

**OAM ASIAN RECOVERY FUND  
OFFERING MEMORANDUM**

The subscription list for the Non-Voting Participating Redeemable Preference Shares of US\$0.01 par value ISIN KYG668811063 (the “Participating Shares”) of the OAM Asian Recovery Fund (the “Fund” or the “Company”) offered to Qualifying Investors (as defined on page 3 hereof) opened for the initial offering at a subscription price of US\$10.00 per Participating Share at 9.00am on 31<sup>st</sup> December 1998. From 1<sup>st</sup> January, 1999 there has been a continuous offering of Participating Shares as set out herein. The full subscription price is payable in cash upon subscription. The minimum initial subscription is US\$250,000.00 per investor.

**OFFER BY**

**OAM ASIAN RECOVERY FUND**

(An exempted company established under the Companies Law of the Cayman Islands for an unlimited duration on 24<sup>th</sup> December 1998)

Participating Shares of OAM Asian Recovery Fund are listed on the Cayman Islands Stock Exchange under the Bloomberg Symbol OAMASRI KY.

**INVESTMENT ADVISOR**

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Updated 4<sup>th</sup> November 2020  
**Addendum dated 23<sup>rd</sup> December 2021**

This document contains certain particulars of the Fund for the purpose of giving information to the recipients hereof. The Participating Shares are offered on the basis of the information and representations contained in this Offering Memorandum. Any other information given or representations made by any person must be regarded as unauthorised.

This Offering Memorandum includes information given in compliance with the Listing Rules of the Cayman Islands Stock Exchange (the "CSX"). The Directors of the Fund (the "Directors" and each a "Director"), collectively and individually, accept full responsibility for the accuracy of the information contained in this Offering Memorandum and confirm having made reasonable enquiry, that to the best of their knowledge and belief there are no facts the omission of which would make any statement within this Offering Memorandum misleading. The CSX takes no responsibility for the contents of this Offering Memorandum and makes no representations as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss arising from or in reliance upon any part of this document.

A MUTUAL FUND LICENCE ISSUED OR A FUND REGISTERED BY THE CAYMAN ISLANDS MONETARY AUTHORITY DOES NOT CONSTITUTE AN OBLIGATION OF THE AUTHORITY TO ANY INVESTOR AS TO THE PERFORMANCE OR CREDITWORTHINESS OF THE FUND.

FURTHERMORE, IN ISSUING SUCH A LICENCE OR IN REGISTERING A FUND, THE AUTHORITY SHALL NOT BE LIABLE FOR ANY LOSSES OR DEFAULT OF THE FUND OR FOR THE CORRECTNESS OF ANY OPINIONS OR STATEMENTS EXPRESSED IN ANY PROSPECTUS OR OFFERING DOCUMENT.

### **SIGNIFICANT INFORMATION**

It is recommended that any person interested in applying for Participating Shares in the Fund pursuant to this Offering Memorandum should consult his professional advisers on matters referred to in this document. No information or advice herein contained shall constitute advice to a prospective shareholder in respect of his personal position.

The distribution of this Offering Memorandum and the offering of Participating Shares may be wholly or partly restricted in certain jurisdictions. It is the responsibility of any persons in possession of this Offering Memorandum and any persons wishing to make application for Participating Shares on the basis of or pursuant to this Offering Memorandum to inform themselves of and to observe fully the applicable laws and regulations of any relevant jurisdiction.

This Offering Memorandum does not constitute an offer or solicitation to anyone in any jurisdiction in which such offer or solicitation is not authorised or to any person to whom it is unlawful to make such offer or solicitation or is unlawful without compliance with additional registration or filing requirements. In particular, the Participating Shares have not been registered under the United States Securities Act of 1933 and, other than in certain circumstances, may not be directly or indirectly offered or sold in the United States or to or for the benefit of U.S. persons, or to others purchasing the Participating Shares for re-offering, resale or delivery directly or indirectly in the United States, or to or for the benefit of any such persons.

## **Qualifying Investors/Compulsory Redemptions**

The Fund's Articles of Association contain a provision empowering the Fund to redeem compulsorily any Participating Shares if it comes to the attention of the Directors that any Participating Shares are owned directly or beneficially by any person who (i) is not a Qualifying Investor or, (ii) by virtue of such ownership, is in breach of any law or requirement of any country or governmental authority which might result in the Fund or its shareholders suffering taxation or pecuniary or other disadvantage which it or they would not suffer if such person (whether alone or together with other persons) was not a holder of Participating Shares. Otherwise, the Participating Shares are freely transferable among Qualifying Investors. However, the Directors accept no responsibility for, and are not obliged to ascertain whether or not such a person so owns any Participating Shares or such ownership would result in breach of any such law or requirement or bring about any such disadvantage.

## **U.S Persons**

U.S. Persons are not Qualifying Investors and may not acquire Participating Shares.

For the purposes of this Offering Memorandum, "United States" means the United States of America, each state thereof, its territories and possessions and all areas subject to its jurisdiction and a "Qualifying Investor" means a person who is not a U.S. Person (unless expressly approved by the Board of Directors) and has an open account and signed an investment management agreement with the Investment Advisor.

All references to a "U.S. Person"- means (a) a natural person who is a citizen or resident of the United States; (b) a partnership, limited liability company or corporation organized or incorporated under the laws of the United States, its territories or possessions, any U.S. state, or the District of Columbia; (c) a trust of which any trustee is a U.S. Person, unless no beneficiary of the trust (and no settlor if the trust is revocable) is a U.S. Person, the trustee who is a U.S. Person is a professional fiduciary and a trustee who is not a U.S. Person has sole or shared investment discretion with respect to the trust assets; (d) an estate of which any executor or administrator is a U.S. Person, unless such estate is governed by non-U.S. law, the U.S. Person who serves as an executor or administrator of such estate is a professional fiduciary and an executor or administrator of the estate who is not a U.S. Person has sole or shared investment discretion with respect to the estate's assets; (e) a non discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. Person; (f) a discretionary or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if an individual) resident in the United States; (g) an agency or branch of a foreign entity located in the United States; or (h) a partnership, limited liability company or corporation that is (i) organized or incorporated under the laws of a jurisdiction other than the United States and (ii) formed by a U.S. Person principally for the purpose of investing in securities not registered under the U.S. Securities Act of 1933 as amended, unless it is organized or incorporated and owned by accredited investors (as defined in Rule 501(a) under the U.S. Securities Act of 1933 as amended) who are not natural persons, estates or trusts. Notwithstanding the foregoing, an employee benefit plan established and administered in accordance with the law of a country other than the United States and with customary practices and documentation of such country does not constitute a U.S. Person.

## **FATCA**

Sections 1471 – 1474 (referred to as "FATCA") of the US Internal Revenue Code of 1986, as amended (the "Code") provides that a 30% withholding tax will be imposed on certain payments to foreign financial institutions, such as the Fund, including interests and dividends from securities of U.S. issuers and gross proceeds from the sale of such securities, unless the Fund complies with FATCA.

Although the Fund will attempt to satisfy any obligations imposed on it and to avoid the imposition of any FATCA withholding, no assurance can be given that the Fund will be able to achieve this and/or satisfy such FATCA obligations. If the Fund becomes subject to a 30% FATCA penalty withholding on most types of income from U.S. investments as a result of the FATCA regime, the value of the Participating Shares held by Shareholders in the Fund may suffer material losses. The Fund's ability to comply with FATCA will depend on each Shareholder providing the Fund with information that the Fund requests concerning the Shareholder or its direct and indirect owners. If a Shareholder fails to provide the Fund with any information the Fund requests, and, in the opinion of the Directors or the Investment Advisor, as the case may be, holding of Participating Shares by such person (whether directly or beneficially) will result in the Fund incurring any liability to taxation or suffering a pecuniary disadvantage which the Fund might not otherwise have incurred or suffered, or the Fund being exposed to any liability, penalty or regulatory action, then the Directors, may exercise its right to request a transfer of Participating Shares to another person or to compulsorily redeem the Participating Shares held by such Shareholder. Any such transfer or compulsory redemption will be done in accordance with applicable laws and regulations, and the discretion to do so will be exercised by the Directors acting in good faith and on reasonable grounds. Prospective shareholders should consult their own tax advisors regarding the possible implications of the U.S. FATCA on their investment in the Fund.

## **Automatic Exchange of Financial Account Information**

The Cayman Islands has signed an inter-governmental agreement to improve international tax compliance and the exchange of information with the United States (the "US IGA") which gives effect to the automatic tax information exchange requirements of FATCA. The Cayman Islands has also signed, along with over 100 other countries, a multilateral competent authority agreement to implement the Organisation of Economic Cooperation and Development ("OECD") standard for automatic exchange of financial account information – common reporting standard ("CRS" and together with the US IGA, "AEOI"). Cayman Islands regulations have been issued to give effect to the US IGA and CRS (collectively, the "AEOI Regulations"). Pursuant to the AEOI Regulations, the Cayman Islands Tax Information Authority (the "TIA") has published guidance notes on the application of the US IGA and CRS.

All Cayman Islands "Financial Institutions" are required to comply with the registration, due diligence and reporting requirements of the AEOI Regulations, unless they are able to rely on an exemption that allows them to become a "Non-Reporting Financial Institution" (as defined in the relevant AEOI Regulations) with respect to one or more of the AEOI regimes, in which case only the registration requirement would apply under CRS. The Fund does not propose to rely on any Non-Reporting Financial Institution exemption and therefore intends to comply with all of the requirements of the AEOI Regulations.

The AEOI Regulations require the Fund to, amongst other things (i) register with the United States Internal Revenue Service ("**IRS**") to obtain a Global Intermediary Identification Number (GIIN) (in the context of the US IGA only), (ii) register with the TIA, and thereby notify the TIA of its status as a "Reporting Financial Institution"; (iii) adopt and implement written policies and procedures setting out how it will address its obligations under CRS; (iv) conduct due diligence on its accounts to identify whether any such accounts are considered "Reportable Accounts", and (v) report information on such Reportable Accounts to the TIA. The TIA will transmit the information reported to it to the overseas fiscal authority relevant to a reportable account (e.g. the IRS in the case of a US Reportable Account) annually on an automatic basis. By investing (or continuing to invest) in the Fund, investors shall be deemed to acknowledge that:

- (i) the Fund may require the investor to provide additional information and/or documentation to the Fund, the Fund's compliance with the AEOI Regulations may result in the disclosure of investor information, and investor information may be exchanged with overseas fiscal authorities;
- (ii) in the event an investor does not provide the requested information and/or documentation, whether or not that actually leads to compliance failures by the Fund, or a risk of the Fund or its investors being subject to tax or penalties under the relevant legislative or inter-governmental regime, the Fund reserves the right to take any action and/or pursue all remedies at its disposal including, without limitation, compulsory redemption or withdrawal of the investor concerned;
- (iii) no investor affected by any such action or remedy shall have any claim against the Fund (or its agent) for any form of damages or liability as a result of actions taken or remedies pursued by or on behalf of the Fund in order to comply with the US IGA, CRS or any agreements, laws or regulations entered into or implemented by the Cayman Islands for the purpose of ensuring and/or enhancing international tax transparency; and
- (iv) the Fund will endeavour to satisfy the requirements imposed under FATCA, the US IGA, CRS and the AEOI Regulations to avoid any withholding tax. In the event that the Fund (or its agent) is not able to comply with the requirements imposed under FATCA, the US IGA, CRS and AEOI Regulations and the Fund does suffer withholding tax on its investments as a result of non-compliance, the Net Asset Value of the Fund may be adversely affected and the Fund may suffer significant loss as a result.

Each prospective investor should consult with its own advisors as to the potential impact of US FATCA and CRS on such investor.

### **Other jurisdictions**

It is possible that certain dividends, interest and other income received by the Fund from sources within certain countries may be subject to withholding taxes imposed by such countries. The Fund may also be subject to capital gains taxes or other taxes in some of the countries where it purchases and sells securities or otherwise conducts business. It is impossible to predict in advance the rate of tax that will be paid since the amount of the assets of the Fund to be invested in various countries is uncertain.

In this Offering Memorandum all references to "dollars", "\$" and "cents" are to the currency of the United States of America, unless otherwise stated, and a "Business Day" is a day on which the banks are not closed for business in the Cayman Islands.

IT SHOULD BE NOTED THAT THE REDEMPTION PRICE OF PARTICIPATING SHARES AND THE AMOUNT OF INCOME, IF ANY, AVAILABLE FOR DISTRIBUTION CAN GO DOWN AS WELL AS UP.

## **Regulation of the Fund in the Cayman Islands**

The Fund falls within the definition of a "mutual fund" under the Mutual Funds Law (as revised) of the Cayman Islands (the "Mutual Funds Law") and, accordingly, has obtained a license from the Cayman Islands Monetary Authority (the "Authority") under section 4(1)(a) of the Mutual Funds Law. The Fund will be required to file this Offering Memorandum (and any changes thereto) with the Authority and to file annual audited accounts with the Authority. The Fund is also subject to Rules issued by the Authority from time to time pursuant to section 34 of the Monetary Authority Law (as revised).

As a "regulated mutual fund", the Fund is subject to the supervision of the Authority and the Authority may at any time instruct the Fund to have its accounts audited and to submit them to the Authority within such time as the Authority specifies. In addition, the Authority may ask the Fund and/or any of its Directors to give the Authority such information or such explanation in respect of the Fund as the Authority may reasonably require to enable it to carry out its duty under the Mutual Funds Law.

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

The Authority may take certain actions if it is satisfied that a regulated mutual fund is or is likely to become unable to meet its obligations as they fall due or is carrying on or is attempting to carry on business or is winding up its business voluntarily in a manner that is prejudicial to its investors or creditors or the direction and management of the Fund has not been conducted in a fit and proper manner or a person holding a position as a director, manager or officer of the Fund is not a fit and proper person to hold the respective position. The powers of the Authority include, inter alia, the power to require the substitution of any Director, to appoint a person to advise the Fund on the proper conduct of its affairs or to appoint a person to assume control of the affairs of the Fund. There are other remedies available to the Authority, including the ability to apply for a court order to take such other actions as it considers necessary, to protect the interests of investors in and creditors to the Fund.

The Authority does not take responsibility for the Fund's investment programme, nor does it monitor compliance with the investment guidelines and restrictions set forth in this Offering Memorandum.

The Fund is not registered or licensed, as the case may require, (or intends to be registered or licensed) in any jurisdiction or with any supervisory or regulatory authority outside the Cayman Islands. .

## **Data Protection Legislation**

The Data Protection Law (as revised) (the "**Data Protection Law**") governs the use of personal data by Cayman Islands entities. It also addresses extra-territorial storage and transfer of personal data. Under the provisions thereof, the Data Protection Law applies to the processing of personal data where the data controller is established in the Cayman Islands and the personal data is

processed in the context of that establishment, or where the data controller is not established in the Cayman Islands but the personal data is processed in the Cayman Islands otherwise than for the purposes of transit of the personal data through the Cayman Islands.

The Data Protection Law therefore has the potential to apply to the Fund and/or the Investment Advisor amongst others where the Fund is an established Cayman Islands entity and the Fund and/or its service providers process any personal data from investors.

Pursuant to the Data Protection Law, investors are entitled to certain rights with respect to the collection, storage, dissemination, and access to their personal data. Where the Data Protection Law applies to the Fund and/or its operational activities as carried out by its service providers, it will be necessary for any processing of personal data to be for a lawful purpose.

By subscribing for Shares, applicants acknowledge that the Fund will collect, record, store, adapt, transfer and otherwise process information by which prospective investors may be directly or indirectly identified (“personal data”) in accordance with the Data Protection Law. The Fund and/or any of its delegates or service providers may process prospective investor's personal data for any one or more of the purposes and legal bases set out in Fund's Data Protection Privacy Policy in Appendix G. If specific processing is based on an investor's consent, that investor has the right to withdraw his consent at any time. Investors have the right to request access to their personal data kept by the Fund and the right to rectification or erasure of their data and to restrict or object to processing of their data, subject to any restrictions imposed by any applicable data protection legislation. Investors are required to provide their personal data for statutory and contractual purposes. Failure to provide the required personal data or an objection to processing may result in the Fund being unable to permit, process, or release the investor's investment in the Fund and this may result in the Fund terminating its relationship with the investor. The Fund holds investor data primarily in the Cayman Islands but may hold or transfer it to another jurisdiction in accordance with its Privacy Policy. For more information on the Fund's data protection policies, see the Data Protection Privacy Policy in Appendix G.

### **Anti-Money Laundering Regulations**

The Fund is required to comply with the Anti-Money Laundering Regulations (as revised) (the "**Regulations**"), the Proceeds of Crime Law (as revised), the Terrorism Law (as revised), the Proliferation Financing (Prohibition) Law (as revised), the Guidance Notes on the Prevention and Detection of Money Laundering, Terrorist Financing and Proliferation Financing in the Cayman Islands, directives and guidance issued by the Cayman Islands Monetary Authority and the Cayman Islands Financial Reporting Authority (the "**Anti-Money Laundering Regime**").

In order to comply with the Anti-Money Laundering Regime, the Fund is required to adopt and maintain anti-money laundering procedures, and will require verification of identity from all prospective investors and source of funds (unless in any case the Fund is satisfied that an exemption under the Regulations applies). Where permitted, and subject to certain conditions, the Fund may also delegate the maintenance of its anti-money laundering procedures (including the acquisition of due diligence information) to a suitable person.

