Class, based upon the then current Issue and Repurchase Prices of Shares in each Fund. The Articles allow for an exchange fee of up to 4% of the total Repurchase Price of the Shares of the Original Class redeemed to be charged, and the Directors, in their sole discretion, reserve the right to impose such fee within this limit as shall be set out in the Supplement in respect of each Fund. Furthermore, where exchanges of Shares are not permitted between Classes of a certain Fund, this will be set out in the Supplement for the relevant Fund. Fractions of shares shall not be issued.

The number of Shares of the New Class to be issued will be calculated in accordance with the following formula:

$$S = \frac{[R \times (RP \times ER)] - F}{SP}$$

where:

- R = the number of Shares of the Original Class to be exchanged;
- S = the number of Shares of the New Class to be issued;
- RP = the Repurchase Price per Share of the Original Class as at the Valuation Point for the relevant Dealing Day;
- ER = in the case of an exchange of Shares designated in the same Base Currency is 1. In any other case, it is the currency conversion factor determined by the Directors on or about the Valuation Point for the relevant Dealing Day as representing the effective rate of exchange applicable to the transfer of assets relating to the Original and New Classes of Shares after adjusting such rate as may be necessary to reflect the effective costs of making such transfer;
- SP = the issue price per Share of the New Class as at the Valuation Point for the relevant Dealing Day; and
- F = the exchange charge, if any payable to the Company, or as it may direct, on the exchange of Shares.

Where there is an exchange of Shares, Shares of the New Class will be allotted and issued in respect of and in proportion to the Shares of the Original Class in the proportion S to R.

Shares may not be exchanged for Shares in a different Fund. Furthermore, exchanges of Shares between the Classes of Shares of the same Fund shall not be permitted during any period when the calculation of the Net Asset Value of the relevant Fund is suspended in the manner described under "**Suspension of Calculation of Net Asset Value**" above. Applicants for exchange of Shares will be notified of such postponement and, unless withdrawn, their applications will be considered as at the next Dealing Day following the ending of such suspension.

When requesting the exchange of Shares as an initial investment in a Fund, Shareholders should ensure that the value of the Shares exchanged is equal to or exceeds the Minimum Subscription Amount for the relevant New Class specified in the relevant Supplement. In the case of an exchange of a partial holding only, the value of the remaining holding must also be at least equal to the Minimum Holding for the Original Class.

Currency exchange transactions may delay any dealing in Shares as the Administrator may choose at its option to delay executing any foreign exchange transaction until cleared funds have been received.

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## 9 Secondary Market

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It is the intention of the Company for each of its Funds, through having its Shares listed on one or more Relevant Stock Exchanges, to qualify as an exchange traded fund ("ETF"). As part of those listings there is an obligation on one or more members of the Relevant Stock Exchange to act as market makers offering prices at which the Shares can be purchased or sold by investors. The spread between those purchase and sale prices may be monitored and regulated by the relevant stock exchange authority.

Unless otherwise stated in the Supplement for the relevant Fund, it is contemplated that application will be made to list the Shares of each Fund on one or more Relevant Stock Exchange(s). If the Directors decide to create additional Funds or Classes they may in their discretion apply for the Shares of such Funds to be listed on the Relevant Stock Exchange(s). For so long as the Shares of any Fund are listed on any Relevant Stock Exchange, the Fund shall endeavour to comply with the requirements of the Relevant Stock Exchange relating to those Shares. Details of any local requirements in respect of market making rules including applicable maximum spread for any Relevant Stock Exchange(s) shall be set out on the Website. For the purposes of compliance with the national laws and regulations concerning the offering and/or listing of the Shares outside Ireland this document may have attached to it one or more documents setting out information relevant for the jurisdictions in which the Shares are offered for subscription.

The Company does not charge any transfer fee for purchases of Shares on the secondary market. Orders to buy Shares through the Relevant Stock Exchanges can be placed via a member firm or stockbroker. Such orders to buy Shares may incur costs over which the Company has no control.

The approval of any listing particulars pursuant to the listing requirements of the Relevant Stock Exchange does not constitute a warranty or representation by such Relevant Stock Exchange as to the competence of the service providers or as to the adequacy of information contained in the listing particulars or the suitability of the Shares for investment or for any other purpose.

Certain Authorised Participants who subscribe for Shares may act as market makers; other Authorised Participants are expected to subscribe for Shares in order to be able to offer to buy Shares from or sell Shares to their customers as part of their broker/dealer business. Investors will also be in a position to redeem shares via an Authorised Participant on days that such Authorised Participant is open for business and once such redemption complies with the redemption requirements set out above under "Applications for Repurchase" and will be subject to a maximum Redemption Charge of 3% (i.e. a maximum of 3% of the Net Asset Value of the Shares may be deducted from such investor's redemption proceeds). . Through such Authorised Participants being able to subscribe for or redeem Shares, a liquid and efficient secondary market may develop over time on one or more Relevant Stock Exchanges as they meet secondary market demand for such Shares. Through the operation of such a secondary market, persons who are not Authorised Participants will be able to buy Shares from or sell Shares to other secondary market investors or market makers, broker/dealers, or other Authorised Participants at prices which should approximate, after currency conversion, the Net Asset Value of the Shares. Investors should be aware that on days other than Business Days or Dealing Days of a Fund when one or more markets are trading Shares but the underlying Market(s) on which the Reference Index or Reference Asset of the Fund are traded are closed, the spread between the quoted bid and offer prices in the Shares may widen and the difference between the market price of a Share and the last calculated Net Asset Value per Share may, after currency conversion, increase. Investors should also be aware that on such days the Reference Index or Reference Asset value would not necessarily be calculated and available for investors to facilitate their investment decisions because prices of Reference Index or Reference Asset securities in the underlying Market(s) would not be available on such days. Nonetheless, one or more Relevant Stock Exchanges may provide a calculation of such Reference Index or Reference Asset based upon trading, if any, of such Reference Index or Reference Asset securities on marketplaces other than the underlying Market(s). The settlement of trades in Shares on Relevant Stock Exchanges will be through the facilities of one or more Recognised Clearing and Settlement Systems following applicable procedures which are available from the Relevant Stock Exchanges. Further details of the Relevant Stock Exchanges for each Fund are set out in the relevant Supplement.

### **Intra-Day Portfolio Value ("iNAV")**

The Investment Manager may at its discretion make available, or may designate other persons to make available on its behalf, on each Business Day, an intra-day portfolio value or "iNAV" for one

or more Funds. If the Investment Manager makes such information available on any Business Day, the iNAV will be calculated based upon information available during the trading day or any portion of the trading day, and will ordinarily be based upon the current value of the assets/exposures of the Fund in effect on such Business Day, together with any cash amount in the Fund as at the previous Business Day. The Investment Manager will make available an iNAV if this is required by any Relevant Stock Exchange.

An iNAV is not, and should not be taken to be or relied on as being, the value of a Share or the price at which Shares may be subscribed for or redeemed or purchased or sold on any Relevant Stock Exchange. In particular, any iNAV provided for any Fund where the constituents of the Reference Index or Reference Asset are not actively traded during the time of publication of such iNAV may not reflect the true value of a Share, may be misleading and should not be relied on. The inability of the Investment Manager or its designee to provide an iNAV, on a real-time basis, or for any period of time, will not in itself result in a halt in the trading of the Shares on a Relevant Stock Exchange, which will be determined by the rules of the Relevant Stock Exchange in the circumstances. Investors should be aware that the calculation and reporting of any iNAV may reflect time delays in the receipt of the relevant constituent securities prices in comparison to other calculated values based upon the same constituent securities including, for example, the Reference Index or Reference Asset itself or the iNAV of other exchange traded funds based on the same Reference Index or Reference Asset. Investors interested in subscribing for or redeeming Shares on a Relevant Stock Exchange should not rely solely on iNAV which is made available in making investment decisions, but should also consider other market information and relevant economic and other factors (including, where relevant, information regarding the Reference Index or Reference Asset, the relevant constituent securities and financial instruments based on the Reference Index or Reference Asset corresponding to the relevant Fund). None of the Company, the Directors, the Investment Manager, the Custodian, the Administrator, any Authorised Participant and the other service providers shall be liable to any person who relies on the iNAV.

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## 10 Fees & Expenses

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### 10.1 Management Charges and Expenses

The Distributor may pay the fees and expenses of each Fund which shall be expressed in the Supplement for each relevant Fund as a single flat fee, the TER. Fees and expenses paid out of the TER may include the fees and expenses of the Custodian, the Administrator, the Investment Manager, the Distributor and any local agent (each of these service providers may waive all or a portion of the fee it receives for any investor) and any Administrative Expenses incurred by the Fund, as set out at (a) to (c) below. The maximum TER payable by each Fund will be set out in the Supplement for the relevant Fund.

(a) Distribution Fee

The annual Distribution Fee will be a percentage of the net assets of each Fund or Class of Shares. Fees payable to the Distributor and Investment Manager will be payable out of the TER. The Distribution Fee will be calculated upon each Dealing Day and will be accrued daily and payable monthly in arrears.

(b) Custodian Fee

The Custodian is entitled to receive from each Fund a custodian fee. This fee will be paid by the Distributor out of the TER to the Custodian for and on behalf of the Funds. The Distributor out of the TER will also reimburse the Custodian out of the assets of the Funds for reasonable out-of-pocket expenses incurred by the Custodian and for fees (which will not exceed normal commercial rates) and reasonable out-of-pocket expenses of any sub-

custodian appointed by the Custodian and will be liable for transaction charges, according to section 10.1 (c)(v). The fees and expenses of the Custodian accrue on each Dealing Day and are payable monthly in arrears.

(c) Administrative Expenses

(i) Fees payable to the Directors and to the Administrator

Directors shall be entitled to an annual fee that is consistent with market rates and as agreed between the Company and the Promoter, or such other amount as may be approved by a resolution of the Shareholders in a general meeting and may be paid all travelling, hotel and other out-of-pocket expenses properly incurred by them in connection with their attendance at meetings of the Directors. The Administrator shall be entitled to a fee (including its properly vouched disbursements and out-of-pocket costs and expenses) which are normally due under the Administration Agreement. According to the Administration Agreement, the Company shall pay to the Administrator a fee for its services as Administrator and such fee shall be part of the relevant TER.

(ii) Exceptional Expenses

The Company shall be liable for Exceptional Expenses including, without limitation, expenses relating to litigation costs and any tax, levy, duty or similar charge imposed on the Company or its assets that would otherwise not qualify as ordinary expenses. Exceptional Expenses are allocated across each Class of Shares, according to their respective assets.

(iii) Setting Up Costs

The cost of establishing the Company and the Funds (including fees in connection with the incorporation and registration of the Company, legal, regulatory and consultancy fees, listing the Funds on the Relevant Stock Exchanges and registering the Funds for sale in other jurisdictions) may be paid by the Company. The cost of establishing subsequent Funds may also be paid by the Company unless otherwise provided in the Supplement for the relevant Fund.

(iv) Miscellaneous Expenses

Miscellaneous Expenses include but are not limited to; ongoing organisation and registration costs; licence fees payable to licence holders of an index; expenses for legal and auditing services, expenses in relation to the calculation of any iNAV, stamp duties, all taxes and VAT, company secretarial fees, any costs incurred in respect of meetings of Shareholders; marketing costs, investment transaction charges; costs incurred in respect of the distribution of income to Shareholders; any fees or expenses of any securities lending counterparty in respect of a Fund's security lending activities; the fees and expenses of any paying agent, clearing agent, settlement agent or representative appointed in compliance with the requirements of another jurisdiction; the fees and expenses of any consultant appointed to provide services to the Company, any amount payable under indemnity provisions contained in the Articles or any agreement with any appointee of the Company; cost of any proposed listings and maintaining such listings; all reasonable out-of-pocket expenses of the Board of Directors; foreign registration fees and fees relating to the maintenance of such registrations including translation costs and local legal costs and other expenses due to supervisory authorities in various jurisdictions and local representatives' remunerations in foreign jurisdictions; insurance; interest; the costs of printing and distributing this Prospectus and any costs incurred as a result of periodic updates of this Prospectus or the relevant Supplement, reports, accounts and any explanatory memoranda, any necessary translation fees, any fees in respect of circulating details of the Net Asset Value and such other information which is required to be published in the different jurisdictions, or of a change in law or the introduction

of any new law (including any costs incurred as a result of compliance with any applicable code, whether or not having the force of law) may also be paid out of the assets of the Company.

