

CONSTITUTION

AllianceBernstein Managed Volatility Equities Fund
(ARSN 099 739 447)

AllianceBernstein Investment Management Australia Limited
ABN 58 007 212 606

This document is a consolidated copy of the Constitution dated 22 February 2002 ("**Original Constitution**") as amended by Supplemental Deeds dated *[further detail of historical amendments to be added here]*, 28 March 2018 and 10 December 2018.

This is not a legally binding document.
Reference should be made to the Original Constitution and the amending deeds for the operative provisions.

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[\[Proposed amendments – draft of 22 October 2020\]](#)

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CONSTITUTION

DATE

OPERATIVE PROVISIONS

This Constitution is declared by AllianceBernstein Investment Management Australia Limited ABN 58 007 212 606 of Level 32, Aurora Place, 88 Phillip Street, Sydney, New South Wales (**Responsible Entity**) to be the constitution of the AllianceBernstein Managed Volatility Equities Fund.

1 Meaning of words and interpretation

1.1 Meaning of words

In this deed:

Law Act means the *Corporations Act 2001 (Cth)* and a reference to the *Corporations Act* or a provision of it includes a reference to that provision as modified by any applicable ASIC Relief;

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AMIT has the meaning ascribed to it in the section 276-10 of the Tax Act;

AMIT Choice means a choice of a type referred to in section 276-10(1)(e)(i) of the Tax Act;

AMIT Tax Rule means the provisions of the Tax Act and the Taxation Administration Act 1953 relating to the taxation of AMITs;

AMIT Year means a Financial Year for which the Trust is an AMIT;

AMMA Statement has the meaning ascribed to it in section 276-460 of the Tax Act;

Application Money means any money or property lodged with the Responsible Entity under this deed;

AQUA Rules means the rules governing the operation of ASX's AQUA market as set out in Schedule 10A to the ASX Operating Rules and any related procedures and rules which govern the Quotation and transfer of financial products on the AQUA platform of ASX.

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ASIC has the meaning given in the Law Act;

ASIC Relief means an exemption or declaration granted by ASIC which gives relief from certain provisions of the Corporations Act including any class order relief available to the Responsible Entity, the Trust or Unit Holders.

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Assets means all the cash, investments and other property of the Trust (or of a Class Pool, as applicable) including, for the avoidance of doubt, any part of an Asset;

Associate has the meaning given in the Law Act;

ASX means ASX Limited or a market operated by it, as the context requires.

ASX Operating Rules means the ASX operating rules (including the AQUA Rules), as amended from time to time.

Auditor means a firm of auditors appointed under clause 11.2;

Business Day means, unless the Responsible Entity decides otherwise, a day on which banks are open for business in Sydney, except a Saturday, Sunday or public holiday and, if Units are Quoted, has the meaning given to that term in the Operating Rules of the relevant Securities Exchange;

CHES means ASX's Clearing House Electronic Subregister System, and a reference to CHES includes a reference to any replacement or additional system that performs the same clearing and settlement function for a Securities Exchange, which is operated by distributed ledger technology or otherwise.

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Chi-X means Chi-X Australia Pty Ltd ACN 129 584 667 or the market operated by it as the context requires.

Chi-X Operating Rules means the Chi-X operating rules, as amended from time to time.

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Class means a class of Units.

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Class Pool means a separate pool of the Assets and liabilities referable to a Class of Units;

Clearing Rules means the operating rules, procedures, practices, directions, decisions and requirements of ASX Clear Pty Ltd ABN 48 001 314 503, or a body which replaces it or performs its functions in relation to the financial markets operated by the relevant Securities Exchange.

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Compliance Committee means the compliance committee for the Trust, if and as required under Chapter 5C of the LawAct;

Compliance Plan means the compliance plan for the Trust as required under Chapter 5C of the LawAct;

Constitution means, in relation to the Trust, this deed as amended from time to time;

Costs means costs, charges, fees, expenses and Taxes and all amounts payable in respect of any of them;

deed means this deed, as amended from time to time.

Distributable Income means the amount determined under clause 8.3(a);

Distribution Calculation Date means 30 June;

Distribution Payment Date means the date the Responsible Entity determines from time to time in accordance with Schedule 3;

Distributable Income means the amount determined under clause 8.3(a);

Distribution Period means a Financial Year;

Early Withdrawal Fee means the amount calculated from time to time by the Responsible Entity in relation to withdrawals made within 180 days of purchase of Units being an amount specified as such in Schedule 3;

Excess Acquired Units has the meaning given in clause 22.7;

Excess Sold Units has the meaning given in clause 22.5;

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Exit Fee means the amount up to the amount specified as such in Schedule 3;

Financial Year means, for the Trust:

- (a) for the first Financial Year, the period from the establishment of the Trust to the next 30 June;

- (b) for the last Financial Year, the period beginning, on 1 July before the date the Trust terminates to the date ~~the of final distribution on winding up of the Trust terminates;~~ and
- (c) in all other circumstances, the 12 month period ending on 30 June in each year;

GST has the same meaning as in the GST Act and includes any replacement or subsequent similar tax;

GST Act means a New Tax System (Goods and Services Tax) Act 1999 (Cth);

Income means for any period all the net income of the Trust (or of a Class Pool) determined according to generally accepted accounting principles in force ~~immediately before 1 January 2005~~ from time to time, whether accrued, due or receivable or received and not previously accounted for in respect of the period;

Income Entitlement means the entitlement to Distributable ~~I~~ income determined under clause 8.3(b);

Indicative Buy-Back Price means the average market price (as that term is defined in the Listing Rules) per Unit of all Units sold on the Securities Exchange during the last 5 days on which sales in Units were recorded before the relevant Business Day.

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Initial Service Charge means the amount up to the amount specified as such in Schedule 3 which is deducted from the Application Money for Units;

Interim Distribution means an amount determined by the Responsible Entity to be an Interim Distribution in accordance with clause 8.3(c);

Interim Distribution Calculation Date in relation to an Interim Distribution is the date determined as such by the Responsible Entity pursuant clause 8.3(c) which may be a date prior to the date on which such determination is made;

Large Redemption has the meaning given in clause 5.2(f);

~~Law means the Corporations Act 2001 (Cth);~~

Liquid Scheme means in relation to a trust or asset, a trust or asset which is liquid for the purposes of as defined in Chapter Part 5C.6 of the LawAct;

Listing Rules means the listing rules of ASX.

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Market Operator means Chi-X or ASX, or any other entity that operates a financial market on which Units are traded, as relevant.

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Minimum Holding means the minimum value of Unit Holding which is specified in Schedule 3, or any other amount the Responsible Entity determines from time to time;

month means calendar month;

Net Trust Value means the sum which is from time to time determined by the Responsible Entity which is the market value of all Assets of the Trust less:

- (a) all amounts required to repay borrowings and to meet liabilities (including the amount of any provision for actual or contingent liabilities the Responsible Entity determines should be made); and
- (b) following any Distribution Calculation Date or Interim Distribution Calculation Date, the amount of any Distributable Income, or Interim Distribution, payable or determined to be paid by the Responsible Entity but not paid to Unit Holders on the day on which the Net Trust Value is determined;

Net Pool Value means the sum which is from time to time determined by the Responsible Entity which is the market value of all Assets of a Class Pool less, in respect of that Class Pool:

- (a) all amounts required to repay borrowings and to meet liabilities (including the amount of any provision for actual or contingent liabilities the Responsible Entity determines should be made); and
- (b) following any Distribution Calculation Date or any Interim Distribution Calculation Date, the amount of any Distributable Income, or Interim Distribution, payable determined to be paid by the Responsible Entity but not paid to Unit Holders on the day on which the Net Pool Value is determined.

which are properly referable to that Class;

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Net Taxable Income means, for any period, the net income of the Trust for that period determined according to the principles applicable under section 95(1) of the Tax Act;

Net Value per Unit means at any time:

- (a) for the first issue Units in the Trust, \$1.00; and
- (b) otherwise:
 - (i) if there is only one eClass of Units, the amount calculated by dividing the Net Trust Value by the Units on issue; or
 - (ii) if there is more than one eClass of Units, the amount calculated by dividing the Net Pool Value referable to a eClass by the Units on issue for that eClass;

Non-Cash Income means for any period, the sum of:

- (a) the amount (if any) that is included in the Net Taxable Income of the Trust which represents foreign income tax paid as defined in Section 770-15 of the Tax Act;
- (b) the amount (if any) that in relation to the Distribution Period is included in the assessable income of the Trust under sub-section 207-35(1) of the Tax Act;
- (c) any other amount that is included in the Net Taxable Income of the Trust which the Responsible Entity determines before the end of a Distribution Period to be non-cash income for the purposes of this definition. For the avoidance of doubt, where no such determination has been made by the Responsible Entity before the end of a Distribution Period, this amount shall be deemed to be nil;

Offer Document means any prospectus, information memorandum, product disclosure statement or other document through which Units in one or more eClasses are offered to investors;

Operating Rules means the operating rules of the Market Operator, including the Chi-X Operating Rules or the ASX Operating Rules, as relevant;

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Ordinary Resolution means a resolution that has been passed by a majority of the votes cast by Unit Holders entitled to vote on the resolution;

Prescribed Time means the time specified as such in Schedule 3 or any other time the Responsible Entity determines from time to time;

Purchase Price at any time for a Unit means:

- (a) for the first issue of Units in the Trust, \$1.00;

- (b) for the first issue of Units of a eClass when there is more than one eClass, the average of the Net Value per Unit of the other eClasses at the time of issue, rounded up or down to the nearest whole cent as determined by the Responsible Entity;
- (c) thereafter means the amount calculated by applying the following formula and then rounded up to the nearest whole cent or fraction of a cent:

$$PP = NVU + TCF$$

where:

PP is the Purchase Price;

NVU is the Net Value per Unit determined at the next Valuation Point after the acceptance of the application;

TCF is the Transaction Cost Factor (if any);

Qualified Investor means an investor who meets the requirements for acquisition (whether by issue, transfer or otherwise) of a Unit (if any) that is determined by the Responsible Entity.

Quoted means authorised by the relevant Securities Exchange under the Operating Rules of that exchange for the Units to be traded on the relevant market, including where authorisation for trading is suspended for a period not exceeding 60 days. Quotation has a corresponding meaning.

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Quoted Class means a Class which is Quoted.

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Ratings Agency means an internationally recognised ratings agency as determined by the Responsible Entity;

Register means:

(a) in respect of a Class which is not Quoted, the a register of Unit Holders maintained by or on behalf of the Responsible Entity under for the purposes of the LawAct; and

(b) in respect of a Class which is Quoted, the record of Unit Holders in a CHES subregister or an issuer-sponsored subregister;

Registered Company Auditor has the meaning given in the LawAct;

Registered Scheme has the meaning given in the LawAct;

Regulatory Requirement has the meaning given to that term in clause 1.5(b) of this Constitution;

Required Part has the meaning given to that term in clause 1.5(b) of this Constitution;

Required Provisions has the meaning given to that term in clause 1.5(a) of this Constitution;

Resolution means a resolution passed at a meeting of Unit Holders or a class of Unit Holders holding Units in a Class;

- (a) on a show of hands, by the required majority of Unit Holders present in person or by proxy and voting on the show of hands;
- (b) on a poll, by the required majority of votes cast by Unit Holders present in person or by proxy and voting on the poll,

or where the law allows, a resolution in writing signed by Unit Holders holding the required majority of the Units.

Except where this deed or any applicable law provides otherwise, the "required majority" is a simple majority;

Responsible Entity means:

(a) while the Trust is a Registered Scheme, the company which is registered with ASIC as the responsible entity for the Trust under the Corporations Act; and

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(b) while the Trust is not a Registered Scheme, AllianceBernstein Investment Management Australia Limited (ABN 58 007 212 606) or any other person acting as replacement trustee under this deed from time to time;

Securities Exchange means, as the context requires, Chi-X or ASX, and includes any other exchange on which Units are Quoted.

