

*This Confidential Offering Memorandum constitutes an offering of the securities described herein only in those jurisdictions and to those persons where and to whom they may be lawfully offered for sale and therein only by persons permitted to sell such securities and is not, and under no circumstances is to be construed as, a prospectus or advertisement or public offering of such securities. No securities commission or similar regulatory authority in Canada has in any way passed upon the merits of the securities offered hereunder nor has it reviewed this Confidential Offering Memorandum and any representation to the contrary is an offence. No person is authorized to give any information or make any representation not contained in this Confidential Offering Memorandum in connection with the offering of the securities described herein and, if given or made, any such information or representation may not be relied upon. Under applicable laws, resale of the Units will be subject to indefinite restrictions, other than through a redemption of the Units or another available exemption. As there is no market for these Units, it may be difficult or even impossible for investors to sell their Units.*

Continuous Offering



**DYNAMIC REAL ESTATE & INFRASTRUCTURE INCOME  
FUND**

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**CONFIDENTIAL OFFERING MEMORANDUM**

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**August 19, 2019**

## Table of Contents

<b>SUMMARY OF THE OFFERING</b> .....	<b>1</b>
THE FUND.....	1
INVESTMENT OBJECTIVES.....	1
INVESTMENT STRATEGIES AND RESTRICTIONS .....	1
RISK FACTORS .....	2
MANAGER .....	2
MANAGEMENT FEE.....	3
ADMINISTRATION FEES AND EXPENSES OF THE FUND .....	3
VALUATION DAY .....	3
DISTRIBUTIONS.....	3
CANADIAN FEDERAL INCOME TAX CONSIDERATIONS .....	4
REPORTING TO UNITHOLDERS .....	4
<b>THE OFFERING</b> .....	<b>4</b>
THE OFFERING.....	4
MINIMUM OFFERING .....	5
INITIAL MINIMUM INVESTMENT .....	5
ADDITIONAL INVESTMENTS.....	5
FRONT-END SALES CHARGE OPTION.....	6
DEFERRED SALES CHARGE OPTION .....	6
EARLY REDEMPTION FEE .....	6
UNIT CERTIFICATES.....	6
RIGHTS OF ACTION .....	6
<b>GLOSSARY OF TERMS</b> .....	<b>7</b>
<b>THE FUND</b> .....	<b>9</b>
<b>INVESTMENT OBJECTIVES, STRATEGIES AND RESTRICTIONS</b> .....	<b>10</b>
INVESTMENT OBJECTIVES.....	10
INVESTMENT STRATEGIES AND RESTRICTIONS .....	10
LEVERAGE .....	11
USE OF DERIVATIVE INSTRUMENTS .....	12
INTER-FUND TRADING.....	12
INVESTMENT IN UNDERLYING FUNDS AND RELATED PARTIES .....	13
<b>RISK FACTORS</b> .....	<b>13</b>
NO ASSURANCE IN ACHIEVING INVESTMENT OBJECTIVES OR DISTRIBUTIONS.....	13
GENERAL RISK .....	13
BUSINESS RISKS .....	14
INTERNATIONAL INVESTMENT GENERALLY .....	14
NET ASSET VALUE .....	15
PERFORMANCE OF FUND INVESTMENTS .....	15
POTENTIAL LACK OF DIVERSIFICATION.....	15
ILLIQUID SECURITIES.....	15
LEVERAGING AND SHORT SALE POSITIONS .....	16
USE OF OPTIONS .....	16
USE OF DERIVATIVE INSTRUMENTS .....	17
REAL ESTATE INVESTMENTS .....	18
INFRASTRUCTURE INVESTMENTS.....	18

UTILITY INVESTMENTS .....	18
INVESTMENTS IN JOINT VENTURE OR PARTNERSHIP VEHICLES .....	18
ENVIRONMENTAL RISK.....	19
PORTFOLIO TURNOVER.....	19
RELIANCE ON THE MANAGER AND PORTFOLIO MANAGERS .....	19
COUNTERPARTY RISK.....	20
INTEREST RATE FLUCTUATIONS .....	20
CURRENCY FLUCTUATIONS .....	20
COMMODITY PRICE FLUCTUATIONS .....	20
AMERICAN DEPOSITORY SECURITIES AND RECEIPTS.....	20
FUND ON FUND RISK .....	21
LEGAL, TAX AND REGULATORY RISKS.....	21
TAXATION OF THE FUND.....	21
INVESTMENT ELIGIBILITY.....	22
LOW RATED OR UNRATED DEBT OBLIGATIONS .....	22
CONFLICTS OF INTEREST .....	22
USE OF A PRIME BROKER TO HOLD ASSETS .....	23
REDEMPTIONS .....	23
BROAD AUTHORITY OF THE MANAGER .....	23
MULTIPLE SERIES OF UNITS .....	23
UNITHOLDER LIABILITY .....	23
U.S. WITHHOLDING TAX RISK .....	24
<b>MANAGEMENT OF THE FUND.....</b>	<b>26</b>
THE MANAGER .....	26
OSCAR BELAICHE .....	26
TOM DICKER .....	27
FRANK LATSHAW .....	27
MARIA BENAVENTE.....	27
THE INVESTMENT PROCESS .....	27
THE MANAGEMENT AGREEMENT .....	28
THE TRUSTEE .....	28
<b>FEES AND EXPENSES.....</b>	<b>28</b>
MANAGEMENT FEE.....	28
ADMINISTRATION FEES AND EXPENSES.....	29
<b>UNITS OF THE FUND.....</b>	<b>30</b>
<b>INVESTING IN THE FUND.....</b>	<b>31</b>
INVESTORS .....	31
PURCHASE OF UNITS.....	32
PURCHASE PRICE.....	32
INITIAL MINIMUM INVESTMENT .....	32
ADDITIONAL INVESTMENTS.....	33
ACCREDITED INVESTORS.....	33
PURCHASES UNDER THE FRONT-END SALES CHARGE OPTION.....	34
PURCHASES UNDER A DEFERRED SALES CHARGE OPTION.....	34
RECLASSIFICATION OF UNITS .....	36
EARLY REDEMPTION FEE .....	36
SECURITIES LAW EXEMPTIONS.....	36
<b>DEALER COMPENSATION.....</b>	<b>36</b>
SALES COMMISSIONS.....	36
SERVICING COMMISSIONS .....	37

<b>DISTRIBUTIONS .....</b>	<b>37</b>
<b>PORTFOLIO VALUATION AND NET ASSET VALUE.....</b>	<b>37</b>
NET ASSET VALUE .....	37
DIFFERENCES FROM INTERNATIONAL FINANCIAL REPORTING STANDARDS .....	41
<b>REDEMPTION OF UNITS.....</b>	<b>41</b>
<b>CANADIAN FEDERAL INCOME TAX CONSIDERATIONS .....</b>	<b>43</b>
STATUS OF THE FUND .....	44
TAXATION OF THE FUND.....	44
NON-QUALIFICATION AS A MUTUAL FUND TRUST .....	46
TAXATION OF UNITHOLDERS .....	46
INTERNATIONAL INFORMATION REPORTING REQUIREMENTS.....	48
<b>ELIGIBILITY FOR INVESTMENT.....</b>	<b>49</b>
<b>REPORTING TO UNITHOLDERS.....</b>	<b>49</b>
<b>AMENDMENT OF THE DECLARATION OF TRUST AND TERMINATION OF THE FUND.....</b>	<b>49</b>
<b>REGISTRAR AND TRANSFER AGENT .....</b>	<b>49</b>
<b>CUSTODIAN AND PRIME BROKER.....</b>	<b>49</b>
<b>AUDITOR .....</b>	<b>50</b>
<b>RIGHTS OF ACTION .....</b>	<b>50</b>
<b>CERTIFICATE .....</b>	<b>51</b>
<b>SCHEDULE "A" PURCHASERS' RIGHTS OF ACTION FOR DAMAGES OR RESCISSION .....</b>	<b>1</b>

## SUMMARY OF THE OFFERING

*Prospective investors are encouraged to consult their own professional advisors as to the tax and legal consequences of investing in the Fund. The following is a summary only and is qualified by the more detailed information contained in this Confidential Offering Memorandum. Capitalized terms used but not defined in this summary shall have the meaning specified in the Glossary of Terms unless otherwise indicated.*

### **The Fund**

Dynamic Real Estate & Infrastructure Income Fund (the "Fund") is an open-end trust established under the laws of the Province of Ontario by a declaration of trust dated as of October 9, 2009, as amended from time to time and as consolidated, amended and restated by the Declaration of Trust. 1832 Asset Management L.P. is the manager, the trustee and the registrar and transfer agent of the Fund. The address of the head office of the Fund and the Manager is located at Dynamic Funds Tower, 1 Adelaide Street East, 28<sup>th</sup> Floor, Toronto, Ontario, M5C 2V9.

### **Investment Objectives**

The investment objectives of the Fund are to provide income and long-term capital appreciation primarily through investment in a diversified portfolio of securities of businesses on a global basis with an ownership interest in real estate, utility or infrastructure assets.

### **Investment Strategies and Restrictions**

The Fund will be managed in a flexible manner and will use investment strategies and instruments beyond the reach of a typical mutual fund. The Fund will from time to time and among other investment strategies:

- invest primarily in equity securities of businesses on a global basis with an ownership interest in real estate, utility or infrastructure assets, including common shares, preferred shares, convertible securities and other equity-linked securities that appear attractive based on valuations;
- invest primarily in underlying funds that on a global basis have an ownership interest in real estate, utility or infrastructure assets, including real estate investment trusts ("REITs") and other investment trusts that appear attractive based on valuations, subject to obtaining relief under applicable securities legislation, if necessary;
- invest primarily in securities of issuers on a global basis that pay, intend to pay, or have paid dividends or distributions;
- invest in fixed-income securities of businesses on a global basis with an ownership interest in real estate, utility or infrastructure assets;
- generate a yield that will enable the Fund to provide monthly distributions to Unitholders. See "Distributions";

- purchase closed-end funds that often sell at sizeable discounts to their net asset values, provided that no more than 30% (at the time of investment) of the Net Asset Value of the Fund may be invested in closed-end funds and further provided the Fund will not invest in closed-end funds that are managed by the Manager or listed on a stock exchange in Canada;
- invest in private placements in equity and/or debt of private companies, limited partnerships and/or other entities with an ownership interest in real estate, utility or infrastructure assets up to a maximum of 20% of the Net Asset Value of the Fund (at the time of investment);
- use warrants and derivatives, including: (i) forward contracts to hedge the Fund's foreign currency exposure (generally between 50% and 100%) back to the Canadian dollar where not cost prohibitive; (ii) options, forward contracts, futures contracts and swaps to hedge against losses or risks associated with Fund Investments where the Manager determines that market conditions make it appropriate to do so; and (iii) in certain circumstances, for non-hedging purposes;
- short sell highly liquid government bonds with known maturity dates to lock in fixed rate borrowing at an attractive rate, solely for the purpose of leverage. The overall limit of leverage transactions that may be undertaken by the Fund, including the short selling of government bonds, is 33% of Total Assets in the aggregate; and
- invest in Cash and Cash Equivalents for strategic reasons.

The Fund may utilize leverage to a maximum of 33% of Total Assets in the aggregate (at the time of entering into leverage). This may be achieved through financing arrangements which may include loan facilities, margin facilities, repurchase agreements with registered brokers or short selling highly liquid government bonds with known maturity dates.

The Fund may invest up to 100% of its assets in foreign securities.

The Fund will not engage in any undertaking other than the investment of its assets in property for the purpose of the Tax Act. The Fund is a registered investment under the Tax Act and will not acquire an investment that is not a "prescribed investment" under the Tax Act if, as a result thereof, the Fund would become subject to tax under Part X.2 of the Tax Act.

Except as identified above, the investments of the Fund will not be subject to restrictions.

See "Investment Strategies and Restrictions", "Leverage" and "Use of Derivative Instruments".

### **Risk Factors**

Investment in the Fund involves certain risks. Investors should consider the risk factors described in this Confidential Offering Memorandum before investing. See "Risk Factors".

### **Manager**

1832 Asset Management L.P., whose registered office is located at Dynamic Funds Tower, 1 Adelaide Street East, 28<sup>th</sup> Floor, Toronto, Ontario, M5C 2V9, has been appointed to act as

manager of the Fund pursuant to the Management Agreement. The Manager is responsible for the overall business of the Fund, including managing the Fund's investment portfolio. The Manager may seek the advice of outside advisors as required and selected from time to time. The Manager also acts as the Trustee of the Fund and the registrar and transfer agent of the Units of the Fund. See "Management of the Fund – The Manager".

The general partner of the Manager, 1832 Asset Management G.P. Inc., is wholly-owned by The Bank of Nova Scotia. The Bank of Nova Scotia also owns, directly or indirectly, 100% of Scotia Securities Inc., Tangerine Investment Funds Limited and MD Management Limited, each a mutual fund dealer, and Scotia Capital Inc. (which includes ScotiaMcLeod and Scotia iTRADE), an investment dealer.

### **Management Fee**

The management fee paid by the Fund to the Manager is calculated as an annual percentage of the Net Asset Value of each series of Units and is accrued daily and calculated and paid monthly. The annual management fee is 2.00% in respect of Series A Units and 1.00% in respect of Series F Units. The Manager is responsible for the fees of its advisors, its own expenses and promotional fees.

There is no management fee payable by the Fund for Series O Units. Investors who purchase Series O Units must enter into an agreement with the Manager which identifies the management fee negotiated with the investor and payable by the investor directly to the Manager.

### **Administration Fees and Expenses of the Fund**

The Fund is responsible for the payment of all fees and expenses relating to its operation, including legal and audit fees and expenses, taxes, brokerage commissions, interest, operating and administrative expenses (other than dealer compensation programs and any advertising, marketing, sponsorship and promotional costs and expenses which are the responsibility of the Manager), custody and safekeeping charges, expenses relating to the issue and redemption of Units, (other than Deferred Sales Charges that are payable by the Unitholders to the Manager) of providing financial and other reports to Unitholders and convening and conducting meetings of Unitholders, the offering of Units or relating to complying with all applicable laws, regulations and policies.

### **Valuation Day**

The Units will be valued on each trading day (each, a "Valuation Day"). A trading day is a day on which the Toronto Stock Exchange is open for business or such other day or days as the Manager may determine. A separate Net Asset Value is calculated for each series of Units. See "Portfolio Valuation and Net Asset Value".

### **Distributions**

The Fund pays a monthly distribution at a fixed rate on Series A Units and Series F Units and pays a monthly distribution at a variable rate on Series O Units, in amounts to be determined by the Manager from time to time. A portion of the distributions to Unitholders may represent returns of capital. A return of capital is not taxable, but generally will reduce the adjusted cost base of your

units for tax purposes. **Monthly distributions are not guaranteed and may change or be discontinued at any time at the Manager's discretion.** See "Risk Factors".

Unitholders will be entitled to participate equally in respect of each series of Unit held with respect to any and all distributions on such series made by the Fund. Yield on a Unit is not comparable to a traditional yield on debt instruments where investors are entitled to a full return on the principal amount of the debt on maturity in addition to a return on investment through interest payments.

The Fund will also distribute to Unitholders in each taxation year of the Fund any net income and net realized capital gains in excess of the monthly distributions by December 31 of each year, or at such other times as may be determined by the Manager, so that it will not have any liability for Canadian federal income tax under Part I of the Tax Act. All distributions of the Fund will be automatically reinvested, without charge, in additional Units of the same series at their Net Asset Value per Unit on the date of distribution unless the Unitholder otherwise directs in writing. Units acquired through the reinvestment of distributions will not be subject to the Deferred Sales Charge described below.

### **Canadian Federal Income Tax Considerations**

**General:** The Fund is required to include in computing its income in respect of each taxation year dividends received by it, accrued interest, the amount of gains from most types of derivatives transactions and any other transactions on income account, and the taxable portion of net realized capital gains. The Fund may deduct in computing its income reasonable expenses incurred by it for the purposes of earning income. In addition, the Fund may deduct in computing its income (including net taxable capital gains) amounts paid or payable to Unitholders. Income and taxable capital gains of the Fund paid or payable to Unitholders generally will be required to be included in computing the income of the Unitholder, including the amount of reinvested distributions. See "Canadian Federal Income Tax Considerations".

**Status:** Provided the Fund qualifies at all relevant times as a mutual fund trust or is a registered investment within the meaning of those terms in the Tax Act, Units will be qualified investments under the Tax Act for a trust governed by Tax Deferred Plans. See "Investing in the Fund".

### **Reporting to Unitholders**

Statements for Canadian tax purposes reporting distributions and other relevant information will be sent to all Unitholders of the Fund annually on or before the date prescribed by law for such reporting.

## **THE OFFERING**

### **The Offering**

Series A Units, Series F Units and Series O Units are offered on a continuous basis to investors resident in all the provinces and territories of Canada pursuant to exemptions from the prospectus requirements of applicable securities legislation. See "Investing in the Fund".

