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# **CALYPSO ASIA FUND**

An exempted company incorporated in the Cayman  
Islands with registered number WK-131182

## **OFFERING MEMORANDUM**

29 May 2009

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## **IMPORTANT INFORMATION**

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The Directors of the Company (the "**Directors**"), whose biographies are contained within this Offering Memorandum, accept responsibility for the information contained in this Offering Memorandum. To the best of the knowledge and belief of the Directors (who have taken all reasonable care to ensure that such is the case) the information contained in this Offering Memorandum is in accordance with the facts and does not omit anything likely to affect the import of such information.

The Company is registered as a regulated mutual fund with the Cayman Islands Monetary Authority under section 4(3) of the Mutual Funds Law (as amended) of the Cayman Islands. However, no Cayman Islands authority has approved the contents of this Offering Memorandum or the merits of an investment in participating shares of the Company (the "**Shares**"). The investment activities of the Company will not be regulated or overseen by any Cayman Islands authority.

Potential investors should consult, and must rely on, their own professional tax, legal and investment advisers as to matters concerning the Company and their investments in the Company.

Prospective investors should not treat the contents of this Offering Memorandum as advice relating to legal, taxation, investment or any other matters. Prospective investors should inform themselves as to: (a) the legal requirements within their own jurisdictions for the purchase, holding or disposal of Shares; (b) any applicable foreign exchange restrictions; and (c) any income and other taxes which may apply to their purchase, holding or disposal of Shares or payments in respect of Shares.

Prospective investors should be aware that investment in the Company carries a significant degree of risk. The Company is only suitable for investment by investors who are aware of and understand the risks involved. Prospective investors are referred to the section headed "Risk Factors" on page 11 for a summary of certain of the risks involved.

The distribution of this Offering Memorandum and the offering of the Shares in certain jurisdictions may be restricted by law. Persons into whose possession this Offering Memorandum comes are required by the Company to inform themselves about and to observe any such restrictions. This Offering Memorandum does not constitute, and may not be used for or in connection with, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation.

The Shares are offered only on the basis of the information contained in this Offering Memorandum, the terms of the Memorandum and Articles of Association of the Company and the terms of the subscription agreement entered into with regard to the subscription for the Shares. Any further information or representations given or made by any dealer, broker or other person should be disregarded and accordingly should not be relied upon. No person has been authorised to give any information or to make any representation in connection with the offering of the Shares other than those contained in this Offering Memorandum and, if given or made, such information or representations must not be relied on as having been authorised by the Company, the Directors, the Investment Manager, the Investment Advisor, the Prime Broker or the Administrator. Neither the delivery of this Offering Memorandum nor the issue of Shares shall under any circumstances create any implication or constitute any representation that the affairs of the Company have not changed since the date hereof.

This Offering Memorandum is intended solely for use on a confidential basis by those persons to whom it is transmitted by the Company in connection with the contemplated private placement of Shares. Recipients, by their acceptance and retention of this Offering Memorandum, acknowledge and agree to preserve the confidentiality of the contents of this Offering Memorandum and all accompanying documents and to return this Offering Memorandum and all such documents to the Company or the Administrator if the recipient does not purchase any Shares. Neither this Offering Memorandum nor any of the accompanying documents may be reproduced in whole or in part, nor may they be used for any purpose other than that for which they have been submitted, without the prior written consent of the Company.

### **Cayman Islands**

No invitation may be made to the public in the Cayman Islands to subscribe for Shares, and this Offering Memorandum does not constitute such an invitation.

### **Hong Kong**

This Offering Memorandum has not been delivered for registration to the Registrar of Companies in Hong Kong, its contents have not been reviewed by any regulatory authority in Hong Kong, nor has the Fund been authorized by the Securities and Futures Commission. Accordingly, this Offering Memorandum must not be issued, circulated or distributed in Hong Kong other than (1) in circumstances which do not constitute it as a “prospectus” as defined in the Companies Ordinance (Cap.32) or which do not constitute an offer to the public within the meaning of that ordinance, or (2) to professional investors as defined in the Securities and Futures Ordinance (Cap.571) and the Securities and Futures (Professional Investor) Rules made thereunder. Unless permitted by the securities laws of Hong Kong, no person may issue in Hong Kong, or have in its possession for issue in Hong Kong, this Offering Memorandum or any other advertisement, invitation or document relating to the Participating Shares in the Fund other than to a professional investor as defined in the Securities and Futures Ordinance (Cap.571) and the Securities and Futures (Professional Investor) Rules made thereunder.

### **Japan**

The Shares have not been and will not be registered under the Securities and Exchange Law of Japan and, accordingly, no Shares may be offered or sold, directly or indirectly, in Japan or to, or for the benefit of, any Japanese person or to others for re-offering or re-sale, directly or indirectly, in Japan or to any Japanese person except under circumstances which will result in compliance with all applicable laws, regulations and guidelines promulgated by the relevant Japanese governmental and regulatory authorities and in effect at the relevant time. For this purpose, “Japanese person” means any person resident in Japan, including any corporation or other entity organised under the laws of Japan.

### **Singapore**

This Offering Memorandum or any other offering document or material relating to such shares shall not be circulated or distributed, directly or indirectly, to the public or any member of the public in Singapore other than to institutional investors and sophisticated investors. The offer or invitation that is the subject of this Offering Memorandum is only allowed to be made to institutional investors and/or sophisticated investors and not the retail public. Moreover, this Offering Memorandum is not a Offering Memorandum as defined in the Securities and Futures Act (the “Act”). Accordingly, statutory liability under that Act in relation to the content of Offering Memorandum would not apply. You should consider carefully whether the investment is suitable for you. The Shares, if subscribed for or purchased in Singapore, are issued subject to the condition that they shall not be transferable except by operation of law.

### **Switzerland**

The Company has not applied for any authorisation by the Federal Banking Commission of Switzerland to publicly solicit Shares in Switzerland or from Switzerland. Accordingly, the Shares offered hereby may not be publicly offered, solicited or advertised within Switzerland or from Switzerland. The Shares may, however, be offered and this Offering Memorandum may be distributed in Switzerland on a professional basis to a limited number of investors such that there is no public offer.

### **United Kingdom**

The Company is not a recognised collective investment scheme for the purposes of section 264 of the Financial Services and Markets Act 2000 of the United Kingdom (the “FSMA”). The promotion of the Company and the distribution of this Offering Memorandum in the United Kingdom are accordingly restricted by law.

Whilst this Offering Memorandum may also be issued outside the United Kingdom by the Company, and the Directors of the Company are responsible for its contents, wherever issued, this Offering Memorandum is being issued inside and outside the United Kingdom by the Investment Manager (which is licensed in Hong Kong by the Hong Kong Securities & Futures Commission) to and/or is directed at persons who are both (a) intermediate customers or market counterparties for the purposes of the FSA Conduct of Business Sourcebook (“COBS”) and (b) of a kind to whom the Company may lawfully be promoted by a person authorised under the FSMA (an “authorised person”) by virtue of Section 238(5) of the FSMA and Annex 5 to Chapter 3 of COBS.

This Offering Memorandum is exempt from the scheme promotion restriction (in Section 238 of the FSMA) on the communication of invitations or inducements to participate in unrecognised collective investment schemes on the grounds that it is being issued to and/or directed at only the types of person referred to above. To the extent that this Offering Memorandum is issued by the Investment Manager, the Shares are only available to such persons and this Offering Memorandum must not be relied or acted upon by any other persons.

Any recipient of this Offering Memorandum who is an authorised person may (if and to the extent it is permitted to do so by the FSA rules applicable to it) distribute it or otherwise promote the Company in accordance with Section 238 of the FSMA but not otherwise. Any recipient of this Offering Memorandum who is not an authorised person may not distribute it to any other person.

### **United States**

The Shares have not been, nor will they be, registered under the US Securities Act of 1933, as amended (the “1933 Act”), or registered or qualified under the securities laws of any state or other political subdivision of the United States. The Shares may not be offered, sold, transferred, or delivered, directly or indirectly, in the United States or to, or for the account or benefit of, any United States person except in certain transactions exempt from the registration requirements of the 1933 Act and such state or other securities laws. The Shares are being offered outside of the United States in reliance upon an exemption from the registration requirements of the 1933 Act provided by Regulation S thereunder.

The Company has not been, and will not be, registered under the US Investment Company Act of 1940, as amended (the “1940 Act”), and accordingly is restricted in the number of beneficial holders of Shares that may be US persons. The Articles of Association of the Company contain provisions designed to prevent the holding of Shares by US persons under circumstances that would cause the Company to violate US law, and permit the Directors to compulsorily redeem such Shares as the Directors believe to be necessary or appropriate to comply with US law.

### **Other Jurisdictions**

Neither this Offering Memorandum nor the Shares described herein have been registered or qualified for offer or sale under the laws of any other jurisdiction governing the offer or sale of mutual fund shares or other securities, and this Offering Memorandum shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of such Shares in any jurisdiction in which such offer, solicitation or sale is not authorised or to any person to whom it is unlawful to make such offer, solicitation or sale. Any representation to the contrary is unlawful.