(v) Transaction Fees

Transaction Fees are any fees and expenses incurred in buying and selling securities or other investments held by a Fund, e.g., Transfer Taxes, brokerage costs and commissions and correspondence fees for transferring securities or investments or other interests, and custody transaction fees unless otherwise specified in the relevant Supplement.

Whilst it is anticipated that the TER borne by a Fund shall not exceed the TER set out in each relevant Supplement, during the life of the Fund such amounts may need to be increased from time to time. Any such increase will be subject to the prior approval of the Shareholders of the relevant Fund in accordance with the provisions of the Articles.

For the avoidance of doubt, details of the Subscription Charge, Redemption Charge and any other charges including the Anti-Dilution Levy (if applicable) and the Exchange Charge payable on the exchange of Shares (if any) are set out in respect of the Shares of each Fund in the Supplement for the relevant Fund.

## 10.2 Soft Commissions

It is not currently intended that any soft commission arrangements will be made in respect of the Company. In the event that the Investment Manager or any of its subsidiaries, Affiliates, associates, agents or delegates do enter into soft commission arrangement(s) they shall ensure that (i) the broker or counterparty to the arrangement will agree to provide best execution to the Company; (ii) the benefits under the arrangement(s) shall be those which assist in the provision of investment services to the relevant Fund and (iii) brokerage rates will not be in excess of customary institutional full service brokerage rates. Details of any such arrangements will be contained in the next following report of the Company. In the event that this is the unaudited semi-annual report, details shall also be included in the following annual report.

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# 11 Share Information

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## 11.1 Dividend Policy

The dividend arrangements relating to each Fund will be decided by the Directors at the time of the creation of the relevant Fund and details are set out where applicable in the relevant Supplement.

Under the Articles, the Directors are entitled to declare such dividends on any Class of Shares at such times as they think appropriate and as appear to be justified out of the profits of the relevant Fund, being (i) the net income (being the accumulated revenue consisting of all revenue accrued including interest and dividends, less expenses) and/or (ii) realised and unrealised capital gains on the disposal/valuation of investments less realised and unrealised capital losses of the relevant Fund.

The Company will be obliged and entitled to deduct an amount in respect of Irish tax from any dividend payable to any investor who is, or is deemed to be, or is acting on behalf of, an Irish Resident or a person Ordinarily Resident in Ireland and to pay such amount to the Revenue Commissioners in Ireland.

Dividends not claimed within six years from their due date will lapse and revert to the relevant Fund. Dividends payable in cash to Shareholders will be paid by electronic transfer at the expense of the payee and will be paid within 6 months of the date the Directors declared the dividend.

## 11.2 Reports and Accounts

The Company's year end is 30 September of each year. The annual report and audited accounts of the Company will be sent to Shareholders and the Central Bank within four months after the conclusion of each accounting year and at least 21 days before the general meeting of the Company at which they are to be submitted for approval. The Company will also send a semi-annual report and unaudited accounts to Shareholders and the Central Bank within two months after the end of each semi-annual period which will be February in each year.

Such reports and accounts will contain a statement of the Net Asset Value of each Fund and of the investments comprised therein as at the year end or the end of such semi-annual period.

## 11.3 Transfer of Shares

Shares in each Fund will be transferable by instrument in writing signed by (or, in the case of a transfer by a body corporate, signed on behalf of or sealed by) the transferor provided always that the transferee completes an Account Opening Form to the satisfaction of the Administrator and furnishes the Administrator with any documents required by it. In the case of the death of one of joint Shareholders, the survivor or survivors will be the only person or persons recognised by the Company as having any title to or interest in the Shares registered in the names of such joint Shareholders. Shares may also be transferred in accordance with the rules of a clearing system as the Articles permit the transfer of Shares in Dematerialised Form.

Shares may not be transferred to a United States Person (except pursuant to an exemption available under the securities laws of the United States and with the approval of the Directors). Registration of any transfer may be refused by the Directors if following the transfer either the transferor or the transferee would hold Shares having a value less than the Minimum Holding for the relevant Fund (if any) specified in the relevant Supplement hereto.

Persons dealing through a clearing system may be required to provide a representation that any transferee is not a Prohibited Person.

If the transferor is, or is deemed to be, or is acting on behalf of, an Irish Resident or a person Ordinarily Resident in Ireland the Company may redeem and cancel a sufficient portion of the transferor's Shares as will enable the Company to pay the tax payable in respect of the transfer to the Revenue Commissioners in Ireland.

## 11.4 Notification of Prices

The Net Asset Value per Share of each Class in each Fund will be available from the Administrator, and will be published daily on the Website [www.FinExETF.com](http://www.FinExETF.com) on the Business Day following the relevant Valuation Point.

The Net Asset Value per Share of each Class will be notified without delay to the Irish Stock Exchange following its calculation.

## 11.5 Communications with Shareholders

Communications with Shareholders may be effected by fax or by any other means of communication agreed with the Administrator. Copies of any documents sent to Shareholders will be available for inspection at the office of the Company Secretary and the Investment Manager. Communications with Shareholders will also be published on the Website. Investor should regularly visit the Website, or request that their stockbrokers or other financial agents or advisers do so on their behalf, to ensure that they obtain such information on a timely basis.

## 11.6 Incorporation and Share Capital

The Company was incorporated and registered in Ireland as an investment company with variable capital on 29 October 2009 with registered number 476934.

At the date hereof

- (a) the authorised share capital of the Company is 2 subscriber shares ("**subscriber shares**") of €1 each and 1,000,000,000,000 shares of no par value initially designated as unclassified shares and available for issue as Shares.
- (b) the issue share capital of the Company is €2 represented by 2 subscriber shares issued for the purpose of incorporation of the Company at an issue price of €1.

There are no rights of pre-emption attaching to the Shares.

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## 12 Summary of Articles

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### Articles

Clause 2 of the Articles provides that the sole object of the Company is the collective investment in transferable securities and/or other liquid financial assets of capital raised from the public operating on the principle of risk-spreading in accordance with the Regulations.

The Articles contain provisions to the following effect:

- (a) **Directors' Authority to Allot Shares.** The Directors are generally and unconditionally authorised to exercise all powers of the Company to allot relevant securities, including fractions thereof, up to an amount equal to the authorised but as yet unissued share capital of the Company.
- (b) **Variation of rights.** The rights attached to any Class may be varied or abrogated with the consent in writing of the holders of three-fourths in number of the issued shares of that Class, or with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of the Class, and may be so varied or abrogated either whilst the Company is a going concern or during or in contemplation of a winding-up but such consent or sanction will not be required in the case of a variation, amendment or abrogation of the rights attached to any shares of any Class if, in the view of the Directors, such variation, amendment or abrogation does not materially prejudice the interests of the relevant Shareholders or any of them. Any such variation, amendment or abrogation will be set out in a supplement to (or re-statement of) the relevant Supplement originally issued in connection with the relevant Shares, a copy of which will be sent to the relevant Shareholders entered on the register on the date of issue of such document and will be binding on the relevant Shareholders. The quorum at any such separate general 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 in question and the quorum at an adjourned meeting shall be one person holding Shares of the Class in question or his proxy.
- (c) **Voting Rights.** The Company may issue Voting Shares and Non-Voting Shares. The Non-Voting Shares carrying no right to notice of, attend or vote at general meetings of the Company or any Fund. In respect of the Voting Shares, subject to any rights or restrictions for the time being attached to any Class or Classes of Voting Shares, on a show of hands every holder who is present in person or by proxy shall have one vote and the holder(s) of subscriber shares present in

person or by proxy shall have one vote in respect of all the subscriber shares in issue and on a poll every holder present in person or by proxy shall have one vote for every Voting Share of which he is the holder and every holder of a subscriber share present in person or by proxy shall have one vote in respect of his holding of subscriber shares. On a poll of all the holders of Shares in a Fund, where there is more than one Class of Shares in existence in that Fund, the voting rights of such holders may at the discretion of the Directors be adjusted in such manner, determined by the Directors, so as to reflect the most recently calculated price at which the Shares of each of the Classes in question may be repurchase by the Company. Holders who hold a fraction of a Voting Share may not exercise any voting rights, whether on a show of hands or on a poll, in respect of such fraction of a Voting Share. In accordance with the requirements of the Central Bank, the decision to subscribe for any Class of Shares in respect of which the voting rights are restricted shall be made solely by the investor and any Shareholder of Non-Voting Shares shall have the right to switch their holding to Voting Shares without incurring any fee or charge on such exchange.

(d) **Change in Share Capital.** The Company may from time to time by ordinary resolution increase the share capital by such amount and/or number as the resolution may prescribe. The Company may also by ordinary resolution, consolidate and divide all or any of its share capital into Shares of larger amount, subdivide its Shares, or any of them, into Shares of smaller amount or value or cancel any Shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person and reduce the amount of its authorised share capital by the amount of the shares so cancelled or redenominate the currency of any Class of Shares.

(e) **Directors' Interests.** Subject to the provisions of the Companies Acts and provided that the nature and extent of any material interest shall be disclosed as set out below, no Director or intending Director shall be disqualified by his office from contracting with the Company nor shall any such contract or arrangement entered into by or on behalf of any other company in which any Director shall be in any way interested be avoided nor shall any Director so contracting or being so interested be liable to account to the Company 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.

The nature of a Director's interest must be declared by him at the meeting of the Directors at which the question of entering into the contract or arrangement is first taken into consideration, or if the Director was not at the date of that meeting interested in the proposed contract or arrangement at the next meeting of the Directors held after he became so interested, and in a case where the Director becomes interested in a contract or arrangement after it is made, at the first meeting of the Directors held after he becomes so interested.

A Director shall not vote at a meeting of the Directors or a committee established by the Directors on any resolution concerning a matter in which he has, directly or indirectly an interest which is material (other than an interest arising by virtue of his interest in shares or debentures or other securities or otherwise in or through the Company) or a duty which conflicts or may conflict with the interest of the Company. A Director shall not be counted in the quorum present at a meeting in relation to such resolution on which he is not entitled to vote.

A Director shall be entitled to vote and be counted in the quorum in respect of any resolutions concerning the following matters, namely:

(i) the giving of any security, guarantee or indemnity to him in respect of money lent by him to the Company or any of its subsidiary or associated

companies or obligations incurred by him at the request of or for the benefit of the Company or any of its subsidiary or associated companies;

- (ii) the giving of any security, guarantee or indemnity to a third party in respect of a debt or obligation of the Company or any of its subsidiary or associated companies for which he himself has assumed responsibility in whole or in part and whether alone or jointly with others under a guarantee or indemnity or by the giving of security;
- (iii) any proposal concerning any offer of shares or debentures or other securities of or by the Company or any of its subsidiary or associated companies for subscription, purchase or exchange in which offer he is or is to be interested as a participant in the underwriting or sub-underwriting thereof;
- (iv) any proposal concerning any other company in which he is interested, directly or indirectly and whether as an officer, shareholder or otherwise howsoever.

The Company by ordinary resolution may suspend or relax the provisions described above to any extent or ratify any transaction not duly authorised by reason of a contravention thereof.

- (f) **Borrowing Powers.** Subject to the Regulations, the Directors may exercise all the powers of the Company to borrow or raise money and to mortgage or charge its undertaking, property and assets (both present and future) and uncalled capital or any part thereof and to issue securities, whether outright or as collateral security for any debt, liability or obligation of the Company, provided that all such borrowings shall be within the limits and conditions laid down by the Central Bank.
- (g) **Delegation to Committee.** The Directors may delegate any of their powers to any committee comprising at least one Director. Any such delegation may be made subject to any conditions the Directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the provisions of the Articles regulating the proceedings of Directors so far as they are capable of applying.
- (h) **Retirement of Directors.** The Directors shall not be required to retire by rotation or by virtue of their attaining a certain age.
- (i) **Directors' Remuneration.** Unless otherwise determined from time to time by the Company in general meeting, the ordinary remuneration of each Director shall be determined from time to time by resolution of the Shareholders in general meeting. Any Director who is appointed as an executive director (including for this purpose the office of 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 by way of fees, commission or otherwise as the Directors may determine. The Directors may be paid all travelling, hotel and other out-of-pocket expenses properly incurred by them in connection with their attendance at meetings of the Directors or committees established by the Directors or general meetings or separate meetings of the holders of any Class of Shares of the Company or otherwise in connection with the discharge of their duties.
- (j) **Transfer of Shares.** Subject to the restrictions set out below, the Shares of any holder may be transferred by instrument in writing in any usual or common form or any other form, which the Directors may approve.

