

Company Registration Number: 195061

COMPANIES ACT 2014
AND EUROPEAN COMMUNITIES (UNDERTAKINGS FOR COLLECTIVE
INVESTMENT IN TRANSFERABLE SECURITIES) REGULATIONS, 2011, AS AMENDED

CONSTITUTION

of

UBS (IRL) FUND

PUBLIC LIMITED COMPANY

AN INVESTMENT COMPANY

WITH VARIABLE CAPITAL

AN UMBRELLA FUND WITH SEGREGATED LIABILITY BETWEEN SUB-FUNDS

Arthur Cox
Earlsfort Centre,
Earlsfort Terrace,
Dublin 2.

COMPANIES ACT 2014
EUROPEAN COMMUNITIES (UNDERTAKINGS FOR COLLECTIVE
INVESTMENT IN TRANSFERABLE SECURITIES) REGULATIONS, 2011, AS AMENDED

COMPANY LIMITED BY SHARES
WITH VARIABLE CAPITAL

MEMORANDUM OF ASSOCIATION

OF

UBS (IRL) FUND
PUBLIC LIMITED COMPANY

AN UMBRELLA FUND WITH SEGREGATED LIABILITY BETWEEN SUB-FUNDS

(as amended by Special Resolutions dated 23 December 2014, 23 December 2015 and 23 December 2016)

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1. The name of the Company is **UBS (IRL) FUND PUBLIC LIMITED COMPANY**.
 2. The Company is a public limited company registered under Part 17 of the Companies Act 2014 and the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011, as amended. The Company is an investment company the sole object of which is the collective investment in transferable securities and/or in other liquid financial assets referred to in Regulation 68 of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011, as amended of capital raised from the public and which operates on the basis of risk spreading. The Company may take any measures and carry out any operations which it may deem useful or necessary to the accomplishment and development of its purpose to the full extent permitted by the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 2011, as amended (and any amendments thereto for the time being in force). The Company may not alter its objects or powers in any way which would result in it ceasing to qualify as an undertaking for collective investment in transferable securities pursuant to the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations, 2011, as amended.
 3. For the purposes of achieving the sole object in clause 2 above, the Company shall also have the following powers:
 - (1) To carry on the business of an investment company and for that purpose to acquire and hold either in the name of the Company, or in that of any nominee, shares, stocks, debentures, debenture stock, bonds, notes, obligations, securities and financial derivative instruments issued or guaranteed by any company wherever incorporated or carrying on business and debenture stock, bonds, notes, obligations and securities issued or guaranteed by any government, sovereign ruler, commissioners, public body or authority supreme, dependent, municipal, local or otherwise in any part of the world;
 - (2) To acquire any such shares, stock, debentures, debenture stock, bonds, notes, obligations, securities and financial instruments by original subscription, contract, tender, purchase, exchange, underwriting, participation in syndicates or otherwise,

and whether or not fully paid up, and whether or not payment is to be made at the time of issue or on a delayed delivery basis and to subscribe for the same, subject to such terms and conditions (if any) as may be thought fit;

- (3) To employ, utilise or invest in derivative instruments and techniques of all kinds for investment purposes and efficient portfolio management purposes as may be permitted by the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011, as amended and, in particular and without prejudice to the generality of the foregoing, to enter into, accept, issue and otherwise deal with sale and repurchase agreements, futures contracts, options, securities lending agreements, short sales agreements, when-issued, delayed delivery and forward commitment agreements, foreign currency spot and forward rate exchange contracts, forward rate agreements, swaps, collars, floors and caps and other foreign exchange or interest rate hedging and investment arrangements;
- (4) To purchase for the account of a Sub-Fund as hereinafter defined by subscription or transfer for consideration, shares of any class or classes representing another Sub-Fund of the Company, subject to the provisions of the Companies Act 2014 and the conditions from time to time laid down by the Central Bank;
- (5) To exercise and enforce all rights and powers conferred by or incidental to the ownership of any such shares, stock obligations or other securities;
- (6) To sell or dispose of the undertaking of the Company or any part thereof for such consideration as the Company may think fit and, in particular, for shares, debentures, or securities of any other company;
- (7) To carry on the business of a trust and investment company and to invest the funds of the Company in or upon or otherwise acquire, hold and deal in securities and investments of every kind;
- (8) To make, draw, accept, endorse, issue, discount, and otherwise deal with promissory notes, bills of exchange, cheques, letters of credit, and other notes;
- (9) To acquire by purchase, exchange, lease, fee farm grant or otherwise, either for an estate in fee simple or for any less estate or other estate or interest, whether immediate or reversionary, and whether vested or contingent, any lands, tenements or hereditaments of any tenure, whether subject or not to any charges or incumbrances which are essential for the direct pursuit of its business;
- (10) To undertake the office of administrator, committee, manager, secretary, registrar, attorney, delegate, substitute or treasurer and to perform and discharge the duties and functions incidental thereto;
- (11) To facilitate and encourage the creation, issue or conversion of debentures, debenture stock, bonds, obligations, shares, stocks and securities, and to act as trustees in connection with any such securities and to take part in the conversion of business concerns and undertakings into companies;
- (12) To constitute any trusts with a view to the issue of preferred and deferred or any other special stocks or securities based on or representing any shares, stocks or other assets specifically appropriated for the purposes of any such trust, and to settle and regulate, and if thought fit, to undertake and execute any such trusts, and to issue, dispose of or hold any such preferred, deferred or other special stocks or securities;

- (13) To enter into partnership or into any arrangement for sharing profits, union of interest, joint venture, reciprocal concession, co-operation or otherwise with any company carrying on, or engaged in, any business or transaction which the Company is authorised to carry on or engage in, or any business or transaction capable of being conducted so as directly or indirectly to benefit the Company and to take or otherwise acquire and hold shares or stock in or securities of any such company, to assist any such company, and to sell, hold, or otherwise deal with such shares, stock or securities;
- (14) To promote any company for the purpose of acquiring all or any of the property or liabilities of the Company, or of undertaking any business or operations which may appear likely to assist or benefit the Company or to enhance the value of or render more profitable any property, assets or business of the Company, or for any other purpose which may seem directly or indirectly calculated to benefit the Company and to establish subsidiary companies for any of the foregoing purposes;
- (15) To accumulate capital for any of the purposes of the Company, and to appropriate any of the Company's assets to specific purposes, either conditionally or unconditionally and to admit any class or section of those who have any dealings with the Company to any share in the profits thereof or in the profits of any particular branch of the Company's business, or to any other special rights, privileges, advantages or benefits;
- (16) To enter into any arrangements with any government or authority, supreme, municipal, local or otherwise, or company that may seem conducive to the Company's objects or any of them, and to obtain from any such government, authority or company, any charters, contracts, decrees, rights, privileges and concessions, and to carry out, exercise and comply with any such arrangements, charters, contracts, decrees, rights, privileges and concessions;
- (17) To borrow or raise or secure the payment of money, to the extent permitted by the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011, as amended, in such manner as the Company shall think fit, and in particular (but without prejudice to the generality of the foregoing) by the issue of debentures, debenture stocks, bonds, obligations and securities of all kinds, either perpetual or terminable and either redeemable or otherwise and to secure the repayment of any money borrowed, raised or owing by trust deed, mortgage, charge, or lien upon the whole or any part of the Company's undertaking, property or assets (whether present or future) including its uncalled capital, and also by a similar trust deed, mortgage, charge or lien to secure and guarantee the performance by the Company of any obligation or liability it may undertake;
- (18) To guarantee, support or secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (both present and future) and uncalled capital of the Company, or by indemnity or undertaking, or by any one or more of such methods, the performance of the obligations of, and the repayment or payment of the principal amounts of and premiums, interest and dividends on any security, indebtedness or obligations of the Company;
- (19) To create, maintain, invest and deal with any reserve or sinking funds for redemption of obligations of the Company, or for any other purpose of the Company;
- (20) To distribute either upon a distribution of assets or division of profits among the members of the Company in kind any property of the Company, and, in particular, any shares, debentures or securities of other companies belonging to the Company or of which the Company may have the power of disposing;

- (21) To establish, join, support and subscribe to, or aid in the establishment and support of, associations, institutions, societies, co-operatives, clubs, funds, trusts or conveniences calculated to benefit the Company or employees or ex-employees of the Company, or the dependents or connections of such persons or connected with any town or place where the Company carried on business, and to grant pensions, gratuities, allowances or charitable aid to any person who may have served the Company, or to the spouses, children or other relatives of such person and to make payments towards insurance, and to form and contribute to provident and benefit funds for the benefit of any persons employed by the Company and to subscribe or guarantee money for charitable or benevolent objects or for any exhibition or for any public, general or useful object;
- (22) To remunerate any person, firm or company rendering services to the Company, whether by cash payment or by the allotment of shares or securities of the Company credited as paid up in full or in part or otherwise;
- (23) To promote freedom of contract and to resist, insure against, counteract and discourage interference therewith, to join any lawful federation, union, association or party and to contribute to the funds thereof, or do any other lawful act or thing with a view to preventing or resisting directly or indirectly any interruption of or interference with the Company or any other trade or business or providing or safeguarding against the same, or resisting or opposing any strike, movement or organisation which may be thought detrimental to the interests of the Company or its employees, and to subscribe to any association or fund for any such purposes;
- (24) To procure the Company to be registered or recognised in any foreign country, dependency or place;
- (25) To the extent permitted by law to obtain and hold, either alone or jointly with any person or company, insurance cover in respect of any risk of the Company, its directors, officers, employees and agents;
- (26) To pay all or any expenses of, incidental to, or incurred in connection with, the formation and incorporation of the Company and the raising of its share and loan capital, or to contract with any person or company to pay the same, and (subject in the case of shares to the provisions of any statute for the time being in force) to pay commissions to brokers and others for underwriting, placing, selling or guaranteeing the subscription of any shares, debentures or securities of the Company;
- (27) To do all or any of the above things in any part of the world, whether as principals, agents, contractors, trustees or otherwise, and either by or through trustees, agents, sub-contractors or otherwise and either alone or in partnership or conjunction with any person or company, and to contract for the carrying on of any operation connected with the Company's business by any person or company;
- (28) To do all such other things as may be deemed incidental or conducive to the attainment of the above objects or any of them;
- (29) To purchase for the account of a Sub-Fund by subscription or transfer for consideration, shares of any class or classes representing another Sub-Fund of the Company, subject to the provisions of the Companies Act 2014 and the conditions from time to time laid down by the Central Bank;
- (30) To amalgamate any Sub-Fund with any other Fund of a collective investment scheme including any other Sub-Fund of the Company (the "Transferee Fund"), subject to the

requirements of the Central Bank, and in doing so to dispose of the assets of the Sub-Fund to the Transferee Fund in consideration for the issue of shares in the Transferee Fund to the Members *pro rata* to their shareholdings in the Sub-Fund.

- (31) To change, subject to the requirements of the Central Bank and applicable law, the structure of the Company from a public limited company to an Irish collective asset-management vehicle (ICAV), or to such other corporate fund vehicle permitted by the Central Bank and applicable law from time to time.
 - (32) It is hereby declared that in the construction of this Clause the word “company” except where used in reference to this Company, shall be deemed to include any person or partnership or other body of persons, whether incorporated or not incorporated, and whether domiciled in Ireland or elsewhere, and words denoting the singular number only shall include the plural number and *vice versa* and the intention is that the powers specified in each paragraph of this Clause shall, except where otherwise expressed in such paragraph, be in no way restricted by reference to or inference from the terms of any other paragraph or the name of the Company.
- 4. Each of the powers of the Company (whether enumerated or not) is to be interpreted and exercised as ancillary to the sole object but separate from and ranking equally to any other power.
 - 5. The liability of the members is limited.
 - 6. The issued share capital of the Company shall not be less than the currency equivalent of €2 represented by two shares of no par value and the maximum issued share capital of the Company shall not be more than the currency equivalent of €500 billion divided into an unspecified number of shares of no par value.

WE, the several persons whose names, addresses and descriptions are subscribed, wish to be formed into a Company in pursuance of this Memorandum of Association, and we agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, addresses and description of subscribers	Number of shares taken by each subscriber
For and on behalf of Concord Management (Ireland), Limited 41-45 St Stephen's Green, Dublin 2. Body Corporate	29,994
Carl O'Sullivan 9 Idrone Terrace, Blackrock, Co. Dublin Solicitor	1
Jacqueline McGowan-Smyth 12 Meadow Vale, Blackrock, Co. Dublin Chartered Secretary	1
Grania Daly 11 Sydney Avenue, Blackrock, Co. Dublin Secretary	1
Jacqueline Tyson 54 Greenpark Road, Brady, Co. Wicklow Secretary	1
Joanne Ward 52 Llewellyn Grove, Dublin 16 Secretary	1
Jonathan Kelly 47 Sandford Road, Dublin 6 Solicitor's Apprentice	1

Total Number of Shares taken:

30,000

Dated the 18th day of September, 1992

Witness to the above signatures:

Ann O'Donoghue,
41-45 St. Stephen's Green,
Dublin 2.

ARTICLES OF ASSOCIATION
of
UBS (IRL) FUND PUBLIC LIMITED COMPANY

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AND EUROPEAN COMMUNITIES (UNDERTAKINGS FOR COLLECTIVE
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WITH VARIABLE CAPITAL

ARTICLES OF ASSOCIATION

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(as amended by Special Resolutions dated 23 December 2013, 23 December 2014, 23 December 2015
and 23 December 2016)

1. **DEFINITIONS**

- (a) The following words shall bear the meanings set opposite to them unless inconsistent with the subject or context:

“**Accounting Period**” means a fiscal period of the Company commencing on the end of the last fiscal period and terminating on such date as the Directors may determine and disclose in the Prospectus.

“**Act**” means the Companies Act 2014 and all statutes and statutory instruments which are to be read as one with, or construed or read together with or as one with the Act and every statutory modification and re-enactment thereof for the time being in force.

“**address**” includes any number or address used for the purposes of communication by way of electronic mail or other electronic communication.

“**Administration Agreement**” means any agreement for the time being subsisting to which the Company and/or the Manager and the Administrator are parties relating to the appointment and duties of the Administrator.

“**Administrator**” means any person, firm or corporation appointed and for the time being acting as administrator of the Company’s affairs.

“**advanced electronic signature**” has the meaning given to the word in the Electronic Commerce Act, 2000.

“**AIMA**” means the Alternative Investment Management Association.

“**Annual Report**” means a report prepared in accordance with Clause 31 hereof.

“**Associated Company**” means any corporation which in relation to the person concerned (being a corporation) is a holding company or a subsidiary of any such holding company of a corporation (or a subsidiary of a corporation) at least one fifth of the issued equity share capital of which is beneficially owned by the person

concerned or an associate thereof under the preceding part of this definition. Where the person concerned is an individual or firm or other unincorporated body the expression "Associate" shall mean and include any corporation directly or indirectly controlled by such person.

"Auditors" means the Auditors for the time being of the Company.

"Base Currency" means in respect of any class of shares the currency in which the shares are issued.

"Board" means the Board of Directors of the Company including any committee of the Board.

"Business Day" means a day on which the banks are open for normal banking business in Dublin and on which the New York Stock Exchange is open for business, provided that the Directors from time to time may designate as a business day a day on which banks are not open for business in Dublin.

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

"Central Bank Regulations" means the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations, 2015, as amended, supplemented or replaced from time to time.

"Clear Days" means, in relation to the period of a notice, that 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.

"Commission" means such amount payable in the issue or repurchase of shares in the Company as may be specified in the Prospectus.