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## **DIRECTORY**

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Administrator, Registrar and Company Secretary	Custom House Fund Services (Ireland) Limited 25 Eden Quay Dublin 1 Ireland
Auditors	Ernst & Young, Public Accountants Suite 6401 62 Forum Lane Camana Bay Grand Cayman KY-1106 Cayman Islands
Directors	Michael Stockford Mark Beames Clive Harris
Prime Broker	UBS AG London Branch 1 Finsbury Avenue London EC2M 2PP England United Kingdom
Investment Advisor	OP Calypso Capital Limited 27 <sup>th</sup> Floor, Two Exchange Square 8 Connaught Place Central Hong Kong
Investment Manager	OP Calypso Capital (Cayman) Limited PO Box 1034GT Harbour Place South Church Street George Town, Grand Cayman Cayman Islands
Legal Advisers as to Cayman Islands law	Walkers 15th Floor, Alexandra House 18 Chater Road Central Hong Kong
Registered Office	Walker House 87 Mary Street George Town Grand Cayman KY1-9002 Cayman Islands

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## DEFINITIONS

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The following definitions apply throughout this Offering Memorandum unless the context requires otherwise:

“Administrator”	Custom House Fund Services (Ireland) Limited of 25 Eden Quay, Dublin 1, Ireland;
“Administration Agreement”	the administration agreement dated entered into between the Company and the Administrator and as may be amended from time to time;
“Articles”	the memorandum and articles of association of the Company, as amended or restated from time to time;
“Auditors”	means Ernst & Young, Public Accountant of Suite 6401, 62 Forum Lane, Camana Bay, Grand Cayman KY-1106, Cayman Islands;
“Business Day”	any day on which banks are normally open for business in Dublin, London and Hong Kong except a Saturday or Sunday provided that where as a result of a Number 8 Typhoon Signal, Black Rainstorm Warning or other similar event, the period during which banks in Hong Kong are open on any day are reduced, such day shall not be a Business Day unless the Directors otherwise determine;
“Company” or “Fund”	Calypso Asia Fund, an exempted company incorporated with limited liability in the Cayman Islands on 8th December 2003;
“Directors”	the directors of the Company for the time being, or as the case may be, the directors assembled as a board or as a committee thereof;
“Investment(s)”	means:  (a) all forms of securities and other financial instruments whatsoever including, without limitation: share capital; stock; shares of beneficial interest; partnership interests, trust interests and similar financial instruments; bonds; notes; debentures (whether subordinated, convertible or otherwise); commodities; currencies; interest rate, currency, commodity, equity and other derivative products, including, without limitation, (i) futures contracts (and options thereon) relating to stock indices, currencies, securities of any governments, other financial instruments and all other commodities; (ii) swaps, options, warrants, caps, collars, floors and forward rate agreements; (iii) spot and forward currency transactions; and (iv) agreements relating to or securing such transactions; equipment lease certificates; equipment trust certificates; loans; credit paper; accounts and notes receivable and payable held

by trade or other creditors; trade acceptances; contract and other claims; executory contracts; participations; mutual funds; money market funds; exchange traded funds; structured securities; repurchase agreements; obligations of any government and instrumentalities of any of them; commercial paper; certificates of deposit; bankers' acceptances; choses in action; trust receipts; and other instruments or evidences of indebtedness of whatever kind or nature; in each case, of any person or government whether or not publicly traded or readily marketable or such other form of security or financial instrument as the Directors may from time to time determine; or

(b) any investments not otherwise prohibited by the Company's Memorandum of Association, including without limitation the forms of securities listed in (a) above, cash and cash equivalents, physical commodities and bullion or instruments of any kind representing ownership thereof, real estate and property of any kind.

“Investment Advisor”	means OP Calypso Capital Limited of Suites 2701-2703 & 2705-2708, Two Exchange Square, 8 Connaught Road Central, Hong Kong;
“Investment Advisory Agreement”	the investment advisory agreement dated on or about the 30 <sup>th</sup> September 2008 between the Investment Manager and the Investment Advisor relating to the appointment and duties of the Investment Advisor and as may be amended from time to time;
“Investment Manager”	means, OP Calypso Capital (Cayman) Limited of PO Box 1034, 4 <sup>th</sup> Floor Harbour Place, 103 South Church Street, George Town, Cayman Islands;
“Investment Management Agreement”	the investment management agreement dated on or about the 30 <sup>th</sup> September 2008 between the Company and the Investment Manager relating to the appointment and duties of the Investment Manager;
“Management Shares”	the shares in the capital of the Company designated as management shares with a par value of US\$1 each;
“Net Asset Value”	the amount determined pursuant to the Articles as being the net asset value of the Company or of the Shares or any class as the context may require;
“Offer”	the offering of Shares as set out in this Offering Memorandum;

“Offering Memorandum”	this Offering Memorandum;
“Operational Currency”	in respect of the Shares, such currency as the Directors may designate in their sole discretion;
“OP Calypso Group”	means OP Calypso Capital (Cayman) Limited and OP Calypso Capital Limited and any other entities as may be determined by the Directors from time to time;
“Performance Benchmark”	the highest Net Asset Value per Share of the relevant series (after any performance fee) as at the last Valuation Point in any previous financial year or, if higher, the Subscription Price per Share paid for the Share in question;
“Prime Broker”	UBS AG London Branch, 1 Finsbury Avenue, London, EC2M 2PP, England, United Kingdom;
“Prime Brokerage Agreement”	the prime brokerage agreement dated on or about the 30 <sup>th</sup> May 2008 between the Company and the Prime Broker;
“Redemption Date”	the first Business Day of each month and such other Business Days as the Directors may in their absolute discretion determine;
“Registered Office”	Walker House, 87 Mary Street, George Town, Grand Cayman, KY1-9002, Cayman Islands;
“Shares”	the Participating Shares in the capital of the Company with a par value of US\$0.01 each;
“Shareholder”	a holder of Shares or, where appropriate, Management Shares;
“Subscription Date”	the first Business Day of each calendar month and at such other times as the Directors shall determine in their sole discretion;
“Subscription Price”	the price at which Shares will be issued as set out in this Offering Memorandum under the section headed “Subscriptions”;
“Target Funds”	the pooled investment vehicles managed or advised by the Investment Manager, the Investment Advisor and/or their respective affiliates or affiliates of the OP Calypso Group, as determined by the Directors from time to time;
“United States” or “US”	the United States, as defined in Regulation S under the 1933 Act;
“US\$” or “US Dollars”	the lawful currency of the US;
“US person”	a US person as defined in Regulation S under the 1933 Act;
“Valuation Date”	the last Business Day of each calendar month and at such other times as the Directors shall

“Valuation Point”

determine;

the close of business in the last relevant market to close on each Valuation Date or such other time as the Directors may from time to time prescribe;

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## **INVESTMENT OBJECTIVE AND POLICIES**

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### **Investment Objective**

The investment objective of the Company is to provide absolute returns through pursuing a long short strategy, investing primarily in liquid equities and derivative instruments available in the Asia Pacific markets, with an emphasis on the Greater China region. A maximum of ten per cent. (10%) of the assets of the Company, at cost, will be permitted to be invested in any one single issuer. Leverage/borrowing of up to two hundred per cent. (200%) of the latest available Net Asset Value of the Company will be permitted.

There is no guarantee that the investment objective of the Company will be achieved.

It is anticipated that the Company may invest in other investment funds to which the Investment Manager, the Investment Advisor or other members of the OP Calypso Group act as investment manager or investment advisor (defined as the Target Funds), including but not limited to, Greater China Special Value Fund and TOP Commodity Fund (defined as the Target Funds). The offering memoranda for such investment funds are available on request from the Investment Manager.

### **Risk Factors**

Investment in the Company involves a high degree of risk. There can be no assurance that the Company's investment objective will be achieved. An investment in the Company is suitable only for sophisticated investors for whom an investment in the Company does not represent a complete investment program and who fully understand and are capable of assuming the risks of an investment in the Company.

The following considerations should be evaluated carefully by any potential investor before making an investment in the Company. Such considerations do not purport to be a complete discussion of all the risks and other factors and considerations which relate to or might arise from investing in the Company or from the Company's Investments. Potential investors are urged to consult their financial advisors, legal counsel, accountants or other professional advisors before making an investment in the Company.

The value of the Company's Shares and the income therefrom may go down as well as up and there can be no assurance that upon redemption, sale or otherwise, investors will receive back the amount originally invested or that there will be any return of capital. Investment results will vary on a monthly, quarterly or annual basis and there is no guarantee that the market price of the Shares will fully reflect their underlying value. Accordingly, the Company is only suitable for investment by investors who understand the risks involved and who are able and willing to withstand the complete loss of their investment.

No assurances can be given that the application of the Company's strategy will achieve its investment objective. No assurance can be given that such strategy may not need to be changed or refined in the future or that it will prove successful.

### **Dependence on the Investment Manager**

Subject to the overall supervision of the directors the Investment Manager is granted exclusive and ultimate authority to manage the Investments of the Company, without the participation of Shareholders. The Investment Manager has the unrestricted right in its discretion to select the Investments to meet the Investment objectives of the Company. Thus, the Company's success depends on the skill and acumen of the Investment Manager and its employees. If such employees should cease to participate in the Investment Manager's business, the Investment Manager's ability to select attractive Investments for the Company and manage its portfolio could be impaired.

### **Termination of Investment Management Agreement**

The Company does not have the right to terminate the Investment Management Agreement simply by giving notice of termination after the expiration of a specified period of time. The terms of the Investment Management Agreement provide that the Company can only terminate such agreement if

the Investment Manager goes into liquidation or if a receiver or provisional liquidator or administrator or similar officer is appointed over any of the assets of the Investment Manager or if the Investment Manager commits any breach of its obligations under the Investment Management Agreement. Consequently, the Company may encounter difficulties in terminating the Investment Management Agreement.

#### Credit Risk

Credit risk refers to potential losses due to counterparty default, such as the risk of settlement failure, that is, the failure of a counterparty to deliver or pay for securities.

#### Market, Economic and Regulatory Changes

Changes in market and economic conditions, tax or other laws or regulations or accounting standards and/or government intervention in markets may have an adverse effect on the Company's Investments and on share value. The likelihood of these types of adverse changes and the extent to which they may affect the business of the Company cannot be accurately predicted.

#### Performance Fee

In addition to receiving the investment management fee, the Investment Manager may also receive a performance fee based on the appreciation in the Net Asset Value per Share and accordingly the performance fee will increase with regard to unrealised appreciation, as well as realised gains. The performance fee paid to the Investment Manager may create an incentive for the Investment Manager to cause the Company to make Investments that are riskier or more speculative than would be the case if there was no performance fee in place.

#### Controlling Shareholder

There is no restriction on the percentage of the Shares which may be owned by one person or a number of connected persons. It is possible, therefore, that one person may obtain control of the Company.

#### Conflicts of Interest

The Investment Manager may be subject to material conflicts of interest in its dealings with the Company (as more fully described in the section headed "CONFLICTS OF INTEREST" on page 20). The Directors will seek to ensure that such conflicts are resolved fairly.

#### Possibility of Losses due to Redemptions

Redemption of Shares at the option of Shareholders may necessitate liquidation of Investments. It is possible that losses may be incurred due to such liquidations which might not otherwise have been incurred.

#### No Independent Counsel

The business terms and structure of the Company are not negotiated at arm's length. The Company's advisers do not represent investors or prospective investors in providing advice to the Company.

#### Concentration of Investments

Although it will be the policy of the Company to diversify its Investment portfolios, the Company may at certain times hold relatively few Investments. The Company could be subject to significant losses if it holds a large position in a particular investment that declines in value or is otherwise adversely affected, including default of the issuer.

#### Liquidity and Market Characteristics

In some circumstances, Investments may be relatively illiquid making it difficult to acquire or dispose of them at the prices quoted on the various exchanges. Accordingly, the Company's ability to respond

to market movements may be impaired and the Company may experience adverse price movements upon liquidation of its Investments. Settlement of transactions may be subject to delay and administrative uncertainties.

