



*“Bringing Exchange Traded Commodities to the World’s Stock Exchanges”*

## **ETFS Industrial Metal Securities Limited**

*(Incorporated and registered in Jersey under the Companies  
(Jersey) Law 1991 (as amended) with registered number 106363)*

Prospectus for the issue of

### **ETFS Industrial Metal Securities**

including:

<b>Individual Securities</b>	<b>LSE Code</b>
ETFS Physical Aluminium	PHAL
ETFS Physical Copper	PHCU
ETFS Physical Lead	PHPB
ETFS Physical Nickel	PHNI
ETFS Physical Tin	PHSN
ETFS Physical Zinc	PHZN
<b>Basket Securities</b>	<b>LSE Code</b>
ETFS Physical IM Basket	PHIM

Any prospective investor intending to acquire or acquiring any securities from any Authorised Participant or other person (an “Offeror”) should be aware that, in the context of an offer to the public as defined in section 102B of the Financial Services and Markets Act 2000 (“FSMA”), the Issuer may be responsible to the prospective investor for the Prospectus under section 90 of FSMA, only if the Issuer has authorised that Offeror to make the offer to the prospective investor. Each prospective investor should therefore enquire whether the Offeror is so authorised by the Issuer. If the Offeror is not so authorised by the Issuer, the prospective investor should check with the Offeror whether anyone is responsible for the Prospectus for the purposes of section 90 of FSMA in the context of the offer to the public, and, if so, who that person is. If the prospective investor is in any doubt about whether it can rely on the Prospectus and/or who is responsible for its contents it should take legal advice.

**A prospective investor intending to acquire or acquiring any Industrial Metal Securities from an Offeror will do so, and offers and sales of the Industrial Metal Securities to a prospective investor by an Offeror will be made, in accordance with any terms and other arrangements in place between such Offeror and such prospective investor including as to price, allocations and settlement arrangements. The Issuer will not be a party to any such arrangements with prospective investors (other than with Authorised Participants) in connection with the offer or sale of the Industrial Metal Securities and, accordingly, this Prospectus does not and any Pricing Supplement will not contain such information and any prospective investor must obtain such information from the Offeror.**

The Issuer is currently making available for issue seven separate types of Industrial Metal Securities, being six classes of Individual Securities and one category of Basket Securities. The Individual Securities are designed to track the price of individual industrial metals (such as copper) and the Basket Securities will track the price of baskets of industrial metals (comprising some or all of the industrial metals). The Industrial Metal Securities are intended to provide investors with a return equivalent to movements in the spot price of the six Metals less the daily Management Fee, Storage Fee and Insurance Allowance.

Industrial Metal Securities will be secured by Warrants evidencing LME Physical Metal, at times Warehouse Receipts evidencing Warehouse Physical Metal, the Issuer’s rights (including its ownership rights) in respect of the physical Metal attributable to such Industrial Metal Securities and the Issuer’s rights in respect of cash in US dollars held in escrow representing Accrued Rents. In certain circumstances, a limited portion of the Issuer’s assets attributable to the Industrial Metal Securities may be represented by cash in US dollars or by TRS Transactions with the Metal Agent or an Authorised Participant. The Issuer has entered into a Metal Agent Agreement with Deutsche Bank AG, London branch (the “Metal Agent”) which governs certain transactional, custody and administrative services in relation to the Issuer’s Metal.

In order to provide liquidity and ensure minimal tracking error, Industrial Metal Securities can be Applied for or Redeemed at any time by Authorised Participants (subject to the Minimum Application Amount, the Minimum Redemption Amount, the Maximum Application Limit and the Maximum Redemption Limit). However, all other investors must buy and sell Industrial Metal Securities through trading on the London Stock Exchange (or other exchanges if Industrial Metal Securities are listed or traded thereon).

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## ETFS Industrial Metal Securities

Terms used in this Prospectus have the meanings given to them under the heading “Definitions and Interpretation”.

ETFS Industrial Metal Securities Limited (the “**Issuer**”) has established a programme under which Industrial Metal Securities, in the form of six classes of Individual Securities and one category of Basket Securities, are currently available for issue. The Issuer reserves the right to increase the number of Industrial Metal Securities that may be issued in any proportions. Whenever any Industrial Metal Securities are issued, notice of the number and type of such Industrial Metal Securities will be specified in a Pricing Supplement which will be delivered to the UK Listing Authority before such Industrial Metal Securities are issued.

The Industrial Metal Securities will be constituted by a Trust Instrument entered into between the Issuer and The Law Debenture Trust Corporation p.l.c. (the “**Trustee**”) as trustee for the Security Holders of the Industrial Metal Securities of each type. Industrial Metal Securities are debt securities which have no specified maturity date and do not bear interest.

The assets of the Issuer relating to each separate class of Individual Securities (and Basket Securities to the extent they comprise Individual Securities of that class) are pooled, so that all assets relating to a particular class of Individual Securities (and Basket Securities to the extent they comprise Individual Securities of that class) are available to secure all liabilities relating to that class. A separate Security Deed applies to each Pool. If the net proceeds from the enforcement of the relevant Secured Property for a Pool are not sufficient to meet all obligations and make all payments then due in respect of that Pool, the obligations of the Issuer will be limited to such net proceeds, and the other assets of the Issuer will not be available to meet any shortfall. The Issuer will not be obliged to make any transfer or payment in excess of such net proceeds and no debt shall be owed by the Issuer in respect of such shortfall.

Under Security Deeds between the Trustee and the Issuer with respect to each Pool, the Issuer has granted to the Trustee, as trustee for the holders of each relevant class of Individual Security (and Basket Securities to the extent they comprise Individual Securities of that class), security in the form of a floating charge over all the assets of the Issuer attributable to the relevant Pool, including Warrants evidencing LME Physical Metal, Warehouse Receipts evidencing Warehouse Physical Metal and certain bank balances, as well as an assignment by way of security of its rights under the Metal Agent Agreement, in each case insofar as relates to the relevant Pool.

A copy of this document, which comprises a base prospectus relating to the Industrial Metal Securities of each type in compliance with Article 3 of Directive 2003/71/EC, as in force as at the date hereof, and the prospectus rules made under sections 73A and 84 of the Financial Services and Markets Act 2000, as amended as at the date hereof, has been filed with the FSA and made available to the public for the purposes of section 85 of that Act and in accordance with Article 14 of Directive 2003/71/EC and Rule PR3.2 of those prospectus rules. Industrial Metal Securities will be available to be issued on a continuous basis during the period of 12 months from the date of this document.

Application has been made to the UK Listing Authority for all Industrial Metal Securities issued within 12 months of the date of this document to be admitted to the Official List, and to the London Stock Exchange for all such Industrial Metal Securities to be admitted to trading on the Main Market (being part of the London Stock Exchange’s Regulated Market for the purposes of EU Directive 2004/39/EC (the Markets in Financial Instruments Directive)).

Certain of the Industrial Metal Securities are also listed or traded on certain other markets - see “Passporting” in Part 3 (*The Programme*).

Applications for new Industrial Metal Securities may only be made by Authorised Participants. Industrial Metal Securities may only be redeemed by Authorised Participants (except where there are no Authorised Participants or as otherwise announced by the Issuer). All other investors must buy and sell Industrial Metal Securities on the London Stock Exchange (or other exchanges if Industrial Metal Securities are listed or traded thereon). The procedures for applying for and redeeming Industrial Metal Securities are set out in this document.

The Industrial Metal Securities have not been and will not be registered under the United States Securities Act of 1933 (the “**Securities Act**”), as amended, or under the securities laws of any states of the United States. Except in a transaction exempt from the registration requirements of the Securities Act and applicable United States securities laws, the Industrial Metal Securities may not be directly or indirectly offered, sold, taken up, delivered or transferred in or into the United States.

A copy of this document has been delivered to the Jersey Registrar of Companies in accordance with Article 5 of the Companies (General Provisions) (Jersey) Order 2002 as amended, and he has given, and has not withdrawn, his consent to its circulation. The Jersey Financial Services Commission has given, and has not withdrawn, its consent under Article 3 of the Collective Investment Funds (Unclassified Funds) (Prospectuses) (Jersey) Order 1995 to the marketing of Industrial Metal Securities by means of this document. It must be distinctly understood that, in giving these consents, neither the Jersey Registrar of Companies nor the Jersey Financial Services Commission takes any responsibility for the financial soundness of the Issuer or for the correctness of any statements made, or opinions expressed, with regard to it.

The Issuer accepts responsibility for the information contained in this document. To the best of the knowledge and belief of the Issuer, which has taken all reasonable care to ensure that such is the case, the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information.

The previous paragraph should be read in conjunction with the first paragraph on the first page of this Prospectus.

**An investment in Industrial Metal Securities involves a significant degree of risk. In addition to the other information contained in this document the risk factors set out under the heading “Risk Factors” below should be carefully considered by prospective investors before deciding whether to invest in Industrial Metal Securities.**

**Nothing in this document or anything communicated to holders or potential holders of the Industrial Metal Securities or other obligations by the Issuer is intended to constitute or should be construed as advice on the merits of the purchase of or subscription for the Industrial Metal Securities or the exercise of any rights attached thereto for the purposes of the Jersey Financial Services (Jersey) Law 1998, as amended.**

**It should be remembered that the price of Industrial Metal Securities can go down as well as up.**

Prospective Security Holders should obtain their own independent accounting, tax and legal advice and should consult their own professional investment advisers to ascertain the suitability of Industrial Metal Securities as an investment, and should conduct such independent investigation and analysis regarding the risks, security arrangements, delivery processes and cash-flows associated with Industrial Metal Securities as they deem appropriate, in order to evaluate the merits and risks of an investment in Industrial Metal Securities.

None of the Issuer, the Authorised Participants, or the Metal Agent makes any representations as to (i) the suitability of any Industrial Metal Securities for any particular investor; (ii) the appropriate accounting treatment or possible tax consequences of an investment in any Industrial Metal Securities; or (iii) the expected performance of any Industrial Metal Securities, either in absolute terms or relative to competing investments.

If at any time the Issuer shall be required to prepare a supplementary prospectus pursuant to section 87G of the Financial Services and Markets Act 2000, the Issuer will either prepare and make available an appropriate amendment or supplement to this document which shall constitute a supplementary prospectus as required by section 87G of that Act or prepare and make available a further base prospectus in compliance with Article 3 of Directive 2003/71/EC and the Prospectus Rules.

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## SUMMARY

# ETFS Industrial Metal Securities Limited

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### Prospectus Summary

*This summary, which relates to the base prospectus of ETFS Industrial Metal Securities Limited dated 29 June 2012 (the “**Prospectus**”), should be read as an introduction to the Prospectus and any decision to invest in the Industrial Metal Securities should be based on consideration of the Prospectus as a whole by the investor. Where a claim relating to the information contained in a prospectus is brought before a court, the plaintiff investor might, under the national legislation of the EEA States, have to bear the costs of translating the prospectus before the legal proceedings are initiated. Civil liability attaches to those persons who are responsible for the summary including any translation of the summary, but only if the summary is misleading, inaccurate or inconsistent when read together with the other parts of the prospectus.*

ETFS Industrial Metal Securities Limited (the “**Issuer**”) intends to issue, from time to time, seven different types of securities, all collectively called ETFS Industrial Metal Securities (“**Industrial Metal Securities**”).

Industrial Metal Securities will be secured by Warrants evidencing LME Physical Metal, at times Warehouse Receipts evidencing Warehouse Physical Metal, the Issuer’s rights (including its ownership rights) in respect of the physical Metal attributable to such Industrial Metal Securities and the Issuer’s rights in respect of cash in US dollars held in escrow representing Accrued Rents. In certain circumstances, a limited portion of the Issuer’s assets attributable to the Industrial Metal Securities may be represented by cash in US dollars or by TRS Transactions with the Metal Agent or an Authorised Participant. The Industrial Metal Securities are intended to offer investors a means of investing in physical industrial metals (“**Metals**”) without the necessity of taking delivery, and to buy and sell that interest through the trading of a security on a stock exchange.

Industrial Metal Securities will be admitted to trading on the London Stock Exchange.

#### **The Metals Market**

Metals can be traded directly in physically settled transactions between producers, consumers and financial intermediaries at agreed prices based on quantity, grade and place of delivery. Metal can also be traded in the “over the counter” market or on exchanges via futures and options, which can either be physically or cash settled.

The Industrial Metal Securities are designed to operate in conjunction with the established practices of the LME – the world’s largest exchange for industrial metals. The LME allows for cash trading, and offers hedging, worldwide reference pricing and physical settlement (via Warrants). Commodities traded on the LME include aluminium, aluminium alloy, copper, lead, nickel, tin and zinc. Trades on the LME are in futures, options and traded average price contracts (a form of Asian option). Only LME Members may trade on the LME and trading takes place through a variety of methods. The LME plays an important role in price discovery and its official prices are used by a wide variety of market participants.

Trades on the LME may be closed out or settled in cash or physically in the form of Warrants, which evidence ownership of a specific lot of Metal that meets the relevant LME Standards and is stored in an Approved Warehouse. Warrants are also traded in the “over the counter” market and can trade at a premium to the LME Cash Settlement Price.

#### **Industrial Metal Securities**

An Industrial Metal Security is an undated secured limited recourse debt obligation of the Issuer. A Security Holder (provided it is an Authorised Participant) is entitled to redeem Industrial Metal Securities for an amount of LME Physical Metal represented by a whole number of Warrants, cash proceeds in

respect of the portion of the Metal Entitlement that cannot be delivered as a whole Warrant and cash equal to the Accrued Rent on the Warrants delivered. The Issuer and the Metal Agent will select the particular Warrants to be delivered for a Redemption and the aggregate weight of the Metal in those Warrants will determine the precise number of Industrial Metal Securities redeemed for Metal.

Seven types of Industrial Metal Security are currently available for issue under this Programme: ETFS Physical Aluminium, ETFS Physical Copper, ETFS Physical Lead, ETFS Physical Nickel, ETFS Physical Tin, ETFS Physical Zinc and ETFS Physical IM Basket Securities.

The Metal Entitlement, the LME Cash Settlement Price and the Price of each class of Individual Security calculated as at 26 June 2012 are shown the table below:

<b>Individual Security</b>	<b>Metal Entitlement (Tonnes)</b>	<b>LME Cash Settlement Price (US\$/tonne)</b>	<b>Price per Individual Security (US\$)</b>
ETFS Physical Aluminium	0.045557380	US\$1,810.50	US\$82.48
ETFS Physical Copper	0.004816430	US\$7,347.00	US\$35.39
ETFS Physical Lead	0.045855211	US\$1,768.00	US\$81.07
ETFS Physical Nickel	0.004876061	US\$16,255.00	US\$79.26
ETFS Physical Tin	0.004887580	US\$18,600.00	US\$90.91
ETFS Physical Zinc	0.045534845	US\$1,794.50	US\$81.71

The Metal Entitlement of the Basket Securities is the aggregate of the Metal Entitlements of the Individual Securities of which they are comprised. New Industrial Metal Securities will be issued and existing Industrial Metal Securities will be redeemed at the then prevailing Metal Entitlement, thereby ensuring that all Industrial Metal Securities of the same type have the same Metal Entitlement and are fully fungible.

#### **Storage of Metal and the Metal Agent**

Storing Metal incurs a Warehouse Fee, which accrues in US cents per tonne per day. The Issuer intends initially to hold only LME Physical Metal, which can be used for the settlement of LME futures contracts, but may elect to hold some (but not all) of its Metal as Warehouse Physical Metal to reduce Warehouse Fees or ensure compliance with LME Lending Guidance. A liability to pay Warehouse Fees accrues in respect of all Metal, whether in the form of LME Physical Metal or Warehouse Physical Metal. For LME Physical Metal, the Warehouse Fee accrues from 1 April until 31 March of the following year and the holder of the Warrant at the end of that period pays the Warehouse Fee to the Approved Warehouse. When LME Physical Metal is purchased the seller pays to the buyer an amount in US dollars in respect of the Accrued Rent. For Warehouse Physical Metal, the payment schedule and terms are negotiated directly with the individual Approved Warehouse.

All Metal will be held in Approved Warehouses. The Issuer will only hold Warehouse Physical Metal if it is satisfied that such holding will not adversely impact the Issuer's ability to effect Redemptions and the storage of Warehouse Physical Metal meets certain criteria or if it is required to do so in order to satisfy the LME Lending Guidance. The Issuer's Warrants will be held at the Depository and recorded electronically in the Issuer's LMEsword Account. The Issuer's Warehouse Receipts evidencing Warehouse Physical Metal will be held physically in custody in the Secure Vault by the Metal Agent.

Deutsche Bank AG, London branch is the initial sole Metal Agent and will provide certain transactional, custody and administrative services in relation to physical Metal, Warrants and Warehouse Receipts. The Metal Agent will administer the Issuer's holding of Metal including monitoring compliance with the LME Lending Guidance and in connection therewith will purchase LME Physical Metal from the Issuer and sell at least the same amount back on a tom/next basis and administer the process of taking Metal off Warrant and/or putting Metal on Warrant. To the extent that the Issuer holds Warehouse Physical Metal, the Metal Agent will keep the Issuer's Warehouse Receipts for such Warehouse Physical Metal in safe custody. The Metal Agent will also subscribe for Residual Securities arising from any Application or Redemption of Industrial Metal Securities where agreed with the relevant Authorised Participant and will also purchase Metal from the Issuer in certain circumstances including on a Compulsory Redemption of Industrial Metal Securities.

The Issuer has agreed not to appoint any other Metal Agent for a period of at least two years from 6 December 2010. **The Issuer is not obliged to appoint any other Metal Agent and it is not the Issuer's intention to appoint other Metal Agents for the purposes of spreading risk.**

### Annual Rental Fee and Storage Fee

The terms of the Industrial Metal Securities permit the Issuer to determine an Annual Rental Fee (which may be varied by the Issuer from time to time) on a cents per tonne per day basis, and for the resultant Storage Fee to be deducted from the Metal Entitlement daily. The Storage Fee is a function of the Annual Rental Fee divided by the LME Cash Settlement Price and will vary daily.

The following table shows the Annual Rental Fee and the Storage Fee for each type of Metal as at 26 June 2012 and the LME Cash Settlement Price as at 26 June 2012 (being the date by reference to which the Storage Fee has been calculated):

<b>Metal</b>	<b>Annual Rental Fee (cents/tonne/day)</b>	<b>LME Cash Settlement Price (US\$/tonne)</b>	<b>Storage Fee (Annual Rental Fee/Price)</b>
Aluminium	45	US\$1,810.50	8.76% p.a.
Copper	41	US\$7,347.00	1.99% p.a.
Lead	41	US\$1,768.00	7.90% p.a.
Nickel	49	US\$16,255.00	1.05% p.a.
Tin	46	US\$18,600.00	0.86% p.a.
Zinc	42	US\$1,794.50	8.15% p.a.

The Metal Agent has agreed to meet the Issuer's liabilities for, and manage, all payments of Warehouse Fees to Approved Warehouses in consideration for receiving the Storage Fee. The Metal Agent's obligation to pay the accrued Warehouse Fees will be collateralised by cash in US dollars held in the Escrow Account (subject to a *de minimis* threshold of US\$2,500,000). The Issuer will sell daily and the Metal Agent will buy daily an amount of Metal equal to that day's accrued Storage Fee, Management Fee and Insurance Allowance and will settle such sales by transfer to the Metal Agent at the end of each month of a whole number of Warrants evidencing Metal equivalent to the accumulated unsettled Storage Fee, Management Fee and Insurance Allowance.

### Application and Redemption

Industrial Metal Securities can be Applied for or Redeemed on any Business Day by Authorised Participants in exchange for LME Physical Metal delivered in the form of whole Warrants, subject to conditions. The Application and Redemption mechanism is intended to ensure that the Industrial Metal Securities have sufficient liquidity and that the price at which they trade on the London Stock Exchange tracks (subject to the deduction of the daily Management Fees, Insurance Allowance and Storage Fees) the relevant LME Cash Settlement Price for the relevant Metal. Applications and Redemptions for Industrial Metal Securities can generally only be made by an Authorised Participant – all other persons must buy and sell Industrial Metal Securities through trading on a stock exchange.

An Industrial Metal Security will only be issued upon receipt of a valid Application Form and after the Warrants evidencing at least the required weight of Metal have been transferred to the Issuer's LMEsword Account. The Applicant will also be obliged to pay in to the Metal Agent Account for value on the date of issue an amount equal to the Accrued Rent in respect of the Warrants so transferred. An Industrial Metal Security will only be cancelled upon receipt of a valid Redemption Form and the delivery of the relevant Industrial Metal Securities to the Registrar on the Settlement Date.

### Security Structure

The Issuer has separate Pools of assets so that the Issuer can issue separate types of securities, based on different types or combinations of metal or having some other different characteristics, but on terms that each such separate class of securities would have recourse only to the Pool attributable to that class and not to the assets attributable to any other class. The assets and liabilities attributable to each class of Individual Security (and the Basket Securities to the extent they comprise such Individual Securities) will represent the Pool for that class.

Thus there are six separate Pools applicable to Industrial Metal Securities. A single Pool secures all Individual Securities of a single class and all Basket Securities to the extent they comprise such Individual Securities.

The Industrial Metal Securities are constituted by a Trust Instrument entered into between the Issuer and The Law Debenture Trust Corporation p.l.c. (the “Trustee”) as trustee for the Security Holders of each type. The Trustee holds all rights and entitlements under the Trust Instrument on trust for the Security Holders. In addition, the Issuer and the Trustee have entered into a separate Security Deed in respect of each Pool. The rights and entitlements held by the Trustee under each Security Deed are held by the Trustee on trust for the Security Holders of that particular class of Industrial Metal Security.

### **Administration**

ETFS Management Company (Jersey) Limited (“ManJer”), an affiliate of the Issuer, will supply, or arrange the supply of, all management and administration services to the Issuer and will pay the management and administration costs of the Issuer, including the fees of the Trustee and the Metal Agent, in return for which the Issuer will pay ManJer a Management Fee. The Management Fee is currently 0.69 per cent. per annum for all classes of Individual Securities.

The Issuer will also pay the Insurance Allowance to ManJer which it will use towards payment of the costs of insuring the Metal (with any difference being payable by or retained by ManJer). The Insurance Allowance is currently 0.01 per cent. per month for all classes of Industrial Metal Securities.

The Management Fee and the Insurance Allowance will be reflected in the adjustments to the Metal Entitlement each day and settled monthly as described under “Annual Rental Fee and Storage Fee” above.

### **Risk Factors**

Past performance is not an indication of expected performance and the investment performance of Industrial Metal Securities could be volatile.

An investment in Industrial Metal Securities involves a significant degree of risk. The following are just some of the risk factors which should be carefully considered by prospective investors before deciding whether to invest in Industrial Metal Securities:

- Metal prices, and therefore the value of Industrial Metal Securities, may fluctuate widely. As Industrial Metal Securities are priced in US dollars their value in other currencies will also be affected by exchange rate movements.
- Metal markets have the potential to suffer from market disruption or volatility caused by shortages of physical Metal. Such events could result in a spike in Metal Prices. Price spiking can also result in volatile forward prices rates, which could result in the bid-offer spread on any exchange where Industrial Metal Securities are traded widening, reflecting short-term forward rates in the relevant Metal.
- Supply and demand for Warrants may differ from investor expectations as to the supply and demand for any type of Metal. Historically, certain types of Metals have suffered from relatively limited liquidity in respect of Warrants. If the supply of Warrants is limited, then the LME Cash Settlement Price may be affected. Furthermore, limited liquidity with respect to Warrants may adversely affect the ability of Authorised Participants to apply for Industrial Metal Securities, which in turn could affect the price of Industrial Metal Securities.
- At any time, the price at which the Industrial Metal Securities trade on the London Stock Exchange (or any other exchange on which they may be listed or traded) may not track accurately the price of Metal represented by such Industrial Metal Securities less the daily Storage Fee (which may be substantial), Management Fee and Insurance Allowance.
- Access to the warehouse premises of the Approved Warehouses could be restricted by natural events, such as flooding, or human actions, such as terrorist attack.
- The Issuer has purchased insurance on each of the Metals stored in the Approved Warehouse. There are exclusions under the Issuer’s insurance including for loss or damage caused by war,



terrorism, cyber-attack, radioactive contamination, chemical, biological, biochemical, and electromagnetic weapons, and access to the Metal that is impaired or rendered impossible by forces of nature (such as earthquake or flood) and such insurance is subject to a deductible limit and a loss limit in respect of any one location. The Issuer's insurance coverage may not be adequate to cover all losses.

- Investors are dependent on there being Authorised Participants making a market in Industrial Metal Securities in order to minimise tracking error and to provide investors with liquidity.
- There are certain circumstances in which an early Redemption of Industrial Metal Securities may be imposed on investors, which may result in an investment in Industrial Metal Securities being redeemed earlier than desired.
- In certain circumstances the Issuer has the right to suspend the right to Redeem Industrial Metal Securities including where the Issuer in its reasonable discretion considers it necessary and in the interests of Security Holders to do so, and may terminate any such suspension.
- In certain circumstances, a limited portion of the Issuer's assets attributable to the Industrial Metal Securities may be represented by cash in US dollars or by TRS Transactions with the Metal Agent or an Authorised Participant. Failure by the Metal Agent or Authorised Participant to comply with its obligations under a TRS Transaction may result in loss to Security Holders.
- In certain events affecting particular Warrants (such as insolvency of the producers of the relevant Metal or events affecting an Approved Warehouse) such Warrants may cease to be acceptable for settlement purposes on the LME Market. In such circumstances there may be difficulties in selling the Metal represented by such Warrants.

See "Risk Factors" in the Prospectus.

## RISK FACTORS

*An investment in Industrial Metal Securities involves a significant degree of risk. Prior to making an investment decision, prospective investors should carefully read the entire Prospectus. In addition to the other information contained in this document, the following risk factors, which constitute all of the principal risks known to the Issuer, should be carefully considered by prospective investors before deciding whether to invest in Industrial Metal Securities. A Security Holder may lose some or all of their investment in Industrial Metal Securities for reasons other than those set out below (for example, reasons not currently considered by the Issuer to be material or based on circumstances or facts of which the Issuer is not currently aware).*

### **Metal Prices**

Metal prices generally may fluctuate widely and may be affected by numerous factors, including:

- global or regional political, economic or financial events and situations, particularly war, terrorism, expropriation and other activities which might lead to disruptions to supply from countries that are major Metal producers;
- global industrial metal supply and demand, which is influenced by such factors as exploration success, mine production, smelting capacity and net forward selling activities by metal producers, investment demand and industrial demand, net of any recycling;
- financial activities including investment trading, hedging or other activities conducted by large trading houses, producers, users, hedge funds, commodities funds, governments or other speculators which could impact global supply or demand; and
- financial market factors such as investors' expectations with respect to the future rates of inflation, movements in world equity, financial and property markets, interest rates and currency exchange rates, particularly the strength of and confidence in the US dollar.

Adverse movements in the price of Metals may negatively affect the return to Security Holders.

### **Shortages of Physical Metal and Effect on Metal Prices**

Metal markets have the potential to suffer from market disruption or volatility caused by shortages of physical Metal. Such events could result in a spike in Metal prices. For example, between May 2002 and July 2005 the reported total supply stock of copper fell by 95 per cent., and the price of copper rose by 450 per cent. to a peak in May 2006. Price spiking can also result in volatile forward prices, which could result in the bid-offer spread on any stock exchange or market where Industrial Metal Securities are traded widening, reflecting short-term forward rates in the relevant Metal. This may adversely affect the return to Security Holders.

### **Effect of activity associated with issue and Redemption of Industrial Metal Securities and associated with other Exchange Traded Vehicles on Metal Prices**

Purchasing activity associated with acquiring the physical Metal required for an Application, or to support the creation of units in any other exchange-traded vehicles tracking Metal markets that may be launched, may cause the market price for Metal of any type to rise. Sales of Metal received on Redeeming Industrial Metal Securities, or on the redemption or cancellation of units in any other exchange-traded vehicles tracking Metal markets that may be launched, may cause the market price for Metal of any type to fall. Other market participants may attempt to benefit from such changes in the price for Metal of any type that may result from such activities by selling Metal (in the case of a rise) or buying Metal (in the case of a fall). Consequently, the market prices of Metals may fluctuate and this may adversely affect the return to Security Holders.

### **The LME Cash Settlement Price**

Metal is traded directly between producers and consumers as well as on the LME. As a result, not all Metal is the subject of a Warrant. The LME Cash Settlement Price is determined by a number of factors, including, in part, by the amount of industrial metal available for trading on the LME. That amount may differ significantly from the reported total supply stock of such Metal and from investor expectations on

supply and demand. Investors must take care to consider all of the factors that affect the LME Cash Settlement Price.

### **Effect of the Total Fee on the Metal Entitlement**

Because in the ordinary course no income will be generated by the Issuer's ownership of Metal, it needs to sell Metal to meet the Storage Fee, the Management Fee and the Insurance Allowance. Although ManJer has agreed to pay the ordinary expenses of the Issuer (other than the Storage Fee, the Management Fee and the Insurance Allowance), any taxes and other governmental charges that may be imposed on the Issuer's Metal will not be paid by ManJer and ManJer does not assume any risk of loss of or damage to any of the Issuer's property. The only source of funds available to the Issuer to meet any of those costs or liabilities would be sales of Metal held by the Issuer. Even if, as the Issuer expects, there are no other such expenses or liabilities, the Issuer still needs to sell Metal to the Metal Agent to pay the Storage Fee, the Management Fee and the Insurance Allowance. The result of these sales is a daily decrease in the Metal Entitlement of each Industrial Metal Security. Unless the Metal price increases, the result of a falling Metal Entitlement may be expected to cause a similar fall in the market price of an Industrial Metal Security; accordingly Industrial Metal Securities are likely only to retain their value if the market price of the relevant Metal(s) increases, and without such an increase the return to Security Holders will be adversely affected and investors will lose part of the value of their investment.

### **Currency**

Metal Prices are generally quoted in US dollars and the price of Industrial Metal Securities will be quoted on the London Stock Exchange in US dollars. To the extent that a Security Holder values Industrial Metal Securities in another currency, that value will be affected by changes in the exchange rate between the US dollar and that other currency.

### **Tracking Error and Liquidity Risk**

At any time, the price at which Industrial Metal Securities trade on the London Stock Exchange (or any other exchange or market on which they may be listed or traded) may not reflect accurately the price of Metal represented by such Industrial Metal Securities. The Application and Redemption procedures for Industrial Metal Securities and the role of certain Authorised Participants and market-makers are intended to minimise this potential difference or "tracking error". However, the following factors might result in such "tracking error":

- The price of the Metal represented by the Industrial Metal Securities is the LME Cash Settlement Price. This price is an intra-day trading price and does not include any costs associated with the ownership and storage of Metals (which may be substantial). As explained in more detail below, the storage of industrial metal will incur a Storage Fee, which will be deducted from the Metal Entitlement. This deduction will in turn reduce the value of the Industrial Metal Securities and cause a difference between the price of the Industrial Metal Securities and the price of the Metal represented by such Industrial Metal Securities.
- The market price of Industrial Metal Securities will be a function of supply and demand amongst investors wishing to buy and sell Industrial Metal Securities and the bid-offer spread that market-makers are willing to quote for Industrial Metal Securities.
- In addition, if new demand for Industrial Metal Securities exceeds the availability of the Warrants required to create such new Industrial Metal Securities, then the issue of new Industrial Metal Securities will be restricted and therefore Industrial Metal Securities may trade at a premium. Furthermore, Maximum Application Limits may limit the number of Industrial Metal Securities that may be Applied for on a particular day. Since the Maximum Application Limit relating to the Metal Agent is expressed as a percentage of the number of Warrants available for trading on a given day ("**Live Warrants**"), a reduction in the number of Live Warrants may result in a reduction of the number of Industrial Metal Securities of the relevant type that may be Applied for on each day. Any limitation on the ability of an Authorised Participant to Apply for Industrial Metal Securities may result in such Industrial Metal Securities trading at a premium. Investors who pay a premium risk losing the premium if liquidity in Warrants improves, demand for Industrial Metal Securities abates or when new Industrial Metal Securities are issued.

- Maximum Redemption Limits apply limiting the number of Industrial Metal Securities of any type that may be Redeemed on a particular day. Since the Maximum Redemption Limit relating to the Metal Agent is expressed as a percentage of the Live Warrants available for trading on a given day, a reduction in the number of Live Warrants may result in a reduction in the number of Industrial Metal Securities of the relevant type that may be Redeemed on each day. Any limitation on the ability of an Authorised Participant to Redeem Industrial Metal Securities may result in such Industrial Metal Securities trading at a discount.
- Investors are dependent on there being at least one Authorised Participant making a market in Industrial Metal Securities in order to minimise tracking error and to provide investors with liquidity. Barclays Bank plc, Barclays Capital Securities Limited and Deutsche Bank AG, London Branch are the Authorised Participants as at the date of this Prospectus. The Issuer has agreed to use reasonable endeavours to ensure that at all times there is at least one Authorised Participant. In the event that there were no Authorised Participants, the liquidity of the Industrial Metal Securities may be limited, which could adversely affect their market price. In addition were one or more Authorised Participants having substantial interests in Industrial Metal Securities or otherwise responsible for a significant portion of the trading volume in Industrial Metal Securities of any type in the secondary market to withdraw from participation, the liquidity of the Industrial Metal Securities may decrease which could adversely affect their market price.
- Industrial Metal Securities were first issued in December 2010 and have a limited trading record. There can be no assurance as to the depth of the secondary market (if any) in Industrial Metal Securities, which could affect their liquidity and market price.

### **General Market Risk**

General movements in local and international markets and factors that affect the investment climate and investor sentiment could all affect the level of trading and, therefore, the market price of Industrial Metal Securities. These risks are generally applicable to any investment in listed securities. Investors should note that general movements in markets and factors that affect the investor climate and investor sentiment may have different effects on each class of Industrial Metal Securities. Investors should be aware that Industrial Metal Securities can go down in price as well as up and investors may lose the value of all or part of their investment.

### **Storage of Physical Metal**

Neither the Issuer nor the Metal Agent owns any warehouse facilities and, as a result, all of the physical Metal backing the Industrial Metal Securities will be held by one or more Approved Warehouses that are not affiliated with either the Issuer or the Metal Agent. As a result, neither the Issuer nor the Metal Agent will have direct control over the actions of any Approved Warehouse, and neither the Issuer nor the Metal Agent will have responsibility for the actions of any Approved Warehouse.

The Issuer takes delivery of Warrants without any prior notice of or control over the location of the Approved Warehouse holding the physical Metal evidenced by such Warrants (although all Warrants to be delivered in settlement of an Application must meet certain requirements as specified for the purposes of the applicable Authorised Participant Agreement). The Issuer's Metal may be held in Approved Warehouses located in a wide variety of countries, including countries that face heightened levels of political or judicial risk.

The Metal could be lost, stolen or damaged while stored in an Approved Warehouse. Access to Metal could be restricted by natural events, such as flooding, or human actions, such as terrorist attack.

Any loss, theft or damage to the Issuer's Metal may result in a delay in Redeeming Industrial Metal Securities and, depending on the extent to which such Metal is made good or insurance recoveries are made, may result in Security Holders not recovering their full entitlement on Redemption.

Further details regarding the custody of the physical Metal are set out in Part 1 (*Description of Industrial Metal Securities*).

See also "Nature of the Security Granted to the Trustee" below.

### **Insurance in respect of Physical Metal**

The Issuer has obtained insurance to insure its Metal (whether evidenced by Warrants or Warehouse Receipts) against risks of loss or damage (including loss or damage caused by fire, lightning, explosion, impact or crash of aircrafts, windstorm, hail, flood, earthquake, volcanic eruption, land subsidence and landslide, snow pressure, avalanches, sprinkler, effusion or spray fire-extinguishing systems, theft, burglary, robbery within the place of insurance, robbery during transport, vandalism after burglary, vehicle impact, smoke, domestic riots, malicious damaging, strike or lockout). This is subject to common exclusions including for loss or damage caused by war, terrorism, cyber-attack, radioactive contamination, chemical, biological, biochemical, and electromagnetic weapons, and access to the Metal that is impaired or rendered impossible by forces of nature (such as earthquake or flood).

The Issuer's insurance is subject to a deductible limit of US\$100,000 in respect of each and every loss, and to a loss limit of US\$100,000,000 on any one location in respect of each and every loss (one location being each warehouse or place of storage or complex of buildings constituting one set of premises). The Issuer intends to monitor the value of its Metal held at each location and where it considers it in its discretion reasonable to do so may procure additional insurance (at additional cost) if the value of its Metal held at any one location should exceed US\$100,000,000.

The insurance policy obtained by the Issuer is for one year to 30 November 2012 (or earlier claim, subject to a right to reinstate cover) and there can be no assurance that cover will be available thereafter. At any time when any existing insurance policy falls due for renewal and at any other time when the Issuer considers it appropriate, the Issuer will consider in its discretion whether to maintain cover or to continue to maintain cover is appropriate and as to the appropriate amounts of cover and appropriate deductible amounts, but the Issuer is under no obligation to maintain or renew such insurance, or to maintain cover in the above or any other amount. To the extent that changes have been made to the terms of its insurance cover that the Issuer considers significant in the context of the Industrial Metal Securities, the Issuer intends to make an announcement through a RIS as soon as reasonably practicable.

The Issuer intends that the Insurance Allowance should broadly reflect the cost to it of maintaining insurance. The nature of the insurance market and the basis on which insurance premia are calculated may however mean that from time to time there may be divergences between the Insurance Allowance and the cost to the Issuer of maintaining its insurance policies. If the Insurance Allowance is amended, such amendment will be notified through a RIS as soon as reasonably practicable prior to such amendment becoming effective.

If the Issuer suffers a loss that is not covered by any insurance, or which falls below any deductible limits or above any single event or aggregate limit, the ability of the Issuer to satisfy its obligations under the Industrial Metal Securities may be adversely impacted.

### **Warrants may cease to be deliverable**

In certain events affecting particular Warrants (such as insolvency of the producers of the relevant Metal or events affecting an Approved Warehouse or Metal stored therein, including natural disasters or theft at such an Approved Warehouse or insolvency of the Approved Warehouse) such Warrants may cease to be acceptable for settlement purposes on the LME Market. In such circumstances it may not be possible to sell or transfer (on Redemption of Industrial Metal Securities or otherwise) the LME Physical Metal represented by such Warrants in a timely manner or at all, or sale may be possible only at a price lower than the LME Cash Settlement Price. This may adversely affect the ability of a Security Holder to Redeem Industrial Metal Securities.

In addition if no other steps were taken by the Issuer in relation to these circumstances, then Industrial Metal Securities could be Redeemed using the acceptable Warrants thus leaving the unacceptable Warrants for those Security Holders who were last to Redeem.

The Conditions therefore contain provisions which are designed to allow the Issuer to deal with such situations. These include the right to suspend Redemptions (during which the position might be clarified and/or proposals put to holders of Industrial Metal Securities) and also provisions allowing a Pool to be split and for new Industrial Metal Securities to be issued. This "splitting" provision is intended to enable each Security Holder to be given *pro rata* exposure to the acceptable Warrants and the unacceptable

Warrants. These provisions are rights of the Issuer, and the Issuer is not obliged to undertake any of these steps.

#### **No active management of Warrants**

While Warrants are acceptable as settlement for LME futures at the LME Cash Settlement Price (absent factors of the type noted under “Warrants may cease to be deliverable” above), they can also be traded by market participants in the “over the counter” markets, where certain Warrants may trade at a premium to the LME Cash Settlement Price. The Issuer expects that it will receive Warrants that trade without any such premium in the “over the counter” market (so-called “cheapest to deliver”) and to deliver Warrants for a Redemption without regard to any potential premium attaching to such Warrants. The Issuer does not intend (but reserves the right at its sole discretion) to exchange any of its Warrants in the “over the counter” market to realise any premium. Were the Issuer to manage its holdings of Warrants so as to realise any available premia, such premia would accrue to the Secured Property for the relevant Pool. In the event that for any reason the assets available to meet the Issuer’s liabilities in respect of the Industrial Metal Securities were insufficient to do so, the Issuer may have had, and by not pursuing a Warrant management strategy not exercised, an ability to reduce the shortfall by realising any available premia.

#### **Reliance on Authorised Participants to perform obligations when Industrial Metal Securities issued prior to delivery of Warrants**

Under each Authorised Participant Agreement, where an Authorised Participant has applied for the issue of Industrial Metal Securities, it is required to transfer the Warrants relating to such issue before or at the same time as such Industrial Metal Securities are issued by the Issuer. Notwithstanding the foregoing, the Authorised Participant need not transfer such Warrants to the Issuer if it has first delivered an AP TRS Confirmation in the form required by the AP TRS Master Confirmation, and by no later than 4.30 p.m. on the day on which such Industrial Metal Securities are issued, pays into the Issuer Secured Cash Account an amount in US dollars equal to the value at the LME Cash Settlement Price on such day of the LME Physical Metal represented by such Warrants and daily until no later than the fifth LME Settlement Day thereafter paying further cash collateral as required until the delivery of the Warrants to the Issuer. If the Authorised Participant fails to deliver the Warrants within such five day period, or perform its obligations or suffers an Insolvency Event prior to the time for such performance, there may be a delay in obtaining the relevant Warrants and, depending on the extent to which recovery is obtained from the Authorised Participant concerned, a shortfall on the cash or Warrants backing the Industrial Metal Securities in issue. The Issuer intends to limit the aggregate amount in respect of TRS Transactions with any Authorised Participant not yet collateralised in cash to US\$75,000,000 for that Authorised Participant and each type of Metal.

#### **Reliance on Metal Agent or Authorised Participant to perform their obligations when Warrants delivered to it prior to Redemption being effected**

Under the Metal Agent Agreement, where Industrial Metal Securities are to be Redeemed, the Metal Agent may not (subject as follows) permit the Warrants allocated for the purposes of such Redemption to be withdrawn from the Issuer LMEsword Account until the Registrar has confirmed that the relevant Industrial Metal Securities have been delivered to the Issuer in CREST or otherwise in accordance with the Conditions. Notwithstanding the foregoing, the Metal Agent may withdraw Warrants, for the purposes of a Redemption by itself or any other Authorised Participant who is a Cash Trading Authorised Participant, or may permit Warrants to be withdrawn and delivered to an Authorised Participant, on the Settlement Date for such Redemption subject to the Metal Agent first delivering a TRS Confirmation in the form required by the TRS Master Confirmation or the Authorised Participant having delivered an AP TRS Confirmation pursuant to the terms of the applicable Authorised Participant Agreement, and in each case by no later than 4.30 p.m. on the date on which such Warrants have been so withdrawn, paying into the Issuer Secured Cash Account an amount in US dollars equal to the value at the LME Cash Settlement Price on such day of the LME Physical Metal represented by such Warrants and daily until no later than the seventh LME Settlement Day thereafter paying further cash collateral as required until the delivery of the Industrial Metal Securities to the Issuer. If the Metal Agent or Authorised Participant fails to perform its obligations or suffers an Insolvency Event prior to the time for such performance, there may be a delay in Redeeming Industrial Metal Securities and, depending on the extent to which recovery is obtained from the Metal Agent or the Authorised Participant concerned, Security Holders may not receive their full entitlement on Redemption. The Issuer intends

to limit the aggregate amount in respect of TRS Transactions with any Authorised Participant not yet collateralised in cash to US\$75,000,000 for that Authorised Participant and each type of Metal.

### **Dependency on the Metal Agent for Redemptions of Industrial Metal Securities**

The Issuer and Security Holders may be dependent on the Metal Agent for Redemptions of Industrial Metal Securities in the following cases:

- in the case of all Redemptions. The Issuer has appointed the Metal Agent to act as its agent in giving instructions to the LMEsword System in respect of the Issuer LMEsword Account;
- in the event an Authorised Participant (or a Security Holder who is not an Authorised Participant if there are no Authorised Participants) submits a Redemption Form for an amount of Industrial Metal Securities with a Metal Entitlement which cannot all be satisfied in whole Warrants, the Issuer will have to redeem such excess Industrial Metal Securities in cash. The Issuer has agreed with the Metal Agent that the Metal Agent will subscribe for a number of Industrial Metal Securities equal to the number of Industrial Metal Securities that cannot be redeemed with a whole Warrant; and
- in the event of any Redemption not satisfied by delivery of Warrants, the Issuer has agreed with the Metal Agent that the Metal Agent will purchase Metal if necessary (subject to certain limits) if the Issuer needs to liquidate all or part of its Metal holdings for the purposes of a Redemption that is not settled with Warrants.

If the Metal Agent delays, fails or is unable to fulfil its obligations under the Metal Agent Agreement, a Security Holder may be restricted in its ability to Redeem Industrial Metal Securities until the Issuer can make alternative arrangements in respect of the Issuer LMEsword Account, find a replacement Metal Agent or arrange to sell its Metal directly. The Issuer may be unable to sell its Metal at the price agreed with the Metal Agent and this may affect the return to Security Holders.

### **Dependency on the Metal Agent to pay the Warehouse Fee to Approved Warehouses and to Monetise the Total Fee**

The Issuer will rely on the Metal Agent to pay the Warehouse Fees to Approved Warehouses. As consideration for assuming its liability, the Issuer will pay the Metal Agent, in the form of Metal, the Storage Fee. Furthermore, the Issuer will rely on the Metal Agent to purchase daily an amount of Metal equal to the accrued daily Storage Fee plus Management Fee plus Insurance Allowance (the "Total Fee") and to settle such purchases at the end of each month by transferring an amount of Metal equivalent to the cumulative daily Total Fee for that month from the Issuer's LMEsword Account. The Metal Agent has agreed to deposit cash in US dollars into the Escrow Account whenever the outstanding Warehouse Fees for any type of Metal exceed US\$2,500,000. If the Metal Agent becomes insolvent, is otherwise unable to satisfy its obligation to pay the Warehouse Fee and fails or is unable to fulfil its contractual obligations under the Metal Agent Agreement, the Issuer may not be able to monetise its Metal in a timely fashion or at a price that ensures it can meet its obligations to pay a portion of or all of the Warehouse Fee.

### **Risk of Metal Agent or Warehouse Default**

Warehouse Receipts evidencing Warehouse Physical Metal will be held for the Issuer by the Metal Agent. While such Warehouse Receipts will be held as bailee and should be protected in the event of the insolvency of the Metal Agent, the insolvency of the Metal Agent or other breach by it of its obligations to the Issuer may result in delay in recovering such Warehouse Receipts and other costs and losses to the Issuer which may result in delays in Redeeming Industrial Metal Securities or Security Holders not receiving their full entitlement on Redemption.

In respect of Warehouse Physical Metal represented by Warehouse Receipts and LME Physical Metal represented by Warrants, any insolvency or other breach of an obligor's obligations under the Warehouse Receipt or Warrant in respect of any Approved Warehouse may result in delays in selling the Metal represented thereby and may adversely affect the price at which such Metal may be sold. This may result in delays in Redeeming Industrial Metal Securities or Security Holders not receiving their full entitlement on Redemption.

