

**IRISH COLLECTIVE ASSET-MANAGEMENT VEHICLES ACT 2015**

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**INSTRUMENT OF INCORPORATION**

**MANULIFE INVESTMENT MANAGEMENT II ICAV  
A UCITS UMBRELLA SCHEME WITH SEGREGATED LIABILITY  
BETWEEN SUB-FUNDS**

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**Incorporated on 15 April 2015**

**(as amended on 29 August 2019)**

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**MANULIFE INVESTMENT MANAGEMENT II ICAV**

**A UCITS UMBRELLA SCHEME WITH SEGREGATED LIABILITY  
BETWEEN SUB-FUNDS**

**(as amended on 29 August 2019)**

**1. INTERPRETATION**

1.1 The regulations contained in Table A in the First Schedule to the Companies Act, 1963 of Ireland shall not apply to the ICAV.

1.2 In this Instrument the following expressions shall have the following meanings:

<u>Words</u>	<u>Meanings</u>
Accounting Date	31 March in each subsequent year, or such other date as the Directors may from time to time decide.
Accounting Period	a period ending on an Accounting Date and, commencing in the case of the first such period, on the date of registration of the ICAV and in subsequent such periods, on the day following expiry of the immediately preceding Accounting Period.
Act	the Irish Collective Asset-management Vehicles Act 2015.
Administration Agreement	any agreement between the ICAV and the Administrator relating to the appointment and duties of the Administrator as amended from time to time subject to the requirements of the Central Bank.
Administrator	a person or company appointed by the ICAV to carry out the day to day administration of the ICAV or, as the context admits, a Fund.
Anti-Dilution Levy	an adjustment to a Fund's Net Asset Value to cover dealing costs relating to the acquisition or disposal of assets and to preserve the value of the underlying assets of a Fund.
Auditors	the Auditors for the time being of the ICAV.
Bank Regulations	regulations made by the Central Bank under Part 8 of the Central Bank (Supervision and

	Enforcement) Act 2013.
Base Currency	the base currency of account of a Fund as determined by the Directors at the time of creation of the Fund.
Business Day	in relation to the ICAV and each Fund such day or days as may be specified in the Prospectus.
Central Bank	the Central Bank of Ireland or any successor thereof.
Class	any class of Shares each representing interests in a Fund.
Clause	a clause in this Instrument;
Clear Days	in relation to a period of notice, the period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.
Depositary	any corporation appointed and for the time being acting as depositary of all of the assets of the ICAV.
Depositary Agreement	any agreement made between the ICAV and the Depositary relating to the appointment and duties of the Depositary as amended from time to time subject to the requirements of the Central Bank.
Dealing Day	each Business Day, or such other Business Day as the Directors may determine and notify in advance to Shareholders provided that there shall be at least two Dealing Days in each calendar month carried out at regular intervals.
Directors	the Directors of the ICAV or any duly authorised committee thereof.
Distributor	one or more persons, firms or corporations appointed and for the time being acting as distributor of Shares in the ICAV.
Duties and Charges	all stamp and other duties, taxes, governmental charges, brokerage, bank charges, foreign exchange and/or other dealing spreads, interest, transfer fees, registration fees and other duties and charges whether in connection with the original acquisition or increase of the assets of the ICAV or the creation, issue, sale, switch or redemption of shares or the purchase or sale of investments or in respect of certificates or otherwise which may have become or may be payable in respect of or prior to or in connection with or arising out of or upon the occasion or in the event of the transaction

or dealing in respect of which such duties and charges are, or may be, payable, which may include, when calculating Subscription Prices and Redemption Prices, any provision for spreads (to take into account the difference between the price at which assets may be valued for the purpose of calculating the Net Asset Value and the price at which such assets may be acquired or may be sold or realised), but shall not include any commission payable to agents on sales and purchases of Shares or any commission, taxes, charges or costs which may have been taken into account in ascertaining the Net Asset Value of Shares.

Entry Charge	a charge payable in respect of a Fund (if any) on the subscription for Shares in accordance with Clause 10.4.
Establishment Expenses	the establishment expenses incurred by the ICAV in the formation and establishment of the ICAV or a Fund or Class as may be more particularly described in the Prospectus.
Exit Charge	a charge payable in respect of a Fund (if any) on the redemption of Shares in accordance with Clause 11.7.
FDI	financial derivative instruments that derive their value from the value of an underlying asset, reference rate or index.
FINRA Rules	the rules of the U.S. Financial Industry Regulatory Authority, as amended from time to time.
Fund	a portfolio of assets established by the Directors (with the prior approval of the Central Bank) and constituting a separate Fund invested in accordance with the investment objective and policies applicable to such Fund as specified in the Prospectus or any supplement thereto
Hedged Currency Share Class	a Class in respect of which a Fund will conduct currency hedging transactions the benefit and costs of which will accrue solely to Shareholders of that Class.
ICAV	the ICAV whose name appears on the heading of this Instrument.
Instrument	this Instrument of Incorporation of the ICAV as originally adopted or as may be amended from time to time.
Investment or Investments	any investment which is permitted by the Regulations and this Instrument.

Investment Management Agreement	any investment management agreement made between the ICAV and the Investment Manager relating to the appointment and duties of the Investment Manager as amended from time to time subject to the requirements of the Central Bank.
Investment Manager	one or more persons, firms or corporations appointed in accordance with the requirements of the Notices and for the time being providing investment management or advisory services in relation to the management of the ICAV's Investments.
Investor Money Regulations	the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) Investor Money Regulations 2015.
In writing or written	written, printed, lithographed, photographed, telexed, telefaxed or represented by any other substitute for writing including any means of electronic communication which may be processed to produce a legible text or partly one and partly another.
Manager	any person, firm or corporation appointed and for the time being acting as manager to the ICAV under the terms and provisions of the Management Agreement.
Management Agreement	any agreement for the time being subsisting between the ICAV and the Manager in relation to the appointment and duties of the Manager.
Management Shares	a redeemable non-participating share in the capital of the ICAV issued pursuant to and having the rights provided for in this Instrument.
Member	a Shareholder or a person who is registered as the holder of one or more Management Shares.
Member State	a member state of the European Union.
Minimum Holding	either a holding of Shares in a Fund or Class the value of which by reference to the Net Asset Value per Share is not less than such amount as may be determined by the Directors from time to time or such minimum number of Shares, if any, which must be held by Shareholders in any Fund or Class as may be determined by the Directors from time to time, as may be specified in the Prospectus.
Minimum Initial Subscription	the minimum value of an initial subscription for Shares in any Fund or Class, as may be specified in the Prospectus.

Minimum Transaction Size	the minimum value of subsequent subscriptions, partial redemptions, converts or transfers of Shares in any Fund or Class by an existing holder of Shares in that Fund or Class as may be determined by the Directors from time to time, as may be specified in the Prospectus.
Net Asset Value	the net asset value of the ICAV or a Fund or attributable to a Class (as appropriate) calculated in accordance with and/or pursuant to this Instrument.
Net Asset Value per Share	the net asset value of a Share calculated in accordance with this Instrument.
New Issues	a new issue within the meaning given in the FINRA Rules.
Non-Voting Share	a non-voting Share in the capital of the ICAV issued in accordance with the requirements of the Central Bank.
Notices	a notice or notices issued from time to time by the Central Bank pursuant to its authority under the Regulations to impose conditions with respect to investment companies.
OECD	the Organisation for Economic Co-Operation and Development.
Offer Price	the sum of the Subscription Price and the entry charge (if any) applicable to Shares in a Fund.
Office	the registered office of the ICAV.
Ordinary Resolution	a resolution passed by a simple majority of the votes cast by the Members as, being entitled to do so vote in person or by proxy at a general meeting of the ICAV.
Pro-Rata	shall as the context permits be such proportionate allocation or division determined on such basis as the Directors may, in their discretion, determine.
Prospectus	any prospectus or supplement thereto issued by the ICAV from time to time in connection with the purchase of or subscription for Shares of any Class and/or Series.
Redemption Price	the price at which Shares can be redeemed, calculated in accordance with Clause 12.4.
Register	the register maintained by or on behalf of the ICAV in which are listed the names of Shareholders of the ICAV.



Regulated Market	the stock exchanges and/or regulated markets set out in the Prospectus from time to time.
Regulations	the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 2011 (S.I. No. 352 of 2011) as amended or supplemented from time to time including any conditions that may from time to time be imposed thereunder by the Central Bank and references to Regulation shall be construed as a reference to a specific regulation therein.
Seal	the common seal of the ICAV.
Secretary	any person, firm or corporation appointed by the Directors to perform any of the duties of the secretary of the ICAV.
Series	a series of Shares issued in respect of any Class of one or more Funds of the ICAV, as determined by the Directors from time to time.
Share	a participating share in the capital of the ICAV, designated in one or more Funds or Classes, issued in accordance with this Instrument.
Shareholder	a person who is registered as the holder of one or more Shares.
Special Resolution	a resolution passed by not less than 75 per cent. of the votes cast by the Members as, being entitled to do so, vote in person or by proxy at a general meeting of the ICAV.
Subscription Price	the price at which Shares can be subscribed for as calculated and determined in accordance with Clause 10.2.
State	Ireland.
Umbrella Cash Account	an account maintained at the level of the ICAV pursuant to Clause 6.8.
USD	the lawful currency of the United States.
United Kingdom	the United Kingdom of Great Britain and Northern Ireland.
United States	the United States of America (including the States and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction.
U.S. Person	a U.S. Person as defined in the Prospectus.
Valuation Day	such day in relation to which a Valuation Point is

determined by the Directors to arise.

Valuation Point

the time or times on such day by reference to which the Net Assset Value shall be calculated as determined by the Directors and specified n the Prospectus provided that there shall be a Valuation Point in respect of each Dealing Day.

In this Instrument, all references to the “Euro” or “€” are to the currency referred to in the second sentence of Article 2 of the Council Regulation (EC) No. 974/98 of 3 May 1998 and as adopted as the single currency of the participating member states of the European Union and any successor currency as determined at the discretion of the Directors.

1.3 In this Instrument, unless there be something in the subject or context inconsistent with such construction:

1.3.1 words importing the singular number shall include the plural number and vice versa;

1.3.2 words importing the masculine gender only shall include the feminine gender;

1.3.3 words importing persons only shall include companies or associations or bodies of persons, whether corporate or not;

1.3.4 the word “may” shall be construed as permissive and the word “shall” shall be construed as imperative;

1.3.5 all references to a time of day or night shall be to Irish time;

1.3.6 references to enactments and to sections of enactments shall include reference to any modifications or re enactments thereof for the time being in force; and

1.3.7 headings and captions in this Instrument are inserted for convenience of reference only and shall not affect the construction or interpretation hereof.

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

1.5 Unless specifically defined in this Instrument or the context otherwise requires, words or expressions contained in this Instrument shall bear the same meaning as in the Act but excluding any statutory modification thereof not in force when this Instrument becomes binding on the ICAV.

**2. OBJECT**

2.1 The sole object of the ICAV is the collective investment of its funds in property and giving members the benefit of the results of the management of funds.

2.2 Subject to any limits imposed by the Notices and any derogations therefrom permitted by the Central Bank, the Directors may exercise all powers of the ICAV to borrow or raise money (including, without limitation, the power to borrow for the

purpose of redeeming Shares) or securities and to transfer, mortgage, pledge or charge its undertaking, property and assets or any part thereof and to issue bonds, notes, debentures, debenture stock or other securities whether outright or as security for any debts or obligations of the ICAV.

2.3 Furthermore, the ICAV is entitled to take any action which may seem necessary or useful in order to achieve or to further the corporate purpose on the basis and within the limits of the Notices.

### **3. PRELIMINARY**

3.1 The business of the ICAV shall be commenced as soon after the incorporation of the ICAV and authorisation of the ICAV under the Regulations as the Directors think fit and shall be carried out in accordance with the Regulations.

3.2 The assets of the ICAV shall belong exclusively to the ICAV and no Shareholder has any interest in the assets of the ICAV.

3.3 The Establishment Expenses payable by the ICAV may in the accounts of the ICAV be carried forward and amortised in such manner and over such period as the Directors may determine and the Directors may at any time and from time to time determine to lengthen or shorten any such period. Any Establishment Expenses of the ICAV shall be allocated between Funds and/or Classes on such basis as the Directors may from time to time in their discretion determine and shall be subject to such adjustment following the establishment of new Funds and/or Classes as the Directors may determine. Any Establishment Expenses attributable to a Fund and/or one or more Classes shall be allocated between Classes on such basis as the Directors may from time to time in their discretion determine and shall be subject to such adjustment following the establishment of new Classes as the Directors may determine.

3.4 The ICAV and/or each Fund and, where expenses or liabilities are attributable specifically to a Class, such Class shall also bear all of its operating costs or, where appropriate, its Pro-Rata share thereof, subject to adjustment to take account of expenses and/or liabilities attributable to one or more Classes, including but not limited to:

3.4.1 out-of-pocket expenses incurred by the Investment Manager (including any delegate sub-investment managers or investment advisors thereof), the Distributor, the Depositary, ICAV Secretary and the Administrator in the performance of their duties to the ICAV on such basis as may be determined by the Directors from time to time;

3.4.2 all clerical expenses and stamp duty (other than any payable by an applicant for Shares or a Shareholder) or other tax or duty which may be levied or payable from time to time on or in respect of the ICAV, a Fund or any Class of Shares or on creation, issue or redemption of Shares or any Class Shares or arising in any other circumstance;

3.4.3 all brokerage, stamp, fiscal and purchase or fiscal and sale charges and expenses arising on any acquisition or disposal of Investments;

3.4.4 all expenses incurred in relation to the registration of any Investments into and transfer of any Investments out of the name of the ICAV, a Fund or the Depositary, or any sub-custodian or their nominees or the holding of any Investment or the custody of Investments and/or any documents

- or title thereto (including bank charges, insurance of documents of title against loss in shipment, transit or otherwise) and charges made by the registrar or agents of the Depositary or any sub-custodian for acceptance of documents for safe custody, retention and/or delivery;
- 3.4.5 all expenses incurred in the collection of income and administration of the ICAV;
  - 3.4.6 all costs and expenses of Shareholders' meetings and preparing resolutions of Shareholders;
  - 3.4.7 all taxation payable in respect of the holding of or dealings with or income from a Fund relating to that Fund's property and in respect of allocation and distribution of income to Shareholders other than tax of Shareholders or tax withheld on account of Shareholders' tax liability;
  - 3.4.8 all commissions, charges, stamp duty, value added tax and other costs and expenses of or incidental to any acquisition, holding, realisation or other dealing in Investments of any nature whatsoever and including any foreign exchange options, financial futures or of any other derivative instruments or the provision of cover or margin therefor or in respect thereof or in connection therewith;
  - 3.4.9 all stationery, telephone, facsimile, printing, translation and postage costs in connection with the preparation, publication and distribution of the Net Asset Value, the Net Asset Value per Share, any cheques, warrants, tax certificates, statements, accounts and reports made, issued or dispatched;
  - 3.4.10 all legal and other professional advisory fees incurred by the ICAV, including but not limited to the fees and expenses of the ICAV's auditors and ICAV secretarial fees and professional consulting fees;
  - 3.4.11 any statutory fees payable, including any fees payable to the Central Bank or to any regulatory authority or fiscal authority in any country or territory, the costs and expenses (including legal, accountancy and other professional charges and printing costs) incurred in meeting on a continuing basis the notification, registration, tax reporting and costs of qualifying the Shares for favourable tax treatment in any of the jurisdictions where the Shares are marketed and other requirements of each such regulatory or fiscal authority, and any fees and expenses of representatives or facilities agents in any such other country or territory;
  - 3.4.12 all fees and costs relating to the listing or de-listing of Shares in any Fund or any Class of Shares on any stock exchange;
  - 3.4.13 all fees and costs relating to a scheme of reconstruction and amalgamation (to the extent it has not been agreed that such expenses should be borne by other parties);
  - 3.4.14 any interest on any borrowings of the ICAV;
  - 3.4.15 all expenses and fees relating to any marketing material, services, advertisements and the distribution of the ICAV and the Shares issued or to be issued, any periodic update of the Prospectus or any other documentation relating to the ICAV;

- 3.4.16 all fees of any sub-distributors, paying agents or local representatives required to facilitate the authorisation or registration of the ICAV and/or a Fund and the marketing of any Shares in any jurisdiction;
- 3.4.17 all fees and expenses of the Directors and any Directors' insurance premia;
- 3.4.18 the costs of winding up the ICAV or terminating any Fund or Class; and
- 3.4.19 all costs and expenses incurred by the ICAV and the Funds and any of their appointees which are permitted by this Instrument (including all set up expenses).

in each case plus any applicable value added tax.

All recurring expenses will be charged against current income or against realised and unrealised capital gains, or, if the Directors so determine, against the capital or assets of the ICAV in such manner and over such period as the Directors may from time to time decide.

Expenses payable to the Investment Manager may include expenses and fees related to any specialised risk management, administration, research services or software utilised by the Investment Manager in managing the assets of the ICAV.

Notwithstanding anything in Clause 3, the Investment Manager may in its discretion pay certain expenses on behalf of the ICAV.

#### **4. CUSTODIAN AND MANAGER**

- 4.1 The ICAV shall entrust its assets to the Depositary for safe-keeping.
- 4.2 The Depositary shall be responsible for the safe custody of all the Investments of the ICAV (and its subsidiaries) and to perform such other duties upon such terms and conditions including the right to remuneration payable by the ICAV and to appoint sub-custodians as the Directors may from time to time (with the agreement of the said Depositary) determine.
- 4.3 The Depositary shall be a depositary approved for the purpose by the Central Bank and the terms of the Depositary Agreement shall be in accordance with the requirements of the Central Bank.
- 4.4 The terms of appointment of any Depositary may authorise such Depositary to appoint (with powers of sub delegation) sub custodians, nominees, agents or delegates at the expense of the ICAV or otherwise as determined by the Depositary and the ICAV.
- 4.5 In the event of the Depositary desiring to retire or the ICAV desiring to remove the Depositary from office the Directors shall use their reasonable endeavours to find a corporation willing to act as depositary and subject to the prior approval of the Central Bank the Directors shall appoint such corporation to be Depositary in place of the former Depositary. The Depositary may not retire or be removed from office unless and until a new depositary approved by the Central Bank has been appointed as depositary in place of the former Depositary with the prior approval of the Central Bank.

