

**THE OPEN-ENDED INVESTMENT  
COMPANIES REGULATIONS 2001**

**Instrument of Incorporation**

**HC CHARTERIS ICVC**

**17 December 2016**

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## INTERPRETATION

1

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

**accumulation shares:** shares (of whatever class) in the Company as may be in issue from time to time in respect of which income allocated thereto is credited periodically to capital pursuant to the FCA Rules

**ACD:** the authorised corporate director holding office as such from time to time pursuant to the FCA Rules

**Act:** the Financial Services and Markets Act 2000

**base currency:** the currency in which the accounts of the Company are to be prepared in accordance with clause 21 of this Instrument provided that in the context of a sub fund or the price of a share relating to a sub fund or a payment in respect of such a share, reference to base currency shall be treated as a reference to the currency stated in the Prospectus as being the currency to be used for the purpose in question in relation to that sub fund

**Class:** a particular class of income and/or accumulation shares, as described in clause 24 and in the Prospectus, relating to a single sub-fund or the company;

**Company:** HC Charteris ICVC

**Depository:** the person to whom is entrusted the safekeeping of all the scheme property of the Company (other than certain scheme property designated by the FCA Rules) and who has been appointed for this purpose in accordance with the OEIC Regulations

**Directors:** subject to clause 85 of this Instrument, the directors of the Company for the time being (including the ACD) or, as the case may be, the directors assembled as a board including any committee of such board

**the FCA Rules:** the rules contained in the Collective Investment Schemes Sourcebook (or COLL) published by the Financial Conduct Authority ("FCA") as part of their Handbook of rules made under the Act which shall for the avoidance

of doubt, not include guidance or evidential requirements contained in the said sourcebook

**income shares:** shares (of whatever class) in the Company as may be in issue from time to time in respect of which income allocated thereto is distributed periodically to the holders thereof pursuant to the FCA Rules

**in writing:** includes printing, lithography, photography, telex, facsimile and any other form of transmission as enables the recipient to know and to record the time of receipt and to preserve a legible copy of such transmission, or partly in one such form and partly in another

**this Instrument:** this instrument of incorporation, including the Schedule, as amended from time to time

**Net Asset Value:** the value of the scheme property of the Company (or, where the context requires, such part of the scheme property as is attributable to a particular sub fund) less all the liabilities of the Company (or such liabilities as are attributable to that sub fund as the case may be) determined in each case in accordance with this Instrument

**OEIC Regulations:** The Open-Ended Investment Companies Regulations 2001 (SI/2001/1228) as amended from time to time

**ordinary resolution:** a resolution of the Company in general meeting or of a class or sub fund meeting (as the case may be) passed by a simple majority of the votes validly cast (whether on a show of hands or on a poll) for and against the resolution at such meeting

**Prospectus:** the prospectus of the Company as amended from time to time

**the Regulations:** the OEIC Regulations and the FCA Rules

**signed:** includes signed by way of a signature or representation of a signature affixed by photographic or mechanical means including (for the avoidance of doubt) electronic signatures

**sub-fund:** a constituent part of the scheme property of the Company which is pooled separately pursuant to clauses 26 and 28 and the Prospectus.

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

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

4 In this Instrument, the word “may” shall be construed as permissive and the word “shall” shall be construed as imperative.

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

6

6.1 Any reference in this Instrument to shares being issued “in respect of” or “relating to” a sub fund shall be construed as a reference to shares issued by the Company which give the holder thereof rights for the time being to participate in that part of the scheme property comprising the sub fund in question and the entitlement, subject to clause 31 and the Regulations, to exchange those rights for rights to participate in that part of the scheme property comprising any other sub fund of the Company.

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

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

9 Where a sub-fund comprises two or more classes of shares, at least one of which is denominated in a currency other than the base currency, any class denominated in the base currency may be described as “sterling” in addition to any other description

## **CONSTITUTION**

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

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

12 The shareholders are not liable for the debts of the Company. They are also not liable to make any further payment after they have paid the price of their shares and no further liability can be imposed on them in respect of the shares which they hold.

13 The scheme property of the Company is entrusted to a Depositary for safekeeping (in accordance with and subject to any exceptions permitted by the FCA Rules).

14 Charges or expenses of the Company may be taken out of the scheme property.

#### **NAME**

15 The name of the Company is HC Charteris ICVC.

#### **OBJECT**

16 The object of the Company is to invest the scheme property in transferable securities, cash, money market instruments, units in collective investment schemes, deposits, warrants, derivatives and forward transactions in accordance with the FCA Rules applicable to each sub fund according to the type of authorisation of the Company as stated in clause 18 below (which may include stock lending, borrowing, cash holdings, hedging and using other investment techniques in applicable FCA Rules) with the aim of spreading investment risk and giving its shareholders the benefit of the results of the management of that property. Any limitations on investment powers, concentration and spread limits in relation to the asset types listed are disclosed in the prospectus of the Company from time to time.

17 In giving effect to the foregoing object more than 35 % of the property of the Company or any sub-fund, as the case may be, may be invested in Government and other public securities issued or guaranteed by the Government of the United Kingdom and Northern Ireland, the Scottish Administration, the Executive Committee of the Northern Ireland Assembly or the National Assembly of Wales, the Governments of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, and Sweden, and the Governments of Australia, Canada, Japan, New Zealand, Switzerland or the United States of America, and securities issued by the European Investment Bank.

## **TYPE OF AUTHORISATION OF COMPANY**

18 The Company is a “non-UCITS retail scheme” and is also an “umbrella company” for the purposes of the Regulations and shareholders are entitled to exchange rights in one sub fund for rights in another subject to and in accordance with the Regulations and this Instrument.

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

## **ELIGIBLE MARKETS**

20

20.1 Subject to any restrictions contained in the FCA Rules or this instrument, the Company has the power to invest in any eligible securities market or deal on any eligible derivatives market:

20.1.1 which is an eligible securities or derivatives market under the FCA Rules; or

20.1.2 to the extent that the power to do so is conferred by the FCA Rules irrespective of any issue of eligibility.

20.2 The ACD, after consultation with the Depositary and any Directors in addition to the ACD, may choose a market as one which is appropriate for the purpose of investment of, or dealing in, the scheme property. Any such market will be an eligible market for the purposes of the FCA Rules and a list of such markets will be included in the Prospectus.

## **BASE CURRENCY**

21 The accounts of the Company shall be prepared in sterling or such other currency or currencies as may be the lawful currency of England and Wales from time to time.

