

# SAMPLE

The directors of the *AIFM* (“the Directors”) whose names appear under “Directors” on page 1 of this document are the persons responsible for all the information contained in this offering memorandum (the “Offering Memorandum”). To the best of the knowledge and belief of the Directors of the AIFM (who have taken all reasonable care to ensure that such is the case) the information contained in the Offering Memorandum is in accordance with the facts and does not omit anything likely to affect the import of such information. The Directors of the AIFM accept responsibility accordingly.

**Note: This specimen Offering Memorandum merely provides guidance on the minimum standards required by the MFSA. In this regard, neither the MFSA nor any of its officials are liable for any inclusion, error or omission. The Directors of the AIFM are solely responsible for the contents of the Offering Memorandum offered to investors and for ensuring that such document is in line with all the applicable legal and regulatory requirements. The Directors of the AIFM should seek appropriate legal advice on the drafting of the Offering Memorandum.**

Certain sections of the Offering Memorandum require periodic updating and accordingly the directors of the AIFM are responsible to keep the Offering Memorandum updated.

The Directors of the AIFM are also responsible to ensure that no inconsistencies exist between the contents of the Offering Memorandum and the deed of constitution.

## OFFERING MEMORANDUM

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[*AIF name*](the “Fund”)

an open-ended collective investment scheme organised as a contractual fund registered under the Laws of Malta

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[*date*]

The Fund is included on the List of Notified AIFs maintained by the Malta Financial Services Authority (the “MFSA”) as Alternative Investment Funds which are available subject to the requirements of local law outside Malta and, in Malta, to Professional Investors AND/OR Qualifying Investors. These Alternative Investment Funds are Non-Retail Schemes. The Fund is not licensed, authorised or under the prudential supervision of the MFSA. Therefore, the protection normally arising as a result of the imposition of the MFSA’s prudential supervision do not apply.

The Fund may only be marketed in the European Economic Area (“EEA”) to permitted persons under the AIFMD (see “Definitions”). Marketing to an investor within the EEA who is not a Professional Investor as defined in AIFMD may only be undertaken in accordance with the national provisions applicable in the respective jurisdiction as prescribed in Article 43 of AIFMD.

The Fund is a Notified AIF under the Investment Services Act (List of Notified AIFs) Regulations. The Fund has been entered onto the List of Notified AIFs on the basis of a notification submitted by [*AIFM NAME*], the AIFM to the Fund, confirming that: (a) the AIFM is in possession of either (i) a licence granted by the MFSA under the Investment Services Act; or (ii) a management passport under Article 33 of AIFMD; and (b) the directors of the AIFM have approved the Offering Memorandum.

The entry of the Fund on the List of Notified AIFs is not an endorsement, guarantee or statement of approval by the MFSA nor is the MFSA responsible for the contents of this document or the selection or adequacy of the Fund’s governing body and service providers.

The MFSA has made no assessment or value judgement of the soundness of the Fund or for the accuracy or completeness of statements made or opinions expressed with regard to it.

# SAMPLE

**The MFSA has not reviewed or approved this document. Any person making statements to the contrary may be prosecuted under the Maltese Criminal Code (Chapter 9 – Laws of Malta). Investors must rely solely upon their own and their advisors’ due diligence in making any decision to invest.**

The distribution of this Offering Memorandum and the offering of the Units in certain jurisdictions may be restricted. Persons into whose possession this Offering Memorandum and any Supplement (as defined under “DEFINITIONS” below) comes are required to inform themselves about and to observe any such restrictions. This Offering Memorandum and any Supplement does not constitute (and may not be used for the purpose of) an offer or solicitation in any jurisdiction in which an offer or solicitation is not authorised or to any person to whom it is unlawful to make such an offer or solicitation.

No representations or warranties of any kind are intended or should be inferred with respect to the economic return from, or the tax consequences of, an investment in any Fund. No assurance can be given that existing laws will not be changed or interpreted adversely. Prospective investors are not to construe this Offering Memorandum or any Supplement as legal or tax advice. Each prospective investor should consult his own counsel and accountant for advice concerning the various legal, tax and economic considerations relating to his investment. Each prospective investor is responsible for the fees of his own counsel, accountants and other advisors.

Any further distribution or reproduction of this Offering Memorandum or any Supplement, in whole or in part, or the divulgence of any of its contents, is prohibited. A prospective investor should not subscribe for Units unless satisfied that he and/or his investment representative has/have asked for and received all information which would enable him or both of them to evaluate the merits and risks of the proposed investment. The Units are not, and are not expected to be, liquid, except as described in this Offering Memorandum or any Supplement.

No person other than the directors of the AIFM has been authorised to make any representations or give any information with respect to the Units except the information contained or any Supplement, and any information or representation not contained herein or otherwise supplied by the directors of the AIFM must not be relied upon as having been authorised by the directors of the AIFM. Neither the delivery of this Offering Memorandum or any Supplement nor the issue of Units shall, under any circumstances, create any implication that there has been no change in the affairs of the Fund since the date of this Regulation.

## *European Economic Area*

The Fund is an AIF within the meaning of AIFMD. The manager is the AIFM within the meaning of AIFMD of the Fund.

Units may not be marketed to prospective investors or discretionary investment managers which are domiciled or have a registered office in any member state of the EEA (“EEA Persons”) unless AIFMD marketing rights have been exercised by the AIFM and in such case only to EEA Persons which qualify as Professional Investors and, if permitted by the respective jurisdiction, other persons, subject always to the national provisions applicable in the respective jurisdiction as prescribed in Article 43 of the AIFMD.

## *United States*

*[Drafting Note: In relation to the U.S. where relevant, also consider the need for mandated CFTC disclosure.]*

The Units have not been, and will not be, registered under the U.S. Securities Act of 1933, as amended (the “1933 Act”), or qualified under any applicable state statutes and may not be offered, sold or transferred in the United States (including its territories and possessions) or to or for the benefit of, directly or indirectly, any U.S. Person, except pursuant to registration or an exemption. The Fund has not been, nor will be, registered under the U.S. Investment Company Act of 1940, as amended (the “1940 Act”), and investors will not be entitled to the benefits of such registration. Pursuant to an exemption from registration under the 1940 Act, the Fund may make a private placement of the Units to a limited category of U.S. Persons. The Units have not been approved or disapproved by the U.S. Securities and Exchange Commission, any state securities commission or other regulatory authority, nor have any of the foregoing authorities passed upon or endorsed the merits of this offering or the accuracy or adequacy of these offering materials. Any representation to the contrary is unlawful.

The Units are subject to restrictions on transferability and resale and may not be transferred or resold in the United States except as permitted under the 1933 Act and applicable state securities laws, pursuant to registration or exemption therefrom. Investors should be aware that they will be required to bear the financial risks of this investment for an indefinite period of time. *[The Units are not available for investment by or on behalf of, directly or indirectly, U.S. Persons.] [Drafting Note: appropriate additional language to be added if the Fund will be sold to US investors.]*

**There are significant risks associated with an investment in the Fund. Investment in the Fund may not be suitable for all investors. It is intended for sophisticated investors who can accept the risks associated with such an investment including a substantial or complete loss of their investment. There can be no assurance that the Fund will achieve its**

**investment objective and losses may be incurred. Each prospective investor should carefully review this Offering Memorandum together with any Supplement of the relevant Fund and carefully consider the risks before deciding to invest. The attention of investors is drawn to “Risk Factors and Conflicts of Interest” below.**

## TABLE OF CONTENTS

	Page
DIRECTORY .....	1
DEFINITIONS .....	2
KEY INFORMATION .....	5
INFORMATION RELATING TO THE PRODUCT .....	7
Investment Objective .....	7
Investment Policies .....	7
Investment Guidelines .....	8
SERVICE PROVIDERS .....	11
The AIFM .....	11
Depository .....	12
FEES AND EXPENSES .....	13
SUBSCRIPTIONS AND REDEMPTIONS .....	15
Participation in the Fund .....	15
Units and Participation Certificates .....	19
Unit Value and its Publication .....	19
GENERAL INFORMATION .....	22
Legal Implications of Contractual Relationships with the Fund .....	22
Fair Treatment of Investors and Investor Rights .....	22
The AIFM .....	22
Use of Dealing Commissions .....	22
Reports and Financial Statements and Investor Reporting .....	23
Periodic and Regular Disclosure .....	24
Documents Available for Inspection .....	24
General .....	24
Segregation of Assets and Liabilities of each Fund and the Manger .....	25
Data Protection .....	25
Governing Law and Jurisdiction .....	25
Amendments to the present Offering Memorandum .....	25
Deed of Constitution .....	26
Liquidation and Dissolution of the Fund .....	26
[U.S. Definitions .....	27
TAX CONSIDERATIONS .....	29
[ <i>BENEFIT PLAN INVESTOR CONSIDERATION</i> .....	29
RISK FACTORS AND CONFLICTS OF INTEREST .....	29
Risk Factors .....	29
Conflicts of Interest .....	30

**DIRECTORY**

**Directors of the AIFM**

*[Drafting Note: Insert names and addresses.]*

**Manager and AIFM to the Fund**

[ ]

***[Investment Manager to the Fund]***

[ ]

**Registered Office of the Fund**

[ ]

Malta

**Depositary to the Fund**

[ ]

***[Administrator to the Fund]***

[ ]

**Auditor to the Fund**

[ ]

Malta

**Legal and Regulatory Advisors to the AIFM [and to the fund]**

*As to Maltese law:*

[ ]

*As to [ ] law:*

[ ]

## DEFINITIONS

The following terms have the meanings specified below in this Offering Memorandum unless the context otherwise requires:

[*Drafting Note: complete with all the relevant definitions including the following.*]

