

# Optimal Investment Growth Basket Limited

Registration Number: 42302

(the "Company")

## Privacy Notice

This Privacy Notice sets out how personal data is collected, processed and disclosed in connection with the Company and is issued by the Company as a data controller.

We take privacy and security of your information seriously and will only use such personal information as set out in this Privacy Notice. As a result of your investment (or an investment made by a person firm or entity with which you have a connection) in the Company, your personal information may be provided to the Company and/ or its agents, each of which may also act as independent data controllers. The Company may process your personal information or such data in respect of your directors, officers, employees or beneficial owners.

As the Company is incorporated in Guernsey, it is obliged to comply with the provisions of the Guernsey Data Protection Law. To the extent that data subjects are resident in the EEA, the Company will also be required to comply with the General Data Protection Regulation (EU 2016/679).

We reserve the right to amend this Privacy Notice at any time without notice, in which case the date of the policy will be revised.

### 1 Interpretation and Definitions

#### 1.1 For the purposes of this Application Form:

- 1.1.1 "**authorised third parties**" means any counterparty with whom the Company enters or is contemplating entering into a contract, agreement or arrangement in order to deliver the Services including the counterparty's officers, employees, sub-processors and sub-contractors authorised by the Company to provide the Services.
- 1.1.2 "**Controller Affiliate**" means each and any subsidiary, holding company or wholly-owned subsidiary of the Company, and "holding company", "subsidiary" and "wholly-owned subsidiary" shall have the same meanings given to them under section 531 of the Companies (Guernsey) Law, 2008 and for the avoidance of doubt includes Optimal Investment Growth Basket Limited "**Controller Affiliates**" which shall be construed accordingly.
- 1.1.3 "**Data Protection Law**" means the Directives and the Regulation (as amended or replaced from time to time), guidance, directions, determinations, codes of practice, circulars, orders, notices or demands issued by Data Protection Commissioner as defined under Guernsey Law, and any applicable national, international, regional, municipal or other data protection authority or supervisory authority or other data protection laws or regulations in any other territory in which the Services are provided or received or which are otherwise applicable and, in particular, the Guernsey DP Law.
- 1.1.4 "**Data Subject**" means the data subjects who are the subject of the Personal Information.
- 1.1.5 "**Directives**" mean the European Data Protection Directive (95/46/EC) and the European Privacy and Electronic Communications Directive (Directive 2002/58/EC).

- 1.1.6 "**Guernsey DP Law**" means the Data Protection (Bailiwick of Guernsey) Law, 2017 as amended and any successor legislation.
- 1.1.7 "**Personal Information**" means all personal data and information relating to or in connection with the Data Subject (including but not limited to such personal data as are provided by the Data Subject and/or Third Party Applicant pursuant to the Application Form and all client due diligence documentation required for anti-money laundering compliance) processed by the Company, the Controller Affiliates, the Administrator and/or authorised third parties.
- 1.1.8 "**Privacy Notice**" means this privacy notice.
- 1.1.9 "**Regulation**" means, on and from 25 May 2018, Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, as and when it becomes applicable.
- 1.1.10 "**Regulatory Requirements**" includes all legal and regulatory obligations, as more fully set out under paragraph 3.3 hereof, including but not limited to fiscal, taxation, anti-trust, anti-money laundering and terrorist financing and any other legal and regulatory obligations and duties conferred on the Company by an enactment or relevant court order.
- 1.1.11 "**Services**" means the services provided to the Company by the Administrator.
- 1.1.12 "**Third Country without Adequacy**" means any territory which does not offer an adequate level of protection for the rights and freedoms of data subjects which is equivalent to those data protection standards afforded within the Bailiwick of Guernsey or the European Economic Area. For the avoidance of doubt, a Third Country without Adequacy does not include a "designated jurisdiction" as such term is defined under the relevant Guernsey Law.
- 1.1.13 "**Third Party Applicant**" means an individual (being a natural person) or corporate legal body each acting on behalf of the Data Subjects.
- 1.1.14 "**data subject**", "**processing**", "**personal data**" and "**sensitive personal data**" (also known as "**special category data**") shall have the meanings attributed to them in the Data Protection Law and the term "personal data" shall be deemed to include "sensitive personal data"/"special category data".
- 1.1.15 A reference to a statute or statutory provision is a reference to it as amended, extended or, re-enacted from time to time (and for so long as it remains in force) and shall include all subordinate legislation.