Settlement Rules means the operating rules, procedures, practices, directions, decisions and requirements of ASX Settlement Pty Ltd ABN 49 008 504 532, or a body which replaces it or performs its functions in relation to the financial markets operated by the relevant Securities Exchange.

Tax means any income tax, withholding tax, duty (including financial institutions duty paid or reimbursed to other financial institutions), goods and services tax, any other taxes, duties, levies, imposts, deductions and charges, and any interest, penalties or fines;

Tax Act means the Income Tax Assessment Act (Cth) 1936, the Income Tax Assessment Act 1997 and the GST Act as the case requires;

Trading Day means a Business Day when it is possible to trade on a Securities Exchange on which the Units are Quoted.

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Transaction Cost Factor means an amount determined by the Responsible Entity which reflects an estimate of costs incurred or which would be incurred:

- (a) for the purchase or acquisition of Assets of the Trust (or of the relevant Class Pool) on the issue of Units in the Trust (or in the ~~eClass of Units~~ referable to that Class Pool); and
- (b) for the sale or disposal of Assets of the Trust (or of the relevant Class Pool) on the redemption of Units in the Trust (or in the ~~eClass of Units~~ referable to that Class Pool);

Trust means the AllianceBernstein Managed Volatility Equities Fund (ARSN 099 739 447);

Unders and Overs Rules means the rules set out in subdivision 276-F of the Tax Act;

Unit means an undivided interest in the Trust as provided in this deed;

Unit Holder means a person registered as the holder of a Unit, including any persons jointly registered;

Unit Holding means the total number of Units held by a Unit Holder, which may refer to, as the case requires, total Units of all ~~eClasses~~ or total Units of a particular ~~eClass~~;

User Pays Fees means any costs incurred in relation to:

- (a) an entitlement to a payment or a payment to or from the Trust in respect of a Unit Holder;
- (b) any act or omission requested by a Unit Holder,

which the Responsible Entity considers should be borne by the Unit Holder;

Valuation Point means the time selected by the Responsible Entity as the appropriate time to establish Asset values for the purpose of determining the Net Trust Value or Net Pool Value;

Withdrawal Amount means in relation to a redemption of Units, the aggregate Withdrawal Price of all Units redeemed ~~less the Early Withdrawal Fee (if any);~~ and

Withdrawal Price for a Unit means an amount (rounded down as determined by the Responsible Entity to the nearest whole cent or fraction of a cent) being the amount of the Net Value per Unit determined at the first Valuation Point on a Business Day, less any Transaction Cost Factor.

1.2 Interpretation

In this deed, unless the context requires a different interpretation:

- (a) headings, [footnotes](#) and words in bold type are for convenience only and do not affect the interpretation of this deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of one gender include any gender;
- (d) an expression implying a natural person includes any corporation or other body corporate, partnership, joint venture, association and any, governmental or semi-governmental agency;
- (e) a reference to a clause or schedule is a reference to a clause of, and a schedule to, this deed and a reference to this deed includes any schedule;
- (f) a reference to a statute or regulation includes all statutes and regulations amending, consolidating or replacing them, and all regulations, proclamations, ordinances and by-laws issued under that statute;
- ~~(f)~~(g) [a reference to ASIC Relief or any other ASIC instrument includes any amendment or replacement of it;](#)
- ~~(g)~~(h) a reference to a document, [including a document setting out any rules or requirements of a Securities Exchange,](#) includes an amendment or supplement to, or replacement or novation of, that document;
- ~~(h)~~(i) where the day on or by which a thing must be done is not a Business Day, that thing must be done on or by the next Business Day;
- ~~(i)~~(j) a reference to cash includes cheque and bank cheque;
- ~~(j)~~(k) where a valuation of an Asset is to be made or the Net Trust Value or the Net Pool Value or the number of Units on issue for the Trust (or for a [eClass](#)) is to be determined, it must be made or determined as at a time determined by the Responsible entity; and
- ~~(k)~~(l) terms defined in the [LawAct](#) are used in this deed with the same defined meaning.

1.3 Corporations Act

The following provisions only apply during any period in which the Trust is a registered managed investment scheme under Chapter 5C of the [LawAct](#):

- (a) any provision or requirement required to be contained in this deed by the [LawAct](#) or a declaration or exemption granted by ASIC (whether by Class Order or otherwise) is deemed to be contained in this deed for so long as such provision of the [LawAct](#),

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declaration or exemption remains in force. The effect of such provisions or requirements should override any other provision of this deed to the extent of any inconsistency; and

- (b) any provision of this deed which is inconsistent with the provisions of the LawAct does not operate to the extent of the inconsistency. This clause is subject to any declarations made by or exemptions granted by ASIC (whether by Class Order or otherwise) which are current in respect of or applicable to this deed.

1.4 Operating Rules

- (a) In respect of Units which are Quoted, subject to the Act:
 - (i) despite anything in this deed, if the Operating Rules prohibit an act being done, the act may not be done;
 - (ii) nothing in this deed prevents an act being done that the Operating Rules require to be done;
 - (iii) if the Operating Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
 - (iv) if the Operating Rules require this deed to contain a provision and it does not contain such a provision, this deed is deemed to contain that provision;
 - (v) if the Operating Rules require this deed not to contain a provision and it contains such provision, this deed is deemed not to contain that provision; and
 - (vi) if any provision of this deed is or becomes inconsistent with the Operating Rules, this deed is deemed not to contain that provision to the extent of the inconsistency.

1.5 Corporations Act and ASIC Relief

- (a) Without limiting clause 1.3, if the Act requires that this deed contain certain provisions, or if ASIC Relief on which the Responsible Entity has determined it wishes to rely or which is expressly applicable to the Trust and the Responsible Entity requires provisions to a certain effect to be contained in this deed, in order for the ASIC Relief to apply ("Required Provisions"); or
- (b) if any part of this deed (a "Required Part") is included to comply with the requirements of the Act or ASIC or a Securities Exchange ("Regulatory Requirement") and that Regulatory Requirement ceases or changes,

then, to the extent the Act allows, this deed is taken to be amended so that the Required Provisions are included as separate provisions, or the Required Part is deleted or amended to reflect the amended Regulatory Requirement. The Required Provisions prevail over any other provisions of this deed to the extent of any inconsistency.

The Unit Holders:

- (i) authorise the Responsible Entity to make the amendments referred to in this clause 1.5 in a deed and, if required, to lodge it with ASIC; and
- (ii) agree that, subject to the Act, their rights under this deed do not include or extend to a right not to have this deed amended to comply with a Regulatory Requirement or to include Required Provisions.

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Changes in the text of the deed to which this clause 1.5 applies are made pursuant to the power in clause 16, but in respect of those changes, the requirements of clause 16 are to be read subject to this clause 1.5.

1.6 Application of Corporations Act

In this deed, except as otherwise provided in a particular clause or by law:

- (a) a requirement of the Act only applies while the Trust is a Registered Scheme; and
- (b) a requirement of the Operating Rules only applies while the relevant Units are Quoted.

1.7 ASIC Instruments

If ASIC Relief from subsections 601GC(1) and (2) of the Corporations Act is granted similar to section 601GA(5) of the Act inserted by ASIC Instrument 2017/125, and the relief applies to Registered Schemes other than trusts officially quoted on the listed market of ASX, for so long as that relief applies to the Trust, a change in the text of this deed because of the operation of clause 1.5 that is covered by the relief instrument is not a modification of, or the repeal and replacement of, the constitution that is required to comply with subsections 601GC(1) and (2) of the Act. Changes in the text of the constitution to which this clause 1.7 applies are made pursuant to the power in clause 16 but in respect of those changes the requirements of clause 16 are to be read subject to this clause 1.7.

1.8 Settlement Rules and Clearing Rules

- (a) If any of the Units of a Class are CHESSE approved securities, the Responsible Entity must:
 - (i) comply with any Settlement Rules and Clearing Rules applicable to dealing in those Units;
 - (ii) not in any way prevent, delay or interfere with the generation of a proper transfer in accordance with the Settlement Rules or Clearing Rules, or the registration of a paper-based transfer in registrable form, unless a holding lock under clause 13.2 applies or the Operating Rules, Settlement Rules or Clearing Rules require or permit the action; and
- (b) if there are also any Units of that Class on issue which are not CHESSE approved securities, ensure that an issuer-sponsored subregister, or a certificated subregister, for that Class is maintained in addition to the CHESSE subregister for the Class.

(b)

2 The Trust

2.1 Name of Trust

The name of the Trust is the AllianceBernstein Managed Volatility Equities Fund (ARSN 099 739 447). The Responsible Entity may change the name of the Trust in accordance with the Law Act, including in response to a request from or requirement of a Securities Exchange.

2.2 Assets

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[This clause 2.2 is preserved in its existing form and is not restated or amended].¹

3 Interest of Unit Holder

3.1 Division into Units

The beneficial interest in the Assets of the Trust is divided into Units. No Unit confers an interest in a particular part of the Trust or in any Asset. Subject to this deed and the rights attached to a eClass of Units, each Unit confers an equal, undivided interest in the Trust.

3.2 Fractions and splitting

- (a) Units may be issued or redeemed in fractions at the Responsible Entity's discretion, but while a Class is Quoted, fractions of a Unit in that Class must not be issued. The value of, and all rights and obligations attaching to, a fractional Unit in the Trust (or in a eClass) are in proportion to a whole Unit of the Trust (or that eClass).
- (b) Units may be consolidated, divided or redesignated as determined by the Responsible Entity.
- (c) Where any calculation performed under this constitution deed, or the terms of a withdrawal offer results in the issue or redemption of a fraction of one Unit, that fraction may be rounded up or down to such number of decimal places as the Responsible Entity determines. If any fractions of Units are on issue at a time when a Class is to be Quoted, the Responsible Entity may cancel the fractions with effect from the date of Quotation. In the case of any such rounding or cancellation, any resulting excess property becomes an Asset of the Class Pool.

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3.3 Joint holders of Units

Where 2 or more persons are registered as the holders of a Unit (joint holders) they are, for the purposes of the administration of the Trust and not otherwise, regarded as holding the Unit as joint tenants, on the following conditions:

- (a) the Responsible Entity is not bound to register more than 3 persons as the joint holders of the Unit;
- (b) the joint holders are jointly and individually liable for all payments, including payment of Tax, which must be made in respect of the Unit;
- (c) on the death of a joint holder, the survivor is the only person whom the Responsible Entity will recognise as having any title to the Unit, but the Responsible Entity may require evidence of death in any form it thinks fit;
- (d) any one of the joint holders may give an effective receipt which will discharge the Responsible Entity for the payment;
- (e) the joint holders are counted as a single holder of the Unit in calculating the number of Unit Holders who have applied for a meeting of Unit Holders; and
- (f) only the person whose name appears first in the Register as one of the joint holders of a Unit is entitled to delivery of any notices, cheques or other communications from the Responsible Entity. A notice, cheque or other communication given to that person is regarded as given to all the joint holders.

3.4 Restrictions

¹ In the original constitution, it stated "Subject to this deed and the rights attached to a class of Units, the Responsible Entity must hold the Assets on trust for the Unit Holders."

A Unit Holder may not:

- (a) interfere or seek to interfere with or question the rights, powers, authority or discretion of the Responsible Entity;
- (b) claim or exercise any right in respect of any Asset or lodge a caveat or other notice affecting any Asset; or
- (c) require any Asset to be transferred to the Unit Holder.

