



**PROSPECTUS**  
**Pelargos Japan Alpha Fund**

(UNIT TRUST)

1 September 2020

**PELARGOS JAPAN ALPHA FUND | ADDENDUM OF 10 MARCH 2021  
TO THE PROSPECTUS DATED 1 SEPTEMBER 2020**

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**Addendum to Prospectus**

This addendum should be read in conjunction with, and forms part of, the Prospectus of Pelargos Japan Alpha Fund dated 1 September 2020 (hereinafter the "Prospectus"). All capitalized terms herein contained shall have the same meaning in this addendum as in the Prospectus unless otherwise indicated.

**Sustainable Finance Disclosure Regulation (SFDR)**

As part of its investment process, Pelargos Capital includes all relevant financial risks in its investment decision making process and evaluates them on an ongoing basis. In doing so, all relevant sustainability risks within the meaning of Regulation (EU) 2019/2088 of the European Parliament and of the Council of November 27, 2019, on sustainability-related disclosure requirements in the financial services sector ("Disclosure Regulation"), which could have a material negative impact on the return on an investment, are also taken into account.

Sustainability risk means an environmental, social or governance event or condition that, if it occurs, could cause an actual or a potential material negative impact on the value of the investment. Sustainability risks can therefore lead to a significant decline in the financial profile, liquidity, profitability or reputation of the underlying investment. If sustainability risks are not already taken into account in the valuation process of the investments, they can have a material negative impact on the expected / estimated market price and/ or the liquidity of the investment and thus on the return of the fund. Sustainability risks can have a significant impact on all known risk types and, as a factor, can contribute to the materiality of these risk types.

This product does not promote environmental or social characteristics within the meaning of the Disclosure Regulation (Article 8) nor is it classified as a sustainable investments (Article 9).

The Hague, 10 March 2021

Pelargos Capital B.V.

## IMPORTANT INFORMATION

This Prospectus replaces all information relating to the Fund that has been published previously in a prospectus of the Fund.

(Potential) Participants are explicitly advised that an investment in the Fund entails financial risks. They are also explicitly advised to carefully read this Prospectus (of which the Terms form a part) and to acquaint themselves with all its content. In addition, (potential) Participants should, among other things, assess the most recent available financial information for the Fund prior to deciding whether or not to acquire Participations.

Neither the delivery of this Prospectus nor any issue, transfer or redemption of Participations shall, under any circumstance, mean that the information contained in this Prospectus will still be correct at any date later than the date of issue of this Prospectus. The Manager shall update the information contained in this Prospectus when called for. Only the Manager is authorised to provide information or issue statements relating to this Prospectus. In the event such information is provided or such statements are issued by a third party, such information or statements should not be trusted as being authorized by or on behalf of the Fund.

This Prospectus does not contain any offer to sell nor any solicitation of an offer to purchase any security other than the Participations described in this Prospectus.

The publication and distribution of this Prospectus and the offering and issue of Participations may be subject to restrictions imposed by law in some jurisdictions. This Prospectus does not constitute an offer or a solicitation of an offer, within a jurisdiction in which such an offer or solicitation is against the law, or to a person to whom it is unlawful to make such offer or solicitation. The Manager requests any person who obtains this Prospectus to become acquainted with, and to observe, all restrictions. The Manager accepts no liability for infringement of such restrictions, irrespective of whether or not it concerns a potential acquirer of Participations.

No registration has been made or will be made under Article 4, Paragraph 1 of FIEA with respect to the offering of the Participations, because the offering of the Participations is made by way of a private placement only to QIIs in accordance with Article 2, Paragraph 3, Item 2(i) of the FIEA. No Participations may be transferred or assigned to any person that is not a QII.

This Prospectus shall be governed by and construed with in accordance with the laws of The Netherlands and is exclusively made available in Dutch and English. The Dutch version will be legally binding; it shall prevail over the English version if any differences arise.

Investing in the Fund entails risks. Also by reason of the risks inherent to the Fund, the value of the investments may fluctuate. Past performance is no guarantee for the future. (Potential) Participants are advised to seek legal and tax advice prior to acquiring Participations.

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## 1. DEFINITIONS

|                                |   |
|--------------------------------|---|
| <b>Administrator</b>           | the entity that provides administration services to the Fund: <i>The Bank of New York Mellon SA/NV, Amsterdam Branch</i> ,  |
| <b>AFM</b>                     | the Netherlands Authority for the Financial Markets ( <i>Autoriteit Financiële Markten</i> ),   |
| <b>AIFM Directive</b>          | Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010,  |
| <b>Annex</b>                   | an annex to the Prospectus,   |
| <b>Application Form</b>        | the form that (potential) Participants are to complete and execute prior to a first issue to the pertinent person or the form that a Participant is required to complete and execute when information provided as per a previously submitted Application Form has altered,  |
| <b>Auditor</b>                 | the auditor of the Fund: PricewaterhouseCoopers Accountants N.V.,   |
| <b>Business Day</b>            | a day of the week on which the Manager as well as the Administrator are open for business,  |
| <b>CBS</b>                     | National statistical office, Statistics Netherlands ( <i>Centraal Bureau voor de Statistiek</i> ),  |
| <b>CFD</b>                     | a contract for difference,  |
| <b>Class of Participations</b> | a portion of the Fund, to which the holders of a particular class of participations are entitled,   |
| <b>Dealing Day</b>             | the first Business Day of each month or such supplementary Business Day set by the Manager per which day Participations may be issued, transferred and/or redeemed,   |
| <b>Dealing Form</b>            | the form that (potential) Participants are to complete and execute if they wish <ul style="list-style-type: none"> <li>i) to acquire Participations to be issued by the Fund,</li> <li>ii) the Fund to redeem Participations</li> <li>iii) to acquire Participations from a Participant respectively wish to transfer Participations to a (potential) Participant,</li> </ul> |
| <b>Depository</b>              | the depository of the Fund: <i>The Bank of New York Mellon SA/NV, Amsterdam Branch</i> ,  |
| <b>DNB</b>                     | the Dutch Central Bank ( <i>De Nederlandsche Bank N.V.</i> ),   |
| <b>Equalisation Credit</b>     | the not yet exigible claim of a Participant on the Fund with respect to any Participation held by that Participant, the extent of which is calculated in accordance with the formula set out in article 10.3. of the Terms,   |
| <b>Equalisation Deficit</b>    | the debt that a Participant accumulates as against the Manager with respect to any Participation held by that Participant, which debt is calculated in accordance with the formula set out in article 10.4. of the Terms,   |
| <b>FIEA</b>                    | the Financial Instruments and Exchange Act of Japan, as amended,  |
| <b>Forms</b>                   | Application and Dealing Forms,  |

|  |   |
|--|---|
| <b>Foundation</b>  | the entity that is the legal owner ( <i>juridisch eigenaar</i> ) of the assets of the Fund as referred to in article 4:37j of the Wft: <i>Stichting Pelargos Japan Alpha Fund</i> ,   |
| <b>Fund</b>  | <i>Pelargos Japan Alpha Fund</i> , a unit trust,  |
| <b>Gross Asset Value of a Participation</b>                | the Net Asset Value of a Participation without deduction of the performance fee due to the Manager at the time,   |
| <b>Gross Asset Value of a (Sub)Class of Participations</b> | the Net Asset Value of a (Sub)Class of Participations without deduction of the performance fee due to the Manager at the time,  |
| <b>Gross Exposure</b>                                      | the total absolute value of the long positions and short positions of the Fund,   |
| <b>High-on-High Watermark</b>                              | the highest peak in value of the Net Asset Value of a (Sub)Class of Participations, reached at the ultimate Valuation Day of any preceding financial year of the Fund,  |
| <b>Manager</b>   | the Manager ( <i>beheerder</i> ) of the Fund: <i>Pelargos Capital B.V.</i> ,  |
| <b>MTF</b>   | Multilateral Trading Facility as mentioned in article 1:1 Wft;  |
| <b>Net Asset Value of a Participation</b>                  | the net asset value of a Participation, calculated by dividing the Net Asset Value of a certain (Sub)Class of Participations by the number of Participations issued in such (Sub)Class of Participations, expressed in the currency of the relevant (Sub)Class of Participations and rounded off to two decimal places,   |
| <b>Net Asset Value of a (Sub)Class of Participations</b>   | the net asset value of a (Sub)Class of Participations on a Valuation Day determined at the closings price on that day on the regulated markets on which the financial instruments are listed that belong to the Fund or at the net asset value on that day of the assets of a collective investment scheme in which the Fund directly or indirectly invests, by: reducing the investments and other assets that are attributable to a (Sub)Class of Participations by the liabilities that are attributable to that (Sub)Class of Participations, such liabilities to include: <ul style="list-style-type: none"> <li>a. any taxes,</li> <li>b. <i>pro rata temporis</i>, the management fee, the performance fee, the fee of the Depositary, other management expenses and other costs attributable to that (Sub)Class of Participations,</li> <li>c. any provisions maintained,</li> </ul> expressed in the currency of the pertinent (Sub)Class of Participations and rounded off to two decimal places, |
| <b>Net Exposure</b>  | the absolute value of the long positions of the Fund reduced by the absolute value of the short positions of the Fund,  |
| <b>OTC</b>   | over-the-counter or unlisted,   |
| <b>PAC-INVEST</b>  | PAC-INVEST PTY Limited;   |
| <b>Participants</b>  | the parties entitled to one or more Participations,   |
| <b>Participation</b>                                       | the proportionate economic entitlement of the Participants to a (Sub)Class of Participations, rounded off to four decimal places,   |
| <b>Prime Brokers</b>                                       | the prime brokers of the Fund: <i>UBS AG, London Branch</i> , and <i>Goldman Sachs International</i> ,  |
| <b>Prospectus</b>  | this prospectus of the Fund including its Annexes,  |

|                                   |   |
|-----------------------------------|---|
| <b>QIIs</b>                       | qualified institutional investors as defined in Article 2, paragraph 3, Item 1 of the FIEA,   |
| <b>Subclass of Participations</b> | a segment of a Class of Participations denominated in a specific currency,  |
| <b>Terms</b>                      | the terms ( <i>voorwaarden</i> ) of the Fund, attached as Annex I,  |
| <b>Valuation Day</b>              | the last Business Day of each month or another Business Day that immediately precedes a supplementary Dealing Day set by the Manager or another day, which is in the interest of the Participations, set by the Manager as Valuation Day that precedes a Dealing Day, |
| <b>Wft</b>                        | the Act on Financial Supervision ( <i>Wet op het financieel toezicht</i> ), as amended from time to time, including regulations derived from the Wft.   |



## 2. GENERAL INFORMATION

### Structure

#### *General*

The Fund, established on 19 June 2008, is a unit trust. Consequently, there is a contractual obligation among the Manager, the Foundation and a Participant, with the rights and obligations of each set out in the Terms. When a (potential) Participant acquires Participations, he represents that he has acquainted himself with and shall be bound by the provisions of the Terms.

The Foundation is the legal owner of or legally entitled to all assets that form part of the Fund and holds them in custody for the account and at the risk of Participants. The Foundation has granted a power of attorney to the Manager to manage the Fund in accordance with the Terms.

The Fund is an open-ended investment fund. Subject to certain restrictions, it shall therefore on request issue and redeem Participations.

The Fund qualifies as a tax-exempt investment institution (*Vrijgestelde BeleggingsInstelling*) within the meaning of article 6a of the Dutch Corporation Tax Act (*Wet op de vennootschapsbelasting 1969*). Consequently, the Fund will be fully exempt from corporation tax in the Netherlands.

#### *Classes of Participations*

The assets of the Fund are divided into several Classes of Participations, with a specific fee structure for each Class of Participations. The underlying investments and risk profile of the various Classes of Participations are identical.

Each Class of Participations may be further segmented in Subclasses of Participations, each such Subclass of Participations to be denominated in a different currency. As regards Subclasses of Participations that are not denominated in Euro, the Manager intends to engage in currency hedging transactions against the Euro with a view to preserving the value of the assets attributable to a pertinent Subclass of Participations in the currency of that Subclass of Participations. The transactions referred to will be effected on a monthly basis and as per the Valuation Day. The costs of and the risks, both upward and downward, associated with these transactions will be expressed in the Net Asset Value of the pertinent Subclass of Participations.

A separate administration shall be kept for every (Sub)Class of Participations to allow that all costs and income pertaining to a certain (Sub)Class of Participations may be accounted for per such (Sub)Class of Participations. The assets of each (Sub)Class of Participations are, however, not separated in a legal sense.

### Manager

#### *General*

Pelargos Capital B.V. is the Manager of the Fund and as such is responsible for implementing the investment policy in accordance with this Prospectus.

Pelargos Capital B.V. was incorporated on 4 March 2008 with its registered office in The Hague and is listed in the trade register held by the The Hague Chamber of Commerce under number 27308299. Pelargos Capital B.V. is licensed as a management company pursuant to section 2:65 of the Wft as of 9 December 2010. As of that date the Manager is therefore supervised by the AFM and DNB pursuant to the provisions of the Wft on Prudential Supervision of Financial Enterprises respectively on Business Supervision of Financial Enterprises. By operation of law and as per 22 July 2014, the license of the Manager has changed into a license pursuant to the AIFM Directive. Per 1 March 2017 the AIFMD license has been extended with the following investment services provided to professional investors only: (i) Individual portfolio management, (ii) Investment advice and (iii) receiving and transmitting investment orders.

*Persons that determine the policy of the Fund*

The directors of the Manager, which are Orange Dragon Company B.V. (represented by R.A. (Richard) Dingemans), M. (Michael) Kretschmer and P. (Pieter) van Putten determine the policy of the Fund.

**Richard Dingemans** (Dutch, 1971) started his career in 1996 in the investment management department of AXA Life Assurance. In 1998, upon the establishment of AXA Managers he took on the role of quantitative analyst and portfolio manager Balanced Mandates, in which he was given joint responsibility for asset allocation. As from 2001 he was based in AXA's London office in the post of Manager global equities. In 2003 he joined Aegon as portfolio manager Japanese equities. In 2005 the fund managed by him received an S&P nomination for the best Japanese equity fund. Richard graduated in 1995 from Delft University of Technology with a Master's in Chemical Engineering. In 2000 he completed the VBA Investment Analyst course. Richard is Chartered Market Technician (since 2010), and he is a member of CFA Institute.

**Michael Kretschmer** (Austrian, 1974) is employed by Pelargos since its inception in 2008 and currently acts as Chief Investment Officer and co-manager of Pelargos Japan funds. He started his career in 2001 as portfolio manager at Robeco. After having specialized in a number of industry sectors and regions, he assumed responsibility for the management of the Global Industrials Fund. In 2007 Michael worked from Robeco's Boston office. Michael attended an education in Plastics Engineering and studied at the University of Economics in Vienna, specializing in Financial Markets and Econometrics. He also studied at Erasmus University in Rotterdam and at Vrije Universiteit in Amsterdam. Michael is Chartered Financial Analyst (since 2005) and Chartered Market Technician (since 2011), and he is a member of CFA Institute.

**Pieter van Putten** (Dutch, 1963) is Managing Director, CFO/COO of Pelargos Capital. He is responsible for all activities not directly related to the implementation of the investment policy. He started his career in 1989 in the institutional asset management division of Commerzbank in Frankfurt. From 1993 he built the asset management operations for Commerzbank in Asia-ex-Japan, first from Hong Kong and later from Singapore. In 2002 he became CEO of Aviva owned Morley Fund Management (Singapore) and from 2003 to 2008 he was managing director for Singapore based APS Asset Management. After his return to the Netherlands Pieter carried out consultancy work, among others for Pelargos Capital, which he helped with a range of operational projects. Pieter graduated in 1988 with a double MBA degree from Nijenrode University in the Netherlands and University of Florida in Gainesville, United States. Pieter has been a CFA charter holder since 1998, and he is a Fulbright scholar. Pieter is a board member of CFA Society VBA Netherlands and participates as volunteer in a number of international initiatives of CFA Institute.

*Liability*

The Manager shall only be liable vis-à-vis the Participants for losses incurred by the Participants, insofar as the losses are the result of wilful default or gross negligence on the part of the Manager.

The Manager holds a professional indemnity insurance to cover professional liability risks resulting from its activities as manager of the Fund. Moreover, the Manager avails of additional own funds to cover such risks.

*Delegation of functions*

The Manager has delegated functions to the Administrator (as set forth on the following page) and to PAC-INVEST. The activities of PAC-INVEST are directed towards preparing the mandatory short sell reports and it sends the reports to the designated authorities. The Manager has no conflict of interest with PAC-INVEST.

Both the Administrator and the Depositary are members of the American financial group Bank of New York Mellon and thus have The Bank of New York Mellon Corporation, a listed company, as ultimate parent company.

Within Bank of New York Mellon, potential conflicts of interest between the Depositary, Administrator and the Participants as well as the Manager are managed by separating activities both from a functional and a hierarchical perspective. On a systematic basis and in accordance with objective criteria, the Manager furthermore assesses the ways in which delegated functions are executed.

## **Depository**

### *General*

The Manager has appointed the branch office of Bank of New York Mellon in Amsterdam, trading as The Bank of New York Mellon SA/NV Amsterdam Branch, as depository of the Fund. The arrangements with the Depository have been listed in a written depository agreement, a copy of which can be obtained free of charge from the Manager.

The Bank of New York Mellon SA/NV was incorporated in Belgium in 2008 and is registered with the Rechtspersonenregister (RPR) in Brussels with number 0806.743.159. In the Netherlands, The Bank of New York Mellon SA/NV, Amsterdam Branch is listed in the trade register held by the Amsterdam Chamber of Commerce under number 34363596.

The Bank of New York Mellon SA/NV avails of a banking license issued in Belgium and is regulated by the National Bank of Belgium. The liquidity and integrity of the branch office is moreover supervised in the Netherlands by DNB, and its Belgium license is registered in the Netherlands subject to article 2:14 of Wft.

### *Functions*

The branch office is charged with the functions as stated in the management and custody agreement that is concluded by the Manager and the Depository. Primarily, the branch office is thus charged with the custody of the assets of the Fund and ensuring that the Manager and the Foundation will act in accordance with what has been set out in this Prospectus.

