**Model LTAF instrument of incorporation produced by Simmons & Simmons for the Productive Finance Working Group (October 2024)**

|  |  |
| --- | --- |
|  |  |
| **Instrument of Incorporation** | |

|  |
| --- |
| **of**  **[**●**] [LONG-TERM ASSET FUND / LTAF] [[1]](#endnote-1)**  **(an Investment Company WITH Variable Capital)**  **Registered in [England and Wales]**  ***[FOR AN LTAF THAT IS AN UMBRELLA SCHEME WITH SUB-FUNDS WITH DIFFERENT SHARE CLASSES]*** |

Contents

[1. Definitions and Interpretation 1](#_Toc179390706)

[2. Constitution 4](#_Toc179390707)

[3. Name 5](#_Toc179390708)

[4. Duration of the Company 5](#_Toc179390709)

[5. Designated Person 5](#_Toc179390710)

[6. Powers of ACD and Depositary 5](#_Toc179390711)

[7. Object 5](#_Toc179390712)

[8. Type of Company and Regulatory Designations 6](#_Toc179390713)

[9. [Funds] 6](#_Toc179390714)

[10. Base Currency 7](#_Toc179390715)

[11. Share Capital 7](#_Toc179390716)

[12. Classes of Share and Preferential Treatment 7](#_Toc179390717)

[13. [Side pockets] 8](#_Toc179390718)

[14. Valuation and Pricing 9](#_Toc179390719)

[15. Issue, Cancellation, Sale and Redemption of Shares 9](#_Toc179390720)

[16. Exchange of Shares etc 11](#_Toc179390721)

[17. Restrictions on Holding Shares 12](#_Toc179390722)

[18. Evidence of Title to Shares – The Register 13](#_Toc179390723)

[19. Denominations of Shares 13](#_Toc179390724)

[20. Transfer and Transmission of Shares 14](#_Toc179390725)

[21. General Meetings 15](#_Toc179390726)

[22. Proceedings at General Meetings 15](#_Toc179390727)

[23. Voting Rights 17](#_Toc179390728)

[24. Proxies 17](#_Toc179390729)

[25. Corporations Acting by Representatives 18](#_Toc179390730)

[26. The ACD 18](#_Toc179390731)

[27. Remuneration and Reimbursement of Expenses of the ACD 19](#_Toc179390732)

[28. Interests of the ACD 19](#_Toc179390733)

[29. Minutes of ACD’s Meetings 19](#_Toc179390734)

[30. Removal of ACD 20](#_Toc179390735)

[31. Amendments 20](#_Toc179390736)

[32. [Income Equalisation] 20](#_Toc179390737)

[33. Rights in Scheme Property and Allocation of Income 20](#_Toc179390738)

[34. Income and Distributions 21](#_Toc179390739)

[35. Cheques etc. 21](#_Toc179390740)

[36. Charges and Expenses 21](#_Toc179390741)

[37. Destruction of Documents 22](#_Toc179390742)

[38. Notices 22](#_Toc179390743)

[39. Winding up 23](#_Toc179390744)

[40. Indemnity 23](#_Toc179390745)

[41. The Regulations 24](#_Toc179390746)

[SCHEDULE 25](#_Toc179390747)

[Part 1 : [The Funds] 25](#_Toc179390748)

[Part 2 : Determination of Net Asset Value 26](#_Toc179390750)

[Part 3 : [Allocation of Rights to Participate in the Property of a Fund] 34](#_Toc179390752)

# Definitions and Interpretation

In this Instrument the words and expressions set out in the first column below shall have the meanings set opposite them unless the context requires otherwise. Words and expressions contained in this Instrument but not defined herein shall have the same meanings as in the Act or the Regulations (as defined below) (as the case may be) unless the contrary is stated.

|  |  |
| --- | --- |
| “Accumulation Share” | [in respect of a Fund][[2]](#endnote-2) a Share (of whatever Class) as may be in issue from time to time in respect of which income allocated thereto is credited periodically to capital pursuant to the FCA Rules; |
| “ACD” | the authorised corporate director holding office as such from time to time pursuant to the FCA Rules; |
| “Act” | the Financial Services and Markets Act 2000 of the United Kingdom; |
| “AIF” | an alternative investment fund, as defined in the AIFMD Regulations; |
| “AIFM” | the alternative investment fund manager within the meaning of the AIFMD Regulations and, in the context of the Company, shall mean the ACD; |
| “AIFM Directive” | Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010; |
| “AIFMD Level 2 Regulation” | the UK version of Commission Delegated Regulation (EU) No. 231/2013 with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision (as amended from time to time) which is part of UK law by virtue of the European Union (Withdrawal) Act 2018; |
| “AIFMD Regulations” | the AIFMD Level 2 Regulation, the UK AIFMD Regulations and such provisions of the FCA Rules as relate to, or concern the implementation of, the AIFM Directive and any other applicable legislation relating to, or concerning the implementation of, the AIFM Directive in the UK; |
| “Base Currency” | the currency in which the accounts of the Company are to be prepared in accordance with this Instrument [provided that in the context of a Fund, a Class, the price of a Share relating to a Fund or a payment in respect of such a Share, reference to Base Currency shall be treated as a reference to the currency stated in the Prospectus as being the currency to be used for the purpose in question in relation to the relevant Fund or Class, as applicable]2; |
| “Class” | [in respect of a Fund]2 (in relation to Shares and according to the context) a particular class of Shares as described in Clause ‎‎12.2; |
| “Class Meeting” | a meeting of Shareholders of a Class; |
| “COLL Sourcebook” or “COLL” | the rules contained in the Collective Investment Schemes Sourcebook of the FCA Rules, as amended or replaced, excluding, for the avoidance of doubt, any guidance or evidential provisions contained therein; |
| “Company” | [name of OEIC]; |
| “Depositary” | the person appointed from time to time whom is entrusted the safekeeping of all the Scheme Property (other than certain Scheme Property designated by the FCA Rules) and who has been appointed for this purpose in accordance with the OEIC Regulations and the UK AIFMD Regulations; |
| “extraordinary resolution” | a resolution of the Company in general meeting or a Class Meeting [or Fund meeting]2 (as the case may be) passed by a majority of not less than three-quarters of the votes validly cast (whether on a show of hands or on a poll) for and against the resolution at such meeting, of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given; |
| “FCA” | the Financial Conduct Authority of the United Kingdom, or any successor regulatory body or bodies; |
| “FCA Rules” | the FCA Handbook of Rules and Guidance made under the Act, as amended, revised, updated or supplanted from time to time, including, for the avoidance of any doubt, the COLL Sourcebook and the FUND Sourcebook; |
| [“Fund” | a sub-fund of the Company;]2 |
| “FUND Sourcebook” or “FUND” | the rules contained in the Investment Funds Sourcebook of the FCA Rules, as amended or replaced, excluding, for the avoidance of doubt, any guidance or evidential provisions contained therein; |
| “Glossary” | the glossary of definitions to the FCA Rules; |
| “Income Shares” | [in respect of a Fund]2 Shares (of whatever Class) as may be in issue from time to time and in respect of which income allocated thereto is distributed periodically to the holders thereof pursuant to the FCA Rules; |
| “Instrument” | this instrument of incorporation, including the Schedule, as amended from time to time; |
| [“Intermediate Holding Vehicle” | a company, trust or partnership but not a collective investment scheme, whose purpose is to enable the holding of overseas immovables on behalf of an LTAF such as the Company;][[3]](#endnote-3) |
| “Investment Adviser” | at any time the person who at that time has been appointed to act as investment adviser (as defined in the FCA Rules) of the Company [or any Fund]2; |
| [“Limited Protection LTAF Class” | has the meaning set out in the Glossary;][[4]](#endnote-4) |
| [“Limited Protection LTAF Investor” | has the meaning set out in the Glossary;][[5]](#endnote-5) |
| “LTAF” | a ‘long-term asset fund’, being an authorised fund whose authorised fund manager operates, or proposes to operate, it in accordance with the rules in Chapter 15 of the COLL Sourcebook; |
| “Net Asset Value” | the value of the Scheme Property of the Company (or, where the context requires, such part of the Scheme Property as is attributable to [a particular Fund or Class]2) less all the liabilities of the Company (or such liabilities as are attributable to that [Fund or]2 Class as the case may be) determined in each case in accordance with this Instrument; |
| “OEIC Regulations” | the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228);[[6]](#endnote-6) |
| “Prospectus” | the prospectus for the time being current in relation to the Company and published by the ACD pursuant to the FCA Rules; |
| “Register” | the register of Shareholders kept by or on behalf of the Company pursuant to paragraph 1(1) of Schedule 3 to the OEIC Regulations; |
| “Regulations” | the Act, the OEIC Regulations, the AIFMD Regulations and the FCA Rules and any other applicable rules made under the Act from time to time in force; |
| “Scheme Property” | the Scheme Property of [the Company / a Fund or all of the existing Funds, as appropriate]2 to be entrusted to the Depositary for safe-keeping, as required by the FCA Rules, including income on that property; |
| “SDRT” | United Kingdom stamp duty reserve tax; |
| “Share” | a larger denomination Share or a small denomination Share (as the context requires) in the Company; |
| “Shareholder” | in relation to a Class at any time any person who is on the Register as a holder of one or more Shares of that Class; |
| [“Side Pocket Assets” | assets and liabilities of [a Fund/the Company]2 that are ring-fenced from the other assets attributable to [that Fund/the Company]2 in accordance with the Prospectus and the Regulations; |
| “Special Investment Class” | has the meaning set out in Clause ‎13.1; |
| “Special Investment Shares” | has the meaning set out in Clause ‎13.1;][[7]](#endnote-7) |
| “UK” | the United Kingdom of Great Britain and Northern Ireland; |
| “UK AIFMD Regulations” | the Alternative Investment Fund Managers Regulations 2013; and |
| “Valuation Point” | the point at which, whether on a periodic basis or for a particular valuation, the ACD carries out a valuation of the property of the Company [or a Fund (as the case may be)]2 for the purpose of determining the price at which Shares may be issued, cancelled, exchanged or redeemed, as specified [in respect of each Fund]2 in the Prospectus. |

Any reference in this Instrument to any statute, statutory provision or regulation shall be construed as including a reference to any modification, amendment, extension, replacement or re‑enactment thereof for the time being in force.

In this Instrument, words denoting the singular shall include the plural and vice versa. Words denoting one gender only shall include all genders. Words denoting persons shall include companies or associations or unincorporated bodies of persons.

Any reference in this Instrument to “written” or “in writing” shall include printed, lithographic, photographic, telex, facsimile, electronic mail and any other form of communication (or partly in one such form and partly in another) except where the context specifically requires otherwise. The word “signed” shall be construed so as to include signed by way of a signature or representation of a signature affixed by photographic, electronic or mechanical means or any other electronic evidence it was sent except where the context specifically otherwise requires.

The word “company” shall (unless the contrary intention is expressed) mean a body corporate including a company within the meaning of the FCA Rules.

[Any reference in this Instrument to Shares being issued “in respect of” or “relating to” a Fund shall be construed as a reference to Shares issued by the Company which give the holder thereof rights (as provided for in the Regulations and this Instrument) for the time being to participate in that part of the Scheme Property comprising the Fund in question and the entitlement (as provided for in the Regulations and this Instrument) to exchange those rights for rights to participate in that part of the Scheme Property comprising any other Fund of the Company (save to the extent that the provisions of the Prospectus limit the issue of Shares in any such other Fund)]2.

