

Irish Collective Asset-management Vehicles Act 2015

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INSTRUMENT OF INCORPORATION

of

JPMORGAN ETFS (IRELAND) ICAV

A VARIABLE CAPITAL COLLECTIVE INVESTMENT CORPORATE BODY
(an umbrella fund with segregated liability between sub-funds)

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1 DEFINITIONS

1.1 The following words shall bear the meanings set opposite to them unless inconsistent with the subject or context:

“Accounting Period” means, unless otherwise determined by the Directors, a financial period of the ICAV commencing in the case of the first such period on the date of registration with the Central Bank and terminating on 31 December 2017 and in any other case commencing on the end of the last financial period and ending on 31 December of each year. Where a particular Fund’s accounting period is different from the above, it will be specified in the Fund’s supplement.

“Act” means the Irish Collective Asset-management Vehicles Act 2015, any regulations that may be issued thereunder, and every modification or re-enactment thereof for the time being in force.

“Administrator” means any person, firm or corporation appointed by the Responsible Person from time to time and for the time being responsible for the provision of administration, fund accounting and related services to the ICAV.

“Annual Report” means a report prepared in accordance with Section 36 hereof.

“Anti-Dilution Levy” means such sum, as the Responsible Person or its delegate considers appropriate taking into account the interests of Shareholders of the relevant Funds to cover dealing costs incurred when transacting in investments to cover Shareholder dealing and for no other purpose.

“Auditors” means the auditors for the time being of the ICAV.

“Base Currency” the currency in which the Net Asset Value of each Fund is calculated or in which any Class of Shares is denominated.

“Business Day” means such day or days as the Directors from time to time may determine in relation to a Fund and specify in the Prospectus.

“Central Bank” means the Central Bank of Ireland or any successor thereto.

“Central Bank UCITS Regulations” means the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Undertakings for Collective Investment in Transferable Securities) Regulations 2015 as may be amended from time to time and all applicable Central Bank guidance or question and answer documents issued, conditions imposed or derogations granted thereunder.

“Class” means Shares of a particular Fund representing an interest in the Fund but designated as a class of Shares within such Fund for the purposes of attributing different proportions of the Net Asset Value of the relevant Fund to such Shares to accommodate different subscription, conversion and redemption charges, dividend arrangements, base currencies, currency hedging policies and/or fee arrangements specific to such Shares.

“Class Currency” means the currency in which a Share Class of a Fund is designated as determined by the Directors and disclosed in the Prospectus in relation to such Fund.

“Class Expenses” means any expenses attributable to a specific Class including hedging costs, if any, legal fees, marketing expenses and the expenses of registering a Class in any jurisdiction or with any stock exchange, regulated market or settlement system and such other expenses arising from such registration and such further expenses howsoever arising as may be disclosed in the Prospectus.

“Computerised Security” means a Share, title to which is permitted by an Operator to be transferred by means of a Relevant System.

“Depository” means any person, firm or corporation appointed and for the time being responsible for the safekeeping of all of the assets of the ICAV.

“Depository Agreement” means any agreement for the time being subsisting between the ICAV and the Depository relating to the appointment and duties of such Depository.

“Dealing Day” means such day or days as the Directors may from time to time determine in relation to a Fund and specify in the Prospectus provided that there will always be at least one every two weeks.

“Dealing Deadline” means the deadline for receipt of subscriptions or redemption orders in respect of a Fund, as set out in the relevant Supplement.

“Dematerialised” or **“dematerialised form”** in relation to a Share means such reference to a Share, the title to which is recorded on the Register as being held in uncertificated form, and title to which, by virtue of applicable law, may be transferred by an Operator by means of a Relevant System.

“Director” means any director of the ICAV for the time being.

“Duties and Charges” means all stamp and other duties, taxes, governmental charges, agents’ fees, brokerage fees, bank charges, transfer fees, registration fees and other charges, payable in respect of the acquisition or disposal of assets of a Fund.

“Fractional Share” means a fractional Share in the ICAV issued in accordance with Section 13.4.

“Fund” means any sub-fund of the ICAV from time to time established pursuant to Section 9 and which may comprise one or more classes of Shares in the ICAV.

“ICAV” means JPMorgan ETFs (Ireland) ICAV, an Irish collective asset-management vehicle registered pursuant to the Act, to which this Instrument relates.

“Initial Offer Period” means the period determined by the Directors during which Shares of any class are offered by the ICAV for purchase or subscription at the Initial Price.

“Initial Price” means the price at which any Shares of any class are first offered for purchase or subscription.

“Instrument” means this instrument of incorporation, including the Schedules, as amended from time to time.

“Investment” means any of the investments or assets of a Fund.

“Investment Manager” means any person, firm or corporation appointed by the Management Company from time to time with the prior approval of the Central Bank and for the time being providing investment management and / or investment advisory services to any Fund and for these purposes all references to the “Investment Manager” in this document shall be references to the relevant investment manager of the relevant Fund.

“in writing” means written, printed, lithographed, photographed, telexed, telefaxed or represented by any other substitute for writing, whether electronic or otherwise, or partly one and partly another.

“Management Company” means JPMorgan Asset Management (Europe) S.ár.L or such other person for the time being appointed as manager by the ICAV as successor thereto, in accordance with the requirements of the Central Bank.

“Minimum Holding” means a holding of Shares in the ICAV, the number of which or the value of which by reference to the Redemption Price for such Shares is not less than such amount as may be determined by the Responsible Person from time to time provided that the minimum subscription for Shares in the ICAV or of any Class shall be such amount as is specified in the Prospectus.

“Minimum Subscription” means the minimum subscription from time to time specified in the Prospectus.

“month” means calendar month.

“Net Asset Value” means the amount determined for any particular Dealing Day pursuant to Section 21 and Schedule 1 hereof.

“Net Asset Value per Share” means the Net Asset Value divided by the number of Shares (in issue) of the relevant Fund (and where there is more than one Class of Shares in a Fund, the Net Asset Value attributable to each such Class, (subject to such adjustments, if any, as may be required) divided by the number of Shares (in issue) of the relevant Class).

“Officer” means any Director or the Secretary.

“Ordinary Resolution” means a resolution of the ICAV or of any class of Shares in the ICAV, as appropriate, in general meeting passed by a simple majority of the votes cast.

“Prospectus” means the prospectus from time to time issued by the ICAV in relation to the ICAV and any supplement or supplements in relation to any Fund or Funds and any addendum designed to be read and construed together with and to form part of the prospectus.

“Redemption Price” means the price at which Share shall be redeemed by the ICAV at the request of the Shareholders pursuant to Section 21 and calculated in accordance with Section 22.

“Recognised Market” means any stock exchange or market specified in the Prospectus provided that, with the exception of permitted investments in unlisted securities and off-exchange derivative instruments, investment in securities or financial derivative instruments will be made only in securities or financial derivative instruments listed or traded on an exchange or market (including derivative markets) which meets the regulatory criteria

(regulated, operating regularly, recognised and open to the public) and which is listed in the Prospectus.

“Relevant System” means a computer-based system and procedures, permitted by applicable law, which enables titles to units of a security to be evidenced and transferred without a written instrument and which facilitate supplementary and incidental matters.

“Register” means the register in which are listed the names of Shareholders.

“Regulations” means the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (No. 352 of 2011) as may be amended from time to time and all applicable Central Bank regulations made, conditions imposed or derogations granted thereunder.

“Responsible Person” means the Management Company or the Directors of the ICAV as applicable in accordance with the Central Bank UCITS Regulations 2015.

“Rules” means any rules or conditions from time to time made by the Central Bank pursuant to the Act and the Regulations and including, without limitation, the Central Bank UCITS Regulations.

“Secretary” means any person, firm or corporation appointed by the Directors to perform any of the duties of the secretary of the ICAV.

“Share” or **“Shares”** means a share or shares in the ICAV representing interests in a Fund.

“Shareholder” or **“Shareholders”** means a person or persons registered as a holder of Shares.

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

“Special Resolution” means a special resolution of the ICAV or of any class of Shares in the ICAV, as appropriate, in general meeting passed by a simple majority of the votes cast.

“Subscriber Shares” means the Shares which the subscribers to the Instrument of the ICAV agree to subscribe for as more particularly hereinafter set forth after their names.

“Subsidiary Company” means any subsidiary company within the meaning of section 7 of the Companies Act 2014 which is a wholly owned entity of the ICAV used by a Fund to hold assets.

“UCITS” means an undertaking for collective investment in transferable securities within the meaning of the Regulations.

“Valuation Point” means such time as the Directors shall determine and specify in the Prospectus, being the time as of which the value of assets and liabilities of a Fund shall be calculated;

- 1.2 Reference to enactments and to articles and sections of enactments shall include reference to any modifications or re-enactments thereof for the time being in force.
- 1.3 Unless repugnant to the context:
- 1.3.1 words importing the singular number shall include the plural number and vice versa;
 - 1.3.2 words importing the masculine gender only shall include the feminine gender;
 - 1.3.3 words importing persons only shall include companies or associations or bodies of persons, whether corporate or not;
 - 1.3.4 the word “may” shall be construed as permissive and the word “shall” shall be construed as imperative.
- 1.4 Nothing in this Instrument shall be construed so as to prohibit the ICAV, the Directors, the Management Company, the Investment Manager, the Depositary, the Administrator or any other service provider to the ICAV from complying with any applicable law, rule and / or regulation including but not limited to the Regulations and any applicable Rules. Furthermore, the terms of the appointment of any Investment Manager, Depositary, the Administrator and other service provider shall be in accordance with applicable law, rule and / or regulation including but not limited to the but not limited to the Regulations and any applicable Rules.

2 NAME OF THE ICAV

- 2.1 The name of the ICAV is JPMorgan ETFs (Ireland) ICAV.
- 2.2 No change in the name of the ICAV shall be made without the prior approval of the Central Bank and any such change shall be in accordance with the Act and the requirements of the Central Bank.

3 CONSTITUTION AND TYPE OF VEHICLE

- 3.1 The ICAV is a variable capital investment corporate body established pursuant to the Act and the Regulations and is constituted as an umbrella fund with segregated liability between Funds.
- 3.2 The head office of the ICAV is situated in Ireland.

4 OBJECT

- 4.1 The sole object of the ICAV is the collective investment of its funds in transferable securities and/or other liquid financial assets of capital raised from the public, operating on the principle of risk spreading as permitted by the Central Bank in accordance with the Regulations and giving Shareholders the benefit of the results of the management of its funds in accordance with the Regulations and the Rules, and as further described in the Prospectus. The ICAV may take any measure and carry out any operations which it may deem useful or necessary to the accomplishment and development of its purpose to the full extent permitted by applicable law.

4.2 For the purposes of achieving its object, the ICAV shall also have the following powers:

- 4.2.1 To carry on business as an Irish collective asset-management vehicle and for that purpose to acquire, dispose of, invest in and hold by way of investment, either in the name of the ICAV or in that of any nominee, any interest in any real estate (whether leasehold, freehold or otherwise) or real estate related interest and any shares, stocks, warrants, units, participation certificates, debentures, debenture stock, bonds, obligations, collateralised obligations, loans, loan stock, notes, loan notes, promissory notes, structured notes, structured bonds, structured debentures, commercial paper, certificates of deposit, bills of exchange, trade bills, treasury bills, futures contracts, swap contracts, contracts for differences, commodities of every description (including precious metals and oil), variable or floating rate securities, securities in respect of which the return and / or redemption amount is calculated by reference to any index, price or rate, options contracts, forward rate agreements, policies of assurance and insurance, currencies, money market instruments and financial instruments and securities of whatsoever nature created, issued or guaranteed by any company wherever incorporated or carrying on business or by any partnership, trust, unit trust, mutual fund or other collective investment scheme of whatsoever nature wherever formed or registered or carrying on business or issued or guaranteed by any government, government instrumentality, political subdivisions, sovereign ruler, commissioners, public body or authority supreme, dependant, state, territorial, commonwealth, municipal, local, supranational or otherwise in any part of the world, units of or participation in any unit trust scheme, mutual fund or other collective investment scheme in any part of the world and whether or not fully paid up and any present or future rights and interest to or in any of the foregoing and from time to time to acquire, invest in and vary, exchange, grant, sell and dispose of options over any of the foregoing and to subscribe for the same subject to such terms and conditions (if any) as may be thought fit and to exercise and enforce all rights and powers conferred by or incidental to the ownership or holding of any of the foregoing or of any legal or equitable interest therein and to deposit money (or place money on current account) with such persons in such currencies and otherwise on such terms as may seem expedient;
- 4.2.2 To deposit money, securities and any other property of whatsoever nature to or with such person and on such terms as may seem expedient and to discount, buy and sell bills, notes, warrants, coupons and other negotiable or transferable instruments, securities or documents of whatsoever nature;
- 4.2.3 To do all such other things as may be deemed requisite, incidental or conducive to the attainment of the objects of the ICAV;
- 4.2.4 To receive money on loan and to borrow or raise money in any currency in any manner and to secure or discharge any debt or obligation of or binding on the ICAV in any manner and in particular, but without limitation, by the issue of debentures and to secure with or without consideration the repayment of any money borrowed, raised or owing by mortgage, charge, debenture, debenture stock, bond, indemnity, lien or security of whatsoever nature against the whole or any part of the ICAV's undertaking, property or assets (whether present or future) and also by a similar mortgage, charge, debenture, debenture stock,

bond, indemnity, lien or security of whatsoever nature to secure or guarantee the performance of any obligation or liability undertaken by the ICAV or by any other company or person;

- 4.2.5 To employ derivative instruments and techniques of all kinds for investment purposes and for the efficient management of the ICAV's assets and, in particular, but without prejudice to the generality of the foregoing, to enter into, accept, issue and otherwise deal with sale and repurchase agreements, futures contracts, options, securities lending agreements, short sales agreements, when-issued, delayed delivery and forward commitment agreements, foreign currency spot and forward rate exchange contracts, forward rate agreements, swaps, warrants, contracts for difference, collars, floors and caps and other foreign exchange or interest rate hedging and investment arrangements; and
- 4.2.6 To do all such other things in any part of the world, whether as principals, agents, contractors, trustees or otherwise and either by or through sub-contractors or otherwise and either alone or in partnership or conjunction with any person, Fund or company and to contract for the carrying on of any operation connected with the ICAV's business by any person, Fund or company.
- 4.3 Each of the powers of the ICAV (whether enumerated or not) is to be interpreted and exercised as ancillary to the main object but separate from and ranking equally to any other power.
- 4.4 Subject to the provisions of the Act, the business of the ICAV shall be commenced as soon after the registration of the ICAV as the Directors think fit.
- 4.5 The ICAV may pursue its investment objectives by utilising an intermediate investment vehicle, such as a trust, Irish collective asset-management vehicle or company and by advancing monies for investment by such trust, Irish collective asset-management vehicle or company by way of loan, subscription for equity capital or otherwise, provided that where the ICAV uses an Irish collective asset-management vehicle or company as an intermediate vehicle, the ICAV shall maintain beneficial ownership of all of the issued Share capital of such Irish collective asset-management vehicle or company and the Shares in such Irish collective asset-management vehicle or company and the assets of such Irish collective asset-management vehicle or company shall be kept under the control of the Depositary or its sub-custodians.