“Administration Agreement”	the agreement entered into among, <i>inter alia</i> , the Administrator, [●] and the directors of the AIFM, on or about the date of the Offering Memorandum;
“AIF” or “Alternative Investment Fund”	an alternative investment fund, as defined in AIFMD;
“AIFM” or “Alternative Investment Fund Manager”	an alternative investment fund manager, as defined in AIFMD;
“AIFMD”	Directive 2011/61/EU of the European Parliament and the Council of the European Union on alternative investment fund managers and any implementing legislation or regulations thereunder;
“AIFMD Rules”	the provisions of: (i) the European Commission Delegated Regulation (EU) No 231/2013 supplementing AIFMD with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision; and (ii) the rules and guidance of the MFSA and any other applicable regulations implementing AIFMD;
“Application Form”	the application form for Units, in such form as the AIFM may from time to time prescribe, including the Qualifying Investor declaration form, pursuant to which an investor may apply for Units;
“Auditors”	[●]
[“Benefit Plan Investor”	as defined under “GENERAL INFORMATION, U.S. Definitions”];
“Business Day”	any day (except Saturday or Sunday) on which banks [●] and [●] are open for business and/or such other or further day or days as may be determined by the Directors in their discretion from time to time;
“Class”	the relevant class of the relevant Fund, as the context requires;
[“Code”	the U.S. Internal Revenue Code of 1986;]
“Dealing Day”	as specified in the Offering Memorandum as the same may be amended as set out under “SUBSCRIPTIONS AND REDEMPTIONS” below;
“Deed of constitution”	the contract under which the Fund is constituted;
“Depositary Agreement”	the agreement entered into among the Depositary, [●] and [●] on or about the date of this Offering Memorandum;
“Directors”	the directors of the AIFM, whose names appear under “Directors” on page 1 of this Offering Memorandum;
[“ERISA”	the U.S. Employee Retirement Income Security Act of 1974;

“EEA”	the participating member states of the European Economic Area (as constituted from time to time) being the member states of the European Union and Iceland, Lichtenstein and Norway;
“Fund”	[•];
“IFRS”	International Financial Reporting Standards;
“Initial Issue Price”	a fixed price per Unit at which Units are issued on the initial subscription Dealing Day, as specified in this Offering Memorandum;
<i>[“Investment Management Agreement”</i>	<i>the agreement entered into between the AIFM and the Investment Manager on or about the date of this Offering Memorandum;]</i>
<i>[Investment Manager</i>	<i>[•]]</i>
“Investment Services Act”	the Investment Services Act 1994 of Malta (Cap. 370, Laws of Malta);
“Investment Vehicles”	as defined under “INFORMATION RELATING TO THE PRODUCT; Investment Guidelines” below;
“Maltese Companies Act”	the Companies Act, 1995, of Malta (Cap. 386, laws of Malta);
“MFSA”	the Malta Financial Services Authority or any successor body thereto;
“Prevention of Money Laundering Act”	the Prevention of Money Laundering Act, 1994, of Malta (Cap. 373 of the Laws of Malta);
“Prevention of Money Laundering and Funding of Terrorism Regulations”	the Prevention of Money Laundering and Funding of Terrorism Regulations, 2008 (S.L. 373.01 of the Laws of Malta);
“Prime Broker”	a prime broker appointed to one or more Fund(s), as specified in this Offering Memorandum;
“Professional Investor”	an investor who is considered to be a professional client or may, on request, be treated as a professional client within the meaning of Annex II to Directive 2004/39/EU of the European Parliament and the Council of 21 April 2004 on markets in financial instruments;
“Qualifying Investor”	an investor who fulfils the following criteria: <ul style="list-style-type: none"> <li>(a) invests a minimum of EUR 100,000 or its currency equivalent in the Fund which investment may not be reduced below this minimum amount at any time by way of a partial redemption; and</li> <li>(b) declares in writing in a separate document provided to the AIFM and the Fund that they are aware of and accept the risks associated with the proposed investment; and</li> <li>(c) satisfies at least one of the following: <ul style="list-style-type: none"> <li>(i) a body corporate which has net assets in excess of EUR 750,000 or which is part of a group which has net assets in excess of EUR 750,000 or, in each case, the currency equivalent thereof;</li> </ul> </li> </ul>

- (ii) an unincorporated body of persons or association which has net assets in excess of EUR 750,000 or the currency equivalent;
- (iii) a trust where the net value of the trust's assets is in excess of EUR 750,000 or the currency equivalent;
- (iv) an individual whose net worth or joint net worth with that of the person's spouse, exceeds EUR 750,000 or the currency equivalent; or
- (v) a senior employee or director of a service provider to the Fund;

“Special Purpose Vehicle” a vehicle as may be set up by the Fund, as part of its investors strategy for the sole purpose of investing and holding assets on behalf of the fund in accordance with the Deed of constitution and the Offering Memorandum;

“Units” [Units in the Fund;]

[“United States” or “U.S.” *the United States of America, its territories and possessions, any state of the United States and the District of Columbia;*]

[“U.S. Person” *as defined under “GENERAL INFORMATION; U.S. Definitions;*]

[“U.S. Taxpayer” *as defined under “GENERAL INFORMATION; U.S. Definitions;*]

“Valuation Day” such day or days as may be specified in the Offering Memorandum as the same may be amended as set out under “SUBSCRIPTIONS AND REDEMPTIONS” below;

[“1933 Act” *the U.S. Securities Act of 1933; and*]

[“1940 Act” *the U.S. Investment Company Act of 1940.*]

All references herein to “U.S. Dollars”, “dollars”, or “\$” are to United States dollars. All references to “euro”, “EUR” or “€” are to European euro.

All references to the provisions of any law or regulation shall be construed as references to those provisions as amended, modified, re-enacted, revised or replaced from time to time.

All references to any agreement are to such agreement as it may be amended, restated, supplemented or replaced from time to time.

## KEY INFORMATION

The following is a summary of the key information concerning the Fund and the offering of its Units

**The Fund** *Fund Name* is a contractual fund established by means of the Deed of Constitution in terms of the Investment Services Act (Contractual Funds) Regulations.

The Fund does not have legal personality and the unitholders will hold one or more units of the contractual fund.

*[Drafting Note: complete with the following information: name, type, duration, registration number, formation date.]*

The Fund is included on the List of Notified AIFs under the Investment Services Act (List of Notified AIFs) Regulations.

**Class Structure** *[Drafting Note: detail available class types.]*

The AIFM may from time to time in its discretion establish further classes of Units.

**AIFM** *[Drafting Note: complete with the following information: name, registered office, the group to which it belongs, if any.]*

*[The AIFM is [in possession of a licence granted by the MFSA under the Investment Services Act as an AIFM] OR [in possession of a management passport under Article 33 of AIFMD]*

*[The AIFM has delegated the day-to-day discretionary investment management of each Fund to the Investment Manager.]*

*[The Investment Manager is [●]. [Drafting Note: insert relevant description.]*

**Depository** [●] serves as the depository to the Fund;

**Administrator [if any]** [●] serves as the administrator to the Fund;

**Prime Brokers [if any]** [●] serves as the prime broker to the Fund;

**Guarantor [if any]** *[Drafting Note; complete with the relevant information including: name, registration number and registered office.]*

**Calculation and Publication of Net Asset Value** *[Drafting Note: complete with the following information: the sources where the value of the Units is published (for instance the website of the AIFM) and the frequency of its calculation. Please specify whether the Depository is in charge of the calculation of the value of the Units.]*

**Subscription for Units** Units will be available for subscription as set out in the relevant Supplement and as set out below under “SUBSCRIPTIONS AND

REDEMPTIONS: subscriptions.

**Redemption of Units** Investors may request the redemption of all or some of their Units as specified in the relevant Supplement and as set out below under “SUBSCRIPTIONS AND REDEMPTIONS: redemptions.

**Fees and Expenses** [*Drafting Note: include summary of fees and expenses.*]

**Investment Objective and Approach** The investment objective and approach of each Fund will be specified in the Supplement of the relevant Fund.

**There can be no assurance that the investment objective of any Fund will be achieved and losses may be incurred.**

**Risk Factors** **There are significant risks associated with an investment in the Fund. Investment may not be suitable for all investors. It is intended for sophisticated investors who can accept the risks associated with such investment including a substantial or complete loss of their investment. There can be no assurance that the Fund will achieve its investment objective and losses may be incurred. Each prospective investor should carefully review this Offering Memorandum and carefully consider the risks before deciding to invest. The attention of investors is drawn to “RISK FACTORS AND CONFLICTS OF INTEREST” below and in the relevant Supplement.**

This summary is derived from and should be read in conjunction with the full text of this Offering Memorandum, the relevant Fund Supplement and any other document referred to herein.

## INFORMATION RELATING TO THE FUND

*[Drafting Note: complete and, if necessary, amend the following information.]*

### **The Fund**

*Fund Name* is a contractual fund constituted under the provisions of the Investment Services Act (Contractual Funds) Regulations.

The Fund is included in the List of Notified AIFs under the Investment Services Act (List of Notified AIFs) Regulations.

### **Fund and Class Structure**

The AIFM may established one or more Funds in accordance with the Deed of Constitution and or classes of Units of any Fund.

The base currency of the Fund is *[EURO]* and the annual accounts will be prepared in *[EURO]*. The base currency of the Fund will be specified in the relevant Supplement.

### **Accumulation and Distribution Policy**

The accumulation and distribution policy of each Fund will be specified in the relevant Supplement. *[These policies may be changed on 30 days' written notice to investors]*

## **INVESTMENT OBJECTIVE, INVESTMENT POLICIES AND INVESTMENT GUIDELINES**

### **Investment Objective**

The primary investment objective of the Fund is to seek to achieve [●] *[Drafting Note: complete with the relevant investment objective and investment strategy].*

### **Investment Policies**

The AIFM will invest *[mainly/up to [●]]* in *[Drafting Note: complete with the relevant information e.g. equity, equity-related and credit securities but may invest in other asset classes]* as further explained below.

The AIFM *[intends / or does not intend]* to utilize leverage in connection with its activities.

**The investment objective and policies of each Fund will be specified in the Supplement of the relevant Fund.**

**There can be no assurance that the investment objective of the Fund will be achieved and losses may be incurred.**

The AIFM will seek to pursue a *[Drafting Note: specify the type and aim of investment approach e.g. identify and exploit mis-valuations and arbitrage opportunities resulting from its perception of company and security valuations, market liquidity, lack of transparency and/or price dislocations].*

The AIFM believes that it can achieve its investment objective by *[Drafting Note: complete with the relevant information, e.g. following a high-conviction strategy and focusing time and capital on a limited number of investment opportunities in sectors in which it believes it has particular knowledge as a result of its research and the experience of its principals].*

As such, the AIFM will seek to *[Drafting Note: complete with the relevant information].*

In seeking an *[Drafting Note: complete with the type of return]*, the Fund will hold *[Drafting Note: complete with the relevant information, e.g. type of positions, markets, assets classes and financial instruments]*.