### *Liability*

The Depository shall be liable to Participants for the loss by the Depository of financial instruments held in custody, unless it can prove that the loss has arisen as a result of an external event beyond its reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary.

For all other losses suffered by the Fund or the Participants the Depository shall only be liable in so far as such losses are caused by the Depository's intentional or negligent failure to properly fulfill its obligations.

The management and custody agreement includes a stipulation pursuant to which the Participants may directly invoke vis-à-vis the Depository the liability regime that is made part of that agreement in accordance with the AIFM Directive. The Manager shall then submit the claim on behalf of the Participants. A Participant may submit claims to the Depository directly, if a claim is not submitted or not submitted to the satisfaction of that Participant.

The manager shall forthwith inform the Participants of any change in the liability regime as it is made part of the management and custody agreement.

### *Delegation of functions*

Under the management and custody agreement the Depository may delegate custody of the assets of the Fund to one or more third parties, including the Prime Brokers and entities that form part of The Bank of New York Mellon group. Delegation is permitted, provided that the delegation requirements that are set out in paragraph 11 of article 21 of the AIFM Directive as well as in other parts of the AIFMD directive and Wft are met. Subject to the same requirements, third parties to which custody functions are delegated may, in turn, delegate such functions.

The involvement of other entities that form part of The Bank of New York Mellon may create conflicts of interest. Therefore, the Depository has arrangements in place to manage the same. Moreover, the management and custody agreement includes additional provisions should such arrangements fail to ensure, with reasonable confidence on the Depository's part, that loss of assets of the Fund will be avoided.

No delegation of functions by the Depository will entail discharge of its liability, as described above, unless a number of conditions are met in addition to the delegation requirements set forth in the AIFM Directive.

Abovementioned conditions entail the transfer of liability to the pertinent third party in writing as well as prior written consent of the Manager to discharge of liability to that third party. The agreement between the Depository and the third party shall, furthermore, allow for the Manager, or the Depository acting on behalf of the Manager, to submit a claim against the pertinent third party in respect of the loss of financial instruments.

These conditions are equally applicable to delegation of functions by the Depositary and sub-delegation by the third party to whom functions are delegated.

In addition to this arrangement and provided that the aforesaid conditions are met, discharge of the Depositary's liability is allowed to a third party that does not comply with the delegation requirement of the AIFM Directive that refers to such party being subject to effective prudential regulation and supervision. Proviso is, however, that the law of the country in which that third party is located requires that the financial Instruments are to be held in custody by a local entity, and that the Manager specifically allows such discharge in writing.

*Transfer of liability with respect to functions delegated to the Prime Brokers*

In compliance with the requirements and conditions set out hereinabove, the transfer of liability by the Depositary to each of the Prime Brokers for the loss of financial instruments held in custody has been effected.

Consequently, the pertinent Prime Broker is liable for such loss, unless it can prove that the loss has arisen as a result of an external event beyond its reasonable control, the consequences of which would have been unavoidable despite all reasonable efforts to the contrary. Thus, in the latter case neither the Depositary nor the Prime Broker is liable.

The transfer agreement provides for one exception to the Prime Broker's liability as per the rule set out above. In the case that the Prime Broker has made use of its authority to sub-delegate and has sub-delegated functions to an entity that forms part of the The Bank of New York Mellon, the liability of the Depositary for the loss of financial instruments held in custody by that entity shall revive.

**Legal owner of the assets of the Fund**

The legal owner of the assets of the Fund is Stichting Pelargos Japan Alpha Fund. The Foundation does not perform any activities other than holding the assets of the Fund.

The Foundation was incorporated with its registered office in The Hague on April 21, 2008 and is listed in the trade register held by the The Hague Chamber of Commerce under number 27317679.

IQ EQ Custody B.V., an indirect wholly owned subsidiary of IQ EQ Netherlands N.V. (IQ EQ), forms the executive board of the Foundation. IQ EQ is the holding company of a group of trust companies in the Netherlands.

**Administrator**

*General*

The Bank of New York Mellon SA/NV, Amsterdam Branch, is the Administrator of the Fund; certain administration services are being outsourced to BNY Mellon Fund Services (Ireland) DAC in Dublin, Ireland. BNY Mellon Fund Services (Ireland) DAC is a licensed bank, authorised and regulated by the Central Bank of Ireland. The Administrator was incorporated under Irish law on 31 May 1994 and is registered under number 218007 with the Companies Registration Office in Ireland. Furthermore, certain services in relation to transfer agency are being outsourced to The Bank of New York Mellon (Luxembourg) S.A. The Administrator is part of The Bank of New York Mellon group and is therefore a related party of the Depositary.

#### *Delegation of functions to the Administrator*

The administration services that the Administrator provides are subject to the overall direction of the Manager and include the valuation of the assets of the Fund, the calculation of the Gross/Net Asset Value of a (Sub)Class of Participations and of the Gross/Net Asset Value of a Participation, the calculation of the performance fee due to the Manager, preparing the (semi-)annual reports of the Fund, providing the follow-up on inquiries by (potential) Participants, the calculation of Equalisation Credits and Equalisation Deficits, acting as the Fund's registrar, the implementation of the issue, transfer and redemption of Participations and the execution of middle office operations on behalf of the Manager. With respect to the valuation services carried out by the Administrator the Manager holds final responsibility for the valuation of the assets and the related calculation of the (Gross) Asset Value.

#### **Prime Brokers**

##### *General*

Goldman Sachs International and UBS AG, London Branch, have been appointed as prime brokers to the Fund. The Financial Conduct Authority and the Prudential Regulation Authority in the United Kingdom regulate both Prime Brokers.

Goldman Sachs International was incorporated in the United Kingdom in 1966 and is registered in the United Kingdom under Companies House number 02263951. It is a member of the American financial group Goldman Sachs Group and has The Goldman Sachs Group, Inc. as its ultimate parent company.

UBS AG London Branch is a branch office of UBS AG, a listed company incorporated in Switzerland in 1998. Said company is the holding company of the UBS Group and is registered with the trade register of the Kantons of Basel-Stadt respectively Zürich under number CHE-101.329.561.

##### *Services*

In their capacity as Prime Brokers, Goldman Sachs International and UBS AG, London Branch, execute orders on behalf of the Fund, arrange for the clearing and settlement of such orders and orders executed with other brokers. The Prime Brokers will also provide the Fund with financing lines and short selling facilities. They, furthermore, provide custodial services with respect to the financial instruments held by the Fund as delegated to them by the Manager.

The Manager shall also assess the ways in which these activities are performed on a systematic basis and in accordance with objective criteria. Potential conflicts of interest will, furthermore, be addressed in keeping with the pertinent rules laid down by the Manager.

As noted above, the Fund's financial instruments are in custody with Prime Brokers. In addition, these financial instruments may be traded by the Fund as derivative transactions. These derivatives transactions are only entered into with ISDA counterparties. The Prime Brokers are also the Fund's ISDA counterparties for the purpose of entering into derivative transactions.

For details on the risks associated with the services provided by prime brokers, inclusive of the risks associated with the authorised reuse of assets, please refer to the section on risk factors.

**ISIN Codes**

The ISIN codes of the Participations are:

| <b>(Sub)Class of Participations</b> | <b>ISIN Code</b> |
|-------------------------------------|------------------|
| B (EUR)                             | NL0001118015     |
| C (USD)                             | NL0012314603     |
| C (EUR)                             | NL0012314611     |

**Address information**

|                                       |  |   |
|---------------------------------------|--|---|
| FUND                                  | Pelargos Japan Alpha Fund<br>WTC The Hague, E-Tower, 7th Floor<br>Prinses Margrietplantsoen 43,<br>2595 AM The Hague<br>The Netherlands<br>T: +31-70-756-8030<br>F: +31-70-756-8039<br>M: info@pelargoscapital.com |   |
| MANAGER                               | Pelargos Capital B.V.<br>WTC The Hague, E-Tower, 7th Floor<br>Prinses Margrietplantsoen 43,<br>2595 AM The Hague<br>The Netherlands<br>www.pelargoscapital.com   |   |
| LEGAL OWNER OF THE ASSETS OF THE FUND | Stichting Pelargos Japan Alpha Fund<br>c/o: IQ EQ Custody B.V.<br>Hoogoorddreef 15<br>1101 BA Amsterdam<br>The Netherlands<br><a href="http://www.iqeq.com">www.iqeq.com</a>                                       |   |
| AUDITORS                              | PricewaterhouseCoopers Accountants N.V.<br>Fascinatio Boulevard 350<br>3065 WB Rotterdam<br>The Netherlands<br>www.pwc.nl  |   |
| ADMINISTRATOR                         | The Bank of New York Mellon SA/NV, Amsterdam Branch<br>WTC Building, Podium Office, B Tower<br>Strawinskylaan 337<br>1077 XX Amsterdam<br>Netherlands<br>www.bnymellon.com   |   |
| DEPOSITARY                            | The Bank of New York Mellon SA/NV, Amsterdam Branch<br>WTC Building, Podium Office, B Tower<br>Strawinskylaan 337<br>1077 XX Amsterdam<br>Netherlands<br>www.bnymellon.com   |   |
| PRIME BROKERS                         | Goldman Sachs International<br>Plumtree Court<br>25 Shoe Lane<br>London, EC4A 4AU<br>United Kingdom<br>www.gs.com  | UBS AG,<br>London Branch<br>1 Finsbury Avenue<br>London EC2M 2PP<br>United Kingdom<br>www.ubs.com |

LEGAL ADVISOR TO THE  
MANAGER

De Brauw Blackstone Westbroek N.V.  
Claude Debussylaan 80  
1082 MD Amsterdam  
The Netherlands  
[www.debrauw.com](http://www.debrauw.com)

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SHORT SELL REPORTING

PAC-INVEST PTY Limited  
Level 57  
MLC Centre  
19-29 Martin Place,  
Sydney, Australie  
[www.pac-invest.com.au](http://www.pac-invest.com.au)

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### 3. INVESTMENT POLICY

#### Investment objective

The Funds' objective is to achieve capital appreciation through investing in long and short positions in equities related to Japanese enterprises.

#### Investment instruments

The Fund will primarily invest in a diversified portfolio consisting of long and short positions in listed equities. Such equities may be traded on regulated markets and MTFs both in- and outside of Japan.

The Fund may also invest in investment funds or other financial products managed by other financial institutions including the Manager as well as other affiliated parties. The Fund may, furthermore, invest in shares to be admitted to listing and thus participate in an IPO. It may, furthermore, invest in liquid assets such as cash or cash-equivalents and fixed income securities.

For reasons of risk management and of potentially increasing returns, the Fund may use derivative financial instruments such as swaps (CFDs), (index)futures, (currency)forwards and options. Such derivatives may be traded on the aforementioned regulated markets as well as OTC, with financial intermediaries such as banks and brokers. In the latter case, collateral may have to be posted.

If in the future other techniques, instruments and/or structures were to become available in the financial markets, which the Manager considers suitable for achieving the investment objective of the Fund, the Manager may also utilise such techniques, instruments and/or structures on behalf of the Fund.

To achieve the Fund's objective, the Manager may use leverage. Potentially increasing the return of the Fund through derivative positions and securities borrowing as well as increasing the exposure of the Fund by borrowing cash are regarded as leveraging techniques. Given the risks associated with leveraging as technique, the Manager will only draw under short-term credit facilities. The return of the Fund may, furthermore, be potentially increased by securities lending.

#### Investment process

The core of the investment process is fundamental value-orientated analysis, with the objective to determine significant deviations of the market value from the intrinsic value. This analysis is supplemented with technical, macroeconomic and quantitative analysis.

Single stock position sizes vary depending on subjective risk assessment of the portfolio manager and portfolio construction is a bottom-up process. The top-down portfolio risk measurement and management incorporates statistical factors such as volatility, beta, sector and market risk, but also fundamental criteria such as exposures to investment style factors and liquidity. These risks are continuously monitored by means of multiple risk management systems.

The leverage of the Fund is a ratio between the Gross Exposure and the Net Asset Value. The Gross Exposure is the total absolute value of long positions and short positions of the Fund,

In general, risks are managed by using a combination of long and short positions, through targeting net and gross exposure, by means of derivative positions, and through diversification as the Fund will, barring exceptional market conditions, adhere to the following guidelines:

- a maximum Gross Exposure of 250% of the Net Asset Value of all (Sub)Classes of Participations (the maximum leverage),
- a maximum Net Exposure to range from -100% to 100% of the Net Asset Value of all (Sub)Classes of Participations,
- a maximum Net Exposure by sector to range from -30% to 30% of the Net Asset Value of all (Sub)Classes of Participations, and
- a maximum Net Exposure by company to range from -10% to 10% of the Net Asset Value of all (Sub)Classes of Participations.

The abovementioned investment restrictions apply as at the date of the relevant transaction. If divergence arises due to circumstances beyond the control of the Manager, the Manager will bring the portfolio within a reasonable timeframe in line with the abovementioned investment restrictions.

### **Liquid assets**

The Fund may hold liquid assets with its prime brokers, other financial parties or use it for the purchase of certain money market instruments such as money market funds. These instruments can be held for an optimal use of liquid assets and are not considered as financial instruments to fulfil the investment objective.

### **Securities Financing Transactions**

The Fund may enter into securities lending agreements, repurchase and reverse repurchase agreements, margin lending transactions (together "**Securities Financing Transactions**"), swaps and CFDs subject to and in accordance with the conditions and limits set out in this Prospectus and the Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 ("**Securities Financing Transactions Regulation**") for the purposes of efficient portfolio management and to generate additional capital or income for the Fund with a level of risk which is consistent with the risk profile of the Fund.

The types of assets that may be subject to a Securities Financing Transaction, a swap and a CFD will be determined in accordance with the investment policy of the Fund.

The proportion of assets under management subject to Securities Financing Transactions, swaps and CFDs expected to vary between 0% and 100% of the Net Asset Value of the Fund and will be subject to a maximum of 250% of the Net Asset Value of the Fund.

Any Securities Financing Transaction, swap or CFD will only be entered into with institutions of appropriate financial standing which engage in these types of transactions. The counterparties to such transactions are typically banks, investment firms or other financial institutions or intermediaries that meet the Manager's criteria (including regulatory status, legal status, country of origin and minimum credit rating).

All of the revenues generated by Securities Financing Transactions, swaps and CFDs will be returned to the Fund. All costs and fees of the counterparty, in relation to Securities Financing Transactions will be payable at normal commercial terms. No counterparty is a related party to the Manager.

Please see section "Risk Factors" of the Prospectus for the risks involved in entering into Securities Financing Transactions, swaps and CFDs.

### **Securities lending**

The Fund may lend securities to financial institutions other than the Prime Brokers provided that the relevant authorities regulate such institutions. Transactions are virtually exclusively entered into under documentation that is customary in the market and that is developed by the pertinent trade organisations. The Fund may lend up to 100% of its long positions. The Fund will ensure that risks associated with these transactions (exposure) are limited as far as possible by solely lending:

- to financial institutions that at the time of lending avail of a rating assigned by a generally accepted and approved credit rating agency, which is at least investment grade,
- if collateral that is customary in the market, such as liquidities and (government) bonds, may be obtained, and
- if the value of the collateral obtained at the time of concluding the lending agreement equals at least 95% to 105% of the then aggregate estimated value of the securities lent.

Should the Fund at any time deem the collateral obtained to be insufficient, it will demand additional collateral or recall the securities lent. The proceeds from securities lending transactions less the costs payable to the market party that facilitated this activity will be credited to the Fund and will be stated in the (semi)annual reports of the Fund.

**Changes to the investment policy**

The Manager may change the investment policy by amendment to the Prospectus. The Prospectus may be amended by joint decision of the Manager and the Foundation and after notifying the Participants. Amendment shall be made in accordance with the provisions indicated on page 38.

## 4. RISK FACTORS

### General

The Fund aims to achieve positive returns on investments irrespective of market movements. The fact that the Fund may use derivatives, avails of a potentially high Net Exposure and Gross Exposure, could hold large positions in a relative limited number of financial instruments and may enter short positions, entails that the Fund has a relatively high level of risk. Returns may also fluctuate strongly. There are no guarantees that certain levels of return will be achieved, nor should any return be assumed following series of satisfactory results. In addition, an investment in the Fund should be regarded as long-term and should form part of a diversified investment portfolio.

Participants may suffer significant losses and lose their entire investment. Consequently, the Fund is only suited for Participants who can accept such a high level of risk.

(Potential) Participants are therefore *inter alia* advised to inform themselves of the risks set out below. The list below is not exhaustive; other risks than the ones identified therein may arise and unidentified risks may have a greater impact on achieving positive returns than the risks that are identified. We, therefore, recommend (potential) Participants to read this Prospectus carefully and consult professional advisors.

### Return risk

The returns of the Fund largely depend on the decisions that Manager takes as part of the investment process, leading from identification to the implementation of investment opportunities. Returns are not guaranteed.

### Securities borrowing risk

The Fund may borrow equities up to a maximum of 175% of the Net Asset Value of all (Sub)Classes of Participations. It is thus in the position to sell equities with the purpose of buying them back later (short selling). The costs of borrowing may vary greatly and influence the return realized on the pertinent position. Because of the unlimited upward potential of equity prices, the theoretical loss on a short position is unlimited.

Conceivably, borrowed equities may need to be returned to the lender at an earlier date than expected. If so, borrowing equities to substitute recalled equities or acquiring the pertinent equities instead may entail significantly higher costs. In the event that the Fund is not in the position to acquire the pertinent equities and, as a result, not in the position to fulfil its obligation to deliver the same, the Fund may incur fines or penalties.

### Credit facilities

The Fund may draw under credit facilities totalling up to a maximum of 250% of the Net Asset Value of all (Sub)Classes of Participations. This increases the Fund's risk profile because of possible changes in interest rates or the possibility that holdings purchased with the borrowed funds drop to a value that is less than the amount drawn.

Moreover, the credit provider may forthwith withdraw these facilities in certain determinable circumstances. Such event may necessitate a lowering of both Gross Exposure and Net Exposure and may entail a considerable number of transactions to adjust the portfolio to the new absolute values. The number of transactions involved may also affect the returns of the Fund.