The Fund reserves the right to request such information as is necessary to verify the identity of a



prospective Shareholder. In the event of delay or failure on the part of the prospective Shareholder in producing any information required for verification purposes, the Fund may refuse to accept the application for Participating Shares, in which case, any funds received will be returned without interest to the account from which they were originally debited.

The Fund also reserves the right to refuse to make any redemption or dividend payment to a Shareholder if the Directors suspect or are advised that the payment of redemption or dividend proceeds to such Shareholder may be non-compliant with the Anti-Money Laundering Regime, or if such refusal is considered necessary or appropriate to ensure the compliance by the Fund with the Anti-Money Laundering Regime.

The Fund also reserves the right to refuse to process subsequent transactions until all the necessary anti-money laundering documentation has been received. Beneficial ownership detail will be required in advance of the processing of an initial subscription.

If any person resident in the Cayman Islands knows or suspects or has reasonable grounds for knowing or suspecting that another person is engaged in criminal conduct or money laundering, is involved with terrorism or terrorist financing and property, or is involved with proliferation financing, and the information for that knowledge or suspicion came to their attention in the course of business in the regulated sector, or other trade, profession, business or employment, the person will be required to report such knowledge or suspicion to (i) the Financial Reporting Authority of the Cayman Islands, pursuant to the Proceeds of Crime Law (as revised) of the Cayman Islands, if the disclosure relates to criminal conduct or money laundering, or (ii) a police officer of the rank of constable or higher, or the Financial Reporting Authority, pursuant to the Terrorism Law (as revised) or the Proliferation Financing (Prohibition) Law (as revised) (as applicable), if the disclosure relates to involvement with terrorism or terrorist financing and property or proliferation financing. Such a report shall not be treated as a breach of confidence or of any restriction upon the disclosure of information imposed by any enactment or otherwise.

The Fund has appointed natural persons to act as its Anti-Money Laundering Officers ("AML Officers") in accordance with the requirements of the Regulations: specifically, an Anti-Money Laundering Compliance Officer ("AMLCO"), Money Laundering Reporting Officer ("MLRO") and Deputy Money Laundering Reporting Officer ("DMLRO"). The AMLCO shall act as point of contact with supervisory and other competent authorities, respond to the competent authorities requests for information relating to the Fund's anti-money laundering program and anti-money laundering, countering the financing of terrorism and countering proliferation financing ("AML/CTF") compliance, oversight of the Fund's activities (including the Fund's investment activity as well as investor-related anti-money laundering issues), establish and maintain appropriate systems and controls (including documented policies and procedures) to ensure compliance with Cayman AML/CTF laws and regulations, oversee audits/testing of the Administrator's AML/CTF program and KYC documentation, ensure procedures are in place and employees are aware of procedures for the reporting of suspicious activity to the MLRO/DMLRO, maintain logs/records relating to specified scenarios such as rejection of subscriptions, investor account freezes and enhanced due diligence on politically exposed persons and other high risk investors, advise the Board of Directors of AML/CTF compliance issues that need to be brought to its attention and report periodically to the Board of Directors regarding the state of the Fund's AML/CTF program and controls.

The MLRO shall receive internal suspicious activity reports presented by the Fund, the Administrator or the Investment Advisor's staff or other service providers of the Fund as applicable and considering any such report in light of all other relevant information for the purpose of determining whether or not the information or other matter contained in the report gives rise to knowledge or suspicion of criminal conduct or money laundering, terrorism or terrorist financing, or proliferation financing pursuant to the Anti-Money Laundering Regime, file suspicious activity reports or compliance reporting reports with the Financial Reporting Authority ("FRA") as required, maintain a log of all reports of suspicious activity (including where the filing of a suspicious activity report is not deemed necessary or appropriate), keep the Directors informed of all internal reports of suspicious activity and suspicious activity reports filed with the FRA, to the extent permitted by law and regulation.

In the absence of the MLRO, the DMLRO will be the final decision maker as to whether to file a suspicious activity report or compliance reporting report with the FRA.

The AML Officers are subject to change without prior consent or notice to the Shareholders.

Information regarding the identity and qualifications of the Fund's current AML Officers can be obtained from the Investment Advisor.

## **Sanctions**

The Fund is subject to laws that restrict it from dealing with entities, individuals, organizations and/or investments which are subject to applicable sanctions regimes.

Accordingly, the Fund will require a subscriber to represent and warrant, on a continuing basis, that it is not, and that to the best of its knowledge or belief its beneficial owners, controllers or authorized persons ("Designated Persons") (if any) are not: (i) named on any list of sanctioned entities or individuals maintained by the US Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the US Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN"), the United Nations ("UN") Security Council, or pursuant to European Union ("EU") and/or United Kingdom ("UK") Regulations (as the latter are extended to the Cayman Islands by Statutory Instrument), (ii) operationally based or domiciled in a country or territory in relation to which sanctions imposed by the UN, OFAC, FinCEN, the EU and/or the UK apply, or (iii) otherwise subject to sanctions imposed by the UN, OFAC, FinCEN, the EU or the UK (including as the latter are extended to the Cayman Islands by Statutory Instrument) (collectively, a "Sanctions Subject").

Where the subscriber or a Designated Person is or becomes a Sanctions Subject, the Fund may be required immediately and without notice to the subscriber to inform the Cayman Islands Financial Reporting Authority, freeze the subscriber's accounts, monies, or economic resources, and to cease any further dealings with the subscriber and/or the subscriber's interest in the Fund until the subscriber ceases to be a Sanctions Subject, or a licence is obtained under applicable law to continue such dealings (a "Sanctioned Persons Event"). The Fund, the Directors, the Administrator and the Investment Advisor shall have no liability whatsoever for any liabilities, costs, expenses, damages and/or losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of revenue, loss of reputation and all interest, penalties and legal costs and all other professional costs and expenses) incurred by the subscriber as a result of a Sanctioned Persons

Event.

In addition, should any investment made on behalf of the Fund subsequently become subject to applicable sanctions, the Fund may immediately and without notice to the subscriber inform the Cayman Islands Financial Reporting Authority and cease any further dealings with that investment until the applicable sanctions are lifted or a licence is obtained under applicable law to continue such dealings (a "Sanctioned Investment Event"). Should a Sanctioned Investment Event occur, the Fund may exercise its power to "side pocket" such investment.

### **Cayman Islands Ultimate Beneficial Ownership Requirements**

The Cayman Islands introduced a requirement for reporting of the ultimate beneficial owner of interests in Cayman Islands entities, consistent with global initiatives to increase transparency. Cayman Islands entities are obtaining information from their investors on the beneficial owners which is reported by secure portal to the Cayman Islands authorities.

The Fund is out of scope and hence not required to identify its beneficial owners. However, circumstances may change and in the future, the Fund may be required to liaise with Shareholders to obtain information.

### **Cayman Islands Economic Substance Law**

As a result of the OECD'S global Base Erosion and Profit Shifting initiative and the EU Code of Conduct Group substance requirements, the Cayman Islands has enacted The International Tax Co-operation (Economic Substance) Law (as revised) ("ES Law") and issued related Regulations and Guidance Notes. As a member of the BEPS Inclusive Framework jurisdictions, the Cayman Islands is committed to meeting substantial activities requirements put in place by the OECD Forum on Harmful Tax Practices. Similar legislation has been introduced in numerous jurisdictions, including the Channel Islands and the British Virgin Islands. Under the ES Law, certain vehicles formed or registered in the Cayman Islands are required to have economic substance in the Cayman Islands. The requirement to show economic substance is primarily aimed at preventing base erosion and profit shifting. The ES law applies to "relevant entities". Investment funds such as the Fund are specifically excluded from the definition of relevant entity and, as such, they are not within the scope of the ES Law. The definition of "investment fund" is broad and will include a wide range of investment funds, including those that are not licensed or registered with the Cayman Islands Monetary Authority. Accordingly, no current requirements are imposed on the Fund by the ES Law.

## **ISSUE OF PARTICIPATING SHARES**

No Participating Shares in the Fund may be subscribed for except by clients of Overseas Asset Management (Cayman) Ltd. who have signed an investment management agreement with Overseas Asset Management (Cayman) Ltd. as well as the prescribed application form for the purchase of Participating Shares (see Procedure for Subscription), or such persons who meet any suitability criteria as the Directors, in their complete discretion, may establish, or with the express written consent of the Directors. Overseas Asset Management (Cayman) Ltd. is the Investment Advisor of the Fund and is referred to herein as the "Investment Advisor".

Participating Shares may be subscribed for at the "Subscription Price" as calculated on the Valuation Day coinciding with the relevant Subscription Day (see page 16 hereof).

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## OAM ASIAN RECOVERY FUND

### STRUCTURE AND ADMINISTRATION

The proceeds of issue of Participating Shares will be invested in accordance with the investment objectives and strategies of the Fund as set out in this Offering Memorandum. The Fund will be responsible for its own day to day administration and Overseas Asset Management (Cayman) Ltd. will act as Investment Advisor to the Fund.

**Registered Office:**

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**Legal Advisors as to Cayman Islands Law:**

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**Investment Advisor:**

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**Bankers:**

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**The Directors of the Fund:**

Desmond H. Kinch (Chairman and Managing Director)  
Roger M. Cave  
Peter T. Dutton  
John F. Dyke

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**Listing Agent:**

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Grand Cayman KY1-1103  
Cayman Islands

## DESCRIPTION AND OBJECTIVES OF THE FUND

### General

The Fund is an open-ended investment fund established under the Companies Law of the Cayman Islands. It may issue and redeem Participating Shares at Net Asset Value per Participating Share as at each Subscription Day (being in the normal course of events the last Business Day of each month). The term “Net Asset Value per Participating Share” used herein means Net Asset Value divided by the number of issued and outstanding Participating Shares. The term “Net Asset Value” used herein bears the meaning given in Part 1 of Appendix B below.

The Fund's share capital is described in Appendix A.

### Introduction and Description

The Fund will invest in listed equities and offshore-incorporated mutual funds, unit trusts or limited partnerships which invest in listed equities in Asia and Australasia. The Asian stock markets which will be the focus of this Fund include Hong Kong, China, South Korea, Taiwan, Singapore, Malaysia, the Philippines, Indonesia, Thailand, India, Japan, Vietnam and Australasia. Australasia, Japan and Vietnam were included within focus of the Fund pursuant to a Resolution of the holders of the Participating Shares passed on 29<sup>th</sup> July, 2005 and 24<sup>th</sup> August, 2010 and the Fund may invest in smaller periphery markets in the region. However, Asian ex Japan equities remain the Fund's primary focus.

The Investment Advisor believes that the economies of Asia ex Japan have the potential to grow at a significantly faster rate than the economies of the richer, developed countries as living standards in Asia slowly converge with those of the developed world in the first few decades of the 21<sup>st</sup> Century. Asia ex Japan still has the long-term strengths of favourable demographics, high savings rates, relatively low tax rates, small government sectors unencumbered with large social welfare programs or large budget deficits, and a strong work ethic. Following the 1997-8 financial crisis the region (with the exception of China) addressed its most serious problems, namely excessive corporate debt, political cronyism, lack of transparency in corporate and government dealings, lack of respect for the rights of minority shareholders and over-investment by corporations in marginal projects. China is now starting to embark on similar improvements to corporate governance and is aggressively addressing political cronyism. There is also a concerted effort taking place to address the misallocation of capital by Chinese state owned companies and to rebalance the economy to a greater reliance on consumer spending and less on capital investment.

Savings rates in China and much of South East Asia range from 25% to 50% of income even though per capita income is lower than in the developed world. Over time, as confidence builds in Asia and per capita income rises, the Investment Advisor believes that savings rates will fall. Asia ex Japan has a demographic mix which will lead to rapid growth in the 18-35 year age group (other than in China) where consumption as a proportion of income tends to be highest. Furthermore, the greatest acceleration in consumption growth typically happens when GDP per capita is in the US\$5,000-15,000 range. China and much of the ASEAN region currently are or will enter this range during the next few years. For these reasons, consumer spending in Asia will likely outpace



economic growth. The Investment Advisor believes that companies serving the Asian consumer are attractive investments because of their superior growth prospects over the next decade. The Investment Advisor places a strong emphasis on finding managers with a strong track record of researching and investing in the best Asian consumer branded goods companies.

Strong cash flow generation by Asia ex Japan companies is a common phenomenon following the 1997-8 financial crisis. A large proportion of the Fund's underlying holdings currently have net cash on their balance sheet or are highly free cash flow generative, a result of the financial discipline imposed by the crisis.

The Investment Advisor believes that faster economic growth in Asia ex Japan will likely result in higher earnings growth for Asia ex Japan equity indices than equity indices in the developed world. Superior earnings growth combined with the opportunity to generate returns higher than equity indices by exploiting market pricing inefficiencies which are still more widespread in the region give the Investment Advisor confidence that the Fund can continue to generate attractive investment returns. The Investment Advisor believes that investment returns are likely to be boosted by appreciation of most Asia ex Japan currencies against the US Dollar in coming years due to their current under-valuation on a purchasing power parity basis.

Asia ex Japan equities are currently significantly less expensive than US equities on Price/Earnings and Price/Book Value. The Investment Advisor believes that a combination of this attractive valuation and better earnings growth prospects for Asian equities compared to US equities bodes well for future returns of Asia ex Japan equities.

### **Performance to Date**

The Net Asset Value per Participating Share of the Fund increased by 1124% (12.2% per annum) between 31<sup>st</sup> December, 1998 and 30<sup>th</sup> September, 2020. During the same period, the Fund's benchmark, the MSCI Asia free ex Japan Index (US\$), including reinvested dividends increased by 518% (8.7% per annum). This performance data is based on audited financial statements of the Fund up to 31<sup>st</sup> December, 2019 and the unaudited Net Asset Value per Participating Share of the Fund on 30<sup>th</sup> September, 2020. The Fund outperformed its benchmark since inception by a considerable margin with less volatility than either the benchmark index or competing Asian ex Japan equity funds.

THE INVESTMENT ADVISOR DRAWS EACH SUBSCRIBER'S ATTENTION TO THE SECTION ENTITLED RISK CONSIDERATIONS WHICH SHOULD BE READ IN CONJUNCTION WITH THE ABOVE SECTION.

### **Investment Objectives and Strategies**

The Investment Advisor's objective is to select investment managers who it believes can provide shareholders of the Fund with risk-adjusted returns which exceed the Fund's benchmark index, being the MSCI Asia Free ex Japan Index (US\$). The Fund will invest primarily in Asian equity funds which are managed by investment managers who have been interviewed and evaluated by the Fund's Investment Advisor. In selecting Asian equity funds, the Investment Advisor will so far as possible select Asian equity funds which have investment managers who meet the following criteria:-

- \* Have worked in investment management in the region for several years and have in-depth knowledge of companies in the region.
- \* Employ a "bottom-up" style to individual stock selection which is predicated on thorough research into each company in which it purchases securities.
- \* Be both qualitative in terms of evaluating management, corporate governance and the quality of the business, as well as quantitative in using a value-based approach to buying shares in companies at attractive discounts to their fair valuation.

In selecting new managers, the Investment Advisor will favour managers who have limited assets under management as these investment managers should have the necessary flexibility to invest in a broader spectrum of securities with a desirable weighting in each investment. It should be noted that several of the managers through whom the Fund invests either no longer take subscriptions or only take subscriptions from existing clients. In particular, the Investment Advisor will favour funds which invest in smaller companies and companies which serve Asian consumers as these are the market segments where the Investment Advisor believes the greatest opportunities lie.

Some of the managers through whom the Fund invests now manage relatively large sums of money, in some cases a few billion US Dollars. The Investor Advisor monitors the performance of these managers and if performance has mirrored the benchmark index or worse for three or more years, the Investment Advisor will consider withdrawing funds from that manager.

The Board has been authorised to invest in debt funds or special debt situations up to a maximum of 10% of Net Asset Value as at the date of any commitment to acquire such investments. . The Fund has an investment in a fund that invests in special situations that represents 0.4% of Net Asset Value at 30<sup>th</sup> September, 2020. The fund is returning capital to shareholders on an orderly basis and is expected to return most of the remaining capital in tranches to shareholders during the next year.

Although the Fund's primary focus is listed equities in Hong Kong, China, South Korea, Taiwan, Singapore, Malaysia, the Philippines, Indonesia, Thailand, Vietnam, and India, the Fund also has smaller investments on an underlying basis in Japan, and smaller periphery markets in the region. Currently, the Fund has an investment in an open-ended fund that has a mandate to invest in Asia including Japan. Japanese equities currently account for 7% of that fund's net assets. That fund represents 5.1% of Net Asset Value as at 30<sup>th</sup> September, 2020. Some of the funds in which the Fund holds an investment own shares in periphery markets such as Pakistan, Sri Lanka, Bangladesh and Laos but in aggregate on a look-through basis, these account for around 1% of the Fund's assets.

Several of the funds in which the Fund invests have minimum subscriptions higher than the Fund's own minimum subscription. Some of the funds in which the Fund has invested have caps on subscriptions which have made these funds no longer accessible to new shareholders. The Fund will therefore provide investors with a pooled structure through which they can access several of these funds without committing a larger investment. As at 30<sup>th</sup> September, 2020 the Fund's largest holding in an underlying fund accounted for 13.7% of its Net Asset Value.

From time to time, the Fund may, subject to the Investment Restrictions described below, invest in listed closed-end funds or investment trusts selling at discounts to their Net Asset Value. As of the date of this Offering Memorandum such funds accounted for 2.8% of the Fund's Net Asset Value. The Fund also owns shares in three closed-end funds which were formerly listed but which have since been de-listed and are in the process of selling their remaining investments and returning capital to shareholders. In aggregate, these three funds accounted for 0.8% of the Fund's Net Asset Value.