#### Leverage Risk

Leverage, through the use of margin and other forms of debt to finance portfolio purchases, increases returns to the investors if the Company earns a greater return on leveraged investments than the Company's cost of such leverage. The use of leverage, however, exposes the Company to additional levels of risk including (i) greater losses from investments than would otherwise have been the case had the Company not borrowed to make the investments, (ii) margin calls or changes in margin requirements may force premature liquidations of investment positions and (iii) losses on investments where the investment fails to earn a return that equals or exceeds the Company's cost of leverage related to such investments. In the event of a sudden, precipitous drop in value of the Company's assets, the Company might not be able to liquidate assets quickly enough to repay its borrowings, further magnifying the losses incurred by the Company.

#### Counterparty risk

The Company will be subject to the risk of the inability of any counterparty to perform with respect to transactions, whether due to insolvency, bankruptcy or other causes.

#### Net Asset Value Considerations

The Net Asset Value per Share is expected to fluctuate over time with the performance of the Company's investments. A Shareholder may not fully recover his initial investment when he chooses to redeem his Shares or upon compulsory redemption if the Net Asset Value per Share at the time of such redemption is less than the Subscription Price paid by such Shareholder.

#### Price Fluctuations

It should be remembered that the value of Shares and the income (if any) derived from them can go down as well as up.

#### Transaction Costs

The Company's investment approach may involve a high level of trading and turnover of the Company's investments which may generate substantial transaction costs which will be borne by the Company.

#### Tax Considerations

Where the Company invests in securities that are not subject to withholding tax at the time of acquisition, there can be no assurance that tax may not be withheld in the future as a result of any change in applicable laws, treaties, rules or regulations or the interpretation thereof.

#### Terrorist Action

There is a risk of terrorist attacks causing significant loss of life and property damage and disruptions in global markets. Economic and diplomatic sanctions may be in place or imposed on certain states and military action may be commenced. The impact of such events is unclear, but could have a material effect on general economic conditions and market liquidity.

#### Prime Broker

The Company has appointed UBS AG, London Branch ("UBS") as Prime Broker to the Company with responsibility for custody of all the Company's assets. UBS also provides a custody service for all the Company's investments. The Company's investments may be registered in UBS' name if it is in the Company's best interests or UBS cannot do otherwise due to law or practice, in which case the investments might not be segregated from UBS's own investments, and if UBS defaults may not be as well protected.

UBS does not give client money protection under the FSA's Client Money Rules to cash which UBS receives on the Company's behalf. The Company's cash is not segregated from UBS' own cash and may be used by UBS in the course of its business. The Company ranks as one of UBS' general creditors for the cash balance.

The Company's investments may be borrowed, lent or otherwise used by UBS for its own purposes. These investments become the property of UBS and the Company has a right against UBS for the return of equivalent assets. The Company ranks as an unsecured creditor for the equivalent assets, and if UBS becomes insolvent the Company may not be able to recover the equivalent assets in full.

#### Business Conditions and General Economy

The success of the Company's investment strategy could be adversely affected by a worsening of general economic conditions in Asia. Factors such as interest rates, inflation, investor sentiment, the availability and cost of credit, the liquidity of the global financial markets and the level and volatility of asset prices could significantly affect the returns realised on the Company's investments.

#### Current Market Volatility and Recent Market Developments

Significant declines in the housing market in the United States, Europe and in various other countries in the past two years have contributed to significant write-downs of asset values by financial institutions, including government-sponsored entities and major commercial and investment banks. These write-downs have caused many financial institutions to seek additional capital, to merge with larger and stronger institutions and, in some cases, to fail. While the capital and credit markets have been experiencing volatility and disruption for more than 12 months, the volatility and disruption has reached unprecedented levels in recent months. In some cases, the markets have produced downward pressure on stock prices and credit capacity for certain issuers. The resulting lack of credit, lack of confidence in the financial sector, increased volatility in the financial markets and reduced business activity could materially and adversely affect the Company's investment strategies, financial condition and the returns realised on the Company's Investments.

#### Increased Regulation

Recent developments in the global markets have led to an increase in the involvement of various governmental and regulatory authorities in the financial sector and in the operations of financial institutions. In particular, governmental and regulatory authorities in the Europe, the United States and elsewhere have provided additional capital and funding and are implementing other measures including increased regulatory control in their respective banking sectors including by imposing enhanced capital requirements. It is uncertain how the more rigorous regulatory climate will impact on the investment strategy and investment returns of the Company.

#### Investments in Target Funds

The assets of the Company may be substantially invested in the Target Funds. The Target Funds will include single manager funds affiliated with the OP Calypso Group, Investment Manager and/or the Investment Advisor that may pay fees to the OP Calypso Group, Investment Manager, the Investment Advisor and/or their affiliates. Target Funds in which the Company invests may also invest in other funds. Investment in the Target Funds will result in a pyramiding of expenses in that Shareholders in the Company may bear not only the administrative expenses and other costs of the Company, but also, to the extent of the Company's investment in Target Funds, a portion of the management fees, performance fees, administrative expenses and other costs and fees of the Target Funds and any fund in which such Target Funds invest. In particular, Shareholders will indirectly bear the costs of management and performance fees payable at the Target Fund level, due to the Company's investment in the Target Funds, as well as the management and performance fees levied by the Investment Manager on the Company and discussed in this Offering Memorandum. As the investment manager of the Target Funds may be the Investment Manager, or another member of the OP Calypso Group, this could lead to the Investment Manager or another member of the OP Calypso Group being entitled to fees at both the Company and Target Fund level.

### Possibility of Purchasing Non-Voting Shares

To the extent the Company purchases non-voting securities of a Target Fund or waives its right to vote its securities with respect to Target Funds, it will not be able to vote on matters that require the approval of the in the Target Fund, including matters that could adversely affect the Company's investment in the Target Fund.

### Delay in Withdrawals

The Company may make additional investments in or effect withdrawals from Target Funds only at certain specified times. The Company may not be able to withdraw its investment in a Target Fund promptly after it has made a decision to do so, which may result in a loss and adversely affect the Company's investment return.

### Valuation

Target Funds may only issue net asset values monthly or less frequently, making it difficult for the Administrator to determine a Net Asset Value that accurately reflects the value of the Company's assets as of the time of determination or reporting to Shareholders. If a contemporaneous net asset value calculation of the Target Fund is not available for timely calculations of a Company's Net Asset Value, the Company may use the last reported net asset value of the Target Fund in calculating the Company's Net Asset Value. The resulting Company Net Asset Value may be higher or lower than the actual value of the assets owned by the Company as of the time of determination or reporting to Shareholders. The illiquid nature of Company investments also may result in difficulty in valuing such investments for purposes of determining the Company's Net Asset Value.

### **Investor Restrictions**

Potential investors should note that restrictions may apply regarding the types of persons who may invest in the Company. These restrictions apply in order to comply with the laws and regulations of certain jurisdictions, including the United States.

Investment in the Company will be limited to investors who, in the opinion of the Directors of the Company, are not Restricted Persons. A "Restricted Person" is a person in respect of whom the Directors have imposed restrictions for the purpose of ensuring that no investment in the Company is made by any person or persons:

- (i) in breach of the law or requirements of any country or governmental authority; or
- (ii) in circumstances (whether directly or indirectly affecting such person or persons and whether taken alone or in conjunction with any other person or persons, connected or not, or any other circumstance appearing to the Directors to be relevant) which, in the opinion of the Directors, might result in the Company incurring any liability to taxation or suffering any other pecuniary, fiscal or regulatory disadvantage which the Company might not otherwise incur or suffer; or
- (iii) who is a US person, except that the Directors may authorise a US person to invest in the Company, provided that:
  - (a) such investment does not result in a violation of the 1933 Act or the securities laws of any of the States of the United States;
  - (b) such investment will not require the Company to register under the 1940 Act or to file a Offering Memorandum with the U.S. Commodity Futures Trading Commission under the US Commodity Exchange Act; and
  - (a) any such investments will not cause any of the assets of the Company to be "plan assets" for the purposes of the Employee Retirement Income Security Act of 1974 ("ERISA").

**Dividend Policy**

The Directors of the Company do not currently anticipate paying a dividend in respect of the Company, but reserve the right to do so at their discretion.

## **MANAGEMENT AND ADMINISTRATION**

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### **The Directors of the Company**

The Directors are responsible, *inter alia*, for monitoring the performance of the Company and for the overall management and control of the Company.

The following individuals comprise the current Board of Directors:

#### **Mr. Michael Stockford:**

Mr. Stockford was from 1997 to July 2003 a Director and Regional Head of Operations for Credit Agricole Asset Management in Asia, with particular focus on Risk, Compliance and Internal Control. He was a founding member of Credit Agricole Asset Management's global compliance steering committee and has been the Chairman of several mutual funds. He is currently a member of the Global Association of Risk Professionals. Since July 2003, Mr. Stockford has been involved with establishing and running OP Calypso Capital Limited.

#### **Mr. Mark Beames:**

Mark Beames is a banking, investment and financial services professional with over 20 years experience in the international investment funds and securities industries.

Since 2003 Mr Beames has been acting as a non-executive director to selected offshore and onshore investment companies including hedge funds, mutual funds, private equity funds and funds of funds that invest principally in the Asian region or whose sponsors are based in Asia. He has acted as chairman of fund board audit committees and has provided advisory services to financial institutions in Hong Kong.

After 10 years with the international accounting firm which was then Price Waterhouse, he joined in 1988 what is now Fortis Bank in Hong Kong and established its Asian fund administration and custody desks under the banner of Fortis Fund Services. Later, as Head of Information Banking in Asia he oversaw and managed a team of accounting and securities trading professionals in the provision of integrated services to institutional clients including investment funds, fund managers and securities dealers. Services included fiduciary and advisory services, comprehensive fund administration (including accounting and valuations, corporate secretarial, registrar and transfer agency services), derivatives and cash clearing, securities settlement, global custody, securities borrowing and lending, treasury and banking and the provision of financing facilities. Latterly, as a General Manager of Fortis Bank Hong Kong he sat on the Management Committee of Fortis Bank North Asia and oversaw the bank's operations in Hong Kong, China, Taiwan, Korea and Japan.

Mr Beames is a graduate of the Queensland University of Technology where he obtained a Bachelor of Business Studies in Accountancy. He is a Fellow of the Institute of Chartered Accountants in Australia and a Member of the Australian Institute of Company Directors.

Mr Beames resided in Hong Kong from 1983 to 2003. He is presently based in Australia.