## **Taxation of Transactions in and Storage of Metals**

Pursuant to LME requirements, an Approved Warehouse must be located in a jurisdiction that (i) allows for the storage of Metal indefinitely in a secure customs warehousing regime without liability for any duties prior to customs clearance (including any domestically produced Metal or any Metal that has previously cleared customs), (ii) does not impose any tax liability on transactions for Metal held in Approved Warehouses, (iii) does not require the determination of ownership of the Metal being stored and (iv) does not impose any taxes on storage costs. As a result, the Issuer does not believe that any VAT, sales tax or customs duties or excises are currently payable in respect of transactions in Warrants or the storage of LME Physical Metal and Warehouse Physical Metal. The Issuer has not undertaken any independent investigation of the relevant tax treatment and is instead relying on the LME requirements for Approved Warehouses.

The Metal Agent has agreed to use commercially reasonable efforts to determine whether the Approved Warehouse to which any particular Warehouse Receipts relate has suitable storage facilities for Warehouse Physical Metal, meets all necessary requirements such that no VAT or duties are chargeable or payable on or in respect of Metal stored in such Approved Warehouse and is in all other respects located in a suitable jurisdiction for such purpose, and that Warehouse Physical Metal will not be held in any jurisdiction that would subject the Issuer to taxation on the storage or sale of such Metal.

If however, any VAT, sales tax or customs duties or excises are so payable for any reason (including but not limited to any change in law or practice) and such amounts cannot readily be recovered by the Issuer from any other person, the Issuer may have to sell Metal to pay such amounts and such sales may reduce the amount available for Security Holders on Redemption of their Industrial Metal Securities.

## **LME Lending Guidance**

The Issuer will hold LME Physical Metal. The LME has implemented rules requiring holders of long positions in LME Physical Metal over a certain threshold to respond to demand in the market for borrowing. Holders of such long positions can be required by the LME to roll their positions for a day at pre-defined premium levels to the prevailing cash price. Such rules are known as LME Lending Guidance.

The Metal Agent has contractually agreed to use reasonable efforts and exercise proper discretion within the Warehouse Physical Metal policy set by the Issuer to administer the Issuer's LME Physical Metal holdings to help the Issuer avoid becoming subject to LME Lending Guidance. Such efforts will include monitoring the Issuer's LME Physical Metal position and periodically taking Metal out of the LME Physical Metal pool. This is known as taking Metal "off Warrant" and results in the Metal becoming Warehouse Physical Metal. Taking Metal out of the Warehouse Physical Metal pool and putting it back into the LME Physical Metal pool is known as putting Metal "on Warrant".

The Issuer relies on the Metal Agent to administer its LME Physical Metal position and cannot provide assurance that the Metal Agent will be able to respond to changes in the Issuer's long LME Physical Metal position and in the number of live Warrants to ensure that the Issuer will not become subject to LME Lending Guidance. Furthermore, the LME has discretion to change the rules governing LME Lending Guidance and any such change could potentially adversely affect the Metal that the Issuer has taken off Warrant.

In the event the Issuer's holdings of LME Physical Metal become subject to LME Lending Guidance, the Issuer may be required to suspend Applications if the LME prevents it from taking possession of any new LME Physical Metal. Any such suspension of Applications may result in the Industrial Metal Securities trading at a premium. Furthermore, the Metal Agent will purchase LME Physical Metal from the Issuer and sell at least the same amount back on a tom/next basis in amounts sufficient to bring the Issuer's LME Physical Metal holdings within the relevant threshold. Such transactions will reduce the Issuer's Metal holdings for a single business day, and the Issuer will have an unsecured contractual obligation against the Metal Agent for the delivery of Warrants the following day.

## **Warehouse Physical Metal**

The Issuer may, from time to time, take Metal off Warrant and put Metal on Warrant (as described under "LME Lending Guidance" above). This process involves transferring the physical Warrants and possibly



the underlying Metals. Although all Metal will be held in Approved Warehouses, Warehouse Physical Metal may be stored either in the LME-registered area of an Approved Warehouse or in a separate area within the same Approved Warehouse, which is not subject to LME Rules or supervision. Although the Issuer believes that the criteria required by the LME for the Approved Warehouses will apply for areas that are not subject to LME supervision, the Issuer cannot provide any assurances in this respect.

The administrative process for taking Metal off Warrant and putting Metal on Warrant could increase the risk that the Issuer's physical Warrants and Warehouse Receipts are lost, stolen or damaged. Although both Warrants and Warehouse Receipts can be replaced if lost, stolen or damaged, there can be no assurance that such Metal will not be falsely claimed by unauthorised third parties. In addition, the movement of Metal between the LME and non-LME areas of an Approved Warehouse could result in such Metal being lost, stolen or damaged. While the Issuer will put in place insurance to protect against such Metal loss, there can be no assurance that the insurance reimbursement will recover the Metal loss in full.

Neither the Issuer nor the Metal Agent will inspect the fineness or quality of Metal held as Warehouse Physical Metal. Any losses or deficiencies in Warehouse Physical Metal could affect the liquidity or price of such Metal and the Issuer's ability to put such Metal back into the LME Physical Metal pool.

While the Warehouse Physical Metal policy set by the Issuer is designed, *inter alia*, to ensure that there should always be sufficient LME Physical Metal in the form of Warrants of each type to meet Redemption requests, any delay or inability to put Metal on Warrant may adversely affect Security Holders' ability to Redeem Industrial Metal Securities and consequently affect the liquidity or market price of Industrial Metal Securities.

#### **Market Disruption**

The LME has the potential to suffer from market disruption due to trading failures at the exchange or the imposition of volume or price restrictions. Such events could result in it not being possible to price one or more classes of Industrial Metal Securities that day. This will cause delay in the Application or Redemption process which could adversely affect potential or existing Security Holders.

#### **LMEsword System**

The settlement processes for Industrial Metal Securities depend on the operation of the LMEsword System operated by the LME. Any disruption to the LMEsword System may cause delay in the Application or Redemption processes which may also affect the liquidity or market price of Industrial Metal Securities.

#### **Management Experience**

The Issuer was incorporated in 2010. The directors and management of ManJer and the Issuer have had experience in establishing and operating companies providing similar types of exchange-traded products since December 2003, including ETFS Metal Securities Limited, ETFS Oil Securities Limited, ETFS Commodity Securities Limited, ETFS Hedged Commodity Securities Limited, ETFS Commodity Securities Australia Limited, ETFS Foreign Exchange Limited, Gold Bullion Securities Limited and through subsidiaries in each of the US and Australia, certain exchange-traded products offering exposure to precious metals in each of those countries. If it transpires that the experience of ManJer, the Issuer and their respective management is neither adequate nor suitable to manage the Issuer, then the operations of the Issuer may be adversely affected.

#### **Activities of Authorised Participants**

Authorised Participants and/or their Affiliates trade in various sectors of the commodities markets. These activities could give rise to conflicts of interest which are adverse to the interests of Security Holders and could change the Price of Industrial Metal Securities. Neither the Authorised Participants nor their Affiliates have any obligation to the Issuer to take the needs of any buyers, sellers or holders of Industrial Metal Securities into consideration at any time.

### **Only Authorised Participants May Apply for or Redeem Industrial Metal Securities**

Generally only Authorised Participants may deal with the Issuer in Applying for or Redeeming Industrial Metal Securities, save in relation to Redemptions where at any time there are no Authorised Participants or in other circumstances announced by the Issuer. The Issuer has agreed to use reasonable endeavours to ensure that at all times there is at least one Authorised Participant. There can, however, be no assurance that there will at all times be an Authorised Participant to deal with the Issuer in Applying for or Redeeming Industrial Metal Securities. Under the Metal Agent Agreement, the Metal Agent has the right to give notice (with immediate effect) that an Authorised Participant has ceased to be acceptable to it in certain circumstances.

As a result of any exercises of such right there could at any time be no Authorised Participants, with the result that no Industrial Metal Securities could be created. In such event it may also be difficult or impossible to sell Industrial Metal Securities on the London Stock Exchange or other exchanges at a price close to the Price therefor or within a reasonable time period, although Security Holders will be entitled to Redeem their Industrial Metal Securities.

### **Early Redemption of Industrial Metal Securities**

The Issuer may, at any time, upon not less than 30 days' notice by RIS announcement to the Security Holders, Redeem all Industrial Metal Securities of a particular type. The Trustee may, at any time, where an Issuer Insolvency Event has occurred and is continuing, upon not less than two Business Days' notice, give notice to the Issuer and by RIS announcement to the Security Holders that all the Industrial Metal Securities outstanding are to be Redeemed.

The Conditions provide that a Security Holder may elect to receive on Redemption of an Industrial Metal Security of a particular type an amount in cash equal to the higher of the Price and the Principal Amount for that type in lieu of the LME Physical Metal (in the form of Warrants) or cash to which it would otherwise be entitled. As each type of Industrial Metal Security is a limited recourse security as described in Condition 3.2, it is in the interests of the Security Holders of each type to ensure that the Price for each relevant type of Industrial Metal Securities does not fall below its Principal Amount. The Issuer will aim to avoid the Price of a type of Industrial Metal Security falling below its Principal Amount by the following measures: the Issuer may (i) where necessary, seek the sanction of Security Holders by Extraordinary Resolution to reduce the Principal Amount of a class of Individual Security (and of Basket Securities to the extent they comprise Individual Securities of that class) to a level less than its Price; and/or (ii) if the Price of any class of Industrial Metal Security falls to 2.5 times the Principal Amount of such Industrial Metal Security or below, the Issuer may, at any time for so long as the Price remains below such amount and during the period 60 days thereafter, upon not less than two Business Days' notice by RIS announcement elect to Redeem the Individual Securities of that class (and all types of Basket Securities which are comprised, in whole or in part, of Individual Securities of that class). The right pursuant to (ii) above will cease once an Extraordinary Resolution is passed to reduce the Principal Amount such that the Price is more than 2.5 times the Principal Amount, subject to any further fall in the Price of any class of Industrial Metal Securities to 2.5 times the Principal Amount or below.

The Issuer may, at any time by not less than seven nor more than fourteen days' written notice, Redeem any Industrial Metal Securities held by Prohibited US Persons or Prohibited Benefit Plan Investors or other Security Holders who have not provided appropriate certifications as to their status in accordance with the Conditions or in certain other circumstances specified in the Conditions.

The Metal Agent has only agreed to act as Metal Agent to the Issuer for a fixed term of two years from 6 December 2010, although the Metal Agent Agreement will automatically renew for additional successive terms of two years each if it is not terminated by either party in accordance with the terms of the Metal Agent Agreement. If the Metal Agent does not agree to act as Metal Agent beyond such date, then unless the Issuer is able to find a suitable replacement Metal Agent, the Issuer will elect to Redeem the outstanding Industrial Metal Securities.

Consequently, an investment in Industrial Metal Securities may be Redeemed earlier than desired by a Security Holder.

### **Suspension of Redemptions**

The Conditions provide that if the Price of a class of Individual Securities falls below its Principal Amount the Issuer may suspend the right to Redeem by Cash Payment the Individual Securities of that class and all categories of Basket Securities which are comprised, in whole or in part, of Individual Securities of such class, and may terminate any such suspension.

In addition if at any time the Issuer in its reasonable discretion considers it necessary and in the interests of Security Holders to do so (including, without limitation, if as a result of any damage to, loss of or other incident in respect of or any claim relating to any of the Secured Property attributable to any class of Individual Securities or the Metal represented by any of the same or otherwise the Issuer considers there to be any uncertainty as to the value of any of such Secured Property or as to the timing of receipt of amounts in respect of such Secured Property) the Issuer may suspend the right to Redeem Individual Securities of that class and all categories of Basket Securities which are comprised, in whole or in part, of Individual Securities of that class by Metal Delivery, by Metal Sale and by Cash Payment for up to 60 days, and may terminate any such suspension as it sees fit.

### **No Recourse Except to the Issuer and the Secured Property**

Industrial Metal Securities will be obligations solely of the Issuer. The Issuer is a special purpose company established for the purpose of issuing exchange traded commodities (ETCs) as asset backed securities. If the net proceeds from the enforcement of the Secured Property in respect of a particular Pool, following enforcement of the Security Deed applicable to that Pool, are not sufficient to meet all obligations and make all payments then due in respect of the Individual Securities of that class (and the Basket Securities to the extent they comprise Individual Securities of that class), the obligations of the Issuer in respect of such Individual Securities of that class (and Basket Securities to the extent they comprise Individual Securities of that class) will be limited to the net proceeds of realisation of that Secured Property. In such circumstances the assets (if any) of the Issuer other than those attributable to the relevant Pool will not be available to meet any shortfall, the rights of the relevant Security Holders to receive any further amounts in respect of such obligations shall be extinguished and none of the Security Holders or the Trustee may take any further action to recover such amounts.

Any claims made against the Issuer will be satisfied in order of the priority of payments in accordance with the Trust Instrument, further details of which are set out in Condition 14 (*Application of Monies*) in Part 4 (*Trust Instrument and the Conditions*).

### **Limited Enforcement Rights**

The Trustee may enforce the Security at its discretion but is only required to enforce the Security on behalf of a Security Holder if it is directed to do so:

- (a) by a Security Holder to whom a Defaulted Obligation is owed; or
- (b) if an Issuer Insolvency Event has occurred and is continuing, (i) in writing by Security Holders holding not less than 25 per cent. by Principal Amount (as at the date of the last signature) of the Industrial Metal Securities (as a whole) then outstanding, or (ii) by an Extraordinary Resolution,

in each case provided that the Trustee is indemnified and/or secured and/or funded to its satisfaction.

### **Recognition of Security in other Jurisdictions**

The laws of certain jurisdictions may affect some or all of the assets comprising the Secured Property in relation to any Pool. In the event that the laws of a jurisdiction do not recognise the security granted by the Security Deed, such security may not be effective in relation to assets deemed to be located in that jurisdiction and/or such assets may be subject to claims which would otherwise rank after claims secured by the Security Deed.

In order to perfect the security granted under the Security Deed, the Issuer has notified the Metal Agent and the Authorised Participants of the security so granted in writing and the Metal Agent and the Authorised Participants have in writing acknowledged to the Issuer and the Trustee such notification.

The Issuer may take further steps if required in order to perfect such security under English law. However the security so granted may not be recognised or perfected under the laws of other

jurisdictions in which some or all of the assets comprising the Secured Property in relation to any Pool may be deemed to be located.

### **Nature of the Security Granted to the Trustee**

The Issuer has charged to the Trustee under English law its Warrants evidencing LME Physical Metal, its Warehouse Receipts evidencing Warehouse Physical Metal and all of its rights (including its ownership rights) in respect of the physical Metal attributable to the Industrial Metal Securities. No security has been taken by way of chattel mortgage or otherwise over the specific lots of Metal held in specific Approved Warehouses, no security has been taken over those lots of Metal or any other asset of the Issuer under the law applicable in the jurisdiction of any Approved Warehouse outside England and no notice has been given to any Approved Warehouse of any security interest over the Metal or the Issuer's right to it.

Warrants will be held by the Depository and will be credited to the Issuer LMEsword Account (a LMEsword Account in the name of the Issuer, in respect of which the Metal Agent will act as the Issuer's agent in giving instructions). No notice will be given to the LME or the LMEsword System of any interest of the Trustee in that account. Accordingly, in the case of Metal Agent default and/or Issuer default, there can be no assurance that the Trustee can obtain control over the LMEsword Account on a timely basis or at all. No investigation has been made as to whether the Trustee can in fact obtain control over the LMEsword Account.

The security granted to the Trustee is floating security as opposed to fixed security. In the event that the Issuer were to be the subject of winding-up proceedings in England and Wales, this could result in certain preferential creditors and certain expenses of any liquidation ranking in priority to the security granted in favour of the Trustee.

If the Issuer were an English company, given that the Trustee's security is floating security, unless the issue fell within certain exemptions, the Trustee might not be able to enforce its security in whole by the appointment of a receiver, but might need to enforce the security by the appointment of an administrator. It is thought that this is not the position in this case, as the Issuer is not an English company and that other exemptions are likely to apply. This matter is not however entirely settled as a matter of English law.

See also "Administration and Winding-Up Proceedings in England" below.

### **Administration and Winding-Up Proceedings in England**

Under Section 426 of the Insolvency Act 1986, the English Courts may, if requested by a Court in a "relevant country or territory" (including Jersey), make an administration or winding up order in respect of a foreign company, such as the Issuer.

Furthermore, under the European Insolvency Regulations (No.1346/2000) ("EIR"), main insolvency proceedings (including administration and liquidation) can be opened if the centre of main interests of the Issuer is considered to be in England, or winding up proceedings (liquidation) may be opened if the Issuer has an establishment (as defined in the EIR) in England.

If the Issuer were placed in administration in England, the effect would be that during the period of administration, the affairs, business and property of the Issuer would be managed by a person known as an administrator.

During the period beginning with making an application for an administration order and ending with the making of such an order or the dismissal of the application, no steps could be taken to enforce the Security except with the leave of the Court and subject to such terms as the Court may impose.

In the case of administration, while the Issuer remained in administration no steps could be taken to enforce the Security, except with the consent of the administrator or the leave of the Court and subject to such terms as the Court might impose. It is also open to the administrator to apply to the Court to sell property subject to the Security free from the Security. The administrator must however account to the Trustee and the Security Holders for the proceeds of sale.

Under the Cross-Border Insolvency Regulations 2006, a foreign insolvency representative, in this case the insolvency representative of the Issuer in Jersey, may apply to the English Courts, *inter alia*, to

commence insolvency proceedings under English law (which could include administration) or to have the English Courts recognise a foreign insolvency proceeding, or to have the English Courts grant a stay of any enforcement of any security. If any such application were made it could affect the ability of the Trustee to enforce the Security.

If the Issuer were placed in liquidation in England, the Security could be enforced by the Trustee on behalf of the Security Holders.

### **Trustee May Rely**

The Trustee may rely on any information, certificates and/or instructions received from the Issuer and/or the Registrar in relation to Industrial Metal Securities, the Secured Property, the Storage Fee, the Management Fee and the Insurance Allowance, and shall not be responsible for making any investigation or verification of the same. The Trustee shall have no liability for any failure of the Issuer or any Authorised Participant or the Metal Agent. The Trust Instrument and the Security Deed provide various exclusions of liability for the Trustee, including that it is not obliged to monitor the performance of the Issuer, any Authorised Participant or the Metal Agent, and may assume that they are performing their obligations in accordance with the Documents.

### **Regulatory Risk**

The Issuer is not and is not required to be authorised, licensed or registered in the United Kingdom or, save as specified in paragraph 21 of Part 8 (*Additional Information*), in any other jurisdiction under any current securities, commodities or banking laws. There can be no assurance, however, that regulatory authorities in one or more jurisdictions would not take a contrary view regarding the applicability of any of such laws to the Issuer, or that legal or regulatory requirements will not change in the future. There can also be no assurance that the rules of the LME and of the London Stock Exchange and the listing requirements of the UK Listing Authority will not change in the future. Any such contrary view or change could have an adverse impact on the Issuer or the holders of Industrial Metal Securities.

The Issuer may be required by the rules of an exchange (other than the London Stock Exchange) to which the Industrial Metal Securities are admitted to trading to have a minimum number of market makers. If a market maker ceases to act as market maker and a replacement cannot be found and as a result the Issuer cannot meet the minimum requirement, the relevant exchange may require the Industrial Metal Securities to cease trading.

## DEFINITIONS AND INTERPRETATION

The following definitions apply throughout this Prospectus unless the context otherwise requires:

<b>“Acceptable Credit Rating”</b>	means a long term senior debt credit rating of at least BBB+ from Standard & Poor’s Rating Services, a division of the McGraw-Hill Companies Inc. (or any successor to the ratings business thereof), and of at least Baa1 from Moody’s Investors Service Inc. (or any successor to the ratings business thereof)
<b>“Accrued Rent”</b>	means in respect of any Warrant and any day the rent payable pursuant to the terms of such Warrant as at such day then accrued and unpaid
<b>“Administrator”</b>	means R&H Fund Services (Jersey) Limited, Ordnance House, 31 Pier Road, St. Helier, Jersey JE4 8PW, Channel Islands, or such other person as may be appointed by the Issuer from time to time to receive and process Applications for and Redemptions of Industrial Metal Securities
<b>“Affiliate”</b>	means, in relation to any person, any entity controlled, directly or indirectly, by that person, any entity that controls, directly or indirectly, that person, or any entity directly or indirectly under common control with that person; and for this purpose, “control” of any entity or person means ownership of a majority of the voting power of such entity or person
<b>“Annual Rental Fee”</b>	means in respect of any type of Metal and any day the amount (expressed in cents per tonne per day) for Metal of that type determined by the Issuer for that day as that amount may be adjusted by the Issuer from time to time and notified to Security Holders in accordance with Condition 27 ( <i>Notices</i> )
<b>“AP TRS Confirmation”</b>	means in respect of an AP TRS Transaction, a document exchanged between the Authorised Participant and the Issuer which confirms or evidences the terms of that AP TRS Transaction
<b>“AP TRS Master Confirmation”</b>	in relation to any Authorised Participant has the meaning given in the relevant Authorised Participant Agreement
<b>“AP TRS Transaction”</b>	means a transaction in Metal entered into between an Authorised Participant and the Issuer under an AP TRS Master Confirmation
<b>“Applicant”</b>	means an Authorised Participant who makes an Application for Industrial Metal Securities
<b>“Application”</b>	means an offer by an Authorised Participant to the Issuer to subscribe for Industrial Metal Securities, being an offer on terms referred to in an Application Form and this Prospectus and in accordance with the provisions of the relevant Authorised Participant Agreement (and “ <b>Apply</b> ” shall be construed accordingly)
<b>“Application Date”</b>	means the Business Day on which a valid Application Form is lodged with (or deemed to be lodged with) the Administrator in accordance with the relevant Authorised Participant Agreement
<b>“Application Fee”</b>	means the fee payable by an Authorised Participant to the Issuer on Application for Industrial Metal Securities
<b>“Application Form”</b>	means an application form used in connection with the Programme
<b>“Approved Warehouse”</b>	means a warehouse or storage facility which is a Warehouse for the purposes of the LMEsword Regulations

<b>“Authorised Participant”</b>	means a person which has entered into an Authorised Participant Agreement with the Issuer in relation to Industrial Metal Securities and is not an Unacceptable Authorised Participant and which (a) is a securities house or other market professional approved by the Issuer (in its absolute discretion); (b) is an Authorised Person, an Exempt Person or an Overseas Person; and (c) is not a UCITS Fund
<b>“Authorised Participant Agreement”</b>	means a written agreement between the Issuer and another person under which such person is appointed to act as an “Authorised Participant”, distribution agent or in a substantially similar function in relation to Industrial Metal Securities and if such agreement is subject to conditions precedent, provided that such conditions have been satisfied
<b>“Authorised Person”</b>	means a person authorised for the purposes of FSMA
<b>“Basket Securities”</b>	means the Physical IM category undated limited recourse secured debt securities of US\$9.78 in principal amount each of the Issuer, created pursuant to and constituted by the Trust Instrument and recorded on the relevant Register of Basket Securities, and any other category of Basket Securities that may be so created and constituted from time to time, and <b>“ETFS Physical IM Basket Securities”</b> shall be construed accordingly
<b>“Board”</b>	means the board of directors of the Issuer
<b>“Business Day”</b>	means a day (other than a Saturday or a Sunday or a public holiday in England) on which commercial banks generally are open for the transaction of business in London and which is an LME Business Day
<b>“Cash Payment”</b>	means in relation to the settlement of the Issuer’s Redemption Obligations in respect of Industrial Metal Securities to be Redeemed in cash pursuant to Condition 6.2.4, Condition 6.5.4, Condition 7.8.3(d) or Condition 7.8.4(g), payment in respect thereof in accordance with Condition 6.12 ( <i>Cash Payment</i> )
<b>“Cash Trading Authorised Participant”</b>	means an Authorised Participant which has entered into an agreement to trade in Metals with the Metal Agent
<b>“category”</b>	means in relation to Basket Securities, the type of Basket Security determined by the mix of different classes of Individual Securities comprised in the Basket Security
<b>“Certificated” or “Certificated Form”</b>	means not in Uncertificated Form
<b>“class”</b>	means a class of Individual Securities under which the Issuer’s obligations to make payment and/or deliver Metal are determined by reference to a particular metal
<b>“comprised in” and “comprised of”</b>	in relation to a Basket Security means the Individual Securities by reference to which the Metal Entitlement of that Basket Security is calculated and for which a Basket Security (when in Certificated Form) may be surrendered in accordance with the provisions of the Trust Instrument and <b>“comprise”</b> and <b>“comprised”</b> shall be construed accordingly
<b>“Competent Authority”</b>	means any competent supranational, governmental, judicial or regulatory authority

<b>“Compulsory Redemption”</b>	means a Redemption of Industrial Metal Securities in accordance with Condition 7.1 ( <i>Compulsory Redemption on Termination</i> ), Condition 7.2 ( <i>Compulsory Redemption on Issuer Insolvency Event</i> ), Condition 7.3 ( <i>Compulsory Redemption on a fall in the Price relative to the Principal Amount</i> ) or Condition 7.4 ( <i>Compulsory Redemption for Cause</i> )
<b>“Compulsory Redemption Notice Date”</b>	means in relation to any Redemption pursuant to Condition 7.2 ( <i>Compulsory Redemption on Issuer Insolvency Event</i> ) the date specified by the Trustee as such in accordance with that Condition and in relation to any Redemption pursuant to Condition 7.1 ( <i>Compulsory Redemption on Termination</i> ), Condition 7.3 ( <i>Compulsory Redemption on a fall in the Price relative to the Principal Amount</i> ) or Condition 7.4 ( <i>Compulsory Redemption for Cause</i> ) the date specified by the Issuer as such in accordance with that Condition
<b>“Compulsory Settlement Date”</b>	means in relation to any Redemption pursuant to Condition 7 ( <i>Compulsory Redemption by the Issuer or Trustee</i> ), the date determined in accordance with Condition 7.8.3
<b>“Conditions”</b>	means the terms and conditions on and subject to which Industrial Metal Securities are issued in the form set out in the Trust Instrument and as set out in Part 4 ( <i>Trust Instrument and the Conditions</i> )
<b>“Controller”</b>	means, in relation to any company, a person who: <ul style="list-style-type: none"> <li>(a) holds 10 per cent. or more of the shares in such company;</li> <li>(b) is able to exercise significant influence over the management of such company by virtue of his shareholdings in such company;</li> <li>(c) holds 10 per cent. or more of the shares in a parent undertaking of such company;</li> <li>(d) is able to exercise significant influence over the management of the parent undertaking of such company;</li> <li>(e) is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power in such company;</li> <li>(f) is able to exercise significant influence over the management of such company by virtue of his voting power in such company;</li> <li>(g) is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power in the parent undertaking of such company; or</li> <li>(h) is able to exercise significant influence over the management of the parent undertaking of such company by virtue of his voting rights</li> </ul>
<b>“CREST”</b>	means the system of paperless settlement trades and the holding of Uncertificated securities administered by Euroclear UK & Ireland Limited
<b>“Deed Poll”</b>	means the deed entitled “Deed Poll relating to Warrants delivered for the purposes of Applications for Industrial Metal Securities” dated 6 December 2010 and made by the Issuer in favour of the



Authorised Participants, further particulars of which are given in paragraph 2.3 of Part 8 (*Additional Information*)

<b>“Defaulted Obligation”</b>	means the failure of the Issuer to make or procure any payment of cash or delivery of Metal in respect of the Redemption of any Industrial Metal Securities when due, and such failure is not remedied within seven Business Days (not including any day which is a Market Disruption Day) of receipt of notice requiring remedy of the same, <b>provided that</b> if the amount paid by a Metal Agent under the terms of a Metal Agent Agreement on sale to it of Metal as a result of such Redemption is subject to any withholding or deduction for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of any relevant jurisdiction or any political sub-division thereof or any authority thereof having power to tax, as required by law (as modified by the practice of any relevant governmental revenue authority) then in effect, and that Metal Agent is not obliged under the relevant Metal Agent Agreement to make any additional payment in respect of the withholding or deduction and the net amount is so paid or procured to be paid by the Issuer in respect of that Redemption, that shall not be a Defaulted Obligation
<b>“Default Rate”</b>	means a rate per annum of interest equal to LIBOR plus 2 per cent., compounding daily
<b>“Depository”</b>	means the Depository under and for the purposes of the LMEsword Regulations
<b>“Directors”</b>	means the directors of the Issuer, being at the date of this document the persons whose names are listed as such under the heading “Directors, Secretary and Advisers” below
<b>“Documents”</b>	means the Trust Instrument, the Security Deeds, the Deed Poll, any Metal Agent Agreement, any TRS Master Confirmation, any TRS Confirmation, all Authorised Participant Agreements, any AP TRS Master Confirmation, any AP TRS Confirmation, the Escrow Account Agreement, the Services Agreement and the Registrar Agreement
<b>“Early Delivery”</b>	has the meaning given in Condition 8.3
<b>“EEA State”</b>	means a member of the European Economic Area
<b>“Escrow Account”</b>	means an account established in the name of the Escrow Agent in accordance with the terms of the Escrow Account Agreement
<b>“Escrow Account Agreement”</b>	means the agreement dated on or about the date of the Trust Instrument between the Issuer, the Metal Agent and the The Law Debenture Trust Corporation p.l.c.
<b>“Escrow Agent”</b>	means the person appointed as escrow agent in accordance with the terms of the Escrow Account Agreement
<b>“ETFSL”</b>	means ETF Securities Limited, a company incorporated and registered in Jersey, with registered number 88370
<b>“EU”</b>	means the European Union
<b>“Euro” or “€”</b>	means euro
<b>“Exempt Person”</b>	means a person who, in entering into and performing the terms of an Authorised Participant Agreement, is acting in the course of a business comprising a regulated activity in relation to which it is

	exempt from the need to be an Authorised Person as a result of a provision of the FSMA or associated secondary legislation
<b>“Extraordinary Resolution”</b>	means in respect of a particular type or particular types taken together of Industrial Metal Securities either (a) a resolution passed at a duly convened meeting of the holders of Industrial Metal Securities of such type or types by a majority consisting of the holders of not less than 75 per cent. by Principal Amount of such type or types of Industrial Metal Securities voting on such resolution or (b) a resolution in writing of holders of such type or types of Industrial Metal Securities holding not less than 75 per cent. by Principal Amount of such type or types of Industrial Metal Securities, and in the cases of (a) and (b) where so provided for in the Trust Instrument, holders of Basket Securities may for these purposes be treated as holders of the relevant class or classes of Individual Securities
<b>“Final Redemption Notice Date”</b>	means the tenth Business Day following the Final Trading Date
<b>“Final Trading Date”</b>	means the date specified by the Issuer in relation to any type of Industrial Metal Securities pursuant to Condition 7.1 ( <i>Compulsory Redemption on Termination</i> ) (with effect from which date, subject to compliance with any applicable legal or regulatory requirements, the Issuer will apply for trading on the Main Market (and any other stock exchange or market on which they are then admitted to trading) in such type of Industrial Metal Securities to be suspended or cancelled))
<b>“FSA”</b>	means the Financial Services Authority of the United Kingdom and any successor thereto
<b>“FSA Glossary”</b>	means the glossary giving the meaning of the defined expressions used in the FSA Handbook
<b>“FSA Handbook”</b>	means the FSA’s Handbook of Rules and Guidance (as amended)
<b>“FSMA”</b>	means the Financial Services and Markets Act 2000
<b>“Full Metal Amount”</b>	means for each Metal in respect of an Application, the product of (i) the Metal Entitlement for a given Industrial Metal Security applicable on the Initial Settlement Date, and (ii) the number of Industrial Metal Securities specified in the Application
<b>“Further Securities”</b>	means securities issued by the Issuer in accordance with Condition 16 ( <i>Further Securities; Other Pools; Transfers to New or Existing Pools; Consolidation and Division</i> )
<b>“HoldCo”</b>	means ETFS Holdings (Jersey) Limited, a company incorporated and registered in Jersey, with registered number 106817

<b>"Individual Securities"</b>	means together Physical Aluminium class undated limited recourse secured debt securities of US\$11.00 in Principal Amount each, Physical Copper class undated limited recourse secured debt securities of US\$4.00 in Principal Amount each, Physical Lead class undated limited recourse secured debt securities of US\$11.00 in Principal Amount each, Physical Nickel class undated limited recourse secured debt securities of US\$11.00 in Principal Amount each, Physical Tin class undated limited recourse secured debt securities of US\$12.00 in Principal Amount each, and Physical Zinc class undated limited recourse secured debt securities of US\$11.00 in Principal Amount each, in each case of the Issuer, created pursuant to and constituted by the Trust Instrument and recorded on the relevant Register of Individual Securities, and any other class of Individual Securities that may be so created and constituted from time to time, and <b>"ETFS Physical Aluminium Securities"</b> , <b>"ETFS Physical Copper Securities"</b> , <b>"ETFS Physical Lead Securities"</b> , <b>"ETFS Physical Nickel Securities"</b> , <b>"ETFS Physical Tin Securities"</b> and <b>"ETFS Physical Zinc Securities"</b> shall be construed accordingly
<b>"Industrial Metal Securities"</b>	means Individual Securities and Basket Securities
<b>"Initial Securities"</b>	the Industrial Metal Securities to be delivered to an Authorised Participant on the Initial Settlement Date
<b>"Initial Settlement Date"</b>	means in respect of an Application the day on which the Initial Securities in respect of such Application are required to be delivered to an Authorised Participant in accordance with the applicable Authorised Participant Agreement, being the third Business Day following the receipt or deemed receipt of the applicable Application Form or, if such third Business Day is not an LME Settlement Day, the immediately following LME Settlement Day
<b>"Insolvency Event"</b>	means, in relation to a person other than the Issuer, if such person: <ol style="list-style-type: none"> <li>(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger);</li> <li>(2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;</li> <li>(3) makes a general assignment, arrangement or composition with or for the benefit of its creditors;</li> <li>(4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;</li> <li>(5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);</li> <li>(6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver,</li> </ol>

trustee, custodian or other similar official for it or for all or substantially all its assets;

- (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;
- (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in sub-clauses (1) to (7) (inclusive); or
- (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts

**“Insurance Allowance”**

means the amount payable by the Issuer to ManJer or any Affiliate of ManJer intended to be used towards payment of the costs of insuring the Issuer’s Metal as described under the heading “Management Fee and Insurance Allowance” in Part 1 (*Description of Industrial Metal Securities*) as that amount may be adjusted by the Issuer from time to time

**“Issuer” or “IML”**

means ETFS Industrial Metal Securities Limited, a company incorporated and registered in Jersey with registration number 106363

**“Issuer Cash Account”**

means the account of the Issuer (not being the Issuer Secured Cash Account or the Issuer Metal Sale Cash Account) to which a Metal Agent is required to make payments (*inter alia*) in respect of the Management Fee and the Insurance Allowance pursuant to a Metal Agent Agreement

**“Issuer Insolvency Event”**

means the Issuer:

- (1) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (4) has a declaration made against it declaring the assets of the Issuer *en désastre* pursuant to the Bankruptcy (*Désastre*) (Jersey) Law 1990, as amended;
- (5) institutes or has instituted against it any other proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;

- (6) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (7) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (8) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;
- (9) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in sub-clauses (1) to (10) (inclusive); or
- (10) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts,

**provided that** no action taken by the Trustee in respect of the Issuer pursuant to the Trust Instrument or a Security Deed shall constitute an Issuer Insolvency Event save where acts of the Trustee fall within one or more of sub-clauses (1) to (9) and are taken in respect of security taken over Metals or a Metal Agent Agreement

**“Issuer LMEsword Account”**

means the LMEsword Account of the Issuer

**“Issuer Metal Sale Cash Account”**

means the account of the Issuer defined as such for the purposes of a Metal Agent Agreement

**“Issuer Secured Cash Account”**

means the account of the Issuer defined as such for the purposes of a Metal Agent Agreement

**“Issuer’s Website”**

means the website having the following internet address:

<http://www.etfsecurities.com/iml>

or such other internet address as may be notified to Security Holders and the Trustee by RIS announcement

**“Jersey”**

means the Island of Jersey, Channel Islands

**“LIBOR”**

means, in respect of any date of determination:

- (a) the rate for overnight deposits in US dollars which appears on the Reuters LIBOR01 page (or any successor page) as of 11.00 a.m. on the day that is two Business Days preceding such date of determination; or
- (b) in the event of the unavailability of the Reuters LIBOR01 page (or any such successor page), the rate for such determination date will be determined on the basis of the rates at which deposits in US dollars are offered by four major banks in the London interbank market (“**Reference Banks**”) at approximately 11.00 a.m. on the day that is two Business Days preceding the relevant determination date to prime banks in the London interbank market for overnight deposits

commencing on that date and in an amount (a **“Representative Amount”**) that is representative for a single transaction in the relevant market at the relevant time. The payee of the interest will request the principal London office of each of the Reference Banks to provide a quotation of its rate. If at least two such quotations are provided, the rate for such date will be the arithmetic mean of the quotations. If fewer than two quotations are provided as requested, the rate for such determination date will be the arithmetic mean of the rates quoted by major banks in New York City, selected by the payee of the interest, at approximately 11.00 a.m., New York City time, on such determination date for loans in US dollars to leading European banks for overnight deposits commencing on the determination date and in a Representative Amount

<b>“Liability”</b>	means any loss, damage, cost, charge, claim, demand, expense, judgement, action, proceeding or other liability whatsoever (including without limitation, in respect of taxes) and including any VAT or similar tax charged or chargeable in respect thereof and legal and professional fees and expenses on a full indemnity basis, and <b>“Liabilities”</b> shall be construed accordingly
<b>“Listing”</b>	means admission of the Industrial Metal Securities to the Official List in accordance with the Listing Rules and admission of the Industrial Metal Securities to trading on the London Stock Exchange’s market for listed securities (or any of such markets if the London Stock Exchange has at any time more than one such market) becoming effective
<b>“Listing Rules”</b>	means the Listing Rules of the UK Listing Authority from time to time made under section 73A of FSMA
<b>“LME”</b>	means The London Metal Exchange Limited and where the context requires includes the London Metal Exchange administered by The London Metal Exchange Limited
<b>“LME Business Day”</b>	means a day which is a <b>“Business Day”</b> for the purposes of the LME Rules (being currently defined as any day except Saturday, Sunday or any public or bank holiday in England or a day during which trade on the LME has been suspended by or under the authority of any enactment or a day which the directors of the LME declare not to be a Business Day)
<b>“LME Cash Settlement Price”</b>	means in respect of each of aluminium, copper, lead, nickel, tin and zinc and any LME Business Day, the daily last offer price (expressed in US dollars) for that type of Metal before the bell is sounded to mark the end of the second ring, first session of trading in respect of that type of Metal on that LME Business Day as determined in accordance with the LME Rules
<b>“LME Contracts”</b>	means <b>“Contracts”</b> as defined in the LME Rules
<b>“LME Lending Guidance”</b>	means LME rules allowing the LME to require holders of long LME Physical Metal positions over certain thresholds to enter into <b>“tom/next”</b> transactions at pre-defined premium levels to the prevailing cash price
<b>“LME Market”</b>	means in respect of any type of Metal the market conducted on the LME for futures contracts in that type of Metal

<b>“LME Physical Metal”</b>	means any and all of aluminium, copper, nickel, lead, zinc and tin that is evidenced by a Warrant (and therefore satisfies the applicable LME Special Contract Rules)
<b>“LME Rules”</b>	means the rules and regulations of the LME and includes the LMEsword Regulations, the LME Special Contract Rules and the LME Lending Guidance
<b>“LME Settlement Day”</b>	means a day which is a “Settlement Business Day” for the purposes of the LME Rules (being currently defined as an LME Business Day on which commercial banks are open in New York City for the settlement of international transactions in US dollars)
<b>“LME Special Contract Rules”</b>	means the rules set out in Part 6 of the LME Rules
<b>“LME Standards”</b>	means the characteristics (including as to quality, shape, weight and lot size) for Metals of any type as specified for Metals of that type in the LME Special Contract Rules
<b>“LMEsword” or the “LMEsword System”</b>	means the LME system for the electronic transfer of title to Warrants governed and constituted by the LMEsword Regulations
<b>“LMEsword Account”</b>	means an account with the Depository recorded by the LMEsword System in which title to holdings of Warrants may be recorded
<b>“LMEsword Regulations”</b>	means the LMEsword Regulations issued by LME as supplemented by the operating procedures relating to LMEsword as published by the LME
<b>“London Stock Exchange”</b>	means London Stock Exchange plc or its market for listed securities (or any of such markets if the London Stock Exchange has at any time more than one such market), as the context may require
<b>“Main Market”</b>	means the main market of the London Stock Exchange, which is part of its Regulated Market for listed securities (being securities admitted to the Official List)
<b>“Management Fee”</b>	means the management fee payable by the Issuer to ManJer or any Affiliate of ManJer in consideration for the provision by ManJer or any Affiliate of ManJer of all management and administration services in relation to the Programme, as set out in Part 1 ( <i>Description of Industrial Metal Securities</i> ) under the heading “Management Fee and Insurance Allowance”, as that amount may be adjusted by the Issuer from time to time
<b>“ManJer”</b>	means ETFS Management Company (Jersey) Limited, a company incorporated and registered in Jersey, with registered number 106921
<b>“Market Disruption Day”</b>	means, in respect of any type of Metal or Warrant, any day on which a Market Disruption Event occurs or is continuing in respect of Warrants of that type
<b>“Market Disruption Event”</b>	means in respect of a particular type of Metal: <ul style="list-style-type: none"> <li>(a) the LME failing to determine, announce or publish the relevant Cash Settlement Price(s) for that type of Metal;</li> <li>(b) the termination or suspension of, or material limitation or disruption in trading of that type of Metal or Warrants in respect of such type of Metal; or</li> <li>(c) the cessation or suspension of LMEsword</li> </ul>

<b>“Maximum Application Limit”</b>	means, for any day on which an Application is made, (i) for Individual Securities of any type, such number of Individual Securities having an aggregate Metal Entitlement on the Settlement Date for such Application equal to or less than 2.5 per cent. of the outstanding ‘On Warrant Metal’ weight for such type of Metal on the previous day as reported to the LME at the opening of trading on the LME on such Business Day and published on such day on Bloomberg page “LMEI” and (ii) for Basket Securities, such number of Basket Securities as have an aggregate Metal Entitlement on such day for such Application for each applicable type of Metal equal to or less than 2.5 per cent. of the weighted average of outstanding ‘On Warrant Metal’ weight for such type of Metal on the previous day as reported to the LME at the opening of trading on the LME on such Business Day and published on such day on Bloomberg page “LMEI”
<b>“Maximum Redemption Limit”</b>	has the meaning given to “Redemption Limit” in Condition 6.13 ( <i>Redemption Limits</i> ) and in relation to the Metal Agent Agreement with Deutsche Bank AG, London branch as at the date of this Prospectus means, for any day on which a Redemption Form is submitted, (i) for Individual Securities of any type, such number of Individual Securities having an aggregate Metal Entitlement on the Settlement Date for such Redemption equal to or less than 2.5 per cent. of the outstanding ‘On Warrant Metal’ weight for such type of Metal on the previous day as reported to the LME at the opening of trading on the LME on such Business Day and published on such day on Bloomberg page “LMEI” and (ii) for Basket Securities, such number of Basket Securities as has an aggregate Metal Entitlement on such day for such Redemption for each applicable type of Metal which is equal to or less than 2.5 per cent. of the weighted average of outstanding ‘On Warrant Metal’ weight for such type of Metal on the previous day as reported to the LME at the opening of trading on the LME on such Business Day and published on such day on Bloomberg page “LMEI”
<b>“Metal”</b>	means any and all of aluminium, copper, nickel, zinc, lead and tin, in each case either in the form of LME Physical Metal (evidenced by Warrants) or in the form of Warehouse Physical Metal (evidenced by Warehouse Receipts)
<b>“Metal Agent”</b>	means Deutsche Bank AG, London branch or such other person or persons as provide services to the Issuer in relation to the issue and Redemption of Industrial Metal Securities and/or the sale and administration of LME Physical Metal represented by Warrants and/or Warehouse Physical Metal represented by Warehouse Receipts pursuant to a Metal Agent Agreement
<b>“Metal Agent Account”</b>	means an account of the Metal Agent as notified to Authorised Participants for the purposes of the Authorised Participant Agreements
<b>“Metal Agent Agreement”</b>	means the Metal Agent Agreement dated 6 December 2010 between the Issuer and the Metal Agent as amended from time to time or any successor or other agreement to which the Issuer is party providing for the provision of services to the Issuer in relation to the issue and Redemption of Industrial Metal Securities and the sale and administration of LME Physical Metal represented by Warrants and/or Warehouse Physical Metal represented by Warehouse Receipts



<b>“Metal Agent Event of Default”</b>	means: (a) the failure of the Metal Agent to make a payment or delivery it is due to make in accordance with the Metal Agent Agreement and such failure is not remedied within five business days (which for this purpose shall not include any day which is a Market Disruption Day in respect of any relevant type of Metal) from the date such payment or delivery is required to be made in accordance with the Metal Agent Agreement; (b) failure by the Metal Agent to comply with the representations and warranties set out in the Metal Agent Agreement (other than such representations and warranties that relate to (i) the Metal Agent’s status as a Category 2 (Associate Broker Clearing) member of the LME in good standing and permitted to trade futures; and (ii) the Metal Agent being and remaining a LMEsword Participant in good standing under the LME Rules) and such failure is not remedied within five business days; (c) failure by the Metal Agent to comply with the representations and warranties set out in the Metal Agent Agreement that relate to (i) the Metal Agent’s status as a Category 2 (Associate Broker Clearing) member of the LME in good standing and permitted to trade futures; and (ii) the Metal Agent being and remaining a LMEsword Participant in good standing under the LME Rules; (d) an insolvency event occurring with respect to the Metal Agent; or (e) any other breach of the Metal Agent Agreement (not caused by a Market Disruption Event) where such breach (if capable of being rectified) is not rectified within five business days of the Metal Agent receiving written notice from the Issuer of such breach
<b>“Metal Agent Fee”</b>	means the annual fee payable to the Metal Agent as described under the heading “Metal Agent Fee” in Part 6 ( <i>The Metal Agent Agreement</i> )
<b>“Metal Agent Settlement Failure”</b>	means the failure (other than any such failure caused by a Market Disruption Event) by a Metal Agent to comply with its obligations in respect of the purchase by the Metal Agent of any Warrants or Warehouse Receipts under the applicable Metal Agent Agreement or to comply with its obligations to pay any Accrued Rent or other cash amount due to the Issuer under the applicable Metal Agent Agreement where required for the purposes of a Redemption (including without limitation a failure to pay the Metal Sale amount in respect of those Warrants or Warehouse Receipts or an amount due in respect of a Cash Payment or an amount in respect of Accrued Rent on the due date therefor in accordance with the applicable Metal Agent Agreement)
<b>“Metal Delivery”</b>	means in relation to the Redemption of any Industrial Metal Securities, settlement of the Issuer’s Redemption Obligations in respect thereof in whole or in part by delivery of Warrants in accordance with the Conditions as provided for in Condition 6.14 ( <i>Metal Delivery</i> )
<b>“Metal Entitlement”</b>	means as at any date and in relation to any Industrial Metal Security the amount(s) of Metal to which the Security Holder is entitled on Redemption of that Industrial Metal Security on that date in accordance with Condition 5 ( <i>Metal Entitlement and Price</i> )
<b>“Metal Sale”</b>	means in relation to the Redemption of any Industrial Metal Securities, settlement of the Issuer’s Redemption Obligations in respect thereof by sale of Metal by the Issuer on behalf of the Security Holder and payment of the net proceeds of sale (less any applicable Redemption Fee) to the relevant Security Holder in accordance with the Conditions as provided for in Condition 6.15 ( <i>Metal Sale</i> ) and Condition 7.8.3