The Fund may also invest from time to time in companies that are trading at significant discounts to the underlying value of their assets. At 30<sup>th</sup> September, 2020, the Fund had 1.0% of its Net Asset Value invested in a consistently profitable listed company whose shares were trading at about a 50% discount to the net cash on its balance sheet, and 1.2% of its Net Asset Value invested in a family-controlled holding company whose shares were trading at about a 75% discount to its net asset value.

### **INVESTMENT RESTRICTIONS**

The Fund will not:-

- (i) sell short securities not owned by the Fund;
- (ii) purchase or sell derivatives on margin;
- (iii) pledge the assets of the Fund as collateral;
- (iv) take management control of, or invest more than 10% of the Fund's net assets in any one company unless, in the latter case only, that company is a fund which holds a diversified portfolio of securities;
- (v) invest sums exceeding in total ten per cent (10%) of the Fund's Net Asset Value as at the time of commitment in investment funds which are not either listed or have redemption provisions. As of the date of this Offering Memorandum, 0.8% of the Fund's net assets were invested in such funds. Both these funds are expected to sell their assets and return capital in tranches to shareholders and limited partners.
- (vi) invest in debt funds or special debt situations exceeding a maximum of ten per cent (10%) of the Fund's Net Asset Value as at the date of any commitment to acquire such investments. As of the date of this Offering Memorandum, 0.4% of the Fund's Net Asset Value was invested in a fund which invests in illiquid special situations.

However, some or all of the funds in which the Fund invests may from time to time engage in one or more of the above activities.

The Fund has corporate authority to borrow funds not exceeding a total of ten (10) per cent of the Net Asset Value of the Fund calculated as at the time of committing to any such borrowings. Borrowings may be undertaken for temporary purposes only, including without prejudice to the generality of the foregoing, to assist in the orderly disposal of securities to meet redemption requests. The Directors may exercise all the powers of the Fund to borrow or raise moneys.

The investment objectives, strategies and restrictions described above may be modified by the Directors from time to time if they deem it expedient with the approval by ordinary resolution of the holders of the Participating Shares.

## **RISK CONSIDERATIONS**

Each shareholder should understand that all investments have a risk factor. Therefore, there can be no guarantee against loss resulting from an investment in the Fund and there can be no assurance that the Fund's investment policy will be successful or that its investment objective will be attained.

There are many risks of investing in equity markets in Asia which include illiquidity in some securities, excessive corporate debt levels which will cause bankruptcies, poor corporate governance at many listed companies, less strict financial supervision than in more developed markets, high share price volatility and abuse of minority shareholders by some companies.

There is a risk in some markets in the region of currency devaluation, imposition of exchange controls, temporary stock exchange closures, administrative actions, broker defaults, failed trades, delays in settling trades, changes in legislation regarding foreign ownership, and an increase in social unrest.

Please also refer to Appendix B III of this Offering Memorandum for a discussion of further risk considerations.

## **PROCEDURE FOR SUBSCRIPTION**

The subscription list for the Participating Shares of the Fund opened for the initial offering at a subscription price of US\$10.00 per Participating Share at 9.00am on 31<sup>st</sup> December, 1998. Subsequent applications from Qualifying Investors may be made for Participating Shares on each Subscription Day, which will normally be the last Business Day of each month but may also be such other days as determined by the Directors (each a "Subscription Day"). The Subscription Price is payable in full in cash upon subscription. The minimum initial subscription is US\$250,000.00 per investor unless such minimum is waived by the Board on a case by case basis.

Applications should be made on the application form provided with this Offering Memorandum (the "Application Form"). Application Forms, duly completed, should be sent to the Fund at the address set out in the Application Form. Persons who have not opened an account (which remains open) and have not signed an investment management agreement with the Investment Advisor will need to do so before or at the time of subscribing for Participating Shares.

The current subscription price of the Participating Shares shall be calculated as at the close of business on the Valuation Day coinciding with the relevant Subscription Day by determining the Net Asset Value of the Fund (see Part 1 of Appendix B) as at that time, and dividing that amount by the number of Participating Shares in issue at the date of such calculation (the "Subscription Price"). There are no sales commissions or other "front end fees".

Before subscribing for Participating Shares, prospective applicants should check with the Investment Advisor to confirm whether they are accepting subscriptions. The Fund's directors have discretion to either close the Fund to subscription or to restrict subscriptions to those from existing clients in order to regulate the flow of money into the Fund. If the Application Form is accepted, the amount to be invested in the Fund, as set out therein, should be transferred in accordance with the instructions contained in the Application Form. Certificates in respect of the

Participating Shares will not be issued.

Notification in writing will be dispatched to Investors confirming to shareholders the number of the Participating Shares issued to them. No Share Certificate will be issued. Participating Shares shall be evidenced only by an entry in the Register of Members maintained by the Fund.

Any cash from a subscription amount that remains after issuing the largest whole number of shares by which the subscription amount is divisible will be retained by the Fund for the benefit of its shareholders.

## **REDEMPTION**

Holders of Participating Shares have the right, except when there is a suspension of the determination of the Net Asset Value, to redeem their Participating Shares on the last Business Day of each calendar month or any other date on which the Board of Directors permits redemption (each a "Redemption Day") next following the fourteenth day after the receipt by the Fund of such request at the Redemption Price (as defined below) prevailing at that time. If a request is received after that time, such request, at the option of the Directors, may be complied with or, alternatively, be deemed to be a request in respect of the next following Redemption Day when the Redemption Price prevailing at that time shall apply. If compliance with a shareholder's request for redemption would result in the shareholder holding Participating Shares with an aggregate Net Asset Value of less than US\$10,000.00 or such other minimum as the Directors may determine, at the option of the Directors, the shareholder's request may be rejected or the whole of his holding redeemed.

The Redemption Price shall be calculated as at the close of business on the Valuation Day coinciding with the relevant Redemption Day by determining the Net Asset Value of the Fund (see Part I of Appendix B) as at that time and dividing that amount by the number of Participating Shares in issue at the date of such calculation (the "Redemption Price"). If Participating Shares are redeemed within three (3) years from the date of issue there may be deducted from the Redemption Price an amount equal to five (5) per cent of such Redemption Price which shall be retained by the Fund for the benefit of the remaining shareholders.

**SINCE THE REDEMPTION PRICE OF PARTICIPATING SHARES IS TIED TO THE VALUE OF THE UNDERLYING ASSETS OF THE FUND, IT SHOULD BE NOTED THAT THE PRICE AT WHICH AN INVESTOR MIGHT REDEEM HIS PARTICIPATING SHARES MAY BE MORE OR LESS THAN THE PRICE AT WHICH HE SUBSCRIBED FOR THEM DEPENDING ON WHETHER THE VALUE OF THE UNDERLYING ASSETS HAS APPRECIATED OR DEPRECIATED BETWEEN THE DATE OF SUBSCRIPTION AND THE DATE OF REDEMPTION.**

To redeem all or part of his holding, a shareholder should provide signed redemption instructions to the Fund at its registered office as set out above (the "registered office"). The instructions should be received not later than 3.30 p.m. Cayman time fourteen (14) days prior to the relevant Redemption Day in order to qualify for redemption on that day. Requests for redemption received later than such date may be held over until the next Redemption Day when the Redemption Price prevailing at that time shall apply.

Requests for redemption once made may not be withdrawn (except with the written consent of the Directors) unless there has been a suspension of determination of the Net Asset Value of the Fund.

Any amount payable to a shareholder in connection with requests for redemption will be paid by wire transfer (in accordance with written details to be supplied by the shareholder) at the shareholder's expense and risk. The Fund will normally ensure that it has sufficient liquid assets available to enable redemption proceeds to be forwarded forthwith to a shareholder who has requested a redemption of all or part of his holding of Participating Shares and in any event redemption proceeds will be forwarded not later than twenty (20) Business Days after the relevant Redemption Day. The details of where such monies are to be forwarded must be set out in the space provided on the Application Form. This may be changed from time to time by written instructions of the shareholder. Failure to complete that section of such Application Form may result in delays in the receipt of redemption proceeds since the Fund will reserve the right to insist on instructions with regard to payment being received by the Fund in writing under the verified signature of the shareholder.

Notwithstanding the previous paragraph, the Fund may defer payment of the Redemption Price if it is unable to make payment because of circumstances beyond its control, in which case it will pay such Redemption Price as soon as possible. The Fund may pro-rate all redemption requests on any Redemption Day to limit total redemptions to 20% of the Fund's Participating Shares in issue on the relevant Redemption Day. Any outstanding redemption requests will be carried forward to the next following Valuation Day where they will be dealt with prior pro-rations (if any) of subsequent requests.

If a redemption amount is specified by a redeeming shareholder in Dollars, that amount will be divided by the NAV per share and the largest resulting whole number will be the number of shares redeemed. Any cash that arises from the difference (a) between the number of shares redeemed multiplied by the NAV per share, and (b) the redemption amount paid, will be retained by the Fund for the benefit of its shareholders. Any wire transfer fees incurred by the Fund will be added to the redemption amount if applicable.

All Participating Shares are issued on the basis that they may be redeemed or purchased from time to time by the Fund at its option if it shall come to the attention of the Fund that (a) any Participating Shares are owned directly or beneficially by any person who is not a Qualifying Investor, or (b) ownership of such Participating Shares by any person is in breach of any law or requirement of any country or governmental authority which might result in the Fund or its shareholders suffering any taxation, pecuniary or any other disadvantage which it would not suffer if such person (whether alone or together with other persons) was not a holder of Participating Shares.

## **TRANSFER OF PARTICIPATING SHARES**

Subject to the preceding paragraph, Participating Shares are freely transferable among Qualifying Investors upon submission to the Fund of an instrument of transfer in any usual or common form together with such evidence as the Directors may reasonably require to show the right of the transferee to transfer the Participating Shares.

## **SUBSCRIPTION, REDEMPTION AND VALUATION DAYS**

Subscription Days will normally occur monthly on the last Business Day of each month except during periods when the calculation of Net Asset Value is suspended. Redemption Days will normally occur monthly on the last Business Day of each month except during periods when the calculation of Net Asset Value is suspended. However, the Directors reserve the right to appoint such other day or days as they shall determine as a Subscription Day or a Redemption Day.

The Net Asset Value of the Fund will be calculated on each Valuation Day which will normally be the Business Day coinciding with each Subscription Day and Redemption Day (each a "Valuation Day"). The Net Asset Value will be notified to the CSX immediately upon calculation. However, the Directors may suspend valuations in certain circumstances in accordance with the Articles of Association of the Fund. The relevant extract of the Articles of Association of the Fund regarding suspension of determination of the Net Asset Value of the Fund is set out in Appendix B, Part IV. The Fund will value and calculate the investments of the Fund in accordance with the practices, policies and procedures, including the relevant provisions of the Articles of Association of the Fund, as set out in Part I of Appendix B (the "NAV Calculation Policy"). The Fund will obtain closing prices that are used to calculate the Fund's Net Asset Value from Bloomberg or from market makers in a particular security in any instance where Bloomberg prices are not available. Although the Fund will be audited annually, there will be no independent verification of its calculation of its Net Asset Value done on each Valuation Day.

## **MANAGEMENT, ADMINISTRATION AND CUSTODY**

### **Administration**

The Fund will be responsible for the day to day investment management and administration of its affairs including the investment of its assets, dealing with the subscription and redemption of Participating Shares, maintaining the register of shareholders, calculating the Net Asset Value of the Fund and liaising generally with shareholders.

### **Investment Advisor**

The Investment Advisor of the Fund is Overseas Asset Management (Cayman) Ltd. The Investment Advisor is an ordinary resident company incorporated in the Cayman Islands in 1989. The Investment Advisor is licensed under the Companies Management Law (as revised), the Securities Investment Business Law (as revised), and is regulated under these Laws by the Cayman Islands Monetary Authority. Each of the Directors of the Fund is also a director of the Investment Advisor, and three of the Directors are shareholders of the Investment Advisor. For a description of such Directors please see the section headed "The Directors of the Fund".

The Investment Advisor currently manages in the region of US\$500,000,000 for approximately 180 high net worth private clients and institutions. The areas of expertise of the Investment Advisor include European equities, Asian equity funds, offshore incorporated closed end funds and private equity secondaries.

The Investment Advisor has been appointed as such pursuant to an Investment Advisory Agreement (the "Investment Advisory Agreement") dated 31<sup>st</sup> December 1998 between the Fund and the Investment Advisor. The Investment Advisory Agreement provides that the Investment Advisor and its affiliates and respective shareholders, members, directors, officers, employees and agents (each an "indemnified person") will be held harmless, defended and indemnified by the Fund from and against any claim, loss, damage, liability or expense (including court costs, attorneys' fees and expenses, costs of investigation, taxes and penalties) suffered by an indemnified person by virtue of such indemnified person's activity as or on behalf of the Investment Advisor in connection with the services it provides to the Fund and shall not be responsible to the Fund or its shareholders for any loss suffered by them as a result of the Investment Advisor's actions or omissions provided, in all cases, that such actions or omissions by the Investment Advisor are in good faith.

The Investment Advisory Agreement is terminable by either party on three (3) months' written notice without penalty.

Notice of any variation or termination of the Investment Advisory Agreement shall first be given to the holders of the Participating Shares in the Fund.

The Directors of the Investment Advisor are disclosed under the section headed "THE DIRECTORS OF THE FUND AND THE INVESTOR ADVISOR".

## **Custody**

The Fund will invest primarily in Asian equity funds, unit trusts or limited partnerships which are incorporated in offshore jurisdictions. These Asian equity funds have usually appointed a custodian or administrator of the assets of each fund pursuant to either a custodian agreement, an administration agreement, or a trust deed.

Except as stated below, the Fund's assets will be registered directly in the name of the Fund. In the case of one of the Fund's investments representing less than 0.1% of Net Asset Value, this is registered in the name of OAM ARF Investments Limited, a wholly-owned subsidiary of the Fund. This investment is in the final stage of liquidation and the Fund's wholly-owned subsidiary is expected to be liquidated within the next six months.

Deutsche Bank International Limited was appointed the custodian of securities held by the Fund. (Deutsche Bank International Limited or any replacement custodian from time to time (as applicable) is referred to herein as the "Custodian"). The Fund entered into a custodian agreement with Deutsche Bank International Limited dated 14<sup>th</sup> September, 2009 (the "Custodian Agreement") pursuant to which the Custodian agreed to settle all transactions of the Fund, collect all dividends received by the Fund, provide accounting of all transactions in the custody account, and execute instructions received from the Investment Advisor on all corporate actions involving



any exchange listed securities held by the Fund. The Custodian agreed to charge an annual fee of 0.10% on the first US\$2,500,000 in assets of the Fund, 0.075% on the next US\$5,000,000, and 0.05% on assets exceeding US\$7,500,000, charged on a quarterly basis. In addition, the Fund agreed that the Custodian was entitled to charge receipt and delivery fees on settlement of each purchase and sale by the Fund, and will recover any out-of-pocket expenses.

On February 15, 2018, the Bank of N.T. Butterfield & Son Limited (“Butterfield”) announced that it had entered into an agreement to acquire Deutsche Bank’s banking and custody business in the Cayman Islands, Jersey and Guernsey, which provides services primarily to financial intermediaries and corporate clients.

The Fund signed a novation agreement with Butterfield Bank (Jersey) Limited (“Butterfield Jersey”) and Deutsche Bank International Limited dated 10<sup>th</sup> December 2018 (the “Novation Agreement”) pursuant to which Butterfield Jersey replaced Deutsche Bank International Limited as the Fund’s Custodian and as of 10<sup>th</sup> December 2018 will act as custodian of the Fund’s exchange traded securities. The Novation Agreement maintains the terms and conditions of the Custodian Agreement between the Fund and Deutsche Bank International Limited, and Butterfield Jersey as the new Custodian will, inter alia, settle all transactions of the Fund, collect dividends received by the Fund, provide accounting of all transactions in the custody account, and execute instructions received from the Investment Advisor on all corporate actions involving any exchange listed securities held by the Fund.

Butterfield Jersey is regulated by the Jersey Financial Services Commission in the carrying on of Fund Services Business and Investment Business under the Financial Services (Jersey) Law, 1998 and is an Approved Custodian within the meaning given in the Financial Services (Investment Business (Client Assets)) (Jersey) Order 2001.

The Custodian Agreement may be terminated by either party giving ninety (90) days’ notice in writing.

The Custodian Agreement permits the Custodian to employ agents and sub-custodians worldwide.

In performing its obligations under the Custodian Agreement, the Custodian will act with due care, skill and diligence. The Custodian will only be liable to the Fund for any liability, loss or cost suffered by the Fund to the extent that such liability, loss or cost is a direct result of the negligence, wilful default or fraud of the Custodian or any broker, dealer, market maker, sub-custodian or agent which is a Group Company. The Custodian will not be responsible for any loss attributable to any act, omission or default of any broker, dealer, market maker, sub-custodian or agent selected by the Custodian provided that the Custodian has not acted negligently in selecting or utilising the services of such broker, dealer, market maker, sub-custodian or agent.

See “Custodian/Sub-Custodian risk” under Part III of Appendix B, “Risk Factors”.

The Fund shall indemnify the Custodian against all actions, proceedings, claims, demands, liabilities, taxes, costs and expenses arising out of the Custodian Agreement, except to the extent that these result from the negligence, wilful default or fraud of the Custodian or any Group Company, its servants and/or agents.