3.5 Classes of Units

- (a) The Responsible Entity may subject to the Act and the Operating Rules:
 - (i) issue Units in different eClasses of Units;
 - (ii) divide issued Units into different eClasses; and
 - (iii) convert and provide for conversion of, Units from one eClass to another eClass and, if the Responsible Entity determines, change the number of Units on such conversion,

with different rights, obligations and restrictions attaching to different eClasses and subject to clause 16 and the applicable law the Responsible Entity may change such rights, obligations and restrictions.
- (b) The Responsible Entity must determine the rights and restrictions attached to a eClass of Units at, or before, the time it first issues a Unit in the eClass or first divides or converts issued Units into the eClass. For the avoidance of doubt, a new eClass does not constitute a separate trust from the Trust.
- (c) At any time, all Units of a eClass are of equal value and have the same rights.
- (d) Except to the extent otherwise provided for a eClass of Units, all Units confer the same rights.
- (e) When there is more than one eClass of Units, on entry of the issue of Units in the Register, the Responsible Entity must specify in the Register the eClass of those Units.
- (f) The rights attaching to each Unit in a Class are the same as the rights attaching to each other Unit in that Class, and accordingly all Units in the Class are fungible. Units are not of a different Class to other Units solely because some are recorded on a CHESSE subregister and others are on an issuer-sponsored subregister.

3.6 Class Pools

- (a) When a Responsible Entity first exercises its powers under clause 3.5 to create a new eClass of Units such that there are two or more eClasses of Units in the Trust, the Responsible Entity must also, to the extent permitted by, and in accordance with, this deed and the applicable law:
 - (i) create one (1) Class Pool for each Unit eClass;
 - (ii) allocate each Asset of the Trust to one or more Class Pools; and
 - (iii) allocate each liability of the Trust to one or more Class Pools.
- (b) To the extent permitted by, and in accordance with, this deed and the applicable law, the Responsible Entity may:

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- (i) create Class Pools at any time;
 - (ii) terminate a Class Pool at any time if that Class Pool does not have any Asset (or income, entitlements, rights and other property attaching to, or attributable to, any Asset) allocated to it.
- (c) The distribution and other rights and entitlements of each Unit in a particular eClass are to be determined by reference to the Class Pool to which that eClass relates.
- (d) Without limiting:
- (i) its duties and obligations in respect of Unit Holders or Unit Holders of a particular eClass;
 - (ii) its powers of investment or in respect of any investment (including its power to vary any Asset); or
 - (iii) any amendment that may be made as permitted by the terms of this deed or the applicable law,

the Responsible Entity may where to do so will not adversely affect Unit Holders' rights or otherwise materially diminish or expand the interests of any Unit Holders (including, either or both, on the basis of any choice made by Unit Holders and where the variation or designation divides Units into separate eClasses):

- (iv) vary the Assets or liabilities which relates to such of the Units as it specifies, and
- (v) designate Assets (as varied), or the rights and obligations under that Asset or liabilities (as varied) as relating to specified Units as (and which then form and are divided into) a separate eClass for the purposes of this deed.

For the purposes of this clause, any variation of any Asset or liability may include the separation of groups of rights and obligations under the Asset or liability so that they may be designated to relate to a separate eClass of Units to an extent that the Responsible Entity so specifies (including on the basis of any choice made by the Unit Holder holding the Units).

3.7 Class Pool obligations

At all times after the Responsible Entity first exercises its powers under clause 3.6(a)(i), the Trustee must:

- (a) allocate all Assets and all liabilities to one or more Class Pools;
- (b) allocate all income, entitlements, rights and other property attaching to, or attributable to, a particular Asset to the same Class Pool to which that Asset is allocated;
- (c) designate one (1) Class Pool for each eClass of Units. The Class Pool to which a eClass of Units is referable may be changed as the Responsible Entity determines and notifies the Unit Holders affected;
- (d) not:
 - (i) designate more than one (1) Class Pool for a eClass of Units; and
 - (ii) designate more than one (1) eClass of Units for a Class Pool;
- (e) unless the Responsible Entity determines otherwise, if an Asset relates to more than one Class Pool, allocate that Asset to each Class Pool in the proportions which the

Net Pool Value of each Class Pool bears to the aggregate Net Pool Value for all of the Class Pools to which the Asset relates;

- (f) unless the Responsible Entity determines otherwise, if a liability or part of a liability relates to a particular Class Pool, the Responsible Entity must, to the extent possible, allocate that liability or that part of the liability to that Class Pool;
- (g) unless the Responsible Entity determines otherwise, if a liability or part of a liability relates to more than one Class Pool, and the liability relates to identifiable Assets within each of those Class Pools, then it will be allocated among those Class Pools in the same proportions as those identifiable Assets are allocated among those Class Pools and in all other circumstances where a liability relates to more than one Class Pool it will be allocated among those Class Pools in the proportions which the Net Pool Value of each relevant Class Pool bears to the aggregate Net Pool Value for all of the Class Pools to which the liability relates; and
- (h) unless the Responsible Entity determines otherwise, if a liability or part of a liability does not relate to any particular Class Pool, the Responsible Entity must allocate that liability or that part of that liability among all Class Pools in the proportion which the Net Pool Values of the other Class Pools bear to the Net Pool Value of the [FundTrust](#).

4 Creation and sale of Units

4.1 Creation of Units

- (a) Subject to this deed and the rights attached to a [eClass of Units](#), the number of Units to be issued in the Trust (or in a [eClass](#)) ~~are created~~ is determined by dividing the value of any cash or other property [which is](#) to form part of the Assets of the Trust (or of a Class Pool) ~~(less the Initial Service Charge (if any))~~ by the Purchase Price on the day the Units are regarded as created under clause 4.4.
- (b) [Subject to clause 22.1](#) the consideration payable for a Unit is the Purchase Price for that Unit.

4.2 Application for Units

A person who wishes to subscribe for Units must:

- (a) unless that person is an existing Unit Holder, apply for a number of Units with a total Purchase Price equal to or greater than the Minimum Holding, unless the Responsible Entity agrees otherwise;
- (b) complete an application in the form or manner determined by the Responsible Entity;
- (c) lodge the application at the place specified and in the manner approved by the Responsible Entity; and
- (d) include with the application, payment [of the Purchase Price](#) in the form specified by the Responsible Entity or the transfer of property to be vested in the Responsible Entity.

4.3 Payments to Responsible Entity

- (a) All payments or transfers of property from an applicant for Units must be in favour of or to the Responsible Entity [or as the Responsible Entity directs, for example to a custodian](#).

- (b) If an applicant is to transfer property rather than cash to the Responsible Entity, the Responsible Entity may request that it be accompanied by a valuation acceptable to the Responsible Entity, stating the market value.
- (c) ~~The~~ applicant must pay all amounts payable for the transfer and valuation of property to the Responsible Entity before the Responsible Entity accepts the application.
- (d) If a payment for Units is not cleared, the Units issued are cancelled and are regarded as not having been issued.

4.4 Allotment of Units

(a) Subject to clause 4.4(b):

~~(a)(i)~~ If the Responsible Entity receives an application for Units before the Prescribed Time on a Business Day, if the application is accepted the Units applied for are regarded as created on that day, ~~if the Responsible Entity accepts the application~~. For applications received before the Prescribed Time, the relevant Purchase Price used shall be as determined at the next Valuation Point.

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~~(b)(ii)~~ If the Responsible Entity receives an application at or after the Prescribed Time on a Business Day, or on a day which is not a Business Day, the Units applied for are regarded as created on the following Business Day, if the Responsible Entity accepts the application. For applications received after the Prescribed Time on a Business Day, the relevant Purchase Price used shall be determined at the first Valuation Point on the following Business Day.

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(b) While Units in a Class are Quoted, Units in that Quoted Class that are to be recorded on the CHESS subregister are created and issued in the manner and at the time CHESS or the Operating Rules, Settlement Rules or Clearing Rules contemplate.

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(c) If Units are to be issued:

- (i) on reinvestment of all or part of a Unit Holder's Income Entitlement, the Units are regarded as being created on the first Business Day following the Distribution Calculation Date or relevant Interim Distribution Calculation Date in which the Income Entitlement arose; and
- (ii) to a Unit Holder participating in a savings plan for the issue of further Units, the Units are regarded as being vested on a date determined by the Responsible Entity after the date the Responsible Entity receives payment for the Units.

(d) A Unit created is regarded as allotted to the person entitled to it when the person's name is recorded in the Register, or when CHESS or the Operating Rules contemplate.

4.5 Responsible Entity's discretion on application

The Responsible Entity may in its absolute discretion accept or reject in whole or in part any application for Units without reason.

4.6 Transaction advice

The Responsible Entity need not issue certificates for any Units created, but may issue a transaction advice to the Unit Holder.

4.7 Excess application money

Any excess application or other money or property which results from rounding becomes an Asset of the Trust (or of a Class Pool).

4.8 Other interests

The Responsible Entity need not recognise any claim or interest in a Unit by any person other than a registered holder, even if the Responsible Entity has notice of it.

4.9 Responsible Entity may sell Units on-market

While Units in a Class are Quoted, subject to the applicable Operating Rules of the relevant Securities Exchange, the Responsible Entity may, in accordance with clause 22, offer and/or agree to sell Units in that Class on market and issue Units to itself as determined by the Responsible Entity for the purposes of fulfilling the sale of Units on market.

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5 Withdrawal of Units

5.1 Request for withdrawal of Units

(a) A Unit Holder may request the Responsible Entity to have any Units held by the Unit Holder redeemed. The redemption request must:

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(i) specify the number or total value of Units to be redeemed;

(ii) be in a form approved by the Responsible Entity and notified to Unit Holders from time to time; and

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(iii) be lodged or submitted at the Responsible Entity's place of business, or such other address of any agent of the Responsible Entity, as notified to Unit Holders from time to time.

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(b) A Unit Holder may not withdraw a request for redemption without the Responsible Entity's consent.

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(c) The Responsible Entity is not required to satisfy a redemption request if the request is made while the Trust is Liquid and the Trust ceases to be Liquid before the request is satisfied.

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(d) In relation to a redemption request for Units in a Quoted Class, the Responsible Entity may require a Unit Holder who holds their Units on a CHESS subregister to have the Units the subject of the redemption request moved to an issuer-sponsored subregister, and to provide any information the Responsible Entity reasonably requires prior to processing the redemption request.

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5.2 Withdrawal of Units

(a) Subject to clause 5.2(f) and clause 17.10 if a Unit Holder has made a redemption request which complies with this deed, the Responsible Entity may, within 21 days excluding any period during which redemptions of Units are suspended under clause 5.3(a), redeem the Units and pay the Withdrawal Amount to the Unit Holder.

(b) Subject to clauses 5.1(d), 5.2(f), clause 5.3 and clause 17.10, the Responsible Entity must satisfy a redemption request which complies with this deed in respect of a Unit by the payment of the Withdrawal Price calculated as follows:

(i) if the redemption request is received before the Prescribed Time on a Business Day, the Withdrawal Price applicable for that day; and

- (ii) if the redemption request is received after the Prescribed Time on a Business Day, the Withdrawal Price applicable for the next Business Day.

This clause 5.2 only applies while the Trust is Liquid at the relevant Valuation Point at which the Withdrawal Price is calculated.