"Dealing Day" means such Day or Days in each month (other than a holiday in Ireland) as the Directors from time to time may determine provided that:-

- (i) unless otherwise determined each Business Day shall be a Dealing Day;
- (ii) in the event of any changes in a Dealing Day reasonable notice thereof shall be given by the Directors to each Member at such time and in such manner as the Custodian may approve;
- (iii) the assets of the Company shall be valued on a Dealing Day; and
- (iv) there shall be at least two dealing days in each month.

"Depositary" means any corporation appointed and for the time being acting as depositary of the Company in accordance with the UCITS Regulations.

"Depositary Agreement" means any agreement for the time being subsisting between the Company and the Depositary relating to the appointment and duties of such Depositary.

"Director" means any director of the Company for the time being.

"Duties and Charges" means all stamp and other duties, taxes, governmental

charges, valuation fees, property management fees, agents fees, brokerage fees, bank charges, transfer fees, registration fees and other charges whether in respect of the constitution or increase of the assets or the creation, exchange, sale, purchase or transfer of shares or the purchase or proposed purchase of investments or otherwise which may have become or will become payable in respect of or prior to or upon the occasion of any transaction, dealing or valuation, but not including commission payable on the issue of shares.

“**electronic communication**” has the meaning given to that word in the Electronic Commerce Act, 2000.

“**electronic signature**” has the meaning given to that word in the Electronic Commerce Act, 2000.

“**Euro**” “**EUR**” or “**€**” means the euro, the lawful currency of the European Union which came into effect on 1 January 1999.

“**Initial Offer Period**” means the period during which shares in a class of a Sub-Fund are offered by the Company for purchase or subscription at the Initial Price.

“**Initial Price**” means the price at which any shares in a class of a Sub-Fund are first offered for purchase or subscription.

“**Investment**” means any of the investments of the Company as more particularly set out in the Prospectus.

“**Investment Management Agreement**” means any agreement for the time being subsisting to which the Company and/or the Manager and the Investment Manager are parties and relating to the appointment and duties of the Investment Manager.

“**Investment Manager**” means any person, firm or corporation appointed and for the time being providing investment management or advice in relation to the management of the Company’s Investments and includes where the context so admits any investment adviser to whom investment management may be delegated.

“**In writing**” means written, printed, lithographed, photographed, telexed, telefaxed or represented by any other substitute for writing or partly one and partly another.

“**IOSCO**” means the International Organisation for Securities Commissions.

“**Management Agreement**” means any agreement for the time being subsisting to which the Company and the Manager are parties and relating to the appointment and duties of the Manager.

“**Manager**” means any person, firm or corporation appointed and for the time being acting as manager of the Company’s affairs.

“**Member**” means a person who is registered as the holder of shares in the Register.

“**Minimum Holding**” means a holding of shares in any fund the value of which by reference to the repurchase price is not less than such amount as may be specified in the Prospectus.

“**Month**” means a calendar month.

“**Net Asset Value**” means the amount determined for any particular Dealing Day pursuant to Clauses 14 and 15 hereof.

“**Officer**” means any director of the Company or the Secretary.

“**Ordinary Resolution**” means a resolution of the Company, a Sub-Fund, or any class of shares in the Company, as the context may require, in general meeting passed by a simple majority of the votes cast.

“**Preliminary Expenses**” means the preliminary expenses incurred in the establishment of the Company or a Sub-Fund (other than the costs of incorporating the Company), the obtaining by the Company of approval from the Central Bank as a designated investment company under the UCITS Regulations, the registration of the Company with any other regulatory authority and each offer of shares to the public (including the costs of preparing and publishing the Prospectus) and may include any costs or expenses (whether incurred directly by the Company or not) incurred in connection with any subsequent application for a listing or quotation of any of the shares in the Company or on a stock exchange or Regulated Market and the costs of establishing any trust or investment vehicle to facilitate investment in the Company.

“**Prospectus**” means the prospectus from time to time issued by the Company in relation to any Sub-Fund or Sub-Funds, and any supplement thereto.

“**qualified certificate**” has the meaning given to that word in the Electronic Commerce Act 2000.

“**Register**” means the register in which are listed the names of Members of the Company.

“**Regulated Market**” means any stock exchange or regulated market in the European Union or stock exchange or regulated market which is provided for in Clause 17 hereof.

“**Secretary**” means any person, firm or corporation for the time being appointed by the Directors to perform any of the duties of the secretary of the Company.

“**share**” or “**shares**” means a share or shares in the Company.

“**Signed**” includes a signature or representation of a signature affixed by mechanical or other means.

“**Special Resolution**” means a Special Resolution of the Company, a Sub-Fund or a class, as the context may require, passed in accordance with the Act.

“**Sub-Fund**” means any fund from time to time established pursuant to Clause 5 which is a separate portfolio of assets and is maintained in accordance with this Constitution and which may comprise one or more classes of shares in the Company.

“**Subscriber Shares**” means the shares which the subscribers to the Constitution of the Company agree to subscribe for, as more particularly hereinafter set forth after their names.

“**Subsidiary Company**” means any subsidiary company within the meaning of the Act.

“**UCITS Regulations**” means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011, as amended, supplemented or replaced from time to time.

“**U.S.**” means the United States of America (including the States and the District of Columbia), its territories, its possessions and all other areas subject to its jurisdiction including the Commonwealth of Puerto Rico.

“**U.S. Person**” shall, unless otherwise determined by the Directors, have the meaning set out in the Prospectus.

“**Valuation Point**” shall mean the time of valuation in respect to any Dealing Day as more particularly set out in the Prospectus.

- (b) Reference to enactments and to Clauses and sections of enactments shall include reference to any modifications or re-enactments thereof for the time being in force.
- (c) Unless repugnant to the context:-
 - (i) words importing the singular number shall include the plural number and *vice versa*;
 - (ii) words importing the masculine gender only shall include the feminine gender;
 - (iii) words importing persons only shall include companies or associations or bodies of persons, whether corporate or not;
 - (iv) the word “may” shall be construed as permissive and the word “shall” shall be construed as imperative;
 - (v) expressions in this Constitution referring to writing shall be construed, unless the contrary intention appears, as including references to printing, lithography, photography and any other modes of representing or reproducing words in a visible form provided, however, that it shall not include writing in electronic form except as provided in this Constitution and/or where it constitutes writing in electronic form sent to the Company, the Company has agreed to its receipt in such form. Expressions in this Constitution referring to execution of any document shall include any mode of execution under seal or under hand or any mode of electronic signature as shall be approved by the Directors. Expressions in this Constitution referring to receipt of any electronic communications shall, unless the contrary intention appears, be limited in receipt in such manner as the Company has agreed to; and
 - (vi) unless the contrary intention appear, the use of the word “address” in this Constitution in relation to electronic communications includes any number of address used for the purpose of such communications.

2. **PRELIMINARY**

- (a) Sections 65, 77 to 81, 83(1), 94(8), 95(1), 96(2) to (11), 124, 125, 126, 144(3), 144(4), 148(2), 158(3), 159 to 165, 178(2), 181(6), 182(2), 182(5), 183(3), 186(c), 187, 188, 218(3), (4), (5), 229, 230, 238(5), 338(6), 339(7), 618(1)(b), 620(8), 1090, 1092, 1093 and 1113 of the Act shall not apply to the Company.

- (b) Subject to the provisions of the UCITS Regulations, the business of the Company shall be commenced as soon after the incorporation of the Company as the Directors think fit.
- (c) The Preliminary Expenses shall be payable by the Company unless discharged by any other party and if payable by the Company the amount so payable may be carried forward in the accounts of the Company 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. The Preliminary Expenses for the Sub-Funds may be allocated between the Sub-Funds *pro rata* and the Directors may adjust the allocation following the launch of additional Sub-Funds.
- (d) The Company shall also bear the following expenses, save to the extent that such expenses may be waived or otherwise discharged by any other person and not recovered from the Company:-
 - (i) all taxes and expenses which may be incurred in connection with the acquisition and disposal of the assets of the Company;
 - (ii) all taxes which may be payable on the assets, income and expenses chargeable to the Company;
 - (iii) all brokerage, bank and other charges incurred by the Company in relation to its business transactions;
 - (iv) all fees and expenses (including Value Added Tax, if applicable) due to the Auditors, the Manager, the Depositary, the Administrator, any broker, the Investment Manager and any investment managers or advisors appointed by it, the legal advisers to the Company, any valuer, dealer, distributor, paying agent, fiscal representative or other supplier of services to the Company;
 - (v) all expenses incurred in connection with publication and supply of information to the Members and, in particular, without prejudice to the generality of the foregoing, the cost of printing and distributing the Annual Report, any report to the Central Bank or any other regulatory authority, the half-yearly or other report, any Prospectus and the costs of publishing quotations of prices and notices in the financial press, obtaining a rating for the shares of the Company from a rating agency, all stationery, preparing and maintaining the key investor information documents, printing and postage costs in connection with the preparation and distribution of cheques, warrants, tax certificates and statements;
 - (vi) all expenses incurred in the registration of the Company with any government agencies or regulatory authority in any jurisdiction where registration is available or necessary and in having the shares of the Company listed or dealt on any stock exchange or any Regulated Market and in having the shares of the Company rated by any rating agency;
 - (vii) all expenses arising in respect of legal or administrative proceedings and in connection with the termination of any Sub-Fund or the liquidation of the Company;
 - (viii) all expenses incurred in connection with the operation and management of the Company, including, without limitation to the generality of the foregoing, all Directors' fees, all costs incurred in organising Directors' and Members'

meetings and in obtaining proxies in relation to such meetings, all insurance premiums and association membership dues and all non-recurring and extraordinary items of expenditure as may arise; and

- (ix) all recurring expenses shall be charged first against current income, then should this not suffice, against realised capital gains, and, if need be, against assets.

3. **DEPOSITARY, MANAGER, ADMINISTRATOR AND INVESTMENT MANAGER**

- (a) The Company shall, with the prior approval of the Central Bank appoint or procure the appointment of:
 - (i) a person, firm or corporation to act as Depositary with responsibility for the safe custody of all of the assets of the Company;
 - (ii) a person, firm or corporation to act as Manager;
 - (iii) a person, firm or corporation to act as Administrator; and
 - (iv) a person, firm or corporation to act as Investment Manager;

and the Directors may entrust to and confer upon the Depositary, the Manager, the Administrator and/or the Investment Manager so appointed any of the powers, duties, discretions and/or functions exercisable by them as Directors, upon such terms and conditions including the right to remuneration payable by the Company and with such powers of delegation and such restrictions as they think fit.

- (b) 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 Company or otherwise and to delegate any of its functions and duties to any person or persons so appointed, provided that such appointment shall first have been notified to the Company and provided further that any such appointment insofar as it relates to an appointment in relation to the assets of the Company, shall terminate forthwith on termination of the appointment of the Depositary.
- (c) The terms of appointment of any Manager may authorise such Manager, in accordance with the requirements of the Central Bank, to appoint one or more sub-managers, investment manager, administrators, distributors or other agents at the expense of the Manager and to delegate any of its functions and duties to any person or persons so appointed, provided that any such appointment shall terminate forthwith on termination of the appointment of the Manager.
- (d) In accordance with the requirements of the Central Bank, the appointment of the Investment Manager may be terminated and a replacement Investment Manager may be appointed and the terms of appointment of an Investment Manager from time to time may be varied and may authorise such Investment Manager to appoint one or more investment advisers or other agents and to delegate any of its functions and duties to any person or persons so appointed, provided that such appointment or appointments shall first have been approved by the Company and/or the Manager, as provided for in the Investment Management Agreement, and provided further that any such appointment shall terminate forthwith on termination of the appointment of the Investment Manager. The Investment Manager may also be appointed as a distributor of the shares with the power to appoint one or more sales agents.

- (e) The appointment of the Depositary and the Manager shall, in each case, be subject to the approval of the Central Bank and the appointment of the Administrator and the Investment Manager shall in each case be in accordance with the requirements of the Central Bank. The Central Bank shall have the power to replace the Depositary at any time. Replacement of the Manager, the Administrator and the Investment Manager must be made in accordance with the requirements of the Central Bank.
- (f) In the event of the Depositary desiring to retire or being removed from office the Company shall use its best endeavours to find a corporation willing to act as Depositary who may be approved by the Central Bank to act as Depositary and upon so doing the Company shall appoint such corporation to be Depositary in place of the former Depositary. The Depositary Agreement shall provide that, save as provided in Clause 3(g) hereof, the Depositary may not retire or be removed from office until the Company appoints a replacement Depositary.
- (g) In the event of the Company failing to appoint a replacement Depositary within such period as may be provided for in the Depositary Agreement and/or the Prospectus, the Directors shall convene an Extraordinary General Meeting of the Company at which there shall be proposed an Ordinary Resolution, as determined by the Directors, to: (i) wind up the Company and appoint a liquidator who shall distribute the assets of the Company in accordance with Clause 34; (ii) to repurchase the shares of the Company and to apply to the Registrar of Companies for the strike off of the Company from the Register of Companies; or (iii) to otherwise dissolve the Company. The appointment of the Depositary shall not terminate until the authorisation of the Company is revoked by the Central Bank.

4. **SHARE CAPITAL**

- (a) The paid up share capital of the Company shall at all times be equal to the Net Asset Value of the Company as determined in accordance with Clauses 14 and 15 hereof.
- (b) The issued share capital of the Company shall not be less than the currency equivalent of €2 represented by two shares of no par value and the maximum issued share capital of the Company shall not be more than €500 billion divided into an unspecified number of shares of no par value.
- (c) The Directors are hereby generally and unconditionally authorised to exercise all the powers of the Company to issue shares in the Company provided that the total amount of the issued share capital does not exceed the limit set out in Clause 4(b) hereof.
- (d) The Directors may delegate to the Manager, the Administrator, the Investment Manager or to any duly authorised Officer or other person, the duties of accepting the subscription for, receiving payment for and allotting or issuing new shares.
- (e) The Directors in their absolute discretion may refuse to accept any application for shares in the Company or may accept any application in whole or in part.
- (f) No person shall be recognised by the Company as holding any shares on trust and the Company 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 otherwise provided herein or as by law may be required) any other right in respect of any share, except an absolute right of title thereto in the registered holder.
- (g) At any time after the issue of shares the Company shall be entitled to repurchase the Subscriber Shares or to procure the transfer of the Subscriber Shares to any person

who may be a qualified holder of shares in accordance with Clause 11 hereof.

