



Banc Ceannais na hÉireann  
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# AIF RULEBOOK

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## DEFINITIONS

For the purposes of the AIF Rulebook the following interpretations and definitions shall apply:

**AIF:** An alternative investment fund as defined in Regulation 5(1) of the AIFM Regulations.

**AIFM:** An alternative investment fund manager as defined in Regulation 5(1) of the AIFM Regulations.

**AIF management company:** A company whose regular business is the collective portfolio management of AIFs.

**AIFMD:** Alternative Investment Fund Managers Directive (Directive 2011/61/EU) as amended.

**AIFMD Level 2:** Commission Delegated Regulation (EU) No 231/2013.

**AIFM Regulations:** European Union (Alternative Investment Fund Managers) Regulations 2013 (SI No. 257 of 2013).

**AIF Rulebook:** The Central Bank's rulebook in relation to AIFs which contains chapters concerning Retail Investor AIF, Qualifying Investor AIF, AIF Management Companies, , Alternative Investment Fund Managers and AIF Depositaries.

**Associated company:** This term has the same meaning as is given to "associated undertaking" in the European Communities (Companies: Group Accounts) Regulations, 1992 (S.I. No. 201 of 1992). In general this states that companies are associated where a significant influence may be exercised by one company over the operating and financial policy of another. This is deemed to be the case where 20 % or more of the voting rights in one company are owned directly or indirectly by another.

**Authorised AIF:** AIF authorised by the Central Bank under the investment fund legislation.

**Authorised AIFM:** An AIFM which has been authorised under the AIFMD.

**Base currency:** The currency of denomination of the authorised AIF, as set out in the prospectus of the authorised AIF.



**Category 1 investment fund:** An investment fund which is one of the following:

- investment funds established in a Member State of the European Union which are authorised under Directive 2009/65/EC;
- investment funds established in a Member State of the European Economic Area which are authorised under domestic legislation implementing Directive 2009/65/EC;
- investment funds established in Guernsey and authorised as Class A Schemes;
- investment funds established in Jersey as Recognised Funds;
- investment funds established in the Isle of Man as Authorised Schemes;
- Retail Investor AIF authorised by the Central Bank.

**Category 2 investment fund:** An investment fund which is one of the following and in relation to which an authorised AIF has confirmed to the Central Bank in writing that the investment fund complies in all material respects with requirements applicable to Retail Investor AIF.

Investment funds:

- authorised in a Member State of the European Union;
- established in Guernsey and authorised as Class B Schemes;
- established in Jersey which are not Recognised Funds;
- established in the Isle of Man as unauthorised schemes;
- authorised by the US Securities and Exchanges Commission under the Investment Companies Act 1940;
- such other funds which the Central Bank may specify upon application and which comply, in all material respects, with the provisions of these requirements in respect of Retail Investor AIF.

**Central Bank:** The Central Bank of Ireland.

**Class currency:** The currency of denomination of the share class of the authorised AIF, as set out in the prospectus of the authorised AIF.

**Constant net asset value (“NAV”) Money Market Funds:** A constant or stable NAV money market fund seeks to maintain an unchanging face value NAV (for example \$1/€1 per unit). Income in the fund is accrued daily and can either be paid out to the investor or used to purchase more units in the fund. Assets are generally valued on an amortised cost basis which takes the acquisition cost of the security and adjusts this value for amortisation of premiums (or discounts) until maturity.

**Constitutional document:** The trust deed, in the case of a unit trust, the memorandum and articles of association or instrument of incorporation, in the case of an investment company, the deed of

constitution, in the case of a common contractual fund and the partnership agreement, in the case of an investment limited partnership.

**Credit ratings:** Credit ratings referred to are Standard and Poor's. An “**equivalent rating**” for the purposes of the AIF Rulebook is one which has been provided by an internationally recognised credit rating agency and which is deemed equivalent to the rating stipulated in the section. An “implied rating” arises where a decision on an unrated entity is made by an authorised AIF on the basis of a relationship between an issuer and its rated parent, or where an issuer has a senior debt/long term rating but no short term rating.

**Currency share class:** A share class of an authorised AIF denominated in a currency other than the base currency, as set out in the prospectus of the authorised AIF.

**Directed brokerage services:** Brokerage services in relation to an authorised AIF pursuant to which a commission or similar payment is paid to or secured by the entity which issues instructions.

**ESMA's Remuneration Guidelines:** ESMA's Guidelines on sound remuneration policies under the AIFMD (ESMA/2013/201).

**Group companies:** Member companies of a group of associated or related companies.

**Hedged currency share class:** A currency share class in respect of which the authorised AIF will conduct currency hedging transactions, the benefit and cost of which will accrue solely to the unitholders in that class.

**ICAV:** An ICAV within the meaning of the ICAV Act.

**ICAV Act:** The Irish Collective Asset-management Vehicles Act 2015.

**Investment adviser:** An entity which provides investment advice only and does not have discretionary powers over any of the assets of the authorised AIF.

**Investment company:** An investment company authorised under Part XIII of the Companies Act 1990 or an ICAV authorised under the ICAV Act.

**Investment fund legislation:** Unit Trusts Act 1990, Part XIII of the Companies Act 1990, Investment Limited Partnerships Act 1994, Investment Funds, Companies and Miscellaneous Provisions Act 2005 and ICAV Act.

**Investment manager:** An entity which is appointed either directly by the AIFM, or indirectly, as sub-investment manager by an investment manager, to manage assets of an authorised AIF on a discretionary basis.

**Investment objective:** Investment objective means the purpose for which an authorised AIF was established, as set out in the prospectus of the authorised AIF.

**Investment policy:** Investment policy is the means through which the investment objective of an authorised AIF will be achieved, as set out in the prospectus of the authorised AIF.

**Irish resident:** A person who is present in Ireland for the whole of 110 business days per year.

**Liquid assets:** Cash or assets traded on a regulated market or multilateral trading facility with transparent pricing in order that they can be sold quickly at a price that is close to their pre-sale valuation.

**MiFID:** Markets in Financial Instruments Directive (Directive 2004/39/EC) as amended.

**Multilateral trading facility:** A multilateral trading facility as defined in Article 4 of MiFID.

**NAV:** Net asset value.

**Periodic reports:** The annual and the half-yearly reports, if any.

**Professional Investor Funds:** Investment funds authorised by the Central Bank in accordance with Notice NU 12.

**Qualifying Investor AIF:** An alternative investment fund authorised by the Central Bank which may be marketed to investors who meet the criteria set out in the Qualifying Investor AIF chapter.

**Real estate:** A freehold or leasehold interest in any land or building.

**Real estate related assets:** Securities issued by a body corporate (e.g. shares, debentures, warrants or certificates representing these) whose main activity is investing in, dealing in, developing or redeveloping real estate.

**Registered AIFM:** An AIFM which has been registered with the Central Bank in accordance with Regulation 4(3) of the AIFM Regulations.

**Regulated investment fund:** An investment fund which is either a category 1 investment fund or a category 2 investment fund.

**Regulated market which operates regularly and is recognised and open to the public:** This phrase is understood by reference to the following 4 components, which are not exhaustive and the assessment should include a general overview of the market, having regard to issues which would be relevant to the operation of the market and investments therein:

- (a) **Regulated:** The market must be regulated. Such a market is subject to supervision by an authority or authorities, duly appointed or recognised by the state in which it is located. The authority(ies) should generally have the power to impose capital adequacy rules, to supervise directly members of the market, to impose listing standards, to ensure transparency in dealings and to impose penalties where breaches of rules or standards occur. The clearance and settlement system for transactions should also be regulated and should have acceptable settlement periods.
- (b) **Recognised:** The market must be recognised or registered by an authority or authorities, duly appointed or recognised by the state in which it is located. Investment in the market by locally based retail investment funds should be permitted by the relevant authorities.
- (c) **Operating Regularly:** Trading must take place with reasonable frequency and the market should have regular trading hours. The assessment must have regard to liquidity in the market, including the number of members/participants, and the ability of the market to provide fair prices on an on-going basis. Custody arrangements should also be satisfactory i.e. a depositary must be satisfied that it can provide for the safe-keeping of the assets of an authorised AIF in accordance with the conditions set down in the AIFM Regulations.
- (d) **Open to the public:** The market must be open to the public. The public should have direct or indirect access to the securities traded on the market. The degree to which overseas investors are permitted to invest and any rules which may impede the repatriation of capital or profits must be taken into account.

**Related company:** This term has the same meaning as in the Companies Act 1990, section 140(5). In general this states that companies are related where 50% of the paid up share capital of, or 50% of the voting rights in, one company are owned directly or indirectly by another.

**Relevant institutions:** Those institutions specified in sub-paragraphs (a), (b) and (c) of paragraph 8 of section 1.ii (*Investment restrictions*) of Part I of chapter 1 - Retail Investor AIF Restrictions.

**Retail investor:** An investor who is not eligible to invest in a Qualifying Investor AIF.

**Retail Investor AIF:** An alternative investment fund authorised by the Central Bank which may be marketed to retail investors.

**Share class:** Classes of units or shares created within an authorised AIF, as set out in the prospectus of an authorised AIF.

**Structured Retail Investor AIF:** A Retail Investor AIF which provides unitholders, at certain predetermined dates, with algorithm-based payoffs that are linked to the performance, or to the realisation of price changes or other conditions, of financial assets, indices or reference portfolios or regulated investment funds with similar features.

**Transferable security or money market instrument embedding a FDI:** A transferable security or money market instrument which contains a component which fulfils the following criteria:

- (a) by virtue of that component some or all of the cash flows that otherwise would be required by the transferable security or money market instrument which functions as host contract can be modified according to a specified interest rate, financial instrument price, foreign exchange rate, index of prices or rates, credit rating or credit index, or other variable, and therefore vary in a way similar to a stand-alone derivative;
- (b) its economic characteristics and risks are not closely related to the economic characteristics and risks of the host contract;
- (c) it has a significant impact on the risk profile and pricing of the transferable security or money market instrument.

A transferable security or a money market instrument shall not be regarded as embedding a FDI where it contains a component which is contractually transferable independently of the transferable security or the money market instrument. Such a component shall be deemed to be a separate financial instrument.

**UCITS Regulations:** European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 2011 (S.I. No. 352 of 2011).

**Underlying investment funds:** This term refers to the underlying investment funds which form the assets of authorised AIFs.

**Unhedged currency share class:** A currency share class where, typically, shares may be subscribed for, and the redemption proceeds can be obtained in, the class currency rather than the base currency.

**Unitholder:** A shareholder in the case of an investment company, a limited partner in the case of an investment limited partnership and unitholder in the case of a unit trust or common contractual fund.

**Units:** Shares of an investment company, interests of the partners in an investment limited partnership and units of a unit trust or common contractual fund.

**Weighted Average Life (“WAL”):** WAL is the weighted average of the remaining life (maturity) of each security held in a money market fund, meaning the time until the principal is repaid in full (disregarding interest and not discounting). Contrary to what is done in the calculation of the WAM, the calculation of the WAL for floating rate securities and structured financial instruments does not permit the use of interest rate reset dates and instead only uses a security’s stated final maturity. WAL is used to measure the credit risk, as the longer the reimbursement of principal is postponed, the higher is the credit risk. WAL is also used to limit the liquidity risk.

**Weighted Average Maturity (“WAM”):** WAM is a measure of the average length of time to maturity of all of the underlying securities in the money market fund weighted to reflect the relative holdings in each instrument, assuming that the maturity of a floating rate instrument is the time remaining until the next interest rate reset to the money market rate, rather than the time remaining before the principal value of the security must be repaid. In practice, WAM is used to measure the sensitivity of a money market fund to changing money market interest rates.

## INTRODUCTION

### i. General

Retail Investor AIFs and Qualifying Investor AIFs may be established as:

- unit trusts, under the Unit Trusts Act 1990;
- designated investment companies (i.e. investment companies which may raise capital by promoting their shares to the public) under the Companies Act 1990, Part XIII;
- investment limited partnerships under the Investment Limited Partnerships Act 1994;
- common contractual funds under the Investment Funds Act 2005; and
- ICAVs under the ICAV Act.

Under the investment fund legislation the Central Bank is responsible for the authorisation and supervision of unit trusts, common contractual funds, investment companies and investment limited partnerships and has the power to impose conditions on them.

The conditions which the Central Bank is imposing are contained in the AIF Rulebook which supersede all requirements set out in previous Non-UCITS Notices. Each chapter must be read in conjunction with all the other requirements set out in the AIF Rulebook. Each chapter must also be read in conjunction with the investment fund legislation, AIFMD Level 2 and the AIFM Regulations. In the event of any difference or discrepancy between the AIF Rulebook and the investment fund legislation, AIFMD Level 2 or the AIFM Regulations, the provisions of the investment fund legislation, AIFMD Level 2 or the AIFM Regulations will prevail.

Where a condition set out in the AIF Rulebook is amended or deleted, any legal proceedings, or any investigation, disciplinary or enforcement action in respect of any requirement may be continued, and any breach of the requirement so amended or deleted may subsequently be the subject of a legal proceeding, investigation, disciplinary or enforcement action by the Central Bank or other person, as if the requirement had not been amended or deleted.

Conditions in chapter 1 - Retail Investor AIF Requirements, chapter 2 - Qualifying Investor AIF Requirements, chapter 4 - AIF Management Company Requirements and chapter 6 - AIF Depositary Requirements are conditions imposed by the Central Bank under powers given to the Central Bank under that legislation.

For chapter 3 – Alternative Investment Fund Managers Requirements, conditions are imposed by the Central Bank under Regulation 9 of the AIFM Regulations.

**ii. Application of the chapters**

AIFMs which:

- (a) come within the scope of the AIFM Regulations and cannot avail of the exemptions from authorisation set out in Regulation 4 of the AIFM Regulations; or
- (b) opt to be authorised under the AIFM Regulations

are subject to **chapter 3 – Alternative Investment Fund Manager Requirements**.

**Chapter 4 - AIF Management Company Requirements** applies to AIF management companies which are not authorised under the AIFM Regulations. These AIF management companies will be required to become registered AIFMs if they are also an AIFM which does not exceed the thresholds detailed in the AIFM Regulations.

AIF management companies which are authorised under the AIFM Regulations are subject to chapter 3 – Alternative Investment Fund Manager Requirements.



# Chapter 1 - Retail Investor AIF Requirements

## **INTRODUCTION**

The AIF Rulebook sets out the rules which apply to Retail Investor AIFs. However, the definitive rules for each Retail Investor AIF will be set out in its letter of authorisation.

The AIF Rulebook also outlines the types of conditions which the Central Bank may apply to AIFs established in other jurisdictions which propose to market to retail investors in Ireland. Again, the definitive rules for each such AIF will be set out in its letter of approval from the Central Bank to market its units in Ireland to retail investors.

**Part I: GENERAL RULES****Section 1:****Retail Investor AIF restrictions****i. General restrictions**

1. The Retail Investor AIF shall not, nor shall it appoint a management company or general partner or AIFM which would, acquire any shares carrying voting rights which would enable it to exercise significant influence over the management of an issuing body. This requirement does not apply to investments in other investment funds. It is also disapplied where the Retail Investor AIF is a venture capital, development capital or private equity Retail Investor AIF provided its prospectus indicates its intention regarding the exercise of legal and management control over underlying investments.
2. The Retail Investor AIF shall not grant loans or act as a guarantor on behalf of third parties. This is without prejudice to the right of a Retail Investor AIF to acquire debt securities. It will not prevent Retail Investor AIFs from acquiring securities which are not fully paid.
3. The Retail Investor AIF shall not raise capital from the public through the issue of debt securities.
4. The Retail Investor AIF shall only track or gain an exposure to an index where the index complies with all of the following. The index must:
  - (a) be structured in a manner comprehensible to a reasonable unitholder in a Retail Investor AIF;
  - (b) not be structured in a manner which disadvantages unitholders in a Retail Investor AIF;
  - (c) not be structured or operate so that it circumvents rules to which a Retail Investor AIF is subject; and
  - (d) publish or make available on demand sufficient information so that a unitholder in a Retail Investor AIF could replicate the index.
5. The Retail Investor AIF shall ensure that the calculation of performance fees must be verified by the depositary or a competent person appointed by the AIFM and approved for the purpose by the depositary.

6. The Retail Investor AIF shall specify, in its trust deed, deed of constitution, management agreement, AIFM agreement or partnership agreement, the maximum annual fee<sup>1</sup> charged by, as relevant, an AIFM, a management company and/or a general partner of the Retail Investor AIF. The maximum annual fee shall not be increased without approval on the basis of a majority of votes cast at general meeting.<sup>2</sup> In the event of an increase in the annual fee a reasonable notification period must be provided by the Retail Investor AIF to enable unitholders redeem their units prior to the implementation of the increase. The provisions of this paragraph are also applicable to the annual fee charged by an investment manager where this fee is paid directly out of the assets of the Retail Investor AIF.

**ii. Investment restrictions**

1. A Retail Investor AIF may derogate from the investment restrictions contained in this section for six months following the date of their launch provided they observe the principle of risk spreading.
2. The limits on investments contained in this chapter and those set down in the Retail Investor AIF's prospectus shall apply at the time of purchase of the investments and continue to apply thereafter. If these limits are subsequently exceeded for reasons beyond the control of the Retail Investor AIF or as a result of the exercise of subscription rights, the Retail Investor AIF must record such matters and adopt as a priority objective the remedying of that situation, taking due account of the interests of its unitholders.
3. Related companies/institutions are regarded as a single issuer for the purposes of paragraphs 5, 6 and 8 of this section.

*Securities*

4. A Retail Investor AIF shall not invest more than 20% of its net assets in securities which are not traded in or dealt on a regulated market which operates regularly and is recognised and open to the public.

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<sup>1</sup> The annual fee includes any performance related fee charged by the AIFM, the management company, the general partner or the investment manager.

<sup>2</sup> If the fee disclosed in the prospectus is less than the maximum fee permitted in these documents, unitholder approval will also be required for an increase in the fee disclosed in the prospectus unless the prospectus also provides that a higher fee may be charged.

5. Subject to paragraph 7, the Retail Investor AIF shall not invest more than 20% of its net assets in securities issued by the same institution. For Retail Investor AIFs whose investment policy is to replicate an index, this limit is increased to 35% in the case of a single issuer where this is justified by exceptional market conditions, for example in regulated markets where certain transferable securities or money market instruments are highly dominant or other exceptional market conditions.
6. Subject to paragraph 1 of section 1.i (*General restrictions*), a Retail Investor AIF shall not hold more than 20% of any class of security issued by any single issuer. This requirement does not apply to investments in other open-ended investment funds.
7. The Retail Investor AIF may only invest more than 20% and up to 100% of its net assets in transferable securities issued or guaranteed by any state, its constituent states, its local authorities, or public international bodies of which one or more states are members with the prior approval of the Central Bank.

#### *Cash*

8. The Retail Investor AIF shall not keep on deposit more than 10% of its net assets with any one institution; this limit is increased to 30% of net assets for deposits with or securities evidencing deposits issued by or securities guaranteed by the following:
  - (a) a credit institution authorised in the European Economic Area (EEA) (European Union Member States, Norway, Iceland, Liechtenstein);
  - (b) a credit institution authorised within a signatory state, other than a Member State of the EEA, to the Basle Capital Convergence Agreement of July 1988 (Switzerland, Canada, Japan, United States);
  - (c) a credit institution authorised in Jersey, Guernsey, the Isle of Man, Australia or New Zealand;
  - (d) the depositary; or
  - (e) with the prior approval of the Central Bank, a credit institution which is an associated or related company of the depositary.

#### *Investment funds*<sup>3</sup>

9. Subject to paragraph 12, a Retail Investor AIF shall only invest in open-ended investment funds provided the underlying investment funds are regulated investment funds.

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<sup>3</sup> Where an underlying investment fund is an umbrella fund, investment restrictions apply in respect of investment in the individual sub-funds.

10. Subject to paragraph 12 of this section, a Retail Investor AIF shall not invest more than 30% of net assets in any one open-ended investment fund.
11. A Retail Investor AIF which invests more than 30% of net assets in other investment funds shall ensure that the investment funds in which it invests are prohibited from investing more than 30% of net assets in other investment funds. Any such investments must not be made for the purpose of duplicating management and/or investment management fees.
12. A Retail Investor AIF shall not invest more than 20% of net assets in unregulated open-ended investment funds.
13. The Retail Investor AIF shall only invest in units of an investment fund managed by its management company or AIFM or by an associated or related company of either of these where the management company of the investment fund in which the investment is being made has waived the preliminary/ initial/ redemption charge which it would normally charge.
14. The Retail Investor AIF shall ensure that any commission or other fee received by the management company or AIFM must be paid into the property of the Retail Investor AIF.

*Financial derivative instruments*

15. The Retail Investor AIF shall not have a risk exposure to a counterparty in an OTC derivative transaction (as defined in paragraph 3 of section 1(iv) (*Financial Derivative Instruments*)) which exceeds the following:
  - (a) where the counterparty is a relevant institution, 10% of the Retail Investor AIF's net assets; or
  - (b) in any other case, 5% of the Retail Investor AIF's net assets.
16. A Retail Investor AIF shall ensure that its global exposure relating to financial derivative instruments ("FDIs") does not exceed the total net asset value of its portfolio. When a transferable security or money market instrument contains an embedded derivative<sup>4</sup>, the latter shall be taken into account when complying with this requirement.

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<sup>4</sup> As defined in Regulation 69(5) of the UCITS Regulations.

**iii. Borrowing powers**

1. The Retail Investor AIF is only permitted to:
  - a) borrow; and
  - b) secure such borrowing on the assets of the Retail Investor AIF where such activities are permitted by its constitutional document.
2. The Retail Investor AIF shall not borrow, or have at any given time borrowings, exceeding 25% of its net assets. The Retail Investor AIF shall not offset credit balances (e.g. cash) against borrowings when determining the percentage of borrowings outstanding.

**iv. Financial derivative instruments**

1. Where the Retail Investor AIF engages in transactions in FDIs, whether such transactions are for investment purposes or for hedging purposes, it must comply with this section 1.iv. Paragraphs 18 to 22 of this section (*Calculation of global exposure*) in relation to the calculation of global exposure are also applicable where a Retail Investor AIF engages in repurchase/reverse repurchase agreements (“repo contracts”) through which additional leverage is generated through the re-investment of collateral.
2. Subject to paragraph 3 below, the Retail Investor AIF shall only engage in transactions in financial derivative instruments, where those instruments are dealt on a market which is regulated, operating regularly, recognised and open to the public in a Member State or non-Member State.
3. The Retail Investor AIF may invest in FDI dealt in over-the-counter (“OTC derivatives”) provided that:
  - (a) the counterparty is a relevant institution or an investment firm, authorised in accordance with MiFID in an EEA Member State, or is an entity subject to regulation as a Consolidated Supervised Entity (“CSE”) by the US Securities and Exchange Commission;
  - (b) in the case of a counterparty which is not a relevant institution, the counterparty has a minimum credit rating of A-2 or equivalent, or is deemed by the Retail Investor AIF to have an implied rating of A-2 or equivalent. Alternatively, an unrated counterparty will be acceptable where the Retail Investor AIF is indemnified or guaranteed against losses suffered as a result of a failure by the counterparty, by an entity which has and maintains a rating of A-2 or equivalent;

- (c) when calculating its risk exposure to a counterparty to an OTC derivative transaction, the Retail Investor AIF shall calculate the exposure using the positive mark-to-market value of the OTC derivative contract with that counterparty. The Retail Investor AIF may net the derivative positions with the same counterparty, provided that the Retail Investor AIF is able to legally enforce netting arrangements with the counterparty. Netting is only permissible with respect to OTC derivative instruments with the same counterparty and not in relation to any other exposures the Retail Investor AIF may have with the same counterparty;
  - (d) the Retail Investor AIF is satisfied that:
    - the counterparty will value the OTC derivative with reasonable accuracy and on a reliable basis; and
    - the OTC derivative can be sold, liquidated or closed by an offsetting transaction at fair value at any time at the Retail Investor AIF's initiative;
  - (e) the Retail Investor AIF shall subject its OTC derivatives to reliable and verifiable valuation on a weekly basis and ensure that it has appropriate systems, controls and processes documented and in place to achieve this. The valuation arrangements and procedures must be adequate and proportionate to the nature and complexity of the OTC derivative concerned and shall be adequately documented; and
  - (f) reliable and verifiable valuation shall be understood as a reference to a valuation, by the Retail Investor AIF, corresponding to fair value which does not rely only on market quotations by the counterparty and which fulfils the following criteria:
    - the basis for the valuation is either a reliable up-to-date market value of the instrument, or, if such a value is not available, a pricing model using an adequate recognised methodology;
    - verification of the valuation is carried out by one of the following:
      - an appropriate third party which is independent from the counterparty of the OTC-derivative, at an adequate frequency and in such a way that the Retail Investor AIF is able to confirm the valuation;
      - a unit within the Retail Investor AIF which is independent from the department in charge of managing the assets and which is adequately equipped for such purpose.
4. For the purposes of paragraph 15 of section 1.ii (*Investment restrictions*) of this Part, the Retail Investor AIF shall, in calculating its risk exposure to an OTC derivative counterparty, only reduce such an exposure where the counterparty has provided the Retail Investor AIF with collateral which satisfies the criteria identified in paragraph 5 below.



5. Collateral received by the Retail Investor AIF must at all times meet with the following criteria:
  - (a) Liquidity: Collateral must be sufficiently liquid in order that it can be sold quickly at a robust price that is close to its pre-sale valuation;
  - (b) Valuation: Collateral must be capable of being valued on at least a daily basis and must be marked to market daily;
  - (c) Issuer credit quality: Where the collateral issuer is not rated A-1 or equivalent, conservative haircuts must be applied;
  - (d) Safe-keeping: Collateral must be transferred to the depositary, or its agent;
  - (e) Enforceable: Collateral must be immediately available to the Retail Investor AIF, without recourse to the counterparty, in the event of a default by that entity;
  - (f) Non-cash collateral:
    - cannot be sold, pledged or re-invested;
    - must be held at the risk of the counterparty;
    - must be issued by an entity independent of the counterparty; and
    - must be diversified to avoid concentration risk in one issue, sector or country; and
  - (g) Cash collateral must only be invested in risk-free assets.
  
6. The Retail Investor AIF shall take into account all collateral passed to an OTC derivative counterparty in calculating the exposure of the Retail Investor AIF to counterparty risk. Collateral passed to an OTC derivative counterparty shall be taken into account on a net basis only if the Retail Investor AIF is able to legally enforce netting arrangements with this counterparty.

*Calculation of issuer concentration risk and counterparty exposure risk*

7. The Retail Investor AIF shall calculate the limits set out in section 1.ii of (*Investment restrictions*) this Part I on the basis of the underlying exposure created through the use of FDI pursuant to the commitment method.
  
8. The calculation of exposure arising from OTC derivative transactions must include any exposure to OTC derivative counterparty risk.
  
9. A Retail Investor AIF shall calculate exposure arising from initial margin posted to and variation margin receivable from a broker relating to exchange-traded or OTC derivatives, which is not protected by client money rules or other similar arrangements to protect the

Retail Investor AIF against the insolvency of the broker, within the OTC counterparty limit as referred to in paragraph 15 of section 1.ii (*Investment restrictions*) of this Part.

10. The Retail Investor AIF, in calculating the limits set out in section 1.ii of (*Investment restrictions*) this Part I must take account of:
  - (a) any net exposure to a counterparty generated through a securities lending or repurchase agreement; and
  - (b) exposures created through the reinvestment of collateral.

Net exposure refers to the amount receivable by a Retail Investor AIF less any collateral provided by the Retail Investor AIF.

11. The Retail Investor AIF shall, when calculating exposures for the purpose of issuer concentration limits, establish whether its exposure is to an OTC counterparty, a broker or a clearing house.
12. The Retail Investor AIF shall not permit position exposures to the underlying assets of FDI (including embedded FDI in transferable securities, money market instruments or investment funds) when combined, where relevant, with positions resulting from direct investments to exceed the investment limits set out in these requirements. Where the Retail Investor AIF invests in index-based FDIs, these investments do not have to be combined with the limits specified in section 1.ii (*Investment restrictions*) of this Part I. When calculating the limits set out in section 1.ii (*Investment restrictions*) of this Part I, the FDI (including embedded FDI) must be looked through in determining the resultant position exposure. This position exposure must be taken into account in the issuer concentration calculations. It must be calculated using the commitment method when appropriate or the maximum potential loss as a result of default by the issuer if more conservative. It must also be calculated by all Retail Investor AIF, regardless of whether they use Value at Risk (“VaR”) (as defined further at paragraph 19 below) for global exposure purposes.

This provision does not apply in the case of index-based FDI provided the underlying index is one which meets with the criteria set out in paragraph 4 of section 1.i (*General restrictions*) of this Part.

#### *Cover requirements*

13. The Retail Investor AIF shall, at any given time, be capable of meeting all its payment and delivery obligations incurred by transactions involving FDI.

14. The Retail Investor AIF shall establish and maintain risk management processes which monitor FDI transactions to ensure they are adequately covered in accordance with these requirements.
15. The Retail Investor AIF shall ensure that a transaction in FDI which gives rise, or may give rise, to a future commitment on behalf of a Retail Investor AIF must be covered as follows:
  - (a) in the case of FDI which automatically, or at the discretion of the Retail Investor AIF, are cash settled a Retail Investor AIF must hold, at all times, liquid assets which are sufficient to cover the exposure; and
  - (b) in the case of FDI which require physical delivery of the underlying asset, the asset must be held at all times by the Retail Investor AIF. Alternatively a Retail Investor AIF may cover the exposure with sufficient liquid assets where:
    - the underlying assets consists of highly liquid fixed income securities; and/or
    - the Retail Investor AIF considers that the exposure can be adequately covered without the need to hold the underlying assets, the specific FDI are addressed in the risk management process, and details are provided in the prospectus.

*Risk management process and reporting*

16. A Retail Investor AIF shall, in advance of commencing any FDI activity, establish and thereafter maintain an adequate risk management process vis-à-vis its FDI activity. The Retail Investor AIF shall, in advance of commencing any FDI activity, notify the Central Bank in writing of the risk management processes that have been established and the manner in which they are being maintained. This notification shall include details of the following:
  - (a) Permitted types of FDI, including embedded derivatives in transferable securities and money market instruments;
  - (b) the underlying risks;
  - (c) Relevant quantitative limits and how these will be monitored and enforced; and
  - (d) Methods for estimating risks.

Material amendments to the initial filing must be notified to the Central Bank in advance of implementing those changes.

17. The Retail Investor AIF shall submit a report to the Central Bank on its FDI positions on an annual basis. Such report shall contain:
  - (a) information which reflects a true and fair view of the types of FDIs used by the Retail Investor AIF;
  - (b) the underlying risks;

- (c) the quantitative limits and how these are monitored and enforced; and
- (d) the methods used to estimate those risks.

The Retail Investor AIF shall submit the report with its annual report.

*Calculation of Global Exposure*

18. A Retail Investor AIF shall calculate its global exposure on at least a daily basis, as either of the following:
  - (a) the incremental exposure and leverage generated by the Retail Investor AIF through the use of FDI, including embedded derivatives, which may not exceed the total of the Retail Investor AIF net asset value;
  - or
  - (b) the market risk of the Retail Investor AIF's portfolio.
19.
  - (a) The Retail Investor AIF shall, in calculating its global exposure, utilise an appropriate risk measurement methodology having regard to the investment strategy of the Retail Investor AIF, the types and complexities of the FDI used and the proportion of the Retail Investor AIF portfolio which comprises FDI.
  - (b) The Retail Investor AIF shall calculate its global exposure by using the commitment method or the VaR methodology. The Retail Investor AIF may only calculate its global exposure using other advanced risk measurement methodologies with the prior approval of the Central Bank. For the purposes of this provision, VaR shall mean a measure of the maximum expected loss at a given confidence level over a specific time period.
20. Where a Retail Investor AIF employs techniques and instruments including repurchase agreements in order to generate additional leverage or exposure to market risk, it shall take these transactions into consideration when calculating global exposure.
21. The Retail Investor AIF shall comply with the limits on global exposure on an on-going basis.
22. A Retail Investor AIF may not use the commitment method where:
  - (a) the Retail Investor AIF engages in complex investment strategies which represent more than a negligible part of the Retail Investor AIF's investment policy; and/or
  - (b) the Retail Investor AIF has more than a negligible exposure to exotic derivatives; and/or

- (c) that method does not adequately capture the market risk of the Retail Investor AIF's portfolio.

*Commitment method*

- 23. The Retail Investor AIF using the commitment method shall comply with Articles 8, 9, 10 and 11 of AIFMD Level 2.
- 24. A Retail Investor AIF using the commitment method shall ensure that its global exposure does not exceed its total net asset value. The Retail Investor AIF may not therefore be leveraged in excess of 100% of net asset value.

*VaR methodology*

- 25. The Retail Investor AIF, in calculating its global exposure using the VaR methodology, shall take into account all the positions of the Retail Investor AIF's portfolio.
- 26. The Retail Investor AIF shall set the maximum VaR limit according to its defined risk profile.
- 27. The Retail Investor AIF may use either the relative VaR methodology or the absolute VaR methodology to calculate global exposure as set out in Appendix 1 to this Part. A Retail Investor AIF is responsible for deciding which VaR methodology is the most appropriate methodology given the risk profile and investment strategy of the Retail Investor AIF. The decision and its underlying assumptions must be fully documented and the choice of VaR methodology used must be consistent.
- 28. The Retail Investor AIF shall ensure that the VaR methodology utilised takes into account, as a minimum, general market risk and, if applicable, idiosyncratic risk. The event (and/or default) risks to which a Retail Investor AIF is exposed following its investments should be taken into account, as a minimum, in the stress testing program.
- 29. The Retail Investor AIF shall ensure that the VaR methodology utilised provides for completeness and assesses the risks with a high level of accuracy. In particular:
  - (a) all the positions of the Retail Investor AIF's portfolio must be included in the VaR calculation;
  - (b) the model must adequately capture all the material market risks associated with portfolio positions and, in particular, the specific risks associated with FDI. For that

- purpose, all the risk factors which have more than a negligible influence on the fluctuation of the portfolio's value should be covered by the VaR methodology;
- (c) the quantitative models used within the VaR methodology (pricing tools, estimation of volatilities and correlations, etc.) must provide for a high level of accuracy; and
  - (d) all data used within the VaR methodology must provide for consistency, timeliness and reliability.
30. The Retail Investor AIF shall, when assessing the global exposure by means of a relative or absolute VaR methodology, comply with the quantitative and qualitative minimum requirements set out in Appendix 1 to this Part.