The Directors in their absolute discretion and without assigning any reason therefore may decline to register any transfer of a Share to (i) a Prohibited Person or; (ii) an individual under the age of 18 (or such other age as the Directors may think fit) or of unsound mind; or (iii) any person unless the transferee of such Shares would, following such transfer, be the holder of Shares equal to or greater than the Minimum Subscription Amount; or (iv) any person in circumstances where as a result of such transfer the transferor or transferee would hold less than the Minimum Holding; or (v) any person where in respect of such transfer any payment of taxation remains outstanding; or (vi) any person who does not clear such money laundering checks as the Directors may determine.

The Directors may decline to recognise any instrument of transfer unless it is (accompanied by the certificate (if issued) for the Shares to which it relates in respect of one class of Share only, is in favour of not more than four transferees and is lodged at the registered office or at such other place as the Directors may appoint.

- (k) **Right of Redemption.** Shareholders have the right to request the Company to redeem their Shares in accordance with the provisions of the Articles.
- (l) **Dividends.** The Articles permit the Directors to declare such dividends on any Class of Shares as appears to the Directors to be justified by the profits of the relevant Fund. The Directors may, satisfy any dividend due to holders of Shares in whole or in part by distributing to them in specie any of the assets of the relevant Fund, and in particular any investments to which the relevant Fund is entitled. A Shareholder may require the Directors instead of transferring any assets in specie to him, to arrange for a sale of the assets and for payment to the Shareholder of the net proceeds of same. Any dividend unclaimed after a period of six years from the date of declaration of such dividend shall be forfeited and shall revert to the relevant Fund.
- (m) **Funds.** The Directors are required to establish a separate portfolio of assets for each Fund created by the Company from time to time, to which the following shall apply:-
  - (i) the proceeds from the allotment and issue of Shares of each Class in the Fund shall be applied to the Fund established for that purpose, and the investments and the liabilities and income and expenditure attributable thereto shall be applied to such Fund subject to the provisions of the Articles;
  - (ii) any asset derived from any other asset(s) (whether cash or otherwise) comprised in any Fund, shall be applied in the books and records of the Company to the same Fund as the asset from which it was derived and any increase or diminution in the value of such an asset shall be applied to the relevant Fund;
  - (iii) in the event that there are any assets of the Company which the Directors do not consider are attributable to a particular Fund or Funds, the Directors shall, with the approval of the Custodian, allocate such assets to and among any one or more of the Funds in such manner and on such basis as they, in their discretion, deem fair and equitable; and the Directors shall have the power to and may from time to time, with the approval of the Custodian vary the basis in relation to assets previously allocated;
  - (iv) no Shares will be issued on terms that entitle the holder of any Fund to participate in the assets of the Company other than the assets (if any) of

the Fund relating to such Shares. If the proceeds of the assets of the relevant Fund are not sufficient to fund the full repurchase proceeds payable to each holder for the relevant Fund, the proceeds of the relevant Fund will, subject to the terms for the relevant Fund, be distributed equally among each holder of the relevant Fund pro rata to the amount paid upon the Shares held by each holder. If the realised net assets of any Fund are insufficient to pay any amounts due on the relevant Shares in full in accordance with the terms of the relevant Fund, the relevant holders of that Fund will have no further right of payment in respect of such Shares or any claim against the Company, any other Fund or any assets of the Company in respect of any shortfall;

- (v) each Fund shall be charged with the liabilities, expenses, costs, charges or reserves of the Company in respect of or attributable to that Fund; and
- (vi) in the event that any asset attributable to a Fund is taken in execution of a liability not attributable to that Fund, the provisions of section 256E(5) of the Companies Act, 1990 shall apply.

(n) **Fund Exchanges**

Subject to the provisions of the Companies Acts, the Regulations, the Articles and the Supplement for each relevant Fund, a holder holding Shares in any Class in a Fund (with the exception of investors holding Shares through the secondary market) on any Dealing Day shall have the right from time to time to exchange, subject to an exchange fee being applied (as described in this Prospectus), all or any of such Shares for Shares of another Class of that Fund (such Class being an existing Class or a Class agreed by the Directors to be brought into existence with effect from that Dealing Day).

(o) **Termination of a Fund**

- (i) Any Fund may be terminated by the Directors, in their sole and absolute discretion, by notice in writing to the Custodian in any of the following events:-
  - (A) if at any time the Net Asset Value of the relevant Fund shall be less than the Minimum Fund Size as may be determined by the Directors in respect of that Fund and disclosed in the relevant Supplement; or
  - (B) if any Fund shall cease to be authorised or otherwise officially approved; or
  - (C) if any law shall be passed which renders it illegal or in the opinion of the Directors impracticable or inadvisable to continue the relevant Fund; or
  - (D) if there is a change in material aspects of the business, 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
  - (E) 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.
- (ii) The Directors shall give notice of termination of a Fund to the Shareholders in the relevant Fund and by such notice fix the date at which such termination is to take effect, which date shall be for such period after the service of such notice as the Directors shall in their sole and absolute discretion determine;

- (iii) With effect on and from the date as at which any Fund is to terminate or in the case of (A) below such other date as the Directors may determine:-
- (A) No Shares of the relevant Fund may be issued or sold by the Company;
  - (B) The Investment Manager shall, on the instructions of the Directors, realise all the assets then comprised in the relevant Fund (which realisation shall be carried out and completed in such manner and within such period after the termination of the relevant Fund as the Directors think advisable);
  - (C) The Custodian shall, on the instructions of the Directors from time to time, distribute to the Shareholders in proportion to their respective interests in the relevant Fund all net cash proceeds derived from the realisation of the relevant Fund and available for the purpose of such distribution, provided that the Custodian shall not be bound (except in the case of the final distribution) to distribute any of the monies for the time being in its hands the amount of which is insufficient to pay €1 or its equivalent amount in the relevant currency in respect of each Share of the relevant Fund and provided also that the Custodian shall be entitled to retain out of any monies in its hands as part of the relevant Fund full provision for all costs, charges, expenses, claims and demands incurred, made or apprehended by the Custodian or the Directors in connection with or arising out of the termination of the relevant Fund and out of the monies so retained to be indemnified and saved harmless against any such costs, charges, expenses, claims and demands; and
  - (D) Every such distribution referred to at (C) above shall be made in such manner as the Directors shall, in their sole and absolute discretion, determine but shall be made only against production of the certificates or warrants relating to the Shares of the relevant Fund if issued in respect of which the same is made and upon delivery to the Custodian of such form of request for payment as the Custodian shall in its absolute discretion require. All certificates shall in the case of an interim distribution be enfaced by the Custodian with a memorandum of payments made and in the case of the final distribution shall be surrendered to the Custodian. Any unclaimed proceeds or other cash held by the Custodian may at the expiration of twelve months from the date upon which the same were payable be paid into court subject to the right of the Custodian to deduct therefrom any expenses it may incur in making such payment;
- (iv) The Directors shall have the power to propose and implement a reconstruction and/or amalgamation of the Company or any Fund(s) on such terms and conditions as are approved by the Directors subject to the following conditions namely:
- (A) that the prior approval of the Central Bank has been obtained; and
  - (B) that the Shareholders in the relevant Fund or Funds have been circulated with particulars of the scheme of reconstruction and/or amalgamation in a form approved by the Directors and a special resolution of the Shareholders in the relevant Fund or Funds has been passed approving the said scheme.

The relevant scheme of reconstruction and/or amalgamation shall take effect upon such conditions being satisfied or upon such later date as the scheme may provide or as the Directors may determine whereupon the terms of such scheme shall be binding upon all the Shareholders and the Directors shall have the power

to and shall do all such acts and things as may be necessary for the implementation thereof.

(p) **Winding up.** The Articles contain provisions to the following effect:

- (i) If the Company shall be wound up the liquidator shall, subject to the provisions of the Companies Acts, apply the assets of each Fund in such manner and order as he thinks fit in satisfaction of creditors' claims relating to that Fund.
- (ii) The assets available for distribution amongst the holders shall be applied as follows: first the proportion of the assets in a Fund attributable to each Class of Share shall be distributed to the holders of Shares in the relevant Class in the proportion that the number of Shares held by each holder bears to the total number of Shares relating to each such Class of Shares in issue as at the date of commencement to wind up, secondly, in the payment to the holder(s) of the Subscriber Shares of sums up to the nominal amount paid thereon out of the assets of the Company not attributable to any Class of Share. In the event that there are insufficient assets to enable such payment in full to be made, no recourse shall be had to the assets of the Company attributable to each Class of Shares; and thirdly, any balance then remaining and not attributable to any of the Classes of Shares shall be apportioned pro-rata as between the Classes of Shares based on the Net Asset Value attributable to each Class of Shares as at the date of commencement to wind up and the amount so apportioned to a Class shall be distributed to holders pro-rata to the number of Shares in that Class of Shares held by them.
- (iii) A Fund may be wound up pursuant to section 256E of the Companies Act, 1990 and in such event the winding up provisions of the Articles shall apply mutatis mutandis in respect of that Fund.
- (iv) If the Company shall be wound up (whether the liquidation is voluntary, under supervision or by the court) the liquidator may, with the authority of a special resolution of the relevant Shareholders and any other sanction required by the Companies Acts, divide among the holders of Shares of any Class or Classes within a Fund in specie the whole or any part of the assets of the Company relating to that Fund, and whether or not the assets shall consist of property of a single kind, and may for such purposes set such value as he deems fair upon any one or more Class or Classes of property, and may determine how such division shall be carried out as between all the Shareholders of the Company or the holders of different Classes of Shares in a Fund. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of Shareholders as the liquidator, with the like authority, shall think fit, and the liquidation of the Company may be closed and the Company dissolved, but so that no Shareholder shall be compelled to accept any assets in respect of which there is a liability. A Shareholder may request the liquidator, instead of transferring the assets in specie to it, to arrange for a sale of them and to pay the Shareholder the net sales proceeds of same instead.

(q) **Share Qualification.** The Articles do not contain a share qualification for Directors.

(r) **Change of Name.** In the event that FinEx Capital Management LLP ceases to act as the Promoter of the Company, then, prior to or immediately following such termination becoming effective, the Directors will arrange to convene an extraordinary general meeting to propose that the name of the Company be changed to a name which will not reflect any involvement on the part of FinEx Capital Management LLP (or any of its Affiliates) with the Company. At any such extraordinary general meeting called to change the name, those Shareholders who (being individuals) are present in person or by proxy or (being corporations) are present by proxy or by a duly authorised representative and

entitled to vote and who vote on a poll in favour of the resolution proposed to change the name of the Company shall collectively have such total number of votes as is one or more than the number of votes which are required to be cast on such a poll for the said special resolution to be carried. Such a change of name shall take place in accordance with the provisions of the Companies Acts and the requirements of the Central Bank.

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## 13 Miscellaneous

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### 13.1 Fund Transactions and Conflicts of Interest

Subject to the provisions of this section, each Connected Person may contract or enter into any financial, banking or other transaction (for example provision of securities lending agent services) with one another or with the Company. This includes, without limitation, investment by the Company in securities of any Connected Person or investment by any Connected Persons in any company or bodies any of whose investments form part of the assets comprised in any Fund or be interested in any such contract or transactions. In addition, any Connected Person may invest in and deal in Shares relating to any Fund or any property of the kind included in the property of any Fund for their respective individual accounts or for the account of someone else.

Any cash of the Company may be deposited, subject to the provisions of the Central Bank Acts, 1942 to 1998, of Ireland as amended by the Central Bank and Financial Services Regulatory Authority of Ireland Acts, 2003 to 2004 with any Connected Person or invested in certificates of deposit or banking instruments issued by any Connected Person. Banking and similar transactions may also be undertaken with or through a Connected Person.

Any Connected Person may also deal as agent or principal in the sale or purchase of securities and other investments (including foreign exchange, FDI and stocklending transactions) to or from the relevant Fund. There will be no obligation on the part of any Connected Person to account to the relevant Fund or to Shareholders of that Fund for any benefits so arising, and any such benefits may be retained by the relevant party, provided that such transactions are carried out as if effected on normal commercial terms negotiated at arm's length, are consistent with the best interests of the Shareholders of that Fund and:

- (a) a certified valuation of such transaction by a person approved by the Custodian (or in the case of any such transaction entered into by the Custodian, the Directors) as independent and competent has been obtained; or
- (b) such transaction has been executed on best terms reasonably obtainable on an organised investment exchange under its rules; or
- (c) where (a) and (b) are not reasonably practical, such transaction has been executed on terms which the Custodian is (or in the case of any such transaction entered into by the Custodian, the Directors are) satisfied conform with the principle that such transactions be carried out as if effected on normal commercial terms negotiated at arm's length and consistent with the best interests of the Shareholders.