## SHARE CAPITAL

- 22 The capital of the Company shall be represented by shares of no par value and shall at all times be equal to the Net Asset Value of the Company in base currency.
- 23 The minimum capital of the Company shall be £1,000,000 and the maximum capital shall be £100,000,000,000.
- 24
- 24.1 The Company may from time to time issue shares of different classes in respect of a sub fund. The rights attaching to each class of shares shall be as set out in this Instrument, the Prospectus and in accordance with the Regulations.
- 24.2 The classes of share which may be issued in respect of each sub fund are:
- 24.2.1 gross accumulation shares;
- 24.2.2 gross income shares;
- 24.2.3 net accumulation shares;
- 24.2.4 net income shares; and
- 24.2.5 limited issue shares of the classes specified in clause 24.2.1 to 24.2.4 above, and for the avoidance of doubt each of the above may be further classified as Class A, Class B, Class C, or Class D etc up to and including Class Z shares, or under such other designation, including Institutional and Retail Classes, "Pounds Sterling", "£", Euro and "€" Classes, as the ACD shall by resolution from time to time decide. In addition, each of the above may be denominated in currencies other than the base currency to form further Classes of shares as the ACD shall by resolution from time to time decide, and may bear different charges of whatever nature as set out in the Prospectus from time to time. Further requirements as to the availability, minimum investment and holding levels may also be set out in the Prospectus.
- 24.3 The classes of shares (in respect of each sub fund) available for issue are those set out in the Prospectus. Shares will not be issued in bearer form and will not be participating securities for the purposes of the Uncertificated Securities Regulations 1995.
- 24.4 The Directors may by resolution from time to time create additional classes of share in respect of a sub fund (whether or not falling within one of the classes described above).



- 24.5 Where a class is denominated in a currency which is not the base currency, distributions paid on shares on that class shall, in accordance with the FCA Rules, be in the currency of that class, and statements of amounts of money or values included in statements and in tax certificates shall also be given in the currency of that class (whether or not also given in the base currency). Votes at meetings of the sub-fund of which the class forms part shall be determined in accordance with the proportionate interests in the sub-fund ascertained in accordance with Part 1 of the Schedule and the FCA Rules.
- 25 The special rights attaching to a class of shares shall (unless otherwise expressly provided by the conditions of issue of such shares) be deemed not to be varied by:
- 25.1 the creation, allotment or issue of further shares of any class ranking pari passu therewith;
- 25.2 the switching of shares of any class into shares of another class (whether or not the classes are in different sub funds);
- 25.3 the creation, allotment, issue or redemption of shares of another class within the same sub fund, provided that the interests of that other class in the sub fund represent fairly the financial contributions and benefits of shareholders of that class;
- 25.4 the creation, allotment, issue or redemption of shares of another sub fund; or
- 25.5 the exercise by the Directors of their powers under clause 24.4;
- 25.6 the passing of any resolution at a meeting of holders of shares in another sub fund which does not relate to the sub fund in which the class is interested.

#### **SUB FUNDS**

- 26 Subject to the FCA Rules, all consideration received for the account of the Company for the issue of shares in respect of a sub fund together with the investments in which such consideration is invested or reinvested, and all assets, investments, income, earnings, profits and proceeds thereof and liabilities and expenses relating thereto shall be pooled and kept separate from all other monies, liabilities and expenses of the Company and the following provisions shall apply to each sub fund:

- 26.1 for each sub fund the Company shall keep books in which all transactions relating to the relevant sub fund shall be separately recorded and the assets and the liabilities, income and expenditure attributable to that sub fund shall be applied or charged to such sub fund subject to the provisions of this clause;
- 26.2 any asset derived from any other asset (whether cash or otherwise) comprised in any sub fund shall be applied in the books of the Company to the same sub fund as the asset from which it was derived and any increase or diminution in the value of such asset shall be applied to the relevant sub fund;
- 26.3 each sub fund shall be charged with the liabilities, expenses, costs and charges of the Company in respect of or attributable to that sub fund; and
- 26.4 any assets, liabilities, expenses, costs or charges not attributable to one sub fund may be allocated by the ACD in accordance with the Regulations and the FCA Rules, in a manner which the ACD considers is fair to the shareholders of the Company.
- 27 Any sub fund shall be terminated subject to and in accordance with the Regulations, by the Directors in their absolute discretion if one year from the date of the first issue of shares relating to that sub fund or at any date thereafter the Net Asset Value of the sub fund is less than £1,000,000 or its equivalent in the base currency of the sub fund.
- 28 The sub funds of the Company for the time being constituted and their respective investment objectives are set out in Part 2 of the Schedule to this Instrument.
- 29 Without prejudice to clause 16 and in accordance with the Regulations the Directors may by resolution from time to time create such additional sub fund or sub funds with such investment objectives and such restrictions as to geographic area, economic sector, monetary zone or category of transferable security, and denominated in such currencies, as the Directors shall from time to time determine. On creation of any such sub fund or sub funds a new Part 2 of the Schedule to this Instrument including the specified details of the new sub fund or sub funds (as well as those of the other extant sub funds) will be substituted for the previous one and shall form part of this Instrument to the exclusion of the previous one.

## **VALUATION**

- 30           The Net Asset Value of the Company and each sub fund shall be determined in accordance with the FCA Rules, and, subject thereto, in accordance with Part 3 of the Schedule to this Instrument. Subject to the FCA Rules and in the absence of bad faith, negligence or manifest error, such determination of the Net Asset Value by the ACD shall be definitive. The basis for the pricing of any class of shares issued by the Company shall be as set out in the Prospectus of the Company from time to time in accordance with the FCA Rules.

## **ACQUISITION OF SHARES**

- 31           Shares in the Company may not be acquired or held by any person in circumstances (“relevant circumstances”):
- 31.1           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
- 31.2           which would (or would if other shares were acquired or held in like circumstances) result in the Company incurring any liability to taxation or suffering any other adverse consequence (including a requirement to register under any securities or investment or similar laws or governmental regulation of any country or territory):
- 31.3           and, in this connection, the ACD may, inter alia, reject at its discretion any subscription for, sale or transfer of shares or any exchange notice given pursuant to clause 38.
- 32           If it comes to the notice of the Directors that any shares (“affected shares”) have been acquired or are being held in each case whether beneficially or otherwise in any of the relevant circumstances referred to in clause 31 or if they reasonably believe this to be the case the Directors may give notice to the holder of the affected shares requiring the transfer of such shares to a person who is qualified or entitled to own the same or to give a request in writing for the redemption or cancellation of such shares in accordance with the FCA Rules. If any person upon whom such a notice is served pursuant to this clause does not within thirty days after the date of such notice transfer his shares to a person qualified to hold the same, or establish to the satisfaction of the ACD (whose judgement shall be final and binding) that he and any person on whose behalf he holds the affected shares are qualified and entitled to hold the shares, he shall be deemed upon the

expiration of that thirty day period to have given a request in writing for the redemption or cancellation (at the discretion of the ACD) of the affected shares pursuant to the FCA Rules.

33 A person who becomes aware that he has acquired or holds affected shares whether beneficially or otherwise in any of the relevant circumstances referred to in clause 31 shall forthwith, unless he has already received a notice pursuant to clause 32 either transfer or procure the transfer of all the affected shares to a person qualified to own the same or give a request in writing or procure that a request is so given for the redemption or cancellation of all affected shares pursuant to the FCA Rules.