5 BASE CURRENCY

The accounts of the ICAV and the Funds shall be prepared in the relevant Base Currency. The currency of denomination of each Fund (in which the scheme property allocated to it would be valued and the prices of Shares calculated and payments made) shall be that as stated in the Prospectus.

6 EXPENSES

The charges and expenses of the ICAV may be discharged out of the assets of the ICAV, as more specifically outlined in the Prospectus.

7 DEPOSITARY, MANAGEMENT COMPANY, INVESTMENT MANAGER, ADMINISTRATOR AND OTHER DELEGATES

- 7.1 The ICAV shall forthwith after its registration with the Central Bank and before the issue of any Shares, other than the Subscriber Shares, appoint a person, firm or corporation to act as Depositary with responsibility for the safe custody of all of the assets of the ICAV and any wholly owned subsidiary company appointed to indirectly hold assets.
- 7.2 The ICAV has the power to appoint an entity to act as Management Company and the Directors may entrust to and confer upon the entity so appointed any of the powers, duties, discretions and / or functions exercisable by them as Directors, upon such terms and conditions (including the right to remuneration payable by the ICAV) and with such powers of delegation and such restrictions as they think fit.
- 7.3 The Responsible Person has the power to appoint a person, firm or corporation to act as Investment Manager of the ICAV's Investments and assets and a person, firm or corporation to act as Administrator.
- 7.4 The ICAV's property (subject to any exceptions permitted by the Central Bank) shall be entrusted to the Depositary for safekeeping.
- 7.5 The appointment of the Depositary shall be subject to the prior approval of the Central Bank.
- 7.6 In the event of the Depositary desiring to retire or the ICAV desiring to remove the Depositary from office, the Directors shall use their best endeavours to find a person qualified to act under the Regulations and willing to act as Depositary, subject to approval by the Central Bank and, upon so doing, the Directors shall, subject to the approval of the Central Bank, appoint such person to be Depositary in place of the former Depositary. Save as provided in Section 7.6 hereof, the Depositary may not retire or be removed from office until the Directors shall have found a person willing to act as Depositary and such person shall have been appointed Depositary in place of the former Depositary, subject to approval by the Central Bank.
- 7.7 If the Depositary shall have given to the ICAV notice of its desire to retire from its appointment or the appointment of the Depositary is terminated pursuant to the terms of the relevant depositary agreement and no successor shall have been appointed in accordance with this Instrument within ninety (90) days from the giving of such notice, the Directors shall call a general meeting at which an Ordinary Resolution shall be proposed to, subject to the approval of the Central Bank, repurchase the Shares or appoint a liquidator who shall wind up the ICAV and shall apply, thereafter, to the Central Bank to revoke the authorisation of the ICAV whereupon the Depositary's appointment shall terminate.
- 7.8 In the event that the Management Company shall resign or its appointment shall otherwise terminate the Directors shall use their best endeavours to procure that some other person approved by the Central Bank, act as Management Company in accordance with the requirements of the Central Bank.

8 SHARE CAPITAL

- 8.1 The actual value of the paid up Share capital of the ICAV shall at all times be equal to the Net Asset Value of the ICAV as determined in accordance with Sections 21 and 22 hereof.
- 8.2 The Share capital of the ICAV shall be equal to the value for the time being of the issued Share capital of the ICAV. The ICAV may issue up to 500,000,000,002 Shares of no par value. The maximum issued Share capital of the ICAV shall be 500,000,000,002 Shares of no par value and the minimum issued Share capital of the ICAV shall be €2 represented by 2 Subscriber Shares of no par value issued for €1 each.
- 8.3 The Directors are hereby generally and unconditionally authorised to exercise all the powers of the ICAV to issue Shares in the ICAV provided that the total amount of issued Share capital does not exceed the maximum issued Share capital set out in Section 8.2 above.
- 8.4 The Subscriber Shares shall not participate in the dividends or assets of any Fund.
- 8.5 Shares may be issued with such voting rights and rights to participate in the dividends and assets of a Fund or of the ICAV as the Directors from time to time may determine and set forth in the Prospectus.
- 8.6 The liability of the Shareholders shall be limited to the amount, if any, unpaid on the Shares respectively held by them without prejudice to any other liability to which a Shareholder may be subject as provided by or under the Act. The Shareholders shall not be liable for the debts of the ICAV.

9 FUNDS AND CLASSES OF SHARES

- 9.1 The ICAV is an umbrella fund with segregated liability between its Funds and each Fund may be comprised of one or more classes of Shares. The ICAV is comprised of the Funds specified in the Prospectus, as may be amended from time to time.
- 9.2 With the prior approval of the Central Bank, the Responsible Person from time to time may establish a Fund by the issue of one or more separate classes of Shares on such terms as the Directors may resolve. The creation of such additional Funds and one or more separate classes of Shares shall be in accordance with this Instrument, the Prospectus and the requirements of the Central Bank.
- 9.3 The investment objectives of (and any specific restrictions applicable to) each Fund are set out in the Prospectus. Subject to any specific provisions set out in respect of a particular Fund in the Prospectus, the investment and borrowing powers of each Fund are all those contained in the Regulations and permitted under the Act. Without prejudice to the generality of the foregoing, the Fund may from time to time establish Funds which have as their aim the replication of the composition of a stock or debt securities index which is recognised by the Central Bank.
- 9.4 A Fund may be wound-up by the Directors in their absolute discretion, as if it were a separate Fund, if the Directors resolve that it is desirable to terminate the Fund and provided the termination is in accordance with the provisions of Section 39 hereof, the Act and the Rules.

- 9.5 The Responsible Person may from time to time re-designate any existing class of Shares in the ICAV and merge such class of Shares with any other class of Shares in the ICAV, provided that Shareholders in such class or classes are first notified by the ICAV and given the opportunity to have the Shares repurchased. With the prior consent of the Responsible Person, Shareholders may convert Shares in one class of Shares into Shares of another class in the ICAV in accordance with the provisions of Section 13.10 hereof.
- 9.6 For the purpose of enabling Shares of one class to be re-designated or converted into Shares of another class, the ICAV may take such action as may be necessary to vary or abrogate the rights attached to Shares of one class to be converted so that such rights are replaced by the rights attached to the other class into which the Shares of the original class are to be converted.
- 9.7 Any outstanding classes of Shares of a Fund may, in the discretion of the Directors, be redesignated and converted (after the payment or accrual of all applicable fees and expenses) into Shares of another class of the same Fund at the prevailing Net Asset Value per Share of such other class.
- 9.8 All consideration received by the ICAV for the allotment or issue of Shares of each issue, together with all Investments in which such consideration is invested or reinvested, all income, earnings, profits and proceeds thereof shall be segregated and kept separate in the accounts of the Depositary from all other moneys of the ICAV and such assets and moneys shall be referred to as a “Fund”, there being one such Fund in respect of each issue to which the following provisions shall apply:
- 9.8.1 The ICAV shall keep separate records and books of account for each issue. The proceeds from the issue of Shares of each issue shall be applied to the Fund established for that issue and the assets and liabilities and income and expenditure attributable thereto shall be applied to such Fund subject to the provisions of this Section;
- 9.8.2 Any asset derived from another asset comprised in a Fund shall be applied to the same Fund as the asset from which it was derived and any increase or diminution in the value of such an asset shall be applied to the relevant Fund;
- 9.8.3 In the case of any asset which the Directors do not consider as readily attributable to a particular Fund or Funds, the Directors shall have discretion to determine the basis upon which any such asset shall be allocated between Funds and the Directors shall have the power at any time and from time to time to vary such basis;
- 9.8.4 Each Fund shall be charged with the liabilities, expenses, costs, charges or reserves of the ICAV in respect of or attributable to that Fund and any such liabilities, expenses, costs, charges or reserves of the ICAV not readily attributable to any particular Fund or Funds shall be allocated and charged by the Directors in such manner and on such basis as the Directors in their discretion deem fair and equitable and the Directors shall have the power to and may at any time and from time to time vary such basis;
- 9.8.5 If, as a result of a creditor proceeding against certain of the assets of the ICAV or otherwise, a liability, expense, cost, charge or reserve would be borne in a

different manner from that in which it has been borne under paragraph 9.8.4 above, or in any similar circumstances, the Directors may, with the consent of the Depositary, transfer in the books and records of the ICAV any assets to and from any of the Funds; and

- 9.8.6 Subject as otherwise provided in this Instrument, the assets held in each Fund shall be applied solely in respect of the Shares of the issue to which such Fund appertains and shall belong exclusively to the relevant issue and shall not be used to discharge directly or indirectly the liabilities of or claims against any other Fund and shall not be available for any such purpose.

10 PERMITTED INVESTMENTS

- 10.1 The ICAV shall invest only in Investments permitted under the Rules and subject to the restrictions and limits set out in the Rules and outlined in the Prospectus.

- 10.2 Without prejudice to the generality of Section 10.1, the Directors may decide to invest in:

10.2.1 transferable securities listed, traded or dealt in or on a Recognised Market; and

10.2.2 recently issued transferable securities provided that the terms of issue include an undertaking that application will be made for admission to official listing on or for trading or dealing on any Recognised Market within one year of issue.

- 10.3 Subject to the restrictions and limits set out in the Rules and to the approval of the Central Bank, a UCITS may invest up to 100% of net assets in different transferable securities and money market instruments issued or guaranteed by any Member State, its local authorities, non-Member States or public international body of which one or more Member States are members: OECD Governments (provided the relevant issues are investment grade), Government of the People's Republic of China, Government of Brazil (provided the issues are of investment grade), Government of India (provided the issues are of investment grade), Government of Singapore, European Investment Bank, European Bank for Reconstruction and Development, International Finance Corporation, International Monetary Fund, Euratom, The Asian Development Bank, European Central Bank, Council of Europe, Eurofima, African Development Bank, International Bank for Reconstruction and Development (The World Bank), The Inter American Development Bank, European Union, Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), Government National Mortgage Association (Ginnie Mae), Student Loan Marketing Association (Sallie Mae), Federal Home Loan Bank, Federal Farm Credit Bank, Tennessee Valley Authority, Straight-A Funding LLC, Export-Import Bank and such other governments, local authorities and public bodies as the Central Bank may permit pursuant to the Rules. A Fund must hold securities from at least 6 different issues, with securities from any one issue not exceeding 30% of its Net Asset Value.

- 10.4 The ICAV may invest in collective investment undertakings of the open-ended type within the meaning of article 3(2) of the Regulations provided that the investment policies of such collective investment undertakings are consistent with the policies of the relevant Fund. The ICAV may in this regard, subject to the prior approval of the Central Bank, invest in collective investment undertakings with which the ICAV is linked by common management or control or by substantial direct or indirect holding provided that the said collective

investment undertaking has investment policies consistent with the investment policies of the relevant Fund.

10.5 A Fund may invest up to 20% of net assets in shares and / or debt securities issued by the same body where the investment policy of the Fund is to replicate an index. The index must be recognised by the Central Bank on the basis that it is:

10.5.1 sufficiently diversified;

10.5.2 represents an adequate benchmark for the market to which it refers; and

10.5.3 is published in an appropriate manner.

10.6 The limit in Section 10.5 may be raised to 35%, and applied to a single issuer, where this is justified by exceptional market conditions.

10.7 Except where otherwise disclosed in the Prospectus, a Fund may not invest more than 10% of its Net Asset Value in aggregate in other collective investment schemes.

10.8 Subject to the provisions of the Regulations, the Responsible Person may exercise all the powers of the ICAV to employ techniques and instruments for hedging and efficient portfolio management purposes in relation to the Investments or any of them or any other assets or any borrowing by the ICAV.

10.9 Without limitation to the generality of Section 10.8, the Directors, on behalf of the ICAV, may, subject to the provisions of the Regulations, employ techniques and instruments intended to provide protection against exchange risks in the context of the management of its assets and liabilities.

11 REGISTER OF SHAREHOLDERS

11.1 A Shareholder shall have his title to Shares evidenced by having his name, address and number of Shares held by him entered in the Register which shall be maintained in the manner required by law, provided that no person holding less than the Minimum Subscription shall be entered on the Register as a Shareholder.

11.2 A Shareholder whose name appears in the Register shall be entitled to be issued with a confirmation of ownership or, at the discretion of the Directors, a Share certificate or Share certificates representing the number of Shares held by him, provided, however, that no Share certificate shall be issued where the Shareholder has indicated in writing that it does not wish to receive one. Share certificates may be issued under hand by a Director (whose signature may be reproduced mechanically) and shall be signed by a duly authorised signatory of the Depositary (whose signature may be reproduced mechanically).

11.3 If a Share certificate shall be damaged or defaced or alleged to have been lost, stolen or destroyed, a new Share certificate representing the same Shares may be issued to the Shareholder upon request subject to delivery up of the old Share certificate or (if alleged to have been lost, stolen or destroyed) on compliance with such conditions as to evidence and indemnity and the payment of exceptional out-of-pocket expenses of the Fund in connection with the request as the Directors may think fit.

11.4 The Directors shall cause to be entered in the Register the following particulars:

- 11.4.1 the name and address of each Shareholder (save that in the case of joint holders, the address of the first named holder only need be entered);
 - 11.4.2 a statement of the number of Shares held by each Shareholder, which statement shall distinguish each Share by its number (if any), the Fund and the class of Shares (if any) of such Fund to which the Share belongs and of the amount paid or agreed to be considered as paid on such Shares;
 - 11.4.3 the date on which each person was entered in the Register as a Shareholder; and
 - 11.4.4 the date on which any person ceased to be a Shareholder.
 - 11.4.5 The Register shall be kept in such manner as to show at all times the Shareholders of the ICAV for the time being and the Shares respectively held by them;
 - 11.4.6 The Register shall be kept available for inspection in accordance with the Act at the registered office of the ICAV or such other place as the directors may determine from time to time.
- 11.5 The Directors shall not be bound to register more than four persons as the joint holders of any Share or Shares. In the case of a Share held jointly by several persons, the Directors shall not be bound to issue therefor more than one confirmation of ownership and the issue of a confirmation of ownership for a Share to the first named of several joint holders shall be sufficient delivery to all.
- 11.6 Where two or more persons are registered as the holders of any Shares they shall be deemed to hold the same as joint tenants, subject to the provisions following:
- 11.6.1 the joint holders of any Shares shall be liable, severally, as well as jointly, in respect of all payments which ought to be made in respect of such Shares;
 - 11.6.2 any one of such joint holders may give effectual receipts for any dividend, bonus or return of capital payable to such joint holders;
 - 11.6.3 only the first-named of the joint holders of a Share shall be entitled to receive notices from the ICAV to attend general meetings of the ICAV. Any notice given to the first-named of joint holders shall be deemed notice given to all the joint holders;
 - 11.6.4 the vote of the first-named of joint holders who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders; and
 - 11.6.5 for the purpose of the provisions of this Section, the first-named shall be determined by the order in which the names of the joint holders stand in the Register.
- 11.7 Subject to applicable law, the Directors may (without consulting the holders of any class of Shares) determine that a Share or Shares of any class is or are to become a Computerised Security or Computerised Securities or that any such Share or Shares must cease to be a

Computerised Security or Computerised Securities. Subject to applicable law and the facilities and requirements of the Relevant System, the Directors may implement any arrangements in relation to the holding of Shares in dematerialised form and the transfer of the title to the Shares of that class by means of a Relevant System.