Each series of Units is intended for different kinds of investors. Series A Units are available to all investors and must be purchased using either a Front-End Sales Charge Option or a Deferred Sales



**Charge Option.** At the time of purchasing Series A Units, each investor must select whether such Series A Units will be purchased subject to a Front-End Sales Charge or subject to a Deferred Sales Charge. Series F Units have generally the same attributes as Series A Units but they usually are available only to investors who participate in an eligible fee-based or wrap program with their Dealer and who are subject to a periodic asset-based fee rather than commissions on each transaction. The Manager is able to reduce its management fee rate on Series F Units because the Manager's costs are lower and because investors who purchase Series F Units will usually have entered into a separate agreement to pay fees to their Dealer for their individual investment program. Series O Units are generally only available for certain investors who make large investments in the Fund. Investors who purchase Series O Units must enter into an agreement which identifies the management fee negotiated with the investor and payable by the investor directly to the Manager. No sales commissions or service commissions are payable by us to a Dealer for investments in Series F Units or Series O Units of the Fund. See "Investing in the Fund" and "Units of the Fund".

Orders for subscriptions can be placed at any time through Dealers qualified in the province or territory of purchase. Units are issued daily on the Valuation Day. All orders for subscriptions which are received and accepted by the Manager prior to 4:00 p.m. (Toronto time) on a Valuation Day will be implemented at the Net Asset Value per Unit as of that Valuation Day. Orders for subscriptions received and accepted after 4:00 p.m. (Toronto time) on a Valuation Day will be implemented at the Net Asset Value per Unit as of the next Valuation Day. The Manager reserves the right to accept or reject orders for subscriptions, to change the minimum amounts for investments in the Fund and to discontinue the offering of any series of Units at any time and from time to time. Any monies received with a rejected order for subscriptions will be refunded immediately, without interest. See "Investing in the Fund - Purchase of Units" and "Units of the Fund".

### **Minimum Offering**

There is no minimum or maximum number of Units offered by the Fund or minimum or maximum proceeds from the sale of Units.

### **Initial Minimum Investment**

For Series A Units and Series F Units, each initial investment by an investor must not be less than the amount specified by the Manager which currently is \$5,000 for investors who qualify as an Accredited Investor under the Accredited Investor Exemption, or \$150,000 for investors that qualify under the Minimum Amount Exemption. The Manager reserves the right to change the minimum amounts for initial investments in the Fund at any time, from time to time and on a case-by-case basis, subject to regulatory requirements. For Series O Units, the minimum investment amount is determined by the Manager and set out in the agreement between the investor and the Manager. See "Investing in the Fund – Initial Minimum Investments".

### **Additional Investments**

Each additional investment by an investor must be not less than the amount specified by the Manager (which is currently \$1,000). The Manager reserves the right to change the minimum amounts for additional investments in the Fund at any time, from time to time and on a case-by-case basis, subject to regulatory requirements. See "Investing in the Fund – Additional Investments".

### **Front-End Sales Charge Option**

An investor may elect to pay the Front-End Sales Charge when purchasing Series A Units. The Front-End Sales Charge is paid directly by the investor to his or her Dealer at the time of purchasing Series A Units and is negotiated between the investor and his, her or its Dealer. The Front-End Sales Charge, which cannot exceed 5% of the amount subscribed (5.3% of the net amount invested), will be deducted from the amount invested. For initial investments, the net amount (after deduction of the Front-End Sales Charge) must be not less than the minimum amount specified above. No Front-End Sales Charge is payable for purchasing Series F Units or Series O Units.

### **Deferred Sales Charge Option**

An investor may elect to pay a Deferred Sales Charge when purchasing Series A Units. The Deferred Sales Charge applies only if the redemption of the Series A Units occurs within a certain number of years after the purchase date. The Deferred Sales Charge is a percentage of the redemption price of the Series A Units redeemed and is payable by the investor to the Manager and is paid by deducting the amount of Deferred Sales Charge from the redemption proceeds. The amount of the Deferred Sales Charge declines each year that the investor holds Series A Units. There are two Deferred Sales Charge Options: the Low-Load Sales Charge Option and the Low-Load 2 Sales Charge Option.

Under the Low-Load Sales Charge Option, the Deferred Sales Charge percentage is 3% and declines to nil after the third year after purchase. Under the Low-Load 2 Sales Charge Option, the Deferred Sales Charge percentage is 2% and declines to nil after the second year after purchase.

No Deferred Sales Charge is payable by the Investor to the Manager for redeeming Series F Units or Series O Units.

### **Early Redemption Fee**

If a Unitholder redeems Units of any series within 90 days after acquisition, the Manager may, in its sole discretion, charge the Unitholder an early redemption fee of up to 1% of the value of the Units tendered for redemption on behalf of the Fund. This fee is in addition to any sales commission or Deferred Sales Charge payable by the Unitholder and is deducted from the redemption proceeds. This early redemption fee is retained by the Fund. See "Investing in the Fund".

### **Unit Certificates**

Certificates for Units will not be issued as the Fund maintains a book-based system of registration.

### **Rights of Action**

Investors are entitled to the benefit of certain rights of action which are described in Schedule "A" hereto.

## GLOSSARY OF TERMS

**"Accredited Investor"** means an accredited investor as such term is defined in NI 45-106 and as described under "Investing in the Fund – Accredited Investors". See the subscription agreement which accompanies this Confidential Offering Memorandum for additional information;

**"Accredited Investor Exemption"** means the exemption from the prospectus requirements for Accredited Investors as set forth in NI 45-106;

**"Business Day"** means any day, other than a Saturday, Sunday, any statutory holiday in the Province of Ontario, and any other day on which businesses are generally closed in the Province of Ontario;

**"Cash and Cash Equivalents"** means; (i) obligations issued or guaranteed by the Government of Canada or any province of Canada or any agency or instrumentality thereof with less than 12 months to maturity; (ii) term deposits, guaranteed investment certificates, certificates of deposit or bankers' acceptances of or guaranteed by any Canadian chartered bank or other financial institution (including the Trustee and any affiliate of the Trustee), which short-term debt or deposits have been rated at least investment grade by Standard & Poor's, Moody's or DBRS; and (iii) commercial paper rated at least investment grade or the equivalent by Standard & Poor's, Moody's or DBRS, in each case either maturing within 365 days after the date of acquisition or for which the Manager believes that there will be a liquid market for the resale thereof within such 365 day period;

**"CRA"** means the Canada Revenue Agency;

**"DBRS"** means Dominion Bond Rating Service Limited;

**"Dealers"** means dealers or brokers registered or exempt from registration (and not otherwise restricted) under applicable securities laws to sell Units and which are acceptable to the Manager;

**"Declaration of Trust"** means the Dynamic Hedge Funds Master Declaration of Trust dated as of December 14, 2015, as amended from time to time;

**"Deferred Sales Charge Option"** means the Regular Deferred Sales Charge Option, the Low-Load Sales Charge Option or the Low-Load 2 Sales Charge Option whereby a deferred sales charge may be payable by the Unitholder to the Manager on the redemption of Series A Units;

**"Deferred Sales Charge Units"** means Series A Units purchased under a Deferred Sales Charge Option and includes Series A Units acquired through the automatic reinvestment of distributions paid on Deferred Sales Charge Units;

**"Front-End Sales Charge Option"** means an option for purchasing Series A Units whereby a sales charge is deducted from the subscription and paid by the subscriber to the subscriber's Dealer and the remaining amount is used to purchase Series A Units. See "Investing in the Fund - Purchases Under the Front-End Sales Charge Option";

**"Front-End Sales Charge Units"** means Series A Units purchased under the Front-End Sales Charge Option;

"**Fund**" means Dynamic Real Estate & Infrastructure Income Fund;

"**Fund Investment**" means any security or other property acquired by the Manager on behalf of the Fund and "**Fund Investments**" means a number of Fund Investments collectively;

"**Low-Load 2 Sales Charge Option**" means an option for purchasing Series A Units whereby the entire amount of the subscription is applied to the purchase of Series A Units without deduction of a sales charge. In such circumstances, the Deferred Sales Charge will generally be payable by the Unitholder to the Manager if Series A Units are redeemed within two years from the purchase date. See "Investing in the Fund – Purchases Under a Deferred Sales Charge Option";

"**Low-Load Sales Charge Option**" means an option for purchasing Series A Units whereby the entire amount of the subscription is applied to the purchase of Series A Units without deduction of a sales charge. In such circumstances, the Deferred Sales Charge will generally be payable by the Unitholder to the Manager if Series A Units are redeemed within three years from the purchase date. See "Investing in the Fund – Purchases Under a Deferred Sales Charge Option";

"**Management Agreement**" means the Dynamic Hedge Funds Master Management Agreement dated as of December 14, 2015, as amended from time to time;

"**Manager**" means 1832 Asset Management L.P. in its capacity as the manager of the Fund;

"**Minimum Amount Exemption**" means the exemption from the prospectus requirements for persons that qualify as minimum amount investors as set forth in NI 45-106;

"**Moody's**" means Moody's Investors Service;

"**Net Asset Value**" means the Net Asset Value of the Fund calculated in accordance with the Declaration of Trust and "**Net Asset Value per Unit**" means the Net Asset Value per Unit of the relevant series of Units calculated in accordance with the Declaration of Trust;

"**NI 45-106**" means National Instrument 45-106 *Prospectus Exemptions*;

"**Person**" means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;

"**Portfolio Managers**" means Oscar Belaiche, Tom Dicker, Frank Latshaw, Maria Benavente or any other individual(s) in addition to, or instead of, such persons as determined to be appropriate by the Manager as the individuals primarily responsible for making the investment decisions for the Fund on behalf of the Manager;

"**RDSP**" means a trust governed by a registered disability savings plan, as defined in the Tax Act;

"**Regular Deferred Sales Charge Option**" means the previously offered option for purchasing Series A Units whereby the entire amount of the subscription was applied to the purchase of Series A Units without deduction of a sales charge. In such circumstances, the Deferred Sales Charge will

generally be payable by the Unitholder to the Manager if Series A Units are redeemed within six years from the purchase date. See "Investing in the Fund – Purchases Under a Deferred Sales Charge Option";

"**REIT**" means a real estate investment or real estate-related trust, corporation or other entity that invests in real property to generate a consistent stream of rental income;

"**RESP**" means a trust governed by a registered education savings plan, as defined in the Tax Act;

"**RRIF**" means a trust governed by a registered retirement income fund, as defined in the Tax Act;

"**RRSP**" means a trust governed by a registered retirement savings plan, as defined in the Tax Act;

"**Series A Units**" means Series A Units of the Fund;

"**Series F Units**" means Series F Units of the Fund;

"**Series O Units**" means Series O Units of the Fund;

"**Standard & Poor's**" means Standard & Poor's Corporation;

"**Tax Act**" means the *Income Tax Act* (Canada) and the regulations thereunder, as amended from time to time;

"**Tax Deferred Plans**" means, collectively, RRSPs, RRIFs, TFSAs, and trusts governed by registered education savings plans, deferred profit sharing plans and registered disability savings plans, each as defined in the Tax Act;

"**TFSA**" means a trust governed by a tax-free savings account, as defined in the Tax Act;

"**Total Assets**" means the aggregate value of the assets of the Fund determined in accordance with the terms of the Declaration of Trust;

"**Trustee**" means 1832 Asset Management L.P. in its capacity as the trustee of the Fund;

"**Unitholder**" means a Person whose name appears on the register or registers of the Fund as a holder of Units of the Fund;

"**Units**" means Series A Units, Series F Units and Series O Units of the Fund and any other series of units issued by the Fund from time to time; and

"**Valuation Day**" means each trading day on which the Toronto Stock Exchange is open for business or such other day or days as the Manager may determine.

## **THE FUND**

Dynamic Real Estate & Infrastructure Income Fund is an unincorporated open-end trust created under the laws of the Province of Ontario pursuant to a declaration of trust dated as of October 9, 2009, as amended from time to time and as consolidated, amended and restated by the Declaration of

Trust. 1832 Asset Management L.P. is the trustee, the manager and the registrar and transfer agent of the Fund. The address of the head office of the Fund and the Manager is located at Dynamic Funds Tower, 1 Adelaide Street East, 28th Floor, Toronto, Ontario, M5C 2V9. The general partner of the Manager, 1832 Asset Management G.P. Inc., is wholly-owned by The Bank of Nova Scotia.

An investment in the Fund is represented by Units, each of which represents an interest in the net assets of the Fund. The Fund currently offers three series of Units, namely Series A Units, Series F Units and Series O Units. Additional series of Units may be offered in the future. See "Units of the Fund". There is no minimum or maximum number of Units offered or minimum or maximum proceeds from the sale of Units.

## **INVESTMENT OBJECTIVES, STRATEGIES AND RESTRICTIONS**

### **Investment Objectives**

The investment objectives of the Fund are to provide income and long-term capital appreciation primarily through investment in a diversified portfolio of securities of businesses on a global basis with an ownership interest in real estate, utility or infrastructure assets.

### **Investment Strategies and Restrictions**

The Fund will be managed in a flexible manner and will use investment strategies and instruments beyond the reach of a typical mutual fund. The Fund will, from time to time and among other investment strategies:

- invest primarily in equity securities of businesses on a global basis with an ownership interest in real estate, utility or infrastructure assets, including common shares, preferred shares, convertible securities and other equity-linked securities that appear attractive based on valuations;
- invest primarily in underlying funds that on a global basis have an ownership interest in real estate, utility or infrastructure assets, including REITs and other investment trusts that appear attractive based on valuations, subject to obtaining relief under applicable securities legislation, if necessary;
- invest primarily in securities of issuers on a global basis that pay, intend to pay, or have paid dividends or distributions;
- invest in fixed-income securities of businesses on a global basis with an ownership interest in real estate, utility or infrastructure assets;
- generate a yield that will enable the Fund to provide monthly distributions to Unitholders. See "Distributions";
- purchase closed-end funds that often sell at sizeable discounts to their net asset values, provided that no more than 30% (at the time of investment) of the Net Asset Value of the Fund may be invested in closed-end funds and further provided the Fund will not invest in closed-end funds that are managed by the Manager or listed on a stock exchange in Canada;

- invest in private placements in equity and/or debt of private companies, limited partnerships and/or other entities with an ownership interest in real estate, utility or infrastructure assets up to a maximum of 20% of the Net Asset Value of the Fund (at the time of investment);
- use warrants and derivatives, including: (i) forward contracts to hedge the Fund's foreign currency exposure (generally between 50% and 100%) back to the Canadian dollar where not cost prohibitive; (ii) options, forward contracts, futures contracts and swaps to hedge against losses or risks associated with Fund Investments where the Manager determines that market conditions make it appropriate to do so; and (iii) in certain circumstances, for non-hedging purposes;
- short sell highly liquid government bonds with known maturity dates to lock in fixed rate borrowing at an attractive rate, solely for the purpose of leverage. The overall limit of leverage transactions that may be undertaken by the Fund, including the short selling of government bonds, is 33% of Total Assets in the aggregate; and
- invest in Cash and Cash Equivalents for strategic reasons.

The Fund may use leverage as described below.

The Manager is responsible for selecting and managing the portfolio investments of the Fund. The Manager may use techniques such as fundamental analysis which involves evaluating the financial condition and management of a company, its industry and the overall economy. As part of this evaluation, the Portfolio Managers of the Manager analyze financial data and other information sources, assess the quality of a company's management, and conduct company interviews, where possible.

From time to time the relative proportions of the Fund's investment portfolio invested in any one geographic region may vary in order to take advantage of international stock market cycles, to obtain a greater degree of geographic diversification for the portfolio or for other investment considerations determined by the Manager.

The Fund may invest up to 100% of its assets in foreign securities.

The Fund will not engage in any undertaking other than the investment of its assets in property for the purpose of the Tax Act. The Fund is a registered investment under the Tax Act and will not acquire an investment that is not a "prescribed investment" under the Tax Act if, as a result thereof, the Fund would become subject to tax under Part X.2 of the Tax Act.

Except as identified above, the investments of the Fund will not be subject to restrictions.

### **Leverage**

To enhance the Fund's total return as well as for certain other purposes, the Fund will from time to time enter into leverage transactions. The overall limit of such leverage transactions is 33% of Total Assets in the aggregate (at the time of entering into leverage).

The Manager may employ financing arrangements including loan facilities, margin facilities and repurchase agreements with registered brokers and the short sale of highly liquid government bonds. The short sale of highly liquid government bonds will effectively allow the Manager to lock in fixed rate borrowing at an attractive rate, and due to the known maturity values of such bonds, should not expose the Fund to the volatility associated with short sales of equities. Such fixed rate borrowing will be attractive relative to floating rate borrowing in the event that interest rates increase. The Manager does not intend to short sell bonds for the purpose of speculating on interest rates. The Manager believes that the choice of different financing methods as well as the ability to use them in combination will afford the Fund the opportunity to achieve the lowest possible borrowing costs, flexibility in financing options and the ability to lock-in low fixed rate financings which may not otherwise be available through ordinary credit facilities. All such arrangements will be made with parties at arm's length to the Fund, the Trustee, the Manager and their respective affiliates and associates.