#### *Back Testing*

31. A Retail Investor AIF shall monitor the accuracy and performance of its VaR methodology (i.e. prediction capacity of risk estimates) by conducting a back testing program. The back testing program shall provide, for each business day, a comparison of the one-day VaR measure generated by the Retail Investor AIF's model for the Retail Investor AIF's end-of-day positions to the one-day change of the Retail Investor AIF's portfolio value by the end of the subsequent business day.
32. A Retail Investor AIF shall carry out the back testing program at least on a monthly basis, subject to always performing retroactively the comparison for each business day as detailed above.
33. A Retail Investor AIF shall determine and monitor the 'overshootings' on the basis of this back testing program. An 'overshooting' is a one-day change in the portfolio's value that exceeds the related one-day VaR measure calculated by the model. If the back testing results reveal a number of 'overshootings' that appears to be too high, the Retail Investor AIF shall review the VaR methodology and make appropriate adjustments.
34. If the number of overshootings for a Retail Investor AIF for the most recent 250 business days exceeds 4 in the case of a 99% confidence interval, the Retail Investor AIF's senior management must be informed (at least on a quarterly basis) and the Central Bank must be informed on a semi-annual basis. The information should contain an analysis and explanation of the sources of 'overshootings' and a statement of what measures, if any, were taken to improve the accuracy of the model.

*Stress testing*

35. A Retail Investor AIF using the VaR methodology shall conduct a rigorous, comprehensive and risk-adequate stress testing program in accordance with the qualitative and quantitative requirements set out in this chapter. Stress tests shall be carried out on a regular basis, at least once a month. Additionally, such stress tests shall be carried out whenever a change in the value or the composition of a Retail Investor AIF or a change in market conditions makes it likely that the test results will differ significantly.
36. The Retail Investor AIF shall establish a stress testing program that measures any potential major depreciation of a Retail Investor AIF value as a result of unexpected changes in the relevant market parameters and correlation factors. In addition the stress testing program shall also measure changes in the relevant market parameters and correlation factors, which could result in major depreciation of a Retail Investor AIF's value.
37. The stress tests shall be adequately integrated into the Retail Investor AIF's risk management process and the results shall be considered when making investment decisions for the Retail Investor AIF. The design of the stress tests shall be adapted in line with the composition of the Retail Investor AIF and the market conditions that are relevant for the Retail Investor AIF.
38. The stress tests shall cover all risks which affect the value or the fluctuations in value of the Retail Investor AIF to any significant degree. In particular, those risks which are not fully captured by the VaR methodology used, shall be taken into account.
39. The stress tests shall be appropriate for analysing potential situations in which the use of significant leverage would expose the Retail Investor AIF to significant downside risk and could potentially lead to the default of the Retail Investor AIF (i.e. NAV < 0).
40. The stress tests shall focus on those risks which, though not significant in normal circumstances, are likely to be significant in stress situations, such as the risk of unusual correlation changes, the illiquidity of markets in stressed market situations or the behaviour of complex structured products under stressed liquidity conditions.
41. The Retail Investor AIF shall implement and document clear procedures relating to the design of, and on-going adaptation of the stress tests. A program for carrying out stress tests must be developed on the basis of such procedures which must include a written explanation why the program is suitable for the Retail Investor AIF. Completed stress tests together with their

results must be clearly documented as must the reasons behind any intention to deviate from the program.

*VaR: Additional safeguards*

42. A Retail Investor AIF which calculates global exposure using a VaR methodology shall regularly monitor its leverage.
43. A Retail Investor AIF shall supplement the VaR / Stress Testing framework, where appropriate by taking into account the risk profile and the investment strategy being pursued, with other risk measurement methods.

**v. Efficient portfolio management**

1. The Retail Investor AIF shall not enter into efficient portfolio management transactions if such transactions could result in a change to the Retail Investor AIF's declared investment objective or add substantial supplementary risks in comparison to the general risk policy as described in its sales documents.

*Repo contracts and Securities Lending*

2. Repo contracts and securities lending may only be effected in accordance with normal market practice.
3. Collateral obtained under a repo contract or securities lending arrangement must, at all times, meet with the following criteria:
  - (a) Liquidity: Collateral must be sufficiently liquid in order that it can be sold quickly at a robust price that is close to its pre-sale valuation;
  - (b) Valuation: Collateral must be capable of being valued on at least a daily basis and must be marked to market daily; and
  - (c) Issuer credit quality: Where the collateral issuer is not rated A-1 or equivalent, conservative haircuts must be applied.
4. Until the expiry of the repo contract or securities lending arrangement, collateral obtained under such contracts or arrangements:
  - (a) must equal or exceed, in value, at all times the value of the amount invested or securities loaned;



- (b) must be transferred to the depositary, or its agent; and
- (c) must be immediately available to the Retail Investor AIF, without recourse to the counterparty, in the event of a default by that entity.

Paragraph (b) is not applicable in the event that a Retail Investor AIF uses tri-party collateral management services of international central securities depositaries or relevant institutions which are generally recognised as specialists in this type of transaction. The depositary must be a named participant to the collateral arrangements.

5. Non-cash collateral:
  - (a) cannot be sold, pledged or re-invested;
  - (b) must be held at the risk of the counterparty;
  - (c) must be issued by an entity independent of the counterparty; and
  - (d) must be diversified to avoid concentration in one issue, sector or country.
6. Cash collateral:

Cash may not be invested other than in the following:

  - (a) deposits with relevant institutions;
  - (b) government or other public securities;
  - (c) certificates of deposit issued by relevant institutions;
  - (d) letters of credit with a residual maturity of three months or less, which are unconditional and irrevocable and which are issued by relevant institutions;
  - (e) repurchase agreements, provided collateral received falls under categories (a)-(d) and (f) of this paragraph;
  - (f) daily dealing money market funds which have and maintain a rating of AAA or equivalent. If investment is made in a linked fund, subscription, conversion or redemption charge can be made by the underlying money market fund.
7. In accordance with paragraph 1 of this section, invested cash collateral held at the risk of the Retail Investor AIF, other than cash collateral invested in government or other public securities or money market funds, must be invested in a diversified manner. A Retail Investor AIF must be satisfied, at all times, that any investment of cash collateral will enable it to meet with its repayment obligations.
8. Invested cash collateral may not be placed on deposit with, or invested in securities issued by, the counterparty or a related entity.

9. Notwithstanding the provisions of paragraph 4(b) of this section, a Retail Investor AIF may enter into securities lending programmes organised by generally recognised international central securities depositories systems provided that the programme is subject to a guarantee from the system operator.
10. Without prejudice to paragraphs 5 and 6 of this section, a Retail Investor AIF may be permitted to enter repo contracts pursuant to which additional leverage is generated through the re-investment of collateral. In this case the repo contract must be taken into consideration for the determination of global exposure as required by paragraph 1 of section 1.iv (*Financial derivative instruments*) of this Part. Any global exposure generated must be added to the global exposure created through the use of derivatives and the total of these must not be greater than 100% of the net asset value of the Retail Investor AIF. Where collateral is re-invested in financial assets that provide a return in excess of the risk-free return the Retail Investor AIF must include, in the calculation of global exposure:
  - (a) the amount received if cash collateral is held; and
  - (b) the market value of the instrument concerned if non-cash collateral is held.
11. The counterparty to a repo contract or securities lending arrangement must have a minimum credit rating of A-2 or equivalent, or must be deemed by the Retail Investor AIF to have an implied rating of A-2 or equivalent. Alternatively, an unrated counterparty will be acceptable where the Retail Investor AIF is indemnified or guaranteed against losses suffered as a result of a failure by the counterparty, by an entity which has and maintains a rating of A-2 or equivalent.
12. A Retail Investor AIF must have the right to terminate the securities lending arrangement at any time and demand the return of any or all of the securities loaned. The agreement must provide that, once such notice is given, the borrower is obligated to redeliver the securities within 5 business days or other period as normal market practice dictates.
13. Repo contracts, securities borrowing or securities lending do not constitute borrowing or lending for the purposes of paragraph 2 of section 1.iii (*Borrowing powers*) of this Part and paragraph 2 of section 1.i (*General restrictions*) of this Part respectively.

**vi. Constitutional documents**

1. The Retail Investor AIF shall, at all times, comply with its constitutional document.

2. The Retail Investor AIF shall entrust its assets to a depository for safe keeping and this must be expressly specified in its constitutional document.
3. The Retail Investor AIF shall, in the trust deed, deed of constitution or partnership agreement prescribe the remuneration and the expenditure which the management company or general partner and depository are empowered to charge to a unit trust, common contractual fund or investment limited partnership and the method of calculation of such remuneration; and, the costs to be borne by the unit trust, common contractual fund or investment limited partnership.

The Retail Investor AIF shall, in the articles of association or instrument of incorporation, prescribe the nature of the costs to be borne by the investment company.

4. The Retail Investor AIF shall specify, in its constitutional document, the maximum charge relating to the redemption or repurchase of units. The maximum charge relating to the redemption or repurchase of units shall not be increased without approval on the basis of a majority of votes cast at general meeting. In the event of an increase in the redemption or repurchase charge a reasonable notification period must be provided by the Retail Investor AIF to enable unitholders redeem their units prior to the implementation of the increase.
5. The Retail Investor AIF shall establish in its constitutional document conditions for the creation and cancellation of units or for contributions and withdrawal of contributions of partners' capital, as appropriate.
6. The Retail Investor AIF shall specify, in its constitutional document, the conditions and manner of application of income.
7. The Retail Investor AIF shall, where relevant, specify, in its constitutional document the circumstances under which there may be effected, and the procedure to be followed with respect to, the replacement of the AIFM or the management company/general partner with another AIFM/management company/general partner (including such a replacement by the Central Bank) and shall contain provisions to ensure the protection of unitholders in the event of any such replacement.
8. The depository of a Retail Investor AIF may not be replaced without the approval of the Central Bank. The Retail Investor AIF shall specify, in its constitutional document, the conditions under which there may be effected, and the procedure to be followed with respect to, the replacement of the depository of the Retail Investor AIF with another depository

(including such a replacement by the Central Bank) and shall contain provisions to ensure the protection of unitholders in the event of any such replacement.

9. The Retail Investor AIF may only:
  - (a) issue bearer securities with the prior approval of the Central Bank and where such activity is permitted by its constitutional documents.
  - (b) issue registered certificates where such activity is permitted by its constitutional documents.

The Retail Investor AIF shall attach rights in proportion to the fraction of a unit held except for voting rights which can only be exercised by whole units. The Retail Investor AIF shall ensure that the certificates and bearer securities are signed by the depositary. This signature may be reproduced mechanically.

10. The Retail Investor AIF shall specify, in its constitutional documents, the stock exchanges and markets (including derivative markets) on which securities and FDI of the Retail Investor AIF are listed or traded.

The Retail Investor AIF shall, as an alternative to the above, include the following in its constitutional document:

*“With the exception of permitted investments in unlisted securities and OTC derivatives, the Retail Investor AIF will only invest in those securities and derivative instruments listed or traded on a stock exchange or market (including derivatives markets) which meets with the regulatory criteria (regulated, operate regularly, be recognised and open to the public) and which is listed in the prospectus.”*

11. The Retail Investor AIF is prohibited from making distributions from or charging fees and expenses to capital in the absence of provisions to this effect in its constitutional document. The Retail Investor AIF shall only make distributions from or charge fees and expenses to capital, in accordance with express provisions contained in its constitutional document.
12. The Retail Investor AIF shall ensure that where its constitutional document provides for subscription in specie, the following provisions must also be included in its constitutional document:
  - the nature of the assets to be transferred into the Retail Investor AIF would qualify as investments of the Retail Investor AIF in accordance with the investment objectives, policies and restrictions of the Retail Investor AIF;

- assets to be transferred must be vested with the depositary or arrangements are made to vest the assets with the depositary;
- the number of units to be issued must not exceed the amount that would be issued for the cash equivalent; and
- the depositary is satisfied that the terms of any exchange will not be such as are likely to result in any material prejudice to the existing unitholders of the Retail Investor AIF or the depositary is satisfied that there is unlikely to be any material prejudice to the existing unitholders of the Retail Investor AIF.

13. The Retail Investor AIF shall ensure that where its constitutional document provides for redemption in specie, the following provisions must also be included in the constitutional document:

- redemption in specie is at the discretion of the Retail Investor AIF and with the consent of the redeeming unitholder;
- asset allocation is subject to the approval of the depositary; and
- a determination to provide redemption in specie may be solely at the discretion of the Retail Investor AIF where the redeeming unitholder requests redemption of a number of units that represent 5% or more of the net asset value of the Retail Investor AIF. In this event the Retail Investor AIF will, if requested, sell the assets on behalf of the unitholder. The cost of the sale can be charged to the unitholder.

The requirements set out in the first and third bullet points above are not applicable for an exchange traded fund where the original subscription was made in specie.

14. The Retail Investor AIF shall ensure that where its constitutional document provides for distribution in specie on a winding up the following provisions must also be included in its constitutional document:

- an ordinary/special resolution is required; and
- the Retail Investor AIF agrees to sell the assets if requested by a unitholder. The costs of such sale can be charged to redeeming unitholders.

15. Where the Retail Investor AIF is an investment limited partnership it may not temporarily suspend the calculation of the net asset value and redemptions except in the cases and according to the procedure provided for in the partnership agreement. Suspension may be provided for only in exceptional cases where circumstances so require and suspension is justified having regard to the interests of the partners.

**vii. Valuation**

1. The Retail Investor AIF shall specify, in its constitutional document, the rules for the valuation of its assets. These rules shall clearly and unambiguously define an expected method of valuation and shall set out a framework for variation from this method of valuation.
2. The Retail Investor AIF shall only purchase and sell assets at prices which are in conformity with the rules in the constitutional document.
3. The Retail Investor AIF shall only issue or sell its units at a price arrived at by dividing the net asset value of the Retail Investor AIF (calculated in accordance with the valuation rules set out in paragraphs 5 to 9 of this section) by the number of units outstanding; such price may be increased by duties and charges.
4. The Retail Investor AIF shall only redeem or repurchase its units at a price arrived at by dividing the net asset value of the Retail Investor AIF by the number of units outstanding; such price may be decreased by duties and charges.
5. The Retail Investor AIF shall value its assets in accordance with the following rules unless an alternative method of valuation has been agreed in advance with the Central Bank:
  - (a) Securities which are listed or traded on a regulated market:
    - The value of the security is the closing or last known market price. The Retail Investor AIF may determine that this shall be the closing bid, last bid, last traded, closing mid-market or latest mid-market price. The Retail Investor AIF may use an offer price or offer quotation in the context of dual pricing or to value a short position.
    - Where a security is listed on several exchanges, the relevant market shall be the one:
      - which constitutes the main market, or
      - the one which the management company/directors/general partner determines provides the fairest criteria in a value for the security.
    - Securities listed or traded on a regulated market, but acquired or traded at a premium or at a discount outside or off the relevant market may be valued taking into account the level of premium or discount at the date of the valuation. The depositary must ensure that the adoption of such a procedure is justifiable in the context of establishing the probable realisation value of the security.

- (b) Securities which are listed or traded on a regulated market where the market price is unrepresentative or not available and unlisted securities:
- The value of the security is its probable realisation value which must be estimated with care and in good faith.
  - The security may be:
    - valued by the Retail Investor AIF, or
    - valued by a competent person appointed by the Retail Investor AIF, and approved for the purpose by the depositary.
  - Matrix pricing (i.e. valuing securities by reference to the valuation of other securities which are considered comparable in rating, yield, due date and other characteristics) may be an appropriate method of valuation for fixed income securities, where reliable market quotations are not available. Provision may be made for matrix pricing provided the securities used in the matrix are comparable to the securities being valued. Matrix pricing must not ignore a reliable market quotation.
- (c) Investment funds:
- Valuation is based on the latest bid price or latest net asset value, as published by the investment fund.
  - Use of a mid or offer price is only acceptable if consistent with valuation policy of the Retail Investor AIF, i.e. the other assets held must be valued on the same basis.
  - Use of market prices may be accepted where the investment fund in which the investment is made is listed on a regulated market, in accordance with (a) above.
- (d) Cash:
- Value is the nominal/face value plus accrued interest.
- (e) Exchange traded derivative contracts:
- Valuation is based on the settlement price as determined by the market in question. If a settlement price is not available contracts may be valued in accordance with (b) above.
- (f) Over-the-counter derivative contracts:
- A Retail Investor AIF shall be satisfied that (i) the counterparty to an OTC derivative contract will value the contract with reasonable accuracy and on a reliable basis; and (ii) the OTC derivative can be sold, liquidated or closed by an

offsetting transaction at fair value<sup>5</sup>, at any time at the initiative of the Retail Investor AIF. A Retail Investor AIF must not enter into an OTC derivative if both of these conditions are not satisfied. Accordingly, a Retail Investor AIF must ensure that an OTC derivative contract includes a clause which requires the counterparty to close out the transaction at any time at the request of the Retail Investor AIF at fair value unless the Retail Investor AIF is satisfied (and documents the process by which it is so satisfied) that such a clause is not required.

- A Retail Investor AIF shall value an OTC derivative using either the counterparty valuation or an alternative valuation, such as a valuation calculated by the Retail Investor AIF or by an independent pricing vendor, provided the Retail Investor AIF or other party has adequate human and technical means to perform the valuation. A Retail Investor AIF shall value an OTC derivative contract on at least a weekly basis.<sup>6</sup>
- Where a Retail Investor AIF values an OTC derivative using an alternative valuation:
  - the alternative valuation may be that provided by a competent person appointed by the Retail Investor AIF and approved for the purpose by the depositary, or a valuation by any other means provided that the value is approved by the depositary; and
  - the alternative valuation must be reconciled to the counterparty valuation on at least a monthly basis. Where significant differences arise these must be promptly investigated and the final position documented
- Where a Retail Investor AIF values an OTC derivative using the counterparty valuation:
  - the valuation must be approved or verified by a party who is approved for the purpose by the depositary and who is independent of the counterparty<sup>7</sup>; and
  - the independent verification must be carried out at least monthly<sup>8</sup>.

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<sup>5</sup> For the purposes of this paragraph, the reference to fair value shall be understood as a reference to the amount for which an asset could be exchanged or a liability settled between knowledgeable, willing parties in an arm's length transaction.

<sup>6</sup> Closed-ended Retail Investor AIFs are permitted to value OTC derivative contracts on at least a monthly basis.

<sup>7</sup> An independent party can include the Retail Investor AIF. It can also include a party related to the OTC counterparty provided that the related party constitutes an independent unit within the counterparty's group, which does not rely on the same pricing models employed by the counterparty. In this case, the relationship between the parties, and the attendant risks, must be disclosed in the prospectus. Where the independent party is related to the OTC counterparty and the risk exposure to the counterparty may be reduced through the provision of collateral, the position must also be subject to verification by an unrelated party to the counterparty, on a six monthly basis.



- (g) Forward foreign exchange and interest rate swap contracts:
- Valuation of these OTC derivative contracts must be in accordance with the subparagraph (f) or, alternatively, by reference to freely available market quotations. If the latter is used, there is no requirement to have such prices independently verified or reconciled to the counterparty valuation.
6. The Retail Investor AIF shall, in its constitutional documents, specify that, notwithstanding the expected valuation method set out in the above rules, valuation of a specific asset may be carried out under an alternative method of valuation if:
- (a) the Retail Investor AIF deems it necessary and it is approved by the depositary; and
  - (b) the rationale and methodologies used are clearly documented.
7. The Retail Investor AIF shall not adjust the value of an asset, save where such an adjustment is considered necessary to reflect the fair value in the context of currency, marketability, dealing costs and/or such other considerations which are deemed relevant. The rationale and methodology for adjusting the value must be clearly documented.
8. A Retail Investor AIF which is a Short-Term Money Market Fund (as defined in paragraph 1 of section 2(i) (*Short Term Money Market Funds*) of Part II) may provide for the use of amortised cost as an alternative method of valuation in accordance with paragraphs 1 - 7 of section 2.iii (*Short-Term Money Market Funds – valuation on the basis of amortised cost*) of Part II, as applicable.
- Money Market Funds (as defined in paragraph 1 of section 2(ii) (*Money Market Funds*) of Part II), and non-money market Retail Investor AIF which have investments in money market instruments may value these instruments on an amortised basis provided that the money market instruments have a residual maturity of less than six months and have no specific sensitivity to market parameters, including credit risk.
9. The Retail Investor AIF shall only use dual pricing where this is permitted in its constitutional document and the valuation procedures utilised in calculating both the bid and the offer price are clear and unambiguous (as specified in paragraph (1) of this section).
10. Dealing in the units of a Retail Investor AIF shall be carried out at forward prices i.e. the Net Asset Value next computed after receipt of subscription and redemption requests.

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<sup>8</sup> A closed-ended Retail Investor AIF which values OTC derivatives on a monthly basis (see footnote 8) must carry out the independent verification procedure at least on a quarterly basis.

11. Closed-ended Retail Investor AIF and open-ended Retail Investor AIF with limited liquidity shall value their portfolios on a monthly basis.

**viii. Distinction between open-ended Retail Investor AIF and those which are open-ended with limited liquidity arrangements**

1. Where the Retail Investor AIF is an open-ended Retail Investor AIF it shall:
  - (a) provide redemption facilities on at least a monthly basis; and
  - (b) redeem when requested at least 10% of net assets; and
  - (c) not impose a redemption fee in excess of 3% of net asset value per unit.
2. Retail Investor AIFs which:
  - (a) offer redemption and/or settlement facilities on a less than monthly basis; and/or
  - (b) provide for a period of greater than 30 days between the dealing deadline and the payment of redemption proceeds, will not be subject to any regulatory parameters in terms of dealing frequency, minimum redemption quotas or timeframe for settlement provided they classify themselves as open-ended Retail Investor AIFs with limited liquidity.

**ix. Share classes**

*General*

1. Subject to paragraphs 3 and 4 below, a Retail Investor AIF shall only create one or more share classes within the Retail Investor AIF, or within a sub-fund of an umbrella Retail Investor AIF, where the following requirements are satisfied:
  - (a) the constitutional document of the Retail Investor AIF must provide for the creation of share classes. In the case of an umbrella Retail Investor AIF the provision in the constitutional document to establish the way in which sub-funds, and share classes within sub-funds, are created must be clear and unambiguous;
  - (b) each Retail Investor AIF or sub-fund thereof must consist of a single common pool of assets;
  - (c) assets may not be allocated to individual share classes;
  - (d) the capital gains/losses and income arising from that pool of assets must be distributed and/or must accrue equally to each unitholder relative to their participation in the Retail Investor AIF or sub-fund thereof;

- (e) unitholders in a share class must be treated equally; and
  - (f) where more than one share class exists, all the unitholders in the different share classes must be treated fairly.
2. A Retail Investor AIF shall ensure that all share classes within the Retail Investor AIF or sub-funds thereof have the same dealing procedures and frequencies.
  3. A Retail Investor AIF or sub-fund thereof shall only provide for the creation of a hedged currency share class or a hedged interest rate share class where the constitutional document of the Retail Investor AIF clearly establishes how the resultant costs and gains/losses will be charged to the relevant share class.
  4. A Retail Investor AIF shall only use FDIs at share class level to provide a different level of participation in the performance of an underlying portfolio or different levels of capital protection where:
    - (a) the FDI for each share class is based on the same underlying portfolio or index;
    - (b) the transactions do not result in a leveraged return per share class, i.e. the participation rate does not exceed 100% of the relevant share class' performance of the underlying portfolio;
    - (c) the Retail Investor AIF holds a legal opinion that the OTC counterparty's recourse to the Retail Investor AIF is limited to the relevant share class' participation in the Retail Investor AIF's assets; and
    - (d) the board of the AIFM/investment company/management company/general partner submits confirmation to the Central Bank that they have reviewed and are satisfied that the arrangements will, as a result of the agreement between the Retail Investor AIF and the over-the-counter counterparty, not result in any prejudice for unitholders in one class over another and that there will be no cross liability between share classes.

*Side pocket share classes*

5. A Retail Investor AIF may establish side pocket share classes into which assets which have become illiquid or difficult to value may be placed provided that the ability to establish these share classes has been provided for in the Retail Investor AIF's constitutional document and has been disclosed to unitholders in advance.
6. The Retail Investor AIF must, in its constitutional document, prescribe the parameters which will apply to the creation of side pocket share classes.

7. The Retail Investor AIF shall, at all times, be able to demonstrate that any assets placed in side pocket share classes comply with the approved parameters.
8. The Retail Investor AIF shall report to the Central Bank on an annual basis confirming whether or not the parameters continue to be respected and outlining the prospects and/ or plans for the side pocketed assets.
9. The Retail Investor AIF must specify in its prospectus a clear and unambiguous description of the proposed side pocket arrangements and information on the action which will be taken in the event that the assets within the side pockets are not re-admitted to trading or otherwise increase in value and/or liquidity as anticipated.
10. The Retail Investor AIF shall, in advance of establishing a side pocket share class, provide in conjunction with its depositary written confirmation to the Central Bank that the proposed establishment is in accordance with the Retail Investor AIF's constitutional document and takes into account the interests of all unitholders.

**x. Umbrella Retail Investor AIFs**

1. An umbrella Retail Investor AIF which has been authorised by the Central Bank must obtain the Central Bank's prior approval for each sub-fund.
2. Where the Retail Investor AIF is constituted as an umbrella Retail Investor AIF, it shall ensure that its sub-funds comply with the requirements to which it is subject.
3. Where the Retail Investor AIF is an umbrella Retail Investor AIF it shall, as appropriate, provide that its trust deed, deed of constitution, articles of association or instrument of incorporation provide that separate records will be maintained for each sub-fund with the assets and liabilities being allocated to each sub-fund.
4. The Retail Investor AIF shall ensure that, where relevant, its constitutional document provides that the assets of each sub-fund shall belong exclusively to the relevant sub-fund and shall not be used to discharge directly or indirectly the liabilities of or claims against any other sub-fund and shall not be available for any such purpose.
5. Investment companies authorised before 30 June 2005, which have as an investment objective the employment of leverage, may not establish additional sub-funds unless the umbrella

Retail Investor AIF has taken measures necessary to apply segregated liability between sub-funds.

6. Investment by a sub-fund within an umbrella Retail Investor AIF in the units of another sub-fund within the umbrella is subject to the following:
  - (a) investment must not be made in a sub-fund which itself holds units in other sub-funds within the umbrella;
  - (b) where a sub-fund (the “Investing Fund”) of an umbrella Retail Investor AIF invests in the units of other sub-funds of that umbrella (each a “Receiving Fund”), the rate of the annual management fee which investors in the Investing Fund are charged in respect of that portion of the Investing Fund’s assets invested in Receiving Funds (whether such fee is paid directly at the Investing Fund level, indirectly at the level of the Receiving Funds or a combination of both) may not exceed the rate of the maximum annual management fee which investors in the Investing Fund may be charged in respect of the balance of the Investing Fund’s assets, such that there shall be no double charging of annual management fee to the Investing Fund as a result of its investments in the Receiving Fund. This provision is also applicable to the annual fee charged by an investment manager where this fee is paid directly out of the assets of the Retail Investor AIF; and
  - (c) investment by way of transfer for consideration is subject to prior notification to the Central Bank<sup>9</sup>.

**xi. Investment through subsidiary companies**

1. A Retail Investor AIF shall not establish a subsidiary unless the Retail Investor AIF complies with the following conditions:
  - (a) the establishment of a subsidiary must receive the prior approval of the Central Bank;
  - (b) the subsidiary must be wholly owned and controlled by the Retail Investor AIF. The directors of the Retail Investor AIF must form a majority of the board of directors of the subsidiary;
  - (c) the subsidiary must not be an investment fund or issuing body;

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<sup>9</sup> Section 255(3) of the Companies Act 1990 Part XIII and section 47(2) of the ICAV Act permits an umbrella investment company to acquire shares in a sister sub-fund by way of subscription or transfer for consideration. It is expected that, generally, such cross-investments will be processed as subscriptions under normal dealing arrangements. In the event that a transfer for consideration is proposed the Retail Investor AIF must notify the Central Bank in advance setting out the rationale behind the proposed transaction.

- (d) the subsidiary must not appoint any third parties or enter into any contractual arrangements unless the Retail Investor AIF is a party to such appointments or contractual arrangements;
- (e) the constitutional document of the Retail Investor AIF must provide for the ability of the Retail Investor AIF to establish subsidiaries;
- (f) the constitutional document of the subsidiary must include provisions which restrict the subsidiary from acting other than under the control of the Retail Investor AIF and which restrict any person or entity other than the Retail Investor AIF from holding shares in the subsidiary; and
- (g) the assets held by the subsidiary must be valued in accordance with the Retail Investor AIF's valuation rules.

**xii. Dealings by management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these**

1. The Retail Investor AIF shall only enter into a transaction with a management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these where it is negotiated at arm's length. Transactions must be in the best interests of the unitholders.
2. Transactions permitted are subject to:
  - (a) certified valuation by a person approved by the depositary, or the Retail Investor AIF in the case of transactions involving the depositary, as independent and competent; or
  - (b) execution on best terms on organised investment exchanges under their rules; or
  - (c) where (a) and (b) are not practical, execution on terms which the depositary, or the Retail Investor AIF in the case of transactions involving the depositary, is satisfied conform to the principles outlined in paragraph 1 of this section.

**xiii. Directed brokerage services and similar arrangements**

1. The Retail Investor AIF shall ensure that where a person, acting on its behalf, successfully negotiates the recapture of a portion of the commissions charged by brokers or dealers in connection with the purchase and/or sale of securities, the rebated commission shall be paid to the Retail Investor AIF.

2. The Retail Investor AIF shall not reimburse out of its assets the operator of the directed brokerage services or similar arrangement for reasonable properly vouched costs, fees and expenses directly incurred by the operator in relation to the services or arrangement unless the prospectus disclosure required by paragraph 1 of section 3.xiv (*Directed brokerage programmes and similar arrangements*) of this Part has been made. The Retail Investor AIF must be separately invoiced for these fees and expenses by the operator of the directed brokerage services.

## Appendix 1

### Calculation of Global Exposure using the VaR methodology

#### *Relative VaR methodology*

1. Under the relative VaR methodology the global exposure of the Retail Investor AIF is calculated as follows:
  - (a) Calculate the VaR of the Retail Investor AIF's current portfolio (which includes derivatives);
  - (b) Calculate the VaR of a reference portfolio;
  - (c) Check that the VaR of the Retail Investor AIF's portfolio is not greater than twice the VaR of the reference portfolio in order to ensure a limitation of the global leverage ratio of the Retail Investor AIF to 2. This limit can be presented as follows:

$$\frac{(\text{VaR Retail Investor AIF} - \text{VaR Reference Portfolio})}{\text{VaR Reference Portfolio}} \times 100 \leq 100\%$$

2. The reference portfolio and the related processes shall comply with the following criteria:
  - (a) The reference portfolio should be unleveraged and should, in particular, not contain any FDI or embedded FDI, except that:
    - a Retail Investor AIF engaging in a long/short strategy may select a reference portfolio which uses FDI to gain the short exposure; and
    - a Retail Investor AIF which intends to have a currency hedged portfolio may select a currency hedged index as a reference portfolio.
  - (b) The risk profile of the reference portfolio should be consistent with the investment objectives, policies and limits of the Retail Investor AIF's portfolio;
  - (c) If the risk/return profile of a Retail Investor AIF changes frequently or if the definition of a reference portfolio is not possible, then the relative VaR method should not be used.
  - (d) The process relating to the determination and the on-going maintenance of the reference portfolio should be integrated in the risk management process and be supported by adequate procedures. Guidelines governing the composition of the reference portfolio should be developed. In addition, the actual composition of the reference portfolio and any changes should be clearly documented.



*Absolute VaR methodology*

3. The absolute VaR methodology limits the maximum VaR that a Retail Investor AIF can have relative to its Net Asset Value (NAV).

*VaR methodology: Quantitative requirements*

4. Calculation Standards: The absolute VaR of a Retail Investor AIF cannot be greater than 20% of its NAV.
5. The calculation of the absolute and relative VaR shall be carried out in accordance with the following parameters:
  - (a) one-tailed confidence interval of 99%;
  - (b) holding period equivalent to 1 month (20 business days);
  - (c) effective observation period (history) of risk factors of at least 1 year (250 business days) unless a shorter observation period is justified by a significant increase in price volatility (for instance extreme market conditions);
  - (d) quarterly data set updates, or more frequent when market prices are subject to material changes;
  - (e) at least daily calculation.
6. A confidence interval and/or a holding period differing from the default parameters above may be used by a Retail Investor AIF provided the confidence interval is not below 95% and the holding period does not exceed 1 month (20 days).
7. For Retail Investor AIF referring to an absolute VaR methodology, the use of other calculation parameters goes together with a rescaling of the 20% limit to the particular holding period and/or confidence interval. The rescaling can only be done under the assumption of a normal distribution with an identical and independent distribution of the risk factor returns by referring to the quantiles of the normal distribution and the square root of time rule.

*VaR methodology: Qualitative requirements*

8. The AIFM Regulations provide that the risk management function is responsible inter alia for ensuring compliance with the Retail Investor AIF's risk limit system, including limits concerning global exposure. In this regard the risk management function is responsible for:
  - (a) sourcing, testing, maintaining and using the VaR methodology on a day-to-day basis;

- (b) supervising the process relating to the determination of the reference portfolio if the Retail Investor AIF reverts to a relative VaR methodology;
  - (c) ensuring on a continuous basis that the model is adapted to the Retail Investor AIF's portfolio;
  - (d) performing continuous validation of the model;
  - (e) validating and implementing a documented system of VaR limits consistent with the risk profile of the Retail Investor AIF that is to be approved by senior management and the board of directors;
  - (f) monitoring and controlling the VaR limits;
  - (g) monitoring on a regular basis the level of leverage generated by the Retail Investor AIF; and
  - (h) producing on a regular basis reports relating to the current level of the VaR measure (including back testing and stress testing) for senior management.
9. The VaR methodology and the related outputs shall represent an integral part of the daily risk management work. In addition, they should be integrated in the regular investment process led by the investment managers as part of the risk management program to keep the Retail Investor AIF's risk profile under control and consistent with its investment strategy.
10. Following initial development, the model shall undergo a validation by a party independent of the building process to ensure that the model is conceptually sound and captures adequately all material risks. This validation process must also be carried out following any significant change to the model. A significant change, for example, might include to the use of a new product by the Retail Investor AIF, the need to improve the model following the back testing results, or a decision taken by the Retail Investor AIF to change certain aspects of the model in a significant way.
11. The risk management function shall perform on-going validation of the VaR methodology (this includes, but is not limited to back testing) in order to ensure the accuracy of the model's calibration and, where necessary, the model should be adjusted. The review, together with the results of the review, shall be documented.