- 11.8 Subject to applicable law, the facilities and requirements of the Relevant System and the consent of the Directors, a Shareholder may change a Share which is a Computerised Security from a Share held in certificated form to a Share held in dematerialised form and vice versa.
- 11.9 While a class of Shares is a Computerised Security, this Instrument only applies to a Share of that class to the extent that it is consistent with the holding of Shares of that class in dematerialised form, the transfer of title to Shares of that class by means of a Relevant System and applicable law.
- 11.10 While a class of Shares is a Computerised Security, the Fund shall enter on the Register the number of Shares each Shareholder holds in dematerialised form and certificated form and shall maintain the Register in accordance with applicable law and the Relevant System.
- 11.11 Notwithstanding any provision of this Instrument, a class is not to be treated as two classes by virtue only of that class comprising both Shares in certificated form and dematerialised form or as a result of any provision of this Instrument or of applicable law applying only in respect of Shares in certificated form or in dematerialised form.
- 11.12 The Register may be kept on magnetic tape or in accordance with some other mechanical or electrical system provided legible evidence can be produced therefrom to satisfy the requirements of applicable law and this Instrument.

12 **DEALING DAYS**

Subject as hereinafter provided, all issues and repurchases of Shares shall be effected or made with effect from a Dealing Day provided that the ICAV may provisionally allot Shares on a Dealing Day on the basis that the Shares shall be issued on receipt of full and cleared subscription monies and in the event that the ICAV does not receive the full and cleared subscription monies in respect of such allotment within the period specified in the Prospectus or within such other reasonable time period as may be determined by the Directors, such provisional allotment may be cancelled and any relevant subscription monies already provided shall be returnable to the applicant at his risk (after deducting such amount, if any, as the Directors may in their absolute discretion think fit, any such amount so deducted being retained by the ICAV for its own benefit or, if the applicant is a Shareholder, redeem or sell all or part of his holding of Shares and use the proceeds thereof to satisfy and make good any loss, cost, expense or fees suffered by the ICAV as a result of the non-receipt of cleared subscription monies or papers within such time limits as may be specified by the Directors) and until return, it may be made use of by the ICAV for its own benefit.

13 **ISSUE OF SHARES AND CONVERSION OF SHARES**

- 13.1 Subject as hereinafter provided, the ICAV on or with effect from any Dealing Day on receipt by it of the following:

- 13.1.1 an application for Shares in such form as the ICAV from time to time may determine; and
- 13.1.2 such declarations as to the applicant's status, residence and otherwise as the ICAV from time to time may require; and
- 13.1.3 payment for the Shares within the usual time limits in such manner as the ICAV from time to time may specify, provided that if the ICAV receives payment for the Shares in a currency other than the Class Currency for such Shares, the ICAV may convert or arrange for the conversion of the monies received into the Class Currency and shall be entitled to deduct therefrom all expenses incurred in the conversion (the amount net of any such conversion costs shall be the payment for Shares) ;

may issue or allot Shares in any class at the Net Asset Value then obtaining for each Share in such class or at such other price as may be disclosed in the Prospectus from time to time. Any such issue of Shares shall be in accordance with the requirements of this Instrument, the Prospectus and the requirements of the Central Bank.

- 13.2 The ICAV shall be entitled to receive securities or other Investments from an applicant for Shares in any class and to sell, dispose of or otherwise convert such securities or Investments into cash and to apply such cash (net of any expenses incurred in the conversion) for the purchase of Shares in the ICAV in accordance with the provisions hereof.
- 13.3 All information required under the Rules as specified in the Prospectus will be made available to prospective investors prior to subscriptions being accepted.
- 13.4 The Directors shall be entitled to issue Fractional Shares in any class where the subscription monies received by the ICAV are insufficient to purchase an integral number of Shares in that class.
- 13.5 The Directors may determine to issue Shares which are only partly paid at the time of issue, subject to such conditions as may be specified in the Prospectus.
- 13.6 The Directors may delegate to the Administrator or to any duly authorised Officer or other person, the duties of accepting the subscription for, receiving payment for and allotting or issuing new Shares.
- 13.7 The Directors in their absolute discretion may refuse to accept any application for Shares in the ICAV or any application to convert Shares in any class to Shares in another class or may accept any such application in whole or in part.
- 13.8 No person shall be recognised by the ICAV as holding any Shares on trust and the ICAV shall not be bound by or recognise (even when having notice thereof) any equitable, contingent, future or partial interest in any Shares or (except only as otherwise provided herein or as by law may be required) any other right in respect of any Share, except an absolute right of title thereto in the registered holder.
- 13.9 If at any time the Directors determine, in their sole discretion, that an incorrect number of shares was issued to a Shareholder pursuant to Section 13 because the Net Asset Value in effect on the Dealing Day was incorrect, the Directors may implement such

arrangements as they determine, in their sole discretion, that are required for an equitable treatment of such Shareholder, which arrangements may include redeeming a portion of such Shareholder's shareholding for no consideration or issuing new Shares to such Shareholder for no consideration, as appropriate, so that the number of Shares held by such Shareholder following such redemption or issuance, as the case may be, is the number of Shares as would have been issued at the correct Net Asset Value.

- 13.10 Subject as hereinafter provided, a holder of Shares of any class (the "**Original Shares**") may, with the prior consent of the Directors, from time to time convert all or any portion of such Shares ("**Conversion**") having such minimum value at the time of Conversion as may be determined by the Directors from time to time into Shares of another class (the "**New Shares**") either existing or agreed to be brought into existence on such terms as are disclosed in the Prospectus. Any Original Shares of a Fund may also, in the discretion of the Directors, be converted into New Shares of the same Fund at the prevailing Net Asset Value per Share of such other New Shares in circumstances set out in the Prospectus.

14 **RIGHTS IN SCHEME PROPERTY**

- 14.1 The assets of the ICAV shall belong exclusively to the ICAV and no Shareholder shall have any interest in the underlying assets of the ICAV.

- 14.2 The rights which attach to each Share of any given Class are as follows:

- 14.2.1 the right, in accordance with this Instrument, to participate in or receive profits or income arising from the acquisition, holding, management or disposal of Fund property;
- 14.2.2 the right, in accordance with this Instrument, to vote at any annual general meeting of Shareholders of the ICAV or at any meeting of the Shareholders of a Class of Shares; and
- 14.2.3 such other rights as may be provided for in this Instrument in relation to Shares of that Class, subject to the regulations and conditions imposed by the Central Bank.

15 **PRICE PER SHARE**

- 15.1 The Initial Price per Share at which the Shares of any Class shall be allocated or issued and the commission payable on the Initial Price and the Initial Offer Period in relation to any Fund shall be determined by the Directors.
- 15.2 The price per Share for any Class of Shares on any Dealing Day following the Initial Offer Period shall be the Net Asset Value per Share in such Class applicable in the case of issues of Shares in such Class as determined in accordance with Section 21 and Schedule 1 or such other price as may be determined by the Directors and disclosed in the Prospectus from time to time.
- 15.3 Shares may only be issued at a fixed price after the Initial Offer Period where it has been confirmed to the Central Bank by the ICAV that existing Shareholders of the relevant Fund will not be prejudiced.

- 15.4 The Directors may require an applicant for Shares to pay to the ICAV in addition to the price per Share, such commission and Duties and Charges in respect of the Shares as the Directors from time to time may determine.
- 15.5 Notwithstanding any other provision of this Instrument, in calculating the price per Share for any Class of Shares on any Dealing Day when there are net subscriptions the Responsible Person may adjust the subscription price by adding an Anti-Dilution Levy to cover dealing costs and to preserve the value of the underlying assets of the relevant Fund
- 15.6 Subject to the provisions of the Act and the Rules, the Directors on or with effect from any Dealing Day may issue Shares in any Class on terms providing for settlement to be made by the vesting in the Depositary, on behalf of the ICAV of any Investments for the time being held or which may be held hereunder and in connection therewith the following provisions shall apply:
- 15.6.1 the assets to be transferred in to the Fund must qualify as investments of the Fund in accordance with the investment objectives, policies and restrictions which are set out in the Prospectus;
 - 15.6.2 the Directors shall be satisfied that the terms of any such exchange shall not be such as are likely to result in any material prejudice to the Shareholders;
 - 15.6.3 the number of Shares to be issued shall be not more than the number which would have been issued for settlement in cash as hereinbefore provided on the basis that the amount of such cash was an amount equal to the value of the Investments to be so vested in the ICAV as determined by the Directors on the relevant Dealing Day;
 - 15.6.4 no Shares shall be issued until the Investments shall have been vested in, or arrangements have been made to vest the Investments in, the Depositary or its sub-custodian, nominee or agent and the Depositary is satisfied that there is unlikely to be any prejudice to the Shareholders of the relevant Fund; and
 - 15.6.5 any duties and charges arising in connection with the vesting of such Investments in the ICAV shall be paid by the person to whom the Shares are to be issued, or by the relevant Fund.
- 15.7 No Shares shall be issued on any Dealing Day on which the determination of the Net Asset Value of such Shares is suspended pursuant to Section 21.2 hereof.
- 15.8 Notwithstanding any other provision of this Instrument in calculating the price per Share on any Dealing Day in respect of any Class in respect of which it has been determined to charge a performance fee, the Directors may from time to time and in their sole discretion, determine that the ICAV shall apply a performance equalisation fee formula and will disclose details of such intention in the Prospectus. In such circumstances, the price per Share of the relevant Shares will be deemed to include an equalisation amount which will represent a portion the accrued performance fee of the relevant Class up to the date of the subscription.

16 **SUBSCRIPTION PRICE**

- 16.1 The Initial Price per Share at which the allotment of Shares shall be made shall be determined by the Directors and there may be added thereto such sum as the Directors in their absolute discretion may from time to time determine as an appropriate provision for Duties and Charges in respect of the allotment and issue of the Shares and making such other adjustment thereto as the Directors may from time to time determine subject always to the resulting total being adjusted up to the nearest unit of the currency in which such Shares are designated where the amount so determined is equal to or greater than half of the relevant unit or down to the nearest unit where the said amount is less than half of that unit ("unit" for these purposes being the smallest fraction of the relevant currency which is legal tender in the country of issue of that currency). Investors may be subject to a sales charge of up to 5% of the net subscription amount, as set out in the Prospectus.
- 16.2 The subscription price per Share at which the allotment of Shares shall be made following the Initial Offer Period shall be ascertained by determining the Net Asset Value per Share of the relevant Share in accordance with Section 21 on the relevant Dealing Day and adding thereto such sum as the Directors in their absolute discretion may from time to time determine as an appropriate provision for Duties and Charges in respect of the allotment and issue of the Shares and/or such sum as the Responsible Person may determine to be an Anti-Dilution Levy necessary to cover dealing costs and to preserve the value of the underlying assets of the relevant Fund in accordance with the requirements of the Central Bank and making such other adjustment thereto as the Directors may from time to time determine subject always to the aggregate amount payable on a subscription for Shares being adjusted up to the nearest unit of the currency in which such Shares are designated where the amount so determined is equal to or greater than half of the relevant unit or down to the nearest unit where the said amount is less than half of that unit ("unit" for these purposes being the smallest fraction of the relevant currency which is legal tender in the country of issue of that currency). If the subscription price of a Share includes an amount which reflects the accrued income of the relevant Fund, then such amount shall, as from the time at which the consideration representing the subscription price is recognised as an asset of the Fund for the purposes of this Instrument, be treated as income of that Fund.

17 **QUALIFIED HOLDERS**

- 17.1 The Responsible Person may from time to time impose such restrictions as it thinks necessary for the purposes of ensuring that no Shares of the ICAV are acquired or held by any person in circumstances:
- 17.1.1 which constitute 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
 - 17.1.2 which would (or would if other Shares were acquired or held in like circumstances) result in the ICAV or the Responsible Person 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
 - 17.1.3 which constitutes a breach of this Instrument or the Prospectus as to eligibility or entitlement to hold such Shares and, in this connection, the Responsible

Person may, inter alia, reject at its discretion any subscription for, sale or transfer of, Shares or any conversion.

- 17.2 The Responsible Person shall have power (but shall not be under any duty) to impose such restrictions (other than a restriction on transfer which is not expressly referred to in these Sections) as they may think necessary for the purpose of ensuring that no Shares in the ICAV are acquired or held by any person as described in Section 17.4.
- 17.3 The Responsible Person may upon an application for Shares or on a transfer or transmission of Shares or at any other time and from time to time require such evidence or declarations to be furnished to them in connection with the matters stated in Section 17.4 as they shall in their discretion deem sufficient.
- 17.4 If a person becomes aware that he is holding or owning Shares in contravention of Section 17 he shall forthwith in writing request that the ICAV repurchases such Shares in accordance with Section 19 or shall transfer such Shares to a person duly qualified to hold the same unless he has already received a notice under Section 17.6.
- 17.5 If it shall come to the notice of the Responsible Person or if the Responsible Person shall have reason to believe that any Shares are owned directly or beneficially by:
- (a) any person in breach of any law or requirement of any country or governmental authority or by virtue of which such person is not qualified to hold such Shares; or
 - (b) any person or persons in circumstances which, (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other person or persons whether connected or not, or any other circumstances appearing to the Responsible Person to be relevant) in the opinion of the Responsible Person might result in the ICAV or any Shareholder incurring any liability to taxation or suffering regulatory, pecuniary or administrative disadvantages which the ICAV or such Shareholder might not otherwise have incurred or suffered; or
 - (c) any person who does not supply any of the information or declarations required hereunder within such reasonable period as the Responsible Person may determine; or
 - (d) any person who holds Shares with a value which is less than the Minimum Subscription;
- the Responsible Person shall be entitled to give notice (in such form as the Responsible Person deem appropriate) to such person or persons requiring him or them to transfer such shares to a person who is qualified or entitled to own the same or to request in writing the repurchase of such Shares in accordance with Section 19 or (in the case of (d) only) to purchase additional Shares in order to meet the Minimum Subscription requirement within thirty (30) days.
- 17.6 If any person upon whom such a notice is served as aforesaid does not within 30 days of the date of such notice (or such lesser or greater period as may be specified in the Prospectus) transfer such Shares or request in writing that the ICAV repurchase the Shares he shall be deemed forthwith upon the expiration of 30 days (or such lesser period as may be specified in the Prospectus) to have so requested the repurchase of all of his Shares which are the subject of such notice whereupon the Responsible Person shall be entitled to appoint any person to execute such documents as may be required for the purposes of the repurchase. The deemed request to repurchase the Shares may not be

withdrawn notwithstanding that the determination of the Net Asset Value for such Shares or the redemption of such Shares may have been suspended.