<b>“Metal Sale Date”</b>	means, with respect to a Redemption pursuant to Condition 6 ( <i>Redemption of Industrial Metal Securities</i> ) of any Industrial Metal Securities to be effected by Metal Sale, the first Business Day following the Redemption Notice Date for that Redemption, <b>provided that</b> if the Metal Agent notifies the Issuer that sale of Metal of the applicable type cannot be effected on the LME Market on that day, the Metal Sale Date shall be postponed to the immediately following Business Day
<b>“Minimum Application Amount”</b>	means, in respect of an Application, such number of the relevant class (or in the case of Basket Securities, each class of Individual Securities of which it is comprised) of Industrial Metal Securities having an aggregate Metal Entitlement on the Settlement Date equal to or greater than the nominal weight represented by one Warrant of Metal of the type to be delivered to the Issuer pursuant to the Application (being at the date of this Prospectus 25.0 tonnes for Aluminium, Copper, Lead and Zinc, 6.0 tonnes for Nickel and 5.0 tonnes for Tin)
<b>“Minimum Redemption Amount”</b>	means, in respect of a Redemption by an Authorised Participant pursuant to a Redemption Form, such number of the relevant class (or in the case of Basket Securities, each class of Individual Securities of which it is comprised) of Industrial Metal Securities having an aggregate Metal Entitlement on the Settlement Date equal to or greater than the nominal weight represented by one Warrant of Metal of the type to be delivered to the Authorised Participant pursuant to the Redemption Form (being at the date of this Prospectus 25.0 tonnes for Aluminium, Copper, Lead and Zinc, 6.0 tonnes for Nickel and 5.0 tonnes for Tin)
<b>“Official List”</b>	means the Official List maintained by the UK Listing Authority for the purpose of Part VI of FSMA
<b>“outstanding”</b>	<p>means in relation to each type of Industrial Metal Securities, all the Industrial Metal Securities of that type issued and in respect of which there is for the time being an entry in the Register other than:</p> <ul style="list-style-type: none"> <li>(a) Industrial Metal Securities which have been Redeemed and cancelled pursuant to the Trust Instrument; and</li> <li>(b) Industrial Metal Securities which have been purchased and cancelled pursuant to the Trust Instrument,</li> </ul> <p>PROVIDED THAT for the purpose of the right to attend and vote at any meeting of the Security Holders or any of them and certain other purposes of the Trust Instrument, Industrial Metal Securities (if any) which are for the time being held by, for the benefit of, or on behalf of, (A) the Issuer, (B) ETFSL, (C) any Subsidiary of the Issuer, (D) any individual Controller of the Issuer or (E) any person controlled by any such persons listed in (A) to (D) above shall (unless and until ceasing to be so held) be deemed not to remain outstanding and accordingly the holders of such Industrial Metal Securities shall be deemed not to be Security Holders</p>
<b>“Overseas Person”</b>	means a person whose activities are not subject to the prohibition in section 19 of FSMA by virtue of its not carrying on such activities in the United Kingdom and whose head office is situated outside the United Kingdom
<b>“Pool”</b>	means a separate fund or pool to which Individual Securities of a particular class (and Basket Securities to the extent that they are comprised of that class of Individual Securities) are attributable

<b>“Price”</b>	means:  (a) for an Individual Security or a class of Individual Securities, the Price as determined in accordance with Condition 5 ( <i>Metal Entitlement and Price</i> ); and  (b) for a Basket Security or category of Basket Securities, the sum of the Prices of each and every Individual Security comprised in that Basket Security or that category of Basket Securities
<b>“Pricing Supplement”</b>	means a pricing supplement constituting final terms in or substantially in the form annexed hereto
<b>“Principal Amount”</b>	means in respect of each Industrial Metal Security the amount specified in clause 2 of the Trust Instrument and as set out in paragraph 4 of Part 8 ( <i>Additional Information</i> )
<b>“Programme”</b>	means the programme for the issue of Industrial Metal Securities
<b>“Prohibited Benefit Plan Investor”</b>	means any “employee benefit plan” within the meaning of section 3(3) of the United States Employee Retirement Income Security Act of 1974, as amended (“ <b>ERISA</b> ”), subject to Part 4. Subtitle B of Title I of ERISA, any “plan” to which section 4975 of the United States Internal Revenue Code of 1986, (the “ <b>Code</b> ”) applies (collectively, “ <b>Plans</b> ”), any entity whose underlying assets include “plan assets” of any of the foregoing Plans within the meaning of 29 C.F.R. Section 2510.3-101 or section 3(42) of ERISA, as they may be modified, by reason of a Plan’s investment in such entity, any governmental or church plan that is subject to any US Federal, state or local law that is similar to the prohibited transaction provisions of ERISA or section 4975 of the Code, or any person who holds Industrial Metal Securities on behalf of, for the benefit of or with any assets of any such Plan or entity
<b>“Prohibited US Person”</b>	means a US Person who is not a Qualified Institutional Buyer, or any person who holds Industrial Metal Securities for the benefit of a US Person who is not a Qualified Institutional Buyer, unless the purchase of the Industrial Metal Securities was made pursuant to Regulation S or another exemption from registration under the Securities Act
<b>“Prospectus”</b>	means this base prospectus of the Issuer
<b>“Prospectus Directive”</b>	means Council Directive 2003/71/EC of the European Parliament and the European Council
<b>“Prospectus Rules”</b>	means the prospectus rules of the UK Listing Authority from time to time made under sections 73A and 84 of FSMA
<b>“Qualified Institutional Buyer”</b>	means a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act) that purchases or has purchased the Industrial Metal Securities from an Authorised Participant, or any US affiliate thereof, pursuant to a Rule 144A offering memorandum provided by the Issuer
<b>“RAO”</b>	means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (as amended, modified or re-enacted from time to time)
<b>“Redemption”</b>	means the redemption of Industrial Metal Securities by the Issuer in accordance with the Conditions (and “ <b>Redeem</b> ” shall be construed accordingly)

<b>“Redemption Fee”</b>	means the fee payable by a Security Holder on the Redemption of Industrial Metal Securities pursuant to Condition 9 ( <i>Redemption Fee</i> )
<b>“Redemption Form”</b>	means a notice in the form prescribed from time to time by the Issuer requesting Redemption of Industrial Metal Securities
<b>“Redemption Limits”</b>	has the meaning given in Condition 6.13 ( <i>Redemption Limits</i> )
<b>“Redemption Notice Date”</b>	means a Business Day on which a valid Redemption Form is received <b><i>provided that</i></b> a Redemption Form received after 4.00 p.m. (London time) on a Business Day will be treated as having been received on the next Business Day
<b>“Redemption Obligations”</b>	means the obligation of the Issuer on Redemption of an Industrial Metal Security to make payment or deliver Metal to the relevant Security Holder in accordance with the Conditions
<b>“Registers”</b>	means the registers of Security Holders in respect of each type of Industrial Metal Securities kept and maintained by the Registrar and <b>“Register”</b> shall be construed accordingly. At the date of the Trust Instrument there are seven Registers, one for each of the seven different types of Industrial Metal Securities currently envisaged to be created pursuant to the Trust Instrument
<b>“Registrar”</b>	means Computershare Investor Services (Jersey) Limited, Queensway House, Hilgrove Street, St. Helier, Jersey, Channel Islands, JE1 1ES or such other person as may be appointed by the Issuer from time to time to maintain the Registers
<b>“Registrar Agreement”</b>	means the registrar agreement dated on or about the date of the Trust Instrument between the Registrar and the Issuer
<b>“Regulated Market”</b>	means a regulated market for the purposes of EU Directive 2004/39/EC (the Markets in Financial Instruments Directive)
<b>“Regulations”</b>	means the Companies (Uncertificated Securities) (Jersey) Order 1999 including any modifications thereto or any regulations in substitution therefor made and for the time being in force which, <i>inter alia</i> , enable title to Industrial Metal Securities to be evidenced otherwise than by a certificate and transferred otherwise than by a written instrument
<b>“Residual Securities”</b>	means, in respect of an Application, Industrial Metal Securities having an aggregate Metal Entitlement equivalent to the weight of LME Physical Metal represented by the Warrants actually delivered to the Issuer in connection with the Application, less the Full Metal Amount and, in respect of a Redemption, the Industrial Metal Securities the subject of the Redemption Form in excess of those having an aggregate Metal Entitlement equivalent to the weight of LME Physical Metal represented by the Warrants allocated by the Issuer for the purposes of such Redemption
<b>“RIS”</b>	means a Regulatory Information Service (as defined for the purposes of the Listing Rules) from time to time chosen by the Issuer
<b>“Secure Vault”</b>	means a secured vault held by the Metal Agent in which Warehouse Receipts are customarily held
<b>“Secured Property”</b>	means in relation to each class of Individual Security (and each category of Basket Security) to the extent it comprises Individual Securities of that class):

- (a) all Warrants recorded in the Issuer LMEsword Account attributable to the relevant class of Individual Security other than any Warrants held on trust by the Issuer pursuant to the terms of the Deed Poll;
- (b) all Warehouse Receipts attributable to the relevant class of Individual Security and held for the Issuer;
- (c) all rights of the Issuer in respect of the Metal attributable to the relevant class of Individual Security (including any insurance maintained by the Issuer in respect of loss of or damage to such Metal and the proceeds received in respect of any such insurance);
- (d) all rights of the Issuer under each Metal Agent Agreement and each TRS Master Confirmation, in each case to the extent it relates to the applicable Pool;
- (e) all rights of the Issuer under each Authorised Participant Agreement and each AP TRS Master Confirmation in each case to the extent it relates to AP TRS Transactions and to the applicable Pool;
- (f) all rights of the Issuer in the monies held in the Issuer Secured Cash Account and the Issuer Metal Sale Cash Account, in each case to the extent attributable to the applicable Pool; and
- (g) all rights of the Issuer in the monies held in the Escrow Account and all rights of the Issuer under the Escrow Agreement, in each case to the extent attributable to the applicable Pool,

or any part or parts thereof in each case which are subject to the security created in favour of the Trustee pursuant to the applicable Security Deed, but not including monies held in the Issuer Cash Account or any rights in respect thereof

<b>“Securities Act”</b>	means the United States Securities Act of 1933, as amended
<b>“Security”</b>	means in respect of each Pool the security constituted by the applicable Security Deed
<b>“Security Assignment”</b>	means, in respect of each Authorised Participant Agreement, the Security Assignment (if any) pertaining to that Authorised Participant Agreement entered into between the Issuer and the relevant Authorised Participant and securing the Secured Obligations (as defined in the Conditions) of the Issuer to that Authorised Participant
<b>“Security Deed”</b>	means in respect of each Pool, the security deed pertaining to that Pool dated the date of the Trust Instrument and entered into between the Issuer and the Trustee
<b>“Security Holder”</b>	means a registered holder of Industrial Metal Securities
<b>“Security Holder Account”</b>	means, in relation to any Industrial Metal Securities to be Redeemed, the relevant Security Holder Cash Account and/or Security Holder Metal Account
<b>“Security Holder Cash Account”</b>	means a bank account to receive any cash payments due in respect of the Redemption of Industrial Metal Securities, which account shall be:

- (a) for an Authorised Participant, the bank account notified in writing by the Authorised Participant to the Issuer, each Metal Agent and the Trustee from time to time;
- (b) for a Compulsory Redemption or where there are no Authorised Participants, the bank account of the Issuer secured for the benefit of the Security Holders or of the Trustee for the benefit of such Security Holders; and
- (c) otherwise, the bank account specified in the Redemption Form

<b>“Security Holder Metal Account”</b>	means, in relation to any Industrial Metal Securities to be Redeemed by Metal Delivery, an LMEsword Account specified by a Security Holder to which Warrants of the appropriate type may be delivered
<b>“Services Agreement”</b>	means the Services Agreement dated 6 December 2010 between ManJer and the Issuer providing for certain services to be provided by ManJer to the Issuer in relation to the Industrial Metal Securities
<b>“Settlement Date”</b>	means: <ul style="list-style-type: none"> <li>(a) in relation to any Application, the date three Business Days after the Application Date or, if such date is not an LME Settlement Day, the immediately following LME Settlement Day; and</li> <li>(b) in relation to any Redemption pursuant to Condition 6.3 (<i>Redemption by Authorised Participants</i>) or Condition 6.4 (<i>Redemption by Other Security Holders</i>), the date determined in accordance with Condition 6.16 (<i>Settlement Date</i>)</li> </ul>
<b>“Sterling” or “£”</b>	means pounds sterling
<b>“Storage Fee”</b>	means in respect of Industrial Metal Securities of any class and any day the amount expressed as a number of basis points determined in accordance with Condition 5.3
<b>“Subsidiary”</b>	has the meaning given to that term in section 1159 of the Companies Act 2006 (as amended)
<b>“tom/next”</b>	means the sale of LME Contracts relating to any type of Metal for delivery on the following LME Settlement Day and the repurchase of equivalent LME Contracts for the same type of Metal for delivery in two LME Settlement Days
<b>“tonnes”</b>	means metric tonnes. One metric tonne is equal to 1,000 Kilograms (approximately 2205 pounds)
<b>“Total Fee”</b>	means the sum of the Management Fee, the Storage Fee and the Insurance Allowance
<b>“TRS Confirmation”</b>	means, in respect of a TRS Transaction, a document exchanged between a Metal Agent and the Issuer which confirms or evidences the terms of that TRS Transaction
<b>“TRS Master Confirmation”</b>	in relation to any Metal Agent Agreement has the meaning given in that Metal Agent Agreement
<b>“TRS Transaction”</b>	means a transaction in Metal entered into between a Metal Agent and the Issuer under a TRS Master Confirmation or an AP TRS Transaction

<b>“Trustee”</b>	means The Law Debenture Trust Corporation p.l.c. and any replacement trustee under the Trust Instrument
<b>“Trust Instrument”</b>	means the trust instrument dated 6 December 2010 between the Issuer and the Trustee constituting the Industrial Metal Securities
<b>“type”</b>	means, in relation to Individual Securities, a class thereof and, in relation to Basket Securities, the category thereof
<b>“UCITS Fund”</b>	means a collective investment scheme which in accordance with the UCITS directive (Council Directive No. 85/611/EEC) as amended is an undertaking for collective investment in transferable securities subject to that directive and includes a UCITS Scheme
<b>“UCITS Scheme”</b>	means a scheme that falls within the definition of a “UCITS Scheme” contained in the FSA Glossary
<b>“UK Listing Authority”</b>	means the FSA acting in its capacity as the competent authority for the purposes of Part VI of FSMA or any successor enactment
<b>“Unacceptable Authorised Participant”</b>	means an Authorised Participant in respect of which a notice has been given (and not withdrawn) under the Authorised Participant Agreement between the Issuer and that Authorised Participant that such Authorised Participant is to be treated as an Unacceptable Authorised Participant for the purposes of that Authorised Participant Agreement
<b>“Uncertificated” or “Uncertificated Form”</b>	means recorded on the Register as being held in uncertificated form, title to which, by virtue of the Jersey Companies (Uncertificated Securities) (Jersey) Order 1999, is to be transferred by means of CREST
<b>“United Kingdom” or “UK”</b>	means United Kingdom of Great Britain and Northern Ireland
<b>“United States” or “US”</b>	means the United States of America, its territories and possessions, any state of the United States and the District of Columbia
<b>“US dollars” or “US\$”</b>	means United States dollars
<b>“US Person”</b>	means a “US person” as defined in Regulation S under the Securities Act
<b>“VAT”</b>	means value added tax
<b>“Warehouse Fee”</b>	means in respect of any LME Physical Metal (evidenced by Warrants) or Warehouse Physical Metal (evidenced by Warehouse Receipts) the rental and other storage fees (including VAT, if any) payable to the Approved Warehouse in respect of such Warrants or Warehouse Receipts pursuant to the terms thereof
<b>“Warehouse Physical Metal”</b>	means any and all of aluminium, copper, nickel, lead, zinc and tin that is evidenced by a Warehouse Receipt and was previously the subject of a Warrant (and therefore satisfies the LME Special Contract Rules that were applicable at the time such Metal ceased to be the subject of a Warrant)
<b>“Warehouse Receipt”</b>	means a document issued by an Approved Warehouse in the name of the Issuer that evidences title of the Issuer to a specified brand and a specified lot of Warehouse Physical Metal that is stored at a specified location and warehouse
<b>“Warrants” or “LME Warrants”</b>	means Warrants (as defined in the LMEsword Regulations) in respect of any type of LME Physical Metal (being bearer documents held as bailee by the Depository in accordance with the LMEsword Regulations and electronically registered in LMEsword, which are used for the physical settlement of contracts traded on the LME and

which evidence title to a specified brand and a specified lot of LME Physical Metal that is stored at a specified location and warehouse and that declare conformity of such LME Physical Metal with the LME Special Contract Rules)

References in this document to a particular time are, unless otherwise stated, references to the time applicable in London, United Kingdom.

References in this document to any agreement or document include a reference to such agreement or document, as amended, varied, novated, supplemented or replaced from time to time. Unless the context otherwise requires or unless otherwise stated reference to any statute or statutory provision should be construed as a reference to such statute or statutory provision as amended, modified, extended consolidated, re-enacted or replaced in force as at the date of this Prospectus and includes any subordinate legislation made thereunder.



## DIRECTORS, SECRETARY AND ADVISERS

<b>Directors of the Issuer</b>	Graham Tuckwell, Chairman Tom Quigley Graeme Ross Craig Stewart All the Directors are non-executive
<b>Secretary and Administrator of the Issuer</b>	R&H Fund Services (Jersey) Limited
<b>Registered Office of the Issuer and address of directors and secretary of the Issuer</b>	The address of all the Directors and of the Secretary of the Issuer is the registered office of the Issuer, which is:  Ordnance House 31 Pier Road St. Helier Jersey JE4 8PW Channel Islands Tel: +44 1534 825230
<b>Manager</b>	ETFS Management Company (Jersey) Limited Ordnance House 31 Pier Road St. Helier Jersey JE4 8PW Channel Islands
<b>Metal Agent</b>	Deutsche Bank AG, London branch Winchester House 1 Great Winchester Street London EC2N 2DB United Kingdom
<b>Trustee</b>	The Law Debenture Trust Corporation p.l.c. Fifth Floor 100 Wood Street London EC2V 7EX United Kingdom
<b>English Legal Advisers to the Issuer</b>	Dechert LLP 160 Queen Victoria Street London EC4V 4QQ United Kingdom
<b>Jersey Legal Advisers to the Issuer</b>	Mourant Ozannes 22 Grenville Street St. Helier Jersey JE4 8PX Channel Islands
<b>Austrian Legal Advisers to the Issuer</b>	Dorda Brugger Jordis Rechtsanwälte GmbH Dr-Karl-Lueger-Ring 10 1010 Vienna Austria
<b>Danish Legal Advisers to the Issuer</b>	Horten Philip Heymans Allé 7 2900 Hellerup Copenhagen, Denmark

<b>Finnish Legal Advisers to the Issuer</b>	Dittmar & Indrenius Pohjoisesplanadi 25 A FI-00100 Helsinki Finland
<b>French Legal Advisers to the Issuer</b>	Simmons & Simmons LLP 5 Boulevard de la Madeleine 75001 Paris France
<b>German Legal Advisers to the Issuer</b>	Dechert LLP Theresienstrasse 6 80333 München Germany
<b>Italian Legal Advisers to the Issuer</b>	Studio Legale Cieri Crocenzi Via A. Bertoloni, 41 00197 Roma Italy
<b>Irish Legal Advisers to the Issuer</b>	A&L Goodbody International Financial Services Centre North Wall Quay Dublin 1 Ireland
<b>Dutch Legal Advisers to the Issuer</b>	Stibbe Stawinskylaan Postbus 75640 1070 AP Amsterdam The Netherlands
<b>Portuguese Legal Advisers to the Issuer</b>	Cuatrecasas, Gonçalves Pereira & Associados, RL Praça Marquês de Pombal, nº2 (e nº1-8º) 1250-160 Lisboa Portugal
<b>Spanish Legal Advisers to the Issuer</b>	Cuatrecasas, Gonçalves Pereira C/ Lagasca, 88 - 28001 Madrid Spain
<b>Swedish Legal Advisers to the Issuer</b>	Oreum Advokatbyrå AB Kungsträdgårdsgatan 16 Stockholm Sweden
<b>Auditors of the Issuer</b>	Deloitte LLP Lord Coutanche House 66-68 The Esplanade St. Helier Jersey JE4 8WA Channel Islands  Deloitte LLP is authorised by the Jersey Financial Services Commission to be appointed an auditor of a Jersey incorporated company under Article 109 of the Companies (Jersey) Law 1991.

**Jersey Legal Advisers to the Trustee**

Ogier  
Whiteley Chambers  
Don Street  
St Helier  
Jersey JE4 9WG  
Channel Islands

**English Legal Advisers to the Trustee**

Simmons & Simmons LLP  
CityPoint  
1 Ropemaker Street  
London EC2Y 9SS  
United Kingdom

**Registrar**

Computershare Investor Services (Jersey) Limited  
Queensway  
Hilgrove Street  
St. Helier  
Jersey JE1 1ES  
Channel Islands

## DOCUMENTS INCORPORATED BY REFERENCE

The following documents are incorporated into this Prospectus by reference and are available at the Issuer's website at <http://www.etfsecurities.com/iml> and at the registered office as set out in paragraph 20 of Part 8 (*Additional Information*):

1. the published and audited reports and accounts of the Issuer for the year ended 31 December 2010 as published by the Issuer through the Regulatory News Service of the London Stock Exchange on 28 April 2011; and
2. the published and audited reports and accounts of the Issuer for the year ended 31 December 2011 as published by the Issuer through the Regulatory News Service of the London Stock Exchange on 12 March 2012.

No documents referred to in the above documents are themselves incorporated into this Prospectus and other than the documents specifically identified above, no other documents, including the contents of any websites or web pages referred to in this Prospectus, form part of this Prospectus for the purposes of the Prospectus Directive or the Prospectus Rules.

## PART 1

### DESCRIPTION OF INDUSTRIAL METAL SECURITIES

*The following is a description of the rights attaching to the Industrial Metal Securities. The legally binding Conditions of the Industrial Metal Securities are set out in the Trust Instrument and reproduced in Part 4 (Trust Instrument and the Conditions) of this Prospectus. Copies of the Trust Instrument, by which the Industrial Metal Securities will be constituted, are available for inspection as set out in paragraph 20 (Documents Available for Inspection) of Part 8 (Additional Information).*

#### **Introduction**

The Issuer is currently making available for issue seven different types of securities, all collectively called ETFS Industrial Metal Securities (“**Industrial Metal Securities**”).

Industrial Metal Securities will be secured by Warrants evidencing LME Physical Metal, at times Warehouse Receipts evidencing Warehouse Physical Metal, the Issuer’s rights (including its ownership rights) in respect of the physical Metal attributable to such Industrial Metal Securities and the Issuer’s rights in respect of cash in US dollars held in escrow representing Accrued Rents. In certain circumstances described in more detail below, a limited portion of the Issuer’s assets attributable to the Industrial Metal Securities may be represented by cash in US dollars deposited in the Issuer’s Secured Cash Account or the Escrow Account or by TRS Transactions with the Metal Agent or an Authorised Participant. The Industrial Metal Securities are intended to offer investors a means of investing in physical industrial metals without the necessity of taking delivery, and to buy and sell that interest through the trading of a security on the London Stock Exchange and on any other exchange to which the Industrial Metal Securities may be admitted to trading from time to time.

The Industrial Metal Securities are designed to operate in conjunction with the established practices of the LME – the world’s largest exchange (by trading volume) for industrial metals. The LME offers cash and futures trading in all of the industrial metals the subject of the Programme. Trades on the LME may be closed out or settled in cash or physically in the form of Warrants. Warrants evidence ownership of a specific lot of LME Physical Metal that meets the relevant LME Standards and is stored in a specific Approved Warehouse. A liability to pay Warehouse Fees accrues in respect of all LME Physical Metal and when LME Physical Metal is purchased the seller pays to the buyer an amount in US dollars in respect of the Accrued Rent. Warrants are also traded in the “over the counter” market and can, in respect of LME Physical Metal with certain desirable qualities (such as, among other things, the location of the Metal), trade at a premium to the LME Cash Settlement Price (depending on, among other things, the location of the metal). For additional information on the LME, LME Physical Metal and Warrants, see Part 2 (*The Industrial Metals Market*).

An Industrial Metal Security is an undated secured limited recourse debt obligation of the Issuer. A Security Holder (provided it is an Authorised Participant) is entitled to Redeem Industrial Metal Securities for an amount of LME Physical Metal represented by a whole number of Warrants (each representing a metal weight that is plus or minus 2 per cent. of the weight of a standard lot of each respective Metal), cash proceeds in respect of the portion of the Metal Entitlement that cannot be delivered as a whole Warrant and an amount in US dollars equal to the Accrued Rent on the Warrants delivered. The Issuer and the Metal Agent will select the particular Warrants to be delivered for a Redemption and the aggregate weight of the Metal in those Warrants will determine the precise number of Industrial Metal Securities to be redeemed for Metal (with the balance being settled in cash as described below).

Seven types of Industrial Metal Security are currently available for issue under this Programme: ETFS Physical Aluminium Securities, ETFS Physical Copper Securities, ETFS Physical Lead Securities, ETFS Physical Nickel Securities, ETFS Physical Tin Securities, ETFS Physical Zinc Securities and ETFS Physical IM Basket Securities.

## Metal Entitlement

### Individual Securities

Each Individual Security will have a Metal Entitlement, which will vary with time and by reference to which the Redemption entitlement of Security Holders will be calculated. The Metal Entitlement for each class of Individual Security, as at the day dealings in the Industrial Metal Securities of that class first commenced on the London Stock Exchange, is shown in the second column of the table below. Also shown is the Metal Entitlement and LME Cash Settlement Price applicable to each class of Industrial Metal Securities as at 26 June 2012 and the Price of each class of Individual Security calculated as at the same date:

Individual Security	Initial Metal Entitlement (Tonnes)	Metal Entitlement (Tonnes)	LME Cash Settlement Price (US\$/tonne)	Price per Individual Security (US\$)
ETFS Physical Aluminium Securities	0.05	0.045557380	US\$1,810.50	US\$82.48
ETFS Physical Copper Securities	0.005	0.004816430	US\$7,347.00	US\$35.39
ETFS Physical Lead Securities	0.05	0.045855211	US\$1,768.00	US\$81.07
ETFS Physical Nickel Securities	0.005	0.004876061	US\$16,255.00	US\$79.26
ETFS Physical Tin Securities	0.005	0.004887580	US\$18,600.00	US\$90.91
ETFS Physical Zinc Securities	0.05	0.045534845	US\$1,794.50	US\$81.71

The Metal Entitlement will be reduced daily by the Storage Fee, the Management Fee and the Insurance Allowance, as follows:

$$ME_{(i,t)} = ME_{(i,t-1)} \times (1 - SF_{(i,t)} - MF_{(i,t)} - (IA_{(i,t)} \times 12))^{1/N} \text{ and}$$

$$SF_{(i,t)} = ARF_{(i,t)} / P_{(i,t-4)}$$

where:

i refers to the relevant class of Industrial Metal Security;

t refers to the applicable day (with t-1 being the previous calendar day);

$ME_{(i,t)}$  is the Metal Entitlement for Industrial Metal Securities of class i for day t;

$SF_{(i,t)}$  is the per annum Storage Fee applicable to Industrial Metal Securities of class i on day t, expressed as a decimal;

$MF_{(i,t)}$  is the per annum Management Fee Rate applicable to Industrial Metal Securities of class i on day t, expressed as a decimal (so that 69 basis points per annum is expressed as 0.0069);

$(IA_{(i,t)} \times 12)$  is the Insurance Allowance applicable to Industrial Metal Securities of class i on day t, expressed as an annual rate (by multiplying the applicable monthly rate by 12) and as a decimal (so that 1 basis point per month results in 12 basis points per annum, which is expressed as 0.0012);

$ARF_{(i,t)}$  is the Annual Rental Fee for day t for Metal of type i, being the daily rental fee (expressed in cents per tonne per day) multiplied by the number of calendar days in the relevant year (365 or 366 in a leap year) and expressed in US dollars (by dividing the result by 100);

$P_{(i,t-4)}$  is the LME Cash Settlement Price for Metal of type i published on the fourth LME Business Day prior to day t; and

N is 365 (or 366 in a leap year).

The Metal Entitlement will be calculated daily by the Issuer to nine places of decimals and will be published on the Issuer's website.

Whenever new Industrial Metal Securities are issued or existing Industrial Metal Securities Redeemed, this will be done at the then prevailing Metal Entitlement, thereby ensuring that all Industrial Metal Securities of the same class have the same Metal Entitlement and are fully fungible.

### **Basket Security**

An ETFS Physical IM Basket Security is a single security comprised of a fixed number of Individual Securities of each class as shown in the table below. The table also shows the proportion of a Basket Security that each Metal would have represented by value as at 26 June 2012. As the Metal Entitlement and Price of each Individual Security will change independently of each other the proportion by value represented by each Metal in the Basket Securities will also change over time.

<b>Metal</b>	<b>Price/Individual Security (US\$)<sup>(i)</sup></b>	<b>%age by value of total<sup>(ii)</sup></b>	<b>Metal Entitlement of each Metal</b>	<b>Number of Individual Securities</b>
Aluminium	US\$82.48	29%	0.01400	0.28
Copper	US\$35.39	47%	0.00520	1.04
Lead	US\$81.07	4%	0.00200	0.04
Nickel	US\$79.26	9%	0.00045	0.09
Tin	US\$90.91	1%	0.00005	0.01
Zinc	US\$81.71	9%	0.00450	0.09
<b>Total</b>		<b>100%</b>		

#### **Notes:**

- (i) *Price per Individual Security is based on the LME Cash Settlement Price as at [23 November 2011] and the Metal Entitlement for each Individual Security specified in the second column of the table under the heading "Individual Securities" above.*
- (ii) *Based on the Price of an Individual Security of each class multiplied by the number of Individual Securities of that class of which a Basket Security is comprised and on the assumption that dealings in all types of Industrial Metal Security had commenced on such date.*

The Metal Entitlement of the Basket Securities will reduce by the Management Fee, Storage Fee and Insurance Allowance applicable to the Individual Securities of which they are comprised.

### **Storage of Metal, Storage Fees and Insurance of Metal**

#### **Storage of Metal**

Each Industrial Metal Security will initially be backed by Warrants evidencing LME Physical Metal. Each Warrant specifies the location of the LME Physical Metal it evidences, which can be in any one of the 600 Approved Warehouses across 37 global locations. For Applications, Authorised Participants may deliver any Warrant that is admitted for settlement in LMEsword and meets the requirements therefor in the applicable Authorised Participant Agreement. The Issuer expects that it will receive Warrants that trade without any premium in the "over the counter" market (so-called "cheapest to deliver"). The Issuer in turn expects to deliver Warrants for a Redemption without regard to any potential premium attaching to such and does not intend (but reserves the right at its sole discretion) to exchange any of its Warrants in the "over the counter" market to realise any premium.

The Issuer may elect to substitute some (but not all) of its LME Physical Metal with Warehouse Physical Metal (known as taking Metal "off Warrant") if it will reduce Warehouse Fees and/or help ensure the Issuer complies with LME Lending Guidance. The Issuer will only substitute Warehouse Physical Metal for its LME Physical Metal if in the Issuer's reasonable opinion such substitution will not adversely impact the Issuer's ability to effect Redemptions or if it is required to do so in order to satisfy the LME Lending Guidance. Warehouse Physical Metal must be stored in LME Approved Warehouses, be evidenced by Warehouse Receipts and be readily convertible to LME Physical Metal (known as putting Metal "on Warrant"). The Issuer may at its sole discretion work with the Metal Agent to sift Warrants in order to diversify the location of its Metal or increase concentration with the aim of improving opportunities to negotiate discounts on Warehouse Fees. For further information on LME Physical Metal, Warrants and premiums, see Part 2 (*The Industrial Metals Market*).

If ever the Issuer elects to substitute Warehouse Physical Metal for LME Physical Metal, the Metal Agent will be responsible for administering the process. The Issuer will only store Warehouse Physical Metal in Approved Warehouses, although the actual area for such storage may differ from the area in

which LME Physical Metal evidenced by Warrants is stored and such areas may not be subject to LME Rules or supervision. The Issuer will only move Metal off Warrant if, in its reasonable opinion, it is satisfied that the storage and/or sale of the Metal in such area is not subject to any taxation or customs duties or excises. Furthermore, the Issuer will require that the area has at least the same insurance as would apply to the area storing LME Physical Metal, that it has appropriate levels of security and that Metal can be kept clean, dry (if relevant), free from contaminants and in good repair and that LME Physical Metal taken off Warrant and held as Warehouse Physical Metal can readily be put back on Warrant and stored once again as LME Physical Metal. Finally, the Approved Warehouse must ensure that the Metal in such area is appropriately recorded in its books and records, which must be independently audited.

All Warrants of the Issuer will be held in physical form at the Depository and recorded electronically in the Issuer LMEsword Account (a LMEsword Account in the name of the Issuer, in respect of which the Metal Agent will act as the Issuer's agent in giving instructions). Any Warehouse Receipts will be in the Issuer's name and will be held physically in custody in the Secure Vault by the Metal Agent.

The Issuer will publish daily on its website the amount of Metal held as LME Physical Metal in the form of Warrants and the amount of Metal held as Warehouse Physical Metal in the form of Warehouse Receipts (if any) and provide relevant details of each holding – see "Publication of Relevant Information" below.

#### ***Storage Costs for LME Physical Metal***

LME Physical Metal incurs a Warehouse Fee which accrues in cents per tonne per day and is payable to the relevant Approved Warehouse annually in arrears on 1 April. The accrued Warehouse Fee is monitored and calculated by LMEsword and when LME Physical Metal is purchased the seller must also pay the buyer the accrued Warehouse Fee in US dollars. The holder of a Warrant on 31 March must pay the annual Warehouse Fee to the relevant Approved Warehouse.

The LME publishes, in advance of each year commencing 1 April, the maximum Warehouse Fees that are being charged by each Approved Warehouse for the year. The Issuer anticipates having to pay the maximum rate for all of its LME Physical Metal.

#### ***Storage Costs for Warehouse Physical Metal***

If the total amount of Metal held by the Issuer builds to a sufficient size to enable the Issuer to negotiate with Approved Warehouses reductions to their warehouse fees then the Issuer will consider taking some Metal off Warrant and holding it as Warehouse Physical Metal instead of LME Physical Metal. The Metal Agent has agreed to bear all costs relating to taking Metal off Warrant and bringing it back on Warrant and may receive a share of the benefit of the reduction in the Warehouse Fee. The Issuer is not obliged to reduce the Annual Rental Fee in the event that it is able to obtain lower Warehouse Fees but may do so through a reduction in the Annual Rental Fee, which may apply generally or only to certain classes of Industrial Metal Securities and may be temporary or for a specified period. Furthermore, holding Metal in the form of Warehouse Physical Metal may not always result in reduced Warehouse Fees, such as where the Issuer has substituted Warehouse Physical Metal for LME Physical Metal to ensure it complies with LME Lending Guidance. For Warehouse Physical Metal, the payment schedule and relevant payment period are negotiated directly with Approved Warehouses and may differ from the terms set for LME Physical Metal.

#### ***The Annual Rental Fee and the Storage Fee***

The terms of the Industrial Metal Securities permit the Issuer to determine the Annual Rental Fee on a cents per tonne per day basis for each class of Individual Security and to deduct the resultant Storage Fee from the Metal Entitlement daily. The Annual Rental Fee may be varied by the Issuer from time to time. If the Annual Rental Fee is amended, such amendment will be notified through a RIS, and in the case of an increase will not take effect for at least 30 days following the publication of such notice.



Although the Issuer expects the Annual Rental Fee to be fixed annually (in cents per tonne per day), the Storage Fee (expressed as a percentage of the Metal Entitlement per annum) will vary each day with movements in the LME Cash Settlement Price. The following table shows the Annual Rental Fee and the Storage Fee for each type of Metal as at 26 June 2012 and the LME Cash Settlement Price as at 26 June 2012 (being the date by reference to which the Storage Fee has been calculated):

<b>Metal</b>	<b>Annual Rental Fee (cents/tonne/day)</b>	<b>LME Cash Settlement Price (US\$/tonne)</b>	<b>Storage Fee (Annual Rental Fee/Price)</b>
Aluminium	45	US\$1,810.50	8.76% p.a.
Copper	41	US\$7,347.00	1.99% p.a.
Lead	41	US\$1,768.00	7.90% p.a.
Nickel	49	US\$16,255.00	1.05% p.a.
Tin	46	US\$18,600.00	0.86% p.a.
Zinc	42	US\$1,794.50	8.15% p.a.

Whereas historical Warehouse Fees for all the Metals have steadily increased over the last ten years, showing an approximate compound annual growth rate of 4 per cent. per annum to 6 per cent. per annum depending on the Metal, the resultant Storage Fees for the same period have varied considerably, ranging from 1 per cent. per annum (for Nickel and Tin in 2009) to 22 per cent. per annum (for Lead in 2002). Especially notable is the steep increase in the fees in 2008, as a result of Metal prices falling dramatically during the global financial crisis. Further details of historical Warehouse Fees, LME Settlement Prices and resultant Storage Fees on an annual basis since 1999 are set out in the table under the heading "Warehouse Fees" in Part 2 (*The Industrial Metals Market*).

#### ***Insurance of the Issuer's Metal***

Each Approved Warehouse is required by the LME to maintain insurance covering LME Physical Metal for the following risks: unexplained losses of stored goods (such as loss of pieces and/or weight of metal); errors, omissions or negligence of the Warehouse or its personnel, servants or agents; and fraud and dishonesty of the Warehouse or its personnel, servants or agents.

The Issuer has obtained additional insurance from certain underwriters at Lloyd's to insure its Metal (whether evidenced by Warrants or Warehouse Receipts) against risks of loss or damage (including loss or damage caused by fire, lightning, explosion, impact or crash of aircrafts, windstorm, hail, flood, earthquake, volcanic eruption, land subsidence and landslide, snow pressure, avalanches, sprinkler, effusion or spray fire-extinguishing systems, theft, burglary, robbery within the place of insurance, robbery during transport, vandalism after burglary, vehicle impact, smoke, domestic riots, malicious damaging, strike or lockout). This is subject to common exclusions including for loss or damage caused by war, terrorism, cyber-attack, radioactive contamination, chemical, biological, biochemical, and electromagnetic weapons, stocktaking losses, losses discovered upon taking of inventory, mysterious disappearance, misappropriation losses and access to the Metal that is impaired or rendered impossible by forces of nature (such as earthquake or flood).

The Issuer's insurance is subject to a deductible limit of US\$100,000 in respect of each and every loss, and to a loss limit of US\$100,000,000 on any one location in respect of each and every loss (one location being each warehouse or place of storage or complex of buildings constituting one set of premises). The Issuer intends to monitor the value of its Metal held at each location and where it considers in its discretion reasonable to do so may procure additional insurance (at additional cost) if the value of its Metal held at any one location should exceed US\$100,000,000.

The insurance policy obtained by the Issuer is for one year to 30 November 2012 (or earlier claim, subject to a right to reinstate cover) and there can be no assurance that cover will be available thereafter. At any time when any existing insurance policy falls due for renewal and at any other time when the Issuer considers it appropriate, the Issuer will consider in its discretion whether to maintain cover or to continue to maintain cover is appropriate and as to the appropriate amounts of cover and appropriate deductible amounts, but the Issuer is under no obligation to maintain or renew such insurance, or to maintain cover in the above or any other amount. To the extent that changes have been made to the terms of its insurance cover that the Issuer considers significant in the context of the Industrial Metal Securities, the Issuer intends to make an announcement through a RIS as soon as reasonably practicable.

The Issuer intends that the Insurance Allowance should broadly reflect the cost to it of maintaining insurance. The nature of the insurance market and the basis on which insurance premia are calculated may however mean that from time to time there may be divergences between the Insurance Allowance and the cost to the Issuer of maintaining its insurance policies. If the Insurance Allowance is amended, such amendment will be notified through a RIS as soon as reasonably practicable prior to such amendment becoming effective.

### **Management Fee and Insurance Allowance**

In return for ManJer supplying to the Issuer all management and administration services (further information on which is set out under “Administration” below), the Issuer is liable under the Services Agreement to pay to ManJer amounts equal to all Application Fees and Redemption Fees and a Management Fee in respect of each class of Industrial Metal Securities.

The Issuer will also pay the Insurance Allowance to ManJer which it will use towards payment of the costs of insuring the Metal (with any difference being payable by or retained by ManJer) as described under the heading “Storage of Metal, Storage Fees and Insurance of Metal - Insurance of the Issuer’s Metal” above).

The Management Fee and Insurance Allowance will each be reflected as a reduction to the Metal Entitlement each day, commencing on the day following first dealings in the Industrial Metal Securities on the London Stock Exchange.

The Management Fee is quoted as a rate per annum and will initially be 0.69 per cent. per annum for all classes of Individual Securities.

The Insurance Allowance is quoted as a rate per calendar month as a percentage of the Metal Entitlement and will initially be 0.01 per cent. per month for all classes of Industrial Metal Securities.

The Management Fee and Insurance Allowance for the Basket Securities will be the aggregate of the Management Fee and the Insurance Allowance for the Individual Securities of which they are comprised.

The level of the Management Fee and the Insurance Allowance may be varied by the Issuer from time to time. If the level of the Management Fee or the Insurance Allowance is amended, such amendment will be notified through a RIS. Any increase in the Management Fee will not take effect for at least 30 days following the publication of such notice. Notice of any amendment to the Insurance Allowance will be given as soon as reasonably practicable prior to such amendment becoming effective.

### **LME Lending Guidance**

The LME has implemented rules requiring holders of long positions in LME Physical Metal over a certain threshold to respond to demand in the market for borrowing. Holders of such long positions can be required by the LME to roll their positions for a day at pre-defined premium levels to the prevailing cash price. Such rules are known as LME Lending Guidance and are described in more detail under the heading “The Metals Market - LME Lending Guidance” in Part 2 (*The Industrial Metals Market*).

The Metal Agent has contractually agreed to use reasonable efforts and exercise proper discretion within the Warehouse Physical Metal policy set by the Issuer to administer the Issuer’s LME Physical Metal holdings to help the Issuer avoid becoming subject to LME Lending Guidance. Such efforts will include monitoring the Issuer’s LME Physical Metal position and periodically taking Metal off Warrant and out of the LME Physical Metal pool.

In the event the Issuer’s holdings of LME Physical Metal become subject to LME Lending Guidance, the Metal Agent will purchase LME Physical Metal from the Issuer and sell at least the same amount back on a tom/next basis in amounts sufficient to bring the Issuer’s LME Physical Metal holdings within the relevant threshold. Such transactions will reduce the Issuer’s Metal holdings for a single business day, and the Issuer will have an unsecured contractual obligation against the Metal Agent for the delivery of Warrants evidencing at least the same weight of Metal the following day. The premia (net of a fee payable to the Metal Agent) earned on tom/next transactions will be for the account of the Issuer but may (at the discretion of the Issuer) be allocated in whole or in part to Security Holders of the Individual Securities of the class concerned (and of Security Holders of Basket Securities to the extent comprised of Individual Securities of that class) either by transfer to the Issuer Secured Cash Account

(to supplement the Secured Property attributable to the relevant class) or by an adjustment (which may be temporary or for a specified period) to the Management Fee or the Storage Fee. Any decision to so allocate any part of such premia will be announced via a RIS.

### **Payment of Warehouse Fees, the Storage Fee, the Management Fee and the Insurance Allowance**

The Metal Agent has agreed to meet the Issuer's liabilities for, and manage, all payments of Warehouse Fees to Approved Warehouses in consideration for receiving the Storage Fee. The Metal Agent's obligation to pay the accrued Warehouse Fees will be collateralised by cash in US dollars held in the Escrow Account (subject to a *de minimis* threshold of US\$2,500,000).

Pursuant to the Metal Agent Agreement, the Issuer will sell daily and the Metal Agent will buy daily an amount of Metal equal to that day's accrued Storage Fee, Management Fee and Insurance Allowance and will settle such sales by transfer to the Metal Agent at the end of each month a whole number of Warrants evidencing Metal less than or equal to the monthly Storage Fee, Management Fee and Insurance Allowance for the month and any residual balance will be carried forward and added to the next month. The Metal Agent is entitled to deduct from the proceeds of sale the Storage Fee and an amount in respect of its fees (to cover its fees for services and its obligation to pay all accrued Warehouse Fees under the Metal Agent Agreement) and the balance will be payable by it to ManJer monthly at the end of each calendar month.

### **Publication of Relevant Information**

On its website, the Issuer will publish daily, for each type of Industrial Metal Security, the current Metal Entitlement and the applicable Annual Rental Fee, Management Fee and Insurance Allowance. The Issuer will also publish daily the aggregate amount of each Metal it holds and details of all its holdings of Warrants and Warehouse Receipts. Information on the Warrants will be derived from LMEsword and information on Warehouse Receipts will be provided to the Issuer by the Metal Agent and will be confirmed monthly by the Issuer with the relevant Approved Warehouse.

### **Taxation of Transactions or Storage of Metals**

Pursuant to LME requirements, an Approved Warehouse must be located in a jurisdiction that (i) allows for the storage of Metal indefinitely in a secure customs warehousing regime without liability for any duties prior to customs clearance (including any domestically produced Metal or any Metal that has previously cleared customs), (ii) does not impose any tax liability on transactions for Metal held in Approved Warehouses, (iii) does not require the determination of ownership of the Metal being stored and (iv) does not impose any taxes on storage costs. As a result, the Issuer does not believe that any VAT, sales tax or customs duties or excises are currently payable in respect of transactions in Warrants or the storage of LME Physical Metal and Warehouse Physical Metal. The Issuer has not undertaken any independent investigation of the relevant tax treatment and is instead relying on the LME requirements for Approved Warehouses.