*Documentation of VaR methodology*

12. Where a Retail Investor AIF uses a VaR methodology, it shall adequately document the VaR methodology and the related processes and techniques in the risk management process referred to in paragraph 16 of section 1.iv (*Financial derivative instruments*) of Part I of this chapter. This shall include, among others:
- (a) the risks covered by the model;
  - (b) the model's methodology;
  - (c) the mathematical assumptions and foundations;
  - (d) the data used;
  - (e) the accuracy and completeness of the risk assessment;
  - (f) the methods used to validate the model;
  - (g) the back testing process;
  - (h) the stress testing process;
  - (i) the validity range of the model; and
  - (j) the operational implementation.

**Section 2:****Supervisory requirements****i. General conditions**

1. A Retail Investor AIF shall have an authorised AIFM.
2. The Retail Investor AIF shall notify the Central Bank of any proposed amendments to its prospectus. The Central Bank may object to the amendments notified to it and amendments objected to by the Central Bank shall not be made.
3. The Retail Investor AIF shall not alter its constitutional document or change its name without the prior approval of the Central Bank.
4. The Retail Investor AIF shall notify the Central Bank in advance of proposed amendments to material agreements entered into with third parties. The Central Bank may object to the amendments notified to it and amendments objected to by the Central Bank may not be made.
5. The Retail Investor AIF shall notify the Central Bank promptly of any material breach of the investment fund legislation, the requirements imposed on it by the Central Bank or provisions of its prospectus.

**ii. Offer period**

1. The Retail Investor AIF shall ensure that the offer period does not commence prior to the authorisation of the Retail Investor AIF or approval in the case of a sub-fund and must be for a period no longer than six months.
2. In the case of Retail Investor AIFs which are established as private equity or real estate Retail Investor AIFs this period may extend up to one year provided that the terms of the offer ensure that early unitholders are not prejudiced by the arrangements. Where the Retail Investor AIFs have multiple closings, this period must commence no later than the date of first closing.
3. The Retail Investor AIF may extend the initial offer period without prior notification to the Central Bank provided that no subscriptions have been received at the date of the proposed

extension. The Retail Investor AIF shall notify the Central Bank of any such extensions on an annual basis.

4. The Retail Investor AIF may only extend the initial offer period, where subscriptions have been received, if it has received the prior written approval of the Central Bank for such an extension.
5. The Retail Investor AIF shall only launch share classes at a fixed price after the initial offer period where it has been confirmed to the Central Bank that existing shareholders in the Retail Investor AIF are not prejudiced.

**iii. Directors of Retail Investor AIF investment companies<sup>10</sup>**

1. Where the Retail Investor AIF is an investment company, departures from the office of director and the reason for the departure shall be notified to the Central Bank immediately by filing the relevant Central Bank form. In all cases where a director wishes to resign and prior to completing the relevant Central Bank form, the Retail Investor AIF (at Board or its Chair level) must form a view as to the impact of the resignation on the AIF Management Company having regard to the current and prospective financial state of the AIF Management Company and the AIFs under management. In the event that the Board or, in the absence of a Board meeting, the Chair forms the view that the situation is one which could create such concern on the part of the Central Bank, it shall state this on the relevant Central Bank form. The Board or its Chair may consult the Central Bank in order to help it form a view on that matter.
2. Where the Retail Investor AIF is an investment company it shall ensure that it does not have directors in common with the board of directors of its depositary.
3. Where the Retail Investor AIF is an investment company a minimum of two directors shall be Irish resident.
3. Where the Retail Investor AIF is an investment company it shall ensure that each of its directors is required to disclose to the board of the Retail Investor AIF any concurrent directorships which they hold.

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<sup>10</sup> The provisions of footnote 1 in chapter 4 - AIF Management Company Requirements will apply *mutatis mutandis* to directors of Retail Investor AIF investment companies which are in distressed or failing circumstances.

**iv. Suspensions**

1. Where the Retail Investor AIF temporarily suspends the calculation of the net asset value and repurchase or redemption of its units it must inform the Central Bank immediately, and in any event within the working day on which such suspension took effect.

**v. Replacement of depositary**

1. The Central Bank requires that the procedures to be followed in relation to the replacement of a depositary must be approved by the board of the investment company, the management company of a unit trust scheme or common contractual fund or the general partner of an investment limited partnership. Where the Retail Investor AIF replaces its depositary, the Retail Investor AIF must ensure that the Central Bank receives, as required, confirmation from both the retiring depositary and new depositary that they are satisfied with the transfer of assets.
2. The Retail Investor AIF shall only terminate the appointment of the depositary:
  - (a) upon the appointment of a successor depositary; or
  - (b) upon the revocation of the authorisation of the Retail Investor AIF.

**vi. Replacement of AIFM, management company, general partner or third party**

1. The Retail Investor AIF shall only replace its AIFM or management company with the prior approval of the Central Bank.
2. The Central Bank shall be notified in advance of any proposal to replace third parties which have contracted (directly or indirectly) with the management company in the case of a unit trust or common contractual fund, investment company or investment limited partnership to carry out services. The Central Bank may object to the proposals and replacements objected to by the Central Bank may not proceed.
3. The procedures to be followed by Retail Investor AIFs in relation to the replacement of an AIFM, management company, investment manager or fund administration company must be approved and documented by the Retail Investor AIF.

**vii. Monthly and quarterly returns**

1. The Retail Investor AIF shall submit a monthly return to the Statistics Division of the Central Bank using the Central Bank's Online Reporting System. The contents of the monthly return are set out below in paragraph 2 of this section.
  
2. The following information shall be included in the monthly returns:
  - (a) the Central Bank code issued to the sub-fund of the Retail Investor AIF;
  - (b) the base currency of the Retail Investor AIF (the return must be denominated in the base currency of the Retail Investor AIF);
  - (c) the Retail Investor AIF type (designated by investment strategy);
  - (d) total gross asset value of the Retail Investor AIF at end-month;
  - (e) total net asset value of the Retail Investor AIF at end-month;
  - (f) number of units in circulation at end-month;
  - (g) net asset value per unit at end-month;
  - (h) payments received from the issues of units during month;
  - (i) payments made for the repurchase of units during month;
  - (j) net amount from issues and repurchases during month;
  - (k) profit/loss from operations during the period;
  - (l) investment management fees accrued during the period (excluding performance fees);  
and
  - (m) all other expenses accrued during the period (excluding investment management fees).

This return must be submitted to the Statistics Division of the Central Bank within 10 working days of the end-month to which it refers.

3. The Retail Investor AIF shall submit a quarterly Survey of Collective Investment Undertakings return to the Statistics Division of the Central Bank within ten working days of the end-quarter to which it refers. The Retail Investor AIF must also submit a Funds Annual Survey of Liabilities return to the Statistics Division of the Central Bank, along with the quarterly Survey of Collective Investment Undertakings return, for the first quarter of each year.

**viii. Amalgamation of Retail Investor AIFs with other investment funds**

1. A Retail Investor AIF shall only merge or amalgamate with another investment fund where the proposed merger or amalgamation has received the prior approval of the Central Bank.

### Section 3:

#### Prospectus requirements

##### i. General requirements

1. The Retail Investor AIF must publish a prospectus, which must be dated and the essential elements of which must be kept up to date.
2. The prospectus must contain sufficient information for investors to make an informed judgement of the investment proposed to them.
3. A Retail Investor AIF must where relevant comply with Regulation 24 of the AIFM Regulations regarding disclosure to unitholders obligations. The information set out in Regulation 24(1) to (3) of the AIFM Regulations, which AIFMs are required to make available to prospective investors before they invest, must be disclosed in a Retail Investor AIF's prospectus. For Regulations 24(1)(k), (m) and (n), the prospectus can disclose where the relevant documentation or information is available.
4. The Retail Investor AIF shall offer, free of charge, the prospectus to every prospective unitholder before a contract for the acquisition of units is entered into.
5. The Retail Investor AIF shall ensure that where the prospectus is translated into a language other than English, any such translation shall only contain the same information and shall have the same meaning as in the prospectus submitted to the Central Bank.
6. The Retail Investor AIF shall comply with the terms of its prospectus.
7. The Retail Investor AIF shall not change its investment objectives or effect a material change to its investment policies, as disclosed in the prospectus without the prior written approval of all unitholders or without approval on the basis of a majority of votes cast at general meeting. "Material" shall be taken to mean, although not exclusively:

*"changes which significantly alter the asset type, credit quality, borrowing or leverage limits or risk profile of the Retail Investor AIF".*



In the event of a change of investment objectives and/or investment policy, on the basis of a majority of votes cast at a general meeting, the Retail Investor AIF shall provide a reasonable notification period<sup>11</sup> to enable unitholders redeem their units prior to implementation of these changes.

8. The Retail Investor AIF shall include details of derogations granted by the Central Bank in its prospectus.

**ii. General information concerning the Retail Investor AIF**

1. The Retail Investor AIF shall, at a minimum, disclose the following in its prospectus:
  - (a) The name of the Retail Investor AIF, form in law, and, in the case of an investment company, the registered office and head office if different from the registered office.
  - (b) The date of establishment, incorporation or registration of the Retail Investor AIF and indication of duration, if limited.
  - (c) A statement of the place where the constitutional document, if not annexed, and annual reports may be obtained.
  - (d) Brief indications relevant to unitholders of the tax system applicable to the Retail Investor AIF. Details of whether deductions are made at source from the income and capital gains paid by the Retail Investor AIF to unitholders must also be included.
  - (e) The accounting dates and distribution frequency. The time limit (if any) after which entitlement to dividend lapses and procedure in this event.
  - (f) A description of the rules for determining and applying income.
  - (g) In the case of investment companies, the names and positions in the company of the directors; their experience both current and past, which is relevant to the company; details of their main activities outside the company where these are of significance with respect to the company.
  - (h) The persons who accept responsibility for information contained in the prospectus.
  - (i) The material provisions of the contracts between third parties and the management company, general partner or investment company which may be relevant to unitholders, excluding those relating to remuneration.
  - (j) The authorised share capital in the case of an investment company.
  - (k) The base currency of the Retail Investor AIF.

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<sup>11</sup> The Central Bank considers that a minimum period of two weeks in the case of daily/weekly dealing Retail Investor AIF or one dealing day in the case of less frequent redemptions should be provided.

- (l) The types and main characteristics of the units and in particular:
  - (i) the nature of the right (real, personal or other) represented by the unit;
  - (ii) whether there are original securities or certificates providing evidence of title;
  - (iii) whether there is entry in a register or in an account;
  - (iv) the characteristics of the units: whether they are registered or bearer;
  - (v) indication of any denominations which may be provided for;
  - (vi) an indication of unitholders' voting rights; and
  - (vii) the circumstances in which winding-up of the Retail Investor AIF can be decided on and winding-up procedure, in particular as regards the rights of unitholders.
- (m) Where applicable, indication of stock exchanges or markets where the units are listed or dealt in.
- (n) description of the AIFM's remuneration policies and practices pursuant to Regulation 14 of the AIFM Regulations.

### iii. Investment policy

1. The Retail Investor AIF shall, in its prospectus, disclose the quantitative parameters on the extent of leverage which will be engaged in by the Retail Investor AIF.
2. The Retail Investor AIF shall, in its prospectus, include a list<sup>12</sup> of those stock exchanges and markets (including derivatives markets) on which securities or financial derivative instruments of the Retail Investor AIF are listed or traded. Only those stock exchanges and markets which meet with the regulatory criteria (i.e. regulated, operate regularly, be recognised and open to the public) at the date of the prospectus, may be included in the prospectus.
3. The Retail Investor AIF shall make a full disclosure in its prospectus of the states, local authorities and public international bodies in the securities of which it is intended to invest more than 20% of its net assets in accordance with the provision of paragraph 7 of section 1.ii (*Investment restrictions*) of this Part.

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<sup>12</sup> Stock Exchanges in the European Economic Area, Australia, Canada, Hong Kong, Japan, New Zealand, Switzerland and the United States need not be listed individually. Derivative markets in the European Economic Area need not be listed individually.

**iv. Investment in other investment funds**

1. The Retail Investor AIF shall, in its prospectus, clearly indicate the extent to which it is intended to invest in underlying investment funds and state that additional fees will arise from this investment policy. The prospectus must disclose, and quantify to the extent possible, the types of charges and other costs relating to the underlying investment funds which will be borne by the Retail Investor AIF. In addition to disclosure regarding fees which will arise at the level of the Retail Investor AIF, the prospectus must also disclose, to the extent possible, the fees which will arise at the level of the underlying investment funds.
2. The Retail Investor AIF shall only invest in a jurisdiction and/ or type of underlying investment where both have been clearly disclosed in its prospectus. If it is intended to invest in unregulated investment funds, full disclosure regarding the nature of the underlying investment fund, including information on whether the underlying investment fund may be leveraged and the attendant risks must be specified by the Retail Investor AIF in its prospectus.

**v. Efficient portfolio management**

1. The Retail Investor AIF shall specify, in its prospectus, the techniques and instruments that it will utilise for efficient portfolio management purposes. The use of these techniques and instruments must be in line with the best interests of the Retail Investor AIF.
2. The Retail Investor AIF shall disclose in its prospectus the policy regarding direct and indirect operational costs/fees arising from efficient portfolio management techniques that may be deducted from the revenue delivered to the Retail Investor AIF. These costs and fees should not include hidden revenue. The Retail Investor AIF shall disclose the identity of the entity(ies) to which the direct and indirect costs and fees are paid and indicate if these are related parties to the management company, AIFM or the depositary.

**vi. Valuation**

1. The Retail Investor AIF shall, in its prospectus, disclose the methodology for calculating the sale or issue price and the repurchase or redemption price of units. This disclosure shall also specify:
  - (a) the method used to value the assets of the Retail Investor AIF;

- (b) the method and frequency of the calculation of those prices;
- (c) information concerning the charges relating to the sale or issue and the repurchase, or redemption of units; and
- (d) the means, places and frequency of the publication of those prices.

**vii. Remuneration and costs arising from underlying investments**

1. The Retail Investor AIF shall, in its prospectus, disclose the manner, amount and calculation of remuneration payable by the Retail Investor AIF to, where relevant, the management company, AIFM, directors of the investment company, general partners, the depositary or third parties, and reimbursement of costs by the Retail Investor AIF to the management company, AIFM, directors of the investment company, general partners, the depositary or to third parties.
2. The Retail Investor AIF shall disclose (and quantify to the extent possible), in its prospectus, the types of charges and other costs relating to investments in underlying investment funds which will be borne by the Retail Investor AIF.

**viii. Dealing**

1. The Retail Investor AIF shall disclose, in its prospectus, the initial offer period.
2. The Retail Investor AIF shall disclose, in its prospectus, the procedures and conditions for repurchase or redemption of units, including the period within which redemption proceeds will normally be paid or discharged to unitholders. It must also disclose the circumstances in which repurchase or redemption may be suspended.
3. Where a Retail Investor AIF is an open-ended investment fund with limited liquidity, it shall, in its prospectus, specify the limited nature of the redemption facilities.

*Redemption in Specie*

4. Where the prospectus provides for redemption in specie, the Retail Investor AIF shall also provide for the following in its prospectus:
  - redemption in specie is at the discretion of the Retail Investor AIF and with the consent of the redeeming unitholder;

- asset allocation is subject to the approval of the depositary; and
- a determination to provide redemption in specie may be solely at the discretion of the Retail Investor AIF where the redeeming unitholder requests redemption of a number of units that represent 5% or more of the net asset value of the Retail Investor AIF. In this event the Retail Investor AIF will, if requested, sell the assets on behalf of the unitholder. The cost of the sale can be charged to the unitholder.

The requirements set out in the first and third bullet points are not applicable for an exchange traded fund where the original subscription was made in specie.

**ix. Information concerning a management company or general partner**

1. The Retail Investor AIF shall, in its prospectus, disclose the name, form in law, registered office and head office, if different from the registered office, of the management company or general partner. If the management company or general partner is part of a group, the name of that group must be disclosed. The date of incorporation of the company and indication of duration, if limited, must also be included.
2. The Retail Investor AIF shall, in its prospectus, disclose the names and positions in the management company or general partner of the members of the administrative, management and supervisory functions; their experience, both current and past, which is relevant to the Retail Investor AIF; and details of their main activities outside the management company or general partner where those are of significance with respect to that management company or general partner.
3. The Retail Investor AIF shall, in its prospectus, disclose the amount of the prescribed capital of the management company or general partner with an indication of the capital paid-up.

**x. Information concerning investment managers and other service providers**

1. The Retail Investor AIF shall, in its prospectus, disclose the details of service providers.
2. The Retail Investor AIF shall, in its prospectus, disclose the material provisions of the contracts with the management company, general partner or investment company which may be relevant to the unitholders, excluding those relating to remuneration.

3. The Retail Investor AIF shall, in its prospectus, disclose the other significant activities engaged in by its AIFM and any entity performing investment management functions on its behalf.

**xi. Authorisation status**

1. The Retail Investor AIF shall, in its prospectus, state that its authorisation is not an endorsement or guarantee of the Retail Investor AIF by the Central Bank nor is the Central Bank responsible for the contents of the prospectus and must incorporate the following statement:

**“The Central Bank shall not, by virtue of its authorisation of this Retail Investor AIF or by reason of its exercise of functions conferred on it by legislation in relation to this Retail Investor AIF, be liable for any default of the Retail Investor AIF. Authorisation of this Retail Investor AIF does not constitute a warranty by the Central Bank as to the creditworthiness or financial standing of the various parties to the Retail Investor AIF.”**

**xii. Risk disclosures**

1. The Retail Investor AIF shall, in its prospectus, identify, and describe in a comprehensive manner, the risks applicable to investing in that particular Retail Investor AIF. In particular Retail Investor AIFs must make reference to:
  - (a) the fact that prices of units may fall as well as rise;
  - (b) the desirability of consulting a stockbroker or financial adviser about the contents of the prospectus; and
  - (c) where relevant, the fact that the difference at any one time between the sale and repurchase price of units in the Retail Investor AIF means that the investment must be viewed as medium to long term.
2. The Retail Investor AIF shall, where relevant, contain in its prospectus a prominent risk warning which will make specific reference to the following:
  - (a) any potential for above average risk involved; and
  - (b) the suitability of this type of investment with the potential for above average risk only for people who are in a position to take such a risk.

3. The Retail Investor AIF shall, in its prospectus, include a detailed description of the risks involved in the efficient portfolio management activities, including counterparty risk and potential conflicts of interest, and the impact they may have on the performance of the Retail Investor AIF.
4. A Retail Investor AIF which invests in emerging stock exchanges and markets shall include in its prospectus a recommendation that unitholders should not invest a substantial proportion of their investment portfolio in the Retail Investor AIF. This recommendation shall be set out in bold type at the beginning of the prospectus and must cross refer to the more detailed disclosure of risk factors which are contained in the body of the prospectus.
5. A Retail Investor AIF which invests in gold shall set out in bold type the following statement at the beginning of its prospectus:

**“The price of gold varies considerably over time. This makes investment in gold high risk, particularly for the medium to long term investor. If the price of gold falls considerably, as it has in the past, you could face a significant loss on your investment.”**

6. The Retail Investor AIF which proposes to make distributions out of capital and which invests greater than 20% in fixed income instruments must highlight, in its prospectus, the greater risk of capital erosion given the lack of potential for capital growth and the likelihood that, due to capital erosion, the value of future returns would also be diminished.

### **xiii. Conflicts of interest**

1. The Retail Investor AIF shall, in its prospectus, include a description of the potential conflicts of interest which could arise between the AIFM, management company, general partner and investment manager and the Retail Investor AIF with details, where applicable, of how these are going to be resolved. A description of soft commission arrangements which may be entered into by a Retail Investor AIF must also be included.
2. The Retail Investor AIF shall only enter into a transaction with, as appropriate, its general partner, management company, depositary, AIFM, investment manager and/or its delegate or associated or group companies where there has been full disclosure in the Retail Investor AIF's prospectus.

**xiv. Directed brokerage services and similar arrangements**

1. The Retail Investor AIF shall, in its prospectus, disclose full details of any directed brokerage services or similar arrangement operated in relation to a Retail Investor AIF (including details of services provided).

**xv. Umbrella Retail Investor AIFs**

1. An umbrella Retail Investor AIF, which is an investment company, shall, in its prospectus, include the words "**An umbrella fund with segregated liability between sub-funds**". Investment companies constituted as umbrella Retail Investor AIFs which were authorised and commenced trading before 30 June 2005 and which do not have segregated liability between sub-funds must clearly disclose the potential risks to unitholders arising from the absence of the segregation of liability between sub-funds.
2. Where the Retail Investor AIF, which is an umbrella Retail Investor AIF, issues a supplement to its prospectus, it shall state, in the supplement, that it is constituted as an umbrella Retail Investor AIF and name the other existing sub-funds or provide that these will be available upon request.
3. Where the Retail Investor AIF is an umbrella Retail Investor AIF, it shall, in its prospectus, disclose the extent to which one sub-fund can invest in another and the conditions which apply to such investments.
4. Where the Retail Investor AIF is an umbrella Retail Investor AIF it shall, in its prospectus, clearly state the charges, if any, applicable to the exchange of units in one sub-fund for units in another.

**xvi. Structured Retail Investor AIFs**

1. Where the Retail Investor AIF is a structured Retail Investor AIF it must ensure that the prospectus:
  - (a) contains full disclosure regarding the investment policy, underlying exposure and payoff formulas in clear language which can be easily understood by the retail investor; and



- (b) includes a prominent risk warning informing unitholders who redeem their investment prior to maturity that they do not benefit from the pre-defined payoff and may suffer significant losses.

**xvii. Warehousing**

1. The Retail Investor AIF shall only acquire assets pursuant to a warehousing arrangement where the use of such arrangements is fully disclosed in its prospectus, including details of any fee payable in relation to such arrangements. The prospectus must state that the Retail Investor AIF will pay no more than current market value for these assets.

**xviii. Distributions out of and charging of fees and expenses to capital**

1. The Retail Investor AIF may only make distributions out of capital where its prospectus has included the following disclosures:
  - (a) the rationale behind the policy;
  - (b) a prominent risk warning, at the front of the prospectus, which describes the effects of making distributions from capital. This warning must include the following:
    - that capital will be eroded;
    - that the distribution is achieved by forgoing the potential for future capital growth;
    - this cycle may continue until all capital is depleted; and
  - (c) highlight that distributions out of capital may have different tax implications to distributions of income and recommend that investors seek advice in this regard.
2. The Retail Investor AIF shall only charge fees and expenses, including management fees, to capital where its prospectus has included the following disclosures:
  - (a) indicate that fees and expenses, including management fees, or a portion thereof, may be charged to capital;
  - (b) a prominent risk warning in bold text at front of prospectus which states:  
**“Unitholders/Shareholders should note that all or part of fees and expenses, including (if applicable) management fees, will be charged to the capital of the Retail Investor AIF. This will have the effect of lowering the capital value of your investment”**; and
  - (c) a description of the effects of the charging of fees and expenses, including management fees, to capital i.e. that capital may be eroded.

3. Where the Retail Investor AIFs invests more than 20% in fixed income instruments, and the priority of the Retail Investor AIF is the generation of income rather than capital growth this priority shall be specified in the prospectus. In addition the prospectus must include a statement that distributions made during the life of the Retail Investor AIF must be understood as a type of capital reimbursement.

**xix. Hedged and unhedged Retail Investor AIF and share classes**

1. The Retail Investor AIF shall, in its prospectus, clearly describe the general currency hedging strategies of the Retail Investor AIF and, where relevant, the features of individual currency share classes.
2. Where the Retail Investor AIF intends to invest in assets denominated in currencies other than the base currency, the Retail Investor AIF shall ensure that its prospectus discloses whether it is the intention of the Retail Investor AIF to hedge the resulting currency exposure back into the base currency and, if so, to what extent. The Retail Investor AIF shall, in its prospectus, disclose the general costs and/or exchange rate risks associated with the currency strategy.
3. The Retail Investor AIF shall, where it deals with an unhedged currency share class, disclose, in its prospectus, that a currency conversion will take place on subscription, redemption and distributions at prevailing exchange rates. The Retail Investor AIF shall, where appropriate, disclose that the value of the unit expressed in the class currency will be subject to exchange rate risk in relation to the base currency. In the case of hedged share classes, the Retail Investor AIF shall indicate in its prospectus that, to the extent that hedging is successful, the performance of the class is likely to move in line with the performance of the underlying assets and that unitholders in the hedged class will not benefit if the class currency falls against the base currency and/or the currency in which the assets of the Retail Investor AIF are denominated.
4. The Retail Investor AIF shall, where it deals with hedged currency share classes, disclose, in its prospectus, the implications of the hedging policy. This disclosure shall, at a minimum, include:
  - (a) a statement indicating the extent to which the Retail Investor AIF intends to hedge against currency fluctuations and noting that while not the intention, over-hedged or under-hedged positions may arise due to factors outside of the control of the Retail

- Investor AIF. The prospectus must provide that over-hedged positions will not be permitted to exceed 105% of the net asset value of the class;
- (b) a statement that the hedged positions will be kept under review to ensure that over-hedged positions do not exceed the provisions set out in the prospectus. This review will also incorporate a procedure to ensure that positions materially in excess of 100% will not be carried forward from month to month;
  - (c) a statement that transactions will be clearly attributable to a specific class. (Therefore currency exposures of different currency classes may not be combined or offset and currency exposures of assets of the Retail Investor AIF may not be allocated to separate share classes); and
  - (d) a disclosure that the costs and gains/losses of the hedging transactions will accrue solely to the relevant class.
5. A Retail Investor AIF shall only engage in interest rate hedging at share class level where the benefits and costs of such hedging are be accrued and attributed solely to unitholders in a hedged share class. Such arrangements shall be effected in accordance with the principles established in paragraphs 1 to 4.

**xx. Investment through subsidiaries**

1. The Retail Investor AIF may only invest through one or more subsidiaries where its prospectus discloses:
- (a) the name of the subsidiary; and
  - (b) that the subsidiary is wholly owned by the Retail Investor AIF.

## Section 4:

### General operational requirements

#### i. Dealing

1. The Retail Investor AIFs shall make the issue and redemption prices of their units available promptly to unitholders on request.
2. The Retail Investor AIF shall not issue units, or if issued shall cancel such units, unless the equivalent of the net issue price is paid into the assets of the Retail Investor AIF within a reasonable time, which is specified in the prospectus. This shall not preclude the distribution of bonus units.

#### ii. Hedged share classes

1. The Retail Investor AIF shall ensure that, prior to and during the course of providing currency hedging at class level, the valuation systems operated by the management company, AIFM, investment company or administration company is capable of processing and identifying the relevant hedge transactions at share class level. The Retail Investor AIF shall establish and maintain adequate systems that enable a review of the hedge to be undertaken in the light of on-going flows into and out of the share class.

#### iii. Regulated markets

1. The Retail Investor AIF shall ensure that the stock exchanges and markets included on the list contained in the prospectus meet the regulatory criteria (i.e. they must be regulated, operate regularly, be recognised and open to the public) on an on-going basis.
2. The Retail Investor AIF shall only amend its prospectus to include additional stock exchanges or markets where:
  - (a) those additional stock exchanges meet with the regulatory criteria (i.e. they must be regulated, operate regularly, be recognised and open to the public); and
  - (b) the depository has confirmed in writing that adequate custody arrangements are in place.

**iv. Directed brokerage services or similar arrangements**

1. The Retail Investor AIF shall, at a minimum, and on an annual basis, formally review any directed brokerage services or similar arrangements and associated costs where such services or arrangements are being operated in relation to it.

## Section 5:

### Annual and half-yearly reports

#### i. Publication of annual and half-yearly reports

1. The Retail Investor AIF shall publish an annual report for each financial year. The accounting information given in the annual report must be audited by one or more persons empowered to audit accounts in accordance with the Companies Acts. The auditor's report to unitholders, including any qualifications, shall be reproduced in full in the annual report.
2. The Retail Investor AIF shall include the information specified as being required under the AIFM Regulations and the information specified in this section in its annual report.
3. A Retail Investor AIF must publish a half-yearly report covering the first six months of the financial year. The information set out in this section must be incorporated into the half-yearly report.
4. The Retail Investor AIF shall prepare and submit to the Central Bank its first set of accounts (whether annual or half-yearly) within 9 months of the launch date and publish them within 2 months if half-yearly or 6 months if annual. The first annual reports must be within 18 months of incorporation/establishment and published within 6 months.
5. The Retail Investor AIF shall publish and submit to the Central Bank its annual report within 6 months of the end of the financial year to which it relates. The Retail Investor AIF shall publish and submit to the Central Bank its half-yearly report within 2 months of the end of the reporting period to which it relates.
6. The Retail Investor AIF shall, on request, supply unitholders with copies of the annual and half-yearly reports free of charge.
7. Where the Retail Investor AIF is an umbrella Retail Investor AIF constituted as a unit trust, common contractual fund or ICAV, it may produce separate periodic reports for individual sub-funds. In such cases, the report of each sub-fund must name the other sub-funds and state that the reports of such sub-fund are available free of charge on request from the management company or ICAV.

8. In accordance with company law, an investment company, other than an ICAV, established as an umbrella Retail Investor AIF must include accounts for all sub-funds of that company in its periodic reports.
- ii. Information to be contained in the annual report**
1. The Retail Investor AIF must indicate, in its annual report, how any transactions undertaken to provide protection against exchange rate risks have been utilised.
  2. The Retail Investor AIF must, where relevant, disclose, in its annual report, if distributions have been made out of the capital of the Retail Investor AIF.
  3. The Retail Investor AIF shall disclose the details of all sub-investment managers in its annual reports issued.
  4. The Retail Investor AIF shall include the following in its annual report as well as any significant information which will enable unitholders to make an informed judgement on the development of the Retail Investor AIF and its results:
    - (a) number of units in circulation;
    - (b) net asset value per unit;
    - (c) a full portfolio statement or a condensed portfolio statement which lists positions/exposures greater than 5% of net assets, distinguishing between the different types of investments and each investment analysed in accordance with the most appropriate criteria in the light of the investment policy of the Retail Investor AIF (e.g., in accordance with economic, geographical or currency criteria) as a percentage of net assets; for each of the investments the proportion it represents of the total net assets of the Retail Investor AIF must be stated. If a condensed portfolio statement is included in the annual report, a Retail Investor AIF must make the full portfolio statement available to unitholders on demand. This can be made available to potential investors at the Retail Investor AIF's discretion;
    - (d) a statement of changes in the composition of the portfolio during the reference period. To ensure that unitholders can identify significant changes in the disposition of the assets of the scheme, only material changes are required to be included in the published statement. Material changes are defined as aggregate purchases of a security exceeding 1% of the total value of purchases for the period and aggregate disposals greater than 1% of the total value of sales. At a minimum the largest 20 purchases and the largest 20 sales by value must be given. As an alternative, schemes may include a

declaration that a complete statement of changes will be made available to unitholders on request free of charge. The complete statement must, in any event, be sent to the Central Bank;

- (e) where a Retail Investor AIF holds more than 10% of its net assets in deposits or other accounts with credit institutions, details of the amounts and the names of the institutions must be provided. Retail Investor AIFs holding less than 10% of net assets in deposits or other accounts with credit institutions shall submit the relevant details to the Central Bank with their reports;
- (f) investments by sub-funds within an umbrella investment company in the units of other sub-funds within the umbrella must be disclosed. The policies adopted to disclose cross-investments must be explained in a note to the accounts;
- (g) information on the investment funds in which the Retail Investor AIF has invested during the reference period, including disclosure on their regulatory status and fees paid by the Retail Investor AIF and, to the extent possible, by the underlying investment funds. In the case of Retail Investor AIF which are funds of unregulated funds, the periodic reports must list the names of the underlying investment funds, their management companies and their domicile. The annual report must provide information on the impact of fees, including performance fees, on returns to unitholders;
- (h) a description of soft commission arrangements affecting the Retail Investor AIF during the period;
- (i) a description on how financial derivative instruments, securities lending and repurchase agreements have been utilised during the reporting period. This description must identify the specific techniques and instruments used during the period and indicate the purposes for the use of such techniques and instruments to allow unitholders assess their nature and the risk relating to them.

Open derivative positions at reporting date must be marked to market and specifically identified in the portfolio statement. Information on open option positions must include the strike price, final exercise date and an indication whether such positions are covered or not.

Retail Investor AIFs which have engaged in securities lending must disclose, in a note to the accounts, the aggregate value of securities on loan at reporting date, together with the value of collateral held by the Retail Investor AIF in respect of these securities. Where a Retail Investor AIF has entered into a securities lending programme organised by generally recognised international central securities depositories systems, the name of the central securities depository system must be disclosed;



- (j) a list of exchange rates used in the report;
- (k) a comparative table covering the last three financial years and including, for each financial year, at the end of the financial year;
- (l) the total net asset value;
- (m) the net asset value per unit;
- (n) depositary's report;
- (o) the annual report must state whether:
  - the Retail Investor AIF is satisfied that there are arrangements (evidenced by written procedures) in place, to ensure that the obligations set out in paragraph 1 of section 1.xii *Dealings by management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these* of this Part are applied to all transactions with connected parties; and
  - the Retail Investor AIF is satisfied that transactions with connected parties entered into during the period complied with the obligations set out in paragraph 1 of section 1.xii *Dealings by management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these* of this Part.
- (p) full details of the amounts paid under any directed brokerage services or similar arrangements; and
- (q) details of any distributions out of capital.