17.7 Subject to any requisite official consents first having been obtained, settlement shall be effected by depositing the repurchase monies or proceeds of sale in a bank for payment to the person entitled upon such consents being obtained and, if relevant, against production of such evidence of ownership as the Responsible Person may require representing the Shares previously held by such person, together with the repurchase request duly signed. Upon deposit of such repurchase monies as aforesaid such person shall have no further interest in such Shares or any of them or any claim in respect thereof except the right to claim without recourse to the ICAV the repurchase monies so deposited (without interest) upon such consents being obtained and against the production of the said evidence of ownership with the repurchase request duly signed.

17.8 The Responsible Person may resolve that the provisions of the foregoing Section 17 shall be disappplied, in whole or in part, for a defined period or otherwise. All transfers of Shares shall be effected by a transfer in writing in any usual or common form and every form of transfer shall state the full name and address of the transferor and transferee.

18 **TRANSFER AND TRANSMISSION OF SHARES**

18.1 All transfers of Shares shall be effected by a transfer in writing in any usual or common form and every form of transfer shall state the full name and address of the transferor and transferee.

18.2 The instrument of transfer shall be signed by or on behalf of the transferor and need not be signed by the transferee and shall meet such requirements as may be specified in the Prospectus or as may otherwise be required by the Directors to prove the right of the transferor to transfer the Shares. The transferor shall be deemed to remain the holder of the Share until the name of the transferee is entered in the Register in respect thereof.

18.3 A transfer of Shares may not be registered if such transfer would result in the transferor or the transferee holding a number of Shares less than the Minimum Subscription.

18.4 The Directors may decline to register any transfer of Shares unless the instrument of transfer is deposited at the registered office of the ICAV or at such other place as the Directors may reasonably require, with such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer. The Directors may decline to register a transfer where the transfer would result in a contravention of any provision of this Instrument or would produce a result inconsistent with any provision of the Prospectus or where the transferee fails to provide the necessary declarations as to tax residency as may be requested by the ICAV.

18.5 If the Directors decline to register a transfer of any Share they shall, within two months after the date on which the instrument of transfer was lodged with the ICAV, give to the transferee written notice of the refusal. For the avoidance of doubt, the Directors are not required to register a transfer or give notice to any person of a refusal to register a transfer where registering the transfer or giving the notice would result in a contravention of any provision of any law (including any law that is for the time being in force in a country or territory other than the State).

- 18.6 The registration of any transfers may be suspended at such times and for such periods as the Directors from time to time may determine.
- 18.7 All instruments of transfer which shall be registered shall be retained by the ICAV, but any instrument of transfer which the Directors may decline to register shall (except in the case of fraud) be returned to the person depositing the same.
- 18.8 In the case of the death of a Shareholder, the survivors or survivor where the deceased was a joint holder and the executors or administrators of the deceased where he was a sole or surviving holder, shall be the only person recognised by the ICAV as having title to his interest in the Shares, but nothing in this Section shall release the estate of the deceased holder whether sole or joint from any liability in respect of any Share solely or jointly held by him.
- 18.9 Any guardian of an infant Shareholder and any guardian or other legal representative of a Shareholder under legal disability and any person entitled to a Share in consequence of the death, insolvency or bankruptcy of a Shareholder shall, upon producing such evidence of his title as the Directors may require, have the right either to be registered himself as the holder of the Share or to make such transfer thereof as the deceased or bankrupt Shareholder could have made, but the Directors shall, in either case, have the same right to refuse or suspend registration as they would have had in the case of a transfer of the Share by the infant or by the deceased, insolvent or bankrupt Shareholder before the death, insolvency or bankruptcy or by the Shareholder under legal disability before such disability.
- 18.10 A person so becoming entitled to a Share in consequence of the death, insolvency or bankruptcy of a Shareholder shall have the right to receive and may give a discharge for all monies payable or other advantages due on or in respect of the Share, but he shall not be entitled to receive notice of or to attend or vote at meetings of the ICAV, nor save as aforesaid, to any of the rights or privileges of a Shareholder unless and until he shall be registered as a Shareholder in respect of the Share, **PROVIDED ALWAYS** that the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the Share and if the notice is not complied with within ninety (90) days the Directors may thereafter withhold all moneys payable or other advantages due in respect of the Share until the requirements of the notice have been complied with.

19 **REPURCHASE OF SHARES**

- 19.1 The ICAV may repurchase its own outstanding fully paid Shares at any time in accordance with the conditions imposed by the Central Bank and the rules and procedures set out herein and in the Prospectus. A Shareholder may at any time irrevocably request the ICAV to repurchase all or any part of his Shares in the ICAV by forwarding a request for repurchase of Shares to the ICAV and, save as otherwise provided in the Prospectus, a repurchase request shall be effective on the Dealing Day following receipt of the repurchase request.
- 19.2 A request for repurchase of Shares shall be in such form as the Responsible Person shall prescribe, shall be irrevocable (without the consent of the Responsible Person) and shall be filed by a Shareholder in written form at the registered office of the ICAV, or at the office of the person or entity from time to time designated by the ICAV as its agent for the

repurchase of Shares, and, at the request of the Responsible Person shall be accompanied by proper evidence of succession or assignment satisfactory to the Responsible Person, if applicable.

- 19.3 On receipt of a request for repurchase of Shares duly completed the ICAV shall repurchase the Shares as requested on the Dealing Day on which the repurchase request is effective subject to any suspension of this repurchase obligation pursuant to Section 21.2 hereof. Shares in the capital of the ICAV which are repurchased by the ICAV shall be cancelled. For the avoidance of doubt, Shares held by one Fund in another Fund shall not be cancelled.
- 19.4 The repurchase price per Share in any Class of Shares shall be the Net Asset Value per Share in that Class applicable in the case of a repurchase of such Share obtaining on the Dealing Day on which the repurchase request is effective, less such commission and Duties and Charges as may be set out in the Prospectus such commission shall not exceed 3% of the Net Asset Value of the Shares subject to repurchase and making such other adjustment thereto as the Responsible Person or their delegate may from time to time determine.
- 19.5 Notwithstanding any other provision of this Instrument, in calculating the repurchase price per Share for any Class of Shares on any Dealing Day when there are net redemptions the Responsible Person may adjust the repurchase price by deducting an Anti-Dilution Levy to cover dealing costs and to preserve the value of the underlying assets of the relevant Fund.
- 19.6 Payment to a Shareholder under this Section will ordinarily be made in the relevant Class Currency, or at the discretion of the Directors in any other freely convertible currency at the rate of exchange for conversion on the date of payment and shall be despatched no later than ten (10) Business Days following acceptance of the repurchase request as provided for in Section 19.1.
- 19.7 On repurchase of part only of the Shares held by any Shareholder, the Directors shall procure that evidence of ownership shall be issued free of charge for the balance of such Shares.
- 19.8 In the event that a repurchase of part only of a Shareholder's holding of Shares leaves the Shareholder holding less than the Minimum Subscription the Directors may, if they think fit, require that the ICAV repurchase the whole of that Shareholder's holding.
- 19.9 If the ICAV receives requests for the repurchase of Shares in respect of 10 per cent or more of the outstanding Shares of any Fund on any Dealing Day, the Responsible Person may elect to restrict the total number of Shares of that Fund to be repurchased to 10 per cent of the outstanding Shares in that Fund, in which case all the relevant requests will be scaled down pro rata to the number of Shares requested to be repurchased. The balance of such Shares will be repurchased on the next Dealing Day, subject to the provisions of this Section 19.9, and such Shares shall be repurchased rateably to any Shares to be repurchased on that Dealing Day.
- 19.10 A distribution in respect of a redemption may also be made in kind, at the discretion of the Directors (or their delegate), provided that the redemption in kind will only be made with the consent of the redeeming Shareholder. The assets to be transferred shall be selected at

the discretion of the Directors with the approval of the Depositary and taken at their value used in determining the redemption price of the Shares being so repurchased. As a result, such distributions will only be made if the Directors and the Depositary consider that they will not materially prejudice the interests of the Shareholders of the relevant Fund as a whole and the Depositary is satisfied that the assets distributed are equivalent to the amount of the distribution declared. Shareholders will bear any risks of the distributed securities and may be required to pay a brokerage commission or other costs in order to dispose of such securities. In circumstances where a Shareholder has requested redemption of Shares that represent more than 5% of the Net Asset Value of the relevant Fund, or where the initial subscription in respect of the Shares being redeemed by a Shareholder was made in kind, redemption in kind may be solely at the discretion of the Responsible Person. If a Shareholder so requests, the ICAV shall sell the assets to be distributed to that Shareholder and distribute the cash proceeds to the Shareholder. The cost of any such sale may be charged to the relevant Shareholder.

19.11 At any time after the issue of Shares, the ICAV shall be entitled to repurchase the Subscriber Shares or to procure the transfer of the Subscriber Shares to any person who may be a qualified holder of Shares in accordance with Section 17 hereof.

19.12 In the event that the ICAV is required to account for, deduct or withhold tax on a disposal of Shares by a Shareholder (whether upon a repurchase of Shares, a transfer of Shares or otherwise) or upon payment of a distribution to a Shareholder (whether in cash or otherwise), the Directors shall be entitled to require the compulsory repurchase and cancellation of all or part of the Shares of such Shareholder for the purposes of obtaining sufficient monies to discharge any such tax liability. The Directors shall instruct the Depositary to place the repurchase proceeds received in respect of such a repurchase of Shares in a separate account so that such monies are separately identifiable for the purposes of discharging any applicable tax liability as aforesaid.

19.13 The ICAV may also compulsorily redeem Shares in order to discharge performance related fees which are due and payable to the Management Company and / or the Investment Manager, in such circumstances as are set out in the Prospectus from time to time.

19.14 Where the ICAV receives a request for the repurchase of Shares from any Shareholder in respect of which the ICAV is required to account for, deduct or withhold taxation, the ICAV shall be entitled to deduct from the proceeds of repurchase such amount of taxation as the ICAV is required to account for, deduct or withhold and shall arrange to discharge the amount of taxation due.

20 **TOTAL REPURCHASE**

20.1 The ICAV may redeem all of its Shares, or the Shares of any Fund or Class in issue if:

20.1.1 the Shareholders of the relevant Fund or Class pass a Special Resolution providing for such redemption at a general meeting of the holders of the Shares of that Fund or Class or in writing;

20.1.2 the Directors deem it appropriate because of adverse political, economic, fiscal or regulatory changes affecting relevant Fund in any way;

- 20.1.3 the Net Asset Value of the relevant Fund, or of a Class of Shares in a Fund, does not exceed or falls below such amount as may be determined from time to time by the Directors;
 - 20.1.4 where the Depositary has served notice of its intention to retire in accordance with Section 7.6 above;
 - 20.1.5 the Directors deem it appropriate for any other reason and provide advance notification (as specified in the Prospectus) to Shareholders; or
 - 20.1.6 such other circumstances as may be set out in the Prospectus from time to time come to pass.
- 20.2 The Responsible Person may in its discretion at any time repurchase, or request the transfer of, Shares held by Shareholders who are excluded from purchasing or holding Shares under this Instrument or the Prospectus or where the holding of Shares is in breach of any law or regulation or otherwise in circumstances having, or which may have, adverse regulatory, reputational, tax or fiscal consequences or be a material administrative burden to the Fund or the Shareholders. The Responsible Person is entitled to compulsorily redeem a Shareholder's entire holding of Shares in any Fund or Class if that Shareholder would be the holder of Shares in that Fund or Class with an aggregate value in that Fund of less than the Minimum Holding as prescribed by the Responsible Person from time to time. Any Minimum Holding amount shall be specified in the relevant supplement of the Fund where applicable. Subject to prior notification to the Shareholders, the Responsible Person may, in their discretion, increase the Minimum Holding amounts. Any Minimum Holding amounts may be waived by the Responsible Person in their absolute discretion. Any such redemption will be made on a Dealing Day at a price equal to the Net Asset Value per Share on the relevant Dealing Day on which the Shares are to be repurchased, less Duties and Charges and, at the discretion of the ICAV where there are net redemptions on that Dealing Day, an Anti-Dilution Levy to cover dealing costs and to preserve the value of the underlying assets of the relevant Fund.
- 20.3 Where a repurchase of Shares pursuant to Section 19 or 20 would result in the number of Shareholders falling below two or such other minimum number of Shareholders as the Act may stipulate as the legal minimum number of Shareholders in an Fund or would result in the issued Share capital of the ICAV falling below such minimum amount as the ICAV may be obliged to maintain as the Act may stipulate, the Responsible Person may defer the repurchase of such Shares the repurchase of which would result in such number or amount not being satisfied until the ICAV is wound up or until the ICAV procures the issue of sufficient Shares to ensure that the aforesaid number and amount are satisfied. The Responsible Person shall be entitled to select the Shares for such deferred repurchase in such manner as it may deem to be fair and reasonable and as may be approved by the Depositary.
- 21 DETERMINATION OF NET ASSET VALUE AND TEMPORARY SUSPENSION OF DEALINGS**
- 21.1 The Responsible Person shall determine the Net Asset Value of the ICAV and each Fund as at each Valuation Point. The Net Asset Value shall be expressed in the Base Currency as a per Share figure for the issue of Shares and for the repurchase of Shares, respectively

as appropriate, and shall be determined in accordance with Section 22 and Schedule 1 hereof.

