

**ELEVA UCITS FUND**

***Société d'Investissement à Capital Variable***

CERTIFIED TRUE COPY  
OF THE ORIGINAL  
Notary Carlo WERSANDT, Notary  
Luxembourg, the 22/11/2015

**Registered Office: 106, route d'Arlon  
L-8210 Mamer  
(Grand Duchy of Luxembourg)**

**NUMBER 143/2015**

**INCORPORATION DEED OF JANUARY 22, 2015**

In the year two thousand and fifteen, on the twenty-second day of the month of January;

Before Us M<sup>c</sup> Carlo WERSANDT, notary residing in Luxembourg (Grand Duchy of Luxembourg), undersigned;

**There appeared:**

The limited liability partnership governed by the laws of the United Kingdom **ELEVA CAPITAL LLP**, with registered office in W1K 5JA London, 44 Davies Street, Brookfield House, 4<sup>th</sup> floor (United Kingdom), registered with the Registrar of Companies for England and Wales, Companies House, Cardiff, under number OC393003,

here represented by Mrs. Christine **RENNER**, *Rechtsanwältin*, residing professionally in L-2520 Luxembourg, 1, Allée Scheffer, (the "**Proxy-holder**"), by virtue of a proxy given under private seal; such proxy, after having been signed "*ne varietur*" by the Proxy-holder and the officiating notary, will remain attached to the present deed in order to be recorded with it.

Such appearing party, represented as stated before, has requested the notary to state as follows the articles of incorporation of a public limited company (*société anonyme*):

**Article 1. Denomination.**

1.1 There is hereby established among the subscribers and all those who may become owners of shares hereafter issued, a company in the form of a *société anonyme* qualifying as *société d'investissement à capital variable* under the name of **ELEVA UCITS FUND** (hereinafter the "Company").

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**Article 2. Duration.**

2.1 The Company is established for an unlimited duration. The Company

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may be dissolved by a resolution of the shareholders adopted in the manner required for amendment of these Articles of Incorporation.

### **Article 3. Object.**

3.1 The exclusive object of the Company is to place the funds available to it in transferable securities, money market instruments and other permitted assets with the purpose of spreading investment risks and affording its shareholders the results of the management of its portfolio.

3.2 The Company may take any measures and carry out any operation which it may deem useful in the accomplishment and development of its purpose to the full extent permitted by Part I of the law of 17 December 2010 on undertakings for collective investment, as amended (the "Law of 2010").

### **Article 4. Registered Office.**

4.1 The registered office of the Company is established in Mamer, in the Grand Duchy of Luxembourg.

4.2 The registered office of the Company may be transferred within the Grand Duchy of Luxembourg by resolution of the board of directors of the Company (the "Board of Directors"). For the purpose of transferring the registered office of the Company within the Grand Duchy of Luxembourg, the Board of Directors is empowered and instructed to take any requisite action, including amending these Articles of Incorporation, it being understood that, for the avoidance of doubt, no resolution of the Shareholders adopted in the manner required for amendment of these Articles will be required.

4.3 Branches, subsidiaries or other offices may be established either in Luxembourg or abroad by resolution of the Board of Directors.

4.4 In the event that the Board of Directors determines that extraordinary political or military events have occurred or are imminent that would interfere with the normal activities of the Company at its registered office, or with the ease of communication between such office and persons abroad, the registered office may be temporarily transferred abroad until the complete cessation of these abnormal circumstances; such temporary measures shall have no effect on the nationality of the Company which, notwithstanding the temporary transfer of its registered office, will remain a Luxembourg company.

### **Article 5. Capital - Shares - Classes and Sub-Funds.**

5.1 The capital of the Company shall be represented by shares of no par

value (the “Shares” and each a “Share”) and shall at any time be equal to the total net assets of the Company as defined in Article 22 hereof.

5.2 The initial share capital of the Company amounts to thirty one thousand euro (EUR 31,000) divided into 310 fully paid Shares of no par value.

5.3 The minimum capital of the Company shall be the minimum prescribed by Luxembourg law.

5.4 The Board of Directors is authorised without limitation to issue fully paid Shares at any time in accordance with Article 6 at a price based on the Net Asset Value (as defined in Article 22) per Share without reserving to the existing shareholders a preferential right to subscription of the Shares to be issued.

5.5 The Board of Directors may delegate to any of its members (collectively, the “Directors” and each individually, a “Director”) or to any officer of the Company or to any duly authorised person, the duty to accept subscriptions and receive payment for such new Shares and to deliver these, remaining always within the provisions of the Law of 2010.

5.6 The capital of the Company, which has an umbrella structure as provided for in article 181 of the Law of 2010, may, as the Board of Directors shall determine, be divided into different portfolios of securities and other assets permitted by law with specific investment objectives and various risk or other characteristics (the “Sub-Funds” and each a “Sub-Fund”). The Sub-Funds may be denominated in different currencies as the Board of Directors shall determine. With regard to third parties, there is no cross liability between Sub-Funds and each Sub-Fund shall be exclusively responsible for all liabilities reasonably attributable to it. Within each Sub-Fund, the Board of Directors may decide to issue different classes of Shares (the “Classes” and each a “Class”) which may differ, inter alia, with respect to their charging structure, dividend policies, hedging policies, investment minima, currency of denomination or other specific features, as the Board of Directors may decide to issue. The Board of Directors may decide if and from what date Shares of any such Classes shall be offered for sale, those Shares to be issued on the terms and conditions as shall be decided by the Board of Directors. Where the context so requires, references in these Articles of Incorporation to “Sub-Fund(s)” shall be references to “Class(es)”.

5.7 The assets of a specific Sub-Fund are exclusively available to satisfy the rights of creditors whose claims have arisen in connection with the creation, the operation or the liquidation of that Sub-Fund.

5.8 For the purpose of determining the capital of the Company, the net assets attributable to each Sub-Fund shall, if not denominated in Euro, be converted into Euro and the capital shall be the aggregate of the net assets of all the Sub-Funds. The Company shall prepare consolidated accounts in Euro.

#### **Article 6. Issue of Shares.**

6.1 The Company may elect to issue Shares in both registered or bearer form. The Company shall issue statements of account to certify holdings of shareholders, which shall constitute extracts of the register of shareholders (the "Register").

6.2 If bearer Shares are issued, certificates will be issued in such denominations as the Board of Directors shall decide. If a bearer shareholder requests the exchange of his certificates for certificates in other denominations, he will be charged the cost of such exchange. Bearer Share certificates shall be signed by two Directors. Both such signatures may be either manual, or printed, or by facsimile. However, one of such signatures may be by a person delegated to this effect by the Board of Directors. In such latter case, it shall be manual. The Company may issue temporary Share certificates in such form as the Board of Directors may from time to time determine.

6.3 Shares may be issued only upon acceptance of the subscription and after receipt of the purchase price. The subscriber will, without undue delay, upon acceptance of the subscription and receipt of the purchase price, receive title to the Shares purchased by him and upon application obtain delivery of definitive Share certificates in bearer form or a confirmation of his shareholding.

6.4 Holders of bearer Shares may at any time request switching of their Shares into registered Shares. Holders of registered Shares may only request switching of their Shares into bearer Shares if permitted by the Board of Directors and disclosed in the prospectus of the Company as the same may be amended from time to time (the "Prospectus").

6.5 Payments of dividends will be made by bank transfer or by check to shareholders, in respect of registered Shares, at their address in the Register or to designated third parties and, in respect of bearer Shares, in the manner determined by the Board of Directors from time to time in accordance with Luxembourg law.

6.6 A dividend declared but not paid on a Share for five years cannot thereafter be claimed by the holder of such Share, shall be forfeited by the holder of

such Share, and shall revert to the Company. All issued Shares of the Company, other than bearer Shares, shall be inscribed in the Register, which shall be kept by the Company or by one or more persons designated therefor by the Company and such Register shall contain the name of each holder of registered Shares, his residence or elected domicile and the number of Shares held by him. Every transfer of a registered Share shall be entered in the Register.

6.7 Transfer of bearer Shares shall be effected by delivery of the relevant bearer Share certificates. Transfer of registered Shares shall be effected by written declaration of transfer to be inscribed in the Register, dated and signed by the transferor and if so requested by the Company, at its discretion, also signed by the transferee, or by persons holding suitable powers of attorney to act therefor.