The geographical focus of the Fund's investments will be *[Drafting Note: complete with the relevant information related to the geographical focus of the Fund's investments]*.

The Fund can invest in *[Drafting Note: complete with the relevant information, e.g. global financial markets, including but not limited to, spot currencies and forward foreign exchange contracts, government and corporate debt securities, loans, interest rate instruments, equity securities, convertibles, stock indices, precious metals and traditional and base industrial commodities through the use of cash-settled spot transactions, forwards, futures, options and swap markets, as well as in hybrid securities and other derivative instruments, including warrants, American Depositary Receipts ("ADRs"), contracts for differences, credit derivatives (including credit default swaps) or other tradable rights and investable entitlements. The Fund may invest in certificates and other collective investment vehicles, including unit trusts, mutual funds, investment companies and exchange traded funds ("ETFs"). Collective investment vehicles may be established within or outside of the EEA and may not be subject to regulatory review or discipline the instruments in which the Fund invests may be listed or unlisted and rated or unrated. Derivative instruments may be exchange traded or over-the-counter. The Fund will not originate loans and in no circumstances will the Fund have a direct relationship as a lender to a borrower]*.

The following summary will provide insight into the AIFM strategic thoughts.

*[Drafting Note: describe the possible investment strategies. For instance if the Fund adopts a core credit/equity strategy the description could contain information like the following "The core credit/equity strategy is an investment strategy whereby the AIFM invests in credit or equity investments based on fundamental research. The AIFM believes that there is a mispricing of the equity or credit security, due to a variety of factors, including but not limited to markets' under-or over appreciation of a business risk, profitability potential and/or structural market shifts"]*.

*[Drafting Note: provide any further relevant information on the Fund's investment approach.]*

The base currency of the Fund is the *[EURO]*. The Classes are denominated in *[EURO]*. Assets held by the Fund may be denominated in *[EURO]*. *[Drafting Note: disclose any hedging arrangements.]*

## **Risk Management**

The AIFM operates risk management systems to seek to identify, measure, manage and monitor the risks relevant to the investment objective and approach of the Fund. *[The risk management function is independent of the portfolio management function performed by the Investment Manager.]*

## **Changes to the Investment Objective and Investment Policies**

Changes to the investment objective and investment approach of the Fund as specified above may be made by the AIFM. Changes will be notified to investors at least 30 days in advance of the change. Changes to the investment objective will only become effective after a period sufficient to allow all redemption requests linked to such change to be processed. Any redemption fees arising as a result will be waived.

## **Investment Guidelines**

The Fund will generally follow the investment guidelines set out below:

*[Drafting Note: complete with the relevant investment guidelines, e.g. not more than 20 per cent of the net asset value of the Fund will be invested in the securities of any one issuer (other than the Investment Vehicles) calculated at the time of investment]*

If one or more of the Fund's investment guidelines are at any time contravened for reasons beyond the control of the AIFM, the AIFM must take such steps as are necessary to ensure a restoration of compliance with such guideline(s) as soon as is reasonably practicable having regard to the interests of the unitholders and, in any event, within the period of six months beginning on the date of discovery of the contravention of such guideline(s).

Changes to the investment guidelines of the Fund as set out above may be made by the AIFM. Changes will be notified to investors in advance of the change. *[Drafting Note: If restrictions are not expected to vary by the Fund, include restrictions here]*

#### *Leverage*

The Fund leverages its capital by *[Drafting Note: To insert maximum amount of leverage as well as methodology for the calculation of leverage e.g. leverage will be limited to 400 per cent. of the net asset value of the Fund when calculated in accordance with the "gross" method and 300 per cent. of the net asset value of the Fund when calculated in accordance with the "commitment" method set out in the AIFMD Rules].*

The calculation and disclosure of the Fund's maximum leverage is required to satisfy the requirements of the AIFMD Rules. The Fund *[does/does not]* currently grant any guarantee under any leveraging arrangement. The grant of any such guarantee *[is/would be disclosed]* to investors in accordance with the AIFMD Rules. Save as set out herein, *[there are additional restrictions/there are no restrictions]* on the Fund's use of leverage, by borrowing or otherwise, other than those which may be imposed by applicable law, rule or regulation.

#### *Investment via Subsidiaries*

The Fund may also invest indirectly through *[one or more wholly-owned subsidiaries or other vehicles]* ("Investment Vehicles") *[Drafting Note: provide the relevant information, e.g. where the AIFM considers that this would be efficient for the Fund from a commercial and/or tax perspective or provide the only practicable means of access to the relevant instrument or strategy. Also specify how the Investment Vehicles may be funded, e.g. via equity, debt or a combination of the two. Any investment made by the Fund through an Investment Vehicle will only be made in compliance with the rules of the MFSA.]*

*[Drafting Note: provide any further relevant information on the Investment via Subsidiaries.]*

#### **Securities Financing Transactions, Derivative Instruments and Collateral and Asset Re-use Arrangements**

The Fund may invest in derivative instruments traded on exchange or over-the-counter, including forwards, futures, options and swaps (including total return swaps) on equities, rates, indices, bonds, currencies and other asset classes and may purchase warrants, in each case for investment purposes as well as to hedge market and currency exposure ("Derivative Transactions"). The Fund may also enter into securities lending and borrowing trades, repurchase and reverse repurchase transactions, sell and buy-back and buy and sell-back transactions, margin lending arrangements and other similar transactions ("Securities Financing Transactions") in pursuit of the Fund's investment strategy.]

The Fund may enter into Derivative Transactions and/or Securities Financing Transactions with the Prime Brokers and/or other brokers and/or counterparties (each a "Trading Counterparty"). The Fund will only enter into Derivative Transactions and Securities Financing Transactions with Trading Counterparties which the AIFM believes to be creditworthy and which are subject to prudential supervision. In determining such creditworthiness, the AIFM will have regard to any credit rating of the relevant Trading Counterparty and/or the availability of any guarantee and/or collateral cover. Trading Counterparties may be entitled to receive a fee or commission in respect of any Derivative Transaction or Securities Financing Transaction executed by the Fund, which may be reflected in the economics of

the relevant transaction.

The Fund's collateral and asset re-use arrangements vary between Trading Counterparties:

- (A) The Fund's current collateral and asset re-use arrangements with the Prime Brokers are described in the section headed "SERVICE PROVIDERS: Prime Brokers" below.
- (B) The Fund may be required to deliver collateral from time to time to its Trading Counterparties (other than the Prime Brokers) under the terms of the relevant trading agreements, by posting initial margin and/or variation margin and on a daily mark-to-market basis. The Fund may also deposit collateral as security with a Trading Counterparty as broker. The treatment of such collateral varies according to the type of transaction and where it is traded. Under transfer of title or re-use arrangements, the cash, securities and other assets deposited as collateral will generally become the absolute property of the Trading Counterparty when the collateral is deposited or, as the case may be, at the time of re-use and the Fund will have a right to the return of equivalent assets. There are generally no restrictions on the re-use of collateral by such Trading Counterparties. A right to the return of equivalent assets will normally be unsecured and the collateral will be at risk in the event of the insolvency of the Trading Counterparty. Collateral may also be held by the Fund subject to a security interest given in favour of the Trading Counterparty and, in some cases, other members of the Trading Counterparty's group. Where collateral is held on a security interest basis, the Fund will retain a residual interest in the collateral subject to a charge in favour of the Trading Counterparty and, where applicable, other members of its group as security for the Fund's obligations to the Trading Counterparty (and, where applicable, other members of its group). Generally, on the insolvency of the Trading Counterparty, while the Fund will retain its residual interest in the collateral, this may be subject to stays of action, delays and/or additional charges as part of the insolvency process.
- (C) The Fund may enter into Derivative Transactions and/or Securities Financing Transactions under which it is not entitled to require the delivery by its Trading Counterparties of collateral as security for the Fund's counterparty exposure. Where the Fund enters into arrangements under which it is entitled to receive collateral as security, the collateral posted will typically be calculated on a daily mark-to-market basis. It is anticipated that such collateral will generally be restricted to cash and/or high quality government bonds which will (where relevant) be held by the Prime Brokers in their capacity as sub-custodians for the Fund as described under "SERVICE PROVIDERS: Prime Brokers" below.]

There are no restrictions on the Fund's exposure to Derivative Transactions or Securities Financing Transactions.

The AIFM's policy on dealing commissions is set out under "GENERAL INFORMATION: Use of Dealing Commissions" below. Subject to this, the AIFM is not entitled to any fee or commission from any person other than the Fund in connection with the Fund's investments in Derivative Transactions and Securities Financing Transactions.

#### **Accumulation and or distribution of the dividends**

*[Drafting Note: provide all the relevant information, including:*

- *whether the Fund's policy provides for the accumulation or the distribution of the Fund's income;*
- *if the Fund's policy provides for the distributions of the Fund's income, the Offering Memorandum shall specify: how the dividends are calculated, the timing of the distribution, which percentage of the dividends will be distributed and how such percentage is calculated, who is entitled to the distribution, who is the subject in charge of the distribution and any further relevant information on the distribution;*

- *if and how the Fund's policy on the accumulation or the distribution of the dividends may change.*]

## SERVICE PROVIDERS

### **The AIFM**

The AIFM is manager to the Fund and provides portfolio management and risk management services in respect of the Fund and to provide certain marketing services in respect of the units.

*The AIFM was incorporated in [•] on [•] 201[•] and is authorised and regulated in the conduct of its investment business in [•] by [•].*

The directors of the AIFM are:

*[Drafting Note: Insert names and biographies.]*

*[Drafting Note: Insert description of the Management Agreement including services, ability to delegate, liability and indemnity and termination. Also address how the valuation function is to be undertaken showing compliance with the AIFMD.]*

*[Drafting Note: Insert details regarding the valuation function of the AIFM – whether internal or external]*

The AIFM has the power to engage service providers on behalf of the Fund and to change such service providers or the agreements with those service providers from time to time without notice to investors, other than as required pursuant to the AIFMD Rules.