#### **Mr. Clive Harris:**

Mr. Harris is a UK Chartered Accountant, resident in the Cayman Islands, and holds a degree in Economics (Accountancy and Law) from the University of Wales, University College Cardiff. Mr. Harris began his career in 1976 at Deloitte Haskins and Sells in London. In 1979, he joined International Management Services Ltd, an independent management concern in the Cayman Islands, where he was Managing Director until retirement in March 2000. From October 2001 through December 2003, Mr. Harris was a consultant to, and subsequently Managing Director of, Bank of Bermuda (Cayman) Ltd, and since has remained active as a consultant and independent director to hedge funds and other regulated entities.

The address of the Directors for the purpose of the Company is the registered office of the Company.

### **The Investment Advisor**

The Investment Manager has appointed OP Calypso Capital Limited to provide it advice on the management of the Company. The Investment Advisor was incorporated in Hong Kong on 24 November 2003 as a limited liability company. The directors of the Investment Advisor are Benoit Descourtieux, Michael Stockford, Ho Wai Hung Joannes, Wong Sik Kam, Goto Junichi and Chow Pok Yu Augustine. The Investment Advisor is licensed by the Hong Kong Securities & Futures Commission to carry out Investment Management activities.

### **The Investment Manager**

The Company has appointed OP Calypso Capital (Cayman) Limited to act as investment manager of the Company. The Investment Manager is responsible for the investment decision-making process in relation to the Company. The Investment Manager was incorporated in the Cayman Islands on 25 November 2003 as an exempted company with limited liability. The directors of the Investment Manager are Benoit Descourtieux, Michael Stockford, Ho Wai Hung Joannes, Wong Sik Kam, Leung Kim Hung and Chow Pok Yu Augustine.

### **The Administrator**

The Directors have appointed Custom House Fund Services (Ireland) Limited as the Administrator (the “**Administrator**”) of the Company. The Administrator was incorporated in Ireland on the 14<sup>th</sup> day of July 1989 in order to provide services as an administrator, registrar and transfer agent and provide corporate secretarial services to investment companies and other collective investment undertakings. The Administrator is regulated by the Financial Regulator under the terms of section 10 of the Investment Intermediaries Act of 1995 (the “**Act**”). For the avoidance of doubt, this statement does not imply that the Fund is regulated by the Financial Regulator. All companies regulated under Section 10 of the Act, including the Administrator, are required to be members of the Irish Investor Compensation Scheme (the “**Scheme**”). Please note that the Company is not part of the Scheme and the only protection that may be afforded to shareholders will be solely in relation to any losses incurred by the shareholder, as a result of failure of the Administrator.

The Administrator is responsible for the administration of the Company. The Directors of the Administrator are Dermot S.L. Butler, David P.M. Blair, Mark Hedderman and James Osborne (non-executive).

It should be noted that, in providing services as an administrator, the Administrator does not act as a guarantor of the Shares herein described. Moreover, the Administrator is not responsible for any trading or investment decisions of the Fund (all of which will be made by the Investment Manager), or the effect of such trading decisions on the performance of the Fund.

The Directors have also appointed Custom House Fund Services (Ireland) Limited as Registrar and Transfer Agent (the “**Registrar**”) for the Company. The services provided by the Administrator, in the context of acting as Registrar, include the maintenance of a copy of the Share Register (the “**Register**”) representing the Company’s records relating to Share ownership and the redemption of Shares; receipt of requests for redemption; authorisation of redemption payments; authorisation of disbursements of management and advisory fees, commissions and other charges; and other services as agreed on by the parties.

The Company will have available the facility of CHARIOT (“Custom House Accessible Reporting In Open Technology”), a web-reporting platform provided by the Administrator, which enables both Investors and Investment Manager to have password-protected access to the CHARIOT web platform, which sets out certain information, accounts and reports for the Company.

### **The Prime Broker**

The Company has appointed UBS AG, London Branch (“**UBS**”) as Prime Broker to the Company with responsibility for custody of all the Company’s assets. UBS provides prime brokerage services to the Company under the terms of the Master Prime Brokerage Agreement between the Company and UBS (the “**UBS Agreement**”). These services may include providing the Company with margin financing,

clearing, settlement, stock borrowing and foreign exchange facilities. The Company may also use UBS and other brokers and dealers to execute transactions for the Company. UBS also provides a custody service for all the Company's investments held by UBS in accordance with the UBS Agreement. UBS is regulated by the Financial Services Authority ("FSA") of the United Kingdom in the conduct of its investment business.

UBS may appoint sub-custodians of the Company's investments. UBS must exercise reasonable skill, care and diligence in the selection of any sub-custodian. UBS must satisfy itself of the ongoing suitability of the sub-custodian to provide custodial services to the Company, maintain what UBS considers an appropriate level of supervision over the sub-custodian, and make what UBS considers appropriate periodic inquiries to confirm that the sub-custodian is competently discharging its obligations. In accordance with FSA rules, **UBS must identify record and hold the Company's investments held by UBS as custodian so that the identity and location of the investments can be identified at any time. The investments must be readily identifiable as belonging to a customer of UBS, separate from UBS' own investments and so unavailable to creditors of UBS. The Company's investments may be registered in UBS' name if it is in the Company's best interests or UBS cannot do otherwise due to law or practice, in which case the investments might not be segregated from UBS's own investments, and if UBS defaults may not be as well protected.**

As security for the payment and discharge of all liabilities of the Company to UBS, all investments and cash held by UBS are charged by the Company in UBS' favour and constitute collateral for the purposes of the FSA rules. Investments and cash may also be deposited by the Company with UBS as margin and constitute collateral for the purposes of the FSA rules.

UBS does not give client money protection under the FSA's Client Money Rules to cash which UBS receives on the Company's behalf. The Company's cash is not segregated from UBS' own cash and may be used by UBS in the course of its business. The Company ranks as one of UBS' general creditors for the cash balance.

The Company's investments may be borrowed, lent or otherwise used by UBS for its own purposes. These investments become the property of UBS and the Company has a right against UBS for the return of equivalent assets. The Company ranks as an unsecured creditor for the equivalent assets, and if UBS becomes insolvent the Company may not be able to recover the equivalent assets in full.

No UBS Group company is liable for any loss of the Company resulting from any act or omission relating to the services provided under the terms of the UBS Agreement unless the loss results directly from the negligence, bad faith, wilful default or fraud of UBS Group. UBS is not liable for the solvency, acts or omissions of any sub-custodian which holds or controls any of the Company's investments or cash (other than UBS' obligations of selection and suitability of the sub-custodian set out above). UBS accepts the same level of responsibility for nominee companies controlled by UBS as for UBS' own acts. The Company indemnifies UBS Group against any loss or claims arising out of the UBS Agreement, except to the extent that the losses or claims result from the negligence, bad faith, wilful default or fraud of UBS Group.

The Company (and not UBS) is responsible for ensuring that the Company's assets are delivered to UBS as prime broker and custodian (other than margin deposits). UBS is not responsible for monitoring the Company's compliance with this obligation.

UBS has financial resources in excess of US\$200 million and has a credit rating, as at the date of this document, of Aa1 from Moody's and AA- from Standard & Poor's for long term and a rating of P-1 and A-1+, respectively, for short term debt from those agencies.

UBS is a service provider to the Company and is not responsible for the preparation of this document or the activities of the Company. UBS accepts no responsibility for any information contained in this document. UBS will not participate in the Company's investment decision-making process.

The Company reserves the right to change prime brokerage and custodian arrangements by agreement with UBS and to appoint additional or alternative prime brokers and custodians.

### **Conflicts of Interest**

Due to the operations which are or may be undertaken by the Administrator, the Directors, the Investment Manager, the Investment Advisor and the Prime Broker and their respective holding companies, subsidiaries and affiliates (each an “interested party”) conflicts of interest may arise.

The Administrator, the Directors, the Investment Manager, the Investment Advisor and the Prime Broker may provide similar services to others provided that the services they provide to the Company are not impaired thereby. An interested party may acquire or dispose of any investment notwithstanding that the same or similar investments may be owned by or for the account of or otherwise connected with the Company. Furthermore, an interested party may acquire, hold or dispose of investments notwithstanding that such investments had been acquired or disposed of by or on behalf of the Company by virtue of a transaction effected by the Company in which the interested party was concerned provided that the acquisition or disposal by an interested party of such investments is effected on normal commercial terms as if negotiated on an arm’s length basis and the investments held by the Company are acquired on the best terms reasonably obtainable having regard to the interests of the Company.

Should a conflict of interest arise in relation to the Company, the Directors will endeavour to ensure that it is resolved fairly.

### **Soft Commissions**

The Investment Manager may effect transactions with or through a broker with whom the Investment Manager has arrangements under which that broker will from time to time provide to or procure for the Investment Manager goods, services or other benefits, such as research and advisory services, the nature of which must be such that their provision will assist in the provision of investment services to the Company but may be used by the Investment Manager in connection with transactions in which the Company will not participate. Any such arrangements shall provide for best execution where practicable.

### **Auditors**

Ernst & Young, Cayman Islands has been appointed to act as auditors to the Company.

The engagement letter entered between the Company and the auditor of the Company, Ernst & Young, Cayman Islands, contains provisions limiting the liability of the auditor to three times the fees paid to the auditor for the services or work product giving rise to the liability except to the extent finally determined to have resulted from the wilful or intentional neglect or misconduct, or fraudulent behaviour of the auditor. Other release and indemnity provisions are also contained in the engagement letter relating to consequential loss, third party claims and fraudulent acts or omissions, misrepresentations or wilful default on the part of the Company, its directors, employees or agents.

The engagement letter also contains provisions limiting any claim for breach of contract, breach of duty or fault or negligence or otherwise whatsoever arising out or in connection with this engagement to be brought against the auditors within three years of the act or omission alleged to have caused the loss in question.

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## **OFFER, SUBSCRIPTIONS, TRANSFERS AND REDEMPTIONS**

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### **Subscriptions**

Investors may subscribe for Shares with a minimum aggregate value of US\$100,000 (or the equivalent in another currency) exclusive of any subscription fee. Shares will be issued at an initial price of US\$100 per share.

Applicants for Shares should complete the prescribed application form, which is available from the Administrator, and send it to the Administrator together with the relevant identification documents of the applicant as detailed in the application form so as to be received by the Administrator by no later than 12 noon Dublin time 2 days prior to the relevant Subscription Date. Cleared funds must be received for the account of the Company no later than 12 noon Dublin time, 2 business days prior to the relevant Subscription Date. If the relevant application form and/or subscription monies is/are not received by these times, the application will be held over until the following Subscription Date, following satisfaction of these conditions. Shares will then be issued on the following Subscription Date. Once completed applications have been received by the Administrator's Agent, they are irrevocable.