The Investment Manager and each Approved Counterparty may also, in the course of their respective businesses, have potential conflicts of interest with the Company in circumstances other than those referred to above. The Investment Manager and each Approved Counterparty will, however, have regard in such event to its obligations under their respective agreements and, in particular, to their obligations to act in the best

interests of the Company and the Shareholders so far as practicable, having regard to its obligations to other clients when undertaking any investments where conflicts of interest may arise and will ensure that such conflicts are resolved fairly as between the Company, the relevant Funds and other clients. The Investment Manager and each Approved Counterparty will ensure that investment opportunities are allocated on a fair and equitable basis between the Company and their other clients. In the event that a conflict of interest does arise the directors of the Investment Manager or the relevant Approved Counterparty will endeavour to ensure that such conflicts are resolved fairly.

The Directors may act as directors of other collective investment vehicles. Where any potential conflicts of interest arise between their duties to the Company and to third parties, the Directors will endeavour to ensure that any such conflicts will not unfairly prejudice the Company.

### 13.2 Litigation and Arbitration

The Company is not involved in any litigation or arbitration nor are the Directors aware of any pending or threatened litigation or arbitration.

### 13.3 Directors' Interests

- (a) Simon Luhr is a Director of the Company and is also a partner of the Promoter.
- (b) At the date of this Prospectus, no Director has any interest, direct or indirect, in any assets which have been or are proposed to be acquired or disposed of by, or issued to, the Company and save as disclosed below no Director is materially interested in any contract or arrangement subsisting at the date hereof which is unusual in its nature and conditions or significant in relation to the business of the Company.
- (c) At the date of this Prospectus none of the Directors nor any Associated Person have any beneficial interest in the share capital of the Company or any options in respect of such capital.

### 13.4 Material Contracts

The following contracts have been entered into otherwise than in the ordinary course of the business intended to be carried on by the Company and are or may be material:

- (a) The **Investment Management Agreement** dated 17 December 2012 between the Company and the Investment Manager. The Investment Management Agreement provides that the appointment of the Investment Manager will continue unless and until terminated by either party giving to the other not less than 90 days' written notice although in certain circumstances the Investment Management Agreement may be terminated forthwith by notice in writing by either party to the other. The Investment Management Agreement contains certain indemnities in favour of the Investment Manager which are restricted to exclude matters resulting from the fraud, negligence or wilful default of the Investment Manager in the performance or non-performance of its obligations and duties.

The Investment Management Agreement contains limited recourse provisions under which the recourse against the Company of the Investment Manager in respect of any claims arising under or in relation to the Investment Management Agreement is expressed to be limited to the assets of the Company and any claims the Company has in relation to the relevant Fund established in respect of the Shares to which such claims relate, and the Investment Manager will have no recourse to any other assets of the Company or any other Fund in respect of any such claims. If following the realisation of all of the assets of the Company and any claims the Company has in relation to the relevant Fund and the application

of such realisation proceeds in payment of all claims relating to the relevant Fund (if any) and all other liabilities (if any) of the Company ranking pari passu with or senior to such claims which have recourse to the assets of the Company, the claims are not paid in full, (a) the amount outstanding in respect of such claims will be automatically extinguished, (b) the Investment Manager will have no further right of payment in respect thereof and (c) the Investment Manager will not be able to petition for the winding-up of the Company or the termination of any other Fund as a consequence of any such shortfall provided however that (a) and (b) above shall not apply to any assets of the Fund payable to the Company that may be subsequently held or recouped by the Fund.

- (b) **The Custodian Agreement** effective date 16 December 2012, 11.59 pm, between the Company and the Custodian. The Custodian Agreement provides that the appointment of the Custodian will continue unless and until terminated by either party giving to the other not less than 90 days' written notice although in certain circumstances the Custodian Agreement may be terminated forthwith by notice in writing by either party to the other. The Company may not terminate the appointment of the Custodian and the Custodian may not retire from its appointment unless and until a successor custodian is appointed in accordance with the Articles and approved by the Central Bank in advance.

If no successor is appointed at the end of the 90 day notice period from the giving of such notice, an extraordinary general meeting of the Company will be convened at which a resolution to wind up the Company will be proposed so that Shares will be repurchased and a liquidator appointed. Following such winding up, the Directors shall apply in writing to the Central Bank for revocation of the Company's authorisation and the Custodian shall remain as the Custodian, notwithstanding the expiration of the notice period, until such time as the Central Bank has revoked the Company's authorisation.

The Custodian Agreement contains certain indemnities payable out of the assets of the Company, out of the assets of the relevant Fund, in favour of the Custodian which are restricted to exclude matters arising as a result of the Custodian's unjustifiable failure to perform its obligations, or the improper performance of them.

The Custodian Agreement contains limited recourse provisions under which the recourse against the Company of the Custodian in respect of any claims arising under or in relation to the Custodian Agreement is expressed to be limited to the Fund established in respect of the Shares to which such claims relate, and the Custodian will have no recourse to any other assets of the Company or any other Fund in respect of any such claims. If following the realisation of the assets of the relevant Fund (if any) and the application of such realisation proceeds in payment of all claims of the Custodian relating to the relevant Fund (if any) and all other liabilities (if any) of the Company ranking pari passu with or senior to such claims which have recourse to the relevant Fund (the "**Relevant Date**"), such claims are not paid in full, (a) the amount outstanding in respect of such claims will be automatically extinguished, (b) the Custodian will have no further right of payment in respect thereof and (c) the Custodian will not be able to petition for the winding-up of the Company or the termination of any other Fund as a consequence of any such shortfall provided however that (a) and (b) above shall not apply to any assets of the Fund that may be subsequently held or recouped by the Fund.

- (c) **The Administration Agreement** effective date 16 December 2012, 11.59 pm, between the Company and the Administrator. The Administration Agreement provides that the appointment of the Administrator will continue unless and until terminated by either party giving to the other not less than 90 days' written notice

although in certain circumstances the Administration Agreement may be terminated forthwith by notice in writing by either party to the other.

The Administration Agreement contains certain indemnities payable by the Company, out of the assets of the relevant Fund, in favour of the Administrator which are restricted to exclude matters arising by reason of the fraud, negligence or wilful misconduct of the Administrator, its directors, officers, employees, servants or agents in the performance of its or their obligations.

The Administration Agreement contains limited recourse provisions under which the recourse against the Company of the Administrator in respect of any claims arising under or in relation to the Administration Agreement is expressed to be limited to the assets of the Fund established in respect of the Shares to which such claims relate, and the Administrator will have no recourse to any other assets of the Company or any other Fund in respect of such claims. If following the realisation of the assets of the relevant Fund and the application of such realisation proceeds in payment of all claims of the Administrator relating to the relevant Fund (if any) and all other liabilities (if any) of the Company ranking *pari passu* with or senior to such claims which have recourse to the relevant Fund (the "**Relevant Date**"), such claims are not paid in full, (a) the amount outstanding in respect of such claims will be automatically extinguished, (b) the Administrator will have no further right of payment in respect thereof and (c) the Administrator will not be able to petition for the winding-up of the Company or the termination of any other Fund as a consequence of any such shortfall provided however that (a) and (b) above shall not apply to any assets of the Fund that may be subsequently held or recouped by the Fund.

- (d) The **Distribution Agreement** dated 17 December 2012 between the Company and the Distributor. The Distribution Agreement provides that the appointment of the Distributor will continue unless and until terminated by either party giving to the other not less than 90 days' written notice although in certain circumstances the Distribution Agreement may be terminated forthwith by notice in writing by either party to the other; the Distribution Agreement contains certain indemnities payable out of the assets of the relevant Fund in favour of the Distributor which are restricted to exclude matters resulting from the bad faith, fraud, wilful default or negligence of the Distributor in the performance or non-performance of its obligations and duties.

The Distribution Agreement contains limited recourse provisions under which the recourse against the Company of the Distributor in respect of any claims arising under or in relation to the Distribution Agreement is expressed to be limited to the Fund established in respect of the Shares to which such claims relate, and the Distributor will have no recourse to any other assets of the Company or any other Fund in respect of such claims. If following the realisation of the assets of the relevant Fund and the application of such realisation proceeds in payment of all claims of the Distributor relating to the relevant Fund (if any) and all other liabilities (if any) of the Company ranking *pari passu* with or senior to such claims which have recourse to the relevant Fund (the "**Relevant Date**"), such claims are not paid in full, (a) the amount outstanding in respect of such claims will be automatically extinguished, (b) the Distributor will have no further right of payment in respect thereof and (c) the Distributor will not be able to petition for the winding-up of the Company or the termination of any other Fund as a consequence of any such shortfall; provided that (a) and (b) above shall not apply to any assets of the relevant Fund that may be subsequently held or recouped by the Fund.

- (e) **Additional Contracts.** In addition to the above, the Company may enter into additional contracts relating to the provision of paying agent, facilities agent, correspondent bank or other similar services as may be required in connection with an offer of Shares into a particular jurisdiction from time to time. The

provision of such services shall be on arm's length commercial terms for the Company for which fees shall be charged at normal commercial rates and expenses are to be reimbursed.

### 13.5 General

As of the date of this Prospectus, the Company does not have any loan capital (including term loans) outstanding or created but unissued or any outstanding mortgages, charges, debentures or other borrowings or indebtedness in the nature of borrowings, including bank overdrafts, liabilities under acceptances or acceptance credits, hire purchase or finance lease commitments, guarantee or other contingent liabilities.

Save as disclosed under the heading "**Directors' Interests**" above, no Director has any interest in the promotion of or in any property acquired or proposed to be acquired by the Company.

Save as may result from the entry by the Company into the agreements listed under the heading "**Material Contracts**" above or any other fees, commissions or expenses discharged, no amount or benefit has been paid or given or is intended to be paid or given to any promoter of the Company.

No commissions, discounts, brokerages or other special terms have been paid or granted by the Company, or are payable by the Company for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any Shares or loan capital of the Company.

### 13.6 Directors' Confirmation

The Directors confirm that at the date of this Prospectus each of the Funds has not yet commenced business and accordingly no accounts have been made up for them and no dividends have been declared or paid by them.

### 13.7 Documents for Inspection

Copies of the following documents may be inspected at the offices of the Company Secretary and the Investment Manager at its address as set out in this Prospectus and documents (a), (b), (c), (d) and (e) may also be inspected at the office of the Facilities Agent during usual business hours on weekdays, except Saturdays, Sundays and public holidays:

- (a) the Articles;
- (b) the Prospectus of the Company;
- (c) the Supplements of the Funds
- (d) the Key Investor Information Document;
- (e) the financial reports of the Company;
- (f) the material contracts referred to above;
- (g) the Regulations;
- (h) the UCITS series of notices issued by the Central Bank; and
- (i) a list of past and current directorships and partnerships held by each Director over the last five years.

The following information/service will also be available from the Facilities Agent:

1. Information (in English) relating to the prices of shares;
2. Redemption or arrange for the redemption of shares (and obtain payment for such shares);
3. Obtain, free of charge, details or copies of any notices which have been given or sent to Shareholders.

## Appendix I – Definitions

<b>"Accounting Period"</b>	means a period ending on 30 September of each year.
<b>"Account Opening Form"</b>	means the original form which must be submitted with the Dealing Form upon an initial application or exchange of Shares. It only needs to be submitted with subsequent applications if the investors' details or circumstances have changed from when this form was originally submitted.
<b>"Administration Agreement"</b>	means the administration agreement, effective date 16 December 2012, 11.59 pm, between the Company and the Administrator as amended, supplemented or otherwise modified from time to time in accordance with the requirements of the Central Bank.
<b>"Administrative Expenses"</b>	means the administrative expenses defined as such in the section headed <b>"Fees and Expenses"</b> .
<b>"Administrator"</b>	means BNY Mellon Fund Services (Ireland) Limited or any other person or persons for the time being duly appointed administrator in succession to the said BNY Mellon Fund Services (Ireland) Limited in accordance with the requirements of the Central Bank.
<b>"Affiliate"</b>	means any person which in relation to the person concerned is (i) a holding company, (ii) a subsidiary of any such holding company; (iii) a subsidiary or (iv) controlled directly or indirectly by the person concerned and "control" of an entity for this purpose means the power, direct or indirect, to direct or cause the direction of the management and policies of such entity whether by contract or otherwise and, in any event and without limitation of the foregoing, any entity owning more than 50% of the voting securities of a second entity shall be deemed to control that second entity.
<b>"Anti-Dilution Levy"</b>	means a provision for market spreads (the difference between the prices at which assets are valued and/or bought or sold), duties and charges and other dealing costs relating to the acquisition or disposal of Fund Assets in the event of receipt for processing of net subscription or net repurchase requests, including subscriptions and/or repurchases which would be effected as a result of requests for exchange from one Class to another Class.
<b>"Approved Counterparty"</b>	means such entity selected by the Company as shall be described in the relevant Supplement, provided always that the relevant entity is, in relation to OTC derivatives, one falling within a category permitted by the Central Bank's UCITS notices.
<b>"Articles"</b>	means the Memorandum and Articles of Association of the Company.
<b>"Associated Person"</b>	a person is associated with a Director if, and only if, he or she is:

- (a) that Director's spouse, parent, brother, sister or child;
- (b) a person acting in his capacity as the trustee of any trust, the principal beneficiaries of which are the Director, his spouse or any of his children or any body corporate which he controls;
- (c) a partner of that Director.