### iii. Information to be contained in the half-yearly report

1. The Retail Investor AIF shall include the following in its half-yearly report:
  - (a) a balance sheet or statement of assets and liabilities;
  - (b) number of units in circulation;
  - (c) net asset value per unit;
  - (d) a full portfolio statement or a condensed portfolio statement which lists positions/exposures greater than 5% of net assets, distinguishing between the different types of investments and each investment analysed in accordance with the most appropriate criteria in the light of the investment policy of the Retail Investor AIF (e.g., in accordance with economic, geographical or currency criteria) as a percentage of net assets; for each of the investments the proportion it represents of the total net assets of the Retail Investor AIF must be stated. If a condensed portfolio statement is included in the half-yearly report, a Retail Investor AIF must make the full portfolio statement available to unitholders on demand. This can be made available to potential investors at the Retail Investor AIF's discretion;

- (e) a statement of changes in the composition of the portfolio during the reference period. To ensure that unitholders can identify significant changes in the disposition of the assets of the scheme only material changes are required to be included in the published statement. These are defined as aggregate purchases of a security exceeding 1% of the total value of purchases for the period and aggregate disposals greater than 1% of the total value of sales. At a minimum the largest 20 purchases and 20 sales must be given. As an alternative, schemes may include a declaration that a complete statement of changes will be made available to unitholders on request free of charge. The complete statement must, in any event, be sent to the Central Bank;
- (f) where a Retail Investor AIF holds more than 10% of its net assets in deposits or other accounts with credit institutions, details of the amounts and the names of the institutions must be provided. Retail Investor AIF holding less than 10% of net assets in deposits or other accounts with credit institutions must submit the relevant details to the Central Bank with their reports;
- (g) investments by sub-funds within an umbrella investment company in the units of other sub-funds within the umbrella shall be disclosed. The policies adopted to disclose cross-investments must be explained in a note to the accounts;
- (h) information on the investment funds in which the Retail Investor AIF has invested during the reference period, including disclosure on their regulatory status and fees paid by the Retail Investor AIF and, to the extent possible, by the underlying investment funds;
- (i) a description of soft commission arrangements affecting the Retail Investor AIF during the reference period;
- (j) a description on how financial derivative instruments, securities lending and repurchase agreements have been utilised during the reporting period. This description should identify the specific techniques and instruments used during the period and indicate the purposes for the use of such techniques and instruments to allow unitholders assess their nature and the risk relating to them.

Open derivative positions at reporting date should be marked to market and specifically identified in the portfolio statement. Information on open option positions should include the strike price, final exercise date and an indication whether such positions are covered or not.

Retail Investor AIFs which have engaged in securities lending must disclose, in a note to the accounts, the aggregate value of securities on loan at reporting date, together with the value of collateral held by the Retail Investor AIF in respect of these securities. Where a Retail Investor AIF has entered into a securities lending

programme organised by generally recognised international central securities depositories systems, the name of the central securities depository system must be disclosed;

- (k) a description of any material changes in the prospectus during the reporting period;
- (l) a list of exchange rates used in the report;
- (m) where a Retail Investor AIF has paid or proposes to pay an interim dividend, the half-yearly report must indicate the results after tax for the half-year concerned and the interim dividend paid or proposed;
- (n) the half-yearly report must state whether:
  - the Retail Investor AIF is satisfied that there are arrangements (evidenced by written procedures) in place, to ensure that the obligations set out in paragraph 1 of section 1.xii *Dealings by management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these* of this Part are applied to all transactions with connected parties; and
  - the Retail Investor AIF is satisfied that transactions with connected parties entered into during the period complied with the obligations set out in paragraph 1 of section 1.xii *Dealings by management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these* of this Part; and
- (o) details of any distributions out of capital.

## Part II: SPECIFIC FUND-TYPE REQUIREMENTS

### Section 1:

#### Venture or development capital or private equity Retail Investor AIFs

1. The Retail Investor AIF, which invests in venture or development capital or private equity investments, is subject to the following rules in addition to the general rules for all Retail Investor AIFs:
  - (a) the title of the Retail Investor AIF must make clear that the Retail Investor AIF is a venture or development capital or private equity investment fund; and
  - (b) the venture capital or development capital or private equity investments of the Retail Investor AIF must be diversified such that no more than 30% of net assets are held in any one company or group of companies. The provisions of paragraphs 4 and 5 of section 1.ii (*Investment restrictions*) of Part I do not apply to these investments. The Retail Investor AIF may derogate from this restriction for one year following the date of its launch provided it observes the principle of risk spreading.
  
2. The Retail Investor AIF, which invests in venture or development capital or private equity investments, shall specify, in its prospectus:
  - (a) the intention of the Retail Investor AIF regarding the exercise of legal and management control over underlying investments.
  - (b) The prospectus must contain a description of the risks involved in this type of Retail Investor AIF and a prominent risk warning which will make reference to the following:
    - (i) the above average risk involved;
    - (ii) the suitability of this type of investment only for unitholders who are in a position to take such a risk;
    - (iii) the likelihood that because the Retail Investor AIF is invested in unquoted companies, delays may arise in meeting redemption requests from unitholders; and
    - (iv) a recommendation that not more than 5% of an investor's portfolio be invested in the Retail Investor AIF.
  
  - (c) a description of the potential conflicts of interest which could arise between the Retail Investor AIF and the management company/AIFM and/or any delegates of the Retail Investor AIF and the management company/AIFM.

## Section 2:

### Money market Retail Investor AIFs

1. The Retail Investor AIF must indicate in its prospectus whether it is a Short-Term Money Market Fund or a Money Market Fund. It must also include a risk warning drawing attention to the difference between the nature of a deposit and the nature of an investment in a money market fund with particular reference to the risk that the principal invested in a money market fund is capable of fluctuation.
2. The Retail Investor AIF must provide appropriate information to unitholders on the risk and reward profile of the fund so as to enable unitholders identify any specific risks linked to the investment strategy of the money market fund.
  - (a) In the case of Money Market Funds this must take account of the longer WAM and WAL.
  - (b) In the case of all money market funds this must take account, where relevant, of investment in new asset classes, financial instruments or investment strategies with unusual risk and reward profiles.

#### i. Short-Term Money Market Funds

1. Where the Retail Investor AIF is a Short-Term Money Market Fund it must have a primary investment objective of maintaining the principal of the fund and aim to provide a return in line with money market rates.
2. Where the Retail Investor AIF is a Short-Term Money Market Fund it shall, in accordance with paragraph 3 below, limit investments to high quality money market instruments, as determined by the Retail Investor AIF, and deposits with credit institutions.
3. To determine “high quality”, the following factors must at least be taken into account:
  - (a) the credit quality of the instrument, (a money market instrument may not be considered to be of high quality unless it has been awarded one of the two highest available short-term credit ratings by each recognised credit rating agency that has rated the instrument, or, if the instrument is not rated, it is of an equivalent quality as determined by the Retail Investor AIF). Credit quality must be monitored on an on-going basis;
  - (b) the nature of the asset class represented by the instrument;

- (c) the operational and counterparty risk, in the case of structured financial instruments; and
  - (d) the liquidity profile.
- 4. Where the Retail Investor AIF is a Short-Term Money Market Fund it shall limit investments to securities or instruments with a residual maturity, until the legal redemption date, of less than or equal to 397 days.
- 5. Where the Retail Investor AIF is a Short-Term Money Market Fund it must provide daily NAV and price calculations and have daily subscriptions and redemptions of units.
- 6. Where the Retail Investor AIF is a Short-Term Money Market Fund it shall ensure that the WAM of the portfolio does not exceed 60 days.
- 7. Where the Retail Investor AIF is a Short-Term Money Market Fund it shall ensure that the WAL does not exceed 120 days. When calculating the WAL for securities, including structured financial instruments, the Retail Investor AIF must base the maturity calculation on the residual maturity until the legal redemption of the instruments. However, when a financial instrument embeds a put option, the exercise date of the put option may be used instead of the legal residual maturity only if the following conditions are fulfilled at all times:
  - (a) the put option can be freely exercised by the Retail Investor AIF at its exercise date;
  - (b) the strike price of the put option remains close to the expected value of the instrument at the next exercise date; and
  - (c) the investment strategy of the Retail Investor AIF implies that there is a high probability that the option will be exercised at the next exercise date.
- 8. Where the Retail Investor AIF is a Short-Term Money Market Fund it shall, when calculating the WAM and WAL, take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques.
- 9. Where the Retail Investor AIF is a Short-Term Money Market Fund it is not permitted to have direct or indirect exposure to equities or commodities, including through financial derivative instruments.
- 10. Where the Retail Investor AIF is a Short-Term Money Market Fund, financial derivative instruments may only be used when these are in line with the money market investment strategy of the Retail Investor AIF. Financial derivative instruments which give exposure to

foreign exchange may only be used for hedging purposes. Investment in non-base currencies is not permitted unless the exposure is fully hedged.

11. Where the Retail Investor AIF is a Short-Term Money Market Fund, investment in other investment funds is not permitted unless those investment funds are also Short-Term Money Market Funds.
12. Where the Retail Investor AIF is a Short-Term Money Market Fund it may have either a constant or fluctuating NAV.

**ii. Money Market Funds**

1. Where the Retail Investor AIF is a Money Market Fund it must have a primary investment objective of maintaining the principal of the fund and aim to provide a return in line with money market rates.
2. Where the Retail Investor AIF is a Money Market Fund it shall (in accordance with paragraph 3) limit investments to high quality money market instruments, as determined by the Retail Investor AIF, and deposits with credit institutions.
3. To determine “high quality”, the following factors must at least be taken into account:
  - (a) the credit quality of the instrument, (a money market instrument may not be considered to be of high quality unless it has been awarded one of the two highest available short-term credit ratings by each recognised credit rating agency that has rated the instrument, or, if the instrument is not rated, it is of an equivalent quality as determined by the Retail Investor AIF). Credit quality must be monitored on an on-going basis;
  - (b) the nature of the asset class represented by the instrument;
  - (c) the operational and counterparty risk, in the case of structured financial instruments; and
  - (d) the liquidity profile.
4. Where the Retail Investor AIF is a Money Market Fund it shall limit investments to securities or instruments with a residual maturity, until the legal redemption date, of less than or equal to 2 years, provided that the time remaining until the next interest reset date is less than or equal to 397 days. Floating rate securities must reset to a money market rate or index.

5. Where the Retail Investor AIF is a Money Market Fund it must provide daily NAV and price calculations and have daily subscriptions and redemptions of units.
6. Where the Retail Investor AIF is a Money Market Fund it shall ensure that the WAM of the portfolio does not exceed 6 months.
7. Where the Retail Investor AIF is a Money Market Fund it shall ensure that the WAL of the portfolio does not exceed 12 months. When calculating the WAL for securities, including structured financial instruments, the Retail Investor AIF must base the maturity calculation on the residual maturity until the legal redemption of the instruments. However, when a financial instrument embeds a put option, the exercise date of the put option may be used instead of the legal residual maturity only if the following conditions are fulfilled at all times:
  - (a) the put option can be freely exercised by the Retail Investor AIF at its exercise date;
  - (b) the strike price of the put option remains close to the expected value of the instrument at the next exercise date; and
  - (c) the investment strategy of the Retail Investor AIF implies that there is a high probability that the option will be exercised at the next exercise date.
8. Where the Retail Investor AIF is a Money Market Fund it shall, when calculating the WAM and WAL, take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques.
9. Where the Retail Investor AIF is a Money Market Fund it is not permitted to have direct or indirect exposure to equities or commodities, including through financial derivative instruments.
10. Where the Retail Investor AIF is a Money Market Fund it may only use financial derivative instruments which give exposure to foreign exchange for hedging purposes. Investment in non-base currencies is not permitted unless the exposure is fully hedged.
11. Where the Retail Investor AIF is a Money Market Fund it may only invest in other investment funds that are Short-Term Money Market Funds or Money Market Funds.
12. Where the Retail Investor AIF is a Money Market Fund it must have a fluctuating NAV.



**iii. Short-Term Money Market Funds – valuation on the basis of amortised cost**

1. Where the Retail Investor AIF is a Short-Term Money Market Funds it is permitted to follow an amortised cost valuation methodology provided the Retail Investor AIF or, where relevant, its delegate has demonstrable expertise in the operations of money market funds which follow this method of valuation. Such expertise shall be demonstrable where:
  - (a) the Short-Term Money Market Fund has obtained a triple-A rating from an internationally recognised credit rating agency; or
  - (b) the management company or investment manager is engaged in the management, or has been engaged in the management, of a triple-A rated money market fund; or
  - (c) in circumstances other than (a) or (b), where the Retail Investor AIF or, where relevant, its delegate, has demonstrated to the Central Bank (through separate application) that appropriate expertise exists in the operation of this type of money market fund.
2. The Retail Investor AIF shall ensure and be satisfied at all times that the persons responsible for the operation of the Short-Term Money Market Fund including under any delegation arrangements have and continue to have the necessary expertise.
3. The Retail Investor AIF must carry out a weekly review of discrepancies between the market value and the amortised cost value of the money market instruments. Escalation procedures must be in place to ensure that material discrepancies between the market value and the amortised cost value of a money market instrument are brought to the attention of personnel charged with the investment management of the Retail Investor AIF. In this regard:
  - (a) discrepancies in excess of 0.1% between the market value and the amortised cost value of the portfolio are brought to the attention of the management company or the investment manager; and
  - (b) discrepancies in excess of 0.2% between the market value and the amortised cost value of the portfolio are brought to the attention of senior management/directors of the management company or the board of directors and the depositary.
4. The Retail Investor AIF shall conduct a daily review where discrepancies occur in excess of 0.3% between the market value and the amortised cost value of the portfolio. The Retail Investor AIF must notify the Central Bank with an indication of the action, if any, which will be taken to reduce such dilution.
5. The Retail Investor AIF shall, in its constitutional document, provide for the escalation procedures set out in paragraphs 3 and 4 of this section or, alternatively, provide that a review of the amortised cost valuation vis-à-vis market valuation will be carried out in accordance

with the requirements of the Central Bank. Weekly reviews and any engagement of escalation procedures must be clearly documented.

6. The Retail Investor AIF shall undertake and complete monthly portfolio analysis incorporating stress testing to examine portfolio returns under various market scenarios to determine if the portfolio constituents are appropriate to meet pre-determined levels of credit risk, interest rate risk, market risk and investor redemptions. The results of the periodic analysis must be available to the Central Bank on request.
7. A Retail Investor AIF that is a Money Market Fund is not permitted to follow an amortised cost valuation methodology.

**iv. European Central Bank reporting requirements**

1. Each money market fund, which meets the definition contained in Article 1a, of Regulation of the European Central Bank (EU) No 883/2011 of 25 August 2011 amending Regulation (EC) No 25/2009 concerning the balance sheet of the monetary financial institutions sector (ECB/2008/32) (ECB/2001/12) and domiciled within a Monetary Union Member State (MUMS), shall submit two sets of data:
  - (a) Monthly Data - This return shall be prepared on a monthly basis and shall be received by the Central Bank within 6 working days of the end-month to which it relates. Essentially it consists of aggregated and summarised balance sheet data, e.g. liabilities - net asset value and borrowings; assets - cash, deposits, debt securities (money market paper and other) and equity holdings. All components of assets are broken into three general issuer categories (Irish, other MUMS and the rest of the world); and
  - (b) Quarterly Data - This return shall be prepared on a quarterly basis end March, June, September and December and shall be received by the Central Bank within 10 working days of the end-quarter to which it relates. Essentially it requires a more detailed breakdown of the monthly data. The additional information relates primarily to a profile of the issuers and maturity of the assets held by the money market fund.

The relevant forms are available at the following website address:  
<http://www.centralbank.ie/polstats/stats/reporting/Pages/default.aspx>

### Section 3:

#### Real Estate Retail Investor AIFs

1. The Retail Investor AIF shall only acquire a real estate interest where that interest has been valued in advance. Such a valuation must be contained in a report and it must confirm that if the real estate interest was acquired for the Retail Investor AIF it could be disposed of at that valuation within a reasonable period. The real estate interest must be acquired within six months from the date of the report and at a price which is within 5% of the valuation price.
2. The Retail Investor AIF may only trade or deal in real estate related assets on a market which is provided for in the constitutional document. However, up to 20% of the Retail Investor AIF's net assets may consist of real estate related assets which are not traded in or dealt on such a market provided that these assets are acquired under the same conditions as for real estate interests above.
3. The Retail investor AIF shall not invest more than 30% of its net assets may be invested in any single real estate interest. This restriction is effective from the date of acquisition; however, a real estate interest whose economic viability is linked to another real estate interest is not considered as a separate item of real estate interest for this purpose. The Retail Investor AIF may derogate from this restriction for two years following the date of its launch provided it observes the principle of risk spreading.
4. The Retail Investor AIF shall not invest more than 25% of its net assets in real estate interests which are vacant, in the process of development or requiring development.
5. The Retail Investor AIF shall not invest more than 25% of the Retail Investor AIF's net assets in real estate interests which are subject to a mortgage. (This provision does not affect the ability of a Retail Investor AIF to secure its borrowing generally on the real estate interests of the scheme.) The amount of the outstanding mortgage on any real estate interest must not represent more than 50% of the value of that property.
6. The Retail Investor AIF may not grant any person an option to acquire any real estate interest included in the Retail Investor AIF.

7. The Retail Investor AIF shall, in its prospectus, contain a description of the risks involved in this type of Retail Investor AIF including the risks associated with investing in leasehold interests where the unexpired period of the lease is short (e.g. less than seventy years). Where appropriate, the prospectus must also contain a prominent risk warning which makes reference to circumstances in real estate markets which can cause difficulties in meeting redemptions.
  
8. The Retail Investor AIF shall, in its prospectus, provide details of any minimum size to be achieved during the initial offer period in order for the Retail Investor AIF to be feasible and information on procedure in the event that the minimum size is not achieved in the initial offer period.

## Section 4:

### Funds of unregulated funds Retail Investor AIFs

Where the Retail Investor AIF invests more than 20% in unregulated investment funds, including investments in hedge funds and other alternative investment funds, its shall comply with the following requirements which are in addition to the general rules applicable to all Retail Investor AIFs.

#### *Diversification*

1. The Retail Investor AIF shall not invest more than 20% of net assets in the units of any one unregulated investment fund.

#### *Underlying investment funds*

2. The underlying investment funds:
  - (a) shall be subject to independent audit in accordance with generally accepted international auditing standards; and
  - (b) shall have arrangements in place such that all assets are held by a party/parties independent of the management company of the investment funds.

#### *Management*

3. The Retail Investor AIF shall ensure that its management (and such management's delegate(s)) must demonstrate appropriate experience and expertise in relation to alternative investment funds.

The Retail Investor AIF shall submit as part of its application for authorisation detailed information to enable the Central Bank to be satisfied that appropriate controls and systems are in place to monitor constantly the activities of the underlying investment funds, their managers and risk assessment procedures. This shall include, inter alia, information on the extent to which the management of the Retail Investor AIF and its delegate(s) will:

- (a) review the background, expertise and experience of the management companies of the underlying investment funds;

- (b) review, on an on-going basis, the risks of the underlying investment funds and the risks of the strategies being employed, including the amount of gearing inherent in these strategies and counterparty risk;
  - (c) monitor overall leverage of the Retail Investor AIF.
4. Where the Retail Investor AIF invests more than 40% of net assets in investment funds managed by the same management company, or by an associated or related company, the Retail Investor AIF shall make a quarterly report to the Central Bank on the extent to which the underlying investment funds diversified between trading strategies.
5. The Retail Investor AIF shall not invest in units of an investment fund which itself invests more than 30% of net assets in another investment fund. This restriction does not apply in limited circumstances where the first underlying investment fund provides the only means of investing in a second underlying investment fund and the first and second underlying investment funds act, in effect, as a singular structure. In this case the Retail Investor AIF shall, in its prospectus:
- explain that the investment is made for the purposes of gaining access to certain AIFs and is only permissible through this layered structure;
  - describe the singular structure of the first and second underlying investment funds;
  - provide that there will be no double charging of investment management fees including performance fees and depositary fees and indicate whether these will be borne at one level or divided between the first and second underlying investment funds;
  - provide details of the duplication of fees which will arise at the level of both the first and second underlying investment funds e.g. administration fees, legal fees, audit fees.

Any such investments must not be made for the purpose of duplicating management and/or investment management fees.

#### *Redemption policies*

6. Where the Retail Investor AIF is open-ended it shall provide at least one dealing day per month. The maximum interval between submission of a redemption request and payment of settlement proceeds must not exceed 95 calendar days.

The Retail Investor AIF may retain up to 10% of redemption proceeds, where this reflects the redemption policy of the underlying investment fund(s) until such time as the full redemption proceeds from the underlying investment fund(s) is received.

*Prospectus*

7. The Retail Investor AIF shall include the following risk warning, in bold, in a prominent position on the cover of the prospectus and on the application form attached to the prospectus:

**"This Retail Investor AIF will invest in unregulated investment funds which may not be subject to the same legal and regulatory protection as afforded by investment funds authorised and regulated in the European Union or equivalent jurisdictions. Investment in unregulated investment funds involves special risks that could lead to a loss of all or a substantial portion of such investment.**

**An investment in this Retail Investor AIF is not suitable for all unitholders. A decision to invest in this Retail Investor AIF should take into account your own financial circumstances and the suitability of the investment as a part of your portfolio. You should consult a professional investment adviser before making an investment."**

8. In addition to the normal information provided, the Retail Investor AIF shall, in its prospectus, include information on the special risks referred to in paragraph 7 of this section. It must provide specific information drawing attention to:
- (a) the investment policies of underlying investment funds in which the Retail Investor AIF proposes to invest and the relevant risks associated with such policies;
  - (b) the levels of leverage employed by the underlying investment funds;
  - (c) the expected impact of fees charged at both the level of the Retail Investor AIF and the underlying investment funds on overall performance;
  - (d) cumulative effect of performance fees, which may arise at both the Retail Investor AIF and underlying investment fund level;
  - (e) potential liquidity problems; and
  - (f) potential valuation difficulties.
9. The Retail Investor AIF shall explain, in plain English, in its prospectus (including a glossary of terms if necessary) the alternative investment strategies which the underlying investment funds may employ.
10. The Retail Investor AIF shall describe in its prospectus the diversification policies of the Retail Investor AIF including information on the extent to which the Retail Investor AIF will diversify between trading strategies and also the extent to which it will invest in underlying investment funds which have demonstrated a high volatility of return.

11. The decision to invest in underlying investment funds with lock up periods (i.e. investment funds which do not permit redemptions for an period of time) must not affect the redemption arrangements provided for in the prospectus issued by the Retail Investor AIF. The Retail Investor AIF shall fully disclose, in its prospectus, its intention to invest in such investment funds. Disclosure must focus on typical duration of lock-up periods and the amount of net assets which are likely to be invested in this type of investment fund.

*Periodic reports*

12. The periodic reports must list the names of the underlying investment funds, their management companies and their domicile. The annual report must provide information on the impact of fees, including performance fees, on returns to unitholders. In the case of Retail Investor AIFs covered by paragraph 5 of this section, the periodic reports must include these details for both the first and second underlying investment funds.



**Section 5:****Retail Investor AIFs which invest more than 30% of net assets in another investment fund**

1. The Retail Investor AIF may invest more than 30% of net assets in an open-ended investment fund and may disregard paragraph 10 of section 1.ii (*Investment restrictions*) of Part I provided that the underlying fund is a Category 1 investment fund or a Category 2 investment fund.
2. In the case of a Category 1 investment fund, the Retail Investor AIF shall provide the Central Bank with the prospectus of the underlying investment fund in advance of investing more than 30% of net assets in that investment fund.
3.
  - (a) In the case of a Category 2 investment fund, the Retail Investor AIF shall not invest more than 30% of net assets in an open-ended investment fund without having obtained a confirmation in writing from the Central Bank that it has no objection. Further, the Retail Investor AIF shall provide the Central Bank with the prospectus of the underlying investment fund.
  - (b) The Retail Investor AIF shall provide a letter to the Central Bank confirming that the underlying investment fund complies in all material respects with the provisions of the AIF Rulebook in respect of Retail Investor AIFs.
  - (c) The oversight function of the depositary for the category 2 investment fund must, at a minimum, include requirements to:
    - ensure that valuations of assets are carried out in accordance with the valuation policy;
    - ensure that units of the underlying investment fund are issued and redeemed correctly; and
    - ensure that the management of the assets is carried out correctly.
  - (d) The Retail Investor AIF shall inform the Central Bank immediately it becomes aware that the underlying investment fund has materially breached any of its legal, regulatory or constitutional obligations.
4. Where the Category 1 investment fund or Category 2 investment fund is a fund of funds, the Retail Investor AIF's prospectus must:
  - include a prominent risk warning to alert unitholders to the fact that they will be subject to higher fees arising from the layered investment structure; and

- disclose, in tabular form, the fees arising at the level of (i) the Retail Investor AIF, (ii) the funds of funds, and (iii) the underlying investment funds into which the fund of funds invests, to the extent known (and at least an indication of these).
5. The periodic reports of the Retail Investor AIF shall have the periodic reports of the underlying investment fund attached.

**Section 6:****Closed ended Retail Investor AIFs or open-ended Retail Investor AIFs with limited liquidity****i. Closed-ended period**

1. Where the Retail Investor AIF is closed-ended it must have a finite closed-ended period which must be one of the following:
  - (a) 5 years or less; or
  - (b) 10 years or less provided this is reasonably required by the investment objective of the Retail Investor AIF; or
  - (c) greater than 10 years in the case of a Retail Investor AIF which has made realistic provision for liquidity in its units and which has provided specific opportunities for the redemption of units after 10 years, by all those unitholders who may wish to do so, and on a periodic basis thereafter.

The Retail Investor AIF shall specify, in its constitutional document, that on a future date, specified in either the constitutional document or the prospectus, the Retail Investor AIF will undertake one of the following actions:

- (a) wind-up and apply to the Central Bank for a revocation of the authorisation of the Retail Investor AIF;
  - (b) redeem all outstanding units and apply to the Central Bank for a revocation of the Retail Investor AIF authorisation;
  - (c) convert into an open-ended Retail Investor AIF, the relevant details of which must be disclosed in the prospectus; or
  - (d) obtain unitholder approval to extend the closed-ended period for a further finite period.
2. Where the Retail Investor AIF is closed ended it may, with the prior approval of the Central Bank, provide for the issue of units other than at net asset value.

**ii. Liquidity**

1. For the purposes of section 6.iii (*Changes to existing closed-ended Retail Investor AIFs*), where the Retail Investor AIF is closed ended but provides liquidity provisions, these must

realistically contribute to the ability of a unitholder to realise his/her investment prior to the expiry of the closed-ended period.

**iii. Changes to existing closed-ended Retail Investor AIFs**

*Changes to Duration*

1. No realistic liquidity provisions: Where there is a proposed change to the duration of a closed-ended Retail Investor AIF with no opportunity for unitholders to redeem or otherwise exit the Retail Investor AIF, the Retail Investor AIF shall ensure that votes in favour of the change must represent at least 75% of votes cast.
2. Realistic liquidity provisions: Where there is a proposed change to the duration of the Retail Investor AIF with an opportunity for unitholders to redeem or otherwise exit the Retail Investor AIF, the Retail Investor AIF shall ensure that votes in favour of the change must represent at least 50% of votes cast.

*Changes to the investment objective or material changes<sup>13</sup> to the investment policy of a Retail Investor AIF*

3. No realistic liquidity provisions: Where there is a proposed change of investment objectives and/or material change of investment policies with no opportunity for unitholders to redeem or otherwise exit the closed ended Retail Investor AIF, the Retail Investor AIF shall ensure that votes in favour of the change must represent at least 75% of votes cast.
4. Realistic liquidity provisions: Where there is a proposed change of investment objective and/or material change of investment policies with an opportunity for unitholders to redeem or otherwise exit the closed ended Retail Investor AIF, the Retail Investor AIF shall ensure that votes in favour of the change must represent at least 50% of votes cast.

*Non-material changes to the investment policy of a Retail Investor AIF*

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<sup>13</sup> In accordance with paragraph 7 of section 3.i of Part I, “material” shall be taken to mean, although not exclusively: “changes which significantly alter the asset type, credit quality, borrowing or leverage limits or risk profile of the Retail Investor AIF”

5. Where the closed ended Retail Investor AIF makes non-material changes to investment policies, it shall notify unitholders of these changes. Notification can be provided by means of appropriate disclosure in the next periodic report.

*Changes to Fees or Charges*

6. Where a closed-ended Retail Investor AIF proposes to amend the maximum redemption charge as disclosed in the constitutional documents or the maximum annual fee<sup>14</sup> charged by, as relevant, the AIFM, management company or general partner as disclosed in the trust deed, deed of constitution, management agreement, AIFM agreement or partnership agreement, the following approach must be adopted:
  - (a) No realistic liquidity provisions: Where there is a proposed increase in these fee or charges with no opportunity for unitholders to redeem or otherwise exit the Retail Investor AIF, it shall ensure that votes in favour of the increase must represent at least 75% of votes cast.
  - (b) Realistic liquidity provisions: Where there is a proposed increase in these fees or charges with an opportunity for unitholders to redeem or otherwise exit the Retail Investor AIF, it shall ensure that votes in favour of the increase must represent at least 50% of the votes cast.

The provisions of this paragraph are also applicable to the annual fee charged by an investment manager where this fee is paid directly out of the assets of the Retail Investor AIF.

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<sup>14</sup> The annual fee includes any performance related fee charged by the AIFM, the management company, the general partner or the investment manager.

## Section 7:

### Guaranteed Retail Investor AIFs

1. The Retail Investor AIF shall not use the word “guaranteed” in the name of a Retail Investor AIF unless there is, as per paragraph 2, a specific legally enforceable guarantee between the Retail Investor AIF and a legally independent third party of substance, for the benefit of the unitholders, the material provisions of which the Retail Investor AIF shall clearly disclose in its prospectus.

#### *Legal agreement*

2. The guarantee shall, at a minimum, satisfy the following:
  - (a) it must be evidenced in a contract e.g. a deed of guarantee or an irrevocable letter of credit, which is legally enforceable under Irish law<sup>15</sup>;
  - (b) the guarantor must have the legal authority to enter into the contract;
  - (c) the contract must not contain onerous provisions in respect of the Retail Investor AIF which would permit the guarantor to invalidate the guarantee;
  - (d) the Retail Investor AIF shall, in advance of using “guaranteed” in its name, provide to the Central Bank a letter from its legal advisers to confirm that the guarantee conforms to these criteria;
  - (e) certain parties to a Retail Investor AIF, in particular, the investment company itself or the management company, or general partner to a Retail Investor AIF may not act as guarantors. The guarantor must be an entity of substance and good standing; and
  - (f) the guarantor must be a credit institution with paid-up share capital in excess of €100million which is either:
    - (i) a credit institution authorised in the European Economic Area (EEA) (European Union Member States, Norway, Iceland, Liechtenstein); or
    - (ii) a credit institution authorised within a signatory state, other than a Member State of the EEA, to the Basle Capital Convergence Agreement of July 1988 (Switzerland, Canada, Japan, United States); or
    - (iii) a credit institution authorised in Jersey, Guernsey, the Isle of Man, Australia or New Zealand.

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<sup>15</sup> The Central Bank may permit non-Irish law and/or non-exclusive foreign jurisdiction to be applied where this is shown to be best market practice and does not prejudice the interests of unit-holders.

*Disclosure*

3. The Retail Investor AIF shall disclose in a prominent position in its prospectus the following material provisions of the guarantee:
  - (a) the name of the guarantor;
  - (b) the obligations of the Retail Investor AIF under the guarantee, including detail on the cost of the guarantee;
  - (c) the nature, timing and characteristics of the guarantee;
  - (d) a warning to the effect that eventual performance of the guarantee is dependent on the solvency of the guarantor;
  - (e) a clear description of the upside limitation as well as the downside protection, sufficient for an investor to make an informed judgement about its value; and
  - (f) where relevant, the impact on unitholders who sell their units prior to the maturity of the guarantee.

## Section 8:

### Distributions out of and charging fees and expenses to capital

1. A Retail Investor AIF which proposes to make distributions out of capital shall include the risk warning specified in paragraph 1(b) of section 3.xviii of Part I in any subscription form or marketing material.
2. A Retail Investor AIF which proposes to charge fees and expenses, including management fees, to capital shall include the following in bold text in the subscription application form:  
**“Unitholders/Shareholders should note that all or part of fees and expenses, including (if applicable) management fees may be charged to the capital of the Retail Investor AIF. This will have the effect of lowering the capital value of your investment.”**
3. The Retail Investor AIF shall ensure that any income statement issued to unitholders or shareholders where fees and expenses have been charged to capital shall include a statement to explain the effect of this accounting policy, including wording to the effect that the investor’s capital amount has been reduced.



**Part III:    MARKETING OF AIF TO RETAIL INVESTORS**

This Part applies to AIF other than authorised AIF which market their units in Ireland to retail investors.

1.    Where the AIF has received approval from the Central Bank to market its units in Ireland to retail investors, it shall include the following statement, in a prominent position, in each copy of its prospectus and in any marketing material distributed in Ireland for the purposes of promoting the AIF to retail investors

“While this AIF has been approved to market its units to the public in Ireland by the Central Bank, the scheme is not supervised or authorised in Ireland. It is incorporated/established in \_\_\_\_\_ and is supervised by \_\_\_\_\_.”

2.    The AIF shall include the following information for Irish unitholders in its prospectus:
  - (a)    details of the facilities agent and the facilities maintained;
  - (b)    provisions of Irish tax laws, if applicable; and
  - (c)    details of the places where issue and repurchase prices can be obtained or are published.
3.    Where the AIF is constituted as an umbrella fund, it shall only market sub-funds for which it has received specific approval from the Central Bank.
4.    The AIF, in marketing its units in Ireland to retail investors, shall comply with the Consumer Protection Code of the Central Bank.
5.    The AIF shall submit to the Central Bank a copy of its annual and half-yearly reports, as soon as they are available.



## Chapter 2 – Qualifying Investor AIF Requirements

**INTRODUCTION:**

The AIF Rulebook sets out the rules which apply to Qualifying Investor AIFs. However, the definitive rules for each Qualifying Investor AIF will be set out in its letter of authorisation.