## **Bankers and Cash Management**

Any cash which the Fund may have from time to time, which is not held by or through Butterfield Jersey, will be deposited in one of the Fund's bank accounts at RBC Royal Bank (Cayman) Limited or RBC Dominion Securities Global Limited. The Fund's agreement with RBC Dominion Securities Global Limited provides for extensive delegation to RBC Dominion Securities Inc., a Canadian company with limited recourse provisions (and see "Credit Risk" below).

The Fund also has a bank account at Butterfield Bank (Cayman) Limited which currently remains unutilized.

Currently, neither RBC Royal Bank (Cayman) Limited or the Custodian pay interest on US Dollar cash balances. When it is deemed advantageous to do so, the Fund may transfer some of its US Dollar cash to RBC Dominion Securities Global Limited for investment in a money market fund so that the Fund can earn interest. Much of the cash held at RBC Dominion Securities Global Limited is or will be invested in Fidelity Institutional Liquidity Fund, a AAA rated fund, but may be held in other money market funds from time to time with similar ratings and average terms to maturity.

### **THE DIRECTORS OF THE FUND AND THE INVESTMENT ADVISOR**

The Directors of the Fund and the Investment Advisor are:

Desmond H. Kinch

- Chairman of the Board and Managing Director

Desmond Kinch, date of birth 04/11/1962, is a Barbadian, British and Caymanian citizen. He resides in the Cayman Islands. Mr. Kinch has a BBA First Class (Honours) from Bishop's University of Canada and is a Chartered Financial Analyst (CFA) with 26 years investment management experience. From 1984 to 1986, he worked at Clerical Medical Investment Group in London as an investment analyst. From 1987 to 1988, he worked at NatWest International Trust Company in Grand Cayman as an investment officer. For one year in 1988/89, Mr. Kinch worked as an investment consultant for the investment manager of Pharos S.A., a Luxembourg investment holding company with three large British institutional shareholders, and in 1989 he formed Overseas Asset Management (Cayman) Ltd., the Investment Advisor of the Fund. Address: C/o Overseas Asset Management (Cayman) Ltd., The Pavilion, Cricket Square, Grand Cayman, Cayman Islands.

Roger M. Cave

Roger Cave, date of birth 25/12/1966, is a Barbadian citizen. Mr. Cave is a Chartered Accountant and a Chartered Financial Analyst (CFA). He is a director and the investment manager of Fortress Fund Managers Ltd., a Barbados-based investment management company. Mr. Cave previously worked with Coopers & Lybrand, Toronto (1989-90), Price Waterhouse, Barbados (1990-92), Commonwealth Development Corporation (1992-94) as an executive in their East Caribbean office, and Cave Shepherd & Co. Ltd. (1994-96). He is also a non-executive director of Cave Shepherd & Co. Ltd.. Mr. Cave was educated at Bishops University, Canada where he received a BBA (Honours). Address: C/o Overseas Asset Management (Cayman) Ltd., The Pavilion, Cricket

Square, Grand Cayman, Cayman Islands.

Peter T. Dutton

Peter Dutton, date of birth 02/08/1955, is a British and Caymanian citizen. He resides in the Cayman Islands. Mr. Dutton is a Chartered Accountant. He worked at Ernst & Whinney from 1979 to 1981 in London and from 1981 to 1983 in Miami. In 1983 he joined Jacques Scott Group Ltd., a large wholesale and distributor company in the Cayman Islands where he is currently the managing director. He was educated at Harrow School, England. Address: C/o Overseas Asset Management (Cayman) Ltd., The Pavilion, Cricket Square, Grand Cayman, Cayman Islands.

John F. Dyke

John F. Dyke, date of birth 01/10/1956, is a British citizen. He was admitted in 1981 in England as a Solicitor and in 1983 in the Cayman Islands as an Attorney-at-law and Notary Public. He has been engaged as a Solicitor with Messrs. Freshfields, London (1978-82) and as a Partner with Messrs. Maples and Calder, Cayman Islands (1982-98). He was educated at Poole Grammar School and Cambridge University, England (M.A., Cantab, First in Law). Address: C/o Overseas Asset Management (Cayman) Ltd., The Pavilion, Cricket Square, Grand Cayman, Cayman Islands.

With the exception of Mr. Kinch, the Directors are all non-executive.

#### **FEES AND EXPENSES**

Each Director shall be paid an annual fee of US\$5,000. Mr. Kinch has waived such fee.

The Investment Advisor, pursuant to the Investment Advisory Agreement, shall be paid all out of pocket expenses and a nominal fee of US\$1,000 per annum in arrears due on 31 December each year.

Since the Participating Shares will form part of the investor's assets under management by the Investment Advisor, upon which it will charge its usual management fee, the Investment Advisor will not charge the Fund any additional fees apart from its nominal fee of US\$1,000 per annum.

The Fund pays TriSys Consulting Ltd. US\$28,800 per annum for the Summit Investment Accounting system and technical support in respect thereof.

The fees of the Auditor are payable out of the assets attributable to Participating Shares and shall be their customary fees together with any out-of-pocket expenses and disbursements.

The Fund will pay a fee for listing agent services at rates agreed with Campbells, as the Listing Agent to the Fund from time to time. Campbells shall only charge disbursements and expenses incurred.

The fees of the Custodian are payable out of the assets attributable to the Participating Shares and shall be their customary fees together with any out-of-pocket expenses and disbursements. See

further, the section headed “Custody”.

The Fund also pays fees to Sunterra Global for the provision of FATCA and CRS reporting services to the Fund. Such fees are payable out of the assets attributable to the Participating Shares and shall be their customary fees together with any out-of-pocket expenses and disbursements.

The Fund intends to keep its expenses to a minimum. In 2019, the Fund’s total expense ratio was less than 0.05%.

The Fund will pay all its operational expenses including any brokerage or custodial fees, bank transaction fees, fees of legal advisors and auditors, stock exchange listing fees and all annual government fees. The Investment Advisor will be responsible for the cost of maintaining the Fund’s principal and registered offices in the Cayman Islands and for providing all personnel as well as office space and facilities required to perform its duties.

## **TAXATION**

The Government of the Cayman Islands will not, under existing legislation, impose any income, corporate or capital gains tax, estate duty, inheritance tax, gift tax or withholding tax upon the Fund or the shareholders.

The Cayman Islands are not party to a double tax treaty with any country that is applicable to any payments made to or by the Fund.

The Fund has received an undertaking from the Governor-in-Cabinet of the Cayman Islands that, in accordance with section 6 of the Tax Concessions Law (as revised) of the Cayman Islands, for a period of 20 years from the date of the undertaking (being 13 March 2019), no law which is enacted in the Cayman Islands imposing any tax to be levied on profits, income, gains or appreciations shall apply to the Fund or its operations and, in addition, that no tax to be levied on profits, income, gains or appreciations or which is in the nature of estate duty or inheritance tax shall be payable (i) on or in respect of the shares, debentures or other obligations of the Fund or (ii) by way of the withholding in whole or in part of a payment of dividend or other distribution of income or capital by the Fund to its members or a payment of principal or interest or other sums due under a debenture or other obligation of the Fund.

It is intended that the Fund will not be subject to tax in any jurisdiction on its income or gains (including gains arising in the form of discounts or premiums). Tax may be withheld at source in certain countries in respect of income or gains, but the investments of the Fund will be made with a view to minimising any such tax. In particular, the Fund will seek to invest in Asian equity funds which are incorporated in offshore jurisdictions. However, there can be no guarantee either that the foregoing will be achieved, or that the tax position of the Fund will not be challenged by the revenue authorities of one or more countries.

The foregoing is based on current law and practice and is subject to changes therein.

Investors should consult their professional advisers on the possible tax, exchange control or other consequences of buying, holding, selling or redeeming Participating Shares under the laws of their

country of citizenship, residence or domicile.

## **REPORT TO SHAREHOLDERS AND ACCOUNTING**

KPMG (the “Auditors”) have been appointed auditors to the Fund. The Fund's fiscal year will end on 31<sup>st</sup> December of each year. The accounts of the Fund will be expressed in U.S. dollars and prepared in accordance with International Accounting Standards or such other official standards as may be agreed between the Directors and the Auditors. These accounts and reports will be made available at the registered office of the Fund, as well as from the Investment Advisor. Shareholders will be sent quarterly valuations of their holdings in the Fund.

The Fund’s audited financial statements are filed with the CSX and are expressly incorporated herein by reference. This Offering Memorandum must be read with the Fund’s audited financial statements which are available for inspection during normal business hours on any business day (public holidays excepted) at the registered office of the Fund without charge.

The Fund confirms that since the period ending 31 December 2019 (being the date to which the latest audited accounts of the Fund have been prepared), there has been no material changes in the financial or trading position of the Fund.

## **LISTING**

The Fund's Participating Shares are listed on the CSX. The annual cost of maintaining a listing on the CSX is US\$2,500 which is payable on each anniversary of the Fund's listing. The Fund will pay all costs of maintaining a listing on the CSX.

The Fund is not prohibited from making any invitation to the public in the Cayman Islands to subscribe for any of its securities as a result of its Participating Shares being listed on the CSX. The Fund's most recent monthly Net Asset Value will be published on the CSX Internet website at [www.csx.com.ky](http://www.csx.com.ky) and on Bloomberg under the symbol OAMASRI KY <Equity>.

The Fund does not intend to apply for any of its securities to be listed, dealt in or traded on any other stock exchange or market.

## **FURTHER INFORMATION**

Further information is contained in the following Appendices:

- A. Share Capital and Rights
- B.
  - I. Determination of Net Asset Value
  - II. Conflicts of Interest
  - III. Risk Factors
  - IV. Suspension of Determination of the Net Asset Value of the Fund
- C. Articles of Association - Directors
- D. Indemnities
- E. Amendments

- F. General Information
- G. Data Protection Privacy Policy
- H. Documents Available for inspection

An application form is enclosed with this Offering Memorandum.

## **APPENDIX A**

### **SHARE CAPITAL AND RIGHTS**

The authorised share capital of the Fund is US\$50,000 divided into 100 Management Shares of a nominal or par value US\$1.00 each (“Management Shares”) and 4,990,000 Participating Shares of a nominal or par value of \$0.01 each. All one hundred Management Shares have been issued for cash at par and are held by the Investment Advisor. The holder of each Management Share shall have the right to one vote for each such share registered in his name. The Participating Shares do not confer on the holders thereof the right to receive notice of, attend or vote at general meetings of the shareholders except if, and only in respect of, a resolution affecting the class rights of such holders, or a resolution to approve a variation or modification by the Directors of the Fund of its investment objectives, strategies and restrictions set out in the sections of the Offering Memorandum headed "Investment Objectives and Strategies" and "Investment Restrictions" is to be put to the vote, or if a resolution is put to a class meeting of holders of Participating Shares to suspend or relax the provisions of or ratify any transaction not duly authorised by reason of a contravention of Articles 107 to 113 inclusive of the Fund’s Articles of Association (see Appendix C) when the holder of each Participating Share shall have the right to one vote for each such share registered in his name.

The authorised share capital of the Fund may be altered from time to time by resolution of the holders of Management Shares.

The Fund, acting by the Directors or the holders of Management Shares as applicable, shall have power to purchase and/or redeem any or all of its shares and to increase or reduce the said capital of the Fund and to sub-divide or consolidate the said shares or any of them subject to the provisions of the Companies Law of the Cayman Islands and the Fund's Articles of Association.

#### **Further Issues of Participating Shares**

Except when there is a suspension of the valuation of the Fund's assets, further Participating Shares may be issued on Subscription Days at the prevailing Subscription Price.

#### **Rights on Winding Up**

Each Participating Share carries the right to a return of the nominal value paid up in respect of such share in priority to the repayment of the nominal value paid up on Management Shares.

Each Participating Share shall also entitle the holder thereof to share in surplus assets of the Fund available for distribution after the return of the nominal value paid up on all shares pro rata their respective holdings. Holders of Management Shares have no right to share in any surplus.

#### **Variation of Rights**

The rights attached to any class of shares may, subject to the laws of the Cayman Islands and unless otherwise provided by the terms under which the shares of that class were issued, be varied or abrogated with the consent in writing of the holders of three-quarters of the issued shares of that class or with the sanction of a resolution passed at a separate meeting of the holders of the shares

of such class by a majority of three-quarters of the votes cast at that meeting. The rights attached to the Participating Shares shall not, unless otherwise expressly provided by the terms of the issue of the Participating Shares, be deemed to be varied by the creation or issue of further Participating Shares ranking *pari passu* therewith.



## APPENDIX B

### I. DETERMINATION OF NET ASSET VALUE

The NAV Calculation Policy set out herein and outlines the pricing and valuation practices, policies, and procedures which have been established and maintained in accordance with the requirements of the Authority's Rule on Calculation of Asset Values - Regulated Mutual Funds ("**NAV Rule**") to calculate the net asset value of the Fund.

The following extract from the Articles of Association of the Fund sets out the provisions dealing with the method by which the Net Asset Value of the Fund is to be determined (in dollars):

- "26. (a) The Net Asset Value of the Company shall be determined by the Directors as at each Valuation Day and on such other occasions as the Directors may direct and shall be the value as at such date of all the assets of the Company less all the liabilities of the Company calculated on the basis of this Article 26.
- (b) The assets of the Company shall be deemed to include:-
- (i) all stocks, shares, debentures, securities and financial instruments;
  - (ii) all securities owned or contracted for by the Company;
  - (iii) all cash on hand, on deposit, or on call including any interest accrued thereon;
  - (iv) all bills, demand notes, promissory notes and accounts receivable;
  - (v) all stock and cash dividends and cash distributions to be received by the Company and not yet received by it but declared payable to shareholders of record on a date on or before the days as of which the Net Asset Value is being determined;
  - (vi) all interest accrued on any interest-bearing securities owned by the Company up to the normal settlement date for such securities except to the extent that the same is included or reflected in, the principal value of such security;
  - (vii) all other investments of the Company;
  - (viii) the preliminary expenses of the Company, insofar as the same have not been written off; and
  - (ix) all other assets of the Company of every kind and nature, including prepaid expenses as valued and defined from time to time by the Directors.
- (c) Without prejudice to paragraph (d) below, the value of any units in any investment

fund (whether in non-corporate or corporate form) shall be the latest bid price published by or on behalf of such fund thereof prior to, or coinciding with the date of, the relevant calculation of the Net Asset Value of the Company. The Directors of the Company shall have discretion to use the offer price of any investment fund, if different from the bid price, in calculating the Net Asset Value of the Company.

- (d) Without prejudice to paragraph (g) below, the value of any securities listed on an exchange or traded through market makers may be their last reported mid-market, closing or bid prices as determined from time to time by the Directors using such reporting services as they may deem fit.
- (e) The value of any cash on hand, on deposit, pre-paid expenses, cash dividends and interest declared or accrued and not yet received shall be deemed to be the full amount thereof unless in any case the Directors are of the opinion that the same is unlikely to be paid or received in full in which case the value thereof shall be subject to such adjustment as the Directors may consider appropriate in such circumstances to reflect the true value thereof.
- (f)
  - (i) The value of any demand notes, promissory notes and accounts receivable shall be deemed to be the face value or full amount thereof after making such adjustment as the Directors may consider appropriate to reflect the true current value thereof.
  - (ii) Certificates of Deposit, Treasury Bills, Bank Acceptances and Trade Bills shall be valued (on the basis of a notification to the Directors by a person approved by the Directors for the purposes of this paragraph whose business includes dealing in or effecting transactions in the relevant investment) according to the normal dealing practice therein and at the price of the relevant investment at the close of business on the Valuation Day.
- (g) Any investment or asset held by the Company for which no particular method of valuation is provided in this Article, or if in any case under this Article a particular investment or asset is not or cannot be valued as above provided, the method of valuation of the relevant investment or asset shall be determined by the Directors in consultation with the Auditors.
- (h) Notwithstanding the foregoing provisions of this Article, where at the time of any valuation, any asset of the Company has been realised or contracted to be realised, there shall be included in the calculation of the Net Asset Value in place of such assets the net amount received or receivable by the Company in respect thereof PROVIDED THAT if the net amount receivable is not payable until some future date the Directors shall make such adjustment as they consider appropriate to reflect the true current value thereof.
- (i) Any valuation made pursuant to these Articles shall be binding on all persons.
- (j) The liabilities of the Company shall be deemed to include:-

- (i) all bills, notes and accounts payable;
- (ii) all administrative expenses payable and/or accrued including (but not limited to):-
  - expenses of drafting and publishing reports and accounts;
  - expenses of publishing quotations for the Participating Shares;
  - accrued fees of the Investment Adviser; and
  - auditor's fees and expenses.
- (iii) all known liabilities present and future for which provisions would be required to be made in the Company's accounts in accordance with International Accounting Standards, including: the amount of any unpaid dividends declared upon the shares in the Company; contractual obligations for the acquisition of investments or other property; or any outstanding payments due on any Participating Shares previously redeemed;
- (iv) the paid up capital on the Management Shares in issue;
- (v) all other liabilities of the Company of whatsoever kind and nature for which provision would be required to be made in the Company's accounts in accordance with International Accounting Standards.

In determining the amount of such liabilities the Directors may calculate administrative and other expenses of a regular or recurring nature on an estimated figure for yearly or other periods in advance, and accrue the same in equal proportions over any such period.