34 Payment for the issue or cancellation of shares may be made by the transfer of assets rather than cash.

35 Shares in the Company are issued or cancelled by the ACD making a record of the issue or cancellation of such shares and the number of shares in each class concerned. Subject to and in accordance with the Regulations, the issue or cancellation of shares may also take place through the Company directly.

36 The depositary may take into or pay out of the scheme property assets other than cash as payment for the issue or cancellation of shares but only if the depositary has taken reasonable care to ensure that the property concerned would not be likely to result in any material prejudice to the interests of shareholders of the Company.

37 In accordance with the Regulations, the arrangements for the sale and redemption of shares in the Company are as set out in the Prospectus of the Company from time to time. The deferral of any redemptions at a valuation point to the next valuation point is permitted for any share class and will be undertaken in accordance with the procedures for deferred redemption as detailed in the Prospectus of the Company from time to time.

#### **EXCHANGE OF SHARES ETC**

38 Subject to clauses 31 and 32 and the following provisions of this clause any shareholder may give notice to the Company in such form as the Directors may from time to time determine (“an exchange notice”) of his desire to exchange all or some of his shares of one class issued in respect of any sub fund (the “original shares”) for shares of another class issued in respect of the same sub fund or for shares issued in respect of a different sub fund, (the “new shares”). A

shareholder shall not be entitled to give an exchange notice at any time when only one sub-fund and only one share class in such sub-fund is in issue.

39 Upon receipt by the Company of an exchange notice, the ACD shall arrange for the Company to cancel (or, at its discretion, the ACD shall itself redeem) the original shares and issue (or, at its discretion, the ACD shall sell to the shareholder) such number of new shares as is arrived at by reference to clause 43 provided that, so far as this Instrument and the Regulations allow, the Directors may impose such restrictions as to the classes for which exchange may be effected and may make exchange subject to such charge, as they shall determine.

40 Where an exchange notice relates to a desired exchange of shares between classes issued in respect of different sub funds, the Directors shall not impose restrictions as to the classes of new shares for which exchange may be effected unless there are reasonable grounds relating to the circumstances of the shareholder concerned for refusing to issue or sell shares of a particular class to him.

41 Exchange pursuant to clause 38 of the original shares specified in an exchange notice shall take place at the first valuation point after the day upon which the exchange notice is received or deemed to have been received by the Company or at such other valuation point as the Directors at the request of the shareholder giving the relevant exchange notice may agree.

42 For the purposes of this clause and for the avoidance of doubt, the ACD shall be construed as the shareholder of all shares (other than bearer shares) in the Company which are in issue and in respect of which no other person's name is entered on the register.

43 Subject to clauses 44 and 46 the Directors shall determine the number of new shares to be issued or sold to the shareholder on an exchange in accordance with the following formula:

$$N = O \times \frac{(CP \times ER)}{SP}$$

where:

N is the number of new shares to be issued or sold (rounded down to the nearest whole number of smaller denomination shares);

- O is the number of original shares specified (or deemed to be specified) in the exchange notice which the holder has requested to exchange;
- CP is the price at which a single original share may be cancelled or redeemed as at the valuation point applicable to the cancellation or redemption as the case may be;
- ER is 1, where the original shares and the new shares are designated in the same currency and, in any other case, is the exchange rate determined by the Directors in their absolute discretion (subject to the FCA Rules) as representing the effective rate of exchange between the two relevant currencies as at the date the exchange notice is received (or deemed to have been received) by the Company having adjusted such rate as may be necessary to reflect any costs incurred by the Company in making any transfer of assets as may be required as a consequence of such an exchange being effected; and
- SP is the price at which a single new share may be issued or sold as at the valuation point applicable to the cancellation or redemption as the case may be.

44 The Directors may adjust the number of new shares to be issued or sold in accordance with clause 43 to reflect the imposition of the exchange charge referred to in clause 39 together with any other charges or levies in respect of the issue or sale of the new shares or cancellation or redemption of the original shares as may be made without infringement of the Regulations.

45 For the avoidance of doubt:

45.1 each exchange notice shall relate only to the exchange of shares of a single class; and

45.2 an exchange notice may be given as much in respect of a desired exchange of shares between classes issued in respect of different sub funds as an exchange of shares between different classes issued in respect of the same sub fund.

46 An amount equal to any tax charge incurred by the Company or for which the Company may be held liable as a result of an exchange pursuant to clause 38 shall be recoverable from the shareholder concerned and may be accounted for

in any adjustment made of the number of new shares to be issued pursuant to clause 43.

47 When the holder of any class of shares fails or ceases for whatever reason to be entitled to hold shares of that particular class, he shall, without delay, give notice thereof to the Company and the Company shall, upon receipt of such notice (if no transfer of such shares has been effected or request for repurchase of the shares made) treat the shareholder concerned as if he had served on the Company an exchange notice or notices pursuant to clause 38 requesting exchange of all of those shares for shares of another class or classes which, in the opinion of the Directors, most nearly equates to the shares of the class or classes originally held by that shareholder and the provisions of clauses 38 to 46 inclusive shall be applied accordingly.

48 If at any time the Company or the ACD becomes aware that the holder of shares of any class has failed or ceased for whatever reason to be entitled to hold shares of that particular class, then the Company shall, without delay, treat the shareholder concerned as if he had served on the Company an exchange notice or notices pursuant to clause 38 requesting exchange of all of those shares for shares of another class or classes which, in the opinion of the Directors, most nearly equates to the class of shares held by the shareholder and the provisions of clauses 38 to 46 inclusive shall be applied accordingly.

#### **DESIGNATED PERSON**

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

#### **REGISTERED SHARES**

50 Title to shares shall be evidenced by an entry in the register of shareholders ("registered shares"), and the Company shall not issue certificates to shareholders but a statement of shareholding ("periodic statement") in respect of shares shall be sent to each holder at least once a year in such form as the ACD decide. A periodic statement shall not constitute a document of title to the shares to which it refers. The person responsible for the register is able to charge for issuing any document recording, or for amending an entry on the register, other than on the issue or sale of shares.

## **DENOMINATIONS OF SHARES**

51           The rights attaching to the shares of all classes may be expressed in two denominations and, in each of those classes, the proportion of a larger denomination share represented by a smaller denomination share shall be one thousandth of the larger denomination share.

## **TRANSFER AND TRANSMISSION OF SHARES**

52           All transfers of registered shares shall be effected by transfer in writing in any usual or common form or in any other form as may be approved by the ACD.

53           The signature on the instrument of transfer may be affixed manually or electronically and may be an actual signature or facsimile signature. The Directors shall not be bound to enquire as to the genuineness of any signature.

54           No instrument of transfer may be given in respect of more than one class of shares.

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

56           Unless the ACD in its discretion determines otherwise, no transfer may result in either the transferor or the transferee holding fewer shares of the class concerned or shares of such class having a lesser aggregate value than any number or value as is stated in the Company's Prospectus as the minimum number or value of shares of that class which may be held.

57           The Company may refuse to register a transfer of shares unless there has been paid, for the account of the Company, an amount determined by the ACD not exceeding the amount that would be derived by applying the rate of stamp duty reserve tax to the market value of the shares being transferred. This clause shall not apply to transfers excluded by Schedule 19 of the Finance Act 1999 from a charge to stamp duty reserve tax.