6.8 In case of bearer Shares, the Company may consider the bearer, and in the case of registered Shares the Company shall consider the person in whose name the Shares are registered in the Register, as full owner of the Shares.

6.9 Every registered shareholder must provide the Company with an address to which all notices and announcements from the Company may be sent. Such address will also be entered in the Register.

6.10 In the event that a shareholder identified in paragraph 6.9 does not provide such an address, the Company may permit a notice to that effect to be entered in the Register and the shareholder's address will be deemed to be at the registered office of the Company, or such other address as may be so entered by the Company from time to time, until another address shall be provided to the Company by such shareholder. The shareholder may, at any time, change his address as entered in the Register by means of a written notification to the Company at the Company's registered office, or at such other address as may be set by the Company from time to time.

6.11 If payment made by any subscriber results in the issue of a Share fraction, the person entitled to such fraction shall not be entitled to vote but shall, to the extent the Company shall determine, in its sole discretion, as to the calculation of fractions, be entitled to dividends or other distributions on a pro rata basis. In the case of bearer Shares, only certificates evidencing full Shares will be issued.

6.12 The Company will recognise only one holder in respect of a Share in the Company unless otherwise determined by the Board of Directors and disclosed in the Prospectus. In the event of joint ownership or bare ownership and usufruct, the Company may suspend the exercise of any right deriving from the relevant Share or

Shares until one person shall have been designated to represent the joint owners or bare owners and usufructaries *vis-à-vis* the Company.

6.13 In the case of joint shareholders, the Company reserves the right to pay any redemption proceeds, distributions or other payments to the first registered holder only, whom the Company may consider to be the representative of all joint holders, or to all joint shareholders together, at its absolute discretion.

#### **Article 7. Lost and Damaged Certificates.**

7.1 If any shareholder can prove to the satisfaction of the Company that his Share certificate has been mislaid or destroyed, then, at his request, a duplicate Share certificate may be issued under such conditions and guarantees, including a bond delivered by an insurance company but without restriction thereto, as the Company may determine. At the issuance of the new Share certificate, which shall indicate that it is a duplicate, the original Share certificate replaced by the duplicate certificate shall become void.

7.2 Mutilated Share certificates may be exchanged for new ones by order of the Company. The mutilated certificates shall be delivered to the Company and shall be annulled immediately.

7.3 The Company may, at its election, charge the shareholder for the costs of a duplicate Share certificate and all reasonable expenses incurred by the Company in connection with the issuance and registration thereof, or in connection with the annulment of the original Share certificate(s).

#### **Article 8. Restrictions on Shareholding.**

8.1 The Board of Directors shall have power to impose or relax such restrictions on any Shares or Sub-Fund (other than any restrictions on transfer of Shares, but including the requirement that Shares be issued only in registered form), but not necessarily on all Shares within the same Sub-Fund, as it may think necessary for the purpose of ensuring that no Shares in the Company or no Shares of any Sub-Fund in the Company are acquired or held by or on behalf of:

(A) any person in breach of the law or requirements of any country or governmental or regulatory authority, if the Board of Directors determines that any Director, the Company, any manager of the Company's assets, any of the Company's investment managers or advisers or any Connected Person (as defined in Article 16) would suffer any disadvantage as a result of such breach;

(B) any person in circumstances which in the opinion of the Board of

Directors might result in the Company or its shareholders incurring any liability to taxation or suffering any other pecuniary disadvantage which they might not otherwise have incurred or suffered, including a requirement to register under any securities or investment or similar laws or requirements of any country or authority, or market timing and/or late trading practices.

8.2 Without limiting the generality of the foregoing, the Company may restrict or prevent the ownership of Shares in the Company by any person, firm or corporate body, and, without limitation, by any U.S. Person (as defined in the Prospectus).

8.3 In order to restrict or prevent the ownership of Shares pursuant to the authority granted in paragraph 8.2, the Company may:

(A) decline to issue any Share where it appears to it that such registration would or might result in such Share being directly or beneficially owned by a person who is precluded from holding Shares in the Company (a "Precluded Person");

(B) at any time require any person whose name is entered in the Register to furnish it with any information, supported by affidavit, which it may consider necessary for the purpose of determining whether or not beneficial ownership of such shareholder's Shares rests in a Precluded Person; and

(C) where it appears to the Company that any person who is a Precluded Person, either alone or in conjunction with any other person is a beneficial or registered owner of Shares, the Company may compulsorily redeem from any such shareholder all Shares held by such shareholder in the following manner:

(i) the Company shall serve a notice (hereinafter called the "Redemption Notice") upon the shareholder bearing such Shares or appearing in the register of shareholders as the owner of the Shares to be redeemed, specifying the Shares to be redeemed as aforesaid, the price to be paid for such Shares, and the place at which the Redemption Price (as hereafter defined) in respect of such Shares is payable. Any such Redemption Notice may be served upon such shareholder by posting the same in a prepaid registered envelope addressed to such shareholder at his last address known to or appearing in the books of the Company. Upon posting of such Redemption Notice, the said shareholder shall be obliged to deliver to the Company the Share certificate or certificates (if issued) representing the Shares specified in the Redemption Notice. Immediately after the close of business on the date specified in the Redemption Notice, such shareholder shall cease to be a shareholder and the Shares previously held by him

shall be cancelled;

(ii) the price at which the Shares specified in any Redemption Notice shall be redeemed (the “Redemption Price”) shall be an amount equal to the Net Asset Value of Shares of the relevant Sub-Fund and Classes, determined in accordance with Article 22, less any redemption charge payable in respect thereof;

(iii) payment of the Redemption Price will be made to the shareholder appearing as the owner thereof in the currency of denomination of the relevant Sub-Fund or Class and will be deposited by the Company in Luxembourg or elsewhere (as specified in the Redemption Notice) for payment to such person, but if a Share certificate shall have been issued, then only upon surrender of the Share certificate or certificates representing the Shares specified in such notice. The Redemption Price which may not be distributed to the shareholders upon the implementation of the redemption will be deposited with the custodian for a period of six months and after such period, the Redemption Price will be deposited in escrow with the *Caisse de Consignation* on behalf of the shareholders entitled thereto. Upon deposit of such price as aforesaid no person interested in the Shares specified in such Redemption Notice shall have any further interest in such Shares or any of them, or any claim against the Company or its assets in respect thereof, except the right of the shareholder appearing as the owner thereof to receive the price so deposited (without interest);

(iv) the exercise by the Company of the powers conferred by this Article 8 shall not be questioned or invalidated in any case, on the ground that there was insufficient evidence of ownership of Shares by any person or that the true ownership of any Shares was otherwise than appeared to the Company at the date of any Redemption Notice; *provided*, that in such case the said powers were exercised by the Company in good faith; and

(v) the Company declines to accept the vote of any Precluded Person at any general meeting of shareholders of the Company.

8.4 In addition to the foregoing, the Board of Directors may restrict the issue and transfer of Shares of a Sub-Fund to institutional investors within the meaning of articles 174, 175 and 176 of the Law of 2010 (“Institutional Investor(s)”). The Board of Directors may, at its discretion, delay the acceptance of any subscription application for Shares of a Sub-Fund reserved for Institutional Investors until such time as the Company has received sufficient evidence that the applicant qualifies as an Institutional Investor. If it appears at any time that a holder of Shares of a Sub-Fund reserved for

Institutional Investors is not an Institutional Investor, the Board of Directors will switch the relevant Shares into Shares of a Sub-Fund which is not restricted to Institutional Investors (provided that there exists such a Sub-Fund with similar characteristics) or compulsorily redeem the relevant Shares in accordance with the provisions set forth above in this Article 8. The Board of Directors will refuse to give effect to any transfer of Shares and consequently refuse to enter any transfer of Shares into the register of shareholders in circumstances where such transfer would result in a situation where Shares of a Sub-Fund restricted to Institutional Investors would, upon such transfer, be held by a person not qualifying as an Institutional Investor. In addition to any liability under applicable law, each shareholder who does not qualify as an Institutional Investor, and who holds Shares in a Sub-Fund restricted to Institutional Investors, shall hold harmless and indemnify the Company, the Board of Directors, the other shareholders of the relevant Sub-Fund and the Company's agents for any damages, losses and expenses resulting from or connected to such holding circumstances where the relevant shareholder had furnished misleading or untrue documentation or had made misleading or untrue representations to wrongfully establish its status as an Institutional Investor or has failed to notify the Company of its loss of such status.