The financing arrangements will be entered into for various purposes, including, without limitation, purchasing Fund Investments in accordance with the investment objectives and investment strategies and subject to the investment restrictions, in each case as set forth above, maintaining liquidity, funding redemptions and paying distributions. Any bank borrowing or broker margin arrangements will require the Fund to provide a security interest in some or all of its assets in favour of the relevant creditor. The Manager will ensure that any loan facility entered into on behalf of the Fund will provide that in the event of default on such loan facility, the lenders' recourse will be limited to the assets of the Fund.

### **Use of Derivative Instruments**

The Fund may invest in or use derivative instruments, including, but not limited to, options, forward contracts, futures contracts and swaps for hedging or non-hedging purposes consistent with the investment objectives and investment strategy and subject to the investment restrictions. A derivative is generally an instrument, agreement or security, the market price, value or payment obligations of which are derived from, referenced to or based on an underlying security, interest, benchmark or formula. The Fund intends to enter into currency hedging to reduce the effects on the Fund and the Unitholders of changes in the values of foreign currencies relative to the Canadian dollar. The Manager will review the Fund's foreign currency exposure and will adjust hedging levels as it considers appropriate. The Fund generally hedges between 50% and 100% of its foreign currency exposure back to the Canadian dollar where not cost prohibitive. In addition, if the Manager determines that market conditions make it appropriate to do so, the Fund may also use derivatives, including interest rate, credit and commodity hedges, in order to seek to offset or reduce risks associated with Fund Investments. The Manager is experienced in using derivatives for hedging purposes and has employed this strategy in connection with other funds managed by the Manager. The Fund may not be hedged against all such risks at all times. The Fund may also use certain derivatives for non-hedging purposes from time to time.

### **Inter-Fund Trading**

The Fund and other investment funds and managed accounts managed by the Manager have obtained exemptive relief from the Canadian securities regulatory authorities to engage in inter-fund trading, which would otherwise be prohibited under various applicable securities legislation. Inter-fund trading permits related investment funds and managed accounts to trade portfolio securities held by



one of them with the others. Under the exemptive relief, the Fund may engage in inter-fund trading of debt securities and exchange traded securities on certain conditions aimed at ensuring that the trade is made at the market price at the time of the trade and that no additional commissions are paid. The independent review committee for the Fund and the other investment funds managed by the Manager must approve the inter-fund trades in accordance with the approval requirements of National Instrument 81-107 – *Independent Review Committee for Investment Funds*.

### **Investment in Underlying Funds and Related Parties**

The Fund may invest all or a portion of its assets indirectly in equity securities and/or debt securities by investing in underlying funds. The proportions and types of underlying funds held by the Fund will be selected with consideration of each underlying fund's investment objectives and strategies, past performance and volatility, among other factors.

It may be necessary for the Fund to obtain regulatory relief from applicable securities legislation that prevents the Fund from making an investment in an underlying fund in which the Fund, alone or together with one or more related mutual funds, is a substantial security holder. In such event, the Fund will comply with any conditions specified in such regulatory relief.

### **RISK FACTORS**

An investment in the Fund involves risks. Investors should consider the following risk factors before investing.

#### **No Assurance in Achieving Investment Objectives or Distributions**

There is no assurance that the Fund will be able to achieve its investment objectives. There is no assurance that the Fund will be able to pay monthly distributions in the short or long term, or will be able to meet its objective of providing fixed monthly distributions to Unitholders, nor is there any assurance that any capital appreciation will be attained.

The funds available for distribution to Unitholders will vary according to, among other things, the dividends, distributions and other amounts paid on all of the securities comprising the Fund Investments, the value of the securities comprising the Fund Investments and the net gains realized on the Fund Investments. To the extent necessary, the Fund may return capital to Unitholders to fund the monthly distributions (in which case the Net Asset Value per Unit would be reduced).

#### **General Risk**

Unitholders' investments in the Fund are not guaranteed. The Fund owns different types of investments, the value of which will change from day to day, reflecting changes in interest rates, economic conditions, market and company news, and unforeseeable events. As a result, the value of the Fund Investments may go up and down, and the value of Unitholders' investments may be more or less when they redeem their Units than when they purchased them. The Fund is not subject to the normal mutual fund regulations and disclosure requirements for publicly offered mutual funds which limit such mutual funds' ability to short sell securities, use leverage, concentrate investments and use derivatives, but is instead subject to the investment restrictions set out herein.

## **Business Risks**

While the Manager believes that the Fund's investment policies will be successful over the long term, there can be no guarantee against losses resulting from an investment in Units and there can be no assurance that the Fund's investment approach will be successful or that its investment objectives will be attained. No assurance can be given that the Fund's investment portfolio will generate any income or will appreciate in value. The Fund could realize losses, rather than gains, from some or all of the investments described herein.

## **International Investment Generally**

The Fund may invest in securities of foreign companies either directly or through the use of equity related or derivative instruments and investments denominated or traded in currencies other than Canadian dollars. These investments involve certain considerations not typically associated with investments in Canadian issuers or securities denominated or traded in Canadian dollars. These considerations include (a) the potential effect of foreign exchange controls (including suspension of the ability to transfer currency from a given country or to realize on Fund investments) and changes in the rate of exchange between the Canadian dollar (the currency in which the Fund calculates its Net Asset Value and distributions) and other currencies in which the Fund's investments are denominated, which changes will affect the Canadian dollar value of the Fund; (b) the application of foreign tax law, changes in governmental administration or economic or monetary policy or changed circumstances in dealings between nations; (c) the effect of local market conditions on the availability of public information, the liquidity of securities traded on local exchanges and transaction costs and administrative practices of local markets; (d) the fact that the Fund's assets may be held in accounts by custodians, or pledged to creditors of the Fund, in jurisdictions outside of Canada so that there can be no assurance that judgments obtained in Canadian courts will be enforceable in any of those jurisdictions; and (e) in some countries, political or social instability or diplomatic developments could adversely affect, or result in the complete loss of, such investments. The possibility of expropriation, confiscatory taxation or nationalization of foreign bank deposits or other assets, lack of comprehensive tax, legal and regulatory systems, which may result in the Fund being unable to enforce its legal rights or protect its investments and the imposition of foreign governmental laws or restrictions could affect investments in securities of issuers in those nations. Restrictions and controls on investment in the securities markets of some countries may have an adverse effect on the availability and costs to the Fund of investments in those countries. Costs may be incurred in connection with the conversions between various currencies. In addition, the income and gains of the Fund may be subject to withholding taxes imposed by foreign governments for which investors may not receive a full foreign tax credit.

The business-related licenses and concessions of certain Fund Investments may be granted by government bodies and may be subject to special risks, including the risk that the relevant government bodies will exercise sovereign rights and take actions contrary to the companies' rights under the relevant concession agreement. There can be no assurance that the relevant government bodies will not legislate, impose regulations or change applicable laws or act contrary to the law in a way that would materially and adversely affect the business of such company.

## **Net Asset Value**

The Net Asset Value of the Fund will fluctuate with changes in the market value of the Fund's investments. Such changes in market value may occur as a result of various factors, including those factors identified above with respect to international investments and emerging market securities and material changes in the intrinsic value of an issuer whose securities are held by the Fund.

## **Performance of Fund Investments**

The Net Asset Value per Unit will vary in accordance with the value of the securities acquired by the Fund. The value of the securities acquired by the Fund will be affected by business factors and risks that are beyond the control of the Manager or the Fund. Some of these factors and risks are:

- (i) some of the issuers of securities acquired by the Fund will have limited operating histories;
- (ii) operational risks related to specific business activities of respective issuers;
- (iii) quality of underlying assets;
- (iv) financial performance of the respective issuers;
- (v) volatility in commodity prices;
- (vi) environmental risks;
- (vii) risks associated with political and social instability;
- (viii) fluctuations in exchange rates;
- (ix) fluctuations in interest rates; and
- (x) changes in government regulations.

## **Potential Lack of Diversification**

The Fund does not have any specific limits on holdings in securities of issuers in any one country, region, industry or issuer. Although the Fund's portfolio will generally be diversified, this may not be the case at all times if the Manager deems it advantageous for the Fund to be less diversified. Accordingly, the investment portfolio of the Fund may be more susceptible to fluctuations in value resulting from adverse economic conditions affecting a particular country, industry or issuer than would be the case if the Fund were required to maintain a wide diversification.

## **Illiquid Securities**

A portion of the Fund's assets may from time to time be invested in securities and other financial instruments or obligations for which no market exists, or which cease to be traded after the Fund invests and/or which are restricted as to their transferability under local governmental securities laws or practices. The sale of any such investments may be subject to delays and additional costs and

may be possible only at substantial discounts that could affect materially and adversely the amount of gain or loss the Fund may realize.

### **Leveraging and Short Sale Positions**

The Fund intends to employ leveraging (i.e., the use of borrowed funds or securities) as an inherent tool in its investment strategy. While the use of leverage can increase the rate of return, it can also increase the magnitude of loss in unprofitable positions beyond the loss which would have occurred if there had been no borrowings. The interest expense and other costs incurred in connection with such borrowing may not be recovered by appreciation in the securities purchased or carried, and will be lost in the event of a decline in the market value of such securities. Leveraging will thus tend to magnify the losses or gains from investment activities. The Manager will limit the leveraging position to 33% of Total Assets in the aggregate (at the time of entering into leverage).

The Fund's anticipated use of short-term margin borrowings subjects the Fund to additional risks, including the possibility of a "margin call" pursuant to which the Fund must either deposit additional funds with the broker or suffer mandatory liquidation of the pledged securities to compensate for the decline in value. In the event of a sudden, precipitous drop in the value of the Fund's assets, the Fund may not be able to liquidate assets quickly enough to pay off its margin debt.

The Fund may also take short sale positions in highly liquid government bonds which will effectively allow the Manager to lock in fixed rate borrowing at an attractive rate, and due to the known maturity values of such bonds, should not expose the Fund to the volatility associated with short sales of equities. Such fixed rate borrowing will be attractive relative to floating rate borrowing in the event that interest rates increase. The Manager does not intend to short sell bonds for the purpose of speculating on interest rates. All such arrangements will be made with parties at arm's length to the Fund, the Trustee, the Manager and their respective affiliates and associates.

### **Use of Options**

Subject to the restrictions on the use of options described under "Investment Objective, Strategies and Restrictions - Investment Strategies and Restrictions", the Fund may purchase and write exchange-traded and over-the-counter put and call options on debt and equity securities and indices (both narrow-based and broad-based), and national securities exchange-traded put and call options on currencies. A put option on securities or currencies gives the purchaser of the option, upon payment of premium, the right to deliver a specified amount of the securities or currencies to the writer of the option on or before a fixed date at a predetermined price. A put option on a securities index gives the purchaser of the option, upon payment of a premium, the right to a cash payment from the writer of the option if the index drops below a predetermined level on or before a fixed date. A call option on securities or currencies gives the purchaser of the option, upon payment of a premium, the right to call upon the writer to deliver a specified amount of the securities or currencies on or before a fixed date at a predetermined price. A call option on a securities index gives the purchaser of the option, upon payment of a premium, the right to a cash payment from the writer of the option if the index rises above a predetermined level on or before a fixed date.

The Fund's ability to close out its position as a purchaser or seller of a listed put or call option is dependent, in part, upon the liquidity of the option market. Over-the-counter ("OTC") options are

purchased from or sold to securities dealers, financial institutions or other parties (the "Counterparty") through direct bilateral agreements with the Counterparty. In contrast to exchange listed options, which generally have standardized terms and performance mechanics, all the terms of an OTC option, including such terms as method of settlement, term, exercise price, premium, guarantees and security, are set by the negotiation of the parties. Unless the parties provide for it, there is no central clearing or guarantee function in an OTC option. As a result, if the Counterparty fails to make or take delivery of the security, currency or other instrument underlying an OTC option it has entered into with the Fund or fails to make a cash settlement payment due in accordance with the terms of that option, the Fund will lose any premium it paid for the option as well as any anticipated benefit of the transaction.

Call options may be purchased to provide exposure to increases in the market (e.g., with respect to temporary cash positions) or to hedge against an increase in the price of securities or other investments that the Fund intends to purchase. Similarly, put options may be purchased to hedge against a decrease in the market generally or in the price of securities or other investments held by the Fund. Buying options may reduce the Fund's returns, but by no more than the amount of the premiums paid for the options. Writing covered call options. (i.e., where the Fund owns the security or other investment that is subject to the call) may limit the Fund's gain on portfolio investments if the option is exercised because the Fund will have to sell the underlying investments below the current market price. Also, writing put options may require the Fund to buy the underlying investment at a disadvantageous price above the current market price.

Purchasing and writing put and call options are highly specialized activities and entail greater than ordinary market risks.

### **Use of Derivative Instruments**

In using derivatives, the Fund is subject to the credit risk that its counterparty (whether a clearing corporation in the case of exchange traded instruments or another third party in the case of over-the-counter instruments) may be unable to meet its obligations. In addition, there is a risk of loss by the Fund of margin deposits in the event of the bankruptcy of the dealer with whom the Fund has an open position in an option or futures or forward contract. The ability of the Fund to close out its positions may also be affected by exchange imposed daily trading limits on options and futures contracts. If the Fund is unable to close out a position, it will be unable to realize its profit or limit its losses until such time as the option becomes exercisable or expires or the futures or forward contract terminates, as the case may be. The inability to close out options, futures, forward and swap positions could also have an adverse impact on the Fund's ability to use derivative instruments to effectively hedge its portfolio or implement its investment strategy.

Foreign exchange, interest rate, credit and commodity hedges will be used by the Fund only to the extent that the Manager considers appropriate and as described above under "Investment Objectives, Strategies and Restrictions — Use of Derivative Instruments". The Fund may not be hedged at all times and accordingly no assurance can be given that the Fund will not be adversely impacted by changes in foreign exchange rates, interest rates or commodity prices. The use of hedges involves special risks, including the possible default by the other party to the transaction, illiquidity and, to the extent the Manager's assessment of certain market movements is incorrect, the risk that the use of hedges could result in losses greater than if the hedging had not been used. The hedging

arrangements may have the effect of limiting or reducing the total returns to the Fund if the Manager's expectations concerning future events or market conditions prove to be incorrect. In addition, the costs associated with the hedging program may outweigh the benefits of the arrangements in such circumstances.

### **Real Estate Investments**

Investments in real estate properties, directly or indirectly, whether through ownership interests in corporations, REITs or in joint ventures or partnerships, are subject to the general risks associated with real property investments, including changes in general economic conditions (such as the availability and cost of mortgage funds), local economic conditions (such as oversupply of space or a reduction in demand for space in the area), the attractiveness of the properties to tenants or purchasers, competition from others with available space, the ability of the owners to provide adequate maintenance at an economic cost, potential environmental liability and other factors.

### **Infrastructure Investments**

Investments in infrastructure and infrastructure-related companies will be subject to the risks incidental to the ownership and operation of infrastructure projects, including risks associated with the general economic climate, geographic or market concentration, government regulations, fluctuations in interest rates and ability to find financing for infrastructure projects on acceptable terms, if at all. In addition, general economic conditions, as well as conditions of domestic and international financial markets may adversely affect operations of infrastructure and infrastructure-related companies.

### **Utility Investments**

Investments in utility companies will be subject to the risks incidental to the ownership and operation of utilities. For example, users of any utility services operated by Fund Investments may react negatively to any adjustments to the applicable rates for such services, or public pressure may cause relevant government authorities to challenge such rates. In addition, adverse public opinion, or lobbying efforts by specific interest groups, could result in such entities reducing their rates or to foregoing planned rate increases. If public pressure or government action forces companies that are among the Fund Investments to restrict their rate increases or reduce their rates, and they are not able to secure adequate compensation to restore the economic balance of the relevant concession agreement, the Fund's Investment could be adversely affected.

### **Investments in Joint Venture or Partnership Vehicles**

Participation in joint ventures and partnerships involve certain additional risks, including the risk that such co-venturers/partners could experience financial difficulties or seek the protection of bankruptcy, insolvency or other laws, which could result in additional financial demands on the Fund to maintain and operate such properties or repay the co-venturers'/partners' share of property debt guaranteed by the Fund or for which it will be liable and/or result in the Fund suffering or incurring delays, expenses and other problems associated with obtaining court approval of joint venture or partnership decisions, the risk that such co-venturers/partners may, through their activities on behalf of or in the name of, the ventures or partnerships, expose or subject the Fund to liability, and the need to obtain co-venturers'/partners' consents with respect to certain major decisions,

including the decision to distribute cash generated from such properties or to refinance or sell a property.

### **Environmental Risk**

The operations of investments in both real estate and infrastructure are subject to numerous statutes, rules and regulations relating to environmental protection. There is the possibility of existing or future environmental contamination, including soil and groundwater contamination, as a result of the spillage of hazardous materials or other pollutants.

Under various environmental statutes, rules and regulations of the appropriate jurisdiction, a current or previous owner or operator of real property may be liable for non-compliance with applicable environmental and health and safety requirements and for the costs of investigation, monitoring, removal or remediation of hazardous materials. These laws often impose liability whether or not the owner or operator knew of, or was responsible for, the presence of hazardous materials. The presence of these hazardous materials on a property could also result in personal injury, property damage or similar claims by private parties.