## 2 Where we obtain your personal data:

- 2.1 Your personal data comprises the following categories:
  - 2.1.1 information obtained from identification documentation (including name, contact details, nationality and national identify numbers (where applicable));
  - 2.1.2 employment history, income and personal wealth;
  - 2.1.3 tax status and tax identification numbers;
  - 2.1.4 bank account details.
- 2.2 We primarily collect your personal data from the following sources:

2.2.1 from information which you or your authorised representative gives to us, including but not limited to:

- (a) information set out in any application form or subscription agreement with the Company;
- (b) such other forms and documents as we may request that are completed in relation to the administration/management of any investment in the Company;
- (c) client due diligence documentation as part of our regulatory requirements; and
- (d) any personal data provided by you by way of correspondence with us by phone, e-mail or otherwise;

2.2.2 personal data we receive from you or any third party sources which may include:

- (a) entities in which you or someone connected to you has an interest;
- (b) your legal and/or financial advisors;
- (c) other financial institutions who hold and process your personal data to satisfy their own regulatory requirements;
- (d) credit reference agencies and financial crime databases for the purposes of complying with our regulatory requirements; and
- (e) We also may use cookies and collect IP addresses (an IP address is a number that can uniquely identify a specific computer or other network device on the internet). We may use analysis software (Google Analytics or equivalent) to look at IP addresses and cookies for the purpose of enhancing your user experience. This data is not used to develop a personal profile of you and the log files are regularly purged. Please see our website privacy policy for more information, which is available at <https://www.apexgroup.com/investec-basket-information/> and is available in print on request.

2.3 We may also collect and process your personal data in the course of dealing with advisors, regulators, official authorities and service providers by whom you are employed or engaged or for whom you act.

### **3 Why we collect your Personal data:**

#### *Lawful grounds for processing:*

3.1 The Company is entitled to hold and process your personal data on the following lawful grounds:

- 3.1.1 the processing is necessary for the legitimate interests of the Company provided your interests and fundamental rights do not override those interests;
- 3.1.2 where the Investor is a natural person, the processing is necessary to comply with our respective contractual duties to you under the terms of our Application Form with you and all supplemental agreements thereto;

- 3.1.3 to comply with the legal and regulatory obligations of the Company;
- 3.1.4 (on exceptional occasions) where we have obtained your consent; and
- 3.1.5 (on rare occasions) where it is needed in the public interest.

Some of the grounds for processing described above will overlap and there may be several grounds which justify our use of your personal data.

*Inaccurate or Amended Information*

- 3.2 Please let us know if any of your personal data (including correspondence details) changes as soon as possible. Failure to provide accurate information or to update changed information may have a detrimental impact upon your investment, including the processing of any subscription or redemption instructions or the suspension of your account. Failure to provide information where the same is required for anti-money laundering, pursuant to automatic exchange of information agreements, or other legal requirements means that the Company may not, or may no longer, be able to accept you as an investor in the Company.