8.5 The Fund may further cause Shares to be redeemed if such Shares are held by/or for the account and/or on behalf of (i) a person that does not provide the necessary information requested by the Fund in order to comply with legal and regulatory rules such as but not limited to the FATCA provisions or (ii) a person who is deemed to cause potential financial risk for the Fund.

#### **Article 9. Powers of the General Meeting of Shareholders.**

9.1 Any regularly constituted general meeting of the shareholders of the Company shall represent the entire body of shareholders of the Company. Resolutions passed at such general meeting(s) shall be binding upon all shareholders of the Company regardless of the Sub-Fund and Classes of Shares held by them. It shall have the broadest powers to order, carry out or ratify acts relating to the operations of the Company.

#### **Article 10. General Meetings.**

10.1 The annual general meeting of shareholders shall be held, in accordance with Luxembourg law, in Luxembourg at the registered office of the Company, or at such other place in the municipality of the registered office as may be specified in the notice of meeting, on the 2<sup>nd</sup> Thursday of the month of April or, if such day is not a

bank business day in Luxembourg, on the next bank business day in Luxembourg thereafter, at 03:00 p.m. Luxembourg time. The annual general meeting may be held abroad if, in the absolute and final judgment of the Board of Directors, exceptional circumstances so require.

10.2 If permitted by and on the conditions set forth in Luxembourg laws and regulations, the annual general meeting of shareholders may be held at a date, time or place other than those set forth in the preceding paragraph, that date, time or place to be decided by the Board of Directors.

10.3 Other general meetings of shareholders or Sub-Fund or Class meetings may be held at such place and time as may be specified in the respective notices of meeting. Sub-Fund or Class meetings may be held to decide on any matters which relate exclusively to such Sub-Fund or Class. Two or more Sub-Funds or Classes may be treated as one single Sub-Fund or Class if such Sub-Funds or Classes, as applicable, are affected in the same way by the proposals requiring the approval of shareholders of the relevant Sub-Funds or Classes.

#### **Article 11. Notices, Quorum and Votes.**

11.1 The quorum and notice periods required by law shall govern meetings of shareholders of the Company in all respects, including, without limitation, the procedures for convening and conducting such meetings, unless otherwise provided herein.

11.2 Each Share of a Sub-Fund, regardless of the Net Asset Value per Share within its Class, is entitled to one vote subject to the restrictions contained in these Articles of Incorporation. A shareholder may act at any meeting of shareholders by appointing another person as his proxy in writing, by fax or by email. Such proxy shall be deemed valid, provided that it is not revoked, for any reconvened shareholders' meeting.

11.3 Shareholders may also vote by means of a dated and duly completed form which must include the information as set out herein. The Board of Directors may in its absolute discretion indicate in the convening notice that the form must include information in addition to the following information: the name of the Company; the name of the shareholder as it appears in the Register; with respect to bearer Shares, the identification number of the certificate that was issued to the shareholder; the place, date and time of the meeting; the agenda of the meeting; and an indication as to how the shareholder has voted.

11.4 In order for the votes expressed by such form to be taken into consideration for the determination of the quorum, the form must be received by the Company or its appointed agent at least three (3) Business Days before the meeting or any other period as may be indicated in the convening notice by the Board of Directors.

11.5 If so decided by the Board of Directors at its discretion and disclosed in the convening notice for the relevant meeting, shareholders may take part in a meeting by way of videoconference or by any other means of telecommunication which allow them to be properly identified and in such case will be considered as present for the quorum and majority determination.

11.6 Except as otherwise required by law or as otherwise provided herein, resolutions at a meeting of shareholders duly convened will be passed by a simple majority of those present and voting.

11.7 The Board of Directors may determine all other conditions that must be fulfilled by shareholders for them to take part in any meeting of shareholders.

#### **Article 12. The Board of Directors.**

12.1 The Company shall be managed by a Board of Directors composed of not less than three members. Members of the Board of Directors need not be shareholders of the Company.

12.2 The Directors shall be elected by the shareholders at their annual general meeting for a period ending at the next annual general meeting and until their successors are elected and qualify; *provided*, however, that a Director may be removed with or without cause and/or replaced at any time by resolution adopted by the shareholders.

12.3 In the event of a vacancy in the office of a Director because of death, retirement or otherwise, the remaining Directors may meet and may elect, by majority vote, a Director to fill such vacancy until the next meeting of shareholders.

#### **Article 13. Proceedings of the Board of Directors.**

13.1 The Board of Directors shall choose from among its members a chairman and may choose from among its members one or more vice-chairmen. It may also choose a secretary, who need not be a Director, who shall be responsible for keeping the minutes of the meetings of the Board of Directors and of the shareholders. The Board of Directors shall meet upon request by the chairman or any two Directors, at the place indicated in the notice of meeting.

13.2 The chairman shall preside at all meetings of shareholders and at the Board of Directors. In his absence, the shareholders or the Board of Directors shall

appoint any person as chairman pro tempore by vote of the majority present at any such meeting.

13.3 Written notice of any meeting of the Board of Directors shall be given to all Directors at least twenty-four (24) hours in advance of the hour set for such meeting, except in circumstances of emergency, in which case the nature of circumstances shall be set forth in the notice of meeting. This notice may be waived by the consent in writing, by fax or by email of each Director. Separate notice shall not be required for individual meetings held at times and places prescribed in a schedule previously adopted by resolution of the Board of Directors.

13.4 Any Director may act at any meeting of the Board of Directors by appointing in writing, by fax or by email another Director as his proxy. Directors may also cast their vote in writing, by fax or by email.

13.5 Meetings of the Board of Directors may be held by way of conference call, video conference or by any similar means of communication enabling thus several persons participating therein to simultaneously communicate with each other. Such participation shall be deemed equal to a physical presence at the meeting.

13.6 Any meeting held by means of communication described in paragraph 13.5 shall be deemed to have taken place at the registered office of the Company.

13.7 The Directors may only act at duly convened meetings of the Board of Directors. Directors may not bind the Company by their individual acts, except as specifically permitted by resolution of the Board of Directors.

13.8 The Board of Directors can deliberate or act validly only if at least two Directors are present at a meeting of the Board of Directors. Decisions shall be taken by a majority of the votes of the Directors present or represented at such meeting. In the event that in any meeting the number of votes for and against a resolution shall be equal, the chairman or, in his absence, the chairman pro tempore shall have a deciding vote.

13.9 Resolutions of the Board of Directors may also be passed in the form of consent resolution in identical terms which may be signed on one or more counterparts by all the Directors.

13.10 The Board of Directors from time to time may appoint the officers of the Company, including a general manager, a secretary, and any assistant general managers, assistant secretaries or other officers considered necessary for the operation and management of the Company. Any such appointment may be revoked at any time by the

Board of Directors. Officers need not be Directors or shareholders of the Company. The officers appointed, unless otherwise stipulated in these Articles of Incorporation, shall have the powers and duties given them by the Board of Directors.

13.11 The Board of Directors may delegate its powers to conduct the daily management and affairs of the Company and its powers to carry out acts in furtherance of the corporate policy and purpose, to physical persons or corporate entities which need not be members of the Board of Directors. The Board of Directors may also delegate any of its powers, authorities and discretions to any committee, consisting of such person or persons (whether such person(s) is a member of the Board of Directors or not) as the Board of Directors thinks fit.

#### **Article 14. Minutes of Board of Directors Meetings.**

14.1 The minutes of any meeting of the Board of Directors shall be signed by the chairman or, in his absence, by the chairman pro tempore who presided at such meeting.

14.2 Copies or extracts of such minutes which may be produced in judicial proceedings or otherwise shall be signed by the chairman, the secretary or by any two Directors.

#### **Article 15. Determination of the Investment Policies.**

15.1 The Board of Directors shall, based upon the principle of spreading of risks, have power to determine the corporate and investment policy and the course of conduct of the management and business affairs of the Company.