58           Any person becoming entitled to a share or shares in consequence of the death or bankruptcy of a shareholder or otherwise by operation of law may, subject as provided below and upon such evidence being produced as may from time to time be lawfully required by the Directors as to his entitlement, either be registered himself as the holder of the share or shares, or elect to have some person nominated by him registered as the transferee thereof. If the person so



becoming entitled elects to be registered himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he shall elect to have his nominee registered, he shall signify his election by signing and delivering or sending to the Company an instrument of transfer of such share or shares in favour of his nominee.

59 All the limitations, restrictions and provisions of this Instrument relating to the right to transfer and the registration of transfers of shares shall be applicable to any notice or instrument of transfer given or made pursuant to clause 58 as if the death or bankruptcy of the shareholder or other event giving rise to the transmission had not occurred and the notice or instrument of transfer were an instrument of transfer signed by that shareholder.

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

61 The Company shall not be obliged to register a share in the names of more than four joint holders.

#### **GENERAL MEETINGS**

62 All general meetings shall be called Extraordinary General Meetings. The notice convening a meeting shall specify the time and place of the meeting and general nature of the business to be transacted.

## PROCEEDINGS AT GENERAL MEETINGS

- 63 The provisions of this instrument which relate to proceedings at general meetings shall apply mutatis mutandis to class meetings and to sub fund meetings as they apply to general meetings.
- 64 A meeting of shareholders or a class meeting (as the case may be) duly convened and held shall have the power by the passing of the appropriate resolution to decide any matter (including, without limitation, the suspension or curtailment of the powers of the ACD), subject to the Regulations and (in the case of class meetings) subject also to any rights in relation to that matter which shareholders of other classes may have.
- 65 A Director other than the ACD or an associate of the ACD shall nominate a chairman, or, if no such nomination is made, the depositary shall nominate a representative to preside as chairman at a general meeting and, if the depositary's nominee is not present within fifteen minutes after the time appointed for holding the meeting, or declines to take the chair, the shareholders present shall choose one of their number to be chairman of the meeting.
- 66 The chairman of any general meeting at which a quorum is present may with the consent of the meeting (and shall if so directed by the meeting) adjourn the meeting from time to time (or without date) 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 without date, the time and place for the adjourned meeting shall be fixed by the Directors. When a meeting is adjourned for thirty days or more or without date, not less than seven days' notice of the adjourned meeting shall be given in like manner as in the case of the original meeting.
- 67 Subject to clause 66 above, in the case of an adjournment of a meeting at which a quorum is present, it shall not be necessary to give any notice of such an adjournment or of the business to be transacted at the adjourned meeting.
- 68 The depositary shall be entitled to appoint a representative to attend and speak on its behalf at any general meeting of the Company or any class or sub fund meeting and shall be entitled to convene any such meeting by giving notice to the ACD which must:

- 68.1 state the objective of the meeting;
- 68.2 be dated; and
- 68.3 be deposited at the head office of the Company.
- 69 Upon receipt of such notice as is referred to in clause 68 the ACD shall proceed in the manner prescribed by the FCA Rules to call a meeting of the requisite type for a date no later than eight weeks after receipt of the said notice.
- 70 In addition to the rights of shareholders to demand a poll in accordance with the FCA Rules, a poll may be demanded by the chairman of the meeting, the ACD or the depository on any resolution put to the vote of a general meeting, class meeting or sub fund meeting.
- 71 A demand for a poll may be withdrawn only with the approval of the chairman of the meeting. Unless a poll is required, a declaration by the chairman of the meeting that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book, computer record or other record of proceedings, shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded for or against such resolution. If a poll is required, it shall be taken in such a manner (including the use of ballot papers or electronic or computer voting systems) as the chairman of the meeting may direct and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The chairman of the meeting may (and, if so directed by the meeting, shall) appoint scrutiners and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll.
- 72 A poll demanded on the choice of the chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either immediately or at such subsequent time (not being more than thirty days from the date of the meeting) and place and in such manner (including by post) as the chairman may direct. No notice need be given of a poll not taken immediately. The demand for a poll shall not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.
- 73 The chairman of a general meeting may take any action he considers appropriate for, for example, the safety of people attending a general meeting, the proper and

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

### **VOTING RIGHTS**

- 74 The entitlement to vote at any general meeting of shareholders or class meeting attaching to each share is in accordance with the FCA Rules. The voting rights attached to each share shall be such proportion of the voting rights attached to all the shares in issue in the Company or of the class (as the case may be) as the price of the share bears to the aggregate price(s) of all the shares in issue in the Company or of such class. On a show of hands every shareholder who is present in person has one vote. Poll votes may be given either personally or by proxy or in any other manner permitted by this Instrument.
- 75 Where a receiver or other person (by whatever name called) has been appointed by any court claiming jurisdiction in that behalf to exercise powers with respect to the property or affairs of any shareholder on the ground (however formulated) of mental disorder, the Directors may in their absolute discretion upon or subject to production of such evidence of the appointment as the Directors may require, permit such receiver or other person on behalf of such shareholder to vote on a poll in person or by proxy at any general meeting or class or sub fund meeting or to exercise any right other than the right to vote on a show of hands conferred by ownership of shares in relation to meetings of the Company.
- 76 No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairman of the meeting whose decision shall be final and conclusive.

## PROXIES

- 77 An instrument appointing a proxy shall be in writing in any usual or common form or in any other form which the Directors may approve and:
- 77.1 in the case of an individual shall be signed by the appointor or his attorney; and
- 77.2 in the case of a corporation shall be either given under its common seal or signed on its behalf by an attorney or a duly authorised officer of the corporation.
- 78 The signature on such instrument need not be witnessed. Where an instrument appointing a proxy is signed on behalf of the appointor by an attorney, the letter or power of attorney or a duly certified copy thereof must (failing previous registration with the Company) be lodged with the instrument appointing the proxy pursuant to the next following clause, failing which the instrument may be treated as invalid.
- 79 An instrument appointing a proxy must be left at such place or one of such places (if any) as may be specified for the purpose in or by way of note to or in any document accompanying the notice convening the meeting (or, if no place is so specified, at the head office of the Company) by the time which is forty-eight hours before the time appointed for the holding of the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) for the taking of the poll at which it is to be used and, in default, may be treated as invalid. The instrument appointing a proxy shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting as for the meeting to which it relates.
- 80 A vote cast by proxy shall not be invalidated by the previous death or bankruptcy of the principal or by other transmission by operation of law of the title to the shares concerned or by the revocation of the appointment of the proxy or of the authority under which the appointment of the proxy was made provided that no intimation in writing of such death, bankruptcy, transmission or revocation shall have been received by the Company at the head office of the Company by the time which is two hours before the commencement of the meeting or adjourned meeting or (in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting) the time appointed for the taking of the poll at which the vote is cast.

