



# Smith & Williamson Fund Administration Ltd

November 2019

## Shareholder Rights Directive II - Engagement Policy

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## 1. Scope

This document applies to Smith and Williamson Fund Administration Ltd (“SWFAL”) in relation to its various authorised and regulated collective investment schemes (“the Funds”).

The Fund range includes UCITS, which are Undertakings for the Collective Investment in Transferable Securities (UCITS) subject to the UCITS Directive 2009/65/EC, where SWFAL acts as their UK UCITS Management Company and Authorised Corporate Director (“ACD”).

The Fund range also includes Non-UCITS Retail Schemes (“NURS”) which are considered as Alternative Investment Funds under the Alternative Investment Managers Directive (AIFMD), where SWFAL acts as their UK Alternative Investment Fund Manager (AIFM) and Authorised Fund Manager (“AFM”).

SWFAL is domiciled in the United Kingdom and is authorised and regulated by the Financial Conduct Authority (“FCA”).

## 2. Applicable Regulation

This document sets out SWFAL’s position in relation to the requirements which it has an obligation to meet, under the Financial Conduct Authority (“FCA”) handbook (the “Rules”), in particular in FCA’s COLL 6.6A.6 (with respect to exercising voting rights) and COBS 2.2B (SRD requirements).

Also the following directives will apply:

- UCITS Implementing Directive - Commission Directive (2010/43/EU) of the European Parliament and of the Council implementing Directive 2009/65/EC (“UCITS IV”) as regards certain provisions concerning organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company.
- European Commission Delegated Regulation 231/2013 (supplementing Directive 2011/61/EU - Alternative Investment Fund Managers Directive “AIFMD”), Article 37 - Strategies for the exercise of voting rights.
- The European Commission Directive 2017/828 (amending Directive 2007/36/EC on the exercise of certain rights of shareholders in listed companies) (“SRD II Rules”).

## 3. Background

Firms which carry out the investment management activities of investing and managing an investment fund’s assets are duty bound to have robust processes in place, to ensure investments in the assets are managed with the aim of achieving the fund’s investment objective and policy. Not only does this mean ensuring that the fund’s portfolio of assets is invested in a range of assets, which aim to deliver the objective, but also that they remain sufficiently engaged with each individual asset to ensure they continue performing in line with expectations. Furthermore any matters which arise in connection with the assets must be appropriately considered, and relevant action is taken to ensure the continued investment in the assets results, in the best outcome of the fund’s investors.

Firms are required by the Rules to have in place adequate and effective processes for determining when and how voting rights attached to the ownership of the assets should be exercised. This will for example include, when appropriate, voting at Annual General Meetings and voting on corporate actions such as mergers, acquisitions, rights issues, dividends and other such matters which impact upon investors or affect their ongoing rights (known collectively as “Corporate Events”).

When managing a Fund and investing in assets, with respect to Corporate Events, the Rules specifically require firms to put processes in place to ensure:

- Firms monitor for Corporate Events in relation to assets which it is invested;

- That voting rights are exercised in accordance with the fund's investment objective and policy; and
- Any conflicts of interest arising from the Corporate Event are appropriately identified and prevented or managed.

As explained below SWFAL does not carry out investment management activities on behalf of its Funds and has delegated this activity to third party authorised and regulated investment management firms (also hereinafter referred to as "Delegates"). SWFAL carries out appropriate ongoing monitoring and due diligence on the delegated entities to ensure they are able to meet their regulatory obligations. Please refer to section 5 for more information on SWFAL's ongoing monitoring and oversight of the delegated entities.

## 4. Shareholder Rights Directive

SRD II is one of a series of actions launched by the European Commission to promote better shareholder engagement and improve transparency in the ownership of companies. The key SRD II requirement on firms is to have appropriate ongoing engagement with their investee companies, which issue shares to be traded on a regulated market. It follows the European Commission's analysis of shortcomings in corporate governance during the financial crisis, which highlighted insufficient engagement by shareholders with investee companies as a key deficiency. As such the new SRD II Rules requires asset owners of investee companies and asset managers to make disclosures about their long term investment strategies, their arrangements with each other and their engagement with the companies they invest in.

The SRD Rules (article 3g (1) (a) of SRD II) require firms to make publicly available an Engagement Policy which describes how the firm:

- integrates shareholder engagement in its investment strategy;
- monitors investee companies on relevant matters, including:
  - Strategy;
  - Financial and non-financial performance and risk;
  - Capital structure; and
  - Social and environmental impact and corporate governance;
- Conducts dialogues with investee companies;
- Exercises voting rights and other rights attached to shares;
- Cooperates with other shareholders;
- Communicates with relevant stakeholders of the investee companies; and
- Manages actual and potential conflicts of interests in relation to the firm's engagement.