- (k) For the purposes of this Article:-
  - (i) the proceeds of issue of Participating Shares in the Company for which applications have been made shall be deemed to be an asset of the Company as of the time at which such Participating Shares are first deemed to be in issue;
  - (ii) the amount due to Shareholders in respect of Participating Shares to be redeemed shall, from the close of business on the day on which they are actually redeemed until such price is paid, be deemed to be a liability of the Company;
  - (iii) investments, cash balances and other assets of the Company be valued and liabilities of the Fund shall be calculated in dollars."

The Fund will value the securities within its portfolio(s) by giving priority to unadjusted market prices, and for Hard-to-Value Securities (as defined in the NAV Rule), priority be given to valuation inputs that are directly observable (i.e. those derived from market data, including publicly available information about events and transactions or reflective of assumptions that market participants would use) with the lowest priority being given to inputs that are unobservable (i.e. where market data is not available regarding the assumptions that market participants would use).

More than 99% of the assets of the Fund as at the date of this Offering Memorandum were invested in other funds which have independent administrators that report monthly or more frequent NAVs or in listed securities which trade on stock exchanges where closing prices are reported on Bloomberg. In the case of the remaining less than 1% of the Fund's assets that would be considered Hard-To-Value Securities, these comprised shares in three closed-end funds which were formerly listed but which have since been de-listed and are in the process of selling their remaining investments and returning capital to shareholders. In the case of one fund, its shares are still traded through a market maker who posts bid/offer prices on Bloomberg, and in the case of the other two funds, these are valued at the last traded price adjusted for subsequent distributions, subject to the discretion of the Fund's Directors.

The Net Asset Value calculations are made monthly by the Fund in accordance with International Financial Reporting Standards and the NAV Calculation Policy. Shareholders will be sent quarterly valuations of their holdings in the Fund. The Fund's most recent monthly Net Asset Value will be published on the CSX Internet website at [www.csx.com.ky](http://www.csx.com.ky) and on Bloomberg under the symbol OAMASRI KY <Equity>.

The Fund, given its relatively small number of investments, virtually all of which are funds that have independent administrators or are securities with quoted prices, has not (and does not intend to) engaged a third party administrator to value and/or calculate the Net Asset Valuation of the Fund. In making this decision, the Fund's Directors have considered in particular the annual audits of the Fund and the Auditor's annual reviews of the Fund's monthly NAV calculations retrospectively versus the incremental cost to the Fund's shareholders of engaging an independent administrator. As a result, the Fund will have material involvement in the pricing of its portfolio and in the calculation, determination or production of the Net Asset Value of the Fund, as it is best placed to provide that information given its knowledge and skills in assessing values of the relevant assets and liabilities. Regarding the conflicts of interest caused by such involvement, see "CONFLICTS OF INTEREST". The Directors have ultimate responsibility for oversight of the entire valuation process and will approve and review (at least annually), the NAV Calculation Policy and any pricing models

Whenever prices are provided or sourced by the Fund it will provide any supporting information that is used to determine the prices.

There are inherent limitations of the NAV Calculation Policy caused by system error, oversight, breakdowns in processes, a lack of information, exchanges communicating incorrect information, rapidly evolving changes to particular industries, regulatory changes and tax and accounting policies.

## II. CONFLICTS OF INTEREST

### Investment Advisor

The Investment Advisor devotes a substantial amount of its time to other business activities, including portfolio management of other individual and institutional accounts. See "Investment Advisor". These other advisory activities create conflicts of interest with the Fund over the time devoted to managing the Fund and the allocation of securities selected for purchase among the Investment Advisor's various portfolios. Further, the Investment Advisor's judgement may be affected by additional conflicts of interest such as, for example, the following:

- (i) Because the Investment Advisor has and will have fiduciary duties to the Fund and its other portfolios, the interests of the Fund and these other portfolios in the selection, negotiation and administration of investments may conflict. The Investment Advisor will attempt to resolve all such conflicts in a manner that is fair to all such interests.
- (ii) The Investment Advisor, on behalf of the Fund and in other capacities with other entities, has discretion in determining which investments will be made by the Fund, sold to others, or made by the Investment Advisor or by its affiliates, with or without the participation of such other entities. In that the Investment Advisor or its affiliates may be able to obtain more favorable compensation, cost reimbursement or risk sharing arrangements in connection with some investments if the Fund does not participate, the Investment Advisor may be influenced to refrain from causing the Fund to make such investments even though participation might benefit the Fund. The Investment Advisory Agreement also permits the Investment Advisor or its affiliates to make any investment, whether or not in competition with the Fund or in a manner that would limit or eliminate the Fund's opportunity to make the investment, without any accountability to the Fund.

To mitigate potential conflicts, the Investment Advisor will take appropriate measures to ensure that neither it nor any of its affiliates unfairly profits from any transaction between any of them and the Fund. The Investment Advisor will use its best efforts to apportion or allocate business opportunities among persons or entities with which it and its affiliates have fiduciary duties and other relationships on a basis that is fair and equitable to the maximum possible extent to each of such persons or entities, including the Fund.

### Directors

Subject to certain limited exceptions as herein described, only the Management Shares owned by the Investment Advisor have voting rights. Only the Investment Advisor therefore can appoint and remove the Directors. The Directors of the Fund are also the directors of the Investment Advisor and the fiduciary duties of the Directors may compete with or be different from the interests of the Investment Advisor. Three of the Directors are also shareholders of the Investment Advisor. Only the Directors may terminate the services of the Investment Advisor or other agents of the Fund.

### Legal Counsel

Campbells acts as Cayman Islands legal counsel and Listing Agent to the Fund. Campbells does not represent shareholders or subscribers of the Fund. No independent legal counsel has been retained to act on behalf of or represent the Shareholders or any Directors. Campbells' representation of the Fund is limited to specific matters of Cayman Islands law as to which it has been consulted by the Fund. There may exist other matters that could have a bearing on the Fund as to which Campbells has not been consulted. In addition, Campbells does not undertake to monitor compliance by the Directors, the Fund or the Investment Advisor and its/their affiliates with the investment program, valuation procedures and other guidelines set forth herein, nor does Campbells monitor ongoing compliance with applicable laws. In connection with the preparation of this Memorandum, Campbells' responsibility is limited to matters of Cayman Islands law and it does not accept responsibility in relation to any other matters referred to or disclosed in this Memorandum, or for any acts or omissions of the Fund or the Investment Advisor (including their compliance with any guidelines, policies, restrictions or applicable law, or the selection, suitability or advisability of their investment activities) or any administrator, accountant, custodian/prime broker or other service provider to the Fund. In the course of advising the Fund, there are times when the interests of shareholders may differ from those of the Fund. Campbells does not represent the shareholders' interests in resolving these issues. In reviewing this Memorandum, Campbells has relied upon information furnished to it by the Fund and has not investigated or verified the accuracy and completeness of information set forth herein concerning the Fund.

### **III. RISK FACTORS**

Discussed below are some of the major risk factors that potential investors should consider carefully before investing in the Fund:

#### **Investment Risks**

Investment in the Fund carries a high degree of risk including, but not limited to, the risks referred to below. No assurance can be given that Shareholders will realise a profit on their investment. Moreover, Shareholders may lose some or all of their investment. The risks referred to below do not purport to be exhaustive and potential investors should review this Offering Memorandum carefully in its entirety before making an application for Participating Shares.

#### **Investment Objectives, Policies and Selection**

The nature of the Fund's investment in Asian equity funds and Asian equities will involve a greater degree of risk than is customarily associated with investment in equities in more established stock markets in the developed world. Participating Shares, therefore, will be subject to greater fluctuation in value than shares of an equity fund which invests in more developed markets. Accordingly, the Fund is intended for aggressive long-term investors who understand and can accept the risks entailed in seeking long-term growth of capital. The Fund is not meant to provide a vehicle for those who wish to play short-term swings in the stock market.

#### **No Control over Portfolio Issuers**

The Fund may from time to time acquire substantial positions in the securities of particular companies. Nevertheless, the Fund is not likely to obtain representation on the board of directors and will not take any control over the management of any company in which the Fund may invest and the success of each investment will depend on the ability and success of the management of the issuers in addition to economic and market factors.

#### **Concentration of Investments**

Although the Fund will endeavour to diversify its portfolio in accordance with the investment policies and restrictions set out above, the Fund may hold a few, relatively large positions in securities in relation to the capital of the Fund or may otherwise be concentrated with respect to specific geographies or industries. Consequently, a loss in any such position or any adverse market developments within the relevant geographies or industries could result in significant losses to the Fund and a proportionately higher reduction in the Net Asset Value than if the Fund's capital had been more broadly diversified. However, it should be noted that the principal investment funds in which the Fund is invested do hold diversified portfolios.

#### **Variation from the Fund's benchmark**

The Investment Advisor will pursue an investment policy that focuses on selecting funds that are trading at attractive discounts to Net Asset Value; that invest in undervalued smaller and medium-sized companies; or that invest in companies that serve the large and rapidly growing Asian middle-class consumer. As a result, the Fund's performance is likely to vary from the its benchmark,

possibly for extended periods.

### **Dependence on Management**

Although the overall supervision of the Fund is vested in the Board of Directors of the Fund, the Fund's investment performance could be materially affected if Mr. Kinch were to die, become ill or disabled or otherwise cease to be involved in the active management of the Fund. Roger Cave, a Director, is a Chartered Financial Analyst. John Dyke, a Director, is a lawyer. Mr. Dyke, Mr. Dutton and Mr. Cave have been to Asia with Mr. Kinch to meet managers of the funds in which the Fund invests. Mr. Cave has a good understanding of the Fund's investments and would advise the Board of Directors on the Fund's investments if Mr. Kinch were to die or cease to be active in the Fund and/or the Investment Advisor. In addition, the Investment Advisor has engaged two analysts as full time employees.

### **Potential Illiquidity**

It may not always be possible for the Fund to execute a buy or sell order on exchanges or markets at the desired price or to liquidate an open position either due to market conditions or due to the operation of daily price fluctuation limits. If trading on an exchange is suspended or restricted, the Fund may not be able to execute trades or close out positions on terms which the Investment Advisor believes are desirable. Additionally, in some circumstances, the volume of trading on the relevant exchange or market may result in such investments being relatively illiquid making it difficult to acquire or dispose of them at the prices quoted on various exchanges or markets. Accordingly, the Fund may experience adverse price movements upon liquidation of such investments and the settlement of transactions may be subject to delay and administrative uncertainties.

It is possible that the Fund may invest in illiquid securities but it is not considered that they will form a substantial part of the portfolio. "Illiquid" investments include any securities or instruments that are not actively traded on any major securities market or for which no established secondary market or redemption arrangements exist. Reduced liquidity resulting from the lack of an established secondary market may have an adverse effect on market price and the Fund's ability to dispose of particular securities or instruments when necessary to meet its liquidity requirements or in response to specific economic events such as deterioration in the operating fundamentals or the creditworthiness of the issuer.

Much of the Fund's investment portfolio will comprise investments in open-ended investment funds. The Fund will be reliant on such open-ended funds remaining willing and able to redeem investors in accordance with their constitutional documents. Suspensions and other restrictions on redemptions may apply from time to time.

Some of the Fund's investments are shares or partnership interests in other funds that own Chinese "A" shares through various arrangements with banks or custodians. Chinese authorities have from time to time intervened in its equity and currency markets and suspended trading for periods ranging from a day to a few months. China also has foreign exchange controls on its capital account. These factors may have an impact on the Fund's ability to sell some of its investments should it need to do so to meet redemption requests.



## **Restrictions on Transfers and Redemptions; Impact of Substantial Redemptions**

An investment in the Fund provides limited liquidity since an active secondary market is not expected to develop in the Participating Shares. The Fund may refuse to register the transfer of Participating Shares under certain circumstances.

There is no minimum holding period before any redemption of Participating Shares will be permitted. The ability of Shareholders to redeem their Participating Shares may be suspended upon the occurrence of certain events as noted above under the heading “Subscription, Redemption and Valuation Days”. The Directors may also, in their discretion defer redemptions as set out in Appendix B, Part IV under the heading “Suspension of Determination of the Net Asset Value of the Fund”.

Substantial redemptions of Participating Shares within a limited period of time could require the liquidation of securities positions more rapidly than would otherwise be desirable, which could adversely affect the value of both Participating Shares being redeemed and the remaining outstanding Participating Shares of the Fund. In addition, regardless of the period of time over which redemptions occur, the resulting reduction in the Fund’s assets could make it more difficult for the Fund to generate profits or recover losses.

Transfers of Participating Shares to persons who are not Qualifying Investors must first be approved by the Board. The shareholders may be able to dispose of their Participating Shares only by means of monthly redemptions. The risk of any decline in the Net Asset Value of the Fund during the period of at least fourteen (14) days from the date of notice of redemption until the Redemption Day will be borne by the shareholder(s) requesting redemption. The Directors have the power both to suspend and to compel redemptions.

### **Absence of Secondary Market**

There is currently no public market for Participating Shares and the Directors do not anticipate that an active secondary market will develop. Participating Shares are not being registered to permit a public offering under the US Securities Act of 1933, as amended, or the securities laws of any jurisdiction inside or outside the United States.

### **Market Risk**

The investments of the Fund are subject to normal market fluctuations and the risks inherent in investment in equity securities and similar instruments and there can be no assurances that appreciation will occur. Further, illiquidity in some markets could impair the Investment Advisor’s ability to trade successfully or cause it to incur losses. The price of Participating Shares can go down as well as up and investors may not realise their initial investment.

The investments of the Fund are subject to general macro-economic conditions and may be affected by a worsening of general economic conditions globally or in certain individual markets. In the event of extreme market events, a combination of the risks set out in this Offering Memorandum may result in systemic risk to the Fund.

## **Business Risks**

The Fund will invest substantially all of its available capital (other than capital the Investment Advisor determines to retain in cash or cash equivalents) in securities and other intangible investment instruments. While some of these instruments are traded in public markets, markets for such instruments in general are subject to fluctuations and the market value of any particular investment may be subject to substantial variation. In addition, such securities may be issued by unseasoned companies and may be highly speculative. No assurance can be given that the Fund's investment portfolio will generate any income or will appreciate in value.

## **Economic Conditions**

Changes in economic conditions, including, for example, interest rates, inflation rates, industry conditions, competition, technological developments, political and diplomatic events and trends, tax laws and innumerable other factors, can affect substantially and adversely the business and prospects of the Fund. None of these conditions are within the control of the Investment Advisor, and no assurances can be given that the Investment Advisor will anticipate these developments.

## **Currency Risk**

Investments acquired by the Fund will be denominated in a wide range of currencies. The Investment Advisor has no authority to hedge the Fund's foreign exchange positions.

## **Sophisticated Investors**

The Participating Shares are a suitable investment only for sophisticated investors for whom an investment in the Fund does not constitute a complete investment program and who fully understand and who are willing to assume and have the financial resources necessary to withstand the risks involved in the Fund's specialized investment program.

## **FATCA and Common Reporting Standards**

There are risks relating to FATCA and CRS. See further the sections headed "FATCA" and "Automatic Exchange of Financial Account Information".

## **Custodian/Sub-Custodian Risk**

The Fund is at risk of the Custodian entering into an insolvency procedure. During such a procedure (which may last many years) the use by the Fund of assets held by or on behalf of the Custodian may be restricted and accordingly (a) the ability of the Fund to fulfil the investment objective may be severely constrained, (b) the Fund may be required to suspend the calculation of the Net Asset Value and as a result subscriptions for and redemptions of Participating Shares and/or (c) the Net Asset Value may be otherwise affected. During such procedure, the Fund could be an unsecured creditor in relation to certain of its assets and accordingly the Fund may be unable to recover such assets from the insolvent estate of the Custodian in full, or at all.

Where the Custodian delegates the safe custody of the Fund's securities held by it pursuant to the Custodian Agreement to a sub-custodian located in another jurisdiction, the settlement, legal and

regulatory requirements in such other jurisdiction may be different from those in the jurisdiction of the Custodian and there may be different practices for the separate identification of the Fund's securities. Where such are registered or recorded in the name of an agent or sub-custodian, they may not be segregated and hence may not be as well protected as if they were registered or recorded in the name of the Fund or the Custodian, as the case may be. However, the Fund has obtained a letter of comfort from the Custodian to the effect that the sub-custodians currently engaged to hold the Fund's securities are required to segregate the securities held on behalf of the Custodian for the Fund and other clients from the general assets of such sub-custodians.

## **Credit Risk**

The Fund holds non-invested subscription proceeds, interest and dividend income, and the proceeds from the sale of securities in bank accounts at RBC Royal Bank (Cayman) Limited, RBC Dominion Securities Global Limited and the Custodian. An account has been opened by the Fund with Butterfield Bank (Cayman) Limited but not yet funded.

RBC Royal Bank (Cayman) Limited and RBC Dominion Securities Global Limited are wholly owned subsidiaries of Royal Bank of Canada holding company listed on the TSX and NYSE. Royal Bank of Canada had a Common Equity Tier 1 ratio of 11.1% as at 30<sup>th</sup> September 2018, a AA- credit rating from Standard & Poor, and a market capitalisation of US\$99 billion as at 31<sup>st</sup> December 2018. The Fund's cash balances held at RBC Royal Bank (Cayman) Limited and RBC Dominion Securities Global Limited are exposed to the credit risk of these wholly-owned subsidiaries of the holding company. In addition, the Fund's agreement with RBC Dominion Securities Global Limited provides that credit balances are held by the Royal Bank of Canada Europe Limited, a UK bank registered with the FSA and so are subject to that company's credit risk.

Any cash invested in money market funds is exposed to the credit risk of the underlying securities. To mitigate this risk, the Fund will invest only in money market funds with a high investment grade rating at the time of investment.