## **CORPORATIONS ACTING BY REPRESENTATIVES**

- 81 Any corporation which is a shareholder of the Company may by resolution of the directors or other governing body of such corporation and in respect of any share or shares in the Company of which it is the holder authorise such individual as it thinks fit to act as its representative at any general meeting of the shareholders or of any class or sub fund meeting. The individual so authorised shall be entitled to exercise the same powers on behalf of such corporation as the corporation could exercise in respect of such share or shares if it were an individual shareholder of the Company and such corporation shall for the purposes of this Instrument be deemed to be present in person at any such meeting if an individual so authorised is so present.
- 82 On a poll, a corporation which holds shares as nominee may appoint more than one representative each in respect of a specified number of shares which the corporation holds (and so that no share is counted more than once for such purpose) each such representative shall be entitled to exercise such powers on a poll only in respect of the shares concerned.
- 83 Any corporation which is a Director of the Company may by resolution of its directors or other governing body authorise such individual as it thinks fit to act as its representative at any general meeting of the Company, class meeting or at any meeting of the Directors. The person so authorised shall be entitled to exercise the same powers at such meeting on behalf of such corporation as the corporation could exercise if it were an individual director and such corporation shall be deemed for the purposes of this Instrument to be present in person at any such meeting if an individual so authorised is so present.

## **DIRECTORS**

- 84 Except as otherwise prescribed by the Regulations, the business of the Company shall be managed by the Directors. They may arrange payment by the Company of all expenses incurred in forming and registering the Company and may exercise all powers of the Company (whether relating to the management of the business of the Company or otherwise) which are not required by the Regulations or this instrument to be exercised by any other person or by the Company in general meeting. The general powers given by this clause shall not be limited or restricted by any special authority or power given to the Directors by any other clause.

- 85 Unless otherwise determined by an extraordinary resolution of shareholders the Company shall only have one Director.
- 86 If, and for so long as, the ACD is the sole Director of the Company, the ACD shall have authority to exercise all the powers, authorities and discretions expressed in this Instrument or the Regulations to be vested in the Directors of an investment company with variable capital generally.
- 87 If, and for so long as, there is no ACD acting in respect of the Company, the Directors shall (subject to FCA Rules) have authority to exercise all the powers, authorities and discretions expressed in this Instrument to be vested in the ACD.
- 88 A Director is not required to hold any shares in the Company by way of qualification.
- 89 A Director is entitled to attend and speak at any general meeting and at any class meeting.
- 90 The Directors may from time to time appoint one or more of their number to be the holder of any executive office (including, where considered appropriate, the office of chairman or deputy 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 at any time revoke any such appointment.
- 91 The appointment of any Director to any executive office (including that of chairman and deputy chairman) shall automatically determine if he ceases to be a Director but without prejudice to any claim for damages for breach of any contract of service between him and the Company.
- 92 No resolution made by the Company in general meeting or by the holders of the shares of any class at a class meeting shall invalidate any prior act of the Directors which would have been valid if such resolution had not been made.
- 93 Any appointment or delegation made by the Directors in accordance with the FCA Rules may be made upon such terms and subject to such conditions as the Directors may think fit, and the Directors may remove any such appointee, and may revoke or vary such delegation, but no person dealing in good faith and without notice of any such revocation or variation shall be affected by their doing so.

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

### **REMUNERATION OF DIRECTORS**

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

96 Any Director who holds any executive office including that of ACD (and including for this purpose the office of chairman or deputy chairman, whether or not such office is held in an executive capacity), or who serves on any committee of the Directors, or who otherwise performs services which, in the opinion of the Directors, are outside the scope of the ordinary duties of a Director, may (subject to the FCA Rules) be paid such extra remuneration by way of fees, salary, commission or otherwise as the Directors may determine.

### **DIRECTORS' EXPENSES**

97 The Directors may (subject to the FCA Rules) be paid by the Company all travelling, hotel and other expenses properly incurred by them (or, being a corporation, by their duly authorised representative(s)) in connection with their attendance at and return from meetings of the Directors, committees of such meetings, general meetings of the Company, class meetings or otherwise in connection with the business of the Company.

### **MEETINGS AND PROCEEDINGS OF DIRECTORS**

98 The following 9 clauses shall not apply at any time when the ACD is the sole Director of the Company and any decision which is required by this Instrument to



be taken by the Directors shall, if and for so long as the ACD is the sole Director, be valid and effective if made by the ACD.

- 99 Subject to the provisions of this Instrument, the Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. At any time any Director may summon a meeting of the Directors by at least seven days notice in writing. Any Director may waive notice of any meeting (and any such waiver may be retroactive) and any Director who is present at a meeting of the Directors shall be deemed to have waived notice of such meeting.
- 100 The quorum necessary for the transaction of the business of the Directors may be fixed from time to time by the Directors and, unless so fixed at any other number, shall be two.
- 101 A resolution made by Directors who would (if attending a meeting) comprise a quorum and who are able to communicate (by means of a telephone or otherwise) simultaneously with one another shall be as valid and effectual as if passed at a meeting of the board of Directors duly convened and held.
- 102 A Director communicating in such a way as is referred to in the last preceding clause with other Directors present at a meeting shall be counted in the quorum of that meeting and be entitled to vote.
- 103 Questions arising at any meeting of the Directors shall be determined by a majority of votes cast. In the case of an equality of votes the chairman of the meeting shall have a second or casting vote.
- 104 The continuing Directors or a sole continuing Director may act notwithstanding any vacancy in their number but if and so long as the number of Directors is reduced below the minimum number fixed as the quorum, the continuing Directors or Director may (notwithstanding the provisions of this Instrument) act for the purpose of filling such vacancies or of calling a general meeting but not for any other purpose. If there are no Directors able or willing to act, then any two shareholders may summon a general meeting for the purpose of appointing one or more Directors subject to any maximum number provided for in this Instrument.
- 105 The Directors may elect from their number a chairman and a deputy chairman (or two or more deputy chairmen) and may at any time remove them from such office. Unless he is unwilling to do so, the Director (if any) appointed as chairman

shall preside at every meeting at which he is present or, failing which, the deputy chairman (if any) shall so preside. If no chairman or deputy chairman shall have been appointed or if at any meeting of the Directors no chairman or deputy chairman shall be present within five minutes after the time appointed for holding the meeting, any Directors present may choose one of their number to be chairman of the meeting.

106 If at any time there is more than one deputy chairman the right in the absence of the chairman to preside at a meeting of the Directors or of the Company shall be determined as between the Deputy Chairmen present (if more than one) by seniority in length of appointment or otherwise as resolved by the Directors.

107 A resolution in writing signed by all the Directors entitled to vote at a meeting of the Directors or of all members of a committee of Directors (as the case may be) shall be as valid and effective as a resolution duly passed at a meeting of the Directors or (as the case may be) committee of Directors and may consist of several documents in the like form each signed by one or more Directors.