In addition to the above, the SRD Rules also require a firm to make publicly available an annual disclosure in accordance with article 3g(1)(b) of SRD (and COBS 2.2B.7R of the FCA Handbook), which must include:

- A general description of voting behaviour, an explanation of the most significant votes and reporting on the use of the services of proxy advisors.
- How it has cast votes in the general meetings of companies in which it holds shares (except for votes that are insignificant due to the subject matter of the vote or the size of the holding in the company).

The above requirements only apply to the extent which a firm invests in shares which are traded on regulated markets.

Since the investment management activity of investing in shares of companies traded on a regulated market for SWFAL's Funds has been delegated by SWFAL to third party authorised and regulated investment managers i.e. Delegates, SWFAL will ensure that its Delegates have implemented appropriate processes and controls to comply with the SRD Rules where these apply. SWFAL will oversee the implementation of the SRD Rules by its Delegates as part of the ongoing oversight and monitoring outlined in Section 5 below.

## 5. Delegation of Investment Management

SWFAL acts as an Authorised Corporate Director and Authorised Fund Manager for a large number of UCITS Funds and AIFs, respectively. The assets that these funds are invested in must be invested in accordance with the Funds' investment objectives and policies, with the ultimate goal of achieving the Funds' investment objectives. SWFAL delegates the investment management activity for all of its Funds to Delegates which are third party authorised and regulated investment management firms. Although SWFAL delegates the investment management activity of the Funds, it does not delegate the overall responsibility for the Fund's adherence with the applicable regulations and legislations; SWFAL maintains robust oversight over the activities of the Funds and the Delegates.

Where a Delegate has been appointed by SWFAL to undertake the investment management activity for a Fund, SWFAL is required to ensure that the Delegate has robust systems, processes and controls in place to carry out the activities which they have been appointed to undertake. To fulfil this obligation, SWFAL maintains a comprehensive risk oversight, compliance monitoring and due diligence programme, along with a highly experienced operational assurance team that conducts a full review of each Delegate on at least an annual basis.

Specifically in relation to Corporate Events, the reviews of Delegates include ensuring that the Delegate has an appropriate:

1. Engagement (and Voting) Policy;
2. Processes for the monitoring of Corporate Events;
3. Processes for appropriate consideration of Corporate Events;
4. Systems and controls to ensure accurate and timely submission of voting decisions;
5. Maintenance of suitable records of decisions on which it has voted;
6. Processes for how the firm prioritises its engagements with issuers,
7. Processes for exercising oversight and challenge and how it holds issuers of shares in companies to account.
8. Conflicts of Interest Policy;
9. Controls for the identification, management and recording of conflicts of interest; and, where shares are held,
10. Processes for appropriate monitoring and engagement with investee companies; and
11. Makes relevant disclosures on its engagement and voting on an annual basis.

Since the responsibility for investment management has been delegated, voting decisions made on Corporate Events will be made by the Delegates in accordance with the Delegates' Engagement Policy.

## 6. SWFAL is out of scope of SRD Rules

As mentioned in section 4 and 5 above, since SWFAL does not carry out investment management for its Funds, does not invest in assets such as shares of companies traded on a regulated market and such activities are delegated to Delegates, SWFAL is out of scope of the SRD Rules and requirement and has therefore chosen not to comply with the requirements specified in section 4.

SWFAL expects the Delegates' Engagement Policies to be in accordance with article 3g (1)(a) (and COBS 2.2B.6R of the FCA Handbook) of the Shareholder Rights Directive II (SRD II) and to publish an annual disclosure on how they have implemented and met the objectives of their Engagement Policies.

**Important Information**

The content of this document is for information purposes only. The information contained within this document is valid as at 26 September 2019 and does not constitute legal advice of any nature. Whilst Smith and Williamson Fund Administration Ltd (“SWFAL”) takes all reasonable steps to ensure that the information contained within this document is accurate and up-to-date, no warranty, express or implied, is given as to its accuracy and SWFAL does not accept any liability for any errors or omissions. SWFAL shall not be liable for any damage (including, without limitation, damage for loss of business or loss of profits) arising in contract, tort or otherwise from the use of, reliance upon, or from any action or decision taken as a result of using the contents of this document. Nothing in this document shall exclude or restrict our duties and liability to you under the Financial Services and Markets Act 2000 or any other conduct of business rules with which we are bound to comply.