Butterfield Bank (Jersey) Limited and Butterfield Bank (Cayman) Limited are wholly-owned subsidiaries of The Bank of N.T. Butterfield & Son Limited ("Butterfield") which had a return on Common Equity ratio of 23.2% as at 30 September 2018, a BBB+ credit rating from Standard & Poor, and a market capitalisation of US\$1.75 billion as at 31<sup>st</sup> December 2018. Butterfield is incorporated under the laws of Bermuda and has a banking license under the Banks and Deposit Companies Act, 1999 ("the Act"). Butterfield is regulated by the Bermuda Monetary Authority ("BMA"), which operates in accordance with Basel principles.

Butterfield is a full-service bank and wealth manager headquartered in Hamilton, Bermuda, providing services to clients from Bermuda, the Cayman Islands, Guernsey and Jersey, where its principal banking operations are located, and The Bahamas, Switzerland, Singapore and the United Kingdom, where it offers specialised financial services. Butterfield is publicly traded on the New York Stock Exchange (symbol: NTB) and the Bermuda Stock Exchange (symbol: NTB.BH).

## **Past Performance**

As at the date of the Offering Memorandum, the Fund's operating history is just over twenty years. There can be no assurance that the Fund will continue to achieve its investment objective. The past performance of the Fund is not necessarily a guide to future performance. The Net Asset Value per Participating Share of the Fund increased by 1124% (12.2% per annum) between 31<sup>st</sup> December, 1998 and 30<sup>th</sup> September, 2020. During the same period, the Fund's benchmark, the MSCI Asia free ex Japan Index (US\$), increased by 518% (8.7% per annum) inclusive of reinvested dividends. This performance data is based on audited financial statements of the Fund up to 31<sup>st</sup> December, 2019 and the unaudited Net Asset Value per Participating Share of the Fund on 30<sup>th</sup> September, 2020. In the period from 31<sup>st</sup> October, 2007 to 28<sup>th</sup> February, 2009, the MSCI Asia free ex Japan Index (US\$) lost 62.8% and the Fund's NAV per Participating Share declined by 47.1% during the same period. Asia ex Japan has become a more mainstream destination for sophisticated foreign investors. Consequently, competition between investors has reduced market inefficiencies, making it unlikely that the Fund will outperform its benchmark by such a wide margin in the future. The Fund was launched immediately following the 1997/8 Asian financial crisis which represented a major trough in stock market terms for the region. It is therefore unlikely that the Fund will generate such a high return going forward given the very favourable starting point in valuation terms for the Fund. There is, currently, an identifiable risk of over-investment and consequent over-capacity in many industrial sectors of the Peoples Republic of China. In addition, there is a risk that a bubble in property prices in China may burst. This could cause a short-term financial and economic crisis in the region. These risks have been apparent for some time.

### **Dividends and Distributions**

The Fund does not intend to pay dividends or other distributions, but intends instead to reinvest substantially all of the Fund's income and gain. Accordingly, an investment in the Fund may not be suitable for investors seeking current returns for financial or tax planning purposes.

## **IV. SUSPENSION OF DETERMINATION OF THE NET ASSET VALUE OF THE FUND**

The following extract from the Articles of Association of the Fund sets out the provisions relating to the circumstances in which the Directors may temporarily suspend the determination of Net Asset Value:

24. The Directors may declare a suspension of the determination of the Net Asset Value for the whole or any part of a period during which:
  - (1) by reason of the closure of, the suspension of trading on, or the restriction of dealings on, any Exchange or any other market or if for any other reason circumstances exist as a result of which, in the sole opinion of the Directors, it is not reasonably practicable for the Company to dispose of investments or fairly to determine the Net Asset Value; or
  - (2) a breakdown occurs in any of the means normally employed by the Directors in

ascertaining the value of the investments or when for any other reason in the Directors' sole opinion the value of the investments or other assets of the Company cannot reasonably be ascertained; or

- (3) in the Directors' sole opinion the disposal or realisation of investments cannot be effected for any reason in the usual or normal manner or without prejudicing the Shareholders of the Company or the realisation of the assets or the transfer of funds cannot be effected at normal prices or rates of exchange respectively.

25. The Company may withhold payment to any person whose Participating Shares have been tendered for redemption until after any suspension has been lifted. Notice of any suspension will be given to any Shareholder who has tendered Participating Shares for redemption and to whom full payment of the Redemption Price has not yet been remitted. If a Redemption Request is not withdrawn by a Shareholder following notification of a suspension, the redemption will be completed as of the Redemption Date next following the lifting of such suspension on the basis of the Net Asset Value per Participating Share at that time.

Notice of any suspension of the determination of Net Asset Value will be notified to the CSX and to the Shareholders.

## APPENDIX C

### TRANSACTIONS WITH DIRECTORS

The Articles of Association of the Fund provide that:-

107. A Director may hold any office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director on such terms as to tenure of office, and otherwise as the Directors may determine.
108. No Director or intending Director shall be disqualified by his office from contracting with the Company either as vendor, purchaser or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director is in any way interested be liable to be avoided, nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established, but the nature of his interest must be declared by him at the meeting of the Directors at which the question of entering into contract or arrangement is first taken into consideration, or if the Director was not at the date of that meeting interested in the proposed contract or arrangement, then at the next meeting of the Directors held after he becomes so interested, and in a case where the Director becomes interested in a contract or arrangement after it is made then at the first meeting of the Directors held after he becomes so interested.
109. A general notice in writing given to the Directors by any Director to the effect that he is a member of any specified company or firm and is to be regarded as interested in any contract which may thereafter be made with that company or firm, shall (if such Director shall give the same at a meeting of the Directors or shall take reasonable steps to secure that the same is brought up and read at the next meeting of the Directors after it is given) be deemed a sufficient declaration of interest in relation to any contract so made.
110. Save as otherwise provided, a Director shall not vote or count in the quorum in respect of any contract arrangement or any other proposal whatsoever in which he has any material interest otherwise than by virtue of his interests in shares or debentures or other securities of or otherwise in or through the Company or any of its associates or by virtue of his employment by, or of his holding of any office of, the Fund or any of its associates.
111. A Director shall (in the absence of some other material interest than is indicated below) be entitled to vote (and be counted in the quorum) in respect of any resolution concerning any of the following matters, namely:-
  - (a) the giving of any security or indemnity to him in respect of money lent or obligations incurred by him at the request of or for the benefit of the Company or any of its subsidiaries;
  - (b) the giving of any security or indemnity to a third party in respect of a debt or obligation of the Company or any of its subsidiaries for which he himself has

assumed responsibility in whole or in part under a guarantee or indemnity or by the giving of security;

- (c) any proposal concerning an offer of shares or debentures or other securities of or by the Company or any of its subsidiaries for subscription or purchase in which offer he is or is to be interested as a participant in the underwriting or sub-underwriting thereof; and
  - (d) any proposal concerning any other company in which he is interested, directly or indirectly and whether as an officer, employee or shareholder or otherwise howsoever PROVIDED THAT he is not the holder of or beneficially interested in two (2) per cent or more of the issued shares of any class of such company (or of any third company through which his interest is derived) or of any of the voting rights available to members of the relevant company (any such interest being deemed for the purposes of this Article to be a material interest in all circumstances).
112. Where proposals are under consideration concerning the appointment (including fixing or varying the terms of appointment) of two or more Directors to offices or employment with the Company or any company in which the Company is interested, such proposals may be divided and considered in relation to each Director separately and in such cases each of the Directors concerned (if not otherwise debarred from voting under the Articles) shall be entitled to vote (and be counted in the quorum) in respect of each resolution except that concerning his own appointment.
113. If any question shall arise at any meeting as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by his voluntarily agreeing to abstain from voting, such question shall be referred to the Chairman of the meeting and his ruling in relation to any other Director shall be final and conclusive except in a case where the nature or extent of the interests of the Director concerned has not been fairly disclosed.
114. The Company may by ordinary resolution passed at a class meeting of the holders of the Participating Shares suspend or relax these provisions or ratify any transaction not duly authorised by reason of a contravention of Articles 107 to 113 inclusive.

## **APPENDIX D**

### **INDEMNITIES**

The Articles of Association of the Fund include a provision that:-

"The Directors, Auditors and Officers for the time being of the Company for the time being acting in relation to any of the affairs of the Company and their heirs, executors, administrators and personal representatives respectively shall be indemnified out of the assets of the Company from and against all actions, proceedings, costs, charges, losses, damages and expenses which they or any of them shall or may incur or sustain by reason of any act done or omitted in or about the execution of their duty in their respective offices or trusts, except such (if any) as they shall incur or sustain by or through his own actual wilful neglect or default respectively and no such Director, Auditor or Officer shall be answerable for the acts, receipts, neglects or defaults of any other Director, Auditor or Officer or for joining in any receipt for the sake of conformity or for the solvency or honesty of any banker or other persons with whom any monies or effects belonging to the Company may be lodged or deposited for safe custody or for any insufficiency of any security upon which any monies of the Company may be invested or for any other loss or damage due to any such cause as aforesaid or which may happen in or about the execution of his office or trust unless the same shall happen through the actual wilful neglect or default of such Director, Auditor or Officer."

The agreement pursuant to which the Investment Advisor is appointed also includes indemnity provisions in favour of the Investment Advisor as described under "Management, Administration and Custody".

The Custodian is entitled to certain indemnities under its agreement as described under "Management, Administration and Custody".



## **APPENDIX E**

### **AMENDMENTS**

The Directors reserve the right, from time to time, if they deem it appropriate, to amend established arrangements, subject to applicable contractual provisions, from time to time as they deem fit with regard to management and administration of the Fund's affairs, the taking of investment and other advice and the custodianship of its assets PROVIDED THAT in the event that the terms of engagement of the Investment Advisor are to be amended, at least ninety (90) days prior notice shall be given to the holders of affected Participating Shares of such amendment provided that no such notice shall be required should:-

- (a) the terms of any variation or any new agreement entered into on the appointment of a new Investment Advisor not, in the opinion of the Directors, materially differ from the agreement of contract then effective; or
- (b) the Directors and the Investment Advisor, certify that such variation is required only to enable the affairs of the Fund to be more conveniently or economically managed or otherwise to the benefit of the shareholders as such and that it does not prejudice the interest of such holders or any of them and does not alter the fundamental provisions or objects of the Investment Advisory Agreement, or release the Investment Advisor from any responsibility of the Fund.

It is not the intention of the Directors that the Investment Restrictions set forth above will be amended in respect of the Fund except with the consent by ordinary resolution of the holders of the Participating Shares.

The Investment Advisor, as the holder of the Management Shares has effective control over the constitution of the Board of Directors and, in addition, may, from time to time, amend the Fund's Memorandum and Articles of Association in accordance with Cayman Islands law provided that in the event that any such amendment would affect the class rights of the holders of Participating Shares, then the consent of such holders would be required in writing or at a class meeting convened and held in accordance with the Fund's Articles of Association.

## **APPENDIX F**

### **GENERAL INFORMATION**

#### **Constitution**

The constitution of the Fund is defined in its Memorandum and Articles of Association.

#### **Expenses**

The preliminary expenses incurred in the formation of the Fund have been amortised. The annual expenses of the Fund are currently estimated to be 0.04% per annum of the Net Asset Value of the Fund.

#### **Borrowings**

As at 30<sup>th</sup> September, 2020, the Fund had no borrowings or other indebtedness.

#### **Net Asset Value**

The Net Asset Value per Participating Share of the Fund was US\$122.43 calculated as at 30<sup>th</sup> September, 2020. The Net Asset Value per Participating Share is unaudited.

#### **Material Changes to Financial Position**

There has been no material change to the financial trading position of the Fund subsequent to its most recent audited financial statements for the period to 31<sup>st</sup> December 2017.

#### **Financial Prospects**

The Board does not have any further material information to disclose in respect of the financial prospects of the Fund.

#### **Dividends**

There is no time limit beyond which dividends may not be claimed other than as may be allowed by law, in which case such dividends will be retained for the benefit of the Fund.

#### **Director Share Qualification**

There is currently no share qualification for Directors.

#### **Other Directorships and Service Contracts**

Each of the Directors of the Fund is also a director of the Investment Advisor.

Each of the Directors has entered into an Engagement Agreement with the Company. Pursuant to such Agreement, which may be terminated upon 90 days written notice by one party to the other,

each Director shall be entitled to an annual fee of currently US\$5,000 per annum, together with such amounts for additional special services as may, from time to time, be agreed between the Company and the Director concerned. The Company shall, by way of reimbursement, pay or procure to be paid to each Director all reasonable travelling, hotel and other expenses wholly, exclusively and necessarily incurred by him in going to, attending and returning from meetings of the Board or any Committee of the Directors, or general meetings of the Company or otherwise about the performance of his duties to the Company. The Agreements also provide that each Director shall be entitled to be indemnified by the Company in accordance with the terms of the Articles of Association of the Company. The Directors are not required to devote the whole of their time and attention to the business of the Company and may engage in any other business and be concerned or interested in any other company.

### **Retirement of Directors**

There is no age limit beyond which a person may not be a Director.

### **Subsidiaries**

The Fund does not have any subsidiaries other than OAM ARF Investments Limited, described above under “Custody”.

### **Litigation**

Neither the Fund nor the Investment Advisor are engaged in any litigation nor do any of them have any claim of material importance pending or threatened by or against them.

### **Benefit and Special Terms**

Save as disclosed herein:-

- (a) save insofar as they are shareholders of the Investment Advisor, no amount or benefit has been paid or given to any promoters by the Fund since its incorporation and none is intended to be paid or given;
- (b) no commissions, discounts, brokerages or other special terms have been granted in relation to shares, debentures or other capital issued or to be issued by the Fund;
- (c) save as herein mentioned, no shares, debentures or other capital of the Fund have been issued or agreed to be issued, fully or partly paid up, in cash or otherwise than in cash, nor is any such capital under option, or agreed conditionally or unconditionally to be put under option;
- (d) no Director has had any interest, direct or indirect, in any property or assets acquired or disposed of by or leased to the Fund or proposed to be acquired, disposed of by or leased to the Fund;
- (e) save as herein mentioned no Director has had a material interest in any contract or arrangement entered into by the Fund which is significant in relation to the business

of the Fund;

- (f) save as herein mentioned no Director has had any interest in any share capital of the Fund;
- (g) no shares, debentures or other capital of the Fund are proposed to be issued partly paid or otherwise than fully paid in cash.

No side letters or other special arrangements have been made between the Fund and any holder of Participating Shares. The Directors do not propose to engage in any such arrangements or to enter into any side letters that bind the Fund and that contain any terms the effect of which provide an investor with more favourable treatment than other holders of the same class of equity interest enhancing that investor's ability either (i) to redeem equity interests of that class or (ii) to make a determination as to whether to redeem equity interests of that class, and which in either case might reasonably be expected to put other holders of equity interests of that class who are in the same position at a material disadvantage in connection with the exercise of their redemption rights, save that, to the extent reasonably practicable, the Directors may assist shareholders with administrative matters arising in respect of their investments in the Fund.

As at the date of this Offering Memorandum, the Investment Advisor, the Directors, and their wives and children, either directly or indirectly through holding companies or trusts, owned beneficially 411,935 Participating Shares of the Fund representing 18.3% of the Participating Shares outstanding as at the date of this Offering Memorandum.

In addition, one mutual fund managed by one of the Directors holds 73,542 Participating Shares of the Fund representing 3.3% of the Participating Shares outstanding as at the date of this Offering Memorandum.

Further, two companies of which one of the directors is also a director, and a pension plan of which two of the directors are trustees hold 32,419 Participating Shares of the Fund, representing 1.4% of the Participating Shares outstanding as at the date of this Offering Memorandum.

## APPENDIX G

### DATA PROTECTION PRIVACY POLICY

➤ ***Your Right to Object - Please note that you have a right to object to processing of your personal data where that processing is carried out for direct marketing.***

The Cayman Islands Data Protection Law (as revised) (“DPL”) governs the use of Personal Data by Cayman Islands entities. We recognise the importance of protecting the privacy of subscribers and shareholders in the Fund and hereby accordingly, in accordance with the DPL, set out our privacy policy in relation to Personal Data in this Privacy Policy. Any terminology and capitalised terms used in this Notice bear the meanings as prescribed in the DPL unless the context requires otherwise.

The Fund is the Data Controller for the purposes of your application to subscribe for an interest in the Fund. Hence, the Fund is responsible for ensuring that it uses your Personal Data in compliance with the DPL. The Fund, as Data Controller, has appointed the Investment Advisor as Data Processors.

The Fund and the Investment Advisor may Process the following types of Personal Data:

- (a) Personal Data provided by you (including within forms, correspondence, transactions and remittance instructions) to the Fund including: your name, address, contact information, birthdate, gender, nationality, photograph, signature, occupational history, job title, income, assets, holdings in the Fund, historical and pending transactions in the Fund’s shares and the values thereof, other financial information, source of funds, bank details, credit and investment history, source of funds, tax residency, and tax identification information;
- (b) Personal Data collected or generated by the Fund including: information related to your emails (and related data), correspondence, call recordings, and website usage data; and
- (c) Personal Data obtained by the Fund from other sources, including: know your client (Know Your Client) (“KYC”) / client due diligence procedures (anti-money laundering (“AML”), counter-terrorist financing, proliferation financing, sanctions, politically exposed persons), tax purposes (US Foreign Account Tax Compliance Act (“FATCA”), OECD Common Reporting Standard (“CRS”)), future regulatory, securities and tax requirements, information from public websites, public sources of information (bankruptcy registers, credit reference agencies), publicly accessible directories, and information received from your advisors or intermediaries. Please ensure that you provide a copy of this Data Protection Privacy Policy to any third parties whose Personal Data you provide to the Fund or the Investment Advisor. This Data Protection Privacy Policy may be updated at any time and the Fund will notify you in writing of any changes.