- 4.6 If within a period of 90 days or such longer period as set out in the Depositary Agreement and in accordance with the requirements of the Central Bank, from the date on which (a) the Depositary notifies the ICAV of its desire to retire in accordance with the terms of the Depositary Agreement and has not withdrawn notice of its intention to so retire; (b) the appointment of the Depositary is terminated by the ICAV in accordance with the terms of the Depositary Agreement, or (c) the Depositary ceases to be qualified under Clause 4.2, a new depositary acceptable to the ICAV and approved by the Central Bank has not been appointed to act as depositary to the ICAV, the ICAV's secretary shall forthwith at the request of the Directors (such request to be made in a timely manner), convene an extraordinary general meeting of all Shareholders at which there shall be proposed an Ordinary Resolution to wind up the ICAV in accordance with the provisions of Clause 34 and revocation of the ICAV's authorisation shall be sought from the Central Bank. Upon the revocation of the ICAV's authorisation from the Central Bank, the Depositary's appointment shall terminate.
- 4.7 The ICAV may (in accordance with the requirements of the Central Bank) appoint any person, firm or corporation to act as Manager to the ICAV, in accordance with the terms of the Management Agreement and may entrust to and confer upon the Manager so appointed any of the relevant powers, duties, discretions and/or functions exercisable by the Directors, upon such terms and conditions including the right to remuneration payable by the ICAV and with such powers of delegation and such restrictions as they think fit either collaterally with or to the exclusion of their powers. In the event that the Manager shall resign or be dismissed or its appointment shall otherwise terminate, the Directors shall use their best endeavours to appoint some other person, firm or corporation, approved by the Central Bank to act as Manager in its place.
- 4.8 The ICAV may (in accordance with the requirements of the Central Bank) appoint any person, firm or corporation to act as Administrator, Investment Manager, investment advisor, distributor, and/or sub-investment manager or advisor to the ICAV or a Fund as the context permits.

## **5. SHARE CAPITAL**

- 5.1 The ICAV may issue Shares and Management Shares subject to and in accordance with this Instrument, its Prospectus, the Bank Regulations, the requirements of the Central Bank and the Act.
- 5.2 The share capital of the ICAV shall be divided into share capital of 500,000,000,000 ordinary Shares of no par value and 300,000 redeemable Management Shares of €1.00 each and shall at all times be equal to value for the time being of the issued share capital of the ICAV.
- 5.3 Management Shares shall not participate in the dividends or assets attributable to Shares by the ICAV and the dividends, if any, and net assets attributable to the Management Shares shall be segregated from and shall not form part of the other assets of the ICAV and Management Shares may at the request of any of the holders thereof be purchased by the ICAV directly or indirectly out of the ICAV's assets.
- 5.4 The ICAV may issue Shares as fully paid up, or subscribed and partly paid up, in accordance with this Instrument, its Prospectus, the Bank Regulations, the requirements of the Central Bank and the Act.
- 5.5 The liability of the Members shall be limited to the amount, if any, unpaid on the Shares or Management Shares respectively held by them.

- 5.6 The actual value of paid up share capital of the ICAV shall at all times be equal to the value of the assets of the ICAV after deduction of its liabilities.
- 5.7 The Directors are hereby generally and unconditionally authorised to exercise all the powers of the ICAV to issue Shares in the ICAV on such terms and in such manner as they may think fit.
- 5.8 The Directors may subject to this Instrument, the Act and the Regulations, allot and issue Shares in the ICAV to such persons on such terms and conditions and at such times and in such manner as they may think fit. Without prejudice to any special rights previously conferred on the holders of any existing Shares or Class, any Share in the ICAV may be issued with such preferred, deferred or other rights or restrictions, whether in regard to dividends, voting, return of capital or otherwise, as the Directors may from time to time determine. The Shares shall be divided into such Funds and may be further divided into such Classes as the Directors may from time to time determine and such Funds and Classes shall have such names or designations as the Directors may from time to time determine. Where the Directors determine to divide the Shares into Funds, each Fund shall have segregated liability. On or before the allotment of any Shares, the Directors shall determine the Series or Class or Fund in which such Shares are designated. All monies payable in respect of a Share (including without limitation, the subscription and redemption monies and dividends in respect thereof) shall be paid in the currency in which the Share is designated or in such other currency or currencies as the Directors may determine either generally or in relation to a particular Fund or Class. In order to facilitate the equitable application to the holding of each Shareholder of any performance fee payable in respect of a Class or for such other purposes as the Directors may from time to time determine, the Directors may create Series of Shares within that Class. Each Series of Shares may be re-designated and converted into another Series at such time and in such circumstances as the Directors may determine and disclose as outlined in the Prospectus.
- 5.9 Without prejudice to the generality of this Clause, the ICAV may, in the sole and absolute discretion of the Directors, subject to this Instrument, the Regulations and in accordance with the requirements of the Central Bank, participate in New Issues, and the Directors may take any and all action necessary to ensure compliance by the ICAV with the FINRA Rules as and when applicable.
- 5.10 Without limiting the generality of 5.8 above, in the event that the ICAV, in the sole and absolute discretion of the Directors, participates in New Issues and there is a Class which is restricted from participating in such New Issues, a credit equal to the commercial rate of interest (as determined by the Directors in their absolute discretion) on the funds invested in New Issues or some other credit as specified in the Prospectus, may, in the sole discretion of the Directors, be allocated to such Class which is restricted from participating in New Issues and a matching debit may be allocated the Class which is not restricted from participating in New Issues.
- 5.11 The Directors may delegate to any duly authorised Director or officer of the ICAV, or to any duly authorised person, firm or corporation the duties of accepting the subscription for, receiving payment for, and the issue of, new Shares.
- 5.12 The Directors or their duly authorised delegates may, in their absolute discretion, refuse to accept any application for Shares in the ICAV or to accept any application in whole or in part.
- 5.13 Subject to the provisions of the Regulations and the requirements of the Central Bank, Shares of any Fund may be acquired, by way of subscription or transfer for

consideration, or redeemed, by another Fund for the purpose of cross investment by one Fund to another.

- 5.14 In the event that the ICAV establishes a Fund or Funds which are intended to be Shari'ah compliant, subject to the provisions of the Regulations and in accordance with the requirements of the Central Bank, any provisions of this Instrument which are non-Shari'ah compliant shall be disapplied and replaced with appropriate provisions as set out in the Prospectus.
- 5.15 The ICAV may from time to time by Ordinary Resolution increase its capital by such amount as the resolution shall prescribe.
- 5.16 On any issue of Shares, the ICAV may pay any placement, brokerage fees or commissions.
- 5.17 No person shall be recognised by the ICAV as holding any Shares on trust and the ICAV shall not be bound by or recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Shares or (except only as this Instrument otherwise provide or as by law required) any other right in respect of any Share, except an absolute right of title thereto of the registered holder, or the bearer of a share warrant.

## **6. CONSTITUTION, RIGHTS, ASSETS AND LIABILITIES OF THE ICAV**

- 6.1 The ICAV shall at all times, have a registered office in the State to which all communications and notices may be addressed.
- 6.2 The ICAV is an open-ended investment ICAV established as an umbrella fund having segregated liability between its Funds, each Fund may comprise one or more Classes.
- 6.3 The ICAV is comprised of separate Funds, which may comprise one or more Classes. The Directors may from time to time establish with the prior approval of the Central Bank, additional Funds and/or in accordance with the requirements of the Central Bank, designate additional Classes or Series and issue Shares in such Funds, Classes or Series.
- 6.4 Subject to the requirements of the Central Bank, the Directors may in their absolute discretion differentiate between the Shares in any Class or Fund.
- 6.5 The rights attaching to any Class or Fund may, whether or not the ICAV is being wound up, be varied or abrogated with the consent in writing of the holders of three-fourths of the issued Shares of that Class or Fund, or with the sanction of a Special Resolution passed at a separate general meeting of the Shareholders of that Class or Fund. To every such separate general meeting the provisions of this Instrument relating to general meetings shall apply provided that the necessary quorum at any such meeting (other than an adjourned meeting) shall be two Shareholders holding or representing by proxy Shares of the Fund or Class in question and, at an adjourned meeting, one Shareholder holding Shares of the Fund or Class in question or his proxy. The chairman of a general meeting of a Fund or Class or any holder of Shares of a Fund or Class present in person or by proxy at a general meeting of a Fund or Class may demand a poll.
- 6.6 The rights conferred upon the holders of the Shares of any Class or Fund issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the Shares of that Class or Fund, be deemed to be varied or abrogated by



the creation, allotment or issue of further Shares ranking pari passu therewith or subsequent to them, the redemption of Shares of any Class of the ICAV, or the passing of a Director's resolution to change or vary any investment objective, investment technique and strategy, investment restriction and/or investment policy in relation to a Class, any modification of the fees payable to any service provider by the ICAV, or any other change or variation reserved as a right of the Directors contained in this Instrument including, without limitation, any change to a Valuation Day, Valuation Point or Dealing Day to another day.

- 6.7 All consideration, other than the Entry Charge (if any) pursuant to Clause 9.4, received by the ICAV for the allotment or issue of Shares of each Class, together with all Investments in which such consideration is invested or reinvested, and all income, earnings, profits and Class proceeds thereof shall be segregated and kept separate in the Fund to which such Class relates from all other monies of the ICAV and to which the following provisions shall apply:
- 6.7.1 the records and accounts of each Fund shall be maintained separately in the Base Currency of the relevant Fund;
  - 6.7.2 the liabilities of each Fund shall be attributable exclusively to that Fund;
  - 6.7.3 the assets of each Fund shall belong exclusively to that Fund, shall be segregated in the records of the Depositary from the assets of other Funds, and shall not (save as provided in the Regulations), be used to discharge directly or indirectly the liabilities of or claims against any other Fund and shall not be available for any such purpose;
  - 6.7.4 the proceeds from the issue of each Class shall be applied to the relevant Fund established for that Class, and the assets and liabilities and income and expenditure attributable thereto shall be applied to such Fund subject to the provisions of this Instrument;
  - 6.7.5 where any asset is derived from another asset, the derived asset shall be applied to the same Fund as the assets from which it was derived, and on each revaluation of an asset the increase or diminution in value shall be applied to the relevant Fund;
  - 6.7.6 where the asset or a liability of the ICAV cannot be considered as being attributable to a particular Fund, such asset or liability, subject to the approval of the Depositary, shall be allocated to all the Funds pro rata to the Net Asset Value of each Fund;
  - 6.7.7 where hedging strategies are used in relation to a Fund or Class, the financial instruments used to implement such strategies shall be deemed to be assets or liabilities (as the case may be) of the relevant Fund as a whole but the gains/losses on and the costs of the relevant financial instruments will accrue solely to the relevant Class;
  - 6.7.8 in case New Issues are invested in or acquired by a Fund, the Fund may establish new Classes of Shares to be held by persons not being restricted persons under the rules adopted by FINRA ("Restricted Persons"). The New Issues shall be deemed to be assets or liabilities (as the case may be) of the relevant Fund as a whole (either directly, indirectly and/or beneficially) however the gains/losses on and the costs of the New Issues will accrue solely to the relevant Class or Classes of Shares held by Shareholders who are not Restricted Persons, unless

otherwise determined by the Directors, in accordance with and to the extent permitted under the rules adopted by FINRA.

- 6.8 An Umbrella Cash Account can be established where the ICAV and the Depositary are satisfied: (a) that at all times the amounts, whether positive or negative, within the cash account for subscriptions and redemptions can be attributed to the individual Funds; and (b) that the holding of cash assets of umbrella funds in a cash account for subscriptions and redemptions will not compromise the ability of the Depositary to carry out its safe-keeping and oversight duties and responsibilities in accordance with the Investor Money Regulations.

## **7. CONFIRMATIONS OF OWNERSHIP, SHARE CERTIFICATES AND SHARE WARRANTS**

- 7.1 Shares shall be issued in registered form. A Shareholder in the ICAV shall have his title to Shares evidenced by having his name, address, date of entry of membership and cessation of membership of the ICAV and the number, Fund and, where applicable, Class and/or Series of Shares held by him entered in the Register.
- 7.2 The Directors may from time to time establish specific requirements in respect of the issue of warrants.
- 7.3 A Shareholder whose name appears in the Register shall be issued with a written confirmation of entry in the Register of the number of Shares held by him including without limitation fractions of Shares or may, at the discretion of the Directors, be entitled on written request to be issued with a Share certificate or Share certificates representing the number of Shares held by him. The Directors may refuse to issue Share certificates at their discretion.
- 7.4 Share certificates issued on behalf of the ICAV shall be signed by a Director on behalf of the ICAV and the Depositary each of whose signatures may be reproduced mechanically.
- 7.5 The ICAV shall not be bound to register more than four persons as the joint holders of any Share or Shares.
- 7.6 Where two or more persons are registered as the holders of any Shares they shall be deemed to hold the same as joint tenants, subject to the following:-
- 7.6.1 the joint holders of any Shares shall be liable, severally, as well as jointly, in respect of all payments which ought to be made in respect of such Shares;
  - 7.6.2 any one of such joint holders of Shares may give effectual receipts for any dividend, bonus, distribution or return of capital payable to such joint holders;
  - 7.6.3 only the first-named of the joint holders of a Share shall be entitled to delivery of the confirmation of entry on the Register or share certificate relating to such Share or to receive notices from the ICAV to attend general meetings of the ICAV. Any confirmation of entry on the Register or Share certificate delivered to the first-named of joint holders shall be effective delivery to all, and any notice given to the first-named of joint holders shall be deemed notice given to all the joint holders;

- 7.6.4 the vote of the first-named of joint holders who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders; and
- 7.6.5 for the purpose of the provisions of this Instrument, the first-named shall be determined by the order in which the names of the joint holders stand in the Register.
- 7.7 If a share certificate shall be damaged or defaced or alleged to have been lost, stolen or destroyed, a new share certificate representing the same Shares may be issued to the Shareholder upon request subject to delivery up of the old share certificate or (if alleged to have been lost, stolen or destroyed) on compliance with such conditions as to evidence and indemnity and the payment of out of pocket expenses of the ICAV in connection with the request as the Directors may think fit.
- 7.8 No share certificates may be issued until the full price therefor has been paid to the ICAV.
- 7.9 The Register may be kept on magnetic tape or in accordance with some other mechanical or electrical system provided legible evidence can be produced therefrom to satisfy the requirements of applicable law and of this Instrument.

## **8. ALLOTMENT OF SHARES**

- 8.1 Subject as hereinafter provided, the ICAV may on or with effect on any Dealing Day on receipt by it or its authorised agent from an applicant for Shares in a Fund or Class by such time or times on such day or days as may from time to time be specified by the Directors of:
  - 8.1.1 an application for Shares in the relevant Fund or Class in such form as the Directors may from time to time determine;
  - 8.1.2 such declarations as to the applicant's status, identity, residence and otherwise and such undertakings, acknowledgements, representations and/or indemnities as the Directors may from time to time require; and
  - 8.1.3 payment for Shares in such manner and within such usual time limits as the ICAV from time to time may specify;

issue Shares in that Fund or Class at the Offer Price PROVIDED THAT the Directors may, in their discretion, accept an application for processing on a Dealing Day notwithstanding that such application may have been received after the time specified from time to time by the Directors for the receipt of applications for such Dealing Day so long as such application is received prior to the Valuation Point for such Dealing Day. The time for receipt of applications for Shares of a Class will be set out in the Prospectus.

- 8.2 The allotment of Shares of a Class shall (unless the Directors otherwise agree) be made on terms that (unless settlement has already been effected) the applicant shall effect settlement within such period and, in such currency or currencies as the Directors may determine to be appropriate to receive subscriptions and otherwise in the manner determined by the Directors as disclosed in the Prospectus and in the event of late settlement the applicant may be required to compensate the ICAV for the amount of any loss, cost, expense or fees arising as a result (as conclusively determined by the Directors) provided always that if the Directors receive payment for Shares in a currency other than the Base Currency or the denominated currency

of the relevant Class the Directors may convert or arrange for the conversion of such monies received into the Base Currency or the denominated currency of the relevant Class and shall be entitled to deduct therefrom all expenses incurred in such conversion. The Directors may, at their discretion and in accordance with Clause 9.6 hereof, allot Shares for consideration, wholly or partly, other than cash or may sell, dispose of or otherwise convert such non-cash consideration into cash and apply such non-cash consideration (net of expenses incurred in the conversion) for the purchase of Shares.