The headings used in this Instrument are for convenience only, do not form part of, and shall not affect the construction of, this Instrument.

Any reference in this Instrument to clause numbers shall (unless the contrary intention is expressed) be construed as a reference to clauses of this Instrument.

Nothing in this Instrument shall be construed so as to prohibit the Company or any Fund, the ACD, the Depositary or any other service provider to the Company or any Fund from complying with any applicable laws, rules and/or regulations (including the Regulations).

# Constitution[[8]](#endnote-8)

The head office of the Company is situated in [England and Wales].

The Company is an open-ended investment company with variable share capital.

[The assets of a Fund of the Company belong exclusively to that Fund and shall not be used to discharge directly or indirectly the liabilities of, or claims against, any other person or body, including the Company, or any other Fund, and shall not be available for any such purpose.]2

The Shareholders are not liable for the debts of the Company. A Shareholder is not liable to make any further payment in relation to a Share after they have paid the price of that Share and no further liability can be imposed on them in respect of the Shares which they hold.

The Scheme Property is entrusted to a Depositary for safekeeping (in accordance with and subject to any exceptions permitted by the FCA Rules).

Charges or expenses of the Company may be taken out of the Scheme Property as provided for in the Prospectus[[9]](#endnote-9).

# Name[[10]](#endnote-10)

* 1. The name of the Company is [●] [Long-Term Asset Fund / LTAF]. [[11]](#endnote-11)

# Duration of the Company[[12]](#endnote-12)

* 1. [The Company is to be wound up after the expiry of [*insert period of time*]. [The Company shall continue in existence until wound up in accordance with the FCA Rules.]

# Designated Person

* + 1. The person designated for the purposes of paragraph 4 of Schedule 4 to the OEIC Regulations shall be the person who is for the time being the ACD of the Company.

# Powers of ACD and Depositary[[13]](#endnote-13)

If, and to the extent, that the Regulations permit (or would permit if this Instrument contained the appropriate authority or imposed the relevant duty) the doing or omission of any act or thing in relation to the Company (including exercising any powers of delegation), it is hereby declared that the ACD and the Depositary (as appropriate) shall have express power under this Instrument to do or omit to do any such act or thing in accordance with the Regulations as if this Instrument contained the appropriate authority or imposed the relevant duty.

# Object

The object of the Company is to invest the Scheme Property in deposits, electronic money, contracts of insurance, shares, debentures, government and public securities, warrants, certificates representing certain securities, units in collective investment schemes, rights in AIFs, stakeholder and personal pension schemes, options, futures, contracts for differences, underwriting or membership of Lloyd’s syndicates, rights or interests to any of the aforementioned investments; interests in loan, interests in land or buildings (‘immovables’), precious metals (gold, silver or platinum) and commodity contracts, each in accordance with the FCA Rules applicable to the Company and the investment approach and restrictions applicable to [the Company / each Fund]2 as set out in the Prospectus, with the aim of spreading investment risk[[14]](#endnote-14).

The asset types described in Clause ‎7.1 currently permitted for investment and any limitation on investment in those asset types are disclosed in the Prospectus.

# Type of Company and Regulatory Designations

The Company is an LTAF for the purposes of the FCA Rules [and also an umbrella company for the purposes of the OEIC Regulations]2.

The Company is an AIF for the purposes of the AIFMD Regulations. The ACD is the AIFM of the Company for the purposes of the AIFMD Regulations.

# [Funds][[15]](#endnote-15)

Subject to the Regulations, for the avoidance of doubt, all consideration received for the account of the Company for the issue of Shares [in respect of a Fund]2 together with the investments in which such consideration is invested or reinvested, and all income, earnings, profits and proceeds thereof and liabilities and expenses relating thereto shall be pooled and kept separate from all other monies, investments, assets, liabilities and expenses of the Company [and the following provisions shall apply to each Fund:

the Company shall keep books in which all transactions relating to the relevant Fund shall be separately recorded and the assets and the liabilities, income and expenditure attributable to that Fund shall be applied or charged to such Fund subject to the provisions of this Clause;

any asset derived from any other asset (whether cash or otherwise) comprised in any Fund shall be applied in the books of the Company to the same Fund as the asset from which it was derived and any increase or diminution in the value of such asset shall be applied to the relevant Fund;

each Fund shall be charged with the liabilities, expenses, costs and charges of the Company in respect of or attributable to that Fund; and

any assets, liabilities, expenses, costs or charges not attributable to one Fund may be allocated by the ACD between Funds in accordance with the Regulations and the FCA Rules in a manner which the ACD considers is fair to the Shareholders generally.[[16]](#endnote-16)

Any Fund shall be terminated subject to and in accordance with the Regulations, by the ACD in its absolute discretion including, without limitation, in the following circumstances:

### [*insert detail on the circumstances in which a Fund may be terminated at the ACD’s discretion*].

The Funds of the Company for the time being constituted and their respective investment objectives are set out in Part 1 of the Schedule to this Instrument.

The ACD may by resolution from time to time create such additional Fund or Funds with such investment objectives and such restrictions as to investment or otherwise, and denominated in such currencies, as the ACD shall from time to time determine. On creation of any such Fund or Funds a new Part 1 of the Schedule to this Instrument including the specified details of the new Fund or Funds (as well as those of the other extant Funds) shall be substituted for the previous one and shall form part of this Instrument to the exclusion of the previous one.]2

# Base Currency[[17]](#endnote-17)

The Base Currency of the Company is [pounds sterling] or such other currency or currencies as may be the lawful currency of [the United Kingdom/England/Scotland] from time to time. [The Base Currency of each Fund will be as set out in ‎Part 1 of the Schedule.]2

# Share Capital

The capital of the Company shall be represented by Shares of no par value and shall at all times be equal to the Net Asset Value of the Company in Base Currency.

The minimum capital of the Company shall be [One Pound (£1)] and the maximum capital shall be [●] [Pounds ([£][●])].[[18]](#endnote-18)

# Classes of Share and Preferential Treatment

The Company may from time to time issue Shares of different Classes [in respect of a Fund]2 when instructed by the ACD, provided the rights of any Class [in respect of the same Fund]2 are not unfairly prejudicial as against the interests of the Shareholders of any other Class of Shares [in respect of the same Fund / in the Company]2.[[19]](#endnote-19) Subject to the Regulations, the rights attaching to each Class may differ among other things in terms of redemption frequency, subscription frequency, charging structures and minimum investment holdings and, in each case, may comprise Income Shares or Accumulation Shares as set out in this Instrument, the Prospectus and the Regulations. The rights attached to a Class shall not be varied except with the sanction of an extraordinary resolution passed at a Class [or Fund]2 meeting of the holders concerned.

For the avoidance of doubt, the rights attaching to a Class shall (unless otherwise expressly provided by the conditions of issue of such Shares) be deemed not to be varied by:

the creation, allotment or issue of further Shares of any Class ranking pari passu therewith;

the exchange of Shares of any Class into Shares of another Class [(whether or not the Classes are issued in respect of different Funds)]2;

the creation, allotment, issue or redemption of Shares of another Class [within the same Fund]2, provided the rights of any Class are not unfairly prejudicial as against the interests of the Shareholders of any other Class of Shares in [the Company/the Fund]2;

[the creation, allotment, issue or redemption of Shares of another Fund;]2

the exercise by the ACD of its powers under Clauses ‎‎9.1(D), ‎9.2 and ‎9.3[; or

the passing of any resolution at a meeting of holders of Shares [of a particular Class] in another Fund which does not relate to the Fund in which the Class is interested]2.

[The Classes which may presently be issued [in respect of each Fund]2 are:

Accumulation Shares;

Income Shares;

limited issue Accumulation Shares;

limited issue Income Shares.][[20]](#endnote-20)

* + 1. Each Class may use one or more of the letters “A” to “Z” (inclusive and through the use of one or more letters together or in any sequence but, for the avoidance of doubt, only where such sequence of letters does not form a word in the English language, with the exception of any word or abbreviation included to indicate the currency of denomination of the relevant Unit or to reference the applicability or otherwise of such units with respect to the benefit of any rights to amounts that will or may relate to benefits under any relevant double tax treaty) and/or the digits “0” to “9” (inclusive) and/or “*retail*”, “*institutional*”, “*platform*” or other descriptions of the Classes and/or the characters “-”, “+”, “%” or “&” and in upper or lower case or under such other designation as the ACD shall from time to time decide. In addition each of the above may be denominated in currencies other than the Base Currency to form further Classes as the ACD may from time to time decide and they may also be designated with different applicable rates of withholding tax or otherwise by tax status.

Subject to the Regulations the ACD may by resolution from time to time determine the minimum number or value of Shares of any Class which may be held by any Shareholder.

The Classes [(in respect of such Funds)]2 available for issue are those set out in the Prospectus.

The ACD may by resolution from time to time create Classes [in respect of a Fund]2 additional to those set out in the Prospectus (whether or not falling within one of the Classes described above).

Where a Class is denominated in a currency which is not the Base Currency, Shares shall be issued and redeemed and distributions paid on Shares of that Class in accordance with the FCA Rules, in the currency of that Class.

Votes at meetings of the [Fund/Company]2 of which the Class forms part shall be determined in accordance with the proportionate interests in the [Fund/Company]2 ascertained in accordance with ‎‎Part 3 of the Schedule to this Instrument and the FCA Rules.

Where for any purpose not specifically covered by the Regulations or this Instrument it is necessary to convert one currency into another, conversions shall be made at a rate of exchange decided by the ACD as being a rate that is not likely to result in any material prejudice to the interests of Shareholders or potential investors.

[Subject to the Regulations the ACD may at its discretion grant preferential treatment or the right to obtain preferential treatment to any Shareholder in relation to the terms of their investment in [a Fund/the Company]2 by waiver or modification of the terms otherwise applicable to the relevant Shareholder’s investment in the [Fund/Company]2 without the consent of any other Shareholder. Information in relation to any such preferential treatment, as required to be disclosed to investors under the FCA Rules, will be disclosed in the Prospectus from time to time, and may be amended at the Manager’s discretion.][[21]](#endnote-21)

# [Side pockets][[22]](#endnote-22)

[Without prejudice to the generality of Clause ‎12, and subject to the terms of this Instrument and the Prospectus and to the Regulations, [where the ACD considers that it is in the interests of Unitholders of [a Fund/the Company]2, the ACD may at any time and at its discretion] create and issue from time to time a new Class or Classes of Shares (each a “Special Investment Class”) to which Side Pocket Assets shall be allocated or contributed.

The creation of Shares in a Special Investment Class (“Special Investment Shares”) will involve the ACD effecting a pro-rata reduction in the number or value of Shares held by a Shareholder attributable to the [relevant Fund/Company]2 excluding the Side Pocket Assets attributable to the Special Investment Shares and creating for the benefit of such Shareholder a corresponding pro-rata interest in the Special Investment Shares.

The value of Side Pocket Assets shall be determined by the ACD in a manner consistent with Clause 14.

Unless otherwise described in this Clause ‎13 or unless otherwise determined by the ACD, a Special Investment Share shall have the same rights and characteristics as a Share of any other Class. Shareholders in Classes other than the Special Investment Shares shall not participate in the assets or liabilities attributable to those Special Investment Shares, and the assets and liabilities attributable to the Special Investment Shares shall be segregated from and shall not form part of the other assets of the [relevant Fund/Company]2.