Persons who arrange for the disposal or treatment of hazardous materials may also be liable for the costs of removal or remediation of those materials at the disposal or treatment facility, whether or not that facility is or ever was owned or operated by that person.

Any liability of any companies that is a Fund Investment resulting from non-compliance or other claims relating to environmental matters could have a material adverse effect on the value of the Fund's investments in such companies.

### **Portfolio Turnover**

The operation of the Fund may result in a high annual portfolio turnover rate. The Fund has not placed any limit on the rate of portfolio turnover and portfolio securities may be sold without regard to the time they have been held when, in the opinion of the Manager, investment considerations warrant such action. A high rate of portfolio turnover involves correspondingly greater expenses than a lower rate (e.g., greater transaction costs such as brokerage fees) and may involve different tax consequences.

### **Reliance on the Manager and Portfolio Managers**

Although certain individuals of the Manager (including the Portfolio Managers) primarily responsible for the management of the Fund have extensive experience in managing investment portfolios, there is no certainty that such individuals will continue to provide their services to the Manager or to the Fund. Investors who are not willing to rely on the Manager should not invest in the Fund.

In addition, pursuant to the Management Agreement, the Manager may resign as manager of the Fund on 90 days' prior written notice at any time. Accordingly, there is no assurance that the Manager will continue to provide management services to the Fund after that time.

### **Counterparty Risk**

Due to the nature of some of the investments that the Fund may undertake, the Fund relies on the ability of the Counterparty to the transaction to perform its obligations. In the event of a bankruptcy or default of the Counterparty or if the Counterparty fails to complete its obligations, the Fund bears the risk of loss of the amount expected to be received under options, forward contracts, securities lending agreements or other such transactions entered into with the Counterparty.

### **Interest Rate Fluctuations**

In the case of interest rate sensitive securities, the value of a security may change as the general level of interest rates fluctuates. When interest rates decline, the value of such securities can be expected to rise. Conversely, when interest rates rise, the value of such securities can be expected to decline. Increases in interest rates will also increase the Fund's cost of borrowing.

### **Currency Fluctuations**

As the Fund's portfolio may include securities traded in U.S. dollars or other foreign currencies, the Net Asset Value of the Fund and distributable cash, when measured in Canadian dollars, will, to the extent this has not been fully hedged against, be affected by changes in the value of the U.S. dollar or other foreign currencies relative to the Canadian dollar. Additionally, to the extent the income and assets of a Fund Investment are denominated in local currencies, if the Canadian dollar appreciates relative to these currencies, including as a result of the devaluation of the non-Canadian currency, the Canadian dollar value of these investments is likely to be adversely affected. Finally, changes in the cost of converting investment cash flows from one currency into another may adversely affect distributable cash of the Fund.

### **Commodity Price Fluctuations**

The operations, financial condition and earnings of some of the issuers in which the Fund will invest and, accordingly, the value of such securities and/or the amount of distributions or dividends paid on such securities, will be dependent on commodity prices applicable to such issuers. Prices for commodities may vary and are determined by supply and demand and other factors such as weather and general economic and political conditions. A decline in commodity prices could have an adverse effect on the operations, financial condition and earnings of the issuers of such securities and the value of such securities and/or the amount of distributions or dividends paid on such securities. In addition, certain commodity prices are based on a U.S. dollar market price or other foreign currency. Accordingly, to the extent this has not been fully hedged against by such issuers, an increase in the value of the Canadian dollar against the U.S. dollar or other foreign currency could similarly effect the value of such securities and/or reduce the amount of distributions or dividends paid on such securities.

### **American Depository Securities and Receipts**

In some cases, rather than directly holding securities of non-Canadian and non-U.S. companies, the Fund may hold these securities through an American Depository Security and Receipt (an "ADR"). An ADR is issued by a U.S. bank or trust company to evidence its ownership of securities of a non-U.S. corporation. The currency of an ADR may be U.S. dollars rather than the currency of the non-



U.S. corporation to which it relates. The value of an ADR will not be equal to the value of the underlying non-U.S. securities to which the ADR relates as a result of a number of factors. These factors include the fees and expenses associated with holding an ADR, the currency exchange rate relating to the conversion of foreign dividends and other foreign cash distributions into U.S. dollars, and tax considerations such as withholding tax and different tax rates between the jurisdictions. In addition, the rights of the Fund, as a holder of an ADR, may be different than the rights of holders of the underlying securities to which the ADR relates, and the market for an ADR may be less liquid than that of the underlying securities. The foreign exchange risk will also affect the value of the ADR and, as a consequence, the performance of the Fund if it holds the ADR.

### **Fund on Fund Risk**

The Fund may invest all or a portion of its assets in underlying funds, including in closed-end funds, up to a maximum of 30% of the Net Asset Value of the Fund (at the time of investment); provided however, that the Fund will not invest in closed-end funds that are managed by the Manager or listed on a stock exchange in Canada. The proportions and types of underlying funds held by the Fund will be selected and varied by the Manager, in its sole discretion, in the interest of achieving the investment objectives of the Fund. Underlying funds typically bear their own management fees and expenses. To the extent that the Fund invests in underlying funds, it has the same risks as its underlying funds.

### **Legal, Tax and Regulatory Risks**

Changes in domestic and foreign tax laws, regulatory laws, or the administrative practices or policies of a tax or regulatory authority may adversely affect the Fund and its investors. For example, the domestic and foreign tax and regulatory environment for derivative instruments is evolving, and changes in the taxation or regulation of derivative instruments may adversely affect the value of derivative instruments held by the Fund and the ability of the Fund to pursue its investment strategies. In addition, interpretation of the law and the application of administrative practices or policies by a taxation authority may also affect the characterization of the Fund's earnings as capital gains or income. In such a case, the net income of the Fund for tax purposes and the taxable component of distributions to investors could be determined to be more than originally reported, with the result that investors or the Fund could be liable to pay additional income tax. Any liability imposed on the Fund may reduce the value of the Fund and the value of an investor's investment in the Fund.

### **Taxation of the Fund**

There can be no assurance that Canadian federal income tax laws and administrative policies and assessing practices of the CRA respecting the treatment of trusts, including mutual fund trusts, will not be changed in a manner that adversely affects the Unitholders. If the Fund ceases to qualify as a mutual fund trust under the Tax Act, the income tax considerations described under the heading "Canadian Federal Income Tax Considerations" would be materially and adversely different in certain respects.

While the Fund has been structured so that it generally will not be liable to pay income tax, the information available to the Fund and the Manager relating to the characterization, for tax purposes,

of the distributions received or amounts earned by the Fund in any taxation year of the Fund from issuers of the Fund's investments may be insufficient at the end of the taxation year to ensure that the Fund will make sufficient distributions in order that the Fund will not be liable to pay income tax in respect of that year.

In determining its income for tax purposes, the Fund will treat option premiums received on the writing of covered call options and cash covered put options and any losses sustained on closing out options as capital gains or capital losses, as the case may be, in accordance with its understanding of CRA's published administrative policies and assessing practices. Gains or losses realized upon the disposition of securities upon exercise of a call option will be treated as capital gains or capital losses. If, contrary to the CRA's published administrative practice, some or all of the transactions undertaken by the Fund in respect of options and securities were treated as income rather than capital gains, after-tax returns to holders of Units could be reduced.

### **Investment Eligibility**

There can be no assurance that Units will continue to be qualified investments for Tax Deferred Plans under the Tax Act. The Tax Act imposes penalties on such plans for the acquisition or holding of non-qualified investments.

### **Low Rated or Unrated Debt Obligations**

A portion of the Fund's portfolio may consist of instruments that have a credit quality rated below investment grade by internationally recognized credit rating organizations or may be unrated. These securities involve significant risk exposure as there is uncertainty regarding the issuer's capacity to pay interest and repay principal in accordance with the terms of the obligations. Low rated and unrated debt instruments generally offer a higher current yield than that available from higher grade issuers, but typically involve greater risk.

### **Conflicts of Interest**

The Manager may be subject to various conflicts of interest due to the fact that the Manager and its advisors are engaged in a wide variety of management, advisory and other business activities unrelated to the Fund's business (some of which may compete with the Fund's investment activities). The Manager's investment decisions for the Fund will be made independently of those made for the other clients of the Manager and its advisors and independently of its own investments. However, on occasion, the Manager may make the same investment for the Fund and one or more of its other clients or clients of its advisors. Where the Fund and one or more of the other clients of the Manager or its advisors are engaged in the purchase or sale of the same security, the transaction will be effected on what the Manager considers to be a fair basis. The Manager will allocate opportunities to make and dispose of investments fairly among clients with similar investment objectives having regard to whether the security is currently held in any of the relevant investment portfolios, the relative size and rate of growth of the Fund and the other funds under common management and such other factors as the Manager considers relevant in the circumstances.

The Manager may be subject to various conflicts of interest in connection with any investments made by the Fund in one or more real estate joint ventures in which an affiliate or affiliates of the Manager would be a significant investor. The Manager's investment decisions for the Fund in

connection with any such investments will be made independently of those made by such affiliates of the Manager.

### **Use of a Prime Broker to Hold Assets**

Some or all of the Fund's assets may be held in one or more margin accounts due to the fact that the Fund will use leverage and engage in short selling. The margin accounts may provide less segregation of customer assets than would be the case with a more conventional custody arrangement. The prime broker may also lend, pledge or hypothecate the Fund's assets in such accounts, which may result in a potential loss of such assets. As a result, the Fund's assets could be frozen and inaccessible for withdrawal or subsequent trading for an extended period of time if the prime broker experiences financial difficulty. In such case, the Fund may experience losses due to insufficient assets at the prime broker to satisfy the claims of its creditors, and adverse market movements while its positions cannot be traded. In addition, the prime broker may not be able to provide leverage to the Fund, which would affect adversely the Fund's returns.

### **Redemptions**

While the Fund intends to pay the redemption price of Units redeemed in cash, it is possible that Fund Investments will be delivered to Unitholders in connection with the redemption of their Units and that such Fund Investments may not be listed on any stock exchange and that no market will develop for such Fund Investments. Fund Investments so distributed may be subject to resale restrictions under applicable securities laws and may not be qualified investments for Tax Deferred Plans which would have adverse tax consequences to such plans and/or their annuitants or beneficiaries. In addition, in certain circumstances, the Fund may suspend redemptions.

### **Broad Authority of the Manager**

The Declaration of Trust and Management Agreement give the Manager broad discretion over the conduct of the Fund's business, selection of the specific companies in which the Fund invests and over the types of transactions in which the Fund engages.

### **Multiple Series of Units**

Units are available in more than one series. If the Fund cannot pay the expenses of one series of Units using its proportionate share of the Fund's assets, the Fund will be required to pay those expenses out of the other series' proportionate share of the Fund's assets. This may lower the investment returns of the other series of Units.

### **Unitholder Liability**

The Fund may invest in income and other investment trusts which are investment vehicles in the form of trusts, in addition to corporations. To the extent that claims, whether in contract, in tort or as a result of tax or statutory liability, are not satisfied by the trust, investors in the trust, including the Fund, could be held liable for such obligations. Investment trusts generally seek to make this risk remote in the case of contract by including provisions in their agreements that the obligations of the trust will not be binding on investors personally. However, investment trusts and their unitholders, including the Fund, could still have exposure to damage claims and statutory liability.

The Declaration of Trust provides that no Unitholder shall be subject to any liability whatsoever, in tort, contract or otherwise, to any person in connection with the investment obligations, affairs or assets of the Fund and all such persons shall look solely to the Fund's assets for satisfaction of claims of any nature arising out of or in connection therewith and the Fund's assets only shall be subject to levy or execution. Notwithstanding the foregoing statement in the Declaration of Trust, because of uncertainties in the law relating to trusts such as the Fund, there is a risk that a Unitholder could be held personally liable for obligations of the Fund to the extent that claims are not satisfied out of the assets of the Fund. Certain jurisdictions have enacted legislation to protect investors in investment trusts from the possibility of such liability. Pursuant to the Management Agreement and the agreement entered into with the prime broker, no recourse or satisfaction may be sought by the Manager or the prime broker from the private property of the Trustee or any of the Unitholders, or any employee or agent of the Fund, but the property of the Fund or a specific portion thereof only shall be bound, for any breach of the obligation of the Fund. The Manager will seek to have any agreements entered into on behalf of the Fund to include a similar express disavowal of liability of Unitholders. In the event that a Unitholder should be required to satisfy any obligation of the Fund, such Unitholder will be entitled to reimbursement from any available assets of the Fund.

### **U.S. Withholding Tax Risk**

Generally, the Foreign Account Tax Compliance provisions of the U.S. Hiring Incentives to Restore Employment Act of 2010 (or "FATCA") impose a 30% withholding tax on "withholdable payments" made to a mutual fund, unless the mutual fund enters into a FATCA agreement with the U.S. Internal Revenue Service (the "IRS") (or is subject to an intergovernmental agreement as described below) to comply with certain information reporting and other requirements. Compliance with FATCA will in certain cases require a mutual fund to obtain certain information from certain investors (including information regarding their identity, residency and citizenship) and (where applicable) their beneficial owners and to report such information, including account balances to the CRA.

Under the terms of the intergovernmental agreement between Canada and the U.S. to provide for the implementation of FATCA (the "Canada-U.S. IGA"), and its implementing provisions under the Tax Act, the Fund is treated as complying with FATCA and not subject to the 30% withholding tax if the Fund complies with the terms of the Canada-U.S. IGA. Under the terms of the Canada-U.S. IGA, the Fund will not have to enter into an individual FATCA agreement with the IRS but the Fund is required to register with the IRS and to report certain information on accounts held by U.S. Persons owning, directly or indirectly, an interest in the Fund, or held by certain other persons or entities. In addition, the Fund is required to report certain information on accounts held by investors that did not provide the required residency and identity information, through the dealer, to the Fund. The Fund will not have to provide information directly to the IRS but instead will report information to the CRA. The CRA will in turn exchange information with the IRS under the existing provisions of the Canada-U.S. Income Tax Convention. The Canada-U.S. IGA sets out specific accounts that are exempt from being reported, including certain tax deferred plans. By investing in the Fund, the investor is deemed to consent to the Fund disclosing such information to the CRA. If the Fund is unable to comply with any of its obligations under the Canada-U.S. IGA, the imposition of the 30% U.S. withholding tax may affect the Net Asset Value of the Fund and may result in reduced investment returns to Unitholders. It is possible that the administrative costs arising from compliance

with FATCA and/or the Canada-U.S. IGA and future guidance may also cause an increase in the operating expenses of the Fund.

Withholdable payments include certain U.S. source income (such as interest, dividends and other passive income) and are subject to withholding tax on or after July 1, 2014. The IRS may, at a future date, impose a 30% withholding tax on gross proceeds from the sale or disposition of property that can produce U.S. interest or dividends and on "foreign passthru payments" but these regulations have yet to be determined.

The foregoing rules and requirements may be modified by future amendments of the Canada-U.S. IGA, and its implementation provisions under the Tax Act, future U.S. Treasury regulations, and other guidance.

## MANAGEMENT OF THE FUND

### **The Manager**

The Fund is managed by 1832 Asset Management L.P. who was appointed to act as manager pursuant to the Management Agreement.

The Manager's registered office is located at Dynamic Funds Tower, 1 Adelaide Street East, 28<sup>th</sup> Floor, Toronto, Ontario, M5C 2V9. The Manager is responsible for the overall business of the Fund, including managing the Fund's investment portfolio. The Manager may seek the advice of outside advisors as required and selected from time to time. The Manager also acts as the trustee of the Fund and the registrar and transfer agent of the Units of the Fund. See "Management of the Fund – The Manager".

The general partner of the Manager, 1832 Asset Management G.P. Inc., is wholly-owned by The Bank of Nova Scotia. The Bank of Nova Scotia also owns, directly or indirectly, 100% of Scotia Securities Inc., Tangerine Investment Funds Limited and MD Management Limited, each a mutual fund dealer, and Scotia Capital Inc. (which includes HollisWealth, ScotiaMcLeod and Scotia iTRADE), an investment dealer.

The portfolio management team of the Manager provides investment advisory services to the Fund. Investment decisions are made based on research and analysis conducted by teams comprised of portfolio managers and securities analysts. The decisions of each of these teams are then implemented by the portfolio managers and securities analysts who have principal responsibility for the Fund in accordance with the Fund's investment objective and strategies. In performing its duties as Manager of the Fund, the Manager may utilize the services of one or more outside advisors in order to diversify the investment style and modify the risk of the portfolio.

The Manager intends to seek advice primarily from the Portfolio Managers.

### **Oscar Belaiche**

Oscar Belaiche joined 1832 Asset Management L.P. in 1997. As Senior Vice President, Investment Counsel and Portfolio Manager, he is head of Dynamic's Equity Income Team, managing more than \$17 billion in Dynamic assets. The twenty-four member team invests in quality businesses at a reasonable price (QUARP®) and focuses on securities that pay a dividend or distribution. The team has expertise in all 11 GICS sectors and multi-alternatives.