The Metal Agent has agreed to use commercially reasonable efforts to determine whether the Approved Warehouse to which any particular Warehouse Receipts relate has suitable storage facilities for Warehouse Physical Metal, meets all necessary requirements such that no VAT or duties are chargeable or payable on or in respect of Metal stored in such Approved Warehouse and is in all other respects located in a suitable jurisdiction for such purpose, and that Metal will not be taken off Warrant in any jurisdiction that would subject the Issuer to taxation on the storage or sale of such Metal. Furthermore, the Issuer believes that the tax-exempt status of Approved Warehouses extends to the storage of Warehouse Physical Metal.

### **The Metal Agent**

Deutsche Bank AG, London branch is the initial sole Metal Agent and will provide certain transactional, custody and administrative services in relation to physical Metal, Warrants and Warehouse Receipts. The Metal Agent is also an Authorised Participant. The Metal Agent will administer the Issuer's holding of Metal including monitoring compliance with the LME Lending Guidance and in connection therewith will purchase LME Physical Metal from the Issuer and sell at least the same amount back on a tom/next basis and administer the process of taking Metal off Warrant and/or putting Metal on Warrant. To the

extent that the Issuer holds Warehouse Physical Metal, the Metal Agent will keep the Issuer’s Warehouse Receipts for such Warehouse Physical Metal in safe custody. The Metal Agent will also subscribe for Residual Securities arising from any Application or Redemption of Industrial Metal Securities where agreed with the relevant Authorised Participant. The Metal Agent will also purchase Metal from the Issuer in certain circumstances including on a Compulsory Redemption of Industrial Metal Securities.

The Issuer has agreed not to appoint any other Metal Agent for a period of at least two years from 6 December 2010. **The Issuer is not obliged to appoint any other Metal Agent and it is not the Issuer’s intention to appoint other Metal Agents for the purposes of spreading risk.**

The Metal Agent will receive a fee in connection with its services under the Metal Agent Agreement, which will be paid and settled as described under the heading “Payment of Warehouse Fees, the Storage Fee, the Management Fee and the Insurance Allowance” above.

For further information on the Metal Agent Agreement, see Part 6 (*The Metal Agent Agreement*).

The Metal Agent is organised under German Law and is authorised under German Banking Law (competent authority BaFin – Federal Financial Supervisory Authority) and authorised and subject to limited regulation for the conduct of UK investment business by the Financial Services Authority (FSA).

The Metal Agent and any of its affiliates may from time to time purchase or sell Industrial Metal Securities and/or Metal for their own account, as agent for their customers and for accounts over which they exercise investment discretion.

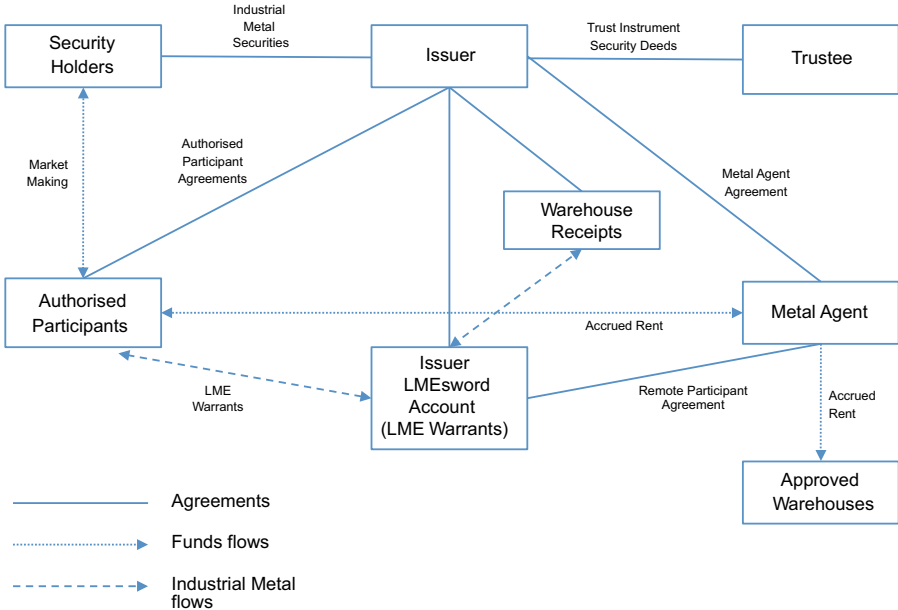
The Metal Agent does not warrant the contents of this Prospectus, nor is it involved in the management, administration or Price calculation in respect of the Industrial Metal Securities.

**Security Structure for Industrial Metal Securities**

A security structure has been established to provide security for the Redemption Obligations of the Issuer to Security Holders upon Redemption of Industrial Metal Securities.

Industrial Metal Securities will be constituted by the Trust Instrument. The Trustee holds all rights and entitlements under the Trust Instrument on trust for the Security Holders. Under the terms of the Trust Instrument, the Trustee acts as trustee for the Security Holders of each type of Industrial Metal Security.

A diagrammatic representation of the principal aspects of the structure appears below:



The Issuer has been established as an “umbrella” or “multi-class” company with separate Pools of assets so that the Issuer can issue separate types of securities, based on different types of metal or combinations of types of metal or having some other different characteristics, but on terms that each

such separate class of securities would have recourse only to the Pool attributable to that class and not to the assets attributable to any other class. The assets and liabilities attributable to each class of Individual Security (and the Basket Securities to the extent they comprise such Individual Securities) will represent the Pool for that class.

Thus there are currently six separate Pools applicable to Industrial Metal Securities. A single Pool secures all Individual Securities of a single class and all Basket Securities to the extent they comprise such Individual Securities.

The principal assets to be included in each Pool are LME Physical Metal and Warehouse Physical Metal and the corresponding Warrants or Warehouse Receipts (as the case may be) held attributable to that class and the rights of the Issuer under the Metal Agent Agreement to the extent attributable to that class. The liabilities of the Issuer will primarily be the Issuer's obligations under Industrial Metal Securities. The Issuer is also liable to pay Warehouse Fees in respect of LME Physical Metal and Warehouse Physical Metal, liabilities which the Metal Agent has agreed to meet. The Issuer may issue other types of securities but any such securities will have recourse only to the assets of the Pool attributable to such new type and not to the assets attributable to any other type.

The Issuer and the Trustee have entered into a separate Security Deed in respect of each Pool. The rights and entitlements held by the Trustee under each Security Deed are held by the Trustee on trust for the Security Holders of that particular class of Industrial Metal Security.

Under the terms of the Security Deeds, the Issuer has charged to the Trustee for the benefit of the Trustee and the relevant Security Holders by way of first floating charge all Warrants evidencing LME Physical Metal attributable to the relevant Pool and recorded in the Issuer LMEsword Account, all Warehouse Receipts evidencing Warehouse Physical Metal attributable to the relevant Pool and held for the Issuer, all of its rights (including its ownership rights) in respect of the physical Metal attributable to the relevant Pool, all rights of the Issuer under each Metal Agent Agreement and each TRS Master Confirmation, in each case to the extent it relates to the applicable Pool, all rights of the Issuer under each Authorised Participant Agreement and each AP TRS Master Confirmation in each case to the extent it relates to AP TRS Transactions and to the applicable Pool, all rights of the Issuer in the monies held in the Issuer Secured Cash Account and the Escrow Account and all rights of the Issuer under the Escrow Agreement, in each case to the extent attributable to the applicable Pool, but not including monies held in the Issuer Cash Account or any rights in respect thereof and has assigned to the Trustee by way of security with full title guarantee all its present and future rights, title and interest in each of the Metal Agent Agreement and the TRS Master Confirmation to the extent that it relates to the relevant Pool.

If the amounts received from realisation of the Secured Property are insufficient to meet all obligations and make all payments due in respect of the relevant Pool, no other assets of the Issuer will be available to meet that shortfall and all further claims of the Security Holders in respect of such class of Individual Securities (and the Basket Securities to the extent they comprise such Individual Securities) will be extinguished.

Under the terms of the Trust Instrument, it is agreed that neither the Security Holders, nor the Trustee on their behalf, will institute or join any person in instituting any bankruptcy, suspension of payments, moratorium of any indebtedness, winding-up, reorganisation, arrangement, insolvency or liquidation proceeding or other proceeding under any similar law in relation to the Issuer (except for the appointment of a receiver and manager pursuant to the relevant Security Deed) for two years (or, if later, the longest suspense period, preference period or similar period (howsoever described) ending with the onset of insolvency in respect of which transactions entered into by the Issuer within such period may be subject to challenge under applicable insolvency or other proceeding) plus one day after the date on which all amounts payable for all outstanding Industrial Metal Securities issued by the Issuer are repaid.

Further details of the Trust Instrument are set out in Part 4 (*Trust Instrument and the Conditions*). Further details of the Security Deeds are set out in Part 5 (*Particulars of Security Deeds*).

## **Applications and Redemptions**

### ***Authorised Participants***

Industrial Metal Securities can be Applied for or Redeemed at any time by Authorised Participants, subject to conditions. The Application and Redemption mechanism is intended to ensure that Industrial Metal Securities have sufficient liquidity and that the price at which they trade on the London Stock Exchange tracks (subject to the deduction of the daily Management Fees, Storage Fees and Insurance Allowance) the relevant LME Cash Settlement Price. Only an Authorised Participant may Apply for or (unless there are at any given time no Authorised Participants or as otherwise announced by the Issuer) Redeem Industrial Metal Securities – all other persons must buy and sell Industrial Metal Securities through trading on the London Stock Exchange (or any other exchange to which they may from time to time be admitted to trading).

A person can only be an Authorised Participant if: (a) it is a securities house or other market professional approved by the Issuer (in its absolute discretion); (b) it is an Authorised Person, an Exempt Person or an Overseas Person; and (c) it is not a UCITS fund. An Authorised Participant must also have entered into an Authorised Participant Agreement with the Issuer dealing with, amongst other things, the rights and obligations of the Authorised Participant in relation to Applying for and Redeeming Industrial Metal Securities. The terms of the Authorised Participant Agreements are summarised in paragraph 3 of Part 8 (*Additional Information*). Under the Metal Agent Agreement, the Metal Agent has the right to give notice (with immediate effect) that an Authorised Participant has ceased to be acceptable to it in certain circumstances.

Barclays Bank plc, Barclays Capital Securities Limited and Deutsche Bank AG, London Branch are the Authorised Participants as at the date of this Prospectus. The Issuer has agreed to use reasonable endeavours to ensure that at all times there is at least one Authorised Participant and intends to use reasonable endeavours to appoint additional Authorised Participants within 12 months of the date of this Prospectus. The names of all Authorised Participants at any time will be published by the Issuer on its website.

If at any given time there are no Authorised Participants, Security Holders will be permitted to Redeem Industrial Metal Securities held by them in exchange for the net cash proceeds of sale of Metal. The Issuer will effect such Redemptions by selling Warrants to the Metal Agent at the relevant LME Cash Settlement Price, or, if there is no Metal Agent, directly on the LME.

### ***Applications***

Industrial Metal Securities may be issued on any Business Day during the period of 12 months from the date of this Prospectus, subject to the Minimum Application Amount of one whole Warrant and the Maximum Application Limit.

Payment for new Industrial Metal Securities must be made by the Authorised Participant depositing in the Issuer LMEsword Account by 3.00 p.m. on the Settlement Date (day T+3) a whole number of Warrants representing an amount of LME Physical Metal which is at least equal to the aggregate Metal Entitlement of the Industrial Metal Securities applied for (calculated as at the Settlement Date) and paying into the Metal Agent Account by no later than 4.30 p.m. on the Settlement Day an amount in US dollars equal to the Accrued Rent for such Warrants (calculated up to and including the Settlement Date, or the date of delivery of the Warrants, if later). Although the Issuer has made arrangements with the Metal Agent to facilitate settlement of Warrants by Authorised Participants, it remains the responsibility of the Authorised Participant to ensure that the requisite Warrants are so deposited in the Issuer LMEsword Account by the required date and time.

An Application received by the Administrator by 4.00 p.m. London time on a Business Day (day T) with receipt of the Warrants in the Issuer LMEsword Account within three Business Days (T+3) will generally enable the Applicant to receive the new Industrial Metal Securities in its CREST account within three Business Days (T+3). New Industrial Metal Securities will generally only be issued after the Warrants have been deposited into the Issuer LMEsword Account. Pending issue of such Industrial Metal Securities the Warrants so delivered will be held on trust by the Issuer for the Applicant pursuant to the terms of the Deed Poll.

While in general new Industrial Metal Securities will not be issued unless the relevant Warrants have been received, the Issuer may agree to issue such Industrial Metal Securities prior to receipt of such

Warrants subject to the Authorised Participant entering into an AP TRS Confirmation with the Issuer in respect of such issue and by no later than 4.30 p.m. on the day on which such Industrial Metal Securities are issued and daily thereafter agreeing to pay cash collateral, calculated by reference to the daily LME Cash Settlement Price for similar Warrants, until the delivery of the relevant Warrants to the Issuer. The Issuer intends that consent will be granted only to the extent that the aggregate uncollateralised amount outstanding in respect of TRS Transactions with any Authorised Participant (including the Metal Agent) does not exceed US\$75,000,000 for that Authorised Participant and each type of Metal.

An Authorised Participant may submit an Application Form to deliver a fixed amount of LME Physical Metal or to receive a minimum amount of Industrial Metal Securities (the “**Initial Securities**” in respect of that Application). To the extent that the Warrants delivered by or on behalf of an Authorised Participant evidence more LME Physical Metal than required for the Initial Securities, the Issuer will issue additional Industrial Metal Securities (referred to as “**Residual Securities**”), generally within one further Business Day (T+4). The Metal Entitlement for Initial Securities will be as at day T+3 and for Residual Securities will generally be as at day T+4 (or, if later, the date on which the Residual Securities are actually settled). The Authorised Participant must in its Application Form specify whether Residual Securities are to be received in its own CREST account or be delivered to the Metal Agent. Delivery to the Metal Agent must be agreed with the Metal Agent in advance and is subject to the Metal Agent’s terms.

### **Redemptions**

#### *Authorised Participants*

A Security Holder who is an Authorised Participant may, on any Business Day, by lodging a valid Redemption Form with the Administrator, require the Redemption of all or any of its Industrial Metal Securities, subject to applicable Redemption Limits.

Settlement of Redemptions will be made by transferring the largest reasonably practicable whole number of Warrants from the Issuer’s LMEsword Account that evidence an amount of Metal up to the aggregate Metal Entitlement of the Industrial Metal Securities being Redeemed (calculated as at the Settlement Date) and delivering the same to the LMEsword Account of the redeeming Authorised Participant. In addition, the Metal Agent will pay the Accrued Rent for such Warrants (calculated up to and including the Settlement Date) to the Authorised Participant’s cash account. To the extent that the aggregate Metal Entitlement of the Industrial Metal Securities to be Redeemed exceeds the weight of the LME Physical Metal evidenced by the Warrants to be delivered to the Authorised Participant (the excess Industrial Metal Securities being referred to as “**Residual Securities**”), an Authorised Participant may elect to either retain the Residual Securities or to have them Redeemed for cash. If the latter, the Metal Agent has agreed that it will subscribe in cash for a number of new Industrial Metal Securities of the relevant class having a Metal Entitlement equal to that of the Residual Securities or, at the Issuer’s election, purchase the Residual Securities, in either case at a price equivalent to the applicable LME Cash Settlement Price.

While in general the Metal Agent may not permit Warrants allocated for the purposes of a Redemption to be withdrawn from the Issuer LMEsword Account until the Industrial Metal Securities being Redeemed have been delivered to the Issuer’s CREST account, the Issuer may agree to permit the Metal Agent or any other Authorised Participant to receive the relevant Warrants prior to delivering the Industrial Metal Securities being Redeemed to the Issuer’s CREST account subject to it entering into a TRS Confirmation (or an AP TRS Confirmation) with the Issuer and by no later than 4.30 p.m. on the date on which such Warrants are withdrawn and daily thereafter agreeing to pay cash collateral, calculated by reference to the daily LME Cash Settlement Price for similar Warrants, until the delivery of the relevant Industrial Metal Securities to the Issuer. The Issuer intends that consent will be granted only to the extent that the aggregate uncollateralised amount outstanding in respect of TRS Transactions with any Authorised Participant (including the Metal Agent) does not exceed US\$75,000,000 for that Authorised Participant and each type of Metal.

A Redemption Form received by the Administrator by 4.00 p.m. London time on a Business Day (day T) with receipt of the Industrial Metal Securities in the Issuer’s CREST account within three Business Days by 4.00 p.m. London time will generally enable the redeeming Authorised Participant to receive the relevant Warrants in its LMEsword Account on day T+3 and in respect of the Residual Securities either

(depending on its election) the Residual Securities in its CREST account or the cash payable for them in its designated cash account, in both cases on day T+3.

#### *Other Security Holders*

A Security Holder who is not an Authorised Participant may only require the Redemption of any or all of its Industrial Metal Securities if on any day there are no Authorised Participants or the Issuer has announced that Redemptions by Security Holders who are not Authorised Participants will be permitted. The Security Holder must submit to the Issuer a notice requesting Redemption in the form prescribed for such circumstances by the Issuer and deliver the Industrial Metal Securities being Redeemed to the Issuer by either depositing them into an appropriate CREST account in the name of the Issuer or the Registrar and giving correct delivery free of payment instructions in CREST or delivering the certificates in respect of them to the Registrar (or otherwise delivering such Industrial Metal Securities to the Issuer by agreement with the Issuer). In such cases, the Security Holder will receive an amount in cash representing the proceeds of sale of the Metal Entitlement rather than receiving Warrants representing LME Physical Metal in respect of such Metal Entitlement. Redemption Forms will not be treated as having been lodged until the Industrial Metal Securities being Redeemed have been so delivered to the Issuer.

Payment for such Redemptions will be in US dollars. To give effect to such Redemptions, the Issuer will sell to the Metal Agent pursuant to the Metal Agent Agreement (and, if there is no Metal Agent, on the LME) a whole number of Warrants evidencing an amount of LME Physical Metal equal to the aggregate Metal Entitlement of the Industrial Metal Securities being Redeemed, calculated as at the Settlement Date, to the Metal Agent pursuant to the Metal Agent Agreement. The Warrants will be sold at the LME Cash Settlement Price for the type of Metal concerned on the first Business Day after the Redemption Form is lodged (or treated as lodged). Once the proceeds are received by the Issuer, they will be paid to the Security Holder less any Redemption Fee, three Business Days following the date upon which the Redemption Form is lodged with the Administrator, that is, on a T+3 basis. If the Settlement Date would otherwise be a day which is not an LME Settlement Day, the Settlement Date will be postponed to the next day which is an LME Settlement Day. In such circumstances the Management Fee, Storage Fee and Insurance Allowance will continue to accrue.

To the extent that Industrial Metal Securities are to be Redeemed that are not represented by a whole number of Warrants, such Industrial Metal Securities will be Redeemed for cash in the same manner as in the case of Redemption by Authorised Participants as set out above.

#### ***Application and Redemption Limits***

Industrial Metal Securities are subject to a Minimum Application Amount, a Minimum Redemption Amount, a Maximum Application Limit and a Maximum Redemption Limit.

#### ***Application Fees and Redemption Fees***

Application Fees and Redemption Fees will only be payable on Application for and Redemption of Industrial Metal Securities and not by investors who buy and sell such on the secondary market, including the London Stock Exchange.

The Issuer will charge Authorised Participants a fee of £500 for each Application and Redemption, regardless of the number of Industrial Metal Securities to be Applied for or Redeemed.

The Issuer may vary the Application Fees and Redemption Fees at any time after giving 30 days' written notice to Authorised Participants and through a RIS.

In the event of a Compulsory Redemption or where a Security Holder lodges a Redemption Form when there are no Authorised Participants, the Issuer will reduce the Redemption Fee to an amount equal to the Issuer's cost in satisfying such Redemption Form, including costs of enquiries under Condition 12 (*Enquiries as to status of Security Holders*) and of giving the notice of Redemption (but not exceeding £500), and that amount will be charged by the Issuer by way of a deduction from the Redemption proceeds due to such Security Holder.

No additional amounts will be charged by the Issuer to an Applicant or a Security Holder in respect of VAT payable in connection with Application Fees or Redemption Fees.



## **The Issuer and ManJer**

The Issuer is a public company incorporated in Jersey for the purpose of issuing Industrial Metal Securities and entering into the Documents and to issue other types of securities (and enter into agreements relating thereto) relating to Metal or other types of metals.

The shares in the Issuer are all held by HoldCo, a company incorporated in Jersey which is a wholly-owned subsidiary of ETFSL, and ManJer acts as the manager of the Issuer. The Issuer is dependent upon ManJer to provide management and administration services to it, as further described below under the heading "Administration".

ManJer intends to promote and to provide management and other services to the Issuer and currently also provides such services to ETFS Metal Securities Limited, Gold Bullion Securities Limited, ETFS Commodity Securities Limited, ETFS Hedged Commodity Securities Limited, ETFS Commodity Securities Australia Limited, ETFS Oil Securities Limited, ETFS Foreign Exchange Limited, ETFS Metal Securities Australia Limited and, through a subsidiary domiciled in the United States, to ETFS Physical Precious Metal Trust, ETFS Gold Trust, ETFS Silver Trust, ETFS Platinum Trust, ETFS Palladium Trust, ETFS Asian Gold Trust and ETFS White Metals Basket Trust. Further, certain directors of ManJer have been involved in establishing and operating exchange-traded fund companies and related service companies, in particular, EFX Fund Company plc and its manager, EFX Management Company Limited in Ireland and ETF Securities USA LLC. Neither the Issuer nor ManJer is directly or indirectly owned or controlled by any other party to the Programme.

The directors of ManJer at the date of this Prospectus are Graham Tuckwell, Tim Armour, Leanne Baker, Graham Birch, Ben Cukier, Vince Fitzgerald and Graeme Ross. The secretary of ManJer at the date of this document is R&H Fund Services (Jersey) Limited. The Directors of the Issuer are also directors of HoldCo and their respective biographies are set out below under the heading "Directors and Secretary".

## **Administration**

ManJer will, pursuant to the Services Agreement, supply all management and administration services for the Issuer and will pay the management and administration costs of the Issuer. These include the fees of the Trustee, but exclude the fees of the Metal Agent under the Metal Agent Agreement (which are deducted from the Management Fee by the Metal Agent), the Storage Fee and the Insurance Allowance (each of which, along with the fees of the Metal Agent, is paid out of the proceeds of sale of Metal as described in more detail under the heading "Payment of Warehouse Fees, the Storage Fee, the Management Fee and the Insurance Allowance" above) and the liabilities which the Metal Agent has agreed to meet in respect of Warehouse Fees in respect of Warrants and Warehouse Receipts.

The Services Agreement may be terminated by ManJer at any time on three months' notice or earlier in the event of certain breaches or the insolvency of either party.

ManJer may engage third parties to provide some or all of its services. In particular, ManJer has appointed R&H Fund Services (Jersey) Limited to perform certain administration duties for the Issuer and Computershare Investor Services (Jersey) Limited to provide services as Registrar and receiving agent, and to maintain the Registers in Jersey.

## **Directors and Secretary**

The Directors and the Secretary of the Issuer at the date of this document are:

### ***Graham Tuckwell – Chairman***

Mr Tuckwell is the founder and chairman of ETFSL, ManJer, HoldCo and the Issuer and of eight other companies issuing exchange-traded products: Gold Bullion Securities Limited in Jersey and ETFS Metal Securities Australia Limited in Australia (which two companies obtained the world's first listings of a commodity on a stock exchange), ETFS Hedged Commodity Securities Limited, ETFS Commodity Securities Australia Limited, ETFS Metal Securities Limited, ETFS Oil Securities Limited, ETFS Foreign Exchange Limited and ETFS Commodity Securities Limited. He is also a director of EFX Fund Company public limited company and of its manager EFX Management Company Limited in Ireland as well as the President and Chief Executive Officer of ETF Securities USA LLC. Assets under management in those companies are in excess of US\$25 billion. Previously, Mr Tuckwell was the

founder and managing director of Investor Resources Limited, a boutique corporate advisory firm, which specialised in providing financial, technical and strategic advice to the resources industry. He has more than 20 years of corporate and investment banking experience. Prior to the above activities, Mr Tuckwell was Head of Mining Asia/Pacific at Salomon Brothers, Group Executive Director at Normandy Mining responsible for Strategy and Acquisitions and Head of Mergers and Acquisitions at Credit Suisse First Boston in Australia. He holds a Bachelor of Economics (Honours) and a Bachelor of Laws degree from the Australian National University.

***Tom Quigley – Non-Executive Director***

Mr Quigley is the Chief Financial Officer of ETF Securities Limited based in Jersey and is a non-executive director of HoldCo, Gold Bullion Securities Limited, ETFS Commodity Securities Limited, ETFS Hedged Commodity Securities Limited, ETFS Commodity Securities Australia Limited, ETFS Metal Securities Limited, ETFS Oil Securities Limited and ETFS Foreign Exchange Limited. Mr Quigley is also the Chief Financial Officer and Treasurer of ETF Securities USA LLC. Previously, Mr Quigley held senior management positions in investment banking where he was a Managing Director at ING Barings Investment Banking and prior to that at Close Brothers Corporate Finance in the City of London. More recently he was a Director of Terra Firma Capital Partners, the private equity firm, and a Managing Director at W.P. Carey & Co LLC, the asset management firm. He is a Chartered Accountant and a member of the Institute of Chartered Accountants of England and Wales having trained with Price Waterhouse in London. He holds an MA in Physics from Oxford University, England.

***Graeme Ross – Non-Executive Director***

Mr Ross graduated from Abertay University in 1980 and joined Arthur Young McClelland Moores in Perth, Scotland. He qualified as a chartered accountant in 1984 and joined KPMG Peat Marwick's practice in Jersey shortly afterwards. Mr Ross joined the Jersey practice of Rawlinson & Hunter in 1986 as a manager in the fund administration division. In 1994 he was admitted to the Jersey partnership. Mr Ross has been the managing director of R&H Fund Services (Jersey) Limited since 1996 and has in-depth knowledge and experience of the fund management industry and in particular retail funds. He has worked in the offshore fund management industry for 28 years and also served as a committee member of the Jersey Fund Managers Association for three years. As a director of R&H Fund Services (Jersey) Limited, Mr Ross maintains the day to day operations in Jersey of the Issuer and of each of Gold Bullion Securities Limited, ETFS Oil Securities Limited, ETFS Metal Securities Limited, ETFS Hedged Commodity Securities Limited, ETFS Commodity Securities Australia Limited, ETFS Foreign Exchange Limited and ETFS Commodity Securities Limited (he is a non-executive director of each of those companies and of ManJer and HoldCo).

***Craig Stewart – Non-Executive Director***

Mr Stewart graduated from Edinburgh University in 1987 with a degree in Politics and worked in commercial roles for two blue chip companies headquartered in London. In 1993, he joined Arthur Andersen's Audit and Business Advisory practice in Jersey and qualified as a chartered accountant in 1997. He has specialised in the investment fund sector and been particularly involved with retail, institutional and private equity funds. In 1997, he was promoted to manager with sole responsibility for Andersen's asset management clients in European offshore jurisdictions. He was also the manager on a significant number of consulting assignments including controls reviews, operational reviews, due diligence projects, benchmarking studies and forensic investigations. In April 2000, he joined Rawlinson & Hunter's fund administration division and in January 2001 he was promoted to Director of R&H Fund Services (Jersey) Limited. He was admitted to the partnership of Rawlinson & Hunter, Jersey in 2003. Mr Stewart has worked in the offshore fund management industry for over 18 years and also served as a committee member of the Jersey Fund Managers Association for three years. He is also a non-executive director of HoldCo, Gold Bullion Securities Limited, ETFS Oil Securities Limited, ETFS Metal Securities Limited, ETFS Hedged Commodity Securities Limited, ETFS Commodity Securities Australia Limited, ETFS Foreign Exchange Limited and of ETFS Commodity Securities Limited.

### **R&H Fund Services (Jersey) Limited – Company Secretary**

R&H Fund Services (Jersey) Limited is a company incorporated in Jersey on 29 November 1988 with limited liability whose issued and paid up share capital is £25,000. It is not involved in any other business activities other than that of acting as manager and administrator of collective investment schemes and is a wholly owned subsidiary of Rawlinson & Hunter in Jersey. The directors of R&H Fund Services (Jersey) Limited are:

Graeme David Ross  
Craig Andrew Stewart  
Hilary Patricia Jones

### **Conflicts of Interest**

Certain of the Directors of the Issuer (other than Mr Quigley and Mr Stewart) are also directors of ManJer, a provider of services to the Issuer and all of the Directors are also directors of HoldCo, the sole shareholder of the Issuer. Messrs Ross and Stewart are also directors of the company secretary. Save as specifically stated in relation to Mr Ross and Mr Stewart, save (in each case other than Mr Quigley, Mr Ross and Mr Stewart) for their directorships of ETFSL, save (in each case) for their directorships of HoldCo, save (in the case of Mr Tuckwell) for his directorships of ETFS Fund Company public limited company, ETFS Management Company Limited and ETFS Metal Securities Australia Limited and save (in each case) for their directorships of Gold Bullion Securities Limited, ETFS Oil Securities Limited, ETFS Commodity Securities Limited, ETFS Hedged Commodity Securities Limited, ETFS Commodity Securities Australia Limited, ETFS Metal Securities Limited and ETFS Foreign Exchange Limited, none of the principal activities performed by the Directors outside the Issuer are significant with respect to the Issuer and they have no interests that are material to the Programme.

### **Accounts**

The Issuer's financial statements will be presented in US dollars. The value of any assets and liabilities denominated in currencies other than US dollars will be converted in US dollars at rates quoted by independent sources. The valuation of the assets and liabilities of the Issuer attributable to any Pool will be determined under the supervision of the Board. The Issuer's LMEsword Account and the Warrants held in such accounts, as well as any Warehouse Receipts held for the Issuer, will constitute an asset of the Issuer. For the purposes of the valuation of the Issuer's assets, the Metal held by the Issuer will be valued at the appropriate price, which the Issuer expects to be the LME Cash Settlement Price as at the date of valuation.

### **Further information**

Information regarding taxation in the United Kingdom, Jersey, Austria, Denmark, Finland, France, Germany, Ireland, Italy, the Netherlands, Portugal, Spain and Sweden in respect of the Programme and Industrial Metal Securities is set out in Part 8 (*Additional Information*). If an investor is in any doubt about the tax position, it should consult a professional adviser.

Your attention is drawn to the remainder of this Prospectus which contains further information relating to the Programme and the Industrial Metal Securities.

## PART 2

### THE INDUSTRIAL METALS MARKET

#### **The Metals Market**

##### ***Trading Metal***

Metal can be traded directly in physically settled transactions between producers and consumers at agreed prices based on quantity, grade and place of delivery. Metal can also be traded in the “over the counter” market or on exchanges via futures and options, which can either be cash or physically settled. Exchanges that offer trading of various Metals include the London Metals Exchange (the LME), the COMEX, the Shanghai Futures Exchange and the Tokyo Commodity Exchange.

##### ***The London Metals Exchange***

The LME is by far the world’s largest futures exchange by trading volume for base and other metals. The LME allows for cash trading, and offers hedging, worldwide reference pricing and physical settlement (generally via Warrants).

Commodities traded on the LME include aluminium, aluminium alloy, copper, lead, nickel, tin and zinc. Trades on the LME are in futures, options and TAPOs (traded average price contracts, a form of Asian option).

The LME is a principal to principal market and only LME Members may trade on the exchange. LME trading takes place through its inter-office telephone market, the LMEselect electronic trading platform and the open outcry trading between the 12 ring dealing members that have exclusive rights to trade by open outcry. The LME plays an important role in price discovery and its official prices are used by a wide variety of market participants. The LME uses the second open outcry ring session, where most of the LME trading is concentrated, to establish the LME Cash Settlement Price.

Trades on the LME may be closed out or settled in cash or physically, generally in the form of Warrants. As a result, the LME is often the market of “last resort” for the sale and purchase of Metal. Each Warrant represents one lot of metal, although the exact tonnage may differ by plus or minus two per cent. of the specified tonnage for any given contract (e.g., a Warrant on copper, which has a specified tonnage per lot of 25 metric tonnes, could represent between 24.5 and 25.5 metric tonnes).

Warrants are generally transferred as settlement for LME futures at the LME Cash Settlement Price for the relevant Metal. They are also traded by market participants in the “over the counter” markets, where certain Warrants can trade at a premium to the LME Cash Settlement Price. Premiums can vary widely and are generally determined by supply and demand dynamics. They depend on a variety of factors, including the specific grade of the metal, its location, its brand, delivery and other transaction costs.

Warrants are physically stored with the Depository and transferred and recorded in the LMEsword System. Generally only LME Members may open accounts in LMEsword but non-members may open such accounts subject to the discretionary approval of the LME.

##### ***Storing Metals***

Metal can be stored anywhere, but storage locations are mainly determined by proximity to production, and/or transport. The majority of Metal is (and all of the Issuer’s Metal will be) stored in LME Approved Warehouses. The LME has over 600 Approved Warehouses in 37 locations throughout the USA, Europe, the Middle and the Far East. Criteria for choosing locations for Approved Warehouses include appropriate fiscal and regulatory systems, service by a good transport network, a tax regime that allows for storage without payment of duty and political and economic stability. Holders of Warrants must have clear title to and be able to take possession of the underlying LME Physical Metal in the event of an insolvency of the Approved Warehouse. Taxation on the storage and transfer of Metal is an important criteria in determining the location of Approved Warehouses and to that end, the LME conducts due diligence to ensure that jurisdictions in which Approved Warehouses are located allow for the storage of Metal indefinitely in a secure customs warehousing regime without liability for any duties prior to customs clearance (including any domestically produced Metal or any Metal that has previously cleared customs), do not impose any tax liability on transactions for Metal held in Approved Warehouses, do

not require the determination of ownership of the Metal being stored and do not impose any taxes on storage costs. Each Approved Warehouse must enter into a warehouse agreement with the LME that requires the Approved Warehouse to maintain minimum levels of insurance and appropriate security. Each Approved Warehouse is generally subject to at least one independent audit a year relating to its stock and its storage facilities.

Approved Warehouses may only store LME Physical Metal in areas that comply with LME Rules and are subject to LME supervision; such areas may also contain Warehouse Physical Metal. Warehouse Physical Metal may also be held in areas that are not subject to the LME Rules or supervision.

Storing Metal incurs an annual warehouse fee payable to the relevant warehouse at a specified rate charged on a US cents per tonne per day basis. For LME Physical Metal, the LME publishes annually the maximum warehouse fees being charged by each Approved Warehouse for the period between April 1 and March 31 of that year. Warehouse Physical Metal is often (but not always) stored at a discount to those maximum warehouse rental fees. Actual warehouse rental fees for both LME Physical Metal and Warehouse Physical Metal may be subject to negotiation by the holder of such Metal and the relevant warehouse.

For LME Physical Metal, the outstanding Warehouse Fee accrues from 1 April and such accrual is monitored and calculated by LMEsword. When LME Physical Metal is sold, an amount of cash in US dollars equal to the fees accrued from 1 April to the date of the sale is paid to the purchaser by the seller. A holder of Warrants as of 31 March is required to pay the annual Warehouse Fee to the relevant warehouse (although holders of Warrants may negotiate to pre-pay Warehouse Fees with the relevant warehouse and such pre-payments will be reflected in the calculations of the accrued Warehouse Fee made by LMEsword.)

Locations for Approved Warehouses include: Baltimore, Chicago, Detroit, Long Beach, Los Angeles, Louisville, Mobile, New Orleans, Owensboro, St. Louis and Toledo in the USA; Antwerp, Barcelona, Bilbao, Bremen, Genoa, Hamburg, Helsingborg, Hull, Liverpool, Rotterdam, Trieste, Tyne & Wear and Vlissingen in Europe; Dubai in the Middle East and Busan, Johor, Nagoya, Singapore and Yokohama in the Far East.

### ***LME Lending Guidance***

The LME has implemented rules requiring holders of long LME Physical Metal positions (and positions for settlement over the succeeding two days) of over 50 per cent. of live Warrants to respond to demand in the market for borrowing. Such rules are known as the LME Lending Guidance.

Holders of such long positions are required to roll their positions for a day at pre-defined premium levels to the prevailing cash price. Rolling such a position is known as lending "tom/next". In effect, the holder with the long position "lends" Warrants by selling LME Contracts at the LME Cash Settlement Price for next day delivery ("tom"), and, on the same day, purchasing LME Contracts at the LME Cash Settlement Price less a spread for delivery in two days ("next"). The LME Lending Guidance applies only if the relevant market is in backwardation below the applicable premium. The current levels for lending guidance and the applicable spreads are as follows:

- Less than 50 per cent. of live Warrants – lending guidance not applicable;
- Between 50 per cent. to 79.99 per cent. of live Warrants – selling "tom" at the LME Cash Settlement Price of the previous day and buying "next" at the LME Cash Settlement Price of the previous day less 0.5 per cent. in sufficient quantity to reduce the long position to below 50 per cent. of live Warrants;
- Between 80 per cent. and 89.99 per cent. of live Warrants – selling "tom" at the LME Cash Settlement Price of the previous day and buying "next" at the LME Cash Settlement Price of the previous day less 0.25 per cent. in sufficient quantity to reduce the long position to below 80 per cent. of live Warrants; and
- Between 90 per cent. and 100 per cent. of live Warrants, selling "tom" at the LME Cash Settlement Price of the previous day and buying "next" at the LME Cash Settlement Price of the previous day (with no spread) in sufficient quantity to reduce the long position to below 90 per cent. of live Warrants.

The provisions apply cumulatively (so that a holder of over 90 per cent. of live Warrants must comply with each until its position is reduced to less than 50 per cent.) and are calculated by reference to whole lots.

## **Market Overview**

### ***Aluminium***

Aluminium is the third most abundant element in the Earth's crust, and weighs about one-third as much as steel or copper. It is malleable, ductile, easily machined and cast, and has excellent corrosion resistance and durability. Aluminium is used in transportation (automobiles, aeroplanes, trucks, railcars, marine vessels), packaging (cans, foil), construction (windows, doors, siding), consumer durables (appliances, cooking utensils), electrical transmission lines and machinery. The primary raw material used for aluminium production is aluminium ore, most commonly known as bauxite. Bauxite, which occurs mainly in tropical areas, is refined into alumina and then electrolytically reduced into aluminium metal. Two to three metric tons of bauxite is required to produce one metric ton of alumina; two metric tons of alumina are required to produce one metric ton of aluminium metal.

A more detailed description including historical data of the aluminium industry can be found at [www.bree.gov.au](http://www.bree.gov.au), which is updated from time to time by the Australian Bureau of Resources and Energy Economics.

### ***Copper***

Copper is one of the most widely used industrial metals because it is an excellent conductor of electricity, has strong corrosion-resistance properties, and is very ductile. It is also used to produce the alloys of brass (a copper-zinc alloy) and bronze (a copper-tin alloy), both of which are far harder and stronger than pure copper. Electrical uses of copper including power transmission and generation, and electrical equipment account for about 65 per cent. of total copper usage. Copper is biostatic, meaning that bacteria will not grow on its surface, and is therefore used in air-conditioning systems, food processing surfaces, and doorknobs to prevent the spread of disease. Building construction is the single largest market for copper, followed by industrial applications, power utility, diverse, consumer and general products and automotive.

A more detailed description including historical data of the copper industry can be found at <http://www.icsg.org>, which is updated from time to time by the International Copper Study Group.

### ***Lead***

Lead is soft, ductile, and highly resistant to corrosion. It has been used for more than 7,000 years and is easy to extract, usually being found in ore with zinc, silver, and copper. Lead's high corrosion resistance makes it ideal for buildings; the high density makes it an effective barrier to radiation in hospitals and helps reduce noise in factories as well as in ships. 80 per cent. of lead's end use is for leadacid batteries to provide power in vehicles and emergency power. At least three-quarters of all lead used goes into products which are suitable for recycling and the recovery of lead from scrap requires much less energy than extracting from ore, which is why lead has the highest recycling rate of all the common non-ferrous metals. Over 50 per cent. of lead consumed is derived from recycled or re-used material.

A more detailed description including historical data of the lead industry is updated from time to time on the International Lead and Zinc Study Group website (<http://www.ilzsg.org>), and the Australian Bureau of Resources and Energy Economics website ([www.bree.gov.au](http://www.bree.gov.au)).

### ***Nickel***

Nickel is a hard, malleable, ductile metal that can take on a high polish. Nickel is also a fair conductor of heat and electricity. Approximately 65 per cent. of nickel is used to manufacture stainless steel and 20 per cent. in other steel and non-ferrous (including "super") alloys, often for highly specialised industrial, aerospace and military applications. About 9 per cent. is used in plating, and 6 per cent. in other uses including coins and a variety of nickel chemicals (e.g. rechargeable batteries). Nickel plating techniques are employed in applications such as turbine blades, helicopter rotors, extrusion dies, and rolled steel strip.

A more detailed description including historical data of the nickel industry can be found at [www.bree.gov.au](http://www.bree.gov.au), which is updated from time to time by the Australian Bureau of Resources and Energy Economics.

**Tin**

Tin has been used in the production of bronze for at least 5,500 years. Tin is soft, pliable, resistant to corrosion and does not easily oxidise in the air. Therefore, it is widely used to coat other metals. The other important properties of tin are its low melting point, attractive appearance and the ability to readily form alloys with most other metals to create useful materials. Because of the softness of tin, it is seldom used in its pure form and is mainly combined with other metals. The end uses of tin are metal containers (19 per cent.), solders (16 per cent.) transportation (16 per cent.), construction (11 per cent.) and other applications (38 per cent.).

A more detailed description including historical data of the tin industry is updated from time to time on the United States Geological Survey (<http://www.usgs.gov>), the ITRI website (<http://www.itri.co.uk/default.asp>) and the Australian Bureau of Resources and Energy Economics website ([www.bree.gov.au](http://www.bree.gov.au)).

**Zinc**

Zinc is the 24th most abundant element in the earth’s crust. Zinc is never found in its pure state, but is rather produced from ores (primary zinc), or from scrap and residues (secondary zinc). Approximately three quarters of all zinc is consumed as metal, mainly as a coating to protect iron and steel from corrosion (galvanised metal), as alloying metal to make bronze and brass, as zinc-based die casting alloy, and as rolled zinc. The remaining quarter is consumed as zinc compounds mainly in the negative electrode in dry cell (flashlight) batteries, in the zinc-mercuric-oxide battery cell typically used in watches, cameras, and other electronic devices, and as an antiseptic ointment in medicine. Zinc is also a necessary element for proper growth and development of humans, animals, and plants; it is the second most common trace metal, after iron, found naturally in the human body.

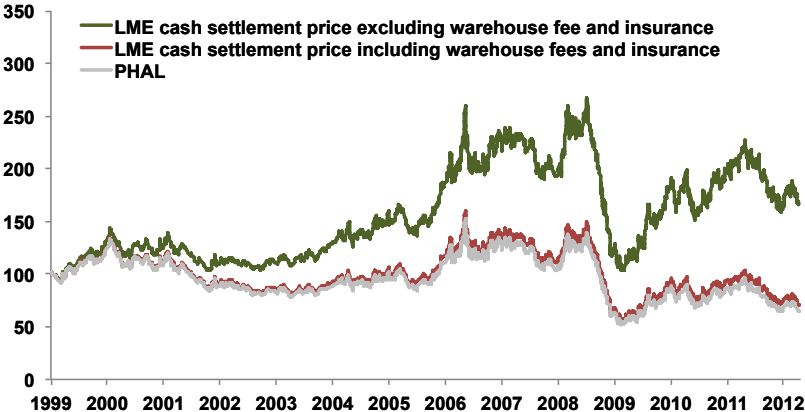
A more detailed description including historical data of the zinc industry is updated from time to time on the International Lead and Zinc Study Group website (<http://www.ilzsg.org>) and the Australian Bureau of Resources and Energy Economics website ([www.bree.gov.au](http://www.bree.gov.au)).

**Historic Metals Prices**

The charts below show the relative simulated historical performance (in US dollars) of the six Individual Securities and the Basket Security (including the Total Fee) compared to the LME Cash Settlement Price both including and excluding Warehouse Fees as well as the simulated historical performance (in US dollars) of exchange traded commodities for each individual Metal referencing Dow Jones-UBS Commodity Indices issued by an affiliate of the Issuer, ETFS Commodities Securities Limited, over the last ten years:

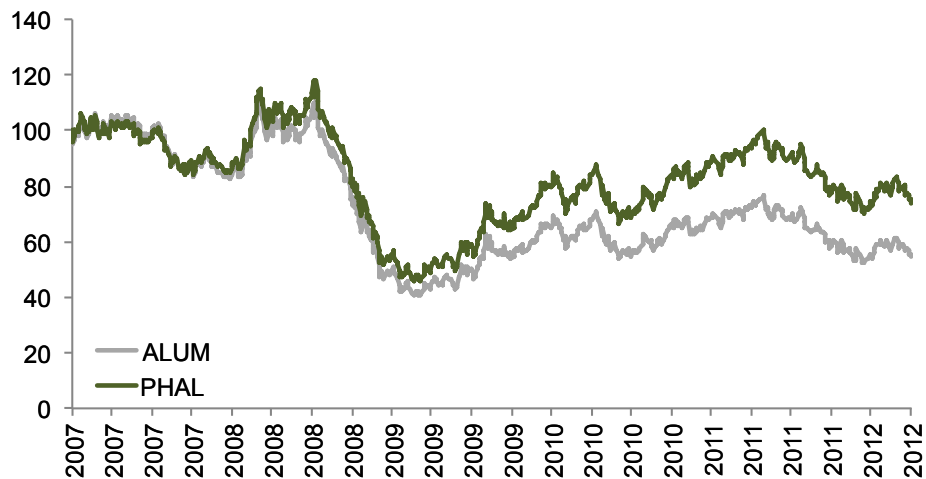
**Aluminium**

*Cumulative historical performance: PHAL, LME Cash Settlement Price (excluding Warehouse Fees), and LME Cash Settlement Price (including Warehouse Fees)*



Source: Bloomberg, LME, ETF Securities.

