



# Lanyon Australian Value Fund

ARSN 151 492 849

The Trust Company (RE Services) Limited

ACN 003 278 831

AFSL No: 235150

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## Notice of Unitholders' Meeting

### Explanatory Statement

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#### Date of meeting

19 April 2024

#### Time of meeting

3:00pm (AEST time)

#### Virtual Meeting

The meeting will be held virtually via an online platform at [https://us02web.zoom.us/webinar/register/WN\\_wUawQCHFSgi15r92qudpjg](https://us02web.zoom.us/webinar/register/WN_wUawQCHFSgi15r92qudpjg) with meeting ID 871 5884 0129

Further information regarding participation in the meeting is set out on page 10 and in Annexure A of this document

This notice of unitholders' meeting should be read in its entirety. If unitholders are in doubt as to how they should vote, they should seek advice from their accountant, solicitor or other professional adviser prior to voting.

# 1. Important notices and information

*You should read this section carefully before reading or making any use of this Notice of Unitholders' Meeting and Explanatory Statement (**Explanatory Memorandum**) or any information contained in it. In receiving and reading this Notice of Unitholders' Meeting and Explanatory Statement, you are agreeing to be bound by the terms following in this section, including any modifications to them. If you do not agree to this, you should immediately contact the responsible entity, The Trust Company (RE Services) Limited (ACN 003 278 831) (**Perpetual** or **Responsible Entity**), your legal adviser, investment adviser and other professional adviser.*

## General

This Explanatory Memorandum is dated 27 March 2024 and issued by Perpetual as responsible entity of Lanyon Australian Value Fund (ARSN 151 492 849) (**Fund** or **LAVF**).

This Explanatory Memorandum has been prepared in accordance with the laws of the Commonwealth of Australia and does not constitute an offer to sell any financial products, or the solicitation of an offer to buy or subscribe for Units in Lanyon Investment Fund in any place in which, or from any person to whom, it would not be lawful to make such an offer.

## Purpose of this document

This Explanatory Memorandum has been prepared to provide Unitholders with material information to enable them to make an informed decision on the Resolution at a meeting of Unitholders at 3:00pm (AEST) on 19 April 2024.

The Resolution relates to the Scheme Merger, which is a proposal to consolidate each of LAVF, Lanyon Global Value Fund (ARSN 604 811 823) (**LGVF**), Lanyon Australian Share Fund (**LASF**) and Lanyon Vardon Fund (**Scheme Merger Funds**) into Lanyon Investment Fund (ARSN 670 944 242) (**LIF**). Unitholders should consider the entire contents of this Explanatory Memorandum carefully and refer to section 6 for further information about the Scheme Merger and background on the schemes or funds involved in the consolidation.

## Responsible entity

Perpetual is the responsible entity of the Fund. The Fund is a managed investment scheme registered under Chapter 5C of the Corporations Act.

## Capitalised terms

Certain terms and abbreviations used in this Explanatory Memorandum have defined meanings as set out in section 10.

## Risks

There are risks associated with the Scheme Merger. Before deciding how to vote on the Resolution, Unitholders should consider the entire contents of this Explanatory Memorandum carefully and refer to section 6.6 for information about risks.

Nothing in this Explanatory Memorandum constitutes personal financial advice. You should carefully consider the appropriateness of the Resolution and Scheme Merger in light of your own personal circumstances, having regard to your objectives, personal financial and taxation situation and needs. Perpetual recommends that you seek professional investment advice from an accountant, lawyer, stockbroker or other financial adviser regarding the appropriateness of the Resolution and Scheme Merger before deciding how to vote.

## Privacy Act

You may be required to provide information that may be personal information for the purposes of the *Privacy Act 1988* (Cth) to implement the Scheme Merger. Perpetual and its agent and appointed service providers (including Lanyon Asset Management Pty Limited (ACN 140 631 714) (**Lanyon AM**) and William Buck Managed Funds Administration (SA) Pty Ltd (ACN 643 372 230) (**William Buck**)) may collect, hold and use that personal information in order to assess your vote, service your needs as a Unitholder, provide facilities and services that you request or that are connected with the Scheme Merger and carry out appropriate administration. If some or all personal information as required by Perpetual is not provided, Perpetual and its agents and appointed service providers may not be able to adequately service your needs as a Unitholder, provide facilities and services that you request or that are connected with Scheme Merger or carry out appropriate administration.

Perpetual will not disclose your personal information except where necessary to implement the Resolution and Scheme Merger or where required to do so by applicable law.

Under the Privacy Act, you may request access to your personal information held by Perpetual or its agents by contacting Lanyon AM or William Buck at the addresses included in section 11.

### Forecasts and forward looking statements

All financial amounts contained in this Explanatory Memorandum are expressed in Australian dollars and rounded to the nearest thousand unless otherwise stated. Any discrepancies between totals and sums of components in tables contained in this Explanatory Memorandum are due to rounding.

This Explanatory Memorandum contains forward looking statements, including statements of intentions, statements of opinion and predictions as to possible future events which are identified by words such as “may”, “could”, “believes”, “estimates”, “expects”, “intends” and other similar words that involve risks and uncertainties.

Any forecasts or forward looking statements are predictions only and are subject to various inherent risk factors and uncertainties that could cause actual results to differ materially from the results expressed or anticipated in these forecasts or statements. Such forecasts or statements are not guarantees of future performance and involve known and unknown risks, uncertainties, assumptions and other important factors, many of which are beyond the control of Perpetual, its

Directors and management. Forecasts and forward looking statements should therefore be read in conjunction with, and are qualified by reference to, other information in this Explanatory Memorandum.

Perpetual, its Directors, officers, employees, agents, advisers, representatives, and any person named in, or involved in the preparation of, this Explanatory Memorandum cannot and do not give any warranty, assurance or representation that the results, performance or achievements expressed or implied by the forecasts and forward looking statements contained in the Explanatory Memorandum will actually occur and Unitholders are cautioned not to place undue reliance on these forecasts and forward looking statements. Forecasts and forward looking statements reflect views held only as at the date of the Explanatory Memorandum.

### Images

Any images used in the Explanatory Memorandum that do not have any descriptions are for illustration only and should not be interpreted to mean that any person in them endorses the Explanatory Memorandum or its contents or that the assets shown in them are owned by Perpetual. All data contained in images within the Explanatory Memorandum is based on information available as at the date of the Explanatory Memorandum unless otherwise stated.

This notice of unitholders' meeting should be read in its entirety. If unitholders are in doubt as to how they should vote, they should seek advice from their accountant, solicitor or other professional adviser prior to voting.

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## 2. Perpetual's letter

Dear Unitholder

On behalf of the board of The Trust Company (RE Services) Limited (ACN 003 278 831) (part of the Perpetual Limited (ACN 000 431 827) group of entities) as responsible entity of the Lanyon Australian Value Fund (ARSN 151 492 849) (**Fund**), you are invited to participate in a transaction which will have the effect of consolidating each of the Fund, Lanyon Global Value Fund (ARSN 604 811 823), Lanyon Australian Share Fund and Lanyon Vardon Fund (together, **Scheme Merger Funds**) into Lanyon Investment Fund (ARSN 670 944 242) (**LIF**) including through the issue of LIF Units in exchange of Units in the Fund and each of the other Scheme Merger Funds (**Scheme Merger**).

The Directors of Perpetual consider that the Fund's participation in the Scheme Merger is in the best interests of unitholders of the Fund (**Unitholders**) and unanimously recommend that Unitholders vote in favour of the resolution to adopt the amendments to the constitution of the Fund to facilitate the Fund's participation in the Scheme Merger as set out in Annexure D.

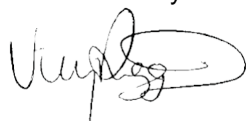
In forming this recommendation, the Directors of Perpetual have had regard to:

- (a) the value of the Units of each Unitholder before and after implementation of the Scheme Merger;
- (b) the reduced management fee of LIF in comparison to the management fee of the Fund and the fact that there will not be a change to the percentage of the performance fee;
- (c) the potential for better performance on the basis that the assets of the Fund will be consolidated into LIF, such that the assets of LIF will be greater than the Fund;
- (d) the superior past performance of LIF, delivering 21.0% p.a. (net of all fees) compound returns since inception in September 2019;
- (e) taxation information as set out in section 8 of this Explanatory Memorandum, confirming that rollover relief will be available to Unitholders who exchange Units for LIF Units as a result of the Scheme Merger; and
- (f) the improvements to liquidity given that LIF will be subject to daily pricing, daily applications and daily redemptions, rather than the weekly pricing, weekly applications and weekly redemptions that currently occur for the Fund.

It is important that you consider the information included in this Explanatory Memorandum in light of your own personal circumstances, having regard to your objectives, personal financial and taxation situation and needs. The "Key questions and answers" in section 9 of this Explanatory Memorandum may assist in answering some questions that you may have.

If you are in doubt as to how to vote on the Resolution, you should seek financial, tax or other professional advice before making any decision in respect of the Resolution.

Yours faithfully



**Vicki Riggio**

Director

This notice of unitholders' meeting should be read in its entirety. If unitholders are in doubt as to how they should vote, they should seek advice from their accountant, solicitor or other professional adviser prior to voting.

### 3. Lanyon RE's letter

Dear Unitholder

On behalf of the board of Lanyon RE Services Limited (ACN 661 585 815) (**Lanyon RE**) as responsible entity for Lanyon Investment Fund (ARSN 670 944 242) (**LIF**), it is my pleasure to invite you to participate in a transaction which will have the effect of consolidating each of Lanyon Australian Value Fund (ARSN 151 492 849) (**Fund**), Lanyon Global Value Fund (ARSN 604 811 823), Lanyon Australian Share Fund and Lanyon Vardon Fund (together, **Scheme Merger Funds**) into LIF including through the issue of LIF Units in exchange of Units in the Fund and each of the other Scheme Merger Funds (**Scheme Merger**).

Lanyon RE is the responsible entity of LIF and is a wholly owned subsidiary of Lanyon Asset Management Pty Limited (ACN 140 631 714) (**Lanyon AM**). Lanyon AM is the investment manager of LIF and each of the Scheme Merger Funds.

If the Scheme Merger is implemented, LIF will have a singular, highly dedicated focus from Lanyon AM as the investment manager of a single fund, being LIF. Lanyon AM will adopt the investment strategy for all unitholders who participate in the Scheme Merger and become unitholders in LIF.

This investment strategy has delivered 21.0% p.a. (net of all fees, including without limitation platform fees) compound returns since inception in September 2019. This compares to the S&P/ASX 300 Accumulation Index compound return of +7.0% p.a. and the MSCI All Country World Index net total returns AUD index compound return of +9.7% p.a. over the same period. LIF's benchmark, which is comprised of 75% S&P/ASX 300 Accumulation Index and 25% of the MSCI All Country World Index net total returns AUD index, has delivered +7.7% p.a. compound returns over the period.

When compared to the Morningstar surveys of active equity funds, including surveys of both Australian and global equity funds, LIF would comfortably be in the top decile of returns since inception. LIF is not currently included in the Morningstar surveys.

The board of Lanyon RE and Lanyon AM each considers that the Scheme Merger offers a number of benefits to unitholders of the Fund in addition to the singular, highly dedicated focus of Lanyon AM and high performing investment strategy, including:

- reduced management fees and costs;
- potential for better performance;
- liquidity improvements; and
- opportunities for scale benefits and cost savings from a larger fund.

Unitholders who participate in the Scheme Merger will have the opportunity to be a part of this exciting endeavour.

I encourage you to read this document in full and carefully consider the information contained in it before making your decision whether to vote in favour of or against the resolution to adopt the amendments to the constitution of the Fund to facilitate the Fund's participation in the Scheme Merger (**Resolution**).

It is important that you consider the information included in this Explanatory Memorandum in light of your own personal circumstances, having regard to your objectives, personal financial and taxation situation and needs. The "Key questions and answers" in section 9 of this Explanatory Memorandum may assist in answering some questions that you may have.

If you are in doubt as to how to vote on the Resolution, you should seek financial, tax or other professional advice before making any decision in respect of the Resolution.

If the Resolution is passed and you participate in the Scheme Merger, I look forward to welcoming you as a unitholder of LIF.

Yours faithfully



**David Prescott**  
Managing Director

## 4. Important dates and key statistics

### 4.1 Important dates

Event	Date
Explanatory Memorandum issue date	27 March 2024
Time and date by which proxy forms must be received	17 April 2024 at 3:00pm (AEST)
Voting Record Date	17 April 2024 at 3:00pm (AEST)
Meeting of Unitholders	19 April 2024 at 3:00pm (AEST)
Scheme Merger Record Date for Unitholder participation in the Scheme Merger	22 April 2024 at 3:00pm (AEST)
Implementation Date of the Scheme Merger	25 April 2024

The dates shown in the table above are indicative only and may vary.

### 4.2 Key statistics

Statistic	LAVF	LGVF	LASF	LVF	LIF	LIF (post-Scheme Merger) <sup>1</sup>
Units on issue	47,146,000	35,776,085	23,768,090	5,059,019	6,842,202	118,591,396
Number of unitholders	448	182	4	4	92	730
Responsible Entity/Trustee	The Trust Company (RE Services) Limited	The Trust Company (RE Services) Limited	Lanyon Asset Management Pty Limited	Lanyon Asset Management Pty Limited	Lanyon RE Services Limited	Lanyon RE Services Limited
Net assets	\$73,618,830	\$40,629,353	\$26,743,202	\$4,660,739	\$9,936,057	\$155,588,181
Number of underlying equity securities	21	22	24	10	23	60 companies listed on ASX and global stock exchanges immediately post-Scheme Merger which LIF intends to reduce to 15-20 companies



<b>Current cash weighting</b>	24.58%	14.58%	10.08%	7.16%	22.40%	19.18%
<b>Liquidity</b>	Weekly	Weekly	Weekly	Monthly	Monthly	Daily
<b>Management fee (p.a.)<sup>2</sup></b>	1.35%	1.22%	1.22%	1.10%	1.10%	1.10% <sup>1</sup>
<b>Performance Fee<sup>3</sup></b>	20.0% (excluding GST) of any excess return above the S&P/ASX300 Accumulation Index	20.0% (excluding GST) of any excess return above the MSCI All Country World Index net total returns AUD index	20.0% (excluding GST) of any excess return above the S&P/ASX 300 Accumulation Index	10.0% of the LVF's positive performance	20.0% (excluding GST) of any excess return above the benchmark (75% of S&P/ASX300 index and 25% of the MSCI All Country World Index net total returns AUD index)	20.0% (excluding GST) of any excess return above the benchmark (75% of S&P/ASX300 index and 25% of the MSCI All Country World Index net total returns AUD index)

The information shown in the table above are estimates only given as at the date of this Explanatory Memorandum and may vary.

<sup>1</sup> This assumes that each of LAVF, LGVF, LASF and LVF are consolidated into LIF.

<sup>2</sup> This is the management fee for each of the Scheme Merger Funds. Please refer to section 6 of the LIF PDS for disclosures about the management fees and costs of LIF.

<sup>3</sup> Please refer to section 6 of the relevant disclosure document (including the LIF PDS) for each of the Funds and LIF for disclosures about the performance fee.

## 5. What to do next

This Explanatory Memorandum has been prepared to provide Unitholders with material information to enable them to make an informed decision whether to vote in favour of or against the Resolution.

This Explanatory Memorandum is accompanied by a product disclosure statement for Lanyon Investment Fund (ARSN 670 944 242) (**LIF**) at Annexure E (**LIF PDS**) in which Unitholders will hold units if the Resolution is approved and the Scheme Merger proceeds. To the extent there is any inconsistency between this Explanatory Memorandum and the LIF PDS in relation to LIF, the LIF PDS prevails.

Perpetual recommends that each Unitholder reads in full this Explanatory Memorandum and the LIF PDS which accompanies this Explanatory Memorandum before making any decision in relation to the Resolution.

The information in the LIF PDS is relevant to each Unitholder's decision on how to vote on the Resolution and should be read in conjunction with this Explanatory Memorandum. Please read it carefully and in its entirety before deciding how to vote. The LIF PDS is intended to serve two purposes:

- as a product disclosure statement for the issue of units in LIF (**LIF Units**) to each Unitholder as a participant of the Scheme Merger; and
- following implementation of the Scheme Merger (**Implementation Date**), as the product disclosure statement for the issue of LIF Units to new applicants.

Perpetual recommends that Unitholders read the instructions on the proxy form in full if they intend to vote by proxy.

It is important that you consider the information included in this Explanatory Memorandum in light of your own personal circumstances, having regard to your objectives, personal financial and taxation situation and needs. The "Key questions and answers" in section 9 of this Explanatory Memorandum may assist in answering some questions that you may have.

If you are in doubt as to how to vote on the Resolution, you should seek financial, tax or other professional advice before making any decision in respect of the Resolution.

### VOTE ON THE RESOLUTION

#### Your vote is important

If you are a Unitholder on the Voting Record Date, you are entitled to vote on the Resolution.

The Meeting will be held at 3:00pm (AEST) on 19 April 2024 or such later time and date notified by Perpetual to Unitholders. The Meeting will be held virtually via an online platform accessible on any internet browser at [https://us02web.zoom.us/webinar/register/WN\\_wUawQCHFSgi15r92qudpjg](https://us02web.zoom.us/webinar/register/WN_wUawQCHFSgi15r92qudpjg) with meeting ID 871 5884 0129 to enable Unitholders to participate in the Meeting without physical attendance and consider and vote on the Resolution.

The business of the Meeting is to consider and, if thought fit, approve the Resolution. Unitholders will be able to access the online platform by navigating to [https://us02web.zoom.us/webinar/register/WN\\_wUawQCHFSgi15r92qudpjg](https://us02web.zoom.us/webinar/register/WN_wUawQCHFSgi15r92qudpjg) on any internet browser.

You can vote on the Resolution by:

- participating in the Meeting virtually via the online platform and casting a vote online at the Meeting; or
- appointing a proxy or proxies in accordance with the instructions in the Notice of Meeting to attend the Meeting virtually and vote on your behalf.

In addition, whilst Unitholders will be able to vote online during the Meeting, they are encouraged to lodge a proxy form ahead of the Meeting. A proxy form is enclosed with the Notice of Meeting. Further details of the Meeting, the Resolution,

how to participate in the Meeting, voting entitlements, proxy appointments and other general information in respect of the Meeting is set out in the Notice of Meeting included in Annexure A.

## 6. The Scheme Merger

### 6.1 Deed of Implementation

The Trust Company (RE Services) Limited (ACN 003 278 831) (part of the Perpetual Limited (ACN 000 431 827) group of entities) as responsible entity of the Lanyon Australian Value Fund (ARSN 151 492 849) (**Perpetual**) has entered into the merger implementation deed dated 7 March 2024 included in Annexure B (**Implementation Deed**) with the following parties:

- Perpetual as responsible entity of Lanyon Global Value Fund (ARSN 604 811 823) (**LGVF**);
- Lanyon Asset Management Pty Limited (ACN 140 631 714) (**Lanyon AM**) as trustee for Lanyon Australian Share Fund (**LASF**);
- Lanyon AM as trustee for Lanyon Vardon Fund (**LVF**); and
- Lanyon RE Services Limited (ACN 661 585 815) as responsible entity of LIF (**Lanyon RE**).

In accordance with the terms of the Implementation Deed, subject to the passing of the Resolution, the above parties have agreed to take certain steps which will have the effect of consolidating each of the Fund, LGVF, LASF and LVF (together, **Scheme Merger Funds**) into LIF and, by virtue of Lanyon RE holding all of the units in the Scheme Merger Funds, all assets of each Scheme Merger Fund will form part of the assets of LIF (**Scheme Merger**).

Each of LASF, LGVF and LIF is a managed investment scheme registered under Chapter 5C of the Corporations Act and each of LASF and LVF is an unregistered managed investment scheme. Lanyon AM is also the investment manager of each of the Scheme Merger Funds and LIF.

### 6.2 The Fund's participation in the Scheme Merger

The implementation of the Scheme Merger in respect of the Fund involves the following five key steps:

- (a) Unitholders approve the proposed amendments to the constitution of the Fund (**Constitution**) in accordance with the terms of the Deed of Variation;
- (b) a distribution to each Unitholder out of the assets of the Fund:
  - (i) in cash for Unitholders who have not elected to reinvest their income distributions; and
  - (ii) by the issue of Fund Units to Unitholders who have elected to reinvest their income distributions;
- (c) Lanyon RE acquires all of the Fund Units in its capacity as responsible entity of LIF;
- (d) as consideration for the acquisition of the Fund Units, Lanyon RE issues LIF Units to each Unitholder (for details of the number of LIF Units that each Unitholder will receive, see section 6.3 of this Explanatory Memorandum); and
- (e) the Fund and, by virtue of Lanyon RE holding all of the Fund Units, the assets of each Fund, will form part of the assets of LIF.

The Scheme Merger in respect of the Fund is facilitated by amendments to the Constitution as set out in the Deed of Variation. In accordance with section 601GC(2)(a) of the Corporations Act, Unitholders can only approve the amendments to the Constitution by passing a Special Resolution. If the Resolution is approved by the requisite majority of Unitholders at the Meeting, Perpetual and Lanyon RE will proceed with taking appropriate steps to implement the Scheme Merger in respect of the Fund. If the Resolution is not approved, the Scheme Merger will not proceed in respect of the Fund.

On 7 March 2024, Lanyon RE executed the Deed Poll, pursuant to which Lanyon RE has agreed, in favour of all of the Unitholders, to fulfill all obligations contemplated for the purposes of facilitating the Scheme Merger, including the obligation to issue LIF Units to Unitholders who participate in the Scheme Merger.

### 6.3 Scheme Merger Consideration

If the Resolution is approved and the Scheme Merger is implemented, as consideration for the acquisition by Lanyon RE of all of the Fund Units, Lanyon RE will issue LIF Units to each Unitholder on the Implementation Date.

In accordance with the Implementation Deed, Lanyon RE will issue the number of LIF Units calculated as follows, rounded up to the nearest whole LIF Unit:

$$LIF\ NOU = \frac{Fund\ NAV}{LIF\ NAV} \times NOU$$

where:

- LIF NOU is the number of LIF Units that each Unitholder will be issued on the Implementation Date as part of the Scheme Merger;
- Fund NAV is the Net Asset Value per Fund Unit of the Fund at the date of the Scheme Merger Record Date;
- LIF NAV is the Net Asset Value per LIF Unit at the date of the Scheme Merger Record Date; and
- NOU is the number of Fund Units held by the Unitholder as recorded in the Register at the date of the Scheme Merger Record Date.

For example, based on the NAV per Fund Unit of the Fund of 1.5099 at 29 February 2024 and the NAV per LIF Unit of LIF of 1.6421 at 29 February 2024, for each Unit a Unitholder holds in the Fund, they will receive 0.9195 LIF Units. The LIF Units will be issued to Unitholders on the Implementation Date.

If the Resolution is approved and the Scheme Merger is implemented, Foreign Unitholders who are determined by Perpetual to be Ineligible Foreign Unitholders in accordance with the Constitution on the basis that it is not lawful or economical to make an offer and issue LIF Units to that Foreign Unitholder will not receive LIF Units, and will instead receive cash through the LIF Units being issued to the Redemption Nominee who will redeem the LIF Units following the Implementation Date as part of the Scheme Merger and remit the proceeds to the Ineligible Foreign Unitholder. Further details of Ineligible Foreign Unitholders and the redemption process are set out in section 6.9 below.

### 6.4 Key differences between Fund Units and LIF Units

A summary of the key differences between Fund Units and LIF Units is set out below:

	Fund	LIF (post-Scheme Merger)
<b>Responsible Entity</b>	The Trust Company (RE Services) Limited	Lanyon RE Services Limited
<b>Investment Manager</b>	Lanyon Asset Management Pty Limited	
<b>Capital structure</b>	Registered managed investment scheme, established as a unit trust, where funds from unitholders are pooled with other unitholders' funds	
<b>Investment strategy</b>	The Fund seeks to generate capital growth and income from investing in a concentrated portfolio of Australian listed equity securities. The Fund will hold cash when suitable opportunities are not available	LIF seeks to generate capital growth and income from investing in a concentrated portfolio of Australian and global equity securities. LIF will hold cash when suitable opportunities are not available

<b>Investment objective</b>	Earn long-term returns superior to the S&P/ASX Accumulation Index	Earn long-term returns superior to the combined S&P/ASX 300 Accumulation Index and the MSCI All Country World Index net total returns AUD Index
<b>Nature of investment return</b>	It is intended that unitholders will be able to access a combination of investment returns, income distributions and capital gains over the medium to long term	
<b>Liquidity</b>	Weekly	Daily
<b>Distribution reinvestment</b>	Reinvestment is available	
<b>Distribution policy</b>	At least annually	
<b>Management Fees &amp; Performance Fees</b>	See the table in section 4.2 of this Explanatory Memorandum	See the table in section 4.2 of this Explanatory Memorandum and section 6 in the LIF PDS

For further information in respect of LIF, Lanyon RE and Lanyon AM, refer to section 7.

A comparison of investment platform availability between the Fund and LIF is set out below:

Platform	Fund	LIF (post-Scheme Merger)
<b>Macquarie Wrap</b>	Included on Macquarie Wrap Current investment value: \$1,401,891	Included on Macquarie Wrap Expected investment value: \$7,930,568
<b>HUB24</b>	Included on HUB24 Current investment value: \$606,897	Included on HUB24 Expected investment value: \$749,462
<b>Netwealth</b>	Included on Netwealth Current investment value: \$2,116,738	Included on Netwealth Expected investment value: \$2,250,065

## 6.5 Benefits of the Scheme Merger

The Scheme Merger is intended to provide unitholders in all of the Scheme Merger Funds with the following benefits:

### Singular, highly dedicated focus from Lanyon AM

Lanyon AM is the current investment manager of each Scheme Merger Fund and LIF. Lanyon AM will continue to be engaged by Lanyon RE as the investment manager of LIF following implementation of the Scheme Merger.

As a result of implementation of the Scheme Merger, all of the Scheme Merger Funds will be merged into LIF.

Consequently, LIF will have a singular, highly dedicated focus from Lanyon AM as the investment manager of a single fund, being LIF.

### Reduced management fees

If the Resolution is approved and the Scheme Merger is implemented, unitholders in all of the Scheme Merger Funds will receive LIF Units. As set out above in the table in section 4.2 of this Explanatory Memorandum, the management fee of LIF is 1.10% p.a. which is lower than the management fee of the Fund at 1.35% p.a..

The performance fee charged to Unitholders who participate in the Scheme Merger will not change from the Fund to LIF as a percentage, although the benchmark will be different to reflect the different investment strategy of LIF (refer to the table in section 4.2 of this Explanatory Memorandum). The benchmark for the Fund is the S&P/ASX300 Accumulation index. The benchmark for LGVF is the MSCI All Country World Index net total returns AUD index. The benchmark for LIF is a combination of both of these two indices – 75% of the S&P/ASX300 Accumulation index and 25% of the MSCI All Country World Index net total returns AUD index. LIF has a blended benchmark to reflect the expected asset allocation and composition of LIF.

#### High performing investment strategy

Whilst past performance is not necessarily an indication of future performance, LIF has compounded investors' capital at 21.0% p.a. (net of all fees) over the four years since fund inception in September 2019. This compares to the S&P/ASX 300 Accumulation Index compound return of +7.0% p.a. and the MSCI All Country World Index net total returns AUD index compound return of +9.7% p.a. over the same period. LIF's benchmark, which is comprised of 75% S&P/ASX 300 Accumulation Index and 25% of the MSCI All Country World Index net total returns AUD index, has delivered +7.7% p.a. compound returns over the period.

When compared to the Morningstar surveys of active equity funds, including surveys of both Australian and global equity funds, LIF would comfortably be in the top decile of returns since inception. LIF is not currently included in the Morningstar surveys.

Unitholders who participate in the Scheme Merger will be provided access to the very high performing investment strategy that has led to such a result.

#### Liquidity improvements

LIF is subject to daily pricing, daily applications and daily redemptions. As the Fund is currently only subject to weekly pricing, weekly applications and weekly redemptions, increased liquidity will be provided to Unitholders who participate in the Scheme Merger.

Further, there is a potential for increased liquidity associated with the increased number of LIF Units that will be on issue following implementation of the Scheme Merger, relative to the Units that are currently on issue in the Fund.

#### Opportunity for scale benefits and cost savings from a larger fund

If the Resolution is approved and the Scheme Merger is implemented, the assets of the Fund will be transferred to Lanyon RE and accordingly will become the assets of LIF. If each of the resolutions of the Scheme Merger Funds is approved, then, as set out in the table in section 4.2, the total assets of LIF are expected to be \$155,588,181.

As a result, there is an opportunity for scale benefits which may result in a decreased costs to Unitholders as the costs of LIF that are charged to LIF unitholders would be spread over a higher level of funds under management.

For further information in respect of key statistics of the Scheme Merger, see section 4.2.

## 6.6 Potential disadvantages and risks of the Scheme Merger

#### Scheme Merger Approval

In order to implement the Scheme Merger, the unitholders of each of the Scheme Merger Funds must pass a Special Resolution approving the amendments to the constitution of each Scheme Merger Fund. If one or more resolutions of the Scheme Merger Funds is not approved, the Scheme Merger will still proceed in respect of those Scheme Merger Funds that pass the Special Resolution, however some of the benefits listed in section 6.5 may be less than expected.

If you do not vote, or if you vote against the Resolution, then the Scheme Merger in respect of the Fund may or may not be approved. However, even if you do not vote or choose to vote against the Resolution, it does not necessarily mean that the Scheme Merger in respect of the Fund will not proceed.

Regardless of how you vote, if the Scheme Merger is approved, the Scheme Merger in respect of the Fund will be implemented in which case your Units will be transferred to Lanyon RE and, if you are not an Ineligible Foreign

Unitholder, you will be issued with LIF Units. If you are Foreign Unitholder who is determined to be an Ineligible Foreign Unitholder in accordance with the Constitution on the basis that it is not lawful or economical to make an offer and issue LIF Units to you, you will not receive LIF Units and instead will receive cash through the LIF Units being issued to the Redemption Nominee who will redeem the LIF Units following the Implementation Date as part of the Scheme Merger and remit the proceeds to the Ineligible Foreign Unitholder.

#### Relative voting power

Following implementation of the Scheme Merger in respect of the Fund, Unitholders of the Fund who participate in the Scheme Merger will become unitholders of a larger fund, LIF. Accordingly, following implementation of the Scheme Merger, a Unitholder's relative voting power (as a percentage of the total) in LIF will be lower than the Unitholder's present voting power in the Fund.

Changes in relative voting power also occur in other circumstances including where Units are issued as part of new investors joining the Fund, pursuant to a dividend reinvestment plan or a unit purchase plan.

#### Implementation risk

If the Resolution is approved and the Scheme Merger in respect of the Fund is subsequently implemented, Unitholders who participate in the Scheme Merger may be subject to the risk that the systems, processes and procedures are not sufficient such that the performance or some or all of the expected benefits of the Scheme Merger and LIF may not be achieved.

For information in respect of risks in relation to LIF, refer to section 7.9 of this Explanatory Memorandum and section 4 of the LIF PDS.

#### Change in responsible entity

If the Resolution is approved and the Scheme Merger in respect of the Fund is subsequently implemented, Unitholders who participate in the Scheme Merger will be unitholders in LIF which will no longer be operated by Perpetual, an independent responsible entity, and will be operated by Lanyon RE, a responsible entity with different governance and compliance frameworks and policies and a related entity to the investment manager of LIF.

### 6.7 Directors' recommendation

The Directors of Perpetual consider that the Scheme Merger in respect of the Fund is in the best interests of Unitholders and unanimously recommend that Unitholders vote in favour of the Resolution.

In forming this recommendation, the Directors of Perpetual have had regard to:

- (a) the value of the Units of each Unitholder before and after implementation of the Scheme Merger;
- (b) the reduced management fee of LIF in comparison to the management fee of the Fund and the fact that there will not be a change to the percentage of the performance fee;
- (c) the potential for better performance on the basis that the assets of the Fund will be consolidated into LIF, such that the assets of LIF will be greater than the Fund, and the superior past performance of LIF, delivering 21.0% p.a. (net of all fees) compound returns since inception in September 2019;
- (d) taxation information as set out in section 8 of this Explanatory Memorandum, confirming that rollover relief will be available to Unitholders who exchange Units for LIF Units as a result of the Scheme Merger; and
- (e) the improvements to liquidity given that LIF will be subject to daily pricing, daily applications and daily redemptions, rather than the weekly pricing, weekly applications and weekly redemptions that currently occur for the Fund.

### 6.8 Participation in the Scheme Merger

Provided that the Resolution is approved, all Unitholders of the Fund who are recorded in the Register on the first Business Day after the Meeting, will be entitled to participate in the Scheme Merger.



### No disposals after Scheme Merger Record Date

On and from the first Business Day after the Meeting, a Unitholder must not redeem, dispose or agree to dispose, directly or indirectly, of any of their Fund Units. Perpetual will not accept for registration or recognise for any purpose whatsoever, any application or transfer in respect of the Fund Units received on or after the first Business Day after the Meeting (other than a transfer of Fund Units from each Unitholder to Lanyon RE for the purposes of the Scheme Merger).

If you do not want to participate in the Scheme Merger, you can redeem your Fund Units prior to the Meeting and in any event up to the Scheme Merger Record Date. Your redemption request must be received before 22 April 2024.

### Issue of LIF Units

If the Resolution is approved and the Scheme Merger is implemented in respect of the Fund:

- all of the Fund Units will be transferred to Lanyon RE:
  - without the need for any further act by a Unitholder due to the amendments to the Constitution that allow Perpetual, as agent and attorney of each Unitholder, to execute and deliver unit transfer forms on behalf of each Unitholder to Lanyon RE; and
  - Perpetual will subsequently update the Register to record the transfer of the Fund Units to reflect that Lanyon RE holds all of the Fund Units; and
- upon receipt of executed unit transfer forms for all of the Fund Units, Lanyon RE will issue the LIF Units to Unitholders who participate in the Scheme Merger and update the LIF Register to record the issue of the LIF Units. Foreign Unitholders who are determined to be Ineligible Foreign Unitholders in accordance with the Constitution on the basis that it is not lawful or economical to make an offer and issue LIF Units to that Foreign Unitholder will not receive LIF Units and will instead receive cash through the LIF Units being issued to the Redemption Nominee who will redeem the LIF Units following the Implementation Date as part of the Scheme Merger and remit the proceeds to the Ineligible Foreign Unitholder (see section 6.9 below).

### Warranties by Unitholders

In accordance with the changes to the Constitution, if the Resolution is approved, by not redeeming the Units held prior to the Scheme Merger Record Date, each Unitholder warrants to Lanyon RE that:

- all of their Fund Units (including any rights and entitlements attaching to those Fund Units) are all fully paid;
- other than the Unitholder, no other person has any rights or options over their Units;
- the Unitholder has legal ownership of their Fund Units, and their Fund Units are free and clear of all encumbrances (as defined in the Constitution);
- the Unitholder has the right to transfer their Fund Units and
- the transfer of the Fund Units to Lanyon RE does not contravene a provision of the Constitution.

Perpetual will, as agent and attorney for each Unitholder, provide the above warranties on behalf of each Unitholder to Lanyon RE.

### Perpetual as agent and attorney

In accordance with the changes to the Constitution, each Unitholder irrevocably appoints Perpetual and each person who is duly authorised by Perpetual from time to time, to act as agent and attorney with full power, and without notice or authority from Unitholders, to execute and deliver any document, form or instrument necessary, beneficial and incidental to give effect to the Scheme Merger in respect of the Fund.

This includes documents required to apply for LIF Units, and to transfer the Units, as well as make all elections in respect of the Unitholder's rights regarding the Fund Units, including without limitation elections to receive documents sent by Lanyon RE to LIF unitholders in a certain form (including without limitation documents relating to meetings of unitholders) and elections or decisions regarding reinvestment, on behalf of each Unitholder.

## 6.9 Ineligible Foreign Unitholders

If the Resolution is approved and the Scheme Merger is implemented in respect to the Fund, Foreign Unitholders who are determined to be Ineligible Foreign Unitholders in accordance with the Constitution on the basis that it is not lawful or economical to make an offer and issue LIF Units to that Foreign Unitholder will not receive LIF Units and will instead receive cash through the LIF Units being issued to the Redemption Nominee who will redeem the LIF Units following the Implementation Date as part of the Scheme Merger and remit the proceeds (less any costs, expenses or liabilities incurred by the Redemption Nominee in connection with the redemption of the Ineligible Foreign Unitholder Units) to the Ineligible Foreign Unitholder.