15.2 The Board of Directors shall also determine any restrictions which shall, from time to time, be applicable to the investments of the Company, in accordance with part I of the Law of 2010 including, without limitation, restrictions in respect of:

- (A) the borrowings of the Company and the pledging of its assets, and
- (B) the maximum percentage of assets which the Company may invest in any form or class of security and the maximum percentage of any form or class of security which it may acquire.

15.3 The Board of Directors may decide that investments of the Company be made:

- (A) in transferable securities and money market instruments admitted to or dealt in on a regulated market as defined by the Law of 2010;
- (B) in transferable securities and money market instruments dealt in on another market in a member state of the European Union which is regulated, operates

regularly and is recognised and open to the public;

(C) transferable securities and money market instruments admitted to official listing on a stock exchange in any other country in Europe, Asia, Oceania (including Australia), the American continents and Africa, or dealt in on another market in the countries referred to above; *provided*, that such market is regulated, operates regularly and is recognised and open to the public;

(D) in recently issued transferable securities, and money market instruments; *provided*, that the terms of the issue provide that application be made for admission to official listing in any of the stock exchanges or other regulated markets referred to above and provided that such admission is secured within one year of issue; and

(E) in any other transferable securities, instruments or other assets within the restrictions as shall be set forth by the Board of Directors in compliance with applicable laws and regulations and disclosed in the sales documents of the Company.

15.4 The Board of Directors of the Company may decide to invest up to one hundred percent (100%) of the net assets of each Class and/or Sub-Fund of the Company in different transferable securities and money market instruments issued or guaranteed by any member state of the European Union; its local authorities; a non-member state of the European Union, as acceptable by the Luxembourg supervisory authority and disclosed in the sales documents of the Company; public international bodies of which one or more of such member states are members; or by any other member state of the Organisation for Economic Cooperation and Development, *provided*, that in the case where the Company decides to make use of this provision it must hold, on behalf of the Class and/or Sub-Fund concerned, securities from at least six different issues and securities from any one issue may not account for more than thirty percent (30%) of the total net assets of such Class.

15.5 The Board of Directors may decide that investments of the Company be made in financial derivative instruments, including equivalent cash settled instruments, dealt in on a regulated market as referred to in the Law of 2010 and/or financial derivative instruments dealt in over-the-counter markets; *provided*, that, among others, the underlying instrument consists of instruments covered by Article 41 (1) of the Law of 2010, financial indices, interest rates, foreign exchange rates or currencies, in which the Company may invest according to its investment objectives as disclosed in the sales documents of the Company.

15.6 The Board of Directors may decide that investments of a Sub-Fund of the

Company be made so as to replicate stock indices and/or debt securities indices to the extent permitted by the Law of 2010 provided that the relevant index is recognised as having a sufficiently diversified composition, is an adequate benchmark and is published in any appropriate manner.

15.7 The Company will not invest more than 10% of the net assets of any Sub-Fund in undertakings for collective investment as defined in article 41 (1) (e) of the Law of 2010.

15.8 The Board of Directors may invest and manage all or any part of the assets of two or more Classes or Sub-Funds on a pooled basis, as described in Article 23, where it is appropriate with regard to their respective investment sectors to do so.

15.9 When investments of the Company are made in the capital of subsidiary companies which, exclusively on the Company's behalf carry on only the business of management, advice or marketing in the country where the subsidiary is located, with regard to the redemption of Shares at the request of shareholders, paragraphs (1) and (2) of Article 48 of the Law of 2010 do not apply.

15.10 The Board of Directors can decide that a Sub-Fund may subscribe, acquire and/or hold Shares to be issued or issued by one or more other Sub-Funds without the Company being subject to the requirements of the law of 10 August 1915 on commercial companies, as amended, with respect to the subscription, acquisition and/or the holding of its own Shares, under the conditions set out under article 181 (8) of the Law of 2010.

#### **Article 16. Director's Interest.**

16.1 No contract or other transaction between the Company and any other company or firm shall be affected or invalidated by the fact that any one or more of the Directors or officers of the Company is interested in, or is a director, associate officer or employee of such other company or firm (a "Connected Person"). Any Director or officer of the Company who serves as a director, officer or employee of any company or firm with which the Company shall contract or otherwise engage in business shall not, by reason of such an affiliation with such other company or firm, be prevented from considering and voting or acting upon any matters with respect to such contract or other business, subject to paragraphs 16.2 and 16.3, below.

16.2 In the event that any Director or officer of the Company has a personal interest in any transaction of the Company, such Director or officer shall make known to the Board of Directors such personal interest, shall not consider or vote on any such

transactions, and such Director's or officer's interest shall be reported to the next succeeding meeting of shareholders.

#### **Article 17. Indemnity.**

17.1 Subject to the exceptions and limitations listed below, every person who is, or has been a Director or officer of the Company shall be indemnified by the Company to the fullest extent permitted by law against liability and against all expenses reasonably incurred or paid by him in connection with any claim, action, suit or proceeding in which he becomes involved as a party or otherwise by virtue of his being or having been such Director or officer and against amounts paid or incurred by him in the settlement thereof.

17.2 The words "claim", "actions", "suit", or "proceeding", shall apply to all claims, actions, suits or proceedings (civil, criminal or other including appeals), actual or threatened, and the words "liability" and "expenses" shall include, without limitation, attorney's fees, costs, judgments, amounts paid in settlement, fines, penalties and other liabilities.

17.3 No indemnification shall be provided hereunder to a Director or officer:

(A) against any liability to the Company or its shareholders by reason of wilful misfeasance, bad faith, negligence or reckless disregard of the duties involved in the conduct of his office;

(B) with respect to any matter as to which he shall have been finally adjudicated not to have acted in good faith and in the reasonable belief that his action was in the best interests of the Company; or

(C) in the event of a settlement, unless there has been a determination that such Director or officer did not engage in wilful misfeasance, bad faith, negligence or reckless disregard of the duties involved in the conduct of his office:

(i) by a court or other body approving the settlement; or

(ii) by vote of two thirds (2/3) of those members of the Board of Directors of the Company constituting at least a majority of such Board of Directors who are not themselves involved in the claim, action, suit or proceeding; or

(iii) by written opinion of independent counsel.

17.4 The right of indemnification provided by this Article 17 may be insured against by policies maintained by the Company, shall be severable, shall not affect any other rights to which any Director or officer may now or hereafter be entitled, shall continue as to a person who has ceased to be such Director or officer and shall inure to

the benefit of the heirs, executors and administrators of such a person. Nothing contained herein shall affect any rights to indemnification to which corporate personnel other than Directors and officers may be entitled by contract or otherwise under law.

17.5 Expenses in connection with the preparation and presentation of a defense to any claim, action, suit or proceeding of the character described in this Article 17 may be advanced by the Company, prior to final disposition thereof upon receipt of any undertaking by or on behalf of the officer or Director, to repay such amount if it is ultimately determined that he is not entitled to indemnification under this Article.

#### **Article 18. Administration.**

18.1 The Company will be bound by the joint signature of any two Directors or by the joint or single signature of any Director or officer to whom authority has been delegated by the Board of Directors.

18.2 All powers not expressly reserved by law or by the Articles of Incorporation to the general meeting of shareholders are in the competence of the Board of Directors.

#### **Article 19. Auditor.**

19.1 The Company shall appoint an independent auditor who shall carry out the duties prescribed by the Law of 2010. The independent auditor shall be elected by the annual general meeting of shareholders and serve until its successor shall have been elected.

#### **Article 20. Redemption and Switching of Shares.**

20.1 Without limiting the provisions provided in this Article 20, the Company has the power to redeem its own Shares at any time within the sole limitations set forth by law.

20.2 Any shareholder may request the redemption of all or part of his Shares by the Company; *provided*, that:

(A) in the case of a request for redemption of part of his Shares, the Company may redeem all of the remaining Shares held by such Shareholder, if compliance with such redemption request would result in the aggregate Net Asset Value of the outstanding Shares of any one Sub-Fund being less than such amount or number of Shares as determined by the Board of Directors and disclosed in the Prospectus from time to time; and

(B) the Company may limit the total number of Shares of any Sub-Fund which may be redeemed on a dealing day to a number representing a percentage (as set

out in the Prospectus) of the net assets of a same Sub-Fund or a percentage (as set out in the Prospectus) of the net assets of Classes related to a single pool of assets in the Company.

