

The Scheme

# **The Affirmative Equity Fund for Charities**

A common investment fund

By Order dated 28 February 2011  
As amended by resolutions effective 13 August 2014 and 22 July 2015

## Common Investment Fund

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## **1 Administration of Charity**

- 1.1 The above-mentioned Charity and the property thereof shall be administered and managed subject to and in accordance with the provisions of this Scheme.
- 1.2 The name of the Charity shall be The Affirmative Equity Fund for Charities or such other name as may be approved by the Commission from time to time and approved by the Manager.

## **2 Interpretation**

In this Scheme, the following expressions shall have the following meanings:

"accounting period" means a period commencing on the day after the date of each balance sheet or interim balance sheet of the Fund and ending on the date of the next following balance sheet or interim balance sheet: provided that the first accounting period after the Fund is established shall be the period beginning with the day on which the Fund is established and ending with the date of the first balance sheet or interim balance sheet;

"accumulation unit" means a unit in the Fund and described as such in this Scheme;

"AIF" refers to an alternative investment fund and has the same meaning as listed in the Glossary to the FCA Handbook;

"AIFM" refers to alternative investment fund managers and has the same meaning as listed in the Glossary to the FCA Handbook;

"AIFMD" refers to the Alternative Investment Fund Managers Directive and has the same meaning as listed in the Glossary to the FCA Handbook;

"AIFMD implementing measures" means (a) The Alternative Investment Fund Managers Regulations 2013 (the "AIFM Regulations"), (b) the Commission Delegated Regulation (EU) 231/2013 of 19 December 2012, supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision (the "Level 2 Regulation"), (c) any other applicable EU regulations made under the AIFMD and (d) rules implementing the AIFMD;

"allocation date" means the date specified in the Scheme Particulars by which the transfer mentioned in clause 32.1 hereof shall be made;

"approved security" has the same meaning as listed in the Glossary to the FCA Handbook (when used in the COLL Sourcebook);

"associate" means in relation to a company: (a) an undertaking in the same group as that company, and (b) a representative or delegate of that company or of any undertaking in the same group, and "group" has the same meaning as in section 43A of the Value Added Tax Act 1994;

"Authorised Corporate Director" has the same meaning as listed in the Glossary to the FCA Handbook;

"authorised unit trust scheme" means a unit trust scheme which is authorised for the purposes of the FSMA by an authorisation order in force under section 243 of that Act;

"business day" means any day on which the London Stock Exchange is normally open for business, being a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday;

"Charity" means both a charity within the meaning of section 1 of the Charities Act and also an "appropriate body" within the meaning of section 97(3) of the Charities Act;

"Charities Act" means the Charities Act 2011;

"Commission" means the Charity Commission for England and Wales;

"collective investment scheme" means a collective investment scheme as defined by section 235(1) of the FSMA;

"COLL Sourcebook" means the New Collective Investment Schemes Sourcebook Instrument 2004 made by the Financial Conduct Authority, as amended or replaced from time to time;

"common deposit fund" means a common deposit fund established under section 100 of the Charities Act or section 25 of the Charities Act 1993 or section 22A of the Charities Act 1960;

"common investment fund" means a common investment fund established under section 96 of the Charities Act or section 24 of the Charities Act 1993 or section 22 of the Charities Act 1960;

"date of the balance sheet" shall be interpreted in the same way as in the Regulations;

"date of the interim balance sheet" means the date determined as such in accordance with the Scheme Particulars;

"Depositary Services Agreement" means the written contract entered into by the Manager and the Trustee to evidence the appointment of the Trustee as depositary of the Fund by the Manager on behalf of the Fund and to reflect the requirements

of Article 83 of the Level 2 Regulation.

"distribution account" means the account referred to in clause 32.1 hereof;

"duty of care" means a duty to exercise such care and skill as is reasonable in the circumstances, having regard in particular to any special knowledge or experience that the person subject to the duty has or holds itself out as having, and, in relation to the Trustee or the Manager, to any special knowledge or experience that it is reasonable to expect of a person acting as a Trustee or a Manager in the course of a business or profession;

"FCA Handbook" means the Handbook of Rules and Guidance issued by the Financial Conduct Authority, as amended or replaced from time to time;

"the FSMA" means the Financial Services and Markets Act 2000;

"Financial Conduct Authority" means the designated agency referred to in section 1A of and Schedule 1ZA to the FSMA;

"full-scope UK AIFM" has the meaning as listed in the Glossary to the FCA Handbook;

"full-scope EEA AIFM" has the meaning as listed in the Glossary to the FCA Handbook;

"Fund" means the common investment fund constituted by this Scheme which is an AIF under the AIFM Regulations;

"FUND Sourcebook" means the Investment Funds Sourcebook made by the Financial Conduct Authority, as amended or replaced from time to time or any relevant successor Sourcebook which imposes similar requirements;

"government and public security" has the same meaning as listed in the Glossary to the FCA Handbook;

"income unit" means a unit in the Fund and described as such in this Scheme;

"independent" means that:

(a) a relevant party is not the same entity as another relevant party and that no director or employer of a relevant party acts as another relevant party or as a director or employee of another relevant party; and

(b) no relevant party nor any director or employee of a relevant party shall (without the prior written consent of the Commission) hold, either directly or indirectly, more than 15% of the voting share capital of any other relevant party; and

(c) there is no contractual commitment between any relevant parties which affects the independence of those relevant parties in relation to each other;

"Manager" means the body corporate appointed Manager in this Scheme, or any successor body appointed pursuant to clause 24 or 25 of this Scheme, being a body which is (a) authorised or has applied to be authorised by the Financial Conduct Authority to act as a manager of an AIF; (b) a full-scope UK AIFM or full-scope EEA AIFM; and (c) independent of the Trustee;

"near cash" has the same meaning as listed in the Glossary to the FCA Handbook;

"non-UCITS retail scheme" has the same meaning as listed in the Glossary to the FCA Handbook;

"OEIC" means an open-ended investment company within the meaning of section 236 of the FSMA;

"Participating Charity" means a charity to which units in the Fund have been, and continue to be, allocated;

"power of intervention" includes:

(a) a power to give directions to a delegate, agent, nominee or custodian;

(b) a power to revoke the authorisation or appointment of a delegate, agent, nominee or custodian;

"recognised scheme" has the same meaning as listed in the Glossary to the FCA Handbook;

"Registrar" means a corporate body appointed by the Trustee as Registrar from time to time for the purpose of maintaining the register of Participating Charities under clause 26 of this Scheme;

"Regulations" means the Charities (Accounts and Reports) Regulations 2008, as amended or replaced from time to time;

"Scheme Particulars" means the rules and particulars of the Fund made under clause 41 of this Scheme, as amended or replaced from time to time;

"transferable security" has the same meaning as listed in the Glossary to the FCA Handbook (when used in the COLL Sourcebook);

"Trustee" means the body corporate appointed Trustee in this Scheme, or any successor body appointed pursuant to clause 23 or 25 of this Scheme, being a body which is (a) authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority to act as a depositary of an AIF, and (b) independent of the Manager;

"UCITS Directive" has the same meaning as listed in the Glossary to the FCA Handbook;

"units" means income units and/or accumulation units in the Fund or, where the context indicates, an investment which

represents the right or interest (however described) of the participants in a collective investment scheme;

"valuation dates" means those dates on which the Manager shall value the Fund for the purposes of permitting the creation and cancellation of units.

### **3 Object**

The object of the Fund shall be the provision of a common investment fund for the investment of sums of money and other property from time to time transferred to the Fund by or on behalf of a Participating Charity: Provided that the Participating Charities shall be entitled, subject to the provisions of this Scheme, to the capital and income of the Fund in shares determined by reference to the amount or value of the moneys or property transferred to the Fund by or on behalf of each Participating Charity and to the value of the Fund at the time of the transfers.

### **4 Units**

The shares of the Participating Charities in the Fund shall consist of units (including fractions of a unit), each unit representing one undivided share in the property of the Fund, except in the circumstances mentioned in clause 5.2 below.

### **5 Types of units**

5.1 Units may be of two types:

(a) income units, in respect of which an appropriate part of the property of the Fund is distributed periodically to Participating Charities; and

(b) accumulation units, in respect of which an appropriate part of the property of the Fund is credited periodically to the capital of the Fund.

5.2 When both income and accumulation units are in issue, that part of the property of the Fund which is allocated to the accumulation units in accordance with the provisions of clause 32.4 shall be accumulated and capitalised by the Trustee, and the Trustee shall at the same time increase the number (including fractions) of undivided shares which together constitute the accumulation units then in existence in accordance with clause 32.5. Any accumulation units issued thereafter shall each represent when issued the same number (including fractions) of undivided shares in the capital of the property of the Fund as each other accumulation unit then in existence.

5.3 Subject to the AIFM implementing measures, FSMA and the FCA Handbook, the Manager may at its discretion vary the terms of investment for an investor or number of investors which may amount to preferential treatment for the purposes of the FUND Sourcebook, as disclosed for the purposes of FUND 3.2.2R.

### **6 Qualification to participate**

Subject to section 99(2) of the Charities Act, any Charity shall be qualified to participate in the Fund. Any Charity applying to participate may be required by the Trustee to give a declaration of eligibility to participate and an indemnity against liabilities arising out of its ineligibility.

### **7 Application of AIFMD to the Manager and Trustee**

7.1 The duties and requirements imposed upon the Trustee and the Manager under this Scheme must be performed in compliance with, and subject to, any additional duties and requirements imposed upon the Manager and the Trustee under the AIFMD implementing measures. This will constitute the regulation of the Fund as an investment fund. The Commission will only regulate the Fund as a charity.

7.2 If there is any conflict between the standards and liability imposed upon the Manager and the Trustee under this Scheme and the standards and liability imposed upon the Manager and the Trustee under the AIFMD implementing measures, the standards and liability imposed upon the Manager and the Trustee under the AIFMD implementing measures will prevail.