5. **THE SUB-FUNDS AND SEGREGATED LIABILITY**

- (a) The Company is an umbrella fund with segregated liability between Sub-Funds and each Sub-Fund may be comprised of one or more classes of shares in the Company. The initial Sub-Funds established by the Company were the High Income Sub-Fund, the Short-Term Global Income Sub-Fund, the Growth Sub-Fund and the U.S. Government Short-Term Sub-Fund. With the prior approval of the Central Bank, the Directors from time to time may establish a Sub-Fund by the issue of one or more separate classes of shares including hedged and unhedged currency classes on such terms as the Directors may resolve.
- (b) The Directors from time to time may establish one or more separate classes or series of shares within each Sub-Fund, including hedged and unhedged currency classes, on such terms as the Directors may resolve on notice to, and in accordance with the requirements of, the Central Bank. Such classes may be hedged or unhedged share classes provided that in valuing such classes the resultant costs and gains or losses attributable to a class shall be deemed to be Class Expenses as defined below for the purpose of Clause 15(c).
- (c) The Directors are hereby authorised from time to time to re-designate any existing class of shares in the Company and merge such class of shares with any other class of shares in the Company. With the prior consent of the Directors, Members may convert shares in one class of shares or Sub-Fund into shares of another class or Sub-Fund in the Company, as appropriate, in accordance with the provisions of Clause 9 hereof.
- (d) For the purpose of enabling shares of one class to be re-designated or converted into shares of another class the Company may, subject to the UCITS Regulations, take such action as may be necessary to vary or abrogate the rights attached to shares of one class to be converted so that such rights are replaced by the rights attached to the other class into which the shares of the original class are to be converted.
- (e) The assets and liabilities of each Sub-Fund shall be allocated in the following manner:-
 - (i) the proceeds from the issue of shares representing a Sub-Fund shall be applied in the books of the Company to that Sub-Fund, and the assets and liabilities and income and expenditure attributable thereto shall be applied to such Sub-Fund subject to the provisions of this Clause. The assets of each Sub-Fund shall belong exclusively to that Sub-Fund and shall not be used to discharge directly or indirectly the liabilities of or claims against any other Sub-Fund and shall not be available for any such purpose;
 - (ii) where any asset is derived from another asset, such derivative asset shall be applied in the books of the Company to the same Sub-Fund as the assets from which it was derived and in each valuation of an asset, the increase or diminution in value shall be applied to the relevant Sub-Fund;
 - (iii) where the Company incurs a liability which relates to any asset of a particular Sub-Fund or to any action taken in connection with an asset of a particular Class or Sub-Fund, such a liability shall be allocated to the relevant Sub-Fund, as the case may be;

- (iv) where an asset or a liability of the Company cannot be considered as being attributable to a particular Sub-Fund, such asset or liability, subject to the approval of the Depositary, shall be allocated to all the Sub-Funds *pro rata* to the Net Asset Value of each Sub-Fund; and
- (v) separate records shall be maintained in respect of each Sub-Fund, provided that when issuing a class of shares in regard to any Sub-Fund, the Directors may allocate Commission, Duties and Charges and ongoing expenses on a basis which is different from that which applies in the case of shares in other classes in the Sub-Fund.
- (f) Notwithstanding any statutory provision or rule of law to the contrary, any liability incurred on behalf of or attributable to any Sub-Fund of the Company shall be discharged solely out of the assets of that Sub-Fund, and neither the Company nor any Director, receiver, examiner, liquidator, provisional liquidator or other person shall apply, nor be obliged to apply, the assets of any such Sub-Fund in satisfaction of any liability incurred on behalf of, or attributable to, any other Sub-Fund.
- (g) There shall be implied in every contract, agreement, arrangement or transaction entered into by the Company the following terms, that:
 - (i) the party or parties contracting with the Company shall not seek, whether in any proceedings or by any other means whatsoever or wheresoever, to have recourse to any assets of any Sub-Fund in the discharge of all or any part of a liability which was not incurred on behalf of that Sub-Fund;
 - (ii) if any party contracting with the Company shall succeed by any means whatsoever or wheresoever in having recourse to any assets of any Sub-Fund in the discharge of all or any part of a liability which was not incurred on behalf of that Sub-Fund, that party shall be liable to the Company to pay a sum equal to the value of the benefit thereby obtained by it; and
 - (iii) if any party contracting with the Company shall succeed in seizing or attaching by any means, or otherwise levying execution against any assets of a Sub-Fund in respect of a liability which was not incurred on behalf of that Sub-Fund, that party shall hold such assets or the direct or indirect proceeds of the sale of those assets on trust for the Company and shall keep those assets or proceeds separate and identifiable as such trust property.
- (h) All sums recoverable by the Company as a result of any such trust as is described in Clause 5(g)(iii) shall be credited against any concurrent liability pursuant to the implied terms set out in Clause 5(g).
- (i) Any asset or sum recovered by the Company pursuant to the implied terms set out in Clause 5(g) or by any other means whatsoever or wheresoever in the events referred to in those paragraphs shall, after the deduction or payment of any costs of recovery, be applied so as to compensate the Sub-Fund.
- (j) In the event that assets attributable to a Sub-Fund are taken in execution of a liability not attributable to that Sub-Fund, and in so far as such assets or compensation in respect thereof cannot otherwise be restored to that Sub-Fund affected, the Directors, with the consent of the Depositary, shall certify or cause to be certified, the value of the assets lost to the Sub-Fund affected and transfer or pay from the assets of the Sub-Fund or Sub-Funds to which the liability was attributable, in priority to all other claims against such Sub-Fund or Sub-Funds, assets or sums sufficient to restore to the

Sub-Fund affected, the value of the assets or sums lost to it.

- (k) A Sub-Fund is not a legal person separate from the Company but the Company may sue and be sued in respect of a particular Sub-Fund and may exercise the same rights of set-off, if any, as between its Sub-Funds as apply at law in respect of companies and the property of a Sub-Fund is subject to orders of the court as it would have been if the Sub-Fund were a separate legal person.

6. SHARE CERTIFICATES AND CONFIRMATIONS OF OWNERSHIP

- (a) A Member shall have his title to shares evidenced by having his name, address and the number of shares held by him entered in the Register which shall be maintained in the manner required by law.
- (b) A Member whose name appears in the Register shall be issued with a confirmation of ownership or, if the Member so requests, a share certificate representing the number of Shares held by him. Any reference in this Constitution to “a confirmation of ownership” shall include, where appropriate, confirmation of ownership or a share certificate.
- (c) If a confirmation of ownership shall be damaged or defaced or alleged to have been lost, stolen or destroyed, a new confirmation of ownership representing the same shares may be issued to the Member upon request subject to delivery up of the old certificate of ownership or (if alleged to have been lost, stolen or destroyed) on compliance with such conditions as to evidence and indemnity and the payment of exceptional out-of-pocket expenses of the Company in connection with the request as the Directors may think fit.
- (d) The Register may be kept on magnetic tape or in accordance with some other mechanical or electrical system, provided that legible evidence can be produced therefrom to satisfy the requirements of applicable law and of this Constitution.
- (e) The Directors shall cause to be entered in the Register, in addition to the particulars required to be so entered by law, the following particulars:-
 - (i) the name and address of each Member (save that in the case of joint holders, the address of the first named holder only need be entered), a statement of the shares of each class held by him and of the amount paid or agreed to be considered as paid on such shares;
 - (ii) the date on which each person was entered in the Register as a Member; and
 - (iii) the date on which any person ceased to be a Member.
- (f)
 - (i) The Register shall be kept in such manner as to show at all times the Members of the Company for the time being and the shares respectively held by them.
 - (i) The Register shall be open to inspection at the registered office of the Company in accordance with the law and each Member shall be entitled to inspect only the entry in the Register relating to that Member.
 - (ii) The Company may close the Register for any time or times not exceeding, in total, thirty days in each year.

- (g) The Directors shall not be bound to register more than four persons as the joint holders of any share or shares. In the case of a share held jointly by several persons, the Directors shall not be bound to issue therefor more than one confirmation of ownership and the issue of a confirmation of ownership for a share to the first named of several joint holders shall be sufficient delivery to all.
- (h) 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 provisions:
 - (i) 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;
 - (ii) any one of such joint shares may give effectual receipts for any dividend, bonus or return of capital payable to such joint holders;
 - (iii) only the first-named of the joint holders of a share shall be entitled to delivery of the share certificate relating to such share or to receive notices from the Company to attend general meetings of the Company. Any 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;
 - (iv) 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
 - (v) for the purpose of the provisions of this Clause, the first-named shall be determined by the order in which the names of the joint holders stand in the Register.
- (i) The Company shall have the power to issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares therein specified, provided that the common seal of the Depositary is also affixed to the warrant and such a warrant shall be referred to as a share warrant and may be issued at the discretion of the Directors subject to the payment by the Member of the Company's, the Manager's or the Administrator's costs, including insurance costs, in relation to the issue and delivery of the warrant and a Member shall be entitled to surrender any or all of his share certificates and have issued in lieu thereof a share warrant or share warrants representing in the aggregate a like number of shares.
- (j) The Company shall recognise the bearer of a share warrant as the absolute owner of the shares represented by such share warrant and shall not be bound by any notice to the contrary nor be bound to take notice of or to see to the execution of any trust and all persons may act accordingly and the Company shall not, save as herein otherwise provided and except as ordered by a Court of competent jurisdiction or as by law required, be bound to recognise (even when having notice thereof) any beneficial interest in the warrant. The receipt of the bearer of a share warrant for any monies payable in respect of the shares represented by such share warrant shall be a good discharge to the Company.
- (k) The Company may issue such share warrants, either to first time subscribers in the Company (if they so request) or to existing Members in respect of shares already held by such Members. The holder of a share warrant shall be deemed to be a full member of the Company.

- (l) On the issue of a share warrant, the Company shall enter the following information in the register:
 - (i) the fact of the issue of the share warrant;
 - (ii) a statement of the shares included in the share warrant, distinguishing each share by its number so long as the share has a number; and
 - (iii) the date of the issue of the share warrant.
- (m) Where an existing Member applies for a share warrant, the Company shall, on the issue of the share warrant strike that Member's name from the register and the only information appearing in relation to that member on the register shall be the information set out at Clause 6(1) (i), (ii) and (iii) above.
- (n) Where a Member does not wish all of his shares to be represented by a share warrant or share warrants, the Company at the request of the Member may issue a confirmation of ownership in respect of the balance of the Member's Shares and the Register shall be amended accordingly.
- (o) A Member shall be entitled to surrender any or all of his share warrants and have issued in lieu thereof a confirmation of ownership in respect of his shares.
- (p) Where a Member does not wish all the shares represented by such surrendered share warrant or share warrants to be represented by a confirmation of ownership then the balance of such shares shall be represented by a new share warrant or share warrants as the Member may request.
- (q) The Directors shall also be entitled to charge a Member such fee as the Directors from time to time may determine in respect of the cost of any exchange between share warrants and confirmations of ownership.

7. DEALING DAYS

All issues and repurchases of shares shall be effected or made with effect from any Dealing Day provided that the Company may allot shares on a Dealing Day on the basis that the shares shall be issued on receipt of cleared funds from the subscriber for shares.

8. ISSUE OF SHARES

- (a) Subject to the UCITS Regulations and subject as hereinafter provided, the Company with effect from any Dealing Day on receipt by it of the following:
 - (i) an application for shares in such form as the Company from time to time may determine;
 - (ii) such declarations as to the applicant's status, residence and otherwise as the Company from time to time may require; and
 - (iii) payment for the shares in such manner as the Company from time to time may specify, provided that if the Company receives payment for the shares in a currency other than the Base Currency the Company shall convert or arrange for the conversion of the monies received into the Base Currency and shall be entitled to deduct therefrom all expenses incurred in the conversion;

may issue such shares in such classes from time to time created by the Company at the Net Asset Value for each such share then obtaining (or, at the discretion of the Company in the case of (iii) above at the Net Asset Value for each such share on the Dealing Day immediately following the conversion of the monies received into the Base Currency) or may allot such shares pending receipt of cleared funds, provided that if cleared funds representing the subscription monies are not received by the Company, within such period as the Directors may determine, the Directors may cancel any allotment of shares in respect thereof.

- (b) The Company shall be entitled to receive securities or other Investments from an applicant for shares and to sell, dispose of or otherwise convert such securities or Investments into cash and to apply such cash (net of any expenses incurred in the conversion) for the purchase of shares in the Company in accordance with provisions hereof.
- (c) No issue shall be made in respect of an application which would result in the applicant holding less than the Minimum Holding.
- (d) The Directors shall be entitled to issue fractional shares (hereinafter called “**Fractional Shares**”) where the subscription monies received by the Company are insufficient to purchase an integral number of shares, provided, however, that Fractional Shares shall not carry any voting rights and provided further that the Net Asset Value of a Fractional Share of any class of shares shall be adjusted by the amount which such Fraction Share bears to an integral share of that class of shares at the time of issue and any dividend payable on such Fractional Shares shall be adjusted in like manner.

9. **CONVERSION OF SHARES**

Subject as hereinafter provided a holder of shares of any class (the “**Original Shares**”) may with the prior consent of the Directors, the Manager or the Administrator from time to time convert all or any portion of such shares (“**Conversion**”) having such minimum value at the time of conversion as may be determined by the Directors from time to time into shares of another class (the “**New Shares**”) either existing or agreed to be brought into existence on terms hereinafter appearing;

- (a) Conversion may be exercisable by the said holder (hereinafter called the “**Applicant**”) giving a notice (hereinafter called the “**Conversion Notice**”) which shall be irrevocable and shall be filed by a Member in written form at the registered office of the Company, or at the office of the person or entity from time to time designated by the Company as its agent for the conversion of shares, and shall be accompanied by the Share certificates duly endorsed by the Applicant or share warrant issued by the Company or by such other evidence of ownership, succession or assignment satisfactory to the Directors together with unmatured dividend coupons;
- (b) the Conversion of shares comprised in a Conversion Notice which is delivered to the Investment Manager on any day which is not a Dealing Day shall be made on the Dealing Day next following the receipt of the Conversion Notice;
- (c) Conversion of the Original Shares comprised in the Conversion Notice shall be effected by the repurchase of such Original Shares (save that the repurchase monies shall not be released to the Applicant) and the issue of New Shares such repurchase and issue taking place on the Dealing Day referred to in paragraph (b) of this Clause;

- (d) the number of New Shares to be issued on Conversion shall be determined by the Manager or the Administrator in accordance (or as nearly as may be in accordance) with the following formula:

$$NS = \frac{[A \times B \times C] - D}{E}$$

where:

- NS** = the number of New Shares which will be issued;
- A** = the number of Original Shares to be converted;
- B** = the repurchase price of such original Share on the relevant Dealing Day;
- C** = the rate of exchange determined by the directors for converting the Base Currency of the Original Shares into the Base Currency of the New Shares;
- D** = a handling charge not exceeding 5% of the Net Asset Value of the Original Shares (unless otherwise set out in a Prospectus) to be converted as determined by the Directors;
- E** = the issue price of the New Shares on the relevant Dealing Day; and
- (e) upon Conversion, the Company shall cause assets or cash representing the value of NS as defined in (d) above to be allocated to the class or sub-class of shares comprising the New Shares.

10. **PRICE PER SHARE**

- (a) The Initial Price per share at which the shares of any class shall be allotted or issued and the Commission payable on the Initial Price and the Initial Offer Period in relation to any Sub-Fund shall be determined by the Directors.
- (b) The price of any share on any Dealing Day following the Initial Offer Period in respect of such share shall be the Net Asset Value of such share as determined in accordance with Clauses 14 and 15 together with any Commission payable.
- (c) The Directors may require an applicant for shares to pay to the Company in addition to the price per share such Duties and Charges in respect of the shares as the Directors from time to time may determine.
- (d) Subject to the provisions of the Regulations, the Directors on any Dealing Day may issue shares on terms providing for settlement to be made by the vesting in the Company of any Investments for the time being held or which may be held hereunder and in connection therewith the following provisions shall apply:
- (i) the Directors shall be satisfied that the terms of any such exchange shall not be such as are likely to result in any material prejudice to the Members in the relevant Sub-Fund;
- (ii) the number of shares to be issued shall be not more than the number which would have been issued for settlement in cash as hereinbefore provided on

the basis that the amount of such cash was an amount equal to the value of the Investments to be so vested in the Company as determined by the Directors on the relevant Dealing Day;

- (iii) no shares shall be issued until the Investments shall have been vested in the Depositary to the Depositary's satisfaction;
 - (iv) any Duties and Charges arising in connection with the vesting of such Investments in the Company shall be paid by the person to whom the shares are to be issued; and
 - (v) the Depositary shall be satisfied that the terms on which the shares are issued shall not be such as are likely to result in any prejudice to the existing Members in the relevant Sub-Fund.
- (e) No shares shall be issued on any Dealing Day in respect of any Sub-Fund on which the determination of the Net Asset Value of the Company on the determination of the Net Asset Value of the relevant Sub-Fund is suspended pursuant to Clause 14 hereof.