108 Subject to the FCA Rules, all acts done by the Directors or by any committee or by any person acting as a Director or member of a committee shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any Director or such committee or that any Director was disqualified or had vacated office, be as valid as if every such person or committee had been duly appointed and that every person so acting was qualified and had continued to be a Director and had been entitled to vote.

#### **INTERESTS OF DIRECTORS**

109 Subject to the Regulations and to clauses 110 to 112 of this Instrument a Director may be party to, or in any way interested in, any contract or arrangement or transaction to which the Company is a party, or in which the Company is in any way interested, and he may hold and be remunerated in respect of any office or place of profit (other than the office of depositary or auditor of the Company) under the Company or any other company in which the Company is in any way interested (or any firm of which he is a member) and may act in a professional capacity for the Company or any such other company and be remunerated therefor and in any such case as aforesaid (save as otherwise agreed) he may retain for his own absolute use and benefit all profits and advantages accruing to him thereunder or in consequence thereof.

- 110 Any interest of a kind referred to in clause 109 of this Instrument must be declared by the Director who is so interested at the meeting of the Directors at which the question of entering into the contract or arrangement is first taken into consideration. A general notice in writing given to the Directors by any Director to the effect that he is a shareholder, director, employee of, or might for any other reason be regarded as having an interest in relation to, any specified company or firm, and is to be regarded as interested in any contract or arrangement which may thereafter be made with that company or firm, shall (if such Director shall give the same at a meeting of the Directors or shall take reasonable steps to secure that the same is brought up and read at the next meeting of the Directors after it is given) be deemed a sufficient declaration of interest in relation to any contract or arrangement made.
- 111 For so long as the ACD is the sole director of the Company clause 110 of this instrument shall have no effect and, in such event, any interest of a kind referred to in clause 109 must be properly recorded and minuted by the ACD as soon as practicable after it becomes so interested. Nothing in this clause shall absolve the ACD from its fiduciary duty to act in the best interests of the Company as a whole.
- 112 Notwithstanding the provisions of clauses 109 to 111, a Director shall not vote at a meeting of the Directors (or of a committee of the Directors) on any resolution concerning a matter in which he has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the Company unless his interest or duty arises only because the case falls within one or more of the following sub-clauses:
- 112.1 any proposal concerning the terms of the appointment or re-appointment of a Director as the ACD, or any ratification of the terms of such appointment or re-appointment;
- 112.2 any proposal concerning the terms of the appointment or re-appointment of a Director who is an associate of the ACD, or any ratification of the terms of such appointment or re-appointment;
- 112.3 any proposal concerning any other company in which he is interested, directly or indirectly, and whether as an officer or shareholder or otherwise howsoever provided that he is not the holder of or beneficially interested in one per cent. or more of the issued shares of any class of such company (or of any third company of which such company is a subsidiary) or of the voting rights available to

members of the relevant company (any such interest being deemed for the purposes of this clause to be a material interest in all circumstances); or

- 112.4 any proposal concerning any insurance which the Company is empowered to purchase and/or maintain for the benefit of and against any liability incurred by any Director(s) or persons who include or may include Directors.
- 113 If, and for so long as, the ACD is the sole Director of the Company or at any meeting of the Directors called for the purpose of determining the terms of the appointment or re-appointment of the ACD there is no quorum of Directors present and entitled to vote, clause 112 shall have no effect and (for the avoidance of doubt), the ACD shall, subject to the Regulations, be entitled at its own discretion to determine the terms of its appointment or re-appointment as such with the Company notwithstanding its interest therein which terms shall be set out in writing in a service contract between the ACD and the Company.
- 114 A Director may be counted in the quorum at a meeting of the Directors or committee of the Directors in relation to any resolution on which he is debarred from voting.
- 115 Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employments with the Company or any body corporate in which the Company is interested such proposals may be divided and considered in relation to each Director separately and in such case each of the Directors concerned (if not debarred from voting under clause 112) shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his own appointment.
- 116 If any question shall arise at any time as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting such question shall be referred to the chairman of the meeting and his ruling in relation to any other Director shall be final and conclusive except in a case where the nature or extent of the interests of such Director has not been fully and fairly disclosed.
- 117 The Company may by ordinary resolution suspend or relax any provision of this Instrument prohibiting a Director from voting at a meeting of Directors (or of a committee of Directors) or ratify any transaction not duly authorised by reason of a contravention of this Instrument.

## **MINUTES OF DIRECTORS' MEETINGS**

- 118 The Directors shall cause minutes to be made and kept in permanent form:
- 118.1 of all appointments of officers made by the Directors;
- 118.2 of all proceedings at meetings of the Company, of the holders of any class of shares in the Company and of the Directors and committees of Directors, including the names of the Directors present at each such meeting; and
- 118.3 of all resolutions made by the ACD otherwise than at a meeting and all other matters required by this Instrument to be formally recorded by the ACD.

## **APPOINTMENT, REMOVAL AND RETIREMENT OF DIRECTORS**

- 119 The Directors shall have power, at any time and from time to time, to appoint any person to be a Director of the Company, either to fill a casual vacancy or as an addition to the existing Directors, but so that the total number of Directors shall not at any time exceed the maximum number, if any, fixed by or pursuant to this Instrument. Any such appointment shall take effect only upon the satisfaction of either of the conditions appearing in Regulation 21(3) of the OEIC Regulations and shall have no effect unless and until either of such conditions shall have been satisfied.
- 120 No person (other than the ACD or a person nominated by the Directors) shall be eligible for election to the office of Director at any general meeting unless, not less than seven and not more than forty-two days before the date appointed for the meeting, notice in writing has been left at the head office, signed by a member duly qualified to attend and vote at such meeting, of his intention to propose such person for election, together with notice in writing signed by that person of his willingness to be elected.
- 121 A single resolution for the appointment of two or more persons as Directors shall not be put at any general meeting, unless a resolution that it shall be so put has first been agreed to by the meeting without any vote being given against it.
- 122 Subject to the provisions of the FCA Rules and Regulation 21 of the OEIC Regulations and notwithstanding any other provision of this Instrument, the office of Director shall be vacated in any of the following events, namely:

- 122.1 if, not being a Director who is employed under a contract which precludes resignation, he resigns his office by notice in writing signed by him and left at the head office of the Company or if he offers in writing to resign and the Directors shall resolve to accept such offer; or
- 122.2 if he becomes prohibited by law or regulation (including any provision of the Regulations) from acting as a Director (or, being the ACD, as ACD); or
- 122.3 if he becomes bankrupt, has an interim receiving order made against him or compounds with his creditors generally or applies to the court for an interim order under section 253 Insolvency Act 1986 in connection with a voluntary arrangement under that Act or if, being a body corporate, a receiver or liquidator is appointed other than for the purpose of reconstruction or amalgamation in respect of the Director or a resolution is passed to wind up the Director or if an administrator or administrative receiver is appointed over all or any part of the Director's assets; or
- 122.4 if an order is made anywhere in the world by any court claiming jurisdiction in that behalf on the ground (howsoever formulated) of mental disorder, for his detention or for the appointment of a guardian or receiver or other person (by whatever name called) to exercise powers with respect to his property or affairs; or
- 122.5 if he is absent from meetings of the Directors (or of committees of Directors) continuously for six months without sanction of the Directors and the other Directors resolve that his office be vacated; or
- 122.6 upon the expiry of any period or notice period stated in an agreement for the provision of services between the Company and the Director or if such agreement is summarily terminated in accordance with its terms.
- 123 The Company may by ordinary resolution, passed by a simple majority of the votes validly cast for and against the resolution at a general meeting, remove any Director before the expiration of his period of office notwithstanding anything in this Instrument or in any agreement between the Company and such Director. Such removal shall take effect only upon the satisfaction of either of the conditions appearing in Regulation 21(3) of the OEIC Regulations and shall be without prejudice to any claim such Director may have for damages for breach of any such agreement.