A company will be deemed to be connected with a Director if it is controlled by that Director.

<b>"Authorised Participant"</b>	means an entity or person authorised by the Company for the purposes of subscribing for and redeeming Shares with a Fund. Such entities shall be listed on the Website.
<b>"Base Currency"</b>	means in relation to any Fund such currency as is specified in the Supplement for the relevant Fund.
<b>"Basket"</b>	means the minimum amount of shares for subscriptions and redemptions as set out in the Supplement for each relevant Fund.
<b>"Business Day"</b>	means a day on which banks are open for business in such jurisdictions and/or cities as are specified in the Supplement for the relevant Fund or such other day(s) as the Directors may, with the approval of the Custodian, determine.
<b>"Calculation Agent"</b>	means the relevant Approved Counterparty, unless otherwise specified in the relevant Supplement.
<b>"Central Bank"</b>	means the Central Bank of Ireland or any successor authority.
<b>"Class(-es)"</b>	means the class or classes of Shares relating to a Fund where specific features with respect to subscription, exchange or redemption charge, minimum subscription amount, dividend policy, investor eligibility criteria, voting rights or other specific features may be applicable. The details applicable to each Class will be described in the Supplement for the relevant Fund.
<b>"Clearing Agent"</b>	means any entity affiliated with one or more Relevant Stock Exchanges and which facilitates the validation, delivery and settlement of transactions in the Company's Shares.
<b>"Code"</b>	means the US Internet Revenue Code of 1986, as amended.
<b>"Collateral"</b>	means assets delivered as defined under the relevant credit support annex, securities lending agreement or repurchase agreement for a Fund and which comply with the Company's Collateral Policy set out in the Prospectus.
<b>"Company"</b>	means FinEx Funds plc.
<b>"Companies Acts"</b>	the Companies Acts 1963 to 2012 including any regulations issued pursuant thereto, insofar as they apply to open-ended investment companies with variable capital.
<b>"Connected Person"</b>	means the persons defined as such in the section headed <b>"Conflicts of Interest"</b> .

<b>"Custodian"</b>	means BNY Mellon Trust Company (Ireland) Limited or any other person or persons for the time being duly appointed Custodian hereof in succession The Governor and Company of the Bank of Ireland in accordance with the requirements of the Central Bank.
<b>"Custodian Agreement"</b>	means the custodian agreement, effective date 16 December 2012, 11.59 pm, between the Company and the Custodian and modified from time to time in accordance with the requirements of the Central Bank.
<b>"Dealing Day"</b>	means in relation to each Fund such day or days as is specified in the relevant Supplement or such other day(s) as the Directors may with the approval of the Administrator determine and notify in advance to Shareholders provided always that there shall be at one Dealing Day per fortnight during each calendar month.
<b>"Dealing Deadline"</b>	means in relation to applications for subscription, exchange or redemption of Shares in a Fund, the dates and times specified in the Supplement for the relevant Fund.
<b>"Dealing Form"</b>	means the dealing form to be completed in respect of each purchase and redemption of Shares.
<b>"Deemed Disposal"</b>	means the deemed chargeable event that will occur at the expiration of the eighth anniversary of an Irish Resident or Ordinarily Resident in Ireland Shareholder acquiring their Shareholding and on every subsequent eighth anniversary therefrom.
<b>"Dematerialised Form"</b>	means in relation to Shares, means Shares, title to which is recorded as being in uncertificated form and which may be transferred by means of a computer based settlement system in accordance with the Companies Act, 1990 (Uncertified Securities) Regulations, 1996 (of Ireland).
<b>"Directors"</b>	means the directors of the Company.
<b>"Distributor"</b>	means FinEx ETF Limited or any successor thereto duly appointed in accordance with the requirements of the Central Bank Notices as the distributor of the Company.
<b>"Distribution Agreement"</b>	means the distribution agreement dated 17 December 2012 between the Company and the Distributor as amended, supplemented or otherwise modified from time to time in accordance with the requirements of the Central Bank.
<b>"Disruption Events"</b>	means a Market Disruption Event or a Force Majeure Event.
<b>"EEA"</b>	means the European Economic Area (Member States, Iceland, Norway, and Liechtenstein).
<b>"EEA Member State"</b>	means a member state of the EEA.

<b>"ETF"</b>	means exchange traded fund(s).
<b>"EU"</b>	means the European Union.
<b>"Exceptional Expenses"</b>	means the exceptional expenses defined as such in the section headed <b>"Fees and Expenses"</b> .
<b>"Exchange Charge"</b>	means the charge, if any, payable on the exchange of Shares as is specified in the Supplement for the relevant Fund.
<b>"Exempt Irish Investor"</b>	<p>means:</p> <ul style="list-style-type: none"> <li>• a pension scheme which is an exempt approved scheme within the meaning of Section 774 of the TCA or a retirement annuity contract or a trust scheme to which Section 784 or 785 of the TCA applies;</li> <li>• a company carrying on life business within the meaning of Section 706 of the TCA;</li> <li>• an investment undertaking within the meaning of Section 739B(1) of the TCA;</li> <li>• a special investment scheme within the meaning of Section 737 of the TCA;</li> <li>• a charity being a person referred to in Section 739D(6)(f)(i) of the TCA;</li> <li>• a unit trust to which Section 731(5)(a) of the TCA applies;</li> <li>• a specified company within the meaning of Section 734(1) of the TCA;</li> <li>• a qualifying fund manager within the meaning of Section 784A(1)(a) of the TCA where the Shares held are assets of an approved retirement fund or an approved minimum retirement fund;</li> <li>• a qualifying savings manager within the meaning of Section 848B of the TCA in respect of Shares which are assets of a special savings incentive account within the meaning of Section 848C of the Taxes Act;</li> <li>• a personal retirement savings account ("PRSA") administrator acting on behalf of a person who is entitled to exemption from income tax and capital gains tax by virtue of Section 787I of the TCA and the Shares are assets of a PRSA;</li> <li>• a credit union within the meaning of Section 2 of the Credit Union Act, 1997;</li> <li>• the National Pensions Reserve Fund Commission;</li> <li>• a company which is within the charge to corporation tax in accordance with Section 110(2) of the TCA in respect of payments made to it by the Company; or</li> <li>• any other Irish Resident or persons who are Ordinarily Resident in Ireland who may be permitted to own Shares under taxation legislation or by written practice or concession of the Irish Tax Authorities without giving rise to</li> </ul>

a charge to tax in the Company or jeopardising tax exemptions associated with the Company giving rise to a charge to tax in the Company;

provided that they have correctly completed the Relevant Declaration.

<b>"FDI"</b>	means a financial derivative instrument (including an OTC derivative) permitted by the Regulations.
<b>"Force Majeure Event"</b>	means an event or circumstance (including, without limitation, a systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labour disruption or any similar intervening circumstance) that is beyond the reasonable control of the Investment Manager and that the Investment Manager determines affects the Fund Assets.
<b>"Foreign Person"</b>	means a person who is neither Irish Resident nor Ordinarily Resident in Ireland and has completed the appropriate Relevant Declaration in this regard.
<b>"Fund"</b>	means a separate portfolio of assets which is invested in accordance with the investment objective and policies set out in the relevant Supplement and to which all liabilities, income and expenditure attributable or allocated to such portfolio shall be applied and charged and Funds means all or some of the Funds as the context requires or any other portfolios as may be established by the Company from time to time with the prior approval of the Central Bank.
<b>"Fund Assets"</b>	means the transferable securities and/or the financial derivative instruments and/or the other financial instruments invested in by a Fund and cash held by the Fund in accordance with the Regulations, as further described in the relevant Supplement.
<b>"Global Share Certificate"</b>	means the certificates issued in the name of the Company (as described in further detail under <b>"Form of the Shares and Register"</b> ).
<b>"Group Companies"</b>	means companies which are included in the same group for the purposes of consolidated accounts, as defined in accordance with Directive 83/349/EEC or in accordance with international accounting rules.
<b>"iNAV"</b>	means an intra-day portfolio value, the calculation of which is based upon information available during the trading day or any portion of the trading day, and will ordinarily be based upon the current value of the assets/exposures of the Fund in effect on such Business Day, together with any cash amount in the Fund as at the previous Business Day.
<b>"Index Provider"</b>	means in relation to a Fund, the entity or person acting by itself or through a designated agent which compiles, calculates and publishes information on the Index corresponding to a Fund and

who has licensed the Index to the Company, as specified in the relevant Supplement.

**"Initial Issue Price"**

means the price per Share (excluding any Subscription Charge) at which Shares are initially offered in a Fund for such period as is specified in the Supplement for the relevant Fund.

**"Investment Manager"**

means FinEx Capital Management LLP or any other person or persons for the time being duly appointed investment manager of the Company in addition or in succession to FinEx Capital Management LLP and where the Investment Manager has delegated responsibility for the management of the assets of a Fund, the term Investment Manager shall also refer to the sub-investment manager of that particular Fund.

**"Irish Resident"**

means in the case of:

**Company**

A company which has its central management and control in the State is resident in the State irrespective of where it is incorporated. A company which does not have its central management and control in the State but which is incorporated in the State is resident in the State except where:-

- the company or a related company carries on a trade in the State, and either the company is ultimately controlled by persons resident in EU Member States or, resident in countries with which the State has a double taxation treaty, or the company or a related company are quoted companies on a Recognised Stock Exchange\* in the EU or in a tax treaty country

or

- the company is regarded as not resident in the State under a double taxation treaty between the State and another country.

It should be noted that the determination of a company's residence for tax purposes can be complex in certain cases and declarants are referred to the specific legislative provisions which are contained in section 23A Taxes Consolidation Act 1997.

**Individual**

An individual will be regarded as being resident in Ireland for a tax year if s/he:

1. Spends 183 or more days in the State in that tax year;

or

2. has a combined presence of 280 days in the State, taking into account the number of days spent in the State in that tax year together with the number of days

spent in the State in the preceding year.

Presence in a tax year by an individual of not more than 30 days in the State will not be reckoned for the purpose of applying the two year test. Presence in the State for a day means the personal presence of an individual if the individual is present in the State at any time during that day

### **Trust**

A trust will generally be Irish resident where the trustee is resident in Ireland or a majority of the trustees (if more than one) are resident in Ireland.

### **Intermediary**

means a person who:-

- carries on a business which consists of, or includes, the receipt of payments from an investment undertaking resident in Ireland on behalf of other persons; or
- holds units in an investment undertaking on behalf of other persons.

### **"Irish Tax Authorities"**

means the Irish Revenue Commissioners.

### **"Issue Price"**

means the price at which Shares are issued, as further described in the section headed "**Issue and Repurchase Prices/Calculation of Net Asset Value**".

### **"Launch Date"**

means the date on which the Company issues Shares relating to a Fund in exchange for subscription proceeds as set out in the Supplement for each Fund.

### **"Major Markets"**

any Market or combination of Markets, where the value of the investments of the Fund allocated to this Market or combination of Markets exceed 30% of the relevant Fund's Assets. The percentage is calculated based on the relevant Fund's Assets as of the end of the immediately preceding Accounting Period. In case of changes to the relevant Fund's Assets which are deemed to be significant by the Directors, the percentage might be re-calculated based on a date to be determined by the Directors.

### **"Market"**

means a stock exchange or regulated market which is provided for in the Articles and listed in Appendix II.