11. **QUALIFIED HOLDERS**

- (a) No shares shall be allotted or issued to or transferred to or be beneficially owned by any U.S. Person. Each subscriber for shares of the Company shall be required to certify that he is not, nor is he acquiring such shares on behalf of, or for the benefit of, a U.S. Person and that such subscriber will not sell or offer to sell or transfer, hypothecate or otherwise assign such shares in the U.S. or to, or for the benefit of, a U.S. Person. No transfer of shares shall be recorded on the Register unless:
 - (i) the seller shall certify to the Company that such sale is not being made directly or indirectly to a U.S. Person; and
 - (ii) the purchaser shall certify to the Company that it is not, nor is it acquiring such shares on behalf of or for the benefit of, a U.S. Person.
- (b) The Directors shall have power (but shall not be under any duty) to impose such restrictions (other than a restriction on transfer which is not expressly referred to in this Constitution) as they may think necessary for the purpose of ensuring that no shares in the Company are acquired or held by any person as described in Clause 11(a) or (e).
- (c) The Directors may upon an application for shares or on a transfer or transmission of shares or at any other time and from time to time require such evidence or declarations to be furnished to them in connection with the matters stated in Clauses 11(a) and (e) as they shall in their discretion deem sufficient.
- (d) If a person becomes aware that he is holding or owning shares in contravention of Clause 11 he shall forthwith in writing request the Company to repurchase such shares in accordance with Clause 12 or shall transfer such shares to a person duly qualified to hold the same unless he has already received a notice under Clause 11(f).
- (e) 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:
 - (i) any person in breach of any law or requirement of any country or governmental authority or by virtue of which such person is not qualified to

hold such shares; or

- (ii) any person who is, or has acquired such shares on behalf of or for the benefit of, a U.S. Person; or
- (iii) any person or persons in circumstances which, (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other person or persons whether connected or not, or any other circumstances appearing to the Directors to be relevant) in the opinion of the Directors might result in the Company or any Member incurring any liability to taxation or suffering pecuniary, reputational or administrative disadvantages which the Company or such Member might not otherwise have incurred or suffered; or
- (iv) any person who does not supply any of the information or declarations required hereunder within seven (7) days of a request to do so being sent by the Directors;

the Directors shall be entitled to give notice (in such form as the Directors deem appropriate) to such person or persons requiring him or them to transfer such shares to a person who is qualified or entitled to own the same or to request in writing the repurchase of such shares in accordance with Clause 12.

- (f) If any person upon whom such a notice is served as aforesaid does not within 30 days of the date of such notice transfer such shares or request in writing the Company to repurchase the shares he shall be deemed forthwith upon the expiration of 30 days to have so requested the repurchase of all of his shares which are the subject of such notice whereupon he shall be bound to deliver the confirmation of ownership in respect of the shares to the Company forthwith and the Directors shall be entitled to appoint any person to execute such documents as may be required for the purposes of the repurchase. The deemed request to repurchase the shares may not be withdrawn notwithstanding that the determination of the Net Asset Value for such shares may have been suspended.
- (g) Subject to any requisite official consents first having been obtained, settlement shall be effected by depositing the repurchase monies or proceeds of sale in a bank for payment to the person entitled upon such consents being obtained and, if relevant, against production of such evidence of ownership as the Directors may require representing the shares previously held by such person, together with the repurchase request duly signed. Upon deposit of such repurchase monies as aforesaid such person shall have no further interest in such shares or any of them or any claim in respect thereof except the right to claim without recourse to the Company the repurchase monies so deposited (without interest) upon such consents being obtained and against the production of the said evidence of ownership with the repurchase request duly signed.
- (h) The Directors may resolve that the provisions of the foregoing Clause 11 shall be disapplied, in whole or in part, for a defined period or otherwise, in the case of U.S. Persons.

12. **REPURCHASE OF SHARES**

- (a) The Company may repurchase its own outstanding fully paid shares at any time. A Member may at any time irrevocably request the Company to repurchase all or any part of his shares in the Company by forwarding a request for repurchase of shares to

the Company and, save as otherwise provided in the relevant Prospectus for any Sub-Fund, a repurchase request shall be effective on the Dealing Day following receipt of the repurchase request.

- (b) A request for repurchase of shares shall be in such form as the Company shall prescribe, shall be irrevocable and, unless otherwise provided for in the Prospectus, shall be filed by a Member in written form at the registered office of the Company, or at the office of the person or entity from time to time designated by the Company as its agent for the repurchase of shares, and, at the request of the Company shall be accompanied by the confirmation of ownership (duly endorsed by the Shareholder) or warrant issued by the Company or by proper evidence of succession or assignment satisfactory to the Company together with unmatured dividend coupons, if applicable.
- (c) On receipt of a request for repurchase of shares duly completed the Company shall repurchase the shares as requested on the Dealing Day on which the repurchase request is effective subject to any suspension of this repurchase obligation pursuant to Clause 14 hereof. Shares in the capital of the Company which are repurchased by the Company shall be cancelled.
- (d) The repurchase price per share shall be the Net Asset Value for such share obtaining on the Dealing Day on the day on which the repurchase request is effective, less such deduction, charge or Commission as may be set out in the Prospectus, as provided for herein.
- (e) Payment to a Member under this Clause will ordinarily be made in the Base Currency, or in any other freely convertible currency at the rate of exchange for conversion on the date of payment and shall be dispatched at the latest within fourteen days following acceptance of the repurchase request as provided for in Clause 12(a) above.
- (f) On repurchase of part only of the shares held by any Member, at the request of the Member, the Directors shall procure that a revised confirmation of ownership shall be issued free of charge for the balance of such shares.
- (g) In the event that a repurchase of part only of a Member's holding of shares leaves the Member holding less than the Minimum Holding the Directors may, if they think fit, require that the Company repurchase the whole of that Member's holding.
- (h) If the Company receives requests for the repurchase of shares in respect of 10% or more of the Net Asset Value of a Sub-Fund on any Valuation Day, the Directors may, in their sole discretion, elect to restrict the total value of shares repurchased to 10% or more of the Sub-Fund's Net Asset Value. If the Directors elect to restrict the repurchase of shares in this manner then:
 - (i) all relevant repurchase requests will be scaled down *pro rata* to the value of shares requested to be repurchased; and
 - (ii) subject to the above restriction, any shares which are not repurchased on a Valuation Day shall be treated as if a request for repurchase has been made in respect of such shares for the next and each subsequent Valuation Day until all of the shares to which the original request(s) related have been repurchased.
- (i) At the discretion of the Directors and with the approval of the applicant and of the Depositary, the Company may satisfy any application for repurchase of shares by the transfer to those Members of assets of the Company *in specie*, **PROVIDED THAT**

the Company shall transfer to each Member that proportion of the assets of the Company which is then equivalent in value to the shareholding of the Member then requesting the repurchase of shares, but adjusted as the Directors may determine to reflect the liabilities of the Company **PROVIDED ALWAYS THAT** the nature of the assets and the type of assets to be transferred to each Member 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 Members, and for the foregoing purposes the value of assets shall be determined on the same basis as used in calculating the Net Asset Value.

- (j) In the event that the Company is required to deduct, withhold or account for tax on a disposal of shares by a Member (whether upon a repurchase of shares, a transfer of shares or otherwise) or upon the payment of a distribution to a Member (whether in cash or otherwise) or in any other circumstances in which a taxation liability arises, the Directors shall be entitled to arrange for the repurchase and cancellation of such number of the shares of such Member as are sufficient after the deduction of any repurchase charges to discharge any such tax liability and the Directors may decline to register a transferee as a Member until such time as they receive from the transferee such declarations as to residency or status as they may require. The Depositary shall ensure that the repurchase proceeds are held for the purposes of discharging any applicable tax liability as aforesaid.
- (k) Where the Company receives a request for the repurchase of Shares from any Member in respect of which the Company is required to account for, deduct or withhold taxation, the Company shall be entitled to deduct from the proceeds of repurchase such amount of taxation as the Company is required to account for, deduct or withhold and shall arrange to discharge the amount of tax due.
- (l) In the event that the amount payable to a Member on a repurchase is exceeded by the cost of dispatching, transmitting, effecting or otherwise making such payments to the Member, the Company shall be entitled to retain such redemption proceeds for the benefit of all of the remaining Members provided that in no event shall the value of such redemption proceeds exceed €20 (or its foreign currency equivalent) for any Member.

13. **TOTAL REPURCHASE**

- (a) With the sanction of a Special Resolution of the Members, the Company may, by not less than four nor more than six weeks' notice (expiring on a Dealing Day) to all Members repurchase all of the shares of the Company or of any class of shares at the Net Asset Value for such shares on such Dealing Day.
- (b) If at any time the Net Asset Value of shares in the Company or in any Sub-Fund or class of shares calculated in accordance with Clause 14 hereof shall on each Dealing Day falling within a period of five consecutive weeks be less than the Base Currency equivalent of U.S.\$100,000,000 the Company, or such other amount as may be determined by the Directors in respect of the Company, that Sub-Fund or that class of shares, as the case may be, may, by not less than four nor more than six weeks' notice (expiring on a Dealing Day) to all Members given within four weeks after the expiry of the said period, repurchase all (but not some) of the shares of the Company, the Sub-Fund or the class of shares, as applicable, not previously repurchased.
- (c) If all of the shares in the Company are to be repurchased as aforesaid the Company, with the approval of the Members by Ordinary Resolution, may divide amongst the Members *in specie* all or part of the assets of the Company according to the value of

the shares then held by each Member as determined in accordance with Clause 14 hereof.

- (d) On 31 December 2005 or on any fifth year thereafter provided that notice of not less than four and not more than six weeks has been given to the holder of the shares the Company may repurchase all of the shares of the Company at the Net Asset Value on the applicable Dealing Day.
- (e) If all of the shares are to be repurchased as aforesaid and the whole or any part of the business or property of the Company or any of the assets of the Company is proposed to be transferred or sold to another company (hereinafter called the “**Transferee**”) the Company may, with the sanction of a Special Resolution conferring either a general authority on the Directors or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares, units, policies or other like interests or property in or of the Transferee for distribution among the Members, or may enter into any other arrangement whereby any Member 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.
- (f) If at any time the Manager or the Investment Manager of any Sub-Fund resigns, and it is the opinion of the Directors that it is no longer appropriate to continue with the Sub-Fund, the Directors may, by not less than four nor more than six weeks’ notice (expiring on a Dealing Day) to all Members repurchase all of the shares in the Sub-Fund on such Dealing Day.
- (g) If at any time the Directors determine that it is no longer economically viable or possible to meet the investment objectives of any Sub-Fund or class of shares and termination of such Sub-Fund or class of shares would be in the best interests of the relevant Members.

14. **DETERMINATION OF NET ASSET VALUE**

- (a) The Company on each Dealing Day shall determine the Net Asset Value of the Company and of each class of shares in the Company. The Net Asset Value shall be expressed in the Base Currency as a per share figure for each class of shares in issue and shall be determined on each Dealing Day in accordance with Clause 15 hereof. Any liabilities of the Company which are not attributable to any Sub-Fund shall be allocated *pro rata* amongst all of the Sub-Funds. The Net Asset Value of the Company is calculated by deducting the total liabilities of the Company from the total assets of the Company. Total assets include the value of all investments held, the sum of any cash and accrued interest. Total liabilities comprise all liabilities including any borrowings, accrued expenses and any contingencies for which reserves are determined to be required.
- (b) The Company at any time may, but shall not be obliged to, temporarily suspend the determination of the Net Asset Value and the sale and repurchase of such shares, in the following instances:
 - (i) during any period (other than ordinary holiday or customary weekend closings) when any market is closed which is the main market for a significant part of the Investments, or in which trading thereon is restricted or suspended; or
 - (ii) during any period when any circumstance exists as a result of which disposal or valuation by a Sub-Fund of Investments is not reasonably practicable

without this being seriously detrimental to the interests of Members or repurchase prices cannot fairly be calculated or if feasible would be possible only on terms materially disadvantageous to Members; or

- (iii) during any period when there is any breakdown in the means of communication normally employed in determining the price of any Investments or for any reason the current prices of any Investments cannot be reasonably, promptly or accurately ascertained; or
 - (iv) during any period when remittance of funds required for the purpose of making payments due on the acquisition of, or may, be involved in the realisation of, or in the payment for, Investments cannot, in the opinion of the Directors, be carried out at normal prices or normal rates of exchange; or
 - (v) during any period when the proceeds of any sale or repurchase of shares in the Company cannot be transmitted to or from the Company's account; or
 - (vi) during any period when the volume of requests for the repurchase 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 a Sub-Fund to the detriment of the remaining Members; or
 - (vii) 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; or
 - (viii) upon the service on the Members of a notice to consider a resolution to wind up the Company or close a Sub-Fund; or
 - (ix) upon the occurrence of an event causing the Company or any Sub-Fund to enter into liquidation; or
 - (x) in exceptional cases, where the circumstances so require, and where the Directors consider it justifiable to do so having regard to the best interests of the Members of the Company or the Sub-Fund, as the case may be, as a whole.
- (c) The Company may elect to treat the first Business Day on which the conditions giving rise to the suspension have ceased as a substitute Dealing Day in which case the Net Asset Value calculations and all sales and repurchases of shares shall be effected on the substitute Dealing Day. Alternatively the Company may elect not to treat such second Business Day as a substitute Dealing Day in which case it shall notify all applicants for shares and Members requesting repurchase of shares who shall then be entitled to withdraw their applications and repurchase requests by the date stated in the notification.
- (d) Any such suspension shall be published by the Company in such manner as it may deem appropriate to the persons likely to be affected thereby if in the opinion of the Company, such suspension is likely to continue for a period exceeding fourteen days and any such suspension shall be notified immediately to the Central Bank and, in the event that any Class of shares is so listed, the Irish Stock Exchange and in any event within the working day on the day of the suspension. Where practicable, all reasonable steps will be taken to bring any period of suspension to an end as soon as possible. Where practicable, all reasonable steps will be taken to bring any period of suspension to an end as soon as possible.

- (e) A suspension of repurchase may be made at any time prior to the payment of repurchase proceeds and the removal of the Member's name from the Register. A suspension of subscriptions may be made at any time prior to the entry of a Member's name on the Register.

15. VALUATION OF ASSETS

- (a) The Administrator shall determine the Net Asset Value per Share of each Class, on each Dealing Day at the close of business on the basis of the valuation provisions set out in Clauses 15(d)(i) to (viii) hereof.
- (b) The Net Asset Value per Share of a Sub-Fund shall be the value of the gross assets attributable to such Sub-Fund less all of the liabilities attributable to such Sub-Fund (including such provisions as the Administrator considers appropriate in respect of the costs and expenses payable in relation to such Sub-Fund) divided by the number of Shares of such Sub-Fund outstanding as of the Dealing Day. Any liabilities of the Company which are not attributable to any Sub-Fund shall be allocated *pro rata* among all of the Sub-Funds.
- (c) The Net Asset Value of each Class shall be determined by calculating the amount of the Net Asset Value of a Sub-Fund attributable to each Class. The amount of the Net Asset Value of a Sub-Fund attributable to a Class shall be determined by establishing the proportion of the assets of the Class as at the most recent Net Asset Value calculation or the close of the Initial Offer Period in the case of an initial offer of a Class, adjusted to take account of any subscription orders (after deduction of any repurchase orders) and by allocating relevant Class Expenses (as defined below) and fees to the Class and making appropriate adjustments to take account of distributions paid, if applicable, and apportioning the Net Asset Value accordingly. The Net Asset Value per Share of a Class shall be calculated by dividing the Net Asset Value of the Class by the number of Shares in issue in that Class. Class Expenses or fees or charges not attributable to a particular Class may be allocated amongst the Classes based on their respective Net Asset Value or any other reasonable basis approved by the Depositary having taken into account the nature of the fees and charges. Class Expenses and fees relating specifically to a Class will be charged to that Class. In the event that Classes are priced in a currency other than the Base Currency, currency conversion costs will be borne by that Class.