- 21.2 The Responsible Person may at any time, in consultation with the Depositary, temporarily suspend the determination of the Net Asset Value or the sale, issue, valuation, sale, purchase, redemption or conversion of Shares of a Fund, or the payment of repurchase proceeds during:
- 21.2.1 while any transfer of funds involved in the realisation, acquisition or disposal of investments or payments due on sale of such investments by the ICAV cannot, in the opinion of the Responsible Person, be effected at normal prices or rates of exchange or be effected without seriously prejudicing the interests of the Shareholders or the ICAV; or
 - 21.2.2 during any breakdown in the communications normally employed in valuing any of the ICAV's assets, or when, for any reason, the price or value of any of the ICAV's assets cannot be promptly and accurately ascertained; or
 - 21.2.3 if the ICAV, or the relevant Fund is being, or may be, wound-up on or following the date on which notice is given of the meeting of Shareholders at which a resolution to wind up the ICAV or the relevant Fund is proposed; or
 - 21.2.4 during the existence of any state of affairs which, in the view of the Responsible Person, constitutes an emergency as a result of which disposal or valuation of investments of the relevant Funds by the Responsible Person is impracticable; or
 - 21.2.5 if the Responsible Person has determined that there has been a material change in the valuation of a substantial proportion of the investments of the ICAV attributable to a particular Fund and the Responsible Person has decided, in order to safeguard the interest of the Shareholders and the ICAV, to delay the preparation or use of a valuation or carry out a later or subsequent valuation; or
 - 21.2.6 while the value of any subsidiary of the ICAV may not be determined accurately;
 - 21.2.7 during any other circumstance or circumstances where a failure to do so might result in the ICAV or its Shareholders incurring any liability to taxation or suffering other pecuniary disadvantages or other detriment to which the ICAV or its Shareholders might not otherwise have suffered; or
 - 21.2.8 any period when the Responsible Person determine that it is in the best interests of the Shareholders to do so.
- 21.3 The ICAV may elect to treat the first Business Day on which the conditions giving rise to the suspension have ceased as a substitute Dealing Day in which case the Net Asset Value calculations and all issues and repurchases of Shares shall be effected on the substitute Dealing Day.
- 21.4 Any such suspension shall be published by the ICAV in such manner as it may deem appropriate to the persons likely to be affected thereby if in the opinion of the ICAV, such suspension is likely to continue for a period exceeding fourteen (14) days and any such

suspension shall be notified immediately (without delay) to the Central Bank and in any event within the same Business Day.

22 VALUATION OF ASSETS

22.1 The Net Asset Value of the ICAV and the ICAV's assets shall be determined in accordance with requirements of the Central Bank, and subject thereto, in accordance with Schedule 1 to this Instrument. The Net Asset Value per Share will be made available to Shareholders in the manner described in the Prospectus.

23 GENERAL MEETINGS

23.1 All general meetings of the ICAV shall be held in Ireland.

23.2 Subject to Section 23.3, the ICAV shall in each year hold a general meeting as its annual general meeting in addition to any other meeting in that year. Not more than fifteen months shall elapse between the date of one annual general meeting of the ICAV and that of the next **PROVIDED THAT**, so long as the ICAV holds its first annual general meeting within eighteen months after the date on which the registration order made by the Central Bank in respect of the ICAV comes into operation, it need not hold it in the year of its incorporation or in the following year.

23.3 The Directors may elect to dispense with the holding of an annual general meeting by giving 60 days' written notice to all Shareholders. Any such election has effect for the year in which it is made and subsequent years but does not affect any liability already incurred by reason of default in holding an annual general meeting. Where an election under this Section 23.3 has effect for a year, one or more Shareholders of the ICAV holding, or together holding, not less than 10% of the voting rights in the ICAV or the auditors of the ICAV may require the ICAV to hold an annual general meeting in that year by giving notice in writing to the ICAV in the previous year or at least one month before the end of that year and the ICAV shall hold the required meeting.

23.4 All general meetings (other than annual general meetings) shall be called extraordinary general meetings.

23.5 The Directors may call an extraordinary general meeting whenever they think fit and extraordinary general meetings shall be convened on such requisition, or in default may be convened by such requisitionists, and in such manner as provided by the Act.

24 NOTICE OF GENERAL MEETINGS

24.1 At least twenty-one (21) clear days' notice specifying the place, the day and the hour of the meeting, and in the case of special business the general nature of such business (and in the case of an annual general meeting specifying the meeting as such) shall be given in the manner hereinafter mentioned to such persons as are under the provisions hereof or the conditions of issue of the Shares held by them entitled to receive notices from the ICAV.

24.2 The Directors, the Management Company and the Auditors shall each be entitled to receive notice of, and attend and speak at, any general meeting of the ICAV.

24.3 In each notice calling a meeting of the ICAV, there shall appear with reasonable prominence a statement that a Shareholder entitled to attend and vote is entitled to appoint one or more proxies to attend and vote instead of him and that a proxy need not also be a Shareholder.

24.4 The accidental omission to give notice to, or the non-receipt of notice by, any person entitled to receive notice shall not invalidate the proceedings at any general meeting.

25 **PROCEEDINGS AT GENERAL MEETINGS**

25.1 All business shall be deemed special that is transacted at an extraordinary general meeting and also all business that is transacted at an annual general meeting, with the exception of the consideration of the accounts and the reports of the Directors and Auditors, the election of Directors in the place of those retiring, the reappointment of the retiring Auditors and the fixing of the remuneration of the Auditors.

25.2 No business shall be transacted at any general meeting unless a quorum is present. Two Shareholders holding voting Shares present either in person or by proxy shall be a quorum for a general meeting of the ICAV. A representative of a corporation authorised pursuant to Section 26.12 to be present at any meeting of the ICAV shall be deemed to be a Shareholder for the purpose of a quorum.

25.3 If within half an hour from the time appointed for a meeting a quorum is not present, the meeting, if convened on the requisition of or by Shareholders, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine. One Shareholder holding voting Shares present either in person or by proxy shall be a quorum for any such adjourned meeting.

25.4 The chairman or, if absent, the deputy chairman of the ICAV, or failing him, some other Director nominated by the Directors shall preside as chairman at every general meeting of the ICAV but if at any meeting neither the chairman nor the deputy chairman nor such other Director be present within fifteen minutes after the time appointed for holding the meeting, or if none of them be willing to act as chairman, the Directors present shall choose some Director present to be chairman, or if no Directors be present, or if all the Directors present decline to take the chair, the Shareholders present shall choose some Shareholder present to be chairman.

25.5 The chairman may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for fourteen days or more ten days' notice at the least specifying the place, the day and the hour of the adjourned meeting, shall be given as in the case of the original meeting but it shall not be necessary to specify in such notice the nature of the business to be transacted at the adjourned meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

25.6 At any general meeting, a resolution put to the vote of the meeting shall be decided on a show of hands of those Shareholders holding voting Shares, unless a resolution is not

passed unanimously on such show of hands, in which case such resolution shall be decided on a poll. Unless a poll is so taken, a declaration by the chairman that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book containing the minutes of the proceedings of the ICAV shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

- 25.7 If a poll is duly demanded, it shall be taken in such manner and at such place as the chairman may direct (including the use of ballot or voting papers or tickets) and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 25.8 The chairman may, in the event of a poll, appoint scrutineers and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.
- 25.9 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.
- 25.10 A poll demanded on the election of a chairman and a poll demanded on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and place as the chairman directs not being more than thirty days from the date of the meeting or adjourned meeting at which the poll was demanded.
- 25.11 The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
- 25.12 A demand for a poll may be withdrawn and no notice need be given of a poll not taken immediately.
- 25.13 If at any time the Share capital is divided into different classes of Shares, the rights attached to any class or Fund (unless otherwise provided by the terms of issue of the Shares of that class or Fund or unless otherwise provided herein) may, whether or not the ICAV is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued Shares of that class or Fund, or with the sanction of an Extraordinary Resolution passed at a separate general meeting of the holders of the Shares of that class or Fund, to which the provisions of this Instrument relating to general meetings shall mutatis mutandis apply, save that, where a class or Fund has only one Shareholder holding voting Shares, the quorum at any such general meeting shall be one Shareholder holding voting Shares in such class or Fund, present either in person or by proxy.

26 VOTES OF SHAREHOLDERS

- 26.1 Subject to any special rights or restrictions for the time being attached to any class of Shares in accordance with the requirements of the Central Bank, each Shareholder shall be entitled to such number of votes as shall be produced by dividing the aggregate net asset value of that Shareholder's Shareholding (expressed or converted in Base Currency, calculated as of the relevant record date and excluding, where appropriate, the impact of any Class Currency hedging) by one. Where a separate written resolution or general meeting of a particular class of Shares is held, in such circumstances, the Shareholder's votes shall be calculated by reference only to the net asset value of each Shareholder's Shareholding in that particular class, as appropriate. The Subscriber Shareholders shall

have one (1) vote for each Subscriber Share held. The “relevant record date” for these purposes shall be a date being not more than thirty (30) days prior to the date of the relevant general meeting or written resolution as determined by the Directors. In relation to a resolution which in the opinion of the Directors affects more than one (1) class of Shares, such resolution shall be deemed to have been duly passed only if, in lieu of being passed through a single meeting of the Shareholders of such class of Shares, such resolution shall have been passed at a separate meeting of the Shareholders of each such classes. The Responsible Person may in their discretion create classes which shall be designated as non-voting Shares and the holders of such Shares will not have the right to vote at any meeting of the ICAV.

- 26.2 In the case of joint holders of a Share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the Shares.
- 26.3 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
- 26.4 On a poll votes may be given either personally or by proxy.
- 26.5 On a poll, a Shareholder entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.
- 26.6 The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorised in writing, or if the appointer is a corporation under the hand of an officer or attorney so authorised. An instrument of proxy shall be in any usual form or in such form as the Directors may approve **PROVIDED ALWAYS** that such form shall give the holder the choice of authorising his / her proxy to vote for or against each resolution.
- 26.7 Any person (whether a Shareholder or not) may be appointed to act as a proxy. A Shareholder may appoint more than one proxy to attend on the same occasion.
- 26.8 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority, shall be deposited at the registered office of the ICAV or at such other place as is specified for that purpose in the notice of meeting or in the instrument of proxy issued by the ICAV not less than forty-eight (48) hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and if the aforesaid conditions are not complied with the instrument of proxy shall not be treated as valid.
- 26.9 No instrument appointing a proxy shall be valid after the expiration of twelve months from the date named in it as the date of its execution, except at an adjourned meeting or on a poll demanded at a meeting or an adjourned meeting in cases where the meeting was originally held within twelve months from such date.
- 26.10 The Directors may at the expense of the ICAV send, by post or otherwise, to the Shareholders instruments of proxy (with or without prepaid postage for their return) for use at any general meeting or at any meeting of any class of Shareholders, either in blank or

nominating in the alternative any one or more of the Directors or any other persons. If for the purpose of any meeting invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the expense of the ICAV, such invitations shall be issued to all (and not to some only) of the Shareholders entitled to be sent a notice of the meeting and to vote thereat by proxy.

- 26.11 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or insanity of the principal or the revocation of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer of the Shares in respect of which the instrument of proxy is given, provided that no notice in writing of such death, insanity, revocation or transfer shall have been received by the ICAV at the registered office of the ICAV, before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used.
- 26.12 Any body corporate which is a Shareholder may authorise by resolution of its Directors or other governing body such person as it thinks fit to act as its representative at any meeting of the ICAV and the person so authorised shall be entitled to exercise the same powers on behalf of the body corporate which he represents as that body corporate could exercise if it were an individual Shareholder and such body corporate shall for the purposes of these presents be deemed to be present in person at any such meeting if a person so authorised is present thereat.
- 26.13 A resolution in writing signed by all of the Shareholders for the time being entitled to attend and vote on such resolution at a general meeting (or being bodies corporate by their duly authorised representative) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the ICAV duly convened and held, and may consist of several documents in like form each signed by one or more persons, and if described as a Special Resolution shall be deemed to be a Special Resolution within the meaning of the Act. Any such resolution shall be served on the ICAV.
- 26.14 The provisions of Sections 23, 24, 25 and 26 shall apply *mutatis mutandis* to meetings of each Fund and / or class of Shareholders.

27 **DIRECTORS**

- 27.1 Unless otherwise determined by the ICAV by Ordinary Resolution, the number of the Directors shall not be less than two (2) nor more than twelve (12).
- 27.2 A Director need not be a Shareholder.
- 27.3 The Directors shall have power at any time and from time to time to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors.
- 27.4 The Directors shall be entitled to such remuneration in relation to the performance of their duties as the Directors may from time to time determine. Such remuneration shall be deemed to accrue from day to day. The Directors and any alternate Directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the Directors or any committee of the Directors or general meetings or any meetings in connection with the business of the ICAV.

- 27.5 The Directors may in addition to such remuneration as is referred to in Section 27.4 hereof grant special remuneration to any Director who, being called upon, shall perform any special or extra services to or at the request of the ICAV.
- 27.6 The ICAV at any general meeting at which a Director retires or is removed shall fill the vacated office by electing a Director unless the ICAV shall determine to reduce the number of Directors.
- 27.7 The office of a Director shall be vacated by a Director in any of the following events, namely:
- 27.7.1 if he resigns his office by notice in writing signed by him and left at the registered office of the ICAV;
 - 27.7.2 if he becomes bankrupt or makes any arrangement or composition with his creditors generally;
 - 27.7.3 if he becomes of unsound mind;
 - 27.7.4 if he ceases to be a Director by virtue of, or becomes prohibited from being a Director by reason of an order made under the provisions of any law or enactment;
 - 27.7.5 if he is requested by a majority of the other Directors (not being less than two in number) to vacate office;
 - 27.7.6 if he is removed from office by an Ordinary Resolution, in accordance with section 62 of the Act.
- 27.8 At least ten (10) days previous notice in writing shall be given to the ICAV of the intention of any Shareholder or Shareholders to propose any person other than a retiring Director for election to the office of Director and such notice shall be accompanied by notice in writing signed by the person to be proposed confirming his willingness to be appointed **PROVIDED ALWAYS** that if the Shareholders present at a general meeting unanimously consent, the chairman of such meeting may waive the said notices and submit to the meeting the name of any person so nominated, provided such person confirms in writing his willingness to be appointed.
- 27.9 At a general meeting, a motion for the appointment of two or more persons as Directors of the ICAV by a single resolution shall not be made, unless a resolution that it shall be so made has been first agreed to by the meeting without any vote being given against it.
- 27.10 Subject to the requirements of the Central Bank, any Director may at any time by instrument in writing under his hand and deposited at the registered office, or delivered at a meeting of the Directors, appoint any Director or other person approved by the majority of Directors to be his alternate Director and may in like manner at any time terminate such appointment. References herein to Directors shall be deemed to include any alternate Director as the context requires.
- 27.11 The appointment of an alternate Director shall cease if his appointer should cease to be a Director or on the happening of any such event which if he were a Director would cause him to vacate such office.

27.12 An alternate Director shall be entitled to receive notices of meetings of the Directors and shall be entitled to attend and vote as a Director at any such meeting at which the Director appointing him is not personally present and generally at such meeting to perform all functions of his appointer as a Director and for the purposes of the proceedings at such meeting the provisions hereof shall apply as if he (instead of his appointer) were a Director. If he himself shall also be a director, or if they attend any such meeting as an alternate for more than one Director, his voting rights shall be cumulative, provided, however, that he shall count as one for the purposes of determining a quorum. If his appointer is for the time being temporarily unable to act, his signature to any resolution in writing of the Directors shall be as effective as the signature of his appointer. To such extent as the Directors may from time to time determine in relation to any committee of the Directors, the foregoing provisions of this paragraph shall also apply *mutatis mutandis* to any meeting of any such committee of which his appointer is a Shareholder. An alternate Director shall not (save as aforesaid or as otherwise herein provided) have power to act as a Director nor shall he be deemed to be a Director.

27.13 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent *mutatis mutandis* as if he were a Director but he shall not be entitled to receive from the ICAV in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration otherwise payable to his appointer as such appointer may by notice in writing to the ICAV from time to time direct.