124 Notice of the intention to move a resolution under clause 123 must be given to the Company at least 28 days before the meeting at which it is moved.

125 The Company shall give notice to shareholders of any such resolution at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, shall give them notice by advertisement in a newspaper having an appropriate circulation at least 14 days before the meeting.

126 If, after notice of the intention to move such a resolution has been given to the Company, a meeting is called for a date 28 days or less after the notice has been given, the notice is deemed properly given, though not given within the time required.

127 A vacancy created by the removal of a Director under this section, if not filled at the meeting at which he is removed, may be filled as a casual vacancy.

#### **AMENDMENTS**

128 Amendment may be made to this Instrument by resolution of the Directors to the extent permitted by the FCA Rules.

#### **INCOME EQUALISATION**

129 The following clauses shall apply in respect of shares in issue in respect of the sub funds indicated in Part 2 of the Schedule to this Instrument.

130 Except where the ACD determines otherwise or where the Prospectus of the Company from time to time specifies otherwise an allocation of income (whether annual or interim) to be made in respect of each share to which this clause applies issued by the Company or sold by the ACD during the accounting period in respect of which that income allocation is made shall be of the same amount as the allocation to be made in respect of the other shares of the same class in issue in respect of the same sub fund but shall include a capital sum ("income equalisation") representing the ACD's best estimate of the amount of income included in the price of that share and calculated in accordance with the following clause.

131 The amount of income equalisation in respect of any share to which clause 130 applies shall be either:

131.1 the actual amount of income included in the issue price of that share: or

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

#### **ALLOCATION OF INCOME**

132 Subject to clause 133 the provisions of Part 1 of the Schedule to this Instrument shall apply to each allocation of income made in respect of any sub fund at a time when more than one class of shares is in issue in respect of that sub fund

133 The Company may adopt a method of calculating the amount of income to be allocated between the shares in issue (or the shares in issue in respect of any sub fund) which is different to that which appears in Part 1 of the Schedule to this Instrument provided that the Directors are satisfied that such method is fair to shareholders and that it is reasonable to adopt such method in the given circumstances.

#### **INCOME AND DISTRIBUTIONS**

134 Holders of income shares are entitled to be paid the income attributed to such shares on the relevant interim and annual allocation dates. In the case of accumulation shares, net income is not distributed but retained and accumulated for the benefit of shareholders and this is reflected in the price of such shares.

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

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



- 137 Every such cheque, warrant or order shall be made payable to the person entitled to the monies represented by it or to such person as the relevant holder or the joint holders or relevant person may direct in writing and the payment of such cheque, warrant or order or the transfer by way of direct credit or bank transfer by the bank so instructed by the Company shall be a good discharge to the Company. The Company shall not be responsible for any loss of any cheque, warrant or order or for any error in any transfer by direct debit or bank transfer which in each case shall be sent or transferred at the risk of the person or persons entitled to the money thereby.
- 138 If two or more persons are registered as joint holders of any share, or are entitled jointly to a share in consequence of the death or bankruptcy of the holder or otherwise by operation of law, any one of them may give an effectual receipt for any distribution or other monies payable or property distributable on or in respect of the share.
- 139 No distribution or other monies payable on or in respect of a share shall bear interest against the Company.
- 140 All distributions unclaimed for a period of six years after having become due for payment shall be forfeited and shall revert to the Company. The payment of any unclaimed distribution, interest or other sum payable by the Company on or in respect of a share into a separate account shall not constitute the Company a trustee thereof.

#### **CHEQUES ETC.**

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

## **CHARGES AND EXPENSES**

- 142 Subject to the FCA Rules the expenses of the incorporation and authorisation of the Company, any initial offer of shares, the preparation and printing of any Prospectus issued in connection with such initial offer and the fees for professional services provided to the Company in connection with such initial offer will be borne by the Company (unless borne by some other person) and, if borne by the Company, the costs of the authorisation and incorporation of the Company and of its initial offer or issue of shares (or initial offer or issue of shares in respect of a new sub fund) will be charged to the assets of each sub fund in existence at the relevant time in such proportions as the Directors may determine in accordance with the FCA Rules.
- 143 Charges or expenses of the Company may be taken out of the scheme property of the Company in accordance with the Prospectus and the FCA Rules.
- 144 If the charges and expenses of any share class in any accounting period exceed the income attributable to that share class, such expenses may be taken from the capital property attributable to that share class.

## **NOTICES**

- 145 Subject to clause 146, the provisions within the FCA Rules shall be treated as applying to any notice or document to be given to the Company pursuant to this Instrument.
- 146 A shareholder whose registered address is not within the United Kingdom and who gives the Company an address within the United Kingdom at which notices may be given to him shall be entitled to have notices given to him at that address. If he has not given such an address the Company will give notices to him at his address outside the United Kingdom unless its doing so would contravene any laws or regulations.
- 147 A person entitled to a share in consequence of the death or bankruptcy of a shareholder or other operation of law shall, upon such evidence being produced as may from time to time be lawfully required by the Directors as to his entitlement and upon supplying also an address for the service of notices, be entitled to have served upon or delivered to him at such address any notice or document to which the shareholder but for his death, bankruptcy or other event giving rise to the transmission would have been entitled, and service or delivery

of such notice or document in such way shall be deemed good service on all persons interested (whether jointly with or claiming through or under him) in the share. Save as aforesaid any notice or document delivered or sent by post to or left at the address of any shareholder in accordance with the FCA Rules shall, notwithstanding the death or bankruptcy of such shareholder or other operation of law and whether or not the Company has notice of such state of affairs, be deemed to have been duly served or delivered in respect of any share registered in the name of such shareholder as sole or joint holder.

148 In the case of joint shareholders, any such notice will be given to the holder whose name stands first in the register of shareholders and notice so given shall be sufficient notice to all the joint shareholders.

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

#### **WINDING UP**

150 Subject to any special provisions in the Schedule to this Instrument the rights of the holders of shares to participate in the property comprised in a sub fund on a winding up of the Company or on termination of the sub fund shall be proportionate to the number of units of entitlement in the sub fund represented by the shares which they hold, determined in accordance with Part 3 of the Schedule to this Instrument.