### Counterparty risk

The Fund is susceptible to the risk that counterparties of the Fund will default on their obligations as a result of *inter alia* a moratorium of payment or involuntarily liquidation. Amongst others, such counterparties include the Depositary, Prime Brokers and third parties that as part of custodial services provided have custody of assets of the Fund.

As such, a Prime Broker is entitled to pledge assets that the Fund has pledged to the Prime Broker to secure debts of the Prime Broker to a third party. Such pledge is limited to an amount up to 140% of the value of the liabilities or net indebtedness of the Fund towards the relevant Prime Broker. In turn, the Fund will vis-à-vis the Prime Broker

have the right of redelivery of (equivalent) assets. In case of involuntary liquidation of the Prime Broker or its counterparty, the value of the assets to be redelivered will be set off against the amount that the Fund owes the Prime Broker. To the extent that the Prime Broker has rehypothecated assets with a value in excess of the amount that the Fund owes, the Fund ranks as a general creditor in respect of the claim that ensues following set-off, with the risk that such excess may not be reclaimed.

The same risk applies in respect of assets that are reused with the manager's permission by the Depositary and/or a sub-Depositary other than a Prime Broker that was appointed by the Depositary.

Assets of the Fund held by third parties that provide custodial services may, furthermore, be lost due to insolvency, negligence or by fraudulent actions of such party.

#### **Market risk**

Many factors can affect the market value of the securities invested in by the Fund. Not only factors inherent to the pertinent issuing company or the sector in which it operates may influence that value, geopolitical developments and developments in Japan may also have that effect.

Investments by the Fund may be geared towards an expected upswing of or downswing in the value of a security. If the markets move the other way, the value of the Fund may be negatively affected.

#### **Concentration risk**

The concentration of the investment portfolio of the Fund may be relatively strong and the portfolio may thus to a large extent be dependent on volatility in specific equities (idiosyncratic risk).

#### **Risk regarding derivatives**

The Fund may utilise investment instruments such as exchange-traded futures, OTC options and other derivative contracts. These instruments can be highly volatile. The low initial margin deposits normally required allow for a high degree of leverage. Depending on the type of instrument, a relatively small movement in the price of a contract may result in a profit or loss that is high in proportion to the amounts of the funds actually placed as initial margin and may result in unquantifiable loss exceeding any margin deposited.

OTC-transactions may involve additional risk such as counterparty risk and lack of a (regulated) market on which they are traded, which may result in pricing being less transparent and/or impediments to liquidate an existing position, to assess the value of a position or to assess the exposure to risk.

#### **Risk regarding laws and regulations**

Changes in (the enforcement policy in relation to) applicable (tax) laws and regulations may necessitate changes in the (execution of the) investment policy and/or may cause an increase in costs.

#### **Taxation risk**

The Fund does not intend to become subject to income tax levied outside the Netherlands. Should the Fund nevertheless become liable to pay tax in other countries, any such liability will negatively influence the investment return.

#### **Liquidity risk**

Exceptional circumstances may impede trading in equities or other securities resulting in reduced liquidity. As a consequence the Fund may not be able to respond at all or only partially to market fluctuations. It may also be impossible to trade in certain securities because the listing has been suspended, e.g. in case of company news and/or share issues. In addition, restrictions are or may be imposed that entail trading in equities to be halted or severely restricted. A halting of or restriction on trading may be in place for a long time.

**Securities lending risk**

When lending securities the Fund is exposed to the risk that the party that borrows the securities is not in the position to fulfil its obligation to return the securities borrowed (in time), or fails to lodge the requested collateral. The Fund's lending policy is geared towards controlling these risks as far as possible.

**Currency risk**

The Fund may hold cash in and securities denominated in other currencies. The value of such holdings, expressed in the currency in which the pertinent (Sub)Class of Participations is administered, may therefore be influenced by currency fluctuations.

**Currency hedge risk**

On a monthly basis and as per the Valuation Day, the Net Asset Value of a Subclass of Participations not denominated in Euro will in principle be hedged at the risk and expense of the participants in that Subclass of Participations.

Movements in the Net Asset Value in the period following a Valuation Day as per which the currency is hedged up to the next such Valuation Day may, however, at all times result in a currency risk exposure. As a result of hedging the Net Asset Value of Participations, the Net Asset Value of a Subclass of Participations can furthermore move unfavourably vis-à-vis another Subclass of Participations within that Class.

**Risk regarding costs**

In a fluctuating investment climate the portfolio may be subject to high transaction turnover. Transaction fees may then be relatively high and negatively influence the investment return.

Furthermore, the Fund has a few costs which are not a fixed percentage of the Net Asset Value of the Fund. If the Net Asset Value of the Fund decreases, the fixed fee as a percentage of the Net Asset Value will increase.

**Lack of flexibility risk**

In principle, Participations may only be offered for redemption or transferred to a third party once a month. However, executing such transaction will not be possible on that day if a lock-up applies to the pertinent Participations or if the Gross/Net Asset Value as per the preceding Valuation Day has not been determined. The number of Participations to be redeemed on a Dealing Day may, furthermore, be restricted.

**Operational risk**

The operational risk is the risk of losses owing to inadequate or malfunctioning internal processes, checks, systems, or arising from external events. This risk includes contingencies, legal and compliance risk, tax risk, fraud risk, process and administration risk, systemic risk and personnel risk.

**Inflation risk**

Due to inflation, the actual value of the return on an investment in the Fund may decline.

**No separate capital**

The capital in the (Sub)Classes of Participations is divided for administrative purposes only. Consequently, a negative capital balance of one or more (Sub)Classes of Participations on liquidation will be transferred to the other (Sub)Classes of Participations in proportion to the Net Asset Value of the latter (Sub)Classes of Participations.

**Requalification risk**

The Fund is construed as a unit trust and is not incorporated as a legal entity. The Terms state that admission to the Fund does not lead to an agreement between the individual Participants, but only to an agreement between the individual Participant, the Manager and the Foundation.

Furthermore, the obligation of the Participant to pay for the Participations is an obligation towards the Foundation only and is not a contribution or an obligation to contribute under Netherlands law. However, should Participants act in contravention of said conditions - as a consequence of which a judge could rule that Participants have concluded an agreement by and between themselves, collaborate and/or have an obligation vis-à-vis one another to pay a consideration for Participation other than the consideration due at transfer of a Participation - a judge could designate the Fund as a (limited) partnership or a firm. Consequently, a Participant may be held liable for the obligations entered into by the Manager and the Foundation. Should the Fund be designated as a (limited) partnership or a firm, provisions of the Terms may be held to be in conflict with the express requirements of mandatory law.

## 5. FUND ASSETS AND PARTICIPATIONS

The Participants in a (Sub)Class of Participations are economically entitled to the assets that are designated to that (Sub)Class of Participations in proportion to the number of (Sub)Class Participation held by the Participant. In this proportionate holding, all economic advantages and disadvantages associated with the (Sub)Class of Participations, are credited respectively debited to the Participants that hold the pertinent Participations.

The Participations are registered Participations. No certificates shall be issued.

As per the date of this Prospectus two Classes of Participations are in issue: Class B and Class C. Class B Participations are issued in one (Sub) Class, denominated in Euro only (referred to as (Sub)Class B (EUR)). Class C Participations may be issued in two subclasses, denominated in the following respective currencies: US Dollars (referred to as (Sub)Class C (USD) and in Euro (referred to as (Sub)Class C (EUR)). The terms in respect of each such Class of Participations are set out in the table below.

The Manager and the Foundation may determine to extend the number of (Sub)Classes of Participations.

Acquiring Participations involves the conclusion of an agreement between the individual Participant, the Manager and the Foundation that is governed by the laws of the Netherlands. Unless Participants act in such way that requalification becomes apparent for the reasons set out on page 21. Participants are not liable vis-à-vis third parties for the obligations of the Manager and the Foundation and do not bear responsibility for the losses of the relevant (Sub)Class of Participations in excess of the amount that was paid into the relevant (Sub)Class of Participations as consideration for the Participations held by the Participant.

All disputes arising from these Terms, inclusive of disputes on the existence and validity thereof, shall be settled through arbitration in accordance with the regulations of the Netherlands Arbitration Institute (*Nederlands Arbitrage Instituut*).

The following shall apply:

- a. the arbitral tribunal shall consist of three arbitrators,
- b. the venue of arbitration shall be The Hague,
- c. the proceedings shall be in the Dutch language,
- d. the arbitral tribunal shall settle the dispute according to the rules of the laws of the Netherlands,
- e. the Netherlands Arbitration Institute may not publish the arbitral award.



| <b>(Sub) Class Participations:</b> | <b>Minimum amount Initial investment<sup>1</sup>:</b> | <b>Minimum amount subsequent investments resp redemptions:</b> | <b>Minimum aggregate Net Asset Value of Participations held by a Participant following transfer/ redemptions of Participations by that Participant:</b> | <b>Management Fee percentage<sup>2</sup>:</b> | <b>Performance Fee percentage:</b> | <b>Equalization</b> |
|------------------------------------|---|--|---|---|------------------------------------|---------------------|
| <b>B (EUR)</b>                     | EUR 10.000  | EUR 1.000  | EUR 10.000  | 1,0%  | 15%                                | Yes                 |
| <b>C (USD)</b>                     | USD 100.000   | USD 1.000  | USD 100.000   | 0,5%  | 15%                                | Yes                 |
| <b>C (EUR)</b>                     | EUR 100.000   | EUR 1.000  | EUR 100.000   | 0,5%  | 15%                                | Yes                 |

<sup>1</sup> Exclusive of subscription fees as stated on page 24; deposits are to be made in the currency as indicated.

<sup>2</sup> Further information on the (method of) calculation of this fee is included in the section on Costs starting on page 31.

## 6. TRANSACTIONS IN PARTICIPATIONS

### General

(Potential) Participants may acquire Participations either by way of the Fund issuing Participations on a Dealing Day or by transfer by a then current participant in the Fund. In case of transfer, the person wishing to acquire Participations will also have to satisfy the conditions that govern the pertinent (Sub)Class of Participations. The transfer must, furthermore, be effected through the Administrator and may only be effected following prior approval having been obtained in writing from the Manager.

Participations may be alienated either by way of redemption by the Fund on a Dealing Day or by transfer to (potential) Participants in the manner as described above.

Normally, a Dealing Day will be the first Business Day of each month. In the interest of Participants, the Manager may, however, decide to set a supplementary Dealing Day. In such case, Participants will be so informed in a timely fashion both at their registered address and by publication on the website of the Manager.

### Subscription

Participations are issued at the Gross Asset Value of a Participation as per the Valuation Day, said value to be increased with the subscription fee mentioned hereafter. If need be, fractions of Participations will be issued rounded off to four decimal places.

If, upon allocation, the Gross Asset Value of a Participation exceeds the pertinent High-on-High Watermark, the Participant will be granted an Equalisation Credit.

Conversely, if upon allocation the pertinent High-on-High Watermark exceeds the Gross Asset Value of a Participation, the Participant will accumulate an Equalisation Deficit from the moment that the Net Asset Value of an allocated Participation increases until such time as the Net Asset Value of a Participation of that Participation equals the pertinent High-on-High Watermark.

Equalisation Credits and Equalisation Deficits are calculated in accordance with the formulas set out in article 10 of the Terms and explained in more detail in Annex II.

The Manager may refuse the allocation of Participations in a particular (Sub)Class without stating the reason of refusal.

### Redemption

Participations are redeemed against the Net Asset Value of a Participation as per the Valuation Day, said fee to be decreased with the redemption fee mentioned hereafter and increased with the (residual) amount of any Equalisation Credit per Participation redeemed.

In the event that a Participant has accumulated an Equalisation Deficit in respect of Participations to be redeemed, the number of Participations required to settle the entire Equalisation Deficit attached to the Participations to be redeemed shall be cancelled. This procedure is set out in more detail in article 10.11. of the Terms and explained in more detail in Annex II.

### Transfer

Participations are transferred against the Net/Gross Asset Value of a Participation as per the Valuation Day and, if the transfer entails a change with respect to the ultimate beneficiary involved, such transfer is effected in accordance with paragraphs 2, 3 and 4 of article 11 of the Terms.

### Subscription and redemption fees

Upon each issue and redemption of a Participation a fee may be charged of up to 1.0% of the then current Gross or Net Asset Value of a Participation. These fees are charged in order to cover the costs incurred in transactions related to subscription and/or redemption and are credited to the Fund. The actual costs charged to the Fund and, therefore,

the actual percentage of the Gross/Net Value of a Participation charged to a Participant may thus vary per Dealing Day. The Manager determines the actual percentage charged.

**Forms**

(Potential) Participants are to make their pertinent subscription, transfer and/or redemption requests known by way of submitting a Dealing Form.

All Forms are available through the Manager's website. They may also be obtained from the Administrator, by contacting:

|                  |                         |
|------------------|-------------------------|
| <b>E-mail:</b>   | hedgeteam@bnymellon.com |
| <b>Fax:</b>      | +352 2452 5699          |
| <b>Telefoon:</b> | +352 2452 5690          |

*Application Form*

At initial subscription, a completed Application Form is to be submitted as well along with any documents required to verify the identity of the subscriber. Any change in information provided as per a previously submitted Application Form must be made known as soon as possible by way of submitting an updated Application Form.

*Dealing Form*

By way of submitting a Dealing Form each (potential) Participant shall confirm that he avails of the knowledge, expertise and experience required to properly assess the risks of investing in the Fund. In addition, the (potential) Participant indicates that he is aware of the method of calculating the value of the Participations as well as the way in which they may be traded and that he is able to bear the risks associated with an investment in participations of the Fund.

If Participations are to be transferred, a completed Application Form is to be submitted by the intended transferee as well, unless such transferee is a Participant and the information included in the Application Form submitted previously by that transferee has not changed.

**Procedure**

The original duly signed copies of the Forms are to be sent delivered by mail or courier to The Bank of New York Mellon (Luxembourg) SA, Vertigo Building – Polaris, 2-4 rue Eugene Ruppert, L-2453 Luxembourg, Attn: TA Control Team. The Forms may also be submitted by fax and/or e-mail (pelargostrading@bnymellon.com), if a Participant so wishes.

A request may only be honoured if at the day and time indicated in the table set out below:

- the pertinent Forms have reached the Administrator, and
- any monies due have been credited to the Fund's assets.

The Manager may, however, set the ultimate date of receipt of the Forms at a date closer to the Valuation Day, if such adjustment is in the interest of the Fund.

| <b>Conditions at:</b>        | <b>Forms to be submitted to the Administrator:</b>  | <b>Ultimate date/time at which Forms are to be received by the Administrator:</b>   | <b>Ultimate date of credit entry deposits:</b>               | <b>Deposits to be made into:</b>          |
|------------------------------|---|---|--|---|
| Issue of Participations      | <ul style="list-style-type: none"> <li>Dealing Form</li> <li>Application Form at first issue</li> </ul>   | <p><i>if sent by mail/courier only:</i><br/>prior to 5 p.m. (Luxembourg time) on the 3<sup>rd</sup> Business Day prior to the Dealing Day,</p> <p><i>or</i></p> <p><i>if sent via fax or email prior to 5 p.m. (Luxembourg time) on the 3<sup>rd</sup> Business Day prior to the Dealing Day:</i><br/>also by mail/courier on the Dealing Day</p>   | on the 2 <sup>nd</sup> Business Day prior to the Dealing Day | the account mentioned in the Dealing Form |
| Transfer of Participations   | <ul style="list-style-type: none"> <li>Dealing Form</li> <li>Application Form by the intended transferee, unless such transferee is a Participant and the information included in the Application Form submitted previously by that transferee has not changed</li> </ul> | <p><i>if sent by mail/courier only:</i><br/>5 p.m. (Luxembourg time) on the 3<sup>rd</sup> Business Day prior to the Dealing Day,</p> <p><i>or</i></p> <p><i>if sent via fax or email prior to 5 p.m. (Luxembourg time) on the 3<sup>rd</sup> Business Day prior to the Dealing Day:</i><br/>also by mail/courier on the Dealing Day</p>            | on the 2 <sup>nd</sup> Business Day prior to the Dealing Day | n.a.                                      |
| Redemption of Participations | <ul style="list-style-type: none"> <li>Dealing Form</li> </ul>  | <p><i>if sent by mail/courier only:</i><br/>prior to 5 p.m. (Luxembourg time) on the 15<sup>th</sup> Business Day prior to the Dealing Day,</p> <p><i>or</i></p> <p><i>if sent via fax or email prior to 5 p.m. (Luxembourg time) on the 15<sup>th</sup> Business Day prior to the Dealing Day:</i><br/>also by mail/courier on the Dealing Day</p> | n.a.   | n.a.                                      |

In the event that the Administrator is not in receipt of the full and duly completed requisite Forms and/or deposits are not credited by the date or time specified above, any request to issue, transfer or redeem will be deemed to a request pertaining to the one but next Dealing Day at the then prevailing rates. Monies received will be held over until that day and shall be non-interest bearing.

*Redemption* of Participations will be effected on a 'first in, first out' (FIFO) basis. Redemption requests are in principle irrevocable; the Manager may allow a request to cancel a redemption request.

Within five Business Days of receipt in good order of a *redemption* request sent by via fax or mail/courier the Administrator will confirm such receipt in writing.

Participants that fail to receive such confirmation within the period mentioned should contact the Administrator. Failure to obtain written confirmation will render redemption instructions void.

Amounts owed following *redemption or transfer* of Participations will in principle be paid out within 10 Business Days following determination of the pertinent Net Asset Value of a Participation. Payment will be made into an account held by the Participant, the details of which are last known to the Administrator.

In accordance with the provisions of the Wft, sufficient safeguards are in place to meet both the obligation to redeem Participations and the ensuing payment obligation in cases that redemption is not suspended in accordance with legal provisions or provisions of this Prospectus.

### **Compulsory redemption**

The Manager reserves the right to require the redemption of all Participations held by or for the benefit of a Participant at any time:

- a. if a Participant is no longer eligible to hold Participations in the pertinent (Sub)Class of Participations,
- b. if a Participant no longer meets the conditions prescribed by laws applicable to him in respect of the pertinent Participations being so held,
- c. if, in the Manager's reasonable opinion, the tax position of the Fund or of any of the other Participants is or will become negatively affected due to the tax status or any change therein of the relevant Participant or other circumstances concerning such Participant,
- d. if the Participant fails to provide any (additional) documentation or information requested with a view to the prevention of money laundering or terrorist financing or fails to comply with any law or regulation aimed at the prevention thereof,
- e. if, in the reasonable opinion of the Manager, the association with the Participant negatively impacts the ethical reputation of any of the other Participants, the Fund, the Manager or the Foundation,
- f. if, for whatever reason, the Manager cannot reasonably be asked to continue the relationship.