7.3 Any rights or discretion exercisable by the Trustee or the Manager under this Scheme are exercisable only to the extent permitted by the AIFMD implementing measures.

### **8 Trustee**

The body corporate called HSBC Bank plc is the Trustee of the Fund.

## **9 Scope of responsibility**

- 9.1 The Trustee shall be responsible for those aspects of the administration and management of the Fund and its property which are specified in clause 10 of this Scheme. To the extent of those duties and powers, the Trustee is a charity trustee of the Fund within the meaning of the Charities Act.
- 9.2 The Manager and the Trustee shall enter into a Depositary Services Agreement to comply with Article 21 of the AIFMD and with the Level 2 Regulation to set out the terms of the appointment of the Trustee as depositary of the Fund.
- 9.3 To the extent permitted by Regulation 32(2) of the AIFM Regulations and any applicable law, rule or regulation, the Manager may authorise a Trustee appointed by or in respect of the Fund, to discharge itself of liability under Regulation 30(2) of the AIFM Regulations, provided that the conditions set out in Regulation 32(2) of the AIFM Regulations are met.

## **10 Duties and powers of Trustee**

- 10.1 The Trustee shall comply with the duty of care when exercising its powers and discharging its duties under this Scheme.
- 10.2 The following are the duties and powers of the Trustee -
- (a) the supervision and oversight of the Manager's compliance with this Scheme and the Scheme Particulars. In particular, the Trustee shall be satisfied on a continuing basis that the Manager is competently exercising the powers and competently discharging the duties conferred or imposed on it by or pursuant to the provisions of this Scheme, and that the Manager is maintaining adequate and proper records: Provided that the Trustee's duty in relation to supervising the Manager's functions under clause 17.2 is limited to ensuring that decisions about the constituents of the property of the Fund do not exceed the power of investment conferred on the Manager;
  - (b) the supervision and oversight of any Registrar or other delegate which it has appointed in accordance with the provisions of this Scheme;
  - (c) the custody and control of the property of the Fund and the collection of all income due to the Fund in accordance with clause 11;
  - (d) the creation and cancellation of units in accordance with the instructions of the Manager (except where the Scheme Particulars permit the Trustee to disregard those instructions);
  - (e) the appointment of a Registrar in accordance with clause 26.4;
  - (f) making distributions to Participating Charities holding income units and making allocations to Participating Charities holding accumulation units in proportion to their respective shares in the property of the Fund;
  - (g) the appointment or dismissal of any person or persons engaged by the Trustee in connection with the Fund;
  - (h) the making of an annual report on the discharge of its responsibilities for the management of the Fund;
  - (i) applying to the Commission for an order to remove the Manager and an order to appoint a new Manager;
  - (j) winding up the Fund.
- 10.3 The Trustee shall take all steps and execute all documents as are necessary to secure that instructions properly given to it by the Manager are carried out as to the exercise of rights (including voting rights) attaching to the ownership of property of the Fund.
- 10.4 The Trustee shall take all steps and execute all documents which are necessary to secure that the purchases and sales of investments for or of the Fund are properly completed.
- 10.5 The Trustee shall maintain such records as are necessary to enable it to comply with this Scheme and with section 130 of the Charities Act and to demonstrate that such compliance has been achieved.
- 10.6 The duties which are imposed on the Trustee by this Scheme are in addition to the duties which are otherwise imposed on charity trustees by law, and where the duties imposed by the general law have been qualified or restricted by this Scheme, the Scheme provisions shall apply so far as the general law may permit.

## **11 Income of the Fund**

The Trustee is responsible for the collection of any income due to be paid to the Fund and for claiming any repayment of tax which may be due, and shall hold any income received in trust for the Participating Charities in accordance with this Scheme.

## **12 Oversight and supervision of the Manager by the Trustee**

- 12.1 The Trustee shall oversee and supervise the Manager's compliance with this Scheme as provided in clause 10.2 (a).
- 12.2 The Trustee shall not be responsible for the acts or defaults of the Manager in the exercise of the powers conferred on the Manager by this Scheme, or in the discharge of the duties imposed on the Manager by this Scheme, if the Trustee has complied with the duty of care when satisfying itself as to the matters specified in clause 10.2(a).
- 12.3 If the Trustee is not satisfied at any time as to the Manager's compliance with this Scheme or the Scheme Particulars, the Trustee shall inform the Commission promptly and in writing.
- 12.4 If the Trustee is not satisfied at any time as to the Manager's compliance with the applicable requirements of the AIFMD implementing measures, the Trustee shall inform the Financial Conduct Authority promptly and in writing.