Laws and regulations in certain foreign countries may make it impractical or unlawful for Lanyon RE to offer, or for Ineligible Foreign Unitholders to receive, LIF Units in those foreign countries. Ineligible Foreign Unitholders are those Unitholders whose address recorded in the Register is a country outside of Australia on the first Business Day after the Meeting who Perpetual has determined will not be issued LIF Units as part of the Scheme Merger on the basis that it is not lawful or economical for those Foreign Unitholders to be issued LIF Units having regard to:

- the number of Foreign Investors in the jurisdiction of that Foreign Investor;
- the number and value of LIF Units that may be issued to Foreign Investors in the foreign jurisdiction; and
- the cost of complying with legal requirements and the requirements of any other relevant regulatory authority applicable to the issue of LIF Units in the foreign jurisdiction.

In accordance with the amendments to the Constitution, where Perpetual determines that a Foreign Unitholder is an Ineligible Foreign Unitholder:

- Perpetual must, as agent and attorney of each Unitholder, apply for LIF Units on behalf of the Ineligible Foreign Unitholder, and arrange for those LIF Units to be issued to, and held by, the Redemption Nominee such that the Redemption Nominee will be the legal owner of the LIF Units; and
- within 20 Business Days after the Implementation Date, Perpetual must procure that the Redemption Nominee:
  - redeems the Ineligible Foreign Unitholder Units (which may be on an aggregated or partially aggregated basis) in accordance with LIF's constitution; and
  - remits the Ineligible Foreign Unitholder Proceeds to each Ineligible Foreign Unitholder.

The amount of the Ineligible Foreign Unitholder Proceeds is determined in accordance with LIF's constitution and is based on the net asset value of LIF Units (less any costs, expenses or liabilities incurred by the Redemption Nominee in connection with the redemption of the Ineligible Foreign Unitholder Units).

## 6.10 No brokerage or stamp duty

No brokerage or stamp duty will be payable by the Fund or the Unitholders on the transfer of the Fund Units to LIF or for the issue of the LIF Units to Unitholders who participate in the Scheme Merger.

## 6.11 Tax Implications of the Scheme Merger

For detailed information in respect of the tax implications of the Scheme Merger in respect of the Fund, refer to the taxation information in section 8 which sets out the general taxation implications for Unitholders in respect of the Scheme Merger.

## 6.12 Implications if the Scheme Merger is not approved

If the Resolution is not approved, the Scheme Merger will not proceed in respect of the Fund and accordingly:

- Unitholders will not receive LIF Units;

- Lanyon RE will not acquire the Fund Units such that Unitholders will retain their Fund Units; and
- the Fund will continue to exist, with Perpetual as the responsible entity and Lanyon AM as the investment manager.

## 7. Overview of LIF

### 7.1 Fund overview

The following is an overview of LIF. Further information on LIF can be found in the LIF PDS at Annexure E. Unless defined in the Glossary in section 10 of this Explanatory Memorandum, capitalised terms in this section 7 have the meaning given in the LIF PDS. To the extent there is any inconsistency between this Explanatory Memorandum and the LIF PDS in relation to LIF, the LIF PDS prevails.

For a summary of the key features of LIF following implementation of the Scheme Merger, including a comparison against the key features of the Fund, refer to section 6.4.

### 7.2 About the responsible entity

Lanyon RE is the responsible entity of LIF. Lanyon RE is a wholly owned subsidiary of Lanyon AM, the investment manager of LIF. Lanyon RE holds Australian Financial Services Licence number 544723 issued by ASIC, which authorises it to provide financial services, including to operate LIF.

Lanyon RE is bound by the LIF Constitution and the Corporations Act. Lanyon RE has lodged a compliance plan with ASIC which sets out the key measures which Lanyon RE will apply to comply with LIF Constitution and the Corporations Act. Lanyon RE has also established a compliance committee with a majority of external members. The compliance plan is overseen by the compliance committee and is audited annually with the audit report being lodged with ASIC.

Lanyon RE has the power to delegate certain aspects of its duties. Lanyon RE has appointed Lanyon AM as the investment manager of LIF, pursuant to an investment management agreement. Lanyon AM is also the investment manager of the Fund.

Lanyon RE has appointed Citigroup Pty Ltd as custodian of LIF and William Buck Managed Funds Administration (SA) Pty Ltd as administrator of LIF to provide registry services for LIF. Citigroup Pty Ltd is also the custodian of the Fund and William Buck Managed Funds Administration (SA) Pty Ltd is also the administrator of the Fund.

### 7.3 About the investment manager

Lanyon AM is an Australian based equities fund manager and has been appointed as the investment manager to manage the investments of LIF. Lanyon AM is a privately held firm, founded in 2010. Lanyon AM employs a value investment approach and invests in various types of assets, including financial assets and traded securities of publicly listed entities.

Lanyon AM's investment process is based on long-established value investment principles. Investments are made when Lanyon AM believes there is a sufficient margin of safety between price and Lanyon AM's view of intrinsic value. Typically, securities will be purchased at discounts to Lanyon AM's view of intrinsic value, to the value of their tangible assets or on low multiples of sustainable free cash flow, following an intensive research effort. Lanyon AM's focus is on managing funds for family offices, superannuation funds, government institutions, religious bodies, endowments, charities, families, individuals, past and present athletes and sporting organisations.

As noted above, Lanyon AM is also the investment manager of the Fund.

### 7.4 LIF Structure

LIF was established as a wholesale scheme on 2 September 2019 and was registered with ASIC on 7 September 2023. LIF is a managed investment scheme registered under Chapter 5C of the Corporations Act, established as a unit trust, where funds from unitholders are pooled with other unitholders' funds. Lanyon RE invests these funds on behalf of all unitholders of LIF.

The Fund is established and governed by the constitution of LIF, which sets out the rights of unitholders and the powers and responsibilities of Lanyon RE. Lanyon RE is able to terminate Lanyon AM's appointment under the investment management agreement at any time in certain circumstances, including but not limited to, fraud, misconduct, dishonesty or gross negligence on the part of Lanyon AM, where Lanyon AM enters into receivership, liquidation, ceases to carry on business, sells its business or is legally unable to operate as an investment manager of a registered managed investment scheme, and where Lanyon AM is in breach of any representations or warranties to Lanyon RE and fails to rectify the breach. Termination in these circumstances is without payment of any penalty.

## **7.5 Interests in LIF**

The beneficial interest in the net assets of LIF is divided into units and every unit confers on its holder an equal interest in the net assets of LIF. A unit does not confer any interest in any particular part of the net assets, but only such interest in the net assets as a whole as is conferred under the LIF Constitution. All of the units issued rank equally except as provided to the contrary in the LIF Constitution. Unitholders acquire units in LIF. The price of interests will vary as the market value of assets in LIF rises or falls.

## **7.6 Acquiring and disposing of interests**

Following implementation of the Scheme Merger, you can decrease your investment in LIF by redeeming some or all of your LIF Units any time by completing and sending a redemption form to the LIF Administrator, setting out your instructions as to the number of Units or the amount you wish to redeem, and your payment instructions. The redemption price is calculated by dividing LIF's net asset value less Transaction Costs by the number of LIF Units on issue. You can make either a partial or full redemption. Proceeds from a redemption will normally be available within 14 days of receipt of a valid request. Redemption proceeds are also subject to clearance by your bank, building society or credit union.

However, the LIF Constitution specifies that a redemption request is to be satisfied only if LIF is 'liquid' as defined in the Corporations Act or if the redemption request is made in response to a current withdrawal offer made by Lanyon RE. Generally speaking, this definition requires at least 80% of the assets of LIF to be realisable for market value within the period set out in the LIF Constitution for satisfying redemption requests. If LIF becomes "illiquid" redemption rights may be suspended until LIF is no longer "illiquid".

Further, the LIF Constitution specifies that Lanyon RE may in its sole discretion for such period as Lanyon RE considers reasonable, refuse to cause to be redeemed LIF Units where such redemption within that period would result in Lanyon RE having insufficient funds or such redemptions would otherwise prejudice the interests of remaining unitholders.

In some circumstances, such as when there is a freeze on withdrawals, unitholders may not be able to withdraw their LIF Units within the usual period upon request. Lanyon RE reserves the right to change processing times.

If you are investing through a platform, you may be subject to different conditions from those referred to in the LIF PDS. You should follow the instructions of the platform operator when making an investment or withdrawing your investment from LIF.

## **7.7 Distributions**

The distributable income of LIF will generally consist of net realised capital gains on the sale of underlying assets, dividends and interest (and in some cases other trust distributions) received by LIF, less fees and expenses of LIF. A LIF unitholder's entitlement to distributions is calculated by dividing the net distributable income by the total number of LIF Units on issue at the distribution date and multiplying the result by the number of LIF Units held by the unitholder on that date.

If a LIF unitholder has not provided a TFN or exemption category, or who's application shows a country of residence other than Australia, withholding tax will be deducted from distributions. Lanyon RE intends to make distributions at least annually following the end of June of each year and may make half year distributions following the end of December.

While the LIF Constitution allows LIF to take up to 60 days for payment of distributions it is anticipated that distributions will be made approximately 30 Business Days after the end of the relevant period. Unitholders who have nominated to reinvest distributions, will be issued new LIF Units immediately before the next valuation after the distribution period at the prevailing Application Price (excluding Transaction Costs).

LIF unitholders who have nominated to receive distributions directly to their bank account will have their distributions reinvested in the Fund, and their future distribution method will be changed to reinvestment where the transfer is unsuccessful on three occasions, with that reinvestment continuing until otherwise specified. Lanyon RE may decide to permit or require LIF unitholders to reinvest some or all of any distribution to acquire additional LIF Units. If the distribution reinvestment option is suspended, all subsequent distributions will be paid directly into LIF unitholders' bank accounts until reinvestments recommence. For LIF unitholders who invested through a platform, distributions and distribution statements relating will be provided to the platform operator.

## 7.8 Investment strategy

LIF's investment strategy is to seek to generate capital growth and income from investing in a concentrated portfolio of Australian and global equity securities and to hold cash when suitable opportunities are not available. The strategic target asset class allocation is predominantly focused on approximately 30-90% quoted securities, with the balance of 10-70% held in cash and cash equivalents. However, this strategic target asset class allocation is a target only and actual asset class allocations may differ from the target.

LIF aims to provide unitholders with superior long-term returns by investing in predictive, free cash-flow generative businesses that trade at a compelling discount to their intrinsic value. LIF's investment return objective is to earn returns superior to the combined S&P/ASX 300 Accumulation Index and the MSCI All Country World Index net total returns AUD index after taking account of fees and costs incurred by LIF. However, there is no guarantee that such outperformance will occur.

Further, returns are not guaranteed, and a loss of investment may occur. In general, investment in LIF is only suitable for types of investors who are primarily seeking a medium to long-term investment with a significant exposure to Australian and global equity securities and the potential for high returns, and who are prepared to hold the investment for at least 3 to 5 years due to the risk and volatility associated with equities investment in general. The minimum suggested investment timeframe is therefore at least 3 years.

LIF is considered a high-risk investment.

Lanyon RE has the right to terminate LIF or change LIF's investment return objective (including without limitation the strategic asset class allocations and the investment strategy) without providing prior notice to investors in some cases. Lanyon RE will inform investors of any material changes to LIF in accordance with the law.

LIF makes its investments on the recommendation of Lanyon AM. Lanyon AM is responsible for the identification and assessment of securities that it believes (individually or in combination with other investments of LIF) are suitable for meeting the requirements of LIF's investment strategy. Lanyon AM is then responsible for the ongoing monitoring and assessment of the performance of each investment in the portfolio.

While LIF intends to conduct itself in an ethical and sound manner, Lanyon RE and Lanyon AM do not take into account labour standards or environmental, social or ethical considerations when selecting, retaining or realising an investment of LIF.

## 7.9 Risks

Unitholders should consider the information included in this Explanatory Memorandum in light of personal circumstances, having regard to objectives, personal financial and taxation situation and needs.

An investment in the Fund should be considered long-term. Unitholders who require further information regarding the potential risks of this investment, you should seek appropriate financial advice.

All investments carry risk and there are many factors that can impact on the performance of an investment. Unitholders should expect that the values of assets in which LIF invests, and the level of income derived by LIF, might fluctuate. Consequently, the value of unitholders' investments, and the amount of any income entitlement distributed may rise or fall, and unitholders may suffer losses.

Different strategies may carry different levels of risk, depending on the assets that make up the strategy. Further, assets with the highest long-term returns may also carry the highest level of short-term risk.

Although it is not possible to identify all the potential risks, refer to section 4 of the LIF PDS for a summary of the significant risks that unitholders should be aware of. The information in the LIF PDS does not purport to be a comprehensive statement of all the risks of LIF or of holding LIF Units. Whilst it is not possible to protect investments from all risks, Lanyon RE will maintain investment and management processes that are intended to help minimise some of the risks.

### 7.10 Fees and costs

Section 6 of the LIF PDS sets out information in respect of the fees and other costs that may be charged to holders of LIF Units.

For a comparison of the fees and costs that are currently being charged to Unitholders and the fees and costs that will be charged to those who participate in the Scheme Merger and who receive LIF Units, refer to section 4.2 of this Explanatory Memorandum.

### 7.11 Taxation of managed investment schemes

For information in respect of how managed investment schemes are taxed, refer to section 7 of the LIF PDS.

### 7.12 LIF constitution

The LIF Constitution and the Constitution are substantially on the same terms.

**The only material difference between the LIF Constitution and the Constitution is that under the terms of the LIF Constitution, the responsible entity of LIF, being Lanyon RE, is entitled to a fee of 2.0% of the Net Asset Value (plus GST) or such lower fee as otherwise agreed by the responsible entity if the responsible entity ceases to be the responsible entity by retiring from LIF where required by the Corporations Act. This fee is payable from LIF to the responsible entity. There is no equivalent fee entitlement in the Constitution for the Fund.**

Other than this difference, there are no material differences between the LIF Constitution and the Constitution.

The LIF Constitution also includes some additional standardised provisions for modernisation purposes, such as electronic sending of notices and virtual meetings of unitholders.

A copy of the LIF Constitution is available free of charge on request by telephoning (08) 8432 0460 or by email: [ir@lanyon.com.au](mailto:ir@lanyon.com.au).



## 8. Taxation information

This information applies to investors that hold their investments on Capital Gains Tax (**CGT**) account and are Australian residents. This information is intended to be general in nature only and does not constitute professional taxation advice. Investors should seek to obtain their own independent taxation advice in relation to any tax consequences that may arise as a result of the Scheme Merger, and any ongoing implications from investing in LIF, relative to their own individual facts and circumstances.

### 8.1 Special Distribution pre-Scheme Merger

The Fund will pay a special distribution immediately prior to the Scheme Merger, based on the investors' unitholding at the time. The purpose of this distribution is to ensure, to the extent practicable, that investors are appropriately allocated the attributes that they have rightly accrued over the period up to the Scheme Merger (e.g. entitlements to franking credits) without these attributes being carried into the Scheme Merger and being effectively diluted across the ultimate post-Scheme Merger investor group. The final tax components of the distribution will be reflected in a final tax statement for the Fund for the 30 June 2024 year, expected to be made available in August.

### 8.2 Scheme Merger implications to Australian resident investors

Upon disposal of units in the Fund, a CGT Event will arise to investors for Australian income tax purposes.

#### *CGT rollover*

However, the Australian income tax legislation prescribes a CGT rollover, known as a scrip-for-scrip rollover, which broadly intend to reduce or defer the recognition of an investors' capital gain that arises under certain events until the investor otherwise disposes of their CGT asset.

Broadly, a scrip-for-scrip rollover may apply where a restructure takes place whereby a unitholder disposes of their Units in the Fund, and as consideration for this disposal of Units, receives Units in a replacement entity, and the relevant conditions are satisfied.

It is expected that under the Scheme Merger, investors that hold units in an unrealised gain position that dispose of those units in the Fund in exchange for units in LIF, should qualify for the CGT scrip for scrip rollover, broadly because under the Scheme (the arrangement):

- Units in the Fund are exchanged for units in LIF (and nothing else);
- All investors can participate in the Scheme;
- Participation in the Scheme is available on substantially the same terms for all investors;
- LIF acquires 100% of the units in the Fund (exceeding the minimum 80% requirement);
- The Fund and LIF are expected to be respected as having fixed entitlements to income and capital, in line with industry practice for unit trusts of this kind.

The CGT scrip for scrip rollover will not be available for Unitholders that choose to redeem their Fund Units rather than receive LIF Units as part of the Scheme Merger.

The application of the CGT scrip-for-scrip rollover requires that investors choose to apply the rollover. In doing so, any capital gain that would have otherwise arisen as a result of the disposal of the relevant Units in the Fund will be disregarded. Investors intending to apply CGT rollover should consult their tax agent to ensure that their CGT rollover



choice is appropriately documented and reflected in their 2024 tax return.

Units in the Fund that are held by an investor that are in an unrealised loss position are not eligible for the CGT scrip for scrip rollover. In these instances, a capital loss would be realised under the Scheme Merger, equal to the reduced cost base of such units less the market value (as determined with reference to the unit value of the LIF Units received).

#### *Cost base*

For Investors who choose to apply the rollover, the cost base of replacement LIF Units to which the rollover relates will be equal to the historical cost base they had in the Fund.

For investors who do not choose to apply the rollover, or who are not otherwise eligible (e.g. units in an unrealised loss position), the cost base of their LIF Units will be determined with reference to the market value of the units in the Fund given in exchange for the LIF Units.

#### *Acquisition date*

For units to which the rollover is applied, Investors will inherit the acquisition date of its replacement LIF Units from the units in the Fund. This means that the 12 month holding period for being eligible for any CGT discount, if applicable, will not be reset.

For units to which the rollover does not apply, investors will own the replacement LIF units from Implementation Date, and will need to hold the LIF Units for a 12 month holding period post-Implementation Date to apply any CGT discount, if applicable, to any future capital gain.

#### *Example – cost base for units to which the rollover applies*

*Investor A holds 1,000 units in Fund A in an unrealised gain position, and has a combined cost base of \$600 in these 1,000 units. As part of a merger, they receive 700 units in Fund B in return for the disposal of their units in Fund A. The scrip-for-scrip rollover is available and the Investor chooses to apply the rollover. As a result, the cost base of their new 700 Fund B units is \$600 and no capital gains is required to be recognised by the Investor at this time.*

*Notwithstanding the rollover, the units in LIF that the Investor receives will be taken to have been acquired on Implementation date.*

### **8.3 LIF after the Scheme Merger**

LIF will hold all Units in all the Scheme Merger Funds and may seek to streamline the structure after the Implementation Date. To the extent that any downstream capital gain arises from this process, this will be reflected in the distributions for that year in the usual way.

LIF expects to continue to qualify as a Managed Investment Trust (**MIT**) after the Scheme Merger.

## 9. Key questions and answers

Question	Answer	Further details
<b>The Scheme Merger</b>		
What is the Scheme Merger?	<p>The Scheme Merger is a transaction which will have the effect of consolidating each of the Scheme Merger Funds into one fund, being LIF.</p> <p>The implementation of the Scheme Merger in respect of the Fund involves the following five key steps:</p> <ol style="list-style-type: none"> <li>Unitholders approve the proposed amendments to the Constitution in accordance with the terms of the Deed of Variation;</li> <li>a distribution to each Unitholder out of the assets of the Fund: <ol style="list-style-type: none"> <li>in cash for Unitholders who have not elected to reinvest their income distributions; and</li> <li>by the issue of Fund Units to Unitholders who have elected to reinvest their income distributions;</li> </ol> </li> <li>Lanyon RE acquires all of the Fund Units;</li> <li>as consideration for the acquisition of the Fund Units, Lanyon RE issues LIF Units to each Unitholder; and</li> <li>the Fund and, by virtue of Lanyon RE holding all of the Fund Units, the assets of each Fund, will transfer to Lanyon RE and will then form part of the assets of LIF.</li> </ol> <p>The Scheme Merger is facilitated by amendments to the Constitution as set out in the Deed of Variation.</p>	Sections 6.1 and 6.2
Why is the Scheme Merger being undertaken?	The Directors of Perpetual believe that the Scheme Merger in respect of the Fund will deliver a number of benefits to Unitholders.	Section 6.5
What are the benefits of the Scheme Merger?	<p>The Directors of Perpetual and Lanyon AM, the investment manager of the Fund consider that the Scheme Merger in respect of the Fund offers a number of benefits to Unitholders, including:</p> <ul style="list-style-type: none"> <li>singular, highly dedicated focus from Lanyon AM of a single fund, being LIF;</li> <li>reduced management fees;</li> <li>potential for better performance;</li> <li>high performing investment strategy;</li> <li>liquidity improvements; and</li> <li>opportunity for scale benefits and cost savings from a larger fund.</li> </ul>	Section 6.5
What are the potential disadvantages and	Whilst the Directors of Perpetual recommend that Unitholders vote in favour of the Resolution to amend the Constitution to facilitate the Scheme Merger	Section 6.6

Question	Answer	Further details
risks of the Scheme Merger?	<p>in respect of the Fund, there are some disadvantages and risks that Unitholders should consider, including:</p> <ul style="list-style-type: none"> <li>• if the Special Resolution of one or more of the Scheme Merger Funds does not pass, some of the benefits of the Scheme Merger may be less than expected;</li> <li>• following implementation of the Scheme Merger, a Unitholder's relative voting power in LIF (as a percentage of the total) will be lower than the Unitholder's present voting power in the Fund;</li> <li>• if the Resolution is approved and the Scheme Merger in respect of the Fund is subsequently implemented, Unitholders who participate in the Scheme Merger may be subject to the risk that the systems, processes and procedures are not sufficient; and</li> <li>• if the Resolution is approved and the Scheme Merger in respect of the Fund is subsequently implemented, Unitholders who participate in the Scheme Merger will be unitholders in LIF which will no longer be operated by Perpetual, an independent responsible entity, and will be operated by Lanyon RE, a responsible entity with different governance and compliance frameworks and policies and a related entity to the investment manager of LIF.</li> </ul>	
What will I receive if the Scheme Merger is implemented?	If the Resolution is approved and the Scheme Merger in respect of the Fund is implemented, as consideration for the acquisition by Lanyon RE of all of the Fund Units, Lanyon RE will issue LIF Units to each Unitholder. For details of the number of LIF Units that each Unitholder will receive, see section 6.3.	Section 6.3
Who is entitled to participate in the Scheme Merger?	Provided that the Resolution is approved, all Unitholders of the Fund who are recorded in the Register on the first Business Day after the Meeting, will be entitled to participate in the Scheme Merger.	Section 6.8
Can Foreign Investors participate?	If the Resolution is approved and the Scheme Merger in respect of the Fund is implemented, Foreign Unitholders can participate in the Scheme Merger unless determined to be Ineligible Foreign Unitholders in accordance with the Constitution on the basis that it is not lawful or economical to make an offer and issue LIF Units to that Foreign Unitholder. Ineligible Foreign Unitholders will not receive LIF Units and will instead receive cash through the LIF Units being issued to the Redemption Nominee who will redeem the LIF Units following the Implementation Date as part of the Scheme Merger and remit the proceeds to the Ineligible Foreign Unitholder.	Section 6.9
Do the Directors recommend the Scheme Merger?	The Directors consider that the Scheme Merger is in the best interests of Unitholders and unanimously recommend that Unitholders vote in favour of the Scheme Merger in respect of the Fund.	Section 6.7
Can I keep my Fund Units if the Resolution is approved, and the	If the Resolution is approved and the Scheme Merger in respect of the Fund is implemented, as a Unitholder you will be bound by the Constitution. As such, all of your Units will be transferred to Lanyon RE and in exchange you will receive LIF Units.	Sections 6.2 and 6.3

Question	Answer	Further details
Scheme Merger is implemented?		
In what circumstances might the Scheme Merger not proceed?	The Scheme Merger will not proceed if the Special Resolution of all of the Scheme Merger Funds to implement the Scheme Merger is not approved. If the Special Resolution to implement the Scheme Merger of one or more of the Scheme Merger Funds is approved, the Scheme Merger will proceed in respect of those Scheme Merger Funds.	Section 6.6
What can I do if I do not want to participate in the Scheme Merger?	If you do not want to participate in the Scheme Merger, you can redeem your Units in accordance with the Constitution prior to the Scheme Merger Record Date.	Section 6.8
<b>Lanyon Investment Fund</b>		
What is LIF?	Lanyon Investment Fund or LIF is a managed investment scheme that has been registered under Chapter 5C of the Corporations Act. LIF is established as a unit trust, where funds from unitholders are pooled with other unitholders' funds.  LIF has the same capital structure as the Fund.	Sections 6.4, 7.1 and Annexure E
Who is the responsible entity and investment manager of LIF?	Lanyon RE Services Limited is the responsible entity of LIF.  Lanyon Asset Management Pty Limited is the investment manager of LIF. Lanyon AM is also the investment manager of the Fund.	Sections 6.4, 7.2 and 7.3
What are the differences between the investment objectives or investment strategy of the Fund and LIF?	LIF's investment strategy and objective is similar to the Scheme Merger Funds – seeking to generate capital growth and income from investing in a concentrated portfolio of Australian and global equity securities. LIF will hold cash when suitable opportunities are not available. LIF holds securities of entities listed on both Australian and global stock exchanges, has a different benchmark to the Fund to reflect the different investment strategy (refer to the table in section 4.2).	Sections 6.4 and 7.8
What are the fees of LIF and how do they differ from the Fund?	The management fee of LIF is 1.10% p.a., which is lower than the management fee of the Fund of 1.35% p.a..  The performance fee charged to Unitholders who participate in the Scheme Merger will not change from the Fund to LIF as a percentage, although the benchmark will be different to reflect the different investment strategy of LIF (refer to the table in section 4.2).	Sections 4.2, 6.4 and 7.10
What distributions will I receive in LIF?	The distributable income of LIF will generally consist of net realised capital gains on the sale of underlying assets, dividends and interest (and, in some cases, other trust distributions) received by LIF less fees and expenses of LIF. Your entitlement to distributions is calculated by dividing the net distributable income by the total number of LIF Units on issue at the	Section 7.7 and Annexure E

Question	Answer	Further details
	distribution date and multiplying the result by the number of LIF Units you hold on that date.	
What are the key risks associated with an investment in LIF?	Refer to section 4 of the LIF PDS for a summary of the significant risks that Unitholders should be aware of.	Section 7.9 and Annexure E
<b>The Meeting</b>		
When and where will the Meeting be held?	The Meeting will be held at 3:00pm (AEST) on 19 April 2024 or such later time and date notified by Perpetual to Unitholders. The Meeting will be held virtually via an online platform accessible on any internet browser at <a href="https://us02web.zoom.us/webinar/register/WN_wUawQCHFSgi15r92qudpjg">https://us02web.zoom.us/webinar/register/WN_wUawQCHFSgi15r92qudpjg</a> with meeting ID 871 5884 0129 to enable Unitholders to participate in the Meeting without physical attendance and consider and vote on the Resolution.	Section 5 and Annexure A
Who is entitled to vote at the Meeting?	For the purpose of determining the voting entitlements at the Meeting, the board of Perpetual has determined that units in the Fund will be taken to be held by the registered holders of those units at 3:00pm (AEST) on 17 April 2024.	Section 5 and Annexure A
Why should I vote?	Your vote is important. Although voting is not compulsory, it is important in determining whether or not the Scheme Merger in respect of the Fund will proceed.	Section 5
What is the Resolution?	The Resolution is a Special Resolution for the purposes of section 601GC(1)(a) of the Corporations Act to approve the amendments to the Constitution in accordance with the terms of the Deed of Variation attached at Annexure D to this Explanatory Memorandum.  The amendments to the Constitution are necessary to facilitate and implement the Scheme Merger in respect of the Fund.	Section 6.2, Annexure A and Annexure D
What voting majority is required for the Resolution?	Section 601GC(1)(a) of the Corporations Act requires that the Resolution be passed as a Special Resolution. This means that the Resolution must be passed by at least 75% of the total number of votes cast on the Resolution by Unitholders.	Section 6.2, Annexure A and Annexure D
How do I vote?	The Meeting will be held as a virtual meeting using an online platform accessible on any internet browser at <a href="https://us02web.zoom.us/webinar/register/WN_wUawQCHFSgi15r92qudpjg">https://us02web.zoom.us/webinar/register/WN_wUawQCHFSgi15r92qudpjg</a> .  Upon entering the meeting ID into the Zoom Platform, unitholders should then click "Join" to access the Meeting as set out in the Zoom User Guide at <a href="https://assets.zoom.us/docs/user-guides/zoom-rooms-full-user-guide.pdf">https://assets.zoom.us/docs/user-guides/zoom-rooms-full-user-guide.pdf</a> .  The online platform Vero Voting will be engaged in conjunction with the Zoom platform to enable unitholders who attend the Meeting virtually to ask questions and cast votes. All resolutions will be conducted by poll.	Section 5 and Annexure A

Question	Answer	Further details
	<p>More information regarding virtual attendance at the Meeting (including how to vote, comment and ask questions virtually during the Meeting) is in the Vero Voting Meeting Guide which is accessible at <a href="https://www.gmcu.com.au/downloads/misc/253-2023-agm-vero-meeting-guide/file">https://www.gmcu.com.au/downloads/misc/253-2023-agm-vero-meeting-guide/file</a>.</p>	
What happens if I vote against the Resolution or do not vote?	<p>If you do not vote, or if you vote against the Resolution, then the Scheme Merger in respect of the Fund may or may not be approved.</p> <p>The Scheme Merger cannot be implemented for the Fund if the Resolution is not approved.</p> <p>However, even if you do not vote or choose to vote against the Resolution, it does not necessarily mean that the Scheme Merger in respect of the Fund will not proceed.</p> <p>Regardless of how you vote, if the Scheme Merger is approved, the Scheme Merger in respect of the Fund will be implemented in which case your Units will be transferred to Lanyon RE and, if you are not an Ineligible Foreign Unitholder, you will be issued with LIF Units. If you are Foreign Unitholder who is determined to be an Ineligible Foreign Unitholder in accordance with the Constitution on the basis that it is not lawful or economical to make an offer and issue LIF Units to you, you will not receive LIF Units and instead will receive cash through the LIF Units being issued to the Redemption Nominee who will redeem the LIF Units following the Implementation Date as part of the Scheme Merger and remit the proceeds to the Ineligible Foreign Unitholder.</p>	Sections 6.2, 6.9 and 6.12
What happens if the Resolution is not approved?	If the Resolution is not approved, the Fund will not participate in the Scheme Merger. However, if the Special Resolution to implement the Scheme Merger of one or more of the Scheme Merger Funds is approved, the Scheme Merger will proceed in respect of those Scheme Merger Funds.	Section 6.12
<b>Implementation of the Scheme Merger</b>		
When will the Scheme Merger be implemented?	If the Resolution is passed, the Scheme Merger will be implemented on the Implementation Date, which is expected to be 25 April 2024.	Section 6.3
When will I be issued LIF Units?	Lanyon RE must issue LIF Units to Unitholders on the Implementation Date.	Sections 6.3 and 6.9
Do I have to pay brokerage fees or stamp duty to participate in the Scheme Merger?	No brokerage or stamp duty will be payable by the Unitholder or the Fund on the transfer of the Fund Units to LIF or for the issue of the LIF Units to Unitholders who participate in the Scheme Merger. If a Unitholder subsequently sells their LIF Units following implementation of the Scheme Merger, there may be brokerage or commission payable in respect of the sale.	Section 6.10

Question	Answer	Further details
What are the Australian tax implications of the Scheme Merger for Unitholders?	For detailed information in respect of the tax implications of the Scheme Merger, refer to the taxation information in section 8 which sets out the general taxation implications for Unitholders in respect of the Scheme Merger.	Section 8
Further questions	If after reading this Explanatory Memorandum you have any questions in respect of the Scheme Merger, you should contact Lanyon AM or William Buck at the addresses included in section 11. If you are in doubt as to how to vote on the Resolution, you should seek financial, tax or other professional advice before making any decision in respect of the Resolution.	N/A

This notice of unitholders' meeting should be read in its entirety. If unitholders are in doubt as to how they should vote, they should seek advice from their accountant, solicitor or other professional adviser prior to voting.

## 10. Glossary

Term	Meaning
\$	dollars of the currency of Australia. All amounts in this Explanatory Memorandum are in Australian dollars unless otherwise stated
ASIC	Australian Securities and Investments Commission
Business Day	any day other than Saturday or Sunday on which Banks are open for business in Sydney, New South Wales
Constitution	the constitution of the Fund as it may from time to time be amended
Corporations Act	<i>Corporations Act 2001</i> (Cth)
Deed of Variation	the deed of variation to amend the Constitution included in Annexure D
Deed Poll	the Deed Poll contained in Annexure C
Directors	the directors of Perpetual
Explanatory Memorandum	the notice of meeting and this explanatory statement, including the annexures to this explanatory statement
Foreign Unitholder	a Unitholder whose address recorded in the Register is a country outside of Australia at the Scheme Merger Record Date
Fund or LAVF	Lanyon Australian Value Fund (ARSN 151 492 849)
Fund Units	units in the Fund
Implementation Date	the date that is the third Business Day following the Scheme Merger Record Date, or such other date agreed in writing between the Responsible Entity and Lanyon RE
Implementation Deed	the deed of implementation between the responsible entity or trustee of each Scheme Merger Fund and Lanyon RE dated 7 March 2024 under which (among other things) the responsible entity or trustee of each Scheme Merger Fund and Lanyon RE has agreed to take certain steps to implement the Scheme Merger
Ineligible Foreign Unitholder	a Foreign Unitholder who Perpetual has determined will not be issued LIF Units as part of the Scheme Merger having regard to the factors set out in section 6.9
Ineligible Foreign Unitholder Proceeds	the average price at which Ineligible Foreign Unitholder Units are redeemed by the Redemption Nominee, multiplied by the number of Ineligible Foreign Unitholder Units redeemed by the Redemption Nominee on behalf of the relevant Ineligible Foreign Unitholder, less any costs, expenses or liabilities incurred by the Redemption Nominee in connection with the redemption of the Ineligible Foreign Unitholder Units
Ineligible Foreign Unitholder Units	LIF Units issued to the Redemption Nominee that a Foreign Unitholders would have been entitled if they had not been determined to be an Ineligible Foreign Unitholder



Term	Meaning
Lanyon AM	Lanyon Asset Management Pty Limited (ACN 140 631 714)
Lanyon RE	Lanyon RE Services Limited (ACN 661 585 815) as responsible entity for LIF
LASF	Lanyon Australian Share Fund
LIF	Lanyon Investment Fund (ARSN 670 944 242)
LIF Constitution	the constitution of LIF as originally executed and as it may from time to time be amended
LIF PDS	the product disclosure statement contained in Annexure E
LIF Register	the register of unitholders of LIF
LIF Units	units in LIF
LGVF	Lanyon Global Value Fund (ARSN 604 811 823)
LVF	Lanyon Vardon Fund
Meeting	the extraordinary general meeting of Unitholders convened by the Notice of Meeting to consider the Resolution
Net Asset Value or NAV	the meaning defined in the Constitution
Notice of Meeting	the notice of meeting contained in Annexure A
Redemption Nominee	a person appointed by Perpetual to carry out the role described in section 6.9
Register	the register of Unitholders of the Fund
Resolution	the resolution set out in the Notice of Meeting
Scheme Merger	the proposal for the acquisition by Lanyon RE of all of the units of each Scheme Merger Fund in exchange for consideration to be provided to each unitholder of each Scheme Merger Fund in the form of the issue of LIF Units and, by virtue of Lanyon RE holding all of the units in the Scheme Merger Funds, all assets of each Scheme Merger Fund will form part of the assets of LIF
Scheme Merger Approval	in respect of each Scheme Merger Fund, the date that the Special Resolution for the implementation of the Scheme Merger in respect of the Scheme Merger Fund is passed to amend the constitution of that Scheme Merger Fund to adopt clause 25 and to make consequential amendments to the constitution
Scheme Merger Funds	LAVF, LGVF, LASF and LVF
Scheme Merger Record Date	the date that is the first Business Day following the Scheme Merger Approval in respect of the Fund, or such other date agreed in writing between the Responsible Entity and Lanyon RE

Term	Meaning
Special Resolution	a resolution passed at a meeting of Unitholders duly convened and held in accordance with the provisions of the Constitution by a majority consisting of not less than 75% of the persons voting at the meeting (whether present in person, or by attorney, proxy or representative) upon a show of hands and if a poll is validly demanded then by a majority consisting of not less than 75% of the votes cast on such poll
Unitholder	a person for the time being registered under the provisions of the Constitution as the holder of Units in the Fund
Unit	in respect of a Scheme Merger Fund, a unit in that Scheme Merger Fund
Voting Record Date	3:00pm (AEST) on 17 April 2024

## 11. Corporate Directory

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Responsible Entity of Lanyon Australian Value Fund  
**The Trust Company (RE Services) Limited**

Level 18, Angel Place  
123 Pitt Street  
Sydney NSW 2000

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Investment Manager of Lanyon Australian Value Fund and Lanyon Investment Fund  
**Lanyon Asset Management Pty Limited**

Level 1  
16 Vardon Avenue  
Adelaide SA 5000

Level 7  
66 Hunter Street  
Sydney NSW 2000

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Responsible Entity of Lanyon Investment Fund  
**Lanyon RE Services Limited**

Level 1  
16 Vardon Avenue  
Adelaide SA 5000

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Custodian  
**Citigroup Pty Ltd**

Level 6  
211 Victoria Square  
Adelaide SA 5000

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Administrator  
**William Buck Managed Funds Administration (SA) Pty Ltd**

Level 6  
211 Victoria Square  
Adelaide SA 5000

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Legal Adviser  
**Piper Alderman**

Level 16  
70 Franklin Street  
Adelaide SA 5000

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## Annexure A – Notice of Meeting

The Trust Company (RE Services) Limited (ACN 003 278 831) (**Perpetual**) (part of the Perpetual Limited (ACN 000 431 827) group of entities) as responsible entity for Lanyon Australian Value Fund (ARSN 151 492 849) (**Fund**) will hold a meeting of unitholders at 3:00pm (AEST) on 19 April 2024 (**Meeting**). The Explanatory Statement that accompanies and forms part of this notice of meeting describes the matters to be considered at the Meeting.