- 8.3 The Directors shall not be bound but shall be entitled to await the arrival of cleared funds in the Base Currency or the denominated currency of the relevant Class in settlement before proceeding to issue the Shares.
- 8.4 The ICAV may (at the option of the Directors) satisfy any application for the issue of Shares by procuring the transfer to the applicant of fully paid Shares. In such case, references in this Instrument to issuing Shares shall where appropriate be taken as references to procuring the transfer of Shares.
- 8.5 No allotment shall be made under Clause 9.1 in respect of an application which would result in the applicant subscribing less than the Minimum Initial Subscription or Minimum Transaction Size as appropriate or holding less than any Minimum Holding for the time being specified provided that the Directors may, in their discretion, waive or reduce the Minimum Holding or Minimum Transaction Size with respect to any Shareholder or applicant for Shares or category thereof or, subject to the requirements of the Central Bank, waive the Minimum Initial Subscription with respect to such individuals or entities as may be disclosed in the Prospectus.
- 8.6 Allotment of Shares may take place provisionally notwithstanding that cleared funds or the documents specified in Clause 8.1.1 and 8.1.28.1.2 hereof have not been received by the ICAV or its authorised agent PROVIDED THAT if such funds and papers have not been received within such period as the Directors, the Directors may cancel any allotment made and make any necessary alteration in the relevant Register and such Shares shall be deemed never to have been issued. The ICAV may charge the applicant or, if the applicant is a Shareholder, redeem or sell all or part of his holding of Shares and use the proceeds thereof to satisfy and make good any loss cost, expense or fees suffered by the ICAV as a result of non receipt of such funds or papers within such time limits as may be specified by the Directors.
- 8.7 The Directors may decline to accept any application for the issue of Shares of any Class in whole or in part without assigning any reason therefor and may cease to offer Shares of any Class in the ICAV for allotment or subscription for a definite period or otherwise.
- 8.8 The Directors shall be entitled to issue fractions of Shares where the subscription monies received by the ICAV are insufficient to purchase an integral number of Shares. Any balance of subscription monies representing less than such fraction of a Share as the Directors may determine and disclose in the Prospectus will be retained by the ICAV in order to defray administration costs.

## **9. TERMS OF SUBSCRIPTION**

- 9.1 The time and terms upon which and the Subscription Price per Share at which the initial offer or placing of Shares of each Class shall be made shall be determined by the Directors and disclosed in the Prospectus.

- 9.2 Any subsequent allotment or placing of a Share on any Dealing Day shall be made at the Subscription Price per Share which is ascertained by:
- 9.2.1 determining the Net Asset Value per Share of the relevant Class as at the Valuation Point for the relevant Dealing Day in accordance with Clause 15 of this Instrument;
  - 9.2.2 adding thereto a provision for Duties and Charges, if the Directors so determine;
  - 9.2.3 in the case of Currency Hedged Share Classes, adding thereto or deducting therefrom (as the case may be) the sum calculated in accordance with Clause 14 the cost and gains/losses of any currency hedging transaction effected in respect of such Class; and
  - 9.2.4 in the event of subscription applications exceeding redemption requests for the relevant Fund on any Dealing Day and if the Directors so determine, adding thereto such provision representing an Anti-Dilution Levy to provide for market spreads, dealing costs and preserve the value of the underlying assets of the relevant Fund as the Directors may determine.
- 9.3 In calculating the Subscription Price, the Directors may, at their discretion, adjust the valuation basis of the Net Asset Value attributable to a particular subscription to reflect the value of the relevant Fund's Investments.
- 9.4 An Entry Charge not exceeding five per cent (5%) of the Net Asset Value of Shares being purchased may be imposed for the absolute use and benefit of the ICAV or as the ICAV may direct (including without limitation, payment to the Investment Manager, any investment adviser or other person as the Directors may in their discretion determine) either upon the issue of Shares or on a contingent deferred basis and the Directors may at their discretion waive either wholly or partially, such sales charge or differentiate between Shareholders or applicants for Shares as to the amount of such sales charge, if any, within the permitted limit.
- 9.5 For the purpose of calculating the number of Shares in issue in a particular Fund and subject to such adjustments as the Directors shall from time to time consider appropriate for the purpose of such calculation:
- 9.5.1 Shares for which applications have been made or which are issued pursuant to Clause 8 hereof shall be deemed to be in issue at the Valuation Point for the relevant Dealing Day on or with respect to which such Shares are issued;
  - 9.5.2 Shares redeemed in accordance with Clause 12 hereof shall be deemed to be redeemed at the Valuation Point for the relevant Dealing Day on or with respect to which such Shares are redeemed.
- 9.6 Subject to the provisions of the Act and the Regulations, the Directors may on any Dealing Day allot Shares in any Fund or Class on terms that settlement shall be made by the vesting in the ICAV of assets of the type in which the subscription monies for the relevant Shares may be invested in accordance with the investment objective policy, and restrictions of the relevant Fund and otherwise upon such terms as the Directors may think fit provided that:

- 9.6.1 no Shares shall be issued until the subscriber has been able to prove title to the assets in question and make a valid transfer thereof;
  - 9.6.2 no Shares shall be issued until the Investments have been vested or arrangements are made to vest the Investments with the Depositary or its sub-custodian to the Depositary's satisfaction;
  - 9.6.3 any such exchange shall be effected on terms that the number of Shares to be issued shall be the number (including, at the Director's discretion, fractions of Shares) which would have been issued at the Net Asset Value per Share for a cash amount equal to the value of the Investments as calculated in accordance with Clause 16.
  - 9.6.4 the number of Shares to be issued will not exceed the amount that would be issued if cash equivalents of investments had been held;
  - 9.6.5 the Investments to be transferred to the ICAV shall be valued by applying the rules relating to valuation of Investments contained in Clause 16;
  - 9.6.6 there may be paid to the incoming Shareholder out of the Investments of the relevant Fund a sum in cash equal to the value at the current price of any fraction of a Share excluded from the calculation aforesaid;
  - 9.6.7 the Depositary shall be satisfied that the terms of such exchange shall not be such as are likely to result in any material prejudice to the existing Shareholders; and
  - 9.6.8 the risk and costs of such exchange shall be borne by the incoming Shareholder.
- 9.7 No Shares shall be allotted on a particular Dealing Day if on or with effect on any Dealing Day the determination of the Net Asset Value of the relevant Fund or attributable to a Class is temporarily suspended pursuant to Clause 15.4 of this Instrument.

**10. QUALIFIED HOLDERS, COMPULSORY TRANSFER AND COMPULSORY REDEMPTION**

- 10.1 The Directors may impose such restrictions as they may think necessary, by way of a compulsory redemption or a compulsory transfer for the purpose of ensuring that no Shares in the ICAV are acquired or held, whether upon subscription or transfer of Shares, directly or beneficially by:
- 10.1.1 any person in breach of the law of requirements of any governmental authority by virtue of which such person is not qualified to hold Shares including without limitation any exchange control regulations;
  - 10.1.2 by any person who holds less than the Minimum Holding or who does not supply any information or declaration required under this Instrument;
  - 10.1.3 where the continued ownership of such Shares by the Shareholder is deemed to be harmful or injurious to the business or reputation of the ICAV or a Fund;

- 10.1.4 where such Shares are held by any person in breach of the law or requirements of any country or governmental authority; or
- 10.1.5 by any person or persons in circumstances (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other person or persons, connected or not, or any other circumstance appearing to the Directors to be relevant) which in the opinion of the Directors might result in the ICAV or the Shareholders as a whole or of any Fund or any Class incurring any liability to taxation or suffering legal, pecuniary, regulatory or material administrative disadvantage which the ICAV or the Shareholders as a whole or of any Fund or any Class might not otherwise have incurred or suffered.

and the Directors may reject in their discretion any application for Shares or any transfer of Shares to any persons who are so excluded from purchasing or holding Shares and at any time redeem or require the transfer of Shares held by Shareholders who are so excluded from purchasing or holding shares in accordance with this Clause 11 or take such action as may be permissible to discontinue the business relationship with such persons.

- 10.2 The Directors shall be entitled to assume without enquiry that none of the Shares are held in such a way as to entitle the Directors to give a notice in respect thereof pursuant to Clause 11.4 and/or 11.11 below provided that the Directors may upon an application for Shares or at any other time and from time to time require such evidence and/or undertakings to be furnished to them in connection with the matters stated in Clause 11.1 as they shall in their discretion deem sufficient.
- 10.3 If a person becomes aware that he is holding or owning Shares in contravention of Clause 10.1 he shall forthwith in writing request the ICAV to redeem such Shares in accordance with Clause 11 of this Instrument or transfer such Shares to a person duly qualified to hold the same unless he has already received a notice under Clause 10.4 and/or Clause 11.11.
- 10.4 The Directors shall be entitled by service of a notice (a “Transfer Notice”) to require the transfer of any Shares in the ICAV that are acquired or held directly or beneficially by any person of the kind referred to in Clause 11.1 or if any other circumstances exist which are set out in the Prospectus as being circumstances entitling the ICAV to require the transfer of some or all of the Shares of one or more Members.
- 10.5 It shall be for the Directors in their absolute discretion to decide whether or not the provisions of the previous Clause apply and this discretion shall be exercisable regardless of the date of the entry of a Member on the Register and the number of Shares held by a Member. The Directors shall not be required to give any reasons for any decision, determination or declaration taken or made in accordance with this Clause.
- 10.6 If the required transfer is not effected immediately after service of a Transfer Notice on the registered holder (the “Notified Holder”), the Directors are entitled to:
  - 10.6.1 as agent of the Notified Holder, execute or authorise some person to execute and deliver on the Notified Holder’s behalf, an instrument of transfer in respect of the Shares held by the Notified Holder and the ICAV may sell the Shares as agent of the Notified Holder at a price determined in accordance with the provisions contained in the following Clause, deduct therefrom any fiscal charges, fees and expenses incurred

by the ICAV as a result of the compulsory transfer, receive the proceeds as agent of the Notified Holder and cause the transferee to be registered as the holder of such Shares subject to the provisions of this Instrument. The receipt of the ICAV for the proceeds shall be a good discharge to the transferee (who shall not be bound to see the application thereof) and after the transferee has been registered in exercise or purported exercise of the aforesaid powers, the validity of the proceedings shall not be questioned by any person;

10.6.2 compulsorily redeem the Shares in accordance with Clause 11.

Until such transfer or redemption is effected, the holder of such Shares shall not be entitled to any rights or privileges attached to such Shares.

- 10.7 In the event of a compulsory transfer, the sale price of the Shares shall be such price as is reasonably obtainable by selling such Shares in any available market.
- 10.8 The sale proceeds of a compulsory transfer, after deduction of the amounts set out in this Instrument, will be deposited by the ICAV in a bank for payment to the holder of the Shares subject to compulsory transfer against the proffering of such evidence as to title as the Directors may require. Upon the deposit of the sale proceeds, the holder shall have no further interest in the Shares or any of them or any claim against the ICAV in respect thereof except the right to receive the sale proceeds of redemption or transfer so deposited (without interest) upon proffering such evidence. Subject thereto, the ICAV may make payment of the sale proceeds to the relevant former holder in such manner as it thinks fit.
- 10.9 In order to give effect to the foregoing restrictions and provisions, the ICAV may require any Member at any time to furnish such information and declarations as the Directors may require. Any Member who fails to provide such information or declarations within a reasonable time (not being less than 21 days after service of the request for the same) may be deemed to be holding Shares to which the compulsory transfer provisions above apply.
- 10.10 If a Member becomes aware (otherwise than as a result of receiving a Transfer Notice) that he is holding Shares in circumstances that would entitle the Directors to give a Transfer Notice in respect thereof, he shall forthwith inform the Directors and take such steps as necessary so as to ensure that such Shares cease to be held in such circumstances.
- 10.11 If it shall come to the notice of the Directors or if the Directors shall have reason to believe that any Shares are owned directly or beneficially by any person or persons in breach of any restrictions imposed by the Directors pursuant to this Clause 10, the Directors shall be entitled to at any time (i) give notice (in such form as the Directors deem appropriate) to such person requiring him to (a) transfer such Shares to a person who is qualified or entitled to own the same without contravening any restriction imposed by the Directors, or (b) request in writing the redemption of such Shares in accordance with Clause 11 and/or (ii) as appropriate, compulsorily redeem and/or cancel such number of Shares held by such person as is required in the discharge of any taxation or withholding tax arising as a result of the holding or beneficial ownership of Shares by such person.
- 10.12 Any person or persons to whom Clauses 11.1 or 11.2 shall apply shall indemnify the ICAV, the Manager, the Directors, the Investment Manager the Administrator, the Distributors, the Depositary, any sub-investment manager or investment adviser to the ICAV and any Shareholder for any loss suffered by any or all of them as a result



of such person or persons acquiring or holding Shares of any Fund or, Class in the ICAV.

10.13 The ICAV shall be entitled to redeem any Share of a Shareholder or any Share to which a person is entitled by transmission provided that:

- (a) for a period of six years no cheque, share certificate or confirmation of ownership of Shares sent by the ICAV through the post in a pre-paid letter addressed to the Shareholder or to the person entitled by transmission to the Share at his address on the Register or the last known address given by the Shareholder or the person entitled by transmission to which cheques, share certificates or confirmations of the ownership of Shares are to be sent has been cashed or acknowledged and no communication has been received by the ICAV from the Shareholder or the persons entitled by transmission;
- (b) at the expiration of the said period of six years the ICAV has given notice of its intention to redeem such Share or Shares by notice sent by pre-paid letter addressed to the Shareholder or to the person entitled by transmission to the Share at his address on the Register or to the last known address given by the Shareholder or the person entitled by transmission or by advertisement in a national daily newspaper published in Ireland or in a newspaper circulating in the area in which the address of the Shareholder is located;
- (c) during the period of three months after the date of the giving of such notice and prior to the exercise of the power of redemption the ICAV has not received any communication from the Shareholder or person entitled by transmission; and
- (d) if the Shares are quoted on a stock exchange the ICAV has first given notice in writing to the appropriate section of such stock exchange of its intention to redeem such Shares, if it is required to do so under the rules of such stock exchange.

The ICAV shall account to the Shareholder or to the person entitled to such Shares for the net proceeds of such redemption by carrying all monies in respect thereof as a permanent debt of the ICAV provided however that no amount payable to any such Shareholder shall bear interest against the ICAV and the ICAV shall be deemed to be a debtor and not a trustee in respect thereof for such Shareholder or other person.

10.14 Shares compulsorily redeemed in accordance with this Clause 11 will be redeemed on a Valuation Day determined by the Directors taking due account of the interests of the remaining Shareholders at a price per Share equal to the Redemption Price per Share as determined in accordance with the provisions of the Prospectus.

## **11. REDEMPTION OF SHARES**

11.1 As is more specifically described herein below, the ICAV has the power to redeem its own outstanding fully paid Shares on or with effect on any relevant Dealing Day. A Shareholder may at any time, request the ICAV to redeem all or any of his Shares in the relevant Fund or Class in accordance with the terms of the Prospectus and

Instrument in such manner as the Directors may from time to time decide. Subject to Clause 11.17, 11.17 any such request shall be irrevocable save with the consent in writing of the ICAV or its authorised agent. The Directors may at their discretion impose a minimum redemption amount in relation to any particular Fund or Class.

- 11.2 Subject to Clauses 12.2 and 11.13 hereof, a redemption request shall not be processed until the ICAV or its authorised agent has received a completed redemption request in accordance with the terms of the Prospectus and Instrument and, if applicable, any share certificate or evidence satisfactory to the ICAV of succession or assignment from the Shareholder and such other information as the ICAV may reasonably require by such time as may from time to time be specified in the Prospectus. Any such request shall be irrevocable save with the consent in writing of the Directors or their delegate.
- 11.3 In the event of receipt of a valid redemption request by such time as may from time to time be specified by the ICAV, the ICAV shall redeem the Shares the subject of the request subject to the provisions of the Prospectus and this Instrument including any restrictions imposed pursuant to Clause 11.13 or any suspension of this redemption obligation pursuant to Clause 12.4 hereof PROVIDED THAT the Directors may, in their discretion, accept a redemption request for processing on a Dealing Day notwithstanding that such request may have been received after the time specified from time to time by the Directors for the receipt of redemption requests for such Dealing Day so long as such redemption is received prior to the Valuation Point for such Dealing Day. Shares in the capital of the ICAV which are redeemed by the ICAV shall be cancelled.
- 11.4 Following the processing of a redemption request the Shareholder will be paid the Redemption Price per Share which is ascertained by:-
- 11.4.1 determining the Net Asset Value per Share as at the Valuation Point for the relevant Dealing Day in accordance with the provisions of Clause 15 hereof;
  - 11.4.2 deducting therefrom any Duties and Charges, if the Directors so determine;
  - 11.4.3 in the case of Currency Hedged Share Classes, adding thereto or deducting therefrom (as the case may be) the sum calculated in accordance with Clause 14 the cost and gains/losses of any currency hedging transaction effected in respect of such Class; and
  - 11.4.4 in the event of requests for redemption exceeding subscription applications for the relevant Fund on any Dealing Day and if the Directors so determine, deducting therefrom such provision representing an Anti-Dilution Levy to provide for market spreads, dealing costs and preserve the value of the underlying assets of the relevant Fund as the Directors determine.
- 11.5 In calculating the Redemption Price the Directors may at their discretion adjust the valuation basis of the Net Asset Value attributable to a particular redemption to reflect the value of the relevant Fund's Investments, by valuing the Investments using "bid" or redemption prices for relevant underlying long positions or of "offer" or purchase prices for relevant underlying short positions.
- 11.6 Payment of redemption proceeds shall be made in the same currency (unless otherwise requested in writing) as the currency in which they were invested (subject

to Clause 24) within 14 calendar days after the date on which redemption requests are required to be received by the ICAV or its delegate.