- (c) If the Application Money for the Units has been paid by cheque, the Responsible Entity may refuse to act on a redemption request under clause 5.1 until the cheque is honoured by the bank on which it is drawn and the proceeds are received.
- (d) On the redemption of Units the Responsible Entity must cancel the Units redeemed, amend the Register and may deliver a transaction advice to the Unit Holder.
- (e) Unless Units are to be redeemed in fractions, the number of Units redeemed must be rounded up to the nearest whole number.
- (e) Subject to clause 5.3, if a Unit Holder requests the redemption of Units having a total value greater than 5% of the Net Trust Value (Large Redemption), the Responsible Entity may redeem the Units in separate parcels of not less than 1% of Net Trust Value, over a period of up to 30 days at the Withdrawal Price applicable on the day on which the relevant parcel of Units are redeemed. [This paragraph 5.2\(e\) does not apply where the Units in a Quoted Class have been suspended from Quotation for more than 5 consecutive Trading Days, unless:](#)
 - (i) the Trust is being wound up;
 - (ii) the Trust is not Liquid; or
 - (iii) the Responsible Entity has suspended withdrawals under clause 5.3.
- (f)
- (g) The Responsible Entity may transfer Assets to a Unit Holder rather than pay cash in satisfaction of all or part of a redemption request. Where a redemption request is satisfied wholly or in part by the transfer of Assets, the market value of such Assets, together with any cash paid (if any), must be of equal value to the total amount due to the Unit Holder pursuant to the redemption request. If the Responsible Entity requires, any costs involved in the transfer of Assets must be paid by the Unit Holder or deducted from the amount due to the Unit Holder.
- (h) Subject to the Operating Rules and the Corporations Act, the Responsible Entity may compulsorily redeem some or all of a Unit Holder's Units without receiving a redemption request if:
 - (i) the Minimum Holding is not or ceases to be met;
 - (ii) holding the Units contravenes any applicable law;
 - (iii) the Unit Holder ceases to be a Qualified Investor;
 - (iv) the Unit Holder does not provide information as and when requested by the Responsible Entity;
 - (v) the Responsible Entity considers in its absolute discretion that the nature of the Unit Holder may prejudice the Trust or the way in which the Trust is administered;
 - (vi) the Trust has been terminated, provided any redemption after termination is pro rata among all Unit Holders in respect of a Class Pool;

- (vii) the Responsible Entity considers that such a compulsory redemption is in the best interest of the Unit Holders as a whole; and

~~the Responsible Entity may determine any Withdrawal Price for the redemption of any Units referred to in this clause 5.2(h) and~~ the Responsible Entity must give notice of any such redemption to the Unit Holder before or as soon as reasonably practicable after the redemption has been effected.

- (i) The Responsible Entity is not obliged to pay any part of the Withdrawal Amount out of its own funds.

5.3 Suspension

- (a) The Responsible Entity may suspend the redemption of Units for such number of days during which the circumstances in clause 5.3(b) apply.
- (b) The Responsible Entity must not suspend redemption unless it reasonably believes that it is not in the best interests of Unit Holders taken as a whole to realise sufficient Assets to satisfy a withdrawal request or it is unable to realise sufficient Assets to satisfy a redemption request or to determine the Net Asset Value due to circumstances outside its control, including because:
 - (i) for the purpose of converting any currency, there is a closure or restriction on trading in the relevant foreign exchange market;
 - (ii) there is a closure or restriction on trading on any exchange on which Assets may be traded;
 - (iii) a moratorium has been declared in a country in which the Trust has Assets; or
 - (iv) the realisation of Assets cannot be effected at prices which would be obtained if Assets were realised in an orderly fashion over a reasonable period in a stable market; ~~or~~
 - (v) Assets cannot be redeemed; or
(vi) action by the Market Operator makes it impossible or impractical for the Responsible Entity to satisfy a withdrawal request for Units in a Quoted Class.
- (c) If redemption is suspended the Responsible Entity must, subject to clause 5.2(f), on the Business Day after the suspension is lifted, determine the Withdrawal Price of:
 - (i) all outstanding redemptions or repurchases; and
 - (ii) any redemption request received during the suspension.

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5.4 Liquid or non-liquid trust

This clause 5.4 only applies if and for so long as the Trust is a registered managed investment scheme under Chapter 5C of the LawAct.

- (a) Clauses 5.1 to 5.3 only apply while the Trust is Liquid.
- (b) While the Trust is not Liquid, a Unit Holder may only request the Responsible Entity to redeem any Units held by the Unit Holder (or accept a withdrawal offer) in accordance with:
 - (i) Part 5C.6 of the LawAct; and
 - (ii) any current withdrawal offer made by the Responsible Entity in accordance with the LawAct.

- (c) Where the Responsible Entity receives a request or acceptance in accordance with clause 5.4(b), it must act on that request or acceptance in accordance with clauses 5.1 to 5.3, to the extent that those clauses are not inconsistent with Part 5C.6 of the LawAct or the terms of any current withdrawal offer made by the Responsible Entity in accordance with the LawAct.
- (d) While the Trust is not Liquid, the Responsible Entity may cancel a withdrawal offer by:
 - (i) publishing a notice of cancellation by any means (for example including, without limitation, in a newspaper or on the internet); or
 - (ii) notice in writing to the Unit Holders to whom the withdrawal offer was made.
- (e) While the Trust is not Liquid, if the Responsible Entity receives a redemption request before it makes a withdrawal offer, it may treat the request as an acceptance of the offer effective as at the time the offer is made.

5.5 Withdrawal via on-market disposal

- (a) While Units in a Class are Quoted, a Unit Holder may agree to sell their Units in that Class on market to the Responsible Entity. Any such sale will be governed by the applicable Settlement Rules and the Operating Rules.
- (b) Subject to the Act and the Operating Rules, the Responsible Entity may determine the price at which it is prepared to acquire the Units.²
- (c) Any bids the Responsible Entity places on market will be subject to the Operating Rules and the potential for interventions by the Market Operator including suspensions and trading halts.
- (d) Any Units the Responsible Entity has acquired on market in excess of Units sold on market on a Trading Day will be cancelled by the Responsible Entity as soon as reasonably practicable after settlement of those Units.

5.6 Buy-back of Units

- (a) While Units in a Class are Quoted, the Responsible Entity may buy-back Units in that Class, subject to and in accordance with the Act and any requirements of applicable Operating Rules.
- (b) Immediately after the registration of a transfer of a Unit following a buy-back under this clause 5.6, the Units purchased are cancelled.
- (c) The purchase price payable for a Unit purchased under this clause 5.6 will be determined by the Responsible Entity (or its nominee) as follows:
 - (i) any period in which a purchase may be made, the Responsible Entity (or its nominee) may set a range of prices at which purchases can be made during all or part of that period in the ordinary course of trading on the Securities Exchange and may adjust that pricing range from time to time if appropriate, but the maximum purchase price on any day cannot exceed the Indicative Buy-Back Price for that day by more than 5%; and

² In the absence of ASIC Relief, the Responsible Entity must not acquire the Units at a price less than the consideration that would be payable by another person. See Corporations Act section 601FG

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(ii) the purchase must otherwise satisfy the conditions of any relief from or modification of the Act.

(d) The Responsible Entity may determine that part of the purchase price payable for a Unit purchased under this clause 5.6 includes an amount which represents a distribution of income.

(e) _____

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6 Powers of the Responsible Entity

6.1 General powers

- (a) Subject to this ~~constitution deed~~, the Responsible Entity has all the powers in respect of the Trust that it is possible under the law to confer on a trustee and as though it were the absolute owner of the Assets and acting in its personal capacity.
- (b) The Responsible Entity may at any time demand that an actual or prospective Unit Holder, applicant, transferee or transmittee, to provide such information or evidence as the Responsible Entity considers necessary, desirable or is required or permitted by law to obtain.

6.2 Contracting powers

Without limiting clause 6.1, the Responsible Entity in its capacity as trustee of the Trust has power to borrow or raise money, to grant security and to incur all types of obligations and liabilities.

6.3 Investment powers

Without limiting clause 6.1, the Responsible Entity may in its capacity as trustee of the Trust invest in, dispose of or otherwise deal with property and rights in its absolute discretion. For so long as a Class is Quoted or to be Quoted and the applicable Operating Rules so require, the Responsible Entity must take reasonable steps to ensure that property acquired for the relevant Class Pool is property which the Responsible Entity reasonably believes is and will be likely to remain a Liquid asset.

6.4 Quotation of Units

Without limiting clause 6.1, the Responsible Entity may:

(a) do all things necessary, desirable or reasonably incidental to give effect to:

(i) the Quotation of a Class on a Securities Exchange;

(ii) removal of a Class from Quotation; or

(iii) suspension of a Class from trading on a Securities Exchange.

and for this purpose the Responsible Entity is authorised on its own behalf and on behalf of each Unit Holder as the Unit Holder's agent or attorney to do all things necessary to effect Quotation;

(b) hold and transact in Units including for the purpose of conducting market-making activities in respect of that Quoted Class; and

(c) prescribe procedures relating to the issue and redemption of Units in a Quoted Class which supplement the procedures in this deed, including to:

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(i) impose obligations on applicants for those Units and on Unit Holders who have made a redemption request or accepted a withdrawal offer;

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(ii) in order to facilitate the issue of Units, provide for Units in that Class the subject of an application to first be issued to a nominee for the applicant approved by the Responsible Entity, following which the Units are to be transferred to the applicant;

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(iii) in order to facilitate the redemption of Units in that Class, require a Unit Holder who has made a redemption request or accepted a withdrawal offer to transfer the Units which are to be redeemed to a nominee for the Responsible Entity approved by the Responsible Entity; and

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(iv) set out consequences of failure to comply with the procedures, such as the power of the Responsible Entity to cancel an issue or redemption of Units.

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Unless the Responsible Entity agrees otherwise, in respect of Units in a Quoted Class each applicant for Units and each Unit Holder who makes a redemption request or accepts a withdrawal offer is bound by and must comply with the procedures prescribed under this clause 6.4 as in force from time to time.

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6.54 Power of delegation

- (a) The Responsible Entity may authorise any person to act as its agent or delegate (in the case of a joint appointment, jointly and severally) to hold title to any Asset, perform any act or exercise any discretion within the Responsible Entity's power, including the power to appoint in turn its own agent or delegate.
- (b) The Responsible Entity may include in the authorisation provisions to protect and assist those dealing with the agent or delegate as the Responsible Entity see fit.
- (c) The agent or delegate may be an Associate of the Responsible Entity.

6.65 Exercise of discretion

The Responsible Entity may in its absolute discretion decide how and when to exercise its powers.

6.76 Investment Policy

The Responsible Entity must specify its principal investment policy in the first Offer Document for the Trust but may vary that policy from time to time.

7 Valuation of Assets

7.1 Valuation of Assets

- (a) The Responsible Entity may cause an Asset to be valued at any time, and must do so as and when required by the Corporations Act.
- (b) The Responsible Entity may determine Net Trust Value or Net Pool Value at any time, including more than once on each day.

7.2 Valuation methods

The Responsible Entity may determine valuation methods and policies for each category of Asset and change them from time to time. Unless the Responsible Entity determines

otherwise, the value of an Asset for the purpose of calculating Net Trust Value or Net Pool Value will be its market value. Where the Responsible Entity values an Asset at other than market value, or where there is no market value, the valuation methods and policies applied by the Responsible Entity must be capable of resulting in a calculation of the Purchase Price or Withdrawal Amount that is independently verifiable.

7.3 Currency Conversion

Where it is necessary for any purpose to convert one currency to another, the conversion must be made at a time and at the rates determined by the Responsible Entity.

7.4 Accounting Standards

To the extent to which:

- (a) the Purchase Price;
- (b) the Withdrawal Price;
- (c) the fees payable to the Responsible Entity, any agent of the Responsible Entity or any custodian who holds scheme property;
- (d) the extent of any limitation on borrowing or on investment of scheme property; or
- (e) Distributable Income,

is to be worked out by reference to the value of any scheme property or to the amount of any liability that under this deed may be discharged from the property, where that value or amount is to be worked out by applying generally accepted accounting principles or methodology set out in an accounting standard as generally accepted or in force from time to time, ~~the principles or standards to be applied are those as generally accepted or in force immediately before 1 January 2005.~~

8 AMIT Rules and Income and Distributions

8.1 AMIT Rules

- (a) The Responsible Entity may make an AMIT Choice.
- (b) In respect of any AMIT Year, the Responsible Entity has, in its absolute discretion, power to do, or omit to do, any thing in relation to the AMIT Tax Rules, including without limitation in relation to:
 - (i) any choices (including for the avoidance of doubt a choice under s 276-20(1)(d)), determinations, calculations, attributions or any other thing required or permitted by the AMIT Tax Rules and for the avoidance of doubt may direct an amount arising from the sale of an asset to a Member where the direction of the amount is made to fund the withdrawal of units in accordance with clause 5 of this [Constitution deed](#);
 - (ii) the making or issuing, re-issuing or amending of an AMMA Statement;
 - (iii) whether and how to apply the Unders and Overs Rules;
 - (iv) the keeping of accounts and records of the Trust to facilitate the operation of the AMIT Tax Rules; or
 - (v) the manner, method and timing of any action referred to in the previous paragraphs.