### **The Investment Manager**

*The AIFM has appointed the Investment Manager to provide certain portfolio management services in respect of the Fund.*

*The Investment Manager was incorporated in [•] on [•] 201[•] and is authorised and regulated in the conduct of its investment business in [•] by [•].*

*The principals of the Investment Manager are:*

*[Drafting Note: Insert names and biographies.]*

*[Drafting Note: Insert description of Investment Management Agreement including services, ability to delegate, liability and indemnity and ability to terminate the agreement.]*

### **Administrator**

*[Administrator [Drafting Note: Include where relevant.]*

Under the terms of the Administration Agreement, the Administrator has been appointed by the AIFM to administer the day-to-day operations and business of the Fund and perform general administrative tasks for the Fund, including dealing with correspondence, processing subscriptions and redemptions, computing net asset values, maintaining books and records, disbursing payments, establishing and maintaining accounts on behalf of the Fund and any other matters usually performed for the administration of an investment fund. The Administrator will also maintain the register of unitholders.

The Administrator will keep the accounts of the Fund in accordance with *[IFRS]*.

*[Drafting Note: Insert description of Administration Agreement including services, ability to delegate,*

*liability and indemnity and termination provisions.]*

#### *Compliance Function and Money Laundering Reporting Officer*

The Directors shall take such measures as they consider necessary or desirable to ensure compliance by the Company and the Master Fund with applicable laws and requirements. Responsibility for compliance will, ultimately, rest with the Directors. The Manager as AIFM will also be responsible for ensuring compliance with AIFMD. The Company is responsible for compliance with the requirements of the Prevention of Money Laundering and Terrorist Financing Regulations and the Implementing Procedures and for the carrying out of the measures specifically assigned to Notified AIFs as per the framework applicable to such funds. *[Drafting Note: Identify the role of the Administrator, if any, in relation to the money laundering reporting function.]*

#### **Depositary**

Pursuant to the Depositary Agreement, [●] has been appointed to provide the following services in respect of the Fund.

##### *Safe-keeping of the Fund's financial instruments*

The Depositary holds in custody all of the Fund's financial instruments and ensures that all of the Fund's financial instruments that can be registered in a financial instruments account opened in the Depositary's books are registered in the Depositary's books within segregated accounts opened in the name of the Fund, so that they can be clearly identified as belonging to the Fund.

##### *Monitoring of Cash Flows*

The Depositary ensures that the Fund's cash flows are properly monitored, that all payments made by or on behalf of unitholders upon their subscription for Units have been received and that all the Fund's cash has been booked in cash accounts opened in the name of the Fund at a central bank, an EU bank or a similar entity authorised in a third country.

##### *Asset Verification*

The Depositary verifies the Fund's ownership of its assets which are not financial instruments based on information or documents provided by the AIFM and where available, external evidence, and maintains updated records of those assets for which it is satisfied that the Fund holds the ownership of such assets.

##### *General Oversight*

The Depositary is also responsible for the oversight of the valuation, issue and redemption of Units and application of the Fund's income.

The Depositary is required to ensure that the sale, issue, repurchase, redemption and cancellation of Units, the calculation of the net asset value of the Units and the application of the income of the Fund are carried out in accordance with applicable law, the Fund's Deed of Constitution and this Offering Memorandum. Further, the Depositary must ensure that in transactions involving the Fund's assets any consideration is remitted to the Fund within the usual time limits in the context of the conditions attached to the transactions.

Under the terms of the Depositary Agreement, the Depositary has undertaken to exercise due skill, care and diligence in the discharge of its duties. The Depositary will be liable to the Fund or to its investors for the loss by the Depositary or any sub-custodian appointed by the Depositary in respect of any of the Fund's financial instruments which are held in custody (the "Loss of Financial Instrument Liability"). In the case of the loss of such a financial instrument:

- (i) the Depositary will be required to return a financial instrument of identical type or the

corresponding amount to the Fund without undue delay;

- (ii) the Depositary will not be liable if it can prove the loss arose as a result of an external event beyond its reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary; and
- (iii) the Depositary will be liable to the Fund, or its investors, for all other losses suffered by them as a result of the Depositary's fraud, negligence or intentional failure to properly fulfil its obligations under the Depositary Agreement and the AIFMD.

The Depositary may act through sub-custodians, agents or any other third party which the Depositary may, in its discretion, deem necessary. Notwithstanding that the Depositary's liability will not be affected by any such delegation in a case of a loss of the Fund's financial instruments held by a third party pursuant to Article 21(11) of the AIFMD, the Depositary may discharge itself of liability if it can prove that:

- (i) all requirements for the delegation of its custody tasks set out in the second subparagraph of Article 21(11) of the AIFMD have been met; and
- (ii) a written contract between the Depositary and the third party expressly transfers the liability of the Depositary to the third party and makes it possible for the AIFM to make a claim against the third party in respect of the loss of financial instruments held in custody or for the Depositary to make such a claim on their behalf.

*[Drafting Note: Include disclosure regarding liability, indemnity and termination. Also consider any further appropriate disclosure as to sub-custodians including as to identity.]*

#### **Prime Brokers**

The AIFM may appoint one or more prime brokers to provide execution, clearing and settlement, stock borrowing, margin financing and foreign exchange services in respect of the Fund. As at the date hereof, the AIFM has appointed [•] and [•] to provide it with such services, as described in more detail below.

*[Drafting Note: Insert any relevant Prime Broker descriptions and any material provision included in the prime brokerage agreement.]*

#### **Auditor**

[•] has been appointed as auditor to the Fund pursuant to the terms of an engagement letter. The Auditor will prepare the annual accounts of the Fund in accordance with [IFRS].

#### **Legal Advisors**

[•] has been appointed as legal advisors to the Fund in respect of Maltese law pursuant to the terms of an engagement letter. [[•] has been appointed as legal advisors to the Fund in respect of [•] law pursuant to the terms of an engagement letter.]

#### **Other Service Providers to the Fund**

The AIFM may appoint other service providers to the Fund from time to time, including but not limited to trading counterparties, brokers and execution and settlement agents, registered office service providers and tax advisers and accountants. A list of such service providers is available upon request to the AIFM.

### **FEES AND EXPENSES**

*[Please complete and, if necessary, amend the following information.]*

<b>SUBJECT</b>	<b>COST</b>
<b>Fund</b>	<i>[Drafting Note: list all the costs borne by the fund]</i>
<b>AIFM</b>	<i>[Drafting Note: list all the costs borne by the AIFM.]</i>
<b>Investors</b>	<i>[Drafting Note: list all the costs borne by the Investors.]</i>

*[Drafting Note: The following fees' categories are given merely by way of example, please specify any further fees.]*

### **Management Fee**

The AIFM will be entitled to receive a management fee, payable in *[please insert the relevant timing]*, equal to *[please insert the relevant information]*.

*[Drafting Note: the Regulation should specify the method used to determine the management fee and shall list all the reference parameters used which should be easily verified.]*

*[Drafting Note: insert any further relevant information with reference to the management fee.]*

### **Performance Fee**

The AIFM will also be entitled to receive a performance fee, payable in *[please insert the relevant timing]*, equal to *[please insert the relevant information]*.

*[Drafting Note: the Offering Memorandum can provide, in favor of the AIFM, a specific fee linked to the performance of the Fund (i.e. the performance fee).*

### **Depositary's Fees**

The Depositary is entitled to receive a fee payable *[monthly]* in arrears from the AIFM at an annual rate of up to 0.[●] per cent of the net asset value. This fee is subject to a minimum of [●] per annum.

The Depositary is also entitled to reimbursement for its out-of-pocket expenses.

### **Prime Brokerage Fees**

*[The Prime Brokers perform a variety of brokerage and custodial services on arm's length commercial terms for the Fund for which fees are charged at normal commercial rates and expenses are to be reimbursed. Any sub-custodian fees will be met by the Fund out of the assets of the Fund. All sub-custodian fees will be charged at normal commercial rates.]*

*[Drafting Note: Insert relevant information concerning Prime Brokerage Fees where applicable]*

### **Administrator's Fees**

The Administrator is entitled to receive a fee from the Fund, payable [*monthly*] in arrears, at an annual rate of 0.[●] per cent of net asset value. This fee is subject to a minimum of [●] per annum.]

The Administrator is also entitled to reimbursement for its out-of-pocket expenses.

### **Auditor's Fees**

The Auditor receives a fee payable by the Fund at normal commercial rates as approved by the AIFM each year and is also entitled to reimbursement of its out of pocket expenses.

### **Other Fees and Expenses**

The AIFM will pay certain other costs and expenses incurred in the operation of the Fund, including, without limitation, organizational expenses, investment expenses, taxes, expenses for legal, auditing, valuation and consulting services, reasonable promotional activities, registration fees and other expenses due to supervisory authorities, insurance, interest, brokerage costs, trading expenses relating to the portfolio and risk management systems, research and market data and other software, programs or technology utilized in the management of the Fund and all professional and other fees and expenses incurred in connection therewith.

The amount of fees, charges and expenses borne directly or indirectly by investors are not subject to any maximum limit and will depend on a number of factors.

### **Initial Charge or Redemption Fee**

The AIFM may impose an initial charge or redemption fee. [*No initial charge or redemption fee will be charged by the AIFM in respect of the Units.*] [*Drafting Note: or insert relevant fees.*]

## **SUBSCRIPTIONS AND REDEMPTIONS**

[*Drafting Note: complete and, if necessary, amend the following information.*]

### **Participation in the Fund**

#### *General Provisions*

The Fund is reserved for investment by Professional Investors [*and Qualifying Investors*].

The participation in the Fund is not subject to conditions, restrictions or liens of any nature other than those indicated in the present Regulation.

By investing, each investor represents and warrants that, among other things, he is able to invest without violating applicable laws, especially the rules and regulations aiming to prevent money laundering. The AIFM will not knowingly offer or sell Units to any investor to whom such offer or sale would be unlawful. Investment is confined to eligible investors who can provide the representations and warranties contained in the Application Form.