- 11.7 An Exit Charge not exceeding three per cent (3%) of the Net Asset Value of Shares being redeemed may be imposed for the absolute use and benefit of the ICAV or as the ICAV may direct and the Directors may at their discretion waive, either wholly or partially, such exit charge or differentiate between Shareholders as to the amount of such exit charge, if any, within the permitted limit.
- 11.8 Subject to Clause 28.9 any amount payable to a Shareholder under this Clause shall be paid in the Base Currency or the denominated currency of the relevant Class or such other currency or currencies as the Directors shall have determined as appropriate and shall be dispatched no later than such period of time after the latest time for receipt of redemption requests for the relevant Dealing Day as determined by the Directors and set out in the Prospectus in accordance with the requirements of the Central Bank.
- 11.9 Any request for redemption of Shares shall not be valid and effective unless, in the case of Shares for which a certificate has been issued, the certificate or certificates for such Shares in proper form accompanies such request.
- 11.10 On redemption of part only of the Shares comprised in any certificate the Directors shall procure that a balance certificate be issued for the balance of such Shares free of charge.
- 11.11 If a redemption of part only of a Shareholder's holding of Shares of the ICAV, Fund, Class would leave the Shareholder holding less than the Minimum Holding the ICAV may redeem the whole of that Shareholder's holding.
- 11.12 Where a certificate has been issued the Directors may at their option dispense with the production of any certificate which shall have become lost or destroyed upon compliance by the holder of Shares to be redeemed with the like requirements to those applying in the case of an application by him for replacement of a lost or destroyed certificate under Clause 7 hereof.
- 11.13 If the number of Shares of a particular Fund in respect of which redemption requests have been received on any Dealing Day is equal to 10% or more of the Net Asset Value of the relevant Fund the Directors may, in their discretion, refuse to redeem any Shares in that Fund in excess of 10% of the Net Asset Value of that Fund and, if they so refuse, the requests for redemption on such Dealing Day shall be reduced Pro-Rata, in accordance with the provisions of the Prospectus, and the Shares to which each request relates which are not redeemed by reason of such reduction shall be treated as if a request for redemption had been made in respect of each subsequent Dealing Day until all the Shares to which the original request related have been redeemed. Requests for redemption which have been carried forward from an earlier Dealing Day shall (subject always to the foregoing limits) be reduced rateably and shall be treated as if they were received on each subsequent Dealing Day until all Shares to which the original request related have been redeemed. The Directors may set limits on the number of Shares that a Fund will be obliged to redeem on a Dealing Day lower than the prescribed levels outlined above, from time to time, in accordance with the requirements of the Central Bank.
- 11.14 Where relevant, if a redeeming Shareholder owns Shares of more than one Series within a Class, Shares will be redeemed on a "first in-first out basis" for the purposes of determining the price for the Shares redeemed. Accordingly, Shares of the earliest issued Series owned by the Shareholder will be redeemed first, at the

relevant Redemption Price for Shares of such Series, until the redeeming Shareholder no longer owns any Shares attributable to such Series.

- 11.15 The ICAV may, at the discretion of the Directors, satisfy any request for redemption of Shares by the transfer in specie or in kind to a Shareholder requesting redemption of assets of the relevant Fund having a value (calculated in accordance with Clause 16) equal to the Redemption Price less any Exit Charge and other expenses of the transfer as the Directors may determine provided that the Shareholder requesting redemption consents to such transfer in specie or in kind. A determination to provide redemption in specie or in kind may be solely at the discretion of the ICAV where the redeeming Shareholder requests redemption of a number of Shares that represents five per cent (5%) or more of the Net Asset Value of the relevant Fund. In this event, the ICAV will, if requested, sell any asset or assets proposed to be distributed in specie or in kind and distribute to such Shareholder the cash proceeds less the costs of such sale which shall be borne by the relevant Shareholder. The nature and type of assets to be transferred in specie to each Shareholder shall be determined by the Directors on such basis as the Directors in their sole discretion shall deem equitable and not prejudicial to the interests of the remaining Shareholders in the relevant Fund or Class and shall be subject to the approval of the Depositary. The Directors may disapply the preceding conditions regarding the satisfaction of redemptions in specie from time to time, in accordance with the requirements of the Central Bank.
- 11.16 If the ICAV is required to deduct, withhold or account for tax including any penalties and interest thereon upon the occurrence of certain events such as the encashment, redemption, disposal or deemed disposal of Shares by or payment of a distribution to a Shareholder (whether upon a redemption, transfer or deemed disposal of Shares or payment of a dividend or otherwise) the Directors may deduct or arrange for the deduction from the proceeds due to be paid to a Shareholder of a cash amount equal to the liability, or in accordance with the procedures in Clause 11 hereof arrange for the compulsory redemption and cancellation of such number of Shares of such Shareholder as is sufficient after the deduction of any exit charges to discharge any such liability and the relevant Shareholder shall indemnify and keep indemnified the ICAV against any loss suffered by it in connection with any obligation or liability to so deduct, withhold or account.
- 11.17 If the determination of the Net Asset Value of any Fund or Class and/or the issue, redemption and conversion of Shares in any Fund or Class has been suspended pursuant to Clause 14.4 hereof, a Shareholder may withdraw any request for redemption of his Shares. Any withdrawal of a request for redemption under the provisions of this Clause shall be made in writing and shall only be effective if actually received by the ICAV or its duly authorised agent before termination of the suspension. If the request is not withdrawn during the period of suspension, the redemption of Shares shall be effected on the Dealing Day next following the end of the suspension subject to Clause 11.13.
- 11.18 Where all the Shares in a Class or Fund have been redeemed, the Directors may subsequent to such redemption make a subsequent issue of Shares in that Class or Fund at a Subscription Price per Share determined by the Directors. Any such issue of Shares pursuant to this Clause shall be in accordance with the requirements of the Central Bank.

## **12. TOTAL REDEMPTION**

- 12.1 The ICAV may by not less than two nor more than twelve weeks' notice to Members expiring on a Valuation Day, redeem at the Redemption Price less interest accrued or costs or penalties, if any, all of the Shares in any Fund or Class or all Funds or Classes not previously redeemed if the Net Asset Value of the Fund is less than USD 200 million and all of the Shares of the ICAV if the Net Asset Value of the ICAV is less than USD 10 million.
- 12.2 If all of the Shares in a particular Fund or Class are to be redeemed as aforesaid the Directors, in accordance with the requirements of the Central Bank, may divide amongst the Shareholders in specie all or part of the assets of the relevant Fund or Class according to the Net Asset Value of the Shares then held by each Shareholder in the relevant Fund or Class in accordance with Clause 14 hereof provided that any Shareholder shall be entitled to request, at the expense of such Shareholder, the sale of any asset or assets proposed to be so distributed and the distribution to such Shareholder of the cash proceeds of such sale.
- 12.3 If all of the Shares of the ICAV are to be redeemed as aforesaid, the ICAV, with the approval of the Shareholders by Ordinary Resolution and in accordance with the requirements of the Central Bank, may divide amongst the Shareholders in specie all or part of the assets of the ICAV according to the Net Asset Value of the Shares then held by each Shareholder as determined in accordance with Clause 15 hereof.
- 12.4 If all the Shares in the ICAV or a Fund or Class are to be redeemed as aforesaid and the whole or any part of the business or property of the relevant Fund or any of the assets of the ICAV are proposed to be transferred or sold to another company (hereinafter called "the Transferee") the Directors may, with the sanction of a Special Resolution of the ICAV or the relevant Fund or Class conferring either a general authority on the Directors or an authority in respect of any particular arrangement, receive in compensation or part compensation for such transfer or sale shares, units, policies or other like interests or property in or of the Transferee for distribution among the said Shareholders, or may enter into any other arrangement whereby the said Shareholders may in lieu of receiving cash or property or in addition thereto participate in the profits of or receive any other benefit from the Transferee.

## **13. CONVERSION OF SHARES**

- 13.1 Subject to any restrictions imposed pursuant to this Instrument and in accordance with the provisions of the Prospectus, a Shareholder of any Fund or Class thereof may request the convert of all or any Shares held by him into Shares of another Fund or Class thereof or another Class in the same Fund either existing or established on such terms as may be provided in the Prospectus.
- 13.2 A conversion charge not exceeding three per cent (3%), calculated as a percentage of the Net Asset Value of the Shares in the original Fund or Class may be deducted from the amount being converted for the absolute use and benefit of the ICAV or as the ICAV may direct and the Directors may at their discretion waive, either wholly or partially, such conversion charge or differentiate between Shareholders as to the amount of such conversion charge, if any, within the permitted limit.

## **14. DETERMINATION OF NET ASSET VALUE**

- 14.1 The Directors shall on or with respect to each Valuation Day determine the Net Asset Value of the ICAV and each Fund or, if there are different Classes within a

Fund, attributable to each Class and/or Series and the Net Asset Value per Share in accordance with the following provisions.

- 14.2 The Net Asset Value of each Fund shall be determined as at each Valuation Point by ascertaining the value of the assets of the Fund pursuant to Clause 16.1 hereof, having regard to the principles specified in, and making such additions, deductions and adjustments as are appropriate pursuant to Clause 16.4 hereof. The Net Asset Value of the ICAV shall be equal to the Net Asset Value of all the Funds. The Net Asset Value attributable to a Class shall be determined as at each Valuation Point by calculating that portion of the Net Asset Value of the relevant Fund attributable to the relevant Class as at the Valuation Point by reference to the number of Shares in issue or deemed to be in issue in each Class on the relevant Valuation Day subject to adjustment to take account of any increase or decrease, entitlements, costs or liabilities attributable to one Class only, which will only be allocated to that Class including the gains/losses on and costs of financial instruments employed in the currency hedging of a particular Class – such transactions to be clearly attributable to the particular Class then allocating any increase or decrease in the Net Asset Value of the relevant Class of Shares for such period among each Series of Shares of the Class Pro-Rata in accordance with the Net Asset Value of each Series as at the immediately preceding Valuation Day and then dividing the Net Asset Value of each such Series by the number of outstanding Shares thereof and rounding the resulting total to such number of decimal places as the Directors may determine and subject to such adjustment thereto as the Directors may make from time to time.
- 14.3 The Net Asset Value per Share shall be determined as at each Valuation Point by dividing the Net Asset Value of the relevant Fund or attributable to a Class by the number of Shares in issue or deemed to be in issue in such Fund or Class at the Valuation Point and rounding the resulting total to such number of decimal places as the Directors may determine. Shares within a Series will have the same Net Asset Value per Share. Any performance fee accrued with respect to a particular Series will be debited against the Net Asset Value of such Series.
- 14.4 The Directors may at any time and from time to time temporarily suspend the determination of the Net Asset Value of a Fund or attributable to a Class and/or the issue, redemption and conversion of Shares in any Fund or Class, in the following instances:
- 14.4.1 during any period (other than ordinary holiday or customary weekend closings) when any market or Regulated Market is closed which is the main market for a significant part of a Fund's Investments, or when trading thereon is restricted or suspended;
- 14.4.2 during any period during which disposal or valuation of Investments which constitute a substantial portion of the assets of a Fund is not practically feasible or if feasible would be possible only on terms materially disadvantageous to Shareholders;
- 14.4.3 during any period when for any reason the prices of any Investments of a Fund cannot be reasonably, promptly, or accurately ascertained by the Administrator;
- 14.4.4 during any period when remittance of monies which will, or may, be involved in the realisation of, or in the payment for, Investments of a Fund cannot, in the opinion of the Directors, be carried out at normal rates of exchange;

- 14.4.5 during any period when the volume of requests for the redemption of Shares on any Dealing Day would, in the opinion of the Directors, require the sale of a substantial proportion of the liquid assets of the portfolio of the Fund to the detriment of the remaining Shareholders;
- 14.4.6 during any period when, in the opinion of the Directors, for any reason the latest Net Asset Value preceding the notice of suspension is determined not to be reliable;
- 14.4.7 during any period when proceeds of the sale or redemption of the Shares cannot be transmitted to or from a Fund's account;
- 14.4.8 during any period the service on the Shareholders of a notice to consider a resolution to wind up the ICAV or close a Fund;
- 14.4.9 upon mutual agreement between the ICAV and the Depositary for the purpose of winding up the ICAV; or
- 14.4.10 any other reason makes it impossible or impracticable to determine the value of a substantial portion of the investments of the ICAV

and shall temporarily suspend the determination of the Net Asset Value of a Fund or attributable to a Class and/or the issue, redemption and conversion of Shares in any Fund or Class if directed to do so by the Central Bank.

- 14.5 Notice of any such suspension and notice of the termination of any such suspension shall be published by the ICAV in such manner as the Directors may deem appropriate to notify the persons likely to be affected thereby and given without delay and in any event within the same Business Day to the Central Bank. All reasonable steps will be taken to bring a period of suspension to an end as soon as possible.
- 14.6 The Directors shall ensure that the Net Asset Value per Share is made readily available for the relevant Shareholders.

## **15. VALUATION OF INVESTMENTS**

- 15.1 The method of calculating the value of the assets of a Fund is as follows:-
  - 15.1.1 the value of an investment which is quoted, listed or normally dealt in on a Regulated Market shall be the last traded price (or if no last traded price is available the latest bid price) on such Regulated Market as at the Valuation Point provided that:
    - (a) if an investment is quoted, listed or normally dealt in on more than one Regulated Market, the Directors may, in their absolute discretion, select any one of such markets for the foregoing purposes (provided that the Directors have determined that such market constitutes the main market for such investment or provides the fairest criteria for valuing such securities) and once selected a market shall be used for future calculations of the Net Asset Value with respect to that investment unless the Directors (with the approval of the Depositary) otherwise determine;

- (b) in the case of any investment which is quoted, listed or normally dealt in on a Regulated Market but in respect of which for any reason, prices on that market may not be available at any relevant time, or, in the opinion of the Directors, may not be representative, the value thereof shall be the probable realisation value thereof estimated with care and in good faith by a competent person, firm or association (including the Investment Manager) appointed by the Directors and approved for the purpose by the Depositary; and
  - (c) in the case of any investment which is quoted, listed or normally dealt in on a Regulated Market but which was acquired at a premium or at a discount outside or off the relevant market, the level of premium or discount at the date of valuation may be taken into account when valuing such investment provided the Depositary ensures that the adoption of such procedure is justifiable in the context of establishing the probable realisation value thereof.
- 15.1.2 the value of any investment which is not quoted, listed or normally dealt in on a Regulated Market shall be the probable realisable value estimated with care and in good faith by a competent person, firm or association (including the Investment Manager) appointed by the Directors and approved for the purpose by the Depositary;
- 15.1.3 the value of prepaid expenses, cash dividends and interest declared or accrued as aforesaid and not yet received shall be deemed to be the full amount thereof unless in any case the Directors are of the opinion that the same is unlikely to be paid or received in full in which case the value thereof shall be arrived at after making such discount as the Directors may consider appropriate in such case to reflect the true value thereof;
- 15.1.4 the value of cash (in hand or deposit) is valued at face/nominal value plus accrued interest from the date on which the same were acquired or made;
- 15.1.5 the value of units or shares in collective investment schemes (other than those valued pursuant to Clause 15.1.115.1.1 above) shall be valued at the latest available net asset value as published by the relevant collective investment scheme or (if bid and offer prices are published) the latest published bid price;
- 15.1.6 the value of exchange traded FDIs shall be based on the settlement price, as determined by the market in question, as at the Valuation Point, provided that where it is not the practice for the relevant market to quote a settlement price or such settlement price is not available for any reason as at the Valuation Point, such value shall be the probable realisation value thereof estimated with care and in good faith by a competent person, firm or association (including the Investment Manager) appointed by the Directors and approved for the purpose by the Depositary;
- 15.1.7 the value of forward non-U.S. exchange contracts which are dealt on a Regulated Market shall be calculated by reference to freely available market prices at which a new forward contract of the same size, currency



and maturity could be effected at the Valuation Point, provided that if such market price is not available for any reason, such value shall be calculated in the same manner as over the counter FDI outlined in Clause 15.1.8 below;

- 15.1.8 the value of any over the counter (“OTC”) FDI shall be:
- (a) the valuation from the counterparty provided that such valuation is provided on a daily basis and verified at least weekly by a person independent of the counterparty and who is approved for the purpose by the Depositary; or
  - (b) where an alternative valuation is used (i.e. a valuation that is provided by a competent person, firm or association (including the Investment Manager) appointed by the Directors and approved for that purpose by the Depositary), the valuation principles employed must follow best international practice established by bodies such as IOSCO (International Organisation for Securities Commission) and AIMA (the Alternative Investment Management Association). Any such valuation shall be reconciled to that of the counterparty on a monthly basis and if significant differences arise the ICAV shall arrange for these to be investigated promptly and seek explanations from the relevant parties.
- 15.1.9 the value of forward non-U.S. exchange and interest rate swap contracts shall be valued in accordance with Clause 15.1.8 above or, alternatively, by reference to freely available market quotations.
- 15.1.10 the value of certificates of deposit, where they do not fall under Clause 15.1.1 above shall be valued if the Directors deem it necessary by reference to the latest available sale price for certificates of deposit of like maturity, amount and credit risk at the Valuation Point or, if such price is not available, at the latest bid price or, if such price is not available or is unrepresentative in the opinion of Directors of the value of such certificates of deposit, at the probable realisation value estimated with care and in good faith by a competent person firm or association (including the Investment Manager) appointed by the directors and approved for the purpose by the Depositary;
- 15.1.11 short-term money market funds shall be valued using the amortised cost method of valuation only in relation to Funds which comply with the Central Bank’s requirements for short term money market funds and where a review of the amortised cost method of valuation vis-à-vis market valuation will be carried out in accordance with the Central Bank’s guidelines;
- 15.1.12 money market instruments may be valued on an amortised basis only in accordance with the Central Bank’s requirements; and
- 15.1.13 the Directors may, with the approval of the Depositary, adjust the value of any investment if having regard to its currency, marketability, applicable interest rates, anticipated rates of dividend, maturity, liquidity or any other relevant considerations, they consider that such adjustment is required to reflect the fair value thereof.

In the event of it being impossible or incorrect to carry out a valuation of a specific asset in accordance with the valuation rules set out in 15.1.1 to 15.1.13 above, or if such valuation is not representative of an asset's fair market value, the Directors (or their delegate) are entitled to use other generally recognised valuation methods in order to reach a proper valuation of that specific asset, provided that the Directors deem it necessary and any alternative method of valuation is approved by the Depositary.

The Net Asset Value of the assets of a Fund will be expressed in the Base Currency. The value of any assets or liabilities expressed in terms of currencies other than the Base Currency will be translated into the Base Currency of the relevant Fund at prevailing market rates as determined by the Administrator.