The Meeting will be held virtually via an online platform accessible on any internet browser at [https://us02web.zoom.us/webinar/register/WN\\_wUawQCHFSgi15r92qudpjg](https://us02web.zoom.us/webinar/register/WN_wUawQCHFSgi15r92qudpjg) with meeting ID 871 5884 0129 to enable unitholders to participate in the Meeting without physical attendance and consider and vote on the resolution set out below.

As the Meeting is a virtual meeting, unitholders will not be able to attend the Meeting in person, however Perpetual encourages all unitholders to participate in the Meeting via the online platform.

Upon entering the meeting ID into the Zoom Platform, unitholders should then click "Join" to access the Meeting as per the Zoom User Guide at <https://assets.zoom.us/docs/user-guides/zoom-rooms-full-user-guide.pdf>.

The online platform Vero Voting will be engaged in conjunction with the Zoom platform to enable unitholders who attend the Meeting virtually to ask questions and cast votes. All resolutions will be conducted by poll.

More information regarding virtual attendance at the Meeting (including how to vote, comment and ask questions virtually during the Meeting) is in the Vero Voting Meeting Guide at <https://www.gmcu.com.au/downloads/misc/253-2023-agm-vero-meeting-guide/file>.

### SPECIAL BUSINESS

#### Resolution – Approval to amend the constitution of the Fund

To consider and, if thought fit, to pass the following resolution as a special resolution:

*"That for the purposes of section 601GC(1)(a) of the Corporations Act 2001 (Cth) (**Corporations Act**) and for all other purposes, the constitution of the Fund be amended in accordance with the terms of the deed of variation attached at Annexure D to the Explanatory Statement (**Deed of Variation**), with effect from the date that the Deed of Variation is lodged with the Australian Securities and Investments Commission in accordance with section 601GC(2) of the Corporations Act."*

For the purpose of determining the voting entitlements at the Meeting, the board of Perpetual has determined that units in the Fund will be taken to be held by the registered holders of those units at 3:00pm (AEST) on 17 April 2024. Accordingly, transactions registered after that time will be disregarded in determining entitlements to attend and vote at the meeting.

A unitholder who is entitled to attend virtually and cast a vote at the Meeting and who wishes to vote on the resolution contained in this notice should either attend the Meeting virtually via the online platform using the Meeting details provided above, or appoint a proxy or proxies to attend or vote on the unitholder's behalf. A proxy form is enclosed with this notice. The proxy or proxies do not need to be a unitholder of the Fund. A unitholder that is a body corporate may appoint a representative to attend in accordance with the Corporations Act.

A unitholder entitled to attend virtually and to cast two or more votes is entitled to appoint two proxies. Where two proxies are appointed, each appointment may specify the proportion of the unitholder's voting rights that the proxy may exercise. If the unitholder appoints two proxies and the appointment does not specify this proportion, each proxy may exercise half of the votes able to be cast by the appointing unitholder.

The proxy form (and any power of attorney under which it is signed) must be received at the address below not later than 3:00pm (AEST) on 17 April 2024 (being 48 hours before the commencement of the Meeting). Any proxy forms received after that time will not be valid for the Meeting.

Completed proxy forms should be sent to William Buck Managed Funds Administration (SA) Pty Ltd (ACN 643 372 230) as follows:

By mail: Level 6  
211 Victoria Square  
Adelaide SA 5000

By hand delivery: Level 6  
211 Victoria Square  
Adelaide SA 5000

By email: [sa.funds@williambuck.com](mailto:sa.funds@williambuck.com)

**DATED THIS 27<sup>TH</sup> DAY OF MARCH 2024**

**BY ORDER OF THE BOARD OF PERPETUAL**



**Sylvie Majella Dimarco**  
Company Secretary

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## **Annexure B – Implementation Deed**

## **Scheme Merger Implementation Deed**

**The Trust Company (RE Services) Limited as responsible  
entity for Lanyon Australian Value Fund**

**The Trust Company (RE Services) Limited as responsible  
entity for Lanyon Global Value Fund**

**Lanyon Asset Management Pty Limited as trustee for  
Lanyon Australian Share Fund**

**Lanyon Asset Management Pty Limited as trustee for  
Lanyon Vardon Fund**

**Lanyon RE Services Limited as responsible entity for  
Lanyon Investment Fund**

**Piper Alderman  
Lawyers**

**Adelaide . Brisbane . Melbourne . Perth . Sydney**

**© Piper Alderman**

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# Merger Implementation Deed

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## Parties

1. **The Trust Company (RE Services) Limited** (ACN 003 278 831) of Level 18, 123 Pitt Street, Sydney NSW 2000 as responsible entity for Lanyon Australian Value Fund (ARSN 151 492 849) (**Perpetual LAVF**)
2. **The Trust Company (RE Services) Limited** (ACN 003 278 831) of Level 18, 123 Pitt Street, Sydney NSW 2000 as responsible entity for Lanyon Global Value Fund (ARSN 604 811 823) (**Perpetual LGVF**)
3. **Lanyon Asset Management Pty Limited** (ACN 140 631 714) of Level 1, 16 Vardon Avenue, Adelaide SA 5000 as trustee for Lanyon Australian Share Fund (**Lanyon AM LASF**)
4. **Lanyon Asset Management Pty Limited** (ACN 140 631 714) of Level 1, 16 Vardon Avenue, Adelaide SA 5000 as trustee for the Lanyon Vardon Fund (**Lanyon AM LVF**)
5. **Lanyon RE Services Limited** (ACN 661 585 815) of Level 1, 16 Vardon Avenue, Adelaide SA 5000 as responsible entity for the Lanyon Investment Fund (ARSN 670 944 242) (**Lanyon RE**)

## Introduction

- A. Each of LAVF, LGVF and LIF is a managed investment scheme registered under Chapter 5C of the Corporations Act and each of LASF and LVF is an unregistered managed investment scheme.
- B. The Parties are proposing to undertake a series of transactions and take certain steps which will have the effect of consolidating each of LAVF, LGVF, LASF and LVF into LIF (**Scheme Merger**).
- C. The Scheme Merger is facilitated by amendments to the Constitution of each of the Trusts. In accordance with section 601GC(2)(a) of the Corporations Act, Unitholders can only approve the amendments to the Constitution by passing a Special Resolution. The Parties are proposing to put a Special Resolution to the Unitholders of each of the Trusts to approve the amendments to the Constitution as set out in the Deeds of Variation (**Resolution**).
- D. The Parties wish to document each Party's obligations in respect of the Scheme Merger in this Deed.

## Operative Clauses

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### 1. Definitions

In this Deed:

**Approval** means an approval, authorisation, exemption, consent, permit, licence, authority, declaration, waiver, registration, filing, agreement, notice of objection, notarisation, or

certificate issued to a Trust or Trustee, or is necessary, beneficial or incidental in operating the Trust, and/or in exploiting the Assets;

**Assets** means in respect of a Trust, all of the property, rights and income of the Trust;

**Business Day** means any day except a Saturday, a Sunday or any other public holiday in Sydney, New South Wales;

**Claim** means debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise;

**Constitution** means in respect of a Trust, the constitution of the Trust;

**Contract** means each contract or arrangement (including a funding arrangement) between a Trustee and another person (including a Government Authority), relating to the Trust or Assets, and not fully performed at the Implementation Date;

**Corporations Act** means the *Corporations Act 2001* (Cth);

**Deed** means this deed and any schedules or annexures to this deed;

**Deed of Variation** means the deed of variation for the relevant Trust annexed as Annexure A;

**Deed Poll** means a deed poll to which Lanyon RE covenants in favour of the Unitholders to undertake the obligations imposed on Lanyon RE under this Deed, to be executed by Lanyon RE in substantially the form annexed as Annexure B;

**Defaulting Party** has the meaning given to it in clause 9;

**Foreign Unitholder** means in respect of a Trust, a Unitholder of that Trust whose address recorded in the Register is a country outside of Australia at the Scheme Merger Record Date;

**Government Authority** means any federal, state, territory, county, municipality, district, local or other jurisdiction of any nature, or any political subdivision thereof, federal, state, local, municipal, foreign or other government, or governmental or quasi-governmental administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity of any nature (including any governmental division, department, agency, commission, instrumentality, official, organisation, body or other entity and any court, arbitrator or other tribunal) having jurisdiction or a function in relation to the Trust or Assets;

**Implementation Date** means the date that is the third Business Day following the Scheme Merger Record Date, or such other date agreed in writing between the Trustees and Lanyon RE;

**Ineligible Foreign Unitholder** has the meaning given in clause 5.2;

**Ineligible Foreign Unitholder Proceeds** means the average price at which Ineligible Foreign Unitholder Units are redeemed by the Redemption Nominee, multiplied by the number of Ineligible Foreign Unitholder Units redeemed by the Redemption Nominee on behalf of the relevant Ineligible Foreign Unitholder, less any costs, expenses or liabilities incurred by the Redemption Nominee in connection with the redemption of the Ineligible Foreign Unitholder Units;

**Ineligible Foreign Unitholder Units** means LIF Units issued to the Redemption Nominee that Ineligible Foreign Unitholders would have been entitled if they had participated fully in the Scheme Merger;

**LASF** means the Lanyon Australian Share Fund;

**LAVF** means the Lanyon Australian Value Fund (ARSN 151 492 849);

**Law** includes any federal, state, regional, foreign or local law, statute, ordinances, rule, regulation, judgment or decree;

**LGVF** means the Lanyon Global Value Fund (ARSN 604 811 823);

**LIF** means the Lanyon Investment Fund (ARSN 670 944 242);

**LIF Units** means units in LIF;

**LVF** means the Lanyon Vardon Fund;

**Redemption Nominee** means a person appointed by the Trustee for the purposes of carrying out the role described in clause 5.3;

**Register** means in respect of a Trust, the register of Unitholders maintained by a Trustee pursuant to the Trust Constitution;

**Resolution** has the meaning given in paragraph C of the Introduction;

**Scheme Merger** has the meaning given to it in paragraph B of the Introduction;

**Scheme Merger Approval** means the date that the Resolution was passed at a meeting of Unitholders;

**Scheme Merger Record Date** means the date that is the first Business Day following the Scheme Merger Approval, or such other date agreed in writing between the Trustees and Lanyon RE;

**Special Resolution** means in respect of a Trust, a resolution passed at a meeting of Unitholders duly convened and held in accordance with the provisions of a Constitution by a majority consisting of not less than 75% of the persons voting at the meeting (whether present in person, or by attorney, proxy or representative) upon a show of hands and if a poll is validly demanded then by a majority consisting of not less than 75% of the votes cast on such poll;

**Tax** means any tax, duty, fee or penalty imposed by any Government Authority, including income tax, gross receipts, licence, employment, severance, occupation, premium, windfall profits, intangible, environmental, capital stock, profits, franchise, withholding, social security, disability, real estate, personal property, fringe benefits tax, capital gains tax, goods and services tax, stamp duty, payroll tax, bank debit tax, sales, use, transfer, value added, registration, alternative or add-on minimum, customs and excise, council rates, land tax, emergency services levy, and water and sewerage rates, and/or any other tax or similar governmental charge or any kind including any interest, penalties or additions to tax, whether disputed or not, and any obligation to indemnity, assume or succeed to the liability of any other person in respect of any of the above tax, fee, duty or penalty;

**Trust** means any of LAVF, LGVF, LASF and LVF, and **Trusts** means all of them (unless the context otherwise requires);

**Trustee** means any of Perpetual LAVF, Perpetual LGVF, Lanyon AM LASF and Lanyon AM LVF, and **Trustees** means all of them (unless the context otherwise requires);

**Unit** means a unit in LAVF, LGVF, LASF or LVF, and **Units** means all of them (unless the context otherwise requires);

**Unitholder** means the holder of a Unit in LAVF, LGVF, LASF or LVF, and **Unitholders** means all of them (unless the context otherwise requires); and

**Unitholder Booklets** means the notice of meeting and explanatory memorandum to be prepared and issued for the purposes of the Scheme Merger Approval.

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## 2. Interpretation

In this Deed, unless the context otherwise requires:

- (a) the Introduction is correct;
- (b) headings do not affect interpretation;
- (c) singular includes plural and plural includes singular;
- (d) words of one gender include the other gender;
- (e) reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;
- (f) reference to a person includes a corporation, joint venture, association, Government Authority, firm and any other entity;
- (g) reference to a party includes that party's personal representatives, successors and permitted assigns;
- (h) reference to a thing (including a right) includes a part of that thing;
- (i) reference to two or more persons means each of them individually and any two or more of them jointly;
- (j) if a party comprises two or more persons:
  - (1) reference to that party means each of the persons individually and any two or more of them jointly;
  - (2) a promise by that party binds each of them individually and not jointly;
  - (3) a right given to that party is given to each of them individually;
  - (4) a representation, warranty or undertaking by that party is made by each of them individually;
- (k) a provision must not be construed against a party only because that party prepared it;

- (l) a provision must be read down to the extent necessary to be valid. If it cannot be read down to that extent, it must be severed;
- (m) any reference to "knowledge", "know", "known" or words and phrases of similar import shall mean, with respect to any representation, warranty or statement of a party that is qualified by such words or phrases, the actual knowledge, belief or awareness of the relevant party, together with the knowledge, belief or awareness of that party if that party were to perform the duties applicable to that party's position in a prudent manner or after making all reasonable enquiries;
- (n) the words "include", "including", "for example", "such as" or expressions of a similar nature in this Deed do not limit what else is included and, unless there is express wording to the contrary, must be interpreted as if they are followed by the words "without limitation";
- (o) if a thing is to be done on a day which is not a Business Day, it must be done on the Business Day after that day;
- (p) another grammatical form of a defined expression has a corresponding meaning; and
- (q) an expression defined in the Corporations Act has the meaning given by that Act at the date of this Deed.

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### **3. Trustees' obligations**

- 3.1 Each of the Trustees in respect of the Trust that the Trustee acts as responsible entity or trustee for must do all things necessary, beneficial and incidental to implement the Scheme Merger, including without limitation:
- (a) providing any information as is reasonably requested by Lanyon RE to prepare the Unitholder Booklets or give effect to the Scheme Merger;
  - (b) considering whether the Scheme Merger is in the best interests of Unitholders in respect of the Trust that the Trustee acts as responsible entity or trustee for and then making an appropriate recommendation to those Unitholders as to whether to vote in favour of or against the Resolution;
  - (c) if the Trustee forms the opinion that that the Scheme Merger is in the best interests of Unitholders of the Trust that the Trustee acts as responsible entity or trustee for, then:
    - (1) convening a meeting of Unitholders of the Trust that the Trustee acts as responsible entity or trustee for to propose the Resolution to those Unitholders, with each meeting being convened for the same day for each of the Trusts, which day is to be agreed between each of the Trustees;
    - (2) including in the Unitholder Booklet:
      - (A) the opinion that that the Scheme Merger is in the best interests of Unitholders of the Trust that the Trustee acts as responsible entity or trustee for; and
      - (B) recommending that Unitholders vote in favour of the Resolution;

- (3) not changing the opinion in clause 3.1(c)(2)(A) or the recommendation in clause 3.1(c)(2)(B) unless the Trustee has determined, after appropriate consultation with its legal and other advisors and acting in good faith, that:
    - (A) that the Scheme Merger is no longer in the best interests of Unitholders of the Trust that the Trustee acts as responsible entity or trustee for; and
    - (B) it can no longer recommend that the Unitholders of the Trust that the Trustee acts as responsible entity or trustee for vote in favour of the Resolution;
  - (d) distributing the Unitholder Booklet to the Unitholders of the Trust that the Trustee acts as responsible entity or trustee for;
  - (e) promptly notifying Lanyon RE if it becomes aware that any information contained in the Unitholder Booklet may be misleading, deceptive or incomplete by content or omission;
  - (f) holding a meeting of Unitholders to propose the Resolution to Unitholders of the Trust that that the Trustee acts as responsible entity or trustee for; and
  - (g) otherwise using reasonable endeavours to ensure that there is no act or omission that will, or is likely to, prevent the approval of the Resolution or the implementation of the Scheme Merger in respect of the Trust that the Trustee acts as responsible entity or trustee for.
- 3.2 A Trustee will not implement the Scheme Merger in respect of the Trust that the Trustee acts as responsible entity or trustee for, and the obligations of that Trustee and Lanyon RE regarding the implementation of the Scheme Merger in respect of that Trust will not need to be fulfilled, unless the Unitholders of that Trust for which the Trustee acts as the responsible entity or trustee (as the case may be) pass the Resolution.
- 3.3 If the Resolution of one or more of the Trusts:
- (a) is passed, the Scheme Merger will proceed in respect of that Trust or those Trusts; and
  - (b) is not passed, the Scheme Merger will not proceed in respect of that Trust or those Trusts.
- 3.4 If one or more of the Resolutions is passed, each of the Trustees in respect of the Trust that the Trustee acts as responsible entity or trustee for must do all things necessary, beneficial and incidental to give effect to the Scheme Merger in respect of the Trust or Trusts for which the Resolutions were passed as soon as practicable after the passing of the Resolutions, including without limitation:
- (a) applying on behalf of each of the Unitholders for the number of LIF Units calculated as follows, rounded up to the nearest whole LIF Unit:

$$LIF\ NOU = \frac{Trust\ NAV}{LIF\ NAV} \times NOU$$

where:

LIF NOU is the number of LIF Units that each Unitholder will be issued on the Implementation Date as part of the Scheme Merger;

Trust NAV is the Net Asset Value of the Trust at the Scheme Merger Approval;

LIF NAV is the Net Asset Value of LIF at the Scheme Merger Approval; and

NOU is the number of Units held by the Unitholder as recorded in the Register at the Scheme Merger Approval;

- (b) executing, no later than the Scheme Merger Record Date, the Deed of Variation in respect of the Trust that the Trustee acts as responsible entity or trustee for and, in respect of Perpetual LAVF and Perpetual LGVF, lodging with ASIC a copy of the executed Deed of Variation in respect of the Trust that the Trustee acts as responsible entity or trustee for with the appropriate ASIC forms;
- (c) consenting on behalf of each Unitholder of the Trust that the Trustee acts as responsible entity or trustee for to become a member of LIF and to be bound by the constitution of LIF;
- (d) as consideration for the issue of the LIF Units calculated in accordance with clause 3.4(a), transferring on behalf of each of the Unitholders in the Trust that the Trustee acts as responsible entity or trustee for, the Unitholder's Units to Lanyon RE on the Implementation Date and updating the Register to record the transfers and reflect that the Units are held by LIF;
- (e) giving to Lanyon RE, on behalf of each Unitholder in the Trust that the Trustee acts as responsible entity or trustee for, the following representations and warranties:
  - (1) all of their Units (including any rights and entitlements attaching to those Units) are all fully paid;
  - (2) other than the Unitholder, no other person has any rights or options over their Units;
  - (3) the Unitholder has legal ownership of their Units and their Units are free and clear of all Encumbrances;
  - (4) the Unitholder has the right to transfer their Units; and
  - (5) the transfer of the Units to Lanyon RE does not contravene a provision of this Constitution;
- (f) making distributions and other payments out of the Assets which are necessary, beneficial or incidental to give effect to the Scheme Merger in respect of the Trust that the Trustee acts as responsible entity or trustee for;
- (g) making elections on behalf of the Unitholders in the Trust that the Trustee acts as responsible entity or trustee for, including without limitation elections to receive documents sent by Lanyon RE to unitholders of LIF in a certain form (including without limitation documents relating to meetings of Unitholders) and elections or decisions regarding reinvestment; and

- (h) transferring any Assets, executing all documents and doing all things that the Trustee considers necessary, beneficial or incidental to give effect to the Scheme Merger in respect of the Trust that the Trustee acts as responsible entity or trustee for.
- 3.5 The Trustees, in respect of the Trust that the Trustee acts as responsible entity or trustee for, must do all things necessary, beneficial and incidental to wind up, vest or otherwise bring to an end each of the Trusts that, as a result of the Scheme Merger, Lanyon RE becomes the sole unitholder of.
- 3.6 Each of the Trustees must not accept for registration, or recognise for any purpose whatsoever, any application or transfer in respect of the Units in the Trust that the Trustee acts as responsible entity or trustee which is received after the Scheme Merger Record Date (except a transfer from each Unitholder to Lanyon RE for the purposes of the Scheme Merger).

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#### **4. Lanyon RE obligations**

Lanyon RE must do all things necessary, beneficial and incidental to give effect to the Scheme Merger, including without limitation:

- (a) providing any information as reasonably requested by a Trustee for the purposes of the Scheme Merger;
- (b) executing the Deed Poll; and
- (c) if one or more of the Resolutions is passed, on the Implementation Date:
  - (1) executing and delivering any document, form or instrument necessary, beneficial or incidental to give effect to this Deed and the Scheme Merger in respect of the Trust or Trusts for which the Resolutions were passed or, including without limitation documents to:
    - (A) transfer the Units from each of the Unitholders to Lanyon RE; and
    - (B) issue to each of the Unitholders the number of LIF Units calculated in accordance with clause 3.4(a); and
  - (2) update the register of LIF Units to record the issue of the LIF Units to each of the Unitholders as part of the Scheme Merger.

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#### **5. Foreign Unitholders and the Scheme Merger**

- 5.1 This clause 5 applies when a Foreign Unitholder is a Unitholder on the Business Day after the Scheme Merger Approval.
- 5.2 Each of the Trustees may determine that one or more of the Unitholders of the Trust that the Trustee acts as responsible entity or trustee for is a Foreign Unitholder and that that Unitholder will not be issued LIF Units as part of the Scheme Merger, having regard to:
  - (a) the number of Foreign Investors in the jurisdiction of that Foreign Investor;
  - (b) the number and value of LIF Units that may be issued to Foreign Investors in the foreign jurisdiction; and



- (c) the cost of complying with legal requirements and the requirements of any other relevant regulatory authority applicable to the issue of LIF Units in the foreign jurisdiction,

**(Ineligible Foreign Unitholder).**

- 5.3 Where a Trustee determines that a Foreign Unitholder is an Ineligible Foreign Unitholder in accordance with clause 5.2:
- (a) the Trustee must apply for LIF Units on behalf of the Ineligible Foreign Unitholder and arrange for those LIF Units to be issued to, and held by, the Redemption Nominee; and
  - (b) within 20 Business Days after the Implementation Date, the Trustee must procure that the Redemption Nominee:
    - (1) redeems the Ineligible Foreign Unitholder Units issued to it (which may be on an aggregated or partially aggregated basis); and
    - (2) remits the Ineligible Foreign Unitholder Proceeds to each Ineligible Foreign Unitholder.

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## **6. Trustee conduct of Trust**

- 6.1 Up to and including the Implementation Date when the Scheme Merger is fully implemented and each Party has fulfilled its obligations under this Deed, each of the Trustees, in respect of the Trust that the Trustee acts as responsible entity or trustee for, must:
- (a) carry on the Trust as usual and in the ordinary course;
  - (b) comply with all Laws affecting the Trust and the Assets;
  - (c) pay all taxes, Approval fees and all other outgoings of a periodical or recurring nature in respect of the Trust and Assets, including without limitation rates, taxes, Approval fees and payments under Contracts;
  - (d) do everything required by this Deed;
  - (e) not enter into, or vary, a material Contract, without Lanyon RE's prior written consent;
  - (f) not make any significant or adverse change to the nature or scale of the Trust or any part of the Trust; and
  - (g) comply with any requirement, notice, order or direction about the Trust or the Assets issued or made known by a court or Government Authority before the Implementation Date.
- 6.2 Until the Implementation Date, except in the ordinary course of the business of the Trust, or unless Lanyon RE consents in writing, each of the Trustees, in respect of the Trust that the Trustee acts as responsible entity or trustee for, must:
- (a) reasonably maintain the Assets;

- (b) use reasonable efforts to keep the goodwill of persons normally contracting with the Trust;
- (c) maintain, and not vary, fail to renew or allow to lapse, any Approvals currently held and required for the Business;
- (d) maintain, and establish where necessary, all books, records and financial statements for the Trust sufficient to enable Lanyon RE to fully and accurately understand the financial position and performance of the Trust;
- (e) not dispose of, encumber, or grant an option over, surrender, remove, replace or relinquish, any of the Assets, or agree to do so;
- (f) not enter into any arrangements, transactions, or agreements in respect of the Trust or the Assets;
- (g) not vary, suspend, terminate, or transfer or assign any Contract;
- (h) not enter into any Contract which contains any unusual or onerous provisions of a nature which could result in the Trust suffering a loss; and
- (i) not issue, commence or settle any litigation, Claim or proceeding in relation to the Trust or Assets.

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## **7. Limitation of Liability**

- 7.1 The Trustee enters into this agreement only in its capacity as responsible entity or trustee of the Trust that the Trustee acts for and in no other capacity. A liability arising under or in connection with this agreement is limited to and can be enforced against the Trustee only to the extent to which it can be satisfied out of property of the Trust out of which the Trustee is actually indemnified for the liability. This limitation of the Trustee's liability applies despite any other provision of this agreement and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Deed.
- 7.2 The parties other than the Trustee may not sue the Trustee in any capacity other than as responsible entity or trustee of the Trust that the Trustee acts for, including seek the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any similar person to the Trustee or prove in any liquidation, administration or arrangement of or affecting the Trustee (except in relation to property of the Trust).
- 7.3 The provisions of this clause 7 shall, subject to clause 7.4, not apply to any obligation or liability of the Trustee to the extent that it is not satisfied because under the Constitution or by operation of law there is a reduction in the extent of the Trustee's indemnification out of the assets of the Trust, as a result of the Trustee's failure to properly perform its duties as Trustee. For these purposes, it is agreed that the Trustee cannot be regarded as having failed to properly perform its duties as Trustee to the extent to which any failure by the Trustee to satisfy its obligations or breach of representation or warranty under this Deed has been caused by a failure by any other party to fulfil its obligations under this Deed.
- 7.4 Nothing in clause 7.3 shall make the Trustee liable to any claim for an amount greater than the amount which the other parties would have been able to claim and recover from the assets of the Trust in relation to the relevant liability if the Trustee's right of indemnification out

of the assets of the Trust has not been prejudiced by the Trustee's failure to properly perform its duties.

- 7.5 The Trustee is not obliged to do or refrain from doing anything under this Deed (including incur any liability) unless the Trustee's liability is limited in the same manner as set out in clauses 7.1 to 7.4 above.

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## **8. Warranties**

- 8.1 Each of the Trustees represents and warrants to Lanyon RE in respect of itself only that as at the date of this Deed and at the Implementation Date:

- (a) it is a corporation duly organised and validly existing under the applicable Law;
- (b) the Trust that the Trustee acts as responsible entity or trustee for is a managed investment scheme duly established and validly existing under the applicable Law;
- (c) it was validly appointed as the responsible entity or trustee (as the case may be) of the Trust that the Trustee acts as responsible entity or trustee for in accordance with the Trust's Constitution and has not since resigned, ceased to act or been removed from this position;
- (d) no other responsible entity or trustee has been appointed to the Trust that the Trustee acts as responsible entity or trustee for;
- (e) it is not insolvent and no receiver has been appointed and no controller has any right over any part of its assets and no such appointment has been threatened;
- (f) it is not in liquidation or official management and no proceedings have been brought or threatened for the purpose of winding it up or placing it under official management;
- (a) there is no statute, regulation, instrument or authority which affects the power of the Trustee to enter into or perform this Deed;
- (g) it has full corporate power and lawful authority to enter into and perform this Deed; and
- (h) it has disclosed to Lanyon RE all information that it considers material to enable a Unitholder in the Trust that the Trustee acts as responsible entity or trustee for to make an informed decision whether to vote in favour of or against the Resolution.

- 8.2 Lanyon RE represents and warrants to each of the Trustees that as at the date of this Deed and at the Implementation Date:

- (b) it is a corporation duly organised and validly existing under the applicable Law;
- (c) LIF is a registered managed investment scheme duly established and validly existing under the applicable Law;
- (a) it was validly appointed as the responsible entity of LIF in accordance with the LIF Constitution and has not since resigned, ceased to act or been removed from this position;
- (b) no other responsible entity or trustee has been appointed to LIF;

- (c) it is not insolvent and no receiver has been appointed and no controller has any right over any part of its assets and no such appointment has been threatened;
- (d) it is not in liquidation or official management and no proceedings have been brought or threatened for the purpose of winding it up or placing it under official management;
- (d) there is no statute, regulation, instrument or authority which affects the power of Lanyon RE to enter into or perform this Deed;
- (e) it has full corporate power and lawful authority to enter into and perform this Deed; and
- (f) it has disclosed to the Trustees all information that is considers material to enable Unitholders in each of the Trusts to make an informed decision whether to vote in favour of or against the Resolution in respect of that Trust.

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## **9. Termination**

- 9.1 If a party defaults under this Deed (**Defaulting Party**) and in the reasonable opinion of the parties not in default:
- (a) the default is capable of being remedied by the Defaulting Party, the parties not in default may, by notice in writing, require the Defaulting Party to remedy the default within a further 10 Business Days (or any longer period as determined by the parties not in default); or
  - (b) the default is not capable of being remedied by the Defaulting Party, the parties not in default may, by notice in writing, terminate this agreement with immediate effect.
- 9.2 The Defaulting Party must not object to the adequacy of the notice period determined by the parties not in default under clause 9.1.
- 9.3 If the Defaulting Party does not remedy the default within the notice period, the parties not in default may terminate this Deed by notice in writing to the Defaulting Party.
- 9.4 Time is of the essence in respect of the notice period.
- 9.5 No party to this Deed shall be entitled to exercise any right to terminate and abandon this Deed if such party has wilfully and intentionally defaulted under any provision of this Deed or wilfully and intentionally taken any action which resulted in the non-fulfilment of any condition to the Implementation Date under this Deed unless such default has been cured and is not continuing at the time of the exercise of such right.
- 9.6 Upon any termination of this Deed, none of the parties shall have any liability to any other party provided that the foregoing shall not relieve any party of liability for any breach of its obligations under this Deed.

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## **10. General**

- 10.1 Each party must do everything necessary to carry out this Deed, including executing documents.
- 10.2 No party may do anything that will prevent this Deed from being carried out.

- 10.3 A party may only assign its rights or obligations under this Deed with the written consent of the other party.
- 10.4 This Deed may only be amended in writing signed by the parties.
- 10.5 A party may only waive a breach of this Deed in writing signed by that party or its authorised representative. A waiver is limited to the instance referred to in the writing (or if no instance is referred to in the writing, to past breaches).
- 10.6 This Deed records the entire agreement between the parties about the its subject matter. The parties exclude all terms implied by Law, where possible.
- 10.7 This Deed may be executed in any number of counterparts. A counterpart may be a digital or electronic scan or portable document format. Together all counterparts make up one document. If this Deed is executed in counterparts, it takes effect when each party has received the counterpart executed by the other party, or would be deemed to have received it if a notice.
- 10.8 Notice must be in writing and in English, and may be given by an authorised representative of the sender. Notice may be given to a person:
- (a) personally;
  - (b) by leaving it at the person's address or such other address as notified by that person from time to time;
  - (c) by sending it by pre-paid mail to the person's address or such other address as notified by that person from time to time; or
  - (d) by sending it by email to the person's email address or such other email address as notified by that person from time to time.
- 10.9 Notice is deemed to be received by a person:
- (a) when left at the person's address;
  - (b) if sent by pre-paid mail, on the third Business Day after posting; or
  - (c) if sent by email, at the time and on the day shown in the sender's record of the sent email, and no automatically generated message is subsequently received by the sender that the email was undeliverable or undelivered.
- However, if the notice is deemed to be received on a day which is not a Business Day or after 5:00 pm, it is deemed to be received at 9:00 am on the next Business Day.
- 10.10 If two or more persons comprise a party, notice to one is effective notice to all.
- 10.11 This Deed is governed by the Laws applying in the State of South Australia. The parties irrevocably submit to the exclusive jurisdiction of the courts of South Australia and the division of the Federal Court of Australia in that jurisdiction, and the courts of appeal from them. No party may object to the jurisdiction of any of those courts on the ground that it is an inconvenient forum or that it does not have jurisdiction.

- 10.12 Each party must pay its own costs of preparing this Deed and any document required by this Deed.
- 10.13 Unless otherwise provided, a party may give or withhold consent in that party's absolute discretion, with or without conditions, without giving reasons; and when that party chooses. A party's consent is valid only if it is in writing and signed by that party or its authorised representative.

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## Annexure C – Deed Poll

# Deed Poll

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**BY:** **Lanyon RE Services Limited** (ACN 661 585 815) of Level 1, 16 Vardon Avenue, Adelaide SA 5000 as responsible entity for Lanyon Investment Fund (ARSN 670 944 242) (**Lanyon RE**)

**IN FAVOUR OF:** Each Unitholder

## Introduction

- A. The Trustees and Lanyon RE have entered into a scheme merger implementation deed dated 7 March 2024 for the purposes of the Scheme Merger (**Implementation Deed**).
- B. In accordance with the terms of the Implementation Deed, Lanyon RE has agreed to enter into this Deed Poll.
- C. Lanyon RE covenants in favour of the Unitholders to undertake the obligations imposed on Lanyon RE under the Implementation Deed.

---

## 1. Definitions

In this Deed Poll, capitalised terms have the same meaning given to them in the Implementation Deed, except that:

**Appointor** has the meaning given in clause 3(b);

**Deed Poll** means this deed and any schedules or annexures to this deed; and

**Implementation Deed** has the meaning given in paragraph A of the Introduction.

---

## 2. Interpretation

The Interpretation provisions prescribed in clause 2 of the Implementation Deed apply to this Deed Poll, except that references to “Deed” are instead references to “Deed Poll”.

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## 3. Deed Poll

Lanyon RE acknowledges and agrees that:

- (a) this Deed Poll is capable of being relied upon and enforced by the Unitholders on its terms, notwithstanding that the Unitholders are not a party to this Deed Poll; and
- (b) for the purposes of the Scheme Merger, in accordance with the proposed amendments to the Constitution, each Unitholder of each Trust (**Appointor**) will irrevocably appoint the Trustee of the Trust for which the Unitholder holds Units in as agent and attorney with full power in the Appointor's name or on the Appointor's behalf to enforce this Deed Poll against Lanyon RE.



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#### **4. Scheme Merger obligations**

- 4.1 Lanyon RE covenants in favour of the Unitholders to undertake the obligations imposed on Lanyon RE under the Implementation Deed, including without limitation to issue each Unitholder the number of LIF Units calculated in accordance with clause 3.4(a) of the Implementation Deed.
- 4.2 If the Resolution of one or more of the Trusts:
- (a) is passed, the Scheme Merger will proceed in respect of that Trust or those Trusts and accordingly Lanyon RE's obligations under this Deed Poll in respect of that Trust or those Trusts will be binding; and
  - (b) is not passed, the Scheme Merger will not proceed in respect of that Trust or those Trusts and accordingly Lanyon RE's obligations under this Deed Poll in respect of that Trust or those Trusts will not be binding.
- 4.3 Lanyon RE's obligations under this Deed Poll in respect of a Trust will automatically terminate if the Trustee of that Trust or Lanyon RE terminates the Implementation Deed in accordance with its terms.