The liabilities of, or attributable to, a Special Investment Share shall be discharged solely out of the assets attributed to that Special Investment Share.

Shareholders shall be entitled to redeem Shares of any Class of Special Investment Shares once the ACD has made a determination to accept redemption requests in relation to such Class.

Subject to the Regulations, the ACD may establish Special Investment Shares on terms other than or additional to those set out in this Clause ‎13 provided that such terms are detailed in the Prospectus.

Where the ACD considers that it is no longer in the interests of the Shareholders of [a Fund/the Company]2 maintain a pool of Side Pocket Assets or otherwise concludes that the Side Pocket Assets can be combined with the remaining assets of [the relevant Fund/the Company]2 without any material prejudice to the Shareholders in [that Fund/the Company]2, the ACD may, by giving [not less than 30 days'] prior written notice to the Shareholders in [the relevant Fund/the Company]2 be entitled to combine the relevant Side Pocket Assets with the remaining assets of [the Fund/the Company]2 and convert the Shares in the relevant Special Investment Class into Shares of another Class which is not a Special Investment Class as appropriate and on such basis as is consistent with the requirements of the FCA Rules.]

# Valuation and Pricing

The Shares will be [single/dual] priced. The Net Asset Value of the Company [and each Fund]2 shall be determined in accordance with the FCA Rules and, subject thereto, in accordance with ‎Part 2 of the Schedule to this Instrument and the Prospectus. Subject to the FCA Rules and in the absence of bad faith, negligence or manifest error, such determination by the ACD shall be definitive.

# Issue, Cancellation, Sale and Redemption of Shares

The ACD will issue or cancel Shares by making a record of the issue or cancellation of such Shares and the number of Shares in each Class concerned. [Subject to and in accordance with the FCA Rules, the issue or cancellation of Shares may take place through the Company directly].[[23]](#endnote-23)

Subject to the FCA Rules, the Depositary may take into or pay out of the Scheme Property assets other than cash as payment for the issue or cancellation of Shares (‘in specie issue or cancellation’).

The frequency of dealing for sales and redemptions of Shares, and the applicable notice period for redemptions of Shares in the scheme are set out [for each Fund]2 in ‎Part 1 to the Schedule to this Instrument. The ACD shall determine the price for the Shares to be redeemed pursuant to a Shareholder’s redemption request at the first Valuation Point following the end of the notice period specified for the [relevant Fund/Company]2 as specified in ‎Part 1 to the Schedule to this Instrument (the “Notice Period”).

The arrangements for the sale and redemption of Shares are as set out in the Prospectus. The ACD may, with the prior agreement of the Depositary, or must without delay if the Depositary so requires, temporarily suspend the issue, sale, redemption and cancellation of Shares without prior notice to Shareholders on the occurrence of any of the following events:

### [*insert events following which suspension may occur],*

provided that the ACD:

### (or the Depositary where such suspension is required by the Depositary) determines, having regard to the interests of all Unitholders, that such suspension is in the interests of Unitholders (or potential Unitholders, as the case may be);[[24]](#endnote-24)

ensures that any such suspension continues only for so long as is justified having regard to the interests of Unitholders;[[25]](#endnote-25)

formally reviews the suspension every 28 days and informs the FCA of the results of each review in accordance with the FCA Rules;[[26]](#endnote-26) and

provided further that such suspension is on the terms set out in the Prospectus and in accordance with the FCA Rules.[[27]](#endnote-27)

## The ACD shall, following the commencement of a suspension in accordance with Clause ‎15.4 above, ensure a notification is made to Shareholders of such suspension as soon as practicable, which:

### is clear, fair and not misleading;

### draws Shareholders’ particular attention to the exceptional circumstance which resulted in the suspension; and

### informs Shareholders how to obtain the information detailed in Clause ‎15.6 below.[[28]](#endnote-28)

## The ACD shall, following the commencement of a suspension in accordance with Clause ‎15.4 above, ensure that it publishes (on its website of by other general means) sufficient details to keep Shareholders appropriately informed about the suspension including, if known, its likely duration.

The ACD may permit deferral of redemptions of Shares at a Valuation Point to the next Valuation Point where the requested redemptions exceed the percentage of the [Fund’s/Company’s]2 value that is specified in the Prospectus for such purpose [in respect of Funds generally or that Fund specifically]2, on such basis as is consistent with the requirements of the FCA Rules. In addition, the ACD may refuse requested redemptions that exceed the percentage of [a Fund’s/the Company’s]2 value and/or a Shareholder’s Shares in [a Fund/the Company]2 that is specified in the Prospectus for such purpose [in respect of Funds generally or that Fund specifically]2, on such basis as is consistent with the requirements of the FCA Rules.

The ACD may determine that, in certain circumstances, it may be detrimental for existing Shareholders for it to accept an application for Shares representing more than a certain monetary value or a certain percentage of the Net Asset Value of [a Fund/the Company]2 and in such case may, in accordance with the terms of the Prospectus:

limit applications for Shares accordingly,

postpone applications, and/or

in consultation with the relevant applicant(s), require such applicant(s) to stagger the proposed application for Shares over an agreed period of time, in which case affected applicants will undertake irrevocably to subscribe and pay for Shares in the [Fund/Company]2 up to the amount of their commitment in such tranches, over such period, with such frequency and subject to such other terms and conditions as may be agreed with the ACD.

The ACD may compulsorily redeem and/or cancel Shares in accordance with the terms of the Prospectus.

[The ACD may compulsorily redeem and/or cancel such number of Shares as is required to effect a pro-rata reduction in the number of Shares held by a Shareholder in order to issue Special Investment Shares in accordance with Clause ‎13.

With regard to redemption of Special Investment Shares:

the Company shall redeem Special Investment Shares only when so determined by the ACD and in accordance with such procedures as may be determined by the ACD in its sole discretion from time to time.

where the ACD determines that any Special Investment Shares are to be redeemed, the Shareholders holding such Special Investment Shares will be paid a price per Special Investment Share determined by the ACD in its sole discretion having regard to the actual realisation value of any Side Pocket Assets attributed to those Special Investment Shares and deducting therefrom a provision for any fees and expenses which have accrued or otherwise have become due and payable in respect of those Special Investment Shares and the assets attributed thereto and rounding the resulting total to such number of decimal places as the ACD may determine.

any amount payable to a Shareholder under this Clause ‎15.11 shall be paid in the Base Currency or in such other currencies as the ACD shall have determined as appropriate and shall be dispatched as soon as reasonably practicable following the realisation of the assets attributable to the Special Investment Shares.

the ACD may satisfy any redemption of Special Investment Shares by the transfer of assets in specie to a Shareholder in accordance with the provisions of the Prospectus.][[29]](#endnote-29)

# Exchange of Shares etc

[Shareholders are entitled to switch Shares held in one Fund for Shares in another Fund, subject to the provisions of the Prospectus (including without limitation as to eligibility).][[30]](#endnote-30)

Shareholders are entitled to convert Shares in one Class for Shares in another Class in the [same Fund]2, subject to the provisions of the Prospectus (including without limitation as to eligibility).[[31]](#endnote-31)

For the purposes of this Clause and for the avoidance of doubt, the ACD shall be construed as the Shareholder of all Shares in the Company which are in issue and in respect of which no other person’s name is entered on the register.

Where [a switch or]2 a conversion of Shares requested by a Shareholder would, if effected, result in that Shareholder holding less than the permitted minimum holding (by number or value) of either original Shares or new Shares as set out in the Prospectus, then the ACD may (at its discretion) decide either to:

treat the Shareholder in question as having made a request in respect of their entire holding of original Shares;

refuse to give effect to the request; or

grant the request in its original form (as relevant, in accordance with Clause ‎12.10).

Where permitted by, and subject to the conditions set out in the Prospectus, the ACD may compulsorily convert a Shareholder’s Shares [in a Fund]2 for such number of Shares of a different Class [in the same Fund]2 as determined in accordance with the provisions of the Prospectus.

An amount equal to any tax charge incurred by the Company or for which the Company or the ACD may be held liable as a result of an exchange pursuant to this Clause shall be recoverable from the Shareholder concerned and may be accounted for in any adjustment made of the number of new Shares to be issued pursuant to the provisions of the Prospectus.

[Once the ACD has made a determination in accordance with Clause ‎13.6, and without prejudice to the powers of the ACD under Clause ‎13.8, Shareholders shall be entitled to convert Special Investment Shares into Shares of such other Class as the ACD shall determine to be appropriate.][[32]](#endnote-32)

# Restrictions on Holding Shares

The ACD may from time to time take such action and impose such restrictions as it thinks necessary for the purpose of ensuring that no Shares in the Company are acquired or held by any person in circumstances (“relevant circumstances”):

which constitute (or where the ACD reasonably considers this to be the case) a breach of the law or governmental regulation (or any interpretation of a law or regulation by a competent authority) of any country or territory; or

which would (or could if other Shares were acquired or held in like circumstances) result in the Company incurring any liability to taxation or suffering any other adverse consequence (including a requirement to register under any securities or investment or similar laws or governmental regulation of any country or territory); or

where they are held in any manner by virtue of which the Shareholder or Shareholders in question is/are not qualified to hold such Shares; or

where they are owned by a Shareholder who is registered in a jurisdiction (where the Company is not registered or recognised by the relevant competent authority) whereby communication with that Shareholder by the ACD, on behalf of the Company, might constitute a breach of the regulations in that jurisdiction (unless specific action is taken by the ACD to prevent such a communication constituting a breach); or

which constitute a breach of this Instrument or the Prospectus as to eligibility or entitlement to hold such Shares,

* + 1. and, in this connection, the ACD may, inter alia, reject at its discretion any subscription for, sale or transfer of, Shares or any notice to [switch or]2 convert Shares given pursuant to Clause ‎16.

If it comes to the notice of the ACD that any Shares (“affected Shares”) have been acquired or are being held in each case whether beneficially or otherwise in any of the relevant circumstances or if it reasonably believes this to be the case the ACD may give notice to the holder of the affected Shares requiring the holder to transfer such Shares to a person who is qualified or entitled to own the same or to give a request in writing for the redemption or cancellation of such affected Shares in accordance with the Regulations. If any person upon whom such a notice is served pursuant to this Clause ‎17 does not within thirty days after the date of such notice transfer their Shares to a person qualified to hold the same, or establish to the satisfaction of the ACD (whose judgement shall be final and binding) that they and any person on whose behalf they hold the affected Shares are qualified and entitled to hold the Shares, they shall be deemed upon the expiration of that thirty day period to have given a request in writing for the redemption or cancellation (at the discretion of the ACD) of the affected Shares pursuant to the Regulations.

A person who becomes aware that they have acquired or hold affected Shares whether beneficially or otherwise in any of the relevant circumstances shall forthwith, unless they have already received a notice pursuant to Clause ‎17.2, either transfer or procure the transfer of all the affected Shares to a person qualified to own the same or give or procure that a request in writing is given for the redemption or cancellation of all the affected Shares pursuant to the Regulations. [Where the ACD reasonably considers that the relevant circumstance referred to in Clause ‎17.1 is that a body corporate holds more than 10% of the Net Asset Value of the [Company/Fund]2, the ACD is entitled to delay any redemption or cancellation of Shares in accordance with Clause ‎17.1 if the ACD reasonably considers such action to be: (a) necessary in order to enable an orderly reduction of the holding to below 10%; and (b) in the interests of the Shareholders as a whole.][[33]](#endnote-33)

# Evidence of Title to Shares – The Register

* + 1. Title to Shares shall be evidenced by an entry in the Register (“registered Shares”), and the Company shall not issue certificates to Shareholders. A statement of shareholding (“statement”) in respect of Shares shall be sent to a holder [at least once a year/upon any alteration in the number of Shares to which the holder is entitled] in such form as the ACD may decide. A statement shall not constitute a document of title to the Shares to which it refers.[[34]](#endnote-34)

The person responsible for maintaining the Register from time to time will be entitled to charge for issuing any document recording, or for amending, an entry on the Register (other than on the issue or sale of Shares).