Mr. Belaiche brings to the Manager's team over 37 years of business, operational and investment experience as a money manager, asset manager, developer and corporate banker. He is either the lead manager or co-manager of Dynamic Alternative Yield Class, Dynamic Alternative Yield Fund, Dynamic Dividend Fund, Dynamic Dividend Income Class, Dynamic Dividend Income Fund, Dynamic Energy Income Fund, Dynamic Equity Income Fund, Dynamic Global Equity Income Fund, Dynamic Global Infrastructure Class, Dynamic Global Infrastructure Fund, Dynamic Global Real Estate Fund, Dynamic Global Strategic Yield Fund, Dynamic Real Estate & Infrastructure Income II Fund, Dynamic Small Business Fund, Dynamic Strategic Energy Class, Dynamic Strategic Yield Class, Dynamic Strategic Yield Fund, Dynamic U.S. Equity Income Fund, Dynamic U.S. Strategic Yield Fund and a hedge fund, Dynamic Income Opportunities Fund.

Mr. Belaiche is a veteran of the real estate and investment industries. Prior to joining Dynamic, he spent seven years at The Prudential Insurance Company of America, where he rose to the position of Vice President of Property Investments. In this role, he was responsible for their Canadian investment portfolio of 43 commercial properties totalling 5.6 million square feet.

### **Tom Dicker**

Tom Dicker joined 1832 Asset Management L.P. in 2011 as a Portfolio Manager and is a member of the Dynamic's Equity Income Team. Mr. Dicker is co-manager of several funds and covers a number of areas, including U.S. equities, small cap equities and real estate securities.

Mr. Dicker has over 15 years of investment industry experience, initially as an analyst and then as a portfolio manager, with LDIC Inc. As an analyst he performed fundamental analysis focused on diversified Canadian equities. As a portfolio manager he was responsible for the management of equity and income-oriented funds.

### **Frank Latshaw**

Frank Latshaw joined 1832 Asset Management in 2011 as an Analyst and member of the Equity Income team. He was promoted to the role of Associate Portfolio Manager in 2014 and Portfolio Manager in 2016.

In this role Mr. Latshaw provides his expertise in the infrastructure space focusing on investing in attractive companies that own high quality assets. Prior to joining the firm, Mr. Latshaw spent 7 years as an analyst with Scotia Asset Management and 3 years in the same role with UBS Warburg. He began his career at Deloitte and Touche working as an accountant for 4 years before moving to their corporate finance division for the next 3 years, where he performed business and property valuations on companies in a number of industries.

### **Maria Benavente**

Maria joined 1832 Asset Management in 2016 as a Portfolio Analyst with the Equity Income Team working closely with Tom Dicker on identifying opportunities in the real estate sector. As her responsibilities grew, she was promoted to Associate Portfolio Manager in 2018 and to Portfolio Manager in early 2019. Prior to joining Dynamic, Maria spent over five years on the sell-side as a research associate, specializing in real estate investment trusts for BMO Capital Markets and National Bank Financial.

### **The Investment Process**

The Portfolio Managers primarily use a bottom-up approach, seeking to identify high-yielding securities issued by stable companies. Where appropriate, the Manager may use a top-down macro strategy to take advantage of market opportunities. In order to maximize yield while minimizing risk, the portfolio advisor evaluates the financial condition and management of each company, its industry and the overall economy. As part of this evaluation, the Manager may:

- analyze financial data and other information sources;
- assess the strength of a company's management; and

- conduct company interviews, where possible.

### **The Management Agreement**

The Fund is managed by the Manager pursuant to the Management Agreement. The Management Agreement may be terminated by the Trustee with the consent of Unitholders by 90 days' written notice to the Manager in the event of the commission by the Manager of fraud, failure to perform its duties or if the Manager becomes bankrupt or is insolvent. The Management Agreement may be assigned by the Manager upon 90 days' notice to Unitholders (or without notice in the case of an assignment to an affiliate of the Manager), and the Manager may resign on 90 days' notice. In the event that the Manager resigns, the Trustee will call a meeting of Unitholders to appoint a new manager and the Trustee may nominate a person to assume the duties of the Manager. If no new manager is appointed, the Fund will be terminated. The Management Agreement, unless terminated as described above, will continue in effect until the termination of the Fund.

The services of the Manager under the Management Agreement are not exclusive, and nothing in the Management Agreement will prevent the Manager or any affiliate thereof from providing similar services to other investment funds and other clients (whether their investment objectives and policies are similar to those of the Fund) or from engaging in other activities. See "Risk Factors - Conflicts of Interest" and "Broad Authority of the Manager".

### **The Trustee**

1832 Asset Management L.P. acts as the trustee of the Fund pursuant to the provisions of the Declaration of Trust.

The Trustee may assign or delegate the performance of any of the trusts and powers vested in it under the Declaration of Trust. The Trustee or any successor trustee appointed pursuant to the terms of the Declaration of Trust may resign upon 180 days' written notice to the Manager during which period the Manager shall use its best efforts to arrange for a successor trustee. If the Manager is unable to arrange for a successor trustee, Unitholders may appoint a successor to the Trustee at a meeting called to obtain their consent. If no successor trustee is appointed, the Fund will be terminated.

The Declaration of Trust provides that the Trustee has a right of indemnification in carrying out its duties under the Declaration of Trust except in cases of wilful default or where the Trustee fails to act honestly, in good faith and in to the best interests of the Fund and Unitholders or to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. In addition, the Declaration of Trust contains provisions limiting the liability of the Trustee and indemnifying the Trustee in respect of certain liabilities incurred by it in carrying out its duties.

## **FEES AND EXPENSES**

### **Management Fee**

For providing its services pursuant to the Management Agreement, the Fund pays a management fee to the Manager which is calculated as an annual percentage of the Net Asset Value of each series of



Units and is accrued daily and calculated and paid monthly. The annual management fee is 2.00% in respect of Series A Units and 1.00% in respect of Series F Units. The Manager collects the annual management fee directly from the Fund, not from individual investors. The management fees for Series O Units are paid directly by holders of Series O Units, rather than by the Fund. Investors who purchase Series O Units must enter into an agreement with the Manager which identifies the management fee payable by the investor directly to the Manager. Investors who purchase Series O Units should consult with their tax advisors regarding the consequences of them paying management fees to the Manager.

In order to encourage very large investments in the Fund and to achieve effective management fees that are competitive for these large investments, the Manager may agree to waive a portion of the Management Fee that it would otherwise be entitled to receive from the Fund with respect to a Unitholder's investment in the Fund. An amount equal to the amount so waived may be distributed to such Unitholder by the Fund (a "Management Fee Distribution"). In this way, the cost of Management Fee Distributions are effectively borne by the Manager, not the Fund, as the Unitholder is paying a discounted Management Fee. Management Fee Distributions in respect of the Fund, where applicable, are calculated and credited to the relevant Unitholder on each Valuation Day and distributed on a regular basis, first out of net income and net taxable capital gains of the Fund and thereafter out of capital. All Management Fee Distributions of the Fund will be automatically reinvested in additional Units of the same series at their Net Asset Value per Unit on the date of distribution. The payment of Management Fee Distributions by the Fund, to a Unitholder in respect of a large investment is fully negotiable between the Manager, as agent for the Fund, and the Unitholder's financial advisor and/or dealer, and is primarily based on the size of the investment in the Fund. The Manager will confirm in writing to the Unitholder's financial advisor and/or dealer the details of any Management Fee Distribution arrangement.

As a result of the Unitholder paying a discounted management fee to the Manager in connection with a Management Fee Distribution, there will be fewer expenses to offset income from the Fund. The excess amount of income will be distributed solely to the particular Unitholder by the Fund and other Unitholders will not be affected.

### **Administration Fees and Expenses**

The Fund pays all of the fees and expenses relating to its operation, including legal and audit fees and expenses, taxes, brokerage commissions, interest, operating and administrative costs and expenses (other than dealer compensation programs and any advertising, marketing, sponsorship and promotional costs and expenses which are the responsibility of the Manager), custody and safekeeping charges, expenses relating to the issue and redemption of Units (other than deferred sales charges that are payable by the Unitholder to the Manager), providing financial and other reports to Unitholders, convening and conducting meetings of Unitholders, the qualification for sale of Units and complying with all applicable laws, regulations and policies. The Fund is generally required to pay federal goods and services tax ("GST"), harmonized sales tax ("HST"), provincial sales taxes and any similar taxes ("Sales Taxes"), as applicable, on the management fee and most administration fees and expenses which it pays. Fees and expenses charged to the Fund are contained in its annual financial statement.

The Fund is required to pay GST or HST on management fees payable to the Manager in respect of each series of Units and on operating expenses attributed to each series of Units based on the residence for tax purposes of the Unitholders of the particular series. Accordingly, it is expected that the management expense ratio of those series with Unitholders in provinces that have adopted the HST will be greater than for other series as a result of the application of HST on management fees and operating expenses.

The Manager may from time to time pay for certain operating expenses of the Fund to maintain the Fund's management expense ratio at a competitive level. The management expense ratio is the fees and operating expenses paid by the Fund (including Sales Taxes) expressed as a percentage of its average net assets during the year.

## **UNITS OF THE FUND**

An investment in the Fund is represented by Units, each of which represents an undivided interest in the net assets of the Fund. Each Unit is entitled to one vote at meetings of Unitholders of the Fund and to participate in distributions made by the Fund and, on liquidation, the net assets.

The Fund is authorized to issue an unlimited number of Units in one or more series. The Fund currently issues Series A Units, Series F Units and Series O Units. The Fund may issue additional series of Units in the future. Each series of Units ranks equally with all other series of Units in the payment of distributions (other than Management Fee Distributions). A series of Units will generally be entitled to the portion of a distribution equal to that series' proportionate share of the adjusted net income of the Fund, less expenses of the Fund attributable to that series and less Management Fee Distributions of that series. Adjusted net income is the Fund's net income adjusted for series expenses. As a result, the amount of distributions on one series of Units will likely be different than the amount of distributions on another series of Units. All distributions of the Fund will be automatically reinvested, without charge, in additional Units of the same series at their Net Asset Value per Unit on the date of distribution unless the Unitholder otherwise directs in writing.

All Units are fully paid and non-assessable when issued upon receipt of the full consideration for which they are to be issued and are not subject to further call or assessment and no pre-emptive rights attach to them. Units are not transferable on the register of the Fund. The Trustee may at any time subdivide or consolidate any series of Units. Additionally, from time to time and provided that the Unitholder fulfills the criteria established by the Manager for purchasing a particular series of Units, the Manager may consolidate the different series of Units of the Fund into one series of Units as described below under "Investing in the Fund – Reclassification of Units".

The rights of Unitholders of the Fund are contained in the Declaration of Trust. The provisions or rights attaching to the Units and the other terms of the Declaration of Trust applicable to the Fund may be modified, amended or varied but only for the purposes and in the manner described in the Declaration of Trust. Unitholders can terminate their investment in the Fund by redeeming each Unit at its Net Asset Value per Unit, subject to the Manager's right to suspend the right of redemption.

Fractions of Units may be issued. Fractional Units carry the rights and privileges and are subject to the restrictions and conditions applicable to whole Units in the proportions which they bear to one

Unit, provided that any holder entitled to a fractional Unit is not entitled to vote in respect of the fractional Unit. See "Redemption of Units".

The Fund maintains a book-based system of Unit registration and, accordingly, does not issue certificates.

## **INVESTING IN THE FUND**

Series A Units, Series F Units and Series O Units are offered on continuous basis to investors resident in all the provinces and territories of Canada pursuant to exemptions from the prospectus requirements of applicable securities legislation. Each series of Units is intended for different kinds of investors. Series A Units are available to all investors. Series F Units have generally the same attributes as Series A Units but they are usually only available to investors who participate in an eligible fee-based or wrap program with their Dealer and who are subject to a periodic asset-based fee rather than commissions on each transaction. The Manager is able to reduce its management fee rate on Series F Units because the Manager's costs are lower and because investors who purchase Series F Units will usually have entered into a separate agreement to pay fees to their Dealer for their individual investment program. Series O Units are generally only available for certain investors who make large investments in the Fund. Investors who purchase Series O Units must enter into an agreement which identifies the management fee negotiated with the investor and payable by the investor directly to the Manager.

Orders for subscriptions can be placed at any time through Dealers qualified in the province or territory of purchase. Units are issued daily on the Valuation Day. All orders for subscriptions which are received and accepted by the Manager prior to 4:00 p.m. (Toronto time) on a Valuation Day will be implemented at the Net Asset Value per Unit as of that Valuation Day. Orders for subscriptions received and accepted after 4:00 p.m. (Toronto time) on a Valuation Day will be implemented at the Net Asset Value per Unit as of the next Valuation Day. See "Portfolio Valuation and Net Asset Value". The Manager reserves the right to accept or reject orders for subscriptions, to change the minimum amounts for investments in the Fund and to discontinue the offering of any series of Units at any time and from time to time. The Manager may end or restrict purchases under a Deferred Sales Charge Option at any time. Any monies received with a rejected order for subscriptions will be refunded immediately, without interest.

This offering of Units is not subject to any minimum subscription level and therefore any funds received from an investor are available to the Fund and need not be refunded to the investor. Units may be redeemed upon written request based on the Net Asset Value per Unit less any applicable Deferred Sales Charge as described under "Redemption of Units".

### **Investors**

Any investor acceptable to the Manager may subscribe for and purchase Units in the Fund. Investors must purchase as principal (or be deemed under applicable securities legislation to be purchasing as principal), both in respect of initial investments and additional investments. There is no minimum or maximum number of Units offered or minimum or maximum proceeds from the sale of Units.

### **Purchase of Units**

Investors may purchase Units through Dealers. Dealers will send orders to the Manager at its principal office on the day such orders are placed by courier, priority post or telecommunications facilities without charge to the investor. Investors who wish to subscribe for Units must complete, execute and deliver the subscription agreement which accompanies this Confidential Offering Memorandum to a Dealer, together with a cheque or bank draft in an amount equal to the purchase price (together, if applicable, with the amount of any commission payable by the investor to the Dealer). Series A Units must be purchased using either a Front-End Sales Charge Option or a Deferred Sales Charge Option.

The Manager reserves the right to accept or reject subscription orders, provided that any decision to reject a subscription order must be made promptly and, in any event, will be made within 2 Business Days of receipt of the subscription order by the Manager. In the case of rejection, any monies received with the subscription order will be immediately refunded, without interest.

### **Purchase Price**

The purchase price of a Unit of the Fund is an amount equal to its Net Asset Value per Unit. The Net Asset Value per Unit for subscription orders which are received and accepted by the Manager prior to 4:00 p.m. (Toronto time) on a Valuation Day will be calculated as of that Valuation Day. The Net Asset Value per Unit for subscription orders received and accepted after 4:00 p.m. (Toronto time) on a Valuation Day will be calculated on the next Valuation Day. See "Portfolio Valuation and Net Asset Value".

Following each purchase of Units, Unitholders will receive a written confirmation indicating details of the purchase transaction including the dollar amount of the purchase order, the Net Asset Value per Unit and the number of Units held by the Unitholder.

### **Initial Minimum Investment**

In the event applicable securities legislation, regulations or rules change in the future such that one or more of the exemptions described below are no longer available, the Fund will cease offering Units pursuant to such exemptions, but may continue offering Units to investors pursuant to other exemptions which are or remain available.

For Series A Units and Series F Units, the net amount (after deduction of any commissions) of each initial investment by an investor must be: (a) if the investor qualifies as an Accredited Investor under the Accredited Investor Exemption, not less than the amount specified by the Manager (which is currently \$5,000); or (b) if the investor qualifies under the Minimum Amount Exemption, not less than \$150,000. For Series O Units, the minimum investment amount is determined by the Manager and set out in the agreement between the investor and the Manager.

The Manager reserves the right to change the minimum amounts for initial investments in the Fund at any time, from time to time, and on a case-by-case basis, subject to regulatory requirements.

### **Additional Investments**

Each additional investment by an investor must be not less than the amount specified by the Manager (which is currently \$1,000).

For Accredited Investors as defined in NI 45-106, in addition to the requirement that each additional investment be for an amount not less than \$1,000, the Manager requires that immediately following the additional investment the Accredited Investor will hold Units with an aggregate acquisition cost or Net Asset Value of not less than the amount specified by the Manager (which currently is \$5,000).

For investors that qualify under the Minimum Amount Exemption, in addition to the requirement that each additional investment be for an amount not less than \$1,000, the investor must have previously purchased and continue to hold Units of the same series with an aggregate acquisition cost or current Net Asset Value of not less than \$150,000. Otherwise, the additional investment will be subject to the requirements described above for initial investments.

The Manager reserves the right to change the minimum amounts for additional investments in the Fund at any time, from time to time, and on a case-by-case basis, subject to regulatory requirements.