#### **INDEMNITY**

151 Every Director, other officer, auditor or depositary of the Company shall be each indemnified by the Company against any liability incurred by him in defending any proceedings (whether civil or criminal) for negligence, default, breach of duty or breach of trust in each case in relation to the Company in which judgement is given in his favour or he is acquitted or in connection with any application under

Regulation 63 of the OEIC Regulations in which relief is granted to him by the Court; and the indemnity shall not apply to any liability to the extent that it is recovered from another person.

#### **CONFLICT WITH REGULATIONS**

152 In the event of any conflict arising between any provision of this Instrument and the Regulations, the Regulations shall prevail to the intent that this Instrument shall be construed and shall take effect accordingly. In the event of a conflict between the FCA Rules and the OEIC Regulations, the FCA Rules shall prevail.

#### **DURATION OF THE COMPANY**

153 The Company is not to be wound up after the expiry of a particular period of time and shall continue in existence until otherwise wound up in accordance with Rule 7.3 of the FCA Rules.

**THE SCHEDULE**  
**Part 1 - Allocation of Income**

- 1 If there is more than one share class in issue in a sub fund, proportionate value accounts (“Proportional Value Accounts”) shall be maintained for each class. They shall be calculated at each time as at which there is a valuation of the scheme property attributable to the Fund. The purpose of the Proportionate Value Accounts is to calculate the proportion of the value of such scheme property and the proportion of income available for allocation to each share class.
- 2 The Proportionate Value Account for each share class shall comprise a capital account and an income account comprising the capital property and income property which is attributable to that class respectively as if such Accounts were in respect of separate companies, the Net Asset Values being calculated in accordance with Part 3 of this Schedule.
- (a) The capital account shall include:
- (i) the capital of the price paid for shares of the class;
  - (ii) capital appreciation (or a deduction for capital depreciation) attributable to those shares, calculated on a Proportionate Basis (as provided below); and
  - (iii) in the case of accumulation shares, income previously allocated and so accumulated to shares in respect of previous accounting periods;
- (b) The income account shall include:
- (i) an aggregate of income received and receivable (after making such adjustments for taxation and other matters as the ACD considers appropriate) for the account of shares of the class during the current accounting period, calculated on a Proportionate Basis;
  - (ii) less charges and expenses paid or payable out of income property in respect of the current accounting period (and the ACD’s best estimate of relief from tax on such charges and expenses) and directly attributable to that class;

- (iii) less charges and expenses paid or payable out of income property in respect of the current accounting period (and the ACD's best estimate of relief from tax on such charges and expenses) attributable to that class, calculated on a Proportionate Basis;
  - (iv) plus the net income equalisation amount, being the ACD's best estimate of the amounts of income included in the price of shares of that class issued less the amounts of income included in the price of shares of that class redeemed during the current accounting period.
- (c) The capital, income and expenses to be included on a "Proportionate Basis" shall be allocated between the share classes of a sub fund pro rata to the immediately preceding calculations of the values of the Proportionate Value Accounts of those classes
- (d) Proportionate Value Accounts shall be expressed in the currency of denomination of the class concerned or in the currency of denomination of the sub fund, as appropriate. Conversions between currencies shall be at a rate of exchange that is not likely to result in any material prejudice to the interests of shareholders or potential shareholders.

## **Part 2 - Sub funds**

### **HC Charteris Property Fund**

The objective of the Fund is to provide long term income and capital growth from investment in a diversified portfolio of property related investments including property funds, listed securities and REITs.

#### **General**

Each sub fund would belong to the category of “non-UCITS retail scheme” if it were itself an open-ended investment company in respect of which an authorisation order made by the Financial Conduct Authority were in force.

Income equalisation will be applied to all shares in each sub fund.

### Part 3 - Determination of Net Asset Value

The value of the scheme property of the Company or sub fund (as the case may be) shall be the value of its assets less the value of its liabilities determined in accordance with the following provisions.

- 1 All the scheme property (including receivables) is to be included, subject to the following provisions.
  
- 2 Property which is not cash (or other assets dealt with in paragraph 3 below) shall be valued as follows and the prices used shall (subject as follows) be the most recent prices which it is practicable to obtain:
  - (a) units or shares in a collective investment scheme:
    - (i) if a single price for buying and selling units or shares is quoted, at that price; or
    - (ii) if separate buying and selling prices are quoted, at the average of the two prices providing the buying price has been reduced by any initial charge included therein and the selling price has been increased by any exit or redemption charge attributable thereto; or
    - (iii) if, in the opinion of the ACD, the price obtained is unreliable or no recent traded price is available or if no recent price exists, at a value which, in the opinion of the ACD, is fair and reasonable;
  - (b) any other transferable security:
    - (i) if a single price for buying and selling the security is quoted, at that price; or
    - (ii) if separate buying and selling prices are quoted, at the average of the two prices; or
    - (iii) if, in the opinion of the ACD, the price obtained is unreliable or no recent traded price is available or if no price exists, at a value which, in the opinion of the ACD, is fair and reasonable;



(c) property other than that described in (a) and (b) above:

at a value which, in the opinion of the ACD, represents a fair and reasonable mid-market price.

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

4 Property which is a contingent liability transaction shall be treated as follows:

(a) if a written option, (and the premium for writing the option has become part of the scheme property), deduct the amount of the net valuation of premium receivable. If the property is an off-exchange derivative the method of valuation shall be agreed between the ACD and depositary;

(b) if an off-exchange future, include at the net value of closing out in accordance with a valuation method agreed between the ACD and the depositary;

(c) if any other form of contingent liability transaction, include at the net value of margin on closing out (whether as a positive or negative value). If the property is an off-exchange derivative, include at a valuation method agreed between the ACD and the depositary.

5 In determining the value of the scheme property, all instructions given to issue or cancel shares shall be assumed to have been carried out (and any cash paid or received) whether or not this is the case.

6 Subject to paragraphs 7 and 8 below, agreements for the unconditional sale or purchase of property which are in existence but uncompleted shall be assumed to have been completed and all consequential action required to have been taken. Such unconditional agreements need not be taken into account if made shortly before the valuation takes place and, in the opinion of the ACD, their omission will not materially affect the final net asset amount.

7 Futures or contracts for differences which are not yet due to be performed and unexpired and unexercised written or purchased options shall not be included under paragraph 6.

- 8 All agreements are to be included under paragraph 6 which are, or ought reasonably to have been, known to the person valuing the property.
- 9 Deduct an estimated amount for anticipated tax liabilities at that point in time including (as applicable and without limitation) capital gains tax, income tax, corporation tax , value added tax, stamp duty and stamp duty reserve tax.
- 10 Deduct an estimated amount for any liabilities payable out of the scheme property and any tax thereon treating periodic items as accruing from day to day.
- 11 Deduct the principal amount of any outstanding borrowings whenever payable and any accrued but unpaid interest on borrowings.
- 12 Add an estimated amount for accrued claims for tax of whatever nature which may be recoverable.
- 13 Add any other credits or amounts due to be paid into the scheme property.
- 14 Add a sum representing any interest or any income accrued due or deemed to have accrued but not received.