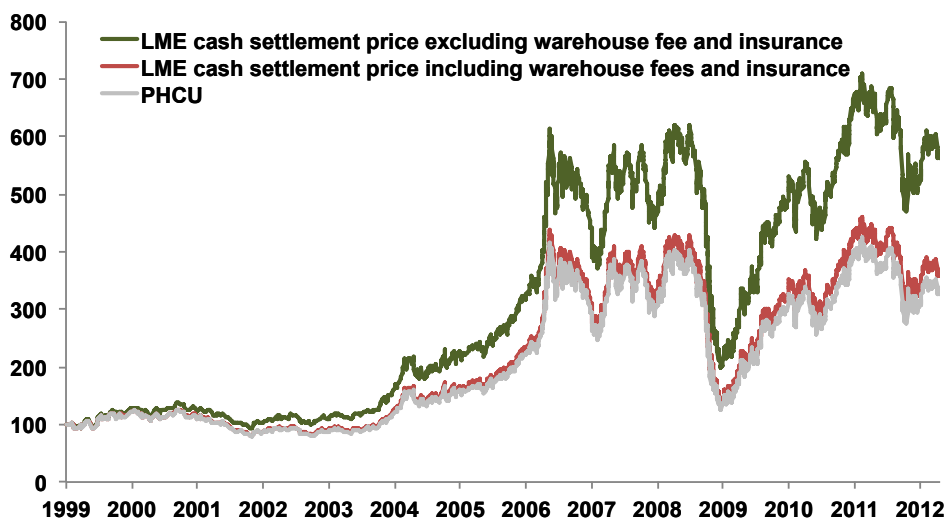
Cumulative historical performance: PHAL, ALUM (issued by ETFS Commodity Securities Limited)



Source: Bloomberg, LME, ETF Securities.

### Copper

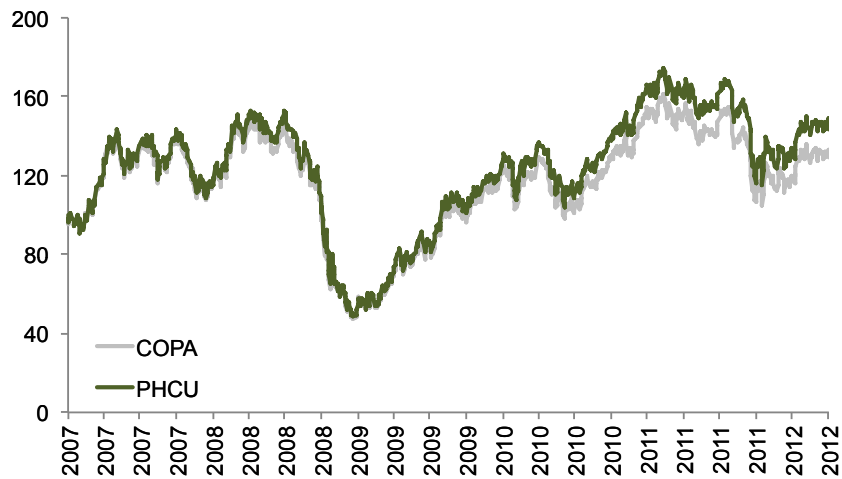
Cumulative historical performance: PHCU, LME Cash Settlement Price (excluding Warehouse Fees), and LME Cash Settlement Price (including Warehouse Fees)



Source: Bloomberg, LME, ETF Securities.



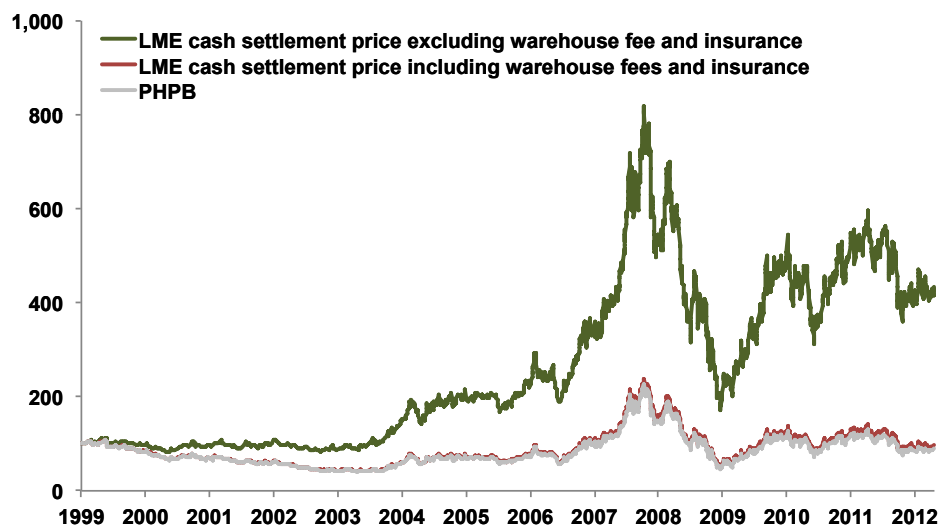
Cumulative historical performance: PHCU, COPA (issued by ETFS Commodity Securities Limited)



Source: Bloomberg, LME, ETF Securities.

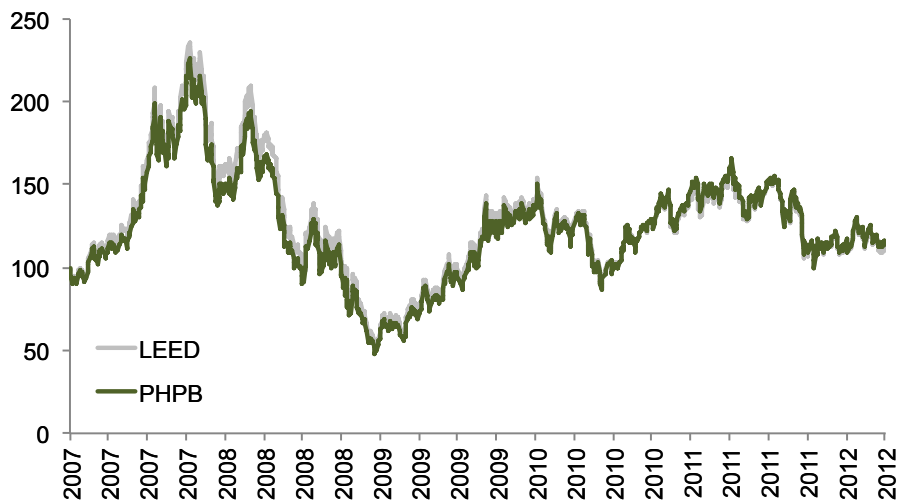
**Lead**

Cumulative historical performance: PHPB, LME Cash Settlement Price (excluding Warehouse Fees), and LME Cash Settlement Price (including Warehouse Fees)



Source: Bloomberg, LME, ETF Securities.

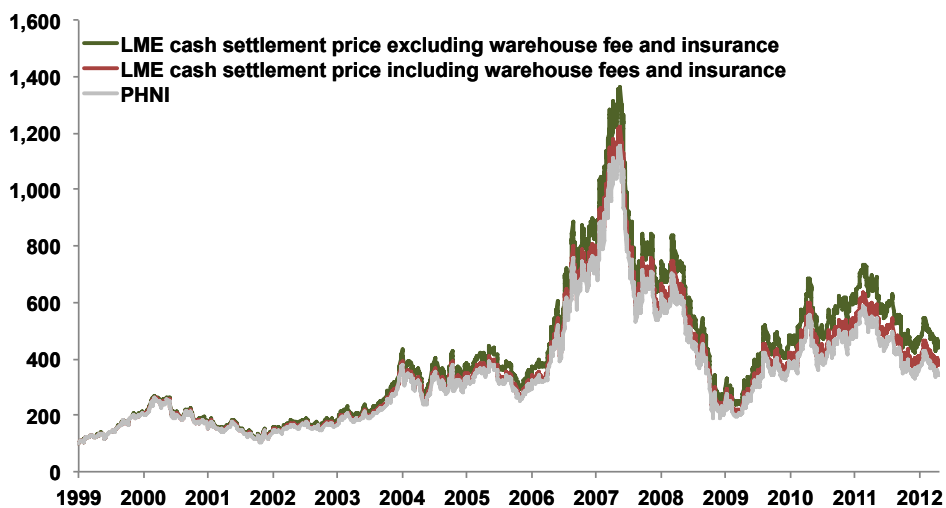
Cumulative historical performance: PHPB, LEED (issued by ETFS Commodity Securities Limited)



Source: Bloomberg, LME, ETF Securities.

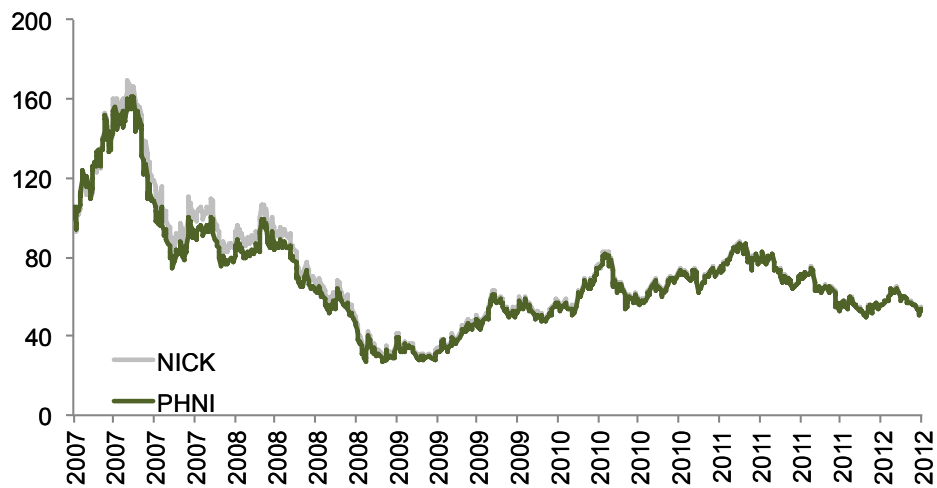
### Nickel

Cumulative historical performance: PHNI, LME Cash Settlement Price (excluding Warehouse Fees), and LME Cash Settlement Price (including Warehouse Fees)



Source: Bloomberg, LME, ETF Securities.

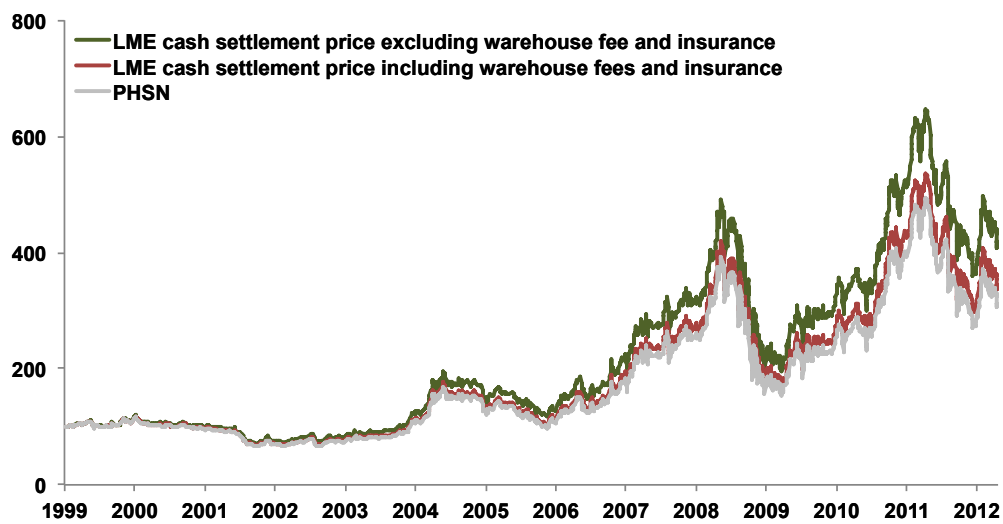
Cumulative historical performance: PHNI, NICK (issued by ETFS Commodity Securities Limited)



Source: Bloomberg, LME, ETF Securities.

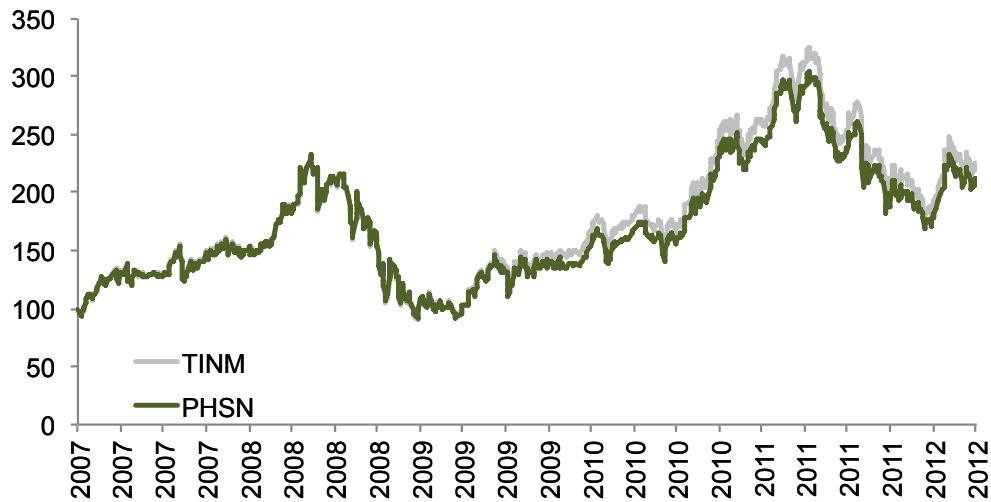
### Tin

Cumulative historical performance: PHSN, LME Cash Settlement Price (excluding Warehouse Fees), and LME Cash Settlement Price (including Warehouse Fees)



Source: Bloomberg, LME, ETF Securities.

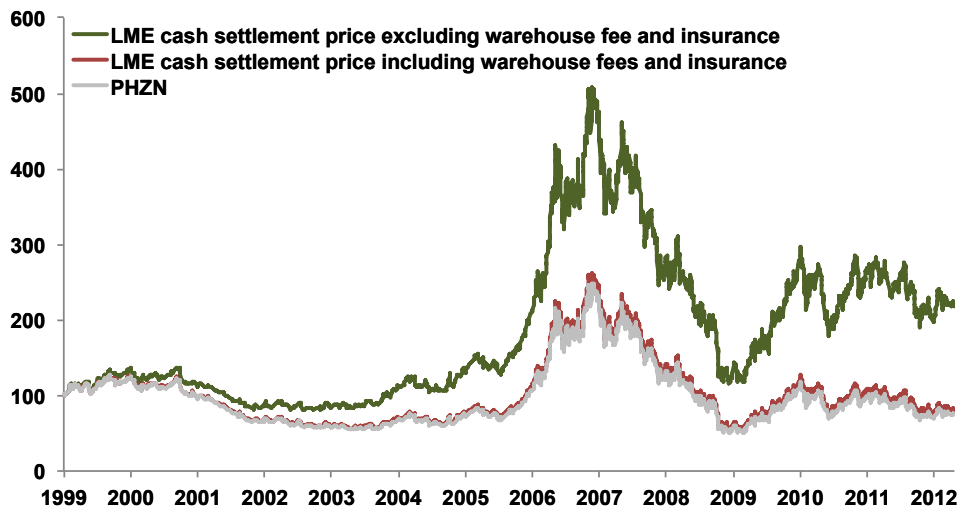
Cumulative historical performance: PHSN, TINM (issued by ETFS Commodity Securities Limited)



Source: Bloomberg, LME, ETF Securities.

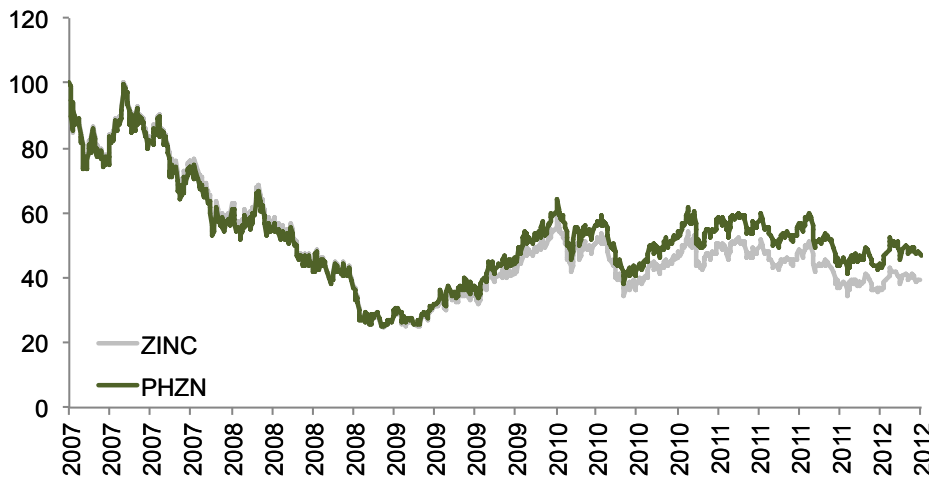
### Zinc

Cumulative historical performance: PHZN, LME Cash Settlement Price (excluding Warehouse Fees), and LME Cash Settlement Price (including Warehouse Fees)



Source: Bloomberg, LME, ETF Securities.

*Cumulative historical performance: PHZN, ZINC (issued by ETFS Commodity Securities Limited)*

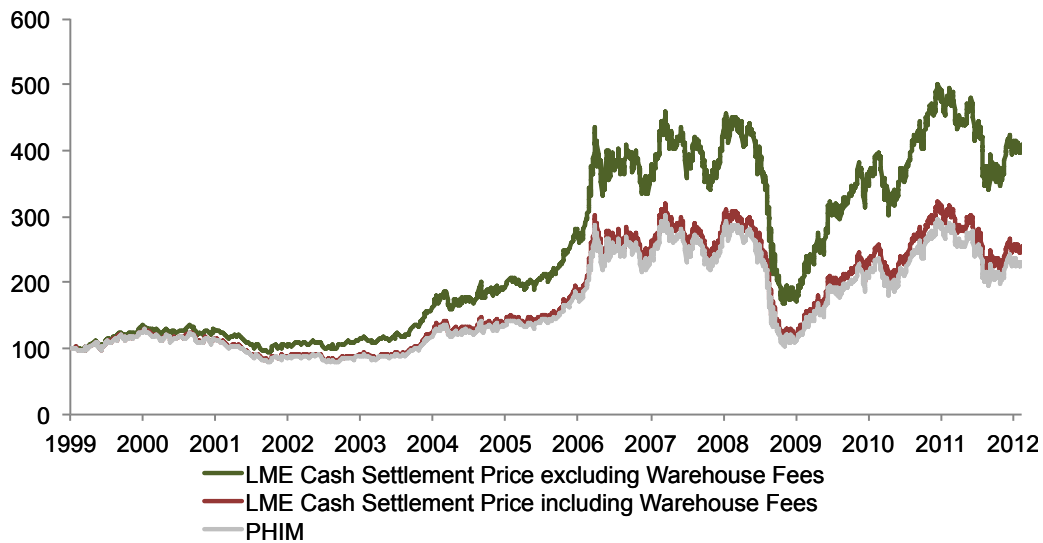


Source: Bloomberg, LME, ETF Securities.

**Basket Securities**

**Basket**

*Cumulative historical performance: PHIM, LME Cash Settlement Price (excluding Warehouse Fees), and LME Cash Settlement Price (including Warehouse Fees)*



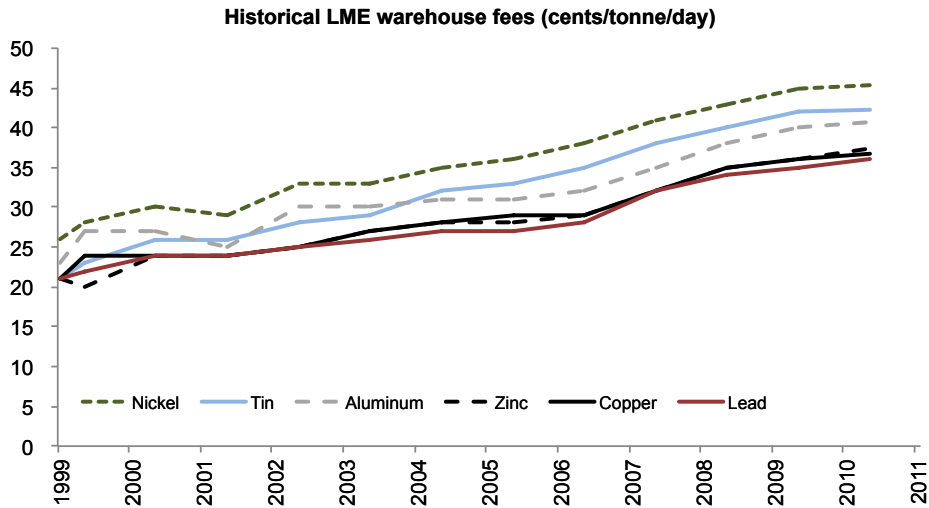
Source: Bloomberg, LME, ETF Securities.

The Industrial Metal Securities have a limited trading history and the securities issued by ETFS Commodity Securities Limited also have a limited trading history. The relative returns shown in the above chart are mostly simulated, cumulative returns based on the spot prices of the underlying five Metals including the Total Fee. It should be noted that past performance may not be indicative of future performance. The tables above do not constitute a forecast and the investment performance of the securities could be volatile and differ from the simulated historical returns.

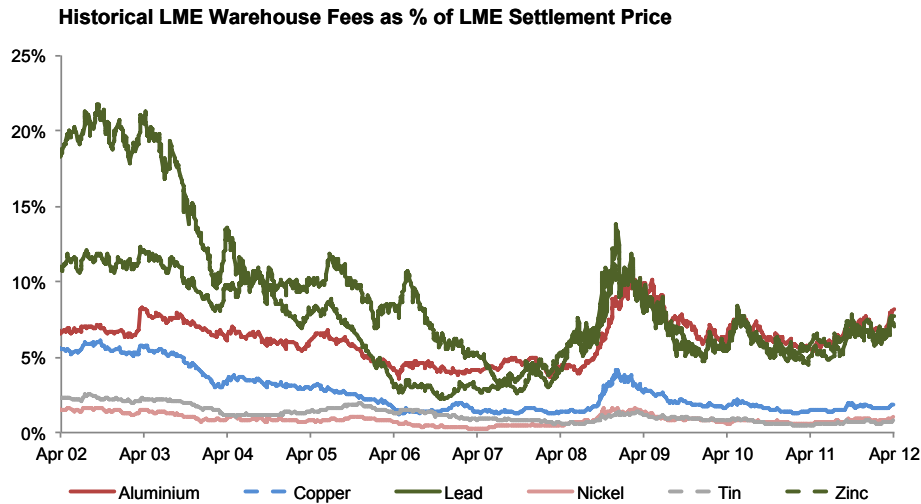
The LME publishes on its website (<http://www.lme.com>) historic LME Cash Settlement Prices enabling users to calculate historic performance and volatility. The current maximum Warehouse Fee is also published on the LME’s website.

**Warehouse Fees**

The charts below show the historical movement of the maximum of the published LME Warehouse Fees in absolute terms and as a percentage of the corresponding LME Cash Settlement Price.



Source: LME. Note that the numbers shown reflect the maximum of the published LME warehouse rents from 1 April of one year to 31 March of the following year.



Source: LME, Bloomberg, ETF Securities. Note that the numbers shown reflect the maximum of the published LME warehouse rents each year.

### Correlations of Metals with other Asset Classes v

The table below shows the correlation over the past ten years of simulated historical performance (in US dollars) of the six Individual Securities and of the Basket Securities with equities and bonds.

	Basket	Aluminum	Copper	Nickel	Zinc	Lead	Tin	Equity <sup>1</sup>	Bond <sup>2</sup>
Basket									
Aluminum		0.8783						0.5803	0.0782
Copper			0.8435					0.4900	0.0109
Nickel				0.6693				0.4744	-0.0030
Zinc					0.7684			0.4697	0.2034
Lead						0.4924		0.4650	0.0484
Tin							0.5175	0.4516	0.0699
Equity <sup>1</sup>								0.3350	0.0677
Bond <sup>2</sup>									-0.0087

<sup>1</sup> Correlation of 10 Yrs monthly returns, from Mar 2002 to Mar 2012

<sup>2</sup> S&P 500 TR Index

<sup>3</sup> Barclays Capital Global Composite Bond Index

## PART 3

### THE PROGRAMME

#### Overview of the Programme

The rights attached to Industrial Metal Securities are summarised in Part 1 (*Description of Industrial Metal Securities*), and have the rights set out in Part 4 (*Trust Instrument and the Conditions*).

Industrial Metal Securities are being made available by the Issuer for subscription only to Authorised Participants. Applications for Industrial Metal Securities will not be accepted unless the Issuer in its discretion determines to do so. Only Authorised Participants may Apply for and/or Redeem Industrial Metal Securities (except in the event that on any given Business Day there are no Authorised Participants, or in certain other circumstances as may be announced by the Issuer, in which case a Security Holder who is not an Authorised Participant may request Redemption of Industrial Metal Securities which it holds in exchange for cash proceeds by lodging a valid Redemption Form and delivery to the Issuer (in CREST or by delivery of certificates) of such Industrial Metal Securities).

Industrial Metal Securities are available to be issued in Certificated Form or in Uncertificated Form in the CREST System. Persons who apply for Industrial Metal Securities and wish to hold their Industrial Metal Securities in Uncertificated Form should so signify on the Application Form and complete the relevant sections of that form in accordance with the instructions thereon. See "CREST" below.

#### Passporting

The Issuer has requested the FSA to provide the competent authority in Austria, the *Österreichische Finanzmarktaufsicht* (Austrian Financial Market Authority), the competent authority in Denmark, the *Finanstilsynet* (Financial Supervisory Authority), the competent authority in Finland, *Finanssivalvonta* (Finnish Financial Supervisory Authority), the competent authority in France, the *Autorité des Marchés Financiers* (French Authority for the Financial Markets), the competent authority in Germany, the *Bundesanstalt für Finanzdienstleistungsaufsicht* (the German Federal Financial Supervisory Authority), the competent authority in Ireland, the Central Bank of Ireland, the competent authority in Italy, the *Commissione Nazionale per le Società e la Borsa* (CONSOB), the competent authority in the Netherlands, the *Autoriteit Financiële Markten* (Netherlands Authority for the Financial Markets), the competent authority in Portugal, the *Comissão do Mercado de Valores Mobiliários* (Portuguese Securities Market Commission), the competent authority in Spain, the *Comisión Nacional del Mercado de Valores* (Spanish Securities Market Commission) and the competent authority in Sweden, *Finansinspektionen* (Swedish Financial Supervisory Authority) with certificates of approval attesting that this Prospectus has been drawn up in accordance with Directive 2003/71/EC.

The Issuer may request the FSA to provide competent authorities in other EEA Member States with such certificates whether for the purposes of making a public offer in such Member States or for admission to trading of all or any Industrial Metal Securities on a regulated market therein or both.

The ETFs Physical Copper Securities have been admitted to listing on the Regulated Market (General Standard) (*Regulierter Markt [General Standard]*) of the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*) since 12 July 2011.

#### Procedure for Application

Only Authorised Participants may make an Application. An Authorised Participant who wishes to Apply for Industrial Metal Securities should complete the Application Form in accordance with the instructions thereon and the applicable Authorised Participant Agreement and lodge it with the Administrator.

For those Applicants who wish to hold their Industrial Metal Securities in Certificated Form, certificates in respect of the Industrial Metal Securities will be dispatched within 10 London Business Days of the Industrial Metal Securities being issued. For those Applicants who desire to hold their Industrial Metal Securities in Uncertificated Form, the relevant CREST account will be credited on the day on which the Industrial Metal Securities are issued free of payment. The Issuer considers it preferable that Industrial Metal Securities be held in Uncertificated Form. Notwithstanding any other provision in this document, the Issuer reserves the right to issue any Industrial Metal Securities in Certificated Form. In normal circumstances this right is only likely to be exercised in the event of any interruption, failure or

breakdown of CREST (or any part of CREST), or on the part of the facilities and/or systems operated by the Registrar in connection with CREST. This right may also be exercised if the correct details (such as participant ID and member account details) are not provided as requested on the Application Form. No temporary documents of title will be issued and, pending despatch of security certificates, transfers will be certified against the register.

By completing and lodging an Application Form the Applicant confirms and agrees that:

- (a) it is not relying on any information or representation other than such as may be contained in this Prospectus;
- (b) no person responsible solely or jointly for this Prospectus or any part of it shall have any liability for any information or representation not contained in this Prospectus;
- (c) it is an Authorised Person, an Exempt Person or an Overseas Person;
- (d) it is not a UCITS Fund; and
- (e) it understands that Industrial Metal Securities are direct, limited recourse obligations of the Issuer alone.

Further details on the procedure for Applications are set out under the heading “Applications and Redemptions” in Part 1 (*Description of Industrial Metal Securities*).

### **Subscription for Industrial Metal Securities**

Authorised Participants may subscribe for Industrial Metal Securities by delivering a duly completed Application Form to the Administrator and by depositing Warrants into the Issuer’s LMEsword Account and paying into the Metal Agent Account the Accrued Rent of such Warrants up to and including the Settlement Date (or the date of delivery of the Warrants, if later).

All Warrants to be delivered in settlement of an Application must meet the requirements therefor specified in the applicable Authorised Participant Agreement.

Industrial Metal Securities will not be issued until either the Metal Agent has confirmed to the Issuer that Warrants evidencing not less than the required amount of LME Physical Metal of the appropriate type and meeting the further requirements specified in the Authorised Participant Agreement have been received or the relevant Authorised Participant and the Issuer have agreed on the terms of an appropriate TRS Transaction in accordance with the terms of the Authorised Participant Agreement and AP TRS Master Confirmation. The Issuer intends to limit the aggregate amount in respect of TRS Transactions with any Authorised Participant not yet collateralised in cash to US\$75,000,000 for that Authorised Participant and each type of Metal.

### **Settlement**

#### ***CREST***

The Issuer is a participating issuer in, and the Industrial Metal Securities are participating securities in, CREST, a paperless multi currency electronic settlement procedure enabling securities (including debt securities) to be evidenced otherwise than by written instrument, and transferring such securities electronically with effective delivery versus payment. Accordingly, to the extent that Industrial Metal Securities are issued in Uncertificated Form, settlement of transactions in the Industrial Metal Securities will take place within the CREST system.

#### *Settlement and Delivery on the Frankfurt Stock Exchange*

For the purpose of good delivery of the Industrial Metal Securities on the Frankfurt Stock Exchange, Clearstream Banking Aktiengesellschaft (“**Clearstream**”) will issue, for each type and the relevant number of Industrial Metal Securities, a Global Bearer Certificate (each a “**Global Bearer Certificate**”) in the German language created under German law (“**Collective Safe Custody**”). As at the date of this Prospectus, only ETFS Physical Copper Securities are available in certificated form and the Global Bearer Certificates for such ETFS Physical Copper Securities will have the German ISIN Code JE00B419CB89.



A non-binding English language translation of the conditions of the Global Bearer Certificates is set out in Part 7 (*Global Bearer Certificates (Germany)*) of this Prospectus.

For each Global Bearer Certificate, the relevant number and type of Industrial Metal Securities will be registered in the name of Vidacos Nominees Limited, London, England (the “**Nominee**”) in the relevant Register of Security Holders and credited as underlying stock to a separate safe custody account of Clearstream with Citibank N.A., London, England (the “**Custodian**”). The safe custody accounts assigned to the Industrial Metal Securities (the “**Safe Custody Account**”) will be designated “Clearstream Banking Aktiengesellschaft (Clearstream) - Special Safe Custody Account for Industrial Metal Securities Global Bearer Certificate” followed by the name of the type of Industrial Metal Securities concerned as set out in Annex 2.

In accordance with the conditions governing each Global Bearer Certificate:

- each co-owner thereof will be entitled, at his expense, to demand at any time that Clearstream arrange for the registration of the co-owner or a third party designated by him, in the relevant Register of Security Holders of the number and type of Industrial Metal Securities corresponding to his co-ownership share or any portion thereof in the Global Bearer Certificate of the same class; and
- any registered holder of Industrial Metal Securities will be entitled, at his expense, to have his Industrial Metal Securities delivered to the Custodian for crediting to the Safe Custody Account against a corresponding co-ownership share in the Global Bearer Certificate.

Whenever the number of Industrial Metal Securities represented by the Global Bearer Certificate changes (as a result, for example, of deliveries to the Safe Custody Account, withdrawals from the Safe Custody Account or issues or Redemptions of Industrial Metal Securities), Clearstream will amend the Global Bearer Certificate accordingly.

Unless otherwise agreed, the Issuer will treat the Nominee as one single security holder so far as fractional rights and entitlements are concerned.

*Cash Payments and Exercise of Subscription Rights and Other Rights:* Cash payments are credited to Clearstream’s cash account with the Custodian and paid by Clearstream to the respective co-owners. Any subscription rights or other rights and any fractional rights relating to the Industrial Metal Securities in the Safe Custody Account will be held by Clearstream at the disposal of HSBC Trinkaus & Burkhardt AG (the “**Bank**”) Königsallee 21/23, 40212 Düsseldorf, Federal Republic of Germany. Upon the request of the Bank, Clearstream will give instructions to the Custodian for the exercise, purchase or sale of such subscription rights, other rights or fractional rights. In case of any flow of cash amounts resulting out of such transactions, Clearstream will without delay inform the Bank by fax of the net proceeds or the net costs, respectively, and the related value date. The net proceeds or the net costs, respectively, must be credited or debited to the Bank’s cash account with Clearstream or as otherwise agreed between Clearstream and the Bank.

*Clearstream Banking AG:* Clearstream is a company that was incorporated on 12 July 1949 in Frankfurt under the laws of the Federal Republic of Germany.

Clearstream is a regulated credit institution under the German Banking Act and licensed as the German Central Securities Depository pursuant to the German Securities Deposit Act, i.e. a professional depository that holds securities for its customers and facilitates the clearance and settlement of securities transactions among them through electronic book-entry transfers between their accounts, thereby eliminating the need for physical movement of the securities. Clearstream also provides other services to its customers, including safekeeping, administration, clearance and settlement of internationally-traded securities and securities lending and borrowing. Clearstream’s customers are worldwide financial institutions, including underwriters, securities brokers and dealers, banks, trust companies and clearing corporations.

Clearstream conducts its business in the legal form of a German stock corporation (*Aktiengesellschaft*), registered in the commercial register at the local court in Frankfurt under number HRB 7500, and with registered office at Neue Börsenstraße 1, D60487 Frankfurt am Main, Federal Republic of Germany.

### *Supply and Inspection of Documents in Germany*

For the duration of the Programme or so long as any Industrial Metal Securities remain outstanding, copies of this Prospectus (or any replacement prospectus), the German translation of the summary hereto and all financial information as well as the contracts required to be disclosed by the Issuer pursuant to the applicable rules will be available for inspection during normal business hours on any weekday (Saturdays, Sundays and public holidays excepted) at the registered office of the Bank, and a copy of the documents referred to above may be requested by contacting the Bank.

### **Registers**

The Registrar will maintain the Registers in Jersey.

### **UCITS and CIS**

#### ***United Kingdom***

The Issuer has received legal advice that:

- (a) the Industrial Metal Securities do not constitute units in a collective investment scheme;
- (b) the Industrial Metal Securities are capable of constituting transferable securities; and
- (c) for the purposes of COLL 5.2.29(R)(2) of the FSA Handbook, all outstanding Industrial Metal Securities and all outstanding Notes will constitute "debt securities".

Prospective investing UCITS Schemes would need to satisfy themselves that an investment in the Industrial Metal Securities in their own circumstances would be in line with their investment objectives and comply with the relevant parts of the FSA Handbook.

### **Money Laundering Regulations**

The verification of identity requirements of Jersey's anti-money laundering laws and regulations and/or any subsequent equivalent legislation will apply to the Programme and verification of the identity of the Authorised Participants for Industrial Metal Securities may be required. The anti-money laundering laws and regulations of other jurisdictions may also apply to the Programme and verification of the identity of the Authorised Participants.

By lodging an Application Form, each Authorised Participant confirms that it is subject to the Money Laundering (Jersey) Order 2008 (as amended from time to time) (in relation to Jersey), the Money Laundering Regulations 2007 (in relation to the UK) and/or any other applicable anti-money laundering laws and regulations and/or undertakes to provide such other evidence of identity as is required by the Issuer at the time of lodging the Application Form, or, at the absolute discretion of the Issuer, at such specified time thereafter as may be requested to ensure compliance with the Money Laundering (Jersey) Order 1999, the Money Laundering Regulations 2007 and/or any other applicable legislation.

The Registrar and the Administrator are entitled, in their absolute discretion, to determine whether the verification of identity requirements apply to any Authorised Participant and whether such requirements have been satisfied. None of the Issuer, the Administrator or the Registrar shall be responsible or liable to any person for any loss or damage suffered as a result of the exercise of their discretion hereunder.

No Application will be accepted by the Issuer unless evidence of such Authorised Participant's identity satisfactory to the Issuer and its agents is provided.

## PART 4

### TRUST INSTRUMENT AND THE CONDITIONS

The issue of up to 1,000,000,000 Industrial Metal Securities of each type in the form of Individual Securities and Basket Securities of the Issuer (each having the Principal Amount stated in paragraph 4 of Part 8 (*Additional Information*)), of any of the classes and categories described in this Prospectus, was authorised pursuant to a resolution of the Board passed on 25 October 2010.

Industrial Metal Securities will be constituted by the Trust Instrument, which is governed by Jersey law. The conditions of issue of each type of Industrial Metal Securities are set out in the Trust Instrument. The Trustee holds its rights and entitlements under the Trust Instrument as trustee for the Security Holders of all types of Industrial Metal Securities.

#### Conditions

The following are the conditions applicable to the Industrial Metal Securities:

“The Industrial Metal Securities are undated, limited recourse, secured debt securities of ETFS Industrial Metal Securities Limited and are constituted by, are issued subject to and have the benefit of, a trust instrument dated 6 December 2010 between ETFS Industrial Metal Securities Limited and The Law Debenture Trust Corporation p.l.c. as trustee for the holders of Industrial Metal Securities, and are governed by Jersey law.

The Security Holders (as defined below) are entitled to the benefit of, are bound by and are deemed to have notice of, all the provisions of the Trust Instrument and the Security Deeds (each as defined below) and the Conditions set out below.

#### 1 DEFINED TERMS AND INTERPRETATION

1.1 In these Conditions, the following words and expressions have the following meanings:

“**Accrued Rent**” means in respect of any LME Warrant and any day the rent payable pursuant to the terms of such LME Warrant as at such day then accrued and unpaid;

“**Administrator**” means R&H Fund Services (Jersey) Limited, Ordnance House, 31 Pier Road, St. Helier, Jersey JE4 8PW, Channel Islands, or such other person as may be appointed by the Issuer from time to time to receive and process Applications for and Redemptions of Industrial Metal Securities;

“**Affiliate**” means, in relation to any person, any entity controlled, directly or indirectly, by that person, any entity that controls, directly or indirectly, that person, or any entity directly or indirectly under common control with that person; and for this purpose, “control” of any entity or person means ownership of a majority of the voting power of the entity or person;

“**Annual Rental Fee**” means in respect of any type of Metal and any day the amount (expressed in cents per tonne per day) for Metal of that type determined by the Issuer for that day as that amount may be adjusted by the Issuer from time to time and notified to Security Holders in accordance with Condition 27 (*Notices*);

“**AP TRS Confirmation**” means, in respect of an AP TRS Transaction, a document exchanged between the Authorised Participant and the Issuer which confirms or evidences the terms of that AP TRS Transaction;

“**AP TRS Master Confirmation**” means with respect to an Authorised Participant a metal warrant master confirmation between the Authorised Participant and the Issuer which governs the relationship between the AP and the Issuer when entering into certain transactions in Metal;

“**AP TRS Transaction**” means a transaction in Metals entered into between an Authorised Participant and the Issuer under an AP TRS Master Confirmation;

“**Approved Warehouse**” means a warehouse or storage facility which is a Warehouse for the purposes of the LMEsword Regulations;

**“Authorised Participant”** means a person which has entered into an Authorised Participant Agreement with the Issuer in relation to Industrial Metal Securities and which is not an Unacceptable Authorised Participant, **provided that** a person which is a UCITS Fund may not be an Authorised Participant **provided further that** no person shall be an Authorised Participant unless and until the Security Conditions with respect to the Authorised Participant shall have been satisfied;

**“Authorised Participant Agreement”** means a written agreement between the Issuer and another person under which such person is appointed to act as an “Authorised Participant”, distribution agent or in a substantially similar function in relation to Industrial Metal Securities, and if such agreement is subject to conditions precedent, provided that such conditions have been satisfied;

**“Basket Securities”** means the Physical IM category undated limited recourse secured debt securities of US\$9.78 in principal amount each of the Issuer, created pursuant to and constituted by the Trust Instrument and recorded on the relevant Register of Basket Securities and any other category of Basket Securities that may be so created and constituted from time to time, and **“ETFS Physical IM Basket Securities”** shall be construed accordingly;

**“Business Day”** means a day (other than a Saturday or a Sunday or a public holiday in England) on which commercial banks generally are open for the transaction of business in London and which is an LME Business Day;

**“Cash Payment”** means in relation to the settlement of the Issuer’s Redemption Obligations in respect of Industrial Metal Securities to be Redeemed in cash pursuant to Condition 6.2.4, Condition 6.5.4, Condition 7.8.3(d) or Condition 7.8.4(g), payment in respect thereof in accordance with Condition 6.12 (*Cash Payment*);

**“Cash Payment Amount”** means the amount due in respect of any Cash Payment;

**“category”** means in relation to Basket Securities, the type of Basket Security determined by the mix of different classes of Individual Securities comprised in the Basket Security;

**“Certificated”** or **“Certificated Form”** means not in Uncertificated Form;

**“class”** means a class of Individual Securities under which the Issuer’s obligations to make payment and/or deliver Metal are determined by reference to a particular Metal;

**“comprised in”** and **“comprised of”** in relation to a Basket Security means the Individual Securities by reference to which the Metal Entitlement of that Basket Security is calculated and for which a Basket Security (when in Certificated Form) may be surrendered in accordance with the provisions of the Trust Instrument and **“comprise”** and **“comprised”** shall be construed accordingly;

**“Compulsory Metal Sale Date”** means the second Business Day following a Final Redemption Notice Date, provided that if the Metal Agent notifies the Trustee that sale of Metal of that type (or of each relevant type where more than one type of Industrial Metal Security is being Redeemed) cannot be effected on the LME Market on that day, the Compulsory Metal Sale Date shall be postponed to the immediately following Business Day;

**“Compulsory Metal Sale Redemption Limit”** means in respect of any class of Individual Securities (and any category of Basket Securities to the extent that such Basket Security is comprised of Individual Securities of that class) the sum of the Metal Agent Redemption Limits (having the same meaning as in Condition 6.13.2) for that class of Individual Securities on that day;

**“Compulsory Metal Sale Redemption Number”** means, in respect of a Compulsory Redemption and a type of Industrial Metal Securities, a number of Industrial Metal Securities which shall be:

- (a) if the Compulsory Redemption Number is not more than the Compulsory Metal Sale Redemption Limit (in each case for that type), the Compulsory Redemption Number;

- (b) if the Compulsory Redemption Number is equal to or more than five times the Compulsory Metal Sale Redemption Limit (in each case for that type), the nearest whole number (rounded upwards) of Industrial Metal Securities of that type to 20 per cent. of the Compulsory Redemption Number; and
- (c) otherwise, the Compulsory Metal Sale Redemption Limit on the first and each consecutive Pricing Day thereafter except on the last Pricing Day when it shall be the difference between the Compulsory Redemption Number and the aggregate of the number of Industrial Metal Securities of that type Priced on each preceding Pricing Day for the purposes of that Compulsory Redemption and less, in the case of Redemption pursuant to Condition 7.3 (*Compulsory Redemption on a fall in the Price relative to the Principal Amount*), any Industrial Metal Securities of that type which have been Redeemed pursuant to a Redemption Form;

**“Compulsory Redemption”** means a Redemption of Industrial Metal Securities in accordance with Condition 7.1 (*Compulsory Redemption on Termination*), Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*), Condition 7.3 (*Compulsory Redemption on a fall in the Price relative to the Principal Amount*) or Condition 7.4 (*Compulsory Redemption for Cause*);

**“Compulsory Redemption Notice Date”** means in relation to any Redemption pursuant to Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*) the date specified by the Trustee as such in accordance with that Condition and in relation to any Redemption pursuant to Condition 7.1 (*Compulsory Redemption on Termination*), Condition 7.3 (*Compulsory Redemption on a fall in the Price relative to the Principal Amount*) or Condition 7.4 (*Compulsory Redemption for Cause*) the date specified by the Issuer as such in accordance with that Condition;

**“Compulsory Redemption Number”** means in respect of a Compulsory Redemption Notice Date and a type of Industrial Metal Securities, where such Compulsory Redemption Notice Date is notified in accordance with:

- (a) Condition 7.1 (*Compulsory Redemption on Termination*), Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*) or Condition 7.3 (*Compulsory Redemption on a fall in the Price relative to the Principal Amount*), the total number of Industrial Metal Securities of that type outstanding as at the Business Day immediately preceding the Compulsory Redemption Notice Date; and
- (b) Condition 7.4 (*Compulsory Redemption for Cause*), the number of Industrial Metal Securities of that type to which the notice given by the Issuer relates in accordance with Condition 7.4 and Condition 7.5;

**“Compulsory Settlement Date”** means in relation to any Redemption pursuant to Condition 7 (*Compulsory Redemption by the Issuer or Trustee*), the date determined in accordance with Condition 7.8.3;

**“Conditions”** means these terms and conditions on and subject to which Industrial Metal Securities are issued in the form or substantially in the form set out in the Second Schedule to the Trust Instrument as the same may from time to time be modified in accordance with the Trust Instrument and any reference herein to a particular specified Condition or paragraph or sub-paragraph of such a Condition shall be construed accordingly;

**“Controller”** means, in relation to any company, a person who:

- (a) holds 10 per cent. or more of the shares in such company;
- (b) is able to exercise significant influence over the management of such company by virtue of his shareholdings in such company;
- (c) holds 10 per cent. or more of the shares in a parent undertaking of such company;
- (d) is able to exercise significant influence over the management of the parent undertaking of such company;

- (e) is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power in such company;
- (f) is able to exercise significant influence over the management of such company by virtue of his voting power in such company;
- (g) is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power in the parent undertaking of such company; or
- (h) is able to exercise significant influence over the management of the parent undertaking of such company by virtue of his voting rights;

“**CREST**” means the system of paperless settlement trades and the holding of Uncertificated securities administered by Euroclear UK & Ireland Limited;

“**CREST Dollar Business Day**” means a day (other than a Saturday or a Sunday or a public holiday in England) which is a business day for purposes of CREST in relation to matters relating to settlement in US dollars;

“**Deed Poll**” means the deed entitled “Deed Poll relating to Warrants delivered for the purposes of Applications for Industrial Metal Securities” dated the date of the Trust Instrument and made by the Issuer in favour of the Authorised Participants;