“**Class Expenses**” means the expenses of registering a class in any jurisdiction or with any stock exchange, regulated market or settlement system and all other expenses arising from such registration and such further expenses howsoever arising as may be disclosed in the Prospectus. The cost of converting currency and the costs and gains/losses of the hedging transactions are borne solely by the relevant Class.

- (d) In calculating the Net Asset Value:
 - (i) assets listed or traded on a Regulated Market shall be valued at the closing mid-market quotation on the Regulated Market which is the principal market for such security at the close of the regular trading session of the relevant Regulated Market on the Dealing Day or, if unavailable or, in the opinion of the Manager, the Investment Manager and/or the Administrator such value is unrepresentative of fair market value, the value shall be calculated at the probable realisation value estimated with care and in good faith by a competent person appointed by the Directors or the Manager and approved for that purpose by the Depositary in consultation with the Investment Manager;

- (ii) if the assets are listed or traded on several Regulated Markets the latest closing mid-market quotation on the Regulated Market which, in the opinion of the Manager or the Administrator, constitutes the principal market for such assets will be used;
- (iii) in the event that any of the investments is not listed or traded on any Regulated Market, such security shall be valued at the probable realisation value determined with care and in good faith by a competent person (approved by the Depositary as a competent person for such purpose) in consultation with the Manager or the Investment Manager. Such probable realisation value will be determined: (i) by using the original purchase price; (ii) where there have been subsequent trades with substantial volumes, by using the latest trade price provided that the Administrator in consultation with the Manager or the Investment Manager considers such trades to be at arm's length; (iii) where the Manager or the Investment Manager believes the investment has suffered a diminution in value, by using the original purchase price that shall be discounted to reflect such a diminution; or (iv) if the Administrator in consultation with the Manager or the Investment Manager believes a mid quotation from brokers reliable, by using such mid quotation or, if unavailable, a bid quotation. Due to the nature of such unquoted securities and the difficulty in obtaining a valuation from other sources, such competent professional may be related to the Manager or the Investment Manager;
- (iv) cash and other liquid assets will be valued at their face value with interest accrued as at close of business on the Dealing Day;
- (v) units or shares in collective investment schemes will be valued at the latest available net asset value relevant to the collective investment scheme;
- (vi) exchange-traded derivative instruments will be valued as at close of the regular trading session of the relevant market on the Dealing Day at the settlement price for such instruments on the relevant exchange. If the settlement price of an exchange-traded derivative instrument is not available, the value of such instrument shall be the probable realisation value estimated with care and in good faith by a competent professional appointed by the Directors or the Manager and approved for that purpose by the Depositary in consultation with the Manager or the Investment Manager. The counterparty to derivative instruments not traded on an exchange must be prepared to value the contract and to close out the transaction at the request of the Company at fair value. The Company may choose to value over the counter derivatives using either the counterparty valuation or an alternative valuation, such as a valuation calculated by the Company or by an independent pricing vendor provided by the Company. The Company must value over the counter derivatives on a daily basis. Where the Company values over the counter derivatives using the counterparty valuation, the valuation must be approved or verified by a party who is approved for the purpose by the Depositary and who is independent of the counterparty. The independent verification must be carried out at least weekly. Where the Company values over the counter derivatives using an alternative valuation the Company must follow international best practice and will adhere to the principles on the valuation of over the counter instruments established by bodies such as IOSCO and the Alternative Investment Management Association (AIMA). The alternative valuation is that provided by a competent person appointed by the Directors or the Manager and approved for the purpose by the Depositary, or a

valuation by any other means provided that the value is approved by the Depositary. The alternative valuation will be reconciled to the counterparty valuation on a monthly basis. Where significant differences arise these will be promptly investigated and explained. Forward foreign exchange and interest rate swap contracts can be valued in accordance with this Clause 15(d)(vi) or, alternatively, by reference to freely available market quotations. If the latter is used, there is no requirement to have such prices independently verified or reconciled to the counterparty valuation;

- (vii) in determining the value of the assets there shall be added to the assets any interest or dividends accrued but not received and any amounts available for distribution but in respect of which no distribution has been made; and
 - (viii) any value expressed otherwise than in the Base Currency (whether of an investment or cash) and any non-Base Currency borrowing shall be converted into the Base Currency at the rate (whether official or otherwise) which the Administrator deems appropriate in the circumstances.
- (e) In calculating the Net Asset Value of the assets:
- (i) every share allotted by the Company shall be deemed to be in issue and the assets shall be deemed to include not only the relevant cash 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 allotted;
 - (ii) where Investments have been agreed to be purchased but such purchase has not been completed such Investments shall be included and the gross purchase or net sale consideration excluded or included as the case may require as if such purchase had been duly completed;
 - (iii) where notice of a repurchase of shares has been given to the Depositary but such cancellation has not been completed the Shares to be cancelled shall be deemed not to be in issue and the value of the assets shall be reduced by the amount payable to the Directors upon such cancellation;
 - (iv) there shall be deducted from the assets the total amount of any actual or estimated liabilities properly payable including outstanding borrowings (if any) but excluding liabilities taken into account under sub-paragraph (ii) above and any estimated liability for tax on and such amount in respect of contingent or projected expenses as the Administrator considers fair and reasonable having regard to the provisions of the Prospectus and this Constitution;
 - (v) there shall be deducted from the value of any Investment in respect of which a call option has been written the value of such option calculated by reference to the lowest available market dealing offered price quoted on a Regulated Market or if no such price is available a price certified by a stockbroker or other person (being a competent person approved for such purpose by the Depositary) or such price as the Directors consider in the circumstances to be reasonable;
 - (vi) there shall be added to the assets a sum representing unamortised expenses;
 - (vii) there shall be added to the assets the amount (if any) available for distribution in respect of the last preceding Accounting Period but in respect of which no

distribution has been declared;

- (viii) there shall be deducted from the assets the total amount (whether actual or estimated by the Directors) of any other liabilities properly payable including accrued interest on borrowings (if any);
 - (ix) cash, deposits and similar investments shall be valued at their face value (together with accrued interest) unless, in the opinion of the Company and with the approval of the Depositary, any adjustment should be made to reflect the value thereof; and
 - (x) in the event that extraordinary circumstances render such a valuation impracticable or inadequate, the Company may with the consent of the Depositary, prudently, and in good faith, follow, until the termination of such circumstances, other rules in order to achieve a fair valuation of the assets of the Company.
- (f) Notwithstanding any of the foregoing, the Directors may with the approval of the Depositary adjust the value of any Investment or other property if, having regard to currency, applicable rate of interest, anticipated rate of dividend, maturity, marketability, liquidity and/or such other considerations as they may deem relevant, they consider that such adjustment is required to reflect the fair value thereof. In addition, the amortised cost method of valuation shall be applied in accordance with the applicable requirements of the Central Bank which depend on whether a Sub-Fund is classified as a money market fund under the Central Bank Regulations **PROVIDED THAT** the intention to do so has been set out in the Prospectus, the assets of a money market fund may be valued using the amortised cost method of valuation whereby Investments are valued at their cost and thereafter assuming an amortisation to maturity of any discount or premium provided the valuation is in accordance with the requirements of the Central Bank. In the case of Sub-Funds that are classified as money market funds in accordance with the requirements of the Central Bank, the amortised cost method of valuation shall be applied only in respect of securities which meet the following criteria:
- have a maturity at issuance of up to and including 397 days;
 - have a residual maturity of up to and including 397 days;
 - undergo regular yield adjustments in line with the money market conditions at least every 397 days; and/or
 - the risk profile, including credit and interest rate risks, corresponds to that of financial instruments which have a maturity of up to and including 397 days or are subject to a yield adjustments at least every 397 days.

The weighted average maturity of the Sub-Fund must not exceed 60 days. The Administrator will carry out a weekly review of discrepancies between the market value and the amortised cost value of the money market instruments. Escalation procedures shall be put in place by the Company on the establishment of any money market fund to ensure that:

- material discrepancies between the market value and the amortised cost value of a money market instrument are brought to the attention of the investment manager/adviser;
- discrepancies in excess of 0.1% between the market value and the amortised cost value of the portfolio will be brought to the attention of the investment manager/adviser;

- discrepancies in excess of 0.2% between the market value and the amortised cost value of the portfolio will be brought to the attention of the Directors, the Manager, the Investment Manager and the Depositary;
- if discrepancies in excess of 0.3% between the market value and the amortised cost value of the portfolio occur a daily review must take place. In that event, the Directors will notify the Central Bank with an indication of the action, if any, which will be taken to reduce such dilution; and
- weekly reviews and any engagement of escalation procedures are clearly documented.

The Directors will monitor the use of the amortised cost method of valuation in order to ensure that this method continues to be in the best interests of the members and to provide a fair valuation of the Investments. There may be periods during which the stated value of an instrument determined under the amortised cost method of valuation is higher or lower than the price which a Sub-Fund would receive if the instrument were sold, and the accuracy of the amortised cost method of valuation can be affected by changes in interest rates and the credit standing of issuers of the Investments. A Sub-Fund which is not a money market fund may value securities using the amortised cost method (in accordance with the requirements of the Central Bank) in respect of money market instruments with a residual maturity not exceeding three months which have no specific sensitivity to market parameters, including credit risk.

The Directors may employ methods to ensure that the Net Asset Value per share of any Sub-Fund that is classified as a money market fund under the Central Bank Regulations is stabilised so that sales and repurchases of shares in that Sub-Fund are effected at a constant share price. There can be no assurance that the Directors, by employing these methods, will be successful in maintaining a constant share price per relevant share. In such circumstances, including where the Directors expect that such methods will not be successful, the Directors shall be entitled, but not obliged, to take any one or more of the following actions in seeking to maintain a constant share price per share, as more particularly set out in the Prospectus: (i) reduce or suspend the declaration or payment of dividends; (ii) make no declaration of dividends; or (iii) declare any shortfall per share on a daily or less frequent basis. Such shortfall, on a daily or less frequent basis, shall be such amount as shall be necessary to seek to maintain a constant share price per share of the relevant Sub-Fund. In order to seek to maintain a constant share price per share of a Sub-Fund, in the event of a shortfall per share, such shortfall shall be an obligation due by a shareholder of that share and each Member holding such shares shall be deemed to request the Company to redeem a sufficient number of such shares equal in value to such shortfall in order to cover the shortfall and discharge that Member's obligation to the relevant Sub-Fund.

- (g) The Directors, with the approval of the Depositary, may adjust the Net Asset Value per Share when calculating realisation prices for any Sub-Fund to reflect the value of such Sub-Fund's investments assuming they were valued using the bid price on the relevant market at the relevant time and provided that such methodology shall be applied on a consistent basis in respect of all asset classes. The Directors' intention is only to exercise this discretion to preserve the value of the holdings of continuing Shareholders in the event of substantial or recurring net repurchases of Shares in the relevant Sub-Fund.
- (h) In the event of it being impossible or incorrect to carry out a valuation of a specific investment in accordance with the valuation rules set out above or if such valuation is not representative of a security's fair market value, the Administrator (being a

competent person approved for such purpose by the Depositary) is entitled to use such other generally recognised valuation method in order to reach a proper valuation of that specific instrument, provided that such method of valuation has been approved by the Depositary.

- (i) Notwithstanding the foregoing where at any time of any valuation any asset of the Company has been realised or contracted to be realised, there shall be included in the assets of the Company in place of such asset the net amount receivable by the Company in respect thereof provided that, if such amount is not then known exactly, then its value shall be the net amount estimated by the Directors as receivable by the Company and provided that the method of valuation is approved by the Depositary.
- (j) Without prejudice to their general powers to delegate their functions herein certified, the Directors may delegate any of their functions in relation to the calculation of Net Asset Value to the Manager, to the Administrator, to a committee of the Directors or to any other duly authorised person. In the absence of wilful misconduct or manifest error, every decision taken by the Directors or any committee of the Directors or by the Manager or the Administrator or any duly authorised person on behalf of the Company in calculating the Net Asset Value shall be final and binding on the Company and on present, past or future Members.

16. **TRANSFER AND TRANSMISSION OF SHARES**

- (a) All transfers of shares shall be effected by a transfer in writing in any usual or common form and every form of transfer shall state the full name and address of the transferor and transferee.
- (b) The instrument of transfer of a share shall be signed by or on behalf of the transferor and need not be signed by the transferee. 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.
- (c) Unless the Directors otherwise agree, a transfer of shares may not be registered if in consequence of such transfer the transferor or the transferee would hold a number of shares less than the Minimum Holding or such other circumstances as may be specified in the Prospectus.
- (d) The Directors may decline to register any transfer of shares unless the instrument of transfer relates only to one class of shares and is deposited at the registered office of the Company or at such other place as the Directors may reasonably require, with such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer.
- (e) If the Directors decline to register a transfer of any share they shall, within one month after the date on which the transfer was lodged with the Company, send to the transferee notice of the refusal.
- (f) The registration of any transfers may be suspended at such times and for such periods as the Directors from time to time may determine, **PROVIDED ALWAYS** that such registration of transfers shall not be suspended for more than thirty days in any year.
- (g) All instruments of transfer which shall be registered shall be retained by the Company, 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.

- (h) 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 recognised by the Company as having title to his interest in the shares, but nothing in this Clause shall release the estate of the deceased holder whether sole or joint from any liability in respect of any share solely or jointly held by him.
- (i) Any guardian of an infant Member and any guardian or other legal representative of a Member under legal disability and any person entitled to a share in consequence of the death, insolvency or bankruptcy of a Member 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 deceased or bankrupt Member could have made, but the Directors shall, in either case, 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 infant or by the deceased, insolvent or bankrupt Member before the death, insolvency or bankruptcy of the Member under legal disability before such disability.
- (j) A person so becoming entitled to a share in consequence of the death, insolvency or bankruptcy of a Member 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 he shall not be entitled to receive notice of or to attend or vote at meetings of the Company, nor save as aforesaid, to any of the rights or privileges of a Member unless and until he shall be registered as a Member in respect of the share **PROVIDED ALWAYS** that the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share and if the notice is not complied with within ninety days the Directors may thereafter withhold all moneys payable or other advantages due in respect of the share until the requirements of the notice have been complied with.