28 **DIRECTORS, OFFICES AND INTERESTS**

28.1 The Directors may appoint one or more of their body to the office of managing Director or joint managing Director or to any other executive office under the ICAV (including, where considered appropriate, the office of chairman) on such terms and for such period as they may determine and, without prejudice to the terms of any contract entered into in any particular case, may revoke any such appointment at any time.

28.2 A Director holding any such executive office shall receive such remuneration, whether in addition to, or in substitution for, his ordinary remuneration, as a Director and whether by way of salary, commission, participation in profits or otherwise or partly in one way and partly in another, as the Directors may determine.

28.3 The appointment of any Director to the office of chairman or managing or joint managing Director shall cease automatically if he ceases to be a Director but without prejudice to any claim for damages for breach of any contract of service between him and the ICAV.

28.4 The appointment of any Director to any other executive office shall not cease automatically if he ceases from any cause to be a Director unless the contract or resolution under which he holds office shall expressly state otherwise, in which event such determination shall be without prejudice to any claim for damages for breach of any contract of service between him and the ICAV.

28.5 A Director may hold any other office or place of profit under the ICAV (except that of Auditor or Depositary) in conjunction with his office of Director, and may act in a professional capacity to the ICAV, on such terms as to remuneration and otherwise as the Directors may arrange.

- 28.6 Subject to the provisions of the Act and provided that he has disclosed to the Directors the nature and extent of any material interest of his, a Director notwithstanding his office:
- 28.6.1 may be a party to, or otherwise interested in, any transaction or arrangement with the ICAV or in which the ICAV is interested; and
- 28.6.2 shall not be accountable, by reason of his office, to the ICAV for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.
- 28.7 No Director or intending Director shall be disqualified by his office from contracting with the ICAV either as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the other company in which any Director shall be in any way interested be avoided nor shall any Director so contracting or being so interested be liable to account to the ICAV for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established. The nature of a Director's interest must be declared by him at the meeting of the Directors at which the question of entering into the contract or arrangement is first taken into consideration, or if the Director was not at the date of that meeting interested in the proposed contract or arrangement at the next meeting of the Directors held after he became so interested, and in a case where the Director becomes interested in a contract or arrangement after it is made, at the first meeting of the Directors held after he becomes so interested.
- 28.8 A copy of every declaration made and notice given in relation to a Director's Shares shall be entered within three days after the date of making or giving thereof in a book kept for this purpose. Such book shall be open for inspection during normal business hours without charge by any Director, Secretary, Auditor or Shareholder at the registered office of the ICAV or such other place as the Directors may determine from time to time and shall be produced at every general meeting of the ICAV and at any meeting of the Directors if any Director so requests in sufficient time to enable the book to be available at the meeting by any Shareholder or holder of debentures of the ICAV.
- 28.9 For the purposes of this Section:
- 28.9.1 a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement in which a specified person or class of persons is interested shall be deemed to be a disclosure that the Director has an interest in any such transaction of the nature and extent so specified;
- 28.9.2 an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his;
- 28.9.3 an interest of a person who is the spouse, a minor child or an alternate of a Director shall be treated as an interest of the Director and, in relation to an alternate Director, an interest of his appointer shall be treated as an interest of the alternate Director.

- 28.10 Save as otherwise provided by this Instrument, a Director shall not vote at a meeting of the Directors or a committee of Directors on any resolution concerning a matter in which he has, directly or indirectly, an interest which is material or a duty which conflicts or may conflict with the interests of the ICAV. Unless otherwise resolved by the Directors, a Director shall not be counted in the quorum present at a meeting in relation to any such resolution on which he is not entitled to vote.
- 28.11 A Director shall be entitled (in the absence of some other material interest than is indicated below) to vote (and be counted in the quorum) in respect of any resolution concerning any of the following matters, namely any proposal concerning any other company in which he is interested, directly or indirectly, and whether as an officer or Shareholder or otherwise howsoever.
- 28.12 Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employments with the ICAV such proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not otherwise debarred from voting) shall be entitled to vote (and be counted in the quorum) in respect of each resolution, except that concerning his own appointment.
- 28.13 If a question arises at a meeting of Directors or of a committee of Directors as to the materiality of a Director's interest or as to the right of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question may be referred, before the conclusion of the meeting, to the chairman of the meeting and his ruling in relation to any Director other than himself shall be final and conclusive.
- 28.14 The ICAV, by Ordinary Resolution, may suspend or relax the provisions of this Section to any extent or ratify any transaction not duly authorised by reason of a contravention of this Section.

29 POWERS OF DIRECTORS

- 29.1 The business of the ICAV shall be managed by the Directors, who may exercise all such powers of the ICAV as are not by the Act, by the Rules or hereby required to be exercised by the ICAV in general meeting, subject, nevertheless, to the provisions of the Act, to the Rules and to the regulations herein contained being not inconsistent with the aforesaid regulations as may be prescribed by the ICAV in general meeting, but no regulations made by the ICAV in general meeting shall invalidate any prior act of the Directors which would have been valid if such regulations had not been made. The general powers given by this Section shall not be limited or restricted by any special authority or power given to the Directors by this or any other Section.
- 29.2 All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable instruments drawn on the ICAV, and all other receipts for moneys paid to the ICAV shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Directors from time to time shall by resolution determine.
- 29.3 Subject to the Regulations and Rules, the Directors may exercise all the powers of the ICAV to invest all or any funds of the ICAV as authorised by this Instrument. Subject to the Regulations, Rules and with the authorisation of the Central Bank, the ICAV may invest in collective investment undertakings with which the ICAV is linked by common management

and control or by substantial direct or indirect holding, provided that the said collective investment undertaking has investment policies consistent with the investment policies of the ICAV. No such investment may be made unless the manager of the relevant collective investment undertaking has agreed to waive any preliminary or initial charge which it might otherwise be entitled to charge for its own benefit in respect of such investment.

30 BORROWING AND HEDGING POWERS

30.1 Subject to the limits and conditions set forth in the Prospectus and laid down by the Central Bank and subject to the provisions of Section 29 hereof, the Directors may exercise all the powers of the ICAV to borrow money, to mortgage or charge its undertaking, property, or any part thereof and to issue debentures, debenture stock and other securities whether outright or as a security for any debts and to use techniques and instruments for hedging and investment purposes. Such borrowing shall be on a temporary basis and shall not exceed 10% of the Net Asset Value of the relevant Fund.

31 PROCEEDINGS OF DIRECTORS

31.1 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be determined by a majority of votes. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors.

31.2 The quorum necessary for the transaction of business of the Directors may be fixed by the Directors and unless so fixed at any other number shall be two (2).

31.3 The continuing Directors or a sole continuing Director may act notwithstanding any vacancies in their number but, if and so long as the number of Directors is reduced below the minimum number fixed by or in accordance with the provisions hereof or a majority or quorum of Directors cannot be attained, the continuing Directors or Director may act for the purpose of filling vacancies in their number or of summoning general meetings of the ICAV, but not for any other purpose. If there be no Directors or Director able or willing to act, then any two Shareholders may summon a general meeting for the purpose of appointing Directors.

31.4 The Directors may from time to time elect or remove a chairman and, if they think fit, a deputy chairman and determine the period for which they respectively are to hold office.

31.5 The chairman or, failing him, the deputy chairman shall preside at all meetings of the Directors, but if there be no chairman or deputy chairman, or if at any meeting the chairman or deputy chairman be not present within five (5) minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman of the meeting.

31.6 A resolution in writing signed by all the Directors for the time being entitled to receive notice of a meeting of the Directors and to vote thereat shall be as valid and effectual as a resolution passed at a meeting of the Directors duly convened and may consist of several documents in the like form each signed by one or more of the Directors. A resolution in writing shall be deemed to have been signed in the country or place where the last signatory to sign the resolution in writing executes such resolution.

- 31.7 A meeting of the Directors for the time being at which a quorum is present shall be competent to exercise all powers and discretions for the time being exercisable by the Directors.
- 31.8 The Directors may delegate any of their powers to committees consisting of such of their Shareholders as they think fit. The meetings and proceedings of any such committee shall conform to the requirements as to quorum imposed under the provisions of Section 31.2 and shall be governed by the provisions hereof regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations imposed on them by the Directors.
- 31.9 The Directors may, whether by standing resolution or otherwise, delegate their powers relating to the issue and repurchase of Shares and the calculation of the Net Asset Value of the Shares, the declaration of dividends and all management and administrative duties in relation to the ICAV, to an administrator or to any duly authorised Officer or other person, subject to such terms and conditions as the Directors in their absolute discretion may resolve.
- 31.10 The Directors may delegate their powers relating to the management of the ICAV's assets to the Management Company and / or the Investment Manager or to any duly authorised Officer or other person, subject to such terms and conditions as the Directors in their absolute discretion may resolve.
- 31.11 All acts done by any meeting of Directors, or of a committee of Directors or by any person authorised by the Directors shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or authorisation of any such Directors or person acting as aforesaid, or that they or any of them were disqualified, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed, and was qualified and had continued to be a Director and had been entitled to vote.
- 31.12 The Directors shall as soon as may be cause minutes to be made of:
- 31.12.1 all appointments of officers made by the Directors;
 - 31.12.2 the names of the Directors present at each meeting of the Directors and of any committee of Directors; and
 - 31.12.3 all resolutions and proceedings of all general meetings of the ICAV and of the Directors and of committees of Directors;
- and such minutes shall be entered in books kept for that purpose.
- 31.13 Any such minutes as are referred to in Section 31.12 hereof, if purporting to be signed by the chairman of the meeting at which the proceedings took place, or by the chairman of the next succeeding meeting, shall, until the contrary be proved, be conclusive evidence of their proceedings.
- 31.14 Any Director may participate in a meeting of the Directors or any committee of the Directors by means of a conference telephone or other telecommunication equipment by means of which all persons participating in the meeting can hear each other speak and such participation in a meeting shall constitute presence in person at the meeting.

32 **SECRETARY**

The Secretary shall be appointed by the Directors. The Secretary shall be appointed by the Directors for such term, at such remuneration and on such conditions as they may think fit; and any Secretary so appointed may be removed by them. Anything required or authorised to be done by the Secretary may, if the office is vacant or there is for any other reason no Secretary capable of acting, be done by any assistant or deputy Secretary or if there is no assistant or deputy Secretary capable of acting, by any officer of the ICAV authorised generally or specially in that behalf by the Directors **PROVIDED THAT** any provisions hereof requiring or authorising anything to be done by a Director and the Secretary shall not be satisfied by its being done by the same person acting both as Director and as, or in the place of, the Secretary. Any reference to a Secretary in this Section 32 may be deemed to include a reference to joint secretaries where joint secretaries are so appointed.

33 **EXECUTION OF DOCUMENTS**

33.1 The ICAV shall not have a common seal.

33.2 Any document expressed to be executed by the ICAV and signed on behalf of the ICAV:

33.2.1 by two authorised signatories of the ICAV; or

33.2.2 by a Director in the presence of a witness who attests the signature;

shall have the same effect as if executed under the common seal of the ICAV.

33.3 The term “authorised signatories” as used in this Section 33 shall mean:

33.3.1 a Director;

33.3.2 the Secretary or any joint secretary of the ICAV.

34 **DIVIDENDS**

34.1 The Directors may from time to time as they think fit pay such dividends on any class of Shares of the ICAV as appear to the Directors to be justified, subject to any policy statement in relation to dividends in the Prospectus.

34.2 Unless otherwise provided for in the Prospectus, the aggregate amount available for distribution by way of dividend in any Accounting Period in respect of a class of Shares shall be a sum equal to the aggregate of the ICAV’s Share capital, accumulated reserves, net realised and net unrealised capital gains and losses and the net income received by the ICAV (whether in the form of dividends, interest or otherwise) during the Accounting Period.

34.3 The Directors may, with the sanction of an Ordinary Resolution, distribute in kind among Shareholders by way of dividend or otherwise any of the assets of the ICAV (other than any assets which have a contingent liability).

34.4 Shares shall qualify for dividend in such manner as may be determined by the Directors or as may be set out in the Prospectus relating to such Shares.

- 34.5 Any declaration of a dividend by the Directors may specify that the same shall be payable to the persons registered as the Shareholders at the close of business on a particular date, and thereupon the dividend shall be payable to them in accordance with their respective holdings so registered, but without prejudice to the rights *inter se* in respect of such dividend, of transferors and transferees of Shares.
- 34.6 The ICAV may transmit any dividend or other amount payable in respect of any Share by cheque or warrant sent by ordinary post to the registered address of the Shareholder, or, in the case of joint holders, to the person whose name and address appears first on the Register and shall not be responsible for any loss arising in respect of such transmission.
- 34.7 No dividend or other amount payable to any holder of Shares shall bear interest against the ICAV. All unclaimed dividends and other amounts payable as aforesaid may be invested or otherwise made use of for the benefit of the ICAV until claimed. Payment by the ICAV of any unclaimed dividend or other amount payable in respect of a Share into a separate account shall not constitute the ICAV a trustee in respect thereof. Any dividend unclaimed after six (6) years from the date when it first became payable shall be forfeited automatically, without the necessity for any declaration or other action by the relevant Fund.
- 34.8 At the option of any Shareholder, the Directors may apply all dividends declared on a class of Shares held by such Shareholder in the issue of additional Shares in that class in the ICAV to that Shareholder at the Net Asset Value obtaining when such dividends are declared and on such terms as the Directors from time to time may resolve, provided, however, that any Shareholder shall be entitled to elect to receive a cash dividend in respect of the Shares held by that Shareholder.
- 34.9 The Directors may provide that Shareholders will be entitled to elect to receive in lieu of any dividend (or part thereof) in respect of any Shares an issue of additional Shares in that class credited as fully paid. In any such case the following provisions shall apply:
- 34.9.1 the number of additional Shares (including any fractional entitlement) to be issued in lieu of any amount of dividend shall be equal in value to the amount of such dividend at the date the dividend was declared;
- 34.9.2 the dividend (or that part of the dividend in respect of which a right of election has been accorded) shall not be payable on Shares in respect of which the Share election has been duly exercised (the “**Elected Shares**”), and in lieu thereof additional Shares shall be issued to the holders of the Elected Shares on the basis determined as aforesaid and for such purpose the Directors shall capitalise a sum equal to the aggregate value of the dividends in respect of which elections have been made and apply the same in paying up in full the appropriate amount of unissued Shares;
- 34.9.3 the additional Shares so issued shall rank *pari passu* in all respects with the fully-paid Shares then in issue save only as regards participation in the relevant dividend (or Share election in lieu);
- 34.9.4 the Directors may do all acts and things considered necessary or expedient to give effect to any such capitalization, with full power to the Directors to make such provision as they think fit in the case of Shares becoming distributable in

fractions so that, fractional entitlements are disregarded or rounded up or the benefit of fractional entitlements accrues to the ICAV or the ICAV issues Fractional Shares; and

34.9.5 the Directors may on any occasion determine that rights of election shall not be made available to any Shareholder with registered addresses in any territory where in the absence of a registration statement or other special formalities the circulation of an offer of rights of election would or might be unlawful, and in such event the provisions aforesaid shall be read and construed subject to such determination.