“**Defaulted Obligation**” means the failure of the Issuer to make or procure any payment of cash or delivery of Metal in respect of the Redemption of any Industrial Metal Securities when due, and such failure is not remedied within seven Business Days (not including any day which is a Market Disruption Day) of receipt of notice requiring remedy of the same, **provided that** if the amount paid by a Metal Agent under the terms of a Metal Agent Agreement on sale to it of Metal as a result of such Redemption is subject to any withholding or deduction for or on account of any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of any relevant jurisdiction or any political sub-division thereof or any authority thereof having power to tax, as required by law (as modified by the practice of any relevant governmental revenue authority) then in effect, and that Metal Agent is not obliged under that Metal Agent Agreement to make any additional payment in respect of the withholding or deduction and the net amount is so paid or procured to be paid by the Issuer in respect of that Redemption, that shall not be a Defaulted Obligation;

“**Default Rate**” means a rate per annum of interest equal to LIBOR plus 2 per cent., compounding daily;

“**Depository**” means the Depository under and for the purpose of the LMEsword Regulations;

“**Documents**” means the Trust Instrument, the Security Deeds, the Deed Poll, any Metal Agent Agreement, any TRS Master Confirmation, any TRS Confirmation, all Authorised Participant Agreements, any AP TRS Master Confirmation, any AP TRS Confirmation, the Escrow Account Agreement, the Service Agreement and the Registrar Agreement;

“**Early Delivery**” has the meaning given in Condition 8.3;

“**Escrow Account**” means an account established in the name of the Escrow Agent in accordance with the terms of the Escrow Account Agreement;

“**Escrow Account Agreement**” means the agreement dated on or about the date of the Trust Instrument between the Issuer, the Metal Agent and The Law Debenture Trust Corporation p.l.c.;

“**Escrow Agent**” means the person appointed as escrow agent in accordance with the terms of the Escrow Account Agreement;

“**ETFSL**” means ETF Securities Limited, a company incorporated and registered in Jersey with registered number 88370;

“**Extraordinary Resolution**” means in respect of a particular type or particular types taken together of Industrial Metal Securities either (a) a resolution passed at a duly convened meeting of the holders of Industrial Metal Securities of such type or types by a majority consisting of the

holders of not less than 75 per cent. by Principal Amount of such type or types of Industrial Metal Securities voting on such resolution or (b) a resolution in writing of holders of such type or types of Industrial Metal Securities holding not less than 75 per cent. by Principal Amount of such type or types of Industrial Metal Securities, and in the cases of (a) and (b) where so provided for in the Trust Instrument or these Conditions, holders of Basket Securities may for these purposes be treated as holders of the relevant class or classes of Individual Securities;

**“Final Redemption Notice Date”** means the tenth Business Day following the Final Trading Date;

**“Final Trading Date”** means the date specified by the Issuer in relation to any type of Industrial Metal Securities pursuant to Condition 7.1 (*Compulsory Redemption on Termination*) (with effect from which date, subject to compliance with any applicable legal or regulatory requirements, the Issuer will apply for trading on the Main Market (and any other stock exchange or market on which they are then admitted to trading) in such type of Industrial Metal Securities to be suspended or cancelled);

**“FSA”** means the Financial Services Authority of the United Kingdom and any successor thereto;

**“FSA Glossary”** means the glossary giving the meaning of the defined expressions used in the FSA Handbook;

**“FSA Handbook”** means the FSA’s Handbook of Rules and Guidance (as amended);

**“FSMA”** means the Financial Services and Markets Act 2000 (as amended) of the United Kingdom;

**“Funding Rate”** means a rate per annum of interest equal to LIBOR;

**“Further Securities”** means securities issued by the Issuer in accordance with Condition 16 (*Further Securities; Other Pools; Transfers to New or Existing Pools; Consolidation and Division*);

**“Individual Securities”** means together Physical Aluminium class undated limited recourse secured debt securities of US\$11.00 in principal amount each, Physical Copper class undated limited recourse secured debt securities of US\$4.00 in principal amount each, Physical Lead class undated limited recourse secured debt securities of US\$11.00 in principal amount each, Physical Nickel class undated limited recourse secured debt securities of US\$11.00 in principal amount each, Physical Tin class undated limited recourse secured debt securities of US\$12.00 in principal amount each and Physical Zinc class undated limited recourse secured debt securities of US\$11.00 in principal amount each, in each case of the Issuer, created pursuant to and constituted by the Trust Instrument and recorded on the relevant Register of Individual Securities, and any other class of Individual Securities that may be so created and constituted from time to time, and **“ETFS Physical Aluminium Securities”**, **“ETFS Physical Copper Securities”**, **“ETFS Physical Lead Securities”**, **“ETFS Physical Nickel Securities”**, **“ETFS Physical Tin Securities”** and **“ETFS Physical Zinc Securities”** shall be construed accordingly;

**“Industrial Metal Securities”** means Individual Securities and Basket Securities;

**“Insolvency Event”** means, in relation to a person other than the Issuer, such person:

- (1) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not

dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;

- (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;
- (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in sub-clauses (1) to (7) (inclusive); or
- (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts;

**“Insurance Allowance”** means the insurance allowance payable by the Issuer to ETFSL or any Affiliate of ETFSL intended to be used towards payment of the costs of insuring the Issuer’s Metal as described in the Prospectus as that amount may be adjusted by the Issuer from time to time and notified to Security Holders in accordance with Condition 27 (*Notices*);

**“Issuer”** or **“IML”** means ETFS Industrial Metal Securities Limited, a company incorporated and registered in Jersey with registered number 106363;

**“Issuer Cash Account”** means the account of the Issuer (not being the Issuer Secured Cash Account or the Issuer Metal Sale Cash Account) to which a Metal Agent is required to make payments (*inter alia*) in respect of the Management Fee and the Insurance Allowance pursuant to a Metal Agent Agreement;

**“Issuer Insolvency Event”** means the Issuer:

- (1) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (4) has a declaration made against it declaring the assets of the Issuer *en désastre* pursuant to the Bankruptcy (*Désastre*) (Jersey) Law 1990, as amended;
- (5) institutes or has instituted against it any other proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (6) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (7) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;



- (8) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;
- (9) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in sub-clauses (1) to (8) (inclusive); or
- (10) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts,

**provided that** no action taken by the Trustee in respect of the Issuer pursuant to the Trust Instrument or a Security Deed shall constitute an Issuer Insolvency Event save where acts of the Trustee fall within one or more of sub-clauses (1) to (9) and are taken in respect of security taken over Metals or a Metal Agent Agreement;

**“Issuer LMEsword Account”** means the LMEsword Account of the Issuer;

**“Issuer Metal Sale Cash Account”** means the account of the Issuer defined as such for the purposes of a Metal Agent Agreement;

**“Issuer Payment Day”** means a day which is both an LME Settlement Day and a CREST Dollar Business Day;

**“Issuer Secured Cash Account”** means the account of the Issuer defined as such for the purposes of a Metal Agent Agreement;

**“Issuer’s Website”** means the website having the following internet address: <http://www.etfsecurities.com/iml> or such other internet address as may be notified to Security Holders and the Trustee by RIS announcement;

**“Jersey”** means the Island of Jersey, Channel Islands;

**“LIBOR”** means, in respect of any date of determination:

- (a) the rate for overnight deposits in US dollars which appears on the Reuters LIBOR01 page (or any successor page) as of 11.00 a.m. on the day that is two Business Days preceding such date of determination; or
- (b) in the event of the unavailability of the Reuters LIBOR01 page (or any such successor page), the rate for such determination date will be determined on the basis of the rates at which deposits in US dollars are offered by four major banks in the London interbank market (**“Reference Banks”**) at approximately 11.00 a.m. on the day that is two Business Days preceding the relevant determination date to prime banks in the London interbank market for overnight deposits commencing on that date and in an amount (a **“Representative Amount”**) that is representative for a single transaction in the relevant market at the relevant time. The payee of the interest will request the principal London office of each of the Reference Banks to provide a quotation of its rate. If at least two such quotations are provided, the rate for such date will be the arithmetic mean of the quotations. If fewer than two quotations are provided as requested, the rate for such determination date will be the arithmetic mean of the rates quoted by major banks in New York City, selected by the payee of the interest, at approximately 11.00 a.m., New York City time, on such determination date for loans in US dollars to leading European banks for overnight deposits commencing on the determination date and in a Representative Amount;

**“Listing”** means admission of a particular type of the Industrial Metal Securities to the Official List in accordance with the Listing Rules and admission of the Industrial Metal Securities of such type to trading on the London Stock Exchange’s market for listed securities (or any of such markets if the London Stock Exchange has at any time more than one such market) becoming effective;

**“Listing Rules”** means the Listing Rules of the UK Listing Authority from time to time made under section 73A of FSMA;

**“LME”** means The London Metal Exchange Limited and where the context requires includes the London Metal Exchange administered by The London Metal Exchange Limited;

**“LME Business Day”** means a day which is a “Business Day” for the purposes of the LME Rules;

**“LME Cash Settlement Price”** means in respect of each of aluminium, copper, lead, nickel, tin and zinc and any LME Business Day, the daily last offer price (expressed in US dollars) for that type of Metal before the bell is sounded to mark the end of the second ring, first session of trading in respect of that type of Metal on that LME Business Day as determined in accordance with the LME Rules;

**“LME Contracts”** means “Contracts” as defined in the LME Rules;

**“LME Lending Guidance”** means the document entitled “Market Aberrations: The Way Forward” published by the LME attached to LME notice 98/363 dated 13 October 1998 as supplemented by LME guidance and explanations including without limitation, LME notice 10/170 entitled “Explanation of Metal Lending Guidance” dated 6 May 2010;

**“LME Market”** means in respect of any type of Metal the market conducted on the LME for futures contracts in that type of Metal;

**“LME Rules”** means the rules and regulations of the LME and includes the LMEsword Regulations, the LME Special Contract Rules and the LME Lending Guidance;

**“LME Settlement Day”** means a day which is a “Settlement Business Day” for the purposes of the LME Rules;

**“LME Special Contract Rules”** means the rules set out in Part 6 of the LME Rules;

**“LME Standards”** means the characteristics (including as to quality, shape, weight and lot size) for Metals of any type as specified for Metals of that type in the LME Special Contract Rules;

**“LME Warrants”** means Warrants (as defined in the LMEsword Regulations) in respect of any type of Metal (being bearer documents held as bailee by the Depository in accordance with the LMEsword Regulations and electronically registered in LMEsword, which are used for the physical settlement of contracts traded on the LME and which evidence title to a specified brand and a specified lot of Metal that is stored at a specified location and warehouse and that declare conformity of such Metal with the LME Special Contract Rules);

**“LMEsword”** or the **“LMEsword System”** means the LME system for the electronic transfer of LME Warrants, governed and constituted by the LMEsword regulations;

**“LMEsword Account”** means an account with the Depository recorded by the LMEsword System in which title to holdings of LME Warrants may be recorded;

**“LMEsword Regulations”** means the LMEsword Regulations issued by LME as supplemented by the operating procedures relating to LMEsword as published by the LME;

**“London Stock Exchange”** means London Stock Exchange plc or its market for listed securities (or any of such markets if the London Stock Exchange has at any time more than one such market), as the context may require;

**“Main Market”** means the main market of the London Stock Exchange, being part of its Regulated Market;

**“Management Fee”** means the management fee payable by the Issuer to ETFSL or any Affiliate of ETFSL in consideration for the provision by ETFSL or any Affiliate of ETSFL of all management and administration services in relation to the Programme, as set out in the Prospectus, as that amount may be adjusted by the Issuer from time to time and notified to Security Holders in accordance with Condition 27 (*Notices*);

**“Market Disruption Day”** means, in respect of any type of Metal or LME Warrant, any day on which a Market Disruption Event occurs or is continuing in respect of LME Warrants of that type;

**“Market Disruption Event”** means in respect of a particular type of Metal:

- (a) the LME failing to determine, announce or publish the relevant Cash Settlement Price(s) for that type of Metal;
- (b) the termination or suspension of, or material limitation or disruption in trading of that type of Metal or LME Warrants in respect of such type of Metal; or
- (c) the cessation or suspension of LMEsword;

**“Metal”** means any and all of aluminium, copper, nickel, zinc, lead and tin, in each case in physical form complying with the LME Standards for such metal and whether evidenced by LME Warrants or Warehouse Receipts;

**“Metal Agent”** means Deutsche Bank AG, London branch or such other person or persons as provide services to the Issuer in relation to the issue and Redemption of Industrial Metal Securities and/or the sale and administration of LMS Warrants and/or Warehouse Receipts pursuant to a Metal Agent Agreement;

**“Metal Agent Agreement”** means the agreement dated on or about the date of the Trust Instrument between the Issuer and the Metal Agent as amended from time to time or any successor or other agreement to which the Issuer is a party providing for the provision of services to the Issuer in relation to the issue and Redemption of Industrial Metal Securities and the sale and administration of LME Warrants and Warehouse Receipts;

**“Metal Agent Settlement Failure”** means the failure (other than any such failure caused by a Market Disruption Event) by a Metal Agent to comply with its obligations in respect of the purchase by the Metal Agent of any LME Warrants or Warehouse Receipts under the applicable Metal Agent Agreement or to comply with its obligations to pay any Accrued Rent or other cash amount due to the Issuer under the applicable Metal Agent Agreement where required for the purposes of a Redemption (including without limitation a failure to pay the Metal Sale Amount in respect of those LME Warrants or Warehouse Receipts or a Cash Payment Amount or an amount in respect of Accrued Rent on the due date therefor in accordance with the applicable Metal Agent Agreement whether or not caused by a Market Disruption Event);

**“Metal Delivery”** means in relation to the Redemption of any Industrial Metal Securities, settlement of the Issuer’s Redemption Obligations in respect thereof in whole or in part by delivery of LME Warrants in accordance with the Conditions as provided for in Condition 6.14 (*Metal Delivery*) and Condition 7.8.3;

**“Metal Entitlement”** means as at any date and in relation to any Industrial Metal Security the amount(s) of Metal to which the Security Holder is entitled on Redemption of that Industrial Metal Security on that date in accordance with Condition 5 (*Metal Entitlement and Price*);

**“Metal Sale”** means in relation to the Redemption of any Industrial Metal Securities, settlement of the Issuer’s Redemption Obligations in respect thereof by sale of Metal by the Issuer on behalf of the Security Holder and payment of the net proceeds of sale (less any applicable Redemption Fee) to the relevant Security Holder in accordance with the Conditions as provided for in Condition 6.15 (*Metal Sale*) and Condition 7.8.4;

**“Metal Sale Amount”** means the net proceeds of sale of any Industrial Metal due in respect of any Metal Sale;

**“Metal Sale Date”** means, with respect to a Redemption pursuant to Condition 6 (*Redemption of Industrial Metal Securities*) of any Industrial Metal Securities to be effected by Metal Sale, the first Business Day following the Redemption Notice Date for that Redemption, **provided that** if the Metal Agent notifies the Issuer that sale of Metal of the applicable type cannot be effected on the LME Market on that day, the Metal Sale Date shall be postponed to the immediately following Business Day;

**“Minimum Redemption Amount”** means, in respect of a Redemption by an Authorised Participant pursuant to a Redemption Form, such number of the relevant class (or in the case of Basket Securities, each class of Individual Securities of which it is comprised) of Industrial Metal Securities having an aggregate Metal Entitlement on the Settlement Date equal to or greater than the nominal weight represented by one LME Warrant of Metal of the type to be delivered to the Authorised Participant pursuant to the Redemption Form (being at the date of the Trust Instrument 25.0 tonnes for Aluminium, Copper, Lead and Zinc, 6.0 tonnes for Nickel and 5.0 tonnes for Tin);

**“Official List”** means the Official List maintained by the UK Listing Authority for the purpose of Part VI of FSMA;

**“outstanding”** means in relation to each type of Industrial Metal Securities, all the Industrial Metal Securities of that type issued and in respect of which there is for the time being an entry in the Register other than:

- (a) Industrial Metal Securities which have been redeemed and cancelled pursuant to this Trust Instrument; and
- (b) Industrial Metal Securities which have been purchased and cancelled pursuant to the Trust Instrument,

**PROVIDED THAT** for the purpose of the right to attend and vote at any meeting of the Security Holders or any of them and certain other purposes of this Trust Instrument, Industrial Metal Securities (if any) which are for the time being held by, for the benefit of, or on behalf of, (A) the Issuer, (B) ETFSL, (C) any Subsidiary of the Issuer, (D) any individual Controller of the Issuer or (E) any person controlled by any such persons listed in (A) to (D) above shall (unless and until ceasing to be so held) be deemed not to remain outstanding and accordingly the holders of such Industrial Metal Securities shall be deemed not to be Security Holders;

**“Pool”** means a separate fund or pool to which Individual Securities of a particular class (and Basket Securities to the extent that they are comprised of that class of Individual Securities) are attributable;

**“Price”** means:

- (a) for an Individual Security or a class of Individual Securities, the Price as determined in accordance with Condition 5 (*Metal Entitlement and Price*); and
- (b) for a Basket Security or category of Basket Securities, the sum of the Prices of each and every Individual Security comprised in that Basket Security or that category of Basket Securities,

and **“Pricing”** (other than when used in the term “Pricing Day”) shall be construed accordingly;

**“Pricing Day”** means for each class of Individual Securities a Business Day which is not a Market Disruption Day for the LME Market for the applicable type of Metals and for each category of Basket Securities (subject as provided in Condition 6.17 (*Redemption of Industrial Metal Securities by Metal Sale or Cash Payment – Market Disruption*)) a day which is a Pricing Day for each class of Individual Securities comprised in the Basket Securities of that category;

**“Principal Amount”** means in respect of each Industrial Metal Security the amount specified in clause 2 of the Trust Instrument;

**“Programme”** means the programme for the issue of Industrial Metal Securities;

**“Prohibited Benefit Plan Investor”** means any “employee benefit plan” within the meaning of section 3(3) of the United States Employee Retirement Income Security Act of 1974, as amended (“ERISA”), subject to Part 4, Subtitle B of Title I of ERISA, any “plan” to which section 4975 of the United States Internal Revenue Code of 1986, (the “Code”) applies (collectively, “Plans”), any entity whose underlying assets include “plan assets” of any of the foregoing Plans within the meaning of 29 C.F.R. Section 2510.3 101 or section 3(42) of ERISA, as they may be modified, by reason of a Plan’s investment in such entity, any governmental or church plan that is subject

to any US Federal, state or local law that is similar to the prohibited transaction provisions of ERISA or Section 4975 of the Code, or any person who holds Industrial Metal Securities on behalf of, for the benefit of or with any assets of any such Plan or entity;

**“Prohibited US Person”** means a US Person who is not a Qualified Institutional Buyer, or any person who holds Industrial Metal Securities for the benefit of a US Person who is not a Qualified Institutional Buyer, unless the purchase of the Industrial Metal Securities was made pursuant to Regulation S or another exemption from registration under the Securities Act;

**“Property to be Assigned”** means with respect to each Authorised Participant Agreement and a Metal Agent:

- (a) all of the right, title, interest and benefit of the Issuer, existing now or in the future, in, to, under or in respect of the obligation of the Authorised Participant under such Authorised Participant Agreement to make a payment to that Metal Agent in respect of Accrued Rent when delivering LME Warrants to the Issuer in respect of an application for the issue of Industrial Metal Securities; and
- (b) all other rights, monies and interest whatsoever which may from time to time at any time be derived from or accrue with respect to such obligation under such Authorised Participant Agreement to make a payment to that Metal Agent in respect of Accrued Rent including:
  - (i) all of the Issuer’s rights to serve notices and/or make demands pursuant to such obligation;
  - (ii) all of the Issuer’s rights of action in respect of any breach of such obligation; and
  - (iii) all of the Issuer’s rights to receive damages or obtain other relief in respect of such obligation;

**“Prospectus”** means the base prospectus of the Issuer in relation to the Industrial Metal Securities, as the same may be modified, supplemented or amended from time to time;

**“Qualified Institutional Buyer”** means a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act) that purchases or has purchased the Industrial Metal Securities from an Authorised Participant, or any US affiliate thereof, pursuant to a Rule 144A offering memorandum provided by the Issuer;

**“Redemption”** means the redemption of Industrial Metal Securities by the Issuer in accordance with the Conditions (and **“Redeem”** shall be construed accordingly);

**“Redemption Amount”** means in the case of Industrial Metal Securities to be Redeemed by Cash Payment in accordance with Condition 6.2.4 or Condition 6.5.4, the amount payable in respect thereof as determined in accordance with Condition 6.12 (*Cash Payment*) and in the case of Industrial Metal Securities to be Redeemed by Metal Sale in accordance with Condition 6.5.2 or Condition 7 (*Compulsory Redemption by the Issuer or Trustee*), means the amount payable in respect thereof as determined in accordance with Condition 6.15 (*Metal Sale*) or Condition 7 as may be reduced for any withholdings or deductions for or on account of tax as set out in Condition 8.6 and any other deductions pursuant to the Conditions;

**“Redemption Fee”** means the fee payable by a Security Holder on the redemption of Industrial Metal Securities pursuant to Condition 9 (*Redemption Fee*);

**“Redemption Form”** means a notice in the form prescribed from time to time by the Issuer requesting Redemption of Industrial Metal Securities;

**“Redemption Limit”** has the meaning given in Condition 6.13 (*Redemption Limits*);

**“Redemption Notice Date”** means a Business Day on which a valid Redemption Form is received, *provided that* a Redemption Form received after 4.00 p.m. (London time) on a Business Day will be treated as having been received on the next Business Day;

**“Redemption Obligations”** means the obligation of the Issuer on Redemption of a Industrial Metal Security to make payment of cash and/or deliver Metal in the form of LME Warrants to the relevant Security Holder in accordance with the Conditions;

**“Registers”** means the registers of Security Holders in respect of each type of Industrial Metal Securities, kept and maintained by the Registrar and **“Register”** shall be construed accordingly. At the date of the Trust Instrument there are seven Registers, one for each of the seven different types of Industrial Metal Securities currently envisaged to be created pursuant to the Trust Instrument;

**“Registrar”** means Computershare Investor Services (Jersey) Limited, Queensway House, Hilgrove Street, St. Helier, Jersey, Channel Islands, JE1 1ES or such other person as may be appointed by the Issuer from time to time to maintain the Registers;

**“Registrar Agreement”** means the registrar agreement dated on or about the date of the Trust Instrument between the Registrar and the Issuer;

**“Regulated Market”** means a regulated market for the purposes of EU Directive 2004/39/EC (the Markets in Financial Instruments Directive);

**“Regulations”** means the Companies (Uncertificated Securities) (Jersey) Order 1999 including any modifications thereto or any regulations in substitution therefore made and for the time being in force which, *inter alia*, enable title to Industrial Metal Securities to be evidenced otherwise than by a certificate and transferred otherwise than by a written instrument;

**“repay”**, **“redeem”** and **“pay”** shall each include both the others and cognate expressions shall be construed accordingly;

**“Required Security Document”** means, with respect to an Authorised Participant Agreement and a Metal Agent (other than any entered into between the Issuer and that Metal Agent), each security that the Metal Agent requires the Issuer to execute over the Property to be Assigned in favour of the Metal Agent as security for the Secured Obligations (which may include, but shall not be limited to, a Security Assignment), having regard to the jurisdiction of incorporation of the Authorised Participant (or proposed Authorised Participant) or of the branch through which such person is acting for the purposes of such Authorised Participant Agreement (as the case may be);

**“RIS”** means a Regulatory Information Service (as defined for the purposes of the Listing Rules) from time to time chosen by the Issuer;

**“Secured Obligations”** means in relation to a Metal Agent:

- (a) all present and future obligations (which, for the avoidance of doubt, are all limited recourse obligations) of the Issuer to the Metal Agent under the Metal Agent Agreement on account of Accrued Rent and interest thereon in the case of late payment; and
- (b) all losses, damages, legal and other costs, charges and expenses sustained, suffered or incurred by the Metal Agent arising out of or in connection with any act, matter or thing done or omitted to be done by the Issuer under the Security Assignment or any other Required Security Document;

**“Secured Property”** means in relation to each class of Individual Security (and each category of Basket Security to the extent it comprises Individual Securities of that class):

- (a) all LME Warrants recorded in the Issuer LMEsword Account attributable to the relevant class of Individual Security other than any Warrants held on trust by the Issuer pursuant to the terms of the Deed Poll;
- (b) all Warehouse Receipts attributable to the relevant class of Individual Security and held for the Issuer;
- (c) all rights of the Issuer in respect of the Metal attributable to the relevant class of Individual Security (including any insurance maintained by the Issuer in respect of loss of or damage to such Metal and the proceeds received in respect of any such insurance);

- (d) all rights of the Issuer under each Metal Agent Agreement and each TRS Master Confirmation, in each case to the extent it relates to the applicable Pool;
  - (e) all rights of the Issuer under each Authorised Participant Agreement and each AP TRS Master Confirmation in each case to the extent it relates to AP TRS Transactions and to the applicable Pool;
  - (f) all rights of the Issuer in the monies held in the Issuer Secured Cash Account and the Issuer Metal Sale Cash Account, in each case to the extent attributable to the applicable Pool; and
  - (g) all rights of the Issuer in the monies held in the Escrow Account and all rights of the Issuer under the Escrow Agreement, in each case to the extent attributable to the applicable Pool,
- or any part or parts thereof in each case which are subject to the security created in favour of the Trustee pursuant to the applicable Security Deed, but not including monies held in the Issuer Cash Account or any rights in respect thereof;

**“Securities Act”** means the United States Securities Act of 1933;

**“Security”** means in respect of each Pool the security constituted by the applicable Security Deed;

**“Security Assignment”** means, in respect of each Authorised Participant Agreement and each Metal Agent, the Security Assignment (if any) pertaining to that Authorised Participant Agreement as it applies in relation to that Metal Agent entered into between the Issuer and the relevant Metal Agent and securing the Secured Obligations of the Issuer to that Metal Agent;

**“Security Conditions”** means, with respect to a proposed Authorised Participant and a Metal Agent, to the extent required pursuant to the Metal Agent Agreement to which that Metal Agent is a party, that (a) each Required Security Document with respect to the relevant Authorised Participant Agreement and Metal Agent has been duly executed by the Issuer, (b) notice (duly executed by the Issuer) of each such Required Security Document has been duly given by the Issuer to such proposed Authorised Participant and (c) such proposed Authorised Participant has executed an acknowledgement of such notice in favour of the Metal Agent;

**“Security Deed”** means in respect of each Pool, the security deed pertaining to that Pool dated the date of the Trust Instrument entered into between the Issuer and the Trustee;

**“Security Holder”** means a registered holder of Industrial Metal Securities;

**“Security Holder Account”** means, in relation to any Industrial Metal Securities to be Redeemed, the relevant Security Holder Cash Account and/or Security Holder Metal Account;

**“Security Holder Cash Account”** means a bank account to receive any cash payments due in respect of the Redemption of Industrial Metal Securities, which account shall be:

- (a) for an Authorised Participant, the bank account notified in writing by the Authorised Participant to the Issuer, each Metal Agent and the Trustee from time to time;
- (b) for a Compulsory Redemption or where there are no Authorised Participants, the bank account of the Issuer secured for the benefit of the Security Holders or of the Trustee for the benefit of such Security Holders; and
- (c) otherwise, the bank account specified in the Redemption Form;

**“Security Holder Metal Account”** means, in relation to any Industrial Metal Securities to be Redeemed by Metal Delivery, an LMEsword Account specified by a Security Holder to which LME Warrants of the appropriate type may be delivered;

**“Service Agreement”** means the services agreement dated on or about the date of the Trust Instrument between ETFSL and the Issuer providing for certain services to be provided by ETFSL to the Issuer in relation to the Industrial Metal Securities;

**“Settlement Date”** means in relation to any Redemption pursuant to Condition 6.3 (*Redemption by Authorised Participants*) or Condition 6.4 (*Redemption by Other Security Holders*), the date determined in accordance with Condition 6.16 (*Settlement Date*);

**“Settlement Failure Date”** means, in relation to a Metal Agent Settlement Failure, the date on which such Metal Agent Settlement Failure occurred;

**“Sterling”** or **“£”** means pounds sterling;

**“Storage Fee”** means in respect of Industrial Metal Securities of any class and any day the amount expressed as a number of basis points determined in accordance with Condition 5.3;

**“Subsidiary”** has the meaning given to that term in section 1159 of the Companies Act 2006 of the United Kingdom;

**“Tax”** means any VAT, tax, income tax, capital gains tax, corporation tax, goods and services tax, withholding tax stamp, financial institutions, registration and other duties, bank accounts debits tax, import/export tax or tariff and any other taxes, levies, imposts, deductions, interest penalties and charges imposed or levied by a government or government agency;

**“tonnes”** means metric tonnes. One metric tonne is equal to 1,000 Kilograms (approximately 2205 pounds);

**“TRS Confirmation”** means, in respect of a TRS Transaction, a document exchanged between a Metal Agent and the Issuer which confirms or evidences the terms of that TRS Transaction;

**“TRS Master Confirmation”** in relation to any Metal Agent Agreement has the meaning given in that Metal Agent Agreement;

**“TRS Transaction”** means a transaction in Metals entered into between a Metal Agent and the Issuer under a TRS Master Confirmation;

**“Trust Instrument”** means the trust instrument dated 6 December 2010 between the Issuer and The Law Debenture Trust Corporation p.l.c. as trustee for the Security Holders including the Schedules thereto and any trust instrument supplemental thereto and the schedules (if any) thereto;

**“Trustee”** means The Law Debenture Trust Corporation p.l.c. appointed as such under the Trust Instrument and includes any replacement trustee under the Trust Instrument;

**“type”** means, in relation to Individual Securities, a class thereof and, in relation to Basket Securities, the category thereof;

**“UCITS Fund”** means a collective investment scheme which in accordance with the UCITS directive (Council Directive No. 85/611/EEC) as amended is an undertaking for collective investment in transferable securities subject to that directive and includes a UCITS Scheme;

**“UCITS Scheme”** means a scheme that falls within the definition of a “UCITS Scheme” contained in the FSA Glossary;

**“UK Listing Authority”** means the FSA acting in its capacity as the competent authority for the purposes of Part VI of FSMA;

**“Unacceptable Authorised Participant”** means an Authorised Participant in respect of which a notice has been given (and not withdrawn) under the Authorised Participant Agreement between the Issuer and that Authorised Participant that such Authorised Participant is to be treated as an Unacceptable Authorised Participant for the purposes of that Authorised Participant Agreement;

**“Uncertificated”** or **“Uncertificated Form”** means recorded on the Register as being held in uncertificated form, title to which, by virtue of the Jersey Companies (Uncertificated Securities) (Jersey) Order 1999, is to be transferred by means of CREST;

**“Uncertificated Notice of Meeting”** means a properly authenticated dematerialised instruction, and/or other instruction or notification, which is sent by means of CREST;



“**United Kingdom**” or “**UK**” means United Kingdom of Great Britain and Northern Ireland;

“**United States**” or “**US**” means the United States of America, its territories and possessions, any state of the United States and the District of Columbia;

“**US dollars**” or “**US\$**” means United States dollars;

“**US Person**” means a “US person” as defined in Regulation S under the Securities Act;

“**VAT**” means value added tax; and

“**Warehouse Receipt**” means a document issued by an Approved Warehouse in the name of the Issuer that evidences title to a specified brand and a specified lot of Metal that is stored at a specified location and warehouse.

1.2 The following rules shall apply to the interpretation of these Conditions unless the context otherwise requires:

1.2.1 headings to Conditions, paragraphs, and other provisions of these Conditions are inserted for ease of reference only and shall not affect the interpretation of these Conditions;

1.2.2 any reference to a person or persons includes reference to any individual, corporation, partnership, joint venture, association, public body, governmental authority or other entity;

1.2.3 words in the singular shall also include the plural and vice versa;

1.2.4 any reference to these Conditions or to any agreement or document includes a reference to these Conditions, or, as the case may be, such agreement or document, as amended, varied, novated, supplemented or replaced from time to time;

1.2.5 any reference to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to such statute or statutory provision as the same may have been or may from time to time be amended, modified, extended consolidated, re-enacted or replaced and includes any subordinate legislation made thereunder; and

1.2.6 unless otherwise indicated, any reference in these Conditions to a time is a reference to local time in London, England.

## 2 STATUS OF INDUSTRIAL METAL SECURITIES

2.1 Industrial Metal Securities constitute undated limited recourse secured debt obligations of the Issuer secured as set out in Condition 3 (*Security and Limited Recourse*). The Industrial Metal Securities of each type rank *pari passu* among themselves. Each Industrial Metal Security has a Principal Amount as set out below and without prejudice to the provisions of Condition 6 (*Redemption of Industrial Metal Securities*) but subject always to the provisions of Condition 3.2 a Security Holder may elect to receive on Redemption an amount in cash equal to the Principal Amount in lieu of the LME Warrants or cash otherwise specified in Condition 6. The Issuer acknowledges in the Trust Instrument its indebtedness in respect of the aggregate Principal Amount.

The Principal Amounts of the Industrial Metal Securities as at the date of the Trust Instrument are:

<b>Class of Industrial Metal Securities</b>	<b>Principal Amount</b>
ETFS Physical Aluminium	US\$11.00
ETFS Physical Copper	US\$4.00
ETFS Physical Lead	US\$11.00
ETFS Physical Nickel	US\$11.00
ETFS Physical Tin	US\$12.00
ETFS Physical Zinc	US\$11.00
ETFS Physical IM Basket	US\$9.78

2.2 Each Basket Security constitutes a separate security from the Individual Securities by reference to which the Metal Entitlement of that Basket Security is calculated and for which it may be surrendered in accordance with the provisions of the Trust Instrument.

- 2.3 The Metal Entitlement of a Basket Security is equal to the sum of the Metal Entitlements of a defined number of Individual Securities of various classes as set out in the table below. Each Basket Security may be surrendered in accordance with the provisions of the Trust Instrument in exchange for such Individual Securities:

Category of Basket Security	Class of Individual Security	Number of Individual Securities of which Basket Security is composed
ETFS Physical IM	ETFS Physical Aluminium	0.28
	ETFS Physical Copper	1.04
	ETFS Physical Lead	0.04
	ETFS Physical Nickel	0.09
	ETFS Physical Tin	0.01
	ETFS Physical Zinc	0.09

- 2.4 A Security Holder holding:

2.4.1 Basket Securities in Certificated Form may surrender the certificates for cancellation and receive certificates in respect of the Individual Securities comprised in such Basket Securities; or

2.4.2 Individual Securities in Certificated Form of the appropriate classes and in at least the appropriate numbers of each class may surrender the certificates for cancellation and receive certificates for such number of Basket Securities of any class or classes requested by it as are comprised of the Individual Securities represented by such surrendered certificates as it requested to be combined in the form of such Basket Securities and one or more certificates in respect of the balance of the Individual Securities not so combined in the form of Basket Securities,

in each case rounded down to the nearest whole number of Industrial Metal Securities of each type and otherwise in accordance with the provisions of the Trust Instrument.

- 2.5 Industrial Metal Securities do not bear interest and have no final maturity date.

- 2.6 The Issuer shall at all times publish on the Issuer's Website:

2.6.1 the classes of Individual Securities which are in issue or available to be issued; and

2.6.2 the categories of Basket Securities which are in issue or available to be issued, and the number and classes of Individual Securities which at that time are comprised in each category of Basket Securities.

### 3 SECURITY AND LIMITED RECOURSE

- 3.1 The obligations of the Issuer in respect of each class of Individual Security (and any category of Basket Securities to the extent that such Basket Security is comprised of Individual Securities of that class) are secured pursuant to the Security Deed applicable to that class by assignments to the Trustee by way of security of the contractual rights of the Issuer relating to such class under the Metal Agent Agreement and the TRS Master Confirmation, and by a first ranking floating charge in favour of the Trustee for the Security Holders over all the Issuer's rights in relation to the Secured Property attributable to that Pool.

- 3.2 The Trustee and the Security Holders of any class of Individual Securities (and any category of Basket Securities to the extent that such Basket Security is comprised of Individual Securities of that class) shall have recourse only to the Secured Property relating to the relevant Pool and any sums derived therefrom. If, the Trustee (or any other secured party) having realised the same, the net proceeds are insufficient for the Issuer to make all payments and meet all obligations which, but for the effect of this Condition, would then be due, the obligations of the Issuer to each such Security Holder will be limited to the Relevant Proportion of such net proceeds of realisation, where the "Relevant Proportion" is the proportion that the Individual Securities of the relevant class (and Basket Securities to the extent comprised of Individual Securities of that class) held by such Security Holder bears to the total number of the Individual Securities of that class (and Basket Securities to the extent comprised of Individual Securities of that class) outstanding,

neither the Trustee nor any person acting on its behalf shall be entitled to take any further steps against the Issuer to recover any further sums or property and no debt shall be owed by the Issuer to any such person in respect of any such further sum or property. In particular, neither the Trustee nor any Security Holder shall be entitled to institute, nor join with any other person in bringing, instituting or joining, any bankruptcy, suspension of payments, moratorium of any indebtedness, winding up, reorganisation, arrangement, insolvency or liquidation proceeding or other proceeding under any similar law (whether court based or otherwise) in relation to the Issuer (except for the appointment of a receiver and manager pursuant to the relevant Security Deed) for two years (or, if later, the longest suspense period, preference period or similar period (howsoever described) ending with the onset of insolvency in respect of which transactions entered into by the Issuer within such period may be subject to challenge under applicable insolvency or other proceeding) plus one day after the date on which all amounts payable under the last outstanding security of any type issued by the Issuer and constituted by the Trust Instrument are repaid, nor shall they have any claim in respect of any sum arising or other obligation in respect of the Secured Property for any other Pool or any other assets of the Issuer.

#### **4 FORM AND TRANSFER**

- 4.1 Industrial Metal Securities are in registered form and are individually transferable.
- 4.2 Industrial Metal Securities may be held and transferred in Uncertificated Form by means of CREST in accordance with the Regulations. The Trustee may, without the consent of Security Holders, concur with the Issuer in making modifications to the provisions of the Trust Instrument in order to reflect changes in the Regulations or in the applicable law and practice relating to the holding or transfer of Industrial Metal Securities in Uncertificated Form. A Security Holder may request that his Industrial Metal Securities be held in Certificated Form, in which case such Industrial Metal Securities shall be removed from CREST.
- 4.3 The Issuer shall cause to be kept at its registered office, or at the registered office of the Registrar, or at such other place outside the United Kingdom as the Trustee may agree, Registers showing the date of issue and all subsequent transfers and changes of ownership of all outstanding Industrial Metal Securities and the names and addresses of the Security Holders and the persons deriving title under them. The Trustee and the Security Holders or any of them and any person authorised by any such person shall be at liberty at all reasonable times during office hours to inspect the Registers and to take (free of charge) copies of, or extracts from, the same or any part thereof. In the event of the Trustee requiring to convene a meeting of, or to give any notice to, the Security Holders the Issuer shall furnish the Trustee (free of charge) with such copies of, or extracts from, the Registers as it shall require. Subject to the Regulations, the Registers may be closed by the Issuer for such periods and at such times (not exceeding in the whole 30 days in any one year) as it may think fit.
- 4.4 Where the Issuer or the Trustee considers it necessary or expedient for the purposes of enforcing the provisions of the Trust Instrument or the purposes of Redeeming any Industrial Metal Securities, it is authorised to execute any document or instrument necessary to convert Industrial Metal Securities held in Uncertificated Form into Certificated Form and to take delivery of the corresponding certificate(s).

#### **5 METAL ENTITLEMENT AND PRICE**

- 5.1 Each class of Individual Security will have a separate Metal Entitlement which as at the date on which dealings in the Industrial Metal Securities of that class first commence on the London Stock Exchange will be as follows:

ETFS Physical Aluminium:	0.05 tonnes;
ETFS Physical Copper:	0.005 tonnes;
ETFS Physical Lead:	0.05 tonnes;
ETFS Physical Nickel:	0.005 tonnes;
ETFS Physical Tin:	0.005 tonnes; and
ETFS Physical Zinc:	0.05 tonnes.

5.2 The Metal Entitlement for an Individual Security of a particular class on a particular day will be the amount in tonnes determined for that class by the following formulae (calculated to nine places of decimals with 0.000000005 tonnes rounded upwards):

$$ME_{(i,t)} = ME_{(i,t-1)} \times (1 - SF_{(i,t)} - MF_{(i,t)} - (IA_{(i,t)} \times 12))^{1/N}; \text{ and}$$

$$SF_{(i,t)} = ARF_{(i,t)} / P_{(i,t-4)}$$

where:

- i refers to the relevant class of Individual Security;
- t refers to the applicable day (with t – 1 being the previous calendar day);
- ME<sub>(i,t)</sub> is the Metal Entitlement for Industrial Metal Securities of class i for day t with an initial value as set out in Condition 5.1;
- SF<sub>(i,t)</sub> is the per annum Storage Fee applicable to Industrial Metal Securities of class i on day t, expressed as a decimal and calculated in accordance with the formula above;
- MF<sub>(i,t)</sub> is the per annum Management Fee applicable to Industrial Metal Securities of class i on day t, expressed as a decimal (so that 69 basis points per annum is expressed as 0.0069);
- (IA<sub>(i,t)</sub> x 12) is the Insurance Allowance applicable to Industrial Metal Securities of class i on day t, expressed as an annual rate (by multiplying the applicable monthly rate by 12) and as a decimal (so that 1 basis point per month results in 12 basis points per annum, which is expressed as 0.0012);
- ARF<sub>(i,t)</sub> is the Annual Rental Fee for day t for Metal of type i, being the daily rental fee (expressed in cents per tonne per day) multiplied by the number of calendar days in the relevant year (365 or 366 in a leap year) and expressed in US dollars (by dividing the result by 100);
- P<sub>(i,t-4)</sub> is the LME Cash Settlement Price for Metal of type i published on the fourth LME Business Day prior to t; and
- N is 365 (or 366 in a leap year).

5.3 The Storage Fee applicable to Industrial Metal Securities of a particular class on a particular day is the amount determined in accordance with the formula in Condition 5.2 for that class and that day.

5.4 An ETFS Physical IM Basket Security is comprised of Individual Securities as provided for in Condition 2.3 and accordingly each ETFS Physical IM Basket Security has a Metal Entitlement equal to the aggregate Metal Entitlement of 0.28 of one ETFS Physical Aluminium Security, 1.04 ETFS Physical Copper Securities, 0.04 of one ETFS Physical Lead Security, 0.09 of one ETFS Physical Nickel Security, 0.01 of one ETFS Physical Tin Security and 0.09 of one ETFS Physical Zinc Security.

5.5 The Price of an Individual Security of a particular class for an LME Business Day is the amount in US dollars determined for that class by the following formula (calculated to nine places of decimals with 0.000000005 rounded upwards):

$$P_{(i,t)} = S_{(i,t+1)} \times ME_{(i,t+3)}$$

where:

- i refers to the relevant class of Individual Security;
- t refers to the applicable day;
- P<sub>(i,t)</sub> is the Price for an Individual Security of class i on day t;

$S_{(i,t+1)}$  is the LME Cash Settlement Price for day t+1 (being the Business Day immediately following day t) and the type of Metal to which the Individual Securities of class i refer; and

$ME_{(i,t+3)}$  is the Metal Entitlement of an Individual Security of class i on day t+3, being the third Business Day after day t or, if such third Business Day is not an LME Settlement Day, the following LME Settlement Day.

5.6 The Price of a Basket Security is the sum of the Prices of each and every Individual Security comprised in that Basket Security.

## 6 REDEMPTION OF INDUSTRIAL METAL SECURITIES

### 6.1 Redemption Entitlement

Each Industrial Metal Security carries the right on Redemption to delivery on the applicable Settlement Date of LME Warrants evidencing Metal of an amount equal to the Metal Entitlement of that Industrial Metal Security or, in the case of a Basket Security, the Metal Entitlements on that Settlement Date of the Individual Securities of which that Basket Security is comprised, and to payment of the Accrued Rent in respect of such LME Warrants, in each case in the manner provided for in and subject to the provisions of this Condition 6 (*Redemption of Industrial Metal Securities*).

### 6.2 Allocation of LME Warrants

For the purposes of Redemption of Industrial Metal Securities of any type pursuant to a Redemption Form in accordance with Condition 6.3 (*Redemption by Authorised Participants*):

6.2.1 the Issuer may allocate LME Warrants of the relevant type or types for delivery to the Security Holder in respect of those Industrial Metal Securities in its absolute discretion and may change its allocation at any time prior to delivery thereof to such Security Holder **provided that** the Issuer may for this purpose allocate only LME Warrants (a) that are deliverable for the purposes of transactions on the LME Market, (b) that pertain to Industrial Metal in an Approved Warehouse and from a producer and of a brand in each case which meets the requirements of the LME and (c) in respect of which neither the Approved Warehouse nor the producer or brand of the Industrial Metal the subject thereof appears on the then current Proscribed List (if any) issued by the Issuer for the purposes of determining LME Warrants that may be transferred to the Issue in consideration of the issue of Industrial Metal Securities pursuant to the terms of the Authorised Participant Agreements;

6.2.2 in the case of Redemption of Individual Securities, the Issuer shall Redeem a number (which need not be a whole number) of Industrial Metal Securities having an aggregate Metal Entitlement on the applicable Settlement Date equal to the quantity of Metal of the relevant type title to which is evidenced by the LME Warrants of that type allocated pursuant to Condition 6.2.1 by delivery of such LME Warrants in accordance with Condition 6.14 (*Metal Delivery*) and in the case of Redemption of Basket Securities these Conditions shall, subject as provided in Condition 6.17, apply as though such Basket Securities had immediately prior to the Redemption Notice Date been surrendered in exchange for the Individual Securities of which it is comprised save that, subject as provided in Condition 6.17, all cash amounts due in respect of such Redemption shall be aggregated into a single payment in respect of all the Individual Securities of which the Basket Securities are comprised and may be retained by the Issuer (without interest, which shall be for the account of the Issuer) until the Basket Securities have been delivered to the Issuer in accordance with Condition 6.3 and until it is satisfied that all LME Warrants to be delivered in respect of any such Individual Securities to be Redeemed by Metal Delivery have been accepted into the applicable Security Holder Metal Account;

6.2.3 to the extent that the aggregate quantity of Metal of the relevant type title to which is evidenced by the LME Warrants allocated pursuant to Condition 6.2.1 is less than the amount of Metal to which the Security Holder is entitled pursuant to Condition 6.1 (*Redemption Entitlement*), Redemption shall be effected as provided in Condition 6.2.4; and

6.2.4 the balance of the Industrial Metal Securities to be Redeemed (including any part of an Industrial Metal Security where the number of Industrial Metal Securities to be Redeemed by Metal Delivery is not a whole number) pursuant to that Redemption Form shall be Redeemed in cash at the Price for such Industrial Metal Securities on the Redemption Notice Date in accordance with Condition 6.12 (*Cash Payment*).