Where the application form is sent by fax, the investor must also send the original signed application form to the Administrator by internationally recognised courier. Neither the Company, Investment Manager, Administrator nor their duly appointed agents will be responsible to the applicant for any loss resulting from the non-receipt of any application form sent by fax. The Directors have the absolute discretion to accept any application form after the relevant time for acceptance, as set out in the previous paragraph.

The Administrator is under no obligation to issue any official confirmation in relation to issued Shares until all necessary documentation (including, but not limited to, documentation verifying the identity of the applicant and the source of the payment) has been provided to their full satisfaction.

The Directors reserve the right to reject any application in full or in part in their absolute discretion.

### **Subscription Fee**

At the absolute discretion of the Directors, each investor who subscribes for Shares through a distributor may be required to pay separately to that distributor a subscription fee of up to 5% of the price at which each Share is to be purchased. The distributor is entitled to retain his subscription fee for its own use and benefit.

### **Form of Shares**

The Shares will be issued in registered book entry form. No share certificate will be issued. A Shareholder's entitlement will be evidenced by an entry in the Company's Register of Shareholders and not by a share certificate. A Share may be registered in a single name or in up to four joint names. Where Shares are registered in joint names, a joint holder will be required to authorise the Administrator to act upon the sole written instructions of any one of the joint holders in respect of the transfer or redemption of all or any of those Shares.

### **Provisions relevant to all applications for Shares**

#### Anti-Money Laundering Procedures

As well as the above requirements, the Administrator of the Company is required to ensure full compliance with all applicable Irish and international anti-money laundering (AML) legislation.

The principal legislation is laid down in the Irish Criminal Justice Act, 1994, as amended, and the consequent requirements are laid down in the Irish Guidance Notes for Financial Institutions, issued in 2003. Further, and if appropriate, the Administrator may also be required to comply with certain provisions of the USA PATRIOT Act.

The specific requirements include, inter alia, the fundamental requirement to Know Your Client, which extends, for any 'non-individual' investor, to the ultimate beneficial owner(s) of the monies invested. This requirement is principally satisfied through documentary evidence, as listed in the Client Verification Requirements ("CVR"), which are part of Appendix I of the Memorandum. It should be noted that the Administrator may request further information, in order to satisfy its regulatory obligations.

***The completion of the application form serves as confirmation that the investor understands and agrees to furnish the requested documents and other information. It also represents the first request for the documents noted on the CVR. If the documents requested are not received within a reasonable time following the investment, the Administrator will send a second request to the Shareholder, which will act as a reminder. If, within a reasonable time after this reminder, the Administrator still has not received the documents requested, further requests will be sent to the Shareholder. For these further requests there will be a charge imposed on the shareholder of €100, which will be charged directly against the Shareholder's interest in the Fund.***

***It must also be noted that redemption monies cannot be remitted to the shareholder until all documents requested have been received. Further, please note that it is a regulatory requirement to report suspicious transactions to the competent authorities, and any relevant data in this regard may need to be transferred to the relevant regulators.***

There is also a requirement to know the source of the funds, such requirement normally limited to knowing the bank and account from which the monies were remitted. A further requirement is that such monies invested may only be redeemed to the account of remittance, except in exceptional circumstances.

Finally, as the aforementioned legislation is subject to change, any additional requirements imposed on the Administrator will be reflected in its requirements of the applicant.

#### **Data Protection**

As part of the application process all subscribers are required to submit various documents to the Administrator. These are required to enable completion of the application process and to comply with all relevant legislation. Any information received will be kept by the Administrator in accordance with the relevant Data Protection legislation and, in the normal course of business, will not be made available to anyone other than the Administrator.

However, it may become necessary to transfer data at any time to comply with legislation in force either now or at any time in the future (see under 'Anti Money Laundering Legislation' for further details). Further, should the administrative functions, in whole or in part, be transferred or delegated to another entity, data will be transferred to the extent necessary for such new entity to carry out its functions effectively. This may include entities in the U.S. and other countries which are deemed to have equivalent data protection legislation in place, and also to countries that are not deemed to have equivalent data protection legislation in place.

By subscribing to the Fund all subscribers should note the above, and also note that, by completion of the application form, they are agreeing to any transfer of data carried out for any of the reasons given above, or for any reason that the Administrator deems necessary to comply with legislation in force at the time.

Further, the Company and its Service Providers consent that any and all data required by the Administrator (in its capacity as such or in its capacity as Registrar or Company Secretary) in exercise of its duties on behalf of the Company may be transferred to and/or from the Administrator (in its capacity as such or in its capacity as Registrar or Company Secretary) in accordance with relevant data protection legislation.

As the Fund is availing of the CHARIOT system, the Investment Manager and the Shareholders will have access to detailed information on the Fund, its performance and, for Shareholders, individual valuation data. To achieve this the Administrator transfers Fund data to the secure site, which is the host of the CHARIOT platform. This data is transferred for the sole purpose as described, and conforms in full to all

data protection requirements. By subscribing the Shareholder acknowledges and agrees that the Fund data may be transferred for this purpose.

\* Entities in the US that comply with the Safe Harbour are deemed to have equivalent legislation to that in all EU countries.

#### Confirmation of Ownership and Unsuccessful Applications

Shares will be issued upon: (i) the fulfilment of the conditions for acceptable subscriptions to the satisfaction of the Administrator, and (ii) receipt of cleared funds.

A confirmation statement, which will constitute a confirmation of ownership of the Shares to which it relates, will be sent to each successful applicant within 10 Business Days of the date on which the Shares are issued. The confirmation statement will detail the number of Shares to which it relates and the price at which the Shares have been issued.

Amounts paid in respect of subscription applications which are rejected (or, in the case of applications which are not accepted in full, the balance of the amount paid) will be returned to the applicant at his own risk and expense without interest.

#### **Transfer of Shares**

Subject to the restrictions more fully described in the section headed “Investor Restrictions” and immediately below, the Shares may be held and transferred freely but the Shares may not in any case be held by or transferred to persons under the age of 18.

An investor may transfer all or any of his Shares by an instrument in writing or in any other form as the Directors may approve. Each transferee must initially acquire Shares with a minimum aggregate value as set out in this Offering Memorandum and will be required to provide the same information, representations and warranties as are required from any applicant for Shares by completing an application form. Each transferor must retain a holding with a minimum aggregate Net Asset Value of US\$100,000.

#### **Redemption of Shares**

Generally, investors may redeem their Shares on each Redemption Date at a redemption price equal to the Net Asset Value per Share as at the immediately preceding Valuation Date rounded downward to the nearest whole integral unit of the base currency. Rounding differences will be retained for the benefit of the Company.

Requests for redemption may be made to the Administrator on a completed redemption request form, which is available on request from the Administrator, by no later than 5 p.m. (Hong Kong time) on the Business Day at least 30 days prior to the Redemption Date. Redemption request forms not received by this time may, at the discretion of the Directors, be held over and treated as applying at the next Redemption Date. The Shareholders acknowledge that any redemption request or other instruction sent to the Company via the Administrator shall not be deemed to have been received by the Company or the Administrator unless written acknowledgement of receipt has been received by the Shareholder. Exceptions are made where the delivery of the communication has been acknowledged by a signed receipt.

Payment of redemption proceeds will normally be made at the risk and expense of the Shareholder after the final calculation of the NAV for which redemption is to take place or, if later, the date of receipt of complete and original redemption documentation. If all of the relevant information requested under the Client Verification Requirements section has not been provided to the Administrator, the redemption will be acted upon but no monies will be paid to the Shareholder. Instead, the monies will be held in the Shareholder’s name at Fund's account and the Shareholder will bear all associated risks.

All payments in respect of redemptions will be made by wire transfer only to the account of the registered Shareholder at the Remitting Bank/Financial Institution from which the original subscription was made.

A request for a partial redemption of Shares may be refused, or the holding may be redeemed in its entirety, if, as a result of such partial redemption, the aggregate Net Asset Value of the Shares retained would be less than US\$100,000.

A redemption request, once given, is irrevocable unless redemptions are suspended or unless the Directors otherwise determine in their sole discretion.

Redemptions will be suspended in any period when there is a suspension of the calculation of the Net Asset Value of the Company.

Where an investor acquires Shares at different times and he subsequently requests to redeem part of his holding of Shares, he shall be deemed (unless otherwise stated) to have requested to redeem such Shares on a "first acquired, first realized" basis in determining the Shares to be redeemed.

The Directors may compulsorily redeem any Shares held by, or for the benefit of (directly or indirectly), a Shareholder for any or no reason.

### **Deferral of Redemptions**

The Directors may, in their absolute discretion, limit the number of Shares that can be redeemed on any one Redemption Date to the equivalent of 10% of the Net Asset Value of the Company. In this event, the limitation will apply pro rata so that all Shareholders wishing to have their Shares redeemed on that Redemption Date redeem the same proportion of such Shares, and Shares not redeemed will be carried forward for redemption on the next Redemption Date and all following Redemption Dates (in relation to which the Company will carry out the same procedure as described herein) until the original request has been satisfied in full. If requests for redemption are so carried forward, the Administrator will inform the Shareholders affected. Redemption requests carried forward will have priority over redemption requests received in respect of subsequent Redemption Dates.

### **Consolidation of shares**

As soon as practicable after the last Valuation Point in each financial year, all Shares in all series which have borne a performance fee in respect of the relevant year will normally be consolidated into a single series, being the oldest series to have borne a performance fee in respect of the relevant year. The Performance Benchmark of the consolidated series will be the Net Asset Value per Share of the consolidated series as at the last Valuation Point in the financial year, after payment of the performance fee.

### **Redemption Fee**

The Directors may, in their absolute discretion, for Shares held for less than 6 months charge a redemption fee of 2% of the Net Asset Value per Share of the relevant series as at the immediately preceding Valuation Date, for Shares held for between 6 and 12 months charge a redemption fee of 1% of the Net Asset Value per Share of the relevant series as at the immediately preceding Valuation Date, but this fee may be waived at the discretion of the Directors. Shares held for longer than 12 months will not be charged a redemption fee.

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## VALUATION

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### Valuation

The Net Asset Value will be calculated by the Administrator at the Valuation Point on each Valuation Date by deducting the total liabilities from the total assets. Total assets include the value of all Investments of the Company, the sum of any cash and accrued interest. Total liabilities include all liabilities of the Company including any borrowings, accrued expenses and any contingencies for which reserves are determined to be required.

