

MERCHANT
OPPORTUNITIES
FUND

CONSTITUTION

Investment Manager



Merchant
FUNDS

This **Reference Guide** was issued on 30 April 2019 and forms part of the Product Disclosure (PDS) for Merchant Opportunities Fund dated 27 July 2017. This **Reference Guide** should be read in conjunction with the PDS and is not intended to be read as a document in its own right. The **Reference Guide** may be updated at any time. You can download the current PDS or **Reference Guide** from our website www.merchantfunds.com.au or by calling Merchant Funds Management on (08) 6277 0050 or by contacting the Responsible Entity, free of charge.

FUND CONSTITUTION

The Fund is governed by a Constitution.

The Constitution is the primary document governing the relationship between the Unitholders and the Responsible Entity and the term and conditions of the Units. The Constitution is legally enforceable between the Unitholders and the Responsible Entity, and the Unitholders agree to be bound by its terms.

The Responsible Entity can amend the Constitution if the change does not adversely affect the rights of Unitholders. Otherwise, the change must be approved by a special resolution passed by Unitholders at a general meeting.

Units

The Responsible Entity may issue Units. A fully paid Unit confers an equal undivided interest in the Fund's assets.

The Responsible Entity may also issue options to subscribe for Units.

Application price

To subscribe for Units, an investor must complete an application form and pay the issue price either in cash or other property.

The issue price is the value of a Unit (based on the net asset value of the Fund) adjusted, if the Responsible Entity considers it appropriate, for the expenses that are associated with acquiring assets of the Fund.

Distributions of income and capital

The Responsible Entity will calculate the Distributable Income from the Fund at each Distribution Date, being the end of the Financial Year and at any other time the Responsible Entity elects ("the distribution date"). This calculation will be audited by the auditor.

Unless the Responsible Entity otherwise provides, the Distributable Income shall be reinvested to acquire units (see below).

Unless distributions are required to be reinvested, the Responsible Entity will pay them within 90 days of

the end of the relevant period. Distributions may be made in respect of such periods as determined by the Responsible Entity, although Distributions are currently to be made annually.

Reinvestment of distributions

Unless the Responsible Entity otherwise provides, the Distributable Income shall be reinvested to acquire units.

A unitholder must give the Responsible Entity 15 Business Days notice prior to the end of the distribution date if the Unitholder elects not to have the Distributable Income reinvested to acquire Units.

Transfer of Units

A Unit may be transferred.

Redemption of Units

A Unitholder may, by giving notice in writing, request the redemption of some or all of their Units. Different withdrawal procedures apply according to whether the Fund is liquid or not.

If the Fund is liquid the Responsible Entity may decide to satisfy a withdrawal request in relation to all or some of the Units the subject of the request.

If the Responsible Entity decides to satisfy a withdrawal request, it must pay the withdrawal price from the assets of the Fund within 65 days of the Redemption Date.

If the Fund is not liquid a Unitholder may withdraw from the Fund only in accordance with the terms or any current withdrawal offer made by the Responsible Entity. If there is no withdrawal offer currently open a Unitholder has no right to withdraw from the Fund.

The redemption price payable to a Unitholder upon withdrawal from the Fund is the value of the Unit (based on the net asset value of the Fund), adjusted for the expenses that are associated with disposing of any asset in order to pay the redemption price.

Meetings of Unitholders

A Unitholder's right to requisition, attend and vote at meetings are mostly prescribed by the Corporations Act.

The Constitution provides that the quorum for a meeting of Unitholders is two Unitholders present in person or by attorney or proxy.

Unitholder's liability

A Unitholder's liability is limited under the Constitution to the amount payable for their Units. A Unitholder need not indemnify the Responsible Entity if there is a deficiency in the Fund's assets or the claim of any creditor of the Fund cannot be satisfied out of the assets. However, the Responsible Entity is entitled to be indemnified by a Unitholder to the extent that the Responsible Entity incurs any liability for tax as a result of that Unitholder's action or inaction.

Restrictions on Unitholders

A Unitholder may not interfere with any rights or powers of the Responsible Entity nor exercise a right in respect of a Fund asset nor lodge a caveat or other notice affecting such an asset nor require an asset to be transferred to the Unitholder.

Powers of the Responsible Entity

The Responsible Entity has powers to invest, dispose of or otherwise deal with property, raise or borrow money and incur all types of obligations and liabilities. The Responsible Entity has appointed Merchant Funds Management Pty Ltd as Investment Manager to perform the operational and investment duties of the Fund.

Duties of the Responsible Entity

The Responsible Entity's duties as Responsible Entity are mainly contained in the Corporations Act. In exercising any power or discretion, the Responsible Entity must, subject to the Corporations Act, have regard to the interests of Unitholders.

The Responsible Entity must ensure that the Fund assets are valued at regular intervals appropriate to the nature of the assets. The Responsible Entity may determine valuation methods and policies for each of the Fund assets and change them from time to time. Unless the Responsible Entity otherwise determines, the value of an asset will be its market value.

Rights of the Responsible Entity

The Responsible Entity is entitled to be paid out of Fund assets the fees set out in **section 10** of the PDS. The right of the Responsible Entity to be paid fees is available only in relation to the proper performance by the Responsible Entity of its duties.

The Responsible Entity is entitled to be indemnified out of the Fund assets for all expenses incurred by the Responsible Entity in the proper performance of its duties in respect of the Fund. See **section 10** of the PDS for further information in relation to those expenses.

Change of Responsible Entity

The Responsible Entity may retire as permitted by law. The Responsible Entity must retire when required by law.

Indemnity of the Responsible Entity

The Responsible Entity is entitled to be indemnified out of the Fund's assets for any liability it incurs in properly performing any of its duties in relation to the Fund.

Winding up

The Fund will continue until the earliest of:

- the date specified by the Responsible Entity as the date of termination; or
- the date on which the Fund terminates in accordance with another provision of the Constitution or by law.

If the Fund is wound up, net proceeds of realization, after making allowance for all liabilities of the Fund and expenses of the termination, must be distributed to Unitholders in equal proportions.



Level 1
441 Stirling Highway
Cottesloe WA 6011

P: 08 6277 0050