## **13 Delegation by the Trustee**

- 13.1 Any delegation by the Trustee shall comply with the applicable requirements of the AIFMD implementing measures.
- 13.2 The Trustee shall not delegate any function of oversight of the Manager to an associate of the Manager.
- 13.3 The Trustee shall require any delegate to report regularly to the Trustee on its performance of the functions delegated.
- 13.4 While the delegate continues to act for the Fund, the Trustee-
- (a) shall keep under review the arrangements under which the delegate acts and how those arrangements are being put into effect;
  - (b) if circumstances make it appropriate to do so, shall consider whether there is a need to exercise any power of intervention that it has; and
  - (c) if it considers that there is a need to exercise such a power of intervention, shall do so.
- 13.5 The Trustee shall keep the Manager informed of any delegation of its functions.
- 13.6 The Trustee shall be vicariously liable for the acts and defaults of the Manager when the Manager acts as the Trustee's delegate, but shall otherwise be liable for the acts and defaults of a delegate only if and insofar as it has failed to comply with the duty of care when selecting the person who is to act, when determining any terms on which the delegate is to act, or when carrying out its duties under sub-clause 13.4 of this clause.

## **14 Title to Property**

All investments of the Fund, whether held in the name of the Trustee, or in the name of a nominee, shall be held on trust for the Participating Charities in such a manner that it is readily apparent that they are held by or on behalf of the Fund, and so that -

- 14.1 the property of the Fund shall be segregated in the records of the Trustee, or of its nominee as the case may be, from any other property which is held by the Trustee or its nominee;
- 14.2 where a nominee is appointed, the investments to which the Fund is entitled shall be separately identifiable from other property held by the nominee.

## **15 Manager**

The body corporate called Epworth Investment Management Limited is the Manager of the Fund.

## **16 Scope of responsibility of the Manager**

The Manager shall be responsible for those aspects of the administration and the management of the Fund and its property which are specified in clause 17 hereof. To the extent of those duties and powers, the Manager is a charity trustee of the Fund within the meaning of the Charities Act. For the avoidance of doubt the Manager shall be the AIFM and shall have the responsibility of ensuring compliance with the requirements of the AIFMD implementing measures so far as it is required to do so by the same.

## **17 Duties and powers of Manager**

- 17.1 The Manager shall comply with the duty of care when exercising its powers and discharging its duties under this Scheme.
- 17.2 The Manager shall have all the duties and powers relating to the administration and management of the Fund (except the

duties and powers of the Trustee set out in clause 10.2 hereof) and in particular, the following are the duties and powers of the Manager -

- (a) giving instructions to the Trustee with respect to the creation and cancellation of units;
- (b) the management of the investments of the Fund in conformity with the written statement of the investment policy of the Fund made in conformity with clause 36.4 hereof;
- (c) the duty to carry out regular valuations of the property of the Fund as required by this Scheme and to ensure that the units are correctly priced;
- (d) the making and revision of the written statement of the investment policy of the Fund as required by this Scheme;
- (e) the making and revision of the Scheme Particulars in accordance with clause 41 hereof;
- (f) keeping a daily record of units, including the type of such units, which the Manager has purchased or sold on behalf of the Trustee;
- (g) making all records held by the Manager in respect of the Fund available for inspection by the Trustee free of charge at all times during the business day and supplying the Trustee with a copy or copies of any record without charge;
- (h) preparing a report and accounts of the Fund in respect of every accounting period;
- (i) the appointment of the auditor of the Fund and settling his terms of engagement;
- (j) the making and revision of the written statement of the investment objectives of the Fund and details of such investment objectives shall be included in the Scheme Particulars;
- (k) the supervision and oversight of any delegate which it has appointed in accordance with the provisions of this Scheme;
- (l) taking all other action as necessary for the administration and management of the Fund other than those duties or powers which have been imposed or conferred on the Trustee by this Scheme.

17.3 The Manager shall maintain such records as are necessary to enable it to comply with this Scheme and with section 130 of the Charities Act and to demonstrate that such compliance has been achieved.

17.4 The duties which are imposed on the Manager by this Scheme are in addition to the duties which are otherwise imposed on charity trustees by law, and where the duties imposed on charity trustees by the general law have been qualified or restricted by this Scheme, the Scheme provisions shall apply so far as the general law may permit.

## **18 Delegation by the Manager**

18.1 The Manager may delegate any of its functions to the extent permitted by the AIFMD implementing measures to any person, subject to any restriction imposed by or under the provisions of this Scheme.

18.2 The Manager shall require any delegate to report regularly to the Manager on its performance of the functions delegated.

18.3 While the delegate continues to act for the Fund, the Manager -

- (a) shall keep under review the arrangements under which the delegate acts and how those arrangements are being put into effect;
- (b) if circumstances make it appropriate to do so, shall consider whether there is a need to exercise any power of intervention that it has; and
- (c) if it considers that there is a need to exercise such a power of intervention, shall do so.

18.4 The Manager shall keep the Trustee informed of any delegation of its functions.

18.5 The Manager shall be vicariously liable for the acts and defaults of the Trustee when the Trustee acts as the Manager's delegate, but shall otherwise be liable for the acts and defaults of a delegate only if and insofar as it has failed to comply with the duty of care when selecting the person who is to act, when determining any terms on which the delegate is to act, or when carrying out its duties under sub-clause 18.3.

## **19 Timely discharge of duties**

The Trustee and the Manager shall discharge their respective duties imposed by this Scheme with due dispatch unless delay is both lawful and in the interests of the Participating Charities.