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#### **5. Warranties**

Lanyon RE represents and warrants to the Unitholders that as at the date of this Deed Poll and at the Implementation Date:

- (a) it is a corporation duly organised and validly existing under the applicable Law;
- (b) LIF is a managed investment scheme registered under Chapter 5C of the Corporations Act;
- (c) it was validly appointed as the responsible entity of LIF in accordance with the LIF constitution and has not since resigned, ceased to act or been removed from this position;
- (d) no other responsible entity or trustee has been appointed to LIF;
- (e) it will do all things necessary, beneficial and incidental to satisfy, or procure the satisfaction of, its obligations under this Deed Poll;
- (f) it is not insolvent and no receiver has been appointed and no controller has any right over any part of its assets and no such appointment has been threatened;
- (g) it is not in liquidation or official management and no proceedings have been brought or threatened for the purpose of winding it up or placing it under official management;
- (a) there is no statute, regulation, instrument or authority which affects the power of Lanyon RE to enter into or perform this Deed Poll;
- (h) it has full corporate power and lawful authority to enter into and perform this Deed Poll;

- (i) it has disclosed to the Unitholders all information that is considers material to enable a Unitholder to make an informed decision whether to vote in favour of or against the Resolution; and
- (j) the LIF Units to be issued to each Unitholder in accordance with clause 3.4(a) of the Implementation Deed will:
  - (1) be fully paid and free and clear of all encumbrances;
  - (2) have the rights given to them under the LIF Constitution; and
  - (3) rank equally with all existing LIF Units.

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## **6. Continuing obligations**

Subject to clause 4.2, this Deed Poll remains in full force and effect until such time as Lanyon RE successfully performs its obligations under this Deed Poll or this Deed Poll is terminated in accordance with clause 4.3.

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## **7. Liability of Lanyon RE**

- 7.1 Lanyon RE enters into this Deed Poll in its capacity as the responsible entity of LIF.
- 7.2 No Unitholder can pursue action against Lanyon RE in any capacity other than as the responsible entity of LIF, including seeking the appointment of a receiver (except in relation to the property of LIF), a liquidator, an administrator or any similar person to Lanyon RE or prove in any liquidation, administration or arrangement of or affecting Lanyon RE (except in relation to the property of LIF).
- 7.3 Despite any provision of this Deed Poll, any liability incurred by Lanyon RE in relation to or arising out of this Deed Poll is limited to the extent that Lanyon RE is entitled to be indemnified for that liability out of the LIF assets.
- 7.4 Lanyon RE is only obligated to perform or refrain from performing any action required by this Deed Poll if its liability is limited in accordance with this clause 7.

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## **8. General**

- 8.1 Lanyon RE must do everything necessary to carry out this Deed Poll, including executing documents.
- 8.2 Lanyon RE must not do anything that will prevent this Deed Poll from being carried out.
- 8.3 Unitholders cannot assign its rights under this Deed Poll without the written consent of Lanyon RE.
- 8.4 This Deed Poll may only be amended with the written consent of the Trustees.
- 8.5 A Unitholder may only waive a right under this Deed Poll in writing signed by that Unitholder or its authorised representative. A waiver is limited to the instance referred to in the writing.

8.6 Any notice given to Lanyon RE in relation to or arising out of this Deed Poll must be in writing and in English, and may be given by an authorised representative of the sender. Notice may be given to Lanyon RE:

- (a) by leaving it at Lanyon RE's registered office or such other address as notified by Lanyon RE from time to time;
- (b) by sending it by pre-paid mail to Lanyon RE's registered office or such other address as notified by Lanyon RE from time to time; or
- (c) by sending it by email to Lanyon RE's email address or such other email address as notified by Lanyon RE from time to time.

8.7 Notice is deemed to be received by a person:

- (a) when left at Lanyon RE's registered office;
- (b) if sent by pre-paid mail, on the third Business Day after posting; or
- (c) if sent by email, at the time and on the day shown in the sender's record of the sent email, and no automatically generated message is subsequently received by the sender that the email was undeliverable or undelivered.

However, if the notice is deemed to be received on a day which is not a Business Day or after 5:00 pm, it is deemed to be received at 9:00 am on the next Business Day.

8.8 This Deed Poll is governed by the Laws applying in the State of South Australia. The parties irrevocably submit to the exclusive jurisdiction of the courts of South Australia and the division of the Federal Court of Australia in that jurisdiction, and the courts of appeal from them. No party may object to the jurisdiction of any of those courts on the ground that it is an inconvenient forum or that it does not have jurisdiction.

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## Annexure D – Deed of Variation

### Deed of variation

### Constitution – Lanyon Australian Value Fund

#### Party

**The Trust Company (RE Services) Limited** (ACN 003 278 831) of Level 18, 123 Pitt Street, Angel Place, Sydney NSW 2000 as responsible entity for Lanyon Australian Value Fund (ARSN 151 492 849) (**Responsible Entity**)

#### Introduction

- A. The Responsible Entity is the responsible entity of the Lanyon Australian Value Fund (ARSN 151 492 849) (**Fund**).
- B. The Fund was registered by ASIC on 15 June 2011.
- C. Clause 24.8 of the Fund's constitution (**Constitution**) provides that the Constitution may be modified, repealed or replaced in accordance with the Corporations Act.
- D. Section 601GC(1)(a) of the Corporations Act provides that the constitution of a registered scheme may be modified or repealed and replaced with a new constitution by special resolution of the members of the scheme.
- E. On or about the date of this Deed, the members of the Fund passed a special resolution resolving to adopt the changes to the Constitution as set out the Annexure (**Resolution**).
- F. In accordance with the terms of this Deed, the Responsible Entity wishes to give effect to the Resolution with effect from the date that the amendments to the Constitution are lodged with ASIC.

#### Operative clauses

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### 1. Definitions & Interpretation

- 1.1 In this Deed, capitalised terms have the same meaning given to them in the Constitution, except that:
  - (a) **ASIC** means the Australian Securities and Investments Commission;
  - (b) **Constitution** has the meaning given in paragraph C of the Introduction;
  - (c) **Corporations Act** means the *Corporations Act 2001* (Cth);
  - (d) **Deed** means this deed and all schedules and annexures to this deed;
  - (e) **Fund** has the meaning given in paragraph A of the Introduction; and
  - (f) **Resolution** has the meaning given in paragraph E of the Introduction.
- 1.2 The rules of interpretation set out in clause 2.2 of the Constitution also apply to this Deed, unless the context otherwise requires.

## 2. Modification of Constitution

In accordance with clause 24.8 of the Constitution and section 601GC(1)(a) of the Corporations Act, the Constitution is amended as set out in the Annexure, with effect from the date that the amendments to the Constitution are lodged with ASIC.

## 3. Confirmation of Constitution

All of the terms and conditions of the Constitution not amended by this Deed are confirmed, subject to the proviso that if any conflict or inconsistency shall occur between the terms and conditions presently contained in the Constitution and those contained in this Deed, then this Deed shall prevail.

## 4. General

- 4.1 All costs, charges and expenses of and incidental to the execution of this Deed shall be borne by the Responsible Entity in its capacity as responsible entity of the Fund as an expense of the Fund.
- 4.2 This Deed is governed by the laws of New South Wales.
- 4.3 This Deed may be executed in any number of counterparts. A counterpart may be a portable document format or an electronic scan. Together all counterparts make up one document. If this Deed is executed in counterparts, it takes effect when each signatory has received the counterpart executed by the other signatory, or would be deemed to have received it if a notice.
- 4.4 For the avoidance of doubt, the Responsible Entity by clause 2 of this Deed is not:
  - (a) re-declaring the Fund;
  - (b) resettling the Fund;
  - (c) causing the transfer, vesting or accruing of property to or in any person; or
  - (d) entering into a new constitution.

**Executed** as a deed on

2024

**Executed by The Trust Company (RE Services) Limited** by its attorneys under the Power of Attorney dated 16 September 2014 who are personally known to me and each of whom declare that they have received no notice of revocation of the Power of Attorney:



Attorney

**Teresa Lee-Antonas**

Name of Attorney (print)

**Senior Client Manager**

Title of Attorney (print)



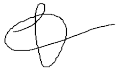
Attorney

**Daniel Picone**

Name of Attorney (print)

**Senior Client Manager**

Title of Attorney (print)



Witness

**Jenny Phan**

Name of Witness (print)

## **Annexure to Deed of Variation – Modified Constitution**

## Lanyon Australian Value Fund Constitution

ARSN 151 492 849

### **The Trust Company (RE Services) Limited**

ACN 003 278 831

ABN 45 003 278 831

AFS Licence No 235150

Level 18  
Angel Place  
123 Pitt Street  
SYDNEY NSW 2000  
Ph: 1800 022 033  
Fax: 02 8256 1427

This constitution has been lodged with the Australian Securities  
and Investments Commission

**Scheme Registration Date: 15 June 2011**

Piper Alderman  
Lawyers

Adelaide • Sydney • Melbourne • Brisbane • Perth

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# Lanyon Australian Value Fund Constitution

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## Parties

**The Trust Company (RE Services) Limited** (ACN 003 278 831) of Level 18, Angel Place, 123 Pitt Street, Sydney NSW 2000 (**Responsible Entity**)

## Introduction

- A. The Responsible Entity holds Australian financial services licence number 235150 issued by ASIC.
- B. The Responsible Entity has agreed to manage and administer the Trust for the benefit of the Unitholders.
- C. This deed is made with the intent that the benefits and obligations contained in it will enure not only to the Responsible Entity but also to the extent provided in this Deed to every person who is, or becomes, a Unitholder.
- D. The Responsible Entity proposes to offer, or cause to be offered, for subscription units in the Trust by way of a Product Disclosure Statement.

**NOW IT IS COVENANTED AND AGREED** as follows:

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## 1. Statutory Requirements

To the extent that the Corporations Act or any relief from the provisions of the Corporations Act granted by ASIC requires the Constitution to contain certain provisions, then those provisions are deemed to be incorporated in the Constitution at all times at which they are required to be included and prevail over the other provisions of this Constitution to the extent of any inconsistency.

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## 2. Interpretation

### 2.1 Definition

In this Constitution and in any instrument, supplemental deed, agreement or other document made, entered into, executed or issued under this Constitution, unless a contrary intention appears, the following expressions shall have the following meanings:

**Additional Fund Administration Services** has the meaning given in the Schedule;

**Application Form** means an application form for Units in the Trust in a form prescribed by, or satisfactory to, the Responsible Entity;

**Application Price** means the issue price of a Unit as determined by the Responsible Entity as calculated in accordance with clause 6.2(a);

**ASIC** means the Australian Securities and Investments Commission, or any successor of that body;

**Assets** means all of the property, rights and Income of the Trust;

**Associate** means an associate as defined in Division 2 of Part 1.2 of the Corporations Act;

**Australian ADI** shall have the meaning ascribed to that term in the Corporations Act;

**Australian Securities Exchange** or **ASX** means ASX Ltd;

**Auditor** means a person who is a chartered accountant or a certified practising accountant and a registered company auditor under the Corporations Act or a firm of chartered accountants, at least one member of which is a registered company auditor, and where more than one of the above is appointed by the Responsible Entity includes each of them;

**Australian Financial Services Licence** or **AFSL** means the licence referred to in the Introduction;

**Authorised Investment** means an investment in any of the following:

- (a) shares, debentures, stock, bonds, notes, options, rights or other securities;
- (b) interest bearing deposits including bills of exchange;
- (c) interests in managed investment schemes;
- (d) any securities, bonds, notes or other interest bearing debt used by the Commonwealth Government of Australia;
- (e) any other securities or interests whatsoever in the Responsible Entity's absolute discretion;

**Business Day** means any day other than a Saturday or Sunday on which Banks are open for business in Australia;

**Commencement** means the date on which the commencement of the Constitution occurs in the terms of clause 3;

**Company** includes "corporation" (as that term is defined in section 9 of the Corporations Act), public authority or body corporate or politic;

**Compliance Committee** means the committee (if any) established pursuant to the Compliance Plan relating to this Trust lodged by the Responsible Entity with ASIC;

**Compliance Plan** means the compliance plan relating to this Trust adopted by the Responsible Entity in compliance with the Corporations Act;

**Constitution** means this constitution as originally executed and as it may from time to time be amended;

**Corporations Act** means the *Corporations Act* 2001 (Cth) as amended from time to time;

**Custodian** means the person appointed to hold the Assets whether original, additional or substituted, and in the event that no custodian is appointed by the Responsible Entity, the Responsible Entity shall be the custodian;

**Custodian Agreement** means the agreement (if any) under which the Responsible Entity engages the Custodian for the purposes of the Custodian holding the Assets in trust for the Trust;

**Distribution Calculation Date** means 30 June or such other dates as the Responsible Entity designates in accordance with clause 7.6;

**Distribution Period** means:

- (a) for the first distribution period, the period from the Commencement to the next Distribution Calculation Date;
- (b) for the last distribution period, the period from the day after the preceding Distribution Calculation Date to the date of distribution on winding up of the Trust; and
- (c) in all other circumstances, the period from the day after the preceding Distribution Calculation Date to the next occurring Distribution Calculation Date;

**Encumbrance** means:

- (a) any security interest that is subject to the *Personal Property Securities Act 2009 (Cth)*;
- (b) any other mortgage, pledge, lien or charge;
- (c) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation or which gives a creditor priority over unsecured creditors in relation to any property;
- (d) any third party interest (for example, a trust or an equity);
- (e) a right of a person to acquire an asset or to restrain someone from acquiring an asset (including under an option, a right of pre-emption or a right of first refusal);
- (f) a right of any person to occupy or use an asset (including under a licence, lease or hire purchase);
- (g) an easement, restrictive covenant, caveat or similar restriction over property; or
- (h) an agreement to create any of the above or to allow any of the above to exist;

**Entry Fee** means the fee payable to the Responsible Entity on an application for Units;

**Exit Fee** means the fee payable to the Responsible Entity on redemption of Units;

**Extraordinary Resolution** has the same meaning as contained in the Corporations Act;

**Financial Year** means:

- (a) for the first financial year, the period from the Commencement to the next succeeding 30 June;
- (b) for the last financial year, the period from 1 July before the date the Trust terminates to the date of distribution or winding up of the Trust; and

(c) in all other circumstances, the 12 month period ending on 30 June in each year;

**Foreign Unitholder** means a Unitholder whose address recorded in the Register is a country outside of Australia at the Scheme Merger Record Date;

**GST** means GST as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

**Implementation Date** means the date that is the third Business Day following the Scheme Merger Record Date, or such other date agreed in writing between the Responsible Entity and Lanyon RE;

**Implementation Deed** means the deed of implementation between the Responsible Entity, Lanyon RE and other parties dated 7 March 2024 under which (among other things) the Responsible Entity has agreed to take certain steps to implement the Scheme Merger;

**Income Distribution** means in respect of a Unitholder and a Distribution Period, the amount calculated in respect of the Unitholder under clause 7.2;

**Income of the Trust** means the Net Income (for the avoidance of doubt, including capital gains);

**Income Tax Act** means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth) and the regulations made under those Acts from time to time;

**Ineligible Foreign Unitholder** has the meaning given in clause 25.6(b);

**Ineligible Foreign Unitholder Proceeds** means the average price at which Ineligible Foreign Unitholder Units are redeemed by the Redemption Nominee, multiplied by the number of Ineligible Foreign Unitholder Units redeemed by the Redemption Nominee on behalf of the relevant Ineligible Foreign Unitholder, less any costs, expenses or liabilities incurred by the Redemption Nominee in connection with the redemption of the Ineligible Foreign Unitholder Units;

**Ineligible Foreign Unitholder Units** means LIF Units issued to the Redemption Nominee that the Ineligible Foreign Unitholders would have been entitled if they had participated fully in the Scheme Merger;

**Lanyon RE** means Lanyon RE Services Limited (ACN 661 585 815) as trustee for LIF;

**Law** includes an act of any Parliament, code, ordinance, statute or any rules, regulations, by-laws, orders or other subordinate legislation;

**Liabilities** means any and all liabilities of any nature recognised by generally accepted accounting principles and practice, whether such liabilities are absolute, accrued, actual, contingent, present or future, liquidated or unliquidated, matured or unmatured (which the Responsible Entity decides should be taken into account when determining liabilities of the Trust) including without limitation, any Taxes, imposts or duties (however called or imposed) of any nature whatsoever but excluding any amounts included as liabilities for accounting purposes reflecting funds available to pay Unitholders;

**LIF** means Lanyon Investment Fund (ARSN 670 944 242);

**LIF Units** means units in LIF;

**Liquid** shall have the meaning ascribed in section 601KA of the Corporations Act;

**Management Fee** means any fee payable to the Responsible Entity for acting as the responsible entity of the Trust as set out in clause 16.7;

**Minimum Investment Amount** means the amount determined by the Responsible Entity from time to time as the minimum investment amount to be made by a Unitholder or new applicant;

**Minimum Unitholding** means the amount determined by the Responsible Entity from time to time as the usual minimum number of Units or value of Units to be held by a Unitholder;

**Month** means calendar month;

**Net Asset Value** means in relation to the Trust such sum as is from time to time ascertained and fixed by the Responsible Entity by deducting from the aggregate of:

- (a) the value of the Assets; and
- (b) any other amounts which, in the opinion of the Responsible Entity, should be included in such aggregate for the purpose of making a fair and reasonable determination of the value of the Trust in accordance with generally accepted accounting standards and principles current from time to time and otherwise consistent with ordinary commercial practice for determination of the value of assets of a similar nature to the Assets,

the aggregate of:

- (c) all Liabilities of the Trust; and
- (d) any other amounts which, in the opinion of the Responsible Entity, should be included in such aggregate for the purpose of making a fair and reasonable determination of the value of the Trust in accordance with generally accepted accounting standards and principles current from time to time (including, without limitation, any provision for payment of fees to the Responsible Entity) and otherwise consistent with ordinary commercial practice for determination of the amount of Liabilities of the Trust;

**Net Income** means:

- (a) net income of the Trust within the meaning of section 95(1) of the Income Tax Act; or
- (b) if the Responsible Entity so decides in writing, net income as calculated under any other generally accepted accounting method;

**Notice** or **notice** means a notice, circular, statement, document, communication or information;

**Ordinary Resolution** means a resolution passed at a meeting of Unitholders duly convened and held in accordance with the provisions of this Constitution by a majority of the persons voting at the meeting (whether present in person or by attorney, proxy or representative) upon a show of hands and if a poll is validly demanded then by a majority of the votes cast on such poll;

**Performance Fee** means the performance fee calculated and referred to in clause 16.7(e);

**person** includes Company, trust (including a person or body of persons acting on behalf of a trust), firm or body of persons;

**Product Disclosure Statement** means a product disclosure statement or other disclosure document of the Trust issued in accordance with the Corporations Act;

**Register** means the register of Unitholders to be maintained by the Responsible Entity pursuant to clause 14;

**Regulations** means the Corporations Regulations;

**Related**, when used in relation to a Company, has a meaning consistent with section 50 of the Corporations Act;

**Relevant Person** means, for the purpose of clause 21, a person who at any time is, was or becomes a Unitholder or the successor, executor, administrator or assign of any such person;

**Redemption Price** means the price at which an individual Unit may be redeemed pursuant to clause 10, as determined by the Responsible Entity from time to time in accordance with this Constitution and the Product Disclosure Statement;

**Resolution** means a Special Resolution or an Ordinary Resolution;

**Responsible Entity** includes any company appointed to undertake the management and to be the responsible entity of the Trust pursuant to the provisions of this Constitution (whether original, additional or substituted);

**Redemption Nominee** means a person appointed by the Responsible Entity for the purposes of carrying out the role described in clause 25.6(c);

**Scheme Merger** means the proposal that has been approved by the passing of the Special Resolution for the acquisition by Lanyon RE of all of the Units in exchange for consideration to be provided to each Unitholder in the form of the issue of the number of LIF Units calculated in accordance with clause 25.2(a);

**Scheme Merger Approval** means the date that a Special Resolution for the implementation of the Scheme Merger was passed at a meeting of Unitholders to amend this Constitution to adopt clause 25 and to make consequential amendments to this Constitution;

**Scheme Merger Record Date** means the date that is the first Business Day following the Scheme Merger Approval, or such other date agreed in writing between the Responsible Entity and Lanyon RE;

**Special Resolution** means a resolution passed at a meeting of Unitholders duly convened and held in accordance with the provisions of this Constitution by a majority consisting of not less than 75% of the persons voting at the meeting (whether present in person, or by attorney, proxy or representative) upon a show of hands and if a poll is validly demanded then by a majority consisting of not less than 75% of the votes cast on such poll;

**Specified Time** means the time of day determined from time to time by the Responsible Entity and stated in the Product Disclosure Statement or other offering document or otherwise by notice to Unitholders as a reference point for dealing with applications or redemptions;

**Subscriptions** means the contributions to be made by the Unitholders in accordance with clause 5;

**Taxable Income** means so much of the Income of the Trust as the Responsible Entity determines to be “taxable income” as that term is defined in the Income Tax Act;

**Taxation Amount** for the purpose of clause 21, means in relation to a Relevant Person an amount of relevant Tax referable to that Relevant Person including, without limitation, an amount of relevant Tax imposed on account of or in respect of:

- (a) that Relevant Person;
- (b) a receipt or deemed receipt from, on behalf of, or in relation to, that Relevant Person;
- (c) a sum paid or payable to or applied or applicable on behalf of that Relevant Person or a Unit registered in the name of or transferred to or by that Relevant Person;
- (d) an amount of relevant Tax which that Relevant Person is primarily liable to pay; and
- (e) an amount paid or payable to any person intended bona fide to reimburse that person for an amount of relevant Tax referred to in this definition which is paid or payable by that person;

**Taxes** includes, without limitation, any:

- (a) present or future stamp or documentary taxes, or any other excise or property taxes, charges or similar levies, interest, penalties, charges, fees or other amounts (if any) imposed, levied, collected, withheld or assessed which arise from any payment made to or by the Custodian or the Responsible Entity under this Constitution or the Custodian Agreement or any other instrument delivered under this Constitution or which are imposed on the Custodian or the Responsible Entity in respect of the Trust or any of the Authorised Investments of the Trusts;
- (b) taxes, levies, imposts, duties, deductions or withholdings (however called), interest, penalties, charges, fees or other amounts (if any) imposed, levied, collected, withheld or assessed of any nature whatsoever, whensoever and howsoever imposed, and all liabilities which arise from any payment made to or by the Custodian or the Responsible Entity under this Constitution or the Custodian Agreement or any other instrument delivered under this Constitution;
- (c) taxes, interest, penalties, charges, fees or other amounts (if any) imposed, levied, collected, withheld or assessed upon Subscriptions, the Trust, or the Income, capital gains, profits, transactions, accounts, accruals, receivables, or any change in the worth or value of the Assets or the Authorised Investments or the Custodian, the Responsible Entity or both of them in their respective capacities as trustee or manager of the Trust,
- (d) all such taxes and imposts, to include, without limitation, all imposts, financial institutions duty, debits tax, withholding tax, stamp or documentary taxes, or any other excise or property taxes, charges or similar levies (howsoever called) imposed, levied, collected withheld or assessed by Australia or any political subdivision in, or of, Australia or any other jurisdiction whether within or outside Australia from, or to, which a payment is made by or on behalf of, a Unitholder or pursuant to any legislation enacted, proclaimed or otherwise brought into operation by any of the foregoing;



**Total Subscription Amount** means the total of monies raised by the issue of Units;

**Transaction Costs** means:

- (a) when calculating the Application Price of a Unit, the Responsible Entity's estimate of the total cost of acquiring the Assets; and
- (b) when calculating the Redemption Price of a Unit, the Responsible Entity's estimate of the total cost of selling the Assets,

provided that subject to the Corporations Act the Responsible Entity may in connection with any particular application or request or redemption of Units deem these costs to be a lesser sum or zero;

**Trust** means the Lanyon Australian Value Fund and all of the Units;

**Trust Document** means this Constitution and any other document to which the Responsible Entity is a party in its capacity as the trustee and responsible entity of the Trust;

**Unit** means an interest in the Trust as referred to in clause 4.2(a);

**Units on Issue** means all Units for the time being created and issued and not cancelled but in relation to a particular day shall not include Units which are redeemed on that day;

**Unitholder** means a person for the time being registered under the provisions of this Constitution as the holder of Units in the Trust;

**Valuation** when used in relation to the Assets means the valuation conducted pursuant to clause 18;

**Valuer** means a valuer or valuers appointed in writing solely by the Responsible Entity;

**Withdrawal Request** means a Notice from a Unitholder pursuant to clause 10 that the Unitholder wishes for all of their Units to be redeemed or repurchased.

## **2.2 Interpretation**

In this Constitution:

- (a) the captions headings and marginal notes in this Constitution contained are inserted only as a matter of convenience and in no way define, limit, describe or affect the scope, intention, construction or effect of any of the provisions contained or implied in this Constitution;
- (b) words importing any gender include the other gender and the plural includes the singular and vice versa;
- (c) unless otherwise defined, a word or phrase which is given a special meaning by the Corporations Act shall, where the context permits, have the same meaning in this Constitution except that to the extent of any inconsistencies between meanings in this Constitution and the Corporations Act, the meaning given by this Constitution shall prevail;

- (d) all references to any clause or provision of this Constitution are references to such clause or provision as modified, altered or varied from time to time in accordance with this Constitution;
- (e) all references to sums of money are to amounts in Australian dollars unless otherwise expressly stated;
- (f) all references to time mean Brisbane local time;
- (g) all references to a Law, whether referred to as such or by name (whether that name is the one currently used or a superseded one), in this Constitution include that Law for the time being in force, as amended, or re-enacted, from time to time and any Law enacted in lieu of such Law, whether or not passed by the same Parliament and whether or not incorporating or adopting (wholly or in part) any Law passed by another Parliament, and all references to a section, clause or other provision (or any part of a section, clause or provision) in any such Law shall be read in a corresponding manner;
- (h) the Schedules to this Constitution form part of it.

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### **3. Commencement**

Commencement of this Constitution will occur upon ASIC registering the Trust as a managed investment scheme.

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## **4. The Trust**

### **4.1 The Scheme**

- (a) The Responsible Entity hereby declares that it shall stand possessed of the Assets upon trust for the Unitholders and with the powers and subject to the provision in this Constitution.
- (b) The Trust is called the Lanyon Australian Value Fund or such other name as the Responsible Entity from time to time designates.
- (c) The appointment of the Responsible Entity as responsible entity of the Trust is hereby confirmed and the Responsible Entity agrees to manage the Trust upon and subject to the terms and conditions contained in this Constitution.
- (d) The Assets vest in the Responsible Entity, but must be clearly identified as property of the Trust and held separately from the assets of the Responsible Entity and any other managed investment scheme if and so to the extent that the Corporations Act so requires.
- (e) The Responsible Entity may at any time enter into a Custodian Agreement with the Custodian whereby the Custodian will agree to act as the Custodian for the Trust.
- (f) In the event that the Responsible Entity appoints a Custodian, the Custodian pursuant to the Custodian Agreement shall hold the title to the Assets.
- (g) This Constitution is made with the intention that the benefits and obligations under this Constitution may enure not only to the Responsible Entity but also to the extent

provided to every Unitholder and the Units shall be held upon and subject to the provisions contained in this Constitution.

- (h) The terms and conditions of this Constitution shall be binding on the Responsible Entity and each Unitholder and all persons claiming through them respectively as if each such Unitholder was a party to this Constitution.
- (i) The Responsible Entity shall ensure that the Custodian (if appointed) opens and conducts such bank accounts as are necessary to hold any application moneys for subscriptions and also to hold any moneys of the Trust.

## **4.2 Units**

- (a) The beneficial interest in the Trust shall be divided into Units and every Unit shall confer on its holder an equal interest in the Trust but shall not confer any interest in any particular part of the Assets.
- (b) All of the Units shall rank equally except as provided to the contrary in its Constitution.
- (c) A Unitholder must not interfere with any rights or powers of the Responsible Entity or the Custodian, exercise a right in respect of an Asset, lodge any notice affecting an Asset or otherwise claim any interest in any particular Asset or require an Asset to be transferred to the Unitholder.
- (d) The Responsible Entity may at any time consolidate or divide the number of Units on issue or any basis it determines.
- (e) Where any calculation performed under this Constitution or the terms of a Withdrawal Request results in the issue or redemption of a fraction of one Unit, that fraction may be rounded down or up to such number or decimal places as the Responsible Entity determines.
- (f) The provisions of the Constitution relating to Units and Members apply to fractions of Units in the proportion which the fraction bears to one Unit.
- (g) Any excess application or other money or property which results from rounding becomes an Asset of the Trust.

## **4.3 Record date**

Unless otherwise provided in this Constitution, the Responsible Entity will determine the record or similar date for determining Unitholders' entitlements including their entitlements to participate in new issues and distributions of income and capital [and their entitlements to participate in the Scheme Merger](#).

---

# **5. Subscriptions**

## **5.1 Payment**

Each applicant shall at the time of lodging an application for a Unit pursuant to the Product Disclosure Statement pay to the Responsible Entity the Subscription. Payment must be in cash or such other means as the Responsible Entity accepts.

## 5.2 Application

- (a) No person shall be eligible to become a Unitholder unless that person's Subscription is accompanied by an Application Form or other documentation acceptable to the Responsible Entity.
- (b) The Responsible Entity will ensure that, if the Responsible Entity receives any Subscription prior to receiving the applicant's Application Form, the Responsible Entity will (or will cause the Custodian to):
  - (1) hold such Subscription in a trust account, on trust for the applicant, until the applicant's Application Form is received;
  - (2) if the applicant's Application Form has been received by the Responsible Entity within 30 days (or such longer period as determined by the Responsible Entity) after the Subscription has been received, apply the moneys, excluding interest (if any) earned on the Subscription which the Responsible Entity shall be entitled to retain (for its own benefit), as soon as practicable after being advised, but no later than the close of business on the next Business Day after being advised; and
  - (3) if the applicant's Application Form has not been received by the Responsible Entity within 30 days (or such longer period as determined by the Responsible Entity) after the Subscription is received, return the Subscription, excluding interest (if any) earned on the Subscription which the Responsible Entity shall be entitled to retain (for its own benefit) as soon as practicable.
- (c) The Responsible Entity will ensure that, if the Responsible Entity gives any Subscription to the Custodian prior to the Responsible Entity receiving the applicant's Application Form, the Custodian will:
  - (1) hold such Subscription in a trust account, on trust for the applicant, until the applicant's Application Form is received;
  - (2) if the Responsible Entity advised the Custodian that the form has been received by the Responsible Entity within 30 days after the Subscription has been received, apply the moneys, excluding interest (if any) earned on the Subscription which the Responsible Entity shall be entitled to retain (for its own benefit), as soon as practicable after being advised, but no later than the close of business on the next working day after being advised; and
  - (3) if the Responsible Entity advised the Custodian that the form has not been received by the Responsible Entity within 30 days after the Subscription is received, return the Subscription, excluding interest (if any) earned on the Subscription which the Responsible Entity shall be entitled to retain (for its own benefit), less any Taxes and bank and other charges to the Unitholder as soon as practicable.

---

## **6. Application for Units**

### **6.1 Product Disclosure Statement**

The Responsible Entity shall not offer any Unit for subscription or purchase, or issue invitations to subscribe for or buy Units, unless such offer is made pursuant to a Product Disclosure Statement (or such other document as required by the Corporations Act) in relation to those Units.

### **6.2 Application Price**

- (a) Subject to clause 5.2, a Unit must only be issued at an Application Price calculated as:

$$\frac{\text{Net Asset Value (NAV) + Transaction Costs}}{\text{Number of Units on issue}}$$

or calculated using such other method as is permitted by Law.

- (b) Subject to clause 6.2(c), each of the variables in clause 6.2(a) must be determined as at the next Valuation after:
- (1) the Responsible Entity accepts the application for Units; or
  - (2) the Responsible Entity receives the Subscription, or the property against which Units are to be issued is vested in the Responsible Entity,
- whichever happens later.
- (c) If the Responsible Entity has determined a Specified Time, and the application is received after the Specified Time on a Business Day, the variables in clause 6.2(a) must be determined as if the application had been received immediately after the next Valuation following the Specified Time for that Business Day.
- (d) The Application Price may be rounded as the Responsible Entity determines. The amount of the rounding must not be more than 1% of the Application Price.

### **6.3 Applications**

- (a) The Responsible Entity in its absolute discretion may accept or refuse any application for Units in part or in whole (including, without limitation, from existing Unitholders) and it shall not be required to assign any ground for such refusal and may change the times within which it is required to process the applications for Units.
- (b) Where the Responsible Entity refuses an application for a Unit in part or in whole, it shall give written notice of its refusal to the applicant, and shall return to the applicant the Subscription, excluding interest (if any) earned on the Subscription which the Responsible Entity shall be entitled to retain (for its own benefit).

- (c) The number of Units to be issued to an applicant whose application for Units is accepted in accordance with clause 6.3(a) shall be calculated in accordance with the following formula:

$$N = S/AP$$

Where N is the number of Units to be issued (rounded down to the nearest integer or on such other basis as the Responsible Entity determines);

S is the Subscription for Units; and

AP is the Application Price for Units.

- (d) The Responsible Entity shall issue each Unit for the Application Price.
- (e) Every person applying for Units shall apply for not less than the Minimum Investment Amount.

#### **6.4 Issue of Units**

Units are taken to be created and issued when:

- (a) the Responsible Entity accepts the application in accordance with clause 6.3(a) and enters the Unitholder on the Register; and
- (b) the Subscription becomes an Asset of the Trust.

#### **6.5 Commencement**

The Responsible Entity shall not issue any Units prior to Commencement.

#### **6.6 Minimum Unitholding**

Unless a Unitholder has submitted a Withdrawal Request for all of their Units pursuant to clause 10, each Unitholder must at all times hold the Minimum Unitholding and the Responsible Entity shall not accept any application for Units, redeem any Units or register any transfer of Units which would result in a Unitholder holding less than the Minimum Unitholding.

#### **6.7 Notice of Issue**

The Responsible Entity shall as soon as practicable after issuing Units to a person send a Notice in accordance with the Corporations Act to the Unitholder confirming the following:

- (a) the amount of their investment in the Trust;
- (b) the amount of Units issued to them and the issue price of such Units;
- (c) their investor number (if any);
- (d) the total number of Units they hold (if subsequent investment); and
- (e) confirmation of their personal details.

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## **7. Income and Distributions to Unitholders**

### **7.1 AMIT regime**

This clause 7 is subject to the operation of clause 8 where the Responsible Entity has resolved to make a choice under clause 8.1(a)(1).

### **7.2 Distributable Income**

- (a) The Responsible Entity must determine the distributable Income of the Trust for each Distribution Period. However, the Responsible Entity may in its sole discretion for such longer period as the Responsible Entity considers reasonable, defer the payment of such distributions where payment of such distributions within that period would result in the Responsible Entity or the Trust having insufficient funds or payment of such distributions would otherwise prejudice the interests of the remaining Unitholders.
- (b) Notwithstanding anything to the contrary contained in this Constitution, the Responsible Entity shall ensure that the Custodian shall make distributions directly to the Unitholders, provided however, that the Responsible Entity shall be entitled to direct the Custodian to deduct from any amount so payable on whatever account an amount on account of any Tax which is payable or subject to deduction or withholding by, or assessed to, the Custodian. The Unitholder will be advised of such deduction at the time the payment or distribution is made and this will be sufficient for the Responsible Entity to discharge its duties under this Constitution in this regard.
- (c) Unless the Responsible Entity determines otherwise prior to the end of the Distribution Period, distributable Income of the Trust will be calculated as follows:
  - (1) in respect of a Distribution Period ending at 5.00pm on a Distribution Calculation Date other than 30 June in any year, an amount calculated as follows:

$$ID = [(N \times I)/U]$$

where:

- ID is the Income Distribution (rounded as the Responsible Entity determines), provided that it does not exceed the Net Income during the Distribution Period;
- N is the number of Units held by the Unitholder at the end of the Distribution Period;
- U is the total number of Units held by all Unitholders at the end of the Distribution Period;
- I is an estimate of the total distributable Income of the Trust for the Distribution Period calculated as if the Distribution Period were a year of income; and

- (2) in respect of an Distribution Period ending on 30 June in any year, an amount calculated as follows:

$$ID = [(N \times I) / U]$$

where:

- ID is the Income Distribution;
- N is the number of Units held by the Unitholder at the end of the Distribution Period;
- U is the number of Units held by all Unitholders at the end of the Distribution Period;
- I is the amount (if any) by which the total distributable Income of the Trust for the Financial Year exceeds the aggregate of the estimates of total distributable Income of the Trust calculated for the purposes of variable I in clause 7.2(c)(1) above in respect of the previous Distribution Periods of the Financial Year.