17. INVESTMENT OBJECTIVES

- (a) The Company may invest only in those investments permitted by the UCITS Regulations and subject to the limitations set out in the UCITS Regulations.
- (b) The investment objectives of any Sub-Fund from time to time established by the Company shall be set out in the Prospectus in respect of such Sub-Fund. With the prior consent of the Central Bank and in accordance with Regulation 74(3) (d) and (e) of the UCITS Regulations, the Company may pursue its investment objectives by utilising a wholly-owned Subsidiary Company, and by advancing monies for investment by such Subsidiary Company by way of loan, subscription for equity capital or otherwise, provided that, where the Company uses a Subsidiary Company as an intermediate vehicle, the Company shall maintain beneficial ownership of all of the issued share capital of such Subsidiary Company and the shares in such Subsidiary Company and the assets of such Subsidiary Company shall be kept under the control of the Depositary.
- (c) Subject to authorisation by the Central Bank and to the conditions and limitations outlined in the UCITS Regulations, the Company may invest up to 100% of the assets of any Sub-Fund in transferable securities and money market instruments issued by or guaranteed by a member state of the European Union or issued by or guaranteed by the local authorities of any such member state, or issued or guaranteed by non-member states or public international bodies of which one or more member states are members or issued or guaranteed by the government of the U.S. (including its agencies and instrumentalities), Switzerland, Norway, Canada, Japan, Australia and

New Zealand or issued or guaranteed by any one or more of the following: OECD countries, Government of Brazil (provided the relevant issues are investment grade to the extent that this is required by the Central Bank), Government of India (provided the relevant issues are investment grade to the extent that this is required by the Central Bank), Government of Singapore, Government of the People's Republic of China, European Investment Bank, European Bank for Reconstruction and Development, International Finance Corporation, International Monetary Fund, Euratom, The Asian Development Bank, European Central Bank, Council of Europe, Eurofima, African Development Bank, International Bank for Reconstruction and Development (The World Bank), The Inter American Development Bank, European Union, 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 the Tennessee Valley Authority and Straight-A Funding LLC.

- (d) With the exception of permitted investments in unlisted securities, the Company will only invest in securities traded on a stock exchange or market which meets the regulatory criteria (regulated, operate regularly, be recognised and open to the public) and which is listed in the Prospectus.
- (e) If the investment limits permitted by the UCITS Regulations are exceeded for reasons beyond the control of the Company or as a result of the exercise of subscription rights, the Company shall adopt as a priority objective for its sales transactions the remedying of that situation, taking due account of the interests of the Members.
- (f) The Company or a Sub-Fund may not:-
 - (i) borrow money except that the Company or a Sub-Fund may
 - (A) acquire foreign currency by means of a "back-to-back" loan. Foreign currency obtained in this manner is not classed as borrowings provided that the offsetting equals or exceeds the value of the foreign currency loan outstanding.
 - (B) borrow up to 10% of the value of its net assets provided that such borrowing is on a temporary basis;
 - (ii) pledge, charge or otherwise grant security over any of the Company's or a Sub-Fund's assets or transfer or assign them for the purpose of guaranteeing any debt except in the case of permitted borrowings or other transactions permitted under the UCITS Regulations;
 - (iii) use the Company's or Sub-Fund's assets as collateral for the issue of securities except in the case of permitted borrowings;
 - (iv) grant loans to, or act as guarantor on behalf of, third parties; or
 - (v) sell any of the Investments when such Investments are not in the Company's or a Sub-Fund's ownership.
- (g) To achieve its investment objectives, the Company or a Sub-Fund may employ techniques and instruments relating to the investments subject to the conditions and within the limits from time to time laid down by the Central Bank.

- (h) The Company or a Sub-Fund may invest in collective investment schemes subject to the conditions and limitations outlined in the UCITS Regulations and as laid down by the Central Bank from time to time. Investments made by the Company with respect to a Sub-Fund in units of other collective investment schemes may not exceed, in aggregate, 10% of the assets of that Sub-Fund unless otherwise stated in the Prospectus. Subject to authorisation by the Central Bank, the Company or a Sub-Fund may invest in a collective investment scheme (“underlying scheme”) managed by the same management company or any other company with which the management company is linked by common management or control or by a substantial direct or indirect holding, provided that the management company or such other company may not charge subscription or redemption fees on account of the investment of the Company or such Sub-Fund in the underlying scheme.
- (i) A Sub-Fund may invest up to 20% of its Net Asset Value in shares and/or debt securities issued by the same body (and up to 35% for one single issuer in certain exceptional circumstances) where the investment policy of the Sub-Fund is to replicate an index provided that such index is published in appropriate manner and has been recognised by the Central Bank as (A) being sufficiently diversified; (B) representing an adequate benchmark for the market to which it refers; and (C) the index is published in an appropriate manner.
- (j) The Company or a Sub-Fund may invest in financial derivative instruments, including equivalent cash-settled instruments, dealt in on a Regulated Market and may invest in over-the-counter derivatives subject to the conditions and limitations outlined in the UCITS Regulations and the Central Bank Regulations and laid down by the Central Bank from time to time.

18. GENERAL MEETINGS

- (a) All general meetings of the Company shall be held in Ireland.
- (b) The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meeting in that year. Not more than fifteen months shall elapse between the date of one annual general meeting of the Company and that of the next **PROVIDED THAT** annual general meetings shall be held once in each year as determined by the Directors from time to time at such time and place in Ireland as may be determined by the Directors.
- (c) All general meetings (other than annual general meetings) shall be called extraordinary general meetings.
- (d) 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.
- (e) The Directors shall call an extraordinary general meeting whenever by notice in writing the Depositary requests such a meeting to be convened to consider any resolution relating to the termination of the appointment of the Depositary or any alteration or amendment to the Depositary Agreement or any resolution which the Depositary considers necessary in the interests of the Members.

19. NOTICE OF GENERAL MEETINGS

- (a) At least twenty-one Clear Days’ notice specifying 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 specifying the meeting as such) shall be given in the manner hereinafter mentioned to such persons as are under the provisions hereof or the conditions of issue of the shares held by them entitled to receive notices from the Company.

- (b) The Directors and the Auditors shall each be entitled to receive notice of, and attend and speak at, any general meeting of the Company.
- (c) In each notice calling a meeting of the Company, there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend and vote instead of him and that a proxy need not also be a Member.
- (d) 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.

20. PROCEEDINGS AT GENERAL MEETINGS

- (a) 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 statutory financial statements and report of the Directors and the report of the Auditors on the financial statements and the report of the Directors, the review by the Members of the Company's affairs, the election of Directors in the place of those retiring, the fixing of the remuneration of the Auditors and the appointment of reappointment of the Auditors.
- (b) No business shall be transacted at any general meeting unless a quorum is present. Two Members present either in person or by proxy shall be a quorum for a general meeting provided that, in the event that there is only one Member in a fund or class, the quorum shall be one Member present in person or by proxy at the meeting. A representative of a corporation authorised pursuant to Clause 21(m) to be present at any meeting of the Company shall be deemed to be a Member for the purpose of a quorum.
- (c) If within half an hour from the time appointed for a meeting a quorum is not present, the meeting, if convened on the requisition of or by Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine. The quorum at any adjourned meeting shall be one Member present in person or by proxy and entitled to vote.
- (d) The chairman or, if absent, the deputy chairman of the Company, or failing him, some other Director nominated by the Directors shall preside as chairman at every general meeting of the Company, but if at any meeting neither the chairman nor the deputy chairman nor such other Director be 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 be present, or if all the Directors present decline to take the chair, the Members present shall choose some Member present to be chairman.
- (e) 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 fourteen days or more ten

days' notice at the 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. The quorum at any adjourned meeting shall be one Member present in person or by proxy and entitled to vote.

- (f) 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 or by any Members present representing at least one tenth in number or value of the shares in issue 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 Company 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.
- (g) 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.
- (h) 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.
- (i) 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.
- (j) 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.
- (k) 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.
- (l) A demand for a poll may be withdrawn and no notice need be given of a poll not taken immediately.
- (m) If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class or unless otherwise provided herein) may, whether or not the Company is being wound up, be varied by Special Resolution of the Members of that class, to which the provisions of this Clause relating to General Meetings shall apply *mutatis mutandis*, save that the quorum at any such General Meeting shall be Members of that class present in person or by proxy together holding at least one-third in nominal amount of the shares of the relevant class.
- (n) Subject to Section 193 of the Act, a resolution in writing signed by all of the Members for the time being entitled to attend and vote on such resolution at a general meeting

(or being bodies corporate by their duly authorised representative) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the Company duly convened and held, and may consist of several documents in like form each signed by one or more persons, and if described as a special resolution shall be deemed to be a special resolution within the meaning of the Act. Any such resolution shall be served on the Company.

21. VOTES OF MEMBERS

- (a) On a show of hands every Member who is present shall have one vote.
- (b) On a poll every Member present in person or by proxy shall be entitled to one vote in respect of each share held by him.
- (c) 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.
- (d) 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.
- (e) On a poll votes may be given either personally or by proxy.
- (f) On a poll, a Member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.
- (g) 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. The appointment of a proxy by electronic means shall be effective only in such form as the Directors may approve. 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 holder the choice of authorising his/her proxy to vote for or against each resolution.
- (h) Any person (whether a Member or not) may be appointed to act as a proxy. A Member may appoint more than one proxy to attend on the same occasion.
- (i) 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 registered office of the Company or at such other place as is specified for that purpose in the notice of meeting or in the instrument of proxy issued by the Company not less than forty-eight hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and if the aforesaid conditions are not complied with the instrument of proxy shall not be treated as valid. Where the appointment of a proxy and any authority under which it is signed is to be received by the Company in electronic form, it may be so received where an address has been specified by the Company for the purpose of receiving electronic communications:-
 - (i) in the notice convening the meeting;

- (ii) in any appointment of proxy sent out by the Company in relation to the meeting; or
 - (iii) in any invitation contained in an electronic communication to appoint a proxy issued by the Company in relation to the meeting.
- (j) 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.
- (k) The Directors may at the expense of the Company send, by post or otherwise, to the Members instruments of proxy (with or without prepaid postage for their return) for use at any general meeting or at any meeting of any class of Members, either in blank or nominating in the alternative any one or more of the Directors or any other persons. If for the purpose of any meeting invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the expense of the Company, such invitations shall be issued to all (and not to some only) of the Members entitled to be sent a notice of the meeting and to vote thereat by proxy.
- (l) A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal or the revocation of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer of the shares in respect of which the instrument of proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received by the Company at the registered office of the Company, before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used.
- (m) 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 Company 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 these presents be deemed to be present in person at any such meeting if a person so authorised is present thereat.
- (n) The provisions of Clauses 18, 19, 20 and 21 shall apply *mutatis mutandis* to meetings of each class of Members and meetings of Members of a Sub-Fund.

22. **DIRECTORS**

- (a) Unless otherwise determined by the Company by Ordinary Resolution, the number of the Directors shall not be less than two nor more than twelve. The first Directors shall be appointed by the subscribers herein.
- (b) A Director need not be a Member.
- (c) 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. Any Director so appointed shall hold office only until the next following annual general meeting and shall then be eligible for re-election.
- (d) The Directors shall be entitled to such remuneration in relation to the performance of their duties as the Directors may from time to time determine and as shall be disclosed

in the Prospectus or the financial statements of the Company. Such remuneration shall be deemed to accrue from day to day. The Directors and any alternate Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings or any meetings in connection with the business of the Company.

- (e) The Directors may in addition to such remuneration as is referred to in Clause 22(d) hereof grant special remuneration to any Director who, being called upon, shall perform any special or extra services to or at the request of the Company.
- (f) A Director is expressly permitted (for the purposes of Section 228(1)(d) of the Act) to use the Company's property subject to such conditions as may be approved pursuant to such authority as may be delegated by the Board in accordance with this Constitution.
- (g) The Company at any general meeting at which a Director retires or is removed shall fill the vacated office by electing a Director unless the Company shall determine to reduce the number of Directors.
- (h) The office of a Director shall be vacated by a Director in any of the following events, namely:
 - (i) if he resigns his office by notice in writing signed by him and left at the registered office of the Company;
 - (ii) if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
 - (iii) if he becomes of unsound mind;
 - (iv) if he ceases to be a Director by virtue of, or becomes prohibited from being a Director by reason of an order made under the provisions of any law or enactment;
 - (v) if he is requested by a majority of the other Directors (not being less than two in number) to vacate office; or
 - (vi) if he is removed from office by an Ordinary Resolution.
- (i) At least ten days' previous notice in writing shall be given to the Company of the intention of any Member or Members to propose any person other than a retiring Director for election to the office of Director and such notice shall be accompanied by notice in writing signed by the person to be proposed confirming his willingness to be appointed **PROVIDED ALWAYS** that if the Members present at a general meeting unanimously consent, the chairman of such meeting may waive the said notices and submit to the meeting the name of any person so nominated, provided such person confirms in writing his willingness to be appointed and **PROVIDED FURTHER** that the nomination of any person other than a retiring Director for election as Director may be made only by a Director or by such Member or Members holding in the aggregate shares representing not less than 2.5% of the Net Asset Value of the Company on the Dealing Day preceding the date of nomination.
- (j) At a general meeting a motion for the appointment of two or more persons as Directors by a single resolution shall not be made unless a resolution that it shall be so

made has been first agreed to by the meeting without any vote being given against it.

- (k) Any Director may at any time by instrument in writing (whether in electronic form or otherwise in writing) under his hand and deposited at the registered 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.
- (l) The appointment of an alternate Director shall determine if his appointor ceases to be a Director or on the happening of any such event which if he were a Director would cause him to vacate such office.
- (m) 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 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. If he himself shall be a director, or shall attend any such meeting as an alternate for more than one Director, his voting rights shall be cumulative, provided, however, that he shall count as one for the purposes of determining a quorum. If his appointor is for the time being temporarily unable to act, his signature to any resolution in writing of the Directors and for the purposes of affixing the Company seal shall be as effective as the signature of his appointor. To such extent as the Directors may from time to time determine in relation to any committee of the Directors, the foregoing provisions of this paragraph shall also apply *mutatis mutandis* to any meeting of any such committee of which his appointor is a member. An alternate Director shall not (save as aforesaid or as otherwise herein provided) have power to act as a Director nor shall he be deemed to be a Director.
- (n) 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 Company 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 Company from time to time direct.

23. **DIRECTORS, OFFICES AND INTERESTS**

- (a) The Directors may appoint one or more of their body to the office of managing Director or joint managing Director or to any other executive office under the Company (including, where considered appropriate, the office of chairman) 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 revoke any such appointment at any time.
- (b) 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.
- (c) The appointment of any Director to the office of chairman or managing or joint managing Director shall determine automatically if he ceases to be a Director but without prejudice to any claim for damages for breach of any contract of service between him and the Company.