### **"Market Disruption Event"**

means the occurrence or existence of one or more of the following events, which occur in relation to any Fund Asset (or to a component of such Fund Asset, the Reference Index or Reference Asset, or any derivative contract related thereto ("**Affected Instrument**") and this definition is to be construed

accordingly):

- (i) it is not possible to obtain a prompt or accurate price or value (or an element of such price or value) of any Affected Instrument according to the rules or normal accepted procedures for the determination of such price or value (whether due to the non-publication of such price or value or otherwise);
- (ii) the calculation of the price or value of any Affected Instrument is, at the relevant time, in the opinion of the Investment Manager, impractical or impossible to make;
- (iii) there is a reduction in liquidity in any Affected Instrument in the determination of the Investment Manager;
- (iv) any suspension of or limitation is imposed on trading on any exchanges, quotation systems or “over-the-counter” market where any Affected Instrument is traded; and/or there exists an event or circumstance that prevents or materially limits transactions in any Affected Instrument. For the purpose of this definition, a limitation on the hours and number of days of trading will not constitute a Market Disruption Event if it results from an announced change in the regular business hours of the relevant exchange, provided however that where a limitation on trading imposed during the course of the day by reason of movements in price otherwise exceeding levels permitted by the relevant exchange may, if so determined by the Investment Manager, constitute a Market Disruption Event;
- (v) where the Affected Instrument is not traded on any exchange, quotation system or other similar system, the Investment Manager is unable to obtain (a) from dealers in the Affected Instrument firm quotations in respect thereof or (b) a subscription or a redemption price of any Affected Instrument according to the rules or normal accepted procedures for such Affected Instrument;
- (vi) the occurrence of any event that generally makes it impossible or impractical to convert any currency which was, immediately prior to the occurrence of such event, a foreign exchange currency, as determined by the Investment Manager;
- (vii) the occurrence of any event that generally makes it impossible or impractical to convert between the currency of the country of issue and/or country of payment of any Affected Instrument and the Base Currency through customary legal channels, as determined by the Investment Manager;
- (viii) the occurrence of any event that generally makes it impossible or impractical to deliver or transfer (a) the currency from accounts inside the country of issue and/or country of payment of any Affected Instrument to accounts outside such country of issue and/or country of payment or (b) the currency of the country of issue and/or country of payment of any Affected Instrument between accounts inside such country of issue and/or country of payment, or to a party that is a non-resident of

the country of issue and/or country of payment, as determined by the Investment Manager;

- (ix) a general moratorium is declared in respect of banking activities in London, Dublin, New York, or TARGET; and/or

further Market Disruption Events may apply in respect of a specific Fund and in such instance, additional details shall be included in the Supplement for the relevant Fund.

<b>"Market Makers"</b>	means financial institutions that are member of the Relevant Stock Exchanges and have signed a market making contract with the Company or that are registered as such with the Relevant Stock Exchanges.
<b>"Member State"</b>	means a member state of the EU (the current member states being:- Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the Netherlands and the United Kingdom).
<b>"Minimum Fund Size"</b>	means such amount (if any) as the Directors may consider for each Fund and as set out in the Supplement for the relevant Fund.
<b>"Minimum Holding"</b>	means such number of Shares or Shares having such value (if any) as is specified in the Supplement for the relevant Fund.
<b>"Minimum Redemption Amount"</b>	means such amount (whether the redemption be in cash or in-kind) as specified in the Supplement for the relevant Fund.
<b>"Minimum Subscription Amount"</b>	means such amount (whether the subscription be in cash or in-kind) as is specified in the Supplement for the relevant Fund.
<b>"money market instruments"</b>	means money market instruments permitted by the Regulations and as further described in the relevant Supplement.
<b>"Month"</b>	means calendar month.
<b>"Net Asset Value or Net Asset Value per Share"</b>	means in respect of the assets of a Fund or in respect of a Share of any Class, the amount determined in accordance with the principles set out in this Prospectus under the heading <b>"Issue and Repurchase Price/Calculation of Net Asset Value/Valuation of Assets"</b> as the Net Asset Value of a Fund or the Net Asset Value per Share.
<b>"Non-Voting Shares"</b>	means a particular Class of Shares that do not carry the right to notice of or to attend or vote at general meetings of the Company or the relevant Fund.

<b>"OECD"</b>	means the Organisation for Economic Co operation and Development; the current members being Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea (Republic), Luxembourg, Mexico, The Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland, Turkey, United Kingdom and United States;
<b>"OTC derivative"</b>	means an FDI which is dealt in an "over-the-counter" market.
<b>"Ordinarily Resident in Ireland"</b>	<p>the term "Ordinarily Resident in Ireland" as distinct from "Irish Resident", relates to an individual person's normal pattern of life and denotes residence in a place with some degree of continuity;</p> <p>An individual who has been resident in the State for three consecutive tax years becomes ordinarily resident with effect from the commencement of the fourth tax year.</p> <p>An individual who has been ordinarily resident in the State ceases to be ordinarily resident at the end of the third consecutive tax year in which s/he is not resident. Thus, an individual who is Irish Resident and Ordinarily Resident in the State in 2009 and departs from the State in that tax year will remain ordinarily resident up to the end of the tax year in 2012.</p>
<b>"Prospectus"</b>	means the prospectus issued from time to time by the Company as amended, supplemented, consolidated or otherwise modified from time to time.
<b>"Recognised Clearing and Settlement System"</b>	means Deutsche Bank AG, Depository and Clearing System, Central Moneymarkets Office; Clearstream Banking AG, Clearstream Banking SA, CREST, Depository Trust Company of New York, Euroclear; Japan Securities Depository Centre (JASDEC); Monte Titoli SPA; Netherlands Centraal Instituut voor Giraal Effectenverkeer BV; National Securities Clearing System, Sicovam SA, SIS Sega Intersettle AG; The Canadian Depository for Securities Ltd; VPC AB (Sweden) or any other system for clearing shares which is designated for the purposes of Chapter 1A in Part 27 of the TCA, by the Irish Tax Authorities as a recognised clearing system.
<b>"Recognised Rating Agency"</b>	means Standard & Poor's Ratings Group ("S&P"), Moody's Investors Services ("Moody's"), Fitch IBCA or any equivalent rating agency;
<b>"Redemption Charge"</b>	means the charge, if any, to be paid out of the Repurchase Price which Shares may be subject to, as specified in the relevant Supplement.
<b>"Reference Asset"</b>	means the basket of securities whose performance a Fund will aim to replicate, or track the performance of, pursuant to its investment objective and in accordance with its investment policies, as specified in the relevant Supplement.
<b>"Reference Index"</b>	means the index of securities whose performance a Fund will aim to replicate, or track the performance of, pursuant to its investment objective and in accordance with its investment

	policies, as specified in the relevant Supplement.
<b>"Register"</b>	means the register of Shareholders of the Company.
<b>"Registered Shares"</b>	means Shares which are issued in registered form of which the ownership is registered and documented in the Company's Register.
<b>"Regulations"</b>	means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. No. 352 of 2011) and includes any conditions that may from time to time be imposed thereunder by the Central Bank whether by notice or otherwise affecting the Company.
<b>"Related Companies"</b>	has the meaning assigned thereto in Section 140(5) of the Companies Act, 1990 as amended from time to time. In general, this provision states that companies are related where 50% of the paid up share capital of, or 50% of the voting rights in, one company are owned directly or indirectly by another company.
<b>"Relevant Declaration"</b>	means the declaration relevant to the Shareholder as set out in Schedule 2B of the TCA.
<b>"Relevant Stock Exchanges"</b>	means markets on which the Shares of the Funds will be listed such as the Irish Stock Exchange, the London Stock Exchange, <b>Open Joint Stock Company «Moscow Exchange MICEX-RTS»</b> , <b>Closed joint-stock company «MICEX Stock Exchange»</b> and/or such other stock exchanges as the Directors may determine from time to time.
<b>"Repurchase Price"</b>	means the price at which Shares are repurchased, as further described in the section headed <b>"Issue and Repurchase Prices/Calculation of Net Asset Value"</b> .
<b>"Scheduled Maturity Date"</b>	means, with respect to a Fund, the date indicated in the relevant Supplement on which the outstanding Shares will be repurchased, the Fund being thereafter closed. Unless a Scheduled Maturity Date has been indicated in the relevant Supplement, a Fund will not have a Scheduled Maturity Date;
<b>"Setting Up Costs"</b>	means the costs defined as such in the section headed <b>"Fees and Expenses"</b> .
<b>"Settlement Date"</b>	means in respect of receipt of monies for payment of subscription monies or dispatch of monies for the redemption of Shares the dates specified in the Supplement for each Fund.
<b>"Shares"</b>	means participating shares in the Company and includes, where the context so permits or requires, the Shares in a Fund which may be divided into different Classes, such Shares may be Voting Shares or Non-Voting Shares.
<b>"Shareholders"</b>	means holders of Shares, and each a <b>"Shareholder"</b> .
<b>"Similar Laws"</b>	means any state, local, non-US or other laws or regulations that

would have materially the same effect as the Plan Asset Rules and would cause the underlying assets of the Company to be treated as assets of the investing plan by virtue of its investment in the Company and subject the Company, the Directors and/or the Investment Manager to laws or regulations that are similar to the fiduciary responsibility or prohibited transaction provisions of Title I of ERISA or Section 4975 of the Code.

"State"	means the Republic of Ireland.
"Sub-Distributor"	means any sub-distributor appointed by the Distributor in accordance with the requirements of the Central Bank Notices as a sub-distributor of the Company.
"Subscription Charge"	means the charge, if any, payable to the relevant Fund on subscription for Shares as specified in the relevant Supplement.
"Supplement"	means the Supplements to this Prospectus (each a " <b>Supplement</b> ") and any Supplement issued by the Company in relation to the creation of new Funds and/or share Classes.
"TARGET"	means the Trans-European Automated Real-time Gross settlement Express Transfer system.
"TCA"	means the Taxes Consolidation Act, 1997, as amended.
"TER"	means total expense ratio, being the level of fees payable by each Fund as set out in the Supplement for the relevant Fund.
"Transaction Fees"	means the fees defined as such under the section headed " <b>Fees and Expenses</b> ".
"transferable securities"	means transferable securities permitted by the Regulations and as further described in the relevant Supplement.
"Transfer Taxes"	means all stamp, transfer and other duties and taxes for which the Company may be liable in relation to a Fund for receiving the requisite securities on a subscription for Shares or delivering the requisite securities on redemption of one or more Shares.
"UCITS"	means an undertaking for collective investment in transferable securities pursuant to the UCITS Directive.
"UCITS Directive"	means European Council Directives 2001/07/EC and 2001/108/EC.
"United Kingdom" or "UK"	means the United Kingdom of Great Britain and Northern Ireland.
"United States" or "U.S. or US"	means the United States of America, its territories, possessions and all areas subject to its jurisdiction (including the Commonwealth of Puerto Rico).
"United States Person" or "U.S. Person"	has the meaning ascribed to it in Regulation S promulgated under the United States Securities Act of 1933, as amended

from time to time.

**"Valuation Point"**

means the point in time by reference to which the Net Asset Value of a Fund is calculated, as is specified in the Supplement for the relevant Fund.

**"Voting Shares"**

means the Shares of a particular Class that carry the right to vote at general meetings of the Company and the relevant Fund.

**"Website"**

means the website for each Fund as set out in the relevant Supplement, on which the Net Asset Value per Share and the capitalisation of the relevant Fund in its Base Currency will be published and on which this Prospectus, the Supplements and any other information in respect of the Company or any of the Funds, including various shareholder communications may be published.

In this Prospectus references to "**Euro**" and "**€**" are references to the lawful currency of Ireland, references to "**Sterling**" or "**£**" are to the lawful currency of the United Kingdom and references to "**US\$**" or "**US Dollars**" are to the currency of the United States. All references to the foregoing currencies shall include any successor currency.

## Appendix II - Markets

The exchanges/markets are set out below in accordance with the requirements of the Central Bank which does not issue a list of approved markets.

With the exception of permitted investment in unlisted securities, investment will be limited to the following stock exchanges and regulated markets:-

1.