### 6.3 Redemption by Authorised Participants

A Security Holder who is also an Authorised Participant may (subject as provided herein) require the Issuer to Redeem all or part of its holding of Industrial Metal Securities by lodging with the Administrator a Redemption Form, **provided that** if at any time the Issuer is due to deliver LME Warrants in respect of Metal of any type or to pay any cash amount, in either case in respect of a Redemption to a particular Authorised Participant, the amount payable by the Issuer and/or the obligation on the Issuer to deliver LME Warrants may be discharged in whole or in part pursuant to the set-off provisions set out in the Authorised Participant Agreement.

An Authorised Participant desiring to Redeem Industrial Metal Securities pursuant to this Condition must deliver the Industrial Metal Securities being Redeemed to the Issuer by depositing them into an appropriate CREST account in the name of the Issuer or the Registrar and giving correct delivery free of payment instructions in CREST (or otherwise delivering such Industrial Metal Securities to the Issuer by agreement with the Issuer) by not later than the Settlement Date for such Redemption. Subject as provided in Condition 8.3 the Authorised Participant shall not be entitled to receive any LME Warrants or cash on such Redemption until this requirement has been complied with.

### 6.4 Redemption by Other Security Holders

A Security Holder which is not also an Authorised Participant may only require the Issuer to Redeem all or any part of its holdings of Industrial Metal Securities if, either:

6.4.1 on any Business Day, there are no Authorised Participants, and the Security Holder lodges on such day with the Administrator a valid Redemption Form; or

6.4.2 the Issuer has announced through a RIS in respect of any Business Day, or until further announcement or generally, that Redemptions by Security Holders who are not Authorised Participants will be permitted and the Security Holder submits on a Business Day a valid notice in the form prescribed for the purpose by the Issuer requesting Redemption of such Industrial Metal Securities. Any such announcement may be general or subject to conditions, and any notice requesting any Redemption which is not in accordance with any such conditions shall not be valid.

A Security Holder desiring to Redeem Industrial Metal Securities pursuant to this Condition must deliver the Industrial Metal Securities being Redeemed to the Issuer by either depositing them into an appropriate CREST account in the name of the Issuer or the Registrar and giving correct delivery free of payment instructions in CREST or delivering the certificates in respect of them to the Administrator (or otherwise delivering such Industrial Metal Securities to the Issuer by agreement with the Issuer). Redemption Forms will not be treated as having been lodged until the Industrial Metal Securities to be Redeemed have been so delivered to the Issuer.

### 6.5 Manner of Redemption by Other Security Holders

Where any Industrial Metal Securities of any type are to be Redeemed pursuant to a Redemption Form in accordance with Condition 6.4 (*Redemption by Other Security Holders*):

6.5.1 the Issuer may allocate LME Warrants of the relevant type or types to be sold in its absolute discretion and may change its allocation at any time prior to sale thereof **provided that** the Issuer may for this purpose allocate only LME Warrants (a) that are deliverable for the purposes of transactions on the LME Market, (b) that pertain to Industrial Metal in an Approved Warehouse and from a producer and of a brand in each case which meets the requirements of the LME and (c) in respect of which neither the Approved Warehouse nor the producer or brand of the Industrial Metal the subject thereof appears on the then current Proscribed List (if any) issued by the Issuer for the purposes of determining LME Warrants that may be transferred to the Issue in consideration of the issue of Industrial Metal Securities pursuant to the terms of the Authorised Participant Agreements;

- 6.5.2 in the case of Redemption of Individual Securities, the Issuer shall Redeem a number (which need not be a whole number) of Industrial Metal Securities having an aggregate Metal Entitlement on the applicable Settlement Date equal to the quantity of Metal of the relevant type title to which is evidenced by the LME Warrants allocated pursuant to Condition 6.5.1 by sale of such Metal and payment of the net proceeds of sale in accordance with Condition 6.15 (*Metal Sale*) and in the case of Redemption of Basket Securities these Conditions shall, subject as provided in Condition 6.17, apply as though such Basket Securities had immediately prior to the Redemption Notice Date been surrendered in exchange for the Individual Securities of which it is comprised save that, subject as provided in Condition 6.17, all cash amounts due in respect of such Redemption shall be aggregated into a single payment in respect of all the Individual Securities of which the Basket Securities are consigned and may be retained by the Issuer (without interest, which shall be for the account of the Issuer) until the Basket Securities have been delivered to the Issuer in accordance with Condition 6.4 (*Redemption by Other Security Holders*);
- 6.5.3 to the extent that the aggregate quantity of Metal of the relevant type title to which is evidenced by the LME Warrants allocated pursuant to Condition 6.5.1 is less than the amount of Metal to which the Security Holder is entitled pursuant to Condition 6.1 (*Redemption Entitlement*) Redemption shall be effected as provided in Condition 6.5.4; and
- 6.5.4 the balance of the Industrial Metal Securities to be Redeemed (including any part of an Industrial Metal Security where the number of Industrial Metal Securities to be Redeemed by Metal Sale is not a whole number) pursuant to that Redemption Form shall be Redeemed in cash at the Price for such Industrial Metal Securities on the Redemption Notice Date in accordance with Condition 6.12 (*Cash Payment*),

**provided that**, a Security Holder which (a) has certified that it is not a UCITS Fund and (b) specifies in its Redemption Form a Security Holder Metal Account, may request that the LME Warrants allocated pursuant to Condition 6.5.1 be delivered to it and if the Issuer accepts such request Condition 6.5.2 shall not apply and instead the Issuer shall Redeem the number referred to in Condition 6.5.2 of Industrial Metal Securities of the relevant type by delivery of such LME Warrants and paying the related Accrued Rents (less any permitted deductions) in accordance with Condition 6.2.2 and Condition 6.14 (*Metal Delivery*).

## 6.6 **Redemption Form**

A Redemption Form:

- 6.6.1 must specify the number (which must be a whole number) and type of Industrial Metal Securities to be Redeemed;
- 6.6.2 must relate to only one type of Individual Security or Basket Security;
- 6.6.3 must comply with Condition 6.13 (*Redemption Limits*);
- 6.6.4 must (in the case of Redemption by an Authorised Participant which either has entered into an AP TRS Master Confirmation with the Issuer or is the Metal Agent) specify whether Early Delivery is to apply in respect of such Redemption and if Early Delivery is to apply in respect of such Redemption must be accompanied by an AP TRS Confirmation signed by the Issuer and the Authorised Participant;
- 6.6.5 must be signed by, or by an authorised signatory on behalf of, the Security Holder;
- 6.6.6 must specify (i) (if Metal Delivery applies in respect of any of the Industrial Metal Securities to be Redeemed) the Security Holder Metal Account to which LME Warrants to be delivered on Redemption should be transferred and (ii) the Security Holder Cash Account to which any cash amounts payable by the Issuer should be paid,

and is irrevocable once it has been lodged with the Administrator.

- 6.7 Upon receipt by the Administrator of a valid Redemption Form from a Security Holder in relation to any Industrial Metal Securities, the Issuer shall do all things necessary to give effect to the Redemption Form as required by this Condition 6 (*Redemption of Industrial Metal Securities*).
- 6.8 A Redemption Form shall (unless and to the extent the Issuer otherwise agrees generally or in any particular case or cases) be invalid:
- 6.8.1 if lodged by a Security Holder who is not an Authorised Participant unless on that Business Day, there are no Authorised Participants or such Redemption by such Security Holder is valid in accordance with Condition 6.4.2; or
- 6.8.2 if it does not satisfy each and all of Conditions 6.6.1 to 6.6.6; or
- 6.8.3 to the extent that the number of Industrial Metal Securities of that type or in aggregate to be Redeemed would result in a Redemption Limit being exceeded, and the Metal Agent and the Issuer do not agree to that Redemption Limit being exceeded (in which event such Redemption Form will not be capable of being invalidated under this Condition 6.8.3 in respect of the greatest number of Industrial Metal Securities of the relevant type or types that would not result in the Redemption Limit being exceeded); or
- 6.8.4 where notice has been given pursuant to Condition 7.1 (*Compulsory Redemption on Termination*), Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*) or Condition 7.3 (*Compulsory Redemption on a fall in the Price relative to the Principal Amount*) to redeem such Industrial Metal Securities compulsorily, if the Redemption Form is received or deemed received on or after:
- (a) where notice has been given in accordance with Condition 7.1, the Final Redemption Notice Date; or
- (b) where notice has been given under Condition 7.2 or Condition 7.3, the date on which notice was given; or
- 6.8.5 if it is invalid pursuant to Condition 6.19.3,
- and, save as provided in Condition 6.8.3 or as so agreed, no Industrial Metal Securities of the relevant type shall be Redeemed in respect of or under that Redemption Form.
- 6.9 If the Issuer considers that a purported Redemption Form is invalid, it shall notify the Security Holder lodging that Redemption Form of that fact as soon as reasonably possible and shall not be obliged to Redeem pursuant to that Redemption Form any Industrial Metal Securities.
- 6.10 A Redemption Form received by the Issuer after 4.00 p.m. (London time) on a Business Day shall be treated as lodged on the immediately following Business Day.
- 6.11 The Issuer may change or vary the procedures for the lodgement of Redemption Forms and these Conditions shall be modified in respect of Redemptions to the extent of any such variation.

#### 6.12 **Cash Payment**

Where, pursuant to any Redemption Form or otherwise where this Condition is expressed to apply, any Industrial Metal Securities are in accordance with these Conditions to be Redeemed by Cash Payment:

- 6.12.1 the Issuer shall (subject to Condition 6.12.6) direct the Metal Agent pursuant to the relevant Metal Agent Agreement to subscribe for the same number and type of Industrial Metal Securities as those to be Redeemed by Cash Payment pursuant to that Redemption Form at the Price for such Industrial Metal Securities on the Redemption Notice Date for such Redemption for settlement on such Redemption Notice Date;
- 6.12.2 where a Metal Agent is required to subscribe for a number of Industrial Metal Securities of any type that is not a whole number, the part of an Industrial Metal Security shall be paid for (and the proceeds applied as provided in these Conditions) but such part shall not be issued and the Metal Agent shall not receive such part (but such part and any part of Industrial Metal Securities of the same type to which the Metal Agent has



previously become entitled shall be aggregated and carried forward and any resulting whole numbers of such Industrial Metal Securities shall be issued to the relevant Metal Agent on demand therefor);

- 6.12.3 the Redemption Amount with respect to a Redemption by Cash Payment shall be the amount (in US dollars) equal to the sum of the amounts determined in accordance with Condition 6.2.4, Condition 6.5.4, Condition 6.17.3, Condition 7.8.3(d) or Condition 7.8.4(g) in respect of all the Individual Securities or Basket Securities thereby Redeemed, less any amounts to be withheld or deducted pursuant to Condition 8.6 and less any amounts which the Issuer is entitled to deduct pursuant to Condition 6.14.1, Condition 6.14.5, or Condition 8.2;
- 6.12.4 the Issuer will pay to the relevant Security Holder the Redemption Amount on the Settlement Date or if later, as and when received from the relevant Metal Agent or other person, subject to the Security Holder having delivered all the Industrial Metal Securities to be Redeemed pursuant to that Redemption Form to the Issuer by either depositing them into an appropriate CREST account in the name of the Issuer or the Registrar (as directed by the Issuer) and giving correct delivery free of payment instructions in CREST or delivering the certificates in respect of them to the Administrator (or otherwise having delivered such Industrial Metal Securities to the Issuer by agreement with the Issuer). If the Security Holder fails to deposit the Industrial Metal Securities into an appropriate CREST account and give correct delivery free of payment instructions in CREST or otherwise so deliver the Industrial Metal Securities to the Issuer, the Issuer may retain the proceeds otherwise payable until the Security Holder has so deposited or delivered the Industrial Metal Securities and then remit such proceeds (without interest, which shall be for the account of the Issuer) to the Security Holder in accordance with this Condition;
- 6.12.5 settlement in respect of the Redemption Amount shall be made by payment of the Redemption Amount into the applicable Security Holder Cash Account in accordance with Condition 8 (*Settlement and Redemption Obligations*);
- 6.12.6 the Issuer may (instead of complying with Condition 6.12.1) procure a Metal Agent or any other person to purchase such Industrial Metal Securities for cash at the Price for such Industrial Metal Securities on the Redemption Notice Date for such Redemption for settlement on such Redemption Notice Date and for that purpose Condition 11 (*Satisfaction of Redemption Forms by Transfer*) shall apply *mutatis mutandis*; and
- 6.12.7 where in respect of any Redemption Form only some of the Industrial Metal Securities are to be Redeemed by Cash Payment and some by Metal Delivery, the Issuer may delay settlement of the Redemption Amount until it is satisfied that any LME Warrants to be delivered in respect of Industrial Metal Securities to be Redeemed pursuant to such Redemption Form by Metal Delivery have been accepted into the applicable Security Holder Metal Account.

### 6.13 Redemption Limits

- 6.13.1 Individual Securities of a particular class (and any category of Basket Securities to the extent that such Basket Security is comprised of Individual Securities of that class) may not be Redeemed on a day pursuant to a Redemption Form submitted by any Security Holder (including any Authorised Participant), to the extent that (i) in the case of a Redemption by an Authorised Participant pursuant to a Redemption Form, the number of Individual Securities (or in the case of Basket Securities, the number of Individual Securities of each class of which it is comprised) to be Redeemed pursuant to such Redemption Form is less than the Minimum Redemption Amount for such class; and (ii) the aggregate Metal Entitlement of all Individual Securities of that class (and any category of Basket Securities to the extent that such Basket Security is comprised of Individual Securities of that class) which are Redeemed on that day would exceed the sum of the Metal Agent Redemption Limits for that class of Individual Securities on that day (such maximum limit being the "**Redemption Limit**" for that class of Individual Securities).

- 6.13.2 For the purposes of this Condition 6.13 (*Redemption Limits*), the Metal Agent Redemption Limit with respect to a class of Individual Securities and the Metal Agent is the amount agreed between the Issuer and the Metal Agent as the redemption limit in respect of LME Warrants of the same class.
- 6.13.3 For the purposes of the Redemption Limits, Redemption Forms will be dealt with in order of their actual receipt by the Issuer and, for the purpose of this Condition, Condition 6.10 shall be disregarded.
- 6.13.4 The restrictions in this Clause 6.13 may be waived by the Issuer from time to time and in respect of any particular Redemption or generally but only where not prevented from doing so pursuant to any applicable Metal Agent Agreement.

#### 6.14 **Metal Delivery**

Where any Industrial Metal Securities are in accordance with these Conditions to be Redeemed by Metal Delivery:

- 6.14.1 the Issuer shall instruct the Metal Agent to transfer LME Warrants representing Metal attributable to or forming part of the Secured Property in respect of such Industrial Metal Securities allocated for the purposes of such Redemption in accordance with Condition 6.2.1 or Condition 7.8.3, to the relevant Security Holder Metal Account, to be delivered to such account on the Settlement Date, **provided that**, where, other than as a result of a default by the Issuer, the LME Warrants are not delivered or accepted into the Security Holder Metal Account on the Settlement Date the Security Holder shall nevertheless be liable for any rental, storage, insurance or other charges from that date and the Issuer may deduct any such charges incurred by it from any cash amounts due to the Security Holder and/or sell any such LME Warrants on behalf of the Security Holder on the LME and deduct such charges from the proceeds of sale;
- 6.14.2 the Issuer shall (subject to the LME Warrants having been delivered to and accepted into the Security Holder Metal Account) procure that a Metal Agent pays into the Security Holder Cash Account the related Accrued Rents (less any permitted deductions);
- 6.14.3 from the relevant Settlement Date, all title to and risks in such LME Warrants shall pass to the holder of such Industrial Metal Securities;
- 6.14.4 the obligations of the Issuer in respect of Industrial Metal Securities being Redeemed by Metal Delivery shall be satisfied by transferring the LME Warrants and related Accrued Rents (less any permitted deductions) in accordance with the provisions of this Condition 6.14 (*Metal Delivery*); and
- 6.14.5 where, other than as a result of a default by the Issuer, the LME Warrants allocated for the purposes of a Redemption by Metal Delivery are not delivered or accepted into the Security Holder Metal Account on the Settlement Date or within three LME Settlement Days thereafter, the Issuer may determine that the relevant Industrial Metal Securities be Redeemed by Metal Sale in accordance with Condition 6.15 (*Metal Sale*) and may deduct any additional rental, storage, insurance or other charges from the net proceeds of sale.

#### 6.15 **Metal Sale**

Where pursuant to any Redemption Form any Industrial Metal Securities are in accordance with these Conditions to be Redeemed by Metal Sale:

- 6.15.1 the Issuer will on behalf of the Security Holder use its reasonable endeavours to sell (including by exercising any rights it may have to require a Metal Agent to buy the same under a Metal Agent Agreement) on the Metal Sale Date (or, in the case of Metal Sale pursuant to Condition 6.14.5, the first Business Day after the expiry of the period of three LME Settlement Days therein referred to) or as soon as reasonably practicable thereafter the Metal evidenced by the LME Warrants allocated for the purposes of such Redemption (including the Accrued Rent in respect of such LME Warrants) for settlement on the Settlement Date (or, in the case of Metal Sale pursuant to Condition 6.14.5, the third

Business Day after the expiry of the period of three LME Settlement Days therein referred to) or as soon as reasonably practicable thereafter;

- 6.15.2 (save where sale of such LME Warrants is being made to a Metal Agent pursuant to a Metal Agent Agreement) the Issuer will instruct the Metal Agent to deliver such LME Warrants and the related Accrued Rents to such account or person as may be required for the purposes of completing the sale referred to in Condition 6.15.1 on the Settlement Date (or other Settlement Date specified in Condition 6.15.1);
- 6.15.3 the Issuer will pay to the relevant Security Holder the net proceeds of such sale in US dollars (less any Redemption Fee in accordance with Condition 9 (*Redemption Fee*)) to the relevant Security Holder by transfer to the Security Holder Cash Account in accordance with Condition 8 (*Settlement and Redemption Obligations*) or, in the case of Industrial Metal Securities in Certificated Form, by cheque or warrant made payable to the Security Holder and sent by post at the risk of the Security Holder, subject to the Security Holder having delivered the Industrial Metal Securities to be Redeemed to the Issuer by either depositing them into an appropriate CREST account in the name of the Issuer or the Registrar (as directed by the Issuer) and giving correct delivery free of payment instructions in CREST or delivering the certificates in respect of them to the Administrator (or otherwise having delivered such Industrial Metal Securities to the Issuer by agreement with the Issuer). If the Security Holder fails to deposit the Industrial Metal Securities into an appropriate CREST account and give correct delivery free of payment instructions in CREST or otherwise so deliver the Industrial Metal Securities to the Issuer, the Issuer may retain the proceeds otherwise payable until the Security Holder has so deposited or delivered the Industrial Metal Securities and then remit such proceeds (without interest, which shall be for the account of the Issuer) to the Security Holder in accordance with this Condition; and
- 6.15.4 the holder of the Industrial Metal Securities being Redeemed acknowledges and agrees:
- (a) to accept the proceeds of sale actually realised from the sale of the relevant LME Warrants (less any Redemption Fee in accordance with Condition 9 (*Redemption Fee*)) in full settlement of the Issuer's Redemption Obligations in respect of such LME Warrants; and
  - (b) that the Issuer and the Trustee make no representations or warranties as to the price at which LME Warrants will be sold or the amount of the proceeds of sale realised from the sale of such LME Warrants.

#### 6.16 Settlement Date

In relation to any Redemption pursuant to this Condition 6 (*Redemption of Industrial Metal Securities*), the Settlement Date (on which Redemption shall be effective) shall be the third Business Day following the applicable Redemption Notice Date, provided that:

- 6.16.1 in the case of Redemption by Cash Payment or Metal Sale, if such third Business Day is not an Issuer Payment Day payment by the Issuer shall be made on the next succeeding Issuer Payment Date;
- 6.16.2 in the case of Redemption by Metal Sale or Metal Delivery, if such third Business Day is not an LME Settlement Day or in the event of a failure of LMEsword, payment or delivery by the Issuer shall be made on the next succeeding day which is an LME Settlement Day and on which LMEsword is operating; and
- 6.16.3 this is further subject as provided in Condition 6.2.2, Condition 6.5.2, Condition 6.12.4, Condition 6.12.7, Condition 6.14, Condition 6.15.1, Condition 6.15.3, Condition 6.17, Condition 6.19 and Condition 6.20.

**6.17 Redemption of Industrial Metal Securities by Metal Sale or Cash Payment – Market Disruption**

If a Redemption Form is deemed received by the Issuer on a Business Day (“**Day 1**”) which falls to be satisfied in whole or in part by Metal Sale or by Cash Payment:

- 6.17.1 if the next LME Business Day (“**Day 2**”) is a Pricing Day for the type of Industrial Metal Securities to be Redeemed by Cash Payment pursuant to that Redemption Form, all those Industrial Metal Securities will be Priced on Day 2 (and that day shall be the Pricing Day for such type of Industrial Metal Securities);
- 6.17.2 if Day 2 is not a Pricing Day for the type of Industrial Metal Security to be Redeemed by Cash Payment pursuant to that Redemption Form nor (in the case of a Basket Security) a Pricing Day for any class of Individual Security comprised in that Basket Security:
- (a) the Security Holder may by written notice (a “**Withdrawal Notice**”) to the Issuer, received prior to 11.00 a.m. on the next succeeding Business Day, cancel the Redemption Form; and where such a Withdrawal Notice is so given no Industrial Metal Securities shall be Redeemed in respect of or under that Redemption Form; and
  - (b) if no Withdrawal Notice is issued under Condition 6.17.2(a) then the Redemption Form will be deemed received on the next Business Day (and no Pricing of Industrial Metal Securities for that Redemption Form shall occur before then) and that Business Day will then constitute Day 1 for the Redemption Form and this Condition 6.7 shall apply thereto accordingly;
- 6.17.3 if Day 2 is not a Pricing Day for a category of Basket Securities to be Redeemed by Cash Payment pursuant to that Redemption Form but a Pricing Day for one or more classes of Individual Security comprised in that Basket Security, the Individual Securities so comprised for which it is a Pricing Day will be Priced (using the Metal Entitlement calculated as provided in Condition 6.17.4) on that day (and that day shall be the Pricing Day for those Individual Securities) and the other classes will be Priced on the next Pricing Day for each such class (and the day on which each such other class is Priced shall be the Pricing Day for that class) and the Price for that Basket Security under Condition 5.6 shall be determined accordingly, **provided that** if not all types of Individual Securities comprised in a Basket Security that is to be Redeemed have been Priced at the end of the fourth Business Day following Day 1, then the Redemption of the Basket Security shall be effected in accordance with Condition 8.7; and
- 6.17.4 where Condition 6.17.3 applies, the Settlement Date for the Basket Security shall be determined in accordance with Condition 6.16 as if the applicable Redemption Notice Date were the day on which the last Individual Securities comprised in that Basket Security were Priced on the fourth Business Day following Day 1, as applicable, and the Metal Entitlement shall be calculated accordingly.
- 6.18 Within one Business Day after the day on which the last Individual Securities comprised in a Basket Security to be Redeemed by Cash Payment pursuant to a Redemption Form to which Condition 6.17.3 applies is Priced or the fourth Business Day following Day 1, in respect thereof, as applicable, the Issuer shall notify the relevant Security Holder of the Redemption Amount payable in respect of that Redemption Form, determined as provided above.

**6.19 Suspension of Metal Sale or Cash Payment Redemptions**

If the Price of a class of Individual Security falls below its Principal Amount, the Issuer may at any time and from time to time while the Price in relation to such class is below such Principal Amount determine to suspend the right of Security Holders to Redeem by Metal Sale or by Cash Payment the Individual Securities of that class and all categories of Basket Securities which are comprised, in whole or in part, of Individual Securities of such class and, subject as provided in this Condition 6.19, may terminate any such suspension. The following provisions shall apply where the Issuer determines to exercise its powers under this Condition:

- 6.19.1 the Issuer shall give notice of such suspension and of the termination of any such suspension via an RIS as soon as practicable, but failure to give such notices shall not prevent the exercise of such powers;
- 6.19.2 any such suspension may continue in the discretion of the Issuer for a period of up to 30 days, and may continue thereafter provided that notice of a meeting has been issued convening a meeting for a date not more than 30 days after the date of the notice for the purpose of considering an Extraordinary Resolution which will have the effect of reducing the Principal Amount to a level less than the Price, in which event the suspension will cease when the meeting (or any adjournment thereof) concludes or, if the Extraordinary Resolution is passed and makes alternative provision, in accordance with the Extraordinary Resolution; and
- 6.19.3 any suspension shall not affect any Redemption the Redemption Notice Date or Compulsory Redemption Notice Date for which had passed before the suspension commenced, but any Redemption Form requiring Redemption by Metal Sale or Cash Payment lodged on a Business Day when the right to Redeem Industrial Metal Securities of that type by Metal Sale or Cash Payment is suspended pursuant to this Condition shall be invalid.

#### **6.20 Issuer's Power to Suspend Redemptions in the Interests of Security Holders**

If at any time the Issuer in its reasonable discretion considers it necessary and in the interests of Security Holders to do so (including, without limitation, if as a result of any damage to, loss of or other incident in respect of or any claim relating to any of the Secured Property attributable to any class of Individual Securities or the Metal represented by any of the same or otherwise the Issuer considers there to be any uncertainty as to the value of any of such Secured Property or as to the timing of receipt of amounts in respect of such Secured Property) the Issuer may, without prejudice to its rights under Condition 6.19, determine to (a) suspend the right of Security Holders to Redeem Individual Securities of that class and all categories of Basket Securities which are comprised, in whole or in part, of Individual Securities of that class by Metal Delivery, by Metal Sale and by Cash Payment and (b) suspend the determination of the Price of such Industrial Metal Securities and, subject as provided in this Condition 6.20, may terminate any such suspension. If the right to so Redeem Industrial Metal Securities is suspended pursuant to this Condition 6.20, any Compulsory Redemption by the Issuer pursuant to Condition 7.1 (*Compulsory Redemption on Termination*), Condition 7.3 (*Compulsory Redemption on a fall in the Price relative to the Principal Amount*) or Condition 7.4 (*Compulsory Redemption for Cause*) of which notice has at that time been given shall be suspended and unless the Trustee determines otherwise any Compulsory Redemption by the Trustee pursuant to Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*) of which notice has at that time been given shall be suspended, in each case for so long as the suspension under this Condition is continuing. Notwithstanding the foregoing, the exercise of the Issuer's power to suspend the right of Security Holders to Redeem Individual Securities of any class and all categories of Basket Securities which are comprised, in whole or in part, of Individual Securities of that class under this Condition shall not prevent the Issuer or, where applicable, the Trustee from during the period of such suspension exercising its power to Redeem any such Industrial Metal Securities compulsorily pursuant to Condition 7.1 (*Compulsory Redemption on Termination*), Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*), Condition 7.3 (*Compulsory Redemption on a fall in the Price relative to the Principal Amount*) or Condition 7.4 (*Compulsory Redemption for Cause*). The following provisions shall apply where the Issuer determines to exercise its powers under this Condition:

- 6.20.1 the Issuer shall give notice of such suspension and of the termination of any such suspension via an RIS as soon as practicable, but failure to give such notices shall not prevent the exercise of such powers;
- 6.20.2 any suspension shall not affect any Redemption the Redemption Notice Date or Compulsory Redemption Notice Date for which had passed before the suspension commenced, but any Redemption Form lodged on a Business Day when the right to Redeem Industrial Metal Securities of that type is suspended pursuant to this Condition shall be invalid; and

6.20.3 no such suspension shall remain in effect for longer than 60 days.

## **7 COMPULSORY REDEMPTION BY THE ISSUER OR TRUSTEE**

### **7.1 Compulsory Redemption on Termination**

The Issuer may at any time Redeem compulsorily all Industrial Metal Securities, or all Industrial Metal Securities of any one or more type. In such event the Issuer shall give not less than 30 days' notice (or not less than seven days' notice if at such time there is no Metal Agent or not less than five days' notice if at such time the right to Redeem Industrial Metal Securities of that type is suspended pursuant to Condition 6.20) by RIS announcement of a Business Day to be a Final Trading Date in respect of such Industrial Metal Securities.

### **7.2 Compulsory Redemption on Issuer Insolvency Event**

If an Issuer Insolvency Event has occurred and is continuing, the Trustee may at any time, at its discretion, and shall if so directed in writing by Security Holders holding not less than 25 per cent. by Principal Amount of the Industrial Metal Securities (as a whole) then outstanding or by an Extraordinary Resolution of the Security Holders (as a single class), the Trustee having first been indemnified and/or secured and/or funded to its satisfaction, give notice to the Issuer and by RIS announcement to the Security Holders that all the Industrial Metal Securities outstanding are to be Redeemed compulsorily and specifying a Business Day (falling not less than two Business Days from the giving of such notice) to be a Compulsory Redemption Notice Date in respect of such Industrial Metal Securities.

### **7.3 Compulsory Redemption on a fall in the Price relative to the Principal Amount**

If on any Business Day the Price of any class or classes of Individual Security falls to 2.5 times the Principal Amount of such Individual Security or below, the Issuer may at any time, for so long as the Price continues to be less than 2.5 times the Principal Amount of such Individual Security and during the period 60 days thereafter, upon not less than two Business Days' notice by RIS announcement nominate a Business Day to be a Compulsory Redemption Date in respect of that class of Individual Security and all categories of Basket Securities which are comprised, in whole or in part, of Individual Securities of such class and subject to Condition 3.2 Security Holders will receive on such Compulsory Redemption payment or delivery in accordance with Condition 7.8 (*Compulsory Redemptions*). The right to nominate a Business Day to be a Compulsory Redemption Date pursuant to this Condition 7.3 shall cease if an Extraordinary Resolution is passed which has the effect of reducing the Principal Amount to a level less than two-fifths of the Price, but this is without prejudice to any subsequent nomination pursuant to this Condition if on any Pricing Day the Price of that class of Individual Security falls to 2.5 times the Principal Amount (as so reduced) of such Individual Security or below.

### **7.4 Compulsory Redemption for Cause**

The Issuer may, in its absolute discretion, at any time give written notice to a Security Holder that any Industrial Metal Securities held by that Security Holder are to be redeemed compulsorily and specifying a Business Day (being not less than seven days and not more than fourteen days following the date of the notice) to be the Compulsory Redemption Notice Date in respect of such Industrial Metal Securities, if:

7.4.1 the Issuer required the Security Holder in accordance with Condition 12 (*Enquiries as to Status of Security Holders*) to certify whether or not it is a Prohibited Benefit Plan Investor and:

- (a) the Security Holder did not by the date specified in the notice given under Condition 12 provide such a certification to the Issuer in the form and executed in the manner required; or
- (b) the Security Holder certified that it is a Prohibited Benefit Plan Investor; or

- 7.4.2 the Issuer required the Security Holder in accordance with Condition 12 to certify whether or not it is a Prohibited US Person and:
- (a) the Security Holder did not by the date specified in the notice given under Condition 12 provide such a certification to the Issuer in the form and executed in the manner required; or
  - (b) the Security Holder certified that it is a Prohibited US Person; or
- 7.4.3 the Issuer considers (in its sole discretion) (a) that such Industrial Metal Securities are or may be owned or held directly or beneficially by any person in breach of any law or requirement of any country or by virtue of which such person is not qualified to own those Industrial Metal Securities, or (b) that the ownership or holding or continued ownership or holding of those Industrial Metal Securities (whether on its own or in conjunction with any other circumstance appearing to the Issuer to be relevant) would, in the reasonable opinion of the Issuer, cause a pecuniary or tax disadvantage to the Issuer or any other Security Holders which it or they might not otherwise have suffered or incurred,

**provided that** if the relevant Security Holder in the case of sub-paragraph 7.4.1(a) or sub-paragraph 7.4.2(b) so failed to provide such a certification, or in the case of sub-paragraph 7.4.1(b) or sub-paragraph 7.4.2(b) certified that it is a Prohibited Benefit Plan Investor or a Prohibited US Person, in each case in respect of some only of the Industrial Metal Securities held by it, a notice given by the Issuer under this Condition shall relate only to those Industrial Metal Securities (and not any other Industrial Metal Securities held by that Security Holder).

- 7.5 If a Security Holder which is the subject of a notice under Condition 7.4 (*Compulsory Redemption for Cause*) provides to the Issuer at least one Business Day prior to the Compulsory Redemption Notice Date specified pursuant to Condition 7.4 proof required by the Issuer that its Industrial Metal Securities have been transferred to a person that is not a Prohibited Benefit Plan Investor or a Prohibited US Person, then the Individual Industrial Metal Securities referred to in that notice shall not be redeemed under these Conditions.
- 7.6 If a Security Holder which is the subject of a notice under Condition 7.4 does not provide to the Issuer at least one Business Day prior to the Compulsory Redemption Notice Date specified pursuant to Condition 7.4 proof required by the Issuer that its Industrial Metal Securities have been transferred to a person that is not a Prohibited Benefit Plan Investor or a Prohibited US Person, then the Industrial Metal Securities referred to in that notice shall not be capable of being transferred by that Security Holder and the Issuer shall not be required to register any purported transfer of those Industrial Metal Securities.
- 7.7 The Issuer shall not be required to give any reasons for any decision, determination or declaration taken or made in accordance with this Condition 7 (*Compulsory Redemption by the Issuer or Trustee*). The exercise of the powers conferred by this Condition 7 shall not be questioned or invalidated in any case on the grounds that there was insufficient evidence of direct or beneficial ownership or holding of the Industrial Metal Securities, or any other grounds save that such powers shall have been exercised in good faith.

## 7.8 **Compulsory Redemptions**

- 7.8.1 If notice is given to redeem Industrial Metal Securities compulsorily pursuant to Condition 7.1 (*Compulsory Redemption on Termination*), Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*), Condition 7.3 (*Compulsory Redemption on a fall in the Price relative to the Principal Amount*) or Condition 7.4 (*Compulsory Redemption for Cause*):
- (a) Industrial Metal Securities the Security Holder of which is an Authorised Participant which has, on or prior to the Final Trading Date (in the case of Redemption pursuant to Condition 7.1) or the Compulsory Redemption Notice Date (in the case of Redemption pursuant to Condition 7.2, Condition 7.3 or Condition 7.4) requested Redemption by Metal Delivery by notice to the Issuer; and
  - (b) Industrial Metal Securities the Security Holder of which has, on or prior to the Final Trading Date (in the case of Redemption pursuant to Condition 7.1) or the

Compulsory Redemption Notice Date (in the case of Redemption pursuant to Condition 7.2, Condition 7.3 or Condition 7.4), certified that it is not a UCITS Fund, requested Redemption by Metal Delivery by notice to the Issuer and specified a Security Holder Metal Account,

shall subject to Condition 7.8.2 and Condition 7.8.3(c) and (d) be Redeemed by Metal Delivery. All other Industrial Metal Securities to be so Redeemed shall subject to Condition 7.8.4(f) and (g) be Redeemed by Metal Sale.

7.8.2 Notwithstanding the foregoing in the case of Compulsory Redemption following notice given by the Issuer pursuant to Condition 7.1 (*Compulsory Redemption on Termination*) where at the time of such notice the right of Security Holders to Redeem Industrial Metal Securities of the relevant type is suspended pursuant to Condition 6.20 or the Issuer would be unable as a consequence of the proviso to Condition 7.8.3(a) to Redeem in accordance with the provisions of Condition 7.8.3 all the Industrial Metal Securities of the relevant type, such Compulsory Redemption shall be effected by Metal Sale in accordance with Condition 7.8.4 save that the Issuer may elect that any of the Secured Property attributable to the relevant Pool be sold on such basis and at such time as it considers fit and may pay to Security Holders the net proceeds of sale in one or more instalments or may pay the same to the Trustee for distribution among the persons entitled thereto in accordance with the provisions of the Trust Instrument.

7.8.3 For the purposes of Compulsory Redemption of Industrial Metal Securities of any type by Metal Delivery in accordance with Condition 7.8.1;

- (a) the Issuer may allocate LME Warrants of the relevant type or types for delivery to the Security Holder in respect of those Industrial Metal Securities in its absolute discretion and may change its allocation at any time prior to delivery thereof to such Security Holder **provided that** the Issuer may for this purpose allocate only LME Warrants (a) that are deliverable for the purposes of transactions on the LME Market, (b) that pertain to Industrial Metal in an Approved Warehouse and from a producer and of a brand in each case which meets the requirements of the LME and (c) in respect of which neither the Approved Warehouse nor the producer or brand of the Industrial Metal the subject thereof appears on the then current Proscribed List (if any) issued by the Issuer for the purposes of determining LME Warrants that may be transferred to the Issue in consideration of the issue of Industrial Metal Securities pursuant to the terms of the Authorised Participant Agreements;
- (b) in the case of Redemption of Individual Securities, the Issuer shall Redeem a number (which need not be a whole number) of Industrial Metal Securities having an aggregate Metal Entitlement on the Compulsory Settlement Date equal to the quantity of Metal of the relevant type title to which is evidenced by the LME Warrants of that type allocated pursuant to paragraph (a) by delivery of such LME Warrants in accordance with Condition 6.14 (*Metal Delivery*), save that references in that Condition to the Settlement Date shall be replaced by references to the Compulsory Settlement Date, and in the case of Redemption of Basket Securities these Conditions shall apply as though such Basket Securities had immediately prior to the Redemption Notice Date been surrendered in exchange for the Individual Securities of which it is comprised save that all cash amounts due in respect of such redemption shall be aggregated into a single payment in respect of all the Individual Securities of which the Basket Securities are comprised and may be retained by the Issuer (without interest, which shall be for the account of the Issuer) until it is satisfied that all LME Warrants to be delivered in respect of any such Individual Securities to be Redeemed by Metal Delivery have been accepted into the applicable Security Holder Metal Account;
- (c) to the extent that the aggregate quantity of Metal of the relevant type title to which is evidenced by the LME Warrants allocated pursuant to paragraph (a) is less than the amount of Metal to which the Security Holder is entitled pursuant to



Condition 6.1 (*Redemption Entitlement*), Redemption shall be effected as provided in paragraph (d); and

- (d) the balance of the Industrial Metal Securities to be Redeemed pursuant to that Compulsory Redemption (including any part of an Industrial Metal Security where the number of Industrial Metal Securities to be Redeemed by Metal Delivery is not a whole number) shall be Redeemed in cash at the Price for such Industrial Metal Securities on the Redemption Notice Date in accordance with Condition 6.12 (*Cash Payment*) unless at that time there is no Metal Agent in which case they shall be Redeemed by Metal Sale in accordance with Condition 7.8.4.

7.8.4 Subject to Condition 7.8.2, in relation to any Redemption pursuant to Condition 7.1 (*Compulsory Redemption on Termination*), Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*), Condition 7.3 (*Compulsory Redemption on a fall in the Price relative to the Principal Amount*) or Condition 7.4 (*Compulsory Redemption for Cause*) to be effected by Metal Sale in accordance with these Conditions:

- (a) where required by the terms of a Metal Agent Agreement the Issuer shall allocate a number of LME Warrants of the relevant type or types to be sold on successive Pricing Days for each type commencing on the Compulsory Metal Sale Date (in the case of Redemption pursuant to Condition 7.1) or the Compulsory Redemption Notice Date (in the case of Redemption pursuant to Condition 7.2, Condition 7.3 or Condition 7.4), such number in each case not being greater than the Compulsory Metal Sale Redemption Limit and shall no later than 8.00 a.m. on the Compulsory Metal Sale Date (in the case of Redemption pursuant to Condition 7.1) or the Compulsory Redemption Notice Date (in the case of Redemption pursuant to Condition 7.2, Condition 7.3 or Condition 7.4) by RIS announcement publish the Compulsory Metal Sale Redemption Number of each relevant type of LME Warrants to be sold on each successive Pricing Day;
- (b) where paragraph (a) does not apply the Issuer shall allocate a number of LME Warrants of the relevant type or types to be sold for the purposes of such Redemption;
- (c) the Issuer will on behalf of the relevant Security Holder use its reasonable endeavours to sell (including by exercising any rights it may have to require a Metal Agent to buy the same under a Metal Agent Agreement) on each successive Pricing Day commencing on the Compulsory Metal Sale Date (in the case of Redemption pursuant to Condition 7.1) or the Compulsory Redemption Notice Date (in the case of Redemption pursuant to Condition 7.2, Condition 7.3 or Condition 7.4) or in each case as soon as reasonably practicable thereafter the LME Warrants allocated for the purposes of such Redemption for settlement on the Compulsory Settlement Date or as soon as reasonably practicable thereafter, **provided that** if paragraph (a) does not apply the Issuer will have absolute discretion as to the timing, amount and manner of sales to be effected pursuant to this Condition;
- (d) (save where sale of such LME Warrants is being made to a Metal Agent pursuant to a Metal Agent Agreement) the Issuer will instruct the Metal Agent to deliver such LME Warrants to such account or person as may be required for the purposes of completing the sale referred to in paragraph (c) on the Compulsory Settlement Date;
- (e) the Issuer will pay to the relevant Security Holder the net proceeds of such sale in US dollars (less any Redemption Fee in accordance with Condition 9 (*Redemption Fee*)) to the relevant Security Holder through CREST or by transfer to the Security Holder Cash Account in accordance with Condition 8 (*Settlement and Redemption Obligations*) or, in the case of Industrial Metal Securities in Certificated Form, by cheque or warrant made payable to the Security Holder and sent by post at the risk of the Security Holder, subject in the case of Redemption pursuant to Condition 7.4 to the Security Holder having delivered the Industrial Metal Securities being Redeemed to the Issuer by either depositing them into an appropriate CREST account in the name of the Issuer or the Registrar (as directed by the Issuer) and

giving correct delivery free of payment instructions in CREST or delivering certificates in respect of them to the Administrator or otherwise having delivered such Industrial Metal Securities to the Issuer by agreement with the Issuer. If the Security Holder fails to deposit the Industrial Metal Securities into an appropriate CREST account and give correct delivery free of payment instructions in CREST or otherwise so deliver the Industrial Metal Securities to the Issuer, the Issuer may retain the proceeds otherwise payable until the Security Holder has so deposited or delivered the Industrial Metal Securities and then remit such proceeds (without interest, which shall be for the account of the Issuer) to the Security Holder in accordance with this Condition;

- (f) to the extent that when there is a Metal Agent the aggregate quantity of Metal of the relevant type title to which is evidenced by the LME Warrants allocated pursuant to paragraph (a) or paragraph (b) (as the case may be) is less than the amount of Metal to which the Security Holder is entitled pursuant to Condition 6.1 (*Redemption Entitlement*), Redemption shall be effected as provided in paragraph (g); and
- (g) the balance of the Industrial Metal Securities to be Redeemed (including any part of an Industrial Metal Security where the number of Industrial Metal Securities to be Redeemed as referred to in this Condition is not a whole number) shall be Redeemed in cash at the Price for such Industrial Metal Securities on the Redemption Notice Date in accordance with Condition 6.12 (*Cash Payment*) **provided that** if there is no Metal Agent or the Issuer is otherwise unable to sell the balance of the Metal in excess of a whole number of LME Warrants referred to in paragraph (f) at the relevant LME Cash Settlement Price, such balance of the Industrial Metal Securities shall (subject to Condition 7.8.2) not be Redeemed until the Issuer is so able to sell such Metal.

7.8.5 The provisions of Condition 6.15.4 shall apply to Redemption by Metal Sale pursuant to Condition 7.1 (*Compulsory Redemption on Termination*), Condition 7.2 (*Compulsory Redemption on Issuer Insolvency Event*), Condition 7.3 (*Compulsory Redemption on a fall in the Price relative to the Principal Amount*) or Condition 7.4 (*Compulsory Redemption for Cause*) as they do to Redemption by Metal Sale pursuant to Condition 6 (*Redemption of Industrial Metal Securities*).

## 8 SETTLEMENT AND REDEMPTION OBLIGATIONS

- 8.1 Where a Redemption Form has been lodged for the Redemption of Industrial Metal Securities, the Security Holder which holds those Industrial Metal Securities which are the subject of that Redemption must, by 8.00 a.m. on the Settlement Date, deposit the Industrial Metal Securities in question into an appropriate CREST account and give correct delivery free of payment instructions in accordance with the Redemption Form if they were in Uncertificated Form, or otherwise deliver the Industrial Metal Securities to be Redeemed and any certificates representing them to the Issuer in such manner as the Issuer may agree if they are in Certificated Form. Once a valid Redemption Form is lodged in respect of Industrial Metal Securities, the Industrial Metal Securities in respect of which it was given may not be transferred by the Security Holder (except to the Issuer), and the Issuer may refuse to recognise any subsequent transfer of any of those Industrial Metal Securities.
- 8.2 Subject as provided in Condition 6.4 (*Redemption by Other Security Holders*) and Condition 8.3, failure by a Security Holder to deposit those Industrial Metal Securities into an appropriate CREST account and give correct instructions shall not invalidate the Redemption of those Industrial Metal Securities. Where settlement of a Redemption of Industrial Metal Securities is delayed due to the failure of the Security Holder to deposit the Industrial Metal Securities in question into an appropriate CREST account or give correct instructions or otherwise deliver such Industrial Metal Securities and any certificates representing them in a manner agreed by the Issuer, the Security Holder shall not be entitled to receive any LME Warrants or cash otherwise due on Redemption until the relevant Industrial Metal Securities have been so deposited or delivered, the Security Holder shall not be entitled to receive any interest in respect of late delivery of such LME Warrants or other amounts and the Security Holder shall be liable for any rental, storage, insurance or other charges in respect of such LME Warrants from the date

on which settlement was due and the Issuer may deduct any such charges incurred by it from any cash amounts due to the Security Holder and/or sell any such LME Warrants on behalf of the Security Holder on the LME and deduct such charges from the proceeds of sale. If the Security Holder fails to deliver such Industrial Metal Securities to the Issuer (via the CREST system or another method agreed with the Issuer) within three Business Days from the due date, the Issuer shall be entitled to sell any LME Warrants that were otherwise due to be delivered to the Security Holder in respect of Industrial Metal Securities to be Redeemed by Metal Delivery on behalf of and at the cost of the Security Holder and pay the net proceeds of sale and any other amount due, after deduction of its expenses to the Trustee (to be held on trust for the Security Holder in accordance with the Trust Instrument), and to cancel the entry in the Register in respect of those Industrial Metal Securities.