- (c) The Members acknowledge that the operation of the AMIT Tax Rules including the Unders and Overs Rules may in some cases impose administrative burdens on them and may in some cases produce greater tax liabilities than if those rules did not apply to the Trust, and, for the avoidance of doubt, and to the maximum extent permitted by law, and subject to operation of the LawAct, the Responsible Entity is not liable to the Members for any loss or damage they may suffer as a result of the Responsible Entity making or not making an AMIT Choice or the manner in which the Responsible Entity exercises its discretions referred to in this clause.
- (d) Without limiting clauses 12.3, the Responsible Entity shall be indemnified from the Assets in relation to any Taxes incurred by it under a Tax Act because the Trust is or was an AMIT.
- (e) Clauses 8.3, 8.4, 8.5, 8.6 and 8.7 do not apply in relation to an AMIT Year in which case:
 - (i) the Responsible Entity may at any time distribute any amount of income or capital to Unit Holders pro rata according to the number of Units held by each Unitholder in a eClass on the date determined by the Responsible Entity as the books closing date for the distribution;
 - (ii) in relation to a Withdrawal Amount the Responsible Entity may at any time determine in its absolute discretion that all or part of the Withdrawal Amount is a distribution of income or of capital in accordance with this clause; and
 - (iii) the distribution may be in cash or other Assets or by way of additional Units.
- (f) When clauses 8.3, 8.4, 8.5, 8.6 and 8.7 do apply in relation to a Financial Year which is not an AMIT Year;
 - (i) for the purposes of this clause 8, the rights and entitlements of each Unit in a particular eClass may be determined by reference to the eClass of Units to which the Class Pool relates; and
 - (ii) for the avoidance of doubt, any distribution, including the composition and the Distributable Income for a Distribution Period in relation to the distribution may be determined by reference to the eClass of Units to which the Class Pool relates.

8.2 Responsible Entity to collect

The Responsible Entity must collect all money, rights and property paid or receivable in respect of the Trust.

8.3 Distributable Income

- (a) **Distributable Income** for a Distribution Period is to be determined by applying the following formula:

$$DI = NTI + I - NCI$$

where:

DI is the amount of Distributable Income;

NTI is the amount of Net Taxable Income for the Distribution Period;

I is so much of the amount by which Income exceeds the Net Taxable Income that the Responsible Entity has determined before the end of the Distribution Period is to be distributed to Unit Holders. For the avoidance of doubt, where no determination has been made by the Responsible Entity before the end of

the Distribution Period in respect of component "I", it shall be deemed to be nil for the Distribution Period

NCI is Non-Cash Income; and

- (b) Subject to the rights attached to a ~~eClass of Units~~ each Unit Holders' Income Entitlement in the Trust is to be determined by applying the following formula:

$$DI \times \frac{UH}{UI}$$

where:

DI is the amount of Distributable Income in respect of the Distribution Period less the total of all Interim Distributions paid during the relevant Distribution Period;

UH is the Unit Holding of the Unit Holder at the close of business on the Distribution Calculation Date; and

UI is the number of Units on issue in the Trust at the close of business on the Distribution Calculation Date.

A Unit Holder's Income Entitlement includes such amounts as determined by the Responsible Entity in accordance with this clause.

- (c) At any time, and from time to time, during a Distribution Period the Responsible Entity may make interim distributions of such amount as it determines, (each such distribution being an Interim Distribution) to Unit Holders where the amount distributed to each Unit Holder is to be determined by applying the following formula:

$$ID \times \frac{UH}{UI}$$

where:

ID is the amount of the relevant Interim Distribution;

UH is the Unit Holding of the Unit Holder at the close of business on the date determined by the Responsible Entity as the Interim Distribution Calculation Date; and

UI is the number of Units on issue in the Trust at the close of business on the relevant Interim Distribution Calculation Date.

- (d) Interim Distributions are to be taken to be distributions of Distributable Income for that Distribution Period unless and to the extent that in aggregate they exceed the Distributable Income of the Distribution Period in which case the excess is a distribution of capital. Distributions under this clause 8.3 may be in cash, or other Assets of the Trust or by way of [reinvestment in](#) additional units.

8.4 Distribution of Distributable Income

- (a) For each Distribution Period, the Responsible Entity must calculate and distribute each Unit Holder's Income Entitlement.
- (b) The Responsible Entity must pay Income Entitlements to Unit Holders on or before the Distribution Payment Date.
- (c) The Responsible Entity may retain from the amounts distributed to a Unit Holder any amount necessary to avoid distributing a fraction of a cent or which the Responsible Entity determines it is not practical to distribute on a Distribution

Calculation Date. Any sum so retained must for all purposes be treated as income of that Trust for the next Distribution Period.

- (d) The Responsible Entity may decide whether to permit or require Unit Holders to reinvest some or all of any Income Entitlement (after any deductions permitted by this deed) to acquire Units.

8.5 Present entitlement to Distributable Income

For each Financial Year, immediately prior to the end of that Financial Year:

- (a) the Responsible Entity holds the Distributable Income which has not been distributed by the end of the Financial Year for the Unit Holders; and
- (b) the Unit Holders are presently entitled (or regarded as presently entitled, within the meaning of section 95A of the Tax Act) to the Distributable Income,

in proportion to their respective entitlements under this deed.

8.6 Composition of distribution

The Responsible Entity must notify the Unit Holders of the extent to which a distribution under this clause 8 comprises Net Taxable Income and other kinds of income or capital.

8.7 Other distributions

The Responsible Entity may at any time distribute any amount of capital to Unit Holders pro rata according to the number of Units held as at a time decided by the Responsible Entity. The distribution may be in cash or other Assets in the Trust or by way of additional Units.

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9 Remuneration of Responsible Entity

9.1 Responsible Entity's remuneration

The Responsible Entity is entitled to receive out of the Assets of the Trust the remuneration and any other fees specified in Schedule 3 in relation to the proper performance of its duties. The Responsible Entity's remuneration accrues daily.

9.2 GST

- (a) If the Responsible Entity is or becomes liable to pay GST in respect of any supply under or in connection with this ~~constitution deed~~ then, in addition to any fee or other amount or consideration payable to the Responsible Entity in respect of the supply, the Responsible Entity is entitled to be paid out of the Assets an additional amount on account of GST, such amount to be calculated by multiplying the fee, amount or consideration for the part of the supply which is a taxable supply for GST purposes by the prevailing rate of GST. This clause does not apply to supplies in respect of which the relevant fees are expressed as GST inclusive in this ~~constitution deed~~.
- (b) In relation to any fee that is expressed as GST inclusive in this ~~constitution deed~~, in the event of an increase in the rate of GST, the new GST inclusive fee is determined by converting the existing GST inclusive fee to a GST exclusive figure (based on the GST rate immediately prior to the new prevailing GST rate) and multiplying it by $(1 + n)$ where " n " is the new prevailing rate of GST (expressed as a decimal).
- (c) In the event that the Responsible Entity is not entitled to an input tax credit in respect of the amount of any GST charged or recovered from the Responsible Entity by any person, or payable by the Responsible Entity by way of reimbursement of GST referable directly or indirectly to any supply made under or in connection with this

[constitution deed](#), the Responsible Entity is entitled to recover from the Trust by way of reimbursement an additional amount equivalent to the amount of such input tax.

9.3 Waiver of fees

The Responsible Entity may accept lower fees than it is entitled to receive under this [constitution deed](#), or may defer payment for any period. Where payment is deferred, the fee accrues daily until paid.

10 Reimbursement of expenses

10.1 Establishment and administration costs

In addition to any other right of indemnity which it may have under this deed or at law, the Responsible Entity is indemnified and entitled to be reimbursed out of or paid from the Assets of the Trust for all losses, damages and Costs incurred in relation to the proper performance of its duties as the responsible entity of the Trust. Without limitation, this includes amounts payable in performing any of the Responsible Entity's duties, including in respect of any act or omission and the Costs specified in Schedule 1.

10.2 Deferral of expenses

The Responsible Entity may defer the reimbursement of any or all of the expenses specified in Schedule 1.

10.3 Sums owed to the Responsible Entity

[While the Trust is Liquid, T](#)he Responsible Entity may redeem some or all of the Units held by a Unit Holder to satisfy any amount of money due to it by the Unit Holder.

11 Accounts and audit

11.1 Accounts and audit

Subject to the [LawAct](#), the Responsible Entity must keep, or cause to be kept, proper books of account for the Trust.

11.2 Appointment of Auditor

Subject to the [LawAct](#):

- (a) the Responsible Entity must appoint a Registered Company Auditor, or a firm, at least 1 of whose members is a Registered Company Auditor as auditor of the Trust;
- (b) the Responsible Entity may remove the Auditor;
- (c) the Auditor may retire as Auditor by giving at least 3 months' notice to the Responsible Entity (or any shorter notice period the Responsible Entity agrees to); and
- (d) the Auditor's remuneration must be set by the Responsible Entity.

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12 Responsible Entity's responsibilities and indemnities

12.1 Limitation on liability

- (a) The Responsible Entity is not liable in contract, tort or otherwise to Unit Holders for any loss suffered in any way relating to the Trust except to the extent that the Corporations Act imposes such liability.

- (b) Subject to the Corporation Act, the liability of the Responsible Entity to any person other than a Unit Holder in respect of the Trust (including in respect of any contracts entered into as trustee of the Trust or in relation to any Assets) is limited to the extent the Responsible Entity is indemnified from the Assets.

12.2 Interested dealings by Responsible Entity

Subject to the [LawAct](#), the Responsible Entity or an officer or employee or Associate of the Responsible Entity may:

- (a) [be a Unit Holder, hold Units, and trade them from time to time as the Responsible Entity determines;](#)
- (b) act in any capacity as a representative, delegate or agent of the Responsible Entity or a Unit Holder;
- (c) have an interest in or enter into a contract or transaction with:
 - (A) the Responsible Entity or an Associate of the Responsible Entity;
 - (B) any Unit Holder; or
 - (C) any other person, including one whose shares form an Asset;
- (d) hold or deal in or have any other interest in an Asset; and
- (e) act in the same or a similar capacity in relation to any other managed investment scheme,

and may retain and need not account for any benefit derived by doing so.

12.3 Indemnity in favour of Responsible Entity

- (a) The Responsible Entity is entitled to be indemnified out of the Assets for any liability incurred by it in properly performing its duties in relation to the Trust.
- (b) To the extent permitted by the Corporations Act the indemnity under clause 12.3(a) includes any liability incurred as a result of any act or omission of a delegate or agent appointed by the Responsible Entity.
- (c) This indemnity is in addition to any indemnity allowed by law. It continues to apply after the Responsible Entity retires or is removed as trustee of the Trust.
- (d) Without limiting the construction of liability in any other provision of this [constitution deed](#), in this clause 12, "liability" includes all liabilities, losses, actions, proceedings, accounts, claims (including all claims, demands, suits, causes of action, damages, verdicts and judgements whatsoever, whether at law or in equity or under statute), awards, costs, charges and expenses (including legal costs on a full indemnity or solicitor-client basis, whichever is the higher).