## **20 Expenses**

20.1 The Trustee and the Manager shall be entitled to retain out of the property of the Fund any reasonable costs or expenses

incurred by them in managing, administering or winding up the Fund. Such reasonable costs or expenses may be drawn from the property of the Fund as and when they occur.

- 20.2 The Scheme Particulars and any publicity or marketing material about the Fund shall make clear that these costs and expenses will be charged to the property of the Fund in addition to the charges which are made to the Fund in accordance with clauses 21 and 22 hereof.

## **21 Remuneration of Trustee**

- 21.1 The Trustee shall be paid remuneration out of property of the Fund at a rate to be determined in accordance with the Scheme Particulars. Such remuneration shall be provided for out of a periodic charge in a manner determined in accordance with the Scheme Particulars.
- 21.2 The actual and maximum rate of the periodic charge and the method of its calculation shall be specified in the Scheme Particulars. Participating Charities shall be given a period of notice (which shall not be less than 90 days) specified in the Scheme Particulars of any proposed increase in the actual or maximum amount of the periodic charge.

## **22 Remuneration of Manager**

- 22.1 The Manager shall be paid remuneration out of property of the Fund at rates to be determined in accordance with the Scheme Particulars. Such remuneration shall be provided for out of one or more of –
- (a) a preliminary charge to be included in the price at which units may be purchased;
  - (b) a periodic charge;
  - (c) a redemption charge payable by way of deduction from the proceeds of sale of units; in a manner determined in accordance with the Scheme Particulars.
- 22.2 The actual and maximum rate of each type of charge and the method of its calculation shall be specified in the Scheme Particulars. Participating Charities shall be given a period of notice (which shall not be less than 90 days) specified in the Scheme Particulars of any proposed increase in the actual or maximum amount of any charge.

## **23 Retirement of Trustee**

If the Trustee wishes to retire, it shall give notice of its intention to retire to both the Commission and the Manager. The Trustee shall give such notice of intention to retire if it ceases to be qualified in accordance with this Scheme. The Manager shall use its best endeavours to find a body corporate which is so qualified to act and which is willing to be appointed Trustee in place of the retiring Trustee. The Trustee shall only be discharged from the provisions of this Scheme after the Trustee and the Manager have appointed a person who is eligible under the AIFMD implementing measures to be the Trustee of the Fund.

## **24 Retirement of Manager**

If the Manager wishes to retire, it shall give notice of its intention to retire to both the Commission and the Trustee. The Manager shall give such notice of intention to retire if it ceases to be qualified in accordance with this Scheme. The Trustee shall use its best endeavours to find a body corporate which is so qualified to act and which is willing to be appointed Manager in place of the retiring Manager. The Manager shall only be discharged from the provisions of this Scheme after the Manager and the Trustee have appointed a person eligible to act as the Manager of the Fund.

## **25 Replacement of Manager or Trustee**

- 25.1 If the Trustee is of the opinion for good and sufficient reason that a change of Manager is desirable in the interests of the Participating Charities, it shall apply to the Commission for an order to discharge the Manager from the provisions of this Scheme and shall serve on the Manager a notice of that application. The Trustee shall use its best endeavours to find a body corporate which is qualified to act as Manager of the Fund under this Scheme, and which is willing to be appointed Manager in place of the retiring Manager. The Manager, prior to its discharge, shall be required to make a written statement of any circumstances connected with its discharge as the Manager which it considers should be brought to the attention of the Commission or, if the Manager considers that there are no such circumstances, to make a written statement that there are none. The Manager shall only be discharged from the provisions of this Scheme by an order of the Commission, and any new Manager shall be appointed by an order of the Commission.
- 25.2 If the Manager is of the opinion for good and sufficient reason that a change of Trustee is desirable in the interests of the Participating Charities, it shall serve on the Trustee a notice of the proposed change. The Manager shall use its best

endeavours to find a body corporate which is qualified to act as Trustee of the Fund under this Scheme, and which is willing to be appointed Trustee in place of the retiring Trustee. The Trustee shall only be discharged from the provisions of this Scheme and a new Trustee appointed by a deed entered into by the Manager and the new Trustee.

## **26 Register**

- 26.1 The Trustee shall keep a register in which it shall record the name of each Participating Charity and the number and type of units from time to time allocated to it. The register may include such other particulars as may be prescribed by the Scheme Particulars.
- 26.2 The Trustee shall not be obliged to issue any document of title as to the ownership of units, but may issue unit certificates to all Participating Charities in respect of their holdings of units and shall, at the request of any Participating Charity, certify the number and type of units so allocated.
- 26.3 The register shall be available for inspection by or on behalf of the Participating Charities free of charge during normal office hours except that the register may be closed at such times and for such periods (not exceeding 30 days in any one year) as the Trustee may from time to time determine.
- 26.4 The Trustee may appoint and pay a body corporate as Registrar to carry out the functions mentioned in sub-clauses 26.1 to 26.3 of this clause on behalf of the Trustee.