- (d) The Responsible Entity may decide the classification of any item as being on income or capital account and the extent to which reserves or provisions need to be made.
- (e) The Responsible Entity may separately account for any class or source of income (including capital gains).

### **7.3 Present Entitlement**

A person who at any time during the Financial Year is or has been a Unitholder, is presently entitled to the distributable Income of the Trust for the Financial Year, in the proportion that the Income Distributions made to the Unitholder in respect of the Financial Year bear to the sum of the Income Distributions made to all persons who are or have been Unitholders at any time during the Financial Year.

### **7.4 Allocation of Income Distributions**

Subject to clause 20, the Responsible Entity must allocate and distribute or cause to be allocated and distributed to each Unitholder (and former Unitholder) entitled to the Income Distribution the Income Distribution of the Unitholder (or former Unitholder) for a Distribution Period within 60 days after the end of the period to which it relates or, if the audit (if any) for that period has not been completed, as soon as possible after its completion.

### **7.5 Minimum Distribution**

The Responsible Entity may transfer capital to enable distribution to Unitholders of the minimum amount necessary to avoid the Responsible Entity as trustee of the Trust becoming assessable to pay Tax.

### **7.6 Discretion to Distribute Capital**

The Responsible Entity may determine that there be a distribution of capital or Income of the Trust to Unitholders in proportion to the number of Units held by them respectively at the time



at which the Responsible Entity determines the distribution is to be made. Any distribution may be in cash or in specie.

#### **7.7 Separate Accounts**

The Responsible Entity may keep separate accounts of different categories or sources of income, or deductions or credits for tax purpose, and may allocate income, deductions or credits from a particular category or source to particular Unitholders.

#### **7.8 Reinvestment**

- (a) The Responsible Entity may decide whether to permit or require the Unitholders to reinvest some or all of any Income Distribution to acquire Units.
- (b) If the Responsible Entity decides to permit or require reinvestment, it must notify Unitholders of the procedure for reinvestment and any change in the procedure.
- (c) If reinvestment applies, the Responsible Entity is deemed to have received and accepted an application to reinvest Income Distributions immediately before the next Valuation after the end of the relevant Distribution Period.
- (d) Units issued in respect of applications under clause 7.8(c) are to be issued at the Application Price determined at the last Valuation immediately preceding the end of the relevant Distribution Period calculated as if the Transaction Costs are nil and disregarding the aggregate Income Distributions of all Unitholders for the relevant Distribution Period.
- (e) The Unitholder may elect to change their choice for receiving distribution payments by advising the Responsible Entity at least 10 Business Days (or such other period required by the Responsible Entity) before the end of the relevant Distribution Period.
- (f) If the Unitholder advises the Responsible Entity of such a change within 10 Business Days before the end of the relevant Distribution Period, the Responsible Entity will not be required to effect such change until after that distribution is paid.

#### **7.9 Position on Transfer of Units**

Income in the distribution account when a transfer or transmission of Units is registered remains credited to the transferor.

#### **7.10 Income or Capital**

Subject to any express provisions in this Constitution to the contrary, if any question shall arise as to whether any money or property constitutes income or capital the question shall be determined in accordance with this Constitution and having regard to generally accepted accounting principles and to any provisions of the Income Tax Act which operate to treat receipts and dispositions otherwise than in accordance with generally accepted accounting principles and if any question shall arise as to whether any expense is chargeable against income or capital (or at all) such question shall be determined by the Responsible Entity in accordance with this Constitution.

## **7.11 Accounts**

The Responsible Entity shall send, or cause to be sent, within the time prescribed under any applicable Law of the audit of the accounts of the Trust being completed to each Unitholder:

- (a) a statement of the accounts of the Trust for that Financial Year;
- (b) a copy of the report of the Auditor on the statement set out in clause 7.11(a).

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## **8. Attribution Managed Investment Trust**

### **8.1 Choices**

- (a) The Responsible Entity may, in accordance with the Income Tax Act, resolve to:
  - (1) make a choice that the Trust shall be an attribution managed investment trust (**AMIT**) for the purposes of the Income Tax Act; and
  - (2) where the Responsibility Entity has made a choice under clause 8.1(a)(1), make a choice to treat each class of Units in the AMIT as being a separate attribution managed investment trust for the purposes of the Income Tax Act.

### **8.2 Priority**

Notwithstanding the other provisions of this Constitution which relate to the income of the Trust and to distributions, including but not limited to clause 7, where the Responsible Entity has resolved to make a choice under clause 8.1(a)(1), the provisions of this clause 8 apply with respect to an Income Year for which the choice was made and for each following Income Year during which the Trust is an attribution managed investment trust for the purposes of the Income Tax Act.

### **8.3 AMIT powers**

- (a) Terms used in this clause 8.3 that are not otherwise defined in this Constitution have the same meaning given to them in the Income Tax Act.
- (b) The attribution model of taxation as set out in Division 276 of the Income Tax Act (or any successor provisions) applies to the Trust where the Responsible Entity has resolved to make a choice under clause 8.1(a)(1).
- (c) Subject to clause 8.3(d), and without limiting its other rights and powers provided for under this Constitution, the Responsible Entity may make any determination or choice, and may take any action which it can or is required to make or take under the Income Tax Act for the relevant Income Year, including, but not limited to:
  - (1) the determination of the taxable income of the Trust or each class or Units;
  - (2) the determination of assets and liabilities attributed to a class of Units;
  - (3) the determination of the trust component and determined trust component of a particular character of the Trust or each class of Units, including the determination of the particular character of an item and the timing of its inclusion in a trust component and a determined trust component;

- (4) the attribution of the member component and determined member component of a particular character for each Unitholder (including a former Unitholder);
  - (5) the making of alterations to the relevant trust components and determined trust components and the relevant member components and determined member components as a result of any unders or overs (those terms having the definitions attributed to them in Division 276 of the Income Tax Act);
  - (6) the giving of an annual statement, within the period set out in the Income Tax Act, to each Unitholder (including a former Unitholder for the relevant Income Year) which includes information that reflects:
    - (A) the amount and character of each member component of the Unitholder (or a former Unitholder); and
    - (B) any cost base adjustment in respect of the Units of the Unitholder (or of a former Unitholder); and
  - (7) the amendment of an annual statement that has been issued to a Unitholder (or a former Unitholder), and the basis upon which the annual statement issued is to be amended.
- (d) In making a determination or choice, or in taking an action, as contemplated by clause 8.3(c), the Responsible Entity must ensure that any determination, allocation or attribution is made on a fair and reasonable basis.

#### **8.4 Redemption of withdrawal**

The Responsible Entity is entitled to attribute the determined trust component to determine the member component and determined member component of a particular character in respect of an Income Year to be attributed to a Unitholder, pursuant to clause 8.3, upon a redemption or withdrawal (or any other similar action) of Units by that Unitholder.

#### **8.5 Determinations by Responsible Entity**

Notwithstanding any other provision of this Constitution, the Responsible Entity is entitled to determine the amount to be distributed to Unitholders for an Income Year.

#### **8.6 Division 276 notice**

Notwithstanding any other provision of this Constitution, if the Responsible Entity has given a statement to a Unitholder in accordance with Division 276 of the Income Tax Act (or any successor provisions), the Responsible Entity is not required to otherwise notify a Unitholder of their proportionate share of the Trust's income or capital, including income of the trust estate or net income calculated under Division 6 of the *Income Tax Assessment Act 1936* as if the choice in clause 8.1(a)(1) had not been made.

#### **8.7 Indemnity**

Subject to the Corporations Act, the Responsible Entity is entitled to be indemnified out of the assets of the Trust for:

- (a) any tax liabilities incurred by the Responsible Entity as a result of the application of clause 8.3; or

- (b) any liability that results from a Unitholder (or a former Unitholder) making a claim against the Responsible Entity in relation to a tax liability of the Unitholder (or a former Unitholder) that results from the application of clause 8.3,

together with any other costs, expenses or liabilities incurred by the Responsible Entity as a result of incurring any such liability.

## **8.8 Definitions**

For the purposes of this clause 8, Income Year means "*income year*" as defined in the Income Tax Act, unless the context requires otherwise.

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## **9. Period, termination and winding up of the Trust**

### **9.1 Commencement**

The Trust commenced when the first Unit was issued on 1 July 2010.

### **9.2 Period**

The Trust will, subject to the provision for earlier determination elsewhere in this Constitution, determine and be wound up on the earlier of:

- (a) the 80th anniversary of the day before the Trust commenced;
- (b) the date specified by the Responsible Entity as the date of termination of the Trust in a notice given to Unitholders; and
- (c) the date on which the Trust terminates in accordance with another provision of this Constitution or by Law.

### **9.3 Termination and Wind Up**

- (a) If the Responsible Entity is removed or retires from the management of the Trust, and the relevant meeting does not appoint a replacement responsible entity, or the replacement responsible entity appointed by the meeting does not accept that appointment, then the Responsible Entity must determine the Trust and the provisions of clause 9.3(c) shall apply to such determination.
- (b) If:
  - (1) at a meeting of Unitholders an Extraordinary Resolution is passed directing the Responsible Entity to wind up the Trust; or
  - (2) the Court makes an order directing the Responsible Entity to wind up or determine the Trust,

then the Responsible Entity shall do so and the provisions of clause 9.3(c) shall apply.

- (c) Upon determination of the Trust the Responsible Entity shall make allowance for any and all Liabilities and deduct all fees, costs, expenses and Taxes provided for in this Constitution, may realise such Assets as is necessary or desirable to give effect to this clause and may either make an in specie distribution of the Assets or distribute the proceeds of any realisation of the Assets (or a combination of in specie

distribution and distribution of the proceeds) among the Unitholders in proportion to the Units in respect of which they are respectively registered as holders provided always that the Responsible Entity shall be entitled to retain its costs, charges and expenses under clauses 16.7 and 16.10 and shall be entitled to retain for so long as it thinks fit such amount which in its opinion may be required to meet all claims, demands and expenses incurred or expected to be incurred by the Trust on the determination of the Trust.

- (d) Where the claims, demands and/or expenses incurred as a result of the determination of the Trust exceed the amount retained by the Responsible Entity pursuant to clause 9.3(c), the Responsible Entity shall be indemnified out of any remaining Assets.
- (e) Subject to the Corporations Act, the provisions of this Constitution continue to apply from the date of termination until the date of final distribution under clause 9.3(c), but during that period the Responsible Entity may not accept any applications for Units from a person who is not an existing Unitholder. The Responsible Entity is under no obligation to process redemption requests received after the date of termination.
- (f) Notwithstanding anything to the contrary contained in this Constitution, the Assets may continue to be held and the Trust may be continued if the Responsible Entity reasonably believes it to be in the best interests of the Unitholders to do so.
- (g) Upon determination of the Trust the Responsible Entity may appoint an Auditor to perform an independent audit of the final accounts of the Trust and shall do so if required by Law.

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## **10. Redemption of Units**

### **10.1 Redemption Price**

- (a) A Unit must only be redeemed at a Redemption Price calculated as:

$$\frac{\text{Net Asset Value (NAV) - Transaction Costs}}{\text{Number of Units on issue}}$$

- (b) Subject to clauses 10.1(c) and 10.1(d), each of the variables in clause 10.1(a) must be determined:
  - (1) while the Trust is Liquid, as at the next Valuation after the Responsible Entity accepts the Withdrawal Request; or
  - (2) while the Trust is not Liquid, at the time the withdrawal offer closes.
- (c) The Responsible Entity may postpone the calculation of the Redemption Price to the first Valuation following the time at which a circumstance which is relied upon to extend the period for processing a redemption pursuant to clause 10.3(d) has ceased.
- (d) If the Responsible Entity has determined a Specified Time, and the Withdrawal Request is received after the Specified Time on a Business Day, the variables in clause 10.1(a) must be determined as if the Withdrawal Request had been received immediately after the next Valuation following the Specified Time for that Business Day.

- (e) The Redemption Price may be rounded as the Responsible Entity determines. The amount of the rounding must not be more than 1% of the Redemption Price.

## **10.2 Request for Redemption**

- (a) A Unitholder may make a Withdrawal Request for the redemption of some or all of their Units in any manner approved by the Responsible Entity and, while the Trust is Liquid, the Responsible Entity must deal with that request at the time and in the manner set out in this clause 10.
- (b) A Unitholder may not withdraw a Withdrawal Request unless the Responsible Entity agrees.

## **10.3 When Trust is Liquid**

- (a) Clauses 10.3(b) to 10.3(i) apply only while the Trust is Liquid.
- (b) Subject to clauses 9.3(e), 10.3(c) and 10.3(e), the Responsible Entity must satisfy a Withdrawal Request in respect of a Unit by payment from the Assets of the Redemption Price calculated in accordance with clause 10. The payment must be made within 21 days of receipt and acceptance of the request or such longer period as allowed by clauses 10.3(c) or 10.3(d).
- (c) The Responsible Entity may for such period as the Responsible Entity considers reasonable suspend the redemption of Units where such redemption within that period would result in the Responsible Entity of the Trust having insufficient funds or such redemption would otherwise prejudice the interests of the remaining Unitholders.
- (d) If the Responsible Entity has taken all reasonable steps to realise sufficient Assets to satisfy a Withdrawal Request and is unable to do so due to one or more circumstances outside its control such as restricted or suspended trading in the market for an Asset, the period allowed for satisfaction of the request may be extended for such longer period as the Responsible Entity may determine from the date the request was originally required to be satisfied.
- (e) The Responsible Entity need not give effect to a Withdrawal Request in respect of Units having an aggregate Redemption Price of less than the Minimum Unitholding or such other amount as determined by the Responsible Entity from time to time unless the Withdrawal Request relates to the balance of the Unitholder's holding.
- (f) The Responsible Entity is not obliged to pay any part of the Redemption Price out of its own funds.
- (g) If compliance with a Withdrawal Request would result in the Unitholder holding Units with an aggregate Redemption Price which is less than the then current Minimum Unitholding, the Responsible Entity may treat the Withdrawal Request as relating to the balance of the Unitholder's holding.
- (h) If the Responsible Entity increases the Minimum Unitholding, the Responsible Entity may after giving 30 days' notice to a Unitholder who holds Units with an aggregate Redemption Price less than the then current Minimum Unitholding redeem that Unitholder's holding without the need for a Withdrawal Request.

- (i) If a Unitholder holds Units with an aggregate Redemption Price less than the then current Minimum Unitholding, the Responsible Entity may redeem that Unitholder's holding without a Withdrawal Request.

#### **10.4 Discretionary Redemption**

If the Responsible Entity is not obliged to give effect to a Withdrawal Request under the preceding paragraphs, it may redeem some or all of the Units which are the subject of the request.

#### **10.5 When Trust is not Liquid**

- (a) While the Trust is not Liquid, a Unitholder may withdraw from the Trust in accordance with the terms of any current withdrawal offer made by the Responsible Entity in accordance with the provisions of the Corporations Act regulating offers of that kind. If there is no withdrawal offer currently open for acceptance by Unitholders, a Unitholder has no right to withdraw from the Trust.
- (b) The Responsible Entity is not at any time obliged to make a withdrawal offer.
- (c) If the Responsible Entity receives a Withdrawal Request before it makes a withdrawal offer, it may treat the request as an acceptance of the withdrawal offer effective as at the time the withdrawal offer is made. If the Trust becomes non-liquid after a Withdrawal Request, the Unitholder may only withdraw in accordance with the Corporations Act regulating non-liquid schemes.
- (d) Payment to the Unitholder must be made within 21 days of receipt and acceptance of the request.

#### **10.6 Clauses Applicable whether or not the Trust is Liquid**

Clauses 10.7 and 10.9 apply whether or not the Trust is Liquid.

#### **10.7 Sums Owed to Responsible Entity**

The Responsible Entity may deduct from the proceeds of redemption or money paid pursuant to a withdrawal offer any money due to the Trust by the Unitholder.

#### **10.8 Transfer of Assets**

The Responsible Entity may transfer Assets to a Unitholder rather than pay cash in satisfaction of all or part of a Withdrawal Request, pursuant to a withdrawal offer or in payment of a distribution. These Assets with any cash paid must be of equal value to the total amount due to the Unitholder pursuant to the Withdrawal Request, withdrawal offer or distribution (based on a valuation done within one month before the date of the proposed transfer). If the Responsible Entity requires, the costs involved in transfer of these Assets must be paid by the Unitholder or deducted from the amount due to the Unitholder.

## **10.9 Responsible Entity's Power of Compulsory Redemption and to Request Information**

- (a) The Responsible Entity may redeem the Units of any Unitholder without the need for a Withdrawal Request if the Responsible Entity has:
  - (1) reasonable grounds to suspect that the Unitholder has failed, or is likely to fail, to meet any criteria for eligibility of Unitholders, determined from time to time by the Responsible Entity, for the Trust to avoid being subject to income tax on the same basis as if it were a company under the Income Tax Act or for the Trust to avoid other consequences which are detrimental to the Unitholders as a whole; or
  - (2) not received from a Unitholder such information as may have been requested by the Responsible Entity under clause 10.9(b) within 14 days or such other period as the Responsible Entity determines, of the request being made.
- (b) The Unitholder must provide to the Responsible Entity any information the Responsible Entity reasonably requires in order to determine whether or not the Responsible Entity should exercise its discretion to redeem Units under clause 10.9(a).

## **10.10 Entry in Register**

On redemption the Responsible Entity shall make an appropriate entry in the Register specifying the number of Units in the Trust which have been redeemed.

## **10.11 Cancellation**

Units are automatically cancelled upon their redemption.

## **10.12 Notice of redemption**

The Responsible Entity shall, as soon as practicable after redeeming a Unitholder's Units, send a Notice of confirmation of the redemption to the Unitholder in accordance with the Corporations Act.

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# **11. Transfer of Units**

## **11.1 No Right to Transfer**

Unless specified under the Corporations Act, a Unitholder has no right to transfer its Units. Notwithstanding this, the Responsible Entity may in its sole discretion allow a transfer of Units.

## **11.2 Permitted Transfer**

Any consent by the Responsible Entity to the transfer of Units is subject to the following provisions:

- (a) the transferee must agree to be bound by the provisions of this Constitution in a form acceptable to the Responsible Entity; and



- (b) a transfer of the Units in the Trust must be delivered to the Responsible Entity, which transfer must be stamped if required by Law to be stamped and be accompanied by such fee (if any) as is prescribed by the Responsible Entity.

### **11.3 Taxes**

- (a) The Responsible Entity shall not effect any transaction or dealing in any Unit on behalf of, or for the benefit of, or at the request of, any Unitholder unless the Unitholder has paid or otherwise provided for, to the Responsible Entity's satisfaction, all duties, Taxes, governmental charges, transfer fees, registration fees, brokerage fees and other charges (whether similar to the foregoing or not) which may have become or may be payable in respect of the transaction or dealing.
- (b) The Responsible Entity is entitled, if it thinks fit, to pay and discharge all or any of those duties and charges on behalf of the Unitholder concerned and retain the amount so paid out of any moneys to which the Unitholder may be, or become, entitled.

### **11.4 Closed Register**

The Responsible Entity may decline to register any transfer during the period that the Register is closed under clause 14.6.

### **11.5 Instrument of Transfer**

Every instrument of transfer of Units which is registered shall be retained by the Responsible Entity for such period as the Responsible Entity may determine, after which (subject to the provisions of any Law or this Constitution to the contrary) the Responsible Entity may destroy it.

### **11.6 Refusal to Register**

Where the Responsible Entity refuses to register any instrument of transfer, within two months after the date on which the instrument was deposited with the Responsible Entity the Responsible Entity shall give notice of the refusal to the person who deposited it, and any instrument of transfer which the Responsible Entity refuses to register shall (except in the case of suspected fraud) be returned to the person depositing it upon request by such person within two months of the giving of the notice. The Responsible Entity shall not be required to give reasons for the refusal.

### **11.7 Confirmation**

- (a) Upon the registration of a transfer of any Units, the Responsible Entity shall, as soon as practicable after the date of such registration, issue to the transferee or transmittee written confirmation of the transfer or transmission.
- (b) The transferor remains the Unitholder of the Units until the Responsible Entity registers the transfer.

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## **12. Transmission of Units**

### **12.1 Deceased Unitholder**

In the case of the death of a Unitholder, the survivor of the deceased Unitholder where the deceased Unitholder was a joint holder of Units, or the executor or administrator of the deceased Unitholder where the deceased Unitholder was the sole Unitholder of Units, shall be the only person recognised by the Responsible Entity as having any title to any Unit registered in the name of the deceased Unitholder. Notwithstanding this, the Responsible Entity has sole discretion to refuse to recognise a survivor, executor or administrator of the deceased Unitholder and shall not be required to give any reasons for the refusal.

### **12.2 Registration**

Subject to clause 12.5, any person becoming entitled to any Unit in consequence of the death or bankruptcy or lunacy of a Unitholder or otherwise by operation of Law may upon such evidence being produced as may from time to time be required by the Responsible Entity and subject as provided in this Constitution elect either to be registered as holder of the Unit or to have some person nominated by that person registered as the holder of the Unit.

### **12.3 Notice**

- (a) Subject to clause 12.5, if the person so becoming entitled shall elect to be registered, the person shall deliver or send to the Responsible Entity a notice in writing in the form prescribed by the Responsible Entity or in such other form as the Responsible Entity may approve signed by the person stating that he so elects.
- (b) If the person so becoming entitled elects to have a nominee registered, the person and the person's nominee shall testify the election by delivering or sending to the Responsible Entity a form of transfer of the Units to that nominee.
- (c) All the provisions of this Constitution relating to the registration or transfer of Units shall be applicable to any such notice or transfer as if the death or bankruptcy or lunacy of the Unitholder had not occurred and the notice or transfer was a transfer executed by such Unitholder.

### **12.4 Entitlements**

A person becoming entitled to Units in consequence of the death, bankruptcy or lunacy of a Unitholder or otherwise by operation of Law shall be entitled to receive and may give a discharge of all moneys payable in respect of the Units but shall not be entitled to receive notices of or to attend or vote at any meetings of Unitholders until the Person shall have become registered as the holder of the Units.

### **12.5 Application for Registration**

For the purposes of this clause 12, an application by a personal representative of a deceased Unitholder for registration as the holder of Units in place of the deceased Unitholder shall be deemed to be an instrument of transfer effecting a transfer of the Unit to the personal representative.

## **12.6 Evidence of Grant**

The production to the Responsible Entity of a document that is under the laws of a State or Territory of Australia sufficient evidence of probate of the will, or letters of administration of the estate of a deceased Unitholder having been granted to a person, shall be accepted by the Responsible Entity as sufficient evidence of the grant.

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## **13. No Assistance with Sales**

Subject to the provisions of this Constitution, the Responsible Entity is not responsible for selling Units or the enforcement of any terms of sale of Units.

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## **14. Registers**

### **14.1 Maintain**

The Responsible Entity covenants that it shall keep and maintain an up-to-date Register of Unitholders at the registered office or principal place of business of the Responsible Entity, or at its designated agent's office, in such form and containing such particulars as are required by the Corporations Act or any declaration, exemption or ruling granted or made under the Corporations Act, and such other particulars as the Responsible Entity may from time to time consider appropriate.

### **14.2 Contents**

Subject to clause 14.1, there shall be entered in the Register:

- (a) the names, addresses and descriptions of the Unitholders from time to time;
- (b) the Units from time to time held by each Unitholder;
- (c) the date at which the name of each Unitholder was entered in the Register in respect of their Units; and
- (d) the date at which any person ceased to be the holder of Units.

### **14.3 Removal of Information**

The information relating to a Unitholder (or any of it) may be removed from the Register at any time after such period of time as prescribed by any and all applicable Law from time to time after the Unitholder ceased to be the holder of Units.

### **14.4 Access**

Subject to clause 14.5, the Responsible Entity covenants that any Unitholder and any other person shall be entitled to:

- (a) inspect the Register, in the case of any Unitholder, free of charge, and in the case of any other person, upon payment for each inspection of the maximum amount prescribed by the Corporations Act or Regulations or such lesser amount as the Responsible Entity may from time to time require; and/or

- (b) obtain a copy of the Register, in the case of the Unitholder or other person, at a charge prescribed by the Responsible Entity from time to time provided that any such charge shall not exceed (for each copy) the maximum amount prescribed from time to time by the Corporations Act or Regulations,

during normal business hours on any Business Day.

#### **14.5 Limitation**

Clause 14.4 shall not require the Responsible Entity to make available or provide copies of the Register in excess of their obligations to do so under the Corporations Act having regard to any declaration or exemption made or given by ASIC.

#### **14.6 Closure**

The Responsible Entity may close the Register or part of the Register for any time or times but so that no part of the Register shall be closed for more than 30 days in the aggregate in each calendar year.

#### **14.7 Alteration**

Each Unitholder shall give the Responsible Entity notice of any change of name or address on the part of such Unitholder and the Responsible Entity, upon receiving such notification, shall alter the Register accordingly.

#### **14.8 Ownership**

The Responsible Entity will not be obliged to register any trust in respect of any Unit and will recognise the Unitholder as the absolute owner of the Units in respect of which it is registered unless otherwise ordered by a court or required by Law.

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### **15. Limitation of Liability and Indemnity in favour of Responsible Entity**

#### **15.1 Limitation on Responsible Entity's liability**

- (a) Subject to and without in any way limiting the covenants given by the Responsible Entity under this Constitution and in accordance with the requirements of the Corporations Act and without prejudice to any indemnity allowed by Law or elsewhere given in this Constitution to the Responsible Entity it is hereby expressly declared as follows:
  - (1) to the maximum extent permitted by Law, the Responsible Entity shall not incur any liability to anyone in respect of any failure to perform or do any act or thing which by reason of any provision of any present or future Law of the Commonwealth of Australia or any State or Territory of Australia or any ordinance rule regulation or by-law made pursuant to such Law or of any decree order or judgment of a competent court the Responsible Entity shall be hindered prevented or forbidden from doing or performing, [including without limitation in relation to the Scheme Merger](#);
  - (2) to the maximum extent permitted by Law, the Responsible Entity shall not be liable to account to any Unitholder or otherwise for any payments made by the Custodian or the Responsible Entity in good faith to any duly empowered

authority of the Commonwealth of Australia or any State or Territory (including any local government authority or semi-governmental instrumentality) of Australia for Taxes or other charges on the Assets or otherwise or with respect to any transaction under this Constitution notwithstanding that any such payment ought not or need not have been made, [including without limitation in relation to the Scheme Merger](#);

- (3) the Responsible Entity may validly act upon the opinion or advice of or information obtained from barristers and solicitors whether instructed by the Responsible Entity or by the Custodian or by the Compliance Committee (if necessary) or by any third party and the Responsible Entity may act upon any statement of or information obtained from the Custodian or any bankers, accountants, Valuers or other persons believed by the Responsible Entity in good faith to be expert in relation to the matters upon which they are consulted and the Responsible Entity shall not be liable for anything done or suffered or not done or suffered by it in good faith (which shall not include any loss occasioned to a Unitholder to the extent that such loss may be attributable to the Responsible Entity's neglect or default) in reliance upon such opinion advice statement or information provided that any such barristers, solicitors, bankers, accountants, Valuers and other persons consulted are independent of the Responsible Entity, [including without limitation in relation to the Scheme Merger](#);
- (4) except so far as is otherwise expressly provided in this Constitution, the Responsible Entity shall as regards all the trusts, powers, authorities and discretions vested in it have absolute and uncontrolled discretions as to the exercise whether in relation to the manner or as to the mode of and time for the exercise and in the absence of fraud or breach of trust the Responsible Entity shall be, to the maximum extent permitted by Law, in no way responsible for any loss costs damages or inconvenience that may result from the exercise or non-exercise, [including without limitation in relation to the Scheme Merger](#);
- (5) subject to any statute or rule of law, nothing in this Constitution shall prevent the Custodian or any subsidiary of the Custodian or the directors or officers of the Custodian or of such subsidiary or the Responsible Entity or any subsidiary or holding company of the Responsible Entity or the directors or officers of the Responsible Entity or of such subsidiary or holding company from at any time contracting or acting in any capacity as representative or agent or entering into any financial, banking, agency or other transaction with the other of them or any Unitholder or any company in or with which any part of the Assets are invested by the Custodian in the performance of any of the duties or obligations imposed upon the Responsible Entity pursuant to the terms of this Constitution, [including without limitation in relation to the Scheme Merger](#);
- (6) all powers authorities and discretions vested in and all indemnities allowed to trustees pursuant to the provisions of the Trusts Act 1973 (Qld) or in equity or at common law are deemed to be included in this Constitution and all such powers authorities and discretions are vested in and such indemnities are allowed to the Responsible Entity, [including without limitation in relation to the Scheme Merger](#);

- (7) the Responsible Entity shall be entitled to commence, institute, carry on and prosecute all actions, suits and proceedings at Law to procure compliance with the provisions of this Constitution or the terms of any Product Disclosure Statement, and to obtain and recover any moneys payable to it or to enforce the payment or for damages against any person arising out of any loss suffered by Unitholders and to pursue the same to judgment, decree, order and execution or to discontinue, become non-suited in or abandon or otherwise to act as the Responsible Entity or Custodian may determine, and the Responsible Entity and Custodian shall be indemnified in respect of all costs, charges and expenses incurred by it in respect to any such action, suit or proceeding, [including without limitation in relation to the Scheme Merger](#).

## **15.2 Indemnity in favour of Responsible Entity**

- (a) The Responsible Entity is entitled to be indemnified out of the Assets for any liability incurred by it in properly performing or exercising any of its powers or duties in relation to the Trust, [including without limitation in relation to the Scheme Merger](#), except to the extent that the Corporations Act imposes such liability.
- (b) To the maximum extent permitted by the Corporations Act, the indemnity under clause 15.2(a) includes any liability incurred as a result of any act or omission of a delegate or agent appointed by the Responsible Entity.
- (c) This indemnity is in addition to any indemnity allowed by Law. It continues to apply after the Responsible Entity retires or is removed as trustee of the Trust.

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## **16. Rights, Powers, Duties and Covenants of and by the Responsible Entity**

### **16.1 Powers**

- (a) Subject to any limitations contained in the Corporations Act or under the law of trusts generally, the Responsible Entity shall have all the powers of a natural person and a body corporate as though it is the absolute and beneficial owner including, without limitation, to borrow monies, raise monies, to acquire, subscribe for, sell, dispose of and otherwise deal with the Authorised Investments and Assets.
- (b) The Responsible Entity has the power to classify and re-classify the whole or any portion of the Units on Issue with the prior consent of the relevant Unitholder(s).
- (c) The Responsible Entity has the power to issue different classes of Units in consultation with any applicant for such Units (including, without limitation, the power to issue Units designated as different classes but otherwise with the same rights).
- (d) Without limiting clause 16.1(a):
- (1) the Responsible Entity may in its capacity as trustee of the Trust invest in, dispose of or otherwise deal with Authorised Investments in its absolute discretion;
- (2) the Responsible Entity may invest in any Authorised Investments as the Responsible Entity thinks fit and the Responsible Entity may exchange any Authorised Investment for any other investment, vary the term of any Authorised Investment and surrender any Authorised Investment.

## 16.2 Suspension

- (a) Despite anything expressed or implied to the contrary in this Constitution, the Responsible Entity may suspend the issue or redemption of Units or the calculation of the Application Price or Redemption Price for such time as:
- (1) any relevant financial, stock, bond, note, derivative or foreign exchange market is closed;
  - (2) trading on any such market is restricted;
  - (3) an emergency (including an emergency caused by a mechanical or electronic malfunction) exists as a result of which it is not reasonably practicable for the Responsible Entity to acquire or dispose of the Assets or to determine fairly the Application Price or the Redemption Price;
  - (4) any state of affairs exists as a result of which it is not reasonably practicable for the Responsible Entity to acquire or dispose of the Assets or to determine fairly the Application Price or the Redemption Price; or
  - (5) any moratorium declared by a government of any country in which a significant proportion of the Trust is invested exists,
- if it determines that it is desirable for the protection of the Trust or in the interests of the Unitholders (as a whole) to do so.
- (b) The Application Price or Redemption Price for Units the subject of an application for Units or a Withdrawal Request accepted by the Responsible Entity before the suspension but for which the Application Price or Withdrawal Price has not yet been determined, or received and accepted by the Responsible Entity during the suspension, shall be the Application Price or Withdrawal Price next determined after the end of the suspension.

## 16.3 Rights and Duties

The Responsible Entity will:

- (a) ensure that the Authorised Investments are purchased, held and sold by the Custodian on the terms of this Constitution and the Product Disclosure Statement;
- (b) ensure that the Authorised Investments are valued in accordance with clause 18;
- (c) disclose to Unitholders, on request:
  - (1) its instructions to a Valuer;
  - (2) the current valuation of the Authorised Investments; and
  - (3) the last calculated Redemption Price of the Units;
- (d) provide the Valuer with all information the Valuer may reasonably require to make an accurate, fair and reasonable valuation;

- (e) keep the Custodian fully informed of the identity of the Authorised Investments and any policy of the Responsible Entity in respect of the proportion of the value of the Assets attributable to borrowings and the conditions attached to borrowings;
- (f) take or defend any court or arbitration action to protect the Units or any of the Authorised Investments;
- (g) deal with any authorities, public or otherwise;
- (h) keep records relating to all financial transactions and prepare any necessary income tax and other returns to report on such matters to Unitholders and to pay related costs and expenses;
- (i) appoint the Auditor, Compliance Committee (if necessary) and Auditor of the Compliance Plan;
- (j) cause the Custodian to operate any bank accounts and cheque accounts as are deemed necessary by the Responsible Entity;
- (k) appoint any financial, legal, accounting, valuation or other expert to advise the Responsible Entity in relation to the exercise of the Responsible Entity's authorities referred to in this clause;
- (l) generally to do all things necessary to give effect to this Constitution;
- (m) adopt and maintain the complaints resolution procedure in clause 24.11;
- (n) appoint such suitably qualified and experienced persons as authorised representatives under the AFSL;
- (o) specify its investment policy in the Product Disclosure Statement, but nothing shall prevent the Responsible Entity from varying that policy from time to time; and
- (p) perform such Additional Fund Administration Services that it reasonably determines are necessary for the management or administration of the Trust from time to time.

#### **16.4 Covenants of the Responsible Entity**

Subject to the provisions of clause 1, the Responsible Entity hereby covenants with the Unitholders with the intent that the benefit of the covenants shall enure to the Unitholders jointly and to each of them severally that:

- (a) it will strive to carry on and conduct its business in a proper and efficient manner and to ensure that the business, undertaking, enterprise or scheme to which this Constitution relates is carried on and conducted in a proper and efficient manner;
- (b) it will prepare all cheques and notices which are to be issued as provided in this Constitution and stamp the same as required and produce the same, or in the case of cheques to Unitholders for distribution of income, details of the same, to the Custodian so as to afford the Custodian reasonable time to examine and check the same and to sign, or in the case of cheques to Unitholders for distribution of income, to authorise the Responsible Entity to sign (by autographical, mechanical or other means) such cheques and notices for dispatch by the Responsible Entity on or before the day on which they ought to be dispatched;



- (c) it will keep proper books of account wherein it will record capital receipts and expenditures and Income receipts and other costs fees expenses disbursements and all other payments and outgoings and accruals and outgoings properly chargeable against Income of the Trust together with a record of the Authorised Investments;
- (d) it or its agents servants or officers shall manage and supervise the Authorised Investments and it shall endeavour to ensure that the Authorised Investments are dealt with to the advantage of the Unitholders;
- (e) it will perform its transactions and exercise its powers under this Constitution in the best interests of all Unitholders and not in the interests of the Responsible Entity if those interests are not the same as those of Unitholders generally;
- (f) subject to clause 16.4(e), it will treat holders of Units equally and fairly;
- (g) it will in any Product Disclosure Statement and other representations relating to the Trust direct that all cheques and other payment orders in respect of an application for Units be drawn in favour of the Custodian on account of the Trust;
- (h) it will advise the Custodian if it becomes aware, or should be aware, that an Associate of the Responsible Entity will be party to a transaction involving the Authorised Investments;
- (i) it will lay the latest audited accounts before a meeting convened in accordance with the Corporations Act;
- (j) it shall provide to each Unitholder and any relevant regulatory authority any report required to be provided by Law;
- (k) it will lodge for each Financial Year such tax returns as is necessary showing each Unitholder's share of Income of the Trust and expenditure of the Trust in accordance with Income Tax Act;
- (l) it will for each Financial Year forward to each Unitholder a statement of the tax position for the Financial Year of the Trust;
- (m) it will not exercise a right to vote attached to a Unit held by or on behalf of it or its Associates in relation to a resolution calling for the retirement of the Responsible Entity;
- (n) it will report to the Unitholders not later than 90 days after the end of each Financial Year and give the report to the Unitholders with the statement of accounts;
- (o) it will review in the report the operation of the Trust in the Financial Year to which the report relates and, in particular, will include in the report a statement on each of the following matters:
  - (1) the principal activities of the Trust;
  - (2) the policies for investment and borrowing by the Trust, any changes in those policies and the manner in which those policies have been given effect;
  - (3) any fees and charges paid in relation to the affairs of the Trust to the Responsible Entity, or any Associate of the Responsible Entity, showing

separately initial service charges, management fees, ongoing service charges and any other fees and charges;

- (4) any interest of the Responsible Entity, or an Associate of the Responsible Entity, shown separately, in the Trust:

- (A) held by the Custodian on behalf of the Unitholders; or

- (B) disposed of by the Custodian on behalf of the Unitholders,

or a statement that there was not an interest of that kind;

- (5) the net amount distributed, or to be distributed, in respect of each Unit to each Unitholder from profits made, or reserves kept, by the Custodian together with the respective gross amounts;

- (6) the details of any bonus issue made;

- (7) any circumstances that materially affect the Unitholders;

- (8) any changes in the value of the Authorised Investments and the Assets and the circumstances in which those changes occurred, distinguishing between realised and unrealised changes.