12.4 Responsible Entity may rely

The Responsible Entity may take and act on:

- (a) the opinion or advice of counsel or solicitors instructed by the Responsible Entity concerning the interpretation of this deed or any other document (whether statutory or otherwise) or generally as to the administration of the Trust or any other matter in connection with the Trust;
- (b) the advice of or a statement or information from any banker, accountant, auditor, valuer or other person consulted by the Responsible Entity who in each case the

Responsible Entity (as applicable) believes in good faith to be expert in the matters on which they are consulted, and who is independent of the Responsible Entity;

- (c) a document which the Responsible Entity believes in good faith to be the original or a copy of an appointment by a Unit Holder of a person to act as their agent for any purpose connected with the Trust; and
- (d) any other document provided to the Responsible Entity in connection with the Trust upon which it is reasonable for the Responsible Entity to rely,

and, subject to the [LawAct](#), the Responsible Entity is not liable for anything done, allowed or omitted by it in good faith relying on that opinion, advice, statement, information or document.

12.5 Rating

- (a) The Responsible Entity may arrange to have the Trust given a credit rating by a Ratings Agency.
- (b) During such period as a credit rating is maintained in respect of the Trust the Responsible Entity must use commercially reasonable endeavours to comply with all undertakings given or made to the Ratings Agency from time to time in order to maintain any credit rating assigned to the Trust provided that the obligation of the Responsible Entity to comply with such undertakings will at all times be subject to the following:
 - (i) the undertakings given or made to the Ratings Agency must not be inconsistent with the powers of the Responsible Entity in relation to making investments of, or otherwise dealing with, Assets as provided for in this [constitution deed](#);
 - (ii) compliance with those undertakings does not constitute a breach of the duties of the Responsible Entity contained in this [constitution deed](#) or imposed by any relevant statute or regulation from time to time; and
 - (iii) compliance with those undertakings does not limit any protection, benefit or indemnity conferred on the Responsible Entity under this [constitution deed](#).
- (c) The Responsible Entity may notify the Ratings Agency of its intention to cease to have the Trust assigned a credit rating. Such notice is effective when served on the Ratings Agency and the credit rating will cease to be assigned to the Trust after the expiration of ninety (90) days from the date of service of such notice on the Ratings Agency or such lesser period as agreed between the Responsible Entity and the Ratings Agency. After the expiration of the notice period referred to in this clause 12.5(c), the Responsible Entity will be released from any undertakings given or made to the Ratings Agency.
- (d) If the Responsible Entity notifies the Ratings Agency of its intention to cease to have the Trust assigned a credit rating the Responsible Entity must immediately:
 - (i) notify Unit Holders of its intention to cease to have the Trust assigned a credit rating; and
 - (ii) if there is a current prospectus or other publicly available [eOffer eDocument](#) in relation to the Trust which indicates that the Trust is assigned a credit rating by the Ratings Agency:
 - (A) issue a supplementary prospectus or supplementary [eOffer eDocument](#);
 - (B) issue a replacement prospectus or replacement [eOffer eDocument](#); or
 - (C) withdraw the current prospectus or [eOffer eDocument](#).

- (e) If the Ratings Agency changes, suspends or withdraws the credit rating assigned to the Trust, the Responsible Entity must:
 - (i) immediately notify Unit Holders of the change, suspension or withdrawal; and
 - (ii) if there is a prospectus or other publicly available ~~eOffer~~ ~~dDocument~~ in relation to the Trust which indicates the Trust has been assigned a credit rating by the Ratings Agency, as soon as practicable:
 - (A) issue a supplementary prospectus or supplementary ~~eOffer~~ ~~dDocument~~;
 - (B) issue a replacement prospectus or replacement ~~eOffer~~ ~~dDocument~~; or
 - (C) withdraw the prospectus or ~~eOffer~~ ~~dDocument~~,
- (f) The Responsible Entity must keep copies of all written undertakings given or made to the Ratings Agency in relation to a credit rating assigned to the Trust and make those undertakings available for inspection by Unit Holders at the registered office of the Responsible Entity during ordinary business hours.

13 Register and transfers

13.1 Transfer

- ~~(a)~~ Paragraphs (b) to (f) of this clause 13.1 apply only to Units in a Class which is not Quoted.
- ~~(a)(b)~~ A Unit Holder may only transfer its Units with the Responsible Entity's prior consent.
- ~~(b)(c)~~ Subject to this clause 13.1, a Unit Holder may transfer any of its Units by written transfer in any usual or common form or in any other form that the Responsible Entity approves.
- ~~(c)(d)~~ A transfer under clause 13.1(b) must be executed by or on behalf of both the transferor and the transferee ~~and accompanied by any applicable Transfer Fee.~~
- ~~(d)(e)~~ The Unit Holder must leave the transfer for registration at the place the Responsible Entity determines, accompanied by any information the Responsible Entity requires to show the transferor's right to make the transfer. If the Responsible Entity has given its consent under clause 13.1(a), the Responsible Entity must then register the transferee as a Unit Holder.
- ~~(e)(f)~~ The Responsible Entity may refuse to register a transfer of a Unit if the transfer is not duly stamped.
- ~~(g)~~ While a Class of Units is Quoted, in respect of those Units this clause 13 is subject to the Act, CHESS and the relevant Operating Rules, Settlement Rules and Clearing Rules.
- ~~(h)~~ An instrument of transfer of Units in a Quoted Class must be accompanied by such evidence as the Responsible Entity, CHESS or the Market Operator requires to prove the transferor's title or right to transfer the Units.
- ~~(i)~~ A transferor of Units remains the holder of the Units transferred until the transfer is registered and the transferee's name is entered in the Register as the holder of the Units.
- ~~(f)(j)~~ While Units in a Class are Quoted and approved for settlement by CHESS in accordance with the Settlement Rules, are dealt with as CHESS contemplates, and the Operating Rules make the transfer effective,

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13.2 Holding lock

While the Units in a Class are Quoted and subject to the Operating Rules, the Responsible Entity may request a holding lock be applied to any Units in that Class where:

- (a) the Responsible Entity has a lien on the Units the subject of the transfer;
- (b) the Responsible Entity is served with a court order that restricts a Unit Holder's capacity to transfer the Unit;
- (c) registration of the transfer may be contrary to applicable law and the Market Operator has agreed in writing to the application of a holding lock (which must not breach the Settlement Rules) or that the Responsible Entity may refuse to register a transfer;
- (d) if the transfer is paper-based, either a law related to stamp duty prohibits the Responsible Entity from registering it or the Responsible Entity is otherwise allowed to refuse to register it under the Operating Rules;
- (e) if the transfer is paper-based, registration of the transfer will create a new holding which at the time the transfer is lodged is less than a marketable parcel as defined in the Operating Rules;
- (f) the relevant Unit Holder has agreed in writing to the application of a holding lock (which must not breach the Settlement Rules) or that the Responsible Entity may refuse to register a transfer; or
- (g) it is otherwise permitted under the Operating Rules, and the Responsible Entity must do so if the Operating Rules require, but must tell the Unit Holder or the broker as the Act or the Operating Rules require.

13.23 Transaction advice after transfer

If the Responsible Entity enters a Unit Holder on the Register as a result of a transfer of Units, the Responsible Entity may issue a transaction advice for:

- (a) the Units which have been transferred; and
 - (b) the balance of any Units which were not transferred.
- (b) but while a Class is Quoted, a holding statement that complies with the Operating Rules of the relevant Securities Exchange may be issued to evidence the holding of the Units.

13.43 Death, legal disability

If a Unit Holder dies, becomes subject to a legal disability, becomes bankrupt or is liquidated, the survivor (in the case of joint Unit Holders), legal personal representative or the person entitled to Units as a result of bankruptcy or liquidation, must be recognised as having a claim to Units registered in the Unit Holder's name.

13.54 Recognition of Unit Holder

The Responsible Entity:

- (a) must treat the person entered on the Register as a Unit Holder as the absolute owner of all rights and interests of the Unit Holder; and

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- (b) except as required by law or this deed, need not recognise any claim or interest in a Unit by any other person.

14 Retirement or removal of Responsible Entity

14.1 Retirement or removal of Responsible Entity

The Responsible Entity may retire or be removed as responsible entity of the Trust in accordance with the [LawAct](#).

14.2 New Responsible Entity

- (a) On the appointment of a new trustee, the Responsible Entity is released from all obligations concerning the [relevant](#) Trust arising after the date of the appointment of the new trustee.
- (b) On retirement or removal, the Responsible Entity must give the new trustee all books, documents and records relating to the Trust and vest the Assets in the new Responsible Entity.

14.3 Name of Trust to be changed

- (a) If AllianceBernstein Investment Management Australia Limited retires as Responsible Entity, the new trustee must promptly take whatever action is necessary to remove any words, letters or expressions which might express or imply an association with AllianceBernstein Investment Management Australia Limited or any of its Associates from the title of the Trust and this deed, and those words, letters or expressions must not be used in any connection with the Trust and this deed.
- (b) Clause 14.3(a) does not apply if the new trustee obtains the consent of AllianceBernstein Investment Management Australia Limited not to take the action specified in that clause.

15 Limitation of liability of Unit Holders

- (a) Subject to this clause 15, the liability of each Unit Holder is limited to its investment in the Trust.
- (b) Subject to clause 15(d), a Unit Holder is not required to indemnify the Responsible Entity or a creditor of it against any liability of the Responsible Entity in respect of the Trust.
- (c) Nothing in this deed:
 - (i) makes the Responsible Entity the agent of a Unit Holder; or
 - (ii) creates any relationship except that of beneficiary and trustee.
- (d) The Responsible Entity is entitled to be indemnified by a Unit Holder or former Unit Holder to the extent that the Responsible Entity incurs any liability for Tax or User Pays Fees as a result of:
 - (i) the Unit Holder's or former Unit Holder's action or inaction;
 - (ii) any act or omission requested by the Unit Holder or former Unit Holder; or
 - (iii) any other matter arising in connection with Units held by the Unit Holder or former Unit Holder.

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- (e) Joint Unit Holders and former joint Unit Holders are jointly and severally liable in respect of all payments including payments of Tax or User Pays Fees to which clause 15(d) applies.
- (f) In the absence of a separate agreement with a Unit Holder and excluding recourse for liability under clause 15(d), the recourse of the Responsible Entity and any creditor is limited to the Assets.

16 Alterations to this deed

Subject to the [LawAct](#), the Responsible Entity may by deed replace or amend this deed (including this clause).

17 Term of Trust and termination of Trust

17.1 Initial Settlement

The Trust commences on the date of the first issue of Units to a person other than the Responsible Entity.

17.2 Term of Trust

Subject to the [LawAct](#), the term of the Trust ends on the earliest of:

- (a) the 80th anniversary of the date of its commencement;
- (b) the date determined by the Responsible Entity, following a meeting of members called by the Responsible Entity in accordance with the [LawAct](#); and
- (c) the date on which the Trust is terminated under this deed or by the [LawAct](#).

17.3 Termination

Subject to the [LawAct and any Operating Rules that may apply](#), if the Responsible Entity gives the Unit Holders 1 months' notice of its decision to terminate the Trust, subject to complying with the law, then the Trust will be terminated.

17.4 Winding up

Following termination of the Trust, the Responsible Entity must wind it up in accordance with:

- (a) clauses 17.45 to 17.10;
- ~~(a)~~(b) [any applicable Operating Rules](#); and
- ~~(b)~~(c) any orders a court makes under the [LawAct](#).