### **Accredited Investors**

An investor resident in any of the provinces or territories of Canada will qualify as an Accredited Investor if he or she satisfies certain criteria. Among others, the following investors generally will qualify as Accredited Investors:

- (a) an individual who, either alone or with a spouse, beneficially owns, directly or indirectly, financial assets having an aggregate realizable value that before taxes, but net of any related liabilities, exceeds \$1,000,000;
- (b) an individual who beneficially owns financial assets having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds \$5,000,000;
- (c) an individual whose net income before taxes exceeded \$200,000 in each of the two most recent calendar years or whose net income before taxes combined with that of a spouse exceeded \$300,000 in each of the two most recent calendar years and who, in either case, reasonably expects to exceed that net income level in the current calendar year;
- (d) an individual who, either alone or with a spouse, has net assets of at least \$5,000,000;
- (e) a person (other than an individual or investment fund) that has net assets of at least \$5,000,000 as shown on its most recently prepared financial statements provided such person has not been created solely to purchase or hold the Units being purchased; and
- (f) a pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a pension commission or similar regulatory authority of a jurisdiction of Canada,

and for such purposes:

- (i) "financial assets" generally means cash and securities; and
- (ii) "related liabilities" means liabilities incurred or assumed for the purpose of financing the acquisition or ownership of financial assets, or liabilities that are secured by financial assets.

Each investor should refer to the more detailed representations, warranties and certifications contained in the subscription agreement which accompanies this Confidential Offering Memorandum to determine whether he or she qualifies as an Accredited Investor.

### **Purchases Under the Front-End Sales Charge Option**

The Front-End Sales Charge for purchasing Series A Units is negotiated between investors and their Dealers. Investors pay this charge directly to their Dealer. The Front-End Sales Charge of up to 5% will be deducted as a percentage of the amount subscribed (up to 5.3% of the net amount invested). For initial investments, the net amount (after deduction of the Front-End Sales Charge) must be not less than the minimum amount specified above. No Front-End Sales Charge is payable for purchasing Series F Units or Series O Units.

### **Purchases Under a Deferred Sales Charge Option**

Under a Deferred Sales Charge Option, the entire amount of an investor's subscription is applied to the purchase of Series A Units at a price per Unit equal to its Net Asset Value per Unit, as described under "Purchase of Units", without deduction of a sales charge.

An investor will pay the Deferred Sales Charge to the Manager when redeeming Series A Units, only if the redemption of the Series A Units occurs within a certain number of years after the purchase date. The Deferred Sales Charge is a percentage of the redemption price of the Series A Units redeemed and is paid by the investor to the Manager. Any Deferred Sales Charge Option that is payable by the investor to the Manager will be deducted from the redemption proceeds. There are two Deferred Sales Charge Options: the Low-Load Sales Charge Option and the Low-Load 2 Sales Charge Option.

Under the Low-Load Sales Charge Option, the Deferred Sales Charge percentage is 3% and declines to nil after the third year after purchase. Under the Low-Load 2 Sales Charge Option, the Deferred Sales Charge percentage is 2% and declines to nil after the second year after purchase, as illustrated below:

<b>If Redeemed During the Following Period After Purchase</b>	<b>Low-Load Sales Charge Percentage</b>
During the 1 <sup>st</sup> 18 months	3.0%
Between 19 and 36 months	2.0%
Thereafter	NIL

<b>If Redeemed During the Following Period After Purchase</b>	<b>Low-Load 2 Sales Charge Percentage</b>
During the 1 <sup>st</sup> 24 months	2.0%
Thereafter	NIL

The Deferred Sales Charge Option may be modified or cancelled by the Manager at any time. No Deferred Sales Charge is payable by the investor to the Manager for redeeming Series F Units or Series O Units.

The Manager will pay to the investor's Dealer a selling commission on the total monies invested in the Fund equal to 2.5% for Series A Units purchased under the Low-Load Sales Charge Option and 1% for Series A Units purchased under the Low-Load 2 Sales Charge Option. No selling commission is paid for Series A Units acquired through the automatic reinvestment of distributions paid on Deferred Sales Charge Units.

In order to facilitate emergency requirements, each calendar year each Unitholder may withdraw a maximum of 10% of his or her investment in Series A Units which the Unitholder purchased under the Low-Load 2 Sales Charge Option without paying the Deferred Sales Charge to the Manager.

Each Unitholder's annual entitlement is equal to:

- 10% of the number of Series A Units that the Unitholder held on December 31 of the previous year that the Unitholder purchased under the Low-Load 2 Sales Charge Option; **plus**
- 10% of the number of Series A Units that the Unitholder purchased during the current calendar year under the Low-Load 2 Sales Charge Option, **less**
- the number of Series A Units that the Unitholder would have received during the current calendar year if he or she had automatically reinvested any cash distributions that were received from the Fund during the current calendar year.

If through redeeming Series A Units which are no longer subject to the Low-Load 2 Sales Charge (including Series A Units that the Unitholder received as a result of the automatic reinvestment of distributions by the Fund) the Unitholder is unable to reach his or her annual entitlement, the Manager will permit the Unitholder to redeem more Series A Units without paying the Low-Load 2 Sales Charge so that the Unitholder can reach his or her 10% annual entitlement. In providing this "free redemption" entitlement, Series A Units which are subject to the smallest Low-Load 2 Sales Charge will be the first Series A Units redeemed.

Series A Units purchased under the Low-Load Sales Charge Option are not eligible for this "free redemption" treatment. The Manager may change or discontinue the "free redemption" entitlement at any time without notice and in any single instance. Holders of Series F Units and Series O Units are not entitled to this "free redemption" treatment as no Deferred Sales Charges apply to Series F Units or Series O Units.

## **Reclassification of Units**

Switching between different series of Units is called a reclassification. Upon a reclassification of one series of Units into another series of Units, the number of Units held by a Unitholder may change since each series of Units may have a different Net Asset Value.

Series A Units may be reclassified into Series F Units if the Unitholder fulfills the criteria established by the Manager for purchasing Series F Units. A Unitholder who purchased Series A Units on a Deferred Sales Charge basis will have to pay to the Manager a reclassification fee in an amount equal to the Deferred Sales Charge at the time of such reclassification to Series F Units.

A Unitholder may request to reclassify Series F Units to Series A Units. Such Series F Units will be reclassified to Series A Units on the Front-End Sales Charge Option (no commission) basis. If a Unitholder ceases to satisfy the criteria for holding Series F Units, the Manager may reclassify such Series F Units as Series A Units on the Front-End Sales Charge (no commission) basis. If a Unitholder ceases to satisfy the criteria for holding Series O Units, the Manager may reclassify such Series O Units as Series A Units or Series F Units as appropriate.

## **Early Redemption Fee**

If a Unitholder redeems his or her Units of any series within 90 days after acquisition, the Manager may on behalf of the Fund, in its sole discretion, charge the Unitholder an early redemption fee of up to 1% of the value of the Units tendered for redemption. This is in addition to any sales commission or Deferred Sales Charge payable by the Unitholder and is deducted from the redemption proceeds. The early redemption fee is retained by the Fund.

## **Securities Law Exemptions**

Units are offered to investors resident in each province and territory of Canada pursuant to the Accredited Investor Exemption and the Minimum Amount Exemption.

## **DEALER COMPENSATION**

### **Sales Commissions**

Where purchases of Series A Units are made under the Front-End Sales Charge Option, a sales commission of up to 5% will be deducted from the subscription order and paid by the investor to the Dealer at the time of purchase. The remaining amount is invested in the Fund. Sales commissions may be negotiated between an investor and his, her or its Dealer.

Where purchases of Series A Units are made under a Deferred Sales Charge Option, no amount is deducted from the purchase order and the Manager will pay the Dealer a fixed commission of a fixed commission of 2.5% on the total monies invested in the Fund under the Low-Load Sales Charge Option and a fixed commission of 1 % on the total monies invested in the Fund under the Low-Load 2 Sales Charge Option.

No sales commissions are payable to Dealers for selling Series F Units or Series O Units.



## **Servicing Commissions**

A servicing commission is a portion of the Manager's management fee shared with Dealers. The servicing commissions pay for ongoing advice and service which investors receive from Dealers so long as the investor holds Series A Units.

The Manager may pay quarterly or monthly, as the Manager may from time to time determine, in arrears, a servicing commission which is negotiated between the Manager and the Unitholder's Dealer and which could range from 0% to 100% of the Manager's management fee, to the Unitholder's Dealer for its financial advisors in respect of the aggregate assets of their clients invested in Series A Units. For Series A Units purchased under the Low-Load Sales Charge Option, the Manager pays a servicing commission only after the Series A Units have been held for at least one year.

## **DISTRIBUTIONS**

The Fund pays a monthly distribution at a fixed rate on Series A Units and Series F Units and pays a monthly distribution at a variable rate on Series O Units, in amounts to be determined by the Manager from time to time. A portion of the distributions to Unitholders may represent returns of capital. A return of capital is not taxable, but generally will reduce the adjusted cost base of your units for tax purposes. **Monthly distributions are not guaranteed and may change or be discontinued at any time at the Manager's discretion. See "Risk Factors".**

Unitholders will be entitled to participate equally in respect of each series of Unit held with respect to any and all distributions on such series made by the Fund (other than Management Fee Distributions). Yield on a Unit is not comparable to a traditional yield on debt instruments where investors are entitled to a full return on the principal amount of the debt on maturity in addition to a return on investment through interest payments. It is the Fund's policy to distribute to Unitholders in each taxation year of the Fund any net income and net realized capital gains in excess of the monthly distributions by December 31 of each year, or at such other times as may be determined by the Manager, so that it will not have any liability for Canadian federal income tax under Part I of the Tax Act. The Fund may also make distributions at such other times as determined by the Manager.

All distributions of the Fund will be automatically reinvested, without charge, in additional Units of the same series at the Net Asset Value per Unit determined as of the date of distribution unless the Unitholder otherwise directs in writing. No sales charge is payable with respect to any purchase of Units made under the reinvestment program. Units acquired through the reinvestment of distributions will not be subject to the Deferred Sales Charge described above.

## **PORTFOLIO VALUATION AND NET ASSET VALUE**

### **Net Asset Value**

The Manager will determine the Net Asset Value of the Fund and of each series of Units as of every Valuation Day. The Net Asset Value of the Fund is determined in accordance with the provisions of its Declaration of Trust by valuing the assets of the Fund and deducting all its liabilities. The Net Asset Value of the Fund will be reported in Canadian currency and may also be reported in such

other currencies as the Manager may from time to time determine, based on the rate or rates of exchange, as the case may be, reported by any report in common use.

The material provisions of the basis for calculating the Net Asset Value of the Fund from time to time are as follows:

- (a) the value of any security which is listed on a stock exchange will be the official closing sale price or, if there is no such sale price, the average of the bid and the ask price at that time by the close of trading of the Toronto Stock Exchange, generally 4:00 p.m. (Toronto time), all as reported by any report in common use or authorized as official by the stock exchange, provided that if such official closing sale price is not within the latest available bid and ask quotations on the Valuation Day then the Manager has the discretion to determine a value which it considers to be fair and reasonable (the "fair value") for the security based on market quotations the Manager believes most closely reflect the fair value of the investment. The Manager also has the discretion to determine what it considers to be a fair value for the foreign securities which may differ from such securities' most recent closing market prices;
- (b) the value of the securities of any unlisted mutual fund will be the net asset value per security on the Valuation Day or, if such date is not a valuation date of the mutual fund, the net asset value per security on the most recent valuation date for the mutual fund;
- (c) the value of any security which is traded on an over-the-counter market will be the closing sale price on the Valuation Day or, if there is no such sale price, the average of the bid and the ask prices at that time, all as reported by the financial press;
- (d) the value of long positions and short positions in clearing corporation options is based on the mid-price and the value of long positions and short positions in debt-like securities and warrants that are traded on a stock exchange or other markets will be the closing sale price on the Valuation Day or, if there is no such sale price, the average of the bid and ask prices at that time, all as reported by any report in common use or authorized as official by the stock exchange or, if no bid or ask price is available, the last reported closing sale price of such security;
- (e) the value of long positions and short positions in clearing corporation options on futures is based on the daily settlement price determined by the respective exchange (if available); if no settlement price is available, the last reported closing sale price on the Valuation Day; or, if no closing sale price is available, the last reported settlement price of such security;
- (f) where a covered clearing corporation option or over-the-counter option is written by the Fund the premium received by the Fund will be reflected as a deferred credit which will be valued at an amount equal to the value of the clearing corporation option or over-the-counter option which would have the effect of closing the position; any difference resulting from revaluation shall be treated as an unrealized gain or loss on investment; the deferred credit shall be deducted in arriving at the Net

Asset Value of the Fund; the securities, if any, which are the subject of a written clearing corporation option or over-the-counter option will be valued in a manner listed above for listed securities in paragraph (d) above;

- (g) the value of any standardized futures contract or forward contract shall be the gain or loss, if any, that would arise as a result of closing the position in the standardized futures contract or forward contract, as applicable, on the Valuation Day, unless "daily limits" are in effect, in which case fair market value shall be based on the value of the underlying interest on the Valuation Day as determined in a manner by the Manager in its discretion;
- (h) over-the-counter swap contracts are valued at the amount that the Fund would receive or pay to terminate the swap, based on the current value of the underlying interest on the Valuation Day; centrally cleared swaps listed or traded on a multilateral or trade facility platform, such as a registered exchange, are valued at the daily settlement price determined by the respective exchange (if available);
- (i) forward currency contracts and currency futures contracts shall be valued on a marked to market basis on the Valuation Day based on reported quotations in common use provided cash is to be settled on maturity of the contracts; and
- (j) the value of any security or other asset for which a market quotation is not readily available or to which, in the opinion of the Manager, the above principles cannot be applied, will be its fair value on the Valuation Day determined in a manner by the Manager in its discretion.

For the purpose of determining the Net Asset Value of the Fund, the Fund has also adopted the valuation requirements for restricted securities and margin paid or deposited which have been established by the Canadian securities regulatory authorities.

The market value of investments and other assets and liabilities denominated in foreign currencies are translated into Canadian dollars at the rate of exchange established at noon on each Valuation Day. Under the Fund's fair pricing policy, when the rates of exchange established at 3:00 p.m. are materially different from the noon exchange rates on a given Valuation Day, the market value of investments and other assets and liabilities denominated in foreign currencies will be translated at the 3:00 p.m. exchange rates for that Valuation Day. For the purposes of all such conversions to Canadian currency, the rate of exchange as determined by customary banking sources will be used.

For the purpose of determining the Net Asset Value of the Fund, the assets of the Fund shall be deemed to include:

- (k) all liquid assets, which shall mean cash or its equivalent (including cash of other countries if conversion into Canadian currency can be readily effected), on hand, on deposit or on call, including any accrued interest thereon;
- (l) all bills and demand notes, accounts receivable and prepaid expenses;

- (m) all bonds, time notes, shares, subscription rights and other securities owned or contracted for by the Fund;
- (n) all stock and cash dividends and cash distributions to be received by the Fund and not yet received by it but declared to shareholders of record on a date on or before the date as of which the Net Asset Value of the Fund and the Net Asset Value per Unit are being determined;
- (o) all interest accrued on any interest-bearing securities owned by the Fund (except interest accrued on securities in default which is included in the quoted price); and
- (p) all other property of every kind and nature.

For the purposes of determining the Net Asset Value of the Fund, the liabilities of the Fund shall be deemed to include all liabilities of the Fund of whatsoever kind and nature except liabilities represented by outstanding Units and, for greater certainty but without limitation, includes:

- (a) all bills, notes and accounts payable;
- (b) all administrative expenses payable or accrued (including management fees payable pursuant to the Management Agreement);
- (c) all contractual obligations for the payment of money or property, including unpaid distributions;
- (d) all allowances authorized or approved by the Trustee for taxes; and
- (e) all other liabilities of the Fund, except liabilities represented by outstanding series of Units of the Fund.

A separate Net Asset Value per Unit is calculated for each series of Units by:

- (a) adding up the market value of the assets of the Fund and determining the proportionate share of the series;
- (b) subtracting the liabilities of the Fund allocated to that series;
- (c) subtracting the proportionate share of the liabilities of the Fund that are not allocated to any particular series; and
- (d) dividing the amount by the total number of outstanding Units of that series.

In calculating the Net Asset Value per Unit:

- (a) the issue of Units shall be reflected in the computation of the Net Asset Value of the Fund no later than the next Valuation Day after the time as at which the Net Asset Value per Unit is determined for the purpose of the issue of the Units; and

- (b) each portfolio transaction will be reflected in the computation of Net Asset Value per Unit no later than the Valuation Day after the date on which the transaction becomes binding.

The Manager may declare a suspension of the determination of Net Asset Value for the whole or part of any period in which the right of redemption has been suspended. See "Redemption of Units".

### **Differences from International Financial Reporting Standards**

The fair value of a portfolio security used to determine the daily price of a Fund's securities for purchases and redemptions by investors will be based on the Fund's valuation principles set out above.

The interim financial reports and annual financial statements of the Fund (the "Financial Statements") are required to be prepared in compliance with International Financial Reporting Standards ("IFRS"). The Fund's accounting policies for measuring the fair value of their investments (including derivatives) are identical to those used in measuring their Net Asset Value for transactions with Unitholders, except as disclosed below.