- (p) it will comply with the conditions to which the AFSL is subject;

- (q) if the Responsible Entity breaches a condition to which the AFSL is subject the Responsible Entity will inform ASIC in writing of the details of the breach in accordance with its obligations at Law.

## **16.5 Delegation**

- (a) The Responsible Entity may engage itself or any other person to manage the Assets or any portion of the Assets.
- (b) Subject to the Corporations Act the Responsible Entity may delegate its authority (by power of attorney, or otherwise) to such persons as it thinks fit including, but not limited to, appointing any financial, legal, accounting, valuation or other expert to advise the Responsible Entity in relation to the exercise of the Responsible Entity's authorities. In particular, without limiting the generality of the Responsible Entity's power under this clause 16.5(b), the Responsible Entity may appoint an investment manager, administration manager, Custodian and other financial, administrative or managerial adviser in its absolute discretion.
- (c) The Responsible Entity may not exercise its power in a manner or to the extent that would cause the Trust to be subject to entity taxation as a non-fixed trust.

## **16.6 Delegation of Additional Fund Administration Services**

- (a) The Responsible Entity may appoint, engage or otherwise contract with a person (**Delegate**) to perform any Additional Fund Administration Services.
- (b) An appointment, engagement or other contract under clause 16.6(a) may be sole, joint, several or joint and several and may include a power in turn for the Delegate to

delegate the performance of any Additional Fund Administration Services to another person, upon which that person also becomes a Delegate.

- (c) Subject to clause 16.6(d), an appointment, engagement or other contract under clause 16.6(a) may be on any terms that the Responsible Entity determines in its absolute discretion, including in relation to remuneration and other compensation. Subject to the terms of this deed, the Responsible Entity is entitled to be indemnified out of the Assets in respect of that remuneration and compensation.
- (d) A Delegate may be an Associate of the Responsible Entity or an officer or employee of an Associate of the Responsible Entity. If and for so long as the Trust is a registered managed investment scheme, the terms on which an Associate is appointed, engaged or contracted must not contravene the terms of this deed or the Corporations Act, including without limitation Chapter 2E of the Corporations Act (as modified by section 601LC of the Act).
- (e) To the extent permitted by law, the Responsible Entity may waive or excuse on any terms it thinks fit any breach by any Delegate of their obligations to the Responsible Entity in connection with the Trust.
- (f) The appointment, engagement or other contracting of a Delegate under clause 16.6(a) does not relieve the Responsible Entity from the obligation to properly perform all of its duties and obligations in respect of the Trust, including to ensure that the services delegated are properly performed.

#### **16.7 Remuneration of Responsible Entity**

- (a) The Responsible Entity or its nominee is entitled to the fees described in this clause 16.7 in relation to the proper performance of its duties, at all times before and after the termination of the Trust.
- (b) The Responsible Entity shall be entitled to retain (for its own benefit) certain fees generally known as trailing fees paid by financial institutions for depositing funds of the Trust with those financial institutions in cash management and similar accounts as well as any rebates of brokerage, any underwriting or sub-underwriting fees or any other fees, rebates, commissions or payments that may be received by the Responsible Entity in the ordinary course of performing its obligations under this Constitution including without limitation the management of the Assets or any portion of the Assets provided that such fees, rebates, commission or payments are not paid out of the Assets.
- (c) The Responsible Entity is entitled to an Entry Fee of up to 2.5% of the consideration payable on an application for Units.
- (d) The Responsible Entity is entitled to a management fee of up to 2.0% per annum of the total value of all Assets, calculated and payable in arrears on the last Business Day of each calendar month or calendar quarter or at other times as the Responsible Entity in its discretion may determine.

- (e) The Responsible Entity is entitled to a Performance Fee in respect of each Unit of up to 20% of:
- (1) the amount of any change (for the period nominated by the Responsible Entity) in the net value of a Unit (after taking into account all liabilities for accrued fees except the Performance Fee);
- less
- (2) the amount of any change in net value of a Unit which would have occurred if the net value of the Unit had changed in accordance with:
    - (A) *S&P/ASX 300 Accumulation Index; or*
    - (B) if that index stops being published or the Responsible Entity determines (in its absolute discretion) that it is not appropriate or convenient, any other index that the Responsible Entity reasonably determines from time to time and notifies to Unitholders,

calculated and payable in arrears on the last Business Day of each calendar month or calendar quarter or at other times as the Responsible Entity in its discretion may determine.
- (f) The Responsible Entity is entitled to an Exit Fee of up to 2.5% of the Redemption Price payable on redemption of Units.
- (g) The Responsible Entity's fees are payable first out of the Income of the Trust, then out of capital of the Trust. The entitlement continues until the Trust is wound up. Neither the termination nor the winding up of the Trust affects the right of the Responsible Entity to be paid any unpaid fees in relation to it.
- (h) The Responsible Entity or its nominee may (when entitled to a fee under this clause 16.7), subject to the Corporations Act, subscribe for that number of Units equal to the amount of the fee divided by the Application Price of Units on the date of issue and applying the fee as payable of the Application Price of those Units. The Units must be issued as soon as reasonably practical after the time the Responsible Entity becomes entitled to the fee. To the extent that the Responsible Entity is entitled to a fee under this clause 16.7 but is not applied for the subscription of Units, the fee may be paid in cash to the Responsible Entity or its nominee (as the case may be) out of the Assets.
- (i) The Responsible Entity in its discretion may, from time to time elect to receive less than the fees referred to in this clause 16.7 in respect of all or any Units or class of Units (whether determined by reference to a minimum balance or on another basis and whether for the life of a particular disclosure document or otherwise) and may pay a Unitholder or Unitholders, whether within a particular class or otherwise, from its own resource, any amount which it in its discretion so determines by way of offset or rebate of fees.
- (j) The Responsible Entity in its discretion may elect to defer receipt of any fee referred to in this clause 16.7 in respect of all or any Units or class of Units for an agreed period. However, any fees so deferred will automatically become due and payable if the Trust is terminated or the Responsible Entity retires, is removed or resigns.

## **16.8 Additional Responsible Entity remuneration for Additional Fund Administration Services**

- (a) The Responsible Entity is entitled, on the terms set out in clauses 16.8(a) to 16.8(d), to take and retain for itself remuneration out of the Assets for time spent by the Responsible Entity in providing Additional Fund Administration Services, payable in arrears on the last Business Day of each calendar month or at other times as the Responsible Entity in its discretion may determine.
- (b) Remuneration under clause 16.8(a) is to be calculated on the basis of bona fide market rates up to a maximum hourly rate of \$1,000 (Australian dollars) per hour, adjusted quarterly to reflect any increase in the 'All groups CPI weighted average of eight capital cities' published by the Australian Bureau of Statistics, in respect of each quarter.
- (c) The Responsible Entity may notify the Unitholders of its current hourly rates for the purposes of clause 16.8(b), and the amounts charged to the Assets under clause 16.8(a) from time to time, but its rights to charge and take those amounts are not prejudiced by a failure to do so or a delay in doing so.
- (d) The Responsible Entity's rights under clause 16.8(a) are in addition to:
  - (1) its rights to fees under clause 16.7; and
  - (2) its rights under this deed and at law to be indemnified in connection with debts, liabilities and expenses incurred by it in the proper performance of its duties as trustee and responsible entity of the Trust.

## **16.9 Retirement entitlement**

- (a) Upon the removal of the Responsible Entity, the Responsible Entity or its nominee will continue to be entitled to (at its sole election), in addition to any other amount that it is entitled to receive under this deed, the Performance Fee for the whole of the Financial Year in which it is removed. The replacement Responsible Entity will not be entitled to the Performance Fee for the Financial Year that the outgoing Responsible Entity is removed. This is on the basis that the financial performance of the Trust for that Financial Year is likely to be mainly attributable to the past efforts of the outgoing Responsible Entity rather than the replacement Responsible Entity.
- (b) The Performance Fee will be calculated by the incoming Responsible Entity and must be paid within 45 Business Days after the last day of the Financial Year following the removal of the outgoing Responsible Entity. Where the outgoing Responsible Entity disputes fees payable as calculated by the incoming Responsible Entity, the fees will be determined by an external valuer independent of each of the Responsible Entities at the request of the replacement Responsible Entity. The determination of the independent valuer will be binding on each of the Responsible Entities. Costs related to the appointment of the independent valuer will be borne equally between the replacement Responsible Entity and the former Responsible Entity.

## **16.10 Outgoings**

- (a) All costs, charges, expenses and outgoings reasonably and properly incurred by the Responsible Entity in the proper performance of its duties, including in connection

with the following matters or of the following nature in relation to the Trust, are payable or reimbursable out of Assets (and if referable to more than one trust, apportioned in a manner determined by the Responsible Entity):

- (1) this Constitution, the Compliance Plan and any supplemental deed;
- (2) the appointment, actions and removal of the Custodian as the trustee of the Assets;
- (3) the preparation, distribution and promotion of a Product Disclosure Statement or other offer documentation in respect of the Trust or Units in the Trust;
- (4) the sale, purchase, insurance, custody and any other dealing with the Assets;
- (5) any proposed investment;
- (6) the administration, management and promotion of the Trust or its Assets and Liabilities;
- (7) convening and holding meetings of Unitholders, the implementation of Resolutions and communications with Unitholders (including without limitation postage);
- (8) Tax (provided it is not on the personal account of the Responsible Entity or Custodian) and bank fees;
- (9) the engagement of agents, valuers, advisers and contractors;
- (10) the preparation and audit of the taxation returns and accounts of the Trust;
- (11) the bookkeeping and maintenance of all appropriate registers of the Trust;
- (12) the termination of the Trust and the retirement or removal of the Responsible Entity and the appointment of a new Responsible Entity;
- (13) any court proceedings, arbitration or other dispute concerning the Trust including proceedings against the Responsible Entity or Custodian by the other of them (except to the extent that the person incurring the expenses is found by a court to be in breach of trust, in default or to have been negligent);
- (14) travelling, hotel and other expenses incurred by any director, employee or agent of the Responsible Entity in going from the person's usual residence or abroad or otherwise for the purpose of the Trust or in the performance of any obligation of the Responsible Entity under this Constitution, including without limitation any expense incurred in the monitoring of investments and the review and assessment of Authorised Investments;
- (15) any brokers' fees or other costs associated with the purchase or sale of securities (including the GST component).
- (16) bank fees, interest, discount and acceptance fees for bill facilities and like amounts;

- (17) dealing with applications for and redemption of Units, and determining the Application Price and Redemption Price; and
  - (18) any restructuring of the Trust [\(including without limitation in connection with the Scheme Merger\)](#).
- (b) Where more than one class of Units is on issue, the Responsible Entity may, subject to the terms of issue of Units, make a determination that any particular cost, charge, expense or outgoing (or part or class of cost, charge, expense or outgoing) is referable to a particular class of Units.

#### **16.11 Payments**

All amounts payable to the Responsible Entity under this Constitution (including without limitation any of the management fees) are expressed as exclusive of GST.

#### **16.12 Sums owed to the Responsible Entity**

- (a) The Responsible Entity may redeem some or all of the Units held by a Unitholder to satisfy any amount of money due to it by the Unitholder on account of any liability arising under this constitution or in connection with the Unitholder, if the Responsible Entity gives the Unitholder ten Business Days' notice of its intention to do so.
- (b) If a Unitholder fails to satisfy any amount of money due to the Responsible Entity under clause 16.12(a) within ten Business Days' of the notice referred to in clause 16.12(a) that Unitholder is deemed to have provided a Withdrawal Request in accordance with clause 10, for such number of Units with a Redemption Price equating to the amount of money due to the Responsible Entity by the Unitholder.

#### **16.13 Buy back or purchase of Units**

The Responsible Entity may, but is under no obligation to, offer to all Unitholders of a class of units, to acquire Units as Assets. The Responsible Entity may elect that Units so acquired may be retained as Assets, sold or redeemed.

#### **16.14 Treatment of Unitholders**

The Responsible Entity, to the extent permitted by Law or any ASIC policy, does not have to treat all Unitholders equally, including by:

- (a) not making a pro rata offer to certain Unitholders; or
- (b) treating professional investors different from other persons.

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### **17. Retirement and Appointment of Responsible Entity**

#### **17.1 Voluntary Retirement**

The Responsible Entity may retire as the responsible entity of the Trust as permitted by the Corporations Act.

## **17.2 Compulsory Retirement**

The Responsible Entity must retire as the responsible entity of the Trust where required by the Corporations Act.

## **17.3 New Responsible Entity**

Any proposed replacement Responsible Entity must be appointed in accordance with the Corporations Act and must execute a deed by which it covenants to be bound by this Constitution as if it had originally been a party to it.

## **17.4 Trustee Acts**

Without limiting clause 24.7, and to the maximum extent permitted by Law, provisions under any Law (except for the Corporations Act) dealing with the appointment or removal of trustees do not apply to the appointment or removal of the Responsible Entity of this Trust.

## **17.5 Release**

From the date that the Responsible Entity retires or is removed, to the maximum extent permitted by Law, the Responsible Entity is released from all actions, suits, causes of action, proceedings, claims, accounts, demands, expenses and obligations in relation to the Trust from that date.

## **17.6 Retirement Benefit**

The Responsible Entity is entitled to agree with the incoming Responsible Entity to be remunerated by, or to receive a benefit from, the incoming Responsible Entity in relation to:

- (a) entering into an agreement to submit a proposal for its retirement to a meeting of Unitholders, and nominating to the Unitholders the incoming Responsible Entity as its replacement; or
- (b) retiring as Responsible Entity,

and is not required to account to Unitholders for such remuneration or benefit.

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# **18. Valuation**

## **18.1 Timing of Valuations**

The Responsible Entity may, or direct a Valuer to, ascertain the Net Asset Value of the Trust at any time but in any event shall (subject to clause 18.4) do so as and when required by the Corporations Act.

## **18.2 Valuation of Assets**

- (a) A valuation or revaluation of any Asset may be made at any time and from time to time but in any event shall (subject to clause 18.4) be made as and when required by the Corporations Act.
- (b) The Responsible Entity or the Valuer (as the case may be) may determine valuation methods and policies for each category of Asset and change them from time to time. Unless the Responsible Entity or the Valuer in consultation with the Responsible



Entity determines otherwise, the value of an Asset for the purpose of calculating Net Asset Value will be its market value and otherwise consistent with ordinary commercial practice for valuing assets of a similar nature to the Assets and in a manner which produces a value or price that is reasonably current at the relevant time. Where the Responsible Entity or the Valuer values an Asset at other than its market value, or where there is no market value, the valuation methods and policies applied by the Responsible Entity or the Valuer must be consistent with ordinary commercial practice for valuing assets of a similar nature to the Assets and in a manner which produces a value or price that is reasonably current at the relevant time.

### **18.3 Valuation Principles**

- (a) The Responsible Entity's or the Valuer's (as the case may be) determination of the value of the Net Asset Value of the Trust including the determination of any part of the Trust or an Asset of the Trust shall be final and binding on all Unitholders.
- (b) The valuation method or policy for any type of Asset is to be determined by the Responsible Entity or the Valuer (as the case may be) and may change from time to time and is to be consistent with ordinary commercial practice for valuing assets of a similar nature to the Assets and in a manner which produces a value or price that is reasonably current at the relevant time.

### **18.4 Postponement of Valuation**

Without in any way limiting this clause 18, if the Responsible Entity or the Valuer determines (as the case may be) that it is not practicable to value any Asset at any particular time or that any valuation obtained would not properly reflect the realisable value of the Assets, then the Responsible Entity or the Valuer (as the case may be) may postpone the valuation or revaluation of any Asset so affected for the purpose of this clause 18 and may postpone the determination of the Net Asset Value for the period while such circumstances exist noting that any such valuation shall be consistent with ordinary commercial practice for valuing assets of a similar nature to the Assets and in a manner which produces a value or price that is reasonably current at the relevant time.

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## **19. Meetings of Unitholders**

### **19.1 Provisions of the Law**

The provisions of Part 2G.4 of the Corporations Act apply to meetings of Unitholders, except as varied specifically by this clause 19.

### **19.2 When A Poll May Not Be Demanded**

A poll may not be demanded on any resolution concerning:

- (a) the election of the chairman of the meeting; or
- (b) an adjournment of a meeting.

### 19.3 Appointment of a Proxy

- (a) The Responsible Entity may, at its absolute discretion, accept the appointment of a proxy as valid even though the appointment contains only some of the information required by section 252Y(1).
- (b) For an appointment of a proxy for a meeting of the Unitholders to be effective, the following documents must be received by the Responsible Entity at least 48 hours (or such lesser time as the Responsible Entity allows) before the meeting:
  - (1) the instrument appointing the proxy; and
  - (2) if the appointment is signed by the appointor's attorney, then the authority under which the appointment was signed or a certified copy of the appointment.
- (c) If a meeting of the Unitholders has been adjourned then an appointment and any authority received by the Responsible Entity at least 48 hours (or such lesser time as the Responsible Entity allows) before the resumption of the meeting are effective for the resumed part of the meeting.

## 19.4 Instrument Appointing a Proxy

- (a) An instrument appointing a proxy may be in the following form or in any other form which the Responsible Entity approves:

[illegible]

- (b) In any case where the business of a meeting of Unitholders includes the consideration of a Special Resolution, Extraordinary Resolution or any other resolution referred to in the notice convening the meeting, the instrument of proxy may contain the following additional words or words of like effect:

“The proxy is to vote \*for/\*against the resolution(s):

*[list the resolutions]*

\*strike out whichever is not desired. (Unless otherwise instructed the proxy may vote as the proxy thinks fit.)”

## **19.5 Authority of a Proxy Where the Unitholder Attends**

- (a) If a Unitholder has appointed a proxy for a meeting and the Unitholder attends the meeting, then the proxy retains the authority to attend and vote for the Unitholder at the meeting provided that if the chairman gives a Unitholder the opportunity to speak and the Unitholder informs the chairman that the authority of the proxy is suspended then the authority will be suspended.
- (b) If the Unitholder does revoke the authority of the proxy during a meeting then this does not, of itself, invalidate any action validly taken by the proxy leading up to the revocation.
- (c) Nothing in this clause 19.5 requires the chairman to give any Unitholder an opportunity to revoke the authority given to a proxy.

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## **20. Limitation of Liability of Unitholders**

### **20.1 Limit**

Notwithstanding any other provision of this Constitution or any provision included or deemed to be included in this Constitution (whether expressly or by implication) (other than the provisions of clause 21), no Unitholder shall be under any obligation personally to indemnify the Responsible Entity or any creditor of the Responsible Entity in respect of any of the Liabilities (whether due to any deficiency or not) of the Responsible Entity in relation to, arising from, or in connection with, the Trust, whether arising from or by reason of the holding of a Unit or any relationship with the Custodian or the Responsible Entity arising from any such holding and any such Liability is hereby expressly excluded, and the Liability of a Unitholder is limited to the amount, if any, which remains unpaid in relation to the Unitholders' subscription for its Units.

### **20.2 Recourse to Assets Only**

The only rights (if any) or indemnity of the Responsible Entity and its creditors, and the Custodian and its creditors, shall be limited to having recourse to the Assets.

### **20.3 No Agency**

Nothing in this Constitution shall constitute the Responsible Entity as the agent of any Unitholder.

### **20.4 Reliance**

Without limiting the generality of the provisions of this clause 20, the Unitholders shall be entitled to rely on the provisions of this clause in cases where any liability is incurred as a result of any directions or request of the Unitholders.

## **20.5 Joint Unitholders and former Unitholders**

Joint Unitholders and former Unitholders are jointly and severally liable in respect of all payments including payments of Tax to which clause 21 applies.

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## **21. Taxation Liability of Responsible Entity**

### **21.1 Responsible Entity May Deduct**

The Responsible Entity may deduct or require to be deducted from any amount otherwise payable to, or to be applied in respect of, a Relevant Person an amount equal to the Taxation Amount of that Relevant Person which is payable, or anticipated to become payable, by the Responsible Entity on its own account or out of the Assets.

### **21.2 Application of Assets**

Amounts deducted under clause 21.1 shall be applied in:

- (a) payment of the Taxation Amount of the person or authority entitled to such payment;
- (b) reimbursement of the Responsible Entity of any corresponding amount paid from its own funds for the proper performance of its duties; or
- (c) payment to the Relevant Person of any amount deducted pursuant to clause 21.1 which is not required for the purposes of this clause 21.2,

and pending such application shall form part of the Assets.

### **21.3 Responsible Entity's Indemnity**

Save to the extent to which the relevant Taxation Amount has been deducted pursuant to clause 21.1:

- (a) the Responsible Entity shall be entitled to be indemnified for the proper performance of its duties by each Relevant Person for the Taxation Amount of that Relevant Person paid by the Responsible Entity save to the extent to which the Responsible Entity is reimbursed out of the Assets in respect of that amount; and
- (b) the Responsible Entity on account of the Trust shall be entitled to be indemnified for the proper performance of its duties by each Relevant Person for the Taxation Amount of that Relevant Person paid out of the Assets and for the amount of any reimbursement of the Taxation Amount paid to the Responsible Entity.

### **21.4 Interest**

- (a) The Responsible Entity on its own account and on account of the Trust shall be entitled to be paid by the Relevant Person interest on the amount outstanding for which the Responsible Entity is entitled to be indemnified from the date on which the payment in respect of which right of indemnity has arisen was made at the rate equal to the rate then charged by the National Australia Bank Limited on overdrafts in excess of \$100,000.

- (b) Nothing in this clause shall oblige the Responsible Entity, whether on its own account or on account of the Trust, to seek payment of such interest.

## **21.5 Reimbursement**

If the Responsible Entity on its own account or on account of the Trust becomes entitled to be indemnified pursuant to clause 21.3, the Responsible Entity on its own account and on account of the Trust:

- (a) may deduct or require to be deducted from any amount otherwise payable to, or to be applied in respect of, the Relevant Person the amount for which it or the Trust is entitled to be indemnified (together with interest thereon pursuant to clause 21.4) and apply such amount on account of such interest and right of indemnity; or
- (b) may by notice to the Relevant Person require the amount for which it is entitled to be indemnified, together with interest, to be paid on or before such date (not earlier than the expiration of 21 days from the date of service of the notice) as the notice may specify and the notice shall state that in the event of such payment not being made on or before that date, any Units registered in the name of the Relevant Person shall be liable to be caused to be redeemed to recover such amount.

## **21.6 Recovery**

If the requirements of the notice under clause 21.5(b) are not complied with by the Relevant Person within the time specified therein, the Responsible Entity may:

- (a) cause the Units held by the Relevant Person which were specified in such notice or such part of it as the Responsible Entity may in its discretion determine to be sold by the Responsible Entity at whatever price the Responsible Entity deems fit, and the Responsible Entity is hereby authorised by the Relevant Person to take such steps and to sign such documents in the name of the Relevant Person as may be necessary for the sale and transfer of the Relevant Person's Units and to apply the proceeds, after deducting all reasonable expenses in relation to the sale in accordance with clause 21.7;
- (b) appoint a person to execute on behalf of the Relevant Person a transfer of such Units; and
- (c) in priority to any transfer by the Relevant Person, complete the sale.

## **21.7 Application**

The proceeds of the sale of the Units referred to in clause 21.6 shall be applied first on account of the amount in respect of which the notice pursuant to clause 21.5(b) was given and secondly in payment of the balance (if any) remaining to the Relevant Person.

## **21.8 Information**

- (a) The Responsible Entity may, by notice to a Relevant Person, require that Relevant Person to furnish in writing within 14 days of service of such notice to the Responsible Entity such particulars regarding the Relevant Person, or their holding of Units or any other matter as may be specified in the notice, being particulars which are required by the Responsible Entity to enable the Responsible Entity to determine whether there exists or may in the future exist a Taxation Amount in relation to that Relevant Person

and that Relevant Person shall furnish such particulars within 14 days of service of such Notice.

- (b) If any particular furnished to the Responsible Entity pursuant to clause 21.8(a) ceases to be correct for any reason it shall be the duty of the Relevant Person who furnished such particular, if they are a Unitholder at the time such particular ceases to be correct, promptly to give to the Responsible Entity notice of the fact that such particular is no longer correct, and to furnish to the Custodian or Responsible Entity such particulars as are, at the time of such notification, correct in lieu of the particular which has ceased to be correct.
- (c) If a Relevant Person fails to provide a particular specified in a notice in accordance with clause 23 or which the Relevant Person is required to provide pursuant to clause 21.8(b), the Responsible Entity shall be entitled to make such assumption as it thinks fit as to the particular, and the Relevant Person shall have no claim against the Responsible Entity or the Trust for any loss suffered as a result of such assumption being incorrect.
- (d) Without limiting the preceding provisions of this clause 21, the Responsible Entity, on its own account and on account of the Trust, shall be entitled to be indemnified by any person who supplies an incorrect particular pursuant to clause 21.8(a) or fails to give the Responsible Entity Notice pursuant to clause 21.8(b) that a particular has ceased to be correct, for any loss suffered as a result of the Responsible Entity acting on the basis of the incorrect particular. Each of the Responsible Entity on its own account and on account of the Trust shall be entitled to be so indemnified irrespective of whether the relevant particular was furnished or notified to the Responsible Entity.

#### **21.9 General**

- (a) If the Responsible Entity, on its own account or on account of the Trust, is entitled to be indemnified pursuant to clause 21.3, the provisions of clauses 21.6 to 21.7 shall, mutatis mutandis, apply.
- (b) Nothing in this clause 21 shall prejudice or affect any right or remedy which any other clause in this Constitution or any Law may confer or purport to confer on the Responsible Entity, and as between the Responsible Entity and every Relevant Person, their executor, administrator and estate, wheresoever constituted or situate, any right or remedy which this Constitution or such Law shall confer or purport to confer on the Responsible Entity shall be enforceable by the Responsible Entity.

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#### **22. GST**

- (a) If the Responsible Entity is or becomes liable to pay GST in respect of any supply under or in connection with this Constitution then, in addition to any fee or other amount or consideration payable to the Responsible Entity in respect of the supply, the Responsible Entity is entitled to be paid out of the Assets an additional amount on account of GST, such amount to be calculated by multiplying the fee, amount or consideration for the part of the supply which is a taxable supply for GST purposes by the prevailing rate of GST. This clause does not apply to supplies in respect of which the relevant fees are expressed as GST inclusive in this Constitution.
- (b) In relation to any fee that is expressed as GST inclusive in this Constitution, in the event of an increase in the rate of GST, the new GST inclusive fee is determined by

converting the existing GST inclusive fee to a GST exclusive figure (based on the GST rate immediately prior to the new prevailing GST rate) and multiplying it by  $(1+n)$  where "n" is the new prevailing rate of GST (expressed as a decimal).

- (c) In the event that the Responsible Entity is not entitled to an input tax credit in respect of the amount of any GST charged or recovered from the Responsible Entity by any person, or payable by the Responsible Entity by way of reimbursement of GST referable directly or indirectly to any supply made under or in connection with this constitution, the Responsible Entity is entitled to recover from the Trust by way of reimbursement an additional amount equivalent to the amount of such input tax.

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## **23. Notices**

### **23.1 In writing**

Notice must be in writing and in English, and may be given by an authorised representative of the sender.

### **23.2 Notice to Unitholders**

- (a) The Responsible Entity may give notice to a Unitholder:
  - (1) personally;
  - (2) by leaving it at the Unitholder's address as stated in the Register or otherwise nominated by the Unitholder for the service of notices;
  - (3) by sending it addressed to the Unitholder at the Unitholder's address as stated in the Register or otherwise nominated by the Unitholder for the service of notices by ordinary pre-paid post, or if that address is outside Australia, by pre-paid airmail; or
  - (4) by sending it electronically to the electronic address last notified by the Unitholder.
- (b) A notice given to a Unitholder in accordance with clause 23.2(a) is sufficient, even if the Unitholder is dead, mentally incapacitated, an infant, bankrupt or an externally-administered body corporate, and the Responsible Entity has notice of that event.
- (c) In the case of joint Unitholders a notice given to the joint Unitholder whose name appears first in the Register shall be sufficient notice to all such joint Unitholders.

### **23.3 Notice to the Responsible Entity**

A person may give notice to the Responsible Entity:

- (a) by leaving it at the Responsible Entity's registered office;
- (b) by sending it by post to the Responsible Entity's registered office or such other places as the Responsible Entity may from time to time determine and advise in a notice to Unitholders; or

- (c) by sending it to the electronic address notified by the Responsible Entity for the giving of notices.

#### **23.4 Time of service**

- (a) A notice sent by post within Australia is taken to be given on the Business Day after posting, and in proving service it will be sufficient to prove that the envelope or wrapper containing the notice was properly addressed and posted.
- (b) A notice sent by post to or from a place outside Australia is taken to be given on the seventh Business Day after posting, and in proving service it will be sufficient to prove that the envelope or wrapper containing the notice was properly addressed and posted.
- (c) A notice sent by electronic means is taken to be given on the Business Day after it is sent, and in proving service it will be sufficient to prove that the notice was sent to the electronic address last notified by the intended recipient.
- (d) Any notice by advertisement will be deemed to have been served on the day of publication of the newspaper or other media containing the advertisement.
- (e) Subject to the Corporations Act, where a given number of days' notice or notice extending over any other period is required to be given, either the day of service or the day upon which the notice will expire (but not both) shall be reckoned in the number of days or other period.

#### **23.5 General**

- (a) A notice given by the Responsible Entity need not be signed but, if signed, the signature may be written or printed.
- (b) Every person who, by operation of Law, equity or other means whatsoever, becomes entitled to any Unit or any part of a Unit, shall be bound by every notice which, prior to the person's name and address being entered into the Responsible Entity, has been duly given to the person from whom the person so entitled derives title to the same.

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### **24. Miscellaneous**

#### **24.1 Access to Records and Constitution**

- (a) Subject to all applicable Law, applications for Units and instruments of transfer and transmission shall be retained by the Responsible Entity for seven years after which time the same may, in the absolute discretion of the Responsible Entity, be destroyed.
- (b) The Responsible Entity must send a copy of this Constitution to a Unitholder within seven days if the Unitholder asks the Responsible Entity, in writing, for the copy and pays any fee (up to the prescribed amount) required by the Responsible Entity.

#### **24.2 Payments**

- (a) Money payable by the Responsible Entity to a Unitholder may be paid in any manner the Responsible Entity decides.



- (b) Cheques issued by the Responsible Entity that are not presented within six months may be cancelled. Where a cheque that is cancelled was drawn in favour of a Unitholder, the money shall be held on trust for the Unitholder in a bank account with an Australian ADI until such time as the Unitholder instructs the Responsible Entity to make payment.
- (c) Where the Responsible Entity attempts to make a payment to a Unitholder by electronic transfer of funds or any other means and the transfer is unsuccessful, the money may be held on trust for the Unitholder in a bank account with an Australian ADI.
- (d) A payment to any one of joint Unitholders will discharge the Responsible Entity in respect of the payment.
- (e) The Responsible Entity may deduct from any amount to be paid to a person who is or has been a Unitholder, or received from a person who is or has been a Unitholder:
  - (1) any amount of Tax (or an estimate of it); or
  - (2) any other amount owed by the Unitholder or former Unitholder to the Responsible Entity or any other person,

which the Responsible Entity is required or authorised to deduct in respect of that payment or receipt by Law, by this Constitution by any offering document for the Trust the terms of which are binding on the Unitholder, or which the Responsible Entity considers should be deducted.

### **24.3 Cheques**

Any cheque required to be sent to a Unitholder or joint Unitholders may be sent by prepaid post or courier to the address of the Unitholder or first named joint Unitholder shown in the Register, and is taken to be received on the next Business Day after it is sent.

### **24.4 Jurisdiction**

This Constitution shall be construed and governed in accordance with the laws of the State of New South Wales.

### **24.5 No Other Relationship**

Nothing in this Constitution is intended to or shall be construed so as to create any association, partnership, joint venture or other legal entity (other than that which is expressly created by the terms of this Constitution) between the Responsible Entity and the Unitholders or any of the Unitholders.

### **24.6 Responsible Entity May Manage Other Schemes**

The Responsible Entity may establish, and act as responsible entity for, other managed investment schemes (whether or not those schemes are registered).

### **24.7 Other Obligations Excluded**

Except as required by the Corporations Act, all obligations of the Responsible Entity or any director of the Responsible Entity which might otherwise be implied or imposed by Law or

equity are expressly excluded to the extent permitted by Law, including (without limitation) any obligation of the Responsible Entity in its capacity as trustee of the Trust arising under any statute.

#### **24.8 Amendment**

This Constitution may be modified, repealed or replaced in accordance with the Corporations Act.

#### **24.9 Auditor**

- (a) The Responsible Entity must appoint an Auditor to audit the accounts and the Compliance Plan in accordance with the Corporations Act. The Auditor's remuneration will be fixed by the Responsible Entity.
- (b) The Auditor may be removed by the Responsible Entity at any time. The Auditor may retire upon the expiration of three months' notice in writing to the Responsible Entity or as otherwise permitted under the Corporations Act.
- (c) Any vacancy in the office of Auditor will be filled by the Responsible Entity appointing an Auditor duly qualified for the appointment.
- (d) The Auditor may be the Auditor of the Responsible Entity, or of any other trust fund whether of a similar nature to the trust of this Constitution or otherwise, but may not be a director, officer or servant (or partner of a director, officer or servant) of the Responsible Entity or of any Related corporation.

#### **24.10 Compliance Committee**

- (a) The Responsible Entity will be responsible for establishing a Compliance Committee (if necessary) and appointing the Compliance Committee members.
- (b) If any Compliance Committee member incurs a liability in that capacity in good faith, the Compliance Committee member is entitled to be indemnified out of the Assets in respect of that liability to the extent permitted by the Corporations Act.

#### **24.11 Complaints**

If and for so long as the Corporations Act or ASIC policy requires it, if a Unitholder submits to the Responsible Entity a complaint as defined in AS/NZS 10002:2014, the Responsible Entity must act in accordance with the requirements under the Corporations Act, applicable ASIC policy and the Guiding Principles in AS/NZS 10002:2014, including without limitation:

- (a) must, if the complaint is in writing, acknowledge in writing receipt of the complaint immediately;
- (b) must ensure that the complaint receives proper consideration resulting in a determination by a person or body designated by the Responsible Entity as appropriate to handle complaints; and
- (c) must act in good faith to deal with the complaint by endeavouring to correct any error which is capable of being corrected without affecting the rights of third parties;

- (d) may in its discretion give any of the following remedies to the complainant:
  - (1) information and explanation regarding the circumstances giving rise to the complaint;
  - (2) apology; or
  - (3) compensation for loss incurred by the Unitholder as a direct result of the breach of duty (if any); and
- (e) must communicate to the complainant as soon as practicable and in any event not more than 45 days after receipt by the Responsible Entity of the complaint:
  - (1) the determination in relation to the complaint;
  - (2) the remedies (if any) available to the Unitholder; and
  - (3) information regarding any further avenue for complaint (if any).