17.5 Liquidation of Assets

- (a) To wind up the Trust, the Responsible Entity must realise and liquidate the Assets in such manner as the Responsible Entity considers appropriate.
- (b) Subject to clause 17.5(c), the Responsible Entity must liquidate the Assets as soon as reasonably practicable following termination of the Trust.
- (c) The Responsible Entity may postpone the liquidation of any Assets if it thinks it is in the interests of Unit Holders to do so and will not be responsible for any loss attributable to any delay or postponement of liquidation of Assets.

17.6 Procedure for distributions on winding up the Trust

From the proceeds of liquidation of the Assets, the Responsible Entity:

- (a) must, unless the Responsible Entity determines otherwise, first, pay (or reimburse itself for) the expenses of the termination and winding up, which will be borne by the Responsible Entity in its capacity as responsible entity of the Trust;
 - (b) must, unless the Responsible Entity determines otherwise, next, pay all other liabilities and Costs including all fees, expenses and liabilities of the Responsible Entity in relation to the Trust; and
 - (c) may, but need not, next, compulsorily redeem ~~all~~ Units on a pro rata basis among Unit Holders in respect of each Class Pool as provided in clause 5.2(h) and pay the Withdrawal Amount (less any deductions provided for under this deed) to the relevant Unit Holders subject to any preferential payments to Unit Holders in accordance with the rights attached to the class of Units held by them; and
- (~~ce~~) must next, subject to the rights attached to a eClass of Units, distribute the balance to Unit Holders in proportion to the number of Units held by them. Such distributions may be made in instalments or otherwise.

17.7 Transfer of Assets to Unit Holders

- (a) The Responsible Entity may transfer Assets to a Unit Holder to satisfy the making of a payment or distribution under clause 17.6 instead of making it in cash.
- (b) Where Assets are to be transferred to a Unit Holder as provided in clause 17.7(a), the value of the Assets to be transferred must be the value calculated in accordance with clause 7 as at the time of transfer of the Assets. The costs associated with the valuation and transfer of the Assets (including all stamp duty) are to be paid by the Unit Holder.
- (c) Where the Responsible Entity transfers Assets to a Unit Holder under this clause 17.7, the Responsible Entity may determine, and inform the Unit Holder, which components of the Distributable Income for the relevant period are included in the transfer of those Assets in respect of that Financial Year.

17.8 Payments by Unit Holders during winding up

The Responsible Entity may require that Unit Holders continue to make payments, if any, due to be paid by those Unit Holders during the process of winding up of the Trust.

17.9 Audit on winding up

To the extent required by the LawAct, the Responsible Entity must arrange for an independent audit of the Trust's final accounts by a Registered Company Auditor, who is independent of the Responsible Entity. This clause 17.9 continues to apply after the date of termination of the Trust until the audit is finished.

17.10 Provisions continue after termination of Trust

Subject to the LawAct and without limiting this clause 17.10, the provisions of this deed continue to apply after the date of termination of the Trust until the date of final distribution under clause

17.6, but during that period the Responsible Entity must not accept [or process](#) any applications for Units or redemption requests.

18 Meetings of Unit Holders

The provisions of the Corporations Act to do with meetings of Unit Holders of registered managed investment schemes apply to meetings of Unit Holders as varied and supplemented by Schedule 2 [and, in relation to a Quoted Class, any applicable Operating Rules](#).

19 General

19.1 Service of notices

- (a) A notice required to be given to a Unit Holder must be in writing and delivered or sent to the Unit Holder at the Unit Holder's registered [physical or electronic](#) address (or for joint Unit Holders, the address of the Unit Holder first named in the Register).
- (b) A notice required to be given to the Responsible Entity must be in writing and is effective only at the time of receipt unless the Responsible Entity determines another time at which a form of communication is taken to be received.
- (c) Subject to the Corporations Act, a notice, cheque or other communication sent to a Unit Holder by post is taken to be received on the Business Day after it is posted and a fax is taken to be received immediately upon receipt by the transmitter of confirmation of transmission from the receiving fax machine. Proof of actual receipt is not required. The Responsible Entity may determine the time at which other forms of communication will be taken to be received.
- (d) A notice given by a Unit Holder must bear the actual, facsimile or electronic signature of the Unit Holder or a duly authorised officer or representative of the Unit Holder unless the Responsible Entity dispenses with this requirement.

19.2 Method of payment, repayment or withdrawal

- (a) Any money payable by the Responsible Entity to a Unit Holder may be paid in any manner determined by the Responsible Entity.
- (b) A Unit Holder, with the Responsible Entity's consent, may nominate in writing (or in any other manner the Responsible Entity approves) that money owing to it under this deed be paid by cheque or otherwise into a designated account with a financial institution or to a nominated person.
- (c) A cheque issued to a Unit Holder which is presented and paid, or where the payment is to a financial institution or nominated person, payment to the institution or person, discharges the Responsible Entity for the payment.
- (d) The Responsible Entity may determine that any cheque not presented within 6 months or such lesser period determined by the Responsible Entity is cancelled. If the Responsible Entity so determines and pursuant to any rights attached to a [eClass of Units](#), the amount of the cheque must be reinvested in Units at the Purchase Price prevailing at the next Valuation Point after the cheque is cancelled.
- (e) A cheque payable to a Unit Holder or a person authorised in writing by the Unit Holder may be:
 - (i) posted to the Unit Holder's physical address;
 - (ii) handed to the Unit Holder or a person authorised in writing (including by facsimile) by the Unit Holder; or

- (iii) delivered to the Unit Holder in such other manner as agreed by the Responsible Entity.

19.3 Payment of Tax and amounts owing

The Responsible Entity may deduct from any amount to be paid to a person who is or has been a Unit Holder, or received from a person who is or has been a Unit Holder:

- (a) any amount of Tax (or an estimate of it); or
- (b) any other amount owed by the Unit Holder to the Responsible Entity or any other person,

which the Responsible Entity is required or authorised to deduct in respect of that payment or receipt by law or by this [constitution-deed](#) or which the Responsible Entity considers should be deducted.

19.4 Binding conditions

The terms of this deed and each supplemental deed bind the Responsible Entity, each relevant Unit Holder and any other person claiming through any of them as if each were a party to this deed and each supplemental deed.

19.5 Governing law

The rights, liabilities and obligations of the Responsible Entity and the Unit Holders are governed by the law of New South Wales.

19.6 Inspecting this deed

The Responsible Entity:

- (a) must make a copy of this deed available to any Unit Holder for inspection during usual business hours at its registered office or principal place of business; and
- (b) may charge a reasonable fee for giving a copy of this deed to a Unit Holder.

19.7 Severability

If any provision of this deed is held or found to be void, invalid or otherwise unenforceable, so much of the provision as is necessary to render it valid and enforceable is regarded as severed, but the rest of this deed remains in full force.

19.8 Other documents

A document does not become part of this [constitution-deed](#) by reason only of that document referring to this [constitution-deed](#) or vice versa, or any electronic link between them.

19.9 Other obligations excluded

Except as required by the Corporations Act all obligations of the Responsible Entity which might otherwise be implied or imposed by law or equity are expressly excluded to the extent permitted by law, including without limitation any obligation of the Responsible Entity in its capacity as trustee of the Trust arising under any statute.

20 Compliance Committee

This clause 20 only applies if and for so long as the Trust is a registered managed investment scheme under Chapter 5C of the [LawAct](#).

20.1 Persons to whom clauses 20.2 and 20.4 apply

Clauses 20.2 and 20.4 apply to each person who is or has been a member of the Trust's Compliance Committee.

20.2 Indemnity

If any Compliance Committee member incurs a liability in that capacity in good faith, the Compliance Committee member is entitled to be indemnified out of the Assets in respect of that liability to the extent permitted by the Corporations Act.

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20.3 Extent of indemnity

The indemnity in clause 20.2:

- (a) is a continuing obligation and is enforceable by a person to whom clause 20.2 applies even though that person may have ceased to be a member of the Trust's Compliance Committee; and
- (b) operates only to the extent that the loss or liability is not covered by an insurance payment.

20.4 Insurance

Subject to the [LawAct](#), the Responsible Entity may, from the Assets of the Trust:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance, for any person to whom this clause 20.4 applies against any liability incurred by the person as a member of the Trust's Compliance Committee including, but not limited to, a liability for costs and expenses incurred in defending proceedings whether civil or criminal and whatever their outcome.

20.5 Savings

Nothing in clauses 20.2 or 20.4:

- (a) affects any other right or remedy that a person to whom those clauses apply, may have in respect of any loss or liability referred to in those clauses; and
- (b) limits the capacity of the Responsible Entity to indemnify or provide insurance for any person to whom those clauses do not apply.

21 Complaints handling procedures

This clause 21 only applies if and for so long as the Trust is a registered managed investment scheme under Chapter 5C of the [LawAct](#).

21.1 Complaints handling

The Responsible Entity must establish and maintain a procedure for dealing with complaints by Unit Holders in relation to the Trust.

21.2 Unit Holder complaints

- (a) A Unit Holder may by notice in writing to the Responsible Entity (or by such other method as the Responsible Entity may approve) lodge a complaint in relation to the Trust.

- (b) The Responsible Entity must:
 - (1) record the complaint and the date it was received in a register maintained for that purpose; and
 - (2) send the Unit Holder an acknowledgment of receipt of the complaint.

21.3 Handling of complaints

- (a) The procedure for dealing with a complaint is as follows:
 - (1) if the complaint is in writing, acknowledge in writing receipt of the complaint as soon as practicable, but in any event within 7 days after the Responsible Entity receives the complaint;
 - (2) the Responsible Entity may request the Unit Holder to provide any further information the Responsible Entity thinks it needs to consider the complaint and make a decision about it; and
 - (3) the Responsible Entity must consider the complaint within 45 days of receipt of the complaint.
- (b) As soon as practicable but within 14 days after the Responsible Entity makes a decision the Responsible Entity must inform the Unit Holder by notice in writing of:
 - (1) the decision in relation to the complaint;
 - (2) the remedies (if any) available to the Unit Holder in relation to the complaint; and
 - (3) any avenues of appeal that may be available to the Unit Holder, if the Unit Holder is dissatisfied with the decision.

21.4 Assistance and information

- (a) The Responsible Entity must provide a Unit Holder with all reasonable assistance and information that a Unit Holder may require for the purpose of making a complaint and understand the complaints handling procedures adopted by the Responsible Entity.
- (b) A Unit Holder lodging a complaint must provide the Responsible Entity with all information the Responsible Entity may require in order to properly deal and resolve the complaint.

21.5 Referral to external complaints resolution scheme

If the complaint is not resolved under these procedures to the Unit Holder's satisfaction and the Unit Holder is a "retail client" as defined under the Corporations Act, the Unit Holder may refer the complaint to the [Financial Ombudsman Service Australian Financial Complaints Authority](#) or to an external complaints resolution scheme:

- (a) that is approved by ASIC;
- (b) of which the Responsible Entity is a member; and
- (c) details of which have been notified to the Unit Holder.

21.6 Additional Requirements

To the extent that section 912A(2) imposes on the Responsible Entity requirements in addition to those referred to above when dealing with Unitholder complaints, the Responsible Entity must comply with such additional requirements.

22 Market Making

22.1 Responsible Entity must make a market

While Units are Quoted, if and for so long as required by the applicable Operating Rules or a Securities Exchange in its discretion as a condition of Quotation or otherwise, the Responsible Entity must make a market and provide liquidity in respect of the Units on market as set out in this clause 22³. The Responsible Entity may make a market and provide liquidity in respect of the Units at other times as it sees fit.

22.2 Responsible Entity may sell Units on-market

- (a) While the Units are Quoted, and subject to the applicable Operating Rules, the Responsible Entity may from time to time offer and/or agree to sell Units on-market.
- (b) Where the Responsible Entity sells Units on market as specified in clause 22.2(a), the Responsible Entity will honour any contract to sell Units into which it enters, in accordance with applicable Settlement Rules and Operating Rules.
- (c) Any offers for the sale of Units made by the Responsible Entity on market will be subject to the Operating Rules and any interventions by the relevant Market Operator including a suspension or trading halt.