In calculating the value of the assets of the Company:

- (i) the value of any cash on hand or on deposit, bills, demand notes, accounts receivable, prepaid expenses, cash dividends and interest declared or accrued and not yet received shall be deemed to be the full amount thereof unless the directors of the Company shall have determined that any such deposit, bill, demand note or account receivable is not worth the full amount thereof in which event the value thereof shall be deemed to be such value as the directors of the Company shall deem to be the reasonable value thereof;
- (ii) except in the case of any interest in a unit trust, mutual fund corporation, open-ended investment company or other similar open-ended investment vehicle (a "**managed fund**") to which paragraph (iii) applies and subject as provided in paragraphs (iv), (v) and (vi) below, all calculations based on the value of investments quoted, listed, traded or dealt in on any stock exchange, commodities exchange, futures exchange or over-the-counter market shall be made by reference to the last traded price on the principal stock exchange for such Investments as at the close of business in such place on the day as of which such calculation is to be made; and where there is no stock exchange, commodities exchange, futures exchange or over-the-counter market all calculations based on the value of investments quoted by any person, firm or institution making a market in that investment (and if there shall be more than one such market maker then such particular market maker as the directors of the Company may designate) shall be made by reference to the mean of the latest bid and asked price quoted thereon; provided always that if the directors of the Company in their discretion considers that the prices ruling on a stock exchange other than the principal stock exchange provide in all the circumstances a fairer criterion of value in relation to any such investment, they may adopt such prices;
- (iii) subject as provided in paragraphs (iv), (v) and (vi) below, the value of each interest in any managed fund which is valued as at the Valuation Date shall be the net asset value per unit, share or other interest in such managed fund calculated as at that day or, if the directors of the Company so determines or if such managed fund is not valued as at the Valuation Date, the last published net asset value per unit, share or other interest in such managed fund (where available) or (if the same is not available) the last published redemption or bid price for such unit, share or other interest ;
- (iv) if no net asset value, bid and offer prices or price quotations are available as provided in paragraphs (ii) or (iii) above, the value of the relevant asset shall be determined from time to time in such manner as the directors of the Company shall determine provided that any investment which is not for the time being listed, quoted or dealt in on any stock exchange, commodities exchange, futures exchange or over-the-counter market shall be valued at the lower of cost and the Directors estimation of the realisable value of such Investment;
- (v) for the purpose of ascertaining quoted, listed, traded or market dealing prices, the Directors, the Administrator or their agents shall be entitled to use and rely upon mechanised and/or electronic systems of valuation dissemination with regard to the valuation of Investments of the Company and the prices provided by any such system shall be deemed to be the last traded prices for the purpose of paragraph (ii) above;
- (vi) notwithstanding the foregoing, the Directors, at their absolute discretion, permit some other method of valuation to be used if they considers that such valuation better reflects the fair value; and

The Company will prepare its annual report and accounts in accordance with International Financial Reporting Standards (“IFRS”). Investors should note that the above valuation policies may not necessarily comply with IFRS. For example, under IFRS, investments should be valued at fair value and also that under IFRS, bid and ask pricing is considered to be representative of fair value for long and short listed investments respectively. However, under the valuation basis described above, listed investments are expected to be valued at the last traded price instead of bid and ask pricing as required under IFRS. To the extent that the valuation basis adopted by the Company deviates from IFRS, the Directors may be required to make adjustments in the annual accounts of the Company in order to comply with IFRS, and if relevant will include a reconciliation note in the annual accounts of the Company to reconcile values shown in the annual accounts determined under IFRS to those arrived at by applying the Company's valuation rules. To the extent that the valuation basis adopted by the Company as detailed above deviates from IFRS, were the Directors not to make adjustments in the annual accounts of the Company for the annual accounts to comply with IFRS, non-compliance with IFRS may result in the auditors issuing a qualified or an adverse opinion on the annual accounts depending on the nature and level of materiality of the non-compliance.

### **Suspension of Valuation**

The Directors, on the advice of the Investment Manager or the Administrator, may suspend the calculation of the Net Asset Value during any period when:

- (i) circumstances exist as a result of which, in the opinion of the Directors, it is not reasonably practicable for the Company to dispose of its investments or as a result of which any such disposal could be materially prejudicial to Shareholders; or
- (ii) a breakdown occurs in any of the means normally employed in ascertaining the value of a substantial portion of Investments or the Net Asset Value of the Company or the Net Asset Value per Share or when for any other reason the value of a substantial portion of the Investments or other assets of the Company or the Net Asset Value of the Company or the Net Asset Value per Share cannot reasonably be ascertained; or
- (iii) the Company is unable to repatriate funds required for the purpose of making payments due on the redemption of Shares or during which any transfer of funds involved in the disposal or acquisition of investments cannot, in the opinion of the Directors, be effected at normal rates of exchange; or
- (iv) any market is closed (other than ordinary holiday or customary weekend closings) which is the main market for a substantial portion of the Company’s investments, or when trading thereon is restricted or suspended;
- (v) any emergency exists as a result of which disposal by the Company of Investments which constitute a substantial portion of the assets is not practically feasible; or

The Directors shall also be entitled to rely on advice from any broker, bank or dealer in connection with any determination to suspend the calculation of the Net Asset Value of the Company.

No issue, redemption or conversion of Shares will take place in the Company during any period when the calculation of the Net Asset Value of the Company is suspended. In such circumstances, the application form, redemption or conversion request form may be withdrawn, provided that notice of the withdrawal is received by the Administrator before the suspension is ended. Unless withdrawn, issues, redemptions or conversions of Shares will be acted upon on the first Subscription Date or Redemption Date after the suspension is ended at the relevant Net Asset Value per Share as at the immediately preceding Valuation Date.

## **FEES AND EXPENSES**

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### **Investment Advisory Fee**

Under the provisions of the Investment Advisory Agreement the Investment Manager shall pay to the Investment Advisor, such fees and other remuneration at such times and on such terms as may from time to time be agreed in writing between the Investment manager and the Investment Advisor. The Company will not be responsible to the Investment Advisor for any fees.

### **Investment Management Fee**

Under the provisions of the Investment Management Agreement, the Company will pay the Investment Manager a fee in respect of its duties as investment manager of the Company at a rate of 2% per annum of the Net Asset Value of the Company accrued daily and calculated on the basis of the Net Asset Value of the Company as at each Valuation Point and payable monthly in arrears. The Investment Manager will be responsible for the fees payable to the Investment Advisor.

### **Performance Fee**

Under the provisions of the Investment Management Agreement, the Investment Manager will be entitled to a performance fee (the “**Performance Fee**”), payable annually.

In order to ensure that Shareholders bear the Performance Fee according to the actual performance of the Shares, having regard to the different times and prices at which such Shares were acquired, a new series will be issued on each Subscription Date. The Performance Fee shall be equal to twenty per cent. (20%) of the increase in the Net Asset Value per share of the relevant series as at the last Valuation Point of the relevant financial year over the Performance Benchmark applicable to such series of Shares multiplied by the number of Shares of the relevant series in issue as at the last Valuation Point in the relevant financial year.

The Performance Benchmark is the highest Net Asset Value per Share of the relevant series (after any performance fee) as at the last Valuation Point in any previous financial year or, if higher, the Subscription Price per share paid for the Share in question.

The Performance Fee for each series will be calculated as at the last Valuation Point in December in each year and paid as soon as practicable thereafter. Where shares are redeemed part way through a year, the Performance Fee payable in respect of the Shares redeemed will be calculated as at the Valuation Point relating to the date of redemption, and paid as soon as practicable thereafter. The Investment Manager has no obligation to restore to the Company or to Shareholders Performance Fees previously earned and paid, notwithstanding a loss in a subsequent period.

As soon as practicable after the last Valuation Point in each financial year, all Shares in all series which shall have borne a Performance Fee in respect of the relevant year will normally be consolidated into a single series, being the oldest series of Shares to have borne a Performance Fee in respect of the relevant year. The Performance Benchmark of the consolidated series will be the Net Asset Value per Share of the consolidated series as at the last Valuation Point in the financial year, after payment of the Performance Fee.

### **Target Fund Fees**

Shareholders will indirectly bear the costs of management and performance fees payable at the Target Fund level, as the Company's Net Asset Value will be reduced by management and performance fees payable by the Target Funds to their respective investment managers (which may be the Investment Manager, or another member of the OP Calypso Group).

### **Administration Fee**

The Fund will pay to the Administrator for acting as administrator and registrar and transfer agent, fees as agreed from time to time in respect of the Fund.

In addition, the Administrator will be reimbursed for properly incurred and approved out-of-pocket expenses. The Administrator will also receive a fee for acting as Company Secretary, payable annually in advance as agreed from time to time a proportionate amount of which will be allocated to the Fund.

### **Prime Brokerage Fee**

Under the provisions of the Prime Brokerage Agreement, the Company will pay the Prime Brokers a fee in respect of their duties as Prime Broker to the Company. UBS will be entitled, in its capacity as the prime broker to the Fund, to transaction fees and interest on any advances which it makes to the Fund and such fees as may be agreed with the Fund from time to time in relation to any other facilities UBS provides to the Fund. UBS may also charge additional fees for acting as custodian of assets it holds as Prime Broker and late settlement fees.

### **Directors' Remuneration**

The Directors of the Company shall be entitled to a fee in remuneration for their services at a rate to be determined from time to time by the Directors, but so that the aggregate amount of Directors' remuneration in any one year shall not exceed US\$30,000. Michael Stockford has waived his entitlement to receive remuneration as Director.

### **Establishment Expenses**

The fees and expenses incurred in connection with the establishment of the Company, the initial offer of its Shares, the preparation and publication of this Offering Memorandum and all legal costs and out-of-pocket expenses, including those of the Administrator and Prime Broker, were approximately US\$50,000 and are being amortised over five years. It should be noted that the proposed treatment of amortising the establishment expenses over five years is not in accordance with the requirements of IFRS, under which the establishment expenses should be expensed at the point of commencement of the Company's operations. The Directors believe that such treatment is more equitable to the initial investors than expensing the entire amount as they are incurred and are of the opinion that the departure is unlikely to be material to the Company's financial statements. However, if the amounts involved are material to the audit of the Company's financial statements the Directors may be required to make adjustments in the annual financial statements of the Company in order to comply with IFRS, and if relevant will include a reconciliation note in the annual accounts of the Company to reconcile amounts shown in the annual financial statements determined under IFRS to those arrived at by applying the amortisation basis to the Company's establishment expenses.