The fair value of the Fund's investments (including derivatives) is the price that would be received to sell an asset, or the price that would be paid to transfer a liability, in an orderly transaction between market participants as at the date of the Financial Statements (the "reporting date"). The fair value of the Fund's financial assets and liabilities traded in active markets (such as publicly traded derivatives and marketable securities) are based on quoted market prices at the close of trading on the reporting date (the "close price"). For IFRS purposes, the Fund uses the close price for both financial assets and liabilities where that price falls within that day's bid-ask spread. If a close price does not fall within the bid-ask spread, the close price will then be adjusted by the Manager, to a point within the bid-ask spread that, in the Manager's view, is most representative of fair value based on specific facts and circumstances.

As a result of this potential adjustment, the fair value of the financial assets and liabilities of the Fund determined under IFRS may differ from the values used to calculate the Net Asset Value of the Fund.

The notes to the Financial Statements of the Fund will include a reconciliation of the differences between the Net Asset Value calculated based on IFRS and the valuation principles set out above.

### **REDEMPTION OF UNITS**

A Unitholder may require the Fund to redeem Units by delivering to the Unitholder's Dealer a request in writing that a specified dollar amount or number of Units be redeemed, with signatures conforming to the name of the registered Unitholder and guaranteed by a Canadian chartered bank, a trust company or an investment dealer acceptable to the Manager. If the Units are registered in the name of an intermediary such as a Dealer, clearing agency or its nominee, redemption orders must be made through such intermediary. If the redemption request that is forwarded by the Unitholder's Dealer is received by the Manager prior to 4:00 p.m. (Toronto time), on a Valuation Day, the redemption price of the Units is the Net Asset Value per Unit calculated on that date and orders received after that time will be effective on the next Valuation Day.

The amount payable to a Unitholder from the Fund for each Unit redeemed (the "Redemption Amount") will be an amount equal to the Net Asset Value per Unit on the Valuation Day. If a Unitholder redeems Units of any series within 90 days after acquisition, the Manager may on behalf of the Fund, in its sole discretion, charge the Unitholder an early redemption fee of up to 1% of the value of the Units tendered for redemption. This fee is in addition to any sales commission or Deferred Sales Charge payable to the Manager and is deducted from the Redemption Amount. The early redemption fee is retained by the Fund.

Under the Regular Deferred Sales Charge Option, the Deferred Sales Charge percentage is 6% in the first year and declines to nil after the sixth year after purchase, as illustrated below:

If Redeemed During the Following Period After Purchase	Regular Deferred Sales Charge Percentage
During the 1 <sup>st</sup> year	6.0%
During the 2 <sup>nd</sup> year	5.5%
During the 3 <sup>rd</sup> year	5.0%
During the 4 <sup>th</sup> year	4.5%
During the 5 <sup>th</sup> year	4.0%
During the 6 <sup>th</sup> year	3.0%
Thereafter	NIL

In order to facilitate emergency requirements, each calendar year each Unitholder may withdraw a maximum of 10% of his or her investment in Series A Units which the Unitholder purchased under the Regular Deferred Sales Charge Option without paying the Deferred Sales Charge to the Manager.

Each Unitholder's annual entitlement is equal to:

- 10% of the number of Series A Units that the Unitholder held on December 31 of the previous year that the Unitholder purchased under the Regular Deferred Sales Charge Option; **plus**
- 10% of the number of Series A Units that the Unitholder purchased during the current calendar year under the Regular Deferred Sales Charge Option, **less**
- the number of Series A Units that the Unitholder would have received during the current calendar year if he or she had automatically reinvested any cash distributions that were received from the Fund during the current calendar year.

If through redeeming Series A Units which are no longer subject to the Regular Deferred Sales Charge (including Series A Units that the Unitholder received as a result of the automatic reinvestment of distributions by the Fund) the Unitholder is unable to reach his or her annual entitlement, the Manager will permit the Unitholder to redeem more Series A Units without paying the Regular Deferred Sales Charge so that the Unitholder can reach his or her 10% annual

entitlement. In providing this "free redemption" entitlement, Series A Units which are subject to the smallest Regular Deferred Sales Charge will be the first Series A Units redeemed.

Payment for Units which are redeemed will be made by the Fund by cheque unless other acceptable arrangements are made. The Trustee may, subject to applicable securities legislation, pay for all or any redeemed Units in kind.

Subject to compliance with applicable securities legislation, the Fund may suspend the redemption of Units or postpone the date of payment of redeemed Units (a) for any period when normal trading is suspended on any stock, options, futures or other exchange or market within or outside Canada on which securities are listed and traded, or on which permitted derivatives are traded, which represent more than 50% by value or underlying market exposures of the total assets of the Fund, without allowance for liabilities or (b) at any time that the Manager is unable to value or dispose of the assets of the Fund. In case of suspension of the right of redemption, a Unitholder may receive payment by the Trustee based on the Net Asset Value per Unit on the first Valuation Day following the termination of the suspension unless the redemption request has been withdrawn earlier by the Unitholder.

The Manager may, in its discretion, redeem all or any of the Units held by any Unitholder and pay to such Unitholder the Redemption Amount thereof if the Net Asset Value of the Units in such Unitholder's account is less than \$5,000 or if it is otherwise adverse to the Fund to permit Units to be held by a particular Unitholder, or if required by applicable securities legislation, regulations, rules, policies or orders or by an securities commission, stock exchange, or government agency or other regulatory authority.

The right of Unitholders to redeem their Units is contained in the Declaration of Trust. See "Units of the Fund".

### **CANADIAN FEDERAL INCOME TAX CONSIDERATIONS**

The following is, as of the date hereof, a summary of the principal Canadian federal income tax considerations generally applicable to the acquisition, holding and disposition of Units by a Unitholder who acquires Units pursuant to this Confidential Offering Memorandum. This summary is applicable to a Unitholder who is an individual (other than a trust) and who, at all relevant times, for the purposes of the Tax Act is resident in Canada, deals at arm's length, and is not affiliated, with the Fund and holds Units as capital property. Generally, Units will be considered to be capital property to a holder provided that the holder does not hold the Units in the course of carrying on a business of buying and selling securities and has not acquired them in one or more transactions considered to be an adventure or concern in the nature of trade. Certain persons who might not otherwise be considered to hold their Units as capital property may, in certain circumstances, be entitled to have them treated as capital property by making the irrevocable election permitted by subsection 39(4) of the Tax Act.

This summary is based upon the facts set out in this Confidential Offering Memorandum, the current provisions of the Tax Act, the Manager's understanding of the current administrative and policies and assessing practices of the CRA that have been made publicly available prior to the date hereof and all specific proposals to amend the Tax Act publicly announced by or on behalf of the Minister

of Finance (Canada) prior to the date hereof (the "Tax Proposals"). This summary does not otherwise take into account or anticipate any changes in law, whether by legislative, governmental or judicial decision or action, or changes in the administrative or assessing practices of the CRA and does not take into account provincial, territorial, or foreign income tax legislation or considerations. There is no certainty that the Tax Proposals will be enacted in the form proposed or at all.

This summary assumes that the Fund will not invest in shares of a corporation that is a foreign affiliate of the Fund or of any Unitholder or in securities that are "tax shelter investments" within the meaning of the Tax Act.

**This summary is not exhaustive of all possible Canadian federal income tax considerations applicable to an investment in Units and does not describe the income tax considerations relating to the deductibility of interest on money borrowed by a Unitholder to acquire Units. The income and other tax consequences of acquiring, holding or disposing of Units will vary depending upon the investor's particular circumstances, including the province or provinces, or territory or territories in which the investor resides or carries on business. Accordingly, this summary is of a general nature only and is not intended to be legal or tax advice to any prospective investor. Prospective investors should consult their own tax advisor for advice with respect to the income tax consequences of an investment in Units, based on the investor's particular circumstances.**

### **Status of the Fund**

This summary assumes that the Fund will qualify as a "mutual fund trust" as defined in the Tax Act at all relevant times. If the Fund were not to qualify as a "mutual fund trust", the income tax considerations as described below would in some respects be materially different. See "Non-Qualification as a Mutual Fund Trust".

### **Taxation of the Fund**

In each taxation year, the Fund will be subject to tax under Part I of the Tax Act on its net income for the year (computed in Canadian dollars in accordance with the Tax Act), including net realized taxable capital gains, interest that accrues to it to the end of the year, or becomes receivable or is received by it before the end of the year (except to the extent such interest was included in computing its income for a prior year) and dividends received in the year, less the portion thereof that it deducts in respect of amounts paid or made payable to Unitholders in the year. An amount will be considered to be payable to a Unitholder in a taxation year if it is paid in the year by the Fund or the Unitholder is entitled in that year to enforce payment of the amount.

The Fund will distribute sufficient amount of net income and net realized capital gains in order that the Fund will not be liable to pay income tax under Part I of the Tax Act in any year, other than such tax on net realized capital gains that would be recoverable by it in such year by reason of the capital gains refund (as described below).

The Fund will be entitled for each taxation year throughout which it is a mutual fund trust to reduce (or receive a refund in respect of) its liability, if any, for tax on its net realized capital gains by an amount determined under the Tax Act based on the redemptions of Units during the year ("capital gains refund"). In certain circumstances, the capital gains refund in a particular taxation year may



not completely offset the tax liability of the Fund for such taxation year which may arise upon the sale of securities in connection with redemption of Units.

The "suspended loss" rules in the Tax Act may prevent the Fund from recognizing capital losses on the disposition of securities in certain circumstances which may increase the amount of net realized capital gains of the Fund to be paid to investors.

In computing its income for tax purposes, the Fund may deduct reasonable administrative and other expenses incurred to earn income, including interest on borrowed funds used for the purpose of earning income from its investments. All of the Fund's deductible expenses, including expenses common to all series of the Fund and management fees and other expenses specific to a particular series of the Fund, will be taken into account in determining the income or loss of the Fund as a whole and applicable taxes payable by the Fund as a whole.

Cost and proceeds of disposition of shares, dividends received, interest income and all other amounts will be determined for purposes of the Tax Act in Canadian dollars, converted where applicable, at the exchange rate quoted by the Bank of Canada at noon on the relevant day or at such other rate of exchange as is acceptable to the Minister. The Fund may realize gains or losses as a result of fluctuations in the value of foreign currencies relative to the Canadian dollar, which the Fund will be required to take into account in reporting its income.

The Fund may derive income or gains from investments in countries other than Canada and, as a result, may be liable to pay or deemed to have paid income or profits tax to such countries. To the extent that such foreign tax paid or deemed to have been paid does not exceed 15% of such amount and has not been deducted in computing the Fund's income, the Fund may designate a portion of its foreign source income in respect of a Unitholder so that such income and a portion of the foreign tax paid by the Fund may be regarded as foreign source income of, and foreign tax paid by, the Unitholder for the purposes of the foreign tax credit provisions of the Tax Act. To the extent that such foreign tax paid by the Fund exceeds 15% of the amount included in the Fund's income from such investments, such excess may generally be deducted by the Fund in computing its income for the purposes of the Tax Act.

In general, subject to the application of the DFA rules discussed below, gains and losses realized by the Fund from derivative transactions will be treated for income tax purposes as being on income account unless applicable jurisprudence or CRA administrative policy would support treating such gains and losses as being on capital account. Any such gains and losses will generally be recognized for income tax purposes at the time they are realized by the Fund. Pursuant to the Tax Act, an election to realize gains and losses on "eligible derivatives" (as defined in the Tax Act) of the Fund on a mark-to-market basis may be available. The Manager will consider whether such election, if available, would be advisable for the Fund.

The DFA rules target financial arrangements (referred to as "derivative forward agreements") that seek to deliver a return based on an "underlying interest" (other than certain excluded underlying interests). The DFA rules are broad in scope and could apply to other agreements or transactions (including certain options). If the DFA rules were to apply in respect of derivatives utilized by the Fund, gains realized in respect of the property underlying such derivatives could be treated as ordinary income rather than capital gains. The Tax Act exempts the application of the DFA rules on

currency forward contracts or certain other derivatives that are entered into in order to hedge foreign exchange risk in respect of an investment held as capital property.”

If the Fund experiences a “loss restriction event” and does not qualify as an “investment fund” for the purposes of the tax loss restriction rules in the Tax Act, the Fund (i) will be deemed to have a year-end for tax purposes (which, if the Fund has not distributed sufficient net income and net realized capital gains, if any, for such taxation year, would result in the Fund being liable for income tax on such amounts under Part I of the Tax Act), and (ii) will become subject to the loss restriction rules generally applicable to a corporation that experiences an acquisition of control, including a deemed realization of any unrealized capital losses and restrictions on its ability to carry forward non-capital losses. Generally, the Fund would be subject to a loss restriction event if a person becomes a “majority-interest beneficiary”, or a group of persons becomes a “majority-interest group of beneficiaries”, of the Fund, as those terms are defined in the Tax Act. A person would be a majority-interest beneficiary of the Fund if it, together with persons with whom it is affiliated, owns more than 50% of the fair market value of the Fund’s outstanding Units. The Tax Act excludes a person or group of persons from becoming a majority-interest beneficiary or a majority-interest group of beneficiaries of a trust that qualifies as an “investment fund” simply as a result of the redemption of units by another unitholder of the trust. Generally, a loss restriction event will be deemed not to occur for the Fund if it meets certain conditions to qualify as an “investment fund” under the Tax Act, including complying with certain asset diversification requirements.

### **Non-Qualification as a Mutual Fund Trust**

The Fund may not qualify as a “mutual fund trust” under the Tax Act. If the Fund does not qualify as a “mutual fund trust”, the Fund could be subject to tax under Part XII.2 of the Tax Act. Part XII.2 of the Tax Act provides that certain trusts (excluding mutual fund trusts) that have a unitholder who is a “designated beneficiary” (including a non-resident) within the meaning of the Tax Act will be subject to a special tax at the rate of 40% on the trust’s “designated income” within the meaning of the Tax Act. “Designated income” generally includes income from a business carried on in Canada and taxable capital gains from dispositions of “taxable Canadian property”. Where the Fund is subject to tax under Part XII.2 of the Tax Act, unitholders who are not designated beneficiaries may be entitled to claim a refundable tax credit, provided that the Fund makes a designation. If the Fund does not qualify as a mutual fund trust, it may be subject to alternative minimum tax under the Tax Act. A trust fund that is not a mutual fund trust will not be entitled to claim the capital gains refund that would otherwise be available to it if it were a mutual fund trust throughout the year. Finally, if the Fund that does not qualify as a mutual fund trust it will be a “financial institution” for purposes of the “mark-to-market” rules contained in the Tax Act if at any time more than 50% of the fair market value of all interests in the Fund are held at that time by one or more financial institutions. The Tax Act contains special rules for determining the income of a financial institution. If the Fund is not a mutual fund trust and is a registered investment, the Fund may be liable for tax under Part X.2 of the Tax Act if, at the end of any month, the Fund holds property that is not a “qualified investment” for the type of Tax Deferred Plan in respect of which the Fund is registered.

### **Taxation of Unitholders**

Unitholders will generally be required to include in computing their income for a particular taxation year all net income and the net taxable capital gains of the Fund, if any, paid or payable to them, and

deducted by the Fund in computing its income for tax purposes, including Management Fee Distributions, whether or not reinvested in additional Units. To the extent applicable, the Fund intends to make designations to ensure that the maximum portion of its taxable dividends from taxable Canadian corporations, foreign income, net realized capital gains and foreign creditable tax will be received by Unitholders as taxable dividends from taxable Canadian corporations, foreign income or taxable capital gains, as the case may be, or paid by Unitholders in the case of foreign creditable tax.

Any amount in excess of the Fund's net income, net taxable capital gains and the non-taxable portion of net realized capital gains designated to the Unitholder for a taxation year that is paid or payable to the Unitholder in such year will generally not be included in the Unitholder's income, but will reduce the adjusted cost base of the Unitholder's Units. To the extent that the adjusted cost base of a Unit would otherwise be less than zero, the negative amount will be deemed to be a capital gain realized by the Unitholder from the disposition of the Unit and the Unitholder's adjusted cost base of such Unit will be increased by the amount of such deemed capital gain.

The reclassification of Units as Units of another series of the Fund will generally not be considered to be a disposition for tax purposes and accordingly, the Unitholder will realize neither a gain nor a loss as a result of a reclassification. The Unitholder's adjusted cost base of the Units received for the Units of another series will equal the adjusted cost base of the latter Units.

On the disposition or deemed disposition of a Unit (including a sale or redemption of a Unit), the Unitholder will realize a capital gain (or capital loss) equal to the amount by which the Unitholder's proceeds of disposition exceed (or are less than) the aggregate of the adjusted cost base of the Unit and any reasonable costs of disposition. Proceeds of disposition will not include an amount that is otherwise required to be included in the Unitholder's income. The adjusted cost base of a Unit to a Unitholder will include all amounts paid or payable by the Unitholder for the Unit, with certain adjustments. For the purpose of determining the adjusted cost base to a Unitholder of Units, when a Unit is acquired, the cost of the newly-acquired Unit will be averaged with the adjusted cost base of all the Units owned by the Unitholder as capital property immediately before that time. The cost to a Unitholder of Units received on the reinvestment of a distribution by the Fund will be equal to the amount reinvested.