[The ACD will, in accordance with the requirements in the FCA Rules, take reasonable care to ensure that ownership of Shares in any [Fund or Class] / [Limited Protection LTAF Class] of the Company is recorded in the Register only for a person who is a Limited Protection LTAF Investor.][[35]](#endnote-35)

# Denominations of Shares

* 1. The rights attaching to the Shares of all Classes may be expressed in two denominations and, [in each of those Classes], the proportion of a larger denomination share represented by a smaller denomination Share shall be one [hundredth] [thousandth] [ten-thousandth] of the larger denomination Share.[[36]](#endnote-36)

# Transfer and Transmission of Shares

All transfers of registered Shares shall be effected by transfer in writing in any usual or common form or in any other form as may be approved by the ACD. The signature on the instrument of transfer may be affixed manually or electronically and may be an actual signature or a facsimile signature or any form of signature approved by the ACD. The ACD shall not be bound to enquire as to the genuineness of any signature. The transferor shall remain the holder of the Shares concerned until such time as the name of the transferee is entered in the Register in respect thereof.

No instrument of transfer may be given in respect of more than one Class of Shares.

In the case of a transfer to joint holders, the number of joint holders to whom a Share is to be transferred may not exceed four.

Unless otherwise determined by the ACD, no transfer may result in either the transferor or the transferee holding fewer Shares of the Class concerned or Shares of such Class having a lesser aggregate value than any number or value as is stated in the Prospectus as the minimum number or value of Shares of that Class which may be held.

The Company may refuse to register a transfer of Shares unless there has been paid for the account of the Company, an amount determined by the ACD not exceeding the amount that would be derived by applying the rate of stamp duty reserve tax to the market value of the Shares being transferred. This Clause shall not apply to transfers excluded by law from a charge to stamp duty reserve tax.

Any person becoming entitled to a Share or Shares in consequence of the death or bankruptcy of a Shareholder or otherwise by operation of law may, subject as provided below and upon such evidence being produced as may from time to time be lawfully required by the ACD as to their entitlement, either be registered themselves as the holder of the Share or Shares or elect to have some person nominated by them registered as the transferee thereof. If the person so becoming entitled elects to be registered themselves, they shall deliver or send to the Company a notice in writing signed by them stating that they so elect. If they shall elect to have their nominee registered, they shall signify their election by signing and delivering or sending to the Company an instrument of transfer of such Share or Shares in favour of their nominee.

All the limitations, restrictions and provisions of this Instrument relating to the right to transfer and the registration of transfers of Shares shall be applicable to any notice or instrument of transfer given or made pursuant to Clause ‎20.6 as if the death or bankruptcy of the Shareholder or other event giving rise to the transmission had not occurred and the notice or instrument of transfer were an instrument of transfer signed by that Shareholder.

A person becoming entitled to a Share or Shares in consequence of the death or bankruptcy of a Shareholder or otherwise by operation of law shall (upon such evidence being produced as may from time to time be lawfully required by the ACD as to their entitlement) be entitled to receive and may give a discharge for any income distributions or other monies payable in respect of the Share or Shares, but they shall not be entitled in respect of the same to receive notices of or to attend or vote at general meetings of the Company or, save as stated above, to exercise in respect of the Share or Shares any of the rights or privileges of a Shareholder until they shall have become registered as the holder thereof. The ACD may at any time give notice requiring any such person to elect either to be registered themselves or to transfer the Share or Shares in question and if the notice is not complied with within sixty days the ACD may then withhold payment of any income distributions and other monies payable in respect of the same until the requirements of the notice have been complied with.

# General Meetings[[37]](#endnote-37)

All general meetings shall be called Extraordinary General Meetings.[[38]](#endnote-38) The Company will not hold annual general meetings.

# Proceedings at General Meetings

The provisions of this Instrument relating to proceedings at meetings shall apply equally to [a meeting of holders of Shares of a Fund and to a meeting of holders of Shares of a particular Class of Shares of a Fund or of]2 a particular Class of Shares of the Company as they apply to a general meeting of the Company. References in this Instrument to a “general meeting” shall mean, according to the context, the appropriate type of meeting of Shareholders.

General meetings shall be convened and adjourned, and their proceedings and resolutions shall be governed, in accordance with the FCA Rules and the provisions of this Instrument.

Prior to each general meeting, the Depositary shall nominate an individual to act as chair, and if that individual is not present within [fifteen]/[five] minutes (which shall be deemed to be a reasonable time) after the time fixed for the start of the meeting or is not willing and able to act, the Shareholders present must choose one of their number to be chair of the meeting.

No business may be transacted at a general meeting unless a quorum is present. The absence of a quorum does not prevent the appointment of a chair in accordance with this Instrument, which shall not be treated as part of the business of the meeting. The quorum required to conduct business at a general meeting is two Shareholders, present in person or by proxy.

If a quorum is not present within [fifteen]/[five] minutes (which shall be deemed to be a reasonable time) after the time fixed for the start of the meeting or if there is no longer a quorum present at any time during the meeting, the meeting, if convened on the requisition of Shareholders, is dissolved. In any other case it stands adjourned to such other day and time (being not less than seven nor more than 28 days after the day and time for the meeting) and place as the chair decides. If at an adjourned meeting under this Clause ‎22.5 a quorum is not present within [fifteen]/[five] minutes (which shall be deemed to be a reasonable time) after the time fixed for the start of the meeting, one person entitled to be counted in a quorum shall constitute a quorum and if there is no such person the meeting is dissolved.

The chair of any general meeting at which a quorum is present may with the consent of the meeting (and shall if so directed by the meeting) adjourn the meeting from time to time (or for an indefinite period) 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. Where a meeting is adjourned without agreement as to the date, time and place for the adjourned meeting, the date, time and place for the adjourned meeting shall be fixed by the ACD. When a meeting is adjourned for thirty days or more or for an indefinite period, not less than seven days’ notice of the adjourned meeting shall be given in like manner as in the case of the original meeting.

A meeting of Shareholders duly convened and held shall have the power to decide any matter (including, without limitation, the suspension or curtailment of the ACD’s powers) by the passing of the appropriate resolution, subject to: (i) the Regulations; and (ii) in the case of a Class Meeting [or Fund meeting]2, any rights in relation to the matter in question which Shareholders of other Classes [or Funds]2 may have.

The Depositary shall be entitled to appoint a representative to attend and speak on its behalf at each meeting, and shall be entitled to convene such a meeting. In addition to its rights under the Regulations, the Depositary shall be entitled to receive notices of, and other communications relating to, any general meetings of the Company[, a meeting of those holding Shares of a particular Class of Shares of a Fund]2 or a particular Class of Shares of the Company.

The chair of a general meeting may take any action they consider appropriate for, for example, the safety of people attending a general meeting, the proper and orderly conduct of the general meeting or in order to reflect the wishes of the majority. They may, for example, require any people to prove who they are, carry out security searches, and stop certain things being taken into the meeting. The chair may on reasonable grounds refuse to allow any person into a meeting, or may arrange for any person who refuses to comply with any reasonable requirements imposed under this Clause to be removed from a meeting. The ACD may arrange for any people whom they consider cannot be seated in the main meeting room (where the chair will be) to attend and take part in a general meeting in an overflow room or rooms. Any overflow room will have a live video link from the main room, and a two way sound link. The notice of the meeting need not give details of any arrangements under this Clause. The ACD may decide how to divide people between the main room and any overflow room. If any overflow room is used, the meeting will be treated as being held, and taking place, in the main room.

A resolution put to the vote of a general meeting of the Company [or any Fund]2 or Class must be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:

### the chair of the meeting;

### not less than two Shareholders; or

### the Depositary.

A demand for a poll: (i) by a proxy shall be deemed to be a demand by the Shareholder appointing the proxy; (ii) may be withdrawn only with the approval of the chair; and (iii) shall not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

The chair must demand a poll if requested to do so by the ACD.

A poll demanded by the chair or on a question of adjournment shall be taken immediately. Any other poll shall be taken either immediately or at such subsequent time (not being more than thirty days from the date of the meeting) and place and in such manner (including by post) as the chair may direct, and no notice need be given of a poll not taken immediately.

Unless a poll is required, a declaration by the chair of the meeting that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book or computer record of proceedings, shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded for or against such resolution.

Where a poll is taken, it shall be taken in such a manner (including the use of ballot papers or electronic or computer voting systems) as the chair may direct and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The chair may (and, if so directed by the meeting, shall) appoint scrutineers and may adjourn the meeting to some place and time fixed by the chair for the purpose of declaring the result of the poll.

# Voting Rights[[39]](#endnote-39)

The entitlement to vote at any meeting of the Company [or a Fund] 2 attaching to each Share is as set out in the FCA Rules. On a show of hands, every Shareholder who is present in person has one vote. On a poll, votes may be given personally or by proxy or in the manner described in Clause ‎23.2. On a poll, the voting rights attached to each Share shall be such proportion of the voting rights attached to all the Shares in issue in the Company or any [Fund or]2 Class (as the case may be) as the price of the Share bears to the aggregate price(s) of all the Shares in issue in the Company [or such Fund]2 or such Class.

Where a deputy or other person (by whatever name called) has been appointed by a court of competent jurisdiction to exercise powers with respect to the property or affairs of any Shareholder on the ground (however formulated) of that Shareholder’s lack of mental capacity, the ACD may, in its absolute discretion and upon or subject to production of such evidence of the appointment as the ACD may require, permit such deputy or other person (on behalf of that Shareholder) to: (i) vote on a poll in person or by proxy at any general meeting of the Company or any [Fund or]2 Class; and/or (ii) exercise any right conferred by ownership of Shares in relation to such a meeting (other than the right to vote on a show of hands).

No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chair of the meeting whose decision shall be final and conclusive.

# Proxies

An instrument appointing a proxy must be in writing and in a form approved by the ACD. If the appointing Shareholder is an individual, the instrument must be signed by that individual or by his or her attorney. If the appointing Shareholder is a corporation, the instrument must either be given under the corporation’s common seal or signed on the corporation’s behalf by a person duly authorised by the corporation to do so.

The signature on such instrument need not be witnessed. Where an instrument appointing a proxy is signed on behalf of the appointing Shareholder by an attorney, the letter or the power of attorney (or a duly certified copy thereof) must be delivered with the instrument appointing the proxy in accordance with the following provisions, otherwise the ACD may in its discretion treat the instrument as invalid. An instrument appointing a proxy and the power of attorney or other authority (if any) may be treated as invalid unless it is delivered:

### to either: (i) the place specified for that purpose in (or in any document accompanying) the notice convening the meeting; or (ii) if no such place is specified, the head office of the Company; and

### by no later than forty-eight hours before the Appointed Time (as defined below).

Unless an instrument appointing a proxy expressly states otherwise, it shall be valid both for the meeting to which it relates and for any adjournment of that meeting. A vote cast by proxy shall not be invalidated by: (i) the previous death or bankruptcy of the appointing Shareholder; (ii) any other transfer by operation of law of the title to the Shares concerned; (iii) the revocation of the appointment of the proxy; or (iv) the revocation of the authority under which the appointment of the proxy was made, provided in each case that the Company has not received (at its head office) notice in writing of any such event by the time which is two hours before the Appointed Time (as defined below).