None of the Directors, the ICAV, the Depositary, the Administrator or the Investment Manager shall have any liability in the event that any price or valuation used in good faith in connection with the above procedures proves to be an incorrect or an inaccurate estimate or determination of the price or value of any part of the property of the ICAV.

- 15.2 In the event of it being impossible or incorrect to carry out a valuation of a specific asset in accordance with the valuation rules set out in Clauses 15.1.1 to 15.1.13 above, or if such valuation is not representative of an asset's fair market value, the Directors (or their delegate) are entitled to use other generally recognised valuation methods in order to reach a proper valuation of that specific asset, provided that any alternative method of valuation is approved by the Depositary.
- 15.3 The Net Asset Value of the assets of a Fund will be expressed in the Base Currency. The value of any assets or liabilities expressed in terms of currencies other than the Base Currency will be translated into the Base Currency of the relevant Fund at prevailing market rates as determined by the Administrator.
- 15.4 In addition, special situations affecting the measurement of the Net Asset Value of the assets a Fund may arise from time to time. Prospective investors should be aware that situations involving uncertainties as to the valuation of such assets could have an adverse effect on the Net Asset Value. In particular, the assets of a Fund may be invested in investment funds which are not regularly traded on an exchange and the accuracy of the Net Asset Value may be affected by the frequency of the valuations of securities provided by those funds. Fund managers who manage or advise investment funds may report on a weekly, biweekly, monthly or quarterly or less frequent basis. In calculating the value of assets of the ICAV and each Fund the following principles will apply, unless determined otherwise by the Directors:
- 15.4.1 every Share agreed to be issued by the Directors with respect to a Dealing Day shall be deemed to be in issue at the Valuation Point for the relevant Valuation Day and the assets of the relevant Fund shall be deemed to include not only cash, accrued interest and property in the hands of the Depositary but also the amount of any cash or other property to be received in respect of Shares agreed to be issued after deducting therefrom (in the case of Shares agreed to be issued for cash) or providing for entry charges;
- 15.4.2 where Investments have been agreed to be purchased or sold but such purchase or sale has not been completed, such Investments shall be included or excluded and the gross purchase or net sale consideration excluded or included as the case may require as if such purchase or sale

- had been duly completed unless the Directors have reason to believe such purchase or sale will not be completed;
- 15.4.3 there shall be added to the assets of the relevant Fund any actual or estimated amount of any taxation of a capital nature which may be recoverable by the ICAV which is attributable to the Fund;
- 15.4.4 there shall be added to the assets of the relevant Fund a sum representing unamortised expenses and a sum representing any interest, dividends or other income accrued but not received unless the Directors are of the opinion that such interest, dividends or other income are unlikely to be paid or received in full in which case the value thereof shall be arrived at after making such discount as the Directors or their delegate (with the approval of the Depositary) may consider appropriate in such case to reflect the true value thereof;
- 15.4.5 there shall be added to the assets of each relevant Fund the total amount (whether actual or estimated by the Directors or their delegate) of any claims for repayment of any taxation levied on income or capital gains including claims in respect of double taxation relief;
- 15.4.6 where notice of the redemption of Shares has been received by the ICAV with respect to a Dealing Day and the cancellation of such Shares has not been completed, the Shares to be redeemed shall be deemed not to be in issue at that Valuation Point and the value of the assets of the relevant Fund shall be deemed to be reduced by the amount payable upon such redemption; and
- 15.4.7 there shall be deducted from the assets of the relevant Fund:
- (a) the total amount of any actual or estimated liabilities properly payable out of the assets of the relevant Fund including any and all outstanding borrowings of the ICAV in respect of the relevant Fund, interest, fees and expenses payable on such borrowings and any estimated liability for tax and such amount in respect of contingent or projected expenses as the Directors consider fair and reasonable as of the relevant Valuation Point;
  - (b) such sum in respect of tax (if any) on income or capital gains realised on the Investments of the relevant Fund as in the estimate of the Directors will become payable;
  - (c) the amount (if any) of any distribution declared by the Shareholders of the relevant Fund or the Directors pursuant to Clause 28 hereof but not distributed in respect thereof;
  - (d) the fees and expenses of the Administrator, the Depositary, the Manager, the Investment Manager, any investment investor to the ICAV, or any Distributor and any other providers of services to the ICAV accrued but remaining unpaid together with a sum equal to the value added tax chargeable thereon (if any);
  - (e) the total amount (whether actual or estimated by the Directors) of any other liabilities properly payable out of the

assets of the relevant Fund (including all establishment, operational and ongoing administrative fees, costs and expenses) as of the relevant Valuation Point;

(f) an amount as of the relevant Valuation Point representing the projected liability of the relevant Fund in respect of costs and expenses to be incurred by the relevant Fund in the event of a subsequent liquidation; or

(g) any other liability of the type referred to in Clause 4.4 hereof.

15.5 Without prejudice to Clause 24.2 hereof the Directors may delegate any of their powers, authorities and discretions in relation to the determination of the value of any Investment to a committee of the Directors or to any other duly authorised person and may delegate the calculation of Net Asset Value in accordance with the requirements of the Notices. In the absence of negligence, fraud or wilful default every decision taken by the Directors or any committee of the Directors or any duly authorised person on behalf of the ICAV in determining the value of any Investment or calculating the Net Asset Value shall be final and binding on the ICAV and on present, past or future Shareholders.

## **16. TRANSFER AND TRANSMISSION OF SHARES**

16.1 The transfer of Shares shall be effected in accordance with the following provisions.

16.2 The transfer of Shares may be effected in writing in any usual or common form, signed by or on behalf of the transferor and every transfer shall state the full name and address of the transferor and transferee and need not be under seal.

16.3 The Directors may, in such form as is satisfactory to the Directors, require:

16.3.1 the proposed transferor to guarantee the payment obligations, if any, being assumed by the transferee and/or to confirm that the proposed transferee is able to satisfy such payment obligations;

16.3.2 the proposed transferee to deliver to the ICAV such certificates, opinions, statements or other evidence as the Directors may reasonably require;

16.3.3 the proposed transferee to furnish such declarations as the applicant's status, identity, residence and otherwise and such undertakings, acknowledgments, representations and/or indemnities as the Directors may from time to time require; and

16.3.4 the proposed transferee to furnish such evidence and/or undertaking in connection with the matters stated in Clause 10 as they shall in their discretion deem sufficient.

16.4 An Entry charge not exceeding five per cent (5%) of the Net Asset Value per Share of the Shares being transferred on the Valuation Day immediately preceding the date of the transfer may be charged for the absolute use and benefit of the ICAV or as the ICAV may direct (including without limitation, payment to the Investment Manager, any investment adviser or other person as the Directors may in their discretion determine) upon the transfer of Shares and the Directors may at their discretion waive either wholly or partially, such sales charge or differentiate

- between transferees as to the amount of such sales charge, if any, within the permitted limit.
- 16.5 The transferor shall be deemed to remain the holder of the Share until the name of the transferee is entered in the Register in respect thereof.
- 16.6 The Directors may decline to register any transfer of a Share if:
- 16.6.1 in consequence of such transfer the transferor or the transferee would hold a number of Shares less than the Minimum Holding or the transferee (being an initial investor in the ICAV) would hold less than the Minimum Initial Subscription;
  - 16.6.2 all applicable taxes and/or stamp duties have not been paid in respect of the instrument of transfer;
  - 16.6.3 the instrument of transfer is not deposited at the Office or such other place as the Directors may reasonably require, accompanied by (i) the Certificate for the Shares to which it relates (if any); (ii) such evidence as the Directors may reasonably require to show the right of the transferor to make the transfer; (iii) such relevant information and declarations as the Directors may reasonably require from the transferee including, without limitation, an application form duly completed by the proper transferee, information and declarations of the type which may be requested from an applicant for Shares in the ICAV and (iv) such fee as may from time to time be specified by the Directors for the registration of any instrument of transfer;
  - 16.6.4 they are aware or reasonably believe the transfer would result in the beneficial ownership of such Shares by a person in contravention of Clause 10 of this Instrument or any other restrictions on ownership imposed by the Directors or might result in legal, regulatory, pecuniary, taxation or material administrative disadvantage to the ICAV or the relevant Fund or the Shareholders as a whole.
- 16.7 The Directors shall decline to register a transfer of Shares by a Shareholder who is the bearer of a share warrant unless the transferee is a recognised Depositary.
- 16.8 If requested to do so by the Directors a transferee shall be required to deliver to the ICAV such certificates, opinions, statements or other evidence required by the Directors for any of the purposes outlined in Clause 17.6.
- 16.9 The registration of transfers may be suspended for such periods as the Directors may determine provided always that each registration may not be suspended for more than 30 days in any one year.
- 16.10 If the Directors decline to register a transfer of any Share they shall, within two months after the date on which the transfer was lodged with the ICAV, send to the transferee notice of the refusal.
- 16.11 All instruments of transfer which shall be registered shall be retained by the ICAV, but any instrument of transfer which the Directors may decline to register shall (except in the case of fraud) be returned to the person depositing the same.
- 16.12 In the case of the death of a Member, the survivors or survivor where the deceased was a joint holder and the executors or administrators of the deceased where he was

a sole or surviving holder, shall be the only person(s) recognised by the ICAV as having title to his interest in the Shares, but nothing in this Clause shall release the estate of the deceased Member whether sole or joint from any liability in respect of any Share solely or jointly held by him.

- 16.13 Any guardian of an infant Shareholder and any guardian or other legal representative of a Shareholder under legal disability and any person entitled to a Share in consequence of the death, insolvency or bankruptcy of a Shareholder shall, upon producing such evidence of his title as the Directors may require, have the right either to be registered himself as the holder of the Share or to make such transfer thereof as the Shareholder could have made, but the Directors shall have the same right to refuse or suspend registration as they would have had in the case of a transfer of the Share by the Shareholder or any Shareholder.
- 16.14 A person so becoming entitled to a Share in consequence of the death, insolvency or bankruptcy of a Shareholder shall have the right to receive and may give a discharge for all monies payable or other advantages due on or in respect of the Share, but shall not be entitled to receive notice of or to attend or vote at meetings of the ICAV, nor, save as aforesaid, to any of the rights or privileges of a Shareholder unless and until he shall be registered as a Shareholder in respect of the Share PROVIDED ALWAYS that the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the Share and if the notice is not complied with within ninety days the Directors may thereafter withhold all monies payable or other advantages due in respect of the Share until the requirements of the notice have been complied with.
- 16.15 If the ICAV is required to deduct, withhold or account for tax including any penalties and interest thereon upon the transfer of Shares by a Shareholder the provisions of Clause 11.16 hereof shall apply mutatis mutandis as if repeated in full herein.

## **17. INVESTMENT OBJECTIVES**

- 17.1 Subject to the provisions of the Regulations, the Directors shall determine the investment objectives and policies (including the permissible forms of Investments) and restrictions applying to each Fund which shall be set out in any Prospectus.
- 17.2 Subject to approval by the Central Bank more than thirty-five per cent (35%) and up to one hundred per cent (100%) of the Net Asset Value of a Fund may be invested in transferable securities and money market instruments issued or guaranteed by any Member State, its local authorities, non-Member States of the European Union or public international body of which one or more Member States of the European Union are members and issued or guaranteed by any of the following:
- 17.2.1 OECD governments (provided the relevant issues are investment grade), Government of the People's Republic of China, Government of Brazil (provided the relevant issues are investment grade), Government of India (provided the relevant issues are investment grade), Government of Singapore, European Investment Bank, European Bank for Reconstruction and Development, International Finance Corporation, International Monetary Fund, Euratom, The Asian Development Bank, Council of Europe, Eurofima, African Development Bank, International Bank for Reconstruction and Development, The World Bank, The Inter American Development Bank, European Union, European Central Bank, Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), Government

National Mortgage Association (Ginnie Mae), Student Loan Marketing Association (Sallie Mae), Federal Home Loan Bank, Federal Farm Credit Bank, Tennessee Valley Authority and Straight-A Funding LLC, provided that the Fund holds securities from at least six different issues with securities from any one issue not exceeding thirty per cent (30%) of its Net Asset Value.

- 17.3 The ICAV may (subject to the Regulations and the prior approval of the Central Bank) establish any entity and may own all the issued share capital of such entity (the shares and assets of which shall be held by the Depositary) which the Directors consider it necessary or desirable for the ICAV, with the prior approval of the Central Bank, to incorporate or acquire or utilise in connection with the carrying on only of the business of management, advice or marketing in the country where that entity is located, in regard to the redemption of Shares at Members' request exclusively on the ICAV's behalf. None of the limitations or restrictions referred to in Clauses 17.1 or 17.2 above, shall apply to Investments in, loans to or deposits with any such entity, and for the purpose of Clauses 17.1 or 17.2 above Investments or other property held by any such private company shall be deemed to be held directly for the ICAV.
- 17.4 Subject to the provisions of the Regulations, the ICAV may, invest up to twenty per cent (20%) (which may be raised to thirty-five per cent (35%) in certain circumstances and only then in respect of a single issuer) of a Fund's Net Asset Value in transferable securities issued by the same body where the aim of the investment policy of the Fund is to replicate the composition of an index.
- 17.5 With the exception of permitted investments in unlisted securities the ICAV will only invest in those securities and financial derivative instruments listed or traded on a Regulated Market (including derivative markets) which meet with the Central Bank's requirements that they are regulated, operate regularly, recognised and are open to the public and which is listed in the Prospectus.
- 17.6 For the purpose of providing margin or collateral in respect of transactions in and the use of derivative instruments and techniques and instruments, the ICAV shall be entitled:-
- 17.6.1 to transfer, deposit, mortgage, charge or encumber any Investments forming part of the ICAV or the relevant Fund;
- 17.6.2 to vest any such Investments in the relevant exchange or market or any company controlled by such exchange or market and used for the purpose of receive margin and/or cover or in a nominee of the Depositary; and/or
- 17.6.3 to give or obtain the guarantee of a bank (and to provide any necessary counter-security therefor) and deposit such guarantee or cash, with an exchange or counterparty or any company controlled by such exchange or counterparty and used for the purpose of receiving margin and/or cover.

## **18. GENERAL MEETINGS**

- 18.1 All general meetings of the ICAV will normally be held in Ireland.
- 18.2 Subject to Clause 18.3, the ICAV shall in each year hold a general meeting as its annual general meeting in addition to any other meeting in that year.

- 18.3 Not more than fifteen months shall elapse between the date of one annual general meeting of the ICAV and that of the next PROVIDED THAT so long as the ICAV holds its first annual general meeting within eighteen months of its incorporation it need not hold it in the year of its incorporation or in the following year.
- 18.4 The Directors may elect to dispense with the holding of an annual general meeting by giving sixty days' written notice to all of the Shareholders.
- 18.5 An election under Clause 18.4 has effect for the year in which it is made and subsequent years, but does not affect any liability already incurred by reason of default in holding an annual general meeting.
- 18.6 Where an election under Clause 18.4 has effect for a year
- 18.6.1 one or more Members of the ICAV holding, or together holding, not less than 10 per cent of the voting rights in the ICAV, or
- 18.6.2 the Auditor
- may require the ICAV to hold an annual general meeting in that year by giving notice in writing to the ICAV in the previous year or at least one month before the end of that year and the ICAV shall hold the required meeting.
- 18.7 All general meetings (other than annual general meetings) shall be called extraordinary general meetings.
- 18.8 The Directors may call an extraordinary general meeting whenever they think fit and extraordinary general meetings shall be convened on such requisition, or in default may be convened by such requisitionists, and in such manner as provided by the Act. If at any time there are not sufficient Directors capable of acting to form a quorum, any Director or any Member may convene an extraordinary general meeting in the same manner as nearly as possible as that in which general meetings may be convened by the Directors. If at any time in the case of the ICAV there are not sufficient Directors capable of acting to form a quorum, any director or Member of the ICAV may convene and extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.
- 18.9 One or more Members holding, or together holding, at any time not less than 50 per cent. of the voting rights in the ICAV may convene and extraordinary general meeting of the ICAV.
- 18.10 The Directors shall, at the request of one or more Members holding, or together holding, at the date of the making of the request, not less than 10 per cent. of the voting rights of the ICAV, proceed to convene an extraordinary general meeting of the ICAV. The request shall state the objects of the meeting and shall be signed by those making the request and deposited at the registered office of the ICAV and may consist of several documents in like form each signed by one or more of those making the request.
- 18.11 If the Directors do not within 21 days after the date of the deposit of the request proceed to convene a meeting to be held within 2 months after that date, those making the request, or any of them representing more than 50 per cent. of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held more than 3 months after the date the request was first made.



## **19. NOTICE OF GENERAL MEETINGS**

- 19.1 Subject to the provisions of the Act permitting a general meeting to be called by shorter notice, an annual general meeting and an extraordinary general meeting called for the passing of a Special Resolution shall be called by not less than twenty one Clear Days' notice and all other extraordinary general meetings shall be called by at least fourteen Clear Days' notice which, in each case, shall specify the place the day and the hour of the meeting and in the case of special business the general nature of such business and in the case of an annual general meeting that the meeting is an annual general meeting and shall be given in the manner hereinafter provided to such persons as are under this Instrument or the conditions of issue of the Shares held by them entitled to receive notices from the ICAV.
- 19.2 The Directors, the Manager, the Investment Manager, the Administrator, the Auditors, the Depositary and any sub-investment manager or investment advisor to the ICAV shall be entitled to receive notice of and attend and speak at any general meeting of the ICAV.
- 19.3 In every notice calling a meeting of the ICAV, there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend, speak and vote instead of him and that a proxy need not also be a Member.
- 19.4 The accidental omission to give notice to or the non receipt of notice by any person entitled to receive notice shall not invalidate the proceedings at any general meeting.
- 19.5 Where, by any provision contained in the Act, extended notice is required of a resolution, the resolution shall not be effective (except where the Directors of the ICAV have resolved to submit it) unless notice of the intention to move it has been given to the ICAV not less than twenty-eight Clear Days (or such shorter period as the Act permits) before the meeting at which it is moved, and the ICAV shall give to the Members notice of any such resolution as required by and in accordance with the provisions of the Act.