34.10 Where the ICAV proposes to pay a distribution to a Shareholder, it shall be entitled to deduct from the distribution such amount that may be necessary to discharge the ICAV's liability to taxation in respect of such distribution and the ICAV shall arrange to discharge the amount of taxation due.

35 UNTRACED SHAREHOLDERS

35.1 The ICAV shall be entitled to repurchase any Share of a Shareholder or any Share to which a person is entitled by transmission and to forfeit any dividend which is declared and remains unpaid for a period of six (6) years for the benefit of the ICAV if and provided that:

35.1.1 for a period of six years no cheque, Share certificate or confirmation of ownership of Shares sent by the ICAV through the post in a pre-paid letter addressed to the Shareholder or to the person entitled by transmission to the Share at his address on the Register or the last known address given by the Shareholder or the person entitled by transmission to which cheques, Share certificates or confirmations of the ownership of Shares are to be sent, has been cashed or acknowledged and no communication has been received by the ICAV from the Shareholder or the persons entitled by transmission;

35.1.2 at the expiration of the said period of six years by notice sent by pre-paid letter addressed to the Shareholder or to the person entitled by transmission to the Share at his address on the Register or to the last known address given by the Shareholder or the person entitled by transmission or by advertisement in a national daily newspaper published in Ireland or in a newspaper circulating in the area in which the address referred to in 35.1.1 is located, the ICAV has given notice of its intention to repurchase such Share;

35.1.3 during the period of three months after the date of the notice being served or the advertisement being published and prior to the exercise of the power of repurchase the ICAV has not received any communication from the Shareholder or person entitled by transmission; and

35.1.4 if the Shares are quoted on a stock exchange the ICAV has first given notice in writing to the appropriate section of such stock exchange of its intention to repurchase such Share, if it is required to do so under the rules of such stock exchange.

35.2 The ICAV shall account to the Shareholder or to the person entitled to such Share for the net proceeds of such repurchase by carrying all moneys in respect thereof to a separate interest bearing account which shall be a debt of the ICAV for a period of six (6) years and the ICAV shall be deemed to be a debtor and not a trustee in respect thereof for such Shareholder or other person.

36 ACCOUNTS

36.1 The Directors shall cause to be kept books of account as are necessary in relation to the conduct of its business or as are required by the Act and the Rules so as to enable the accounts of the ICAV to be prepared.

36.2 The books of account shall be kept at the registered office, or at such other place or places as the Directors shall think fit in accordance with the Act and shall at all reasonable times be open to for inspection without charge by the Officers of the ICAV and by other persons entitled pursuant to the Act to inspect the accounting records of the ICAV. However, other than the aforesaid, no other person shall be entitled to inspect the books, accounts, documents or writings of the ICAV, except as authorised by the Directors or by the ICAV in general meeting.

36.3 A balance sheet, including every document required by law to be annexed to it, and a profit and loss account of the ICAV shall be made out as of each Accounting Period and shall be audited by the Auditors and laid before the ICAV at its annual general meeting in each year (if any) and such balance sheet shall contain a general summary of the assets and liabilities of the ICAV and all information required to be included by the Act. The balance sheet shall be accompanied by a report of the Directors as to the state and condition of the ICAV, the amount (if any) which they recommend should be paid by way of dividend, the amount (if any) which they have carried or propose to carry to reserve, and shall include such information as is required pursuant to the Act, together with a profit and loss account. The balance sheet of the ICAV and the report of the Directors and the profit and loss account shall be signed on behalf of the Directors by at least two of the Directors. An Auditors' report shall be attached to the balance sheet of the ICAV. The Auditors' report shall be read at the annual general meeting.

36.4 Once at least in every year the Directors shall cause to be prepared an Annual Report relating to the management of the ICAV during the relevant Accounting Period. The Annual Report shall include the balance sheet and profit and loss account duly audited by the Auditors and the Directors' Report and the Auditors' report as provided for in Section 36.3 and shall be in a form approved by the Central Bank and shall contain such information as required by the Act and the Regulations and as specified by the Central Bank. There shall be attached to such Annual Report such additional information and reports as the Central Bank may specify.

36.5 A copy of the Annual Report including the balance sheet (including every document required by law to be annexed thereto) together with a copy of the Directors' report and the Auditors' report shall be made available by the ICAV to every person entitled under the Act and the Rules to receive them and if any of the Shares are quoted on any stock exchange, the required number of copies of these documents shall be forwarded to such stock exchange.

- 36.6 In accordance with Irish law and regulations, the Directors may elect to prepare the Annual Report and accounts in accordance with generally accepted accounting practice in the State or in accordance with such international accounting standards or such alternative body of accounting standards as may be permitted under the Act and the Regulations from time to time.
- 36.7 The Auditors' certificate appended to the Annual Report and statement referred to herein shall declare that the accounts or statement attached respectively thereto (as the case may be) have been examined together with the books and records of the ICAV and of the Administrator in relation thereto, that the information given in the Annual Report relating to the Accounting Period concerned is consistent with the accounts and that the Auditors have obtained all the information and explanations they have required and the Auditors shall report whether the accounts are in their opinion properly drawn up in accordance with such books and records and present a true and fair view of the state of affairs of the ICAV, and whether the accounts are in their opinion properly drawn up in accordance with the provisions hereof.
- 36.8 If it appears to the Directors that any Annual Report of the ICAV did not comply with the requirements of the Act or the Rules, the Directors may prepare a revised Annual Report.
- 36.9 The ICAV shall prepare for submission to the Central Bank half yearly financial statements, to cover the first six months of each Accounting Period, which should consist of a statement of assets under management, a profit and loss account for the period covered and such other information as the Central Bank may from time to time require.
- 36.10 The Directors of the ICAV may elect to prepare separate accounts in respect of a Fund or Funds and if the Directors elect to do so, all relevant provisions of this Section relating to the accounts of the ICAV shall be read as referring to the Fund or Funds in respect of which the separate accounts are to be prepared.

37 AUDIT

- 37.1 The appointment, resignation and removal of Auditors and the determination of eligibility for appointment as Auditors to the ICAV shall be governed by the provisions of the Act.
- 37.2 Subject to Section 37.5, the ICAV shall at an annual general meeting appoint an Auditor or Auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting, in accordance with the provisions of the Act.
- 37.3 A person, other than a retiring Auditor, shall not be capable of being appointed Auditor at an annual general meeting unless notice of an intention to nominate that person to the office of Auditor has been given by a Shareholder to the ICAV not less than twenty eight (28) clear days before the annual general meeting and the Directors shall send a copy of any such notice to the retiring Auditor and shall give notice thereof to the Shareholders in accordance with the Act.
- 37.4 The first Auditors shall be appointed by the Directors at any time before the first annual general meeting, and they shall hold office until the conclusion of the first annual general meeting unless previously removed by a resolution of the ICAV in general meeting, in which case the Shareholders at such meeting may appoint Auditors. Where no

appointment is made under this Section 37.4, the first Auditors may be appointed by the Shareholders in general meeting.

- 37.5 Where the Directors have dispensed with the requirement to hold an annual general meeting in accordance with Section 23.3, the Directors shall appoint the Auditors. Where, in any case, no Auditors are appointed as required under this Section 37, the Central Bank may appoint a person to fill the vacancy.
- 37.6 The remuneration of the Auditors who are appointed by the ICAV in general meeting shall be fixed by the ICAV in general meeting or in such manner as the ICAV in general meeting may determine. The remuneration of the Auditors who are appointed by the Directors or the Central Bank shall be fixed by the Directors or the Central Bank (and will be payable by the ICAV where fixed by the Central Bank).
- 37.7 The Auditors shall examine such books, accounts and vouchers as may be necessary for the performance of their duties.
- 37.8 The report of the Auditors to the Shareholders on the audited accounts of the ICAV shall state whether in the Auditors' opinion the balance sheet and profit and loss account in their opinion give a true and fair view of the state of the ICAV's affairs and of its profit and loss for the period in question.
- 37.9 The Auditors shall be entitled to require from the Officers such information and explanations as they think necessary for the performance of their duties as Auditors.
- 37.10 The Auditors shall be entitled to attend any general meeting of the ICAV at which any accounts which have been examined or reported on by them are to be laid before the ICAV and to be heard at any general meeting on any part of the business of the meeting which is of concern to them as Auditors and in this regard, make any statement or explanations they may desire with respect to the accounts and notice of every such meeting, and other communications relating thereto, shall be given to the Auditors in the manner prescribed for the Shareholders.
- 37.11 The Auditors shall be eligible for re-election.

38 **NOTICES**

- 38.1 Any notice or other document required to be served upon or sent to a Shareholder shall be deemed to have been duly given if sent by post or left at his address as appearing on the Register, or sent by fax or by electronic mail to an e-mail address or (save in the case of a notice of a general meeting of the ICAV) if either the full text of the notice or documents is published in a national daily newspaper in Ireland or such other publication as the ICAV may from time to time decide circulating in any country where the Shares are marketed, or an advertisement is so published stating where copies of such notices or documents may be obtained. In the case of joint holders of a Share, all notices shall be given to that one of the joint holders whose name stands first in the Register in respect of the joint holding, and notice so given shall be sufficient notice to all the joint holders. Any notice or other document, served by post, shall be deemed to have been served twenty-four (24) hours after the time that the letter containing the same is posted and in proving such service, it shall be sufficient to prove that the letter containing the notice or document was properly addressed and duly posted. Any notice or other document, served by delivery, shall be

deemed to have been served at the time of delivery and in proving such service, it shall be sufficient to prove that the letter containing the notice or document was properly addressed and duly delivered.

38.2 Any notice or document sent by post to or left at the registered address of a Shareholder or sent by fax or by electronic mail to an e-mail address, shall notwithstanding that such Shareholder be then dead or bankrupt and whether or not the ICAV has notice of his death or bankruptcy be deemed to have been duly served or sent and such service shall be deemed a sufficient service on receipt by all persons interested (whether jointly with or as claiming through or under him) in the Shares concerned.

38.3 Any certificate or notice or other document which is sent by post to or left at the registered address of the Shareholder named therein or sent by fax or electronic mail to an e-mail address or dispatched by the ICAV, the Management Company, the Depositary, the Administrator or the Investment Manager, in accordance with his instructions shall be so sent left or dispatched at the risk of such Shareholder.

39 **WINDING UP**

39.1 If the ICAV or a Fund shall be wound up or dissolved, the liquidator shall apply the assets of the ICAV or the Fund (as appropriate) in satisfaction of the relevant creditors' claims in such manner and order as the liquidator thinks fit subject to section 154 of the Act.

39.2 The assets of the ICAV or the Fund (as appropriate) available for distribution (after satisfaction of the relevant creditors' claims) amongst the relevant Shareholders shall be distributed pro rata to the holders of the Shares of each class in the ICAV or the Fund (as appropriate) and shall be allocated pro rata to the number of Shares in that class held by them.

39.3 If the ICAV or a Fund shall be wound up or dissolved (whether the liquidation is voluntary, under supervision or by the Court) the liquidator may with the authority of an Ordinary Resolution of the ICAV or the Shareholders of the Fund (as appropriate), divide among the relevant Shareholders pro-rata to the value of their Shareholdings in the ICAV or in the relevant Fund (as appropriate and as determined in accordance with Section 21 herein) in kind the whole or any part of the assets of the ICAV or the Fund, and whether or not the assets shall consist of property of a single kind and may for such purposes value any class or classes of property in accordance with the valuation provisions in Section 22. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of the relevant Shareholders as the liquidator shall think fit, and the liquidation of the ICAV or the Fund may be closed and the ICAV or the Fund dissolved, but not so that any Shareholder shall be compelled to accept any asset in respect of which there is a liability. If a Shareholder so requests, the ICAV shall sell the assets to be distributed to that Shareholder and distribute the cash proceeds to the Shareholder. The relevant Shareholders will bear any risks of the distributed securities and may be required to pay a brokerage commission or other costs in order to dispose of such securities.

40 **INDEMNITY**

40.1 The ICAV shall indemnify, out of the property of the ICAV, its Directors, Officers, employees and any person who serves at the request of the ICAV as a director, officer,

employee of another company, partnership, joint venture, trust or other enterprise as follows:

- (a) Every person who is or has been a Director, Officer, or employee of the ICAV and every person who serves at the ICAV's request as a director, officer or employee of another company, partnership, joint venture, trust or other enterprise shall be indemnified by the ICAV to the fullest extent permitted by law against liability and against all expenses reasonably incurred or paid by him in connection with any debt, claim, action, demand, suit, proceeding, judgment, decree, liability or obligation of any kind in which he becomes involved as a party or otherwise by virtue of his being or having been a Director, Officer or employee of the ICAV or a director, officer or employee of another company, partnership, joint venture, trust or other enterprise at the request of the ICAV and against amounts paid or incurred by him in the settlement thereof except where any of the foregoing is attributable to any negligence, default, breach of duty or breach of trust on his part;
- (b) The words "claim," "action," "suit" or "proceedings" shall apply to all claims, actions, suits or proceedings (civil, criminal, administrative, legislative, investigative or other, including appeals) and shall include, without limitation, legal fees, costs, judgments, amounts paid in settlement, fines, penalties and other liabilities;
- (c) The rights of indemnification herein provided may be insured against by policies maintained by the ICAV, shall be severable, shall not affect any other rights to which any Director, Officer, employee or agent may now or hereafter be entitled, shall continue as to a person who has ceased to be such a Director, Officer, employee or agent and shall enure to the benefit of the heirs, executors and administrators of such a person;
- (d) The ICAV may make advances of expenses incurred in the defence of any claim, action, suit or proceedings against any person whom the ICAV is obliged to indemnify pursuant to Section 40.1 hereof; and
- (e) The ICAV may indemnify the Management Company and any agent of the ICAV to the extent permitted by law and subject to the provisions in relation to indemnification set out in Section 40.1.1 hereof.

40.2 Subject to the Rules and applicable law, the Depositary and the Management Company shall be entitled to such indemnity from the ICAV upon such terms and subject to such conditions and exceptions and with such entitlement to have recourse to the assets of the ICAV with a view to meeting and discharging the cost thereof as shall be provided under the Management Agreement and the Depositary Agreement or other service agreement, if any, (as applicable).

40.3 The ICAV, the Management Company, the Depositary and any other service provider to the Fund shall each be entitled to rely absolutely on any declaration received from a Shareholder or his agent as to the residence or otherwise of such Shareholder and shall not incur any liability in respect of any action taken or thing suffered by any of them in good faith in reliance upon any paper or document believed to be genuine and to have been sealed or signed by the proper parties nor be in any way liable for any forged or unauthorised signature on or any common seal affixed to any such document or for acting on or giving effect to any such forged or unauthorised signature or common seal but shall

be entitled, though not bound, to require the signature of any person to be verified by a banker, broker or other responsible person or otherwise authenticated to its or their satisfaction.