22.3 Sale Price

Subject to the Operating Rules and its duties under the Corporations Act, the Responsible Entity may determine the price at which it is prepared to offer or agree to sell Units on-market in accordance with clause 22.2(a).

22.4 Responsible Entity may issue Units to itself

Where the Responsible Entity offers to sell Units on-market under clause 22.2(a), it has a presently exercisable and unconditional power and right to issue to itself, and vest title in itself of the corresponding number of Units, and take any other action necessary so that it can exercise that power, and vest title in itself of the Units so issued.

22.5 Excess sold Units

Without limiting clause 22.4, at the end of each Business Day where the number of Units which the Responsible Entity has agreed to sell on-market during that Business Day in accordance with clause 22.2(a) (excluding any Units sold on-market during that Business Day in respect of which the Responsible Entity has previously issued and/or vested title in pursuant to clause 22.4) exceeds the number of Units which the Responsible Entity has agreed to acquire on-market during that Business Day in accordance with clause 22.6 (such excess number being the **Excess Sold Units**), the Responsible Entity must issue to itself the Excess Sold Units as soon as reasonably practicable for the purposes of enabling the Responsible Entity to fulfil its obligations under settlement of the sale of those Excess Sold Units.

22.6 Responsible Entity may purchase Units on-market

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³ For example, see Chi-X Operating Rules 14.14 to 14.16, which provide for different methods by which sufficient market liquidity can be provided. Also, the ASX Operating Rules do not require the Responsible Entity to make a market if the Responsible Entity has engaged an external market maker to provide the required liquidity in the market on terms acceptable to ASX.

While the Units are Quoted, subject to the Operating Rules, the Responsible Entity may from time to time offer and/or agree to purchase Units on market, including for the purposes referred to in clauses 5.5 or 5.6. The price at which the Responsible Entity offers or agrees to purchase Units on market is at the absolute discretion of the Responsible Entity subject to the applicable Operating Rules and its duties under the Corporations Act.

22.7 Excess acquired Units

At the end of each Business Day where the number of Units which the Responsible Entity has agreed to acquire on-market during that Business Day under clause 22.6 exceeds the number of Units which the Responsible Entity has agreed to sell on-market during that Business Day under clause 22.2(a) (excluding any Units sold on-market during that Business Day in respect of which the Responsible Entity has previously issued and/or vested title in pursuant to clause 22.4) (such excess number being the **Excess Acquired Units**), the Responsible Entity must cancel the Excess Acquired Units as soon as reasonably practicable after settlement of the acquisition of those Excess Acquired Units.

22.8 Transactions are on account of the Quoted Class

- (a) The price of any Units purchased pursuant to clause 22.6 will be paid out of the Assets of the Class Pool attributable to the Quoted Class.
- (a) Any Units issued to or acquired by the Responsible Entity pursuant to clauses 22.2 and 22.6 are regarded as part of the Assets of the Class Pool attributable to the Quoted Class until dealt with in accordance with this clause 22.

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Schedule 1
Establishment and administration Costs

(clause 10.1)

All Costs in connection with:

- (a) preparing, obtaining approval of, executing and stamping this deed, each Supplemental Deed and any amending deeds;
- (b) preparing, registering, printing, promoting and distributing any prospectus issued by the Responsible Entity for the Units and preparing, registering, printing, promoting and distributing any document required by law to be prepared concerning the Trust;
- (c) acquiring, registering, custody, holding, managing, supervising, repairing, maintaining, valuing, selling or other dealing with an Asset (or attempting or proposing to do so) and receiving, collecting or distributing income or other Assets;
- (d) raising money or otherwise obtaining financial accommodation including, but not limited to, interest on borrowings and discounts and fees for bill facilities and any Tax payable for raising money or obtaining financial accommodation;
- (e) convening and holding meetings of Unit Holders and carrying out the directions of the meetings;
- (f) the retirement or removal of the Responsible Entity and the appointment of another in its place, including the amounts payable as a result of the retirement or removal;
- (g) establishing and maintaining accounts and the Register and calculating Distributable Income;
- (h) establishing and administering the Trust including:
 - (i) computer operation and development and data processing;
 - (ii) computer experts' fees and expenses; and
 - (iii) office expenses including the cost of postage, transaction advices, accounts, distribution statements, notices, reports and other documents sent to a Unit Holder under this deed;
- (i) any custodian, actuary, adviser, expert, agent, delegate, solicitor, barrister, contractor, valuer, accountant or auditor, including any who is an Associate of the Responsible Entity;
- (j) all Taxes including any amount charged by a supplier of goods or services, or both, to the Responsible Entity by way of or as a reimbursement for GST;

(k) all fees payable to ASIC or other regulatory authority;

(k)

(l) all costs (including costs of obtaining advisory opinions) in anticipation of or in connection with any action, suit or proceeding concerning the interpretation and construction of this deed or any provision of this deed or against the Responsible Entity;

(m) preparing and lodging tax returns;

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- (n) terminating [and winding up](#) the Trust;
- (o) the preparation, monitoring, review amendment or replacement of the Trust's Compliance Plan;
- (p) the appointment of the auditor of the Compliance Plan;
- (q) the Trust's Compliance Committee and its members;
- (r) holding meetings of the members of the Trust's Compliance Committee, without regard to where any member may reside;
- (s) the indemnity referred to in clause 20.2,
- (t) any insurance purchased or maintained or premium for insurance paid or agreed to be paid as contemplated by clause 20.4;
- (u) considering and dealing with any matter reported or recommended by the Trust's Compliance Committee;
- (v) having the Trust credit rated; and
- (w) while there is no compliance committee and the Trust is a Registered Scheme, any costs and expenses associated with the board of directors of the Responsible Entity carrying out the functions which would otherwise be carried out by a compliance committee, including any fees paid to or insurance premiums in respect of external directors appointed to satisfy the requirements of Chapter 5C of the Corporations Act.

Schedule 2
Meetings of Unit Holders

(clause 18)

The provisions of the [LawAct](#) to do with meetings of members of registered managed investment schemes apply (including where the Trust is not a registered managed investment scheme) and, except to the extent that those provisions do not permit, are subject to this Schedule.

1 Convening meetings

The Responsible Entity may at any time convene a meeting of Unit Holders (which, for the avoidance of doubt, includes a meeting of [any class of Unit Holders who hold Units in a Class](#)), and must do so if required by the [LawAct](#).

2 Responsible Entity may determine

Subject to this Schedule and the [LawAct](#), the Responsible Entity may determine the time and place at which a meeting of Unit Holders will be convened and the manner in which the meeting will be conducted.

[For the avoidance of doubt, such meetings may be convened and held either:](#)

- [\(i\) at a physical location;](#)
- [\(ii\) entirely virtually via the use of technology; or](#)
- [\(iii\) by a combination of both \(i\) and \(ii\).](#)

[The Responsible Entity may at any time prior to the opening of a meeting, amend the time and place the meeting will be convened and the manner for which the meeting will be conducted.](#)

3 Proxies

- (a) The Responsible Entity may determine that an appointment of a proxy is valid even if it contains only some of the information required under the [LawAct](#).
- (b) A proxy is entitled to vote on a show of hands and is entitled to speak and vote for a Unit Holder (to the extent allowed by the appointment) even if the Unit Holder is present at the meeting, but only so long as the Unit Holder does not speak or vote.
- (c) For an appointment of a proxy to be effective the following must be received at least 24 hours before the meeting:
 - (i) the proxy's appointment; and
 - (ii) if the proxy is signed by the Unit Holder's attorney – the authority under which the appointment was signed or a certified copy of the authority.

4 Notice not received

If a Unit Holder does not receive a notice in respect of a meeting (including if notice was accidentally omitted to be given to them), the meeting is not invalidated.

5 Quorum

- (a) The quorum for a meeting of Unit Holders is at least 2 Unit Holders present in person or by proxy together holding at least 10% of all Units (or, for a [eClass](#) meeting, the Units of the [eClass](#)) entitled to vote on the Resolution, unless the Trust (or, for a meeting of a [class](#)

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of Unit Holders [who hold Units in a Class](#), that eClass) has only one Unit Holder who may vote on a Resolution, in which case that one Unit Holder constitutes a quorum.

- (b) If a quorum is not present within 15 minutes after the scheduled time for the meeting, the meeting is:
 - (i) if convened on the requisition of Unit Holders - dissolved; or
 - (ii) otherwise - adjourned to such place and time as the Responsible Entity decides.
- (c) At any adjourned meeting, those Unit Holders present in person or by proxy constitute a quorum.

6 Chairman

- (a) Subject to the [LawAct](#), the Responsible Entity may appoint a person (chairman) to chair a meeting of Unit Holders and if it does not do so then the meeting may appoint a chairman by Ordinary Resolution.
- (b) The decision of the chairman on any matter relating to the conduct of the meeting is final.

7 Adjournment

The chairman of the meeting has power to adjourn a meeting for any reason to such place and time as the chairman thinks fit.

8 Resolutions binding

- (a) A Resolution binds all Unit Holders, whether or not they were present at the meeting.
- (b) No objection may be made to any vote cast for a meeting unless the objection is made at the meeting.

9 Short notice

While the Trust is not registered, the Responsible Entity may call and hold a meeting on shorter notice than required by the [LawAct](#) if all Unit Holders sign a document stating that they agree to the calling and holding of the meeting on such shorter notice.

10 Written Resolutions

Except in circumstances where the [LawAct](#) requires a resolution to be passed at a meeting of Unit Holders, a resolution in writing sent by the Responsible Entity to Unit Holders signed by Unit Holders together holding that number of votes necessary for the resolution to be passed is a valid Resolution of the Unit Holders and is effective when signed by the last of the Unit Holders constituting the majority and delivered to the Responsible Entity. For this purpose a facsimile transmission or other document produced by mechanical or electronic means under the name of the Unit Holder with the Unit Holder's authority is deemed to be a document in writing signed by the Unit Holder.

Schedule 3

The Trust

(1) The **Distribution Payment Date** is a date determined by the Responsible Entity which must not be more than 60 days after the relevant Distribution Calculation Date.

~~(2) The **Early Withdrawal Fee** is nil.~~

~~(3) The **Exit Fee** is nil.~~

~~(4) The **Initial Service Charge** is nil.~~

~~(5)~~(2) The **Management Fee** payable to the Responsible Entity under clause 9 of this ~~Constitution deed~~ is an amount up to 3.0% per annum of the Net Trust Value or such lesser amount as is stated in the Trust's Offer Document (for the period stated in the Offer Document). This fee is to be calculated daily and must be paid within 14 days of the end of each month.

~~(6)~~(3) The **Minimum Holding** is Units of the same eClass having an aggregate Net Value of \$AUD25,000 or such other amount as determined by the Responsible Entity.

(4) The **Prescribed Time** is 2:00pm on a Business Day, or ~~such one or more~~ other times determined by the Responsible Entity for the purposes of:
a. applications for Units;
b. issue of Units; and
~~(7)c. redemption requests.~~

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Finding list

This list is included to assist the ASIC in identifying the provisions in this [constitution deed](#) which satisfy the requirements of the Corporations Act for constitutions of registered managed investment schemes.

Corporations Act	Constitution
601GA	
(1)(a)	4.1 – 4.3
(1)(b)	6
(1)(c)	21
(1)(d)	17.2 -17.9
(2)	9.1-9.3; 10; 12.3; 15(d), (e) & (f); Schedule3
(3)	6.2
(4)(a)	5.1-5.2(b); 5.2(g); 5.2(i); 5.4(b)(ii)
(4)(b)	5.1 -5.3; 5.4(a)
(4)(c)	5.4(b), (c), (d) & (e)
601GB	19.4

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