The AIFM reserves the right to accept, reject or place conditions on subscription applications if, *inter alia*, it does not receive evidence satisfactory to it that the sale of Units to such an investor will not result in a risk of legal, regulatory, pecuniary, taxation or material administrative disadvantage to the Fund, or its unitholders or to the AIFM [*or the Investment Manager*].

The AIFM reserves and intends to exercise the right at its discretion compulsorily to redeem or require

the transfer of any Units, *inter alia*, if the continued ownership of such Units by any person could result in a risk of legal, regulatory, pecuniary, taxation or material administrative disadvantage to the Fund, Unitholders [*or the Investment Manager*].

*[The AIFM may in its discretion close one or more classes to investment by new investors or to further subscriptions.]*

*[U.S. Persons and U.S. Taxpayers]*

*[Investment is not permitted in the Fund by U.S. Persons or U.S. Taxpayers, where specified in the relevant Supplement.] [Drafting Note: if investment will be permitted generally by U.S. Persons and U.S. Taxpayers, include appropriate disclosure here as advised by your U.S. counsel.]*

#### *Verification of identity*

The AIFM has appointed [ ] as its money laundering and reporting officer to the Fund under the Prevention of Money Laundering and Funding of Terrorism Regulations. It shall be his duty to ensure that the Fund complies with its obligations under the Prevention of Money Laundering Act and the applicable regulations.

Measures aimed towards prevention of money laundering, may require a subscriber to verify his identity (or the identity of any beneficial owner on whose behalf the subscriber intends to hold the Units) and the source of funds to the [AIFM]. This obligation is absolute unless: (i) the application is being made via a regulated credit or financial institution; or (ii) payment is made to or from an account held in the subscriber's name with a banking institution, which in either case is in a country which is a member of the Financial Action Task Force. If alternative (i) applies, the AIFM may seek to obtain written assurance of the subscriber's (or beneficial owner's) identity from the relevant institution.

The AIFM reserves the right to request such documentation as it deems necessary to verify the identity of the subscriber and to verify the source of the relevant money. Failure to provide the necessary evidence may result in applications being rejected or in delays in the despatch of documents and/or the issue of Units. Where an application is rejected, subscription money will be returned, subject to the anti-money laundering rules and regulations, without interest to the account from which it was received at the risk of the subscriber. Any interest earned on such sums will accrue to the Fund. The AIFM will be held harmless by a potential subscriber against any loss arising as a result of a failure to process a subscription or redemption request if such information as has been requested has not been provided by the subscriber.

The AIFM also reserves the right to refuse to make any redemption payment if it suspects or is advised that the payment might result in a breach of applicable anti-money laundering or other laws or regulations by any person in any relevant jurisdiction or if such refusal is considered necessary or appropriate to ensure the compliance by the AIFM with any such laws or regulations in any applicable jurisdiction.

#### *Subscription for Units*

*[Drafting Note: where the Fund has a predetermined duration and a specific subscription, insert in this paragraph all the relevant information]*

The participation in the Fund is subject to either the subscription for Units or their subsequent acquisition. The subscription of Units is subject to the payment of an amount corresponding to the value of the Units (net of any fees or costs).

Applications for Units may be made in respect of each Dealing Day. The relevant payment must be received by the [AIFM] not later than [*Drafting Note: insert relevant hour*] [●] Business Days prior to

the relevant Dealing Day.

The number of Units that should be allocated to each investor is determined by [*the AIFM*] by dividing the amount of the payment, after deducting the fees and costs charged to each investors, by the unit value on the relevant Valuation Day.

In the interests of equality, the AIFM may (a) adjust the price at which subscriptions are effected to reflect such sum as they may consider represents the appropriate *pro rata* provision for duties and charges which would be incurred on the assumption that all the investments held were to be acquired on the relevant Valuation Day and/or (b) determine that the net asset value of a class be calculated on the basis of offer prices for long positions and bid prices for short positions.

[*In case of subscription of Units resulting from the reinvestment of profits/income distributed by the Fund, the Valuation Day must be the same as that in respect of payment of such profits/income.*]

The subscription can be made [ ] [*Drafting Note: insert method of subscription, e.g. directly to the AIFM or Administrator; through other distributors; by remote communication technologies*].

The Units may be subscribed for by way of a duly completed and signed Application Form, in the form required by the AIFM and addressed to the same, containing the following information:

- the personal data of the investor and of any co-holders;
- the amount of the payment (inclusive of the subscription fees and of any other expenses);
- the method of payment used and the relevant value date assigned for the actual transfer of the amounts to the Fund.

[*Drafting Note: If the Units can be subscribed also by the assignment of a mandate to the distributors, complete this paragraph with all the relevant information.*]

The payment by the investors can be made by [*Drafting Note: complete with the relevant information, e.g. bank cheque or bank draft; the bank transfer*].

[*Drafting Note: include the following provision only if appropriate*] The Units can be subscribed for by way of remote communication technologies, in compliance with the provisions of the applicable laws and/or regulations. In such event, only [*Drafting Note: complete with the relevant information, e.g. bank transfers*] can be used as means of payment for the subscription. The Units issued in such manner shall be included in the cumulative certificate.

#### *Payments*

If the payment is made in a currency other than the base currency of the Fund, the relevant amount shall be converted into the base currency. The exchange rate shall be either the rate recorded by the Central Bank of Malta or the European Central Bank on the date of reference, or such other rate as [*the AIFM*] in its reasonable discretion shall determine.

If the payment is unsuccessful, [*the AIFM*] will liquidate any Units allocated and obtain redress on the proceeds and the applicant will have no claim in respect of the same against the Fund or [*the AIFM*].

#### *Letter of confirmations*

For each subscription, [*the AIFM*] shall send the subscriber a letter of confirmation of the investment, containing the following information:

- [*the date of the receipt of the subscription request and the means of payment*];

- *the gross amount paid and the net amount invested;*
- *the number of Units assigned, the relevant unit value of Units and the Valuation Day to which such value refers.]*

*[Subscription of Units through Savings plans][Drafting Note: Include this section as relevant.]*

The subscription of the Units can take place by joining Savings plan *[Drafting Note: indicate the name of the Plan, if any]* (the “Plan”) that allows the investor to allocate the investment in the Fund over time.

In order to join the Savings Plan, it is necessary to sign a specific form, indicating (i) the total value of the investment, (ii) the number of payments and/or the duration of the Plan; (iii) the Unit amount and the periodicity of the payments; (iv) the amount corresponding to *[Drafting Note: indicate the relevant number.]* payments, to be paid upon the subscription. The Plan shall provide for periodical payments, whose number can be decided by the investor from a minimum of *[Drafting Note: indicate the relevant number.]* payments to a maximum of *[Drafting Note: please indicate the relevant number.]* payments.

The minimum amount of each payment shall be equal to or a multiple of *[indicate the relevant amount]*, inclusive of the subscription costs. The investor can make advance payments within the Plan at any time, provided that such payments are multiples of the unit payment chosen.

With reference to the Savings Plans, the investor is entitled to suspend or discontinue the payments and will not be charged with any additional cost in that respect.

The letter of confirmation of the investments shall be sent upon the first payment and, subsequently, on a *[Drafting Note: indicate the relevant timing.]* basis only in the relevant period in which the payments are made.

The investor may vary the plan at any time, by changing the residual period of validity of the Plan, the amount of each of the following payments, the periodicity of the payments.

The orders of modification of the plan shall be notified *[Drafting Note: insert the relevant information.]*.

If necessary, the AIFM is entitled to recalculate the nominal value of the plan and the total fees due as well as the new fees to be charged to the residual payments. In any event, no refund of fees shall be made.

### ***[Switching]***

*[An investor shall be entitled to subscribe for Units of other funds/sub-funds managed by the AIFM simultaneously with the redemption of Units.*

*[The operation of transfer between funds/sub-funds can be carried out directly or through the distributors, who shall transmit the relevant requests within the [Drafting Note: complete with the relevant timing].]*

*The operations of transfer between funds/sub-funds can be carried out upon [Drafting Note: complete with the relevant methods, e.g. a written request or through the use of remote communication technologies].*

*Once verified that the Units of the chosen funds/sub-funds are available, the AIFM shall carry out the operation of transfer between the funds/sub-funds in accordance with the following procedures [Drafting Note: complete with the relevant information.].]*

### **Transfers**

All transfers of Units will be effected by written instrument signed by the transferor and containing the

name and address of the transferee and the number of Units being transferred or in such other manner or form and subject to such evidence as the AIFM shall consider appropriate. The transfer will take effect on registration of the transferee as holder of the Units. The transferee will be required to give the representations and warranties contained in the Application Form. The AIFM may in its absolute discretion decline to register any transfer of Units without assigning any reason. There is no fee to investors for the registration of transfers.

### **Units and Participation Certificates**

The certificates [*Drafting Note: indicate whether they are registered certificates or bearer certificates*] may be issued for a whole number of Units and/or for fractions thereof.

The [*Depository*], upon instructions from the AIFM, shall make available to investors the certificates, in the places indicated in the Key Information part of the present Offering Memorandum, from [●] Business Days following relevant Dealing Day.

The [*Depository*] shall be entitled, at no cost to the Fund to split the cumulative certificate, for the purpose of segregating the rights of the individual investors.

The investor is entitled to request that his Units, included in the cumulative certificate, are transferred in a custody account held in his name. [*Such account, however, shall imply the payment of the costs indicated in the relevant contract, which the investor shall sign separately, as well as of the relevant tax charges under the applicable laws.*]

The investors may also request that the certificates are considered.

The delivery of the certificate to the investor can be postponed for the time required to verify the successful payment, but in any event within [*Drafting Note: insert the relevant timing*].

### **Unit Value and its Publication**

The unit value of the Units is calculated on each Dealing Day by dividing the total net value of the Fund by the number of Units.

In calculating the value of assets attributable to the Fund, the valuation shall be undertaken in accordance with the valuation policies and procedures approved, from time to time, by the AIFM. Under the valuation policy (as summarized below), discretions may be exercised and determinations made by the AIFM.