### **Prevention of money laundering and terrorist financing**

As part of the responsibility of the Manager, the Foundation and the Administrator to provide protection against money laundering and the financing of terrorism, the identity of a natural person or a legal entity wishing to subscribe, transfer or redeem Participations is verified. Such person or entity will therefore upon request supply the Administrator with whatever document or proof the receipt of which is deemed necessary in order to fulfil the pertinent obligations.

The Manager, the Foundation and the Administrator reserve the right to request such information as is necessary to verify the identity of all parties connected to a party requesting to the issue, transfer or redemption of Participations. Furthermore, the Manager, the Foundation and the Administrator reserve the right to conduct a more comprehensive inquiry when deemed necessary. The requirements of the Manager, the Foundation and the Administrator in connection with prevention of money laundering and the terrorist financing are subject to change.

In the event of delay or failure to produce any information required for verification purposes, the Manager shall reject a request for the issue, transfer and/or redemption of Participations and corresponding payment or refuse to process the same until such time as the requested information is provided.

### **Restrictions on redemption**

No redemptions are to be effected on a Dealing Day if the Net Asset Value of a Participation is not known as the same was not determined per the preceding Valuation Day due to the circumstances referred to in section 7 under "Suspension of the determination of asset values".

In addition thereto, the number of Participations to be redeemed on a Dealing Day may be restricted as follows.

In the event that the aggregate Net Asset Value of the number of Participations offered to the Fund for redemption (a) represents more than 20% of the Net Asset Value of the total number of Participations outstanding, and (b) the pertinent requests are to be executed on one and the same Dealing Day, then the Manager may determine to: (1) solely redeem Participations representing an aggregate value of up to a maximum of 20% of the Net Asset Value of the total number of Participations outstanding, and (2) to proportionally and pro rata decrease the number of Participations of one or more (Sub)Classes of Participations to be redeemed from a Participant on that Dealing Day. The Manager shall forthwith notify the Participants of its decision to restrict the redemption of Participations.

The Administrator will, furthermore, inform Participants that submitted a redemption request of:

- (1) the number of Participations of a (Sub)Class of Participations in respect of which redemption is to be effected on that Dealing Day, and
- (2) the number of Participations of a (Sub)Class of Participations in respect of which redemption is deferred.

At the next Dealing Day preference will be given to the redemption of that number of Participations in respect of which redemption is so deferred, provided that the redemption requests do not once again exceed the 20%-mark and that the number of the Class of Participations to be redeemed is reduced for that reason. At all times the Participant has the right to cancel his initial redemption request with respect to the number of Participations in respect of which redemption is deferred.

Notwithstanding the above, the number of Participations in respect of which redemption is deferred and in respect of which the initial redemption request has not been cancelled by the pertinent Participant will be carried out in full no later than the first Dealing Day falling six months after the date on which the pertinent Redemption Form was initially submitted.

Participations will at all times be redeemed at the Net Asset Value of a Participation and the costs covering transactions related to that redemption as prevail on the Dealing Day on which redemption is effected.

## 7. VALUATION AND CALCULATION OF THE ASSET VALUE OF PARTICIPATIONS

### General

As per the Valuation Day the Gross/Net Asset Value of a Participation is calculated in the denomination of the pertinent (Sub)Class of Participations, the assets being measured at fair value by the Administrator. The Manager may, in the best interest of the Participants, decide to set another day as Valuation Day that precedes a Dealing Day, in which case the Participants will be informed via de website of the Manager.

Fair value is understood to mean the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants on the Valuation Day.

Furthermore, the value of assets and liabilities not expressed in the denomination of the pertinent (Sub)Class of Participations is converted into the denomination of the pertinent (Sub)Class of Participations using standard market practice.

The Gross/Net Asset Value of a Participation is thereupon calculated by the Administrator by dividing the Gross/Net Asset Value of a (Sub)Class of Participations by the number of Participations of such (Sub)Class then outstanding and is rounded off to two decimal places. Upon approval of the calculation by the Manager, the Gross/Net Asset Value of a Participation is set accordingly and published on the Manager's website.

The Gross/Net Asset Value of a Participation is set within three Business Days of the Valuation Day.

On each Business Day, the Manager also computes an indicative Net Asset Value per Participation. These computations are indicative, as *inter alia* not all transactions effected during the preceding day may be included. Indicative net asset values are published on the website of the Manager on the day of computation.

### Valuation methods

The valuation methods observed are:

- a. securities, money market instruments and other assets listed or dealt in on any regulated market will be valued at the last closing price known on the pertinent Valuation Day,
- b. in the event that the price set in accordance with sub-paragraph a. is not representative of the fair market value of the assets set forth in that sub-paragraph or if assets are not listed or dealt in on any exchange and/or any other regulated market, such assets will be valued on the basis of the sales price that may be reasonably foreseen by a Manager acting prudently and in good faith,
- c. the net liquidating value of futures, forwards and options traded on a regulated market shall, at the time of liquidation, be set at the last available settlement price on the regulated market on which the particular future, forward or option is traded by the Fund. If a future, forward or option is not liquidated on the Valuation Day, the value of such contract shall be set by the Manager observing the principle of reasonableness and fairness,
- d. the liquidating value of futures, forwards and options respectively CFDs not traded on a regulated market will be set at the net liquidating value most recently set by the Manager on the basis of the valuation method consistently applied for each variety of contract,
- e. units of listed collective investment schemes will be valued at the last closing price known on the relevant Valuation Day,
- f. units of unlisted collective investment schemes will be valued at their last available net asset value or, if such price is not deemed to be representative of the fair value of units, on the basis of the net asset value as may be reasonably set by a Manager acting prudently and in good faith, and
- g. the fair value of all other assets will be measured by the Manager in good faith and in accordance with procedures so established.

**Compensation for valuation errors**

Participants that incur losses as a result of an erroneously set Gross/Net Asset Valuation of a Participation will be provided compensation, if and to the extent that the adjusted Gross/Net Asset Value of a Participation exceeds the erroneously set Gross/Net Asset Value of a Participation by more than 0.50%.

**Suspension of the determination of asset values**

The Manager may refrain from determining the Gross/Net Asset Value of a (Sub)Class of Participations and the Gross/Net Asset Value of a Participation, if:

- a. one or more regulated markets on which financial instruments that belong to the Fund or the net assets of a collective investment scheme in which the Fund invests directly or indirectly are closed on other days than normal days of closure or if transactions on these markets are suspended or subject to exceptional restrictions,
- b. the communication means or calculation facilities normally used to determine the value of the assets of the Fund may not be used with the speed or accuracy desired by the Manager,
- c. circumstances relating to the political, economic, military or monetary situation over which the Manager has no control prevent the Manager from determining the value of the assets in which the Fund invests,
- d. a decision has been taken to discontinue the relevant (Sub)Class of Participations or to dissolve the Fund, or
- e. there are other objectively determinable circumstances that hinder an accurate valuation.

No purchase, transfer or redemption of Participations may be effected on a Dealing Day, if the determination of the Gross/Net Asset Value of a (Sub)Class of Participations or the Gross/Net Asset Value of a Participation as per a Valuation Day is suspended due to one of the events mentioned above.

The Manager shall forthwith notify the Participants of any suspension of the determination of asset values.



## 8. COSTS

### General

The costs described in this paragraph are charged to the Fund's result and are therefore indirectly paid for by the Participants<sup>3</sup>. Said costs are exclusive of any Value Added Tax due.

Costs that are directly attributable to a (Sub)Class of Participations are charged directly to the relevant (Sub)Class of Participations. Costs that are not directly attributable are charged to each of the (Sub)Classes of Participations in proportion to the Net Asset Value of that (Sub)Class of Participations. If feasible, provisions for the respective costs are made on a monthly basis.

The costs that are charged to the Fund in the course of the financial year, will be specified in the (notes to) the annual accounts of the Fund.

### Management costs

The management costs accrue to the Manager and are comprised of a management fee and a performance fee. Both fees are provisioned for and calculated on a (Sub)Class of Participations-by-(Sub)Class of Participations basis.

#### Management fee

The management fee is payable monthly in arrears and due as per the first day of the subsequent month. It is calculated as follows:

$$\frac{[(\text{number of days of the month} / 365) \times (\text{annualised percentage fee per (Sub)Class of Participations})]}{}$$

the Net Asset Value of a (Sub)Class of Participations  
as at the last day of the month over which the management fee is calculated,  
before deduction of the management fee due for that month and  
before deduction of any accrued performance fee

The percentage fee on an annual basis for (Sub)Class B Participations to 1.0 and for (Sub)Class C Participations to 0.5.

#### Performance fee

As a rule, a performance is due by the Fund to the Manager when the Gross Asset Value of a Participation as per the ultimate Valuation Day of the pertinent financial year exceeds the highest level of Net Asset Value of a Participation on the ultimate Valuation Day of any preceding financial year (the High-on-High Watermark).

The percentage fee varies per (Sub)Class of Participations, as follows:

| <b>(Sub)Class of Participations</b> | <b>Performance fee:</b>   |
|-------------------------------------|---|
| B (EUR)                             | 15% of the increase in Gross Asset Value of the assets of the (Sub)Class B (EUR) Participations |
| C (USD)                             | 15% of the increase in Gross Asset Value of the assets of the (Sub)Class C (USD) Participations |
| C (EUR)                             | 15% of the increase in Gross Asset Value of the assets of the (Sub)Class C (EUR) Participations |

The method of calculation of the performance fee is explained in more detail in Annex II.

<sup>3</sup> The direct costs that may be charged to a Participant upon subscription or redemption are set out on page 24. A Participant may, furthermore, by means of an Equalisation Deficit accumulate a debt as against the Manager. That debt is settled by means of cancellation of Participations of the pertinent Participant, as is set out in more detail in Annex II.

Should a new (Sub)Class of Participations be introduced, the performance fee will be calculated as of the date of introduction and up to and including the ultimate Valuation Day of the financial year of introduction.

Upon the winding up of a (Sub)Class of Participations, the performance fee will be calculated over the period of the financial year up to the date on which the winding up has been effected. It will be made payable as per the latter date.

### **Operational costs of the Fund**

Operational costs that directly arise from the activities of the Fund are charged to the result of the Fund. Said costs pertain to:

#### *Fee Depositary*

The Depositary charges a fee at the end of each calendar month based on the Net Asset Value of all (Sub)Classes of Participations as at the end of the preceding calendar month.

For that purpose, the Net Asset Value of all (Sub)Classes of Participations as at the end of said calendar months is multiplied by the product of (the number of days of the month /365) x a maximum of 0.03%. On an annual basis the costs of the Depositary are at least EUR 25,000.

#### *Fee Administrator*

For services rendered the Administrator receives a monthly fee based on the Net asset Value of a (Sub)Class of Participations. This fee amounts to  $1/12 \times$  a maximum of 0.075% x the aforementioned net asset value, with a minimum of EUR 4,167 per month. In addition, the fixed costs for the participant administration (transfer agency services) are EUR 12,500 per year. For further incidental expenses a referral is made to the annual report of the Fund.

#### *Other costs*

On an annual basis the costs associated with the services of IQ EQ Custody B.V. in managing the Foundation amount to EUR 12,000. This remuneration shall be adjusted as per the first of January of each calendar year in accordance with the consumer price index (CPI) for all households as published by the CBS.

The costs of supervision of the Manager by supervising authorities such as AFM and DNB will be charged pro rata to each investment fund that is managed by the Manager and that is registered with the AFM. The costs are *inter alia* computed over the aggregate balance sheet total of the funds under management and may fluctuate on a yearly basis.

The costs per annum associated with the Auditor's activities in relation to the Fund vary, as do the annual costs of legal and tax advice and the costs of short selling reports to designated authorities.

The annual costs related to the FATCA and CRS services provided by the Administrator have a fixed and a variable component.

Other operational costs relating to the Fund, such as *inter alia* the costs of mandatory reporting, mandatory publications and printed matter, are also charged to the Fund.

On an annual basis the other costs amount to a maximum of 0.30 % of the Net Asset Value of the Fund.

### **Transaction related costs**

The costs charged by brokers in relation to the purchase or sale of financial instruments form the main component of the cost of a transaction. In addition, transaction related taxes and duties such as registration tax and stamp duties may have an impact.

**Research costs**

Research fees are paid from a separate Research Payment Account (RPA) managed by the Manager.. The manager is the account holder of the RPA In addition to transaction costs, a fee may also be charged for research when executing transactions. These are collected on a Research Charge Collection Account (RCA), via the so-called "Transactional Method". The Manager has set up RCAs on behalf of the Fund with various brokers. The funds on the RCAs are periodically transferred to the RPA. Research service providers are paid by the Manager from the RPA. The Manager determines an annual research budget in line with the Research Policy. The annual research costs are stated in the annual report of the Fund. If there is a surplus on the RPA at the end of a period, the Manager will decide whether the surplus will be transferred to the Fund or will be settled against the research budget of the following period.

**Interest costs**

The provision of financing lines and short selling facilities by the Prime Brokers entails interest costs.

The rates for borrowing funds are based on the interbank offered rate, which latter rate as a rule is increased with an interest surcharge. .

Securities borrowing rates are determined by then current market conditions in general and securities related conditions in particular.

Interest is also received or paid by the Fund for funds held with the Prime Brokers. The (semi) annual reports of the Fund address the subject in more detail.

**Total costs**

The ongoing costs ("Ongoing Charges Figure") will be published in the annual report of the Fund. The Ongoing Charges Figure includes all fees charged to the Fund during the year, except the subscription and redemption fees, the performance fee, the transaction related costs and interest costs.

## **9. DIVIDEND POLICY**

In principle the Fund does not pay a dividend. The Manager is, however, authorised to pay part of the profit available for distribution to the Participants.

Any such decision will be published on the website of the Manager and Participants will be notified at their registered address. They will also be informed as to the form of and the way in which the dividend will be made payable.

## 10. TAX ASPECTS

The summary that follows below is based on the laws and regulations that are in force in the Netherlands as of the date of this Prospectus and is subject to any changes in law and the interpretation and application thereof, which changes may have retroactive effect. The summary does not purport to provide a comprehensive description of all the tax considerations that may be relevant to a decision to acquire, hold or dispose of a Participation, and does not purport to deal with the tax consequences applicable to the individual Participant.

(Potential) Participants are advised to consult their professional advisors as to the tax consequences of purchase, ownership and disposition of a Participation.

### General

The Fund is organised as a unit trust (*fonds voor gemene rekening*) as defined in article 2 paragraph 2, of the Dutch Corporation Tax Act (CTA) (*Wet op de vennootschapsbelasting 1969*) and qualifies as a tax-exempt investment institution (*Vrijgestelde BeleggingsInstelling*) within the meaning of article 6a CTA. Consequently, the Fund will be fully exempt from corporation tax in the Netherlands.

### (Dividend) Withholding tax

All payments by the Fund under the Participations can be made free of withholding or deduction of any taxes of whatsoever nature imposed, levied, withheld or assessed by the State of the Netherlands or any political subdivision or taxing authority thereof or therein.

### Taxes on income and capital gains

#### *Participants resident in the Netherlands*

Entities who are resident or deemed to be resident in the Netherlands for Dutch tax purposes and who are not exempt from Netherlands corporate tax, are subject to Netherlands corporate income tax with respect to income or capital gains derived from their participation in the Fund at rates of up to 25%. Such entity is required annually to value its participation in the Fund at fair market value.

Individual Participants who are resident or deemed to be resident in the Netherlands, or who have elected to be treated as a Netherlands resident for Netherlands tax purposes, are subject to Netherlands income tax on a deemed return, regardless of the actual income or capital gain derived from a Participation or gain or loss realised upon transfer or redemption of a Participation, unless they hold an the interest in the Fund of more than 5% or the Participations are held in the context of a business interest or an interest to which the Participation are attributable.

#### *Participants not resident in the Netherlands*

Non-Dutch entities normally will not be subject to Netherlands income or corporation tax with respect to the income or capital gains realised in connection with Participations, unless there is a specific connection to the Netherlands. Such connection *inter alia* exists, if income or a capital gain is attributable to a non-Dutch resident enterprise that is effectively managed in the Netherlands or carried on through a permanent establishment or a permanent representative in the Netherlands.

Non-Dutch resident individual Participants are connected to the Netherlands, if the income or capital gain qualifies as income from miscellaneous activities, such as activities that go beyond regular, active portfolio management.

### Foreign Account Tax Compliance Act of the United States of America

The Fund will comply with the Foreign Account Tax Compliance Act ("FATCA") of the United States of America and the related applicable Dutch laws and regulations. As a result, the Manager may report data of Participants that qualify as US Person to the Dutch tax authorities who will share the information with the US tax authorities. If

Participants upon subscription do not provide the necessary FATCA information to the Manager, the Manager reserves the right not to subscribe the Participant into the Fund.

**Common Reporting Standard**

The Fund will comply with the Common Reporting Standard developed by the OECD ("CRS") and the related applicable Dutch laws and regulations. As a result, the Manager will report data of participants whose tax residence is not the Netherlands, to the Dutch tax authorities who will share the information with the tax authorities of the country concerned. If Participants upon subscription do not provide the necessary CRS information to the Manager, the Manager reserves the right not to subscribe the Participant into the Fund.

**Other taxes**

The issue or transfer of a Participation, and payments under a Participation, will not be subject to value added tax in the Netherlands.

The subscription, issue, placement, allotment, delivery or transfer of a Participation will not be subject to registration tax, stamp duty or other similar taxes or duties payable in the Netherlands.

## 11. OTHER INFORMATION

### Other information with respect to the Fund, the Manager and the Depositary

The overview set out below details the information that will be published on the website of the Manager, [www.pelargoscapi.com](http://www.pelargoscapi.com).