In these Clauses ‎24.1 to ‎24.4, the “**Appointed Time**” is the time appointed for the holding of the meeting or adjourned meeting in question except that, in the case of a poll taken otherwise than at (or on the same day as) such a meeting, it is the time appointed for the taking of the poll.

# Corporations Acting by Representatives

* + 1. Any corporation which is a Shareholder may by resolution of the directors or other governing body of such corporation and in respect of any Share or Shares in the Company of which it is the holder authorise such individual as it thinks fit to act as its representative at any general meeting of the Company or of any [Fund or]2 Class. The individual so authorised shall be entitled to exercise the same powers on behalf of such corporation as the corporation could exercise in respect of such Share or Shares if it were an individual Shareholder and such corporation shall for the purposes of this Instrument be deemed to be present in person at any such meeting if an individual so authorised is so present.

Any corporation which is a director of the Company may by resolution of its directors or other governing body of such corporation and in respect of any Share or Shares in the Company of which it is the holder authorise such individual as it thinks fit to act as its representative at any general meeting of the Company or any [Fund or]2 Class. The individual so authorised shall be entitled to exercise the same powers on behalf of such corporation as the corporation could exercise in respect of such Share or Shares if it were an individual director and such corporation shall for the purposes of this Instrument be deemed to be present in person at any such meeting if an individual so authorised is so present.

# The ACD

The Company shall have one director which shall be the ACD in accordance with the Regulations.

A director is not required to hold any Shares in the Company by way of qualification.

If and for so long as the ACD is the sole director of the Company, the ACD shall have authority to exercise all the powers, authorities and discretions expressed in this Instrument and the Regulations to be vested in the directors of an investment company with variable capital generally and shall enter into a contract of service with the Company governing the terms on which it will perform such functions. Any decision which is required by the Regulations or this Instrument to be taken by the directors shall, if and for so long as the ACD is the sole director, be valid and effective if made by the ACD.

The ACD (or any director) is entitled by one or more duly authorised representatives to attend and speak at any general meeting of the Company, [at any Fund meeting]2 and at any Class Meeting.

The appointment of the ACD as such shall automatically determine if it ceases to be a director but without prejudice to any claim for damages for breach of any contract of service between it and the Company.

No resolution made by the Company in general meeting [or by the holders of the Shares of any Fund at a Fund meeting,]2 or by the holders of the Shares of any Class at a Class Meeting shall invalidate any prior act of the ACD which would have been valid if such resolution had not been made.

Subject to the FCA Rules, the ACD may appoint agents and delegate any of the powers, authorities and discretions vested in or exercisable by it, with or without power to sub-delegate. Any such appointment or delegation made by the ACD in accordance with FCA Rules may be made upon such terms and subject to such conditions as the ACD may think fit, and the ACD may remove any such appointee, and may revoke or vary such delegation, but no person dealing in good faith and without notice of any such revocation or variation shall be affected by it doing so.

Subject to the FCA Rules, the ACD may by power of attorney appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the ACD, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the ACD under this Instrument or the Regulations) and for such period and subject to such conditions as the ACD may think fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the ACD may think fit, and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretions vested in them.

# Remuneration and Reimbursement of Expenses of the ACD[[40]](#endnote-40)

* 1. The ACD shall be entitled to remuneration for its services as such. Such remuneration shall (unless otherwise determined by the ACD) be deemed to accrue from day to day and the amount of such remuneration shall (subject to the FCA Rules) be determined by the ACD in its discretion. The ACD shall be entitled to the reimbursement of expenses of any type disclosed in the Prospectus and for which it may be reimbursed in accordance with the Regulations.

# Interests of the ACD

Subject to the Regulations and this Instrument, the ACD may be party to, or in any way interested in, any contract or arrangement or transaction to which the Company is a party, or in which the Company is in any way interested, and it may hold and be remunerated in respect of any office or place of profit (other than the office of auditor or Depositary of the Company) under the Company or any other company in which the Company is in any way interested and may retain for its own absolute use and benefit all profits and advantages accruing to it thereunder or in consequence thereof.

Any interest of a kind referred to in Clause ‎28.1 must be properly recorded and minuted by the ACD as soon as practicable after it becomes so interested. Nothing in this Clause shall absolve the ACD from its fiduciary duty to act in the best interests of the Company as a whole.

The ACD shall, subject to the Regulations, be entitled at its own discretion to determine the terms of its appointment or re-appointment as such with the Company notwithstanding its interest therein. Such terms shall be set out in writing in a contract of service between the ACD and the Company as provided in Clause ‎‎26.3**.**

# Minutes of ACD’s Meetings

The ACD shall cause records to be made and kept in permanent form of:

all proceedings at meetings of the Company or of the holders of any [Fund or]2 Class of Shares in the Company; and

of all resolutions made by the ACD in respect of the Company otherwise than at a meeting and all other matters required by this Instrument to be formally recorded by the ACD.

# Removal of ACD[[41]](#endnote-41)

The Company may by extraordinary resolution remove the ACD before the expiration of their period of office expires despite anything else in this Instrument or in any agreement between the Company and the ACD. Such removal shall take effect only upon the satisfaction of either of the conditions appearing in Regulation 21(3) of the OEIC Regulations and shall be without prejudice to any claim the ACD may have for damages for breach of any such agreement.

# Amendments

Amendments may be made to this Instrument by resolution of the ACD to the extent permitted by the FCA Rules[[42]](#endnote-42).

# [Income Equalisation][[43]](#endnote-43)

‎[Except where the ACD determines otherwise, the following provisions of this Clause shall apply to the shares of the Company from time to time.

An allocation of income (whether annual or interim) to be made in respect of each Share to which this Clause applies issued or converted by the Company or sold by the ACD during the accounting period in respect of which that income allocation is made shall be of a lower amount than that allocated in respect of the other Shares of the same Class [issued in respect of the same Fund]2 as the proportion of the allocation attributable to income equalisation will have no associated tax amount that may be included in the allocation.

The amount of income equalisation in respect of any Share to which Clause ‎32.2 applies shall be either:

the actual amount of income included in the issue price of that Share; or

an amount arrived at by taking the aggregate of the amounts of income included in the price in respect of Shares of that Class issued, converted or sold in the annual or interim accounting period in question and dividing that aggregate amount by the number of such Shares and applying the resultant average to each of the Shares in question.]

# Rights in Scheme Property and Allocation of Income

* + 1. The proportionate interests of different Classes and of Shareholders in each Class in the Scheme Property shall be calculated on the basis of Part 3 of the Schedule to this Instrument.

[Subject to Clause ‎‎33.3, the provisions of ‎Part 3 of the Schedule to this Instrument shall apply to each allocation of income made in respect of any Fund and to calculate the entitlement of each Shareholder to participate in the Scheme Property of the Fund at a time when more than one Class of Shares is in issue in respect of that Fund.]2

The Company may adopt a method of calculating the amount of income to be allocated between the Shares in issue [(or the Shares in issue in respect of any Fund)]2 which is different to that which appears in ‎Part 3 of the Schedule to this Instrument provided that the ACD is satisfied that such method is fair to Shareholders and that it is reasonable to adopt such method in the given circumstances.

# Income and Distributions

The [ACD][[44]](#endnote-44) shall be responsible for the calculation, transfer, allocation and distribution of income for any Class of Shares in issue.

Any distribution or other monies payable on or in respect of a Share may be paid by crossed cheque, warrant or money order and may be remitted by post to the registered address of the Shareholder or person entitled to such monies (or, if two or more persons are registered as joint holders of the Share or are entitled by virtue of the death or bankruptcy of the holder or otherwise by operation of law, to the registered address of any one of such persons) or to such person and to such address as the Shareholder or other such person or persons may direct in writing.

If the ACD so determines, any distribution or other monies may also be paid by any other usual or common banking method (including, without limitation, direct credit, bank transfer and electronic funds transfer (a “bank transfer”)) and to or through such person or such persons as the relevant person may direct in writing.

Every such cheque, warrant or order shall be made payable to the person entitled to the monies represented by it or to such person as the relevant holder or joint holders may direct in writing and the payment of such cheque, warrant or order or the transfer by way of direct credit or bank transfer by the bank so instructed by the Company shall be a good discharge to the Company. The Company shall not be responsible for any loss of any cheque, warrant or order or for any error in any transfer by direct credit or bank transfer which in each case shall be sent or transferred at the risk of the person or persons entitled to the money thereby.

If two or more persons are registered as joint holders of any Share, or are entitled jointly to a Share in consequence of the death or bankruptcy of the holder or otherwise by operation of law, any one of them may give an effectual receipt for any distribution or other monies payable or property distributable on or in respect of the Share.

No distribution or other monies payable on or in respect of a Share shall bear interest against the Company.

All distributions unclaimed for a period of six years after having become due for payment shall be forfeited and shall revert to the Company. The payment of any unclaimed distribution, interest or other sum payable by the Company on or in respect of a Share into a separate account shall not constitute the Company a trustee thereof.

# Cheques etc.

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

# Charges and Expenses[[45]](#endnote-45)

Subject to the FCA Rules, the charges and expenses of the incorporation and authorisation of the Company or any Fund, any registration, any offer of Shares, the preparation and printing of any prospectus issued in connection with such offer and the fees for professional services provided to the Company in connection with such offer will be borne by the Company (unless borne by some other person).

[Subject to and in accordance with the Regulations, any costs, expenses, charges and liabilities can be payable out of income or capital property of the relevant Fund at the discretion of the ACD.]2

# Destruction of Documents

Subject to maintaining records in accordance with the Regulations and to any other applicable law, rule or regulation, the ACD or Depositary or the Company may at any time destroy any records or other documentation relating to the Company including, without limitation, any payment mandate (including any variation or cancellation of it) which ceases to have effect, any notification of change of name or address which has been recorded, any instrument of transfer of Shares which has been registered and any other document on the basis of which any entry in the Register has been is made or cancelled.

It shall conclusively be presumed in favour of the Company that every instrument of transfer so destroyed was a valid and effective document in accordance with the recorded particulars of it in the books or records of the Company, provided always that the document was destroyed in good faith and without express notice to the Company that the preservation of the document was relevant to a claim.

Nothing contained in this Clause shall be construed as imposing upon the Company any liability in respect of the destruction of any document in any case where the conditions of this Clause are not fulfilled. References in this Clause to the destruction of any document include references to its disposal in any manner.

# Notices

The provisions within the FCA Rules shall be treated as applying to any notice or document to be given to the Company pursuant to this Instrument.

A Shareholder whose registered address is not within the United Kingdom and who gives to the Company an address within the United Kingdom at which notices may be given to them shall be entitled to have notices given to them at that address. If they have not given such an address the Company shall give notices to them at their address outside the United Kingdom unless doing so would contravene any applicable laws or regulations. [[46]](#endnote-46)

A person entitled to a Share or Shares in consequence of the death or bankruptcy of a Shareholder or other operation of law shall, upon such evidence being produced as may from time to time be lawfully required by the ACD as to their entitlement and upon supplying also an address for the service of notices, be entitled to have served upon or delivered to them at such address any notice or document to which the Shareholder but for their death, bankruptcy or other event giving rise to the transmission would have been entitled, and service or delivery of such notice or document in such way shall be deemed good service on all persons interested (whether jointly with or claiming through or under them) in the Share. Save as aforesaid any notice or document delivered or sent by post to or left at the address of any Shareholder in accordance with the FCA Rules shall, notwithstanding the death or bankruptcy of such Shareholder or other operation of law and whether or not the Company has notice of such state of affairs, be deemed to have been duly served or delivered in respect of any Share registered in the name of such Shareholder as sole or joint holder.