### **Other Expenses**

The Company will also pay the following costs and expenses:

- (i) all stamp duty (other than any payable by a Shareholder) or other tax or duty which may be levied or payable from time to time on or in respect of the Company or on creation or issue of Shares or arising in any other circumstance;
- (ii) all fiscal and purchase or fiscal and sale charges arising on any acquisition or disposal of Investments;
- (iii) all expenses incurred in relation to the registration of any Investments into and transfer of any Investments out of the name of the Company, or and Prime Broker or their nominees or the holding of any Investment or the custody of Investments and/or any Offering Memorandum or title thereto (including bank charges, insurance of documents of title against loss in shipment, transit or otherwise) and charges made by the registrar or agents of and Prime Brokers for acceptance of documents for safe custody, retention and/or delivery;
- (iv) all expenses incurred in the collection of income of the Company;
- (v) all costs and expenses of and incidental to preparing resolutions of Shareholders for the purpose of securing that the Company conforms to legislation coming into force after the date

of the incorporation of the Company (including costs and expenses incurred in the holding of a meeting of Shareholders, where necessary);

- (vi) all taxation payable in respect of the holding of or dealings with or income from the Company relating to the Company's property and in respect of allocation and distribution of income to Shareholders other than tax of Shareholders or tax withheld on account of Shareholders' tax liability;
- (vii) all commissions, stamp duty, value added tax and other costs and expenses of or incidental to any acquisition, holding, realisation or other dealing in investments, foreign exchange options, financial futures, contracts for differences or any other derivative instruments or the provision of cover or margin therefor or in respect thereof or in connection therewith;
- (viii) all stationery, printing and postage costs in connection with the preparation and distribution of cheques, warrants, tax certificates, statements, accounts and reports made, issued or despatched pursuant to the articles of association of the Company or this Offering Memorandum;
- (ix) the fees and expenses of the auditors of the Company;
- (x) any fees payable by the Company to any regulatory authority in any other country or territory, the costs and expenses (including legal, accountancy and other professional charges and printing costs) incurred in meeting on a continuing basis the notification, registration and other requirements of each such regulatory authority, and any fees and expenses of representatives or facilities agents in any such other country or territory;
- (xi) all fees and costs relating to a scheme of reconstruction and amalgamation (to the extent it has not been agreed that such expenses should be borne by other parties) under which the Company acquires property; and
- (xii) all other costs and expenses incurred by the Company and any of their appointees which are permitted by the Articles.

## **TAXATION**

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Prospective investors should ascertain from their professional advisers the consequences to them of acquiring, holding, redeeming or selling Shares under the relevant laws of the jurisdictions to which they are subject including the tax consequences and any exchange control requirements.

### **Cayman Islands**

#### *Certain Cayman Islands Tax Considerations*

It is the responsibility of all persons interested in purchasing Shares to inform themselves as to any tax consequences from their investing in the Company and the Company's operations or management, as well as any foreign exchange or other fiscal or legal restrictions, which are relevant to their particular circumstances in connection with the acquisition, holding or disposition of Shares. Investors should therefore seek their own separate tax advice in relation to their holding of Shares and accordingly neither the Company, the Investment Manager nor the Administrator accept any responsibility for the taxation consequences of any investment into the Company by an investor.

#### *Taxation of the Company*

There is, at present, no direct taxation in the Cayman Islands and interest, dividends and gains payable to the Company will be received free of all Cayman Islands taxes. The Company is registered as an "exempted company" pursuant to the Companies Law (as amended). The Company has received an undertaking from the Governor in Cabinet of the Cayman Islands to the effect that, for a period of twenty years from 13 January 2004, no law that thereafter is enacted in the Cayman Islands imposing any tax or duty to be levied on profits, income or on gains or appreciation, or any tax in the nature of estate duty or inheritance tax, will apply to any property comprised in or any income arising under the Company, or to the Shareholders thereof, in respect of any such property or income.

### **Hong Kong**

#### *Taxation of the Company*

It is the intention of the Directors to conduct the affairs of the Company as far as possible in such a manner as to minimize the risk of the Company being considered to carry on a trade or business in Hong Kong on its own account or through the agency of the Investment Manager.

The Company will be liable to Hong Kong profits tax (currently at the rate of 16.5 per cent.) if it carries on a business in Hong Kong, either by itself or through an agent, and earns Hong Kong sourced revenue profits.

Under the current tax legislation, a non-Hong Kong resident fund is exempt from profits tax in Hong Kong in respect of specified securities transactions carried out by such non-resident fund through certain specified persons in Hong Kong under certain conditions. If the Company is regarded as carrying on a business in Hong Kong and cannot take advantage of such tax exemption, a liability to profits tax will arise in respect of any revenue profits, excluding gains of a capital nature, arising in or derived from Hong Kong. Revenue profits arising on the disposal of securities listed on the Hong Kong stock exchange will be taxable in Hong Kong (except those held as capital assets held for long term investment purposes). Revenue profits on the disposal of non-listed securities will be taxable in Hong Kong where the contracts of purchase or sale are negotiated, concluded and executed (i.e. "effected") in Hong Kong. Interest income on debt instruments where the loan is first made available outside Hong Kong will generally not be taxable in Hong Kong. Interest on local bank deposits is statutorily exempt unless the deposits are used to secure or guarantee a loan and the interest on such loan is deductible for tax purposes. Dividend income is generally not taxable for Hong Kong profits tax purposes.

No withholding tax is applied on interest or dividend payments from Hong Kong.

#### *Taxation of Investors*

Profits arising on the realization of an investment in the Company should only be subject to profits tax for shareholders who are carrying on business in Hong Kong where the profits, not being regarded as capital in nature, arise from such business and are sourced in Hong Kong. Shareholders who are not acquiring shareholdings of the Company as part of a business that they are carrying on in Hong Kong should not be liable to profits tax in respect of any gains from the disposal / redemption of such shareholdings.

Dividends received by investors from their shareholdings in the Company would not be chargeable to tax in Hong Kong (whether by way of withholding or otherwise) under current law.

If the Company is considered as a non-Hong Kong resident fund and is exempt from taxation in Hong Kong, a Hong Kong resident investor of the Company could be deemed to derive a proportion of the Hong Kong sourced profits of the Company exempted under the legislation, and be chargeable to tax in Hong Kong on such deemed profits. This deeming provision would only apply if the investor, being not associated with the Company as defined, either alone or together with his associates holds 30% or more of the beneficial interests in the Company and if the Company is not regarded as being bona fide widely held. For a Hong Kong resident investor who is associated with the Company, the deeming provision would apply for any percentage of his beneficial interests in the Company if the Company is not regarded as being bona fide widely held.

On the basis that the register of Shareholders of the Company will be maintained outside Hong Kong, no Hong Kong stamp duty will be payable in respect of transactions in the Shares of the Company.

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## **MATERIAL CONTRACTS**

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The following contracts, not being contracts entered into in the ordinary course of business, have been entered into since the incorporation of the Company and are, or may be, material.

### **The Investment Advisory Agreement**

Under the provisions of the Investment Advisory Agreement dated 1st October 2008, the Investment Manager has appointed the Investment Advisor to assist it in its functions as Investment Manager. Under the terms of the Investment Advisory Agreement, the Investment Manager is responsible for compensating the Investment Advisor. In no event will the Company bear the fees of the Investment Advisor.

The appointment of the Investment Advisor under the Investment Advisory Agreement shall continue and remain in force unless and until terminated by either party giving to the other not less than 90 days' written notice. Upon the insolvency of either party or occurrence of certain other events, the agreement may be terminated by the other party with immediate effect.

The Investment Advisory Agreement provides that the Investment Manager will indemnify the Investment Advisor, its directors, officers and employees from and against any and all liabilities, losses, damages, claims, costs and expenses which may be incurred by or asserted against the Investment Advisor other than those resulting from the negligence, wilful default or fraud on the part of the Investment Advisor or its employees.

### **The Investment Management Agreement**

Under the provisions of the Investment Management Agreement, the Investment Manager has agreed to manage the assets of the Company.

The Investment Management Agreement provides, *inter alia*, that:

- (i) the Investment Manager may terminate the Investment Management Agreement:
  - (a) at any time by giving not less than 30 days' notice in writing (or such shorter notice as the Company may accept) to the Company;
  - (b) at any time by notice in writing to the Company if the Company shall go into liquidation or if a receiver or provisional liquidator or administrator or similar officer is appointed over any of the assets of the Company; or
  - (c) at any time by notice in writing to the Company if the Company shall commit any breach of its obligations under the Investment Management Agreement.
- (ii) the Company may terminate the Investment Management Agreement:
  - (a) at any time by notice in writing to the Investment Manager if the Investment Manager shall go into liquidation or if a receiver or provisional liquidator or administrator or similar officer is appointed over any of the assets of the Investment Manager; or
  - (b) at any time by notice in writing to the Investment Manager if the Investment Manager shall commit any breach of its obligations under the Investment Management Agreement.

### **The Administration Agreement**

The Company has appointed Custom House Fund Services (Ireland) Limited as the Administrator (the "Administrator") of the Company. The Administrator will provide services as an administrator, registrar and transfer agent and provide corporate secretarial services to the Company. In addition the Company has also appointed Custom House Fund Services (Ireland) Limited as Registrar and Transfer Agent (the "Registrar") for the Company, in order to provide services that include the maintenance of a copy of the Register representing the Company's records relating to Share ownership and the redemption of Shares; receipt of requests for redemption; authorisation of redemption payments; authorisation of disbursements of management and advisory fees, commissions and other charges; and other services as agreed on by the parties.

### **The Prime Brokerage Agreement**

The Company has appointed UBS AG, London Branch ("UBS") as Prime Broker to the Company with responsibility for custody of all the Company's assets. UBS provides prime brokerage services to the Company under the terms of the Master Prime Brokerage Agreement between the Company and UBS (the "UBS Agreement"). These services may include providing the Company with margin financing, clearing, settlement, stock borrowing and foreign exchange facilities. The Company may also use UBS and other brokers and dealers to execute transactions for the Company. UBS also provides a custody service for all the Company's investments held by UBS in accordance with the UBS Agreement.

## **GENERAL**

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### **Constitution of the Company**

The constitution of the Company is its Memorandum and Articles of Association.

Paragraph 3 of the Company's Memorandum of Association states that the objects for which the Company is established are unrestricted and the Company shall have full power and authority to carry out any object not prohibited by any law.

The Directors have authority to effect the issue of Shares as provided for in the Articles.

### **Share Capital**

The authorised share capital of the Company is US\$50,000, divided into 100 Management Shares of US\$1 each and 4,990,000 Participating Shares of US\$0.01 each. The Management Shares have been subscribed for in full in cash by the Investment Manager.