20.3 If redemption is deferred pursuant to paragraph 20.2, the relevant Shares shall be redeemed at the Share price based on the Net Asset Value per Share prevailing at the date on which the redemption is effected, less any redemption charge in respect thereof.

20.4 The redemption price shall be paid normally, within a period as determined by the Board of Directors and disclosed in the Prospectus following the later of the date on which the applicable Share price was determined or on the date the Share certificates (if issued) have been received by the Company and shall be based on the Share price for the relevant Class of the relevant Sub-Fund as determined in accordance with the provisions of Article 22 hereof, less any redemption charge in respect thereof. If in exceptional circumstances the liquidity of the portfolio of assets maintained in respect of the Shares being redeemed is not sufficient to enable the payment to be made within such a period, such payment shall be made as soon as reasonably practicable thereafter but without interest.

20.5 Any such request must be filed or confirmed by such shareholder in written form at the registered office of the Company in Luxembourg or with any other person or entity appointed by the Company as its agent for redemption of Shares. The certificate or certificates for such Shares in proper form and accompanied by proper evidence of transfer or assignment must be received by the Company or its agent appointed for that purpose before the redemption price may be paid.

20.6 The Company shall have the right, if the Board of Directors so determines, to satisfy payment of the redemption price to any shareholder requesting redemption of any of his Shares (but subject to the consent of the shareholder) *in specie* by allocating to the holder investments from the portfolio of the relevant Sub-Fund equal in value (calculated in the manner described in Article 22 hereof) to the value of the holding to be redeemed. The nature and type of assets to be transferred in such case shall be determined on a fair and reasonable basis and without prejudicing the interests of the other holders of Shares in the relevant Sub-Fund and the valuation used shall be confirmed by a special report by the Company's auditor.

20.7 Shares of the capital stock of the Company redeemed by the Company shall be cancelled.

20.8 Unless otherwise determined by the Board of Directors and disclosed in the Prospectus, any shareholder may request switching of the whole or part of his Shares of one Class of a Sub-Fund into Shares of a Class of another Sub-Fund or in another Class of the same Sub-Fund based on a switching formula as determined from time to time by the Board of Directors and disclosed in the Prospectus provided that the Board of Directors may impose such restrictions as to, inter alia, frequency of switching, and may make switching subject to payment of such charge, as it shall determine and disclose in the current Prospectus.

#### **Article 21. Valuations and Suspension of Valuations.**

21.1 For the purpose of determining the issue, switching, and redemption on price thereof, the Net Asset Value of Shares in the Company shall be determined as to the Shares of each Class of each Sub-Fund by the Company from time to time, but in no instance less than two (2) times per month, as the Board of Directors by resolution may direct (every such day or time for determination of Net Asset Value being referred to herein as a "Valuation Day").

21.2 The Company may suspend the determination of the Net Asset Value of Shares of one or more Sub-Funds and/or the issue, redemption and/or switching of Shares in the following cases:

(A) during any period when any market or stock exchange, which is the principal market or stock exchange on which a material part of the investments of the relevant Sub-Fund for the time being are quoted, is closed, other than for legal holidays or during which dealings are substantially restricted or suspended; *provided*, that such restriction or suspension affects the valuation of the investments of the Sub-Fund attributable to such Sub-Fund;

(B) during the existence of any state of affairs which constitutes an emergency, in the opinion of the Board of Directors, as a result of which disposal or valuation of investments of the relevant Sub-Fund by the Company is not possible;

(C) during any breakdown in the means of communication normally employed in determining the price or value of any of the relevant Sub-Fund's investments or the current price or value on any market or stock exchange;

(D) if the Company is being (or is proposed to be) wound up or merged, from the date on which notice is given of a general meeting of shareholders at which a resolution to wind up or merge the Company is to be proposed or if a Sub-Fund is being liquidated or merged, from the date on which the relevant notice is given;

(E) when for any other reason the prices of any investments owned by the Company attributable to a Sub-Fund cannot promptly or accurately be ascertained (including the suspension of the calculation of the net asset value of an underlying undertaking for collective investment);

(F) during any period when the Company is unable to repatriate funds for the purpose of making payments on the redemption of Shares of a Sub-Fund or during which any transfer of funds involved in the realisation or acquisition of investments or payments due on redemption of Shares cannot, in the opinion of the Board of Directors, be effected at normal rates of exchange; or

(G) any other circumstances beyond the control of the Board of Directors.

21.3 The Board of Directors may, in any of the circumstances listed above, suspend the issue, redemption and/or switching of Shares without suspending the calculation of the Net Asset Value.

21.4 A notice of the beginning and of the end of any period of suspension pursuant to paragraph 21.2 will be published in a Luxembourg newspaper and in any other newspaper(s) selected by the Board of Directors, if, in the opinion of the Board of Directors, it is likely to exceed seven (7) Business Days. Shareholders will be promptly informed by mail of any such suspension and of the termination thereof.

21.5 Notice will likewise be given to any applicant or shareholder, as applicable, applying for purchase, redemption, or switching of Shares in the Sub-Fund(s) concerned. Such shareholders may give notice that they wish to withdraw their application for subscription, redemption and switching of Shares. If no such notice is received by the Company such application for redemption or switching as well as any application for subscription will be dealt with on the first Valuation Day following the end of the period of suspension.

21.6 The suspension of the Net Asset Value calculation of a Sub-Fund shall have no effect on the calculation of the Net Asset Value, the issue, sale, redemption and switching of Shares of any other Sub-Fund for which the Net Asset Value calculation is not suspended.

## **Article 22. Determination of Net Asset Value.**

22.1 The net asset value (the “Net Asset Value”) of Shares of each Sub-Fund shall be expressed as a per Share figure in the currency of the relevant Sub-Fund as determined by the Board of Directors and shall be determined in respect of any Valuation Day by dividing the net assets of the Company corresponding to each Sub-

Fund, being the value of the assets of the Company corresponding to such Sub-Fund less any liabilities attributable to such Sub-Fund at such time or times as the Directors may determine at the place where the Net Asset Value is calculated, by the number of Shares of the relevant Sub-Fund then outstanding adjusted to reflect any dealing charges, dilution levies or fiscal charges which the Board of Directors feels it is appropriate to take into account in respect of that Sub-Fund and by rounding the resulting sum as provided in the sales documents of the Company.

22.2 The Net Asset Value of the Company is expressed in Euro.

(A) The assets of the Company shall be deemed to include:

(i) all cash on hand or on deposit, including any interest accrued thereon;

(ii) all bills and demand notes and accounts receivable (including proceeds of securities sold but not delivered);

(iii) all bonds, time notes, shares, stock, debenture stocks, units/shares in undertakings for collective investment, subscription rights, warrants, options and other investments and securities owned or contracted for by the Company;

(iv) all stock, stock dividends, cash dividends and cash distributions receivable by the Company (provided that the Company may make adjustments with regard to fluctuations in the market value of securities caused by trading ex-dividends, ex-rights or similar practices);

(v) all interest accrued on any interest-bearing securities owned by the Company except to the extent that the same is included or reflected in the principal amount of such security;

(vi) the preliminary expenses of the Company insofar as the same have not been written off; and

(vii) all other assets of every kind and nature, including prepaid expenses.