## **20. PROCEEDINGS AT GENERAL MEETINGS**

- 20.1 All business shall be deemed special that is transacted at an extraordinary general meeting, and also all business that is transacted at an annual general meeting with the exception of the consideration of the accounts and balance sheet and the reports of the Directors and Auditors and the appointment and the fixing of the remuneration of the Auditors.
- 20.2 No business shall be transacted at any general meeting unless a quorum is present. Subject to Clause 20.3, two Members present either in person or by proxy shall be a quorum for a general meeting. A representative of a corporation authorised pursuant to Clause 21.12 of this Instrument and present at any meeting of the ICAV or at any meeting of a Fund or Class of Shareholders shall be deemed to be a Member for the purpose of constituting a quorum.
- 20.3 If within half an hour after the time appointed for a meeting a quorum is not present, the meeting, if convened on the requisition of or by Shareholders, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present shall be a quorum.

- 20.4 The chairman, if one has been appointed or, if he is absent, the deputy chairman of the Directors, or failing him, some other Director nominated by the Directors shall preside as chairman at every general meeting of the ICAV, but if at any meeting neither the chairman nor the deputy chairman nor such other Director is present within fifteen minutes after the time appointed for holding the meeting, or if none of them be willing to act as chairman, the Directors present shall choose some Director present to be chairman, or if no Directors are present, or if all the Directors present decline to take the chair, the Members present in person or by proxy shall choose some Member present to be chairman.
- 20.5 A Director shall be entitled, notwithstanding that he is not a Member, to attend and speak at any general meeting and at any separate meeting of the holders of any Class of Shares in the ICAV. The Auditors shall be entitled to attend any general meeting and to be heard on any part of the business of the meeting which concerns them as Auditors.
- 20.6 The chairman may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more ten Clear Days notice at least specifying the place, the day and the hour of the adjourned meeting, shall be given as in the case of the original meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at the adjourned meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 20.7 At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands unless before or upon the declaration of the result of the show of hands a poll is demanded by the chairman, by three or more Members present in person or by proxy having the right to vote at the meeting or by any Member or Members representing at least one tenth of the total voting rights of all the Members having the right to vote at the meeting. Unless a poll is so demanded, a declaration by the chairman that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book containing the minutes of the proceedings of the ICAV shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
- 20.8 If a poll is duly demanded, it shall be taken in such manner and at such place as the chairman may direct (including the use of ballot or voting papers or tickets) and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 20.9 The chairman may, in the event of a poll, appoint scrutineers and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.
- 20.10 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
- 20.11 A poll demanded on the election of a chairman and a poll demanded on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and place as the chairman directs not being more than thirty

days from the date of the meeting or adjourned meeting at which the poll was demanded.

- 20.12 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
- 20.13 A demand for a poll may be withdrawn and no notice need be given of a poll not taken immediately.
- 20.14 A resolution in writing signed by all the Members for the time being entitled to attend and vote on such resolution at a general meeting of the ICAV (or being bodies corporate by their duly appointed representatives) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the ICAV duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more Members and if described as a Special Resolution shall be deemed to be a Special Resolution within the meaning of this Instrument. In the case of a corporation a resolution in writing may be signed on its behalf by a director or the secretary thereof or by its duly appointed attorney or duly authorised representative.

## **21. VOTES OF SHAREHOLDERS**

- 21.1 On a show of hands every Member present in person or by proxy shall be entitled to one vote, save in respect of Shares that are designated as Non-Voting Shares.
- 21.2 On a poll every Shareholder present in person or by proxy shall be entitled to one vote, save in respect of Shares that are designated as Non-Voting Shares, in respect of each Share held by him and every holder of Management Shares shall be entitled to one vote in respect of all Management Shares held by him. A Shareholder entitled to more than one vote need not cast all his votes, or cast all the votes he uses in the same way:
- 21.3 In the case of joint holders of a Share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the Shares.
- 21.4 A Member of unsound mind, a Member who has an enduring power of attorney or a Member in respect of whom an order has been made by any court having jurisdiction in matters concerning mental disorder, may vote whether on a show of hands or on a poll, by his committee, donee of enduring power of attorney, receiver, guardian or other person in the nature of a committee, receiver, guardian appointed by such court and such committee, donee of enduring power of attorney, receiver, guardian or other person may on a poll vote by proxy, provided that such evidence as the Directors may require of the authority of the person claiming to vote shall have been deposited at the Office not less than forty -eight hours before the time for holding the meeting or adjourned meeting at which such person claims to vote.
- 21.5 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.

- 21.6 The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or if the appointor is a corporation, either under its common seal or under the hand of an officer or attorney so authorised. An instrument of proxy shall be in any usual form or in such form as the Directors may approve PROVIDED ALWAYS that such form shall give the Shareholder the choice of authorising his/her proxy to vote for or against each resolution.
- 21.7 Every Member entitled to attend and vote at a general meeting may appoint any person (whether a Member or not) to act as a proxy to attend, speak and vote on his behalf.
- 21.8 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority, shall be deposited at the Office or sent to and received at such other place or by such other means as is specified for that purpose in the notice of meeting or in the instrument of proxy issued by the ICAV not less than one hour before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid. Notwithstanding the foregoing, an instrument of proxy relating to more than one meeting (including any adjournment thereof) having once been so delivered for the purposes of any meeting shall not be required to be delivered again for the purposes of any subsequent meeting to which it relates.
- 21.9 At the discretion of the Directors, an instrument appointing a proxy and any authority and certification thereof deposited as aforesaid may be treated as valid notwithstanding that it has been deposited less than forty eight hours before the relevant time.
- 21.10 No instrument appointing a proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution, except at an adjourned meeting or on a poll demanded at a meeting or an adjourned meeting in cases where the meeting was originally held within twelve months from such date or otherwise at the discretion of the Directors.
- 21.11 A vote given or poll demanded in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal or the revocation of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer or redemption of the Shares in respect of which the instrument of proxy is given, provided that no intimation in writing of such death, insanity, revocation, transfer or redemption shall have been received by the ICAV at the Office, before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used.
- 21.12 Any body corporate which is a Member, may authorise by resolution of its directors or other governing body such person as it thinks fit to act as its representative at any meeting of the ICAV and the person so authorised shall be entitled to exercise the same powers on behalf of the body corporate which he represents as that body corporate could exercise if it were an individual Member and such body corporate shall for the purposes of this Instrument be deemed to be present in person at any such meeting if a person so authorised is present in person or by proxy thereat.
- 21.13 The provisions of this Instrument, save to the extent expressly provided herein or therein with respect to meetings of Funds or Classes, shall apply mutatis mutandis to separate meetings of each Fund or Class of Shareholders at which a resolution varying the rights of Shareholders in such Fund or Class is tabled, save in the case

where there is only one Shareholder in the ICAV, applicable Fund or Class, in which case one shareholder shall constitute the quorum for the purposes of any such meeting.

## **22. DIRECTORS**

- 22.1 Unless otherwise determined by an Ordinary Resolution of the ICAV, the number of Directors shall not be less than two or more than nine.
- 22.2 Director need not be a Member but may be appointed only in accordance with the Notices.
- 22.3 There are no requirements for Directors to retire on attaining a particular age.
- 22.4 A Director may vote and be counted in the quorum at a meeting to consider the appointment or the fixing or variation of the terms of appointment of any Director to any office or employment with the ICAV or any company in which the ICAV is interested, but a Director may not vote or be counted in the quorum on a resolution concerning his own appointment.
- 22.5 The Directors of the ICAV for the time being are entitled to such remuneration as may be determined by the Directors and disclosed in the Prospectus issued by the ICAV from time to time and may be reimbursed all reasonable travel, hotel and other expenses incurred in connection with the business of the ICAV or the discharge of their duties.
- 22.6 The Directors may in addition to such remuneration as is referred to in Clause 22.5 of this Instrument grant special remuneration to any Director who, being called upon, shall perform any special or extra services to or at the request of the ICAV.
- 22.7 Any Director may at any time by instrument in writing under his hand and deposited at the Office, or delivered at a meeting of the Directors, appoint any Director or other person to be his alternate Director and may in like manner at any time terminate such appointment. Save as otherwise provided in this Instrument, an alternate Director shall be deemed for all purposes to be a Director and shall alone be responsible for his own acts and defaults and he shall not be deemed to be the agent of the Director appointing him. No person resident in the United Kingdom shall be appointed an alternate of a Director not resident in the United Kingdom.
- 22.8 The appointment of an alternate Director shall terminate if his appointor dies or ceases to be a Director or on the happening of any event with respect to the alternate Director which if he were a Director would cause him to vacate such office.
- 22.9 An alternate Director shall be entitled to receive notices of meetings of the Directors and shall be entitled to attend and vote as a Director at any such meeting at which the Director appointing him is not personally present and generally at such meeting to perform all functions of his appointor as a Director (save the right to appoint an alternate) and for the purposes of the proceedings at such meeting the provisions hereof shall apply as if he (instead of his appointor) were a Director.
- 22.10 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent mutatis mutandis as if he were a Director but he shall not be entitled to receive from the ICAV in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration

otherwise payable to his appointor as such appointor may by notice in writing to the ICAV from time to time direct.

- 22.11 The office of a Director shall be vacated in any of the following events namely:-
- 22.11.1 if he resigns his office by notice in writing signed by him in accordance with the requirements of the Central Bank and left at the Office;
  - 22.11.2 if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
  - 22.11.3 in the opinion of a majority of the Directors, he becomes incapable by reason of unsound mind of discharging his duties as a Director
  - 22.11.4 if he is absent from meetings of the Directors for six successive months without leave expressed by a resolution of the Directors and the Directors resolve that his office be vacated;
  - 22.11.5 if he ceases to be a Director by virtue of, or becomes prohibited or restricted from being a Director by reason of, an order made under the provisions of any law or enactment;
  - 22.11.6 if he is requested by a majority of the other Directors (not being less than two in number) to vacate office;
  - 22.11.7 if he is removed from office by Ordinary Resolution; or
  - 22.11.8 if the Central Bank requires him to resign.
- 22.12 The Directors shall have power at any time and from time to time to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors. Directors are not required to retire by rotation.

### **23. TRANSACTIONS WITH DIRECTORS**

- 23.1 A Director may hold any other office or place of profit under the ICAV (other than the office of Auditor or a position within the Depositary) in conjunction with his office of Director on such terms as to tenure of office and otherwise as the Directors may determine.
- 23.2 No Director or intending Director shall be disqualified by his office from contracting with the ICAV either as vendor, purchaser or otherwise, nor shall any contract or arrangement entered into by or on behalf of the ICAV in which any Director is in any way interested be liable to be avoided, nor shall any Director so contracting or being so interested be liable to account to the ICAV for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established, but the nature of his interest must be declared by him at the meeting of the Directors at which the proposal to enter into the contract or arrangement is first taken into consideration or, if the Director was not at the date of that meeting interested in the proposed contract or arrangement, at the next meeting of the Directors held after he becomes so interested, and in a case where the Director becomes interested in a contract or arrangement after it is made, at the first meeting of the Directors held after he becomes so interested. A general notice in writing given to the Directors by any Director to the effect that he is a shareholder of any specified company or firm, and is to be regarded as interested in any contract which may thereafter be made with

that company or firm, shall (if such Director shall give the same at a meeting of the Directors or shall take reasonable steps to secure that the same is brought up and read at the next meeting of the Directors after it is given) be deemed a sufficient declaration of interest in relation to any such contract or arrangement.

- 23.3 Save as provided by Clause 23.4, a Director shall not vote on any resolution or contract or arrangement or any proposal whatsoever in which he has any material interest or a duty which conflicts with the interests of the ICAV and unless otherwise resolved by the Directors a Director shall not be counted in the quorum at a meeting in relation to any resolution on which he is not entitled to vote.
- 23.4 A Director shall, in the absence of some material interest other than that indicated below, be entitled to vote and be counted in the quorum in respect of any resolution concerning any of the following matters, namely:
- 23.4.1 the giving of any security or indemnity to him in respect of money lent or obligations incurred by him at the request of or for the benefit of the ICAV or any of its subsidiaries or associated companies;
  - 23.4.2 the giving of any security, guarantee or indemnity to a third party in respect of a debt or obligation of the ICAV or any of its subsidiaries or associated companies for which he himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security;
  - 23.4.3 any proposal concerning an offer of Shares or debentures or other securities of or by the ICAV or any of its subsidiaries or associated companies for subscription or purchase in which offer he is or is to be interested as a participant in the underwriting or sub underwriting thereof;
  - 23.4.4 any proposal concerning any other company in which he is interested, directly or indirectly and whether as an officer or shareholder or otherwise howsoever PROVIDED THAT he is not the holder of or beneficially interested in five per cent (5%) or more of the issued shares of any class of such company, or of any third company through which his interest is derived, or of any of the voting rights available to shareholders of the relevant company (any such interest being deemed for the purposes of this Clause to be a material interest in all circumstances); or
  - 23.4.5 any proposal concerning the purchase of any policy of insurance against directors' and officers' liability.
- 23.5 Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employment with the ICAV or any company in which the ICAV is interested, such proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not otherwise debarred from voting) shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his own appointment.
- 23.6 If any question shall arise at any meeting as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question shall be referred to the chairman of the meeting and his ruling in relation to any Director shall be final and

conclusive except in a case where the nature or extent of the interests of the Director concerned has not been fairly disclosed.

- 23.7 For the purpose of this Clause, an interest of a person who is the spouse or a minor child of a Director shall be treated as an interest of the Director and, in the case of an alternate Director, an interest of his appointor shall be treated as an interest of the alternate Director.
- 23.8 Any Director may act by himself or through his firm in a professional capacity for the ICAV, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director, provided that nothing herein contained shall authorise a Director or his firm to act as Auditor.
- 23.9 The Directors may from time to time appoint one or more of their body to be the holder of any executive office on such terms and for such period as they may determine and, without prejudice to the terms of any contract entered into in any particular case, may at any time revoke any such appointment.
- 23.10 A Director holding any such executive office shall receive such remuneration, whether in addition to or in substitution for his ordinary remuneration as a Director and whether by way of salary, commission, participation in profits or otherwise or partly in one way and partly in another, as the Directors may determine.
- 23.11 The Directors may entrust to and confer upon any Director holding any executive office any of the powers exercisable by them as Directors upon such terms and conditions and with such restrictions as they think fit, and either collaterally with or to the exclusion of their own powers, and may from time to time revoke, withdraw, alter or vary all or any of such powers.
- 23.12 Any Director may continue to be or become a director, managing director, manager or other officer or shareholder of any company promoted by the ICAV or in which the ICAV may be interested or associated in business, and no such Director shall be accountable for any remuneration or other benefits received by him as a director, managing director, manager, or other officer or shareholder of any such other company. The Directors may exercise the voting power conferred by the shares in any other company held or owned by the ICAV or exercisable by them as directors of such other company, in such manner in all respects as they think fit (including the exercise thereof in favour of any resolution appointing themselves or any of them directors, managing directors, managers or other officers of such company, or voting or providing for the payment of remuneration to the directors, managing directors, managers or other officers of such company).
- 23.13 The ICAV may by Ordinary Resolution suspend or relax the provisions of this Clause to any extent or ratify any transaction not duly authorised by reason of a contravention hereof.

## **24. POWERS OF DIRECTORS**

- 24.1 The business of the ICAV shall be managed by the Directors (outside the United Kingdom), who may exercise all such powers of the ICAV as are not by the Act or by this Instrument required to be exercised by the ICAV in general meeting, subject, nevertheless, to this Instrument, the provisions of the Act and directions by the Members given by a general meeting being not inconsistent with this Instrument or the Act provided that no such direction shall invalidate any prior act of the Directors which would have been valid if such direction had not been made. The general



powers given by this Clause shall not be limited or restricted by any special authority or power given to the Directors by this or any other Clause.

- 24.2 The Directors may, whether by standing resolution, power of attorney or otherwise, delegate all or any of their powers, authorities or discretions for such period and subject to such conditions as they may think fit including without limitation but subject to the Notices relating to the issue and redemption of Shares, the calculation of the Net Asset Value per Share, the declaration and payment of dividends and the management, investment management and administration of the ICAV, to any duly authorised company, firm or other person subject to such terms and conditions as the Directors in their absolute discretion may resolve and, subject to the Notices, may also authorise any such company, firm or person to delegate all or any of the powers, authorities and discretions so delegated.
- 24.3 All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable instruments drawn on the ICAV, and all other receipts for monies paid to the ICAV shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Directors shall from time to time by resolution determine.
- 24.4 Subject as provided in this Clause, the Directors may exercise all the powers of the ICAV to invest all or any funds of the ICAV or the subscription proceeds of any Shares in any securities and other assets permitted by Clause 17 hereof.

## **25. PROCEEDINGS OF DIRECTORS**

- 25.1 The Directors may meet together (outside the United Kingdom) for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be determined by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote provided the chairman is not resident in the United Kingdom. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
- 25.2 Subject to the provisions of this Instrument, the Directors may regulate their proceedings as they think fit. A Director may, and the Secretary at the request of a Director shall, call a meeting of the Directors. Any Director may waive notice of any meeting and any such waiver may be retrospective. If the Directors so resolve, it shall not be necessary to give notice of a meeting of Directors to any Director or alternate Director who, being a resident of the State, is for the time being absent from the State.
- 25.3 Notice of a meeting of the Directors shall be deemed to be duly given to a Director if it is given to him personally or by word of mouth or sent in writing by delivery, post, cable, telegram, telex, telefax, electronic mail or any other means of communication approved by the Directors to him at his last known address or any other address given by him to the ICAV for this purpose.
- 25.4 The quorum necessary for the transaction of business of the Directors may be fixed by the Directors, and unless so fixed at any other number shall be two.
- 25.5 The continuing Directors or a sole continuing Director may act notwithstanding any vacancies in their number but, if and so long as the number of Directors is reduced below the minimum number fixed by or in accordance with this Instrument, the continuing Directors or Director may act for the purpose of filling vacancies in their number or of summoning general meetings of the ICAV, but not for any other

purpose. If there be no Directors or Director able or willing to act, then any two Members may summon a general meeting for the purpose of appointing Directors.