The pertinent information is available in printed form at the office of the Manager and, depending on the character of information, such information will be provided free of charge to the persons mentioned.

| <b>Document</b>  | <b>Available free of charge to:</b> |
|--|-------------------------------------|
| Prospectus, inclusive of the Terms   | - Any person                        |
| Key Investor Information Document, inclusive of the historical performance of the Fund | - Any person                        |
| Annual reports:  |                                     |
| - the Fund   | - Participants                      |
| - the Manager  | - Participants                      |
| Semi-annual reports:   |                                     |
| - the Fund   | - Participants                      |
| - the Manager  | - Participants                      |
| Monthly Fund reports   | - Participants                      |
| Information required by law to be available from the Trade Register:                   |                                     |
| - extract in respect of the Manager  | - Any person                        |
| - extract in respect of the Depositary   | - Any person                        |
| - articles of association of the Manager   | - Any Person                        |
| Licence Manager  | - Any person                        |

### Monthly and (semi-)annual reports

#### *Monthly reports*

Monthly, a report will be published on the website of the Manager that at a minimum shall include the following information:

- the Gross/Net Asset Value of each (Sub)Class of Participations, stating the time of determination of that Gross/Net Asset Value of each (Sub)Class of Participations,
- the number of Participations outstanding per (Sub)Class of Participations,
- the Gross/Net Asset of a Participation, and
- the total value and an overview of the composition of the investments of the Fund.

#### *(Semi-)Annual reports*

The financial year for each of the Fund, the Manager and the Depositary coincides with the calendar year. The annual report, incorporating the audited annual accounts, will thus become available prior to June 30 of the subsequent year.

Reports of the Fund respectively Manager incorporating the semi-annual accounts will be published ultimately on August 31 of the on-going financial year. The semi-annual figures are not audited.

The (semi-)annual reports of the Fund are prepared in accordance with International Financial Reporting Standards (IFRS) as well as the additional requirements of Title 9 Book 2 of the Dutch Civil Code for entities that prepare their financial statements in accordance with IFRS.

The annual reports of the Fund will also include the following information:

- the liquidity profile,
- the percentage of the Fund's assets that are subject to special arrangements arising from their illiquid nature,

- the risk profile of the Fund and the risk management systems employed to manage those risks,
- any guarantee granted under leveraging arrangements, and
- the total amount of leverage employed by the Fund.

Copies of the most recently published annual and semi-annual reports of the Fund are deemed to form part of this Prospectus.

#### **Periodical information for Participants**

Once a month, each Participant will receive from the Administrator a statement listing the number of Participations that he holds and the corresponding value. Following each purchase or sale of Participations, the pertinent Participant will receive a statement on the number of Participations acquired or redeemed and their value.

#### **Meetings of Participants**

Every year a meeting of participants will be convened within six months of the end of the financial year. As a minimum the agenda of this annual meeting will include the following topics:

- a. the report by the Manager on developments in the past financial year,
- b. adoption of the annual accounts, and
- c. discharge of the Manager in respect of the performance of its duties during the pertinent financial year.

If deemed appropriate given the interests of Participants, the Manager will convene an extraordinary meeting of Participants.

In a meeting of Participants, each Participant is entitled to cast one vote for each Participation held by him. One or more Participants who jointly hold at least 10% of the total number of Participations can add topics to the agenda or request the Manager to convene an extraordinary meeting of Participants.

Notice for a meeting of Participants will be given at least 15 days prior to the day of the meeting at each Participant's registered address. In addition, the notice will be published on the Manager's website.

#### **Amendment of the Terms and of the prospectus of the Fund**

Both the Terms and the prospectus of the Fund may be amended by joint decision of the Manager and the Foundation after notifying the Participants.

The prior consent of the Depositary is, however, required to any amendment that in the opinion of the Depositary has a material impact on the services to be provided by the Depositary and such consent shall not to be unreasonably withheld or delayed.

Participants will be informed of a proposed amendment, and of an amendment that diverges from such proposed amendment. The notice will be published on the Manager's website along with an explanation to the amendments respectively any diverging amendment.

In principle, amendments will take immediate effect. Amendments that pertain to a deterioration of the rights or securities of Participants, the imposition of costs on the Participants and/or amendment of the investment policy of the Fund, will not become effective until one month has lapsed since the date on which they have been published as indicated hereinabove. Participants have the right to redeem their Participations within this one-month period on customary terms.

#### **Remuneration policy Manager**

The Manager maintains a remuneration policy based on the Wft, AIFM Directive and ESMA Guidelines taking into account the size and nature of the activities of the Manager. The latest version of the remuneration policy is available on the website of the Manager, [www.pelargoscapital.com](http://www.pelargoscapital.com). At request of Participants the Manager will provide a copy of the remuneration policy free of charge.



The remuneration policy is designed to attract and retain highly qualified employees. In addition, the policy contributes to a sound and effective risk management and encourages not to take more risks than tolerated within the strategy of the Manager and the investment policy of the Fund.

The remuneration of the board members and employees is based on a fixed remuneration and variable remuneration. Variable remuneration is based on performance targets ("pay for performance"). The individual performance targets are based on financial criteria and non-financial criteria. The objectives of portfolio managers are for example based on 1, 3 and 5 years performance of the Fund. In addition, the Fund has a High-on-High Watermark that affects the level of the variable remuneration.

A risk assessment will be performed on the personal targets and adjusted, if necessary. The variable remuneration is not paid in one instalment. The first 60% is paid directly after the performance year and the remaining 40% is deferred over the three following years. Prior to vesting and pay out of the variable remuneration a risk assessment will be performed in order to determine whether the vesting or pay out should be adjusted downwards. Finally, the policy also has a clawback procedure for variable remuneration which is paid out.

The Manager annually identifies its "Identified Staff". The vesting of variable remuneration for employees is approved by the board members of Pelargos.

### **Japan Stewardship Code**

The Japan Stewardship Code is published in 2014 by the Financial Services Agency in Japan. The Code sets out the Principles for effective stewardship with listed companies in Japan to improve and foster investee companies' sustainable growth and corporate value. In the end the purpose of the Code is to enhance the medium- to long-term investment return for the investors through constructive engagement based on in-depth knowledge of the Japan listed companies,

The Manager supports the Japan Stewardship Code and will in the best interest of the Participants engage with Japan listed companies in which the Fund invests.

### **Voting policy**

The Manager will consider to exercise its voting rights based on holdings in Japan listed companies, if:

- the holding of the Fund in the Japan listed company is significant; and
- the agenda of the shareholders' meeting gives cause to vote.

When exercising its voting rights the Manager shall make a consideration which is in the best interest of all Participants.

### **Fair treatment of Participants**

The Terms are based on the fair treatment of each Participant. Based on the Wft and the AIFM Directive the Manager is obliged to ensure fair treatment of the Participants. The fair treatment of Participants is further elaborated and recorded in the Terms. The Manager has, moreover, taken measures to provide for the honest and ethical conduct of its business operations. These principles are also included in the Code of Conduct, the Conflicts of Interest Policy and the Order Execution Policy.

### **Preferential treatment of Participants**

With respect to Participants who provided the seed capital for a (Sub)Class, the following shall apply: the Manager may, in whole or in part, refund to these entities the management fee and the performance fee that it has received from such Participants in their capacity as holders of the relevant (Sub)Class Participations. This relates amongst others to affiliated companies of the Aegon Group and the collective investment schemes managed by such companies. Annually, the Manager shall inform the Participants of any refund so made.

### **Data protection**

The Manager ensures that data collected as part of the operations of the Fund is treated confidentially and processed in accordance with the General Data Protection Regulation. The policy and processes comply with the legal obligations:

- a minimal set of personal data is recorded;
- there is a clear purpose and legal basis for the processing of the personal data;
- individuals have insight into the personal data recorded about them;
- the appropriate security level is applied.

For more information about the processing of personal data, the Manager refers to the Privacy Statement published on the website.

### **Complaints procedure**

Each Participant will have the right to lodge a complaint concerning the Fund in writing or via email. Complaints will be handled, if the name and address are sufficiently known and provided that a clear description of the nature of the complaint is available.

### **Liquidation of the Fund**

The Fund may be dissolved by resolution of the Manager, with the agreement of the meeting of Participants. Participants will be informed of such decision having been taken by means of a notice sent to their registered address. In addition, the notice will be published on the Manager's website.

The Manager will wind up the Fund. During the process, the Terms will remain in force to the extent possible.

The Manager shall prepare liquidation accounts, which shall be accompanied by an audit certificate. Approval of the liquidation accounts by the meeting of Participants shall, in so far as the meeting of Participants does not make a reservation, serve to discharge the Manager.

Subsequently, the balance left after winding up may be paid out to the Participants, payment to be made in proportion to the number of Participations held by each Participant.

Participants are not entitled to the assets of a (Sub)Class of Participations in a legal sense. If the assets of a certain (Sub)Class of Participations are negative upon the winding up of the Fund, the deficit will be charged to the other (Sub)Classes of Participations.

## 12. ASSURANCE REPORT OF THE INDEPENDENT AUDITOR

*With respect to the examination under section 115x, subsection 1e of the BGfo Wft*

To: Pelargos Capital B.V., the investment manager of Pelargos Japan Alpha Fund

### *Assurance report on the prospectus*

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#### ***Our opinion***

In our opinion, the prospectus of Pelargos Japan Alpha Fund, The Hague, dated 1 September 2020 (hereafter: prospectus) contains, in all material respects, at least the information required by the Act on financial supervision (*Wet op het financieel toezicht*, 'Wft') to be included in the prospectus.

#### ***What we have examined***

We have been engaged, pursuant to article 115x subsection 1e of the Decree on the Supervision of the Conduct of Financial Undertakings pursuant to the Wft (*Besluit Gedragstoezicht financiële ondernemingen Wft* – 'BGfo Wft') to provide assurance on the content of the prospectus of Pelargos Japan Alpha Fund (hereinafter: the fund). Within this context, we have only examined whether the prospectus dated 1 September 2020 at least contains the information as required for an investment fund, pursuant to the Wft.

#### ***The basis for our opinion***

We conducted our examination in accordance with Dutch law, including the Dutch Standard 3000A 'Assurance engagements other than audits or reviews of historical financial information (attest engagements)'. This engagement is aimed to provide reasonable assurance. Our responsibilities under this standard are further described in the section 'Our responsibilities for the examination'.

We believe that the assurance information we have obtained is sufficient and appropriate to provide a basis for our opinion.

#### ***Independence and quality control***

We are independent of the fund in accordance with the *Verordening inzake de onafhankelijkheid van accountants bij assuranceopdrachten* (ViO, Code of Ethics for Professional Accountants, a regulation with respect to independence) and other relevant independence requirements in the Netherlands. Furthermore, we have complied with the *Verordening gedrags- en beroepsregels accountants* (VGBA, Code of Ethics for Professional Accountants, a regulation with respect to rules of professional conduct).

We apply the *Nadere voorschriften kwaliteitssystemen* (NVKS, Regulations for quality systems) and accordingly maintain a comprehensive system of quality control including documented policies and procedures regarding compliance with ethical requirements, professional standards and other applicable legal and regulatory requirements.

#### ***Relevant matters relating to the scope of our examination***

Our examination consists of verifying that the prospectus contains the required information, which means we did not examine the correctness of the information included in the prospectus.

Furthermore, Dutch law does not require the auditor to perform additional assurance procedures with respect to Section 115x, subsection 1c of the BGfo Wft. Pursuant to Section 115x, subsections 1c of the BGfo Wft, the prospectus should contain the information which investors need in order to form an opinion on the investment fund and the costs and risks attached to it.

Our opinion is not modified in respect of these matters.

## *Responsibilities for the prospectus and the examination thereof*

### *Responsibilities of the investment manager*

The investment manager of the fund is responsible for:

- drawing up the prospectus that contains at least the information required for the prospectus pursuant to the Wft; and
- such internal control as it determines is necessary to enable the preparation of the prospectus that is free from material omissions, whether due to error or fraud.

### *Our responsibilities for the examination*

Our responsibility is to plan and perform our examination in a manner that allows us to obtain sufficient and appropriate assurance evidence for our opinion.

Our opinion aims to provide reasonable assurance that the prospectus of the fund contains at least the information required to be included in the prospectus under the Wft. Reasonable assurance is a high but not absolute level of assurance, which makes it possible that we may not detect all omissions. It is our responsibility to issue a statement as referred to in section 115x subsection 1e of the BGfo Wft.

Omissions may arise due to fraud or error. They are considered to be material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the prospectus. The materiality affects the nature, timing and extent of our assurance procedures and the evaluation of the effect of identified omissions on our opinion.

### *Procedures performed*

We have exercised professional judgement and have maintained professional scepticism throughout the examination, in accordance with the Dutch Standard 3000A, ethical requirements and independence requirements.

Our procedures have been limited to examining whether the prospectus of the fund contains at least the information required by the Wft for a prospectus and consisted, among other things, of:

- identifying and assessing the risks of material omissions in the prospectus, whether due to fraud or error, designing and performing assurance procedures responsive to those risks, and obtaining assurance evidence that is sufficient and appropriate to provide a basis for our opinion; the risk of not detecting a material omission resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the intentional override of internal control;
- obtaining an understanding of internal control relevant to the examination in order to design assurance procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the fund's internal control.

Rotterdam, 1 September 2020

PricewaterhouseCoopers Accountants N.V.

D.J.P. van Veen RA

### **13. STATEMENT BY THE MANAGER**

The Manager states that the Manager itself, the Fund and the Depositary comply with the rules and regulations laid down by and pursuant to the Wft. We also declare that this Prospectus satisfies the rules laid down by or pursuant to the Wft.

The Hague, 1 September 2020

Pelargos Capital B.V.

**ANNEX I - TERMS**

**TERMS**  
**OF**  
**PELARGOS JAPAN ALPHA FUND**  
**AS MOST RECENTLY AMENDED ON 1 SEPTEMBER 2020**

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## Definitions.

### Article 1.

1.1. In this agreement, the following capitalised definitions have the following meanings, unless explicitly stated otherwise:

**AIFM Directive:**

Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010,

**AITIC:**

the Act on Investment Trusts and Investment Corporations of Japan,

**AFM:**

the Netherlands Authority for the Financial Markets (*Autoriteit Financiële Markten*), the authority charged with the supervision of the Fund in accordance with the Wft,

**Annual Report:**

the coherent whole referred to in article 14.6. of the annual accounts, annual report and other information as referred to in Title 9 of Book 2 of the Dutch Civil Code,

**Auditor:**

the chartered accountant (*registeraccountant*) referred to in article 14.5. or another expert as referred to in Section 2:393(1) of the Dutch Civil Code, who has been instructed to audit the annual accounts,

**Business Day:**

a day in the week on which the Manager as well as the administrator of the Fund are open for business,

**Class of Participations:**

a portion of the Fund to which holders of the relevant Class of Participations are entitled pursuant to the provisions set out in the Prospectus, each class of participations having its own fee. Each Class of Participations may be subdivided into Subclasses of Participations,

**Custody:**

acquiring and holding assets for the purpose of management (*ten titel van beheer*),

**Dealing Day:**

the first Business Day of each month or such supplementary Business Day set by the Manager, on which Participations may be issued, transferred and/or redeemed,

**Depository:**

a depository as referred to in the AIFM Directive that is appointed, from time to time, by the Manager,

**Equalisation Credit:**

the not yet exigible claim of a Participant on the Fund with respect to a Participation held by that Participant, the extent of which is calculated in accordance with the formula set out in article 10.3.,

**Equalisation Deficit:**

the debt that a Participant accumulates as against the Manager with respect to a Participation held by that Participant, which debt is calculated in accordance with the formula set out in article 10.4.,

**Gross Asset Value of a Participation:**

the Net Asset Value of a Participation without deduction of the performance fee as referred to in article 5.5. as such fee is due to the Manager at the time,

**Gross Asset Value of a (Sub)Class of Participations:**

the Net Asset Value of a (Sub)Class of Participations without deduction of the performance fee as referred to in article 5.5. as such fee is due to the Manager at the time,

**FIEA:**

the Financial Instruments and Exchange Act of Japan, as amended,

**Foundation:**

Stichting Pelargos Japan Alpha Fund, or any other entity that is designated from time to time as the legal owner (*juridisch eigenaar*) of the assets of the Fund as referred to in article 4:37jWft,

**Fund:**

the assets under the name of Pelargos Japan Alpha Fund, consisting of monies and other goods, which the Fund collects for the purpose of collective investment in order for the Participants to share in the proceeds thereof,

**High-on-High Watermark:**

the highest peak in value of the Net Asset Value of a Participation, reached at the ultimate Valuation Day of any preceding financial year of the Fund,

**Interim Report:**

the report described in article 14.3.,

**Manager:**

the party responsible for the management of the Fund: *Pelargos Capital B.V.* or its legal successor, as well as any other AIFM as referred to in the AIFM Directive that is charged with the management of the Fund thereafter,

**Net Asset Value of a Participation:**

the net asset value of a Participation, calculated by dividing the Net Asset Value of a certain Sub(Class) of Participations by the number of issued Participations in such (Sub)Class of Participations, expressed in the currency of the relevant (Sub)Class of Participations and rounded off to two decimal places,

**Net Asset Value of a (Sub)Class of Participations:**

the net asset value of a (Sub)Class of Participations on a Valuation Day determined at the closings price on that day on the regulated markets on which the financial instruments are listed that belong to the Fund or at the net asset value on that day of the assets of a collective investment scheme in which the Fund directly or indirectly invests, by: reducing the investments that are attributable to a (Sub)Class of Participations by the liabilities that are attributable to that (Sub)Class of Participations, such liabilities to include:

- a. any taxes,
- b. pro rata temporis, the management fee, the performance fee, the fee of the Depositary, the administrative costs, other management expenses and other costs attributable to that (Sub)Class of Participations, and
- c. any provisions maintained,

expressed in the currency of the pertinent (Sub)Class of Participations and rounded off to two decimal places,



**Participants:**

the parties entitled to one or more Participations,

**Participations:**

the proportionate economic entitlement of the Participants to a (Sub)Class of Participations, rounded off to four decimal places,

**Prospectus:**

the Prospectus of the Fund as it may read from time to time,

**Qualified Institutional Investors:**

qualified institutional investors as defined in Article 2, Paragraph 3, Item 1 of the FIEA,

**Subclass of Participations:**

a segment of a Class of Participations administrated in a specific currency,

**Terms:**

the terms (*voorwaarden*) of the Fund as they may read from time to time and the Prospectus,

**Valuation Day:**

the last Business Day of each month or the Business Day that immediately precedes a supplementary Dealing Day set by the Manager, or another day, which is in the interest of the Participants, set by the Manager as Valuation Day that precedes a Dealing Day,

**Wft:**

the Dutch Act on Financial Supervision (*Wet op het financieel toezicht*).