- (d) The appointment of any Director to any other executive office shall not determine automatically if he ceases from any cause to be a Director unless the contract or resolution under which he holds office shall expressly state otherwise, in which event such determination shall be without prejudice to any claim for damages for breach of any contract of service between him and the Company.
- (e) A Director may hold any other office or place of profit under the Company (except that of Auditor) in conjunction with his office of Director, and may act in a professional capacity to the Company, on such terms as to remuneration and otherwise as the Directors may arrange.
- (f) Subject to the provisions of the Act, and provided that he has disclosed to the Directors the nature and extent of any material interest of his, a Director notwithstanding his office:
 - (i) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is interested; and
 - (ii) shall not be accountable, by reason of his office, to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.
- (g) No Director or intending Director shall be disqualified by his office from contracting with the Company either as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the other company in which any Director shall be in any way interested be avoided nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established. The nature of a Director's interest must be declared by him at the meeting of the Directors at which the question of entering into the contract or arrangement is first taken into consideration, or if the Director was not at the date of that meeting interested in the proposed contract or arrangement at the next meeting of the Directors held after he became so interested, and in a case where the Director becomes interested in a contract or arrangement after it is made, at the first meeting of the Directors held after he becomes so interested.
- (h) A copy of every declaration made and notice given under this Clause shall be entered within three days after the making or giving thereof in a book kept for this purpose. Such book shall be open for inspection without charge by any Director, Secretary, Auditor or Member at the registered office of the Company and shall be produced at every general meeting of the Company and at any meeting of the Directors if any Director so requests in sufficient time to enable the book to be available at the meeting.
- (i) For the purposes of this Clause:-
 - (i) a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified; and

- (ii) an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.
- (j) Save as otherwise provided by this Constitution, a Director shall not vote at a meeting of the Directors or a committee of Directors on any resolution concerning a matter in which he has, directly or indirectly, an interest which is material or a duty which conflicts or may conflict with the interests of the Company. Unless otherwise resolved by the Directors, a Director shall not be counted in the quorum present at a meeting in relation to any such resolution on which he is not entitled to vote.
- (k) A Director shall be entitled (in the absence of some other material interest than is indicated below) to vote (and be counted in the quorum) in respect of any resolution concerning any of the following matters, namely:
 - (i) the giving of any security, guarantee or indemnity to him in respect of money lent by him to the Company or any of its Subsidiary or Associated companies or obligations incurred by him at the request of or for the benefit of the Company or any of its Subsidiary or Associated companies; or
 - (ii) the giving of any security, guarantee or indemnity to a third party in respect of a debt or obligation of the Company or any of its Subsidiary or Associated companies for which he himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security; or
 - (iii) any proposal concerning any offer of shares or other securities of or by the Company or any of its Subsidiary or Associated companies for subscription, purchase or exchange in which offer he is or is to be interested as a participant in the underwriting or sub-underwriting thereof; or
 - (iv) 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 1% or more of the issued shares of any class of such company or of the voting rights available to members of such company, any such interest being deemed for the purpose of this Clause to be a material interest in all circumstances.
- (l) Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employments with the Company 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.
- (m) Nothing in Section 228(1)(e) of the Act shall restrict a Director from entering into any commitment which has been approved by the Board or has been approved pursuant to such authority as may be delegated by the Board in accordance with this Constitution. It shall be the duty of each Director to obtain the prior approval of the Board, before entering into any commitment permitted by Sections 228(1)(e)(ii) and 228(2) of the Act.
- (n) If a question arises at a meeting of Directors or of a committee of Directors as to the materiality of a Director's interest or as to the right of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question may be referred, before the conclusion of the meeting, to the chairman of the

meeting and his ruling in relation to any Director other than himself shall be final and conclusive.

- (o) 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 relation to an alternate Director, an interest of his appointor shall be treated as an interest of the alternate Director.
- (p) The Company by Ordinary Resolution may suspend or relax the provisions of this Clause to any extent or ratify any transaction not duly authorised by reason of a contravention of this Clause.

24. POWERS OF DIRECTORS

- (a) The business of the Company shall be managed by the Directors, who may exercise all such powers of the Company as are not by the Act, by the UCITS Regulations or hereby required to be exercised by the Company in general meeting, subject, nevertheless, to the provisions of the Act, to the UCITS Regulations and to the regulations herein contained being not inconsistent with the aforesaid regulations as may be prescribed by the Company in general meeting, but no regulations made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if such regulations 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.
- (b) All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable instruments drawn on the Company, and all other receipts for moneys paid to the Company or a Sub-Fund shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Directors from time to time shall by resolution determine.
- (c) The Directors may exercise all the powers of the Company to invest all or any Sub-Funds of the Company as authorised by this Constitution and may establish Subsidiary Companies in circumstances specified by the Central Bank and, where required by the Central Bank, Shares issued by any Subsidiary Company and all of its assets will be held by the Depository.
- (d) The Directors may exercise the voting powers conferred by shares of any other company held or owned by the Company in such manner in all respects as they think fit and in particular they may exercise their voting powers in favour of any resolution appointing the Directors or any of them as directors or officers of such other company or providing for the payment of remuneration to the directors or officers of such other company.

25. BORROWING, HEDGING POWERS AND THE USE OF FINANCIAL DERIVATIVE INSTRUMENTS

Subject to the limits and conditions set forth in the UCITS Regulations and the Prospectus or laid down by the Central Bank and subject to the provisions of Clause 26(j) hereof, the Directors may exercise all the powers of the Company to borrow money, to mortgage or charge its undertaking, property or any part thereof and to issue debentures, debenture stock and other securities whether outright or as a security for any debts, to give guarantees and to use techniques and instruments for hedging and investment purposes and to acquire, hold and dispose of financial derivative instruments.

26. **PROCEEDINGS OF DIRECTORS**

- (a) The Directors may meet together 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. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.
- (b) 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.
- (c) 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 the provisions hereof the continuing Directors or Director may act for the purpose of filling vacancies in their number or of summoning general meetings of the Company, 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.
- (d) The Directors may from time to time elect or remove a chairman and, if they think fit, a deputy chairman and determine the period for which they respectively are to hold office.
- (e) The chairman or, failing him, the deputy chairman shall preside at all meetings of the Directors, but if there be no chairman or deputy chairman, or if at any meeting the chairman or deputy chairman be 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.
- (f) A resolution in writing (in electronic form or otherwise) signed (whether by electronic signature, advanced electronic signature or otherwise approved by the Directors) by all the Directors for the time being entitled to receive notice of a meeting of the Directors and to vote thereat shall be as valid and effectual as a resolution passed at a meeting of the Directors duly convened and may consist of several documents in the like form each signed by one or more of the Directors. A resolution in writing shall be deemed to have been signed in the country or place where the last signatory to sign the resolution in writing (in electronic form or otherwise) executes such resolution.
- (g) A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all powers and discretions for the time being exercisable by the Directors.
- (h) The Directors may delegate any of their powers to the Manager or to committees consisting of such of their members as they think fit. The meetings and proceedings of any such committee shall conform to the requirements as to quorum imposed under the provisions of Clause 26(b) and shall be governed by the provisions hereof 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.
- (i) The Directors may, whether by standing resolution or otherwise, delegate their powers relating to the issue and repurchase of shares and the calculation of the Net Asset Value of the shares, the declaration of dividends and all management and administrative duties in relation to the Company, to the Manager, to the Administrator or, to any duly authorised Officer or other person subject to such terms and conditions

as the Directors in their absolute discretion may resolve.

- (j) The Directors may delegate their powers relating to the management of a the Company's assets to the Manager, to the Investment Manager or to any duly authorised Officer or other person, subject to such terms and conditions as the Directors in their absolute discretion may resolve.
- (k) All acts done by any meeting of Directors, or of a committee of Directors or by any person authorised by the Directors shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or authorisation 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.
- (l) The Directors shall cause minutes to be made of:
 - (i) all appointments of officers made by the Directors;
 - (ii) the names of the Directors present at each meeting of the Directors and of any committee of Directors; and
 - (iii) all resolutions and proceedings of all meetings of the Company and of the Directors and of committees of Directors.
- (m) Any such minutes as are referred to in Clause 26(l) hereof, 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.
- (n) Any Director may participate in a meeting of the Directors or any committee of the Directors by means of a conference telephone or other telecommunication 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.

27. **SECRETARY**

The Secretary shall be appointed by the Directors. Anything required or authorised to be done by the Secretary may, if the office is vacant or there is for any other reason no Secretary capable of acting, be done by any assistant or deputy Secretary or if there is no assistant or deputy Secretary capable of acting, by any officer of the Company authorised generally or specially in that behalf by the Directors **PROVIDED THAT** any provisions hereof requiring or authorising anything to be done by 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.

28. **THE COMPANY SEAL**

- (a) The Directors shall provide for the safe custody of the seal of the Company. The seal shall be used only with 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 the affixing of the seal 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.

- (b) The Directors may by resolution determine either generally or in any particular case or cases that the signature of any such person authenticating the affixing of the seal may be affixed by some mechanical means to be specified in such resolution or that such certificate shall bear no signatures.
- (c) For the purposes of this Clause any instrument in electronic form to which the seal is required to be affixed shall be sealed by means of an advanced electronic signature based on a qualified certificate of a Director and the Secretary or of a second Director or by some other person appointed by the Directors for the purpose.

29. **DIVIDENDS**

- (a) The Directors may from time to time as they think fit pay such dividends on any class of shares of the Company as appear to the Directors to be justified, subject to any policy statement in relation to dividends in the Prospectus for the relevant Sub-Fund.
- (b) Unless otherwise provided for in the Prospectus, the amount available for distribution in any Accounting Period shall be a sum equal to the aggregate of the income or monies received by the Company in respect of any class of shares (whether in the form of subscriptions, dividends, interest, capital gains or otherwise) during the Accounting Period, subject to such adjustments in respect of the shares as may be appropriate under the following headings:-
 - (i) addition or deduction of a sum by way of adjustment to allow for the effect of sales or repurchases, cum or ex-dividend;
 - (ii) addition of a sum representing any interest or dividend or other income accrued but not received by the Company 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;
 - (iii) addition of the amount (if any) available for distribution in respect of any preceding Accounting Period but not distributed in respect thereof;
 - (iv) 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;
 - (v) deduction of the amount of any tax or other estimated or actual liability properly payable out of the income of the Company;
 - (vi) deduction of a sum representing participation in income paid upon the cancellation of shares during the Accounting Period;
 - (vii) deduction of such sum as the Company with the approval of the Auditors may think appropriate in respect of the Preliminary Expenses if payable by the Company and Duties and Charges, including fees, payable to the Manager, Depositary, Administrator or Investment Manager or any investment advisor, all expenses of and incidental to any amendments to this Constitution for the purpose of securing that the Company conforms to legislation coming into force after the date of incorporation hereof and any

other amendments made pursuant to a resolution of the Company, 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 **PROVIDED ALWAYS** that the Company shall not be responsible for any error in any estimates of corporation tax repayments or double taxation relief expected 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 the amount of any such estimated income receivable is determined, and no adjustment shall be made to any dividend previously declared;

(viii) deduction of any amounts declared as a distribution but not yet distributed.

Notwithstanding the foregoing and for the avoidance of doubt the Company may declare dividends from the proceeds of the issue of the Company's share capital.

- (c) Shares shall qualify for dividend in such manner as may be determined by the Directors.
- (d) Any declaration of a dividend by the Directors on any class of shares may specify that the same shall be payable to the persons registered as the Members at the close of business on a particular date, and thereupon the dividend shall be payable to them in accordance with their respective holdings so registered, but without prejudice to the rights inter se in respect of such dividend, of transferors and transferees of shares.
- (e) The Company may transmit any dividend or other amount payable in respect of any share by cheque or warrant sent by ordinary post to the registered address of the member, or, in the case of joint holders, to the person whose name and address appears first on the Register or any such other manner as may be prescribed in the Prospectus and shall not be responsible for any loss arising in respect of such transmission.
- (f) No dividend or other amount payable to any holder of shares shall bear interest against the Company. All unclaimed dividends and other amounts payable as aforesaid may be invested or otherwise made use of for the benefit of the Company until claimed. Payment by the Company of any unclaimed dividend or other amount payable in respect of a share into a separate account shall not constitute the Company a trustee in respect thereof. Any dividend unclaimed after six years from the date when it first became payable shall be forfeited automatically, without the necessity for any declaration or other action by the Company and shall, unless otherwise determined by the Directors, become part of the assets of the Sub-Fund in respect of which it was paid.
- (g) At the option of any Members, the Directors may apply all dividends declared on a class of shares held by such Member in the issue of additional shares in that class in the Company to that Member at the Net Asset Value obtaining when such dividends are declared and on such terms as the Directors from time to time may resolve, provided, however, that any Member shall be entitled to elect to receive a cash dividend in respect of the shares held by that Member.
- (h) The Directors may also declare such dividends on the shares or on any class of shares from the capital of the relevant class provided appropriate disclosure is made in the

Prospectus in accordance with the requirements of the Central Bank.

- (i) The Directors may provide that Members will be entitled to elect to receive in lieu of any dividend (or part thereof) an issue of additional shares in the relevant Sub-Fund credited as fully paid. In any such case the following provisions shall apply:-
 - (i) the number of additional shares (including any fractional entitlement) to be issued in lieu of any amount of dividend shall be equal in value to the amount of such dividend at the date the dividend was declared;
 - (ii) the dividend (or that part of the dividend in respect of which a right of election has been accorded) shall not be payable on shares in respect of which the share election has been duly exercised (the “**Elected Shares**”), and in lieu thereof additional shares shall be issued to the holders of the Elected Shares on the basis determined as aforesaid and for such purpose the Directors shall capitalise a sum equal to the aggregate value of the dividends in respect of which elections have been made and apply the same in paying up in full the appropriate amount of unissued shares;
 - (iii) 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);
 - (iv) 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 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 Company; and
 - (v) the Directors may on any occasion determine that rights of election shall not be made available to any Member with registered addresses in any territory where in the absence of a registration statement or other special formalities the circulation of an offer of rights of election would or might be unlawful, and in such event the provisions aforesaid shall be read and construed subject to such determination.
- (j) The Directors may, with the sanction of a Special Resolution, distribute in kind among shareholders by way of dividend or otherwise any of the assets of the Company (other than any assets which have a contingent liability).
- (k) Where the Company proposes to pay a distribution to a Member, it shall be entitled to deduct from the distribution such amount as may be necessary to discharge the Company’s liability to tax in respect of such distribution and shall arrange to discharge the amount of tax due.

30. **UNTRACED MEMBERS**

- (a) The Company shall be entitled to repurchase any share of a Member or any share to which a person is entitled by transmission and to forfeit any dividend which is declared and remains unpaid for a period of six years if and provided that:
 - (i) for a period of six years no cheque, or confirmation of ownership of shares sent by the Company through the post in a pre-paid letter addressed to the Member or to the person entitled by transmission to the share at his address

on the Register or the last known address given by the Member or the person entitled by transmission to which cheques, or confirmations of the ownership of shares are to be sent has been cashed or acknowledged and no communication has been received by the Company from the Member or the persons entitled by transmission (provided that during such six year period at least three dividends shall have become payable in respect of such share);

- (ii) at the expiration of the said period of six years by notice sent by pre-paid letter addressed to the Member 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 Member 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 referred to in Clause 30(a)(i) is located the Company has given notice of its intention to repurchase such share;
 - (iii) during the period of three months after the date of the advertisement and prior to the exercise of the power of repurchase the Company has not received any communication from the Member or person entitled by transmission; and
 - (iv) if the shares are quoted on a stock exchange the Company has first given notice in writing to the appropriate section of such stock exchange of its intention to repurchase such share, if it is required to do so under the rules of such stock exchange.
- (b) The Company shall account to the Member or to the person entitled to such share for the net proceeds of such repurchase by carrying all moneys in respect thereof to a separate interest bearing account which shall be a permanent debt of the Company and the Company shall be deemed to be a debtor and not a trustee in respect thereof for such Member or other person.

31. ACCOUNTS

- (a) The Directors shall cause to be kept adequate accounting records as are necessary in relation to the conduct of its business or as are required by the Act and the UCITS Regulations so as to enable the accounts of the Company to be prepared.
- (b) The accounting records shall be kept at the registered office, or at such other place or subject to Section 238 of the Act 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, the Auditors, or the Central Bank shall be entitled to inspect the financial statements or accounting records of the Company, except on ten days' notice to the Company and as provided by the Act or the UCITS Regulations or authorised by the Directors or by the Company in general meeting.
- (c) The statutory financial statements of the Company and reports as are required by the Act and the UCITS Regulations shall be made out as at the end of each financial year of the Company as determined by the Directors from time to time and shall be audited by the Auditors and laid before the Company at its annual general meeting in each year together with a copy of the Directors' report and the Auditors' report on the activities of the financial year and the other information provided for the UCITS Regulations as well as any significant information which will enable investors to make an informed judgement on the development of activities of the Company and its results. The Auditors' report shall be read at the annual general meeting.
- (d) Once at least in every year the Directors shall cause to be prepared an Annual Report

relating to the management of the Company. The Annual Report shall include the statutory financial statements of the Company duly audited by the Auditors and the Directors' Report and the Auditors' Report as provided for in Clause 31(c) and shall be in a form approved by the Central Bank and shall contain such information required by the UCITS Regulations and the Act. There shall be attached to such Annual Report such additional information and reports as the Central Bank may specify.