The [*AIFM*] will normally calculate the net asset value of each class of the Fund as at the close of business on each Valuation Day by deducting the total liabilities from the total assets of each class of the Fund. Total assets include the value of all investments held, the sum of any cash and accrued interest. Total liabilities comprise all liabilities including any borrowings, accrued expenses and any contingencies for which reserves are determined to be required. In calculating the value of the Fund's assets:

- [(a) *securities traded on a stock exchange will be valued generally at the last reported trade quoted on such exchange or, if not available, at the mean between the exchange quoted bid and asked prices;*
- [(b) *any unlisted securities will be valued initially at cost and thereafter with any reduction or increase in value (as the case may be) in a manner determined by the AIFM to reflect the fair value thereof;*
- [(c) *forwards, futures, options, contracts for differences and any other synthetic instruments traded on an exchange will be valued at the last reported trading prices. Where such instruments are*

*traded over-the-counter, they will be valued in a manner determined by the AIFM to reflect the fair value thereof; and*

- (d) *the value of any cash in hand or on deposit and accounts receivable, prepaid expenses and cash dividends accrued and not yet received will be deemed to be the full amount thereof, unless it is unlikely to be paid or received in full, in which case the value thereof will be arrived at after making such discount as the AIFM may consider appropriate to reflect the fair value thereof.]*

There will be deducted all liabilities of the Fund and such provisions and allowances for contingencies (including tax) as the AIFM thinks appropriate and accrued costs and expenses payable by the Fund.

“Hard-to-value” securities include securities which have been delisted or suspended or which are not listed or quoted on a stock exchange. Such securities will be valued by the AIFM having regard to the cost prices, the price at which any recent transaction in the security may have been effected, the size of the holding having regard to the total amount of such security in issue and such other factors as the AIFM considers in its discretion.

The [AIFM] may follow some other prudent method of valuation other than that referred to above if it considers that in the circumstances such other method of valuation should be adopted to reflect more fairly the values of assets or liabilities.

The AIFM is entitled to exercise their reasonable judgement in determining the values to be attributed to assets and liabilities and, provided they are acting *bona fide* in the interest of the Fund a whole, such valuation is not open to challenge by current or previous investors.

No adjustment shall be made to the values of any assets unless the valuation error exceeds half a percentage point (0.5%) of the Fund’s net asset value, in which case it shall be adjusted.

The net asset value of the Fund and each class thereof and the net asset value per Unit is available from the [AIFM] upon request.

#### *Suspension of the calculation of unit value of Units*

The AIFM may suspend the calculation of the net asset value of the Fund and its Units (and the subscription for and/or redemption of Units) in cases of force majeure where such calculation cannot be carried out.

Once such force majeure situation has ceased, the [AIFM] will publish such value in accordance with the normal procedures.

#### **Redemption of Fund’s Units**

The investors in the Fund may at any time request from the AIFM the redemption of their Units, in full or in part as at any Dealing Day. The redemption can be suspended in the cases indicated by the law, by the present Offering Memorandum including during the suspension of the calculation of net asset value and during the operations of liquidation of the Fund.

The specific redemption request [*jointly with the certificates representing the Units to be redeemed,*] shall be sent to the [AIFM] directly [*or by way of a distributor*].

The application for redemption shall contain the following: (i) the name of the relevant Fund; (ii) the personal data of the applicant; (iii) the number of Units or, as an alternative, the amount to be redeemed; (iv) the chosen means of payment and the relevant instructions for the payment of the amount to be redeemed (provided that where the redemption proceeds are to be paid into an account other than the one from which subscription funds were received, such request must be provided in original form); (v) in case of a partial refund, where appropriate, the relevant instructions [*with reference to the certificate*

representing the remaining Units]; and (v) any other information required by the applicable laws.

Redemption requests must be received no later than [●] Business Days prior to the relevant Dealing Day.

The value of the redemption shall be determined on the basis of the unit value on the Valuation Day in respect of the relevant Dealing Day in respect of which the redemption request is made.

*[Please note that if at such date the value of the Units is not the amount, if any, requested for redemption by the investor, the relevant request shall be processed for the available amount.]*

In the interests of equality, the AIFM may (a) deduct from the redemption proceeds such sum as it may consider represents the appropriate *pro rata* provision for duties and charges which would be incurred on the assumption that all the investments held were to be realised on the relevant Valuation Day and/or (b) determine that, when calculating redemption proceeds, the net asset value of a class be determined on the basis of bid prices for long positions and offer prices for short positions.

The AIFM shall pay the amount through the Depositary as soon as possible and not later than [●] days after the relevant Dealing Day, save for the cases of suspension of the unitholders' redemption right.

The AIFM shall be entitled to suspend the investors' redemption right, for a period not exceeding one month, in the event that the amount of the requests submitted, in relation to the market developments, require divestments that might result in a serious damage to unitholders.

The redemption requests submitted during the period of the aforementioned suspension will be deemed received at the end of such period.

The redemption will be made *[by wire transfer to the account from which subscription funds were received]*.

*[The AIFM may limit the value of redemptions made by unitholders in respect of any Dealing Day to [●] per cent. Of the total net asset value of the [unitholder's] Shares of the relevant Class then in issue. The AIFM may waive the gate, in whole or in part, in respect of any Dealing Day, at its discretion.] [Drafting Note: Insert any alternative or varied gate terms.]*

#### *Planned redemption of Units*

The investors may give specific instructions to the [AIFM] in order to obtain a planned redemption of Units. Please note that the investors shall indicate: (i) the initial Dealing Day for the redemption plan; (ii) the timing of redemption operations, please note that the period between two redemptions shall not exceed [●] Dealing Days; (iii) the amount to be divested, equal to predetermined amounts or amounts corresponding to a certain number of Units. Such amounts, in any event, shall not be lower than *[please indicate the relevant amount]*; and (iv) the investor's bank and the relevant account details.

The instructions for the planned redemption can be given either upon the subscription or subsequently. In this latter case, the instructions must be received by the [AIFM] by the notice period for redemptions in respect of the first Dealing Day.

The redemption proceeds shall be paid in respect of the relevant Dealing Day and in accordance with the procedures indicated. If at the relevant Dealing Day the value of the Units does not reach the full amount of the requested redemption, the relevant instruction *[shall not be carried out or shall be carried out up to the available value of Units]*. In such event the [AIFM] shall timely inform the investor.

The instructions for the planned redemption of Units will be valid until the relevant notice of revocation or modification from the investor is received by the [AIFM]. Please note that such notice must reach the [AIFM] within *[Drafting Note: indicate the relevant notice period]* prior to the next applicable Dealing

Day.

If the investor modifies or suspends the plan (or the value of the Units does not reach the amount of the planned redemption and, therefore, it is not possible to carry out the planned redemption) twice consecutively, the planned redemption(s) will be considered revoked.

In any event, the revocation of the planned redemption shall be at no additional cost to the investor.

The investor is entitled to request at any time further redemptions in respect of relevant Dealing Days subject to the applicable notice paid in addition to the planned ones.

## GENERAL INFORMATION

### Material Contracts

The following contracts, not being contracts in the ordinary course of business, have been entered into by the AIFM on or about the date of this Offering Memorandum and are or may be material. Information in relation to fees is contained under “Fees and Expenses” above. [*Drafting Note: insert list of all material contract e.g. administration agreement, depositary agreement, MLRO Agreement.*]

The AIFM may enter into further material contracts in respect of one or more Fund(s) as specified in the relevant Supplement.

The AIFM may in the future enter into marketing agreements with financial intermediaries approved by the AIFM. All of the agreements listed above may be amended from time to time by mutual consent of the parties thereto.

### Legal Implications of Contractual Relationships with the Fund

The main legal implications of the contractual relationship entered into for the purpose of investment in the Fund are as follows: [*Drafting Note: include disclosure in accordance with AIFMD.*]

### Fair Treatment of Investors and Investor Rights

[*Drafting Note: insert disclosure of investor rights and any preferential rights, e.g. side letters in accordance with AIFMD.*]

### AIFM

[*The AIFM holds professional indemnity insurance to cover professional liability risks. Under AIFMD, the AIFM has opted to increase its level of professional indemnity insurance rather than increase its holding of committed capital.*]

### Use of Dealing Commissions

[*Drafting Note: Amend as appropriate.*]

It is the normal policy of the [*Investment*] Manager to use full service brokerage houses, which will, in addition to routine order execution, provide a range of other services. The precise services will vary, but where the [*Investment*] Manager executes orders on behalf of the Fund through such a broker or other person, passes on that person’s charges to the Fund, and receives in return goods or services additional to that execution service, it will satisfy itself on reasonable grounds that such additional goods and services: (i) are directly related to the execution of trades on behalf of its customers or comprise the provision of substantive research; (ii) will reasonably assist the [*Investment*] Manager in the provision of its services to the Fund; and (iii) do not, and are not likely to, impair the [*Investment*] Manager’s

compliance with its duty to act in the best interests of the Fund. Such goods and services might include, by way of example, research in the form of periodic and one-off newsletters, reports and market analyses, and execution facilities such as access to particular markets or trading forums, execution software, market-making, block trading and stock-lending facilities, trade confirmation and settlement services, and execution-related information and advice.

The reasons for selecting individual brokers will vary, but will include factors such as the quality of research, financial security, quality and range of execution services, charges, and reliability and responsiveness to client demands. In some cases the value of the services provided may depend upon a minimum threshold of broker commissions or a percentage of such commissions. The receipt of these benefits assists the [Investment] Manager in providing a better service to its clients but also assists it in containing its costs and ultimately its charges to clients. The [Investment] Manager is able to enter into such arrangements and obtain such benefits, inter alia, due to its ability to deal collectively and aggregate transactions on behalf of clients and obtain benefits which would not be available to an individual investor.