## **PART I: GENERAL RULES**

### **Section 1:**

#### **Qualifying Investor AIF restrictions**

##### **i. General restrictions**

1. Subject to approval by the Central Bank otherwise, the Qualifying Investor AIF shall have a minimum subscription of €100,000 or its equivalent in other currencies.
2. The Qualifying Investor AIF shall not accept subscriptions from persons that group amounts of less than €100,000 for individual investors.
3. The Qualifying Investor AIF shall only accept subscriptions from an investor who:
  - (a) is a professional client within the meaning of Annex II of MiFID; or
  - (b) receives an appraisal from an EU credit institution, a MiFID firm or a UCITS management company that the investor has the appropriate expertise, experience and knowledge to adequately understand the investment in the Qualifying Investor AIF; or
  - (c) certifies that they are an informed investor by providing the following:
    - Confirmation (in writing) that the investor has such knowledge of and experience in financial and business matters as would enable the investor to properly evaluate the merits and risks of the prospective investment; or
    - Confirmation (in writing) that the investor's business involves, whether for its own account or the account of others, the management, acquisition or disposal of property of the same kind as the property of the Qualifying Investor AIF.

Within the EU, Qualifying Investor AIFs may only be marketed to professional investors as defined in the AIFMD unless the Member State in question permits, under the laws of that Member State, AIFs to be sold to other categories of investors and this permission encompasses investors set out in categories (b) and (c) above.

4. The Qualifying Investors AIF may grant an exemption from the minimum subscription requirement to the following:
  - (a) the management company or general partner;
  - (b) a company appointed to provide investment management or advisory services to the Qualifying Investor AIF;

- (c) a director of the management company, investment company or general partner or a director of a company appointed to provide investment management or advisory services to the Qualifying Investor AIF; and
- (d) an employee of the management company, investment company or general partner, or an employee of a company appointed to provide investment management or advisory services to the Qualifying Investor AIF, where the employee:
  - is directly involved in the investment activities of the Qualifying Investor AIF, or
  - is a senior employee of the company and has experience in the provision of investment management services.

In the case of investments by employees<sup>16</sup>, the Qualifying Investor AIF must ensure that the management company, investment company or general partner, as appropriate, is satisfied<sup>17</sup> that prospective unitholders fall within the criteria outlined at (d) above. The Qualifying Investor AIF must ensure that investing employees must certify to it that they are availing of the exemption provided for in this sub-paragraph and that they are aware that the Qualifying Investor AIF is normally marketed solely to qualifying investors who are subject to a minimum subscription of €100,000.

5. The Qualifying Investor AIF must ensure that prospective unitholders certify in writing to it that they meet the minimum criteria listed in paragraph 3 above and that they are aware of the risk involved in the proposed investment and of the fact that inherent in such investments is the potential to lose all of the sum invested.
6. The Qualifying Investor AIF shall not raise capital from the public through the issue of debt securities. This restriction does not operate to prevent the issue of notes by Qualifying Investor AIFs, on a private basis, to a lending institution to facilitate financing arrangements. Details of the note issued must be clearly provided in the prospectus.
7. The Qualifying Investor AIF shall not grant loans or act as a guarantor on behalf of third parties. This is without prejudice to the right of a Qualifying Investor AIF to acquire debt securities. It will not prevent Qualifying Investor AIFs from acquiring securities which are not fully paid or from entering into bridge financing arrangements where the financing extended to the Qualifying Investor AIF is backed by sufficient legally binding commitments to discharge the financing within a time period determined by the at least simultaneous

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<sup>16</sup> An employee who is primarily involved in the provision of clerical, secretarial or administrative functions may not avail of this exemption.

<sup>17</sup> This may entail a provision in the investment management/advisory agreement which will require the investment management/advisory company to confirm the status of the employee in question.

triggering of obligations on unitholders to make capital contributions which they are previously contractually committed to making at the time the bridge financing is entered into.

8. The Qualifying Investor AIF shall not, nor shall it appoint a management company or general partner or AIFM which would, acquire any shares carrying voting rights which would enable it to exercise significant influence over the management of an issuing body. This requirement does not apply to investments in other investment funds. It is also disappplied where the Qualifying Investor AIF is a venture capital, development capital or private equity Qualifying Investor AIF provided its prospectus indicates its intention regarding the exercise of legal and management control over underlying investments.
9. The Qualifying Investor AIF shall only invest in units of an investment fund managed by its management company or AIFM or by an associated or related company of either of these, where the management company of the investment fund in which the investment is being made has waived the preliminary/ initial/ redemption charge which it would normally charge.
10. The Qualifying Investor AIF shall ensure that the calculation of performance fees is verified by the depositary or a competent person appointed by the AIFM and approved for the purpose by the depositary.
11. The Qualifying Investor AIF shall specify, in its trust deed, deed of constitution, management agreement, AIFM agreement or partnership agreement, the maximum annual fee<sup>18</sup> charged by, as relevant, an AIFM, a management company and/or a general partner of the Qualifying Investor AIF. The maximum annual fee shall not be increased without approval on the basis of a majority of votes cast at general meeting.<sup>19</sup> In the event of an increase in the annual fee a reasonable notification period must be provided by the Qualifying Investor AIF to enable unitholders redeem their units prior to the implementation of the increase. The provisions of this paragraph are also applicable to the annual fee charged by an investment manager where this fee is paid directly out of the assets of the Qualifying Investor AIF.
12. The Qualifying Investor AIF shall specify, in its constitutional document or prospectus, the maximum charge relating to the redemption or repurchase of units. The maximum charge relating to the redemption or repurchase of units may not be increased without approval on the basis of a majority of votes cast at general meeting. In the event of an increase in the

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<sup>18</sup> The annual fee includes any performance related fee charged by the AIFM, the management company, the general partner or the investment manager.

<sup>19</sup> If the fee disclosed in the prospectus is less than the maximum fee permitted in these documents, unitholder approval will also be required for an increase in the fee disclosed in the prospectus unless the prospectus also provides that a higher fee may be charged.

redemption or repurchase charge a reasonable notification period must be provided by the Qualifying Investor AIF to enable unitholders redeem their units prior to the implementation of the increase.

13. The limits on investments contained in this chapter and those set down in the Qualifying Investor AIF's prospectus shall apply at the time of purchase of the investments and continue to apply thereafter. If these limits are subsequently exceeded for reasons beyond the control of a Qualifying Investor AIF or as a result of the exercise of subscription rights, the Qualifying Investor AIF must record such matters and adopt as a priority objective the remedying of that situation, taking due account of the interests of its unitholders .

**ii. Constitutional documents**

1. The Qualifying Investor AIF shall, at all times, comply with its constitutional document.
2. The Qualifying Investor AIF shall entrust its assets to a depository for safe keeping and this must be expressly specified in its constitutional document.
3. The Qualifying Investor AIF shall, in its constitutional document, prescribe the in the trust deed, deed of constitution or partnership agreement, prescribe the remuneration and the expenditure which the management company or general partner and depository are empowered to charge to a unit trust, common contractual fund or investment limited partnership and the method of calculation of such remuneration; and, the costs to be borne by the unit trust, common contractual fund or investment limited partnership.

The Qualifying Investor AIF shall, in the articles of association or instrument of incorporation, prescribe the nature of the costs to be borne by the investment company.

4. The Qualifying Investor AIF shall specify, in its constitutional document, the conditions and manner of application of income.
5. The Qualifying Investor AIF shall, where relevant, specify, in its constitutional document, the circumstances under which there may be effected, and the procedure to be followed with respect to, the replacement of the AIFM or the management company/general partner with another AIFM/management company/general partner (including such a replacement by the Central Bank) and shall contain provisions to ensure the protection of unitholders in the event of any such replacement.



6. The depositary of a Qualifying Investor AIF may not be replaced without the approval of the Central Bank. The Qualifying Investor AIF shall specify, in its constitutional document, the conditions under which there may be effected, and the procedure to be followed with respect to, the replacement of the depositary of the Qualifying Investor AIF with another depositary (including such a replacement by the Central Bank) and shall contain provisions to ensure the protection of unitholders in the event of any such replacement.
7. The Qualifying Investor AIF may only:
  - (a) issue bearer securities with the prior approval of the Central Bank and where such activity is permitted by its constitutional documents;
  - (b) issue registered certificates where such activity is permitted by its constitutional documents.

The Qualifying Investor AIF shall attach rights in proportion to the fraction of a unit held except for voting rights which can only be exercised by whole units. The Qualifying Investor AIF shall ensure that the certificates and bearer securities are signed by the depositary. This signature may be reproduced mechanically.
8. The Qualifying Investor AIFs may provide for the issue of partly paid units in their constitutional documents.
9. The Qualifying Investor AIF shall ensure that where its constitutional document provides for subscription in specie, the following provisions must also be included:
  - the nature of the assets to be transferred into the Qualifying Investor AIF would qualify as investments of the Qualifying Investor AIF in accordance with the investment objectives, policies and restrictions of the Qualifying Investor AIF;
  - assets to be transferred must be vested with the depositary or arrangements are made to vest the assets with the depositary;
  - the number of units to be issued must not exceed the amount that would be issued for the cash equivalent; and
  - the depositary is satisfied that the terms of any exchange will not be such as are likely to result in any material prejudice to the existing unitholders of the Qualifying Investor AIF or the depositary is satisfied that there is unlikely to be any material prejudice to the existing unitholders of the Qualifying Investor AIF.
10. The Qualifying Investor AIF shall ensure that where its constitutional document provides for redemption in specie the following provisions must also be included in the constitutional document:

- redemption in specie is at the discretion of the Qualifying Investor AIF and with the consent of the redeeming unitholder;
- asset allocation is subject to the approval of the depositary; and
- a determination to provide redemption in specie may be solely at the discretion of the Qualifying Investor AIF where the redeeming unitholder requests redemption of a number of units that represent 5% or more of the net asset value of the Qualifying Investor AIF. In this event the Qualifying Investor AIF will, if requested, sell the assets on behalf of the unitholder. The cost of the sale can be charged to the unitholder.

The requirements set out in the first and third bullet points are not applicable for an exchange traded fund where the original subscription was made in specie.

11. The Qualifying Investor AIF shall ensure that where its constitutional document provides for distribution in specie on a winding up the following provisions must also be included in its constitutional document:
  - an ordinary/special resolution is required; and
  - the Qualifying Investor AIF agrees to sell the assets if requested by a unitholder. The costs of such sale can be charged to redeeming unitholders.
12. Where the Qualifying Investor AIF is an investment company other than an ICAV it shall, in its memorandum and articles of association, state that the AIF shall comply with the aim of spreading investment risk in accordance with section 253(2)(a) of the Companies Act 1990.
13. Where the Qualifying Investor AIF is an investment limited partnership it may not temporarily suspend the calculation of the net asset value and redemptions except in the cases and according to the procedure provided for in the partnership agreement. Suspension may be provided for only in exceptional cases where circumstances so require and suspension is justified having regard to the interests of the partners.

### **iii. Valuation**

1. The Qualifying Investor AIF shall specify, in its constitutional document, the rules for the valuation of its assets. These rules shall clearly and unambiguously define an expected method of valuation and shall set out a framework for variation from this method of valuation.

2. The Qualifying Investor AIF shall only purchase and sell assets at prices which are in conformity with the rules in the constitutional document.
3. The Qualifying Investor AIF shall, in its constitutional document, establish conditions for the creation and cancellation of units or for contributions and withdrawal of contributions of partners' capital, as appropriate.
4. The Qualifying Investor AIF shall only issue or sell its units at a price arrived at by dividing the net asset value of the Qualifying Investor AIF (calculated in accordance with the valuation rules required by paragraph 1 above) by the number of units outstanding; such price may be increased by duties and charges.
5. The Qualifying Investor AIF shall only redeem or repurchase its units at a price arrived at by dividing the net asset value of the Qualifying Investor AIF by the number of units outstanding; such price may be decreased by duties and charges.
6. Dealing in the units of a Qualifying Investor AIF should be carried out at forward prices i.e. the Net Asset Value next computed after receipt of subscription and redemption requests.

**iv. Distinction between open-ended Qualifying Investor AIFs and those which are open-ended with limited liquidity arrangements**

1. Where the Qualifying Investor AIF is an open-ended Qualifying Investor AIF it shall:
  - (a) provide redemption facilities on at least a quarterly basis;
  - (b) redeem when requested at least 10% of net assets on a monthly basis or 25% of net asset on a quarterly basis; and
  - (c) not impose a redemption fee in excess of 5% of net asset value per unit.
2. Qualifying Investor AIFs which:
  - (a) offer redemption and/or settlement facilities on a less than quarterly basis; or
  - (b) provide for a period of greater than 90 days between the dealing deadline and the payment of redemption proceeds will not be subject to any regulatory parameters in terms of dealing frequency, minimum redemption quotas or timeframe for settlement, provided they classify themselves as open-ended Qualifying Investor AIFs with limited liquidity.

3. Where the open-ended Qualifying Investor AIF provides for dealing on a quarterly basis, the time between submission of a redemption request and payment of settlement proceeds must not exceed 90 calendar days. This period can however be extended to 95 calendar days in the context of a Qualifying Investor AIF which invests in other investment funds, including a Qualifying Investor AIF which provides for dealing on a more frequent basis (e.g. monthly, weekly etc.).
4. Qualifying Investor AIFs which have the ability to establish side pocket share classes into which assets that are illiquid when purchased may be placed must classify themselves as open-ended with limited liquidity or as closed-ended.

**v. Share classes**

1. Subject to paragraph 2 below, where the Qualifying Investor AIF creates more than one share class within the AIF or within an umbrella, it shall comply with the following:
  - (a) the constitutional document of the Qualifying Investor AIF must provide for the creation of share classes. In the case of an umbrella Qualifying Investor AIF the provision in the constitutional document to establish the way in which sub-funds, and share classes within sub-funds, are created must be clear and unambiguous;
  - (b) each Qualifying Investor AIF/sub-fund must consist of a single common pool of assets;
  - (c) assets may not be allocated to individual share classes;
  - (d) the capital gains/losses and income arising from that pool of assets must be distributed and/or must accrue equally to each unitholder relative to their participation in the Qualifying Investor AIF/sub-fund;
  - (e) unitholders in a share class must be treated equally; and
  - (f) where more than one share class exists, all the unitholders in the different share classes must be treated fairly.

Share classes may be established which may be differentiated on the basis of subscription/redemption procedures, distribution policies or charging structure, hedging policies or other criteria clearly disclosed in the prospectus and permitted by the constitutional document.

2. Subject to paragraphs 3 to 10, the Qualifying Investor AIF may allocate assets (including, without limitation, financial derivative instruments (“FDI”)) to individual share classes where the arrangement

- is not made for the purpose of pursuing a separate investment objective by the share class;
- does not result in a share class operating de facto as a separate sub-fund; or
- is not created in order to circumvent the requirements set out in paragraph 1 of this section.

The Qualifying Investor AIF shall distribute and/ or accrue capital gains/ losses and income from the above to each unitholder relative to their participation in the relevant share class provided that:

- (a) there is prominent disclosure in the prospectus of the ability to establish such share classes and the attendant risks;
- (b) there is clear authority in the constitutional document to create such share classes;
- (c) the constitutional document contains unambiguous valuation and allocation provisions; and
- (d) to the extent possible under the investment fund legislation and applicable law, the constitutional document contains provisions aimed at achieving segregation of liability between such share classes and the share classes participating in the common pool of assets of the Qualifying Investor AIF/sub-fund. Where it is not possible to ensure such segregation of liability, this shall be prominently disclosed in the prospectus.

*Side pocket share classes – Assets which become illiquid or difficult to value*

3. A Qualifying Investor AIF may establish side pocket share classes into which assets which have become illiquid or difficult to value may be placed provided that the ability to establish these share classes has been provided for in the Qualifying Investor AIF's constitutional document and has been disclosed to unitholders in advance.
4. The Qualifying Investor AIF must, in its constitutional document, prescribe the parameters which will apply to the creation of side pocket share classes.
5. The Qualifying Investor AIF shall, at all times, be able to demonstrate that any assets placed in side pocket share classes comply with the approved parameters.
6. The Qualifying Investor AIF shall report to the Central Bank on an annual basis confirming whether or not the parameters continue to be respected and outlining the prospects and/or plans for the side pocketed assets.

7. The Qualifying Investor AIF must specify in its prospectus a clear and unambiguous description of the proposed side pocket arrangements and information on the action which will be taken in the event that the assets within the side pockets are not re-admitted to trading or otherwise increase in value and/or liquidity as anticipated.
8. The Qualifying Investor AIF shall, in advance of establishing a side pocket share class, provide in conjunction with its depositary written confirmation to the Central Bank that the proposed establishment is in accordance with the Qualifying Investor AIF's constitutional document and takes into account the interests of all unitholders.

*Side pocket share classes – Assets which are illiquid when purchased*

9. A Qualifying Investor AIF may establish side pocket share classes into which assets which are illiquid when purchased may be placed, provided that the ability to establish these share classes has been provided for in the Qualifying Investor AIF's constitutional document and has been disclosed to unitholders in advance.
10. A Qualifying Investor AIF which has the ability to establish side pocket share classes for the purposes set out in paragraph 9 above must classify itself as either open-ended with limited liquidity or as closed-ended.

**vi. Umbrella Qualifying Investor AIFs**

1. An umbrella Qualifying Investor AIF which has been authorised by the Central Bank must obtain the Central Bank's prior approval for each sub-fund.
2. Where the Qualifying Investor AIF is constituted as an umbrella Qualifying Investor AIF, it shall ensure that its sub-funds comply with the requirements to which it is subject.
3. Where the Qualifying Investor AIF is an umbrella Qualifying Investor AIF it shall, as appropriate, provide that its trust deed, deed of constitution, articles of association or instrument of incorporation, provide that separate records will be maintained for each sub-fund with the assets and liabilities being allocated to each sub-fund.
4. Where the Qualifying Investor AIF constitutes an umbrella Qualifying Investor AIF, it shall ensure that its sub-funds comply with the requirements to which it is subject.

5. The Qualifying Investor AIF shall ensure that, where relevant, its constitutional document provides that the assets of each sub-fund shall belong exclusively to the relevant sub-fund and shall not be used to discharge directly or indirectly the liabilities of or claims against any other sub-fund and shall not be available for any such purpose.
6. Investment companies authorised before 30 June 2005, which have as an investment objective the employment of leverage, may not establish additional sub-funds unless the umbrella Qualifying Investor AIF has taken measures necessary to apply segregated liability between sub-funds.
7. Where a sub-fund (the “Investing Fund”) of an umbrella Qualifying Investor AIF invests in the units of other sub-funds of that umbrella (each a “Receiving Fund”), the rate of the annual management fee which investors in the Investing Fund are charged in respect of that portion of the Investing Fund’s assets invested in Receiving Funds (whether such fee is paid directly at the Investing Fund level, indirectly at the level of the Receiving Funds or a combination of both) may not exceed the rate of the maximum annual management fee which investors in the Investing Fund may be charged in respect of the balance of the Investing Fund’s assets, such that there shall be no double charging of annual management fee to the Investing Fund as a result of its investments in the Receiving Fund. This provision is also applicable to the annual fee charged by an investment manager where this fee is paid directly out of the assets of the Qualifying Investor AIF.

**vii. Investment through subsidiary companies**

1. A Qualifying Investor AIF may not establish a subsidiary unless the Qualifying Investor AIF complies with the following conditions:
  - (a) the establishment of a subsidiary must receive the prior approval of the Central Bank;
  - (b) the subsidiary must be wholly owned and controlled by the Qualifying Investor AIF; the directors of the Qualifying Investor AIF must form a majority of the board of directors of the subsidiary;
  - (c) the subsidiary must not be an investment fund or issuing body;
  - (d) the subsidiary must not appoint any third parties or enter into any contractual arrangements unless the Qualifying Investor AIF is a party to such appointments or contractual arrangements;
  - (e) the constitutional document of the Qualifying Investor AIF must provide for the ability of the Qualifying Investor AIF to establish subsidiaries;

- (f) the constitutional document of the subsidiary must include provisions which restrict the subsidiary from acting other than under the control of the Qualifying Investor AIF and which restrict any person or entity other than the Qualifying Investor AIF from holding shares in the subsidiary; and
- (g) the assets held by the subsidiary must be valued in accordance with the Qualifying Investor AIF's valuation rules.

**viii. Dealings by management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these**

1. The Qualifying Investor AIF shall only enter into a transaction with a management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these where it is negotiated at arm's length. Transactions must be in the best interests of the unitholders.
2. Transactions permitted are subject to:
  - (a) certified valuation by a person approved by the depositary, or the Qualifying Investor AIF in the case of transactions involving the depositary, as independent and competent; or
  - (b) execution on best terms on organised investment exchanges under their rules; or
  - (c) where (a) and (b) are not practical, execution on terms which the depositary, or the Qualifying Investor AIF in the case of transactions involving the depositary, is satisfied conform to the principles outlined in paragraph 1 of this section.



## Section 2:

### Supervisory requirements

#### i. General conditions

1. Unless it is required by the AIFM Regulations to have an authorised AIFM at an earlier date, a Qualifying Investor AIF authorised on or after 22 July 2013 by the Central Bank must have an authorised AIFM within 2 years from the Qualifying Investor AIF's date of launch i.e. the date when the initial offer period closes or, where there are multiple closings, the date of first closing.
2. The Qualifying Investor AIF shall not alter its constitutional document or change its name without the prior approval of the Central Bank.
3. The Qualifying Investor AIF shall notify the Central Bank in advance of proposed amendments to the Qualifying Investor AIF documentation, including the prospectus, constitutional document or material agreements entered into with third parties. The Central Bank may object to the amendments notified to it and amendments objected to by the Central Bank may not be made.
4. The Qualifying Investor AIF shall not permit a sub-fund of the Qualifying Investor AIF to invest in the units of another sub-fund within the same umbrella, by way of transfer for consideration<sup>20</sup>, without prior notification to the Central Bank.
5. The Qualifying Investor AIF shall notify the Central Bank promptly of any material breach of the investment fund legislation, the requirements imposed on it by the Central Bank or provisions of its prospectus.

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<sup>20</sup> Section 255(3) of the Companies Act 1990 Part XIII and section 47(2) of the ICAV Act permits an umbrella investment company to acquire shares in a sister sub-fund by way of subscription or transfer for consideration. It is expected that, generally, such cross-investments will be processed as subscriptions under normal dealing arrangements. In the event that a transfer for consideration is proposed the Qualifying Investor AIF must notify the Central Bank in advance setting out the rationale behind the proposed transaction.

**ii. Offer period**

1. The Qualifying Investor AIF shall ensure that the offer period does not commence prior to the authorisation of the Qualifying Investor AIF or approval in the case of a sub-fund and must be for a period no longer than six months.
2. In the case of Qualifying Investor AIFs which are established as venture capital, development capital, private equity, real estate or loan originating Qualifying Investor AIFs, the initial offer period may extend up to two years and six months provided that the terms of the offer ensure that early unitholders are not prejudiced by the arrangements. Where these Qualifying Investor AIFs have multiple closings, this period must commence no later than the date of first closing.
3. The Qualifying Investor AIF may extend the initial offer period, without prior notification to the Central Bank, provided that no subscriptions have been received at the date of the proposed extension. The Qualifying Investor AIF shall notify the Central Bank of any such extensions on an annual basis.
4. The Qualifying Investor AIF may only extend the initial offer period, where subscriptions have been received, if it has received the prior written approval of the Central Bank for such an extension.
5. A Qualifying Investor AIF shall only launch share classes at a fixed price after the initial offer period where it has been confirmed to the Central Bank that existing shareholders in the Qualifying Investor AIF are not prejudiced.

**iii. Directors of Qualifying Investor AIF investment companies<sup>21</sup>**

1. Where the Qualifying Investor AIF is an investment company, departures from the office of director and the reason for the departure must be notified to the Central Bank immediately by filing the relevant Central Bank form. In all cases where a director wishes to resign and prior to completing the relevant Central Bank form, the Qualifying Investor AIF (at Board or its Chair level) must form a view as to the impact of the resignation on the AIF Management Company having regard to the current and prospective financial state of the AIF Management Company and the AIFs under management. In the event that the Board or, in the absence of a

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<sup>21</sup> The provisions of footnote 1 in chapter 4 - AIF Management Company Requirements will apply *mutatis mutandis* to directors of Qualifying Investor AIF investment companies which are in distressed or failing circumstances.

Board meeting, the Chair forms the view that the situation is one which could create such concern on the part of the Central Bank, it shall state this on the relevant Central Bank form. The Board or its Chair may consult the Central Bank in order to help it form a view on that matter.

2. Where the Qualifying Investor AIF is an investment company it shall ensure that it does not have directors in common with the board of directors of its depositary.
3. Where the Qualifying Investor AIF is an investment company, a minimum of two directors must be Irish resident.
4. Where the Qualifying Investor AIF is an investment company it shall ensure that each of its directors is required to disclose to the board of the Qualifying Investor AIF any concurrent directorships which they hold.

**iv. Suspensions**

1. Where the Qualifying Investor AIF temporarily suspends the calculation of the net asset value and repurchase or redemption of its units it must inform the Central Bank immediately, and in any event within the working day on which such suspension took effect.

**v. Replacement of depositary**

1. The Central Bank requires that the procedures to be followed in relation to the replacement of a depositary must be approved by the board of the investment company, the management company of a unit trust scheme or common contractual fund or the general partner of an investment limited partnership. Where the Qualifying Investor AIF replaces its depositary, the Qualifying Investor AIF must ensure that the Central Bank receives, as required, confirmation from both the retiring depositary and new depositary that they are satisfied with the transfer of assets.
2. The Qualifying Investor AIF shall only terminate the appointment of the depositary:
  - (a) upon the appointment of a successor depositary; or
  - (b) upon the revocation of the authorisation of the Qualifying Investor AIF.

**vi. Replacement of AIFM, management company, general partner or third party**

1. The Qualifying Investor AIF may only replace its AIFM, management company or general partner with the prior approval of the Central Bank.
2. The Central Bank must be notified in advance of any proposal to replace third parties which have contracted (directly or indirectly) with the management company in the case of a unit trust or common contractual fund, investment company or investment limited partnership to carry out services. The Central Bank may object to the proposals and replacements objected to by the Central Bank may not proceed.
3. The procedures to be followed by Qualifying Investor AIFs in relation to the replacement of an AIFM, management company, general partner, investment manager or fund administration company must be approved and documented by the Qualifying Investor AIF.

**vii. Monthly and quarterly returns**

1. The Qualifying Investor AIF must submit a monthly return to the Statistics Division of the Central Bank using the Central Bank's Online Reporting System. The contents of the monthly return are set out below in paragraph 2 of this section.
2. The following information must be included in the monthly returns:
  - (a) the Central Bank code issued to the sub-fund of the Qualifying Investor AIF;
  - (b) the base currency of the Qualifying Investor AIF (the return must be denominated in the base currency of the Qualifying Investor AIF);
  - (c) the Qualifying Investor AIF type (designated by investment strategy);
  - (d) total gross asset value of the Qualifying Investor AIF at end-month;
  - (e) total net asset value of the Qualifying Investor AIF at end-month;
  - (f) number of units in circulation at end-month;
  - (g) net asset value per unit at end-month;
  - (h) payments received from the issues of units during month;
  - (i) payments made for the repurchase of units during month; and
  - (j) net amount from issues and repurchases during month.
  - (k) profit/loss from operations during the period;
  - (l) investment management fees accrued during the period (excluding performance fees); and

- (m) all other expenses accrued during the period (excluding investment management fees).

This return must be submitted to the Statistics Division of the Central Bank within 10 working days of the end-month to which it refers.

- 3. The Qualifying Investor AIF must submit a quarterly Survey of Collective Investment Undertakings return to the Statistics Division of the Central Bank within ten working days of the end-quarter to which it refers. The Qualifying Investor AIF must also submit a Funds Annual Survey of Liabilities return to the Statistics Division of the Central Bank, along with the quarterly Survey of Collective Investment Undertakings return, for the first quarter of each year.

**viii. Amalgamation of Qualifying Investor AIFs with other investment funds**

- 1. A Qualifying Investor AIF may only merge or amalgamate with another investment fund where the proposed merger or amalgamation has received the prior approval of the Central Bank.

### Section 3:

#### Prospectus requirements

##### i. General requirements

1. The Qualifying Investor AIF must publish a prospectus, which must be dated and the essential elements of which must be kept up to date.
2. The prospectus must contain sufficient information for investors to make an informed judgement of the investment proposed to them.
3. The Qualifying Investor AIF must where relevant comply with Regulation 24 of the AIFM Regulations regarding disclosure to unitholders obligations. The information set out in Regulation 24 (1) to (3) of the AIFM Regulations, which AIFMs are required to make available to prospective investors before they invest, must be disclosed in a Qualifying Investor AIF's prospectus. For Regulations 24(1)(k), (m) and (n), the prospectus can disclose where the relevant documentation or information is available.
4. The Qualifying Investor AIF must offer, free of charge, the prospectus to every prospective unitholder before a contract for the acquisition of units is entered into.
5. The Qualifying Investor AIF shall ensure that where the prospectus is translated into a language other than English, any such translation shall only contain the same information and shall have the same meaning as in the prospectus submitted to the Central Bank.
6. The Qualifying Investor AIF shall comply with the terms of its prospectus.
7. The Qualifying Investor AIF may not change its investment objectives or effect a material change to its investment policies, as disclosed in the prospectus without the prior written approval of all unitholders or without approval on the basis of a majority of votes cast at general meeting. "Material" shall be taken to mean, although not exclusively:

“changes which significantly alter the asset type, credit quality, borrowing or leverage limits or risk profile of the Qualifying Investor AIF”.

In the event of a change of investment objectives and/or investment policy, on the basis of a majority of votes cast at a general meeting, the Qualifying Investor AIF must provide a reasonable notification period to enable unitholders redeem their units prior to implementation of these changes.

8. The Qualifying Investor AIF shall include details of derogations granted by the Central Bank in its prospectus.

**ii. General information concerning the Qualifying Investor AIF**

1. The Qualifying Investor AIF shall, at a minimum, disclose the following in its prospectus:
  - (a) the name of the Qualifying Investor AIF, form in law, and, in the case of an investment company, the registered office and head office if different from the registered office;
  - (b) the date of establishment, incorporation or registration of the Qualifying Investor AIF and indication of duration, if limited;
  - (c) a statement of the place where the constitutional document, if not annexed, and annual reports may be obtained;
  - (d) brief indications relevant to unitholders of the tax system applicable to the Qualifying Investor AIF. Details of whether deductions are made at source from the income and capital gains paid by the Qualifying Investor AIF to unitholders must also be included;
  - (e) the accounting dates and distribution frequency. The time limit (if any) after which entitlement to dividend lapses and procedure in this event;
  - (f) a description of the rules for determining and applying income;
  - (g) in the case of investment companies, the names and positions in the company of the directors; their experience both current and past, which is relevant to the company; details of their main activities outside the company where these are of significance with respect to the company;
  - (h) the persons who accept responsibility for information contained in the prospectus;
  - (i) the material provisions of the contracts between third parties and the management company, general partner or investment company which may be relevant to unitholders, excluding those relating to remuneration.
  - (j) the authorised share capital in the case of an investment company;
  - (k) the base currency of the Qualifying Investor AIF;

- (l) The types and main characteristics of the units and in particular:
  - (i) the nature of the right (real, personal or other) represented by the unit;
  - (ii) whether there are original securities or certificates providing evidence of title;
  - (iii) whether there is entry in a register or in an account;
  - (iv) the characteristics of the units: whether they are registered or bearer;
  - (v) indication of any denominations which may be provided for;
  - (vi) an indication of unitholders' voting rights; and
  - (vii) the circumstances in which winding-up of the Qualifying Investor AIF can be decided on and winding-up procedure, in particular as regards the rights of unitholders;
- (m) where a Qualifying Investor AIF proposes issuing partly paid units, the nature of the commitment which unitholders will enter into must be fully disclosed;
- (n) where applicable, indication of stock exchanges or markets where the units are listed or dealt in; and
- (o) a description of the AIFM's remuneration policies and practices pursuant to Regulation 14 of the AIFM Regulations.

### iii. Investments in other investment funds

1. The Qualifying Investor AIF shall, in its prospectus, clearly indicate the extent to which it is intended to invest in underlying investment funds and state that additional fees will arise from this investment policy. The prospectus must disclose, and quantify to the extent possible, the types of charges and other costs relating to the underlying investment funds which will be borne by the Qualifying Investor AIF. In addition to disclosure regarding fees which will arise at the level of the Qualifying Investor AIF, the prospectus must also disclose, to the extent possible, the fees which will arise at the level of the underlying investment funds.
  2. Where the Qualifying Investor AIF is a fund of funds it may only invest in another investment fund which itself invests more than 50% of net assets in other investment funds where the Qualifying Investment AIF has made clear disclosure regarding increased costs and lack of transparency concerning the ultimate exposure. Any such investments must not be made for the purpose of duplicating management and/or investment management fees.
2. Where the Qualifying Investor AIF deals more frequently than quarterly, invests in other investment funds and provides for a period of 95 calendar days for the payment of redemption proceeds, it shall include a prominent statement in its prospectus highlighting



the fact that while the Qualifying Investor AIF deals more frequently than quarterly, there may be times when redemption proceeds are paid on a quarterly basis.

**iv. Dealing**

1. The Qualifying Investor AIF shall disclose, in its prospectus, the initial offer period.
2. The Qualifying Investor AIF shall disclose, in its prospectus, the procedures and conditions for repurchase or redemption of units, including the period within which redemption proceeds will normally be paid or discharged to unitholders. It must also disclose the circumstances in which repurchase or redemption may be suspended.
3. Where a Qualifying Investor AIF is an open-ended investment fund with limited liquidity, it shall, in its prospectus, specify the limited nature of the redemption facilities.

*Redemption in Specie*

4. Where the prospectus provides for redemption in specie, the Qualifying Investor AIF shall also provide for the following in its prospectus:
  - redemption in specie is at the discretion of the Qualifying Investor AIF and with the consent of the redeeming unitholder;
  - asset allocation is subject to the approval of the depositary; and
  - a determination to provide redemption in specie may be solely at the discretion of the Qualifying Investor AIF where the redeeming unitholder requests redemption of a number of units that represent 5% or more of the net asset value of the Qualifying Investor AIF. In this event the Qualifying Investor AIF will, if requested, sell the assets on behalf of the unitholder. The cost of the sale can be charged to the unitholder.