- 1.2. Unless explicitly stated otherwise, a term defined in article 1.1. in its plural form, with the corresponding adjustment of the given definition, shall in its singular form have the same meaning as described in article 1.1. Unless explicitly stated otherwise, a term defined in article 1.1. in its singular form, with the corresponding adjustment of the given definition, shall in its plural form have the same meaning as described in article 1.1.
- 1.3. Unless expressly stated otherwise, references to articles and appendices are references to articles of and appendices to this agreement.
- 1.4. The headings used to designate the various articles in this agreement do not influence their interpretation.

**Name. Duration.**

**Article 2.**

- 2.1. The name of the fund is: Pelargos Japan Alpha Fund.
- 2.2. The Fund has been established for an indefinite period of time.
- 2.3. The Fund is deemed to be established at the office of the Manager.

**Scope. No agreement between Participants. Objective. Tax status. Classes of Participations. Solicitation in Japan.**

**Article 3.**

- 3.1. The management of the Fund shall take place according to the Terms as laid down in this agreement. These terms as well as everything pertaining to the execution thereof shall not constitute a partnership, a firm, or a limited partnership.

- 3.2. Admission to the Fund does not lead to an agreement between the individual Participants, but only to an agreement between the individual Participant, the Manager and the Foundation. The obligation of Participants to pay for a Participation to be allocated is an obligation towards the Foundation.
- 3.3. The objective of the Fund is the investment of assets, at the expense and risk of the Participants and subject to application of the principle of risk spreading, in financial instruments as referred to in Section 6a of the Dutch Corporation Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*), in order to allow the Participants to share in the return on those investments, as well as the execution of all activities that are involved with this objective, in the broadest sense of the word.
- 3.4. Assets that belong to the Fund shall be collectively invested as described in the Prospectus, in the manner and subject to the restrictions described in the Prospectus.
- 3.5. The Fund is or aims to be an exempted investment scheme within the meaning of Section 6a of the Corporation Tax Act 1969.
- 3.6. The assets of the Fund are divided into one or more Classes of Participations, which may be further subdivided into Subclasses of Participations. As per the date of this agreement the assets of the Fund are divided in (Sub)Class B Participations and (Sub)Class C Participations. The Participations in (Sub)Class B are denominated in Euro (EUR). Class C Participations are subdivided in two Subclasses of Participations, denominated in respectively US Dollars (USD) and Euro (EUR).
- 3.7. No solicitation for the subscription for the Participations shall be made in Japan or to a resident of Japan, unless such solicitation is made only to Qualified Institutional Investors in accordance with Article 2, Paragraph 3, Item 2(i) of the FIEA.

#### Legal entitlement. Depositary.

##### Article 4.

- 4.1. The Foundation is the legal owner of or legally entitled to all the assets that belong to the Fund.
- 4.2. All assets that are or will be part of the Fund shall be acquired by the Foundation for the benefit of the Participants.
- 4.3. The Foundation will only accept, deliver, encumber or issue the assets that (are going to) belong to the Fund against receipt of a statement from the Manager showing that issue is required in connection with a regular exercise of the management function.
- 4.4. Commitments that are or will be part of the Fund are or will be assumed in the name of the Foundation and on the instruction of the Manager, while it shall be explicitly stated that the Foundation is acting in its capacity as legal owner of the assets of the Fund. The Foundation may not represent the Participants.
- 4.5. Also on behalf of the Fund and the Participants, the Manager and the Foundation have concluded a management and custody agreement (*overeenkomst inzake beheer en bewaring*) with the Depositary in accordance with article 4:37f Wft.
- 4.6. The agreement referred to in article 4.5. includes a third-party clause (*derdenbeding*) as referred to in Section 6:253 of the Dutch Civil Code by virtue of which the Participants may directly invoke the provisions set forth in that agreement pursuant to the requirements of paragraphs 12,13, 14, 15 and 17 of article 21 of the AIFM Directive.
- 4.7. In the event that the Depositary is liable to the Participants by virtue of the third-party clause referred to in article 4.6. above, the Manager shall submit the claim on behalf of the Participants to the Depositary. A

Participant may submit claims to the Depository directly, if a claim is not submitted or not submitted to the satisfaction of that Participant.

- 4.8. Should the law of a country require that financial instruments of the Fund are held in custody by a local entity and should there be no local entities that satisfy the delegation requirements laid down in article 21, paragraph 11(d)(ii), of the AIFM Directive, the Depository may discharge itself of liability provided that the conditions set out in article 21, paragraph 14, of the AIFM Directive are met.

**Management and investments.**

**Article 5.**

- 5.1. The Manager shall be charged with the management of the Fund, including the investment of the Fund's assets, the assumption of obligations due by the Fund as well as the conduct of all other operations pertaining to the Fund, all of this in compliance with that provided in article 3.3., article 4. and any further provisions contained in these terms.
- 5.2. In managing the Fund, the Manager is authorised to act in the name of the Foundation. The Foundation hereby grants the Manager power of attorney to conduct all operations referred to in article 5.1. and to conduct all other operations in regard of which the Manager represents the Foundation pursuant to a provision of these terms. The Manager may not represent the Participants in any case other than the cases referred to in article 4.7.
- 5.3. The Manager may grant another party power of attorney to carry out the activities referred to in article 5.2. on behalf of the Foundation. If the Manager grants a power of attorney as referred to in the previous sentence, the Manager will inform the Foundation thereof. The Manager may not appoint another party to act on s behalf.
- 5.4. The Manager is only liable vis-à-vis the Participants for losses incurred by the Participants, insofar as the losses are the result of wilful default or gross negligence on the part of the Manager.
- 5.5. For the duration of the Fund, the Manager will be entitled to a monthly investment management fee as stated in the Prospectus. Such fee will be paid to the Manager in the currency in which the pertinent (Sub)Class of Participations has been issued. This investment management fee is payable monthly in arrears as per the first day of the following month and is borne by the pertinent (Sub)Class of Participations.
- 5.6. The costs of providing information and of reports, advertisements and publicity, legal and tax advice, accountants and administration fees, costs associated with the management of the Foundation, costs of holding meetings of Participants as well as costs of investment and any other costs that can be attributed to the Fund, are at the expense of the Fund.
- 5.7. For the duration of the Fund, the Manager will be entitled to an annual performance fee per (Sub)Class of Participations that is calculated on the basis of the following formula:

**Performance Fee (Sub)Class of Participations = PF% x ((GAVp – HW) x P), in which:**

|      |   |   |
|------|---|---|
| PF%  | = | the performance fee percentage for the pertinent (Sub)Class of Participations,  |
| GAVp | = | the Gross Asset Value per Participation in a (Sub)Class of Participation as per the ultimate Valuation Day of any financial year of the Fund,                         |
| HW   | = | the High-on-High Watermark for the pertinent (Sub)Class of Participations,  |
| P    | = | the number of Participations outstanding in the pertinent (Sub)Class of Participations as per the ultimate Valuation Day of the pertinent financial year of the Fund. |

- 5.8. The performance fee is due as per the ultimate Valuation Day of any financial year of the Fund.
- 5.9. The Manager may, in whole or in part, refund to AEGON Nederland N.V., its group undertakings and the collective investment schemes managed by them the management fee and the performance fee that the Manager has received from such entities in their capacity as holders of Class B Participations. Annually, the Manager shall inform the Participants of any part of the management fee and performance fee so refunded.
- 5.10. Within the framework of the management of the Fund, the Manager may outsource one or more activities to a third party.

#### Fund assets.

##### Article 6.

- 6.1. The Fund's assets shall be formed by payments for the acquisition of Participations, proceeds from the Fund's assets, the creation and increase of debts and the creation, increase and application of any provisions and reserves.
- 6.2. The part of the Fund's assets that have not been invested shall be kept, on behalf of the Fund in the name of the Foundation, on one or more accounts with one or more banks or investment banks in the European Union that have been appointed by the Manager.

#### Participants' rights and obligations.

##### Article 7.

- 7.1. The Participants in a (Sub)Class of Participations are economically entitled to the assets allocated to such (Sub)Class of Participations in proportion to the number of Participations the individual Participant holds. Without prejudice to the provisions of article 7.2., in the proportion referred to in the previous sentence, all economic advantages and disadvantages connected with a (Sub)Class of Participations shall be in favour of and chargeable to the Participants holding the relevant Participations.
- 7.2. Participants are not liable vis-à-vis third parties for the obligations of the Manager and the Foundation and do not bear responsibility for the losses of the relevant (Sub)Class of Participations in excess of the amount that was paid into the relevant (Sub)Class of Participations as consideration for the Participations held by the Participant.
- 7.3. In the event that Participations are held in common, the joint owners may only exercise their rights through one person jointly appointed by them in writing following prior notification to the Manager in writing.

#### (Sub)Classes of Participations. Register of Participants. Closing (Sub)Classes of Participations.

##### Article 8.

- 8.1. (Sub)Classes of Participations are specified in such a way that they can always be distinguished from each other. The Manager and the Foundation determine the number of (Sub)Classes of Participations, the specification of each of the (Sub)Classes of Participations and the currency of a (Sub)Class of Participations. A separate administration shall be kept for every (Sub)Class of Participations to allow that all costs and income pertaining to a pertinent (Sub)Class of Participations can be accounted for per such (Sub)Class of Participations. The Manager decides on the assignment of the various (Sub)Classes of Participations to the various categories of Participants.
- 8.2. The Participations are registered Participations. No certificates shall be issued.
- 8.3. The Manager shall keep a Register of Participants in which the names and addresses of all Participants shall be entered, recording the designation and the date of acquisition of the Participations and the amount paid into the Fund as consideration for a Participation. The register shall also state the manner in which a Participant wishes to receive payment. A Participant shall immediately report any changes to the relevant data to the Manager.

- 8.4. The register shall be updated regularly. The Manager shall sign all changes to the register.
- 8.5. Upon request, a Participant will receive free of charge an extract of that part of the register relating to him.
- 8.6. The Manager may decide to (temporary) close a (Sub)Class of Participations. After closing (temporarily) no new Participations will be issued in the relevant (Sub)Class.

**Calculation and determination of the Gross/Net Asset Value of a (Sub)Class of Participations and the Gross/Net Asset Value of a Participation.**

**Article 9.**

- 9.1. As per every Valuation Day, the Net Asset Value of the (Sub)Classes of Participations, the Gross Asset Value of the (Sub)Classes of Participations, the Net Asset Value of a Participation and the Gross Asset Value of a Participation is in principle determined by the Manager on the basis of a calculation made by a third party that is independent of the Manager, further to a valuation of the assets of the Fund by that party. The Manager publishes the Net Asset Value of the (Sub)Classes of Participations, the Gross Asset Value of the (Sub)Classes of Participations, the Net Asset Value of a Participation and the Gross Asset Value of a Participation on its website forthwith on the same having been set.
- 9.2. Notwithstanding the provisions of article 9.1., the Manager may refrain from determining the Gross/Net Asset Value of a (Sub)Class of Participations and the Gross/Net Asset Value of a Participation at the relevant time, if:
  - a. one or more regulated markets on which financial instruments are listed which belong to the Fund or the net assets of a collective investment scheme in which the Fund invests directly or indirectly are closed on other days than normal days of closure or if transactions on these markets are suspended or subject to exceptional restrictions,
  - b. the communication means or calculation facilities normally used to determine the value of the assets of the Fund may not be used with the speed or accuracy desired by the Manager,
  - c. circumstances relating to the political, economic, military or monetary situation over which the Manager has no say make it impossible for the Manager to determine the value of the assets in which the Fund invests,
  - d. a decision has been made to discontinue the relevant (Sub)Class of Participations or to dissolve the Fund, or
  - e. there are other objectively determinable circumstances that hinder an accurate valuation.
- 9.3. The value of the assets of the Fund is measured at 'fair value', according to the valuation methods dictated by the regulations of the IFRS.
- 9.4. Insofar as expenses and fees are directly attributable to a (Sub)Class of Participations, these costs are directly charged to the relevant (Sub)Class of Participations. Costs that are not directly attributable are charged to the (Sub)Class of Participations in proportion to the Net Asset Value of each of the (Sub)Class of Participations.

**Allocation, redemption and cancellation of Participations.**

**Article 10.**

- 10.1. Allocation and redemption of Participations is effected on a Dealing Day by the Manager as authorised representative of the Foundation. A request to issue or redeem Participations should be submitted to the Manager five (5) respectively fifteen (15) Business Days prior to a Dealing Day. The Manager may, however, shorten this period, if such adjustment is in the interest of the Fund.
- 10.2. The Manager will determine the consideration for a Participation to be allocated, based on the Gross Asset Value of a Participation as per the Valuation Day. In the event of allocation of Participations the amount of

the consideration is increased with a fee of up to 1% for the cost of acquisition, such fee to be determined by the Manager.

- 10.3. When Participations are allocated at a Gross Asset Value of a Participation that is higher than the pertinent High-on-High Watermark, an Equalisation Credit will be granted to the Participant the value of which will be determined on the basis of the following formula:

**Equalisation Credit = PF% x (GAVp – HW), in which:**

|      |   |   |
|------|---|---|
| PF%  | = | the performance fee percentage for the pertinent (Sub)Class of Participations,  |
| GAVp | = | the Gross Asset Value of a Participation in a (Sub)Class of Participations at which the Participant has acquired that Participation |
| HW   | = | the High-on-High Watermark for the pertinent (Sub)Class of Participations.  |

- 10.4. When Participations are allocated at a Gross Asset Value of a Participation that is lower than the pertinent High-on-High Watermark, the Participant will upon the increase of the pertinent Net Asset Value accumulate an Equalisation Deficit up to the point at which the pertinent Net Asset Value of a Participation equals the pertinent High-on-High Watermark. The value of the Equalisation Deficit will be determined on the basis of the following formula:

**Equalisation Deficit = PF% x (Y – NAVp):**

|      |   |   |
|------|---|---|
| PF%  | = | the performance fee percentage for the pertinent (Sub)Class of Participations,  |
| Y    | = | the High-on-High Watermark or the Net Asset Value of a Participation in a (Sub)Class of Participation as per the ultimate Valuation Day at which that Participation is held by the Participant during the pertinent financial year of the Fund, if such value is lower than the High-on-High Watermark for that (Sub)Class of Participations,   |
| NAVp | = | the Net Asset Value of a Participation in a (Sub)Class of Participations at which the Participant has acquired a Participation or the Net Asset Value per Participation in a (Sub)Class of Participations as per the ultimate Valuation Day of the preceding financial year of the Fund, if such value is higher than the Net Asset Value per Participation in that (Sub)Class of Participations as per the Valuation Day at which the Participant has acquired that Participation and the pertinent Participant has thus already repaid part of his debt to the Manager. |

- 10.5. The Manager shall determine the other conditions of allocation, including the form of the consideration. Allocation of Participations will only take place following receipt of the amount of the consideration (including the determined fee) by the Foundation. If payment is made by means of transfer, the amount to be transferred must be deposited in the bank account that the Foundation holds for the Fund prior to the Valuation Day. The fee referred to in this article 10.2. accrues to the Fund.
- 10.6. The Manager is always entitled to, exclusively at its own discretion, refuse allocation in full or in part, or attach further conditions to it. The Manager may determine that Participations of a certain class may only be issued to (legal) persons that meet certain requirements or are appointed for that by the Manager.
- 10.7. In the event that a Participant holds an Equalisation Credit at the ultimate Valuation Day of a financial year of the Fund, the Manager shall, as authorised representative of the Foundation, as per the pertinent Valuation Day, allocate to the Participant, at the Net Asset Value of a Participation in that (Sub)Class of Participations, such number of Participations in that (Sub)Class of Participations as is required to settle all Equalisation Credits held by that Participant for that (Sub)Class of Participations, provided that the amount of the Equalisation Credit that is to be taken into consideration with respect to a Participation in a (Sub)Class of Participations held as per that Valuation Day shall never exceed the amount of the performance fee due for that (Sub)Class of Participations.

If the value of an Equalisation Credit exceeds the amount of the performance fee due for a Participation in a (Sub)Class of Participations as per the pertinent Valuation Day, the Participant will carry a residual Equalisation Credit over to the subsequent financial year of the Fund, which residual Equalisation Credit shall have a value equal to the amount with which the value of the earlier Equalisation Credit exceeded the amount of the performance fee due per a Participation in that (Sub)Class of Participations.