In the case of joint Shareholders, service of a notice or document on any one is effective service on the other joint Shareholders.

If at any time by reason of the suspension or curtailment of postal services within the United Kingdom or any other country or territory, the Company is unable effectively to convene a general meeting of the Company[, Fund meeting]2 or Class Meeting by notices sent through the post, such a meeting may be convened by a notice advertised on the same date in at least two leading daily newspapers with appropriate circulation and such notice shall be deemed to have been duly served on all Shareholders entitled to receive the same at noon on the day when the advertisement appears. In any such case the Company shall send confirmatory copies of the notice by post if at least seven days prior to the meeting the posting of notices to addresses throughout the United Kingdom or such other country or territory again becomes practicable.

Without limitation to the foregoing, the ACD may release or disclose to the Shareholders and prospective investors any information in their possession regarding the Company and its affairs if lawfully required to do so under any applicable laws, rules or regulations, in such manner, at such times and on such terms as the ACD may from time to time determine.

# Winding up

The Company shall be wound up subject to and in accordance with the Regulations, by the ACD in its absolute discretion including, without limitation, in the following circumstances:

### [*insert detail on the circumstances in which the Company may be wound up at the ACD’s discretion*].

Subject to Clause ‎12.2, the rights of a Shareholder to participate in the property [comprised in a Fund]2 on a winding up of the Company [or on termination or winding up of the Fund]2 shall be proportionate to the number of units of entitlement in the [Fund/Company]2 represented by the Shares which they hold, determined in accordance with ‎Part 3 of the Schedule to this Instrument.[[47]](#endnote-47)

# Indemnity

The ACD, every director, other officer, auditor and Depositary of the Company shall each be indemnified by the Company against any liability incurred by them respectively in defending any proceedings (whether civil or criminal) for negligence, default, breach of duty or breach of trust in each case in relation to the Company in which judgment is given in their favour respectively or they are respectively acquitted or in connection with any application under Regulation 63 of the OEIC Regulations in which relief is granted to them respectively by the Court but this indemnity shall not apply to any liability to the extent that it is recovered from another person.

[To the extent permitted by Regulation 32(2) of the AIFM Regulations and any applicable law, rule or regulation, the ACD may authorise a Depositary appointed by or in respect of the Company, to discharge itself of liability under Regulation 30(2) of the AIFM Regulations, provided that the conditions set out in Regulation 32(2) of the AIFM Regulations are met.][[48]](#endnote-48)

Subject to the Regulations, the ACD may exercise all the powers of the Company to purchase and maintain insurance:

for the benefit of any person who is or was a director, other officer or auditor of the Company against any liability which may attach to them in respect of any negligence, default, breach of duty or breach of trust of which they may be guilty in relation to the Company; and

for the benefit of any person who is or was the Depositary against any liability for any failure to exercise due care and diligence in the discharge of their functions in respect of the Company.

## The ACD shall be indemnified out of the Scheme Property in respect of all actions, damages, costs, losses, charges, expenses, claims and demands and other liabilities made against, suffered or borne by the ACD, the Company [or any of the Funds]2, a Shareholder or any other person, arising as a result of any action properly taken by the ACD in accordance with this Instrument (including, without limitation, entering into any contracts on behalf of Shareholders) unless the same arises as a result of the ACD's negligence, fraud or wilful default or failure to comply with its obligations in this Instrument or under the Regulations. The ACD can extend the benefit of this indemnity to its delegates.

## The Depositary shall be indemnified out of the Scheme Property in respect of all actions, damages, costs, losses, charges, expenses, claims and demands and other liabilities made against, suffered or borne by the Depositary, the Company [or any of the Funds]2, a Shareholder or any other person, arising as a result of any action properly taken by the Depositary in accordance with this Instrument (including, without limitation, entering into any contracts on behalf of Shareholders) unless the same arises as a result of the Depositary's negligence, fraud or wilful default or failure to comply with its obligations in this Instrument or under the Regulations. The Depositary can extend the benefit of this indemnity to its delegates.

# The Regulations

## In the event of any conflict arising between any provision of this Instrument and the Regulations, the Regulations shall prevail and this Instrument shall be construed and shall take effect accordingly.

## Relevant Regulations, including, for the avoidance of doubt, the COLL Sourcebook and the AIFMD Regulations (as appropriate) shall apply to the Company [and each Fund]2 to the extent that each is relevant as if it was reproduced in this Instrument save insofar as it is specifically excluded or amended (to the extent permitted in the COLL Sourcebook or the AIFMD Regulations) by the terms of this Instrument. In the event of any conflict between this Instrument and the Regulations, the Regulations shall prevail.

SCHEDULE

* 1. : [The Funds][[49]](#endnote-49)

# Set out below are the Fund(s) which are available in the Company and their respective investment objectives (and any special investment powers).

Each Fund will qualify as an LTAF for the purposes of the FCA Rules as if each Fund were itself an open-ended investment company in respect of which an authorisation order made by the FCA were in force.

|  |  |  |
| --- | --- | --- |
| **Name of Fund** | **Investment Objective** | **Base Currency** |
|  |  |  |
|  |  |  |

[*Insert statement meeting the requirement in COLL 15.3.6R(6)(2) as regards “…the dealing frequency for sales and redemptions of units in the scheme, and applicable notice period for redemptions”.*][[50]](#endnote-50)

[*Where relevant, include statements that:*

* + - 1. *the Fund is a property authorised investment fund, that is to say, an open-ended investment company to which Part 4A of the Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964) applies; and*
      2. *no body corporate may seek to obtain or intentionally maintain a holding of more than 10% of the Net Asset Value of the Scheme*.][[51]](#endnote-51)

Subject to and where permitted by the Prospectus, [a Fund] may invest in an overseas immovable through an Intermediate Holding Vehicle or a series of Intermediate Holding Vehicles. The purpose of such Intermediate Holding Vehicle or series of Intermediate Holding Vehicles will be to enable the holding of overseas immovables by the Company.][[52]](#endnote-52)

It is intended that the genuine diversity of ownership conditions set out in Regulation 9A of The Authorised Investment Funds (Tax) Regulations 2006 (as amended) will be satisfied in respect of [each of the Funds]. In this connection, it is confirmed in respect of [each Fund], as follows:

* + - 1. Shares in the [Fund] are and will continue to be widely available.
      2. The [Fund] is available for investment by [professional and institutional] investors.
      3. Shares in the [Fund] are and will continue to be marketed and made available sufficiently widely to reach the intended categories of investors and in the manner appropriate to attract those categories of investors, and potential investors can upon request to the ACD obtain information about the [Fund] and acquire Shares in [it].

Part 1 of the Schedule dated [●].

* 1. : Determination of Net Asset Value
  2. **[SINGLE PRICED SCHEME]**[[53]](#endnote-53)[[54]](#endnote-54)

1. The value of the Scheme Property of the Company [or Fund (as the case may be)]2 shall be the value of its assets less the value of its liabilities determined in accordance with the following provisions. [For the purposes of calculating the Net Asset Value of the Company [or Fund (as the case may be)]2, any Side Pocket Assets attributable to any Special Investment Shares in issue shall be excluded and shall instead be attributed to the appropriate Special Investment Share(s).][[55]](#endnote-55)

# All the Scheme Property (including receivables) is to be included in the valuation, subject to the following provisions.

Scheme Property which is not cash (or other assets set out in paragraphs ‎3 and ‎4 below) or a contingent liability transaction shall be valued as follows and the prices used shall (subject as follows) be the most recent prices which it is practicable to obtain:

units or shares in a collective investment scheme:

if a single price for buying and redeeming units or shares is quoted, at that price; or

if separate buying and selling prices are quoted, at the average of the two prices provided the buying price has been reduced by any initial charge included therein and the selling price has been increased by any exit or redemption charge(s) attributable thereto; or

if, in the opinion of the ACD, the price obtained is unreliable or no recent traded price is available or exists, or if the most recent price available does not reflect the ACD’s best estimate of the value of the relevant assets, at a value which, in the opinion of the ACD, is fair and reasonable;

immovable property:

by a standing independent valuer (as defined in the FCA Rules) appointed by the ACD with the approval of the Depositary, on the basis of a valuation undertaken in accordance with UKVPS 3 and 2.3 of UKVPGA of the RICS Valuation – Global Standards 2017, UK national supplement 2018 (the RCIS Red Book) or, in the case of overseas immovables (if any) on an appropriate basis, but subject to any other provision of this Instrument;

on the basis of a full valuation with physical inspection (including, where the immovable is or includes a building, internal inspection), at least once a year; and

on the basis of the last full valuation, at least once a month;][[56]](#endnote-56)

exchange-traded derivative contracts:

if a single price for buying and selling the exchange-traded derivative contract is quoted, at that price; or

if separate buying and selling prices are quoted, at the average of the two prices;

over-the-counter derivative contracts shall be valued in accordance with the method of valuation as shall have been agreed between the ACD and the Depositary;[[57]](#endnote-57)

any other investment:

if a single price for buying and selling the security is quoted, at that price; or

if separate buying and selling prices are quoted, at the average of the two prices; or

if, in the opinion of the ACD, the price obtained is unreliable or no recent traded price is available or exists or if the most recent price available does not reflect the ACD’s best estimate of the value of the security, at a value which, in the opinion of the ACD, is fair and reasonable; and

Scheme Property other than that described above: at a value which, in the opinion of the ACD, is fair.

Cash and amounts held in current, deposit and margin accounts and in other time-related deposits shall be valued at their nominal values.

In determining the value of the Scheme Property, all instructions given to issue or cancel shares shall be assumed (unless the contrary is shown) to have been carried out and any cash payment made or received and all consequential action required by the Regulations or this Instrument shall be assumed (unless the contrary has been shown) to have been taken.

Subject to paragraphs ‎6 and ‎7 below, agreements for the unconditional sale or purchase of property which are in existence but uncompleted shall be assumed to have been completed and all consequential action required to have been taken. Such unconditional agreements need not be taken into account if made shortly before the valuation takes place and, in the opinion of the ACD, their omission shall not materially affect the final net asset amount.

Futures or contracts for differences which are not yet due to be performed and unexpired and unexercised written or purchased options shall not be included under paragraph ‎5.

All agreements are to be included under paragraph ‎5 which are, or ought reasonably to have been, known to the person valuing the property assuming that all other persons in the ACD’s employment take all reasonable steps to inform it immediately of the making of any agreement.

Deduct an estimated amount for anticipated tax liabilities (on unrealised capital gains where the liabilities have accrued and are payable out of the Scheme Property; on realised capital gains in respect of previously completed and current accounting periods; and on income where liabilities have accrued) including (as applicable and without limitation) capital gains tax, income tax, corporation tax , value added tax, stamp duty and stamp duty reserve tax.

Deduct an estimated amount for any liabilities payable out of the Scheme Property and any tax thereon treating periodic items as accruing from day to day.