(B) The value of the assets of the Company shall be determined as follows:

(i) the value of any cash in hand or on deposit, bills and demand notes and accounts receivable, prepaid expenses, cash dividends and interest declared or accrued as aforesaid and not yet received shall be deemed to be the full amount thereof, unless in any case the same is unlikely to be paid or received in full, in which case the value thereof shall be arrived at after making such discount as the Directors may consider appropriate in such case to reflect the true value thereof;

(ii) the value of securities and/or financial derivative instruments which are quoted or dealt in on any stock exchange shall be based, except as defined in (iii) below,

in respect of each security on the latest available dealing prices or the latest available mid-market quotation (being the mid point between the latest quoted bid and offer prices) on the stock exchange which is normally the principal market for such security;

(iii) where investments of the Company are both listed on a stock exchange and dealt in by market-makers outside the stock exchange on which the investments are listed then the Board of Directors will determine the principal market for the investments in question and they will be valued at the latest available price in that market;

(iv) securities dealt in on another regulated market are valued in a manner as near as possible to that described in paragraph (ii);

(v) in the event that any of the securities held in the Company's portfolio on the Valuation Day are not quoted or dealt in on a stock exchange or another regulated market, or for which no price quotation is available, or if the price as determined pursuant to sub-paragraphs (ii) and/or (iv) is not in the opinion of the Board of Directors representative of the fair market value of the relevant securities, the value of such securities shall be determined prudently and in good faith, based on the reasonably foreseeable sales or any other appropriate valuation principles;

(vi) the financial derivative instruments which are not listed on any official stock exchange or traded on any other organised market will be valued in a reliable and verifiable manner on a daily basis and verified by a competent professional appointed by the Board of Directors;

(vii) units or shares in underlying open-ended investment funds shall be valued at their last available net asset value reduced by any applicable charges;

(viii) liquid assets and money market instruments are valued at their market price, at their nominal value plus accrued interest or on an amortised cost basis in accordance with the European Securities and Markets Authority's guidelines on a common definition of European money market funds. If the Company considers that an amortization method can be used to assess the value of a money market instrument, it will ensure that this will not result in a material discrepancy between the value of the money market instrument and the value calculated according to the amortization method;

(ix) in the event that the above mentioned calculation methods are inappropriate or misleading, the Board of Directors may adjust the value of any investment or permit some other method of valuation to be used for the assets of the

Company if it considers that the circumstances justify that such adjustment or other method of valuation should be adopted to reflect more fairly the value of such investments.

22.3 The Board of Directors may, in its absolute discretion, use different valuation methods than those set out above. In any case, the valuation methods will be disclosed in the Prospectus.

22.4 The liabilities of the Company shall be deemed to include:

- (A) all loans, bills and accounts payable;
- (B) all accrued or payable administrative expenses (including but not limited to investment advisory fee, performance or management fee, custody fees and corporate agents' fees);
- (C) all known liabilities, present and future, including all matured contractual obligations for payments of money or property, including the amount of any unpaid dividends declared by the Company where the Valuation Day falls on the record date for determination of the person entitled thereto or is subsequent thereto;
- (D) an appropriate provision for future taxes based on capital and income on the Valuation Day, as determined from time to time by the Company, and other provisions if any authorized and approved by the Board of Directors covering among others liquidation expenses; and
- (E) all other liabilities of the Company of whatsoever kind and nature except liabilities represented by Shares in the Company. In determining the amount of such liabilities the Company shall take into account all expenses payable by the Company comprising formation expenses, the remuneration and expenses of its Directors, conducting persons and officers, including their insurance cover, fees payable to its investment advisers or investment managers, fees and expenses payable to its service providers and officers, accountants, custodian and its correspondents, domiciliary, registrar and transfer agents, any paying agent and permanent representatives in places of registration, any other agent employed by the Company, fees and expenses incurred in connection with the listing of the Shares of the Company at any stock exchange or to obtain a quotation or another regulated market, fees and expenses in respect of premises and information technology costs for the Conducting Persons, fees for legal and tax advisers in Luxembourg and abroad, fees for auditing services, printing, reporting and publishing expenses, including the cost of preparing, translating, distributing and printing of the prospectuses, notices, rating agencies, explanatory memoranda,

registration statements, or of interim and annual reports taxes or governmental charges, shareholders servicing fees and distribution fees payable to distributors of Shares in the Company, currency conversion costs, and all other operating expenses, including the cost of buying and selling assets, interest, bank charges and brokerage, postage, telephone and telex. The Company may calculate administrative and other expenses of a regular or recurring nature on an estimated figure for yearly or other periods in advance, and may accrue the same in equal proportions over any such period.

22.5 The Board of Directors shall establish a portfolio of assets for each Sub-Fund, and if applicable, for each Class in the following manner:

(A) the proceeds from the allotment and issue of each Sub-Fund or Class shall be applied in the books of the Company to the portfolio of assets established for that Sub-Fund or Class, and the assets and liabilities and income and expenditure attributable thereto shall be applied to such portfolio subject to the provisions of this Article;

(B) where any asset is derived from another asset, such derivative asset shall be applied in the books of the Company to the same portfolio as the assets from which it was derived and on each re-evaluation of an asset, the increase or diminution in value shall be applied to the relevant portfolio;

(C) where the Company incurs a liability which relates to any asset of a particular Class or Sub-Fund or to any action taken in connection with an asset of a particular Class or Sub-Fund, such liability shall be allocated to the relevant Class or Sub-Fund;

(D) in the case where any asset or liability of the Company cannot be considered as being attributable to a particular Class or Sub-Fund, such asset or liability shall be allocated to all the Classes or Sub-Funds pro rata based on the Net Asset Values of each portfolio; *provided*, that all liabilities attributable to a Class or Sub-Fund shall be binding on that Class or Sub-Fund; and

(E) upon the record date for the determination of the person entitled to any dividend declared on any Class or Sub-Fund, the Net Asset Value of such Class or Sub-Fund shall be reduced by the amount of such dividends.

22.6 Each pool of assets and liabilities shall consist of a portfolio of transferable securities, money market instruments and other assets in which the Company is authorised to invest, and the entitlement of each Share class which is issued by the Company in relation with a same pool will change in accordance with the rules

set out below.

22.7 In addition there may be held within each pool on behalf of one specific Share class or several specific Share classes, assets which are class specific and kept separate from the portfolio which is common to all Share classes related to such pool and there may be assumed on behalf of such class or Share classes specific liabilities.

22.8 The proportion of the portfolio which shall be common to each of the Share classes related to a same pool which shall be allocable to each class of Shares shall be determined by taking into account issues, redemptions, distributions, as well as payments of class specific expenses or contributions of income or realisation proceeds derived from class specific assets, whereby the valuation rules set out below shall be applied *mutatis mutandis*.

22.9 The percentage of the Net Asset Value of the common portfolio of any such pool to be allocated to each class of Shares shall be determined as follows:

(A) the percentage of the net assets of the common portfolio to be initially allocated to each Share Class shall be in proportion to the respective number of the Shares of each Class at the time of the first issuance of Shares of a new class;

(B) the issue price received upon the issue of Shares of a specific Class shall be allocated to the common portfolio and result in an increase of the proportion of the common portfolio attributable to the relevant Share class;

(C) if, with respect to one Share class, the Company acquires specific assets or pays class specific expenses (including any portion of expenses in excess of those payable by other Share classes) or makes specific distributions or pays the redemption price in respect of Shares of a specific class, the proportion of the common portfolio attributable to such class shall be reduced by the acquisition cost of such class specific assets, the specific expenses paid on behalf of such class, the distributions made on the Shares of such class or the redemption price paid upon redemption of Shares of such class;

(D) the value of class specific assets and the amount of class-specific liabilities are attributed only to the Share class or classes to which such assets or liabilities relate and this shall increase or decrease the Net Asset Value per Share of such specific Share class or classes.

22.10 For the purposes of this Article:

(A) Shares for which a subscription request has been accepted but payment has not yet been received shall be deemed to be existing as from the close of business

on the Valuation Day on which they have been allotted and the price therefor, until received by the Company, shall be deemed a debt due to the Company;

(B) Shares of the Company to be redeemed under Article 20 hereof shall be treated as existing and taken into account until immediately after the close of business on the Valuation Day referred to in this Article, and from such time and until paid the price therefor shall be deemed to be a liability of the Company;

(C) all investments, cash balances and other assets of the Company not expressed in the currency in which the Net Asset Value of any Sub-Fund is denominated, shall be valued after taking into account the market rate or rates of exchange in force at the date and time for determination of the asset value of Shares; and

(D) effect shall be given on any Valuation Day to any purchases or sales of securities contracted for by the Company on such Valuation Day, to the extent practicable.

22.12 If the Board of Directors so determines, the Net Asset Value of the Shares of each Sub-Fund may be converted at the middle market rate into such other currencies than the currency of denomination of the relevant class, referred to above, and in such case the issue and redemption price per Share of such Sub-Fund may also be determined in such currency based upon the result of such conversion.