## **27 Pricing of units**

The Manager shall be under a continuing obligation to ensure that units are bought or sold at a price related to the net asset value of the Fund. Units shall be priced on either a forward or a historic basis as described in the COLL Sourcebook. The Manager shall determine the prices of income units and accumulation units (if such units be in issue) at the time of creation and cancellation of units respectively in accordance with the Scheme Particulars made under clause 41 hereof. The Scheme Particulars shall contain an explanation of the policy and method of pricing units, including in particular the following:

- (a) whether units are priced on a forward or historic basis;
- (b) whether units are single or dual priced;
- (c) whether or not the charges referred to in clause 22 are included in the prices for income units and accumulation units (if these units are in issue) and, if so, what these charges are.

## **28 Publication of prices**

The Manager shall make arrangements for the publication, in at least one national newspaper in England and Wales or on the internet, of the buying price and maximum selling price (as determined in accordance with the Scheme Particulars) together with the current preliminary charge (if there is one) on the business day after any valuation. The manner of such publication shall be prescribed in the Scheme Particulars.

## **29 Valuation of the property of the Fund**

For the purposes of determining the prices at which units may be created, or cancelled, the Manager shall ensure that a valuation of the property of the Fund in accordance with the AIFMD implementing measures is regularly carried out.

## **30 Valuation at the date of the balance sheet and interim balance sheet**

The Manager shall carry out a valuation of the property of the Fund in accordance with the AIFMD implementing measures on the date of each balance sheet and interim balance sheet if a valuation is not carried out on that date in accordance with the previous clause.

## **31 Method of valuation**

All valuations under clauses 29 and 30 of this Scheme shall be carried out in accordance with the Scheme Particulars (subject to the requirements of the Financial Conduct Authority contained in the COLL Sourcebook or as may otherwise be required by the Financial Conduct Authority). The Scheme Particulars shall contain an explanation of the policy and method of calculation adopted by the Manager for valuation of the property of the Fund, including in particular the following:

- (a) when the valuations are to be carried out;
- (b) how the valuations are to be carried out;

(c) how adjustments for tax and other accrued credits and liabilities have been made.

### **32 Allocation**

- 32.1 After the date of each balance sheet and the date of each interim balance sheet (but on or before the allocation date), the Trustee shall transfer out of the property of the Fund to an account to be known as 'the distribution account', a sum (if any) which is calculated in accordance with the Scheme Particulars.
- 32.2 The allocation date shall be determined in accordance with the Scheme Particulars.
- 32.3 Subject to the provisions of clause 33 hereof, the funds in the distribution account shall be allocated to the Participating Charities in accordance with the following provisions of this clause.
- 32.4 Where both income units and accumulation units are in issue, the Trustee shall on or before each allocation date allocate the funds in the distribution account between income units and accumulation units according to the respective shares in the property of the Fund represented by the income units and accumulation units in existence at the end of the relevant accounting period.
- 32.5 The funds allocated to accumulation units shall, with effect from the end of the accounting period in respect of which the allocation is made, be capitalised and the interests of the Participating Charities holding accumulation units shall be satisfied by an increase, as at the end of the period, in the number of undivided shares in the property of the Fund which an accumulation unit represents.
- 32.6 On or before each allocation date, the Trustee shall distribute the funds allocated to the Participating Charities holding income units rateably in accordance with the number of such units held by them respectively at the end of the relevant accounting period.

### **33 Distribution Equalisation Reserve**

- 33.1 For the purpose of avoiding fluctuations in the amounts distributed in accordance with the preceding clause, the Trustee may create and maintain in the accounts of the Fund a Distribution Equalisation Reserve in accordance with the following provisions of this clause.
- 33.2 The Trustee may deduct from any sum in the distribution account such amount as it thinks fit not exceeding half of that sum and, where it does so, will credit to the Distribution Equalisation Reserve the amount deducted.
- 33.3 The Trustee may add to any sum in the distribution accounts all or any part of the amount standing to the credit of the Distribution Equalisation Reserve and, where it does so, it shall debit the Distribution Equalisation Reserve with the amount thus added.
- 33.4 Any income earned by placing on deposit or otherwise investing money standing to the credit of the Distribution Equalisation Reserve shall be treated as income of the Fund and dealt with accordingly.

### **34 Income equalisation**

- 34.1 An allocation to be made in respect of each unit created during the accounting period in respect of which that allocation is made shall include a capital sum representing the Manager's best estimate of the amount of income included in the creation price.
- 34.2 The amount of income equalisation may be the actual amount of the income in question or it may be an amount arrived at by taking the aggregate of the amounts of income included in the creation price in respect of units created in the relevant accounting period and dividing that aggregate by the number of those units and applying the resultant average to each of the units in question.

### **35 Method of distribution**

- 35.1 Any moneys payable by the Trustee to a Participating Charity in respect of any income unit may be paid by crossed cheque or warrant made payable to the account of that Charity or of the Trustees of that Charity and may be sent by post.
- 35.2 The trustees of a Participating Charity may authorise the Trustee to make a payment by any other means.