Deduct the principal amount of any outstanding borrowings whenever payable and any accrued but unpaid interest on borrowings.

Add an estimated amount for accrued claims for tax of whatever nature which may be recoverable.

Add any other credits or amounts due to be paid into the Scheme Property.

Add a sum representing any interest or any income accrued due or deemed to have accrued but not received and any stamp duty reserve tax provision anticipated to be received.

Currencies or values in currencies other than the base currency [or (as the case may be) the designated currency of a Fund][[58]](#endnote-58) shall be converted at the relevant Valuation Point at a rate of exchange that is not likely to result in any material prejudice to the interests of Shareholders or potential Shareholders.

* 1. **[DUAL PRICED SCHEMES]**[[59]](#endnote-59)

1. The value of the Scheme Property of the Company [or Fund (as the case may be)]2 shall be the value of its assets less the value of its liabilities determined in accordance with the following provisions. [For the purposes of calculating the Net Asset Value of the Company [or Fund (as the case may be)]2, any Side Pocket Assets attributable to any Special Investment Shares in issue shall be excluded and shall instead be attributed to the appropriate Special Investment Share(s).][[60]](#endnote-60)

All the Scheme Property (including receivables) is to be included, subject to the following provisions.

The valuation of the Scheme Property shall consist of two parts, one on an issue basis and one on a cancellation basis calculated in accordance with the following provisions.

The valuation of property for that part of the valuation which is on an issue basis is as follows:

Scheme Property which is not cash (or other assets dealt with in paragraphs ‎3 and ‎4 below) shall be valued as follows and the prices used shall (subject as follows) be the most recent prices which it is practicable to obtain:

units or shares in a collective investment scheme:

if a single price for buying and selling units or shares is quoted, at that price plus any dealing costs (as defined below), any preliminary charge payable by the Company on the purchase of the units or shares, and any dilution levy or SDRT provision which would be added in the event of a purchase by the Scheme of the units or shares in question (except that, where the ACD, or an associate of the ACD, is also the manager or authorised corporate director of the collective investment scheme whose units or shares are held by the Company, the valuation must not include any preliminary charge payable in the event of a purchase of those units or shares);or

if separate buying (offer) and selling (bid) prices are quoted, at the buying price, less any expected discount plus any dealing costs (as defined below), but where the ACD, or an associate of the ACD, is also the manager or authorised corporate director of the collective investment scheme whose units or shares are held by the Company, the issue price shall be taken instead of the buying price; or

if, in the opinion of the ACD, the price obtained is unreliable or no recent traded price is available or if no recent price exists or if the most recent price available does not reflect the ACD’s best estimate of the value, at a value which, in the opinion of the ACD, is fair and reasonable;

[immovable property:

by a standing independent valuer (as defined in the Glossary) [appointed by the ACD with the approval of the Depositary], in accordance with UKVPS 3 and 2.3 of UKVPGA 2 of the RICS Valuation – Global Standards 2017 national supplement 2018 (the RICS Red Book) as updated and amended from time to time, or, in the case of overseas immovables (if any) on an appropriate basis, but subject to any other provision of this Instrument;

on the basis of a full valuation with physical inspection (including, where the immovable is or includes a building, internal inspection), at least once a year; and

on the basis of the last full valuation, at least once a month.;][[61]](#endnote-61)

* + - 1. [(2)/(3)] exchange-traded derivative contracts:

##### if a single price for buying and selling the exchange-traded derivative contract is quoted, at that price; or

##### if separate buying and selling prices are quoted, at the average of the two prices;

* + - 1. [(3)/(4)] over-the-counter derivative contracts shall be valued in accordance with the method of valuation as shall have been agreed between the ACD and the Depositary;[[62]](#endnote-62)
      2. [(4)/(5)] any other investment:

##### the best available market dealing offer price on the most appropriate market in a standard size (plus any dealing costs, (as defined below)); or

##### if, in the opinion of the ACD, the price obtained is unreliable or no recent traded price is available or if the most recent price available does not reflect the ACD’s best estimate of the value, at a value which, in the opinion of the ACD, is fair and reasonable; and

* + - 1. [(5)/(6)] Scheme Property other than that described in [(1), (2), (3) and (4)]/[(1), (2), (3), (4) and (5)] above: at a value which, in the opinion of the ACD, is fair and reasonable (plus any dealing costs (as defined below)).

The valuation of Scheme Property for that part of the valuation which is on a cancellation basis is as follows:

Scheme Property which is not cash (or other assets dealt with in paragraphs ‎3 and ‎4 below) shall be valued as follows and the prices used shall (subject as follows) be the most recent prices which it is practicable to obtain:

units or shares in a collective investment scheme:

##### if a single price for buying and selling units or shares is quoted, at that price (less any dealing costs (as defined below), any redemption charge payable by the Company on the sale of the units or shares, (taking account of any expected discount) and any dilution levy or other provision which would be deducted in the event of a sale of the units or shares (except that, where the ACD, or an associate of the ACD, is also the manager or authorised corporate director of the collective investment scheme whose units or shares are held by the Company, any redemption charge payable in the event of a sale of those units or shares must not be deducted)); or

##### if separate buying (offer) and selling (bid) prices are quoted, at the selling price less any dealing costs (as defined below) and any redemption charge payable on the sale of the units or shares taking account of any expected discount (except that, where the ACD, or an associate of the ACD, is also the manager or authorised corporate director of the collective investment scheme whose units or shares are held by the Company, the cancellation price shall be taken instead of the selling price; or

##### if, in the opinion of the ACD, the price obtained is unreliable or no recent traded price is available or if no recent price exists or if the most recent price available does not reflect the ACD’s best estimate of the value, at a value which, in the opinion of the ACD, is fair and reasonable;

[immovable property:

##### by a standing independent valuer (as defined in the Glossary) [appointed by the ACD with the approval of the Depositary], in accordance with UKVPS 3 and 2.3 of UKVPGA 2 of the RICS Valuation – Global Standards 2017 national supplement 2018 (the RICS Red Book) as updated and amended from time to time or, in the case of overseas immovables (if any) on an appropriate basis, but subject to any other provision of this Instrument;

##### on the basis of a full valuation with physical inspection (including, where the immovable is or includes a building, internal inspection), at least once a year; and

##### on the basis of the last full valuation, at least once a month;][[63]](#endnote-63)

* + - 1. [(2)/(3)] exchange-traded derivative contracts:

##### if a single price for buying and selling the exchange-traded derivative contract is quoted, at that price; or

##### if separate buying and selling prices are quoted, at the average of the two prices;

* + - 1. [(3)/(4)] over-the-counter derivative contracts shall be valued in accordance with the method of valuation as shall have been agreed between the ACD and the Depositary;[[64]](#endnote-64)
      2. [(4)/(5)] any other investment:

##### the best available market dealing bid price on the most appropriate market in a standard size (less any dealing costs (as defined below)); or

##### if, in the opinion of the ACD, the price obtained is unreliable or no recent traded price is available or if the most recent price available does not reflect the ACD’s best estimate of the value, at a value which, in the opinion of the ACD, is fair and reasonable; and

* + - 1. [(5)/(6)] Scheme Property other than that described in [(1), (2), (3) and (4)]/[(1), (2), (3), (4) and (e)] above: at a value which, in the opinion of the ACD, is fair and reasonable (less any dealing costs (as defined below)).

Cash and amounts held in current, deposit and margin accounts and in other time related deposits shall be valued at their nominal values.

In determining the value of the Scheme Property, all instructions given to issue or cancel units shall be assumed (unless the contrary is shown) to have been carried out and any payment made or received and any consequential action required by the Regulations or this Instrument shall be assumed (unless the contrary has been shown) to have been taken.

Subject to paragraphs ‎6 and ‎7 below, agreements for the unconditional sale or purchase of property which are in existence but uncompleted shall be assumed to have been completed and all consequential action required to have been taken. [Such unconditional agreements need not be taken into account if made shortly before the valuation takes place and, in the opinion of the ACD, their omission shall not materially affect the final net asset amount.][[65]](#endnote-65)

Futures or contracts for differences which are not yet due to be performed and unexpired and unexercised written or purchased options shall not be included under paragraph ‎5.

All agreements are to be included under paragraph ‎5 which are, or ought reasonably to have been, known to the person valuing the property assuming that all other persons in the ACD’s employment take all reasonable steps to inform it immediately of the making of any agreement.

Deduct an estimated amount for anticipated tax liabilities (on unrealised capital gains where the liabilities have accrued and are payable out of the Scheme Property; and on realised capital gains in respect of previously completed and current accounting periods; and on income where liabilities have accrued) including (as applicable and without limitation) capital gains tax, income tax, corporation tax, value added tax, stamp duty and stamp duty reserve tax.

Deduct an estimated amount for any liabilities payable out of the Scheme Property and any tax thereon treating periodic items as accruing from day to day.

Deduct the principal amount of any outstanding borrowings whenever payable and any accrued but unpaid interest on borrowings.

Add an estimated amount for accrued claims for tax of whatever nature which may be recoverable.

Add any other credits or amounts due to be paid into the Scheme Property.

Add a sum representing any interest or any income accrued due or deemed to have accrued but not received and any stamp duty reserve tax provision anticipated to be received.

Currencies or values in currencies other than the base currency shall be converted at the relevant Valuation Point at a rate of exchange that is not likely to result in any material prejudice to the interests of Shareholders or potential Shareholders.

For the purposes of this Part 2 of the Schedule, “dealing costs” means any fiscal charges, commission or other charges payable in the event of the carrying out of the transaction in question (but excluding any preliminary charge payable by the Company on the purchase of units or shares), assuming that the commission and charges (other than fiscal charges) which would be payable by the Company are the least that could reasonably be expected to be paid in order to carry out the transaction.

* 1. : [Allocation of Rights to Participate in the Property of a Fund][[66]](#endnote-66)



If there is more than one Class of Shares in issue in a Fund, the proportionate interests of each Class of Shares in the Scheme Property of the Fund shall be ascertained as follows:

A notional account shall be maintained for each Class of Shares. Each account shall be referred to as a “Proportion Account” and the proportionate interest of a Class of Shares in the assets and income of a Fund is its “proportion”.

The word “proportion” in the following paragraphs means the proportion which the balance on a Proportion Account at the relevant time bears to the balance on all the Proportion Accounts of a Fund at that time[, provided that, if Special Investment Shares are in issue in respect of a Fund, the proportion shall be adjusted such that the assets, liabilities, expenses, costs and charges attributable to such Special Investment Shares shall be allocated to the notional account of the relevant Class of Special Investment Shares only. Accordingly:

for the Proportion Account of a Class of Special Investment Shares, the credits and debits identified below in respect of that Class of Special Investment Shares (“the Special Investment Share Class Amounts”) shall be credited and debited solely to the Proportion Account for that Class of Special Investment Shares and accordingly, credits and debits in respect of Special Investment Share Class Amounts for a Class of Special Investment Shares shall not give rise to any credits or debits to Proportion Accounts for any other Class; and

consequently, the Special Investment Share Class Amounts shall be excluded from assessment of the balance on all the other Proportion Accounts for the purposes of applying the proportion of the Fund which is used for the purposes of allocating all other assets, liabilities, expenses, costs or charges between Share Classes][[67]](#endnote-67).

There shall be credited to a Proportion Account:

the subscription amount whether paid in cash or in specie (excluding any initial charges or dilution levy for the issue of shares of the relevant Class (“subscription money”);

that Class’s proportion of the amount by which the Net Asset Value of the Fund exceeds the total subscription money for all Shares in the Fund;

that Class’s proportion of the Fund is income received and receivable; and

any notional tax benefit under paragraph ‎1.5] below.