<p>➤ <b>Purposes of Processing and Legal Basis for Processing</b></p>
<p>➤ Personal Data provided by you, collected or generated by the Fund, or obtained by the Fund from other sources in relation to your application to subscribe for Participating Shares in the Fund will be held, disclosed, and Processed by the Fund and the Investment Advisor for the following purposes:</p>
<ul style="list-style-type: none"> <li>• Managing and administering your holdings in the Fund, including assessing and processing subscription applications, communicating with you about your holdings and account related activities on an on-going basis;</li> <li>• To update and maintain records and provide net asset value and other calculations;</li> <li>• To manage and maintain our relationships with you and for ongoing customer service;</li> <li>• To enforce or defend the Fund's rights, itself or through third parties to whom it delegates such responsibilities;</li> <li>• To comply with any applicable legal, tax or regulatory obligations on the Fund, including those which derive from anti-money laundering and counter-terrorism legislation ("<b>AML</b>");</li> </ul> <p>➤ <b><i>This use of your Personal Data is necessary for performance of your contract with us.</i></b></p>
<p>➤ In order to carry out anti-money laundering checks and related actions including sharing data with police, law enforcement, tax authorities or other government and fraud prevention agencies where we have a legal obligation, including screening transactions, reporting suspicious activity and complying with production and court orders;</p> <ul style="list-style-type: none"> <li>• To report tax related information to tax authorities;</li> <li>• To investigate and resolve complaints and manage contentious regulatory matters, investigations and litigation;</li> <li>• To monitor electronic communications for investigation and fraud prevention purposes, crime detection, prevention and investigation.</li> <li>• Otherwise in accordance with applicable legal obligations under company law, tax law, AML, counter-terrorist financing, counter-proliferation financing and sanctions legislation.</li> </ul> <p>➤ <b><i>This use of your Personal Data is necessary in order for us to comply with any legal or regulatory obligations.</i></b></p>
<p>➤ The day to day running and management of the Fund including to:</p> <ul style="list-style-type: none"> <li>• Monitor, maintain and improve the processes, information and data, technology and communications solutions and services used by the Fund;</li> <li>• Perform general, financial and regulatory accounting and reporting;</li> <li>• Monitor and record calls for quality, business analysis, training and related purposes in order to pursue the legitimate interests of the Fund to improve its service delivery;</li> </ul>

- Protect our legal rights and interests including screening transactions for fraud prevention and anti-money laundering purposes

➤ *This use of your Personal Data is necessary for our legitimate business interest in managing our business including legal, personnel, administrative and management purposes and for the prevention and detection of crime provided our interests are not overridden by your interests.*

## **Recipients of Personal Data and International Transfer of Data**

The Fund may disclose your Personal Data as follows:

- to their affiliates, delegates and third-party service providers, including the Investment Advisor, engaged in connection with the oversight, safekeeping, administration, distribution or operation of the Fund, in order to process the Personal Data for the above-mentioned purposes;
- the Fund's professional advisors, auditors, IT, and other service providers; and
- to competent authorities (including tax authorities), regulators, courts, law enforcement agencies, and other regulatory entities as required by applicable law or requested by such entities, Fund affiliates, or third-party service providers for internal investigations and reporting purposes.

In relation to any other third parties, we will only disclose your information in the following circumstances:

- (a) where you have given your consent;
- (b) where we are required to do so by law or enforceable request by a regulatory body;
- (c) where it is necessary for the purpose of, or in connection with legal proceedings or in order to exercise or defend legal rights; or
- (d) if we transfer management or control of the Fund.

## **International transfers**

Personal Data will be held in, and may be freely transferred between, countries that are located inside the European Union (EU) and third countries that have adequate protection for your rights in relation to the Processing of your Personal Data, and otherwise where the transfer is:

- (a) made with your consent;
- (b) necessary for the performance of a contract between the individual and the organisation, or for pre-contractual steps taken at the individual's request;

- (c) necessary for the performance of a contract made in the interests of the individual between the controller and another person;
- (d) necessary for the establishment, exercise or defence of legal claims;
- (e) made in regard to public data on a public register, and any conditions subject to which the register is open to inspection are complied with;
- (f) made on terms of a kind approved by the Ombudsman as ensuring adequate safeguards for the individual(s);
- (g) authorised by the Ombudsman as ensuring adequate safeguards for the individual(s); or,
- (h) required under international cooperation arrangements between intelligence agencies or regulatory agencies, if permitted or require under an enactment or an order issued by the Grand Court of the Cayman Islands.

Where a Personal Data transfer is made to a jurisdiction which provides a level of data protection lower than that prescribed by the DPL, the Fund will take steps to ensure the security and confidentiality of your Personal Data in accordance with the DPL. Such steps may include establishing contractual undertakings with service providers who process Personal Data on our behalf.

### **Retention period**

The Fund will retain your Personal Data for a minimum period of 7 years from the date on which you redeem all of your Participating Shares in the Fund or for as long as required for the Fund to perform the services or comply with applicable legal/regulatory obligations.

### **Consequences of not Providing Required Data**

Where the Fund requires your Personal Data to comply with AML or other legal, regulatory and tax requirements which arise from collecting fees and making investments as described in the Fund's offering documents, failure to provide this information means the Fund may not be able to accept you as an investor in the Fund and/or may be unable to process, or release your investment in the Fund. This may result in the Fund terminating its relationship with you. We will tell you when we ask for your information whether it is a statutory or contractual requirement to give us the information and the consequences of not providing the information.

### **Consent to marketing**

Parties engaged to assist with the operation of the Fund may contact you with information regarding other offered products and services. Such contact may be by telephone, email, or by other reasonable means of communication.

You can require such parties to stop contacting you with such marketing information by contacting the Fund.



If you request not to receive marketing information this will not affect your status as an investor in the Fund. Such a request will not affect the lawfulness of Processing based on consent before its withdrawal.

Your consent is not required to Process your Personal Data for the performance of a contract, compliance with legal obligations, and/or legitimate interests pursued by the Fund as referenced above.

### **Data Subject Rights**

You have various rights in relation to your Personal Data, including the right to request access to your personal information, correct any mistakes on our records, erase or restrict records where they are no longer required, object to use of personal information based on legitimate business interests, ask not to be subject to automated decision making if the decision produces legal or other significant effects on you, and the right to submit a complaint.

We will respond to your request in writing, or orally if requested, as soon as practicable and in any event not more than within one month after of receipt of your request. In exceptional cases, we may extend this period by two months and we will tell you why. We may request proof of identification to verify your request. For more details in relation to your rights, including how to exercise them, please see our full privacy policy or contact us – refer to the “How to contact the Fund” details below.

You may lodge a complaint with the Cayman Islands Ombudsman at [info@ombudsman.ky](mailto:info@ombudsman.ky). For further information regarding your Personal Data rights, please see the Ombudsman’s website at [www.ombudsman.ky](http://www.ombudsman.ky).

### **How to contact the Fund**

If you have any questions about the use of your Personal Data, please contact the Investment Advisor at [privacy@oam.com.ky](mailto:privacy@oam.com.ky).

## **APPENDIX H**

### **DOCUMENTS AVAILABLE FOR INSPECTION**

Copies of the following documents are available for inspection during normal business hours on any Business Day (public holidays excepted) at the registered office of the Fund without charge:-

- (a) the Memorandum and Articles of Association of the Fund;
- (b) the Investment Advisory Agreement;
- (c) the Custodian Agreement and the Novation Agreement;
- (d) the Engagement Agreement in respect of each Director;
- (e) the most recent accounts, reports and audited financial statements of the Fund;
- (f) this Offering Memorandum any updates thereof; and
- (g) circulars to holders of the Participating Shares issued by the Fund.

## **APPENDIX I**

### **AUDITED FINANCIAL STATEMENTS**

Copies of the audited financial statements of the Fund for the years ended 31 December 2018 and 31 December 2019 are separately attached.

## OAM ASIAN RECOVERY FUND

### APPLICATION FOR THE PURCHASE OF PARTICIPATING SHARES

OAM Asian Recovery Fund  
Ltd.  
The Pavilion, Cricket Square  
P.O. Box 597  
Grand Cayman KY1-1107  
("the Fund")

Overseas Asset Management (Cayman)  
  
The Pavilion, Cricket Square  
P.O. Box 597  
Grand Cayman KY1-1107  
("OAM")

Gentlemen,

I/We hereby subscribe for the allotment of such number of Non-Voting Participating Redeemable Preference Shares of a nominal or par value of US\$0.01 each ("Participating Shares") in the capital of the Fund as may be purchased with US\$\_\_\_\_\_ subject to the Fund's Memorandum and Articles of Association and upon the terms of the Offering Memorandum dated 4 November, 2020 issued by the Fund ("Offering Memorandum"), both documents having been made available for my/our inspection prior to the making of this application and both of which may be amended from time to time

By execution and delivery of this Subscription Agreement I/we hereby represent and undertake as follows:-

1. If this application for the purchase of Participating Shares is accepted, by copy of this Application Form to Overseas Asset Management (Cayman) Ltd., I/we hereby authorize Overseas Asset Management (Cayman) Ltd. to transfer an amount equal to the subscription price of the Participating Shares subscribed for hereunder from my/our investment management account with Overseas Asset Management (Cayman) Ltd. to the Fund's bank or custody accounts.
2. I/We have received, read and understood the Offering Memorandum and have been given the opportunity to receive and review the documents expressed to be available for inspection in the Offering Memorandum including the Memorandum and Articles of Association of the Fund.
3. I am/We are not U.S. Person(s), as that term is defined below, nor person(s) of any other jurisdiction to whom the offering of the Participating Shares is prohibited ("ineligible investor") and I am/We are not applying for Participating Shares of the Fund as nominee(s) of or on behalf of such person(s).
4. I/We shall notify the Investment Advisor immediately in the event that I/we become aware that I/we or the person(s) for whom I/we hold the Participating Shares has/have become U.S. Person(s) or an ineligible investor.

5. The Participating Shares are being acquired for investment purposes and neither the Participating Shares nor any interest therein will be transferred to a U.S. Person or be transferred within the United States or its territories, possessions or areas subject to its jurisdiction or to any ineligible investor.
6. For the purposes of the following provisions:

"AEOI" means:

- (i) the intergovernmental agreement between the government of the Cayman Islands and the government of the United States of America to improve international tax compliance and to implement the US Foreign Account Tax Compliance Act, including the Tax Information Authority (International Tax Compliance) (United States of America) Regulations, 2014 and all other regulations and guidance notes adopted thereunder, or pursuant thereto, or for the purposes of implementing the same;  
;
- (ii) the Common Reporting Standard developed for the automatic exchange of financial account information by the Organisation for Economic Co-Operation and Development, including all commentary and guidance notes relating or pursuant thereto, or for the purposes of implementing the same, and the Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, 2015 to implement the Common Reporting Standard developed for the automatic exchange of financial account information by the OECD; and
- (iii) other similar arrangements;

“**AML**” means the provisions of relevant money laundering legislation and regulations which in the Cayman Islands including the Misuse of Drugs Law, the Proceeds of Crime Law, the Proliferation Financing (Prohibition) Law, the Terrorism Law, the Anti-Money Laundering Regulations, the Guidance Notes on the Prevention and Detection of Money Laundering, Terrorist Financing and Proliferation Financing and the Guidance on Targeted Financial Sanctions and such directives and guidance issued, each as amended from time to time; and

“**UBO**” means the provisions of relevant ultimate beneficial owner identification legislation and regulations in the Cayman Islands and elsewhere.

I/We acknowledge and agree that:-

- (a) I/We have read and understand the requirements of the section of the Offering Memorandum dealing with AML, AEOI, UBO and other requirements;
- (b) The Fund is required to comply with the provisions of AEOI, AML and UBO;

- (c) I/We will provide, in a timely manner, such information regarding ourselves and our beneficial owners or other Controlling Persons, where applicable, and such information, forms or documentation as may be requested from time to time by the Fund (whether by its operators or the Fund's other agents) to enable the Fund and any of its delegates to comply with the requirements and obligations imposed on it pursuant to AEOI, AML, UBO and other requirements in the Cayman Islands, specifically, but not limited to, forms and documentation which the Fund may require to determine whether or not the relevant investment is a "Reportable Account" and to comply with the relevant due diligence procedures in making such determination;
- (d) any such forms or documentation requested by the Fund or its agents, pursuant to paragraph (b), or any financial or account information with respect to our investment in the Fund, may be disclosed to the Cayman Islands Tax Information Authority (or any other Cayman Islands governmental body which collects information in accordance with AEOI ("**Cayman TIA**"), to the Internal Revenue Service ("**IRS**"), or any tax authority in any other jurisdiction with which the Cayman Islands has entered into any intergovernmental agreement, treaty, regulation, guidance or other agreement in order to comply with, facilitate, supplement, implement or give effect to: (a) sections 1471 to 1474 of the US Internal Revenue Code of 1986 and any associated legislation, regulations or guidance; or (b) any similar regime, including any automatic exchange of information regime arising from or in connection with to the OECD Common Reporting Standard ("**Foreign Fiscal Authority**"), and to any withholding agent where the provision of that information is required by such agent to avoid the application of any withholding tax on any payments to the Fund;
- (e) I/We waive, and/or shall cooperate with the Fund or its agents to obtain a waiver of, the provisions of any law which:
- (i) prohibit the disclosure by the Fund, or by any of its agents, of the information or documentation requested from us pursuant to paragraph (b); or
  - (ii) prohibit the reporting of financial or account information by the Fund or its agents required pursuant to AEOI; or
  - (iii) otherwise prevent compliance by the Fund with its obligations under AEOI;
- (f) if I/We provide information and documentation that is in anyway misleading, or it fails to provide the Fund or its agents with the requested information and documentation necessary in either case to satisfy the Fund's obligations under AEOI in a timely manner, the Fund reserves the right (whether or not such action or inaction leads to compliance failures by the Fund, or a risk of the Fund or its investors being subject to withholding tax or other penalties under AEOI):
- (i) to take any action and/or pursue all remedies at my/our disposal including, without limitation, compulsory redemption or withdrawal; and

- (ii) to hold back from any redemption proceeds, or to deduct from our applicable NAV, any liabilities, costs, expenses or taxes caused (directly or indirectly) by our action or inaction;
  - (g) if I/We have not provided the Fund or its agents with sufficient or accurate information to enable the Fund to comply with its AEOI obligations, the Fund and/or its agents may be required to redeem our Participating Shares and/or to withhold an amount from dividends, payments or redemption proceeds otherwise due to us; and
  - (h) I/We shall have no claim against the Fund, or its agents, for any form of damages or liability as a result of actions taken or remedies pursued by or on behalf of the Fund in order to comply with AEOI and we hereby agree to indemnify the Fund, the Directors and the Investment Advisor, and each of their respective principals, members, managers, officers, directors, stockholders, employees and agents and hold them harmless from and against any AEOI related liability, action, proceeding, claim, demand, costs, damages, expenses (including legal expenses) penalties or taxes whatsoever which the Fund and/or Investment Advisor may incur as a result of any action or inaction (directly or indirectly) of us (or any related person) described in paragraphs (a) to (f) above. This indemnification shall survive our death or disposition of our Participating Shares in the Fund.
7. I/We hereby agree that the Fund or any other delegate on behalf of the Fund, shall be entitled to, and shall, supply all and any information regarding the Fund and our investment in the Fund to each other, their delegates and affiliates, the Investment Advisor, other service providers appointed by the Fund or any underlying fund into which the Fund may invest or such fund's agents. Further, we acknowledge and accept that the Fund (and its delegates) and the Investment Advisor may be required to and shall be entitled to reveal any information regarding the Fund and our investment in the Fund, including details of the our identity, to their regulators and/or any other governmental agency within their jurisdiction, which the Fund (and its delegates) or the Investment Advisor shall, in their sole discretion, consider appropriate. Such disclosure may include, to the extent required by applicable laws or regulations, making information available to the Cayman TIA, the IRS or any Foreign Fiscal Authority or any other governmental agency in relation to AEOI.
8. In order for the Fund and/or its delegates to be compliant with their obligations under applicable law relating to AEOI, or any similar arrangements adopted by other jurisdictions, we agree to provide evidence self-certifying our tax status. Such self-certification shall be on such forms as the Fund or its delegates may specify in accordance with applicable AEOI Regulations.
9. I/We hereby declare, represent and warrant in the terms set out below and confirm that such declarations, representations and warranties shall be deemed to be made on a continuing basis. If any of such declarations, representations and warranties cease to be true, then I/We shall immediately notify the Fund and I/We may, in the sole discretion of

the Fund be subject to having all of its Participating Shares redeemed in accordance with the Offering Memorandum:

- (a) the Participating Shares are to be purchased with funds that are from legitimate sources in connection with its regular business activities and which do not constitute the proceeds of criminal conduct, suspected proceeds of criminal conduct, money laundering, suspected money laundering, terrorism or the financing of terrorism, or the financing of proliferation within the meanings given in the Proceeds of Crime Law (as revised), the Terrorism Law (as revised), the Proliferation Financing (Prohibition) Law (as revised) of the Cayman Islands and the Regulations or Guidance Notes issued pursuant thereto;
- (b) the amounts being or to be contributed by me/us to the Fund were not and are not directly or indirectly derived from activities that may contravene federal, state or international laws and regulations, including AML, AEOI, UBO and other regulations;
- (c) the Fund is subject to laws that restrict it from dealing with entities, individuals, organisations and/or investments which are subject to applicable sanctions regimes;
- (d) I/We understand and agree that:
  - a. the Fund prohibits the investment of funds by any persons, entities, nominees or beneficiaries being:
    - i. a “terrorist” or “terrorist organisation” as each of those terms are defined in the Terrorism Law (as revised); or
    - ii. an institution that accepts currency for deposit and that (i) has no physical presence in the jurisdiction in which it is incorporated or in which it is operating, as the case may be; and (ii) is unaffiliated with a regulated financial group that is subject to consolidated supervision (known as a “shell bank”); or
    - iii. (i) named on any list of sanctioned entities or individuals maintained by the US Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), the US Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”), the United Nations (“UN”) Security Council, or pursuant to European Union (“EU”) and/or United Kingdom (“UK”) Regulations (as the latter are extended to the Cayman Islands by Her Majesty’s Government of the United Kingdom by Orders in Council), (ii) operationally based or domiciled in a country or territory in relation to which sanctions imposed by the UN, OFAC, FinCEN, the EU and/or the UK apply, or (iii) otherwise subject to sanctions imposed by the UN, OFAC, FinCEN, the EU or the UK (including as the latter are extended to the Cayman Islands by Her Majesty’s Government of the United Kingdom by Orders in



Council) (collectively, a "**Sanctions Subject**") (and the I/we acknowledge and agree that should any investment made on behalf of the Fund subsequently become subject to applicable sanctions, the Fund may immediately and without notice to the Investor cease any further dealings with that investment until the applicable sanctions are lifted or a licence is obtained under applicable law to continue such dealings (a "**Sanctioned Investment Event**"). Should a Sanctioned Investment Event occur, the Fund may exercise its powers to appropriately address this to which I/we acknowledge and understand),

such persons or entities in (i) through (iii) are collectively referred to as "**Prohibited Persons**";

- (e) I/we are not, nor is any person or entity controlling, controlled by or under common control with me/us, a Prohibited Person; and
- (f) to the extent the I/we are acting as agent or nominee in connection with this investment, or otherwise has any beneficial owners that are not disclosed to the Fund:
  - a. I/we have carried out due diligence to establish the identities of such beneficial owners;
  - b. based on such due diligence, I/we reasonably believe that no such beneficial owners are Prohibited Persons; and
  - c. I/we will make available such information and any additional information that the Fund may reasonably request such as an Eligible Introducer/Financial Intermediary Form, if signing on behalf of an undisclosed principal.