### **36 Powers of investment**

- 36.1 Any property of the Fund for the time being available for investment shall be invested in the name of the Trustee or a nominee in accordance with the provisions of this Scheme.
- 36.2 Subject to clauses 39 and 40, the Manager may invest the property of the Fund at its discretion in any kind of investment

which it could make if it were absolutely entitled to the property of the Fund.

36.3 The Manager shall have regard -

- (a) to the need for diversification of investments, insofar as is appropriate to the circumstances of the Fund; and
- (b) to the suitability to the Fund of investments of the description of investment proposed and of the investment proposed as an investment of that description.

36.4 The Manager shall make, and from time to time as necessary revise, a written statement of the investment policy of the Fund and shall promptly supply a copy thereof to the Trustee. The statement of investment policy shall include, among other things, the Manager's policy for the Fund in the following matters:

- (a) securing compliance with sub-clause 36.3;
- (b) the kinds of investments to be held;
- (c) the balance between different kinds of investments;
- (d) risk;
- (e) the expected return on investments; and
- (f) the realisation of investments.

36.5 The Manager shall at all times keep the investments of the Fund under review and may at any time in its discretion realise, exchange or otherwise dispose of any investment either to raise cash or for investment in accordance with this Scheme.

36.6 The Manager shall not exercise any power to invest the Fund other than that provided by this Scheme and in conformity with the statement of investment policy made in accordance with sub-clause 36.4.

### **37 Cash**

To the extent that it is not otherwise permitted under the provisions of this Scheme, the property of the Fund may include cash and near cash where this may reasonably be regarded as necessary in order to facilitate the cancellation of units, or to further the efficient management of the Fund, or otherwise to enable the Manager to discharge its functions under this Scheme.

### **38 Borrowing**

38.1 The Manager may borrow temporarily for the purpose of meeting payments to be made out of the Fund.

38.2 The Manager may use the powers of land acquisition and management in the Trusts of Land and Appointment of Trustees Act 1996, but where those powers are used to borrow in connection with the acquisition or management (including improvement) of any land and if any such borrowing would cause the total outstanding borrowings under the authority of those powers to exceed 25% of the net asset value of the property of the Fund as at the date of the borrowing, the prior written consent of the Trustee shall be obtained.

### **39 Investment in in-house Funds**

39.1 The Manager shall not invest the property of the Fund in units in a collective investment scheme or in a common deposit fund which is managed or operated by itself or by an associate of itself or by the Trustee or by an associate of the Trustee or, where the scheme is a company, of which the Manager or the Trustee is the Authorised Corporate Director or an associate of the Authorised Corporate Director, except to the extent permitted by the following provisions of this clause.

39.2 The Manager may invest the property of the Fund in units in a collective investment scheme or in a common deposit fund, provided that:-

- (a) where any charge is made in respect of such a scheme by any person involved in the management or administration of the scheme, whether by way of preliminary charge, periodic charge, redemption charge or any other permitted charge, the amount of such charge is paid to the Fund; and
- (b) if the Manager pays more for the units in the scheme than the prevailing creation price, the Manager shall pay to the Fund the full amount of the difference.

39.3 The Manager may invest the property of the Fund in shares in a collective investment scheme which is an OEIC, provided that:-

- (a) the amount of any preliminary charge or redemption charge paid to the Authorised Corporate Director on the acquisition or redemption of shares in the OEIC by the Fund is paid to the Fund; and

(b) the amount of any other remuneration in respect of the shares acquired by the Fund paid to the Manager or Authorised Corporate Director is paid to the Fund.

39.4 The Manager shall not invest the property of the Fund in any other investment in which the Manager or an associate of the Manager has any interest (whether by virtue of operating or managing the investment or otherwise) without the prior written consent of the Trustee.

39.5 The Manager shall not invest the property of the Fund under any of the preceding three sub-clauses unless the Scheme Particulars of the Fund clearly states that the property of the Fund may include such units or shares.

#### **40 Investment Restrictions**

40.1 Subject to sub-clause 40.2 below, the Manager shall not invest the property of the Fund in transferable securities which are not approved securities, or in units in a collective investment scheme (hereinafter referred to as "the second scheme") unless the second scheme meets each of the requirements in (a) to (d) below:

(a) the second scheme:

- (i) complies with the conditions necessary for it to enjoy the rights conferred by the UCITS Directive; or
- (ii) is a non-UCITS retail scheme; or
- (iii) is a recognised scheme; or
- (iv) is constituted outside the United Kingdom and the investment and borrowing powers of which are the same or more restrictive than those of a non-UCITS retail scheme; or
- (v) is a common investment fund;

(b) the second scheme operates on the principle of the prudent spread of risk;

(c) the second scheme is prohibited from having more than 15% in net asset value of the property of that scheme consisting of units in collective investment schemes; and

(d) the participants in the second scheme shall be entitled to have their units redeemed in accordance with that scheme at a price:

- (i) related to the net asset value of the property to which the units relate; and
- (ii) determined in accordance with that scheme.

40.2 The Manager may invest not more than a total of 20% of the net asset value of the property of the Fund as at the date of the investment:

(a) in units in the second scheme not falling within sub-clause 40.1(a) but falling within sub-clauses 40.1(b) to 40.1(d) above, and

(b) in any transferable securities which are not approved securities.