- 10.8. In the event that a Participant has accumulated an Equalisation Deficit at the ultimate Valuation Day of the financial year of the Fund, that number of Participations in a Class of Participations held by the pertinent Participant will be cancelled of which the total Net Asset Value of a Participation equals any increase in the Net Asset Value of a Participation of the Participations held by the Participant in that Class of Participations above the Net Asset Value of a Participation of such Participations as per the Valuation Day at which they were allocated to that Participant. The Participant continues to accumulate an Equalisation Deficit until such point in time as the Net Asset Value of the pertinent Class of Participations has reached the level of the pertinent High-on-High Watermark.
- 10.9. Participations will be redeemed on a "First in, First out"-basis, unless circumstances arise as referred to in article 10.10.
- 10.10. In the event that redemption requests are received in respect of marketable Participations for more than 20% of the total outstanding number of one specific (Sub)Class of Participations and such requests are to be executed on one and the same Dealing Day, the Manager may determine to limit the number of that (Sub)Class of Participations to be redeemed to 20% and to proportionally and pro rata decrease the number of that (Sub)Class of Participations to be redeemed on that Dealing Day. At the next Dealing Day preference will be given to the redemption of that number of Participations in respect of which redemption is so deferred, provided that the redemption requests in respect of that (Sub)Class of Participations do not once again exceed the 20%-mark and that the number of the (Sub)Class of Participations to be redeemed is once again reduced for that reason. Notwithstanding the above, the number of (Sub)Class of Participations in respect of which redemption is so deferred will be redeemed in full no later than the first Dealing Day falling six months after the date on which the pertinent request was initially submitted.
- 10.11. If redemption of Participations takes place, the pertinent Participations will be redeemed at an amount equal to the Net Asset Value of a Participation as per the Dealing Day, such amount (i) to be reduced by a fee of up to 1% to be determined by the Manager and if applicable, (ii) to be increased with the amount per Participation that equals any (residual) Equalisation Credit. Within 10 Business Days of redemption of the Participations, the Foundation will in principle pay out to the pertinent Participant the aforementioned purchase price in respect of the Participations redeemed. In the event that a Participant has accumulated an Equalisation Deficit in respect of the Participations that are redeemed, that number of Participations held by the pertinent Participant will be cancelled of which the total Net Asset Value of a Participation equals the total Equalisation Deficit accrued with respect to the Participations to be redeemed. The amount that equals to total Net Asset Value of the aforementioned cancelled Participations inures to the benefit of the Manager.
- 10.12. A Participant is not in the position to partially redeem Participations held by him in a (Sub)Class of Participations, if as a result of such redemption the pertinent Participant would hold such number of Participations in that (Sub)Class of Participations that in aggregate value would represent less than the minimum value as set out in the Prospectus.
- 10.13. Any Participation redeemed shall be cancelled on the Dealing Day on which it is redeemed, unless such Participations may be re-issued directly by the Manager.
- 10.14. In the event that a Participant (i) is not or is no longer eligible to hold Participations in the pertinent (Sub)Class of Participations, or (ii) does not or does no longer meet the conditions prescribed by laws applicable to him in respect of the pertinent Participations being so held, or (iii) one of the other



circumstances arise as set forth in the Prospectus pursuant to which the Manager may require Participations to be redeemed, (part of) the Participations of the pertinent Participant will be cancelled. Upon the occurrence of a fact that entails cancellation, the pertinent Participant will as soon as possible inform the Manager and the Foundation thereof in writing and the Manager will identify the Participations that are to be cancelled. An amount equal to the purchase price set pursuant to article 10.11. as per the Valuation Day that immediately precedes the time of cancellation of the Participations will be paid out of the Fund to the holder of the cancelled Participations as compensation for the cancellation of the Participations. As soon as possible thereafter, the Manager will inform the pertinent Participant that (part of) the Participations held by him are cancelled and will inform him of the extent of the corresponding claim on the Foundation. The Foundation will in principle pay the debt in respect of the cancelled Participations to the pertinent Participant within 10 Business Days of the time of cancellation.

- 10.15. In the event that a Participant that is eligible to hold a certain (Sub)Class of Participations does not or no longer comply with the criteria that the Manager has set out in the Prospectus in respect of the eligibility to hold the pertinent (Sub)Class of Participation, such (Sub)Class of Participation may upon request of the Manager be converted into another (Sub)Class of Participations, provided that such Participant is eligible to hold the latter (Sub)Class of Participations pursuant to the criteria that the Manager has set out in the Prospectus.

### Transfer of Participations.

#### Article 11.

- 11.1. Participations may only be transferred on a Dealing Day, at the (Gross) Asset Value of a Participation as per the Valuation Day preceding the Dealing Day and with the prior written consent from the Manager. A request to transfer Participations should be submitted to the Manager five (5) Business Days prior to a Dealing Day. Consent may be withheld without giving reasons. The provisions in articles 11.2, 11.3 and 11.4 only apply in case the transfer entails a change with respect to the ultimate beneficiary of the selling Participant.
- 11.2. In the event that the selling Participant avails of a(n) (residual) Equalisation Credit in respect of the Participations that he wishes to sell, the Manager, as authorised representative of the Foundation, will pay out of the Fund an amount per Participation to the selling Participant that equals the value of that (residual) Equalisation Credit.
- 11.3. In the event that the selling Participant has accumulated an Equalisation Deficit in respect of the Participations that he wishes to sell, such number of Participations held by the pertinent Participant will be cancelled as is required to settle the entire Equalisation Deficit. An amount equal to Net Asset Value of the aforementioned cancelled Participations will inure to the benefit of the Manager.
- 11.4. When a buyer acquires Participations at a Gross Asset Value of a Participation that is higher than the pertinent High-on-High Watermark, the Manager, as authorised representative of the Foundation, will grant an Equalisation Credit to the Participant in respect of each Participation acquired. When a buyer acquires Participations at a Gross Asset Value of a Participation that is lower than the pertinent High-on-High Watermark, that buyer may accumulate an Equalisation Deficit in respect of each Participation acquired.
- 11.5. A Participant is not in the position to partially transfer Participations held by him in a (Sub)Class of Participations, if as a result of such transfer the pertinent Participant would hold such number of Participations in that (Sub)Class of Participations that in aggregate value would represent less than the minimum value as set out in the Prospectus.
- 11.6. Participations shall be transferred by a deed of transfer followed by a notification to the Foundation.
- 11.7. Participations shall not be liable to any limited right in rem.



- 11.8. Any Participation offered to and acquired by any Qualified Institutional Investor can only be transferred to one or more Qualified Institutional Investors.

**Notices of meetings and notifications.**

**Article 12.**

- 12.1. Notices and notifications to Participants shall be given at their registered address as well as on the website of the Manager.
- 12.2. The date of a convocation or notice shall be the date of dispatch to the address of each Participant.

**Provision of information.**

**Article 13.**

- 13.1. Every month, the Manager will draw up an overview containing at least the following data:
- the number of issued Participations per (Sub)Class of Participations,
  - the Net Asset Value of a Participation and the Gross Asset Value of a Participation, stating the time at which these values were determined,
  - the total value and the composition of the Fund's investments.
- The Manager will make this overview available on its website.
- 13.2. Participants will be notified of a request to withdraw the Manager's license pursuant to the Wft.

**Financial year. Reporting.**

**Article 14.**

- 14.1. The financial year of the Fund shall coincide with the calendar year.
- 14.2. Annually, within six months of the end of the financial year and in accordance with the then current legal provisions, the Manager shall compile annual accounts, an annual report and the other information as referred to in Title 9 of Book 2 of the Dutch Civil Code in respect of that financial year.
- 14.3. Annually, within nine weeks of the end of the first half of the financial year, the Manager shall prepare a report on the first half of the financial year in accordance with the then current legal provisions. This report shall at least include the balance sheet and profit and loss account as well as an overview of the movements in the assets under management by the Fund, a statement of the Net Asset Value of each respectively of all (Sub)Class(es) of Participations and the number of outstanding Participations per (Sub)Class of Participations and the composition of the investments, shown as at the end of the first half of the financial year.
- 14.4. The annual accounts the Interim Report will be signed by the Manager. Should one or more signatures be missing, the reasons for this omission shall be stated.
- 14.5. The annual accounts and the Interim Report shall be published on the Manager's website and shall be made available to the Participants free of charge.
- 14.6. The meeting of Participants has the power to appoint an Auditor to audit the annual accounts on the instructions of the Manager. The Auditor shall report on his audit to the Manager and shall set out the findings of his audit in an Auditor's report.
- 14.7. Notwithstanding the provisions of articles 14.2., 14.3. and 14.4., by virtue of Article 59 and Article 14, Paragraph 1, Item 1 of the AITIC, the management report in Japanese to the Participants (which would otherwise be required to be prepared and delivered pursuant to the AITIC) will not be prepared or delivered with respect to the Participations issued pursuant to article 3.7.

- 14.8. The Manager may issue instructions to the Auditor or to another chartered accountant or expert of equal status under the law.

### Distributions.

#### Article 15.

- 15.1. The profits made in a financial year will be calculated in accordance with the conditions in Title 9, Book 2 of the Dutch Civil Code. Without prejudice to the conditions in article 15.2., the distributable profits will be added to the Fund's assets on an annual basis.
- 15.2. The Manager is authorised to pay part of the profit available for distribution to the Participants. In such case, all the Participations that exist at the time of adoption of the Annual Accounts will have an equal share in the profit of the relevant (Sub)Class of Participations over the relevant financial year.

### Meeting of Participants.

#### Article 16.

- 16.1. The meetings of Participants will be chaired by a director, legal representative or employee of the Manager. The chairman of the meeting shall appoint a secretary. The chairman can also allow third parties to attend a meeting or part of a meeting and to address the meeting.
- 16.2. The annual meeting of Participants shall be held within six months of the ending of a financial year, for which meeting all the Participants will be convened in accordance with the conditions in this article and in article 12.
- 16.3. The agenda of this meeting shall in any case contain the following topics:
- a. report of the Manager on the course of affairs in the past financial year,
  - b. the adoption of the Annual Accounts, and
  - c. the discharge of the Manager from the performance of its duties during the relevant financial year.
- In addition, the annual meeting shall address any other items placed on the agenda in accordance with articles 16.5. and 16.6.
- 16.4. The directors of the Manager shall be invited to attend Participants' meetings and are entitled to address these meetings. The Manager can invite the Accountant to attend Participants' meetings.
- 16.5. The Manager will convene the meeting of Participants and adopt the agenda for the meeting. The notice shall be made no later than on the fifteenth day before the date of the meeting.
- 16.6. One or more Participants who jointly hold at least 10% of the total number of Participations can request the Manager to add topics to the agenda, provided that the Manager receives the written request for this no later than eight days before the meeting. The Manager shall send notification of these additional topics no later than on the fifth day before the meeting to all those who have been convened to the meeting.
- 16.7. All meetings shall be held in the Netherlands at a venue to be determined by the Manager. Even if the regulations governing the invitation and the venue of the meeting are not observed, valid resolutions may still be passed on condition that all Participants are present or represented at the meeting and on condition that the resolution is passed by unanimous vote.
- 16.8. With the convocation of the meeting, the annual report will be made available to the Participants free of charge. The Auditor's report shall be attached to the same.
- 16.9. If the Manager considers it to be in the best interest of the Participants, the Manager will convene an extraordinary meeting of Participants, for which meeting all Participants are convened in accordance with the provisions of this article and of article 12. In addition, the Manager shall convene an extraordinary

meeting of Participants if one or more Participants who hold at least 10% of the total number of Participations submit a written request to the Manager to this end, stating the topics to be discussed.

- 16.10. Another person may represent a Participant at a meeting by means of a valid power of attorney granted in writing.
- 16.11. Unless otherwise stipulated in these terms, all resolutions of the meeting of Participants shall be passed by an absolute majority of votes connected to all Participations present or represented at the meeting. In this context, each Participation - with the exception of Participations held by the Fund - entitles the holder to one vote. Blank and invalid votes shall be deemed void. If voting is tied, the chairman of the meeting shall have the casting vote.
- 16.12. The chairman of the meeting shall determine the manner of voting.

#### **Minutes of the meeting of Participants.**

##### **Article 17.**

Unless a notarial record is made of the proceedings of the meeting of Participants, the secretary shall take the minutes of the meeting. As evidence of adoption, the minutes of the meeting shall be signed by the chairman and the secretary of the meeting in question, or at the following meeting of Participants, in which case it shall be signed by the chairman and secretary at that meeting.

#### **Discontinuation of activities by the Manager.**

##### **Article 18.**

- 18.1. The Manager shall retire:
- a. at the time of liquidation of the Manager,
  - b. upon voluntary resignation,
  - c. upon the issue of an order for its liquidation or upon losing the right to dispose of its assets in any way, including by way of being granted a moratorium,
  - d. upon dismissal by the meeting of Participants.
- 18.2. A resolution of the meeting of Participants to dismiss the Manager may only be adopted with a majority of votes representing at least two thirds of the total number of Participations issued, and may only be adopted in the event the following applies to the Manager:
- a. a material breach of its duties under these terms, or a violation of one or more material provisions of law applicable to it, and such breach or violation has a material adverse effect on the Fund,
  - b. (i) gross negligence in performing its duties under this agreement, which gross negligence has a material adverse effect on the Fund, or (ii) fraud, bad faith or wilful misconduct by the Manager in performing its duties under this agreement, or
  - c. the Manager or one or more of its managing directors (*bestuurders*) or employees are convicted.
- 18.3. The discontinuation of activities by the Manager as referred to in article 18.1. shall not have any adverse consequence for processing instigated transactions. Such transactions shall be completed expeditiously by the Manager and, where relevant, by the Foundation.

### **Replacement of the Manager.**

#### **Article 19.**

- 19.1. Should the Manager wish to or be obliged to discontinue its activities as Manager pursuant to article 18., a meeting of Participants shall be convened within four weeks of notification of this fact in order to appoint a successive Manager. All Participants will be notified of such appointment.
- 19.2. In the event that no successive Manager shall have been appointed within ten weeks after it became known that the Manager wishes or is obliged to end its office, the Fund shall be dissolved and liquidated in accordance with the provisions of article 21., unless the meeting of Participants resolves to extend the aforementioned term.

### **Applicability and amendment of the Terms.**

#### **Article 20.**

- 20.1. A Participant shall become subject to the provisions of the Terms through the acquisition of a Participation. A free copy of the Terms will be made available in the manner as set out in the Prospectus.
- 20.2. The Terms may be changed by joint decision of the Manager and the Foundation after notifying the Participants.
- 20.3. The Manager gives notice of a proposal to amend the Terms, as well as of an amendment that diverges from such proposed amendment on its website and shall publish an explanation to the proposed or diverging amendment on its website, while notifying the AFM at the same time.
- 20.4. Should an amendment of the Terms entail a reduction in Participants' rights or security or the imposition of charges on the Participants, the amendment shall not be invoked towards the Participants before one month has lapsed since the date on which notification of the amendment to the Terms was given and Participants may withdraw under the usual terms and conditions during this period of time.
- 20.5. Should the amendment of the Terms entail a change to the investment policy of the Fund, the amendment shall not be implemented before one month has lapsed since the date on which notification of the amendment to the Terms was given and Participants may withdraw under the usual terms and conditions during this period of time.

### **Rescission. Termination of a certain (Sub)Class of Participations.**

#### **Article 21.**

- 21.1. Without prejudice to the provisions of article 19.2., a certain (Sub)Class of Participations may be terminated by a resolution of the Manager; the Fund may be dissolved by a resolution of the Manager and approval from the meeting of Participants. The relevant Participants will be notified of this decision.
- 21.2. In case of dissolution of the Fund, the Manager will wind up the Fund. During the process, the Terms shall remain in force to the extent possible.

- 21.3. Upon the winding up of a (Sub)Class of Participations, the balance left after winding up will be paid out to those Participants that are entitled to the relevant (Sub)Class of Participations, payment to be made in proportion to the number of Participations held by each Participant. Following distribution of such balance the Participations shall be cancelled in accordance with the provision of article 10.11. Proceeds may only be distributed following the rendering of an account as referred to in article 21.5.
- 21.4. If the assets of a certain (Sub)Class of Participations are negative, the deficit will be charged to the other (Sub)Classes of Participations in the event of dissolution or liquidation of the relevant (Sub)Class of Participations, proportionate to the Net Asset Value of each of those (Sub)Classes of Participations as at the day or the dissolution of the dissolved (Sub)Class of Participations.
- 21.5. The Manager shall render an account accompanied by an Auditor's report. Approval of the account and the report by the meeting of Participants without reservation shall discharge the Manager from its obligations.

**Applicable law. Arbitration.**

**Article 22.**

- 22.1. These terms are governed by the laws of the Netherlands and should be construed accordingly.
- 22.2. All disputes arising from these terms, inclusive of disputes on the existence and validity thereof, shall be settled through arbitration in accordance with the regulations of the Netherlands Arbitration Institute (*Nederlands Arbitrage Instituut*).

The following shall apply:

- a. the arbitral tribunal shall consist of three arbitrators,
- b. the venue of arbitration shall be The Hague,
- c. the proceedings shall be in the Dutch language,
- d. the arbitral tribunal shall settle the dispute according to the rules of the laws of the Netherlands,
- e. the Netherlands Arbitration Institute may not publish the arbitral award.

## ANNEX II - PERFORMANCE FEE / EQUALISATION

### Performance fee computation

If during any financial year the Gross Asset Value of a Participation<sup>4</sup> (hereinafter: GAV) rises above the value of the pertinent High-on-High Watermark, the Fund takes a performance fee into account.

The High-on-High Watermark (hereinafter: HW) is equal to the highest Net Asset Value of a Participation<sup>5</sup> (hereinafter: NAV), reached on the ultimate Valuation Day of any preceding financial year.

The performance fee is computed by the Fund on a daily basis and is taken into account when determining the (indicative) NAV.

As redemptions and transfers of Participations are effected against the NAV as per the Valuation Day as per which they are redeemed or transferred, settlement of the performance fee due by the redeeming or transferring Participant to the Fund is thus also effected at the time.<sup>6</sup>

The pertinent amount is then contributed to the provision for performance fees held by the Fund and remains part thereof until such time as the performance fee is in effect made payable to the Manager.

As a rule<sup>7</sup>, the Fund does not affect settlement of performance fees with the Manager unless the GAV exceeds the HW as per the ultimate Valuation Day of the financial year. Solely the value of the GAV at year-end determines the level of the fee due by the Fund on an annual basis. Consequently, in determining the Fund's results for the financial year (and thus the NAV as per the ultimate Valuation Day of that financial year) only the latter level is taken into account.

Participants that hold Participations at the end of the financial year thus contribute towards payment of the performance fee.

### Background to applying an equalisation method

The starting point in calculating the performance fee by the Fund is, however, that Participants should only pay a fee that corresponds to the increase in value of their individual investment. In addition, any performance fee to be settled should be limited to the total increase in such value.

Nonetheless, in the computation method set out above, the increase in value of the Fund in excess of the HW is the determining factor rather than the increase in value of the individual investment. That method, therefore, does not present a methodology that is to be applied in *inter alia* the following cases:

1. a Participant invests in the Fund at a point in time during the financial year at which a performance fee is already taken into account by the Fund and that fee is indeed to be settled with the Manager as per the close of that financial year,
2. a Participant invests in the Fund at a point in time at which the GAV is lower than the HW.

<sup>4</sup> The Gross Asset Value of a Participation is defined on page 4 of this Prospectus as the Net Asset Value of a Participation without deduction of the performance fee due to the Manager at the time.