**v. Information concerning a management company or general partner**

1. The Qualifying Investor AIF shall, in its prospectus, disclose the name, form in law, registered office and head office, if different from the registered office, of the management company or general partner. If the management company or general partner is part of a group, the name of that group must be disclosed. The date of incorporation of the company and indication of duration, if limited, must also be included.

2. The Qualifying Investor AIF shall, in its prospectus, disclose the names and positions in the management company or general partner of the members of the administrative, management and supervisory functions; their experience, both current and past, which is relevant to the Qualifying Investor AIF; and details of their main activities outside the management company or general partner where those are of significance with respect to that management company or general partner.
3. The Qualifying Investor AIF shall, in its prospectus, disclose the amount of the prescribed capital of the management company or general partner with an indication of the capital paid-up.

**vi. Information concerning investment managers and other service providers**

1. The Qualifying Investor AIF shall, in its prospectus, disclose the details of service providers.
2. The Qualifying Investor AIF shall, in its prospectus, disclose the material provisions of the contracts with the management company, general partner or investment company which may be relevant to the unitholders, excluding those relating to remuneration.
3. The Qualifying Investor AIF shall, in its prospectus, disclose the other significant activities engaged in by its AIFM and any entity performing investment management functions on its behalf.

**vii. Authorisation status**

1. The Qualifying Investor AIF shall state in a prominent position in its prospectus that it has been authorised by the Central Bank for marketing solely to qualifying investors. It must specify its minimum subscription requirements and add the following:

**“While this Qualifying Investor AIF is authorised by the Central Bank, the Central Bank has not set any limits or other restrictions on the investment objectives, the investment policies or on the degree of leverage which may be employed by the Qualifying Investor AIF.”**

2. The Qualifying Investor AIF shall, in its prospectus, state that its authorisation is not an endorsement or guarantee of the Qualifying Investor AIF by the Central Bank nor is the

Central Bank responsible for the contents of the prospectus and must incorporate the following statement:

**“The Central Bank shall not be liable by virtue of its authorisation of this Qualifying Investor AIF or by reason of its exercise of the functions conferred on it by legislation in relation to this Qualifying Investor AIF for any default of the Qualifying Investor AIF. Authorisation of this Qualifying Investor AIF does not constitute a warranty by the Central Bank as to the creditworthiness or financial standing of the various parties to the Qualifying Investor AIF.”**

**viii. Conflicts of interest**

1. The Qualifying Investor AIF shall, in its prospectus, include a description of the potential conflicts of interest which could arise between the AIFM, management company, general partner and investment manager and the Qualifying Investor AIF, for example directed brokerage services and/or the receipt of commissions by virtue of an investment in the units of another investment fund with details, where applicable, of how these are going to be resolved. A description of soft commission arrangements which may be entered into by a Qualifying Investor AIF must also be included.
2. The Qualifying Investor AIF shall only enter into a transaction with, as appropriate, its general partner, management company, depositary, AIFM, investment manager and/or its delegate or associated or group companies, where there has been full disclosure in the Qualifying Investor AIF’s prospectus.

**ix. Umbrella Qualifying Investor AIFs**

1. An umbrella Qualifying Investor AIF which is an investment company shall, in its prospectus, include the words: **"An umbrella fund with segregated liability between sub-funds"**. Investment companies constituted as umbrella Qualifying Investor AIFs which were authorised and commenced trading before 30 June 2005 and which do not have segregated liability between sub-funds must clearly disclose the potential risks to unitholders arising from the absence of the segregation of liability between sub-funds.
2. Where the Qualifying Investor AIF, which is an umbrella Qualifying Investor AIF, issues a supplement to its prospectus, it shall state, in the supplement that it is constituted as an

umbrella Qualifying Investor AIF and name the other existing sub-funds or provide that these will be available upon request.

3. Where the Qualifying Investor AIF is an umbrella Qualifying Investor AIF, it shall, in its prospectus disclose the extent to which one sub-fund can invest in another and the conditions which apply to such investments.
4. Where the Qualifying Investor AIF is an umbrella Qualifying Investor AIF it shall, in its prospectus, clearly state the charges, if any, applicable to the exchange of units in one sub-fund for units in another.

**x. Warehousing**

1. The Qualifying Investor AIF shall only acquire assets pursuant to a warehousing arrangement where the use of such arrangements is fully disclosed in its prospectus, including details of any fee payable in relation to such arrangements. The prospectus must state that the Qualifying Investor AIF will pay no more than current market value for these assets.

**xi. Investment through subsidiaries**

1. The Qualifying Investor AIF may only invest through one or more subsidiaries where its prospectus discloses:
  - (a) the ability to establish wholly-owned subsidiaries in accordance with the requirements of the Central Bank; and
  - (b) that the names of any subsidiaries will be disclosed in the annual report.

## Section 4:

### General operational requirements

#### i. Financial resources of investment companies

1. Where the Qualifying Investor AIF is an investment company it shall have sufficient financial resources at its disposal to enable it to conduct its business effectively and meet its liabilities.
2. Where the Qualifying Investor AIF is an investment company which does not employ the services of a management company or an authorised AIFM it must:
  - (a) have a minimum paid up share capital equivalent to €125,000 within 3 months of authorisation; and
  - (b) satisfy the Central Bank on a continuing basis that it has sufficient management resources to effectively conduct its business and otherwise comply with the provisions of section ii of chapter 4 – AIF Management Company Requirements.

#### ii. Dealing

1. The Qualifying Investor AIFs shall make the issue and redemption prices of their units available promptly to unitholders on request.
2. The Qualifying Investor AIF shall not issue units, or if issued shall cancel such units, unless the equivalent of the net issue price is paid into the assets of the Qualifying Investor AIF within a reasonable time, which is specified in the prospectus. This shall not preclude the distribution of bonus units.
3. A Qualifying Investor AIF may only retain 10% or less of redemption proceeds where this reflects the redemption policy of the underlying investment fund(s) and until such time as the full redemption proceeds from the underlying investment fund(s) is received.

## Section 5:

### Annual and half-yearly reports

#### i. Publication of annual and half-yearly reports

1. The Qualifying Investor AIF shall publish an annual report for each financial year. The accounting information given in the annual report must be audited by one or more persons empowered to audit accounts in accordance with the Companies Acts. The auditor's report to unitholders, including any qualifications, shall be reproduced in full in the annual report.
2. The Qualifying Investor AIF shall include the information specified in the AIFM Regulations and the information specified in this section in its annual report.
3. A Qualifying Investor AIF established as a unit trust or common contractual fund must publish a half-yearly report covering the first six months of the financial year. The information set out in this section must be incorporated into the half-yearly report.
4. The Qualifying Investor AIF shall prepare and submit to the Central Bank a set of accounts (whether an interim report or an annual report) within 12 months of the launch date and publish it within 2 months if an interim report or 6 months if an annual report. The first annual reports must be within 18 months of incorporation/establishment and published within 6 months. The Qualifying Investor AIF established as a unit trust or common contractual fund shall publish and submit to the Central Bank its half-yearly report within 2 months of the end of the reporting period to which it relates.
5. The Qualifying Investor AIF shall publish and submit to the Central Bank its annual report within 6 months of the end of the financial year to which it relates.
6. The Qualifying Investor AIF shall, on request, supply unitholders with copies of the annual reports and half-yearly reports (if any) free of charge.
7. Where the Qualifying Investor AIF is an umbrella Qualifying Investor AIF constituted as a unit trust, common contractual fund or ICAV, it may produce separate periodic reports for individual sub-funds. In such cases, the report of each sub-fund must name the other sub-

funds and state that the reports of such sub-fund are available free of charge on request from the management company or the ICAV.

8. In accordance with company law, an investment company other than an ICAV established as an umbrella Qualifying Investor AIF must include accounts for all sub-funds of that company in its periodic reports.

**ii. Information to be contained in the annual report**

1. Where the Qualifying Investor AIF is an investment company other than an ICAV it shall confirm in its annual report, whether or not, the aim of spreading investment risk has been maintained.
2. The Qualifying Investor AIF shall include the following in its annual report as well as any significant information which will enable unitholders to make an informed judgement on the development of the Qualifying Investor AIF and its results:
  - (a) number of units in circulation;
  - (b) net asset value per unit;
  - (c) a full portfolio statement or a condensed portfolio statement which lists positions/exposures greater than 5% of net assets, distinguishing between the different types of investments and each investment analysed in accordance with the most appropriate criteria in light of the investment policy of the Qualifying Investor AIF (e.g., in accordance with economic, geographical or currency criteria) as a percentage of net assets; for each of the investments the proportion it represents of the total net assets of the Qualifying Investor AIF must be stated. If a condensed portfolio statement is included in the annual report, a Qualifying Investor AIF must make the full portfolio statement available to unitholders on demand. This can be made available to potential investors at the Qualifying Investor AIF's discretion;
  - (d) investments by sub-funds within an umbrella investment company in the units of other sub-funds within the umbrella must be disclosed. The policies adopted to disclose cross-investments must be explained in a note to the accounts;
  - (e) information on the investment funds in which the Qualifying Investor AIF has invested during the reference period, including disclosure on their regulatory status and fees paid by the Qualifying Investor AIF and, to the extent possible, by the underlying investment funds;
  - (f) a description of soft commission arrangements affecting the Qualifying Investor AIF during the period;

- (g) a description on how financial derivative instruments, securities lending and repo contracts have been utilised during the reporting period. This description must identify the specific techniques and instruments used during the period and indicate the purposes for the use of such techniques and instruments to allow unitholders assess their nature and the risk relating to them.

Open financial derivative positions at reporting date must be marked to market and specifically identified in the portfolio statement. Information on open option positions must include the strike price, final exercise date and an indication whether such positions are covered or not.

Qualifying Investor AIFs which have engaged in securities lending must disclose, in a note to the accounts, the aggregate value of securities on loan at the reporting date, together with the value of collateral held by the Qualifying Investor AIF in respect of these securities. Where a Qualifying Investor AIF has entered into a securities lending programme organised by generally recognised international central securities depositories systems, the name of the international central securities depository system must be disclosed;

- (h) a list of exchange rates used in the report;
- (i) a comparative table covering the last three financial years and including, for each financial year, at the end of the financial year:
- the total net asset value; and
  - the net asset value per unit.
- (j) depositary's report;
- (k) the annual report must state whether:
- the Qualifying Investor AIF is satisfied that there are arrangements (evidenced by written procedures) in place, to ensure that the obligations set out in paragraph 1 of section 1.viii *Dealings by management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these* of this Part are applied to all transactions with connected parties; and
  - the Qualifying Investor AIF is satisfied that transactions with connected parties entered into during the period complied with the obligations set out in paragraph 1 of section 1.viii *Dealings by management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these* of this Part;
- (l) a report on any commissions received by the management company of the Qualifying Investor AIF by virtue of an investment in the units of another investment fund where



these commissions are not paid into the property of the Qualifying Investor AIF. This report must include an explanation regarding how the receipt of such commissions by the management company is consistent with its inducements and best execution obligations; and

- (m) the names of any wholly owned subsidiaries.

**iii. Information to be contained in the half-yearly report**

3. The Qualifying Investor AIF shall include the following in its half-yearly report:
  - (a) a balance sheet or statement of assets and liabilities;
  - (b) number of units in circulation;
  - (c) net asset value per unit;
  - (d) a full portfolio statement or a condensed portfolio statement which lists positions/exposures greater than 5% of net assets, distinguishing between the different types of investments and each investment analysed in accordance with the most appropriate criteria in the light of the investment policy of the Qualifying Investor AIF (e.g., in accordance with economic, geographical or currency criteria) as a percentage of net assets; for each of the investments the proportion it represents of the total net assets of the Qualifying Investor AIF must be stated. If a condensed portfolio statement is included in the half-yearly report, a Qualifying Investor AIF must make the full portfolio statement available to unitholders on demand. This can be made available to potential investors at the Qualifying Investor AIF's discretion;
  - (e) investments by sub-funds within an umbrella investment company in the units of other sub-funds within the umbrella shall be disclosed. The policies adopted to disclose cross-investments must be explained in a note to the accounts;
  - (f) information on the investment funds in which the Qualifying Investor AIF has invested during the reference period, including disclosure on their regulatory status and fees paid by the Qualifying Investor AIF and, to the extent possible, by the underlying investment funds;
  - (g) a description of soft commission arrangements affecting the Qualifying Investor AIF during the reference period;
  - (h) a description on how financial derivative instruments, securities lending and repurchase agreements have been utilised during the reporting period. This description should identify the specific techniques and instruments used during the period and indicate the purposes for the use of such techniques and instruments to allow unitholders assess their nature and the risk relating to them.

Open derivative positions at reporting date should be marked to market and specifically identified in the portfolio statement. Information on open option positions should include the strike price, final exercise date and an indication whether such positions are covered or not.

Qualifying Investor AIFs which have engaged in securities lending must disclose, in a note to the accounts, the aggregate value of securities on loan at reporting date, together with the value of collateral held by the Qualifying Investor AIF in respect of these securities. Where a Qualifying Investor AIF has entered into a securities lending programme organised by generally recognised international central securities depositories systems, the name of the central securities depository system must be disclosed;

- (i) a description of any material changes in the prospectus during the reporting period;
- (j) a list of exchange rates used in the report;
- (k) where a Qualifying Investor AIF has paid or proposes to pay an interim dividend, the half-yearly report must indicate the results after tax for the half-year concerned and the interim dividend paid or proposed;
- (l) the half-yearly report must state whether:
  - the Qualifying Investor AIF is satisfied that there are arrangements (evidenced by written procedures) in place, to ensure that the obligations set out in paragraph 1 of section 1.viii *Dealings by management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these* of this Part are applied to all transactions with connected parties; and
  - the Qualifying Investor AIF is satisfied that transactions with connected parties entered into during the period complied with the obligations set out in paragraph 1 of section 1.viii *Dealings by management company, general partner, depositary, AIFM, investment manager or by delegates or group companies of these* of this Part; and
- (m) the names of any wholly owned subsidiaries.

## **PART II: SPECIFIC FUND-TYPE REQUIREMENTS**

### **Section 1:**

#### **Money market Qualifying Investor AIFs**

1. The Qualifying Investor AIF must indicate in its prospectus whether it is a Short-Term Money Market Fund or a Money Market Fund. It must also include a risk warning drawing attention to the difference between the nature of a deposit and the nature of an investment in a money market fund with particular reference to the risk that the principal invested in a money market fund is capable of fluctuation.
2. The Qualifying Investor AIF must provide appropriate information to unitholders on the risk and reward profile of the fund so as to enable unitholders identify any specific risks linked to the investment strategy of the money market fund.
  - (a) In the case of Money Market Funds this must take account of the longer WAM and WAL.
  - (b) In the case of all money market funds this must take account, where relevant, of investment in new asset classes, financial instruments or investment strategies with unusual risk and reward profiles.

#### **i. Short-Term Money Market Funds**

1. Where the Qualifying Investor AIF is a Short-Term Money Market Fund it must have a primary investment objective of maintaining the principal of the fund and aim to provide a return in line with money market rates.
2. Where the Qualifying Investor AIF is a Short-Term Money Market Fund it shall, in accordance with paragraph 3 below, limit investments to high quality money market instruments, as determined by the Qualifying Investor AIF, and deposits with credit institutions.
3. To determine “high quality”, the following factors must at least be taken into account:
  - (a) the credit quality of the instrument (a money market instrument may not be considered to be of high quality unless it has been awarded one of the two highest available short-term credit ratings by each recognised credit rating agency that has rated the

- instrument, or, if the instrument is not rated, it is of an equivalent quality as determined by the Qualifying Investor AIF). Credit quality must be monitored on an on-going basis;
- (b) the nature of the asset class represented by the instrument;
  - (c) the operational and counterparty risk, in the case of structured financial instruments; and
  - (d) the liquidity profile.
4. Where the Qualifying Investor AIF is a Short-Term Money Market Fund it shall limit investments to securities or instruments with a residual maturity, until the legal redemption date, of less than or equal to 397 days.
  5. Where the Qualifying Investor AIF is a Short-Term Money Market Fund it must provide daily NAV and price calculations and have daily subscriptions and redemptions of units.
  6. Where the Qualifying Investor AIF is a Short-Term Money Market Fund it shall ensure that the WAM does not exceed 60 days.
  7. Where the Qualifying Investor AIF is a Short-Term Money Market Fund it shall ensure that the WAL does not exceed 120 days. When calculating the WAL for securities, including structured financial instruments, the Qualifying Investor AIF must base the maturity calculation on the residual maturity until the legal redemption of the instruments. However, when a financial instrument embeds a put option, the exercise date of the put option may be used instead of the legal residual maturity only if the following conditions are fulfilled at all times:
    - (a) the put option can be freely exercised by the Qualifying Investor AIF at its exercise date;
    - (b) the strike price of the put option remains close to the expected value of the instrument at the next exercise date; and
    - (c) the investment strategy of the Qualifying Investor AIF implies that there is a high probability that the option will be exercised at the next exercise date.
  8. Where the Qualifying Investor AIF is a Short Term Money Market Fund it shall, when calculating the WAM and WAL, take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques.

9. Where the Qualifying Investor AIF is a Short-Term Money Market Fund it is not permitted to have direct or indirect exposure to equities or commodities, including through financial derivative instruments.
10. Where the Qualifying Investor AIF is a Short-Term Money Market Fund, financial derivative instruments may only be used when these are in line with the money market investment strategy of the Qualifying Investor AIF. Financial derivative instruments which give exposure to foreign exchange may only be used for hedging purposes. Investment in non-base currencies is not permitted unless the exposure is fully hedged.
11. Where the Qualifying Investor AIF is a Short-Term Money Market Fund, investment in other investment funds is not permitted unless those investment funds are also Short-Term Money Market Funds.
12. Where the Qualifying Investor AIF is a Short-Term Money Market Fund it may have either a constant or fluctuating NAV.

**ii. Money Market Funds**

1. Where the Qualifying Investor AIF is a Money Market Fund it must have a primary investment objective of maintaining the principal of the fund and aim to provide a return in line with money market rates.
2. Where the Qualifying Investor AIF is a Money Market Fund it shall (in accordance with paragraph 3) limit investments to high quality money market instruments, as determined by the Qualifying Investor AIF, and deposits with credit institutions.
3. To determine “high quality”, the following factors must at least be taken into account:
  - (a) the credit quality of the instrument (a money market instrument may not be considered to be of high quality unless it has been awarded one of the two highest available short-term credit ratings by each recognised credit rating agency that has rated the instrument, or, if the instrument is not rated, it is of an equivalent quality as determined by the Qualifying Investor AIF). Credit quality must be monitored on an on-going basis;
  - (b) the nature of the asset class represented by the instrument;
  - (c) the operational and counterparty risk, in the case of structured financial instruments; and
  - (d) the liquidity profile.

4. Where the Qualifying Investor AIF is a Money Market Fund it shall limit investments to securities or instruments with a residual maturity, until the legal redemption date, of less than or equal to 2 years, provided that the time remaining until the next interest reset date is less than or equal to 397 days. Floating rate securities must reset to a money market rate or index.
5. Where the Qualifying Investor AIF is a Money Market Fund it must provide daily NAV and price calculations and have daily subscriptions and redemptions of units.
6. Where the Qualifying Investor AIF is a Money Market Fund it shall ensure that the WAM of the portfolio does not exceed 6 months.
7. Where the Qualifying Investor AIF is a Money Market Fund it shall ensure that the WAL of the portfolio does not exceed 12 months. When calculating the WAL for securities, including structured financial instruments, the Qualifying Investor AIF must base the maturity calculation on the residual maturity until the legal redemption of the instruments. However, when a financial instrument embeds a put option, the exercise date of the put option may be used instead of the legal residual maturity only if the following conditions are fulfilled at all times:
  - (a) the put option can be freely exercised by the Qualifying Investor AIF at its exercise date;
  - (b) the strike price of the put option remains close to the expected value of the instrument at the next exercise date; and
  - (c) the investment strategy of the Qualifying Investor AIF implies that there is a high probability that the option will be exercised at the next exercise date.
8. Where the Qualifying Investor AIF is a Money Market Fund it shall, when calculating the WAM and WAL, take into account the impact of financial derivative instruments, deposits and efficient portfolio management techniques.
9. Where the Qualifying Investor AIF is a Money Market Fund it is not permitted to have direct or indirect exposure to equities or commodities, including through financial derivative instruments.
10. Where the Qualifying Investor AIF is a Money Market Fund it may only use financial derivative instruments which give exposure to foreign exchange for hedging purposes. Investment in non-base currencies is not permitted unless the exposure is fully hedged.

11. Where the Qualifying Investor AIF is a Money Market Fund it may only invest in other investment funds that are Short-Term Money Market Funds or Money Market Funds.
12. Where the Qualifying Investor AIF is a Money Market Fund it must have a fluctuating NAV.

**iii. Short-Term Money Market Funds – valuation on the basis of amortised cost**

1. Where the Qualifying Investor AIF is a Short-Term Money Market Fund it is permitted to follow an amortised cost valuation methodology provided the Qualifying Investor AIF or, where relevant, its delegate has demonstrable expertise in the operations of money market funds which follow this method of valuation. Such expertise shall be demonstrable where:
  - (a) the Short-Term Money Market Fund has obtained a triple-A rating from an internationally recognised credit rating agency; or
  - (b) the management company or investment manager is engaged in the management, or has been engaged in the management, of a triple-A rated money market fund; or
  - (c) in circumstances other than (a) or (b), where the Qualifying Investor AIF has demonstrated to the Central Bank (through separate application) that appropriate expertise exists in the operation of this type of money market fund.
2. The Qualifying Investor AIF shall ensure and be satisfied at all times that the persons responsible for the operation of the Short-Term Money Market Fund including under any delegation arrangements have and continue to have the necessary expertise.
3. The Qualifying Investor AIF must carry out a weekly review of discrepancies between the market value and the amortised cost value of the money market instruments. Escalation procedures must be in place to ensure that material discrepancies between the market value and the amortised cost value of a money market instrument are brought to the attention of personnel charged with the investment management of the Qualifying Investor AIF. In this regard:
  - (a) discrepancies in excess of 0.1% between the market value and the amortised cost value of the portfolio are brought to the attention of the management company or the investment manager;
  - (b) discrepancies in excess of 0.2% between the market value and the amortised cost value of the portfolio are brought to the attention of senior management/directors of the management company or the board of directors and the depository.

4. The Qualifying Investor AIF shall conduct a daily review where discrepancies occur in excess of 0.3% between the market value and the amortised cost value of the portfolio. The Qualifying Investor AIF must notify the Central Bank with an indication of the action, if any, which will be taken to reduce such dilution.
5. The Qualifying Investor AIF shall, in its constitutional document, provide for the escalation procedures set out in paragraphs 3 and 4 of this section or, alternatively, provide that a review of the amortised cost valuation vis-à-vis market valuation will be carried out in accordance with the requirements of the Central Bank. Weekly reviews and any engagement of escalation procedures must be clearly documented.
6. The Qualifying Investor AIF shall undertake and complete monthly portfolio analysis incorporating stress testing to examine portfolio returns under various market scenarios to determine if the portfolio constituents are appropriate to meet pre-determined levels of credit risk, interest rate risk, market risk and investor redemptions. The results of the periodic analysis must be available to the Central Bank on request.
7. A Qualifying Investor AIF that is a Money Market Fund is not permitted to follow an amortised cost valuation methodology.

**iv. European Central Bank reporting requirements**

1. Each money market fund which meets the definition contained in Article 1a, of Regulation of the European Central Bank (EU) No 883/2011 of 25 August 2011 amending Regulation (EC) No 25/2009 concerning the balance sheet of the monetary financial institutions sector (ECB/2008/32) (ECB/2001/12) and domiciled within a Monetary Union Member State (MUMS) shall submit two sets of data:
  - (a) Monthly Data - This return shall be prepared on a monthly basis and shall be received by the Central Bank within 6 working days of the end-month to which it relates. Essentially it consists of aggregated and summarised balance sheet data, e.g. liabilities - net asset value and borrowings; assets - cash, deposits, debt securities (money market paper and other) and equity holdings. All components of assets are broken into three general issuer categories (Irish, other MUMS and the rest of the world).
  - (b) Quarterly Data - This return shall be prepared on a quarterly basis end March, June, September and December and shall be received by the Central Bank within 10 working



days of the end-quarter to which it relates. Essentially it requires a more detailed breakdown of the monthly data. The additional information relates primarily to a profile of the issuers and maturity of the assets held by the money market fund.

The relevant forms are available at the following website address:  
<http://www.centralbank.ie/polstats/stats/reporting/Pages/default.aspx>

## Section 2:

### **Qualifying Investor AIFs which invest more than 50% of net assets in another investment fund**

1. A Qualifying Investor AIF may invest up to 100% in other investment funds subject to a maximum of 50% of net assets in any one unregulated investment fund. A Qualifying Investor AIF must not make investments which circumvent this restriction, for example, by investing more than 50% of net assets in two or more unregulated investment funds which have identical investment strategies.
2. Subject to paragraph (8), a Qualifying Investor AIF which invests more than 50% of net assets in one other investment fund is subject to the following rules:
  - the underlying investment fund is authorised in Ireland; or
  - authorised in another jurisdiction by a supervisory authority established in order to ensure the protection of unitholders and which, in the opinion of the Central Bank, provides an equivalent level of investor protection to that provided under Irish laws, regulations and conditions governing Qualifying Investor AIFs.
3. For the purposes of paragraph 2 of this section, acceptable investment funds are:

#### **Category 1**

Investment funds:

- established in a Member State of the European Union which are authorised under Directive 2009/65/EC;
- established in a Member State of the European Economic Area which are authorised under domestic legislation implementing Directive 2009/65/EC;
- established in Guernsey and authorised as Class A Schemes;
- established in Jersey as Recognised Funds;
- established in the Isle of Man as Authorised Schemes;
- authorised AIFs.

#### **Category 2**

Investment funds:

- authorised in a Member State of the European Union;
- established in Guernsey and authorised as Class B Schemes;

- established in Jersey which are not Recognised Funds;
  - established in the Isle of Man as unauthorised schemes;
  - authorised by the US Securities and Exchanges Commission under the Investment Companies Act 1940;
  - such other funds which the Central Bank may specify upon application and which comply, in all material respects, with the provisions of these requirements in respect of Qualifying Investor AIFs.
4. In the case of Category 1, the Qualifying Investor AIF shall provide the Central Bank with the prospectus of the underlying investment fund in advance of investing more than 50% of net assets in one other investment fund.
5. (a) In the case of Category 2, the Qualifying Investor AIF shall not invest more than 50% of net assets in one other investment fund without having obtained a confirmation in writing from the Central Bank that it has no objection. Further, the Qualifying Investor AIF shall provide the Central Bank with the prospectus of the underlying investment fund.
- (b) The Qualifying Investor AIF shall provide a letter to the Central Bank confirming that the underlying investment fund complies in all material respects with the provisions of the AIF Rulebook in respect of Qualifying Investor AIFs.
- (c) The oversight function of the depositary for the category 2 investment fund must, at a minimum, include requirements to:
- ensure that valuations of assets are carried out in accordance with the valuation policy;
  - ensure that units of the underlying investment fund are issued and redeemed correctly; and
  - ensure that the management of the assets is carried out correctly.
- (d) The Qualifying Investor AIF shall inform the Central Bank immediately it becomes aware that the underlying investment fund has materially breached any of its legal, regulatory or constitutional obligations.
6. The periodic reports of the Qualifying Investor AIF must have the periodic reports of the underlying investment fund attached.

7. Paragraph 2 of this section does not apply in circumstances where:
  - the Qualifying Investor AIF has a minimum subscription limit of €500,000 or its equivalent in other currencies. The aggregate of an investor's investments in the sub-funds of an umbrella Qualifying Investor AIF cannot be taken into account for the purposes of determining this requirement. The amounts of subsequent subscriptions from unitholders who have already subscribed the minimum subscription of €500,000 are unrestricted. Institutions may not group amounts of less than €500,000 for individual investors; and
  - the prospectus for the Qualifying Investor AIF contains a detailed and prominent disclosure which identifies on an item-by-item basis those obligations and conditions which apply to the Qualifying Investor AIF and its AIFM but which do not apply to the underlying unregulated investment fund and its management company.
8. A Qualifying Investor AIF to whom paragraph 2 of this section applies may not invest in an investment fund which itself invests more than 50% of net assets in another investment fund.
9. The annual report of the Qualifying Investor AIF must have the annual report of the underlying investment fund attached.

**Section 3:****Closed-ended Qualifying Investor AIFs and duration of closed-ended Qualifying Investor AIFs****i. General requirements**

1. Where the Qualifying Investor AIF is closed-ended it must have a finite closed-ended period, the duration of which must be provided for in the prospectus as a material part of the investment policy.

Accordingly, the constitutional document must provide that on a future date, specified in either the constitutional document or the prospectus, the Qualifying Investor AIF will undertake one of the following actions:

- (a) wind-up and apply to the Central Bank for a revocation of the authorisation of the Qualifying Investor AIF;
  - (b) redeem all outstanding units and apply to the Central Bank for a revocation of the Qualifying Investor AIF authorisation;
  - (c) convert into an open-ended Qualifying Investor AIF, the relevant details of which must be disclosed in the prospectus; or
  - (d) obtain unitholder approval to extend the closed-ended period for a further finite period.
2. Where the Qualifying Investor AIF is closed ended it may, with the prior approval of the Central Bank, provide for the issue of units other than at net asset value.

**ii. Liquidity**

1. For the purposes of section iii, where the Qualifying Investor AIF is closed ended but provides liquidity provisions, these must realistically contribute to the ability of a unitholder to realise his/her investment prior to the expiry of the closed-ended period.

**iii. Changes to existing closed-ended Qualifying Investor AIFs***Changes to Duration*

1. No realistic liquidity provisions: Where there is a proposed change to the duration of a closed-ended Qualifying Investor AIF with no opportunity for unitholders to redeem or otherwise exit the Qualifying Investor AIF, the Qualifying Investor AIF shall ensure that votes in favour of the change must represent at least 75% of votes cast.
2. Realistic liquidity provisions: Where there is a proposed change to the duration of the Qualifying Investor AIF with an opportunity for unitholders to redeem or otherwise exit the Qualifying Investor AIF, the Qualifying Investor AIF shall ensure that votes in favour of the change must represent at least 50% of votes cast.

*Changes to the investment objective or material<sup>22</sup> changes to the investment policy of a Qualifying Investor AIF*

3. No realistic liquidity provisions: Where there is a proposed change of investment objectives and/or material change of investment policies with no opportunity for unitholders to redeem or otherwise exit the closed ended Qualifying Investor AIF, the Qualifying Investor AIF shall ensure that votes in favour of the change must represent at least 75% of votes cast.
4. Realistic liquidity provisions: Where there is a proposed change of investment objective and/or material change of investment policies with an opportunity for unitholders to redeem or otherwise exit the closed ended Qualifying Investor AIF, the Qualifying Investor AIF shall ensure that votes in favour of the change must represent at least 50% of votes cast.

*Non-material changes to the investment policy of a Qualifying Investor AIF*

5. Where the closed ended Qualifying Investor AIF makes non-material changes to investment policies, it shall notify unitholders of these changes. Notification can be provided by means of appropriate disclosure in the next annual report.

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<sup>22</sup> In accordance with paragraph 6 of section 3.i of Part I, “material” shall be taken to mean, although not exclusively: “changes which significantly alter the asset type, credit quality, borrowing or leverage limits or risk profile of the Qualifying Investor AIF”

*Changes to Fees or Charges*

6. Where a closed-ended Qualifying Investor AIF proposes to amend the maximum redemption charge as disclosed in the constitutional document or prospectus, or the maximum annual fee<sup>23</sup> charged by, as relevant, the AIFM, management company or general partner as disclosed in the trust deed, deed of constitution, management agreement, AIFM agreement or partnership agreement, the following approach must be adopted:
- (a) No realistic liquidity provisions: Where there is a proposed increase in these fees or charges with no opportunity for unitholders to redeem or otherwise exit the Qualifying Investor AIF, it shall ensure that votes in favour of the increase must represent at least 75% of votes cast.
  - (b) Realistic liquidity provisions: Where there is a proposed increase in these fees or charges with an opportunity for unitholders to redeem or otherwise exit the Qualifying Investor AIF, it shall ensure that votes in favour of the increase must represent at least 50% of the votes cast.

The provisions of this paragraph are also applicable to the annual fee charged by an investment manager where this fee is paid directly out of the assets of the Qualifying Investor AIF.

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<sup>23</sup> The annual fee includes any performance related fee charged by the AIFM, the management company, the general partner or the investment manager.

## Section 4:

### Loan originating Qualifying Investor AIF

#### i. General requirements

1. The loan originating Qualifying Investor AIF is not subject to the prohibition on the granting of loans set out in paragraph 7, Section 1, sub-section i in Part 1 of this Chapter.
2. The loan originating Qualifying Investor AIF shall limit its operations to the business of issuing loans, participating in loans, participations in lending and to operations relating thereto, including investing in debt and equity securities of entities or groups to which the loan originating Qualifying Investor AIF lends or which are held for treasury, cash management or hedging purposes.
3. The loan originating Qualifying Investor AIF is subject to the rules set out in this section in addition to the general rules for all Qualifying Investor AIFs. The rules in this section also apply where a loan originating Qualifying Investor AIF engages in loan origination as part of a syndication or club deal.
4. The loan originating Qualifying Investor AIF must have an authorised AIFM which may be the loan originating Qualifying Investor AIF.