*Purposes of processing*

- 3.3 Pursuant to paragraph 3.1, the Company may process your personal data for the purposes set out below ("**Purposes**"). Those based wholly or partly on our legitimate interests are set out in paragraphs 3.3.1 to 3.3.6 inclusive:

- 3.3.1 conducting credit reference checks;
- 3.3.2 communicating with you as necessary in connection with your affairs and generally in connection with your investment in the Company;
- 3.3.3 operating the Company's IT systems, software and business applications;
- 3.3.4 supporting our IT and business applications support teams, accounting, legal, reporting, internal audit and risk management, administrative, transfer, document storage, record keeping and other related functions, including but not limited to processing personal data in connection with the Company;
- 3.3.5 monitoring and recording telephone and electronic communications and transactions:
  - (a) for quality, business analysis, training and related purposes in order to improve service delivery;
  - (b) for investigation and fraud prevention purposes, for crime detection, prevention, investigation and prosecution of any unlawful act (or omission to act); and
  - (c) to enforce or defend the Company's rights, or through third parties to whom we each may delegate such responsibilities or rights in order to comply with the legal or regulatory obligations imposed on each of us;

- 3.3.6 disclosing your personal data (including identity and interest in the Company) to any bank, financial institution or other third party lender providing any form of facility, loan, finance or other form of credit or guarantee to the Company;
- 3.3.7 detecting and preventing crime such as fraud, money laundering, terrorist financing, bribery, corruption, tax evasion and to prevent the provision of financial and other services to persons who may be subject to economic or trade sanction on an ongoing basis ("**Regulatory Assessments**");
- 3.3.8 facilitating the internal administration of the Company and retaining your personal data as part of our Regulatory Assessments or future services entered into by you;
- 3.3.9 liaising with or reporting to any regulatory authority (including tax authorities) with whom the Company is either required to cooperate or report to, or with whom it decides or deems appropriate to cooperate, in relation to an investment, and which has jurisdiction over the Company or its investments notwithstanding that such processing may be undertaken by a party who is located in a third country without the same or similar data protection laws as Guernsey or any EU member state (a "**Third Country without Adequacy**");
- 3.3.10 communicating with our professional advisers and auditors for the purposes of obtaining professional advice; and
- 3.3.11 conducting business analytics and diagnostics;

We will only use your personal information for the purposes for which we collected it unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose. If we need to use your personal information for an unrelated purpose, we will notify you and we will explain the legal basis which allows us to do so. Please note that we may process your personal information without your knowledge or consent, in compliance with the above rules, where these are required or permitted by law.

3.4 To the extent that such personal data contains special category data such as, for example: data relating to racial or ethnic origin, political opinion, religious or philosophical belief, trade union membership or criminal data then the processing of such data shall solely be for the purpose of complying with any duty imposed on the Company by an enactment including, but not limited to, legislation and regulatory obligations relating to Anti-Money Laundering and Combatting the Financing of Terrorism and all other related legislation.

3.5 The Company does not make decisions about you based on automated processing of your personal data.

#### 4 **Sharing personal data**

4.1 The Company may share your personal data with group companies and third parties (including administrators, banks, financial institutions or other third party lenders, IT service providers, auditors and legal professionals) under the terms of any appropriate delegation or contractual arrangement. Those authorised third parties may, in turn, process your personal data abroad

and may have to disclose it to foreign authorities to help them in their fight against crime and terrorism.

4.2 Data processing (as described above) shall be undertaken by:

4.2.1 the following entities/entity in the Bailiwick of Guernsey and the EEA:

1. Administrator
2. Banking providers
3. Asset management services
4. Auditing services
5. Fiduciary administration services
6. Treasury and cash management services
7. Consultancy services
8. Legal and professional services
9. Lending, borrowing, financial advice and guarantee services by finance, mortgage providers, lenders, borrowers, guarantors, or independent financial advisors
10. Tax advice and tax compliance services and fulfilling reporting obligations under FATCA/CRS requirements by tax advisers or VAT agents
11. Entity principals such as syndicate members/managers, parent Companies/subsidiaries, nominee shareholders, beneficial owners, shareholders, Directors, protectors, settlors, enforcers, limited/general partners, employers, trustees & secretaries
12. Regulatory functions by government bodies
13. Business introductions
14. Insurance arrangements
15. Arrangements for placing entities into liquidation or administration by liquidators or Administrators
16. Registered agents in respect of resident agent and registered office services