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## **25. Scheme Merger**

### **25.1 Direction to effect the Scheme Merger**

Each of the Unitholders agrees:

- (a) that the Responsible Entity shall do, and directs, consents to and authorises the Responsible Entity to do, all things necessary, beneficial and incidental to give effect to the Scheme Merger and to the Implementation Deed;
- (b) to transfer their Units (including any rights and entitlements attaching to those Units) in accordance with, and to effect, the Scheme Merger;
- (c) to become a member of LIF and to be bound by the constitution of LIF in accordance with, and to effect, the Scheme Merger; and
- (d) to do, all things necessary, beneficial and incidental to give effect to the Scheme Merger and to the Implementation Deed;

### **25.2 Power to give effect to the Scheme Merger**

Notwithstanding, and without limiting, any other provisions of this Constitution, the Responsible Entity has the power to do all things necessary, beneficial and incidental to give effect to the Scheme Merger and to the Implementation Deed, including without limitation:

- (a) applying on behalf of each of the Unitholders for the number of LIF Units calculated as follows, rounded up to the nearest whole LIF Unit:

$$LIF\ NOU = \frac{Trust\ NAV}{LIF\ NAV} \times NOU$$

where:

LIF NOU is the number of LIF Units that each Unitholder will be issued on the Implementation Date as part of the Scheme Merger;

Trust NAV is the Net Asset Value of the Trust at the date of the Scheme Merger Approval;

LIF NAV is the Net Asset Value of LIF at the date of the Scheme Merger Approval; and

NOU is the number of Units held by the Unitholder as recorded in the Register at the date of the Scheme Merger Approval;

- (b) consenting on behalf of each Unitholder to become a member of LIF and to be bound by the constitution of LIF;
- (c) as consideration for the issue of the LIF Units calculated in accordance with clause 25.1(a), transferring on behalf of each Unitholder, each Unitholder's Units to Lanyon RE on the Implementation Date;
- (d) giving to Lanyon RE, on behalf of each Unitholder, the representations and warranties in clause 25.5~~25.3~~;
- (e) making distributions and other payments out of the Assets which are necessary, beneficial or incidental to give effect to the Scheme Merger; and
- (f) transferring any Assets, executing all documents and doing all things that the Responsible Entity considers necessary, beneficial or incidental to give effect to the Scheme Merger.

### **25.3 Appointment of Responsible Entity as agent and attorney**

Subject to clause 25.6, without limiting clause 25.1 and notwithstanding any other provision of this Constitution, each Unitholder irrevocably appoints the Responsible Entity and each person who is duly authorised by the Responsible Entity from time to time, pursuant to section 5 of the *Powers of Attorney and Agency Act 1984* (SA), to be its agent and attorney with full power, and without notice or authority from Unitholders, to execute and deliver any document, form or instrument necessary, beneficial and incidental to give effect to the Scheme Merger, including without limitation to:

- (a) apply for LIF Units on behalf of each Unitholder;
- (b) transfer Units to Lanyon RE on behalf of each Unitholder; and
- (c) make all elections in respect of the Unitholder's rights regarding the Units, including without limitation elections to receive documents sent by Lanyon RE to unitholders of LIF in a certain form (including without limitation documents relating to meetings of Unitholders) and elections or decisions regarding reinvestment.

### **25.4 Beneficial right to Units**

Lanyon RE will be beneficially entitled to the Units transferred to it to implement the Scheme Merger during the period following the issue of LIF Units and prior to the Units being registered in the name of Lanyon RE.

## **25.5 Warranties by Unitholders**

As at the Implementation Date, each Unitholder warrants to Lanyon RE that:

- (a) all of their Units (including any rights and entitlements attaching to those Units) are all fully paid;
- (b) other than the Unitholder, no other person has any rights or options over their Units;
- (c) the Unitholder has legal ownership of their Units and their Units are free and clear of all Encumbrances;
- (d) the Unitholder has the right to transfer their Units; and
- (e) the transfer of the Units to Lanyon RE does not contravene a provision of this Constitution.

## **25.6 Foreign Members and the Scheme Merger**

- (a) This clause 25.6 applies when a Foreign Unitholder is a Unitholder on the Business Day after the Scheme Merger Approval.
- (b) Where a Unitholder is a Foreign Unitholder, the Responsible Entity may determine that the Foreign Unitholder will not be issued LIF Units as part of the Scheme Merger, having regard to:
  - (1) the number of Foreign Unitholders in the jurisdiction of that Foreign Unitholder;
  - (2) the number and value of LIF Units that may be issued to Foreign Unitholders in the foreign jurisdiction; and
  - (3) the cost of complying with legal requirements and the requirements of any other relevant regulatory authority applicable to the issue of LIF Units in the foreign jurisdiction.

### **(Ineligible Foreign Unitholder).**

- (c) Where the Responsible Entity determines that a Foreign Unitholder is an Ineligible Foreign Unitholder in accordance with clause 25.6(b):
  - (1) the Responsible Entity must apply for LIF Units on behalf of the Ineligible Foreign Unitholder and arrange for those LIF Units to be issued to, and held by, the Redemption Nominee; and
  - (2) within 20 Business Days after the Implementation Date, the Responsible Entity must procure that the Redemption Nominee:
    - (A) redeems the Ineligible Foreign Unitholder Units issued to it (which may be on an aggregated or partially aggregated basis); and
    - (B) remits the Ineligible Foreign Unitholder Proceeds to each Ineligible Foreign Unitholder.

## **25.7 No Disposals after Scheme Merger Record Date**

- (a) On and from the Scheme Merger Record Date, a Unitholder must not redeem, dispose or agree to dispose, directly or indirectly through another person or entity, by any means including without limitation by granting an option, decreasing any beneficial or economic interest or disposing of all or any part of its Units by way of assignment, novation, transfer, declaration of trust or otherwise, of any of its Units and any such disposal will be void and of no legal effect whatsoever.
- (b) The Responsible Entity will not accept for registration, or recognise for any purpose whatsoever, any application or transfer in respect of the Units received after the Scheme Merger Record Date (except a transfer from each Unitholder to Lanyon RE for the purposes of the Scheme Merger).

## **25.8 Paramountcy**

The terms of this clause 25 prevail in event of any inconsistency between this Constitution and this clause 25.

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## Schedule – Additional Fund Administration Services

**Additional Fund Administration Services** means actions and activities in connection with the management and administration of the Trust including actions and activities in connection with:

- (a) the Trust itself, including:
  - (1) the establishment and formation of the Trust;
  - (2) any structural or strategic changes to the Trust;
  - (3) registering or deregistering the Trust as a managed investment scheme;
  - (4) the preparation, verification, registration, production, printing, distribution and promotion of a disclosure document relating to the Trust, including any supplementary or replacement disclosure document relating to the Trust;
  - (5) any form of equity raising and debt refinancing associated with the Trust;
  - (6) obtaining and maintaining a rating from any ratings agency;
  - (7) the retirement, removal or replacement of the Responsible Entity; and
  - (8) the termination or winding up of the Trust and the associated taking of accounts, discharging of Liabilities and Trust expenses and distribution of Assets;
- (b) the Trust Documents, including:
  - (1) reviewing, negotiating, settling and executing Trust Documents;
  - (2) dealing with or considering any request for any amendment, restatement, waiver or consent under a Trust Document or the termination of a Trust Document;
  - (3) investigating circumstances which the Responsible Entity reasonably believes may be a default or breach by any person of a Trust Document; and
  - (4) the actual or contemplated enforcement of, or the preservation or consideration of any right or power under, any Trust Document;
- (c) the Assets, including:
  - (1) the actual, attempted or proposed acquisition, investment, disposal or other dealing in, of or with assets which are, were or are to become Assets;
  - (2) taking out and maintaining all insurances in relation to the Trust and the Assets which the Responsible Entity reasonably believes are appropriate; and
  - (3) the receipt, collection, management, maintenance, custody, holding, supervision, insurance, repair, valuation and distribution of Assets;

- (d) the Liabilities, including:
  - (1) raising and complying with the terms of financial accommodation of any kind, including all dealings with the providers of that accommodation;
  - (2) appointing or engaging, negotiating with and instructing advisers and experts; and
  - (3) appointing or engaging, negotiating with and instructing third parties to perform any of the activities described in this definition;
- (e) accounting, compliance, recordkeeping and taxation, including:
  - (1) complying with all obligations and requirements under tax laws, including the keeping of taxation records, the preparation of taxation returns, taxation statements, invoices and documents relating to the Trust, any taxation audit, and the management of the tax affairs of the Trust;
  - (2) preparing and maintaining the books, records and accounts of the Trust;
  - (3) the preparation and audit of the taxation returns and accounts of the Trust;
  - (4) the establishment and maintenance of the compliance committee and the preparation, implementation, amendment and audit of the compliance plan; and
  - (5) liaising with compliance plan auditors in relation to any breaches, incidents or events which have occurred in respect of the Trust;
- (f) dealing with Unitholders, including:
  - (1) offering, issuing and redeeming Units;
  - (2) facilitating, convening and holding meetings of Unitholders and implementing resolutions of Unitholders;
  - (3) corresponding and communicating with Unitholders;
  - (4) maintaining and operating the Register and any other register of the Trust; and
  - (5) establishing and administering complaints handling procedures and obtaining and maintaining membership of an external dispute resolution scheme;
- (g) other dealings, including:
  - (1) complying with all applicable laws;
  - (2) dealings with any securities exchange;
  - (3) dealings with regulators, taxation authorities and other governmental agencies, whether in the ordinary course or in relation to requests, requirements, complaints, investigations, enquiries or disputes;



- (4) dealings with service providers of the Trust, including work performed by the Responsible Entity in respect of potentially reportable breaches caused by service providers and completing ad-hoc monitoring visits of service providers of the Trust as a result of systemic incidents or performance issues reported;
  - (5) initiating, prosecuting, defending and compromising any court, arbitration, mediation or other dispute resolution action, claim or proceedings concerning the Responsible Entity (in that capacity), the Trust or the Assets, whether commenced or to be commenced by the Responsible Entity or not; and
  - (6) approaching any court of competent jurisdiction to seek opinion, advice or direction on any question in connection with the management or administration of the Trust or the Assets or in connection with the interpretation of a Trust Document; and
- (h) all matters incidental to any of the above.

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## Annexure E – LIF PDS

## PRODUCT DISCLOSURE STATEMENT (PDS)

DATED 1 MARCH 2024

### Contents

1. About Lanyon RE Services Limited
2. How the Lanyon Investment Fund works
3. Benefits of investing in the Lanyon Investment Fund
4. Risks of managed investment schemes
5. How we invest your money
6. Fees and costs
7. How managed investment schemes are taxed
8. How to apply
9. Other Information

### Read this

This PDS is a summary of significant information relating to the Lanyon Investment Fund. You should consider the information in this PDS in its entirety, the Reference Guide (**RG**) and the Target Market Determination (**TMD**), which includes a description of who the Fund is appropriate for, before making a decision about the Lanyon Investment Fund.

The information provided in the PDS is general information only and does not take account of your personal financial situation or needs. Before making an investment decision, you should obtain financial advice tailored to your personal circumstances.

### Important notice

Lanyon RE Services Limited (ABN 59 661 585 815) (**Lanyon RE**) is the responsible entity (**Responsible Entity**) of the Lanyon Investment Fund (ARSN 670 944 242) (**Fund**). Lanyon RE holds Australian financial services licence number 544723 issued by ASIC, which authorises it to operate the Fund. Lanyon RE, as the Responsible Entity of the Fund, is the issuer of units in the Fund (**Units**) and of this Product Disclosure Statement (**PDS**), RG and TMD. This PDS is dated 1 March 2024

Neither Lanyon RE nor its directors guarantees the performance or success of the Fund, the offer detailed in this PDS (**Offer**), the repayment of capital or any particular rate of capital or income return.

An electronic version of the latest version of this PDS, the RG and the TMD is available from <http://www.lanyon.com.au>. A copy of this PDS is available free of charge on request by telephoning (08) 8432 0460 or by email: [ir@lanyon.com.au](mailto:ir@lanyon.com.au). The Offer under this PDS is only available to persons receiving the PDS within Australia (including in electronic form). This PDS does not constitute an offer or invitation in any place outside Australia. This PDS is not to be distributed in jurisdictions outside Australia.

Information contained in this PDS and the RG is subject to change from time to time. Where updated information is not materially adverse, Lanyon RE will ensure updated information is made available on the investment manager's website at <http://www.lanyon.com.au>. A paper copy of the updated information will also be given, or an electronic copy made available, to a person upon request without charge. When any other changes occur, a new PDS and RG will be issued in accordance with the *Corporations Act 2001* (**Corporations Act**). For investors investing through a platform, updated information may be obtained from the platform operator.

This PDS and the RG contains important information about the Fund. It does not take into account your investment objectives, financial situation or particular needs. Before you invest, you should read this PDS, the TMD and the RG carefully in its entirety and consider whether an investment in the Fund is appropriate to your objectives, financial situation and needs. You are encouraged to obtain independent legal, taxation and financial advice.

In this PDS and the RG, 'Lanyon RE', 'Responsible Entity', 'RE', 'we', 'us' or 'our' refers to the Responsible Entity and 'you', 'your' refers to prospective unitholders. Unless otherwise stated, all amounts in this PDS are quoted in Australian dollars. Any expression or term used in this PDS which is defined in the Fund's constitution (**Constitution**) has the same meaning in this PDS as is given to it in the Constitution. This PDS and the RG may be provided to people who wish to invest in the Fund through a platform. In this circumstance, the platform becomes an investor in the Fund, acquires the rights of an investor and may exercise or decline to exercise those rights on your behalf.

### Investment Manager

#### Lanyon Asset Management Pty Limited

ABN 45 140 631 714  
AFSL 342955  
Level 1, 16 Vardon Avenue  
Adelaide SA 5000  
T: +61 (08) 8432 0460  
Level 7, 66 Hunter Street  
Sydney NSW 2000  
T: +61 (02) 8203 3800  
[lanyon.com.au](http://lanyon.com.au)

### Responsible Entity

#### This PDS is issued by Lanyon RE Services Limited

ABN 59 661 585 815  
AFSL 544723  
Level 1, 16 Vardon Avenue,  
Adelaide SA 5000  
T: +61 (08) 8432 0460  
[lanyon.com.au](http://lanyon.com.au)

### Administrator

#### William Buck Managed Funds Administration (SA) Pty Ltd

ABN 96 643 372 230  
Level 6, 211 Victoria Square  
Adelaide SA 5000  
T: +61 (08) 8409 4333  
[sa.funds@williambuck.com](mailto:sa.funds@williambuck.com)

### Custodian

#### Citigroup Pty Ltd

ABN 88 004 325 080  
Level 16, 120 Collins Street  
Melbourne VIC 3000

## 1. ABOUT LANYON RE SERVICES LIMITED

### 1.1 Responsible Entity – Lanyon RE

Lanyon RE is the Responsible Entity for the Fund. Lanyon RE is a wholly owned subsidiary of Lanyon Asset Management Pty Limited ABN 45 140 631 714. Lanyon Asset Management Pty Limited has been an investment manager since 2010.

The Responsible Entity holds Australian Financial Services Licence number 544723 issued by ASIC, which authorises it to operate the Fund.

The Responsible Entity is bound by the Constitution and the Corporations Act. The Responsible Entity has lodged a compliance plan with ASIC which sets out the key measures which the Responsible Entity will apply to comply with the Constitution and the Corporations Act.

The Responsible Entity has established a Compliance Committee with a majority of external members. The compliance plan is overseen by the Compliance Committee and is audited annually with the audit report being lodged with ASIC.

The Responsible Entity has the power to delegate certain aspects of its duties. The Responsible Entity has appointed Lanyon Asset Management Pty Limited as the investment manager of the Fund, pursuant to the investment management agreement.

The Responsible Entity has appointed Citigroup Pty Ltd as **Custodian** and William Buck Managed Funds Administration (SA) Pty Ltd as **Administrator** of the Fund and to provide registry services for the Fund.

### 1.2 Investment Manager – Lanyon Asset Management

Lanyon Asset Management Pty Ltd (**Lanyon** or **Investment Manager**) is an Australian based equities fund manager and has been appointed as the investment manager to manage the investments of the Fund. Lanyon is a privately held firm, founded in 2010. Lanyon employs a value investment approach and invests in various types of assets, including financial assets and traded securities of publicly listed entities.

Lanyon's investment process is based on long-established value investment principles. Investments are made when Lanyon believes there is a sufficient margin of safety between price and Lanyon's view of intrinsic value. Typically, securities will be purchased at discounts to Lanyon's view of intrinsic value, to the value of their tangible assets or on very low multiples of sustainable free cash flow, following an intensive research effort. Lanyon's focus is on managing funds for superannuation funds, government institutions, religious bodies, endowments, charities, families, individuals, past and present athletes and sporting organisations.

## 2. HOW THE LANYON INVESTMENT FUND WORKS

### 2.1 The structure

The Lanyon Investment Fund was registered with ASIC on 7 September, 2023. The Fund is a registered managed investment scheme, established as a unit trust, where funds from unitholders are pooled with other unitholders' funds. Lanyon invests these funds on behalf of all unitholders.

The Fund is established and governed by the Constitution, which sets out the rights of unitholders and the powers and responsibilities of the Responsible Entity. The Responsible Entity is able to terminate Lanyon's appointment under the investment management agreement at any time in certain circumstances, including but not limited to, fraud, misconduct, dishonesty or gross negligence on the part of the Investment Manager, where the Investment Manager enters into receivership, liquidation, ceases to carry on business, sells its business or is legally unable

to operate as an investment manager of a registered managed investment scheme, and where the Investment Manager is in breach of any representations or warranties to the Responsible Entity and fails to rectify the breach.

Termination in these circumstances is without payment of any penalty.

### 2.2 Interests in the Fund

The beneficial interest in the net assets of the Fund is divided into Units and every Unit confers on its holder an equal interest in the net assets of the Fund. A Unit does not confer any interest in any particular part of the net assets, but only such interest in the net assets as a whole as is conferred under the Constitution. All of the Units issued rank equally except as provided to the contrary in the Constitution. Unitholders acquire Units in the Fund. The price of interests will vary as the market value of assets in the Fund rises or falls.

### 2.3 Minimum Investment Amount

The minimum initial investment is \$25,000 with any amount able to be added or withdrawn subject to a minimum investment balance of \$25,000, or such other amounts as are determined by the Responsible Entity from time to time. If you are investing through a platform, you should read your platform operator's offer document for the minimum investment amount.

### 2.4 Acquiring and disposing of interests

You may acquire Units in the Fund by completing the Application Form and providing it to the Administrator and paying for the Units applied for in accordance with the instructions set out in the Application Form. If the Application Form is accepted by the Responsible Entity, Units will be issued at the Application Price. The Application Price will be calculated daily in accordance with the Constitution and the following formula:

$$\frac{\text{Net Asset Value (NAV)} + \text{Transaction Costs}}{\text{Number of Units on issue}}$$

The number of Units an investor receives will be calculated in accordance with the Constitution and the following formula:

$$N = S/AP$$

where:

**N** is the number of Units to be issued (rounded down to four decimal places);

**S** is the Subscription for Units; and

**AP** is the Application Price for Units.

The Responsible Entity will retain any interest earned on application money before it is paid into the Fund.

You can increase your investment by acquiring Units in the Fund in the same manner as set out above or by reinvesting your distributions (if permitted), which is explained further in section 2.5 below.

You can decrease your investment by withdrawing some or all of your Units any time by completing and sending a withdrawal form to the Administrator, setting out your instructions as to the number of Units or the amount you wish to redeem, and your payment instructions. The Redemption Price is calculated by dividing Net Asset Value less Transaction Costs by the number of Units on issue. You can make either a partial or full redemption. Proceeds from a redemption will normally be available within 14 days of receipt of a valid request. Redemption proceeds are also subject to clearance by your bank, building society or credit union.

However, the Constitution specifies that a redemption request is to be satisfied only if the Fund is 'liquid' as defined in the Corporations Act or if the redemption request is made in response to a current withdrawal offer made by the Responsible Entity. Generally

speaking this definition requires at least 80% of the assets of the Fund to be realisable for market value within the period set out in the Constitution for satisfying redemption requests. If the Fund becomes “illiquid” redemption rights may be suspended until the Fund is no longer “illiquid”.

Further, the Constitution specifies that the Responsible Entity may in its sole discretion for such period as the Responsible Entity considers reasonable, refuse to cause to be redeemed Units where such redemption within that period would result in the Responsible Entity having insufficient funds or such redemptions would otherwise prejudice the interests of remaining unitholders.

In some circumstances, such as when there is a freeze on withdrawals, unitholders may not be able to withdraw their Units within the usual period upon request. The Responsible Entity reserves the right to change processing times.

If you are investing through a platform, you may be subject to different conditions from those referred to in this PDS. You should follow the instructions of the platform operator when making an investment or withdrawing your investment from the Fund.

## 2.5 Distributions

The distributable income of the Fund will generally consist of interest, net realised capital gains on the sale of underlying assets and dividends (and in some cases interest or other trust distributions) received by the Fund less fees and expenses of the Fund.

Your entitlement to distributions is calculated by dividing the net distributable income by the total number of Units on issue at the distribution date and multiplying the result by the number of Units you hold on that date. Please refer to section 6 of this PDS for further information on fees and costs.

If you have not provided a TFN or exemption category, or if your application shows a country of residence other than Australia, withholding tax will be deducted from your distributions.

The Responsible Entity intends to make distributions at least annually following the end of June of each year and may make half year distributions following the end of December.

While the Constitution allows the Fund to take up to 60 days for payment of distributions it is anticipated that distributions will be made approximately 30 business days after the end of the relevant period.

If you have nominated to reinvest your distributions, your new Units will be issued immediately before the next valuation after the distribution period at the prevailing Application Price (excluding Transaction Costs).

If you have nominated to receive your distribution directly to your bank account and the transfer is unsuccessful on three occasions, those distributions will be reinvested in the Fund, and your future distribution method will be changed to reinvestment until you specify otherwise.

The Responsible Entity may decide to permit or require you to reinvest some or all of any distribution to acquire additional Units. If the Responsible Entity suspends the distribution reinvestment option, all subsequent distributions will be paid directly into your bank account until reinvestments recommence.

If you have invested in this Fund through a platform, then all distributions and distribution statements relating to investments made via a platform will be provided to the operator of that service.

## 3. BENEFITS OF INVESTING IN THE LANYON INVESTMENT FUND

The significant features of the Fund are:

**Investment strategy** – The Fund will invest in securities of entities listed on domestic and foreign exchanges.

**Investment objective** – The Fund’s investment return objective is to earn returns superior to the combined S&P/ ASX 300 Accumulation Index and the MSCI All Country World Index net total returns AUD index (**Benchmark**) after taking account of fees and costs incurred by the Fund.

**Nature of investment return** – It is intended unitholders will be able to access a combination of investment returns, income distributions and capital gains, over the medium to long term.

**Distribution reinvestment** – Reinvestment is available.

**Distribution frequency** – At least annually.

The significant benefits of the Fund are:

- your money is managed by a professional investment manager who has skills and experience that may not be possessed by all unitholders;
- access to investment opportunities, markets and diversified portfolio that may not be accessible to all unitholders;
- fund managers can often invest for lower cost than other investors.

The significant features and the significant benefits of the Fund which are set out in this section are a summary only. You should read the whole PDS, RG and TMD before deciding whether to complete the Application Form as it contains important information about this investment.

## 4. RISKS OF MANAGED INVESTMENT SCHEMES

### 4.1 General

Before investing, you should consider whether the Fund is suitable for you given your investment objectives. An investment in the Fund should be considered long-term. If you require further information regarding the potential risks of this investment, you should seek appropriate financial advice.

All investments carry risk and there are many factors that can impact on the performance of an investment. You should expect that the values of assets in which the Fund invests, and the level of income derived by the Fund, might fluctuate. Consequently, the value of your investment and the amount of any income entitlement distributed may rise or fall and you may suffer losses.

Different strategies may carry different levels of risk, depending on the assets that make up the strategy. Further, assets with the highest long-term returns may also carry the highest level of short-term risk.

Although it is not possible to identify all the potential risks, the summary below details the significant risks that you should be aware of when investing in the Fund. It does not purport to be a comprehensive statement of all the risks.

It is not possible to protect the value of your investment from all risks. However the Responsible Entity will maintain investment and management processes that are intended to help minimise some of the risks.

## 4.2 Significant risks of the Fund

The significant risks of investing in the Fund are:

**Economic risk** – The performance of the Fund can be affected by a range of economic factors including changes in exchange rates, interest rates, inflation, government policy (including monetary and taxation policy and other laws), fluctuations in general market prices for property, shares, bonds and other tradeable investments and the general state of world conditions.

**Market risk** – Certain events may have a negative effect on the price of all types of investments within a particular market. These events may include changes in economic, social, technological or political conditions, as well as market sentiment, the causes of which may include changes in governments or government policies, political unrest, wars, terrorism, pandemics and natural, nuclear and environmental disasters. The duration and potential impacts of such events can be highly unpredictable, which may give rise to increased and / or prolonged market volatility.

**Security specific investment risk** – There is a risk that investments chosen by the Investment Manager will not perform as well as others. Returns on investments may be adversely affected by changes in the underlying strength of cash flows, earnings and balance sheets of the entities in which the Fund invests. Factors which may cause this to happen include changes in company management, competitor behaviour, global events, currency movements and government policy.

**Foreign investment risk** – Additional risks arise when investing overseas, including but not limited to requirements under the foreign regulatory and legislative regime, differences between such regimes and the regimes in Australia, changes to those regulatory and legislative regimes, changes in foreign exchange control regulations, foreign tax legislation and withholding tax and government policy. Global and country specific macroeconomic factors may impact the Fund's investments. Governments may intervene in markets, industries and companies and may act to prevent or limit the repatriation of foreign capital which may impact the Fund's investments. Additionally, differences in accounting, legal, securities trading and settlement procedures can also impact on the value of the Fund's investments.

**Currency risk** – Investment in foreign markets involves currency risk. Currency movements relative to the Australian dollar can cause changes in the value of the Fund's investments. A rise in the Australian dollar relative to other currencies may negatively impact investment values and returns. Currency markets can be volatile and are subject to a range of unpredictable factors.

**Liquidity risk** – Access to your money may be delayed (see Section 2 "How the Fund works" and "Delays"). Overall market liquidity may contribute to the profitability of the Fund and access to your money. Units in the Fund are not quoted on any stock exchange so you cannot sell them through a stockbroker. Unit holders may not be able to redeem their investment promptly where stocks in the portfolio are considered illiquid due to market or economic events. Be aware that a portion of the Fund may consist of unlisted investments that are generally illiquid.

**Income risk** – The level of income distributed to unitholders in the Fund can fall as well as rise, and the tax status of such income may also change.

**Government and taxation policies** – Any changes in government and taxation policies may affect the amount of distributions receivable by unitholders, as well as the taxation treatment of those distributions in their hands.

**Dependence on key personnel** – The Investment Manager, and to a lesser extent the RE and service providers, are dependent on a small number of key personnel. It follows that the loss of key personnel of the RE or the Investment Manager or other key service providers may adversely affect the Fund's performance.

**Cyber risk** – There is a risk of fraud, data loss, business disruption or damage to the information of the Fund or to investors' personal information as a result of a threat or failure to protect

the information or personal data stored within the IT systems and networks of the Responsible Entity or other service providers.

**Potential conflicts of interest** – The Investment Manager may be the investment manager of other funds not described in this PDS and entities within the 'Lanyon Group' (comprising Lanyon Asset Management Pty Limited and its subsidiaries, including the Responsible Entity) may act in various capacities (such as responsible entity, trustee and custodian) for other funds or accounts. The Investment Manager and Lanyon RE have implemented policies and procedures to identify, manage and where possible, mitigate or avoid the conflict.

**Operational risk** – Risks associated with the operation of the Fund may include human error, a systems breakdown, external threats and other factors beyond the Responsible Entity's control.

## 4.3 Significant risks of investing in managed investment schemes generally

The value of investments will vary. The level of returns will vary, and future returns may differ from past returns. Further, returns are not guaranteed, and unitholders may lose some or all of their money.

Laws affecting registered managed investment schemes may change in the future.

The level of risk for each person will vary depending on a range of factors, including age, investment time frames, where other parts of the unitholder's wealth are invested and the unitholder's risk tolerance.

## 5. HOW WE INVEST YOUR MONEY

The Investment Manager offers a single investment option and it is not intended that the Fund will offer any other investment options to unitholders. The Fund's investment strategy is to primarily invest in securities of entities listed on foreign stock exchanges. The strategic target asset class allocation is predominantly focused on approximately 30-90% listed securities, with the balance of 10-70% held in cash and cash equivalents. However, this strategic target asset class allocation is a target only and actual asset class allocations may differ from the target.

The Fund aims to provide unitholders with superior long-term returns by investing in predictive, free cash-flow generative businesses that trade at a compelling discount to their intrinsic value. The Fund's investment return objective is to earn returns superior to the combined S&P/ASX 300 Accumulation Index and the MSCI All Country World Index net total returns AUD index (**Benchmark**) after taking account of fees and costs incurred by the Fund. However, there is no guarantee that such outperformance will occur. Further, returns are not guaranteed and a loss of investment may occur.

In general, this investment opportunity is only suitable for types of investors who are primarily seeking a medium to long-term investment with a significant exposure to foreign listed securities and the potential for high returns, and who are prepared to hold the investment for at least 3 to 5 years due to the risk and volatility associated with listed equities investment in general. The minimum suggested investment timeframe is therefore at least 3 years.

This Fund is considered a high risk investment.

The Responsible Entity has the right to terminate the Fund, or change the Fund's investment return objective (including without limitation the strategic asset class allocations and the investment strategy) without providing prior notice to investors in some cases. The Responsible Entity will inform investors of any material changes to the Fund in accordance with the law.

The Fund makes its investments on the recommendation of the Investment Manager. The Investment Manager is responsible for the identification and assessment of securities that it believes (individually or in combination with other investments of the Fund) are suitable for meeting the requirements of the Fund's investment strategy. The Investment Manager is then responsible for the ongoing monitoring and assessment of the performance of each investment in the portfolio.



*Warning: When choosing whether to invest in the Fund, you should consider the likely investment return, the risk, and your investment timeframe.*

While the Fund intends to conduct itself in an ethical and sound manner, the Responsible Entity and Investment Manager do not take into account labour standards or environmental, social or ethical considerations when selecting, retaining or realising an investment of the Fund.

## 6. FEES AND COSTS

### 6.1 Fees and other costs

This document shows fees and other costs that you may be charged. These fees and costs may be deducted from your money, from the returns on your investment or from the assets of the managed investment scheme as a whole. Taxes are set out section 7 of this PDS.

You should read all information about fees and costs because it is important to understand their impact on your investment. If you are investing via a platform, any additional fees that you may be charged by your platform operator for investing in the Fund via the platform should be set-out in the platform's offer document.

The information in the fees and costs summary can be used to compare costs between different simple managed investment schemes.

All the fees and costs shown in this section include stamp duty and GST less any reduced input tax credits (RITC) unless otherwise stated.

### Did you know?

Small differences in both investment performance and fees and costs can have a substantial impact on your long term returns.

For example, total annual fees and costs of 2% of your investment balance rather than 1% could reduce your final return by up to 20% over a 30 year period (for example, reduce it from \$100 000 to \$80 000).

You should consider whether features such as superior investment performance or the provision of better member services justify higher fees and costs.

You may be able to negotiate to pay lower fees. Ask the Fund or your financial advisor.

### To find out more

If you would like to find out more, or see the impact of the fees based on your own circumstances, the Australian Securities and Investments Commission (ASIC) Moneysmart website ([www.moneysmart.gov.au](http://www.moneysmart.gov.au)) has a managed funds fee calculator to help you check out different fee options.

The managed funds fee calculator on the ASIC website ([www.moneysmart.gov.au](http://www.moneysmart.gov.au)) can also be used to calculate the effect of fees and costs on account balances.

### Fees and Costs summary

Lanyon Investment Fund		
Type of fee or cost	Amount	How and when paid
<b>Ongoing annual fees and costs</b>		
<b>Management fees and costs</b> The fees and costs for managing your investment <sup>1</sup>	1.1% p.a.	The Fund's management fee <sup>2</sup> is 1.1% p.a. and is calculated on the Fund's net asset value, accrued daily and deducted from the Fund's assets within 14 days of the end of each month and is reflected in the unit price.
<b>Performance fees<sup>3</sup></b> Amounts deducted from your investment in relation to the performance of the product	1.16% p.a.	The performance fee is 20% (ex GST) or 20.5% (inc GST less RITC) of the Fund's outperformance of the Benchmark. Where a performance fee is charged in respect of the Fund, it is calculated and accrued daily and deducted from the assets of the Fund within 14 days of the end of each six month period.
<b>Transaction Costs</b> The costs incurred by the scheme when buying or selling assets	0.15% p.a.	Transaction costs are paid as and when they are incurred by the Fund by a deduction from the assets of the Fund and are reflected in the unit price. Transaction costs are net of any buy-sell spread.
<b>Member activity related fees and costs (fees for services or when your money moves in or out of the scheme)<sup>2</sup></b>		
<b>Establishment fee</b> The fee to open your investment	Nil	Not applicable
<b>Contribution fee</b> The fee on each amount contributed to your investment	Nil	Not applicable
<b>Buy-sell spread</b> An amount deducted from your investment representing costs incurred in transactions by the scheme	Buy spread: 0.25%  Sell spread: 0.25%	The buy spread applies to each application in the Fund and is reflected in the Fund's Application Price upon application. The sell spread applies to each withdrawal and is reflected in the Fund's Redemption Price upon withdrawal.

<b>Withdrawal fee</b> The fee on each amount you take out of your investment	Nil	Not applicable
<b>Exit fee</b> The fee to close your investment	Nil	Not applicable
<b>Switching fee</b> The fee for changing investment options	Nil	Not applicable

All fees are shown as a % of net asset value of the Fund (except accrued fees)

1. This fee does not include an amount payable to an advisor. See "Advisor remuneration and commissions" under the heading.
2. The amount of this fee can be negotiated. See "Differential arrangements" under the heading "Additional explanation of fees and costs" for more information.
3. The performance fee disclosed in the "Fees and Costs summary" table in section 6.1 above is calculated based on an average of the previous five financial years of the Fund. The fact that a performance fee was paid however, is not a representation of likely future performance.

*Warning: Additional fees may be paid to a financial advisor if a financial advisor is consulted. Please refer to the Statement of Advice in which details of the fees are set out.*

## Additional explanation of fees and costs

### Example of annual fees and costs for this Fund

This table gives an example of how the fees and costs for this managed investment product can affect your investment over a 1 year period. You should use this table to compare this product with other managed investment products.

<b>EXAMPLE: Lanyon Investment Fund</b>		
<b>Balance of \$50,000 with a contribution of \$5,000 during year</b>		
Contribution Fees	Nil	For every additional \$5,000 you put in, you will be charged \$0.
<b>PLUS</b> Management Fees and Costs	1.1% p.a.	<b>And</b> , for every \$50,000 you have in the Fund, you will be charged \$550.00 each year.
<b>PLUS</b> Performance Fees	1.16% p.a.	<b>And</b> , you will be charged or have deducted from your investment \$580.00 in performance fees each year.
<b>PLUS</b> Transaction Costs	0.15% p.a.	<b>And</b> , you will be charged or have deducted from your investment \$150.00
<b>EQUALS</b> Cost of Fund		If you had an investment of \$50,000 at the beginning of the year and you put in an additional \$5,000 during that year, you would be charged fees and costs of:  <b>\$1,280.00*</b>  <b>What it costs you will depend on the fees you negotiate.</b>

*\*Additional fees may apply. The actual amount you will be charged will also depend on the timing of additional investments. This example assumes that the additional contribution of \$5,000 is invested at the end of the year and the fees are calculated based on \$50,000. This example does not include additional fees that may be charged by your platform operator for investing in the Fund.*

## 6.2 Management fees and costs

Management fees and costs are incurred in managing the investments of the Fund, comprising the investment management fee paid to the Investment Manager, fees payable to the Responsible Entity, Administrator, Custodian, sub-Custodian, Auditor and other service providers, administration and other expenses and indirect costs. Indirect costs are any amounts that directly or indirectly reduce the returns on the Units that is paid from, or reduce the amount of value of, the income or assets of the Fund (including an underlying investment of the Fund). The Fund's management fees and costs are based on the actual costs of the past financial year.

These costs, charges, expenses and outgoings that are incurred in the proper performance of its duties can be recovered by the Responsible Entity from the assets of the Fund. The Responsible Entity pays the fees of the Administrator, Custodian, any sub-custodian, auditor and other service providers out of the funds it receives from the management fee, retains its fee and then pays the balance to the Investment Manager. As these fees and costs are recovered from the Fund, they are not directly deducted from your investment.