#### ii. Credit granting, monitoring and management

1. The loan originating Qualifying Investor AIF shall establish and implement appropriate, documented and regularly updated procedures, policies and processes for each of the following:
  - Risk appetite statement;
  - The assessment, pricing and granting of credit (including criteria, governance and decision making, committee structures);
  - Credit monitoring, renewal and refinancing (including criteria, governance and decision making committee structures);
  - Collateral management policy;
  - Concentration risk management policy;
  - Valuation, including collateral valuation and impairment;
  - Credit monitoring;



- Identification of problem debt management;
  - Forbearance;
  - Delegated authority;
  - Documentation and security.
2. The loan originating Qualifying Investor AIF shall ensure that:
    - (a) credit-granting is based on sound and well-defined criteria and that the process for approving, amending, renewing and re-financing credits is clearly established;
    - (b) subject to paragraph 3 of this section, the loan originating Qualifying Investor AIF has internal methodologies that enable the loan originating Qualifying Investor AIF to assess the credit risk of exposures to individual obligors, securities or securitisation positions and credit risk at the portfolio level;
    - (c) the ongoing administration and monitoring of the various credit risk bearing portfolio positions and exposures, including for identifying and managing problem credits and for making adequate value adjustments and provisions, is operated through effective systems; and
    - (d) diversification of credit positions is adequate having regard to the target markets and overall credit strategy of the loan originating Qualifying Investor AIF.
  3. Internal methodologies referred to in paragraph 2(ii) above shall, in particular, not rely solely or mechanistically on external credit ratings.
  4. The loan originating Qualifying Investor AIF shall address and control the risk that credit risk mitigation techniques used by them may prove less effective than expected.
  5. The loan originating Qualifying Investor AIF shall ensure that:
    - (a) the concentration risk arising from exposures to each counterparty, including
      - (i) central counterparties;
      - (ii) groups of connected counterparties; and
      - (iii) counterparties in the same economic sector, geographic region or from the same activity or commodity;is addressed; and
    - (b) the application of credit risk mitigation techniques and, in particular risks associated with large indirect credit exposures such as a single collateral issuer, is addressed and controlled including through the establishment and implementation of written policies and procedures.

### **iii. Due diligence by investors**

1. Where the AIFM intends to provide access to its records / staff to any investor for the purposes of a due diligence process, it must ensure that such access has been made available on a non-discriminatory basis to all unitholders. Such access must not be structured so as to

materially misrepresent the business of the loan originating Qualifying Investor AIF. The AIFM shall ensure that a single person within senior management is designated with responsibility to ensure that the access given has been non-discriminatory. This person must be satisfied that a reasonable person relying on the access provided would not be influenced to invest in the loan originating Qualifying Investor AIF because of lack of access to information. The AIFM shall not intentionally or negligently conceal or fail to disclose information that a reasonable person would be likely to have considered material in considering an investment in the loan originating Qualifying Investor AIF.

**iv. Diversification / eligible investments**

1. The loan originating Qualifying Investor AIF shall, in its prospectus, set out a risk diversification strategy which will achieve a portfolio of loans which is diversified and which will limit exposure to any one issuer or group to 25% of net assets within a specified time-frame. The loan originating Qualifying Investor AIF shall not intentionally breach this risk diversification strategy. In the event that the loan originating Qualifying Investor AIF is not able to achieve its risk diversification strategy within the time-frame set out in its prospectus, for reasons beyond its control, the loan originating Qualifying Investor AIF must seek approval from the unitholders, in accordance with the procedures set out in the constitutional document, to continue to operate at the level of diversification which has been achieved. In the event that unitholders do not approve the proposal the loan originating Qualifying Investor AIF must terminate. The proposal to investors must be made within 30 days of the end of the time specified in the prospectus for meeting the risk diversification strategy.
2. The loan originating Qualifying Investor AIF shall not originate loans to any of the following:
  - (a) natural persons;
  - (b) the AIFM, management company, general partner, depository, or to delegates or group companies of these;
  - (c) other collective investment undertakings;
  - (d) financial institutions or related companies of these, except in the case where there is a bone fide treasury management purpose which is ancillary to the primary objective of the loan originating Qualifying Investor AIF;
  - (e) persons intending to invest in equities or other traded investments or commodities.
3. Unless a loan is purchased following an offering to multiple parties and is acquired on an arm's length basis, the loan originating Qualifying Investor AIF shall not acquire a loan from a credit institution under arrangements which involve:
  - (a) The retention by the credit institution or a member of its group of an exposure correlated with the performance of the loan;

- (b) The provision of an administration, credit assessment or credit monitoring service in relation to the loan, whether on an individual or portfolio basis, by the credit institution or a member of its group

unless the loan originating Qualifying Investor AIF is satisfied that the requirements set out in paragraph 4 below have been fulfilled.

*For the purposes of this paragraph, “acquire a loan” means any of: to purchase; take transfer of; take credit risk or part of credit risk attaching to; take other exposures to, a loan.*

4. Prior to acquiring a loan to which paragraph 3 of this section applies, a loan originating Qualifying Investor AIF must:
- (a) have in place and implement policies and procedures to:
    - (i) monitor the net economic interest<sup>24</sup> of the vendor over the lifetime of the loan;
    - (ii) value the loan where the loan is not purchased at face value;
    - (iii) prudently monitor the performance of the loan; and
    - (iv) stress test the loan independently of the vendor on a regular basis and at least annually, having regard to the changing risk profile of the exposure.
  - (b) have received from the vendor warranties that:
    - (i) the vendor, or, where within scope of banking consolidated supervision, an entity within its group, will retain, on an on-going basis, a material net economic interest of at least 5% of the nominal value of the loan as measured at origination;
    - (ii) the exposure will not be subject to any credit risk mitigation techniques; and
    - (iii) the loan originating Qualifying Investor AIF will have readily available access to all materially relevant data on the credit quality and performance of the underlying exposures and on cash flows relating to and collateral supporting the exposures so as to be able to conduct comprehensive and well informed stress tests on the cash flows and collateral values supporting the exposures.
5. Without prejudice to the generality of the requirements set out in section viii, Section 1 of Part I of this Chapter, any agent of, intermediary for or introducer to a loan originating Qualifying Investor AIF, or an entity which is a member of group of which those entities are a part, shall be regarded as a connected party to whom section viii shall apply in the event that such an entity sells loans to a loan originating Qualifying Investor Fund or formulates the terms and conditions of a loan to be issued by a loan originating Qualifying Investor Fund.

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<sup>24</sup> “Net economic interest” has the same meaning as in Article 405 of Regulation (EU) No 575/2013 (Capital Requirements Regulation)

**v. Stress testing**

1. The loan originating Qualifying Investor AIF shall have a comprehensive stress testing programme which shall include the following:
  - (a) It shall identify possible events or future changes in economic conditions that could have unfavourable effects on the loan originating Qualifying Investor AIF's credit exposures and assess the loan originating Qualifying Investor AIF's ability to withstand such changes;
  - (b) The stress measures under the programme shall be compared against internal risk limits;
  - (c) The programme shall comprehensively capture transactions and aggregate exposures across all forms of counterparty credit risk at the level of specific counterparties in a sufficient time frame to conduct regular stress testing;
  - (d) The programme shall provide for at least monthly exposure stress testing of principal market risk factors such as interest rates, FX and credit spreads for all counterparties of the loan originating Qualifying Investor AIF in order to identify and enable the loan originating Qualifying Investor AIF when necessary to reduce oversized concentrations in specific directional risks;
  - (e) The programme shall apply at least quarterly multifactor stress testing scenarios and assess material non-directional risks including yield curve exposure and basis risks. Multiple-factor stress tests shall, at a minimum, address the following scenarios in which the following occurs:
    - (i) severe economic or market events have occurred;
    - (ii) broad market liquidity has decreased significantly;
    - (iii) a large financial intermediary is liquidating positions.

The results of the stress testing under the programme shall be reported regularly, at least on a quarterly basis, to the board of the AIFM/investment company/management company/general partner.

**vi. Liquidity and distributions**

1. A loan originating Qualifying Investor AIF shall be closed-ended and shall be established for a finite period except that, the loan originating Qualifying Investor AIF may have discretion to invite, at dates determined at the authorisation date, or such other dates as may be approved by the board of the AIFM/investment company/management company/general partner, without commitment and on a non-preferred basis, requests for redemption of holdings from unitholders.
2. The loan originating Qualifying Investor AIF shall only make distributions or provide for redemptions of unitholders holdings during the life of the loan originating Qualifying Investor AIF to the extent that there is unencumbered cash or liquid assets available for distribution or redemption purposes and that such distributions or redemptions will not endanger the

regulatory compliance or liquidity related obligations of the loan originating Qualifying Investor AIF. Unless the assets of the loan originating Qualifying Investor AIF are valued by reference to prevailing market prices, a redemption of unitholder holdings cannot be made without the approval of the unitholders, in accordance with the procedures set out in the constitutional document, on each occasion.

**vii. Leverage**

1. The loan originating Qualifying Investor AIF must not have gross assets of more than 200% of net asset value, or such other limit as may be set by the Central Bank from time to time for loan originating AIF or for one or more class of loan originating AIF.
2. In the event that the loan originating Qualifying Investor AIF breaches the limit set out in paragraph 1 of this section, the loan originating Qualifying Investor AIF must, within 30 days or such longer period as the Central Bank may specify, secure the approval of the Central Bank for a formal plan to bring the loan originating Qualifying Investor AIF into compliance with the leverage ratio.

**viii. Disclosure**

1. The prospectus and all sales material issued or distributed in respect of a loan originating Qualifying Investor AIF must include a prominent risk warning which draws attention to the unique risks which arise from loan origination and how investment in a loan originating investment fund is not guaranteed and is subject to the possibility of investment losses and illiquidity. In addition, the prospectus must include:
  - (a) Information on the risk and reward profile to enable investors identify the specific risks linked to a loan origination strategy;
  - (b) Information on the extent to which the loan originating Qualifying Investor AIF intends to be concentrated as regards individual entities, geographical locations and sectors and risk arising from the proposed concentrations;
  - (c) Details of the credit assessment and monitoring process set out in paragraph 1 of section ii *Credit granting, monitoring and management* above;
  - (d) Information on whether the AIFM will provide unitholders or potential unitholders with access to records and staff for the purposes of a due diligence process together with the terms and conditions under which such access will be made available.
2. The prospectus and all sales materials issued or distributed in respect of a loan originating Qualifying Investor AIF must include a risk warning drawing attention to the fact that

leverage limits and lending standards may be tightened by the Central Bank which may impact on the ability of the loan originating Qualifying Investor AIF to follow the investment strategy set out in the prospectus.

3. The prospectus and all sales materials issued or distributed in respect of a loan originating Qualifying Investor AIF must include a risk warning drawing attention to the potential implications arising from the application of the Central Bank's Code of Conduct for Business Lending to Small and Medium Enterprises where loans are issued to SMEs operating within the State.
4. The periodic reports issued by the loan originating Qualifying Investor AIF must include the following:
  - (a) A breakdown of the originated loans between senior secured debt, junior debt and mezzanine debt;
  - (b) A breakdown of the originated loans between loans made with a amortising repayment schedule and loans made with bullet repayments;
  - (c) A breakdown of the loan to value ratio for each originated loan;
  - (d) Information in respect of:
    - non-performing exposures, as defined in the Implementing Technical Standards adopted under Article 99 of Regulation EU No 575/2013, as amended from time to time; and
    - exposures subject to forbearance activities, as defined in the Implementing Technical Standards adopted under Article 99 of Regulation EU No 575/2013, as amended from time to time. This information may be provided on an aggregate basis in periodic reports. It must be provided in relation to each exposure to the Central Bank and submitted with the periodic report and
  - (e) Material changes to the credit assessment and monitoring process set out in section ii *Credit granting, monitoring and management* above.

This information must also be provided to unitholders at each net asset value calculation point.

5. A list of any undrawn committed credit lines must be submitted to the Central Bank with periodic reports. The Central Bank reserves the right to pass this information to national competent authorities of the bank(s) in question, wherever located.

**PART III:            ADDITIONAL PROVISIONS APPLICABLE TO QUALIFYING  
INVESTOR AIFS WHICH HAVE A REGISTERED AIFM**

1. Where a Qualifying Investor AIF has a registered AIFM, the registered AIFM must comply with the following provisions of the AIFM Regulations:
  - (a) Delegation – Regulation 21(1)(f)
  - (b) Liquidity management – Regulation 18(3)
  - (c) Valuation – Regulation 20(1) to (7) and 1st sentence of Regulation 20(15)
  - (d) Transparency obligations – Regulation 23 excluding Regulation 23(2)(e) and Regulation 23(2)(f) and Regulation 24 excluding Regulations 24(1)(e), 24(1)(p), 24(2), 24(4) and 24(5).
  
2. Where a Qualifying Investor AIF has a registered AIFM, the registered AIFM must ensure that a single depositary is appointed in accordance with Regulation 22(1).
  
3. Where a Qualifying Investor AIF has a registered AIFM, the registered AIFM must comply with the following provisions of AIFMD Level 2:
  - Article 20 Due diligence in the selection and appointment of counterparties and prime brokers
  - Article 24 Inducements
  - Article 27 Execution of decisions to deal on behalf of the managed AIF
  - Article 28 Placing orders to deal on behalf of AIFs with other entities for execution
  - Article 49 Alignment of investment strategy, liquidity profile and redemption policy
  - Article 67 Policies and procedures for the valuation of the assets of the AIF
  - Article 68 Use of models to value assets
  - Article 69 Consistent application of valuation policies and procedures
  - Article 71(1) Review of individual values of assets
  - Article 72(1) Calculation of net asset value per unit or share
  - Article 74 Frequency of valuation of assets held by open-ended AIFs
  - Article 103 General principles for the annual report
  - Article 104 Content and format of the balance sheet or statement of assets and liabilities and of the income and expenditure account
  - Article 105 Report on the activities of the financial year
  - Article 106 Material changes





## **Chapter 3 - Alternative Investment Fund Manager Requirements**

**INTRODUCTION:**

The AIF Rulebook sets out the rules which apply to AIFMs which are authorised by the Central Bank. However, the definitive rules for each such AIFM will be set out in its letter of authorisation.

## **AIFMS WHICH ARE AUTHORISED BY THE CENTRAL BANK UNDER THE AIFM REGULATIONS**

### **i. Operating conditions**

The AIFM shall prepare and submit half-yearly financial and annual audited accounts of the AIFM to the Central Bank. The half-yearly accounts shall be submitted within two months of the half year end and the annual audited accounts within four months of the year end. Where the AIFM is an internally managed authorised AIF, the half-yearly financial accounts shall be submitted within two months of the half year end and the annual audited accounts within six months of the year end. Internally managed Qualifying Investor AIF investment companies are not required to produce half-yearly financial accounts. Both half-yearly (if any) and annual audited accounts of an AIFM must be accompanied by the Minimum Capital Requirement Report, which (together with the Notes on Compilation thereto) forms part of this chapter and is set out in Annex I to this chapter. The Minimum Capital Requirement Report must be signed by a director or a senior manager of the AIFM. Annual audited accounts of the direct parents of the AIFM must also be submitted to the Central Bank.

### **ii. Remuneration**

1. The AIFM's remuneration policies shall be consistent with ESMA's remuneration guidelines.

### **iii. Organisational requirements**

1. The AIFM shall appoint a Chair to its board on a permanent basis.
2. The board of an AIFM shall be responsible for the following managerial functions:
  - a) Regulatory compliance: The board shall put in place, and ensure adherence to, procedures designed to ensure compliance with all applicable legal and regulatory requirements of the AIFM itself and all AIFs under management. The board shall have arrangements in place to ensure that complaints from unitholders regarding matters other than distribution are addressed promptly and effectively;

- b) Fund risk management: The board shall put in place, and ensure adherence to, procedures designed to ensure that all applicable risks pertaining to the AIFs under management can be identified, monitored and managed at all times;
  - c) Operational risk management: The board shall put in place, and ensure adherence to, procedures designed to ensure that all applicable risks pertaining to the AIFM can be identified, monitored and managed at all times;
  - d) Investment management: The board shall put in place, and shall ensure adherence to, procedures to:
    - a. ensure and verify that the investment approach of each AIF is complied with; and
    - b. ensure availability of up to date information on portfolio performance;
  - e) Capital and financial management: The board shall put in place, and ensure adherence to, procedures to ensure compliance with regulatory capital requirements of the AIFM. The board shall put in place, and ensure adherence to, procedures to ensure all relevant accounting records of the AIFM and of the AIFs under management are properly maintained and are readily available, including production of annual and half-yearly financial statements. The board shall put in place, and ensure adherence to, procedures to ensure that proper accounting policies and procedures are employed in respect of the AIFM and all AIFs under management.
  - f) Distribution: The board shall put in place, and shall ensure adherence to, procedures to ensure and verify that the distribution strategy of each AIF is complied with. The board shall have arrangements in place to ensure that complaints from unitholders regarding distribution matters are addressed promptly and effectively.
3. An AIFM shall ensure that:
- (a) an organisation effectiveness role shall be performed by an independent Chair or an independent board member, and
  - (b) shall not be performed by a person with responsibility in relation to any of the managerial functions specified in paragraph 2 of this section.
4. Delegates to be appointed by the AIFM shall be approved by the board of the AIFM acting in good faith in the interests of the AIFs under management.

5. Where an AIFM delegates activities the programme of activity shall identify the board member or other individual ("designated persons") who will, on a day-to-day basis, monitor and control each of the individual activities identified in paragraph 2 of this section. The board of the AIFM shall formally adopt a statement of responsibility in relation to the functions and the procedures which will apply in each case.
6. Where an AIFM delegates activities, the programme of activity shall provide for the following requirements in relation to the reports to be received by the designated person and the required action, in the context of each function identified in paragraph 2 of this section:
  - (a) types of reports received: A list of reports which the designated person will receive from parties who have an involvement, by delegation or otherwise, in the performance of the function and the identity of those third parties;
  - (b) frequency of the reports: The provisions relating to frequency must include procedures for immediate reporting to the designated person of all material issues which arise;
  - (c) action carried out: Circumstances in which action by a designated person is required and procedures to be followed by the designated person in this event, including escalation to the board; and
  - (d) exceptional Reporting: In addition to (a) to (c), the programme of activity must also provide for the following:
    - delegates are required to submit exceptional reports to the designated person in accordance with thresholds / trigger events which the board will from time to time determine, details of which are provided to the Central Bank;
    - the programme of activity should set out details of thresholds / trigger events and procedures which must be adopted on receipt of exceptional reports;
    - reports must be maintained where they can be subject to inspection by the Central Bank.
7. An AIFM shall not designate the same person to perform the investment management managerial function and either the fund risk management managerial function or the operational risk management managerial function.

**iv. Directors<sup>25</sup>**

1. Departures from the office of director and the reason for the departure must be notified to the Central Bank immediately by filing the relevant Central Bank form. In all cases where a director wishes to resign and prior to completing the relevant Central Bank form, the board or its Chair must form a view as to the impact of the resignation on the AIFM having regard to the current and prospective financial state of the AIFM and the AIFs under management. In the event that the board or, in the absence of a board meeting, the Chair forms the view that the situation is one which could create such concern on the part of the Central Bank, it shall state this on the relevant Central Bank form. The board or its Chair may consult the Central Bank in order to help it form a view on that matter.
2. The AIFM shall not have directors in common with the board of the depositary of the AIF under management.
3. The AIFM shall have a minimum of two directors that are Irish residents.
4. The AIFM shall only appoint directors that have disclosed to the AIFM any concurrent directorships which they hold.

**v. Recordkeeping requirements**

1. An AIFM shall retain, in a readily accessible form, for a period of at least six years, a full record of each transaction entered into by it (whether on its own behalf or on behalf of AIF under management) and all records required to demonstrate compliance with the provisions of the AIFM Regulations, this chapter and any other conditions imposed by the Central Bank.
2. In the event of the termination of its authorisation by the Central Bank, an AIFM shall retain the records referred to in paragraph 1 of this section for the outstanding term of the six year period.

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<sup>25</sup> The provisions of footnote 1 in chapter 4 - AIF Management Company Requirements will apply *mutatis mutandis* to directors of AIFM which manage authorised AIF that are in distressed or failing circumstances.

**vi. Permitted activities**

1. As part of the provision of collective portfolio management functions, an AIFM may maintain client asset accounts for processing subscriptions and redemption monies. In such cases, the AIFM shall comply, mutatis mutandis, with the Client Asset Requirements issued by the Central Bank under European Communities (Markets in Financial Instruments) Regulations, 2007 ("the MiFID Regulations").

**vii. Relationship with the Central Bank**

1. The AIFM shall notify the Central Bank as soon as it becomes aware of -
  - (a) any breaches of the AIFM Regulations, AIFMD Level 2 or any of the Central Bank's requirements (including the AIF Rulebook) which are applicable to the AIFM;
  - (b) breaches of other Irish legislation which may be of prudential concern to the Central Bank or which may impact on the reputation or good standing of the AIFM;
  - (c) the commencement of any significant legal proceedings by or against the AIFM;
  - (d) any situations or events which impact, or potentially impact, on the AIFM to a significant extent;
  - (e) the imposition on the AIFM of fines by another supervisory authority; or
  - (f) a visit to the AIFM by another supervisory authority.
2. An AIFM shall obtain the prior approval of the Central Bank in respect of a proposed change of its name. In addition, an AIFM shall notify the Central Bank promptly of any change to the AIFM's address, telephone number or facsimile number.
3. Approval of the Central Bank is required in respect of any proposed change in direct or indirect ownership or in qualifying holdings. A qualifying holding for the purpose of this condition is defined in Regulation 5(1) of the AIFM Regulations.
4. An AIFM shall specify, on its headed paper, that it is regulated by the Central Bank. An AIFM must ensure that any references in publicity material to the role of the Central Bank in relation to its supervision of the AIFM's activities are not misleading.
5. Where an AIFM provides management services to an AIF not authorised by the Central Bank it must be satisfied that the prospectus issued by the AIF does not imply, in any way, that the AIF is regulated by the Central Bank.

Where an AIFM provides administration services to AIFs not authorised by the Central Bank, it shall submit a quarterly return containing the following aggregate information within each base currency category:

- (a) domicile of the AIF;
- (b) number of AIF;
- (c) number of unitholders; and
- (d) total net asset value.

**viii. Financial control and management information**

1. An AIFM shall maintain records that are adequate for the purposes of financial control and management information.
2. An AIFM shall ensure that its records contain as a minimum the following:

*Financial*

- (a) details of all money received and expended by the AIFM whether on its own behalf or on behalf of AIF under management, together with details of how such receipts and payments arose;
- (b) a record of all income and expenditure of the AIFM explaining its nature;
- (c) a record of all assets and liabilities of the AIFM, long and short positions and off balance sheet items, including any commitments or contingent liabilities;
- (d) details of all purchases and sales of investment instruments by the AIFM distinguishing those which are made by the AIFM on its own account and those which are made on behalf of AIF under management;
- (e) any working papers necessary to show the preparation of any return submitted to the Central Bank;
- (f) management information records maintained in a manner such that they disclose, or are capable of disclosing, in a prompt and appropriate manner, the financial and business information which will enable the AIFM to:
  - identify, quantify, control and manage the AIFM's risk exposures;
  - make timely and informed decisions;
  - monitor the performance of all aspects of the AIFM's business on an up-to-date basis; and
  - monitor the quality of the AIFM's assets.



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- (g) the share register;
  - (h) the register of directors' and secretary's interests;
  - (i) signed copies of the minutes of meetings of the board of directors; and
  - (j) other statutory documents required under the Companies Acts 1963 to 2012.
3. An AIFM shall notify the Central Bank in advance of any proposed change of auditor and the reasons for the proposed change.

**Annex I**  
**MINIMUM CAPITAL REQUIREMENT REPORT**  
**NOTES ON COMPILATION**  
**(AIFM)**

**1. Additional Amount**

- 1.1 When the net asset value of the AIF under management exceeds €250,000,000, an AIFM must provide an additional amount of capital equal to 0.02% of the amount by which the net asset value exceeds €250,000,000 (“**Additional Amount**”).
- 1.2 An AIFM need not provide up to 50% of the Additional Amount if:
- (i) it benefits from a guarantee of the same amount given by a credit institution or insurance undertaking; and
  - (ii) the form of guarantee has been approved by the Central Bank.
- 1.3 The total of the Initial Capital Requirement and the Additional Amount required to be held by an AIFM is not required to exceed €10,000,000.
- 1.4 An AIFM shall provide the total of its assets under management at each reporting date with its assessment of whether it is required to provide the Additional Amount.

**2. Expenditure Requirement**

- 2.1 The **Expenditure Requirement** is calculated as one quarter of an AIFM’s total fixed expenditure taken from the most recent annual accounts.
- 2.2 Total expenditure includes all expenditure incurred by an AIFM. The following may be deducted from the expenditure figure:
- (a) Depreciation;
  - (b) Profit shares, bonuses etc.;
  - (c) Net losses arising in the translation of foreign currency balances;
  - (d) Shared commissions paid (other than to officers and staff of the AIFM) that have been previously agreed with the Central Bank; and
  - (e) Exceptional and extraordinary non-recurring expense items which have been previously agreed with the Central Bank.

- 2.3 All deductions from the total expenditure figure should be either clearly identified in the most recent audited annual accounts or supported with a letter from the auditors confirming the figures.
- 2.4 AIFMs must have additional own funds which are appropriate to cover potential liability risks arising from professional negligence or hold professional indemnity insurance against liability arising from professional negligence which is appropriate to the risks covered.

### 3. Financial Resources

- 3.1 An AIFM is required to have **Financial Resources** at least equal to its Minimum Capital Requirement.
- 3.2 Financial Resources for an AIFM will be based on the half yearly accounts or the annual audited accounts, whichever is most recent.
- 3.3 Financial Resources are calculated as the aggregate of:
- Fully paid up equity capital;
  - Perpetual non-cumulative preference shares;
  - **Eligible Capital Contribution** (see 3.4 below);
  - Qualifying **Subordinated Loan Capital** (see 3.4 below);
  - Share premium account;
  - Disclosed revenue and capital reserves (excluding revaluation reserves);
  - Interim net profits (may only be included if they have been audited); and
  - Other reserves.
- Less
- Current year losses not included in disclosed revenue and capital reserves above.
- 3.4 **Conditions for Eligible Capital Contributions and Subordinated Loan Capital**
- The following conditions apply to Eligible Capital Contributions and to Subordinated Loan Capital (both perpetual and redeemable):
- (a) The prior approval of the Central Bank must be obtained in respect of the inclusion of the Eligible Capital Contribution or Subordinated Loan Capital in the Financial Resources for capital adequacy purposes. Subordinated Loan Capital may not be incorporated in the calculation of the Initial Capital Requirement.

- (b) The Central Bank must be provided with documentary evidence that the Eligible Capital Contribution or Subordinated Loan Capital has been received by the AIFM.
- (c) The AIFM must use the Capital Contribution Agreement, Perpetual Loan Subordination Agreement or the Loan Subordination Agreement (for redeemable Subordinated Loan Capital), without amendment. These documents are available on the Central Bank's website.

The following additional conditions apply to the use of redeemable Subordinated Loan Capital:

- (a) The extent to which such loans rank as Financial Resources will be reduced on a straight-line basis over the last five years before repayment date.
- (b) The qualifying amount of redeemable subordinated debt is calculated as follows:
 

Remaining term to maturity	
Gross Amount	
Less Amortisations	
= Qualifying Amount	

#### 4. **Liquid Assets**

- 4.1 The Minimum Capital Requirement must be invested in liquid assets or assets readily convertible to cash in the short term and must not include speculative positions.

#### 5. **Eligible Assets**

- 5.1 An AIFM shall hold the higher of the **Expenditure Requirement** or the **Initial Capital Requirement** in the form of **Eligible Assets**. Eligible Assets must be liquid assets or assets readily convertible to cash in the short term and must not include speculative positions.
- 5.2 The Central Bank requires Eligible Assets to be held in an account that is separate to the account(s) used by an AIFM for the day-to-day running of its business.
- 5.3 Eligible Assets are calculated as follows:
 

Total Assets (Non-current Assets plus Current Assets)

**Less the following ineligible assets**

  - Fixed assets
  - Intangible assets

- Cash or cash equivalents held with group companies
- Debtors
- Bad debt provisions
- Prepayments
- Intercompany amounts (gross)
- Loans
- Investment fund investments which are not daily dealing (see 5.4 below)
- Any other assets which are not easily accessible not included above.

5.4 When an AIFM invests all or part of its capital in one or more investment funds, the Central Bank reviews the relationships linking the investment fund(s) and the AIFM. It is the Central Bank's view that it is likely that where the AIFM invests in investment funds promoted by other group companies or to which other group companies provide services, its access to those investment funds is likely to be restricted, in the event that the related firm gets into difficulty. Accordingly, investments in such investment funds will not rank as Eligible Assets for the purposes of satisfying the AIFM's Minimum Capital Requirement.

6. An AIFM must be in a position to demonstrate its on-going compliance with the capital adequacy requirements outlined in this document. Where an AIFM's financial position changes materially at any time between reporting dates, which would impact on its compliance with its capital adequacy requirements, it must notify the Central Bank immediately and take any necessary steps to rectify its position.

**MINIMUM CAPITAL REQUIREMENT REPORT<sup>26</sup>**  
**AIFM**

**NAME OF FIRM:** \_\_\_\_\_

**Period under review:** \_\_\_\_\_ **Currency:** \_\_\_\_\_

<b>1. INITIAL CAPITAL REQUIREMENT PLUS ADDITIONAL AMOUNT</b>		
<b>AIFM</b>		
Initial Capital Requirement	_____	<b>(A)</b>
Assets under Management at Reporting Date	_____	
Excess over €250,000,000 (if applicable)	_____	
<b>Additional Amount</b> (if applicable) [0.02% of Excess over €250m]	<input style="width: 100%;" type="text"/>	<b>(B)</b>
Initial Capital Requirement (A) plus Additional Amount (B) (if applicable) (The amount to be included at (C) is not required to exceed €10,000,000.)	_____	<input style="width: 100%;" type="text"/> <b>(C)</b>

<b>2. EXPENDITURE REQUIREMENT</b>		
Total Expenditure (taken from P&L Account)	_____	
<b>LESS:</b>		
Depreciation	_____	
Profit Shares, Bonuses, etc.	_____	
Net losses on translation of foreign currency balances	_____	
Shared Commissions paid (Note 2.2(d))	_____	
Exceptional and Extraordinary Items (Note 2.2e))	_____	
Any other Non-recurring Expense (Note 2.2(e))	_____	
<b>Net Qualifying Expenditure</b>	<input style="width: 100%;" type="text"/>	
<b>EXPENDITURE REQUIREMENT</b> [One quarter of Net Qualifying Expenditure]		<input style="width: 100%;" type="text"/> <b>(D)</b>

<sup>26</sup> This Minimum Capital Requirement Report and the Notes on Compilation hereto form part of this chapter.

<b>3. <u>MINIMUM CAPITAL REQUIREMENT</u></b>	
<b>AIFM</b> Higher of <b>Initial Capital Requirement</b> plus <b>Additional Amount</b> (if applicable) (C) and <b>Expenditure Requirement (D)</b> plus additional amount to cover potential liability risks arising from professional negligence	
<b>MINIMUM CAPITAL REQUIREMENT</b> – [Higher of (C) and (D) plus additional amount to cover potential liability risks arising from professional negligence]	<div style="border: 1px solid black; width: 150px; height: 30px; margin: 0 auto;"></div> <b>(E)</b>
<b>4. <u>FINANCIAL RESOURCES</u></b>	
Equity Capital fully paid up	_____
Perpetual Non-cumulative Preference Shares	_____
Eligible Capital Contributions	_____
Qualifying Subordinated Loan Capital (See ‘Note on Qualifying Subordinated Loan Capital’ below)	_____
Share Premium Account	_____
Disclosed Revenue and Capital Reserves (excluding Revaluation Reserves) (from most recent audited figures)	_____
Audited Interim Net Profits (Note 2.3)	_____
Other Reserves	_____
<b>Total</b>	<div style="border: 1px solid black; width: 100px; height: 15px;"></div>
<i><b>LESS: Current Year Losses not included in Disclosed Reserves and Capital Reserves above</b></i>	_____
<b>FINANCIAL RESOURCES</b>	<div style="border: 1px solid black; width: 100px; height: 30px; margin: 0 auto;"></div> <b>(F)</b>

<b>5. <u>ELIGIBLE ASSETS</u> (Must be held outside the Group)</b>	
Total Non-current Assets (taken from Balance Sheet)	_____
Current Assets (taken from Balance Sheet)	_____
<b>TOTAL ASSETS</b>	<div style="border: 1px solid black; width: 100px; height: 15px;"></div>
<b>Less: Ineligible Assets</b>	
Fixed Assets	_____
Intangible Assets	_____
Cash or cash equivalent held with group companies	_____
Debtors	_____
Bad Debt Provisions	_____
Prepayments	_____
Intercompany Amounts (gross)	_____
Loans	_____

Investment Funds which are not daily dealing (Note 5.4)	_____
Any other assets which are not easily accessible not included above	_____
<b>Total Ineligible Assets</b>	_____
<b>ELIGIBLE ASSETS</b>	_____ (G)

<b>Additional Amount covered by guarantee previously agreed with Central Bank (H)</b> (if applicable)	_____
--	-------

<b>Are Financial Resources (F) plus Additional Amount covered by guarantee (H)</b> (if applicable) at least equal to Minimum Capital Requirement (E)?	_____ <b>YES / NO</b>
Are Eligible Assets (G) at least equal to the higher (D) or (A)?	_____ <b>YES / NO</b>
Where are Eligible Assets held? (Attach recent independent statement evidencing location)	_____
Was the firm in compliance with the capital adequacy requirements throughout the period under review? (Note 6)	_____ <b>YES / NO</b>

<b><u>Note on Qualifying Subordinated Loan Capital</u></b>	
The qualifying amount of <b>redeemable subordinated debt</b> is calculated as follows:	
Remaining term to maturity _____	
Gross Amount _____	
Less Amortisations _____	
= Qualifying Amount _____	

<p><b>Signature, Position and Date</b></p> <p><i>(Director / Senior Manager)</i></p>
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## Chapter 4 - AIF Management Company Requirements

**INTRODUCTION:**

The AIF Rulebook sets out the rules which apply to AIF management companies which are not authorised AIFMs. However, the definitive rules for each such AIF management company will be set out in its letter of approval.

**AIF MANAGEMENT COMPANIES WHICH ARE NOT AUTHORISED AIFMs****i. Capital requirements**

1. An AIF management company shall have at all times:
  - (i) initial capital of at least €125,000 (“Initial Capital Requirement”); or
  - (ii) one quarter of its total expenditure taken from the most recent annual accounts (“Expenditure Requirement”);

whichever is higher (“Minimum Capital Requirement”).
  