### **Article 23. Pooling**

23.1 The Board of Directors may invest and manage all or any part of the pools of assets established for each Sub-Fund (hereafter referred to as "Participating Funds") on a pooled basis where it is applicable with regard to their respective investment sectors to do so. Any such enlarged asset pool ("Enlarged Asset Pool") shall first be formed by transferring to it cash or (subject to the limitations mentioned below) other assets from each of the Participating Funds. Thereafter the Board of Directors may from time to time make further transfers to the Enlarged Asset Pool. It may also transfer assets from the Enlarged Asset Pool to a Participating Fund, up to the amount of the participation of the Participating Fund concerned. Assets other than cash may be allocated to an Enlarged Asset Pool only where they are appropriate to the investment sector of the Enlarged Asset Pool concerned. A Participating Fund will have rights against all the cash and other assets included in the Enlarged Asset Pool.

23.2 A Participating Fund's participation in an Enlarged Asset Pool shall be measured by reference to notional units ("Units") of equal value in the Enlarged Asset

Pool. On the formation of an Enlarged Asset Pool, the Board of Directors shall in its discretion determine the initial value of a Unit which shall be expressed in such currency as the Board of Directors considers appropriate, and shall allocate to each Participating Fund Units having an aggregate value equal to the amount of cash (or to the value of other assets) contributed. Fractions of Units, calculated to three decimal places, may be allocated as required. Thereafter the value of a Unit shall be determined by dividing the net asset value of the Enlarged Asset Pool (calculated as provided below) by the number of Units subsisting.

23.3 When additional cash or assets are contributed to or withdrawn from an Enlarged Asset Pool, the allocation of Units of the Participating Fund concerned will be increased or reduced, as applicable, by a number of Units determined by dividing the amount of cash or value of assets contributed or withdrawn by the current value of a Unit. Where a contribution is made in cash it may be treated for the purpose of this calculation as reduced by an amount which the Board of Directors considers appropriate to reflect fiscal charges and dealing and purchase costs which may be incurred in investing the cash concerned; in the case of a cash withdrawal a corresponding addition may be made to reflect costs which may be incurred in realising securities or other assets of the Enlarged Asset Pool.

23.4 The value of assets contributed to, withdrawn from, or forming part of an Enlarged Asset Pool at any time and the net asset value of the Enlarged Asset Pool shall be determined in accordance with the provisions (*mutatis mutandis*) of Article 22 provided that the value of the assets referred to above shall be determined on the day of such contribution or withdrawal.

23.5 Dividends, interests and other distributions of an income nature received in respect of the assets in an Enlarged Asset Pool will be immediately credited to the Participating Funds, in proportion to their respective entitlements to the assets in the Enlarged Asset Pool at the time of receipt.

#### **Article 24. Issue of Shares.**

24.1 Whenever the Company shall offer Shares for subscription, the price per Share at which such Shares shall be offered and sold, shall be based on the Share price for the relevant Class of the relevant Sub-Fund plus an initial sales charge of up to 3% of the Net Asset Value per Share. The price so determined shall be payable within a period as determined by the Board of Directors and disclosed in the Prospectus. The Share price (not including the sales commission) may, upon approval of the Board of

Directors and subject to all applicable laws, including the requirement to prepare a special audit report by the Company's auditor confirming the value of any assets contributed *in specie*, be paid by contributing to the Company securities acceptable to the Board of Directors consistent with the investment policy and investment restrictions of the Company.

#### **Article 25. Distributors.**

25.1 The Board of Directors may permit any company or other person appointed for the purpose of distributing Shares of the Company to charge any applicant for Shares a sales commission of such amount as such company or other person may determine but not exceeding 5% of the amount which the relevant applicant may decide to invest in Shares and such company may differentiate between applicants as to the amount of such sales commission (within the permitted limit); the Company may not pay from its own assets any brokerage or commission to agents in relation to the issue or sale of Shares.

#### **Article 26. Accounting Year.**

26.1 The accounting year of the Company shall begin on 1 January of each year and shall terminate on 31 December of the same year. The accounts of the Company shall be expressed in Euro or such other currency as the Board of Directors may determine. Where there shall be different Sub-Funds as provided for in Article 5 hereof, and if the accounts within such Sub-Funds are expressed in different currencies, such accounts shall be converted into Euro and aggregated for the purpose of determining the accounts of the Company.

#### **Article 27. Custodian.**

27.1 The Company shall enter into a custodian agreement with a bank which shall satisfy the requirements of the Law of 2010 (the "Custodian"). All securities, cash and other assets of the Company are to be held by or to the order of the Custodian who shall assume, in its role as Custodian to the Company and its shareholders, the responsibilities provided by law.

27.2 In the event that the Custodian provides notice of its intent to resign, the Board of Directors shall use its best efforts to find within two (2) months a corporation to act as custodian and, upon doing so, the Board of Directors shall appoint such corporation to be custodian in place of the retiring Custodian. The Board of Directors may terminate the appointment of the Custodian but shall not remove the Custodian unless and until a successor custodian shall have been appointed in accordance with this

provision to act in the place thereof.

**Article 28. Investment Manager.**

28.1 The Company or its management company authorised under chapter 15 of the Law of 2010, as applicable, shall enter into investment management agreements with Eleva Capital LLP or any affiliated or associated company thereof (the “Investment Manager(s)”) for the management of the assets of the Company and assistance with respect to its portfolio selection. The Board of Directors may authorise the Investment Manager(s) to delegate from time to time the power to implement the investment policy and manage the assets of the Company. In the event of termination of said agreements in any manner whatsoever, the Company will, if applicable, change its name forthwith upon the request of any Investment Manager(s) to another name not resembling the one specified in Article 1 hereof.

**Article 29. Term, Liquidation, Merger and Division.**

29.1 If the Company’s share capital falls below two-thirds of the minimum capital required by law, the Board of Directors must refer the matter of the dissolution to a general meeting of Shareholders, deliberating without any quorum and deciding by a simple majority of the Shares represented at the meeting. If the Company’s share capital is less than a quarter of the minimum capital required by law, the Board of Directors must refer the matter of dissolution of the Company to a general meeting of Shareholders, deliberating without any quorum; the dissolution may be decided by Shareholders holding a quarter of the Shares represented at the meeting. In the event of a dissolution of the Company, liquidation must be carried out by one or more liquidators (who may be physical persons or legal entities) named by the meeting of shareholders effecting such dissolution and which shall determine the liquidator(s)’s powers and their compensation. The net proceeds of liquidation corresponding to each Class (within each Sub-Fund) will be distributed by the liquidators to the holders of Shares of each Class of each Sub-Fund in proportion to the number of Shares held by each the holder in such category of such Class.

29.2 The liquidation must be completed, in principle, within a period of nine (9) months from the date of the decision relating to the liquidation. Where the liquidation of the Company cannot be fully completed within nine (9) months, a written request for exemption shall be submitted to the *Commission de Surveillance du Secteur Financier* (“CSSF”) detailing the reasons why the liquidation cannot be completed.

29.3 As soon as it has been determined that the liquidation of the Company is

complete, whether this decision is taken before the nine (9) month period has expired or at a later date, any residual funds not claimed by shareholders prior to the completion of the liquidation shall be deposited as soon as possible at the *Caisse de Consignation*.

29.4 A Sub-Fund or a Class may be terminated by resolution of the Board of Directors if (i) the Net Asset Value of a Sub-Fund or a Class is below such amount as determined by the Board of Directors and disclosed in the Prospectus from time to time; (ii) in the event of special circumstances beyond its control, such as political, economic, or military emergencies; or (iii) if the Board of Directors should conclude, in light of prevailing market or other conditions, including conditions that may adversely affect the ability of a Sub-Fund or a Class to operate in an economically efficient manner, and with due regard to the best interests of shareholders, that a Sub-Fund or a Class should be terminated. In such event, the assets of the Sub-Fund will be realized, the liabilities discharged and the net proceeds of realization distributed to shareholders in proportion to their holding of Shares in that Sub-Fund or Class against such evidence of discharge as the Board of Directors may reasonably require. Shareholders shall be notified of any decision made pursuant to this paragraph as required. No Shares shall be redeemed after the date of the decision to liquidate the Sub-Fund or a Class.