4.2.2 The following entities located outside the Bailiwick of Guernsey or the European Economic Area in a Third Country without Adequacy:

1. The investment adviser, Investec Corporate and Institutional Banking, a division of Investec Bank Limited, a company incorporated in the Republic of South Africa (Registration Number 1969/004763/06);
2. Listing Sponsor

4.3 The Administrator acts as data controller in respect of personal data provided by the Company or you for the purposes of ensuring compliance with Regulatory Requirements by the Company and the Administrator. A copy of the Administrator's privacy notice may be obtained from the Administrator.

This means that the country or countries to which we transfer your data are deemed or not deemed to provide an adequate level of protection for your personal information. However, to ensure that your personal data does receive an adequate level of protection we have put in place the following appropriate measure[s] to ensure that your personal information is treated by those third parties in a way that is consistent with and which respects the EU laws and the laws of the Bailiwick of Guernsey on data protection: If you require further information about this protective measure, you can request it from the Group Data Protection Officer at [dpo@apexfs.com](mailto:dpo@apexfs.com).

## **5 Retention of personal data**

5.1 Your personal data will be retained so long as required:

- 5.1.1 for the Company and/or any authorised third parties to carry out the Purposes for which the data was collected or as long as is set out in any relevant agreement you enter into with us);
- 5.1.2 in order to establish or defend legal rights or obligations or to satisfy any reporting or accounting obligations; and/or
- 5.1.3 any retention period that is required by Data Protection Laws and any applicable laws or regulatory requirements.

5.2 We endeavor to store your personal data securely on the Company's computer and/or manually in accordance with accepted market standards.

5.3 Whilst we have taken every reasonable care to ensure the implementation of appropriate technical and security measures, we cannot guarantee the security of your personal data over the internet, via email or via our websites nor do we accept, to the fullest extent permitted by law, any liability for any errors in data transmission, machine, software or operating error or any other cause.

## **6 Your rights**

6.1 You have, under certain circumstances, the following rights in respect of personal data:

- 6.1.1 the right to access and port personal data;
- 6.1.2 the right to rectify personal data;
- 6.1.3 the right to restrict the use of personal data;
- 6.1.4 the right to request that personal data is erased;
- 6.1.5 the right to object to processing of personal data; and
- 6.1.6 where the Company has relied on consent to process the personal data, the right to withdraw consent at any time by contacting us via the contact details below.

6.2 You also have the right to lodge a complaint with the Guernsey Data Protection Authority or a supervisory authority in the EU member state of your usual residence or place of work or of the place of the alleged breach if you consider that the processing of your personal data carried out by the Company or any service provider to the Company, has breached data protection laws. You may also appeal to certain courts against (i) any failure of the Guernsey Data Protection Authority to give written notice of whether the complaint is either being investigated or not being investigated and where applicable, the progress and the outcome of the investigation and (ii) a determination of the Guernsey Data Protection Authority not to

investigate the complaint or a determination that a controller or processor has not breached or is not likely to breach an operative provision in connection with the complaint.

In limited circumstances we may approach you for your written consent to allow us to process certain particularly sensitive data or to use data for another purpose. Where you may have provided your consent to the collection, processing and transfer of your personal data for a specific purpose, you have the right to withdraw your consent for that specific processing at any time. To withdraw your consent, please contact the Group Data Protection Officer at [dpo@apexfs.com](mailto:dpo@apexfs.com). Once we have received notification that you have withdrawn your consent, we will no longer process your information for the purpose or purposes you originally agreed to, unless we have another legitimate basis for doing so in law.

## **7 How to contact us:**

If you have any questions about our use of your personal data, our retention procedures or our security processes, please contact our Group Data Protection Officer at [dpo@apexfs.com](mailto:dpo@apexfs.com).

## **8 Changes to this Policy**

This Privacy Notice is dated 16 February 2023.