2. An AIF management company shall:
  - (a) have financial resources, calculated in accordance with paragraph 2 of Annex I - Minimum Capital Requirement Report, Notes on Compilation, at least equal to its Minimum Capital Requirement (“Financial Resources”);
  - (b) hold its Minimum Capital Requirement in the form of Eligible Assets, as specified in paragraph 3 of Annex I - Minimum Capital Requirement Report, Notes on Compilation;
  - (c) be in a position to demonstrate, to the Central Bank, its compliance with the Minimum Capital Requirement, as per Annex I, throughout the reporting period; and
  - (d) act honestly, fairly, professionally, independently and in the interest of the AIF and the unitholders of the AIF.

**ii. Organisational requirements**

1. The authorised AIF and the AIF management company shall identify an individual at management level within the AIF management company, who must be located in the State, with responsibility for compliance with all legal and regulatory requirements and for co-operation and liaison with the relevant regulatory authorities. Such person is to be designated the compliance officer and must have the necessary access to systems and records. The compliance officer shall be responsible for the compliance function, even if this function is performed by a third party. The AIF management company is required to ensure that the compliance officer reports to the board of the AIF management company at each board meeting, such reports to the board to be made by the compliance officer at least quarterly.

2. An AIF management company shall, at all times:
  - (a) have adequate control systems and accounting procedures to facilitate effective management of the AIF management company and to ensure that the AIF management company is in compliance with the Central Bank's supervisory and reporting requirements and compliance with this chapter;
  - (b) have and maintain policies and systems to identify, monitor and control risk arising in respect of the AIF management company's activities, including operational risk and the risk of fraud;
  - (c) ensure that all relevant persons are aware of the procedures which must be followed for the proper discharge of their responsibilities;
  - (d) establish, implement and maintain adequate internal control mechanisms designed to secure compliance with decisions and procedures at all levels of the AIF management company;
  - (e) establish, implement and maintain effective internal reporting and communication of information at all levels of the AIF management company as well as effective information flows with any third party involved;
  - (f) maintain adequate and orderly records of its business and internal organisation;
  - (g) establish, implement and maintain systems and procedures that are adequate to safeguard the security, integrity and confidentiality of information, taking into account the nature of the information in question;
  - (h) establish, implement and maintain an adequate business continuity policy aimed at ensuring, in the case of an interruption to its systems and procedures, the preservation of essential data and functions, and the maintenance of services and activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of its services and activities;
  - (i) establish, implement and maintain accounting policies and procedures that enables the AIF management company to deliver in a timely manner to the Central Bank financial accounts which reflect a true and fair view of its financial position and which comply with all applicable accounting standards and rules. The AIF management company shall, at all times, maintain records that contain, at a minimum, the following:

*Financial*

- (i) details of all money received and expended by the AIF management company whether on its own behalf or on behalf of AIFs under management, together with details of how such receipts and payments arose;
- (ii) a record of all income and expenditure of the AIF management company explaining its nature;
- (iii) a record of all assets and liabilities of the AIF management company, long and short positions and off balance sheet items, including any commitments or contingent liabilities;
- (iv) details of all purchases and sales of investment instruments by the AIF management company distinguishing those which are made by the AIF management company on its own account and those which are made on behalf of AIFs under management;
- (v) any working papers necessary to show the preparation of any return submitted to the Central Bank;
- (vi) management information records maintained in a manner such that they disclose, or are capable of disclosing, in a prompt and appropriate manner, the financial and business information which will enable the AIF management company to:
  - identify, quantify, control and manage the AIF management company's risk exposures;
  - make timely and informed decisions;
  - monitor the performance of all aspects of the AIF management company's business on an up-to-date basis; and
  - monitor the quality of the AIF management company's assets;

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- (vii) the share register;
  - (viii) the register of directors' and secretary's interests;
  - (ix) signed copies of the minutes of meetings of the board of directors; and
  - (x) other statutory documents required under the Companies Acts;
- (j) monitor and, on a regular basis, evaluate the adequacy and effectiveness of its systems, internal control mechanisms and arrangements established in accordance with this chapter and to take appropriate measures to address any deficiencies; and

- (k) appropriate internal control systems to ensure that records clearly identify client funds and the assets in which they have been invested.

- 3 The AIF management company shall submit half-yearly financial and annual audited accounts of the AIF management company to the Central Bank. The half-yearly accounts shall be submitted within two months of the half-year end and the annual accounts within four months of the year end. Both half-yearly and annual accounts shall be accompanied by the Minimum Capital Requirement Report, which (together with the Notes on Compilation thereto) forms part of this chapter. The Minimum Capital Requirement Report must be signed by a director or a senior manager of the AIF management company. Annual audited accounts of the direct parents of the AIF management company must also be submitted.

### iii. Directors of AIF management companies<sup>1</sup>

1. Departures from the office of director and the reason for the departure must be notified to the

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<sup>1</sup> Persons considering taking appointments as directors of AIF Management Companies and existing directors should be aware of their duty to act *bona fide* at all times in the best interests of the company.

The Central Bank expects that where an AIF management company manages AIFs which are in distress that directors do not resign if this is not in the best interests of the AIF management company or, more importantly, if this is not in the interests of the unitholders of those AIFs.

In difficult or stressed situations, the Central Bank will seek to work with the directors of the AIF management company to resolve the issues facing the AIF management company and the AIFs under management. For that reason, the Central Bank will want to see that directors continue in their positions, to work for the company and with the Central Bank, to seek the best resolution. The Central Bank would remind directors, importantly, that resignation based on a mere entitlement to resign would not in the opinion of the Central Bank satisfy the fulfilment by the director of his or her duty to the AIF management company and the unitholders of the AIFs under management, where resignation goes against the ability of the AIF management company and/or the Central Bank to resolve prevailing issues. Where a director is unable to continue in his or her role for substantial personal or, other, unavoidable reasons which make their continuation of the role impractical, the Central Bank will, of course, not seek the continued service of that director.

The Central Bank will expect, in addition to the separate requirement on the board to complete procedures around a resignation, that the resigning director will set out his/her reasons for resigning, and the intention to resign, to the Central Bank in order to permit the director, the board and the Central Bank to prepare a solution.

The fulfilment, or otherwise, by a person of his or her duties in a previous role, and the overall performance by a person in a previous role, are matters relevant to the fitness and probity of that person, and hence will be taken into account by the Central Bank when assessments are being made in the future of a person's fitness for a future role or of that person's probity.

It is also important to note that the Central Bank shares information concerning such matters with other regulators in accordance with its legal mandate and powers and its arrangements for cooperation it has with other regulators.

Central Bank immediately by filing the relevant Central Bank form which is available on the Central Bank's website. In all cases where a director wishes to resign and prior to completing the relevant Central Bank form, the board or its Chair must form a view as to the impact of the resignation on the AIF management company having regard to the current and prospective financial state of the AIF management company and the AIFs under management. In the event that the board or, in the absence of a board meeting, the Chair forms the view that the situation is one which could create such concern on the part of the Central Bank, it must state this on the relevant Central Bank form. The board or its Chair may consult with the Central Bank in order to help it form a view on that matter.

2. The AIF management company shall not have directors in common with the board of the depositary of the AIFs under management.
4. The AIF management company shall have a minimum of two directors that are Irish residents.
5. The AIF management company shall only appoint directors that have disclosed to the AIF management company any concurrent directorships which they hold.

**iv. Resources**

1. An AIF management company shall:
  - (a) satisfy the Central Bank, on a continuing basis, that it has adequate management resources to conduct its activities effectively; and
  - (b) employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them.

**v. Relationship with the Central Bank**

1. In addition to the provisions of the investment fund legislation, an AIF management company shall consult with the Central Bank prior to -
  - (a) engaging in any significant new activities; or
  - (b) establishing new branches, offices or subsidiaries.
2. The AIF management company shall notify the Central Bank immediately where the AIF

management company becomes aware of, or those acting on its behalf inform it of:

- (a) any breaches of investment fund legislation or of the Central Bank's requirements (including this chapter) which are applicable to the authorised AIF or AIF management company;
  - (b) breaches of other Irish legislation which may be of prudential concern to the Central Bank or which may impact on the reputation or good standing of the authorised AIF or AIF management company;
  - (c) the commencement of any significant legal proceedings by or against the authorised AIF or AIF management company;
  - (d) any situations or events which impact, or potentially impact, on the authorised AIF or AIF management company to a significant extent;
  - (e) the imposition on the authorised AIF or AIF management company of fines by another supervisory authority; or
  - (f) a visit to the authorised AIF or AIF management company by another supervisory authority.
3. An AIF management company may only change its name with the prior approval of the Central Bank. In addition, an AIF management company shall inform, in writing, the Central Bank promptly of any change to the AIF management company's address, telephone number or facsimile number.
  4. The AIF management company shall specify, on its headed paper, that it is regulated by the Central Bank. The AIF management company shall not include, in any material or documents issued, any references to the role of the Central Bank, in relation to its supervision of the AIF management company, that are misleading.
  5. Approval of the Central Bank is required in respect of any proposed change in direct or indirect ownership or in qualifying holdings. A qualifying holding for the purpose of this condition is defined as a shareholding of 10 % or more of an AIF management company.
  6. Where an AIF management company provides management services to AIFs not authorised by the Central Bank, it must be satisfied that the prospectus issued by the AIFs does not imply, in any way, that the AIF is regulated by the Central Bank.

Where an AIF management company provides fund administration services to such AIFs, it shall submit a quarterly return containing the following aggregate information within each base currency category:



- (a) domicile of the AIFs
  - (b) number of AIFs
  - (c) number of unitholders
  - (d) total net asset value.
7. An AIF management company shall notify the Central Bank in advance of any proposed change of auditor and the reasons for the proposed change.

## ANNEX I

## MINIMUM CAPITAL REQUIREMENT REPORT - NOTES ON COMPILATION

1. **Expenditure Requirement**

1.1 The Expenditure Requirement is calculated as one quarter of an AIF management company's total expenditure taken from the most recent annual accounts.

1.2 Total expenditure includes all expenditure incurred by an AIF management company. The following may be deducted from the expenditure figure:

- (a) Depreciation;
- (b) Profit shares, bonuses etc.;
- (c) Net losses arising in the translation of foreign currency balances;
- (d) Shared commissions paid (other than to officers and staff of the AIF management company) that have been previously agreed with the Central Bank; and
- (e) Exceptional and extraordinary non-recurring expense items which have been previously agreed with the Central Bank.

1.3 All deductions from the total expenditure figure should be either clearly identified in the most recent annual audited accounts or supported with a letter from the auditors confirming the figures.

2. **Financial Resources**

2.1 An AIF management company is required to have **Financial Resources** at least equal to its Minimum Capital Requirement.

2.2 Financial Resources for an AIF management company will be based on the half yearly accounts or the annual audited accounts, whichever is most recent.

2.3 Financial Resources are calculated as the aggregate of:

- Fully paid up equity capital;
- Perpetual non-cumulative preference shares;
- **Eligible Capital Contribution** (see 2.4 below);
- Qualifying **Subordinated Loan Capital** (see 2.4 below);
- Share premium account;

- Disclosed revenue and capital reserves (excluding revaluation reserves);
- Interim net profits (may only be included if they have been audited); and
- Other reserves.

Less

- Current year losses not included in disclosed revenue and capital reserves above.

#### 2.4 **Conditions for Eligible Capital Contributions and Subordinated Loan Capital**

The following conditions apply to Eligible Capital Contributions and to Subordinated Loan Capital (both perpetual and redeemable):

- (a) The prior approval of the Central Bank must be obtained in respect of the inclusion of the Eligible Capital Contribution or Subordinated Loan Capital in the Financial Resources for capital adequacy purposes. Subordinated Loan Capital may not be incorporated in the calculation of the Initial Capital Requirement.
- (b) The Central Bank must be provided with documentary evidence that the Eligible Capital Contribution or Subordinated Loan Capital has been received by the AIF management company.
- (c) The AIF management company must use the Capital Contribution Agreement, Perpetual Loan Subordination Agreement or the Loan Subordination Agreement (for redeemable Subordinated Loan Capital), without amendment. These documents are available on the Central Bank's website.

The following additional conditions apply to the use of redeemable Subordinated Loan Capital:

- (a) The extent to which such loans rank as Financial Resources will be reduced on a straight-line basis over the last five years before repayment date.
- (b) The qualifying amount of redeemable subordinated debt is calculated as follows:
 

Remaining term to maturity	_____
Gross Amount	_____
Less Amortisations	_____
= Qualifying Amount	_____

### 3. **Eligible Assets**

- 3.1 An AIF management company shall hold the higher of the Expenditure Requirement or the Initial Capital Requirement in the form of **Eligible Assets**. Eligible Assets must be easily accessible and free from any liens or charges and maintained outside the AIF management company's group.

3.2 The Central Bank requires Eligible Assets to be held in an account that is separate to the account(s) used by an AIF management company for the day-to-day running of its business.

3.3 Eligible Assets are calculated as follows:

Total Assets (Non-current Assets plus Current Assets)

**Less the following ineligible assets**

- Fixed assets
- Intangible assets
- Cash or cash equivalents held with group companies
- Debtors
- Bad debt provisions
- Prepayments
- Intercompany amounts (gross)
- Loans
- Investment funds which are not daily dealing (see 3.4 below)
- Any other assets which are not easily accessible not included above.

3.4 When an AIF management company invests all or part of its capital in one or more investment funds, the Central Bank will review the relationships linking the investment funds and the AIF management company. It is the Central Bank's view that it is likely that where the AIF management company invests in investment funds promoted by other group companies or to which other group companies provide services, its access to those investment funds is likely to be restricted, in the event that the related AIF management company gets into difficulty. Accordingly, investments in such investment funds will not rank as Eligible Assets for the purposes of satisfying the AIF management company's Minimum Capital Requirement.

4. An AIF management company must be in a position to demonstrate its on-going compliance with the capital adequacy requirements outlined in this document. Where an AIF management company's financial position changes materially at any time between reporting dates, which would impact on its compliance with its capital adequacy requirements, it must notify the Central Bank immediately and take any necessary steps to rectify its position.

**MINIMUM CAPITAL REQUIREMENT REPORT**  
**AIF Management Company**

**NAME OF FIRM:** \_\_\_\_\_

**Period under review:** \_\_\_\_\_ **Currency:** \_\_\_\_\_

**1. INITIAL CAPITAL REQUIREMENT**

**AIF MANAGEMENT COMPANY**

Initial Capital Requirement \_\_\_\_\_ €125,000 (A)

**2. EXPENDITURE REQUIREMENT**

Total Expenditure (taken from P&L Account) \_\_\_\_\_

**LESS:**

Depreciation \_\_\_\_\_

Profit Shares, Bonuses, etc. \_\_\_\_\_

Net losses on translation of foreign currency balances \_\_\_\_\_

Shared Commissions paid (Note 1.2(d)) \_\_\_\_\_

Exceptional and Extraordinary Items (Note 1.2(e)) \_\_\_\_\_

Any other Non-recurring Expense (Note 1.2(e)) \_\_\_\_\_

**Net Qualifying Expenditure** \_\_\_\_\_

**EXPENDITURE REQUIREMENT** [One quarter of Net Qualifying Expenditure] \_\_\_\_\_ (B)

**3. MINIMUM CAPITAL REQUIREMENT**

Higher of **Initial Capital Requirement (A)** and **Expenditure Requirement (B)**

**MINIMUM CAPITAL REQUIREMENT** – [Higher of (A) and (B)] \_\_\_\_\_ (C)

4. <b>FINANCIAL RESOURCES</b>	
Equity Capital fully paid up	_____
Perpetual Non-cumulative Preference Shares	_____
Eligible Capital Contributions	_____
Qualifying Subordinated Loan Capital (See 'Note on Qualifying Subordinated Loan Capital' below)	_____
Share Premium Account	_____
Disclosed Revenue and Capital Reserves (excluding Revaluation Reserves) (from most recent audited figures)	_____
Audited Interim Net Profits (Note 1.3)	_____
Other Reserves	_____
<b>Total</b>	<input type="text"/>
<i>LESS: Current Year Losses not included in Disclosed Reserves and Capital Reserves above</i>	_____
<b>FINANCIAL RESOURCES</b>	<input type="text"/> <b>(D)</b>

5. <b>ELIGIBLE ASSETS</b> (Must be held outside the Group)	
Total Non-current Assets (taken from Balance Sheet)	_____
Current Assets (taken from Balance Sheet)	_____
<b>TOTAL ASSETS</b>	<input type="text"/>
<b>Less: Ineligible Assets</b>	
Fixed Assets	_____
Intangible Assets	_____
Cash or cash equivalents held with group companies	_____
Debtors	_____
Bad Debt Provisions	_____
Prepayments	_____
Intercompany Amounts (gross)	_____
Loans	_____
Investment funds which are not daily dealing (Note 3.4)	_____
Any other assets which are not easily accessible not included above	_____
<b>Total Ineligible Assets</b>	<input type="text"/>
<b>ELIGIBLE ASSETS</b>	<input type="text"/> <b>(E)</b>

Are Financial Resources (D) at least equal to Minimum Capital Requirement (C)?	<u>YES / NO</u>
Are Eligible Assets (E) at least equal to (C)?	<u>YES / NO</u>
Where are Eligible Assets held? (Attach recent independent statement evidencing location)	<input type="text"/>
Was the AIF Management Company in compliance with the capital adequacy requirements throughout the period under review? (Note 4)	<u>YES / NO</u>

**Note on Qualifying Subordinated Loan Capital**

The qualifying amount of **redeemable subordinated debt** is calculated as follows:

Remaining term to maturity	_____
Gross Amount	_____
Less Amortisations	_____
= Qualifying Amount	_____

**Signature, Position and Date**

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*(Director / Senior Manager)*





## Chapter 5 - AIF Depositary Requirements

## INTRODUCTION

The AIF Rulebook sets out the rules which apply to depositaries of:

- AIF that have an authorised AIFM;
- Professional Investor Funds that have a registered AIFM; and
- Qualifying Investor AIFs that have a registered AIFM.

Depositaries of AIFs which have an authorised AIFM and depositaries of Qualifying Investor AIFs authorised by the Central Bank before 22 July 2013 which have a registered AIFM shall comply with all of the conditions contained in this chapter except paragraphs 2 to 4 of section vi. Depositaries of Qualifying Investor AIF authorised by the Central Bank on or after 22 July 2013 which have a registered AIFM and Professional Investor Funds which have a registered AIFM must comply with all of the conditions contained in this chapter except paragraph 1 of section vi. The definitive rules for each depositary will be set out in a letter from the Central Bank which it will receive when an AIF, for which it acts as depositary, is authorised by the Central Bank.

## DEPOSITARY REQUIREMENTS

### i. Eligibility criteria

1. The depository shall:
  - (a) have appropriate expertise and experience to carry out the functions as set out in this chapter, the AIFM Regulations and AIFMD Level 2;
  - (b) have sufficient resources to effectively conduct its business; and
  - (c) organise and control its internal affairs in a reasonable manner with proper records and adequate arrangements for ensuring that employees are suitable, adequately trained and properly supervised.

### ii. Conditions applicable to depositaries which fall within Regulation 22(3)(a)(iii) of the AIFM Regulations

1. A depository which falls within Regulation 22(3)(a)(iii) of the AIFM Regulations shall comply with the following:
  - (a) The firm shall have at all times:
    - initial capital of at least €125,000 (“Initial Capital Requirement”); or
    - one quarter of its total expenditure taken from the most recent annual accounts (“Expenditure Requirement”),whichever is higher (“Minimum Capital Requirement”).

The depository shall:

- calculate its Minimum Capital Requirement in accordance with Annex I;
  - have financial resources, calculated in accordance with paragraph 2 of the Minimum Capital Requirement Report, Notes on Compilation (Depositary), at least equal to its Minimum Capital Requirement (“Financial Resources”);
  - hold its Minimum Capital Requirement in the form of Eligible Assets, as specified in paragraph 3 of the Minimum Capital Requirement Report, Notes on Compilation (AIF Depositary); and
  - be in a position to demonstrate its compliance with the Minimum Capital Requirement throughout the reporting period.
- (b) The depository shall notify the Central Bank immediately of the departure of a director.

- (c) The depository shall have at least two directors that are Irish resident.
- (d) Approval of the Central Bank is required in respect of any proposed change in ownership or in significant shareholdings. A significant shareholding for the purpose of this condition is defined as a shareholding of 10 % or more in the company.
- (e) A depository shall establish, implement, document and maintain accounting policies and procedures that enables the depository to deliver in a timely manner to the Central Bank financial accounts which reflect a true and fair view of its financial position and which comply with all applicable accounting standards and rules.
- (f) The depository shall prepare and submit half-yearly financial and annual audited accounts of the company to the Central Bank. The half-yearly accounts must be submitted within two months of the half-year end and the annual accounts within four months of the financial year-end. Both half-yearly and annual audited accounts shall be accompanied by the Minimum Capital Compliance Report, which (together with the Notes on Compilation thereto) forms part of this chapter. The Minimum Capital Requirement Report must be signed by a director or a senior manager of the depository. Annual audited accounts of the corporate shareholder(s) of the company must also be submitted.
- (g) A depository shall establish, implement, document and maintain an adequate business continuity policy aimed at ensuring, in the case of an interruption to its systems and procedures, the preservation of essential data and functions, and the maintenance of services and activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of its services and activities. The business continuity policy must be subject to annual testing.

### **iii. Depository tasks**

1. Where the depository is acting as depository for an authorised AIF, the depository shall enquire into the conduct of the AIFM and the management company, investment company or general partner in each annual accounting period and report thereon to the unitholders. This report shall be delivered to the AIFM in good time to enable the AIFM to include a copy of the report in the annual report of the authorised AIF. This report shall state whether in the depository's opinion the authorised AIF has been managed in that period:

- (a) in accordance with the limitations imposed on the investment and borrowing powers of the authorised AIF by the constitutional document and by the Central Bank under the powers granted to the Central Bank by the investment fund legislation; and
- (b) otherwise in accordance with the provisions of the constitutional document and the investment fund legislation.

If the AIFM, management company, investment company or general partner has not complied with (a) or (b) above, the depositary must state why this is the case and outline the steps which the depositary has taken to rectify the situation.

Where there has been a change of depositary during the accounting period, the annual report must include a depositary report from both the retiring and new depositary to cover their respective periods of appointment.

2. The depositary shall notify the Central Bank promptly of any material breach of the investment fund legislation, the AIFM Regulations or AIFMD Level 2, the requirements imposed on the AIF or the depositary by the Central Bank or provisions of the AIF's prospectus.
3. Where a Retail Investor AIF or Qualifying Investor AIF proposes to invest more than 30% or 50% of net assets respectively in another investment fund, the depositary shall, prior to the investment being made, (i) confirm in writing to the Central Bank that the authorised AIF has procedures in place to ensure that the underlying investment fund meets the requirements imposed by the Central Bank; and (ii) confirm that the depositary will regularly review the operation of these procedures to ensure that the underlying investment fund continues to meet the requirements imposed by the Central Bank.

#### **iv. Operating conditions**

1. The depositary shall not have directors in common with the board of directors of the AIFM or the management company, the fund administrator, the investment company or the general partner.
2. The depositary shall review the list of stock exchanges and markets in the Retail Investor AIF prospectus to ascertain if it can provide, at the date of the prospectus, for the safe-keeping of

the assets of a Retail Investor AIF, which may be traded on these exchanges or markets, in accordance with the conditions imposed by the Central Bank on the Retail Investor AIF. If the depository cannot provide custody in accordance with this requirement it must consult with the Retail Investor AIF to ensure that the relevant exchanges or markets are removed from the list.

3. The depository shall keep the list of permitted stock exchanges and markets in the prospectus under review to ensure that the markets meet with the regulatory criteria set out in paragraph 1 of section 4.iii of Part I of Chapter 1 – Retail Investor AIF Requirements on an on-going basis.
4. Subscriptions and redemptions of units of AIF on an in specie basis may only be accepted if the depository is satisfied that the terms of the exchange will not be such as are likely to result in any material prejudice to the AIF unitholders.
5. The depository shall not permit performance fees to be paid by or on behalf of the authorised AIF unless the calculation of the fee has been verified by the depository or by a competent person appointed by the AIFM and approved for the purpose by the depository.

**v. Delegation**

1. The depository must not delegate to third parties its functions as described in this chapter and in the AIFM Regulations and AIFMD Level 2, except in accordance with Regulation 22(11) of the AIFM Regulations. The functions which the depository has not delegated must be carried out in the State.

**vi. Qualifying Investor AIF with a registered AIFM and Professional Investor AIF with a registered AIFM**

1. The depository of a Qualifying Investor AIF authorised by the Central Bank before 22 July 2013 which has a registered AIFM must comply with Regulation 22 of the AIFM Regulations and with Chapter IV of AIFMD Level 2.
2. The depository of:
  - a Qualifying Investor AIF authorised by the Central Bank on or after 22 July 2013 which has a registered AIFM; or

- a Professional Investor Fund which has a registered AIFM

shall comply with:

- Regulation 22 of the AIFM Regulations excluding Regulations 22(12) to (15);
  - Chapter IV of AIFMD Level 2 excluding Articles 83(1)(c) and 100 to 102; and paragraphs 3 and 4 of this section.
3. The trust deed in the case of a unit trust scheme or the depositary agreement in the case of an investment company or investment limited partnership or common contractual fund shall state that the depositary must exercise due care and diligence in the discharge of its duties and will be liable to the management company, investment company or general partner and the unitholders for any loss arising from negligence, fraud, bad faith, wilful default or recklessness in the performance of those duties. Unitholders may enforce this liability either directly or indirectly through the management company, depending on the legal nature of the relationship between the depositary, the management company and the unitholders.
  4. The trust deed in the case of a unit trust scheme or the depositary agreement in the case of an investment company or investment limited partnership or common contractual fund shall state that the liability of a depositary will not be affected by the fact that it has entrusted to a third party some or all of the assets in its safe-keeping.

In order to discharge its responsibility under this chapter, the depositary must exercise care and diligence in choosing and appointing a third party as a safe-keeping agent so as to ensure that the third party has and maintains the expertise, competence and standing appropriate to discharge the responsibilities concerned. The depositary shall maintain an appropriate level of supervision over the safe-keeping agent and make appropriate enquiries from time to time to confirm that the obligations of the agent continue to be competently discharged.

#### **vii. Relationship with the Central Bank**

1. Where a depositary provides services to an AIF not authorised by the Central Bank, it must be satisfied that the prospectus issued by the AIF does not imply, in any way, that the AIF is regulated by the Central Bank.

Where the depositary provides depositary services to AIFs not authorised by the Central Bank, it shall submit a quarterly return containing the following aggregate information, for all

investment funds not authorised by the Central Bank to which services are provided, within each base currency category:

- domicile of the investment funds;
- number of investment funds;
- number of unitholders; and
- total net asset value.

Information is not required in respect of those investment funds, which are included in the return prepared by an authorised firm in accordance with paragraph 5 of section vii of chapter 3 - Alternative Investment Fund Manager Requirements or paragraph 6 of section v of chapter 4 - AIF Management Company Requirements.



## Annex I

### MINIMUM CAPITAL REQUIREMENT REPORT - NOTES ON COMPILATION (Depositary)

For the purposes of these Notes, the depositary is referred to as a “Firm”.

#### 1. Expenditure Requirement

- 1.1 The **Expenditure Requirement** is calculated as one quarter of the Firm’s total expenditure taken from the most recent annual accounts.
- 1.2 Total expenditure includes all expenditure incurred by the Firm. The following may be deducted from the expenditure figure:
  - (a) Depreciation;
  - (b) Profit shares, bonuses etc.;
  - (c) Net losses arising in the translation of foreign currency balances;
  - (d) Shared commissions paid (other than to officers and staff of the Firm) that have been previously agreed with the Central Bank; and
  - (e) Exceptional and extraordinary non-recurring expense items which have been previously agreed with the Central Bank.
- 1.3 All deductions from the total expenditure figure should be either clearly identified in the most recent annual audited accounts or supported with a letter from the auditors confirming the figures.

#### 2. Financial Resources

- 2.1 A Firm is required to have **Financial Resources** at least equal to its Minimum Capital Requirement.
- 2.2 Financial Resources for a Firm will be based on the half yearly accounts or the annual audited accounts, whichever is most recent.
- 2.3 Financial Resources are calculated as the aggregate of:
  - Fully paid up equity capital;
  - Perpetual non-cumulative preference shares;
  - **Eligible Capital Contribution** (see 2.4 below);

- Qualifying **Subordinated Loan Capital** (see 2.4 below);
- Share premium account;
- Disclosed revenue and capital reserves (excluding revaluation reserves);
- Interim net profits (may only be included if they have been audited); and
- Other reserves.

Less

- Current year losses not included in disclosed revenue and capital reserves above.

#### 2.4 **Conditions for Eligible Capital Contributions and Subordinated Loan Capital**

The following conditions apply to Eligible Capital Contributions and to Subordinated Loan Capital (both perpetual and redeemable):

- (a) the prior approval of the Central Bank must be obtained in respect of the inclusion of the Eligible Capital Contribution or Subordinated Loan Capital in the Financial Resources for capital adequacy purposes. Subordinated Loan Capital may not be incorporated in the calculation of the Initial Capital Requirement;
- (b) the Central Bank must be provided with documentary evidence that the Eligible Capital Contribution or Subordinated Loan Capital has been received by the Firm; and
- (c) the Firm must use the Capital Contribution Agreement, Perpetual Loan Subordination Agreement or the Loan Subordination Agreement (for redeemable Subordinated Loan Capital), without amendment. These documents are available on the Central Bank's website.

The following additional conditions apply to the use of redeemable Subordinated Loan Capital:

- (a) the extent to which such loans rank as Financial Resources will be reduced on a straight-line basis over the last five years before repayment date.
- (b) the qualifying amount of redeemable subordinated debt is calculated as follows:

Remaining term to maturity	
Gross Amount	
Less Amortisations	
= Qualifying Amount	

### 3. **Eligible Assets**

3.1 A Firm shall hold the higher of the Expenditure Requirement or the Initial Capital

Requirement in the form of **Eligible Assets**. Eligible Assets must be easily accessible and free from any liens or charges and maintained outside the Firm's group.

3.2 The Central Bank requires Eligible Assets to be held in an account that is separate to the account(s) used by a Firm for the day-to-day running of its business.

3.3 Eligible Assets are calculated as follows:

Total Assets (Non-current Assets plus Current Assets)

**Less the following ineligible assets**

- Fixed assets
- Intangible assets
- Cash or cash equivalents held with group companies
- Debtors
- Bad debt provisions
- Prepayments
- Intercompany amounts (gross)
- Loans
- Investment funds which are not daily dealing (see 3.4 below)
- Any other assets which are not easily accessible not included above.

3.4 When a Firm invests all or part of its capital in one or more investment funds, the Central Bank will review the relationships linking the investment fund(s) and the Firm. It is the Central Bank's view that it is likely that where the Firm invests in investment funds promoted by other group companies or to which other group companies provide services, its access to those investment funds is likely to be restricted in the event that the related Firm gets into difficulty. Accordingly, investments in such investment funds will not rank as Eligible Assets for the purposes of satisfying the Firm's Minimum Capital Requirement.

4. The Firm must be in a position to demonstrate its on-going compliance with the capital adequacy requirements outlined in this document. Where a Firm's financial position changes materially at any time between reporting dates, which would impact on its compliance with its capital adequacy requirements, it must notify the Central Bank immediately and take any necessary steps to rectify its position.

**MINIMUM CAPITAL REQUIREMENT REPORT  
AIF DEPOSITARY**

**NAME OF FIRM:** \_\_\_\_\_

**Period under review:** \_\_\_\_\_ **Currency:** \_\_\_\_\_

<b>1. <u>INITIAL CAPITAL REQUIREMENT</u></b>	
<b>AIF DEPOSITARY</b>	
Initial Capital Requirement	_____ <b>€125,000 (A)</b>

<b>2. <u>EXPENDITURE REQUIREMENT</u></b>	
Total Expenditure (taken from P&L Account)	_____
<b><u>LESS:</u></b>	
Depreciation	_____
Profit Shares, Bonuses, etc.	_____
Net losses on translation of foreign currency balances	_____
Shared Commissions paid (Note 1.2(d))	_____
Exceptional and Extraordinary Items (Note 1.2(e))	_____
Any other Non-recurring Expense (Note 1.2(e))	_____
<b>Net Qualifying Expenditure</b>	<input style="width: 100px; height: 20px;" type="text"/>
<b>EXPENDITURE REQUIREMENT [One quarter of Net Qualifying Expenditure]</b>	<input style="width: 100px; height: 20px;" type="text"/> <b>(B)</b>

<b>3. <u>MINIMUM CAPITAL REQUIREMENT</u></b>	
Higher of <b>Initial Capital Requirement (A)</b> and <b>Expenditure Requirement (B)</b>	
<b>MINIMUM CAPITAL REQUIREMENT – [Higher of (A) and (B)]</b>	<input style="width: 100px; height: 20px;" type="text"/> <b>(C)</b>

**4. FINANCIAL RESOURCES**

Equity Capital fully paid up	_____	
Perpetual Non-cumulative Preference Shares	_____	
Eligible Capital Contributions	_____	
Qualifying Subordinated Loan Capital (See 'Note on Qualifying Subordinated Loan Capital' below)	_____	
Share Premium Account	_____	
Disclosed Revenue and Capital Reserves (excluding Revaluation Reserves) (from most recent audited figures)	_____	
Audited Interim Net Profits (Note 1.3)	_____	
Other Reserves	_____	
<b>Total</b>		<input type="text"/>
<i>LESS: Current Year Losses not included in Disclosed Reserves and Capital Reserves above</i>	_____	
<b>FINANCIAL RESOURCES</b>		<input type="text"/> (D)

**5. ELIGIBLE ASSETS** (Must be held outside the Group)

Total Non-current Assets (taken from Balance Sheet)	_____	
Current Assets (taken from Balance Sheet)	_____	
<b>TOTAL ASSETS</b>		<input type="text"/>
<b>Less: Ineligible Assets</b>		
Fixed Assets	_____	
Intangible Assets	_____	
Cash or cash equivalents held with group companies	_____	
Debtors	_____	
Bad Debt Provisions	_____	
Prepayments	_____	
Intercompany Amounts (gross)	_____	
Loans	_____	
Investment funds which are not daily dealing (Note 3.4)	_____	
Any other assets which are not easily accessible not included above	_____	
<b>Total Ineligible Assets</b>		<input type="text"/>
<b>ELIGIBLE ASSETS</b>		<input type="text"/> (E)

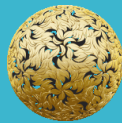








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