- 25.6 The Directors may from time to time elect and remove a chairman and, if they think fit, a deputy chairman and determine the period for which they respectively are to hold office.
- 25.7 The chairman or, failing him, the deputy chairman shall preside at all meetings of the Directors, but if there is no chairman or deputy chairman, or if at any meeting the chairman or deputy chairman is not present within five minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman of the meeting save that no Director shall participate in such meeting from the United Kingdom.
- 25.8 Any Director or alternate Director may participate in a meeting of the Directors or any committee of the Directors by means of conference telephone or video link or other telecommunications equipment by means of which all persons participating in the meeting can hear each other speak and such participation in a meeting shall constitute presence in person at the meeting.
- 25.9 A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Directors or of a committee of Directors and to vote thereat shall be as valid and effectual as a resolution passed at a meeting of the Directors or of a committee of Directors duly convened and may consist of several documents in the like form each signed by one or more of the Directors, and for the purposes of the foregoing signature by any alternate Director shall be as effective as the signature of the Director by whom he is appointed.
- 25.10 A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all powers, authorities and discretions for the time being exercisable by the Directors.
- 25.11 The Directors may delegate any of their powers or authorities or the exercise of discretion to committees consisting of such members of their body as they think fit. The meetings and proceedings of any such committee shall conform to the requirements as to quorum imposed under this Instrument and shall be governed by the provisions of this Instrument regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations imposed on them by the Directors.
- 25.12 All acts done by any meeting of Directors, or of a committee of Directors or by any person acting as a Director shall, notwithstanding it be afterwards discovered that there was some defect in the appointment of any such Directors or person acting as aforesaid, or that they or any of them were disqualified, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed, and was qualified and had continued to be a Director and had been entitled to vote.
- 25.13 The Directors shall cause minutes to be made of:
- 25.13.1 all appointments of officers made by the Directors;
  - 25.13.2 the names of the Directors present at each meeting of the Directors and of any committee of Directors; and

- 25.13.3 all resolutions and proceedings of all meetings of the ICAV and of the Directors and of committees of Directors.
- 25.14 Any such minutes as are referred to in Clause 25.13 of this Instrument, if purporting to be signed by the chairman of the meeting at which the proceedings took place, or by the chairman of the next succeeding meeting, shall, until the contrary be proved, be conclusive evidence of their proceedings.
- 25.15 The Directors, from time to time and at any time by power of attorney under the Seal or otherwise, may appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the ICAV for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under this Instrument) and for such period and subject to such conditions as they may think fit. Any such power of attorney may contain such provisions for the protection of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in him. Notwithstanding the generality of the foregoing, the Directors may appoint an attorney for the purpose of exercising their power to allot relevant securities pursuant to this Instrument.

**26. SECRETARY**

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

**27. THE SEAL**

- 27.1 The Directors shall provide for the safe custody of the Seal. The Seal shall be used only by the authority of the Directors or of a committee of Directors authorised by the Directors in that behalf. The Directors may from time to time as they see fit determine the persons and the number of such persons who shall authenticate the affixing of the Seal, and until otherwise so determined shall be authenticated by two Directors or by one Director and the Secretary, or some other person duly authorised by the Directors, and the Directors may authorise different persons for different purposes.
- 27.2 The Directors may by resolution determine whether generally or in any particular case or cases that the signature of any such person authenticating the affixing of the Seal or the Official Seal may be affixed by some mechanical means to be specified in such resolution.

**28. DIVIDENDS AND RESERVES**

- 28.1 Subject to the provisions of the Act, the Directors may declare such dividends on Shares as appear to the Directors to be justified.
- 28.2 The Directors may, before recommending or declaring any dividend, set aside out of the funds legally available for distribution such sums as they think proper as a

reserve or reserves which shall, at the discretion of the Directors, be applicable for meeting contingencies, or for equalising dividends or for any other purpose to which those funds may be properly applied and pending such application may, at the like discretion, either be employed in the business of the ICAV or be invested in such investments as the Directors may from time to time think fit.

- 28.3 The Directors may:-
- 28.3.1 if they think fit declare and pay such dividends in respect of any Shares of any Fund or Class in the ICAV as appear to the Directors to be justified, subject to any policy statement in relation to dividends in the Prospectus;
  - 28.3.2 in their absolute discretion differentiate between the Shares in any Fund and Shares in different Classes within the same Fund as to the dividends declared on such Shares.
- 28.4 The dividend policy for each Fund or Class will be specified in the Prospectus.
- 28.5 The amount available for distribution in respect of any Accounting Period or part thereof shall be the net income of the relevant Fund (whether in the form of dividends, interest or otherwise) and/or net realised gains (i.e. realised gains net of realised and unrealised losses) and/or net realised and unrealised gains (i.e. realised and unrealised gains net of realised and unrealised losses) and/or the capital of the relevant Fund during the Accounting Period, subject to such adjustments as may be determined by the Directors to be appropriate under the following headings:
- 28.5.1 addition or deduction of a sum by way of adjustment to allow for the effect of sales or purchases, cum or ex dividend;
  - 28.5.2 addition of a sum representing any interest or dividend or other income accrued but not received by the ICAV in respect of the relevant Fund or Class at the end of the Accounting Period and deduction of a sum representing (to the extent that an adjustment by way of addition has been made in respect of any previous Accounting Period) interest or dividends or other income accrued at the end of the previous Accounting Period;
  - 28.5.3 addition of the amount (if any) available for distribution in respect of the last preceding Accounting Period but not distributed in respect thereof;
  - 28.5.4 addition of a sum representing the estimated or actual repayment of tax resulting from any claims in respect of corporation tax relief or double taxation relief or otherwise;
  - 28.5.5 deduction of the amount of any tax or other estimated or actual liability properly payable out of the income or gains of the ICAV in respect of the relevant Fund or Class;
  - 28.5.6 deduction of a sum representing participation in income paid upon the cancellation of Shares during the Accounting Period;
  - 28.5.7 deduction of such sum as the ICAV may think appropriate in respect of expenses of the relevant Fund or Class including but not limited to the Establishment Expenses, Duties and Charges, fees and expenses due to the Auditors, the Secretary, the legal and other professional advisers of

the ICAV, the Directors, the Depositary, the Administrator, and any Distributor or Investment Manager or investment adviser appointed by the ICAV, all expenses of and incidental to any amendments to the Prospectus and this Instrument expenses comprising all costs, charges, professional fees and disbursements bona fide incurred in respect of the computation, claiming or reclaiming of all taxation reliefs and payments, and any interest paid or payable on borrowings to the extent that such sum has not already been, nor will be deducted pursuant to Clause 4.43.4 of this Instrument PROVIDED ALWAYS that the ICAV shall not be responsible for any error in any estimates of corporation tax repayments or double taxation relief expected to be obtained or of any sums payable by way of taxation or of income receivable, and if the same shall not prove in all respects correct, the Directors shall ensure that any consequent deficiency or surplus shall be adjusted in the Accounting Period in which a further or final settlement is made of such tax repayment or liability or claim to relief or in the amount of any such estimated income receivable, and no adjustment shall be made to any dividend previously declared.

- 28.6 The Directors may, with the sanction of an Ordinary Resolution of the Fund, distribute in kind among the Shareholders of such Fund by way of dividend or otherwise any of the assets of the relevant Fund provided that the ICAV shall if any Shareholder so requests sell any asset or assets proposed to be so distributed and distribute to such Shareholder the cash proceeds of such sale less the costs of any such sale which shall be borne by the relevant Shareholder.
- 28.7 All Shares, unless otherwise determined by the Directors or issued on terms providing that they shall rank for dividend as and from or after a particular date or to a particular extent shall rank for dividend as and from the beginning of the Accounting Period in which they are issued.
- 28.8 Any resolution declaring a dividend on any Shares may specify that the same shall be payable to the persons registered at the close of business on a particular date (which may be a date prior to that on which the resolution is passed) as Shareholders of such Shares which have not been redeemed prior to the date of the resolution declaring the dividend and the dividend shall be payable to them on such date as the Directors may determine but without prejudice to the rights inter se of transferors and transferees of such Shares in respect of such dividend.
- 28.9 The ICAV may transmit any dividend or other amount payable in respect of any Share at the risk and cost of the relevant Shareholder by cheque or warrant sent by ordinary post to the registered address of the Shareholder, or, in the case of joint Shareholders, to the person whose name and address appears first on the Register or to such person and address as the Shareholder or joint Shareholders may direct, or by wire or electronic transfer at the risk and cost of the relevant Shareholder or Shareholders to a designated account and payment of every such cheque or warrant and transmission by wire or electronic transfer shall constitute a good discharge to the ICAV and the ICAV shall not be responsible for any loss arising in respect of such payment or transmission.
- 28.10 No dividend or other amount payable to any Shareholder shall bear interest against the ICAV. All unclaimed dividends and other amounts payable as aforesaid may be invested or otherwise made use of for the benefit of the relevant Fund until claimed. Payment by the ICAV of any unclaimed dividend or other amount payable in respect of a Share into a separate account shall not constitute the ICAV a trustee in

respect thereof. Subject to Section 623 of the Companies Act 2014 any dividend unclaimed after six years from the date when it first became payable or on the winding up of the ICAV, if earlier, shall be forfeited automatically and shall revert to the relevant Fund, without the necessity for any declaration or other action by the ICAV.

- 28.11 At the request of any Shareholder in a particular Fund or Class, the Directors may apply all dividends declared on all Shares held by such Shareholder in the issue to that Shareholder of such number of additional Shares in the relevant Fund or Class as are as nearly as possible equal in value to but not in excess of the amount of such dividends at the date of issue of such additional Shares and otherwise on such terms as the Directors from time to time may resolve unless the Shareholder elects on the ICAV's Application Form for the dividend to be paid.
- 28.12 Subject to Clause 28.15 hereof the Directors may determine that Shareholders will be entitled to receive in lieu of any dividend (or part thereof) in respect of any Shares in any Fund or Class an issue of additional Shares in proportion to the number of Shares held by them in the relevant Fund or Class credited as fully paid and in any such case the following provisions shall apply:-
- 28.12.1 the number of additional Shares (including any fractional entitlement) to be issued in lieu of any amount of dividend shall be as nearly as possible equal in value to but not in excess of the amount of such dividend at the date of issue of such additional Shares;
- 28.12.2 for such purpose the Directors shall capitalise a sum equal to the aggregate value of dividends in respect of which additional Shares are proposed to be issued and apply the same in paying up in full the appropriate number of additional Shares for issue to the relevant Shareholders credited as fully paid up;
- 28.12.3 the additional Shares so issued shall rank pari passu in all respects with the fully-paid Shares then in issue save only as regards participation in the relevant dividend (or share election in lieu);
- 28.12.4 the Directors may do all acts and things considered necessary or expedient to give effect to any such capitalisation, with full power to the Directors to make such provision as they may think fit in the case of Shares becoming distributable in fractions so that fractional entitlements are disregarded or rounded up or the benefit of fractional entitlements accrues to the ICAV or the ICAV issues fractions of Shares; and
- 28.12.5 the Directors may on any occasion determine that Shares in lieu of dividends shall not be issued to a Shareholder with a registered address in any territory in which, in the absence of a registration statement or other special formalities, the issue of additional Shares would or might be unlawful and in such event the provisions aforesaid shall be read and construed subject to such determination.
- 28.13 An applicant for or transferee of Shares may subject to Clause 28.11 hereof, and at the discretion of the Directors, elect by service of notice in writing on the ICAV, at the time of application for or other acquisition of Shares, to receive cash in lieu of additional Shares in satisfaction of the whole of any dividends that may be payable on all Shares of the particular Fund or Class which may thereafter be registered in his name and may on the giving of one month's notice in writing to the ICAV or

such lesser period as the Directors may determine revoke any election so made with respect to dividends declared after the expiration of such notice period.

- 28.14 An election made pursuant to this Clause shall be personal to the holder of Shares concerned in his capacity as a holder and, in respect of any Shares transferred, shall automatically cease to have effect upon registration of the transfer or transmission of the relevant Shares but shall continue in effect in respect of Shares retained.
- 28.15 (a) Where the amount of any distribution payable to an individual Shareholder would be less than such amount as the Directors from time to time determine, the Directors in their sole discretion may determine that such amount shall not be distributed but shall be retained and reinvested within and for the benefit of the relevant Fund or Class.
- (b) Where the amount of any dividend payable to an individual Shareholder would be less than such amount as the Directors from time to time determine, the Directors in their sole discretion may determine not to pay any such dividend and instead issue and credit to the account of the relevant Shareholder such number of Shares in the relevant Fund or Class as are as nearly as possible equal in value to but not in excess of the amount of such dividends. An entry charge shall not be deducted from such amount.
- 28.16 If several persons are registered as joint holders any one of them may give receipts for dividends or monies payable to them in respect of Shares.
- 28.17 Before recommending any dividend, whether preferential or otherwise, the Directors may carry to reserve out of the profits of the ICAV such sums as they think proper. All sums standing to reserve may be applied from time to time in the discretion of the Directors for any purpose to which the profits of the ICAV may be properly applied and at the like discretion may be either employed in the business of the ICAV or invested in the acquisition of such Investments as the Directors may lawfully determine. The Directors may divide the reserve into such special funds as they think fit and may consolidate into one fund any special funds or any parts of any special funds into which the reserve may have been divided as they may lawfully determine. Any sum which the Directors may carry to reserve out of the unrealised profits of the ICAV shall not be mixed with any reserve to which profits available for distribution have been carried. The Directors may also carry forward, without placing the same to reserve, any profits which they may think it prudent not to divide.
- 28.18 If the ICAV is required to deduct, withhold or account for tax including any penalties and interest thereon upon the payment of a distribution to a Shareholder (whether in cash or otherwise), the provisions of Clause 11.16 hereof shall apply mutatis mutandis as if repeated in full herein.

## **29. EQUALISATION ACCOUNT**

- 29.1 The Directors may from time to time at their discretion operate an equalisation account for each Fund, so as to ensure that holders of Shares participate in the income on such Shares on an equitable basis including (without prejudice to the generality of the foregoing) providing for the payment out of such account capital sums to equalise the amount available for allocation attributable to such holders of Shares upon such basis as the Directors in their discretion determine.
- 29.2 The Directors are also empowered to approve such arrangements as they consider appropriate whereby adjustments are made to the Subscription Prices and

Redemption Prices and value of Shares to ensure, so far as practicable, inter alia, that all Shares of the same Class have the same Net Asset Value per Share, that Members have the same capital per Share of the same Class at risk in the ICAV and participate on an equitable basis in the profits and losses of the ICAV. Without prejudice to the generality of the foregoing, the Directors may in their discretion make such arrangements as are required for an equitable treatment of Members as to any performance, incentive or similar fees due from the ICAV including those referred to in the Prospectus, which arrangements may include redeeming a portion of a Member's shareholding either for no consideration, or at par value, in which case the ICAV shall retain the aggregate par value of the redeemed Shares (and in either case applying the value of such Shares in payment of fees) on receiving from a Member on subscription an additional sum by way of equalisation credit to be held toward a potential future subscription for Shares in order to equitably adjust such Member's aggregate holding.

- 29.3 The Directors may in their discretion issue Shares of each Class and may convert by way of a re-designation or otherwise one or more Class into Classes of the same Share, to the extent and in such circumstances as they may deem it necessary or desirable including, without limitation, in order to effect or facilitate any arrangements or adjustments referred to in Clause 29.2 above, each Classes ranking equally in priority and preference with every other Class of the same Shares except to the extent specified by the Directors and necessary or desirable for the foregoing purposes.

## **30. ACCOUNTS**

- 30.1 The Directors shall cause to be kept such adequate accounting records of the ICAV as are necessary in relation to the conduct of its business or as are required by the Act so as to enable the accounts of the ICAV to be prepared.
- 30.2 The adequate accounting records shall be kept at the Office, or at such other place or places as the Directors shall think fit, and shall at all times be open to the inspection of the Directors, but no person, other than a Director or Auditor shall be entitled to inspect the books, accounts, documents or writings of the ICAV, except as provided by the Act or authorised by the Directors or by the ICAV in general meeting.
- 30.3 A balance sheet of the assets and liabilities of each Fund shall be made out as at each Accounting Date and laid before the ICAV at its annual general meeting and such balance sheet shall contain a general summary of the assets and liabilities attributable to each Fund. The balance sheet of each Fund shall be accompanied by a report of the Directors as to the financial state and condition of the ICAV and the relevant Fund, and the amount (if any) which they have carried or propose to carry to reserve, together with a revenue/profit and loss account. The balance sheet of each Fund and the report of the Directors and the revenue/profit and loss account shall be signed on behalf of the Directors by at least two of the Directors. The Auditors' report shall be attached to the balance sheet of each Fund. The Auditors' report shall be laid before the annual general meeting.
- 30.4 The ICAV shall prepare an un-audited half yearly report for the first six months of each Accounting Period (the "Half Yearly Report"). Such report shall be in a form acceptable to the Central Bank and shall contain the information required by the Regulations.
- 30.5 Notwithstanding Clause 30.4 or any other requirement of this Instrument, separate accounts may be prepared and presented in respect of a Fund or Funds and all



references to the ICAV be read as, where appropriate, referring to the Fund or Funds in respect of which the separate accounts are to be prepared.