<sup>5</sup> The Net Asset Value of a Participation is defined on page 5 of this Prospectus.

<sup>6</sup> Settlement of the performance fee due at liquidation of a (Sub)Class of Participations or liquidation of the Fund is effected in like manner.

<sup>7</sup> In the circumstances set forth in note 9, settlement may also be effected at another point in time.

As a result, the Participant in example 1. contributes on balance to the performance fee that is payable by the Fund to the Manager, whilst he has not benefitted from a matching increase in the value of his individual investment. Conversely, example 2. works to the advantage of the pertinent Participant as he is only to contribute to the performance fee payable by the Fund as of the point in time at which the GAV is higher than the HW and not also to the fee payable in relation to performance made as of the time of investing and up till the time that the GAV reaches the HW.

When account is taken of the starting point, compensatory measures are thus in order: in the first case with respect to the Participant and in the latter case with respect to the Manager.

Such compensatory measures are taken within the Fund and are based on an equalisation method that allows for Equalisation Credits to be granted when Participations are issued and for the accumulation of Equalisation Deficits<sup>8</sup> as of that time.

In addition, the Gross Asset Value of a (Sub)Class of Participations as per the Valuation Day determines the number of Participations issued to a Participant as per a Dealing Day. This value represents the High-on-High Watermark as it will apply to the Participations issued to the pertinent Participant at that time (hereinafter: PHGAV).

The examples given below illustrate the way in which the equalisation method is put into effect. The basic assumptions that are to be applied to all examples are as follows:

| Capital invested | Perf. fee | NAV at inception (01/01/98) <sup>9</sup> | GAV at inception (01/01/98) | HW   | GAV at year-end (31/12/98) | Perf. fee | NAV at year-end (31/12/98) = HW (new) (01/01/99) |
|------------------|-----------|--|-----------------------------|------|----------------------------|-----------|--|
| €1,000,000       | 20%       | €100                                     | €100                        | €100 | €140                       | €8        | €132   |

<sup>8</sup> The abbreviation AIFEE is used by the Administrator to denote an Equalisation Deficit. AIFEE stands for *Additional Income Fee*.

<sup>9</sup> This date of inception of the Fund is a fictitious date and used by way of sample only.

**The equalisation method put into effect**

**I. Issue on inception of the Fund**

The first example takes the issue to Participant A of Participations on inception of the Fund as a basis.

**Participant A**

- invests €1,000,000 at the time,
- at a PHGAV of €100,
- consequently acquires 10,000 Participations (= €1,000,000/€100),
- without any further compensation being due since the PHGAV equals the HW:

| Participant | Date  | PHGAV | NAV  | No. Participations |          |
|-------------|-------|-------|------|--------------------|----------|
|             |       |       |      | 01/01/98           | 31/12/98 |
| A           | 01/01 | €100  | €100 | 10.000             | 10.000   |

As the GAV per 31 December 1998 exceeds the HW, a performance fee is made payable by the Fund to the Manager. At a GAV of €140, this fee amounts to €8 per Participation and is calculated as follows:

*Status as at 31 December 1998*

|                         |            |
|-------------------------|------------|
| HW and PHGAV 01/01/1998 | <b>GAV</b> |
| €100                    | €140       |

|  
 performance fee of €8  
 (€40 \* 20%)

With a PHGAV at subscription equal to the HW at the time, Participant A accordingly contributes in full to the performance fee due by the Fund.



## **II. Equalisation Credit**

Should the GAV as per a Valuation Day exceed the HW:

- Participations will be issued at that higher GAV,
- that higher GAV will, in relation to the Participations issued as per that day, constitute the PHGAV to Participants to whom said Participations were issued,
- as far as the calculation of the performance fee is concerned, the said Participants will be compensated for the amount with which the PHGAV exceeds the GAV,
- by granting an Equalisation Credit per Participation so issued.

At the date of grant, the Equalisation Credit is equivalent to the performance fee in terms of percentage times the difference, as per the Valuation Day, between the PHGAV per Participation and the HW. The total value of the Participant's investment as per that Valuation Day equals the value arrived at by adding (i) the value of the Equalisation Credit per Participation times the number of Participations issued to (ii) the result gained by multiplying the number of Participations issued by the NAV.

Following the date of grant, the value of the Equalisation Credit fluctuates with the increase in and decrease of the NAV during the financial year. The credit granted will, however, at no time turn into a negative value; on the other hand, it will not increase beyond its value at the time that the pertinent Participations were issued.

In principle, Equalisation Credits are settled as per the ultimate Valuation Day of the financial year in which they were granted, at a value that shall not exceed the amount of the performance fee due per Participation as per that Valuation Day. The total number of Equalisation Credits of even value multiplied by the applicable maximum settlement amount, determines the number of Participations that is to be issued at the NAV as per the ultimate Valuation Day. Should the value of an Equalisation Credit per Participation exceed the value of the performance fee per Participation due, such surplus value will be transferred to subsequent financial years until such time as such credit is settled in full.

A Participant that sells Equalisation Credit bearing Participations at a Dealing Day prior to that ultimate Valuation Day will receive a cash payment equal to the amount of the then current total value of the Equalisation Credits attached to such Participations as per that Dealing Day.

The following three cases in point, pertaining to Participants that acquire or sell Participations at different points in time during the financial year, illustrate the way in which an Equalisation Credit is granted respectively settled.

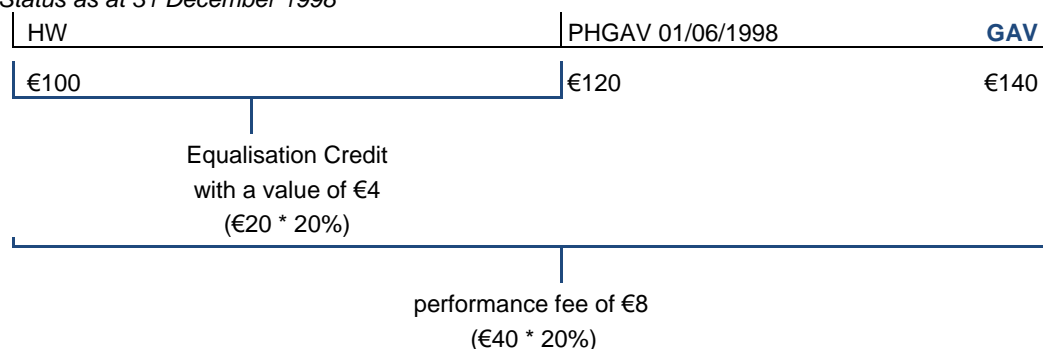
### Participant B

- invests €1,000,000 on 1 June 1998,
- at a PHGAV of €120,
- consequently acquires 8,333.3333 Participations (= €1,000,000/€120), and
- is granted an Equalisation Credit per Participation to the value of €4 (= [€120 - €100] x 20%) as the PHGAV exceeds the HW by €20 at the date of subscription.

As per 31 December 1998 settlement will be effected as follows:

- the performance fee of €8 (= [€140 - €100] x 20%) per Participation will be made payable by the Fund to Manager, and
- Equalisation Credits granted to the value of €33,333.3332 (= 8,333.3333 x €4) will be settled by the issue of 252.5252 Participations to Participant B (= total value Equalisation Credits/NAV at year-end = [€33,333.3332/€132]):

Status as at 31 December 1998



Participant B's PHGAV once again equals the HW as of 1 January 1999. The following table reflects the development in number of Participations and value of Equalisation Credits held by Participant B:

| Participant | Date of issue/<br>grant | PHGAV | Eq.Credit<br>per Part.<br>(grant) | No. Participations |                                      | Eq.Credit<br>per Part.<br>(01/01/99) |    |
|-------------|-------------------------|-------|-----------------------------------|--------------------|--------------------------------------|--------------------------------------|----|
|             |                         |       |                                   | Issue              | Eq. Credit<br>settlement<br>31/12/98 |                                      |    |
| B           | 01/06/98                | €120  | €4                                | 8.333,3333         | +252,5252                            | 8.585,8585                           | €0 |

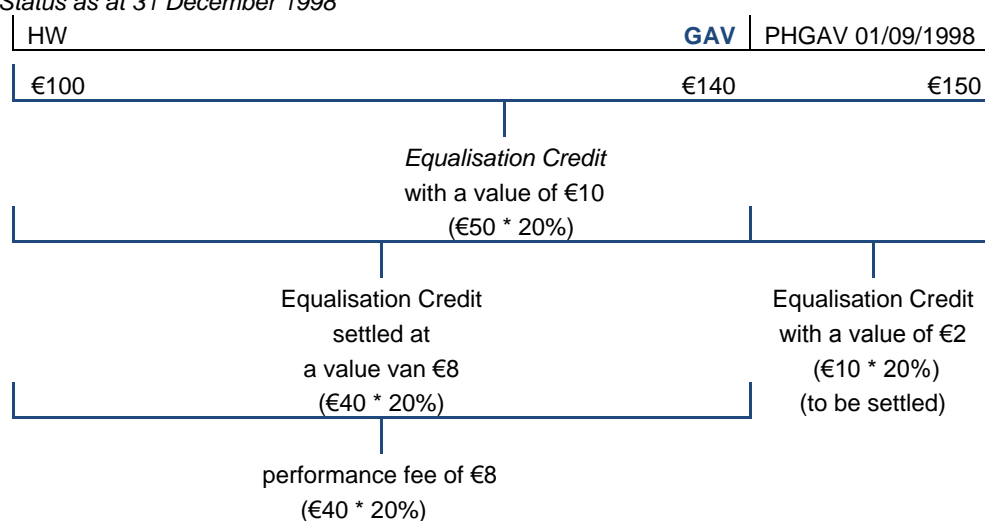
### Participant C

- invests €1,000,000 on 1 September 1998,
- at a PHGAV of €150,
- consequently acquires 6,666.6667 Participations (= €1,000,000/€150), and
- is granted an Equalisation Credit to the value of €10 (= [€150 - €100] x 20%) per Participation as the PHGAV exceeds the HW by €50 at the date of subscription.

As per 31 December 1998 settlement will be effected as follows:

- the performance fee of €8 (= [€140 - €100] x 20%) per Participation will be made payable by the Fund to Manager, and
- the Equalisation Credits granted will be settled to a maximum value of €8 per Equalisation Credit, as the value of the Equalisation Credits granted per Participation (€10) exceeds the value of the performance fee per Participation (€8):

Status as at 31 December 1998



- resulting in the issue of 404.0404 Participations (= [6.666,6667 x €8]/€132), and
- a residual Equalisation Credit to the value of 6,666.6667 x €2 (= [€150 - €140] x 20%).

The following table reflects the development in number of Participations and value of Equalisation Credits held by Participant C:

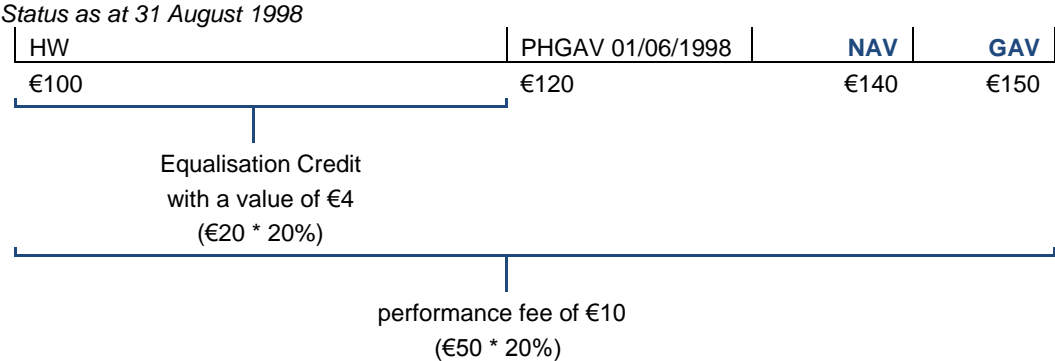
| Participant | Date of issue/<br>grant | PHGAV | Eq.Credit<br>per Part.<br>(grant) | No. Participations |                          |            | Eq.Credit<br>per Part.<br>(01/01/99) |
|-------------|-------------------------|-------|-----------------------------------|--------------------|--------------------------|------------|--------------------------------------|
|             |                         |       |                                   | Issue              | Eq. Credit<br>settlement | 31/12/98   |                                      |
| C           | 01/09/98                | €150  | €10                               | 6.666,6667         | +404,0404                | 7.070,7071 | €2                                   |

**Participant D**

- invests €1,000,000 on 1 June 1998,
- at a PHGAV of €120,
- consequently acquires 8,333.3333 Participations (= €1,000,000/€120), and
- is granted an Equalisation Credit to the value of €4 (= [€120 - €100] x 20%) per Participation as the PHGAV exceeds the HW by €20 at the date of subscription.

As per 1 September 1998 Participant D exits the Fund at a NAV of €140 (and at a GAV of €150). Settlement will be effected as follows:

- the performance fee, charged by the Fund, amounts to €10 (= [€150 - €100] x 20%) per Participation and is taken into account in the NAV of €140 against which Participant D exits,
- the Equalisation Credit to the value of €4 (= €20 x 20%) per Participation is settled in cash:



- Participant D thus receives an amount of €144 per Participation, which amount is made up of €140 (NAV) plus €4 (Equalisation Credit).

### **III. Equalisation Deficit**

If Participations are issued at a time that the NAV is lower than the HW, the accumulated performance fee is nil. The GAV is therefore equal to the NAV.

As of the moment that the GAV subsequently rises above the NAV, which signifies that the investment of the Participant who subscribed at that lower GAV=NAV increases in value, that Participant will accumulate an Equalisation Deficit (hereinafter: A(dditional) I(ncome) FEE). Such AIFEE will accrue until such point in time as all Participants will once again contribute to the performance fee to be paid by the Fund to the Manager, as a result of the GAV reaching the level of the HW.

The value of an AIFEE is calculated by multiplying the performance fee in terms of percentage with the difference in value between (i) the HW, or if that value is lower, the NAV as per the ultimate Valuation Day on which that Participation is held by that Participant during the pertinent financial year and (ii) the NAV at the time of issue.

Any AIFEE will be settled by way of cancellation of such number of Participations as corresponds to the value of the AIFEE accrued. Such settlement will be effected as per the ultimate Valuation Day of the financial year of the Fund in which the pertinent Participations were issued or at disposal at an earlier point in time during that year.

At that time, the total value of the investment equals the value arrived at by multiplying the number of Participations issued by the NAV at the time of issue, adjusted for the value of the AIFEE.

Should the NAV of any AIFEE bearing Participation as per the ultimate Valuation Day of the financial year still be at a lower level than the level of the (initial) HW, an AIFEE will also accrue during the subsequent financial year. The difference in value between the NAV per that ultimate Valuation Day and the HW that prevails as of the subsequent financial year shall form the basis for its computation. Such computation is made by multiplying the performance fee in percentage with the difference in value between (i) the HW, or if that value is lower, the NAV as per the ultimate Valuation Day during the subsequent financial year on which that Participation is held by that Participant and (ii) the NAV as per the ultimate Valuation Day of the closed financial year, i.e. the GAV.

The following two cases in point, pertaining to Participants that hold similar AIFEE bearing Participations for different periods of in time during the financial year, illustrate the accumulation respectively settlement of the AIFEE accrued.

### Participant E

- invests € 1,000,000 on 1 March 1998,
- against a PHGAV of €80, whilst the HW is €100,
- consequently acquires 12,500 Participations ( $= \frac{€1,000,000}{€80}$ ), and
- until such time that NAV equals the HW, accumulates an AIFEE to a value of €4 ( $= [\frac{€100}{€80} - 1] \times 20\%$ ) per Participation.

As per 31 December 1998 settlement will be effected as follows:

- a performance fee of €8 ( $= [\frac{€140}{€100} - 1] \times 20\%$ ) per Participation will be made payable by the Fund to Manager, and
- an AIFEE that accrued to a value of €50,000 ( $= 12,500 \times €4$ ) is settled by cancelling 378.7879 ( $= \frac{€50,000}{€132}$ ) Participations:

Status as at 31 December 1998

|                  |      |      |
|------------------|------|------|
| PHGAV 01/03/1998 | HW   | GAV  |
| €80              | €100 | €140 |

AIFEE  
with a value of €4  
( $€20 \times 20\%$ )
performance fee of €8  
( $€40 \times 20\%$ )

The following table reflects the development in number of Participations of and value of the AIFEE accrued by Participant E:

| Participant | Date of issue/<br>grant | PHGAV<br>=<br>GAV<br>=<br>NAV | AIFEE per<br>Part.<br>at<br>NAV = HW | No. Participations |                     |             | AIFEE<br>per Part.<br>(01/01/99) |
|-------------|-------------------------|-------------------------------|--------------------------------------|--------------------|---------------------|-------------|----------------------------------|
|             |                         |                               |                                      | Issue              | AIFEE<br>settlement | 31/12/98    |                                  |
| E           | 01/03/98                | €80                           | €4                                   | 12.500             | -378,7879           | 12.121,2121 | €0                               |

**Participant F**

- invests € 1,000,000 on 1 March 1998,
- against a PHGAV of €80, whilst the HW is €100,
- consequently acquires 12,500 Participations (= €1,000,000/€80), and
- until such time that NAV equals the HW, accumulates an AIFEE to a value of €4 (= [€100 - €80] x 20%) per Participation.

As per 1 September 1998 Participant F exits the Fund at a NAV of €140 (and at a GAV of €150). Settlement will be effected as follows:

- the performance fee, charged by the Fund, amounts to €10 (= [€150 - €100] x 20%) per Participation and is taken into account in the NAV of €140 against which Participant F exits,
- the AIFEE to a value of €4 (= €20 x 20%) per Participation is offset against the price at which the Participation is sold:

Status as at 31 August 1998

| PHGAV 01/03/1998 | HW   | NAV  | GAV  |
|------------------|------|------|------|
| €80              | €100 | €140 | €150 |

AIFEE  
with a value of €4  
(€20 \* 20%)

performance fee of €10  
(€50 \* 20%)

- Participant F thus receives an amount of €136 per Participation, which amount is made up of €140 (NAV) minus €4 (AIFEE).