The Company may by ordinary resolution of the holders of the Shares increase its authorised share capital, consolidate and divide all or any of its share capital into shares of a larger amount or sub-divide its Shares or any of them into shares of a smaller amount. The Company may, by special resolution of the holders of the Shares, reduce its authorised share capital.

Save as disclosed above:

- (a) no Shares have been issued or agreed to be issued for cash or other consideration and no such Shares are now proposed to be issued other than under the terms of the Offer as described herein; and
- (b) no Shares or any other capital of the Company are under option or agreed conditionally or unconditionally to be put under option.

No pre-emption rights exist in respect of the Shares, either under Cayman Islands law, under the Articles or otherwise.

### **Rights of Management Shares**

Holders of Management Shares shall only be entitled to receive notice of and to attend general meetings and shall have no voting rights except in respect of (i) the winding up of the Company, (ii) the appointment or removal of any director, (iii) the appointment or removal of any investment manager, and (iv) the amendment of the memorandum and articles of association to effect the foregoing, in relation to which they have the exclusive right to vote, and except when there are no Shares in issue.

Holders of Management Shares shall not be entitled to dividends. In the event of the liquidation of the Company, holders of Management Shares are entitled to the return of capital as more fully described in the section headed "Winding up" below.

### **Rights of Shares**

Holders of Shares shall be entitled to receive notice of general meetings and to attend and vote thereat except in respect of (i) the winding up of the Company, (ii) the appointment or removal of any director, (iii) the appointment or removal of any investment manager, and (iv) the amendment of the memorandum and articles of association to effect the foregoing. On a vote taken by a show of hands every holder of Shares who is present has one vote and on a poll every holder of Shares present in person or by proxy shall have one vote for each Share held by him.

Holders of Shares shall be entitled to dividends on a pro rata basis, in the event that any are declared (see the section headed "Dividend Policy" on page 16). In the event of the liquidation of the Company, holders of Shares are entitled to the return of capital as more fully described in the section headed "Winding up" below.

### **Modification of Rights attaching to the Shares**

The special rights attached to the Shares of any class may from time to time (whether or not the Company is being liquidated) only be materially adversely varied or abrogated with the consent in writing of the holders of at least two thirds of the issued Shares of the relevant class, or with the sanction of a resolution passed by Shareholders holding at least two thirds of all the Shares of the relevant class then in issue.

All the provisions of the Articles as to general meetings of the Company apply to every such separate meeting, except that the necessary quorum at any such meeting is one or more persons at least holding or representing by proxy at least one third of the issued Shares then in issue except that at an adjourned meeting of the Shareholders those shareholders who are present in person or by proxy shall constitute a quorum.

The rights attaching to the Shares shall be deemed not to be varied by the creation, allotment or issue of further shares ranking *pari passu* with the Shares or ranking behind the Shares, the redemption or repurchase of any shares, the passing of a Directors resolution to change or vary the investment objective, investment technique and strategy and/or investment policy, or any modification of the fees payable to any service provider to the Company.

### **Restrictions on Holdings**

The Directors are empowered under the Articles to impose such restrictions as they consider necessary or desirable for the purpose of ensuring that no Shares of the Company are held by a Restricted Person.

### **Directors**

The Articles contain provisions relating to Directors as follows:

- (a) a Director may hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with his office of Director on such terms as to tenure of office and otherwise as the Directors may determine;
- (b) a Director may not vote in respect of any contract in which he is materially interested unless he first discloses his interest to the Board of Directors. He shall not be disqualified by his office from contracting with the Company. If a Director declares his interest in any contract which the Company is considering entering into, he may be counted in the quorum of any meeting to consider the contract and may vote on any resolution to enter into such contract;
- (c) the Directors may be reimbursed for travel, hotel and other expenses incurred by them in attending meetings of the Directors or in connection with the business of the Company. Any Director who devotes special attention to the business of the Company may be paid such extra remuneration as the Directors may determine. Directors' remuneration will be paid half-yearly in advance;
- (d) there is no provision for the retirement of Directors on their attaining a certain age and the Articles do not provide for retirement of Directors by rotation;
- (e) the Directors are authorised under the Articles to exercise all powers of the Company to borrow money; and
- (f) every Director, agent or officer of the Company shall be indemnified out of the assets of the Company against any liability incurred by him as a result of any act or failure to act in carrying out his functions other than such liability (if any) that he may incur by his own wilful neglect or default. No such Director, agent or officer shall be liable to the Company for any loss or damage in carrying out his functions unless that liability arises through the wilful neglect or default of such Director, agent or officer.

At the date of this Offering Memorandum:

- (a) no Director has any direct or indirect interest in any contract or arrangement which was either unusual in its nature or significant to the business of the Company in the current financial year and remains outstanding, save to the extent that Mr. Stockford may be deemed to have an interest in the Investment Management Agreement by virtue of their position with the Investment Manager; and
- (b) no Director nor any connected person has any interest, beneficial or non-beneficial, in the Shares of the Company nor any options in respect of such Shares nor in any agreement or arrangement with the Company.

### **Winding up**

The Company will be wound up in accordance with the Companies Law (as amended) of the Cayman Islands, as amended, and with the Articles.

The Company will be wound up on the passing of a special resolution by a majority of at least two-thirds of the votes cast at a meeting of the holders of all of the Management Shares in issue as of the date of that meeting.

If the Company is wound up, the liquidator shall apply the assets of the Company in such manner and order as he thinks fit in the satisfaction of creditors' claims.

Subject to any rights and restrictions for the time being attributed to any Shares, the assets available for distribution among the Shareholders shall then be applied in the following priority:

- (a) first, in the payment to the holders of Participating Shares and Management Shares of a sum equal to the par value of the Participating Shares or Management Shares held by them; and
- (b) second, in the payment of any balance to holders of Participating Shares, such payment being made in proportion to the Net Asset Value per Participating Share of the relevant class or series of Participating Shares held.

If the Company shall be wound up (whether the liquidation is voluntary, under supervision or by the court), then the liquidator may, with the authority of a special resolution and any other sanction required by applicable law, divide among the members in specie the whole or any part of the assets of the Company, and whether or not the assets shall consist of property of a single kind and may for such purposes set such value as he deems fair. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of Shareholders as the liquidator, with the like authority, shall think fit, and the liquidation of the Company may be closed and the Company dissolved, but so that no holder shall be compelled to accept any assets in respect of which there is liability.

### **Cayman Islands Mutual Funds Law**

The Company falls within the definition of a "Mutual Fund" in terms of the Mutual Funds Law (as amended) of the Cayman Islands (the "Law") and accordingly is regulated in terms of that Law. However, the Company is not required to be licensed or employ a licensed mutual fund administrator since the minimum aggregate investment purchasable by a prospective investor in the Company is equal to or exceeds US\$100,000.00 or its equivalent in any other currency.

As a regulated mutual fund, the Company is subject to the supervision of the Cayman Islands Monetary Authority (the "**Monetary Authority**"). The Company must file this Offering Memorandum and details of any changes that materially affect any information in this Offering Memorandum with the Monetary Authority. The Company must also file annually with the Monetary Authority accounts approved by an approved auditor, together with a return containing particulars specified by the Monetary Authority, within six months of its financial year end or within such extension of that period as the Monetary Authority may allow. A prescribed fee must also be paid annually.

The Monetary Authority may, at any time, instruct the Company to have its accounts audited and to submit them to the Monetary Authority within such time as the Monetary Authority specifies. In addition, the Monetary Authority may ask the Directors to give the Monetary Authority such information or such explanation in respect of the Company as the Monetary Authority may reasonably require to enable it to carry out its duty under the Law.

The Monetary Authority shall, whenever it considers it necessary, examine, including by way of on-site inspections or in such other manner as it may determine, the affairs or business of the Company for the purpose of satisfying itself that the provisions of the Law and applicable anti-money laundering regulations are being complied with.

The Directors must give the Monetary Authority access to or provide at any reasonable time all records relating to the Company and the Monetary Authority may copy or take an extract of a record it is given access to. Failure to comply with these requests by the Monetary Authority may result in substantial fines on the part of the Directors and may result in the Monetary Authority applying to the court to have the Company wound up.

The Monetary Authority may take certain actions if it is satisfied that a regulated mutual fund:

- (a) is or is likely to become unable to meet its obligations as they fall due;
- (b) is carrying on or is attempting to carry on business or is winding up its business voluntarily in a manner that is prejudicial to its investors or creditors;
- (c) is not being managed in a fit and proper manner; or
- (d) has persons appointed as Director, manager or officer that is not a fit and proper person to hold the respective position.

The powers of the Monetary Authority include, inter alia, the power to require the substitution of Directors, to appoint a person to advise the Company on the proper conduct of its affairs or to appoint a person to assume control of the affairs of the Company. There are other remedies available to the Monetary Authority including the ability to cancel the registration of the Company and to apply to the court for approval of other actions.

### **Inspection of Documents**

Copies of the following documents are available for inspection during normal business hours at the registered office of the Company and at the offices of the Investment Manager:

- (i) the Memorandum of Association of the Company and the Articles
- (ii) this Offering Memorandum;
- (iii) the material contracts of the Company;
- (iv) the Companies Law (as amended) of the Cayman Islands;
- (v) the Mutual Funds Law (as amended) of the Cayman Islands; and
- (vi) a memorandum for each of the Directors detailing the names of all the companies and partnerships of which they have been a director or partner at any time in the previous five years, together with an indication of whether or not they are still a director or partner.

### **Reports**

The financial year-end of the Company is 31 December in each year, with the first financial period ending 31 December 2008. Audited annual accounts and reports for the Company, which will be prepared in accordance with International Financial Reporting Standards, will be sent to Shareholders within six months of the financial year end to which they relate.

The audited reports for the Company will be sent to applicable Shareholders and prospective investors on request.

**Miscellaneous**

As at the date of this Offering Memorandum:

- (a) there are no outstanding debt securities or warrants created or issued by the Company;
- (b) since incorporation, the Company has not been engaged in any litigation or arbitration and no litigation or claim is known to the Directors to be pending or threatened against it which may have a significant effect on the Company or its financial position;
- (c) there are no existing or proposed Directors' service contracts; and
- (d) the Company has no loan capital (including term loans) outstanding or created but unissued and no outstanding mortgages, charges or other borrowings or indebtedness in the nature of borrowing, including bank overdrafts and liabilities under acceptances or acceptance credits, hire purchase commitments, guarantees or other contingent liabilities;
- (e) there are no side letters entered into by the Company or the Investment Manager for the sharing of fees with third party marketers or distributors. However, the Company or the Investment Manager, with the approval of the Board, may enter into such side letters if it is believed to be beneficial to the Company.