*[The [Investment Manager] will provide the Fund with periodic disclosure and the investors with disclosure upon request, in accordance with the [insert relevant rules], of the arrangements entered into including details of the goods and services relating to execution and to substantive research, respectively.]*

### **Reports and Financial Statements and Investor Reporting**

- (a) The financial year of the Fund ends on [31 December] of each year, with the first financial period ending on [31 December 201[●]]. Annual audited financial statements will be prepared and sent to investors by post or electronically by e-mail to the address supplied by the investor for the giving of notices within six months of the end of the relevant financial period. When available, a copy of the most recent financial statements may be obtained by existing or prospective investors on request.
- (b) The base currency of account of the Fund is [●]. However, the classes may be denominated in multiple currencies and as such will present their accounts in the respective currency of each class.
- (c) *[The AIFM will prepare for the Fund and make available to Unitholders promptly following the end of the relevant period:*
  - (i) *[Drafting Note: disclose how/what regular reporting regarding the Fund's performance will be made available];*
  - (ii) *the information regarding the Fund's commission sharing arrangements.*
- (d) Once available, the historic performance of the Fund and the latest net asset value per Unit will be available from the AIFM on request.
- (e) Information on the risk profile of the Fund and the risk management systems employed by the AIFM are also available on request from the AIFM.
- (f) Further investor reporting may take place from time to time at the discretion of the AIFM. Investors wishing to receive such additional investor reporting are invited to contact the Administrator.

## Periodic and Regular Disclosure

The following information will be disclosed to investors in or at the same time as the annual report, and may be provided at other times by way of a report sent to investors by the AIFM [*or the Investment Manager or the Administrator*]:

- (a) the percentage of the Fund's assets that are subject to special arrangements arising from their illiquid nature;
- (b) any material changes to the arrangements for managing the liquidity of the Fund;
- (c) the current risk profile of the Fund and the risk management systems employed by the AIFM to manage those risks; and
- (d) the total amount of leverage employed by the Fund.

Any changes to the following information will be provided by the AIFM [*Investment Manager or Administrator*] to investors in the Fund without undue delay (and may be provided by email):

- (a) the maximum level of leverage which the AIFM [*or the Investment Manager*] may employ on behalf of the Fund;
- (b) the grant of or any changes to any right of re-use of collateral or any changes to any guarantee granted under any leveraging arrangement; and
- (c) activation of liquidity management tools.

## Documents Available for Inspection

Copies of the following documents will be available for inspection at the registered office of the AIFM during usual business hours (Saturdays, Sundays and public holidays excepted):

- (a) the Deed of Constitution
- (b) the material contracts entered into by the AIFM;
- (c) (once available) the latest financial statements of the Fund;
- (d) the latest net asset value per Unit;
- (e) the historic performance of the Fund;
- (f) where applicable, the instrument of incorporation of Special Purpose Vehicle; any share certificates and other documents confirming ownership of any Special Purpose Vehicle (including full details of the current shareholding and directorships); and the audited financial statements of any Special Purpose Vehicle; and
- (g) such additional documents as may be required from time to time.

## General

- (a) An application fee of €2,000 for the Fund has been paid to the MFSA for the application for its admission to the List of Notified AIFs. In addition, an application fee of €1,000 for each Sub-Fund will be paid to the MFSA for its application for admission to the List of Notified AIFs. An annual fee of €2,000 will be payable in respect of the Fund and an annual fee of €600 will be

payable in respect of the Sub-Fund to maintain each on the List of Notified AIFs.

- (c) The formation and preliminary expenses (including printing and legal fees) relating to the Fund are not expected to exceed [•]. *[This sum will be borne by the AIFM and may be amortised over a period not exceeding five years subject to the AIFMs' discretion to vary this if they consider it prudent to do so. This practice is contrary to IFRS and, although this is not anticipated by the AIFM, could result in a qualified audit opinion.]*
- (d) *[The Fund has been classified as a non-prescribed fund.]*

### **Segregation of Assets and Liabilities of each Fund and the Manger**

The assets and liabilities of the Fund so constituted are and shall be treated for all intents and purposes of law as a patrimony separate from the assets and liabilities of the AIFM. Accordingly, the liabilities incurred in respect of the Fund shall be paid out of the assets forming part of the patrimony of the Fund.

*[Drafting Note: disclose manner in which liabilities will be allocated against the assets of the Fund]*

### **Data Protection**

As part of the application process all subscribers are required to submit various documents to the AIFM. These are required to enable completion of the application process and to comply with all relevant legislation. Any information received will be kept by the AIFM *[and the Administrator]* in accordance with the relevant data protection legislation and, in the normal course of business, will not be made available to anyone other than the AIFM *[and the Investment Manager]* and their respective agents and delegates and their affiliates, subsidiaries, associates or group companies.

However, it may become necessary to transfer data at any time to comply with legislation in force either now or any at time in the future. Further, should the administrative functions, in whole or in part, be transferred to another entity, data will be transferred to the extent necessary for such new entity to carry out its functions effectively.

By subscribing all subscribers should take notice of the above, and also note that, by completion of the applicable Application Form, they are agreeing to any transfer of data carried out for any of the reasons given above, or for any reason that the AIFM *[or the Administrator]* deems necessary to comply with legislation in force at the time.

Further, the AIFM and the service providers of the Fund consent that any and all data required by the Administrator (in its capacity as such or in its capacity as registrar) in exercise of their duties on behalf of the AIFM may be transferred to and/or from the Administrator in accordance with the relevant data protection legislation.

### **Governing Law and Jurisdiction**

The Fund is established under the laws of Malta. Any claim brought by or against the AIFM shall be subject to the exclusive jurisdiction of the courts of Malta and shall be governed exclusively by the laws of Malta.

### **Amendments to the present Offering Memorandum**

All amendments to the present Offering Memorandum shall be communicated by a specific notice published using the same methods used for the publication of the unit value of Units.

Any amendment relating to [•] will receive [•] Business Days prior written notice. Amendments shall be simultaneously notified to each investor. Each investor is entitled to request the notification of such information by electronic means, rather than in hard copy.

*[Any amendments to the present Offering Memorandum implying an increase in the costs borne by the investors other than those linked to a reimbursement of costs, shall not apply to those amounts that were already subscribed at the effective date of the relevant amendments [as well as to the amounts that are still to be paid in connection with savings plans that had already been stipulated].*

The amendments of the present Offering Memorandum may have immediate efficacy when they provide more favorable economic conditions for the investors. In all other cases, the period of effectiveness, starting from the date of publication of the amendments, shall be decided by the AIFM taking into consideration the investors' interests.

A copy of the amended version of the present Offering Memorandum shall be sent to the investors upon request, free of charge.

### **Deed of Constitution**

*[Drafting Note: disclose key terms of the deed of constitution of the Fund as appropriate.]*

### **Liquidation and Dissolution of the Fund**

The liquidation of the Fund shall take place when the period indicated in the Deed of Constitution has elapsed (or at the end of relevant extension period) or even before such date:

- in case of [●];
- in case of [●];
- in case of [●];

The liquidation of the Fund shall be undertaken by *[the AIFM/ the Depositary]*

The MFSA should be informed [●].

The liquidation of the Fund shall follow the steps specified below:

- (i) the relevant resolution of the Manger shall be published on the same media indicated for the publication of the unit value of Units. The issuance and redemption of Units shall be suspended from the date of such resolution;
- (ii) the AIFM shall liquidate the Fund assets in the interest of the investors, in accordance with the disinvestment plan, converting the Fund's assets into cash at the best possible conditions;
- (iii) after the completion of the disinvestment operations, the AIFM shall draft a "final liquidation report" which shall be attached to the distribution plan. The distribution plan shall provide the indication of the amount due to each Unit's share which shall be calculated on the basis of ratio between the amount of the net assets converted into cash and the number of Units in circulation;
- (iv) the Auditor shall verify the accounts related to the liquidation operations and provide its opinion on the "final liquidation report";
- (v) the "final liquidation report" and the relevant directors' report shall remain exposed at the offices of the AIFM and the Depositary and they shall be published on the same media as those indicated for the publication of the unit value of Units jointly with the indication of the starting date of the redemption operations. Each participant shall be informed thereof and shall be entitled to examine the "final liquidation report" and obtain a copy at their own cost;
- (vi) the Depositary, upon the instructions given by the AIFM, shall redeem the Units for the amount indicated in the "final liquidation report" after the withdrawal and the cancellation of the

certificates. Proportional distributions are permitted during the liquidation procedure;

- (vii) any amounts not collected within three months from the starting date of the payment shall remain deposited with the Depositary (or with the person entrusted with keeping the liquid assets of the Fund) in an account held in the name of the AIFM indicating that they are assets resulting from the liquidation of the Fund. The personal data of the person entitled or the account number shall be indicated in sub-entries;
- (viii) if liquidation proceeds are not collected within the time limits provided for by the law they will be forfeited in favour of the AIFM; and
- (ix) the procedure shall end with the notice of completion of the distribution, as well as of any amounts not collected, given to competent Authority.