- 30.6 Copies of the Half Yearly Report shall be sent to Shareholders not later than two months from the end of the period to which it relates.
- 30.7 The Directors shall cause to be audited and certified by the Auditors an annual report relating to the management of the ICAV as of the Accounting Date in each year (an “Annual Report”). Such Annual Report shall be in a form approved by the Central Bank and shall contain such information required by it.
- 30.8 Copies of the said Annual Report shall be sent by the ICAV to all Shareholders at least once in every year within the timeframes specified in the Prospectus.
- 30.9 The Auditors’ certificate appended to the Annual Report and statement referred to in this Instrument shall declare that the accounts or statement attached respectively thereto (as the case may be) have been examined with the books and records of the ICAV in relation thereto and that the Auditors have obtained all the information and explanations they have required and the Auditors shall report whether the accounts are in their opinion properly drawn up in accordance with such books and records and present a true and fair view of the state of affairs of the ICAV, and whether the accounts are in their opinion properly drawn up in accordance with the provisions of this Instrument.

**31. AUDIT**

- 31.1 Auditors shall be appointed and their duties regulated in accordance with the Act.

**32. NOTICES**

- 32.1 Any notice or other document required to be served upon or sent to a Member may be given by posting or delivery by hand to or leaving the same at his address as appearing on the Register or by transmitting the same by fax or other means of electronic communication to a fax number, e-mail address or other electronic identification provided to the ICAV or its delegate or by such other means as the Directors may determine and notify in advance to Members. Any such notices or documents shall be deemed to have been duly given if sent by pre-paid post 48 hours after posting and if delivered by hand to or left at the Member’s address as appearing on the Register on the day of delivery or on the next working day if delivered or left outside usual business hours and if sent by fax on the day of receipt of a positive transmission receipt and if sent by electronic communication on the day on which the electronic transmission has been transmitted to the electronic information system designated by the Member for the purpose of receiving electronic communications and otherwise as determined by the Directors and notified in advance to Members and in the case of joint Members shall be deemed duly given if so done upon or to the first named on the Register. Any notice may be given by advertisement and shall be deemed to have been duly given if published in a national daily newspaper circulating in the country or countries where Shares are marketed or an advertisement is published stating where copies of such notices or documents may be obtained.
- 32.2 Service of a notice or document on the first named of several joint Members shall be deemed effective service on that person and the other joint Members.
- 32.3 Any notice or document served or sent in accordance with this Instrument shall notwithstanding that such Member be then dead or bankrupt and whether or not the

ICAV has notice of his death or bankruptcy be deemed to have been duly served or sent and such service shall be deemed a sufficient service on or receipt by all persons interested (whether jointly with or as claiming through or under him) in the Shares concerned.

- 32.4 Any certificate or notice or document which is served on or sent or given to a Member in accordance with this Instrument or dispatched by or on behalf of the ICAV in accordance with a Member's instructions shall be so served or sent or given or dispatched at the risk of such Member.
- 32.5 Any notice in writing or other document in writing required to be served upon or sent or given to the ICAV shall be deemed to have been duly given if sent by prepaid post to the Office upon receipt and if left at the Office on the next day and otherwise in accordance with any procedures specified in the Prospectus with respect to service of notice in specific circumstances.
- 32.6 A Member present, either in person or by proxy, at any meeting of the ICAV or the holders of any class of shares in the ICAV shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.
- 32.7 The signature to any notice to be given by the ICAV may be written or printed.

### **33. WINDING UP**

- 33.1 The ICAV may be wound up if:
- 33.1.1 within a period of three months from the date on which (a) the Depositary notifies the ICAV of its desire to retire in accordance with the terms of the Depositary Agreement and has not withdrawn notice of its intention to so retire, (b) the appointment of the Depositary is terminated by the ICAV in accordance with the terms of the Depositary Agreement, or (c) the Depositary ceases to be approved by the Central Bank to act as a depositary and no new Depositary has been appointed with the approval of the Central Bank, the Directors shall instruct the Secretary to forthwith convene an extraordinary general meeting of the ICAV at which there shall be proposed an ordinary resolution to wind up the ICAV in accordance with the provisions in the Clauses. Notwithstanding anything set out above, the Depositary's appointment shall only terminate on revocation of the ICAV's authorisation by the Central Bank;
- 33.1.2 If the Shareholders resolve by Special Resolution that the ICAV be wound up.
- 33.1.3 In the event of a winding up the liquidator shall apply the assets of any liability incurred or attributable to a Fund shall be discharged solely out of the assets of that Fund.
- 33.1.4 The assets available for distribution among the Shareholders shall be applied in the following priority:
- (a) firstly, in the payment to the Shareholders of each Class of a sum in the Base Currency (or in any other currency selected and at such rate of exchange as determined by the liquidator) as nearly as possible equal to the Net Asset Value of the

Shares of the relevant Class held by such Shareholders respectively as at the date of commencement of winding up;

- (b) secondly, in the payment of the holders of Management Shares of sums up to the nominal amount paid up thereon out of the assets of the ICAV provided that if there are insufficient assets to enable such payment in full to be made, no recourse shall be had to the assets comprised within any Fund.
- (c) thirdly, in the payment to the Shareholders of each Class of any balance then remaining in the ICAV, in proportion to the number of Shares held in the relevant Class; and
- (d) fourthly, any balance then remaining and not attributable to any Class shall be apportioned between the Classes pro-rata to the Net Asset Value of each Class or attributable to each Class immediately prior to any distribution to Shareholders and the amounts so apportioned shall be paid to Shareholders pro-rata to the number of Shares in that Class held by them.

- 33.2 The liquidator may with the authority of an Ordinary Resolution of the ICAV divide among the Shareholders (Pro-Rata to the value of their respective shareholdings in the ICAV) in specie the whole or any part of the assets of the ICAV, and whether or not the assets shall consist of property of a single kind provided that the ICAV shall if any Shareholder so requests sell any asset or assets proposed to be so distributed and distribute to such Shareholder the cash proceeds of such sale less the costs of any such sale which shall be borne by the relevant Shareholder. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of Shareholders as the liquidator shall think fit, and the liquidation of the ICAV may be closed and the ICAV dissolved, provided that no Shareholder shall be compelled to accept any asset in respect of which there is any liability. Further the liquidator may with like authority transfer the whole or part of the assets of the ICAV to a company or collective investment scheme (the "Transferee Company") on terms that Shareholders in the ICAV shall receive from the Transferee Company shares or units in the Transferee Company of equivalent value to their shareholdings in the ICAV.
- 33.3 The Shareholders of any Fund may, by way of Special Resolution, and subject to the requirements of the Central Bank, authorise the amalgamation/merger of the Fund with another Fund or any other collective investment schemes or schemes, which amalgamation/merger may involve the redemption of Shares of the relevant Fund and in the case of a amalgamation/merger with a collective investment scheme other than a Fund, may involve the transfer of the whole or part of the assets of the Fund to the depositary/trustee (who may or may not be regulated by the Central Bank) of the relevant collective investment scheme.
- 33.4 Notwithstanding any other provision contained in this Instrument, should the Directors at any time and in their absolute discretion resolve that it would be in the best interests of the Shareholders to wind up the ICAV, the Secretary shall forthwith at the Directors' request convene an extraordinary general meeting of the ICAV at which there shall be presented a proposal to appoint a liquidator to wind up the ICAV and if so appointed, the liquidator shall distribute the assets of the ICAV in accordance with the provisions of this Clause 33.

### **34. TERMINATION OF THE ICAV, FUNDS OR CLASSES**

34.1 The ICAV, Fund, or Class thereof, may be terminated by the Directors, in their sole and absolute discretion, by notice in writing to the Depositary in any of the following events:

- 34.1.1 if at any time the Net Asset Value of the ICAV, a Fund or Class shall be less than such amount as may be determined by the Directors in respect of that Fund or Class and disclosed in the Prospectus; or
- 34.1.2 the ICAV, a Fund, or Class shall cease to be authorised or otherwise officially approved;
- 34.1.3 if there is any change in applicable law or regulation which renders it illegal or in the opinion of the Directors impracticable or inadvisable to continue the ICAV, a Fund, or Class;
- 34.1.4 if there is any change in material aspects of the business, in the economic or political situation relating to a Fund or the ICAV which the Directors consider would have material adverse consequences on the investments of the ICAV, a Fund, or Class; or
- 34.1.5 if the Directors shall have resolved that it is impracticable or inadvisable for the ICAV, a Fund or Class to continue to operate having regard to prevailing market conditions and the best interests of the Shareholders.

The decision of the Directors in any of the events specified herein shall be final and binding on all the parties concerned but the Directors shall be under no liability on account of any failure to terminate the ICAV, a Fund or Class pursuant to this Clause or otherwise.

34.2 The Directors shall give notice of termination of the ICAV, a Fund, or a Class to the Shareholders in the relevant Fund or Class and by such notice fix the date at which such termination is to take effect, which date shall be for such period after the service of such notice as the Directors shall in their sole and absolute discretion determine.

34.3 With effect on and from the date as at which the ICAV, a Fund, or Class is to terminate or such other date as the Directors may determine:-

- 34.3.1 no shares of the ICAV, a Fund, or Class may be issued or sold by the ICAV;
- 34.3.2 the Investment Manager or sub-investment manager shall, on the instructions of the Directors, realise all the Investments then comprised in the relevant Fund (which realisation shall be carried out and completed in such manner and within such period after the termination of the ICAV, a Fund, or a Class as the Directors think advisable);
- 34.3.3 the Depositary shall, on the instructions of the Directors from time to time, distribute to the Shareholders of the relevant Fund or Class in proportion to their respective interests in the relevant Fund or Class all net cash proceeds derived from the realisation of Investments of the relevant Fund and available for the purpose of such distribution, provided that the Depositary shall not be bound (except in the case of the final distribution) to distribute any of the monies for the time being in its

hands the amount of which is insufficient to pay € 1 or its equivalent amount in the relevant currency in respect of each share of the relevant Fund or Class and provided also the Depositary shall be entitled to retain out of any monies in its hands full provision for all costs, charges, expenses, claims and demands incurred, made or apprehended by the Depositary or the Directors in connection with or arising out of the termination of the relevant Fund or Class and out of the monies so retained to be indemnified and saved harmless against any such costs, charges, expenses, claims and demands; and

34.3.4 every such distribution referred to above shall be made in such manner as the Directors shall, in their sole and absolute discretion, determine but shall be made only against production of the certificates or warrants relating to the shares of the ICAV, a Fund or Class if issued in respect of which the same is made and upon delivery to the Depositary of such form of request for payment as the Depositary shall in its absolute discretion require. All certificates shall in the case of an interim distribution be encased by the Depositary with a memorandum of payments made and in the case of the final distribution shall be surrendered to the Depositary. Any unclaimed proceeds or other cash held by the Depositary hereunder may at the expiration of twelve months from the date upon which the same were payable be paid into court subject to the right of the Depositary to deduct therefrom any expenses it may incur in making such payment.

## **35. INDEMNITY AND INSURANCE**

35.1 Subject to the provisions of and insofar as is permitted by the Acts, every person who is or has been a Director or alternate Director or Secretary or servant of the ICAV and such person's heirs, administrators and executors, shall be indemnified and secured harmless out of the assets and profits of the ICAV from and against all actions, costs, debts, claims, demands, suits, proceedings, judgments, decrees, charges, losses, person or body acting with or purporting to exercise the authority of any government (whether legally or otherwise) either they or any of them shall be directed or requested to do or perform or to forbear from doing or performing. If for any reason it becomes impossible or impracticable to carry out any of the provisions of this instrument none of the ICAV or the Investment Manager or any investment adviser or the Administrator or the Distributors or the Depositary shall be under any liability therefor or thereby.

35.2 The words "claim", "action", "suit" or "proceedings" shall apply to all claims, actions, suits or proceedings (civil, criminal, administrative, legislative, investigative or other, including appeals) and shall include, without limitation, legal fees, costs, judgements, amounts paid in settlement, fines, penalties and other liabilities.

35.3 The rights of indemnification herein provided shall be severable, shall not affect any other rights to which any Director, Secretary or employee may now or hereafter be entitled, shall continue as to a person who has ceased to be such a Director, officer or employee and shall ensure to the benefit of the heirs, executors and administrators of such a person.

35.4 The ICAV may make advances of expenses incurred in the defence of any claim, action, suit or proceedings against any person whom the ICAV is obliged to indemnify pursuant to this Clause.

- 35.5 The Directors shall have the power to purchase and maintain for the benefit of any persons who are or were at any time Directors or officers of the ICAV insurance against any liability incurred by such persons in respect of any act or omission in the execution or discharge of their duties or in the exercise of their powers, and the Directors shall be entitled to vote and be counted in the quorum in respect of any resolution concerning the purchase of such insurance.
- 35.6 The Manager, the Administrator, the Depositary, the Investment Manager, any sub-investment manager, any investment adviser, the Distributor and any other person shall be entitled to such indemnity from the ICAV upon such terms and subject to such conditions and exceptions and with such entitlement to have recourse to the assets of the ICAV with a view to meeting and discharging the cost thereof as shall be provided under the Management Agreement, the Administration Agreement, the Depositary Agreement, the Investment Management and Distribution Agreement, the investment advisory agreement, the sub-investment management agreement or the distribution agreements (as applicable) or otherwise.
- 35.7 The ICAV, the Manager, the Investment Manager, the Administrator, the Depositary, any sub-investment manager, any investment adviser and the Distributors shall be entitled to rely absolutely on any standing redemption and payment instructions specifying a named and numbered account, and on any declaration received from a Shareholder or his agent as to residence or otherwise of such Shareholder and shall not incur liability in respect of any action taken or thing suffered by any of them in good faith in reliance upon any paper or document believed to be genuine and to have been sealed or signed by the proper parties nor be in any way liable for any forged or unauthorised signature on or any common seal affixed to any such document or for acting on or giving effect to any such forged or unauthorised signature or common seal but shall be entitled though not bound to require the signature of any person to be verified by a banker, broker or other responsible person or otherwise authenticated to its or their satisfaction.
- 35.8 The ICAV, the Manager, the Investment Manager, the Administrator, the Depositary and the Distributors shall incur no liability to the Shareholders for doing or (as the case may be) failing to do any act or thing which by reason of any provision of any present or future law or regulation made pursuant thereto, or of any decree, order or judgment of any court, or by reason of any request announcement or similar action (whether of binding legal effect or not) which may be taken or made by any person or body acting with or purporting to exercise the authority of any government (whether legally or otherwise) either they or any of them shall be directed or requested to do or perform or to forbear from doing or performing. If for any reason it becomes impossible or impracticable to carry out any of the provisions of this Instrument none of the ICAV or the Manager or the Investment Manager or any investment adviser or the Administrator or the Distributors or the Depositary shall be under any liability therefor or thereby.
- 35.9 For the avoidance of doubt no Director shall be liable for the acts or omissions of any other Director.

## **36. DESTRUCTION OF DOCUMENTS**

- 36.1 The ICAV shall be entitled to destroy all instruments of transfer of shares which have been registered at any time after the expiration of six years from the date of registration thereof and all dividend mandates and notifications of change of address at any time after the expiration of two years from the date of recording thereof and all share certificates which have been cancelled at any time after the expiration of

one year from the date of cancellation thereof. It shall conclusively be presumed in favour of the ICAV that every entry in the Register purporting to have been made on the basis of an instrument or transfer or other document so destroyed was duly and properly made and a valid and effective instrument duly and properly registered and every share certificate so destroyed was a valid and effective certificate duly and properly cancelled and every other document hereinbefore mentioned in accordance with the recorded particulars thereof in the books or records of the ICAV PROVIDED ALWAYS that:

- 36.1.1 the provisions aforesaid shall apply only to the destruction of a document in good faith and without notice of any claim (regardless of the parties thereto) to which the document might be relevant;
- 36.1.2 nothing herein contained shall be construed as imposing upon the ICAV any liability in respect of the destruction of any such document earlier than as aforesaid or in any other circumstances which would not attach to the ICAV in the absence of this Clause;
- 36.1.3 references herein to the destruction of any document include references to the disposal thereof in any manner.

### **37. ALTERATION OF INSTRUMENT OF INCORPORATION**

- 37.1 No alteration in this Instrument may be made unless –
  - 37.1.1 the alteration has been approved –
    - (a) by Ordinary Resolution, or
    - (b) if this Instrument so requires, by a resolution passed by such majority as is specified in this Instrument of the votes cast by the members of the ICAV who, being entitled to do so, vote in person or by proxy at a general meeting of the ICAV, or
    - (c) the Depositary has certified in writing that the alteration –
      - (i) does not prejudice the interests of the members of the ICAV; and
      - (ii) does not relate to any such matter as may be specified by the Central Bank as one in the case of which an alternation may be made only if approved by members of an ICAV.
- 37.2 No alteration in this Instrument may be made without the prior approval of the Central Bank.
- 37.3 Any person who makes an alteration in this Instrument of Incorporation otherwise than in accordance with Clause 37.1 above commits an offence under the Act.
- 37.4 Within twenty-one days after the date of making an alteration in this Instrument, the ICAV shall deposit with the Central Bank a copy of the Instrument as so altered or containing the alterations.
- 37.5 If the ICAV fails to comply with Clause 37.4, it commits an offence under the Act.

37.6 In this section, alteration in this Instrument of Incorporation does not include a change in name of the ICAV.



WE, the persons whose names, addresses and descriptions are subscribed, wish to be formed into an ICAV in pursuance of this Instrument.

Names and addresses of each subscriber in full:

Eimear Cowhey  
2 Greygates  
Mount Merrion  
Co. Dublin  
Ireland

Adrian Waters  
41 Stillorgan Park  
Blackrock  
Co. Dublin  
Ireland