(a) any stock exchange which is:

- (i) located in any Member State;
- (ii) located in an EEA Member State;
- (iii) located in Australia, Canada, Hong Kong, Japan, New Zealand, Switzerland, United States of America, Thailand, Turkey; or

(b) any stock exchange included in the following list:

Argentina	-	Bolsa de Comercio de Buenos Aires, Cordoba, Mendoza, Rosario and La Plata Stock Exchange;
Bahrain	-	Bahrain Stock Exchange;
Brazil	-	Borsa de Mercadorias e Futuro and Borsa de Valores de Sao Paulo;
Chile	-	Santiago Stock Exchange;
China	-	Shanghai Stock Exchange and Shenzhen Stock Exchange;
Columbia	-	Bolsa de Valores de Colombia;
Egypt	-	Egyptian Stock Exchange;
India	-	Mumbai Stock Exchange, Madras Stock Exchange, Delhi Stock Exchange and the National Stock Exchange of India;
Indonesia	-	Indonesia Stock Exchange;
Israel	-	Tel Aviv Stock Exchange;
Jordan	-	Amman Stock Exchange;
South Korea	-	Korean Stock Exchange;
Kuwait	-	Kuwait Stock Exchange;
Malaysia	-	Bursa Malaysia;
Mexico	-	Bolsa Mexicana de Valores;

Oman	-	Muscat Securities Market;
Peru	-	Bolsa de Valores de Lima ;
Philippines	-	Philippines Stock Exchange;
Quatar	-	Doha Securities Market;
Russia	-	Open Joint Stock Company «Moscow Exchange MICEX-RTS», Closed joint-stock company «MICEX Stock Exchange»;
Singapore	-	Singapore Exchange;
South Africa	-	JSE Securities Exchange;
Taiwan	-	Taiwan Stock Exchange Corporation;
Thailand	-	The Stock Exchange of Thailand;
Turkey	-	Istanbul Stock Exchange;
United Arab Emirates (UAE)	-	Nasdaq Dubai, Dubai Financial Market, Abu Dhabi Securities Exchange.

(c) any of the following over the counter markets:

The market organised by the International Capital Market Association;

The (i) market conducted by banks and other institutions regulated by the Financial Services Authority (FSA) and subject to the Inter-Professional Conduct provisions of the FSA's Market Conduct Sourcebook and (ii) market in non-investment products which is subject to the guidance contained in the Non Investment Products Code drawn up by the participants in the London market, including the FSA and the Bank of England;

The market in US government securities conducted by primary dealers regulated by the Federal Reserve Bank of New York and the US Securities and Exchange Commission;

The over-the-counter market in the United States conducted by primary and second dealers regulated by the Securities and Exchanges Commission and by the Financial Industry Regulatory Authority (and by banking institutions regulated by the US Comptroller of the Currency, the Federal Reserve System or Federal Deposit Insurance Corporation);

The Over-the-Counter market in Canadian Government Bonds as regulated by the Investment Industry Regulatory Organisation of Canada;

The French market for Titres de Creance Negotiable (over-the-counter market in negotiable debt instruments)

(d) any of the following electronic exchanges:

NASDAQ.

2 In relation to any exchange traded financial derivative contract, any stock exchange on which such contract may be acquired or sold and which is regulated, operates regularly, is recognised and open to the public and which is (i) located in an EEA Member State, (ii) located in Australia, Canada, Hong Kong, Japan, New Zealand, Switzerland, United States (iii) the Channel Islands Stock Exchange (iv) listed at (c) or (d) above or (v) any of the following:

The Chicago Board of Trade;  
The Mercantile Exchange;  
The Chicago Board Options Exchange;  
EDX London;  
New York Mercantile Exchange;  
New York Board of Trade;  
New Zealand Futures and Options Exchange;  
Hong Kong Futures Exchange;  
Singapore Commodity Exchange;  
Tokyo International Financial Futures Exchange;

## Appendix III - Irish Taxation

### General

The following statements on taxation are with regard to the law and practice in force in Ireland at the date of this document and do not constitute legal or tax advice to Shareholders or prospective Shareholders. As is the case with any investment, there can be no guarantee that the tax position or proposed tax position prevailing at the time an investment in the Company is made will endure indefinitely, as the basis for and rates of taxation can fluctuate.

Prospective Shareholders should familiarise themselves with and, where appropriate, take advice on the laws and regulations (such as those relating to taxation and exchange controls) applicable to the subscription for, and the holding and repurchase of, Shares in the places of their citizenship, residence and domicile.

The Directors recommend that Shareholders obtain tax advice from an appropriate source in relation to the tax liability arising from the holding of Shares in the Company and any investment returns from those Shares.

### Ireland

#### *Taxation of the Company*

The Directors have been advised that the Company is an investment undertaking within the meaning of section 739B TCA and therefore is not chargeable to Irish tax on its relevant income or relevant gains so long as the Company is resident for tax purposes in Ireland. The Company will be resident for tax purposes in Ireland if it is centrally managed and controlled in Ireland. It is intended that the Directors of the Company will conduct the affairs of the Company in a manner that will allow for this.

The income and capital gains received by the Company from securities issued in countries other than Ireland or assets located in countries other than Ireland may be subject to taxes including withholding tax in the countries where such income and gains arise. The Company may not be able to benefit from reduced rates of withholding tax by virtue of the double taxation treaties in operation between Ireland and other countries. The Directors will have sole discretion as to whether the Company will apply for such benefits and may decide not to apply for such benefits if they determine that it may be administratively burdensome, cost prohibitive or otherwise impractical.

In the event that the Company receives any repayment of withholding tax suffered, the Net Asset Value of the Company will not be restated and the benefit of any repayment will be allocated to the then existing Shareholders rateably at the time of repayment.

Tax may arise for the Company on the happening of a "**Chargeable Event**" in the Company.

A Chargeable Event includes:

- (i) any payment to a Shareholder by the Company in respect of their Shares;
- (ii) any transfer, cancellation, redemption or repurchase of Shares; and
- (iii) any deemed disposal by a Shareholder of their Shares at the end of a "relevant period" (a "**Deemed Disposal**").

A "**relevant period**" is a period of 8 years beginning with the acquisition of Shares by a Shareholder and each subsequent period of 8 years beginning immediately after the preceding relevant period.

A Chargeable Event does not include:

- (i) any transaction in relation to Shares held in a Recognised Clearing System;
- (ii) any exchange by a Shareholder effected by way of a bargain made at arms length by the Company, of Shares in the Company for other Shares in the Company;
- (iii) certain transfers of Shares between spouses and former spouses; or

- (iv) an exchange of Shares arising on a qualifying amalgamation or reconstruction of the Company with another Irish investment undertaking.

On the happening of a Chargeable Event, the Company shall be entitled to deduct the appropriate amount of tax on any payment made to a Shareholder in respect of the Chargeable Event. On the occurrence of a Chargeable Event where no payment is made by the Company to the Shareholder, the Company may appropriate or cancel the required number of Shares to meet the tax liability.

Where the Chargeable Event is a Deemed Disposal and the value of Shares held by Irish Resident Shareholders in the Company is less than 10% of the total value of Shares in the Company (or a sub-fund) and the Company has made an election to the Irish Tax Authorities to report annually certain details for each Irish Resident Shareholder, the Company will not be required to deduct the appropriate tax and the Irish Resident Shareholder (and not the Company) must pay the tax on the Deemed Disposal on a self-assessment basis. Credit is available against appropriate tax relating to the Chargeable Event for appropriate tax paid by the Company or the Shareholder on any previous Deemed Disposal. On the eventual disposal by the Shareholder of the Shares, a refund of any unutilised credit will be payable.

## **Taxation of Shareholders**

### *Non-Irish Resident Shareholders*

Non-Irish Resident Shareholders will not be chargeable to Irish tax on the happening of a Chargeable Event provided that either:

- (i) the Company is in possession of a completed Relevant Declaration to the effect that the Shareholder is not an Irish Resident, or
- (ii) the Company is in possession of written notice of approval from the Revenue Commissioners to the effect that the requirement to provide a Relevant Declaration is deemed to have been complied with in respect of that Shareholder and the written notice of approval has not been withdrawn by the Revenue Commissioners.

If the Company is not in possession of a Relevant Declaration or the Company is in possession of information which would reasonably suggest that the Relevant Declaration is not or is no longer materially correct, the Company must deduct tax on the happening of a Chargeable Event in relation to such Shareholder. The tax deducted will generally not be refunded.

Intermediaries acting on behalf of non-Irish Resident Shareholders can claim the same exemption on behalf of the Shareholders for whom they are acting. The intermediary must complete a Relevant Declaration that it is acting on behalf of a non-Irish Resident Shareholder.

A non-Irish Resident corporate Shareholder which holds Shares directly or indirectly by or for a trading branch or agency of the Shareholder in Ireland, will be liable for Irish corporation tax on income from the Shares or gains made on the disposal of the Shares.

### **Exempt Irish Investors**

The Company is not required to deduct tax in respect of an Exempt Irish Investor so long as the Company is in possession of a completed Relevant Declaration from those persons and the Company has no reason to believe that the Relevant Declaration is materially incorrect. The Exempt Irish Investor must notify the Company if it ceases to be an Exempt Irish Investor. Exempt Irish Investors in respect of whom the Company is not in possession of a Relevant Declaration will be treated by the Company as if they are not Exempt Irish Investors

Exempt Irish Investors may be liable to Irish tax on their income, profits and gains in relation to any sale, transfer, repurchase, redemption or cancellation of Shares or dividends or distributions or other payments in respect of their Shares. It is the obligation of the Exempt Irish Investor to account for tax to the Irish Tax Authorities.

Where the Exempt Irish Investor is not a company and tax has not been deducted by the Company, the payment shall be treated as if it were a payment from an offshore fund and taxed in accordance with sections 747D and section 747E TCA. Provided the Exempt Irish Investor has correctly included the income or disposal in its tax return, tax at the rate of 30% must be paid in

respect of annual or more frequent distributions by the Company and at the rate of 33% in respect of any other payment by the Company to the Exempt Irish Investor in respect of its Shares or in relation to any sale, transfer, cancellation, redemption or repurchase of Shares. No further Irish tax will be payable by the Exempt Irish Investor in respect of that payment or disposal.

The rates quoted in the preceding paragraph are currently effective, but the final implementation is subject to the enactment of certain legislative provisions under the Finance Act 2012.

Where the Exempt Irish Investor is a company, the amount of the payment to the Exempt Irish Investor will be treated as income arising which is chargeable to Irish tax. Where the payment is in respect of the sale, transfer, cancellation, redemption or repurchase of Shares, such income shall be reduced by the amount of the consideration in money or money's worth given by the Exempt Irish Investor on the acquisition of the Shares. Where the payment is not taxable as trading income for the company, it will be chargeable to tax under Schedule D Case IV. Where the payment is taxable as trading income for the company, it will be chargeable to tax under Schedule D Case I.

The rate of corporation tax applicable to Schedule D Case IV income is currently 25%. The rate of corporation tax applicable to Schedule D Case I income is 12.5%.

### **Irish Resident Shareholders**

Irish Resident Shareholders (who are not Exempt Irish Investors) will be liable to tax on the happening of a Chargeable Event. Tax at the rate of 30% will be deducted by the Company on payments made to the Shareholder which are annual or more frequent (e.g. dividends).

Tax at the rate of 33% will be deducted by the Company on the sale, transfer, Deemed Disposal (subject to the 10% threshold outlined above), cancellation, redemption or repurchase of Shares or the making of any other payment in respect of the Shares.

The rates quoted in the preceding paragraph are currently effective, but the final implementation is subject to the enactment of certain legislative provisions under the Finance Act 2012.

An Irish Resident Shareholder who is not a company and is not an Exempt Irish Investor will not be liable to any further income or capital gains tax in respect of any sale, transfer, Deemed Disposal, cancellation, redemption or repurchase, of Shares or the making of any other payment in respect of their Shares.

Where the Irish Resident Shareholder is a company which is not an Exempt Irish Investor, and the payment is not taxable as trading income under Schedule D Case I, the following provisions apply:

- (i) where the payment is an annual or more frequent payment, the amount received will be treated as the net amount of an annual payment chargeable to tax under Schedule D Case IV from the gross amount of which income tax has been deducted at the standard rate; and
- (ii) the making of any other payment in respect of such Shares or any sale, transfer, Deemed Disposal, cancellation, redemption or repurchase of such Shares will not otherwise be taken into account for the purposes of Irish tax.

Where the Irish Resident Shareholder is a company which is not an Exempt Irish Investor, and the payment is taxable as trading income under Schedule D Case I, the following provisions apply:

- (i) the amount received by the Shareholder is increased by any amount of tax deducted by the Company and will be treated as income of the Shareholder for the chargeable period in which the payment is made;
- (ii) where the payment is made on the sale, transfer, Deemed Disposal, cancellation, redemption or repurchase of Shares, such income will be reduced by the amount of consideration in money or money's worth given by the Shareholder for the acquisition of those Shares; and

- (iii) the amount of tax deducted by the Company will be set off against the Irish corporation tax assessable on the Shareholder in respect of the chargeable period in which the payment is made.

### **Personal Portfolio Investment Undertaking**

An investment undertaking will be considered to be a personal portfolio investment undertaking (PPIU) in relation to a specific Irish Resident Shareholder where that Irish Resident Shareholder can influence the selection of some or all of the property of the undertaking. The undertaking will only be a PPIU in respect of those Irish Resident Shareholders who can influence the selection. A gain arising on a chargeable event in relation to a PPIU will be taxed at the rate of 53%. An undertaking will not be considered to be a PPIU where certain conditions are complied with as set out in section 739BA TCA.