- 40.4 The ICAV, the Management Company, the Depositary and any other service provider to the ICAV shall incur no liability to the Shareholders for doing or (as the case may be) failing to do any act or thing which by reason of any provision of any present or future law or regulation made pursuant thereto, or of any decree, order or judgment of any court, or by reason of any request, announcement or similar action (whether of binding legal effect or not) which may be taken or made by any person or body acting with or purporting to exercise the authority of any government (whether legally or otherwise) either they or any of them shall be directed or requested to do or perform or to forbear from doing or performing. If for any reason it becomes impossible or impracticable to carry out any of the provisions of these Sections, neither the ICAV, nor the Director, subject to the terms of the Management Agreement, the Depositary Agreement or other service agreement, if any, (as applicable) the Management Company nor the Depositary nor any other service provider, shall be under any liability therefore or thereby.
- 40.5 This Section shall not, however, exempt the ICAV, the Management Company or the Depositary from any liability they may incur as a result of a failure to adhere to their obligations as set out in the Rules or any liability incurred as a result of any breach of contract.
- 40.6 For the avoidance of doubt, no Director shall be liable for the acts or omissions of any other Director.

41 **DESTRUCTION OF DOCUMENTS**

- 41.1 The ICAV may destroy:
- 41.1.1 any dividend mandate or Share allotment request form or any variation or cancellation thereof or any notification of change of name or address at any time after the expiry of two years from the date such mandate, request, variation, cancellation or notification was recorded by the ICAV;
 - 41.1.2 any instrument of transfer of Shares which has been registered at any time after the expiry of six (6) years from the date of registration thereof; and
 - 41.1.3 any other document on the basis of which an entry in the Register is made at any time after the expiry of ten (10) years from the date an entry in the Register was first made in respect of it;

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

- 41.1.4 the foregoing provisions of this Section shall apply only to the destruction of a document in good faith and without express notice to the ICAV that the preservation of such document was relevant to a claim;

41.1.5 nothing contained in this Section shall be construed as imposing upon the ICAV any liability in respect of the destruction of any such document earlier than as aforesaid or in any case where the conditions of proviso (i) above are not fulfilled; and

41.1.6 references in this Section to the destruction of any document includes references to its disposal in any manner.

42 SEVERABILITY

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

43 MODIFICATION OF THIS INSTRUMENT

43.1 No modification shall be made to this Instrument without the approval of the Central Bank. Any such modification may only be made in accordance with the requirements of the Act.

43.2 The ICAV, subject to the prior approval of the Central Bank, shall be entitled to modify, alter or add to the provisions of this Instrument, without the prior approval of the Shareholders where the Depositary certifies that the modification, alteration or addition does not prejudice the interests of the Shareholders and is not one which the Central Bank has specified as one requiring approval of the Shareholders.

43.3 The ICAV, subject to the prior approval of the Central Bank, shall be entitled to modify, alter or add to the provisions of this Instrument, with the sanction of an ordinary resolution of a meeting of Shareholders duly convened and held in accordance with the provisions contained in this Instrument, provided that no such modification, alteration or addition shall be made which shall reduce the interest in any Fund of any Shareholder (without similarly reducing the interests of all Shareholders in such Fund) or reduce the percentage of Shares required to consent to any modification, alteration or addition without the consent of all Shareholders.

43.4 Without prejudice to the foregoing, the ICAV shall be entitled (and without the sanction of an ordinary resolution as aforesaid) to modify, alter or add to the provisions of this Instrument in such manner and to such extent as they may consider necessary or expedient having regard to the provisions of any fiscal enactments for the time being in force affecting the ICAV and any arrangements approved by the Revenue Commissioners of Ireland in relation to the carrying into effect hereof or to conform to any legislation, provided that no such modification, alteration or addition shall impose upon any Shareholder any obligation to make any further payment in respect of his Shares or to accept any liability in respect thereof.

SUBSCRIBER SHAREHOLDERS

We, the several persons whose names, addresses and descriptions are subscribed, wish to be formed into a variable capital investment corporate body in pursuance of this Instrument and we agree to take the number of Shares in the capital of the ICAV set opposite our respective names.

Names, Addresses and Description of subscribers Subscriber (written in full)	Number of Shares taken by each
Authorised Representative For and on behalf of Matsack Trust Limited 70 Sir John Rogerson's Quay Dublin 2	One Share
Authorised Representative For and on behalf of Matsack Nominees Limited 70 Sir John Rogerson's Quay Dublin 2	One Share
Total No. of Shares taken:	Two Shares

Dated this

Witness to the above Signatures:

Valuation of Assets

- (a) The Net Asset Value of the ICAV shall be calculated in accordance with the provisions of this Schedule. All approvals given or decisions made by the Depositary pursuant to this Schedule shall be given or made, as the case may be, following consultation with the Investment Manager.
- (b) The Net Asset Value per Share of a Fund shall be calculated by dividing the assets of the relevant Fund less its liabilities by the number of Shares in issue in that Fund. Shares of Funds are expected to perform differently and each Fund will bear its own fees and expenses to the extent specifically attributable to that Fund. Any liabilities of the ICAV that are not attributable to any Fund shall be allocated amongst the Funds based on their respective Net Asset Value or on any other basis approved by the Responsible Person following consultation with the Depositary having taken into account the nature of the liabilities.
- (c) Where a Fund is made up of more than one Class of Shares, the Net Asset Value of each Class shall be determined by calculating the amount of the Net Asset Value of the relevant Fund attributable to each Class. The amount of the Net Asset Value of a Fund attributable to a Class shall be determined by establishing the number of Shares in issue in the class, by allocating relevant Class Expenses and management fees to the class and making appropriate adjustments to take account of distributions paid out of the Fund, if applicable, and apportioning the Net Asset Value of the Fund accordingly. Where the Responsible Person has created different classes of shares within a Fund in accordance with Section 9.2 and have determined that currency hedging transactions may be entered into in order to hedge any relevant currency exposure of any class within a Fund denominated in a currency other than the Base Currency in accordance with the requirements of the Central Bank (collectively "**Class Derivative Transactions**"), in each case the Administrator shall adjust the Net Asset Value per share of the class in order to reflect the costs and resultant gains/losses of such hedging transactions and/or financial derivative instruments.

The Net Asset Value per share of a class shall be calculated by dividing the Net Asset Value of the class by the number of shares in issue in that class. Class Expenses or management fees or charges not attributable to a particular class may be allocated amongst the classes based on their respective Net Asset Value or any other reasonable basis approved by the Directors following consultation with the Depositary and having taken into account the nature of the fees and charges. Class Expenses or management fees relating specifically to a class will be charged to that class. In the event that classes of shares within a Fund are issued which are priced in a currency other than the Base Currency for that Fund currency conversion costs will be borne by that class.

Where the Responsible Person has created different classes of shares within a Fund in accordance with Section 9.2 and have determined that Class Derivative Transactions may be entered into in respect of a class, the Administrator shall adjust the Net Asset Value per share of the class in order to reflect the costs and resultant gains/losses of such hedging transactions and/or financial derivative instruments to all other classes in the Fund pro rata. Accordingly, any appreciation or depreciation of the Net Asset Value of the relevant Fund resulting from expenses, income, gains and losses that are attributable to any Class Derivative Transactions in respect of a class shall be attributable solely to the class to which it relates.

- (d) The value of the assets of the ICAV shall be determined as follows:

- (i) Each asset which is quoted, listed or traded on or under the rules of any Recognised Market shall be valued using the index method of valuations (where relevant). Accordingly, depending on the terms of the relevant index (if applicable), such assets will be valued at (a) closing bid price, (b) last bid price, (c) last traded price, (d) closing mid-market price, (e) last mid-market price or (f) official closing price published by the relevant Recognised Market. Prices will be obtained for this purpose by the Administrator from independent sources, such as recognised pricing services or brokers specialising in the relevant markets. If the investment is normally quoted, listed or traded on or under the rules of more than one Recognised Market, the relevant Recognised Market shall be the market which the Responsible Person determines provides the fairest criteria in a value for the security. If prices for an investment quoted, listed or traded on the relevant Recognised Market are not available at the relevant time, or are unrepresentative in the opinion of the Responsible Person, such investment shall be valued at such value as shall be estimated with care and in good faith as the probable realisation value of the investment by a competent professional person, firm or corporation appointed for such purpose by the Responsible Person and approved for the purpose by the Depositary. If the investment is quoted, listed or traded on a Recognised Market but acquired or traded at a premium or discount outside of or off the Recognised Market, the investment shall be valued taking into account the level of premium or discount as of the date of valuation of the instrument and the Depositary must ensure the adoption of such a procedure is justifiable in the context of establishing the probable realisation value of the security. Neither the Responsible Person or its delegates nor the Depositary shall be under any liability if a price reasonably believed by them to be the (a) closing bid price, (b) last bid price, (c) last traded price, (d) closing mid-market price, (e) last mid-market price, (f) official closing price published by the relevant Recognised Market or the probable realisation value for the time being, may be found not to be such.
- (ii) The value of any investment which is not normally quoted, listed or traded on or under the rules of a Recognised Market, will be valued at its probable realisation value estimated with care and in good faith by the Responsible Person or by a competent person, firm or corporation appointed by the Responsible Person and approved for such purpose by the Depositary.
- (iii) Cash in hand or on deposit shall be valued at face value together with accrued interest where applicable, unless in the opinion of the Responsible Person any adjustment should be made to reflect the fair value thereof.
- (iv) Derivative instruments including swaps, interest rate futures contracts, exchange traded futures, index futures and other financial futures contracts which are traded on a Recognised Market shall be valued at the settlement price as determined by the relevant Recognised Market at the Valuation Point on such Recognised Market, provided that where it is not the practice of the relevant Recognised Market to quote a settlement price, or if a settlement price is not available for any reason, such instruments shall be valued at their probable realisation value estimated with care and in good faith by the Responsible Person, who shall be approved for the purpose by the Depositary.

- (v) OTC derivatives will be valued will be valued at its probable realisation value estimated with care and in good faith by the Responsible Person or by a competent person, firm or corporation appointed by the Responsible Person and approved for such purpose by the Depositary.
 - (vi) Forward foreign exchange and interest rate swap contracts may be valued by reference to freely available market quotations or, if such quotations are not available, in accordance with the provisions in respect of OTC derivatives.
 - (vii) Certificates of deposit shall be valued by reference to the latest available sale price for certificates of deposit of like maturity, amount and credit risk on each Business Day or, if such price is not available, at the latest bid price or, if such price is not available or is unrepresentative of the value of such certificate of deposit in the opinion of the Responsible Person, at probable realisation value estimated with care and in good faith by a competent person appointed by the Responsible Person and approved for the purpose by the Depositary. Treasury bills and bills of exchange shall be valued with reference to prices ruling in the relevant markets for such instruments of like maturity, amount and credit risk at the Valuation Point on such markets on the relevant Business Day.
 - (viii) Units or shares in collective investment schemes shall be valued on the basis of the latest available net asset value per unit or share as published by the collective investment scheme. If units or shares in such collective investment schemes are quoted, listed or traded on or under the rules of any Recognised Market then such units or shares will be valued in accordance with the rules set out above for the valuation of assets which are quoted, listed or traded on or under the rules of any Recognised Market. If such prices are unavailable, the units or shares will be valued at their probable realisation value estimated with care and in good faith by the Responsible Person or by a competent person, firm or corporation appointed for such purpose by the Responsible Person and approved for the purpose by the Depositary.
- (e) notwithstanding the above provisions the Responsible Person may: (a) adjust the valuation of any particular asset; or (b) permit some other method of valuation approved by the Depositary for a specific / particular asset; where such adjustment or other method of valuation is considered necessary to reflect the fair value in the context of currency, applicable rate of interest, maturity, marketability and / or such other considerations which are deemed relevant.
- (f) values of assets expressed in a currency other than the Base Currency of the relevant Class of Shares will be converted into the Base Currency of the relevant Series at market rates. The officially quoted exchange rate may be determined prior to or after the close of a particular securities market. If such quotations are not available, the rate of exchange will be determined to be the probable realisation value estimated with care and in good faith by the Responsible Person.
- (g) Dividends, interest and capital gains (if any) which the ICAV receives with respect to its investments (other than securities of Irish issuers) may be subject to taxes, including withholding taxes, in certain countries in which the issuers of investments are located. It is anticipated that the ICAV may not be able to benefit from reduced rates of withholding tax in double taxation agreements between Ireland and such countries. If this position changes in

the future and the application of a lower rate results in a repayment to the ICAV, the Net Asset Value will not be re-stated and the benefit will be allocated to the existing Shareholders rateably at the time of the repayment.

- (h) The Responsible Person may determine that the Net Asset Value calculated in respect of a Fund on a Dealing Day on which there are net subscriptions into or net redemptions from the Fund may be adjusted to avoid or reduce the dilutive effect of such dealing caused by the cost of acquiring or disposing of Investments, including, without limitation, dealing charges, taxes, and any spread between acquisition and disposal prices of Investments. Any such policy shall be applied consistently in respect of a Fund and in respect of all of the Investments of that Fund.
- (i) The liabilities of the ICAV shall be deemed to include any and all actual or estimated liabilities of whatsoever nature of the ICAV (except liabilities taken into account in determining the value of the assets of the ICAV) including, without limitation to the generality of the foregoing:
 - (i) all administrative and professional fees and expenses payable and / or accrued including, without prejudice to the generality of the foregoing, all remuneration, fees, costs and expenses payable by the ICAV and / or accrued and / or estimated to be payable by the ICAV to the Management Company, the Depositary, the Investment Manager, the administrator and the legal advisers of the ICAV and to any other person, firm or corporation providing services to the ICAV and all other projected expenses as the Directors consider fair and reasonable and properly payable out of the assets of the ICAV and all value added tax chargeable, if any, in respect of the provision of any of the foregoing services to the ICAV;
 - (ii) any and all outstanding borrowings and all accrued interest payable thereon including, without prejudice to the generality of the foregoing, an amount representing the aggregate maximum amount payable by the ICAV in respect of any debentures, debenture stock, loan stock, loan notes, bonds or other debt obligations created or issued by the ICAV;
 - (iii) all bills, notes and accounts payable;
 - (iv) the total amount of any actual or estimated liabilities for any and all tax of whatsoever nature and howsoever arising on the income or deemed income and realised capital gains of the ICAV as at the relevant Dealing Day;
 - (v) the total amount of any actual or estimated liabilities for withholding tax (if any) payable on any of the Investments in respect of the current Accounting Period;
 - (vi) an appropriate provision for all taxes and contingent liabilities as determined from time to time by the Directors; and
 - (vii) the total amount (whether actual or estimated by the Directors) of any other liabilities properly payable out of the assets of the ICAV.