29.5 The liquidation of a Sub-Fund or a Class must be completed, in principle, within a period of nine (9) months from the date of decision of the Board of Directors relating to the liquidation. Where the liquidation of a Sub-Fund or a Class cannot be fully completed within a period of nine (9) months, a written request for exemption shall be submitted to the CSSF detailing the reasons why the liquidation cannot be completed.

29.6 As soon as it has been determined that the liquidation of the Company is complete, whether this decision is taken before the nine (9) month period has expired or at a later date, any residual funds not claimed by shareholders prior to the completion of the liquidation shall be deposited as soon as possible at the *Caisse de Consignation*.

29.7 The Company may be merged in accordance with the provisions of the Law of 2010. In the event the Company is involved in a merger as the surviving undertaking for collective investment in transferable securities ("UCITS"), the Board of Directors, in its sole discretion, will decide on the merger and the effective date thereof; in the event the Company is involved in a merger as the absorbed UCITS and thereafter ceases to exist, a general meeting of shareholders will be required to approve and decide on the effective date of such merger by a resolution adopted with no quorum

requirement and at the simple majority of the votes validly cast at such meeting. Any applicable contingent deferred sales charges are not to be considered as redemption charges and shall therefore be due.

29.8 The Board of Directors may resolve to proceed with a merger (within the meaning of the Law of 2010) of any Sub-Fund, either as receiving or absorbed Sub-Fund, with (i) another existing Sub-Fund within the Company or another sub-fund within another Luxembourg or foreign UCITS; or (ii) a new Luxembourg or foreign UCITS, and as appropriate, to re-designate the Shares of the Sub-Fund concerned as Shares of the new Sub-Fund or of the new UCITS as applicable. Any applicable contingent deferred sales charges are not to be considered as redemption charges and shall therefore be due.

29.9 A Class may merge with one or more other Classes by resolution of the Board of Directors if the Net Asset Value of a Class is below such amount as determined by the Board of Directors and disclosed in the Prospectus from time to time or in the event of special circumstances beyond its control, such as political, economic, or military emergencies, or if the Board of Directors should conclude, in light of prevailing market or other conditions, including conditions that may adversely affect the ability of a Class to operate in an economically efficient manner, and with due regard to the best interests of shareholders, that a Class should be merged. Shareholders shall be notified of any decision made pursuant to this paragraph as required. Each shareholder of the relevant Class shall be given the option, within a period to be determined by the Board of Directors (but not being less than one (1) month, unless otherwise authorised by the regulatory authorities, and specified in said notice), to request free of any redemption charge either the repurchase of its Shares or the exchange of its Shares against Shares of any Class not concerned by the merger. Any applicable contingent deferred sales charges are not to be considered as redemption charges and shall therefore be due.

29.10 A Class may be contributed to another investment fund by resolution of the Board of Directors in the event of special circumstances beyond its control, such as political, economic, or military emergencies, or if the Board of Directors should conclude, in light of prevailing market or other conditions, including conditions that may adversely affect the ability of a Class to operate in an economically efficient manner, and with due regard to the best interests of shareholders, that a Class should be contributed to another fund. Shareholders shall be notified of any decision made

pursuant to this paragraph as required. Each shareholder of the relevant Class shall be given the option within a period to be determined by the Board of Directors (but not being less than one month, unless otherwise authorised by the regulatory authorities, and specified in said notice) and specified in said notices, to request, free of any redemption charge, the repurchase of its Shares. Any applicable contingent deferred sales charges are not to be considered as redemption charges and shall therefore be due. Where the holding of units in another undertaking for collective investment does not confer voting rights, the contribution will be binding only on shareholders of the relevant Class who expressly agree to the contribution.

29.11 If the Board of Directors determines that it is in the interests of the shareholders of the relevant Sub-Fund or Class or that a change in the economic or political situation relating to the Sub-Fund or Class concerned has occurred which would justify it, the reorganisation of one Sub-Fund or Class, by means of a division into two or more Sub-Funds or Classes, may take place. Shareholders shall be notified of any decision made pursuant to this paragraph as required. The notification will also contain information regarding the new Sub-Funds or Classes. The notification will be made at least one month before the date on which the reorganization becomes effective in order to enable the shareholders to request the sale of their Shares, free of charge, before the operation involving division into two or more Sub-Funds or Classes becomes effective. Any applicable contingent deferred sales charges are not to be considered as redemption charges and shall therefore be due.

#### **Article 30. Amendment of Articles of Incorporation.**

30.1 These Articles of Incorporation may be amended from time to time by a meeting of shareholders, subject to the quorum and majority requirements provided by the laws of Luxembourg. Any amendment affecting the rights of the holders of Shares of any Class or Sub-Fund vis-à-vis those of any other Class or Sub-Fund shall be subject, to the said quorum and majority requirements in respect of each such relevant Class or Sub-Fund.

#### **Article 31. General.**

31.1 All matters not governed by these Articles of Incorporation shall be determined in accordance with the law of 10 August 1915 on commercial companies, as amended, and the Law of 2010.

#### **TRANSITORY PROVISIONS**

(1) The first accounting year shall begin on the date of incorporation of the

Company and terminate on 31 December 2015.

- (2) The first annual general meeting of shareholders shall be held in 2016.

#### **SUBSCRIPTION AND PAYMENT**

(1) The articles of incorporation of the Company having thus been drawn up by the appearing party, the appearing party has subscribed and entirely paid up in cash the following Shares:

<i><u>Shareholder</u></i>	<i><u>Subscribed Capital</u></i>	<i><u>Number of Shares</u></i>
<b>ELEVA CAPITAL LLP</b>	EUR 31,000.-	310

- (2) Proof of such payment in cash has been given to the undersigned notary.

#### **DECLARATION**

The undersigned notary herewith declares having verified the existence of the conditions enumerated in article 26 of the law of August 10, 1915 on commercial companies, as amended, and expressly states that they have been fulfilled.

#### **EXPENSES**

The aggregate amount of the costs, expenditures, remunerations or expenses, in any form whatsoever, which the Company incurs or for which it is liable by reason of the present deed, is evaluated at approximately two thousand six hundred Euros.

#### **RESOLUTIONS TAKEN BY THE SOLE SHAREHOLDER**

The aforementioned appearing party, representing the whole of the subscribed share capital, has adopted the following resolutions as sole shareholder:

**FIRST RESOLUTION:** The following persons are appointed Directors of the Company for a period ending on the date of the annual general meeting to be held in 2016:

(a) Mr. Hervé **COUSSEMENT**, born in Woippy (France), on March 22, 1968, with professional address at 106, route d'Arlon, L-8210 Mamer (Grand Duchy of Luxembourg);

(b) Mr. Chi Hao **LEE**, born in Guildford (United Kingdom), on July 25, 1973, with professional address at Flat 6A, Way Man Court, 50-52 Village Road, Happy Valley (Hong Kong); and

(c) Mr. Eric **BENDAHAH**, born in Caracas (Venezuela), on February 6, 1977, with professional address at Brookfield House, 44 Davies Street, W1K 5JA London (United Kingdom).

**SECOND RESOLUTION:** The following party has been appointed licensed registered auditor ("*réviseur d'entreprises agréé*") of the Company for a period ending

on the date of the annual general meeting to be held in 2016:

The cooperative company ("*société coopérative*") existing under the laws of the Grand Duchy of Luxembourg "**PricewaterhouseCoopers**", having its registered office in L-2182 Luxembourg, 2, rue Gerhard Mercator, registered with the Trade and Companies Register of Luxembourg under number B 65477.

**THIRD RESOLUTION:** The registered office of the Company is fixed at 106, route d'Arlon, L-8210 Mamer (Grand Duchy of Luxembourg).

**STATEMENT**

The undersigned notary who understands and speaks English, states herewith that the present deed is worded in English with no need of further translation in accordance with article 189(2) of the Law of December 17, 2010 on undertakings for collective investments

**WHEREOF**, the present deed was drawn up in Luxembourg, at the date indicated at the beginning of the document.

After reading the present deed to the Proxy-holder of the appearing party, acting as said before, known to the notary by name, first name, civil status and residence, the said Proxy-holder has signed with the notary the present deed.