## 6.3 Performance fee

A performance fee is an amount paid or payable, calculated by reference to the performance of the Fund and is reflected in the unit price. The performance fee is 20% (exclusive of GST) or 20.5% (inclusive of GST less RITC) of the Fund's outperformance of the Benchmark. The performance fee is calculated and accrued daily and is deducted from the Fund within 14 days of the end of each six month period. The performance fee is subject to a "high water mark" whereby such fee will only be payable when the value of unitholders' holdings (including any distributions) exceeds the previous highest month-end level (after any distributions). The performance fee disclosed in the "Fees and Costs Summary" table in section 6.1 above is calculated based on an average of the previous five financial years of the Fund. The fact that a performance fee was paid however, is not a representation of likely future performance.

## 6.4 Transaction costs

Transaction costs are incurred when acquiring and disposing of certain Fund assets. These costs may include brokerage, buy-sell spreads, settlement costs, clearing costs and stamp duty. All transaction costs of the Fund which are incurred by the Responsible Entity in the proper performance of its duties will be recovered from the Fund after they are incurred. Transaction costs are estimated to be 0.15% of the net asset value of the Fund. Transaction costs are offset to some degree from benefits that the Fund receives by charging a buy/sell spread.



A buy/sell spread of 0.25% applies to the Fund. For example, if you invested \$50,000 in the Fund, the cost of the buy/sell spread would be \$125. The buy/sell spread is designed to fairly allocate costs associated with the Fund buying and selling assets as a result of investors buying and selling Units in the Fund. The buy/sell spread is charged to investors via a deduction from the value of the Units that investors buy or sell and is an additional cost to those investors. It is retained by the Fund and is not a fee payable to the Responsible Entity.

The Responsible Entity estimates that the buy/sell spread will account for most of the transaction costs of the Fund. Where the transaction costs exceed the amount recovered through the buy/sell spread, the excess amount will be borne by the Fund. Conversely, where the amount recovered through the buy/sell spread exceeds the transaction costs, the excess amount will be retained by the Fund.

Transaction costs for FY2023	0.151%
Recovery through buy/sell spread	0.006%
Net transaction costs for FY2023	0.145%

## 6.5 Advisor remuneration and commissions

The Responsible Entity does not currently pay any adviser remuneration or commissions to those who are engaged to promote the Fund. However, the Responsible Entity reserves the right to negotiate such amounts on a case-by-case basis and only with those who are authorised to operate under an Australian financial services licence or are otherwise permitted by law to receive such payments.

## 6.6 Differential fee arrangements

From time to time, the Responsible Entity may consider making arrangements with certain wholesale clients (as defined in the Corporations Act) on an individual case-by-case basis or with platform operators, in relation to the charging, rebating or waiving of management fees in circumstances permitted by the Corporations Act or where applicable relief has been granted by ASIC. Any such arrangement will be entered into in accordance with the requirements of the Corporations Act, ASIC class orders and ASIC instruments. The Responsible Entity does not negotiate fees with retail investors or individual platform investors. Any differential fee arrangements will not adversely affect the fees paid or to be paid by any Unitholder of the Fund who is not entitled to the benefit of those fee arrangements. Requests to negotiate fees must be put in writing to the Responsible Entity and sent to the Administrator.

## 6.7 Fee changes and waivers

While the Constitution provides the discretion of the Responsible Entity to charge fees up to a maximum defined threshold that may differ from the fees stated in this PDS, it is not currently intended to do so. Although the Responsible Entity has the right to change the amount of fees at any time without the investor's consent, the Responsible Entity intends to communicate any changes to you or your platform operator (as applicable) in writing at least 30 days prior to any proposed change. This would allow enough time for you or your platform operator (as applicable) to withdraw if you or they wish. Furthermore, although not intended, the Responsible Entity and/or the Investment Manager may elect to waive or defer the payment of fees. Any deferred fees are payable on the removal of the Responsible Entity or Investment Manager as appropriate.

## 6.8 Tax

For information about tax, please see section 7 "How managed investment schemes are taxed" in this PDS and section 1 "Additional Information" in the Reference Guide.

## 6.9 More information

If you would like to find out more, see ASIC's website ([www.moneysmart.gov.au](http://www.moneysmart.gov.au)).

## 7. HOW MANAGED INVESTMENT SCHEMES ARE TAXED

*Warning: Investing in a registered managed investment scheme is likely to have tax consequences. Persons are strongly advised to seek professional tax advice.*

### 7.1 Tax position of the Fund

Based on Australian taxation laws at the date of this PDS, no Australian tax will be payable by the Fund provided that the Responsible Entity distributes all distributable income of the relevant Fund to unitholders in full for each year of income. It is the Responsible Entity's intention to make such distributions. Registered managed investment schemes do not pay tax on behalf of unitholders.

### 7.2 Tax on income

Fund distributions should generally be included as part of an unitholder's assessable income in the year in which the entitlement arises. This assessable income includes income and capital gains that a unitholder is entitled to but has not yet received. Unitholders are assessed for tax on any income and capital gains generated by the Fund. As the Fund will invest in securities issued by companies listed or to be listed on foreign securities exchanges, generally any dividends paid by these companies will not generate franking credits. However, as the taxation treatment of distributions depends on each unitholder's individual circumstances, they should consult their taxation advisor. You should note that the price of a Unit will fall by the amount of any distribution (per Unit) immediately after the distribution is made. Accordingly, where you invest just prior to a distribution date, then that distribution effectively represents a return of your investment. Depending on your particular circumstances, this may have certain tax implications and we recommend that you consult your taxation advisor.

### 7.3 AMIT

Lanyon RE Services has made an election for the Fund to operate as an Attribution Managed Investment Trust (**AMIT**). An AMIT, in broad terms, is a managed investment trust (**MIT**) whose unitholders have clearly defined interests in relation to the income and capital of the trust and the trustee or responsible entity of the MIT has made an irrevocable election to apply the regime.

The AMIT rules contain several provisions that will impact on the taxation treatment of the Fund. The key features include:

- an attribution model for determining member tax liabilities, which also allows amounts to retain their tax character as they flow through the trust to its members;
- the ability to carry forward understatements and overstatements of taxable income, instead of re-issuing investor statements;
- deemed fixed trust treatment under the income tax law;
- upwards cost base adjustments to units to address double taxation; and
- legislative certainty about the treatment of tax deferred distributions.

Reforms to the taxation of trusts are generally ongoing. Investors should seek their own advice and monitor the progress of announcements and proposed legislative changes on the potential impact.

## HOW TO APPLY

### 7.4 How to invest in the Fund

If you wish to apply, you must do so using the online application form. The Application Price is calculated daily. The cut off for application and associated cleared funds is 2.30pm (AET). You can make an investment in the Fund by completing the online application Form and paying for the Units applied for. Payment method can be by cheque or electronic funds transfer in accordance with the instructions in the Application Form. Where a correctly completed Application and deposit are received and accepted by the Administrator before 2.30pm (AET), you will start earning distribution returns from that day. Where received and accepted by the Administrator after 2.30pm (AET), you may not start earning distribution returns until the following day.

Notwithstanding the above, your application may be accepted or rejected in part or in full at the absolute discretion of the Responsible Entity. If you are investing through a platform, you should refer to your platform operator for information about the treatment of your investment.

### 7.5 How to add to an existing investment

In order to add to an existing investment in the Fund, please complete the Additional Application Form, send your completed Application Form to the Administrator and pay for the units applied for by way of cheque or electronic funds transfer in accordance with the instructions in the Application Form. The daily cut off for application documentation and associated cleared funds explained in section 8.1 above is 2.30pm (AET).

### 7.6 Cooling off

Subject to the Corporations Act and Corporations Regulations, retail investors have the right to return their Units in the Fund to the Responsible Entity and to have their investment repaid. However, this right does not apply in certain circumstances, such as where the Units acquired were offered or issued under distribution reinvestment plans, acquired as additional contributions and where the Units were issued at the time when the Fund is not liquid. If after investing in the Fund you change your mind and wish to exercise your cooling-off right, you may notify the Responsible Entity in writing or electronically and request that your investment be repaid. The right to cool off can only be exercised during the period of 14 days from the earlier of the time when you receive written confirmation of your investment from the Responsible Entity, and the end of the fifth business day after the day on which the Units were issued to you.

The amount that is repaid to you will be adjusted to take into account any reasonable transaction and administration costs (other than commissions), any increase or decrease in the price of Units in the Fund and any tax or duty paid or payable by the Responsible Entity because of the issue of Units which cannot be refunded or released as a result of the exercise of the right to return the Units. If a distribution has occurred between acceptance of your application by the Responsible Entity and receipt of your notification to cool off during the cooling-off period, there may be taxation implications for you. We suggest that you seek professional tax advice in these circumstances. Your right to cool off does not apply if you exercise any rights as a unitholder, you are a wholesale client (as defined in the Corporations Act) or you invest in the Fund via a platform.

If you wish to have your investment repaid during the cooling off period, please contact the Administrator in writing or electronically.

### 7.7 Enquiries and complaints

The Responsible Entity has established procedures for dealing with complaints. If an investor has a complaint, they can contact the Responsible Entity and/or the Investment Manager during business hours using the contact details provided in the PDS. We will endeavour to resolve your complaint fairly and as quickly as we can. We will respond to your complaint within the maximum response timeframe of 30 days. If we are unable to respond within the maximum response time because we have not had a reasonable opportunity to do so, we will write to you to let you know of the delay.

All investors (regardless of whether you hold Units in the Fund directly or hold Units indirectly via a platform) can access the Responsible Entity's complaints procedures outlined above. However, if you are investing via a platform and your complaint concerns the operation of the platform, then you should contact the platform operator directly. If an investor is not satisfied with the final complaint outcome proposed, any aspect of the complaints handling process or a delay in responding by the maximum response time, the Australian Financial Complaints Authority (AFCA) may be able to assist. AFCA operates the external complaints resolution scheme of which the Responsible Entity is a member. If you seek assistance from AFCA, their services are provided at no cost to you.

You can contact AFCA on 1800 931 678, or by writing to:

Australian Financial Complaints Authority  
GPO Box 3  
Melbourne VIC 3001  
Email: [info@afca.org.au](mailto:info@afca.org.au)  
Website: [www.afca.org.au](http://www.afca.org.au)

## 8. OTHER INFORMATION

### 8.1 Continuous disclosure and interim reports

If 100 or more unitholders hold Units, the Fund will be a disclosing entity under the Corporations Act. As a disclosing entity, the Fund is subject to regular reporting and disclosure obligations which require lodgement of annual and half yearly reports and continuous disclosure notices. All of this information may be obtained from, or inspected at, an ASIC office.

If applicable, you may also obtain from the Responsible Entity, free of charge, copies of the most recent annual financial report lodged with ASIC, any half yearly financial report lodged with ASIC after the lodgement of the annual financial report and before the date of the PDS, any continuous disclosure notices lodged with ASIC after the lodgement of the annual financial report and before the date of the PDS.

Any continuous disclosure obligations we have will be met by following ASIC's good practice guidance via website notices rather than lodging copies of these notices with ASIC. Accordingly should Lanyon RE, as responsible entity of the Fund, become aware of material information that would otherwise be required to be lodged with ASIC as part of its continuous disclosure obligations, we will ensure that such material information will be made available as soon as practicable on the Fund's website.

### 8.2 Consents and declaration of interest

Lanyon Asset Management Pty Ltd, William Buck Managed Funds Administration (SA) Pty Ltd and Citigroup Pty Ltd have given their consent to be named as the Investment Manager, Administrator and external custodian respectively in this PDS and to the statements in this PDS concerning their respective roles and activities, in each case in the form and context in which it is included or named, and have not withdrawn this consent before the date of this PDS.

Please refer to the RG for Privacy, AML/FATCA and Common Reporting Standard.

# Lanyon Investment Fund



## REFERENCE GUIDE (RG)

DATED 1 MARCH 2024

### Important notice

Lanyon RE Services Limited (ABN 59 661 585 815) (**Lanyon RE**) is the responsible entity (**Responsible Entity**) of the Lanyon Investment Fund (ARSN 670 944 242) (**Fund**). Lanyon RE holds Australian financial services licence number 544723 issued by ASIC, which authorises it to operate the Fund. Lanyon RE is the issuer of units in the Fund (**Units**) and of this Reference Guide as the Responsible Entity of the Fund.

The information in this document forms part of the Product Disclosure Statement (**PDS**) for the Fund dated 1 March 2024.

Neither Lanyon RE nor its directors guarantees the performance or success of the Fund, the offer detailed in the PDS (**Offer**), the repayment of capital or any particular rate of capital or income return.

An electronic copy of the latest version of this Reference Guide, the PDS and the TMD is available from <http://www.lanyon.com.au>. A copy of this Reference Guide is also available free of charge on request by telephoning (02) 8203 3800 or by email: [ir@lanyon.com.au](mailto:ir@lanyon.com.au). The Offer under the PDS and this Reference Guide is only available to persons receiving the PDS within Australia (including in electronic form). This Reference Guide does not constitute an offer or invitation in any place outside Australia. This Reference Guide is not to be distributed in jurisdictions outside Australia.

Information contained in the PDS and this Reference Guide is subject to change from time to time. Where updated information is not materially adverse, Lanyon RE will ensure updated information is made available on the investment manager's website at <http://www.lanyon.com.au>. A paper copy of the updated information will

also be given, or an electronic copy made available, to a person upon request without charge. When any other changes occur, a new PDS and Reference Guide will be issued in accordance with the *Corporations Act 2001* (**Corporations Act**). For investors investing through a platform, updated information may be obtained from the platform operator.

This Reference Guide contains important information about the Fund. It does not take into account your investment objectives, financial situation or particular needs. Before you invest, you should read this Reference Guide, the PDS and the TMD carefully, in its entirety and consider whether an investment in the Fund is appropriate to your objectives, financial situation and needs. You are encouraged to obtain independent legal, taxation and financial advice.

In this Reference Guide, 'Lanyon RE', 'Responsible Entity', 'RE', 'we', 'us' or 'our' refers to the Responsible Entity and 'you or 'your' refers to prospective unitholders. Unless otherwise stated, all amounts in this Reference Guide are quoted in Australian dollars. Any expression or term used in this Reference Guide which is defined in the Fund's constitution (**Constitution**) has the same meaning in this Reference Guide as is given to it in the Constitution.

This Reference Guide may be provided to people who wish to invest in the Fund through a platform. In this circumstance, the platform becomes an investor in the Fund, acquires the rights of an investor and may exercise or decline to exercise those rights on your behalf.

### Investment Manager

#### **Lanyon Asset Management Pty Limited**

ABN 45 140 631 714  
AFSL 342955  
Level 1, 16 Vardon Avenue  
Adelaide SA 5000  
T: +61 (08) 8432 0460  
Level 7, 66 Hunter Street  
Sydney NSW 2000  
T: +61 (02) 8203 3800  
[lanyon.com.au](http://lanyon.com.au)

### Responsible Entity

#### This PDS is issued by **Lanyon RE Services Limited**

ABN 59 661 585 815  
AFSL 544723  
Level 1, 16 Vardon Avenue,  
Adelaide SA 5000  
T: +61 (08) 8432 0460  
[lanyon.com.au](http://lanyon.com.au)

### Administrator

#### **William Buck Managed Funds Administration (SA) Pty Ltd**

ABN 96 643 372 230  
Level 6, 211 Victoria Square  
Adelaide SA 5000  
T: +61 (08) 8409 4333  
[sa.funds@williambuck.com](mailto:sa.funds@williambuck.com)

### Custodian

#### **Citigroup Pty Ltd**

ABN 88 004 325 080  
Level 16, 120 Collins Street  
Melbourne VIC 3000

## 1. ADDITIONAL INFORMATION

### 1.1 Privacy

We collect personal information from you in the Application Form and any other relevant forms, in order to process your application, administer your investment and comply with any relevant laws. If you do not provide us with your relevant personal information, we will not be able to do so. In some circumstances we may disclose your personal information to the Responsible Entity's related entities or service providers that perform a range of services on our behalf and which may be located overseas.

Privacy laws apply to our handling of personal information and the Responsible Entity will collect, use and disclose your personal information in accordance with its privacy policy, which includes details about the following matters:

- the kinds of personal information the Responsible Entity collects and holds;
- how the Responsible Entity collects and holds personal information;
- the purposes for which the Responsible Entity collects, holds, uses and discloses personal information;
- how you may access personal information that the Responsible Entity holds about you and seek correction of such information (note that exceptions apply in some circumstances);
- how you may complain about a breach of the Australian Privacy Principles ("APP"), or a registered APP code (if any) that binds the Responsible Entity, and how the Responsible Entity will deal with such a complaint;
- whether the Responsible Entity is likely to disclose personal information to overseas recipients and, if so, the countries in which such recipients are likely to be located if it is practicable for the Responsible Entity to specify those countries.

The privacy policy of the Responsible Entity is publicly available at [www.lanyon.com.au/RE](http://www.lanyon.com.au/RE) or you can obtain a copy free of charge by contacting the Responsible Entity

Information regarding our collection, use and disclosure of personal information is set out in the Application Form.

If you are investing indirectly through a platform, we do not collect or hold your personal information in connection with your investment in the Fund. Please contact your platform operator for more information about their privacy policy.

### 1.2 Anti-Money Laundering and Counter-terrorism financing (AML ACT)

The Anti-Money Laundering and Counter-Terrorism Financing Act 2006 ("AML Act") and other applicable anti-money laundering and counter terrorism laws, regulation, rules and policies which apply to the Responsible Entity ("AML Requirements") regulate financial services and transactions in a way that is designed to detect and prevent money laundering and terrorism financing. The AML Act is enforced by the Australian Transaction Reports and Analysis Centre ("AUSTRAC"). In order to comply with the AML Requirements, The Responsible Entity is required to, amongst other things:

- verify your identity and source of your application monies before providing services to you, and to re-identify you if we consider it necessary to do so; and
- where you supply documentation relating to the verification of your identity, keep a record of this documentation for 7 years.

The Responsible Entity and any agent acting on our behalf reserve the right to request such information as is necessary to verify your identity and the source of the payment. In the event of delay or failure by you to produce this information, The Responsible Entity may refuse to accept an application and the application monies relating to such application or may suspend the payment of withdrawal proceeds if necessary to comply with AML Requirements applicable to them. Neither the Responsible

Entity nor its agents shall be liable to you for any loss suffered by you because of the rejection or delay of any subscription or payment of withdrawal proceeds.

The Responsible Entity has implemented several measures and controls to ensure we comply with our obligations under the AML Requirements, including carefully identifying and monitoring investors. Because of the implementation of these measures and controls:

- transactions may be delayed, blocked, frozen or refused where the Responsible Entity has reasonable grounds to believe that the transaction breaches the law or sanctions of Australia or any other country, including the AML Requirements;
- where transactions are delayed, blocked, frozen or refused, the Responsible Entity or our agents are not liable for any loss you suffer (including consequential loss) caused by reason of any action taken or not taken by them as contemplated above, or because of the Responsible Entity's compliance with the AML Requirements as they apply to the Fund; and
- the Responsible Entity or any agents acting on our behalf may from time to time require additional information from you to assist it in this process.

The Responsible Entity has certain reporting obligations under the AML Requirements and is prevented from informing you that any such reporting has taken place. Where required by law, the Responsible Entity may disclose the information gathered to regulatory or law enforcement agencies, including AUSTRAC. Neither the Responsible Entity nor our agents are liable for any loss you may suffer because of the Responsible Entity's compliance with AML Requirements.

### 1.3 US tax withholding and reporting under the Foreign Account Tax Compliance Act (FATCA)

The United States of America has introduced rules (known as FATCA) which are intended to prevent US persons from avoiding tax. Broadly, the rules may require the Fund to report certain information to the Australian Taxation Office (**ATO**), which may then pass the information on to the US Internal Revenue Service (**IRS**). If you do not provide this information, we will not be able to process your application.

To comply with these obligations, the Responsible Entity will collect certain information about you and undertake certain due diligence procedures to verify your FATCA status and provide information to the ATO in relation to your financial information required by the ATO (if any) in respect of any investment in the Fund.

### 1.4 Common Reporting Standard

The Australian government has implemented the OECD Common Reporting Standards Automatic Exchange of Financial Account Information (**CRS**) from 1 July 2017. CRS, like the FATCA regime, will require banks and other financial institutions to collect and report information to the ATO.

CRS will require certain financial institutions to report information regarding certain accounts to their local tax authority and follow related due diligence procedures. The Fund is expected to be a 'Financial Institution' under the CRS and intends to comply with its CRS obligations by obtaining and reporting information on relevant accounts (which may include your units in the Fund) to the ATO. For the Fund to comply with their obligations, we will request that you provide certain information and certifications to us. We will determine whether the Fund is required to report your details to the ATO based on our assessment of the relevant information received. The ATO may provide this information to other jurisdictions that have signed the "CRS Competent Authority Agreement", the multilateral framework agreement that provides the mechanism to facilitate the automatic exchange of information in accordance with the CRS. The Australian Government has enacted legislation amending, among other things, the Taxation Administration Act 1953 of Australia to give effect to the CRS.



## 2. RISK OF MANAGED INVESTMENT SCHEMES

### 2.1 Additional Risks

**Small companies risk** – Small cap companies may have less diversified income streams, less stable funding sources and weaker bargaining positions with their counterparties when compared to larger companies. The securities of small companies may also be less liquid than those of larger companies.

**Fund Risk** – The Fund could terminate (for example, at a date we decide), fees and expenses could change (although we would always give you at least 30 days' notice where practicable if fees were to increase), we could be replaced as responsible entity and our management and staff could change. Investing in the Fund may give different results than investing individually because of accrued income or capital gains and the consequences of others investing and withdrawing.

**Currency Risk** – The Fund generally does not currency hedge. There is a risk that currency fluctuation may adversely impact the value of international stock positions. For example, if the Australian dollar falls, the value of international investments expressed in Australian dollars can increase and has the potential to increase the value of the Fund's investments. Conversely, if the Australian dollar rises, the value of international investments expressed in Australian dollars can decrease and this has the potential to reduce the value of the Fund's investments.

**Concentration Risk** – The Fund may invest a relatively high percentage of its assets into a relatively small number of securities, or into securities with a relatively high level of exposure to the same sector. This may cause the value of the Fund's investments to be more affected by any single adverse economic, political or regulatory event than the investments of a more diversified investment portfolio.

# Lanyon Investment Fund



## TARGET MARKET DETERMINATION (TMD)

DATED 1 MARCH 2024

### TARGET MARKET SUMMARY

This product is likely to be appropriate for a consumer seeking capital growth to be used as a core or satellite component within a portfolio where the consumer has a 3 - 5 year investment timeframe, high risk/return profile and needs **daily** access to capital.

### IDENTIFIERS

Issuer	Lanyon RE Services Limited
Issuer ACN	661585815
Issuer AFSL	544723
ARSN	670944242
APIR Code	LYN3596AU
Fund Name	Lanyon Investment Fund
TMD Status	Current
TMD Version	1
TMD Approval Date	1 March 2024
PDS Link	<a href="#">Click here</a>

### DESCRIPTION OF TARGET MARKET

#### TMD indicator key

The Consumer Attributes for which the product is likely to be appropriate have been assessed using a red /green rating methodology with appropriate colour coding.

- In target market
- Not in target market

#### Instructions

Generally, a consumer is unlikely to be in the target market for the product if:

- One or more of their Consumer Attributes correspond to a red rating, or
- Three or more of their Consumer Attributes correspond to an amber rating.

Definitions and guidance around important terms used in this TMD can be found in the Definitions section of this document.

#### Investment products and diversification

A consumer (or class of consumer) may intend to hold a product as part of a diversified portfolio (typically with an intended product use of satellite/small allocation or core component). In such circumstances, the product should be assessed against the consumer's attributes for the relevant portion of the portfolio, rather than the consumer's portfolio as a whole. For example, a consumer may seek to construct a conservative portfolio with a satellite/small allocation to growth assets. In this case, it may be likely that a product with a High or Very High risk/return profile is consistent with the consumer's objectives for that allocation notwithstanding that the risk/return profile of the consumer as a whole is Low or Medium. In making this assessment, distributors should consider all features of a product (including its key attributes).

### DISTRIBUTION CONDITIONS / RESTRICTIONS

Distribution Condition	Applicable	Distribution Condition Rationale
There are no distribution conditions.	Y	Not applicable
Only suitable for distribution to consumers who have received personal advice.	N	–
Only suitable for distribution through the following specified distributors or distribution channels (if any).	N	–
Other	N	–

Consumer Attributes	TMD indicator	Product description including key attributes
Consumer's investment objective		
Capital Growth	●	The Fund's investment return objective is to earn returns superior to the combined S&P/ASX 300 Accumulation Index and the MSCI All Country World Index net total returns AUD index after taking account of fees and costs incurred by the Fund. The Fund intends to make a distribution at least annually.
Capital Preservation	●	
Capital Guaranteed	●	
Income Distribution	●	
Consumer's intended product use		
Solution/Standalone (75-100%)	●	The Fund's investment strategy is to primarily invest in securities of entities listed on Australian & global stock exchanges. The strategic target asset class allocation is predominantly focused on approximately 30-90% listed securities, with the balance of 10-70% held in cash and cash equivalents.  However, this strategic target asset class allocation is a target only and actual asset class allocations may differ from the target. This Fund can form part of an investment portfolio.
Core Component (25-75%)	●	
Satellite/Small Allocation (<25%)	●	
Investment timeframe		
Short (≤ 2 years)	●	This investment opportunity is only suitable for types of investors who are primarily seeking medium to long-term investment with a significant exposure to Australian & globally listed securities and the potential for high returns, and who are prepared to hold the investment for at least 3 to 5 years due to the risk and volatility associated with listed equities investment in general. The minimum suggested investment timeframe is therefore at least 3 years.
Medium (> 2 years ≤ 8 years)	●	
Long (> 8 years)	●	
Consumer's risk (ability to bear loss) and return profile		
Low	●	This Fund is considered a high-risk investment. The Funds investment return objective is to earn returns superior to the Benchmark after taking account of fees and costs incurred by the Fund. However, there is no guarantee that such outperformance will occur. Further, returns are not guaranteed and a loss of investment may occur.
Medium	●	
High	●	
Very High	●	
Consumer's need to withdraw money		
Daily	●	Investors can access their investment by making a withdrawal request to Lanyon and/or William Buck.
Weekly	●	
Monthly	●	Lanyon RE Services Limited (Responsible Entity) To make a withdrawal, an investor must send a correctly completed Withdrawal Form to Lanyon's Unit Registry, William Buck. An investor can request a specified dollar amount to be withdrawn, a specified number of Units to be withdrawn, or a full redemption.  The unit price is calculated daily. Proceeds from a redemption will be available within 14 days of receipt of a request as per the PDS however, we will generally pay redemptions 2 days following the unit price calculations. Redemption proceeds are also subject to clearance by your bank, building society or credit union.
Quarterly	●	
Annually or longer	●	

## APPROPRIATENESS

The Issuer has assessed the product and formed the view that the product, including its key attributes, is likely to be consistent with the likely objectives, financial situation and needs of consumers in the target market as described above, as the features of this product in Column 3 of the table above are likely to be suitable for consumers with the attributes identified with a green TMD Indicator in Column 2. Based on the issuer's assessment of the product, there are no specific distribution conditions required.

## REVIEW PROCESSES

### Review triggers

- Material change to key attributes, fund investment objective and/or fees.
- Material deviation from benchmark / objective over sustained period.
- Key attributes have not performed as disclosed by a material degree and for a material period.
- Determination by the issuer of an ASIC reportable Significant Dealing.
- Material or unexpectedly high number of complaints (as defined in section 994A(1) of the Act) about the product or distribution of the product.
- The use of Product Intervention Powers, regulator orders or directions that affects the product.

### Mandatory review periods

Review period	Maximum period for review
Initial review	15 months after TMD date
Subsequent review	36 months

## DISTRIBUTOR REPORTING REQUIREMENTS

If practicable, Distributors should adopt the FSC data standards for reports and provide them via email to the Issuer at [ir@lanyon.com.au](mailto:ir@lanyon.com.au) and to the Investment Manager at [contact@lanyon.com.au](mailto:contact@lanyon.com.au)

Reporting Requirement	Reporting Period	Applicability
Complaints (as defined in section 994A(1) of the Act) relating to the product design, product availability and distribution. The distributor should provide all the content of the complaint, having regard to privacy.	Reports are to be sent quarterly, within 10 business days of the end of the calendar period.	Y
Significant dealing outside of target market, under s994F(6) of the Act. See definitions for further details.	As soon as practicable but no later than 10 business days after distributor becomes aware of the significant dealing.	Y
To the extent a distributor is aware of dealings outside the target market these should be reported to the issuer, including reason why acquisition is outside of target market, and whether acquisition occurred under personal advice.	Reports are to be sent quarterly, within 10 business days of the end of the calendar period.	Y

## DISCLAIMER

This Target Market Determination (TMD) has been produced by the Issuer identified in this document solely for the purpose of meeting the requirements under section 994B of the Corporations Act 2001 (Cth). This TMD sets out the class of consumers for which this product, including its key attributes, would likely be consistent with their likely objectives, financial situation and needs. It also outlines the distribution conditions and restrictions imposed on distribution of the product, as well as reporting requirements for distributors. The Issuer has elected to adopt the TMD template established through the Financial Services Council (FSC). If you have any queries regarding the contents of the TMD or would like to request a copy of a prior version, please contact the Issuer on 08 8432 0460 or [ir@lanyon.com.au](mailto:ir@lanyon.com.au) or call the Investment Manager on (02) 8203 3800. This document is not a Product Disclosure Statement and does not provide a full summary of the product features or terms of the product. This TMD is not to be used except for the purpose of a regulated person complying with their obligations under Part 7.8A of the Corporations Act 2001 (Cth). To the extent permitted by law, no liability is accepted for any loss or damage as a result of any reliance on this information. This document is not intended to provide you with financial advice or take into account your objectives, financial situation or needs. You should consider whether the information is suitable for your circumstances. Before making any investment decision in respect of the product, you should consider obtaining financial advice. The Product Disclosure Statement (PDS) for the product should be considered before deciding whether to acquire, or to continue to hold, the product. To obtain a copy of the PDS please contact the Investment Manager on (02) 8203 3800.

Alternatively, to access it online you can [Click here](#)



### Consumer's investment objective

#### Capital Growth

The consumer seeks to invest in a product designed to generate capital return. The consumer prefers exposure to growth assets (such as shares or property) or otherwise seeks an investment return above the current inflation rate.

#### Capital Preservation

The consumer seeks to invest in a product to reduce volatility and minimise loss in a market down-turn. The consumer prefers exposure to defensive assets (such as cash or fixed income securities) that are generally lower in risk and less volatile than growth investments.

#### Capital Guaranteed

The consumer seeks a guarantee or protection against capital loss whilst still seeking the potential for capital growth (typically gained through a derivative arrangement). The consumer would likely understand the complexities, conditions and risks that are associated with such products.

#### Income Distribution

The consumer seeks to invest in a product designed to distribute regular and/or tax-effective income. The consumer prefers exposure to income-generating assets (typically, high dividend-yielding equities, fixed income securities and money market instruments).

### Consumer's intended product use (% of investable assets)

#### Solution/ Standalone (75-100%)

The consumer intends to hold the investment as either a part or the majority (up to 100%) of their total investable assets (*see definition below*). The consumer typically prefers exposure to a product with at least High portfolio diversification (*see definitions below*).

#### Core Component (25-75%)

The consumer intends to hold the investment as a major component, up to 75%, of their total investable assets (*see definition below*). The consumer typically prefers exposure to a product with at least Medium portfolio diversification (*see definitions below*).

#### Satellite (<25%)

The consumer intends to hold the investment as a smaller part of their total portfolio, as an indication it would be suitable for up to 25% of the total investable assets (*see definition below*). The consumer is likely to be comfortable with exposure to a product with Low portfolio diversification (*see definitions below*).

#### Investable Assets

Those assets that the investor has available for investment, excluding the residential home.

### Portfolio diversification (for completing the key product attribute section of consumer's intended product use)

#### Low

Single asset class, single country, low or moderate holdings of securities – e.g. high conviction Aussie equities.

#### Medium

1-2 asset classes, single country, broad exposure within asset class, e.g. Aussie equities "All Ords".

#### High

Highly diversified across either asset classes, countries or investment managers, e.g. Australian multi-manager balanced fund or global multi-asset product (or global equities).

### Consumer's intended investment timeframe

#### Short ( $\leq 2$ years)

The consumer has a short investment timeframe and may wish to redeem within two years.

#### Medium ( $> 2$ years $\leq 8$ years)

The consumer has a medium investment timeframe and is unlikely to redeem within two years.

#### Long ( $> 8$ years)

The consumer has a long investment timeframe and is unlikely to redeem within eight years.

### Consumer's risk (ability to bear loss) and return profile

Issuers should undertake a comprehensive risk assessment for each product. The FSC strongly recommends adoption of the Standard Risk Measure (SRM) to calculate the likely number of negative annual returns over a 20 year period, using the guidance and methodology outlined in the Standard Risk Measure Guidance Paper For Trustees. SRM is not a complete assessment of risk and potential loss. For example, it does not detail important issues such as the potential size of a negative return or that a positive return could still be less than a consumer requires to meet their investment objectives/needs. Issuers may wish to supplement the SRM methodology by also considering other risk factors. For example, some products may use leverage, derivatives or short selling, may have liquidity or withdrawal limitations, or otherwise may have a complex structure or increased investment risks, which should be documented together with the SRM to substantiate the product risk rating. A consumer's desired product return profile would generally take into account the impact of fees, costs and taxes.

#### Low

The consumer is conservative or low risk in nature, seeks to minimise potential losses (e.g. has the ability to bear up to 1 negative return over a 20 year period (SRM 1 to 2)) and is comfortable with a low target return profile. Consumer typically prefers defensive assets such as cash and fixed income.

#### Medium

The consumer is moderate or medium risk in nature, seeking to minimise potential losses (e.g. has the ability to bear up to 4 negative returns over a 20 year period (SRM 3 to 5)) and comfortable with a moderate target return profile. Consumer typically prefers a balance of growth assets such as shares, property and alternative assets and defensive assets such as cash and fixed income.

## High

The consumer is higher risk in nature and can accept higher potential losses (e.g. has the ability to bear up to 6 negative returns over a 20 year period (SRM 6)) in order to target a higher target return profile. Consumer typically prefers predominantly growth assets such as shares, property and alternative assets with only a smaller or moderate holding in defensive assets such as cash and fixed income.

## Very High

The consumer has a more aggressive or very high risk appetite, seeks to maximise returns and can accept higher potential losses (e.g. has the ability to bear 6 or more negative returns over a 20 year period (SRM 7) and possibly other risk factors, such as leverage). Consumer typically prefers growth assets such as shares, property and alternative assets.

## Consumer's need to withdraw money

Issuers should consider in the first instance the redemption request frequency under ordinary circumstances. However, the redemption request frequency is not the only consideration when determining the ability to meet the investor's requirement to access capital. To the extent that the liquidity of the underlying investments or possible liquidity constraints (e.g. ability to stagger or delay redemptions) could impact this, this is to be taken into consideration in completing this section.

## Daily/Weekly/Monthly/Quarterly/Annually or longer

The consumer seeks to invest in a product which permits redemption requests at this frequency under ordinary circumstances and the issuer is typically able to meet that request within a reasonable period.

## Distributor reporting

### Significant dealings

Section 994F(6) of the Act requires distributors to notify the issuer if they become aware of a significant dealing in the product that is not consistent with the TMD. Neither the Act nor ASIC defines when a dealing is 'significant' and distributors have discretion to apply its ordinary meaning.

The issuer will rely on notifications of significant dealings to monitor and review the product, this TMD, and its distribution strategy, and to meet its own obligation to report significant dealings to ASIC. Dealings outside this TMD may be significant because:

- they represent a material proportion of the overall distribution conduct carried out by the distributor in
- relation to the product, or
- they constitute an individual transaction which has resulted in, or will or is likely to result in, significant detriment to the consumer (or class of consumer).

In each case, the distributor should have regard to:

- the nature and risk profile of the product (which may be indicated by the product's risk rating or withdrawal timeframes),
- the actual or potential harm to a consumer (which may be indicated by the value of the consumer's
- investment, their intended product use or their ability to bear loss), and
- the nature and extent of the inconsistency of distribution with the TMD (which may be indicated by the number of red or amber ratings attributed to the consumer).

Objectively, a distributor may consider a dealing (or group of dealings) outside the TMD to be significant if:

- it constitutes more than half of the distributor's total retail product distribution conduct in relation to the product over the reporting period, the consumer's intended product use is *Solution / Standalone*, or
- the consumer's intended product use is *Core component* and the consumer's risk (ability to bear loss)
- and return profile is *Low*.