Beneficial owners will include, but not be limited to: (i) shareholders of a corporation; (ii) partners of a partnership; (iii) members of a limited liability company; (iv) investors in a fund-of-funds and (v) any person being represented by me/us in an agent, representative, intermediary, nominee or similar capacity. If the beneficial owner is itself an entity, the information and representations set forth herein must also be given with respect to its beneficial owners. If the applicant is a publicly-traded company, the applicant need not conduct due diligence as to its beneficial owners.

- 9. I/We have been advised to read in detail the Data Protection Privacy Policy attached at Appendix G to the Offering Memorandum, which provides an outline of my/our data protection rights and the manner and purposes for which personal data relating to relevant individuals may be processed by or on behalf of the Fund under relevant data protection laws as they relate to the me/us. I/We warrant and confirm that I/We: (a) have read and understood the Data Protection Privacy Policy (b) have all necessary authority to provide the personal data on behalf of each relevant individual (c) shall promptly provide the Data Protection Privacy Policy to (i) each individual whose Personal Data the I/we have provided or will provide to the Fund or any of its delegates in connection with the my/our

investment in the Fund (such as a directors, trustees, employees, representatives, shareholders, investors, clients, beneficial owners or agents) and (ii) any other individual connected to me/us as may be requested by the Fund or any of its delegates. I/We shall also promptly provide to any such individual, on request by the Fund or any of its delegates, any updated versions of the Data Protection Privacy Policy and the privacy notice (or other data protection disclosures) of any third party to which the Fund or any of its delegates has directly or indirectly provided that individual's Personal Data.

10. The information supplied on this Subscription Agreement and otherwise from time to time in connection with my/our subscription for Participating Shares and/or as shareholder(s) of the Fund including personal information (the "**Personal Data**") may be held by the Fund and the relevant service providers appointed in respect of the Fund and/or the respective agents or delegates and will be used for the purposes of processing my/our subscription and investment in the Fund and completion of information on the Register of Members of the Fund, and may also be used for the purpose of carrying out my/our instructions or responding to any enquiry purporting to be given by me/us or on my/our behalf, dealing in any other matters relating to my/our holding of Participating Shares (including the mailing of reports or notices), forming part of the records of the recipient as to the business carried on by it, observing any legal, governmental or regulatory requirements of any relevant jurisdiction (including any disclosure or notification requirements to which any recipient of the data is subject). The provision of the Personal Data is voluntary. However, failure to supply the Personal Data may result in the Fund and the relevant service providers appointed in respect of the Fund and/or the respective agents or delegates being unable to accept and/or process my/our application for Participating Shares or to provide related services in connection with my/our subscription for Participating Shares and/or as shareholder(s) of the Fund. All such information may be retained after termination of the Fund or after my/our Participating Shares have been redeemed or transferred in accordance with applicable laws, including the Data Protection Law (as revised) of the Cayman Islands.
11. (*For companies and other legal entities*) the information supplied on this Subscription Agreement and otherwise from time to time in connection with the our subscription for Participating Shares and/or as shareholder(s) of the Fund may also be used to provide a marketing database for product and market research or to provide information for the dispatch of information on other products or services to me/us from any of the Fund and the relevant service providers who may contact us by post, telephone, facsimile, e-mail or other available method for such purposes. We hereby acknowledge that we are aware that we have the right to revoke any consent to the use of our information for the purposes set out in this paragraph by notice in writing.
12. (*For individuals only*) I/We have carefully reviewed and understood the Data Protection Privacy Policy including that my/our Personal Data may be used by the Fund and the relevant service providers for direct marketing purposes.

Please tick ("✓") the box below (as appropriate) if you do not wish your Personal Data to be used in direct marketing:

I/we do not wish my/our Personal Data to be used by the Fund or its service providers for direct marketing purposes.

13. I/We hereby further acknowledge that in the case of breach of Personal Data, the Fund shall notify me/us and the Cayman Islands' Ombudsman of the data breach.
14. I/We acknowledge that the Participating Shares are a speculative investment which might involve a significant degree of risk of loss, that I am/we are not dependent upon current cash return with respect to any investment in the Participating Shares, that dividends or distributions are not expected to be made, and that redemption, which is likely to be the only means by which I/we can withdraw from the Fund, is subject to limitations and restrictions described in the Offering Memorandum.
15. I/We acknowledge that payments in respect of subscription and redemption will be made in United States dollars.
16. I/We acknowledge that the directors of the Fund have reserved the right to reject this application, in whole or in part, and need not give a reason for such rejection.
17. I/We represent that I/we have such knowledge and experience in financial, investment and business matters that I/we are capable of evaluating the merits and risks associated with an investment in Participating Shares of the Fund.
18. I/We acknowledge and confirm that no representations, warranties or covenants have been made to me/us by the Fund or any representative or agent of the Fund other than those contained in the Offering Memorandum.
19. I/We acknowledge that certificates representing my/our Participating Shares in the Fund shall not be issued but shall be represented only by an entry in the Register of Members maintained by the Fund.
20. I/We agree to accept the number of Participating Shares (including fractional Participating Shares) which shall be allotted by the directors of the Fund for the subscription amount which I/we have tendered, in accordance with the terms of the Offering Memorandum and subject to the Memorandum and Articles of Association of the Fund and to have such Participating Shares registered exactly as provided below.
21. I/We agree to assume responsibility for any subscription wrongly made due to inappropriate fulfillment of this form or to fax transmission errors.
22. I/We agree that the redemption proceeds in respect of any Participating Shares shall be forwarded to the account detailed below and I/we agree to promptly notify you and provide full details of any change thereto.



Details of account to which any redemption proceeds are to be paid:

Bank:

Address of bank

Account name:

Account number:

You may mail this form, when completed, to Overseas Asset Management (Cayman) Ltd., The Pavilion, Cricket Square, P.O. Box 597, Grand Cayman KY1-1107, Cayman Islands.

PLEASE NOTE:

- U.S. Person as defined in the Fund's Articles means: (a) a natural person who is a citizen or resident of the United States; (b) a partnership, limited liability company or corporation organized or incorporated under the laws of the United States, its territories or possessions, any U.S. state, or the District of Columbia; (c) a trust of which any trustee is a U.S. Person, unless no beneficiary of the trust (and no settlor if the trust is revocable) is a U.S. Person, the trustee who is a U.S. Person is a professional fiduciary and a trustee who is not a U.S. Person has sole or shared investment discretion with respect to the trust assets; (d) an estate of which any executor or administrator is a U.S. Person, unless such estate is governed by non-U.S. law, the U.S. Person who serves as an executor or administrator of such estate is a professional fiduciary and an executor or administrator of the estate who is not a U.S. Person has sole or shared investment discretion with respect to the estate's assets; (e) a non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. Person; (f) a discretionary or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if an individual) resident in the United States; (g) an agency or branch of a foreign entity located in the United States; or (h) a partnership, limited liability company or corporation that is (i) organized or incorporated under the laws of a jurisdiction other than the United States and (ii) formed by a U.S. Person principally for the purpose of investing in securities not registered under the U.S. Securities Act of 1933 as amended, unless it is organized or incorporated and owned by accredited investors (as defined in Rule 501(a) under the U.S. Securities Act of 1933 as amended) who are not natural persons, estates or trusts. Notwithstanding the foregoing, an employee benefit plan established and administered in accordance with the law of a country other than the United States and with customary practices and documentation of such country does not constitute a U.S. Person.
- For all new investors who are not already clients of Overseas Asset Management (Cayman) Ltd., a signed Investment Management Agreement between the subscriber and Overseas Asset Management (Cayman) Ltd. must accompany this application.

- All corporate subscriptions must be accompanied by a certified copy of a corporate resolution authorising the investment and providing names, titles and specimen signatures of all those authorised to transact on this account, all in accordance with the application procedures of Overseas Asset Management (Cayman) Ltd. The Fund must be notified immediately of any changes to the authority of the persons entitled to sign on behalf of any corporate shareholder in the Fund and shall not be responsible for relying on the instructions of any authorised signatory until advised in writing of any changes thereof.
- In order to comply with regulations aimed at the prevention of money laundering, the Fund will require verification of identity from all prospective investors under the Anti-Money Laundering Regulations (as revised) of the Cayman Islands (the “Regulations”). The Fund reserves the right to request such information as is necessary to verify the identity of a prospective investor. In the event of delay or failure by the prospective investor to produce any information required for verification purposes, the Fund may refuse to accept the application and, if so, any funds received will be returned without interest to the account from which the monies were originally debited.
- The Fund also reserves the right to refuse to make any redemption payment to a shareholder if the Directors suspect or are advised that the payment of redemption proceeds to such shareholder might result in a breach of applicable anti-money laundering or other laws or regulations by any person in any relevant jurisdiction, or if such refusal is considered necessary or appropriate to ensure the compliance by the Fund with any such laws or regulations in any applicable jurisdiction.
- If any person who is resident in the Cayman Islands has a suspicion obtained in the course of business that any other person is engaged in money laundering that person is required to report such suspicion pursuant to the Proceeds of Crime Law (as revised) and the Regulations made thereunder of the Cayman Islands and such report shall not be treated as a breach of any restriction upon the disclosure of information imposed by any enactment or otherwise.

## **OAM ASIAN RECOVERY FUND**

(An exempted company established under the Companies Act of the Cayman Islands for an unlimited duration on 24th December 1998)  
(the "**Fund**")

### **Addendum**

#### **Important**

**If you are in any doubt about any of the contents of this document, you should consult your stockbroker, bank manager, solicitor, professional accountant or other professional adviser.**

This Addendum should be read in conjunction with and forms part of the offering memorandum of the Fund dated 4 November 2020, as amended and supplemented from time to time ("**Offering Memorandum**").

The Directors of the Fund accept responsibility for the information contained in this Addendum as at the date hereof. To the best of the knowledge and belief of the Directors (who have taken all reasonable care to ensure that such is the case) the information contained in this Addendum is in accordance with the facts and does not omit anything likely to affect the import of such information.

Unless otherwise defined in this Addendum, capitalised terms shall have the same meanings as defined in the Offering Memorandum.

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#### **1. Investment Advisor**

- (i) On the first page of the Offering Memorandum under the heading "**INVESTMENT ADVISOR**" the address for the Investment Advisor shall be deleted and replaced with the following:

"Overseas Asset Management (Cayman) Ltd.  
Registered office:  
c/o Campbells Corporate Services Limited  
Floor 4, Willow House, Cricket Square  
Grand Cayman KY1-9010, Cayman Islands  
Principal office:  
The Pavilion, Cricket Square, P.O. Box 597  
Grand Cayman KY1-1107  
Cayman Islands"

#### **2. Structure and Administration**

- (i) The heading "Registered Office" under the section headed "**STRUCTURE AND ADMINISTRATION**" of the Offering Memorandum shall be deleted and replaced with the following:

"**Registered Office of the Fund:**  
c/o Campbells Corporate Services Limited  
Floor 4, Willow House, Cricket Square

Grand Cayman KY1-9010, Cayman Islands

**Principal Office of the Fund:**

The Pavilion, Cricket Square, P.O. Box 597  
Grand Cayman KY1-1107  
Cayman Islands”

- (ii) The heading “Investment Advisor” under the section headed “**STRUCTURE AND ADMINISTRATION**” of the Offering Memorandum shall be deleted and replaced with the following:

**“Investment Advisor:**

Overseas Asset Management (Cayman) Ltd.  
Registered office:  
c/o Campbells Corporate Services Limited  
Floor 4, Willow House, Cricket Square  
Grand Cayman KY1-9010, Cayman Islands  
Principal office:  
The Pavilion, Cricket Square, P.O. Box 597  
Grand Cayman KY1-1107  
Cayman Islands”

3. **Management, Administration and Custody**

- (i) The first paragraph under the sub-section “Investment Advisor” under the section headed “**MANAGEMENT, ADMINISTRATION AND CUSTODY**” shall be deleted and replaced with the following:

“The Investment Advisor of the Fund is Overseas Asset Management (Cayman) Ltd. The Investment Advisor is an ordinary resident company incorporated in the Cayman Islands in 1989. The Investment Advisor is registered as a Registered Person under the Securities Investment Business Act (as revised), and is regulated under this Act by the Cayman Islands Monetary Authority. Each of the Directors of the Fund is also a director of the Investment Advisor, and three of the Directors are shareholders of the Investment Advisor. For a description of such Directors please see the section headed "The Directors of the Fund".”

4. **Submission of Redemptions**

- (i) The fourth paragraph under the section headed “**REDEMPTION**” shall be deleted and replaced with the following:

“To redeem all or part of his holding, a shareholder should provide signed redemption instructions to the Fund at its principal office as set out above (the “principal office”). The instructions should be received not later than 3:30 p.m. Cayman time fourteen (14) days prior to the relevant Redemption Day in order to qualify for redemption on that day. Requests for redemption received later than such date may be held over until the next Redemption Day when the Redemption Price prevailing at that time shall apply.



5. **Report to Shareholders and Accounting**

- (i) The first and second paragraphs under the section headed “**REPORT TO SHAREHOLDERS AND ACCOUNTING**” shall be deleted and replaced with the following:

“KPMG (the “Auditors”) have been appointed auditors to the Fund. The Fund's fiscal year will end on 31st December of each year. The accounts of the Fund will be expressed in U.S. dollars and prepared in accordance with International Accounting Standards or such other official standards as may be agreed between the Directors and the Auditors. These accounts and reports will be made available at the principal office of the Fund. Shareholders will be sent quarterly valuations of their holdings in the Fund.

The Fund’s audited financial statements are filed with the CSX and are expressly incorporated herein by reference. This Offering Memorandum must be read with the Fund’s audited financial statements which are available for inspection during normal business hours on any Business Day at the principal office of the Fund without charge.”

6. **Documents Available for Inspection**

- (i) The first paragraph under the section headed “**DOCUMENTS AVAILABLE FOR INSPECTION**” shall be deleted and replaced with the following:

“Copies of the following documents are available for inspection during normal business hours on any Business Day (public holidays excepted) at the principal office of the Fund without charge:-”

7. **General**

- (i) Effective 3 December 2020, the Cayman Islands Citation of Acts of Parliament Act 2020 came into force. This law provides that any enactment that has been a “Law” or which contains a reference to the title of a Law, should be amended by omitting the word “Law” and substituting it with the word “Act”. Accordingly, all references to “Laws” in the Offering Memorandum should be deemed references to “Acts”.
- (ii) The Cayman Islands firm known as “Campbells” converted from a firm to a Cayman Islands limited liability partnership known as “Campbells LLP” on 25 February 2021. Accordingly, all references to “Campbells” in the Offering Memorandum should be deemed to be references to “Campbells LLP”.
- (iii) All references to the registered office address of the Investment Advisor, Overseas Asset Management (Cayman) Ltd., not already specifically set out herein shall be read as references c/o Campbells Corporate Services Limited, Floor 4, Willow House, Cricket Square, Grand Cayman KY1-9010, Cayman Islands.

Dated: 23 December 2021