40.3 The Manager shall not invest more than 35% of the net asset value of the property of the Fund as at the date of the investment in any one collective investment scheme.

40.4 The Manager shall not invest more than 10% of the net asset value of the property of the Fund as at the date of the investment in transferable securities issued by any single body, other than government and public securities.

#### **41 Scheme Particulars**

41.1 The Manager shall make written Scheme Particulars for the purpose of:

(a) supplementing the provisions of clauses 20, 21, 22, 26, 27, 28, 29, 31 and 32.1 and 32.2 of this Scheme as indicated in those clauses which shall as far as reasonably possible include details of all identifiable costs and expenses;

(b) supplementing the other provisions of this Scheme if, in its opinion, that may be necessary to enable the Fund to operate effectively;

(c) modifying or relaxing any duty to account to the Fund which may result from a conflict of interest and duty on the part of the Trustee, the Manager or other person;

(d) providing for the holding and constitution of meetings of Participating Charities for such purposes as the Trustee may consider appropriate;

(e) supplementing the information given by or under the provisions of this Scheme about the constitution, objectives and operation of the Fund which shall include (where applicable) the asset allocation policy, the sector allocation policy, the geographical allocation policy, and any restrictions or limitations on investment that are additional to those imposed by this

Scheme.

- 41.2 Scheme Particulars made for the purpose of supplementing the provisions of clause 21 or 22 (save for increases to the periodic charges payable under those clauses up to the maximum periodic charge currently set out therein) or for modifying or relaxing any duty to account to the Fund which may result from a conflict of interest and duty on the part of the Trustee, the Manager or other person shall be subject to the prior written approval of the Commission.
- 41.3 No provision in the Scheme Particulars shall be inconsistent with this Scheme.
- 41.4 The Scheme Particulars shall be revised from time to time by the Manager, subject to the prior written approval of the Commission in the case of Scheme Particulars revised for the purposes specified in sub-clause 41.2, and copies of the Scheme Particulars, or any amendments, shall be supplied free of charge to the Commission, the Trustee and the Participating Charities.

## **42 Miscellaneous**

- 42.1 The Trustee may decide conclusively any question arising under this Scheme as to -
- (a) the rights of Participating Charities;
  - (b) whether any property of the Fund is income or capital;
  - (c) the value of any property of the Fund; or
  - (d) the time to which any incoming resource, liability or expense is to be attributed.
- 42.2 Where any institution to which any number of units in the Fund is for the time being allocated ceases to be a Charity qualified in accordance with clause 6 to participate in this Fund, the provisions of this Scheme shall have effect as if such institution -
- (a) continued to be a Charity so qualified;
  - (b) elected to realise all those units with effect from the next following valuation date; and
  - (c) indemnified the Fund against any liability arising upon such institution ceasing to be a Charity so qualified.
- 42.3 The Manager shall make available to investors in the Fund the information set out in FUND 3.2.2R before they invest in the Fund, as well as any material change thereof.

## **43 Accounts and report**

- 43.1 For the purposes of Part 8 of the Charities Act (other than section 130) and of the Regulations (other than the provisions relating to audit), the Manager (and no other person) shall be considered the charity trustee of the Fund within the meaning of the Charities Act.
- 43.2 The Manager shall prepare and submit to the Commission in respect of each financial year of the Fund a statement of accounts and annual report complying with the requirements of the Charities Act and the Regulations. The Manager shall also prepare a half-yearly report and accounts for the Fund made up to the date of the interim balance sheet, a copy of which shall be supplied to the Commission.
- 43.3 The Manager shall cause the accounts in respect of each financial year to be audited by an auditor appointed by the Manager and of the type specified in the AIFMD implementing measures.

## **44 Winding up**

If the Trustee is of the opinion that it is expedient in the interests of the Participating Charities to wind up the Fund, the Trustee may execute a written declaration that the Fund is to be wound up, and if it does so, it shall -

- (a) forthwith send a copy of the declaration to the Commission and to the Manager and publish it in such manner (if any) as the Commission may direct;
- (b) inform the Participating Charities in writing that the Fund is to be wound up; and
- (c) as soon as practicable after the Fund falls to be wound up, realise the property of the Fund. After paying out of the Fund, or retaining adequate provision out of the Fund for, all liabilities properly payable out of the Fund and the costs of the winding up, the Trustee shall distribute that part of the proceeds of the realisation represented by income units to the Participating Charities holding income units immediately before the date of the declaration pro rata to such holdings, and that part of the proceeds of the realisation represented by accumulation units to the Participating Charities holding accumulation units immediately before that date pro rata to such holdings.

**45 Commencement of Scheme**

The provisions of this Scheme shall come into force on 22 July 2015.

**46 Questions under Scheme**

Any questions as to the construction of this Scheme, or as to the regularity or the validity of anything done or proposed to be done under this Scheme, may be determined by the Commission upon sufficient application to it by the Trustee or the Manager.