- (e) A copy of the Annual Report including the statutory financial statements of the Company (including every document required by law to be annexed thereto) which is to be laid before the annual general meeting of the Company together with a copy of the Directors' report and the Auditors' report shall be sent by the Company (by post or, where a Member so elects, by electronic mail or any other means of electronic communication (including by placing a copy of such document on the website of the Company)) to every person entitled under the Act and the UCITS Regulations to receive them and if any of the shares are quoted on any stock exchange, the required number of copies of these documents shall be forwarded at the same time to such stock exchange in all cases not less than twenty one Clear Days before the date of the annual general meeting. A hard copy of the Annual Report shall be available for inspection upon request at the registered offices of the Administrator.
- (f) The Auditors' certificate appended to the Annual Report and statement referred to herein shall declare that the accounts or statement attached respectively thereto (as the case may be) have been examined together with the books and records of the Company 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 Company, and whether the accounts are in their opinion properly drawn up in accordance with the provisions hereof.
- (g) The Company shall prepare an unaudited half-yearly report for the six months immediately succeeding the date of the last Annual Report of the Company. Such half-yearly report shall be in a form approved by the Central Bank and shall contain such information required by it.
- (h) A copy of the said half-yearly report shall be sent by the Company (by post or, where a Member so elects, by electronic mail or any other means of electronic communication (including by placing a copy of such documents on the website of the Company)) to every person entitled under the Act and the UCITS Regulations to receive it not later than two months from the end of the period to which it relates. A hard copy of the half-yearly report shall be available for inspection upon request at the offices of the Administrator.

32. **AUDIT**

- (a) The Company shall appoint Auditors to hold office in accordance with the Act.
- (b) The appointment and removal of Auditors and the determination of eligibility for appointment as Auditors to the Company shall be governed by the provisions of the Act.
- (c) A person, other than a retiring Auditor, shall not be capable of being appointed Auditor at an annual general meeting unless notice of an intention to nominate that person to the office of Auditor has been given by a Member to the Company not less

than twenty eight days before the annual general meeting and the Directors shall send a copy of any such notice to the retiring Auditor and shall give notice thereof to the Members in accordance with Section 396 of the Act.

- (d) The first Auditors shall be appointed by the Directors before the first general meeting, and they shall hold office until the conclusion of the first annual general meeting unless previously removed by a resolution of the Company in general meeting, in which case the Members at such meeting may appoint Auditors.
- (e) The remuneration of the Auditors shall be approved by the Company in general meeting or in such manner as the Company may determine.
- (f) The Auditors shall examine such books, accounts and vouchers as may be necessary for the performance of their duties.
- (g) The report of the Auditors to the Members on the audited accounts of the Company shall include the information provided for in Clause 31(f) and, in particular, shall state whether in the Auditors' opinion the balance sheet and profit and loss account in their opinion give a true and fair view of the state of the Company's affairs and of its profit and loss for the period in question.
- (h) The Company shall furnish the Auditors with a list of all books kept by the Company and at all reasonable times shall afford to the Auditors the right of access to the books and accounts and vouchers of the Company. The Auditors shall be entitled to require from the Officers and employees of the Company such information and explanation as may be necessary for the performance of their duties.
- (i) The Auditors shall be entitled to attend any general meeting of the Company at which any accounts which have been examined or reported on by them are to be laid before the Company and to make any statement or explanations they may desire with respect to the accounts and notice of every such meeting shall be given to the Auditors in the manner prescribed for the Members.
- (j) The Auditors shall be eligible for re-election.

33. **NOTICES**

- (a) Any notice or other document required to be given to, delivered, served upon or sent to a Member pursuant to this Constitution and/or the applicable law may be given to, delivered, served or sent to any Member by the Company by any of the following means:-
 - (i) personally;
 - (ii) by sending it through the post (by airmail where applicable) in a pre-paid letter addressed to the Member at the Member's address as appearing in the Register;
 - (iii) by sending it by courier to or leaving it at the Member's address appearing on the Register;
 - (iv) subject to such Member's consent to electronic communications, by the Company sending it by email or other electronic means, in each case to an address or number supplied by such Member; or

- (v) subject to such Member's consent to the use of the website, by publication of an electronic record of it on a website and notification of such publication (which shall include the address of the website and the place on the website where the document may be found).
- (b) Any notice or other document shall be deemed to have been given to, delivered, served upon or sent to any Member by the Company:-
 - (i) if sent by personal delivery, at the time of delivery;
 - (ii) if sent by post, 48 hours after it was put in the post;
 - (iii) if sent by courier, 24 hours after sending;
 - (iv) if sent by email or other electronic means, 12 hours after sending; or
 - (v) if published as an electronic record on a website, 12 hours after it has been published;

and in proving such service or delivery, it shall be sufficient to prove that the notice or document was properly addressed and stamped and put in the post or sent by courier, email or by electronic means, or published on a website, as the case may be, in accordance with this Constitution.

- (c) Any requirement in this Constitution for the consent of a Member with regard to electronic communications and the use of a website shall be deemed to have been satisfied where the Member subscribes for or holds shares in the Company as the Member is bound by this Constitution as if it had been signed by such Member. The Member may at any time revoke such consent by requesting the Company to communicate with that Member in documented form; provided however, that this requirement to communicate in documented form shall not take effect until 30 days after written notice of the requirement is received by the Company.
- (d) In the case of joint holders of a share, service or delivery of any notice or other document on or to one of the joint holders shall for all purposes be deemed sufficient service on delivery to all joint holders.
- (e) Any notice or document sent by post to or left at the registered address of a Member or, with the consent of a Member, sent in electronic form by electronic means or by the use of a website shall, notwithstanding that such Member be then dead or bankrupt and whether or not the Company or the Administrator 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 receipt by all persons interested (whether jointly with or as claiming through or under him) in the shares concerned and such notice shall be deemed to have been received by the Members twenty four hours after the time of posting or sending by electronic means.
- (f) The Company may establish a scheme whereby electronic means may be used by Members to appoint a proxy (the "Electronic Proxy Scheme"). Any Electronic Proxy Scheme shall require a Member appointing a proxy to complete a specified electronic form of proxy which shall be either signed by the Member using an electronic signature or completed using another form of electronic authentication or password in accordance with the requirements of the Electronic Commerce Act, 2000 or any other applicable law or regulation.

34. **WINDING UP**

- (a) If the Company shall be wound up or dissolved the liquidator shall apply the assets of the Company in satisfaction of creditors' claims in such manner and order as he thinks fit.
- (b) The assets of the Company available for distribution (after satisfaction of creditors' claims) amongst the Members shall be distributed *pro rata* to the holders of the shares in each class in the Company and shall be allocated *pro rata* to the number of shares in that class held by them.
- (c) The assets available for distribution among the Members on winding up shall be applied in the following priority:-
 - (i) firstly, in the payment to the Members of each class of each Sub-Fund of a sum in the Base Currency in which that class is denominated or in any other currency selected by the liquidator as nearly as possible equal (at a rate of exchange reasonably determined by the liquidator) to the Net Asset Value of the class held by such holders respectively as at the date of commencement of the winding up provided that there are sufficient assets available in the relevant Sub-Fund to enable such payment to be made. In the event that, as regards any class of shares, there are insufficient assets available in the relevant Sub-Fund to enable such payment to be made, recourse shall be had to the assets of the Company not comprised within any of the Sub-Funds;
 - (ii) secondly, in the payment to the holders of the Subscriber Shares of sums up to the amount paid thereon (plus any interest accrued) out of the assets of the Company not comprised within any Sub-Funds remaining after any recourse thereto under paragraph (i) above. In the event that there are insufficient assets as aforesaid to enable such payment in full to be made, no recourse shall be had to the assets comprised within any of the Sub-Funds;
 - (iii) thirdly, in the payment to the Members of any balance then remaining in the relevant Sub-Fund, such payment being made in proportion to the number of shares held; and
 - (iv) fourthly, in the payment to the Members of any balance then remaining and not comprised within any of the Sub-Funds, such payment being made in proportion to the value of each Sub-Fund and within each Sub-Fund to the value of each class and in proportion to the Net Asset Value per share.
- (d) If the Company shall be wound up or dissolved (whether the liquidation is voluntary, or by the Court) the liquidator may with the authority of an Ordinary Resolution of the Company, divide among the Members *pro rata* to the value of their shareholdings in the Company (as determined in accordance with Clause 14 herein, *in specie* the whole or any part of the assets of the Company, and whether or not the assets shall consist of property of a single kind and may for such purposes value any class or classes of property in accordance with the valuation provisions in Clause 15. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of Members as the liquidator shall think fit, and the liquidation of the Company may be closed and the Company dissolved, but not so that any Member shall be compelled to accept any asset in respect of which there is a liability. If a Member so requests the Company shall arrange to dispose of the investments on behalf of the Member. The price obtained by the Company may be different from the price at which the investment was valued when originally

purchased. The Company shall not be liable for any loss arising from such event. The transaction costs incurred in the disposal of such investments shall be borne by the relevant Member.

35. INDEMNITY

- (a) Subject to the provisions of, and so far as may be permitted by the Act, the Company shall indemnify its Directors, Officers, employees and any person who serves at the request of the Company as a director, officer, employee of another company, partnership, joint venture, trust or other enterprise as follows:
- (i) Every person who is or has been a Director, Officer, or employee of the Company and every person who serves at the Company's request as Director, Officer or employee of another company, partnership, joint venture, trust or other enterprise shall be indemnified by the Company to the fullest extent permitted by law against liability and against all expenses reasonably incurred or paid by him in connection with any debt, claim, action, demand, suit, proceeding, judgment, decree, liability or obligation of any kind in which he becomes involved as a party or otherwise by virtue of his being or having been a Director, Officer or employee of the Company or of another company, partnership, joint venture, trust or other enterprise at the request of the Company and against amounts paid or incurred by him in the settlement thereof except where any of the foregoing is attributable to any negligence or wilful default on the part of such Director, Officer or employee;
 - (ii) 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, judgments, amounts paid in settlement, fines, penalties and other liabilities;
 - (iii) The rights of indemnification herein provided may be insured against by policies maintained by the Company, shall be severable, shall not affect any other rights to which any Director, Officer, employee, agent or the Administrator may now or hereafter be entitled, shall continue as to a person who has ceased to be such a Director, Officer, employee or agent or the Administrator and shall enure to the benefit of the heirs, executors and administrators of such a person;
 - (iv) No indemnification shall be provided hereunder unless an independent legal adviser to the Company has confirmed in a written opinion that the person to be indemnified is entitled to an indemnity under applicable law;
 - (v) The Company may make advances of expenses incurred in the defence of any claim, action, suit or proceedings against any person whom the Company is obliged to indemnify pursuant to Clause 35(a) hereof; and
 - (vi) The Company may indemnify the Manager, the Administrator, the Investment Manager and any agent of the Company to the extent permitted by law and subject to the provisions in relation to indemnification set out in Clause 35(a) hereof.
- (b) The Depositary shall be entitled to such indemnity from the Company upon such terms and subject to such conditions and exceptions and with such entitlement to have recourse to the assets of the Company with a view to meeting and discharging the

costs thereof as shall be provided under its agreement with the Company.

- (c) The Company, the Manager, the Administrator, and the Depositary shall each be entitled to rely absolutely on any declaration received from a Member or his agent as to the residence or otherwise of such Member 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.
- (d) The Company, the Manager, the Administrator, the Investment Manager and the Depositary shall each incur no liability to the Members for complying with any present or future law or regulation made pursuant thereto, or any decree, order or judgment of any court, or 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). If for any reason it becomes impossible or impracticable to carry out any of the provisions hereof none of the Company, the Manager, the Administrator, the Investment Manager nor the Depositary shall be under any liability therefor or thereby. This clause shall not, however, exempt the Company, the Manager, the Administrator, the Investment Manager or the Depositary from any liability any of them may incur as a result of a failure to adhere to their obligations as set out in the UCITS Regulations or any liability incurred as a result of any fraud on the part of the Company, the Manager, the Administrator, the Investment Manager or the Depositary.
- (e) For the avoidance of doubt no Director shall be liable for the acts or omissions of any other Director.

36. **DESTRUCTION OF DOCUMENTS**

- (a) The Company may destroy:
 - (i) any dividend mandate or share allotment request form or any variation or cancellation thereof or any notification of change of name or address at any time after the expiry of two years from the date such mandate, request variation, cancellation or notification was recorded by the Company;
 - (ii) any instrument of transfer of shares which has been registered at any time after the expiry of six years from the date of registration thereof; and
 - (iii) any other document on the basis of which an entry in the Register is made at any time after the expiry of ten years from the date an entry in the Register was first made in respect of it;

and it shall conclusively be presumed in favour of the Company that every instrument of transfer so destroyed was a valid and effective instrument duly and properly registered and that every other document hereinbefore mentioned so destroyed was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the Company **PROVIDED ALWAYS** that:

- (iv) the foregoing provisions of this Clause shall apply only to the destruction of a document in good faith and without express notice to the Company that the preservation of such document was relevant to a claim;
- (v) nothing contained in this Clause shall be construed as imposing upon the Company any liability in respect of the destruction of any such document earlier than as aforesaid or in any case where the conditions of proviso (i) above are not fulfilled; and
- (vi) references in this Clause to the destruction of any document includes references to its disposal in any manner.

37. **SEVERABILITY**

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

38. **AMENDMENT TO THE CONSTITUTION**

The Members shall be precluded from passing any resolution to amend the Constitution of the Company without obtaining the prior approval of the Central Bank.

Names, addresses and description of subscribers	Number of shares taken by each subscriber
--	--

For and on behalf of
Concord Management (Ireland), Limited
41-45 St Stephen's Green, Dublin 2.
Body Corporate

Carl O'Sullivan
9 Idrone Terrace, Blackrock, Co. Dublin
Solicitor

Jacqueline McGowan-Smyth
12 Meadow Vale, Blackrock, Co. Dublin
Chartered Secretary

Grania Daly
11 Sydney Avenue, Blackrock, Co. Dublin
Secretary

Jacqueline Tyson
54 Greenpark Road, Brady, Co. Wicklow
Secretary

Joanne Ward
52 Llewellyn Grove, Dublin 16
Secretary

Jonathan Kelly
47 Sandford Road, Dublin 6
Solicitor's Apprentice

Dated the 18th day of September, 1992

Witness to the above signatures:

Ann O'Donoghue,
41-45 St. Stephen's Green,
Dublin 2.

**COMPANIES ACT 2014
and
EUROPEAN COMMUNITIES
(UNDERTAKINGS FOR COLLECTIVE
INVESTMENT IN TRANSFERABLE
SECURITIES) REGULATIONS, 2011, AS
AMENDED**

**CONSTITUTION
OF
UBS (IRL) FUND PUBLIC LIMITED
COMPANY**

**AN INVESTMENT COMPANY WITH
VARIABLE CAPITAL**

**AN UMBRELLA FUND WITH
SEGREGATED LIABILITY
BETWEEN SUB-FUNDS**

Arthur Cox
Earlsfort Centre
Earlsfort Terrace
Dublin 2
Ireland