One-half of any capital gain (a "taxable capital gain") realized by a Unitholder in a taxation year must be included in computing the income of the Unitholder for that year and one-half of any capital loss (an "allowable capital loss") realized by a Unitholder in a taxation year may be deducted from taxable capital gains realized by the Unitholder in that year. Allowable capital losses for a taxation year in excess of taxable capital gains for that year generally may be carried back and deducted in any of the three preceding taxation years or carried forward and deducted in any subsequent taxation year, against taxable capital gains realized in such year, to the extent and under the circumstances provided for in the Tax Act.

If a Unitholder disposes of Units, and the Unitholder, the Unitholder's spouse or another person affiliated with the Unitholder (including a corporation controlled by the Unitholder) has also acquired Units of any series within 30 days before or after the Unitholder disposes of the Unitholder's Units (such newly acquired Units being considered "substituted property"), the Unitholder's capital loss may be deemed to be a "superficial loss". If so, the Unitholder's loss will be

deemed to be nil and the amount of the loss will instead be added to the adjusted cost of the Units which are "substituted property".

In general terms, net income of the Fund paid or payable to a Unitholder that is designated as dividends from taxable Canadian corporations or as net realized capital gains and capital gains realized on the disposition of Units may increase the Unitholder's liability for alternative minimum tax.

### **Non-Taxable Unitholders of the Fund**

In general, distributions paid or payable to trusts governed by Tax Deferred Plan from the Fund, or capital gains realized on a disposition of units of the Fund, will not be taxable under the Tax Act. Withdrawals from Tax Deferred Plans (other than TFSAs) may be subject to tax.

### **International Information Reporting Requirements**

Under the terms of the Canada-U.S. IGA to provide for the implementation of FATCA, and its implementing provisions under Part XVIII of the Tax Act, the Fund will be treated as complying with FATCA and not subject to the 30% withholding tax if the Fund complies with the terms of the Canada-U.S. IGA. Under the terms of the Canada-U.S. IGA, the Fund will not have to enter into an individual FATCA agreement with the IRS but the Fund will be required to register with the IRS and to report information, including certain financial information, on accounts held by investors that failed to provide information to their financial advisor or dealer related to their citizenship and residency for tax purposes and/or investors that are identified as, or in the case of certain entities as having one or more controlling persons who are, U.S. Persons owning, directly or indirectly, an interest in the Fund to the CRA. The CRA will in turn provide such information to the IRS.

The Fund will endeavor to comply with the requirements imposed under the Canada-U.S. IGA and its implementing provision under the Tax Act. However, if the Fund cannot satisfy the applicable requirements under the Canada-U.S. IGA or its implementing provision of the Tax Act and is unable to comply with the requirements under FATCA, the Fund may be subject to U.S. withholding tax on U.S. and certain non-U.S. source income and gross proceeds. The Fund may also be subject to the penalty provisions of the Tax Act. Any potential U.S. withholding taxes or penalties associated with such failure to comply would reduce the Fund's Net Asset Value.

In addition, to meet the objectives of the Organisation for Economic Co-operation and Development Common Reporting Standards (the "CRS"), the Fund is required under Part XIX of the Tax Act to identify and to report to the CRA certain information (including residency details and financial information such as account balances) relating to investments held by unitholders or by the "controlling persons" of certain entities who are resident in a country other than Canada or the United States. The information is shared with the CRS participating jurisdiction in which the securityholder resides for tax purposes under the provision and safeguards of the Multilateral Administrative Assistance in Tax Matters or the relevant bilateral tax treaty..

## **ELIGIBILITY FOR INVESTMENT**

Provided the Fund qualifies at all relevant times as a "mutual fund trust" or a "registered investment" (each within the meaning of the Tax Act), Units will be qualified investments under the Tax Act for Tax Deferred Plans.

Provided that the annuitant or holder of a RRSP, RRIF, TFSA, RESP or RDSP (i) deals at arm's length with the Fund, and (ii) does not hold a "significant interest" (as defined in the Tax Act) in the Fund, the Units will not be a prohibited investment for a trust governed by a RRSP, RRIF, TFSA, RESP or RDSP.

Investors should consult with their tax advisors regarding whether an investment in the Fund will be a prohibited investment for their RRSP, RRIF, TFSA, RESP or RDSP under the current rules in the Tax Act or under the proposed amendments.

## **REPORTING TO UNITHOLDERS**

Unitholders will receive an annual and semi-annual statement showing the Units held by the Unitholder and any transactions for the preceding period.

The fiscal year end of the Fund is June 30. Unitholders will be sent audited annual financial statements within 90 days of year-end.

## **AMENDMENT OF THE DECLARATION OF TRUST AND TERMINATION OF THE FUND**

The Trustee may, in its discretion, amend the Declaration of Trust at any time, without notice to Unitholders, provided that no amendment shall be made: (i) to alter the amendment provision; (ii) which would materially and adversely affect the pecuniary interest of any Unitholder; or (iii) for any other matter required to be approved by Unitholders pursuant to applicable securities legislation.

The Fund may be terminated on the occurrence of certain events stipulated in the Declaration of Trust. The Manager may resign as manager of the Fund, and if no successor manager is appointed, the Fund will be terminated. On termination of the Fund, the Trustee will distribute the assets of the Fund in cash or in kind in accordance with the Declaration of Trust. See also "Management of the Fund – The Manager and The Trustee".

## **REGISTRAR AND TRANSFER AGENT**

The registrar and transfer agent of the Units is 1832 Asset Management L.P., located at Dynamic Funds Tower, 1 Adelaide Street East, 28th Floor, Toronto, Ontario, M5C 2V9. The Unit transfer register of the Fund will be kept by the Manager at its principal office in Toronto.

## **CUSTODIAN AND PRIME BROKER**

The Trustee has appointed TD Securities Inc. ("TDSI") as the custodian and prime broker of the assets of the Fund pursuant to an agreement dated as of October 9, 2009, as amended from time to time. All of the assets of the Fund will be held by the custodian, other than those transferred to TDSI

as prime broker, or another entity, as the case may be, as collateral or margin. The custodian may appoint one or more sub-custodians to hold assets of the Fund.

The Trustee may appoint additional prime brokers from time to time. Additionally, TDSI or a prime broker will provide the Fund with financing lines and short-selling facilities.

The Trustee reserves the right, in its discretion, to change the custodian and/or prime brokerage arrangements described above including, but not limited to, the appointment of additional prime brokers. The current and any future custodian is or will be a “qualified custodian” as defined under National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registration Exemptions*.

### **AUDITOR**

The auditor of the Fund is PricewaterhouseCoopers LLP, located at Suite 2600, PwC Tower, 18 York Street, Toronto, Ontario, M5J 0B2.

### **RIGHTS OF ACTION**

Securities legislation in certain provinces of Canada provides purchasers of Units under this Confidential Offering Memorandum with, in addition to any other right they may have at law, rights of action for rescission or damages, or both, where this Confidential Offering Memorandum, any amendment thereto and, in some cases, advertising, and sales literature used in connection with the offering of Units, contains a misrepresentation. These remedies must be exercised within the prescribed time limits and are described in the attached Schedule "A".

**CERTIFICATE**

Dated August 19, 2019

This Confidential Offering Memorandum does not contain a misrepresentation.

*“Neal Kerr”*

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Neal Kerr  
President and Director  
*(Signing in the capacity of Chief Executive Officer)*  
1832 Asset Management G.P. Inc., as  
general partner for and on behalf of 1832  
Asset Management L.P., as manager,  
trustee and promoter of the Fund

*“Anil Mohan”*

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Anil Mohan  
Chief Financial Officer  
1832 Asset Management G.P. Inc., as general  
partner for and on behalf of 1832 Asset  
Management L.P., as manager, trustee and  
promoter of the Fund

On behalf of the Board of Directors of 1832 Asset Management G.P. Inc., as general partner for  
and on behalf of 1832 Asset Management L.P., as manager, trustee and promoter of the Fund

*“John Pereira”*

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John Pereira  
Director

*“Jim Morris”*

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Jim Morris  
Director

***SCHEDULE "A"***  
***PURCHASERS' RIGHTS OF ACTION FOR DAMAGES OR RESCISSION***

Securities legislation in certain of the provinces of Canada provide purchasers with rights of rescission or damages, or both, where an offering memorandum or any amendment thereto contains a misrepresentation.

For the purposes of this section, "misrepresentation" means: (a) an untrue statement of a fact that significantly affects, or would reasonably be expected to have a significant effect, on the market price or the value of securities (a "material fact"); or (b) an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made.

The following is a summary of the statutory rights of rescission or damages, or both, under securities legislation in certain of the provinces of Canada, and as such, is subject to the express provisions of the legislation and the related regulations and rules. **Purchasers should refer to the applicable provisions of the securities legislation of their province for the particulars of these rights or consult with a legal advisor.**

**Ontario and New Brunswick**

If an offering memorandum, together with any amendment thereto, is delivered to a prospective purchaser and the offering memorandum, or any amendment thereto, contains a misrepresentation which was a misrepresentation at the time the securities were purchased, the purchaser will be deemed to have relied upon the misrepresentation and will have a statutory right of action against the issuer for damages or, may elect to exercise the right of rescission against the issuer (in which case, the purchaser will have no right of action for damages against the issuer).

Securities legislation in each of these provinces provides a number of limitations and defences, including:

- (a) no person or company will be liable if it proves that the purchaser purchased the securities with knowledge of the misrepresentation;
- (b) in a case of an action for damages, the defendant will not be liable for all or any portion of the damages that it proves do not represent the depreciation in value of the securities as a result of the misrepresentation relied upon; and
- (c) in no case will the amount recoverable in any action exceed the price at which the securities were offered under the offering memorandum, or any amendment thereto.

The statutory right of action described above does not apply to the following purchasers of securities in Ontario:

- (a) a Canadian financial institution, as defined in *Ontario Securities Commission Rule 45-501 – Ontario Prospectus and Registration Exemptions*, or an authorized foreign bank named in Schedule III of the *Bank Act* (Canada);



- (b) the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada); or
- (c) a subsidiary of any person referred to in paragraphs (a) and (b), if the person owns all of the voting securities of the subsidiary, except the voting securities required by law to be owned by directors of that subsidiary.

In New Brunswick, (a) if advertising or sales literature is relied upon by a purchaser in connection with a purchase of the securities, the purchaser shall also have a similar right of action for damages or rescission against the issuer, every promoter or director of the issuer and every person who, at the time of dissemination of the advertising or sales literature sells securities on behalf of the issuer; (b) if an individual makes a verbal statement to a prospective purchaser that contains a misrepresentation relating to the securities and the verbal statement is made either before or contemporaneously with the purchase of securities, the purchaser has a right of action for damages against the individual who made the verbal statement subject to certain defences available to such person.

No action shall be commenced to enforce the right of action described above unless the right is exercised within:

- (a) in case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or
- (b) in the case of any action for damages, the earlier of:
  - (i) 180 days, in the case of Ontario purchasers, and one year, in the case of New Brunswick purchasers, after the date the purchasers first had knowledge of the facts giving rise to the course of action; and
  - (ii) three years, in the case of Ontario purchasers, and six years, in the case of New Brunswick purchasers, after the date of the transaction that gave rise to the cause of action.

**Alberta (when relying on the minimum amount exemption), Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Nunavut and the Yukon Territory**

If the offering memorandum, together with any amendment thereto delivered to a purchaser (in Alberta when relying on the minimum amount exemption or any advertising or sales literature in the case of purchasers of securities who are resident in Nova Scotia, contains a misrepresentation, a purchaser to whom the offering memorandum has been delivered and who purchases securities shall be deemed to have relied upon such misrepresentation if it was a misrepresentation at the time of purchase and the purchaser has the right of action for damages against (a) the issuer (or seller in Nova Scotia), (b) subject to certain additional defences, against every director of the issuer (or seller in Nova Scotia) at the date of the offering memorandum and (c) every person or company who signed the offering memorandum, but may elect to exercise the right of rescission against the issuer (in which case the purchaser shall have no right of action for damages against the aforementioned persons or company).

Securities legislation in each of these provinces provides a number of limitations and defences, including:

- (a) no person or company will be liable if it proves that the purchaser purchased the securities with knowledge of the misrepresentation;
- (b) in an action for damages, the defendant is not liable for all or any portion of the damages that it proves do not represent the depreciation in value of the securities as a result of the misrepresentation relied upon; and
- (c) in no case shall the amount recoverable under the right of action described herein exceed the price at which the securities were offered under the offering memorandum, or any amendment thereto.

No action shall be commenced to enforce the right of action discussed above more than:

- (a) in case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or
- (b) in the case of any action for damages, the earlier of:
  - (i) 180 days after the purchaser first had knowledge of the facts giving rise to the cause of action; or
  - (ii) three years after the date of the transaction that gave rise to the cause of action.

Furthermore, in Nova Scotia, no action shall be commenced to enforce the right of action discussed above unless an action is commenced to enforce that right not later than 120 days after the date on which payment was made for the security or after the date on which the initial payment for the security was made where payments subsequent to the initial payment are made pursuant to a contractual commitment assumed prior to, or concurrently with, the initial payment.

### **Saskatchewan and Manitoba**

If an offering memorandum or any amendment thereto, sent or delivered to a purchaser contains a misrepresentation, a purchaser who purchases a security has, without regard to whether the purchaser relied on the misrepresentation, a right of action for damages,

- (a) in Saskatchewan, against, the (i) issuer, (ii) every promoter or director of the issuer at the time the offering memorandum or any amendment thereto was sent or delivered, (iii) every person or company whose consent has been filed respecting the offering but only with respect to reports, opinions or statements that have been made by them, (iv) every person who or company that, in addition to the person or companies mentioned in (i) to (iii) above, signed the offering memorandum or any amendments thereto, and (v) every person or company that sells securities on behalf of the issuer under the offering memorandum or amendment thereto;

- (b) in Manitoba, against the issuer, every director of the issuer at the date of the offering memorandum, and every person or company who signed the offering memorandum

or, may elect a right to exercise the right of rescission against the issuer (in which case the purchaser will have no right of action for damages against the aforementioned persons).

Similar rights of action for damages and rescission are provided under the securities legislation of Saskatchewan in respect of a misrepresentation in advertising and sales literature disseminated or in case of a verbal misrepresentation made in connection with an offering of securities.

The Saskatchewan and Manitoba securities legislation provides a number of limitations and defences, including: (a) no person or company will be liable if the person or company proves that the purchaser purchased the securities with knowledge of the misrepresentation; (b) in the case of an action for damages, no person or company will be liable for all or any portion of the damages that it proves do not represent the depreciation in value of the securities as a result of the misrepresentation; (c) in no case will the amount recoverable in any action exceed the price at which the securities were offered to the purchaser.

No action shall be commenced to enforce any of the foregoing rights more than: (a) in the case of an action for rescission, 180 days from the date of the transaction that gave rise to the cause of action, or (b) in the case of an action for damages, the earlier of (i) one year in the case of Saskatchewan purchasers, and 180 days in the case of Manitoba purchasers, after the plaintiff first had knowledge of the facts giving rise to the cause of action, or (ii) six years in the case of Saskatchewan purchasers, and two years in the case of Manitoba purchasers, after the date of the transaction that gave rise to the cause of action.

### **Other Rescission Rights**

In certain provinces, a purchaser of a security of a mutual fund may (where the amount of the purchase does not exceed an amount as prescribed by legislation), rescind the purchase by notice given to the registered dealer from whom the purchase was made within 48 hours after receipt of the confirmation for a lump sum purchase or within 60 days after receipt of confirmation for the initial payment under a contractual plan for the purchase.

### **General**

The rights described above are in addition to and without derogation from any other right or remedy which purchasers may have at law and are intended to correspond to the provisions of the relevant securities legislation and are subject to the defenses contained therein. Each purchaser should refer to provisions of the applicable securities legislation for the particulars of these rights or consult a legal advisor.

The foregoing summaries are subject to the express provisions of the *Securities Act* (Ontario), *Securities Act* (Newfoundland and Labrador), *Securities Act* (Northwest Territories), *Securities Act* (Nunavut), *Securities Act* (Alberta), *Securities Act* (British Columbia), *Securities Act* (Nova Scotia), *Securities Act* (Saskatchewan), *Securities Act* (Yukon), *Securities Act* (Manitoba), *Securities Act* (New Brunswick), *Securities Act* (Prince Edward Island), and the regulations, rules and policy statements thereunder and reference is made thereto for the complete text of such provisions. These

rights must be exercised by purchasers of securities within the prescribed time limits under applicable securities legislation.

**Rights for Purchasers in Alberta (when relying on the accredited investor exemption), British Columbia and Québec**

Purchasers of securities pursuant to this Confidential Offering Memorandum who are resident in Alberta (when relying on the accredited investor exemption), British Columbia or Québec shall be granted a contractual right of action for damages or rescission if this Confidential Offering Memorandum, together with any amendments to it, contains a misrepresentation. The contractual right of action shall be granted on the same terms and conditions as the statutory rights of action for purchasers of securities who are resident in Ontario as described above.