The rates quoted in the preceding paragraph are currently effective, but the final implementation is subject to the enactment of certain legislative provisions under the Finance Act 2012.

### **Currency Gains**

Where a currency gain is made by an Irish Resident Shareholder on the disposal of Shares, that Shareholder may be liable to capital gains tax in respect of any chargeable gain made on the disposal.

### **Stamp Duty**

On the basis that the Company qualifies as an investment undertaking within the meaning of section 739B TCA, no Irish stamp duty will be payable on the subscription, transfer or repurchase of Shares. The stamp duty implications for subscriptions for Shares or transfer or repurchase of Shares in specie should be considered on a case by case basis.

### **Capital Acquisitions Tax**

No Irish gift tax or inheritance tax (capital acquisitions tax) liability will arise on a gift or inheritance of Shares provided that:

- (i) at the date of the disposition the transferor of the Shares is neither domiciled nor ordinarily resident in Ireland, and, at the date of the gift or inheritance the transferee of the Shares is neither domiciled nor ordinarily resident in Ireland; and
- (ii) the Shares are comprised in the gift or inheritance at the date of the gift or inheritance and at the valuation date.

### **EU Savings Directive**

In accordance with EC Council Directive 2003/48/EC regarding the taxation of interest income, a paying agent (within the meaning of the Directive) who makes a payment of interest (which may include an income or capital distribution payment) on behalf of the Company to an individual who is resident in another Member State or a residual entity established in another Member State, is required to provide details of those payments (which includes certain payments made by collective investment undertakings) and certain details relating to the Shareholders of the Company to the Revenue Commissioners. The Revenue Commissioners are obliged to provide such information to the competent authorities of the Member State of residence of the individual or residual entity concerned.

The paying agent shall be entitled to require Shareholders to provide information regarding tax status, identity or residency in order to satisfy the disclosure requirements in this Directive. Shareholders will be deemed by their subscription for Shares in respect of the Company to have authorised the automatic disclosure of such information by the paying agent to the relevant tax authorities.

On 15 September 2008, the European Commission issued a report for the Council of the European Union on the operation of the Directive, which included the Commission's advice on the need for changes to the Directive. On 13 November 2008, the European Commission published a more detailed proposal for amendments to the Directive, which included a number of suggested changes. If any of those proposed changes are made in relation to the Directive, they may amend

or broaden the scope of the requirements described above.

### **Certain Irish Tax Definitions**

#### *Residence – Company*

A company which has its central management and control in Ireland is resident in Ireland irrespective of where it is incorporated. A company which does not have its central management and control in Ireland but which is incorporated in Ireland is resident in Ireland except where:

- (i) the company or a related company carries on a trade in Ireland, and either the company is ultimately controlled by persons resident in Member States or, in countries with which Ireland has a double taxation treaty (a "taxation treaty country"), or the company or a related company are quoted companies on a recognised stock exchange in the European Union or in a taxation treaty country; or
- (ii) the company is regarded as not resident in Ireland under a double taxation treaty between Ireland and another country.

#### *Residence – Individual*

The Irish tax year operates on a calendar year basis.

An individual will be regarded as being resident in Ireland for a tax year if that individual:

- (i) spends 183 days or more in Ireland in that tax year; or
- (ii) has a combined presence of 280 days in Ireland, taking into account the number of days spent in Ireland in that tax year together with the number of days spent in Ireland in the preceding tax year.

Presence in a tax year by an individual of not more than 30 days in Ireland will not be reckoned for the purpose of applying the two year test. Presence in Ireland for a day means the personal presence of an individual at any point in time during the particular day in question.

#### *Ordinary Residence – Individual*

The term "ordinary residence" as distinct from "residence", relates to a person's normal pattern of life and denotes residence in a place with some degree of continuity.

An individual who has been resident in Ireland for three consecutive tax years becomes ordinarily resident with effect from the commencement of the fourth tax year.

An individual who has been ordinarily resident in Ireland ceases to be ordinarily resident at the end of the third consecutive tax year in which that individual is not resident in Ireland. Thus, an individual who was resident and ordinarily resident in Ireland in 2009 will remain ordinarily resident in Ireland until the end of the tax year 2012.

#### *Intermediary*

means a person who:

- (i) carries on a business which consists of, or includes, the receipt of payments from an investment undertaking on behalf of other persons; or
- (ii) holds shares in an investment undertaking on behalf of other persons.

## **Appendix IV – United Kingdom Taxation**

### **United Kingdom**

#### **General**

The following is a summary of various aspects of the United Kingdom ("UK") taxation regime which may apply to UK resident or ordinarily resident persons acquiring Shares in the classes of the Fund, and where such persons are individuals, only to those domiciled in the UK. It is intended as a general summary only, based on current law and practice in force as of the date of this Supplement. Such law and practice may be subject to change, and the below summary is not exhaustive. Further, it will apply only to those UK Shareholders holding Shares as an investment rather than those which hold Shares as part of a financial trade; and does not cover UK Shareholders which are tax exempt or subject to special taxation regimes.

This summary should not be taken to constitute legal or tax advice and any prospective Shareholder should consult their own professional advisers as to the UK tax treatment of returns from the holding of Shares in the Fund.

#### **The Company**

The affairs of the Company are intended to be conducted in such a manner that it should not become resident in the UK for taxation purposes. Therefore, on the condition that the Company does not carry on a trade in the UK through a permanent establishment located there, then the Company will not be subject to UK corporation tax on income or chargeable gains arising to it, other than on certain UK source income.

Income and gains received by the Fund may be subject to withholding or similar taxes imposed by the country in which such returns arise.

Since the Company is not incorporated in the UK and the register of Shareholders will be kept outside the UK, no liability to UK stamp duty reserve tax should arise by reason of the transfer, subscription for, or redemption of Shares. Liability to UK stamp duty will not arise provided that any instrument in writing, transferring Shares in the Company, or shares acquired by the Company, is executed and retained at all times outside the UK. However, the Fund may be liable to transfer taxes in the UK on acquisitions and disposals of investments. In the UK, stamp duty or Stamp Duty Reserve Tax at a rate of 0.5% will be payable by the Fund on the acquisition of shares in companies that are either incorporated in the UK or that maintain a share register there.

#### **Shareholders**

As the Company is incorporated as an open ended umbrella investment company with limited liability authorised in Ireland by the Central Bank as a UCITS and Shares in the Company are expected to constitute a "material interest" in an "offshore fund" for the purposes of the UK's "offshore funds" provisions, gains on the disposal of those Shares will generally be charged to tax under those provisions as if they were income, unless the relevant class of Shares is certified by HM Revenue & Customs ("HMRC") as a "distributing fund" or at all relevant times. Gains chargeable to tax as income under the offshore funds provisions (called "offshore income gains") are not eligible for the capital gains tax annual exemption (or, in the case of corporate Shareholders, indexation allowance).

Where so stated, the Directors intend to conduct the affairs of the relevant sub-fund (in particular, by observing certain investment restrictions) and to implement its distribution policy so as to achieve, in so far as they are thereby able, such certification. However, no assurance can be given that such certification will be obtained and neither the Company nor the Directors accept any liability for such certification not being successfully obtained each year. Such certification is

granted retrospectively in respect of an accounting period of an "offshore fund" which successfully applies for it.

Investors should note in relation to the Company, it is the intention of the Directors to apply for distributor status from the UK taxation authorities. Distributor status is applied for and granted retrospectively on an annual basis.

Following the enactment of Finance Act 2009, from 1 July 2009 dividend distributions from an offshore fund made to companies resident in the UK are likely to fall within one of a number of exemptions from UK corporation tax. In addition, distributions to non-UK companies carrying on a trade in the UK through a permanent establishment in the UK should also fall within the exemption from UK corporation tax on dividends to the extent that the shares held by that company are used by, or held for, that permanent establishment. Reported income will be treated in the same way as a dividend distribution for these purposes.

Shareholdings in the Company are likely to constitute interests in offshore funds, as defined for the purposes of the UK Finance Act 2008, with each class of the Fund treated as a separate 'offshore fund' for these purposes.

The Offshore Funds (Tax) Regulations 2009 provide that if an investor resident or ordinarily resident in the UK for taxation purposes holds an interest in an offshore fund and that offshore fund is a 'non-reporting fund', any gain accruing to that investor upon the sale or other disposal of that interest will be charged to UK tax as income and not as a capital gain. Alternatively, where an investor resident or ordinarily resident in the UK holds an interest in an offshore fund that has been a 'reporting fund' for all periods of account for which they hold their interest, any gain accruing upon sale or other disposal of the interest will be subject to tax as a capital gain rather than income; with relief for any accumulated or reinvested profits which have already been subject to UK income tax or corporation tax on income (even where such profits are exempt from UK corporation tax).

Where an offshore fund may have been a non-reporting fund for part of time during which the UK Shareholder held their interest and a reporting fund for the remainder of that time, there are elections which can potentially be made by the Shareholder in order to pro-rate any gain made upon disposal; the impact being that the portion of the gain made during the time when the offshore fund was a reporting fund would be taxed as a capital gain. In these circumstances, from the date the offshore fund changes status such elections have specified time limits in which they can be made.

It should be noted that a "disposal" for UK tax purposes would generally include a switching of interest between Funds within the Company and might in some circumstances also include a switching of interests between classes in the same Fund of the Company.

In broad terms, a 'reporting fund' is an offshore fund that meets certain upfront and annual reporting requirements to HM Revenue & Customs and its Shareholders. The Directors intend to manage the affairs of the Company and the Fund so that these upfront and annual duties are met and continue to be met on an ongoing basis for each of the classes within the Fund, which intend to seek UK reporting fund status with effect from inception. Such annual duties will include calculating and reporting the income returns of the offshore fund for each reporting period (as defined for UK tax purposes) on a per-Share basis to all relevant Shareholders (as defined for these purposes). UK Shareholders which hold their interests at the end of the reporting period to which the reported income relates, will be subject to income tax or corporation tax on the higher of any cash distribution paid and the full reported amount. The reported income will be deemed to arise to UK Shareholders on the date the report is issued by the Directors.

The attention of individual shareholders ordinarily resident in the UK is drawn to the provisions of Chapter 2 of Part 13 of the Income Taxes Act 2007. These provisions are aimed at preventing the avoidance of UK income tax by individuals through transactions resulting in the transfer of assets

or income to persons (including companies) resident or domiciled outside the UK, and may render them liable to income tax in respect of undistributed income of the Company on an annual basis. The legislation is not directed towards the taxation of capital gains.

Corporate Shareholders resident in the UK should note the provisions of Chapter 4 of Part 17 of the Income and Corporation Taxes Act 1988. These provisions may subject UK resident companies to corporation tax on profits of non-resident companies, controlled by persons resident in the UK, in which they have an interest. These provisions affect UK resident companies who have an interest of at least 25% in the profits of a non-UK resident company, where that non-UK resident company is controlled by residents of the UK and is resident in a low tax jurisdiction. This legislation is not presently directed towards the taxation of capital gains.

The attention of UK resident corporate Shareholders is drawn to Chapter 3 of Part 6 of the Corporation Tax Act 2009, whereby interests of UK companies in offshore funds may be deemed to constitute a loan relationship; with the consequence that all profits and losses on such relevant interests are chargeable to UK corporation tax in accordance with a fair value basis of accounting. These provisions apply where the market value of relevant underlying interest bearing securities and other qualifying investments of the offshore fund (broadly investments which yield a return directly or indirectly in the form of interest) are at any time more than 60% of the value of all the investments of the offshore fund.

The attention of investors resident or ordinarily resident in the UK (and who, if individuals, are also domiciled in the UK for those purposes) is drawn to the provisions of Section 13 of Taxation of Chargeable Gains Act 1992. Under these provisions, where a chargeable gain accrues to a company that is not resident in the UK, but which would be a close company if it were resident in the UK, a person may be treated as though a proportional part of that chargeable gain, calculated by reference to their interest in the company, has accrued to them. No liability under Section 13 can be incurred by such a person, however, where such a proportion does not exceed one-tenth of the gain.

Any individual shareholder domiciled or deemed to be domiciled in the UK for UK tax purposes may be liable to UK inheritance tax on their Shares in the event of death or on making certain categories of lifetime transfer.

Once reporting fund status is obtained from HM Revenue & Customs for the relevant classes, it will remain in place permanently so long as the annual requirements are undertaken.

## Appendix V - Additional Information for Local Investors