#### **[U.S. Definitions**

##### **(a) U.S. Person**

*A “U.S. Person” for the purposes of this Regulation is a person who is in either of the following two categories: (a) a person included in the definition of “U.S. person” under Rule 902 of Regulation S under the 1933 Act or (b) a person excluded from the definition of a “Non-United States person” as used in CFTC Rule 4.7. For the avoidance of doubt, a person is excluded from this definition of U.S. Person only if he or it does not satisfy any of the definitions of “U.S. person” in Rule 902 and qualifies as a “Non-United States person” under CFTC Rule 4.7.*

*“U.S. person” under Rule 902 of Regulation S includes the following:*

- (i) any natural person resident in the United States;*
- (ii) any partnership or corporation organised or incorporated under the laws of the United States;*
- (iii) any estate of which any executor or administrator is a U.S. person;*
- (iv) any trust of which any trustee is a U.S. person;*
- (v) any agency or branch of a non-U.S. entity located in the United States;*
- (vi) any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. person;*
- (vii) any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organised, incorporated or (if an individual) resident in the United States; and*
- (viii) any partnership or corporation if:*
  - (A) organised or incorporated under the laws of any non-U.S. jurisdiction; and*
  - (B) formed by a U.S. person principally for the purpose of investing in securities not registered under the 1933 Act, unless it is organised or incorporated, and owned, by accredited investors (as defined in Rule 501(a) of Regulation D under the 1933 Act) who are not natural persons, estates or trusts.*

*Notwithstanding the preceding paragraph, “U.S. person” under Rule 902 does not include: (i) any*

*discretionary account or similar account (other than an estate or trust) held for the benefit or account of a non-U.S. person by a dealer or other professional fiduciary organised, incorporated, or (if an individual) resident in the United States; (ii) any estate of which any professional fiduciary acting as executor or administrator is a U.S. person, if (A) an executor or administrator of the estate who is not a U.S. person has sole or shared investment discretion with respect to the assets of the estate, and (B) the estate is governed by non-U.S. law; (iii) any trust of which any professional fiduciary acting as trustee is a U.S. person, if a trustee who is not a U.S. person has sole or shared investment discretion with respect to the trust assets, and no beneficiary of the trust (and no settlor if the trust is revocable) is a U.S. person; (iv) an employee benefit plan established and administered in accordance with the law of a country other than the United States and customary practices and documentation of such country; (v) any agency or branch of a U.S. person located outside the United States if (A) the agency or branch operates for valid business reasons, and (B) the agency or branch is engaged in the business of insurance or banking and is subject to substantive insurance or banking regulation, respectively, in the jurisdiction where located; and (vi) certain international organisations as specified in Rule 902(k)(2)(vi) of Regulation S under the 1933 Act, including their agencies, affiliates and pension plans.*

*CFTC Rule 4.7 currently provides in relevant part that the following persons are considered “Non-United States persons”:*

- (i) a natural person who is not a resident of the United States or an enclave of the U.S. government, its agencies or instrumentalities;*
- (ii) a partnership, corporation or other entity, other than an entity organised principally for passive investment, organised under the laws of a non-U.S. jurisdiction and which has its principal place of business in a non-U.S. jurisdiction;*
  - (A) an estate or trust, the income of which is not subject to U.S. income tax regardless of source;*
  - (B) an entity organised principally for passive investment such as a pool, investment company or other similar entity, provided, that units of participation in the entity held by persons who do not qualify as Non-United States persons or otherwise as qualified eligible persons (as defined in CFTC Rule 4.7(a)(2) or (3)) represent in the aggregate less than ten per cent. of the beneficial interest in the entity, and that such entity was not formed principally for the purpose of facilitating investment by persons who do not qualify as Non-United States persons in a pool with respect to which the operator is exempt from certain requirements of Part 4 of the CFTC’s regulations by virtue of its participants being Non-United States persons; and*
  - (C) a pension plan for the employees, officers or principals of an entity organised and with its principal place of business outside the United States.*

*(b) U.S. Taxpayer*

*“U.S. Taxpayer” includes: (i) a U.S. citizen or resident alien of the United States (as defined for U.S. federal income tax purposes); (ii) any entity treated as a partnership or corporation for U.S. federal tax purposes that is created or organised in, or under the laws of, the United States or any state thereof (including the District of Columbia); (iii) any other partnership that is treated as a U.S. Taxpayer under U.S. Treasury Department regulations; (iv) any estate, the income of which is subject to U.S. income taxation regardless of source; and (v) any trust over whose administration a court within the United States has primary supervision and all substantial decisions of which are under the control of one or more U.S. fiduciaries. Persons who have lost their U.S. citizenship and who live outside the United*

*States may nonetheless, in some circumstances, be treated as U.S. Taxpayers.*

*An investor who is not a U.S. Person may nevertheless be considered a “U.S. Taxpayer” under U.S. federal income tax laws. For example, an individual who is a U.S. citizen residing outside of the United States is not a “U.S. Person” but is a “U.S. Taxpayer”. Such a person need not complete the Supplemental Disclosure Form and Declarations for U.S. Persons, but the tax consequences described in this Regulation will apply to that person.]*

*[(c) Benefit Plan Investor*

*“Benefit Plan Investor” is used as defined in U.S. Department of Labor (“DOL”) Regulation 29 C.F.R. §2510.3-101 and Section 3(42) of ERISA (collectively, the “Plan Asset Rule”) and includes (i) any employee benefit plan subject to Part 4, Subtitle B of Title I of ERISA; (ii) any plan to which Code Section 4975 applies (which includes a trust described in Code Section 401(a) that is exempt from tax under Code Section 501(a), a plan described in Code Section 403(a), an individual retirement account or annuity described in Code Section 408 or 408A, a medical savings account described in Code Section 220(d), a health savings account described in Code Section 223(d) and an education savings account described in Code Section 530); and (iii) any entity whose underlying assets include plan assets by reason of a plan’s investment in the entity (generally because 25 per cent. or more of a class of equity interests in the entity is owned by plans). An entity described in (iii) immediately above will be considered to hold plan assets only to the extent of the percentage of the equity interests in the entity held by Benefit Plan Investors. Benefit Plan Investors also include that portion of any insurance company’s general account assets that are considered “plan assets” and (except if the entity is an investment company registered under the 1940 Act) also include assets of any insurance company separate account or bank common or collective trust in which plans invest.]*

## **TAX CONSIDERATIONS**

*[Drafting Note: To insert comprehensive details on the applicable tax regime including the classification of the Fund for tax purposes, the applicable tax on resident and non-resident Unitholders on capital gains and distributions as well as relevant sections dealing with duty on document and transfers, the EU Savings Directive and the OECD Common Reporting Standard. The section should be compiled in consultation with the tax advisors.]*

### **[BENEFIT PLAN INVESTOR CONSIDERATION**

*[Drafting Note: ERISA disclosure for Benefit Plan Investor to be included to the extent relevant given the intended marketing universe of the Fund. Obtain US counsel confirmation as to wording.]*

## **RISK FACTORS AND CONFLICTS OF INTEREST**

### **Risk Factors**

The risks described herein are not an exhaustive list of the risks which potential investors should consider before investing in the Fund. Investment in a Fund carries with it a degree of risk. Different risks may apply to different Funds. Details of specific risks attaching to a particular Fund which are additional to those described in this section will be specified in the relevant Supplement. Prospective investors should review this Offering Memorandum and the relevant Supplement carefully in their entirety and consult with their professional and financial advisers before making an application for Units. There can be no guarantee that the investment objective of the Fund will be achieved and losses may be incurred.

*[Drafting Note: comprehensive risk warnings appropriate to the Fund in general should be provided.]*

The foregoing list of risk factors is not exhaustive.

Prospective investors should consult with their own professional advisors before deciding to subscribe.

### **Conflicts of Interest**

The following inherent or potential conflicts of interest should be considered by prospective investors before investing:

*[Drafting Note: The following wording is general in nature. Specific conflicts should be identified and explained.]*

*Other Clients* - The AIFM, [*Investment Manager*,] Depository, [*Prime Brokers, Administrator*] and other service providers referenced in this Offering Memorandum (together the “Service Providers”) may act as general partner, manager, investment manager, broker, administrator, depositories, prime broker or investor or provide other services to other clients (including funds) now or in the future. The Service Providers will engage in other business activities. The Service Providers are not required to refrain from any other activity, to account for any profits from any such activity, whether as partners of additional investment companies or otherwise or to devote all or any particular part of the time and effort of any of its or their partners, officers, or employees to the Fund and its affairs. The investment objectives or strategies of such clients may be identical, similar or different to those of the Fund. There can be no assurance that the investment returns of the Fund will be similar or identical to the investment returns of any other fund managed by the AIFM [*or Investment Manager*]. Service Providers may additionally serve as consultants to or partners or shareholders in, other investment funds, companies and investment firms. Certain investments may be appropriate for the Fund and also for other clients advised or managed by the AIFM [*and/or Investment Manager*]. Investment decisions for the Fund and for such other clients are made with a view to achieving their respective investment objectives and after consideration of such factors as their current holdings, the current investment views of the different portfolio managers of the AIFM [*and/or Investment Manager*], availability of cash for investment, and the size of their positions generally. Frequently, a particular investment may be bought or sold for only the Fund or only one client or in different amounts and at different times for more than one but less than all clients, including the Fund. Likewise, a particular investment may be bought for the Fund or one or more clients when one or more other clients are selling the same security. In addition, purchases or sales of the same investment may be made for two or more clients, including the Fund, on the same date and mirror portfolios may be operated for other clients. In such event, such transactions will be allocated among the Fund and clients in a manner believed by the AIFM [*and/or Investment Manager*] to be equitable to each. Purchase and sale orders for the Fund may be combined with those of other clients of the AIFM [*and/or Investment Manager*]. In effecting transactions, it may not always be possible, or consistent with the possibly differing investment objectives of the various clients and of the Fund, to take or liquidate the same investment positions at the same time or at the same prices.

*Interested Party Transactions* – The Service Providers, any of their directors, officers, employees, agents and connected persons and the AIFM and any person or company with whom they are affiliated or by whom they are employed (each an “Interested Party”) may be involved in other financial, investment or other professional activities which may cause conflicts of interest with the Fund. In particular, Interested Parties may provide services similar to those provided to the Fund to other entities and will not be liable to account for any profit earned from any such services. For example, an Interested Party may acquire investments (on behalf of clients) in which the Fund may invest. However, where the AIFM [*and/or Investment Manager*] could (a) allocate an investment between two or more funds or accounts which it manages (including the Fund); or (b) make a disposal of investments held by two or more such funds or accounts, it will act fairly as between the relevant funds or accounts in making such allocation or disposal, having regard to, *inter alia*, factors such as cash availability and portfolio balance.

The Fund may acquire securities from or dispose of securities to any Interested Party or any investment fund or account advised or managed by any such person. An Interested Party may provide professional services to the Fund (but no Interested Party will act as auditor to the Fund or the Fund) or hold Units

and buy, hold and deal in any investments for its own accounts notwithstanding that similar investments may be held by the Fund. An Interested Party may contract or enter into any financial or other transaction with any unitholder or with any entity any of whose securities are held by or for the account of the Fund, or may be interested in any such contract or transaction. Furthermore, any Interested Party may receive commissions to which such Interested Party is contractually entitled in relation to any sale or purchase of any investments of the Fund effected by it for the account of the Fund, if in each case the terms are no less beneficial to the Fund than a transaction involving a disinterested party and any commission is in line with market practice.

In the event of a conflict of interest arising, the AIFM will endeavour to ensure that it is resolved fairly.

SAMPLE