There shall be debited to a Proportion Account:

the redemption payment for the cancellation of Shares of the relevant Class;

that Class’s proportion of any amount by which the Net Asset Value of the Fund falls short of the total subscription money for all Shares in the Fund;

all distributions of income (including equalisation if any) made to Shareholders of that Class;

all costs, charges and expenses incurred solely in respect of that Class;

that Class’s share of the costs, charges and expenses incurred in respect of that Class and one or more other Classes in the Fund, but not in respect of the Fund as a whole;

that Class’s share of the costs, charges and expenses incurred in respect of or attributable to the Fund as a whole; and

any notional tax liability under paragraph [‎1.5].

Any tax liability in respect of the Fund and any tax benefit received or receivable in respect of the Fund shall be allocated between Share Classes in order to achieve, so far as possible, the same result as would have been achieved if each Class were itself a Fund so as not materially to prejudice any Class. The allocation shall be carried out by the ACD after consultation with the auditors.

Where a Class is denominated in a currency which is not the Base Currency, the balance on the Proportion Account shall be converted into the Base Currency in order to ascertain the proportions of all Classes. Conversions between currencies shall be at a rate of exchange decided by the ACD as being a rate that is not likely to result in any material prejudice to the interests of Shareholders or potential Shareholders.

The Proportion Accounts are notional accounts maintained for the purpose of calculating proportions. They do not represent debts from the Company to Shareholders or the other way round.

Each credit and debit to a Proportion Account shall be allocated to that account on the basis of that Class’s proportion immediately before the allocation. All such adjustments shall be made as are necessary to ensure that on no occasion on which the proportions are ascertained is any amount counted more than once.

When Shares are issued thereafter each such Share shall represent the same proportionate interest in the property of the relevant Fund as each other Share of the same denomination and Class then in issue in respect of that Fund.

The Company shall allocate the amount available for income allocation (calculated in accordance with the FCA Rules) between the Classes in issue in respect of the relevant Fund according to their respective proportionate interests in the property of the Fund represented by the Shares in issue at the Valuation Point in question.

1. The name must include “long term asset fund” or “LTAF”. See COLL 15.3.3(2). [↑](#endnote-ref-1)
2. Provisions within the instrument that refer to “Funds” will only be applicable where the ICVC is an umbrella company. References to “Funds” should therefore be deleted, amended to refer to “Company” or otherwise amended as the context requires. [↑](#endnote-ref-2)
3. Delete if intermediate holding vehicle not to be used such that the defined term will not be used (see Part 1 to the Schedule). [↑](#endnote-ref-3)
4. See COLL 15.1.3 R (4). This definition is only required where the scheme has a Limited Protection LTAF Class and the rules listed in COLL 15.1.3 R (4)(b) have not been applied in relation to the Limited Protection LTAF Class. [↑](#endnote-ref-4)
5. See COLL 15.1.3 R (4). This definition is only required where the scheme is intended only for Limited Protection LTAF Investors or if the scheme has a Limited Protection LTAF Class and the rules listed in COLL 15.1.3 R (4)(b) have not been applied in relation to the scheme or the Limited Protection LTAF Class. [↑](#endnote-ref-5)
6. These regulations do not cover OEICs set up in Northern Ireland in respect of which other rules will apply and this definition should be amended accordingly. [↑](#endnote-ref-6)
7. Delete definitions of Side Pocket Assets, Special Investment Class and Special Investment Shares if side pockets not to be used. [↑](#endnote-ref-7)
8. Those statements which cannot be amended once authorised - OEIC Regulations Schedule 2 para 5(1). (Strictly this does not include the second sentence in Clause 2.4) [↑](#endnote-ref-8)
9. See COLL 15.3.6 R 3(3). [↑](#endnote-ref-9)
10. The remainder of the Instrument comprises statements and provisions which can be amended either with or without shareholder approval (depending upon their nature) - see OEIC Regulations Schedule 2 para. 5. See also Preface para. 4. [↑](#endnote-ref-10)
11. See COLL 15.3.6 R 1(1). [↑](#endnote-ref-11)
12. See COLL 15.3.6 R 3(2). [↑](#endnote-ref-12)
13. The powers and duties of the ACD and Depositary must be set out in the instrument as per COLL 15.3.6 R 11. See also COLL 15.3.6 R 14. [↑](#endnote-ref-13)
14. See COLL 15.3.6 R 4. [↑](#endnote-ref-14)
15. This clause will be applicable only for an umbrella company and should be deleted where not required. See endnote 1. [↑](#endnote-ref-15)
16. OEIC Regulations 11A(4). [↑](#endnote-ref-16)
17. See COLL 15.3.6 R 9. [↑](#endnote-ref-17)
18. See COLL 15.3.6 R 3(4)(a). [↑](#endnote-ref-18)
19. See COLL 15.3.2R. [↑](#endnote-ref-19)
20. This list is intended to allow all types of shares that may be launched in order to allow flexibility even if not all the classes listed will be launched at the outset, although note the flexibility provided for in Clause 12.5. [↑](#endnote-ref-20)
21. See COLL 15.4.5 R (2)(15). [↑](#endnote-ref-21)
22. Delete if side pockets not to be used. [↑](#endnote-ref-22)
23. See COLL 15.8.5 R(5). [↑](#endnote-ref-23)
24. See COLL 15.10.3 R(2) [↑](#endnote-ref-24)
25. See COLL 15.10.3 R(5) [↑](#endnote-ref-25)
26. See COLL 15.10.3 R(7) [↑](#endnote-ref-26)
27. See COLL 15.3.6 R(12)(1) [↑](#endnote-ref-27)
28. See COLL 15.10.3 R(4) [↑](#endnote-ref-28)
29. Delete if side pockets not to be used. [↑](#endnote-ref-29)
30. This provision has been left brief with a view to the prospectus setting out the detail as to how switches will be done. Delete provision if not an umbrella fund. If the fund uses a performance fee consider whether this provision could be amended to include in the non-exhaustive list of conditions to which the provision is subject that a switch may lead to crystallisation of a performance fee where one has been accrued but not crystallised at the point of the switch. [↑](#endnote-ref-30)
31. This provision has been left brief with a view to the prospectus setting out the detail as to how conversions will be done. If the fund uses a performance fee consider whether this provision could be amended to include in the non-exhaustive list of conditions to which the provision is subject that a conversion may lead to crystallisation of a performance fee where one has been accrued but not crystallised at the point of the conversion. [↑](#endnote-ref-31)
32. Delete if side pockets not to be used. [↑](#endnote-ref-32)
33. Required for PAIFs under COLL 15.3.6 R 2(3). Delete if not a PAIF. [↑](#endnote-ref-33)
34. As non-certification has been assumed, the requirement for "substituted procedures for evidencing title to the company's shares" under OEIC Regulations Schedule 2 para 4(1)(i) and 47(3) has to be satisfied. [↑](#endnote-ref-34)
35. See COLL 15.1.3 R (4). This wording is only required where the scheme is intended only for Limited Protection LTAF Investors or if the scheme has a Limited Protection LTAF Class and the rules listed in COLL 15.1.3 R (4)(b) have not been applied in relation to the scheme or the Limited Protection LTAF Class. [↑](#endnote-ref-35)
36. OEIC Regulations 45(4) and Schedule 2 para 4(1)(f). If different proportions are required for different share classes this would need to be provided for here. COLL 3.2.6R 19. [↑](#endnote-ref-36)
37. See COLL 4.4. [↑](#endnote-ref-37)
38. Assumes that annual general meetings will not be held. [↑](#endnote-ref-38)
39. See COLL 15.3.6 R 10. [↑](#endnote-ref-39)
40. See COLL 15.3.6 R 3(3). [↑](#endnote-ref-40)
41. OEIC Regulations Schedule 2 para 3(1)(b). [↑](#endnote-ref-41)
42. See COLL 4.3 - Any proposed alteration to the instrument must be notified to FCA under OEIC Regulations 21(1)(a). [↑](#endnote-ref-42)
43. These clauses should be amended/omitted if there is to be no equalisation for the Company or any Fund. [↑](#endnote-ref-43)
44. Insert person responsible as required under COLL 15.3.6 R 7. [↑](#endnote-ref-44)
45. Wording may be included in this Clause to permit the ACD to issue by way of a bonus and effect compulsory redemptions of Shares as necessary in connection with the calculation or payment of performance fees and to otherwise give effect to any performance fee arrangements. [↑](#endnote-ref-45)
46. Consider including after this sub-clause the following statement that is not obligatory to include in the instrument, but which some managers elect to include: “*In accordance with the Regulations, the ACD shall make available to potential investors in the Company the required information set out in FUND 3.2.2 R before they invest in the Company, shall make available to potential investors and Shareholders any material change thereof, and shall make the required periodic discloses to Shareholders.*” [↑](#endnote-ref-46)
47. Clause 4 will confirm if the scheme is to be wound up after a particular period expires – COLL 15.3.6R 3(2). Amend as necessary if not an umbrella. [↑](#endnote-ref-47)
48. This may not be relevant, but the ability to do so must be included in the constitutional document if liability is to be so discharged. [↑](#endnote-ref-48)
49. Consider deleting if not an umbrella and including the investment objective and related language (including, as relevant, that language in paragraphs 2 and 3 regarding PAIFs and use of intermediate holding vehicles) in place of the current Clause 9. [↑](#endnote-ref-49)
50. COLL 15.3.6R(5) refers to a “statement…setting out the dealing frequency for sales and redemptions of units in the scheme, and the applicable notice periods for redemptions.” [↑](#endnote-ref-50)
51. These statements are required for PAIFs under COLL 15.3.6R 2(2). Delete if not a PAIF. [↑](#endnote-ref-51)
52. COLL 15.3.6R 13 and see the definition of intermediate holding vehicle. [↑](#endnote-ref-52)
53. Delete the heading. Delete the below provisions if a dual priced scheme. [↑](#endnote-ref-53)
54. Part 2 of the Schedule to be tailored to reflect the assets held by the Company / Funds and the Valuation Policy of the ACD. [↑](#endnote-ref-54)
55. Delete if side pockets not to be used. [↑](#endnote-ref-55)
56. This wording could be included for LTAFs which invest in immovable property. See COLL 15.6.22 R(2)(b). [↑](#endnote-ref-56)
57. See COLL 15.6.14 R [↑](#endnote-ref-57)
58. Delete if not an umbrella. [↑](#endnote-ref-58)
59. Delete the heading. Delete the below provisions if a single priced scheme. [↑](#endnote-ref-59)
60. Delete if side pockets not to be used. [↑](#endnote-ref-60)
61. This wording could be included for LTAFs which invest in immovable property. See COLL 15.6.22 R(2)(b). [↑](#endnote-ref-61)
62. See COLL 15.6.14 R. [↑](#endnote-ref-62)
63. This wording could be included for LTAFs which invest in immovable property. See COLL 15.6.22 R(2)(b). [↑](#endnote-ref-63)
64. See COLL 15.6.14 R. [↑](#endnote-ref-64)
65. This wording may be included to match the methodology used for single priced schemes. [↑](#endnote-ref-65)
66. Amend Part 3 throughout if not an umbrella. [↑](#endnote-ref-66)
67. Delete if side pockets not to be used. [↑](#endnote-ref-67)