- 8.3 Notwithstanding Condition 8.2 and any other provision of the Conditions to the contrary, an Authorised Participant requesting Redemption of Industrial Metal Securities pursuant to Condition 6.3 (*Redemption by Authorised Participants*) who has entered into an AP TRS Master Confirmation with the Issuer may request that the LME Warrants to which it is entitled in respect of such Redemption pursuant to Condition 6.2.2 and Condition 6.14 (*Metal Delivery*) be delivered ("**Early Delivery**") to the Security Holder Metal Account on the Settlement Date for such Redemption notwithstanding that the Industrial Metal Securities may not by then have been deposited or delivered as required by Condition 8.2. The Issuer may agree to or decline such request in its absolute discretion, but if it agrees to such request such Early Delivery shall be on the basis of an AP TRS Confirmation.
- 8.4 Where Individual or Basket Securities are Redeemed in accordance with Condition 6 (*Redemption of Industrial Metal Securities*) or Condition 7 (*Compulsory Redemption by the Issuer or Trustee*), the Issuer shall be entitled, upon delivery of any LME Warrants due on Redemption by Metal Delivery or payment of other amounts due (less the Redemption Fee and any other permitted deductions, if applicable) into the applicable Security Holder Account or other payment in accordance with Condition 28 (*Payment Provisions*), to cancel the entry in the Register in respect of those Industrial Metal Securities being Redeemed.
- 8.5 Save to the extent that the proviso to Condition 6.3 (*Redemption by Authorised Participants*) applies, payment of the Redemption Amount (less any applicable Redemption Fee deducted under Condition 9 (*Redemption Fee*)) into the applicable Security Holder Cash Account on the Redemption Payment Date, or delivery of the applicable LME Warrants to the applicable Security Holder Metal Account or payment of any other amount due is in full satisfaction of all liability which the Issuer has to Security Holders in respect of the Industrial Metal Securities which have been Redeemed.
- 8.6 The Issuer may, at any time, notify a Security Holder that the Issuer may have to withhold or deduct from the payment that corresponds to the Redemption Form an amount for or on account of, any present or future taxes, duties assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of any relevant jurisdiction or any political sub-division thereof or any authority thereof having power to tax, as required by law (as modified by the practice of any relevant governmental revenue authority) then in effect and such notice shall specify any form or document to be delivered by beneficial owners of Industrial Metal Securities that may allow the Issuer to make such payment without any such withholding or deduction or with such withholding or deduction at a reduced rate. If such forms or documents are not provided to the Issuer by the relevant Security Holder or if it is not the beneficial owner of Industrial Metal Securities held by such Security Holder and which are to be redeemed, such beneficial owner, then any such payment will be reduced (and the matching obligation of the Issuer to pay or deliver or to procure the payment or delivery of LME Warrants of an amount equal to the Metal Entitlement or other amount due to that Security Holder will also be reduced) by the amount of the withholding or deduction.
- 8.7 If the proviso in Condition 6.17.3 applies with respect to a Basket Security, then on the Settlement Date for that Basket Security the Issuer shall Redeem the Basket Security:
- 8.7.1 to the extent that it is comprised of Individual Securities which have been Priced at the end of the fourth Business Day following Day 1 ("**Priced Securities**"), by payment into the relevant Security Holder Cash Account of an amount equal to the Redemption Amount that

would have been determined for that Basket Security if it had been comprised of the Priced Securities only; and

8.7.2 to the extent that it is comprised of Individual Securities still not priced at the end of the fourth Business Day following Day 1 (“**Delayed Securities**”), by delivering to the relevant Security Holder Individual Securities of the same classes and in the same number (rounded down in each case to the nearest whole number) as such Delayed Securities,

and otherwise in accordance with this Condition 8. The Issuer may give such directions to the Security Holder as appear to the Issuer to be necessary to enable the settlement of any payment or delivery to be made by it pursuant to this Condition.

## **9 REDEMPTION FEE**

9.1 Subject as provided below, it is a condition to the performance by the Issuer of the obligation to redeem Industrial Metal Securities that the Issuer may deduct the Redemption Fee from the Metal Entitlement or other amount due to the Security Holder on Redemption and that if it does not the Security Holder of such Industrial Metal Securities shall pay to the Issuer the Redemption Fee in respect of such Redemption in accordance with this Condition 9. The Issuer may offset the amount of the Redemption Fee payable hereunder against any amount due to the Security Holder on Redemption.

9.2 On a Redemption of Industrial Metal Securities at the request of an Authorised Participant, the Redemption Fee shall be the amount agreed in the relevant Authorised Participant Agreement to be payable, or such other amount as may be agreed by the Issuer and that Authorised Participant at the time of the Redemption, regardless of the number of Industrial Metal Securities being redeemed.

9.3 On a Redemption of Industrial Metal Securities at the request of a Security Holder who is not an Authorised Participant (where there are no Authorised Participants), the Redemption Fee shall be an amount equal to the cost to the Issuer of satisfying such Redemption request, which shall be notified to the Security Holder at the time of the Redemption being not greater than £500 or such other amount as may be notified through a RIS.

9.4 On a Compulsory Redemption of Industrial Metal Securities by the Issuer or the Trustee, the Redemption Fee shall be an amount equal to the cost to the Issuer incurred in relation to the Redemption, including the costs of enquiries under Condition 12 (*Enquiries as to Status of Security Holders*) and the cost of giving notices under Condition 7 (*Compulsory Redemption by the Issuer or Trustee*) being not greater than £500 or such other amount as may be notified through a RIS. The Issuer shall notify Security Holders whose Industrial Metal Securities are subject to Compulsory Redemption of the amount of those costs, and their allocation to particular Security Holders, at the time of the Redemption.

The Issuer may set off any amount payable to the Issuer in accordance with this Condition 9 by the holder of Industrial Metal Securities in respect of the Redemption Fee against the Redemption Amount payable by the Issuer to such holder.

## **10 INTEREST ON LATE PAYMENTS**

10.1 Following the occurrence of a Metal Agent Settlement Failure, interest shall accrue on any balance of the Metal Sale Amount, Accrued Rent or Cash Payment Amount not paid by or on behalf of the Metal Agent (as the case may be) from the Settlement Failure Date. Such interest shall:

10.1.1 accrue at the Funding Rate from and including the Settlement Failure Date to but excluding the date falling three Business Days after the Settlement Failure Date, and thereafter at the Default Rate; and

10.1.2 cease to accrue on the date on which such balance is paid by the Metal Agent into the relevant Security Holder Cash Account, Issuer Metal Sale Cash Account or other account specified by the Issuer in accordance with the applicable Metal Agent Agreement.

## 11 SATISFACTION OF REDEMPTION FORMS BY TRANSFER

The Issuer may in its absolute discretion elect to satisfy Redemption Forms by transfer of the appropriate number of Industrial Metal Securities to one or more Authorised Participant(s) from Security Holder(s) seeking Redemption, and for that purpose the Issuer may authorise any person on behalf of the Security Holder to execute one or more instruments of transfer in respect of the relevant number(s) of Industrial Metal Securities provided that the amount payable to the Security Holder shall still be an amount equal to the relevant Redemption Amount (less the Redemption Fee) and the relevant Redemption Payment Day will be the date of the transfer(s).

## 12 ENQUIRIES AS TO STATUS OF SECURITY HOLDERS

12.1 The Issuer may at any time, without any requirement to state a reason, give notice to a Security Holder requiring that Security Holder:

12.1.1 to certify, no later than the date (the “**Investor Notice Expiry Date**”) falling fifteen Business Days following the date on which the Issuer sends or transmits such requirement to that Security Holder whether that Security Holder is a Prohibited US Person or a Prohibited Benefit Plan Investor (and if that Security Holder is a Prohibited Benefit Plan Investor or Prohibited US Person, to notify the Issuer of the number and type of Industrial Metal Securities in respect of which it is a Prohibited Benefit Plan Investor or Prohibited US Person); and

12.1.2 if that Security Holder asserts that it is not a Prohibited US Person or not a Prohibited Benefit Plan Investor (or not a Prohibited Benefit Plan Investor or not a Prohibited US Person in respect of all Industrial Metal Securities held by it), to provide to the Issuer by the Investor Notice Expiry Date a certificate in the form and executed in the manner determined by the Issuer that the Security Holder is not a Prohibited US Person or not a Prohibited Benefit Plan Investor (or not a Prohibited Benefit Plan Investor or not a Prohibited US Person in respect of certain Industrial Metal Securities held by it, specifying the number and type of Industrial Metal Securities in respect of which it is, and is not, a Prohibited Benefit Plan Investor or is, and is not, a Prohibited US Person).

12.2 The Issuer may provide to any Metal Agent copies of any enquiries made by it under Condition 12.1 and any responses received from the Security Holder.

12.3 The Issuer shall be entitled, save to the extent that it has made enquiry under Condition 12.1, to assume that none of the Industrial Metal Securities are held by Prohibited US Persons or Prohibited Benefit Plan Investors.

12.4 Without prejudice to Condition 12.1, the Issuer may at any time, without any requirement to state a reason, give notice (a “**Disclosure Notice**”) to a Security Holder (the “**Relevant Holder**”) requiring the Relevant Holder to disclose to the Issuer, so far as the Relevant Holder is aware:

12.4.1 the identity of the beneficial owner(s) of the Industrial Metal Securities (the “**Relevant Securities**”) in respect of which the Relevant Holder is the Security Holder;

12.4.2 the identity of any other person known to the Relevant Holder to have any interest (or any interest of a kind specified in the Disclosure Notice) in the Relevant Securities; and

12.4.3 such other information with respect to the Relevant Securities as the Issuer may reasonably require.

Such information must be given within such reasonable period (not being less than three Business Days) as the Issuer may specify in the Disclosure Notice.

## 13 ENFORCEMENT

13.1 In addition to any of the powers conferred on the Trustee pursuant to the relevant Security Deed with respect to the Secured Property, the Trustee may at any time:

13.1.1 after the occurrence of a Defaulted Obligation, at its discretion, and shall, if so directed in writing by the Security Holder to whom such Defaulted Obligation is owed, the Trustee having first been indemnified and/or secured and/or funded to its satisfaction against all

Liabilities to which it may thereby render itself liable or which it may incur by so doing, take such proceedings and/or other action as it may think fit against or in relation to the Issuer to enforce any such obligation of the Issuer under the Trust Instrument and the security constituted by the Security Deed(s) in respect of the relevant Industrial Metal Securities to which such Defaulted Obligation relates; and

- 13.1.2 if an Issuer Insolvency Event has occurred and is continuing, at its discretion, and shall if so directed in writing by Security Holders holding not less than 25 per cent. by Principal Amount of the Industrial Metal Securities (as a whole) then outstanding or by an Extraordinary Resolution of the Security Holders holding Industrial Metal Securities (as a single class), the Trustee having first been indemnified and/or secured and/or funded to its satisfaction against all Liabilities to which it may thereby render itself liable or which it may incur by so doing, take such proceedings and/or other action as it may think fit against or in relation to the Issuer to enforce any obligations of the Issuer under the Trust Instrument and the security constituted by the Security Deed(s) in respect of all outstanding Industrial Metal Securities.
- 13.2 If the Trustee considers that the Issuer is in material breach of any of the covenants, undertakings and obligations (other than payment or delivery obligations) in the Trust Instrument and has not remedied the same within 30 days of being required to do so by the Trustee, the Trustee may, but shall not be obliged to, give notice to all Security Holders of that fact. Prior to giving any such notice, the Trustee shall provide a copy of the proposed notice to the Issuer (provided the Trustee does not consider it detrimental to the interests of Security Holders to give a copy of any such proposed notice to the Issuer) and shall include with the notice any statement of not more than 1,000 words prepared by the Issuer and provided to the Trustee for the purpose within 7 days of receipt of the copy of the proposed notice referred to herein. In any such notice the Trustee may designate a Period (the “**Breach Redemption Period**”) commencing on any Business Day until the date one month from such Business Day (inclusive) during which each Security Holder will be entitled to redeem all (but not some only) of the Industrial Metal Securities held by it in the same manner as though there were no Authorised Participants. After the expiry of the Breach Redemption Period, the relevant breach shall be deemed waived without prejudice to the right of the Trustee to take action in the event of any subsequent such breach.
- 13.3 In the event that at any time during the Breach Redemption Period the right to Redeem Industrial Metal Securities of any type or types by Cash Payment is suspended pursuant to Condition 6.19 (*Suspension of Metal Sale or Cash Payment Redemptions*) or Condition 6.20 (*Issuer’s Power to Suspend Redemptions in the Interests of Security Holders*), then the right to Redeem Industrial Metal Securities of that type or types pursuant to Condition 13.2 shall be suspended in like manner and the provisions of Condition 6.19.3 or Condition 6.20.2 (as applicable) shall apply *mutatis mutandis*. Upon the suspension ceasing under Condition 6.19 or Condition 6.20, the right to Redeem Industrial Metal Securities of that type or types pursuant to Condition 13.2 shall resume and the Breach Redemption Period in respect of that type shall continue until the date one month from the date on which the suspension so ceased.
- 13.4 If an Issuer Insolvency Event is occurring at the same time as a Defaulted Obligation, a Security Holder holding Industrial Metal Securities to whom a Defaulted Obligation is owed will not be entitled to require the Trustee to take action in accordance with Condition 13.1.1 until the expiry of 30 days from the occurrence of the Issuer Insolvency Event, nor shall he be so entitled if, during such period of 30 days, the Trustee has elected, or been required, to take action in accordance with Condition 13.1.2.
- 13.5 Subject to Condition 13.7, only the Trustee may enforce the provisions of the Trust Instrument or the Security Deeds. Where the Trustee has elected or been directed to enforce the Issuer’s obligations under the Trust Instrument and the security constituted by a Security Deed, the right of Security Holders to lodge a Redemption Form with the Registrar shall cease. Industrial Metal Securities the subject of valid Redemption Forms lodged before the date (the “**Election Date**”) the Trustee announces its intention to enforce the security will be Redeemed in the normal manner.
- 13.6 If the Trustee takes any action pursuant to Condition 13.1 with respect to any Industrial Metal Securities to which a Defaulted Obligation relates, it shall give notice to the Issuer that such

Industrial Metal Securities in respect of which such action is taken are, and they shall become, due and payable.

- 13.7 No Security Holder will be entitled to proceed directly against the Issuer unless the Trustee, having become bound so to proceed, fails to do so within a reasonable period and such failure is continuing, in which case any such Security Holder will have only such rights against the Issuer as those which the Trustee is entitled to exercise against or in relation to the Issuer on such Security Holder's behalf.

#### **14 APPLICATION OF MONIES**

- 14.1 All monies received by the Trustee pursuant to the realisation of Secured Property in respect of a Industrial Metal Security shall be held by the Trustee upon trust, to apply them:

14.1.1 FIRST in payment or satisfaction of all amounts then due to the Trustee and unpaid (including to its attorneys, managers, agents, delegates or other person appointed by the Trustee) under the terms of the Trust Instrument, and to payment of any remuneration and expenses of any receiver and the costs of realisation of the security constituted by the relevant Security Deed then unpaid;

14.1.2 SECONDLY (to the extent of balances in the Issuer Secured Cash Account) in settlement of the obligation to repay monies under the terms of a TRS Confirmation or an AP TRS Confirmation to the relevant Metal Agent or Authorised Participant where it has complied with its obligations thereunder or where pursuant to the terms of the relevant Metal Agent Agreement or Authorised Participant Agreement the TRS Transaction or AP TRS Transaction for the purposes of which such monies were paid into the Issuer Secured Cash Account has been cancelled;

14.1.3 THIRDLY in or towards payment of fees then due and unpaid by the Issuer under any Metal Agent Agreement (less any amounts due from the Metal Agent to the Issuer and less any amounts in respect of Accrued Rent on the Issuer's LME Warrants and in respect of accrued rent or similar liability in respect of the Issuer's Warehouse Receipts for which the Metal Agent has accepted liability pursuant to the terms of such Metal Agent Agreement);

14.1.4 FOURTHLY in or towards payment or performance *pari passu* and rateably of all amounts then due and unpaid and all obligations due to be performed and unperformed in respect of Individual Securities of that class and any type of Basket Securities to the extent that they are comprised of Individual Securities of that class;

14.1.5 FIFTHLY in or towards payment or performance of all amounts (other than fees) then due and unpaid by the Issuer under any Metal Agent Agreement and in or towards payment or performance of all amounts then due and unpaid by the Issuer under any Service Agreement; and

14.1.6 SIXTHLY in payment of the balance (if any) to the Issuer (without prejudice to, or liability in respect of, any question as to how such payment to the Issuer shall be dealt with as between the Issuer and any other person).

#### **15 RESTRICTIONS**

- 15.1 So long as any Industrial Metal Securities of a particular type are outstanding, the Issuer covenants in the Trust Instrument, *inter alia*:

15.1.1 not to incur or permit to subsist in respect of any Pool any indebtedness for borrowed money other than Industrial Metal Securities or Further Securities, and not to give any guarantee or indemnity in respect of indebtedness of any person, save in each case with the prior written consent of the Trustee;

15.1.2 other than as permitted under the applicable Security Deed, not to dispose of any of the Secured Property or any interest therein, or to create any mortgage, pledge, charge, lien, or other form of encumbrance or security interest or right of recourse in respect thereof in favour of any person;

- 15.1.3 save as permitted by Condition 16 (*Further Securities; Other Pools; Transfers to New or Existing Pools; Consolidation and Division*), not to undertake any business save for the issue and redemption of Industrial Metal Securities and the acquisition and disposal of Metal and entering into the necessary documents and performing its obligations and exercising its rights thereunder;
  - 15.1.4 to use reasonable endeavours to ensure that at all times there is at least one Authorised Participant;
  - 15.1.5 not to issue any Individual or Basket Securities of any type unless it has received physical Metal in an aggregate amount equal to the Metal Entitlement calculated as at the Settlement Date;
  - 15.1.6 not to maintain an office or other fixed place of business, nor to establish any permanent establishment, nor be or become tax resident, in the United Kingdom;
  - 15.1.7 to undertake any business so as to seek to minimise the impact of taxation; and
  - 15.1.8 to procure that the Pools are at all times maintained in a manner so that they are readily distinguishable from each other and from any other pool to which any other class of securities of the Issuer is attributable.
- 15.2 Notwithstanding the foregoing the Issuer may:
- 15.2.1 issue unsecured limited recourse notes to ETFSL (or any Affiliate), and may redeem, amend, supplement, extend or replace such notes in accordance with the terms thereof; and
  - 15.2.2 make any loan to ETFSL (or any Affiliate) of the proceeds of the issue of such notes, under which the Issuer may, if it determines to do so, make advances to ETFSL (or any Affiliate) (including by set-off against such proceeds).

**16 FURTHER SECURITIES; OTHER POOLS; TRANSFERS TO NEW OR EXISTING POOLS; CONSOLIDATION AND DIVISION**

- 16.1 The Issuer may (without the consent of the Security Holders) create and issue additional classes of undated limited recourse secured debt securities constituted by an instrument or deed supplemental to the Trust Instrument and may establish additional pools for the purposes of such securities and the Trustee shall join in such instrument or deed and thereupon such pool shall be a "Pool" for the purposes of the Trust Instrument and such securities shall be "Individual Securities" for such purposes, and the Issuer may further create and issue Basket Securities, the Metal Entitlement of which is calculated by reference to such Individual Securities in accordance with the Trust Instrument (and for which such Industrial Metal Securities when in Certificated Form may be surrendered in accordance with the provisions of the Trust Instrument). Any such additional classes of Individual Securities shall have recourse only to the Pool attributable to the relevant classes and not to any other Pool. Other such securities created and issued by the Issuer under this Condition 16.1 may (but need not) relate to different metal than those in respect of which Individual Securities are initially issued, or be Basket Securities involving different combinations of Individual Securities or with different weightings, or involve different pricing mechanisms. Other such securities created by the Issuer under this Condition 16.1 may be created and issued subject to different terms and conditions in lieu of the Trust Instrument (including but not limited to different pricing mechanisms), to be determined by the Issuer. If other securities created by the Issuer under this Condition 16.1 are subject to different terms and conditions in lieu of the Trust Instrument the Issuer shall publish those new conditions in its RIS announcement or in a prospectus or listing particulars or supplementary prospectus or supplementary listing particulars and on the Issuer's Website.
- 16.2 The Issuer shall not accept applications for, or issue, Individual Securities of a new class, or Industrial Metal Securities (the amount payable on Redemption of which is calculated by reference to (and when held in Certificated form may be surrendered in exchange for) Individual Securities of a new class) under Condition 16.1 unless it has first executed and delivered to the Trustee a Security Deed assigning by way of security for the benefit of the Trustee and the



relevant Security Holders the contractual rights of the Issuer of the relevant class under the relevant Metal Agent Agreement and the TRS Master Confirmation (as defined in the relevant Metal Agent Agreement), in each case to the extent it relates to the applicable Pool, and creating a first floating charge, for the benefit of the Trustee and the relevant Security Holders over all of the Issuer's rights in relation to the Secured Property attributable to the applicable Pool.

16.3 The Issuer may at any time (without the consent of the Security Holders and without giving prior notice) determine to divide any Pool (the "**Existing Pool**") by allocating some of the Secured Property attributable to that existing Pool to another new or existing Pool (the "**New Pool**") referable to the same type of Metal as the Existing Pool. If it determines to do so, the following shall apply:

16.3.1 prior to or on the transfer becoming effective, every Basket Security of a type which is comprised, in whole or in part, of Individual Securities attributable to the Existing Pool shall be deemed cancelled and the Security Holders in respect thereof shall instead be deemed the holders of the Individual Securities of which they are comprised, and the Issuer shall be authorised to amend the Registers accordingly;

16.3.2 in the case where the New Pool was in existence immediately prior to the transfer becoming effective:

- (a) the Issuer shall on the transfer becoming effective issue new Individual Securities ("**New Individual Securities**") attributable to the New Pool to the Security Holders of the Individual Securities attributable to the Existing Pool (the "**Existing Individual Securities**") outstanding immediately prior to the transfer becoming effective on the basis that the aggregate number of New Individual Securities so issued on such transfer becoming effective shall equal the weight of Metal of the relevant type represented by the Secured Property transferred to the New Pool divided by the Metal Entitlement for a New Individual Security of such class and each Security Holder shall receive (as nearly as practicable) the same proportion of the New Individual Securities so issued as he holds of the Existing Individual Securities. For this purpose any Existing Individual Security in respect of which a Defaulted Obligation has occurred and is continuing shall be treated as outstanding; and
- (b) on the transfer becoming effective the aggregate Principal Amount of the Existing Individual Securities shall be reduced by an amount equal to the aggregate Principal Amount of the New Individual Securities so issued on such transfer becoming effective and the Principal Amount of each Existing Individual Securities thereby reduced accordingly; and
- (c) on the transfer becoming effective the aggregate Metal Entitlement of the Existing Individual Securities shall be reduced by an amount equal to the aggregate Metal Entitlement of the New Individual Securities so issued on such transfer becoming effective and the Metal Entitlement of each Existing Individual Securities thereby reduced accordingly;

16.3.3 in the case where the New Pool was not in existence immediately prior to the transfer becoming effective:

- (a) prior to or on the transfer becoming effective, the Issuer shall create undated limited recourse secured individual securities ("**New Individual Securities**") of a class referable to the same type of Metal and otherwise on the same terms as the Existing Individual Securities, each having a Metal Entitlement determined in accordance with paragraph (c) and a principal amount determined in accordance with paragraph (f), constituted by an instrument or deed on the same terms (*mutatis mutandis*) as the Trust Instrument (save that there shall be no obligation to procure Listing of the New Individual Securities) and on terms that such New Individual Securities shall have recourse only to the assets attributable to the New Pool;

- (b) the Issuer shall issue such New Individual Securities to the Security Holders of the Existing Individual Securities on the basis of one New Individual Security for each Existing Individual Security then held. For this purpose any Individual Security in respect of which a Defaulted Obligation has occurred and is continuing shall be treated as outstanding;
- (c) the aggregate Metal Entitlement of the New Individual Securities shall equal the weight of Metal of the relevant type represented by the Secured Property transferred to the New Pool and the Metal Entitlement of each New Individual Security shall equal the weight of Metal of the relevant type represented by the Secured Property transferred to the New Pool divided by the number of New Individual Securities so issued;
- (d) on the transfer becoming effective the aggregate Metal Entitlement of the Existing Individual Securities shall be reduced by the weight of Metal of the relevant type represented by the Secured Property transferred to the New Pool and the Metal Entitlement of each of the Existing Individual Securities shall be reduced accordingly;
- (e) on the transfer becoming effective the Principal Amount of each of the Existing Securities shall be reduced by the proportion that the weight of Metal of the relevant type represented by the Secured Property transferred to the New Pool bears to the aggregate Metal Entitlement of the Existing Securities immediately prior to the transfer becoming effective;
- (f) the aggregate Principal Amount of the New Individual Securities shall be equal to the difference between the aggregate Principal Amount of the Existing Securities immediately prior to the transfer becoming effective and the aggregate Principal Amount of the Existing Securities as reduced following the transfer becoming effective in accordance with paragraph (e) and the Principal Amount of each of the New Individual Securities determined accordingly; and

16.3.4 in the case where the New Pool was not in existence immediately prior to the transfer becoming effective, the Issuer shall enter into a Security Deed with the Trustee in relation to the assets attributable to the New Pool to secure the New Individual Securities, which shall be on the same terms (*mutatis mutandis*) as the Security Deed (the “**Existing Security Deed**”) in relation to the Existing Pool, and whether or not the New Pool was not in existence immediately prior to the transfer becoming effective the Trustee shall release the property to be transferred from the Existing Security Deed.

16.4 The Issuer may consolidate or divide all of the Industrial Metal Securities of any type into Industrial Metal Securities of the same type but with a proportionately larger or smaller Metal Entitlement and Principal Amount. Such consolidation or division shall be effected by deed or instrument supplemental to the Trust Instrument.

16.5 Whenever as a result of consolidation or division of Industrial Metal Securities a Security Holder would become entitled to a fraction of an Industrial Metal Security the Issuer will Redeem such fraction of an Industrial Metal Security. In such circumstances the provisions of Condition 7.8 (*Compulsory Redemptions*) shall apply in respect of the aggregate fractions of Industrial Metal Securities to be redeemed *mutatis mutandis* as though the Redemption were pursuant to Condition 7.1 (*Compulsory Redemption on Termination*) and the date on which the consolidation becomes effective the Final Redemption Notice Date.

## 17 ISSUER’S ABILITY TO PURCHASE INDUSTRIAL METAL SECURITIES

There is no restriction on the ability of the Issuer or any of its Affiliates to purchase or repurchase Industrial Metal Securities.

## 18 LISTING

The Issuer covenants in the Trust Instrument to use its best endeavours to obtain and, so long as any of the Industrial Metal Securities remain outstanding, maintain a Listing for the Industrial Metal

Securities or, if it is unable to do so having used such best endeavours or if the maintenance of such listing is agreed by the Trustee to be unduly onerous, use its best endeavours to obtain and maintain the quotation or listing of the Industrial Metal Securities on such other stock exchange as it may (with the prior written approval of the Trustee) decide.

## **19 WAIVER, AUTHORISATION AND DETERMINATION; MEETINGS OF SECURITY HOLDERS**

- 19.1 The Trustee may, without prejudice to its rights in respect of any subsequent breach, but only if and in so far as, in its opinion, the interests of the Security Holders shall not be materially prejudiced thereby, waive or authorise any breach or proposed breach by the Issuer of any of the covenants or provisions contained in the Trust Instrument or the Security Deeds, or determine that any Defaulted Obligation or Issuer Insolvency Event shall not be treated as such **provided that** the Trustee shall not exercise any powers conferred on it by this Condition, (a) with respect to a Defaulted Obligation, in contravention of any express direction given by the Security Holder to whom such Defaulted Obligation is owed or (b) with respect to an Issuer Insolvency Event or any other breach or proposed breach by the Issuer of any of the covenants or provisions contained in the Trust Instrument, in contravention of any express direction given by Security Holders holding not less than 25 per cent. by Principal Amount of the Industrial Metal Securities (as a whole) then outstanding or an Extraordinary Resolution of the Security Holders (as a single class), but so that no such direction shall affect any waiver, authorisation or determination previously given or made. Any such waiver, authorisation or determination may be given or made on such terms and subject to such conditions (if any) as the Trustee may determine, shall be binding on the Security Holders and, if, but only if, the Trustee, shall so require, shall be notified by the Issuer to the Security Holders as soon as practicable thereafter.
- 19.2 Security Holders in respect of any class or classes of Industrial Metal Securities have power by Extraordinary Resolution, *inter alia*, to sanction the release of the Issuer from the payment of monies payable pursuant to the Trust Instrument, to sanction any modification, abrogation or compromise of, or arrangement in respect of, their rights against the Issuer, to assent to any modification or abrogation of the covenants or provisions contained in the Trust Instrument proposed or agreed to by the Issuer and also to sanction other matters as provided therein. The Trust Instrument contains provisions relating to the convening of meetings by the Issuer or the Trustee and provides that, except in the case of an adjourned meeting, at least fourteen calendar days' notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which the notice is given) of every meeting, including any meeting which is being convened for the purpose of passing an Extraordinary Resolution, shall be given to the Security Holders of the relevant class or classes. In the case of a meeting adjourned through want of a quorum, other than one convened at the requisition of Security Holders, at least seven calendar days' notice (exclusive as aforesaid) should be given unless the day, time and place for the adjourned meeting is specified in the notice convening the original meeting.

## **20 EXERCISE OF DISCRETIONS**

The Trustee may exercise its discretions under the Trust Instrument separately in respect of each type of Industrial Metal Securities, and any Further Securities in issue from time to time, and shall incur no liability for so doing.

## **21 PRESCRIPTION**

The Trust Instrument does not provide for any prescription periods.

## **22 REMOVAL, RETIREMENT OR REPLACEMENT OF TRUSTEE**

- 22.1 The Trustee may retire at any time without assigning any reason upon giving not less than three months' prior written notice to the Issuer and without being responsible for any Liabilities incurred by reason of such retirement. The Security Holders may by Extraordinary Resolution of the Security Holders (as a single class) appoint or remove any trustee or trustees for the time being of the Trust Instrument.
- 22.2 The Issuer will use its reasonable endeavours to appoint a new Trustee as soon as reasonably practicable after the Trustee gives notice of its retirement or being removed by Extraordinary Resolution. The retirement or removal of any Trustee shall not become effective until a successor trustee is appointed.

## **23 GOVERNING LAW AND JURISDICTION**

The Conditions, the Industrial Metal Securities and the Trust Instrument are governed by the laws of Jersey. The Security Deeds are governed by the laws of England. Notwithstanding the submission by the Issuer to the jurisdiction of the English courts contained in the Security Deeds, nothing prevents the Trustee from commencing proceedings in any other competent jurisdiction.

## **24 TRUSTEE'S LIABILITY**

Save in the case of fraud, wilful misconduct or gross negligence, the Trustee (or any director, officer or employee of the Trustee) shall have no liability under the Trust Instrument for a breach of trust and, save in such circumstances, no Trustee (and no director, officer or employee of the Trustee), in execution of the trusts and powers under the Trust Instrument, shall be liable for any loss arising by reason of any mistake or omission by him or by reason of any other matter or thing including fraud, gross negligence or default of another director, officer or employee or Trustee.

## **25 AMENDMENTS TO CONDITIONS**

These Conditions may be amended as set out herein or by written agreement between the Issuer and the Trustee. Any amendment to these Conditions will be notified to Security Holders through a RIS announcement, and unless otherwise agreed by the Trustee shall not take effect until at least 30 days following such announcement, save that a reduction in the Management Fee or the Annual Rental Fee and any change to the Insurance Allowance may take effect on announcement.

## **26 AMENDMENTS TO DOCUMENTS**

26.1 The Issuer may by supplemental agreement or supplemental instrument or deed, as applicable, amend or join with the Trustee in amending any of the Trust Instrument, the Security Deeds or any Metal Agent Agreement, and the Trustee agrees in the Trust Instrument to join in a supplemental agreement or supplemental instrument or deed as applicable accordingly, if one or more of the following applies:

26.1.1 in the opinion of the Issuer and the Trustee the amendment is necessary or desirable and is not materially prejudicial to the rights of Security Holders;

26.1.2 in the opinion of the Trustee, the amendment is of a formal, minor or technical nature or to correct a manifest or proven error;

26.1.3 the amendment affects only Basket Securities of one or more particular category or categories, the Issuer or the Trustee determines in its discretion that the amendment would affect the holders of different categories of Basket Securities differently, and the terms of the amendment are authorised by separate Extraordinary Resolutions of the holders of each category of Basket Security affected passed in accordance with the Trust Instrument or by a separate resolution in writing of holders of each category of Basket Security affected holding not less than 75 per cent. by Principal Amount of such category;

26.1.4 Condition 26.1.3 does not apply to the amendment, the amendment affects only Basket Securities and the terms of the amendment are authorised by an Extraordinary Resolution of the holders of the Basket Securities (as a single class) passed in accordance with the Trust Instrument or by a resolution in writing of the holders of the Basket Securities holding not less than 75 per cent. by Principal Amount of the Basket Securities (as a whole);

26.1.5 Conditions 26.1.3 and 26.1.4 do not apply to the amendment, the Issuer or the Trustee determines in its discretion that the amendment would affect the holders of different types of Industrial Metal Securities differently and the terms of the amendment are authorised by separate Extraordinary Resolutions of the holders of each type of Industrial Metal Security affected passed in accordance with the Trust Instrument or in each case by a separate resolution in writing of holders of such type of Industrial Metal Security affected holding not less than 75 per cent. by Principal Amount of the Industrial Metal Securities of such type, provided that unless the Issuer or the Trustee determines in its discretion that the amendment would affect the holders of Basket Securities differently from the holders of the relevant class(es) of Individual Securities, holders of Basket Securities

shall for this purpose be treated as though they were holders of the Individual Securities by reference to which the Metal Entitlement of their Basket Securities is calculated and not as though they were holders of the Basket Securities;

- 26.1.6 Conditions 26.1.3 to 26.1.5 inclusive do not apply to the amendment and the terms of the amendment are authorised by an Extraordinary Resolution of the Security Holders (as a single class) passed in accordance with the Trust Instrument or by a resolution in writing of Security Holders holding not less than 75 per cent. by Principal Amount of the Industrial Metal Securities (as a whole); or
- 26.1.7 the terms of the amendment are necessary or desirable in the opinion of the Issuer and the Trustee to comply with any statutory or other requirement of law (including as modified or applied in any respect to the Industrial Metal Securities) or any Listing Rules or to rectify any inconsistency, technical defect, manifest error or ambiguity in the terms of such document.
- 26.2 The Issuer shall notify all Security Holders of a proposed amendment as referred to in Condition 26.1.1 by publishing a notice on a RIS at least 30 days' prior to such amendment becoming effective.
- 26.3 The Issuer shall notify all Security Holders of a proposed amendment as referred to in Conditions 26.1.3 to 26.1.6 (inclusive) by publishing a notice on a RIS as soon as practicable after such amendment is proposed and in any event, upon such amendment becoming effective.
- 26.4 No notice need to be given of any amendment as referred to in Condition 26.1.2 or Condition 26.1.7 unless the Trustee otherwise requires.

## **27 NOTICES**

- 27.1 Except as provided below, all notices required or permitted to be given to Security Holders, the Issuer, the Administrator or the Registrar under the Trust Instrument or pursuant to any other Document must be in writing in English.
- 27.2 All notices required or permitted to be given to a Security Holder under the Trust Instrument shall be made by publication through a RIS where required under the terms of such document, but otherwise may be given by publication on the Issuer's Website.
- 27.3 All notices required to be given by the Issuer to Security Holders under the Trust Instrument or otherwise shall be given in writing, except to the extent that the notice relates to a meeting of Security Holders where, in relation to any Industrial Metal Securities which are held in Uncertificated Form, the Issuer may from time to time permit notices of Security Holder meetings to be made by means of an electronic communication in the form of an Uncertificated Notice of Meeting in such form and subject to such terms and conditions as may from time to time be prescribed by the Issuer (subject always to facilities and requirements of CREST) and may in similar manner permit supplements, or amendments, to any such Uncertificated Notice of Meeting to be made by like means.
- 27.4 Any Redemption Form given by an Authorised Participant shall be sent by fax to the Issuer's primary fax number, as follows:
- Fax: +44 1534 825 335
- or such other fax number as may be published on the Issuer's Website, and confirmed by email to the following email address:
- Email: [info@etfsecurities.com](mailto:info@etfsecurities.com).
- 27.5 Any Redemption Form lodged by an Authorised Participant shall be deemed to have been lodged upon sending, subject to confirmation of uninterrupted and error-free transmission by a transmission report.

- 27.6 Any Redemption Form lodged other than by an Authorised Participant must be delivered by hand, sent by prepaid recorded delivery or sent by registered post (or registered airmail in the case of posting from an address outside the United Kingdom) to the address specified in Condition 27.7.
- 27.7 Any Notice (other than a Redemption Form) to be given to the Issuer shall be sent to the Issuer's primary fax number set out above or delivered by hand, sent by prepaid recorded delivery or registered post (or registered airmail in the case of posting from an address outside the United Kingdom), to the following address:

Name: ETFS Industrial Metal Securities Limited

Address: Ordnance House  
31 Pier Road  
St Helier  
Jersey JE4 8PW  
Channel Islands

Attention: Graeme Ross

Fax number: +44 1534 825 335

or such other address as may be published for the Issuer on the Issuer's Website.

- 27.8 Any Notice shall, in the absence of earlier receipt, be deemed to have been received as follows:
- 27.8.1 if delivered by hand, at the time of actual delivery; or
- 27.8.2 if sent by prepaid recorded delivery or registered post (or registered airmail in the case of posting from an address outside the United Kingdom), on the date it is delivered or its delivery is attempted.

## **28 PAYMENT PROVISIONS**

- 28.1 All monies payable by the Issuer in respect of Industrial Metal Securities shall be paid in US dollars in full cleared and immediately available funds. Where no bank account or other settlement details have been provided by a Security Holder, or in other circumstances as provided in the Trust Instrument, cash payments due to Security Holders will be made by cheque or warrant and despatched by post at the risk of the Security Holder.
- 28.2 All monies payable by the Issuer on the Redemption of any Industrial Metal Securities shall be paid in full, free and clear of and without any withholding or deduction for or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of any relevant jurisdiction or any political subdivision thereof or any authority thereof having power to tax, unless such deduction or withholding is required by law to which the person making the payment is subject.
- 28.3 Where a day on which a payment would otherwise be due and payable by or to the Issuer is not an Issuer Payment Day, such payment shall be due and payable on the next following Issuer Payment Day."

## PART 5

### PARTICULARS OF SECURITY DEEDS

The Issuer and the Trustee have entered into the following Security Deeds, each dated 6 December 2010:

- (a) the “Aluminium Security Deed”;
- (b) the “Copper Security Deed”;
- (c) the “Lead Security Deed”;
- (d) the “Nickel Security Deed”;
- (e) the “Tin Security Deed”; and
- (f) the “Zinc Security Deed”,

in each case creating Security over all the Secured Property attributable to the relevant class for the benefit of the Trustee and the Security Holders of the Individual Securities of that class and of the Basket Securities (to the extent they are comprised of Individual Securities of that class).

The Security Deeds contain, *inter alia*, provisions to the following effect:

#### 1 CHARGE

- 1.1 *Charge*: The Issuer, as continuing security for the payment or discharge of all sums owing by the Issuer to the Trustee or the relevant Security Holders from time to time under the relevant class of Individual Securities (and Basket Securities to the extent they comprise Individual Securities of that class), the Trust Instrument or the Security Deed (the “**Secured Liabilities**”), charges by way of first floating charge to the Trustee for the benefit of itself and the relevant Security Holders of that class of Individual Securities all the Issuer’s rights in and to the Secured Property.
- 1.2 *Assignment by way of Security*: As further security for the payment of the Secured Liabilities the Issuer assigns and agrees to assign to the Trustee for the benefit of the Trustee and the relevant Security Holders by way of security with full title guarantee all its present and future rights, title and interest in each of the Metal Agent Agreement and the TRS Master Confirmation to the extent they relate to the applicable Pool and in each Authorised Participant Agreement and each AP TRS Master Confirmation in each case to the extent it relates to AP TRS Transactions and to the applicable Pool.

#### 2 ENFORCEMENT

- 2.1 The whole of the Security shall become enforceable if:
  - 2.1.1 a Defaulted Obligation; or
  - 2.1.2 an Issuer Insolvency Event,has occurred and is continuing.
- 2.2 In addition to any of the powers conferred on the Trustee pursuant to the Trust Instrument with respect to the Secured Property:
  - 2.2.1 after the occurrence of a Defaulted Obligation, the Trustee may at any time, at its discretion, and shall, if so directed in writing by the relevant Security Holder to whom such Defaulted Obligation is owed, the Trustee having first been indemnified and/or secured and/or funded to its satisfaction against all Liabilities to which it may thereby render itself liable or which it may incur by so doing, take such proceedings and/or other action as it may think fit against or in relation to the Issuer to enforce any such obligation of the Issuer under the Trust Instrument and the security constituted by the relevant Security Deed in respect of the relevant Industrial Metal Securities to which such Defaulted Obligation relates; and

- 2.2.2 if an Issuer Insolvency Event has occurred and is continuing, at its discretion, the Trustee may at any time, and shall if so directed in writing by Security Holders holding not less than 25 per cent. by Principal Amount of the Industrial Metal Securities (as a whole) then outstanding or an Extraordinary Resolution of the Security Holders holding Industrial Metal Securities (as a single class), the Trustee having first been indemnified and/or secured and/or funded to its satisfaction against all Liabilities to which it may thereby render itself liable or which it may incur by so doing, take such proceedings and/or other action as it may think fit against or in relation to the Issuer to enforce any obligations of the Issuer under the Trust Instrument and the security constituted by the relevant Security Deed in respect of all outstanding Industrial Metal Securities.
- 2.3 If an Issuer Insolvency Event is occurring at the same time as a Defaulted Obligation, a Security Holder holding Industrial Metal Securities to whom a Defaulted Obligation is owed will not be entitled to require the Trustee to take action as described in paragraph 2.2.1 until the expiry of 30 days from the occurrence of the Issuer Insolvency Event, nor will he be so entitled if, during such period of 30 days, the Trustee has elected, or been required, to take action as described in paragraph 2.2.2.
- 2.4 Save as described in paragraph 2.5, only the Trustee may enforce the provisions of the Trust Instrument or the Security Deed where the Trustee has elected or been directed to enforce the Security and the Issuer's obligations under the Trust Instrument.
- 2.5 No Security Holder will be entitled to proceed directly against the Issuer unless the Trustee, having become bound so to proceed, fails to do so within a reasonable period and such failure is continuing, in which case any such Security Holder will have only such rights against the Issuer as those which the Trustee is entitled to exercise against or in relation to the Issuer on such Security Holder's behalf.

### **3 GOVERNING LAW**

The Security Deeds and any non-contractual obligations arising out of or in relation to the Security Deeds are governed by English law. The parties have agreed to submit to the jurisdiction of the English courts and irrevocably agree that the English courts are to have jurisdiction to settle any disputes which may arise out of or in connection with the Security Deeds, including in relation to any non-contractual obligations arising out of or in connection with the Security Deeds.



## PART 6

### THE METAL AGENT AGREEMENT

The Issuer and the Metal Agent have entered into the Metal Agent Agreement, pursuant to which the Metal Agent has agreed to provide the Issuer with certain services relating to the issue and redemption of Industrial Metal Securities and the sale and administration of LME Physical Metal (and the corresponding Warrants) and Warehouse Physical Metal (and the corresponding Warehouse Receipts). The following is a description of certain provisions of the Metal Agent Agreement.

#### 1 THE SERVICES

Under the Metal Agent Agreement, the Metal Agent has agreed:

- 1.1 **Applications:** to provide certain administrative services to the Issuer in connection with the processing of Applications including monitoring the Issuer LMEsword Account to determine whether Warrants meeting the requisite requirements of the Authorised Participant Agreement and in respect of not less than the Full Metal Amount have been received and, on receipt of a request from a Cash Trading Authorised Participant, to purchase Residual Securities and excess Metal from the Cash Trading Authorised Participant for its own account on such terms as may be agreed between the Metal Agent and the Authorised Participant;
- 1.2 **Redemptions:** to provide certain administrative and other services to the Issuer in connection with the processing of Redemptions including identifying Warrants for allocation by the Issuer to satisfy a Redemption, in the case of a Redemption to be satisfied by Metal Delivery, causing the Warrants allocated to be transferred from the Issuer LMEsword Account to the relevant Security Holder Metal Account and in the case of a Redemption to be satisfied by Metal Sale, buying the Metal evidenced by the Warrants allocated for such purposes at the LME Cash Settlement Price on the Metal Sale Date and paying the net proceeds of such sale (less the Accrued Rent) in US dollars by transfer to the relevant Security Holder Cash Account, or, in the case of a Security Holder that is not an Authorised Participant, the Issuer Metal Sale Cash Account or such other account as may be specified for the purpose by the Issuer. In addition the Metal Agent has agreed that where an Authorised Participant elects to have any Residual Securities arising on a Redemption to be Redeemed for cash, the Metal Agent will subscribe in cash for a number of new Industrial Metal Securities of the relevant class having an aggregate Metal Entitlement equal to that of the Residual Securities or, at the Issuer's election, purchase the Residual Securities, in either case at a price equivalent to the applicable LME Cash Settlement Price;
- 1.3 **Compulsory Redemptions:** to provide certain administrative and other services to the Issuer in connection with the processing of Compulsory Redemptions including identifying Warrants for allocation by the Issuer to satisfy a Redemption, buying the LME Physical Metal evidenced by the Warrants allocated for such purposes at the LME Cash Settlement Price on up to five successive Pricing Days and paying the net proceeds of such sale (less the Accrued Rent) in US dollars by transfer to the Issuer Metal Sale Cash Account or to such other account of the Issuer secured for the benefit of Security Holders of the relevant class (or, in the case of a Compulsory Redemption pursuant to Condition 7.4, to such account of the Issuer or the Registrar) as the Issuer may specify or, if an Issuer Insolvency Event is continuing or occurring, to such account as notified to the Metal Agent by the Trustee from time to time;
- 1.4 **Warehouse Fees:** to meet the Issuer's liabilities for payment of Warehouse Fees in respect of all LME Physical Metal and Warehouse Physical Metal held by the Issuer and to make prepayments thereof in certain circumstances;
- 1.5 **Purchase of Metal to pay Fees:** in order to facilitate the payment by the Issuer of the Management Fee, the Storage Fee and the Insurance Allowance, the Metal Agent will, on each day, buy from the Issuer at the LME Cash Settlement Price for the relevant type of Metal for such day (or, if a day is not a Business Day, the immediately following Business Day) an amount of Metal of the relevant type that is equal to the sum of the Storage Fee, the Insurance Allowance and the Management Fee for the Industrial Metal Securities of that class accrued for that day and will pay to the Issuer Cash Account an amount equal to the proceeds of sale after deduction of the aggregate Metal Agent Fee and Storage Fee for such day (which it may retain for its own account);

- 1.6 **Warrant Administration Services:** to perform certain services in relation to the administration of Warrants including:
- 1.6.1 to monitor the level of Warrants held in the Issuer LMEsword Account and cancel such Warrants as appropriate to ensure that the minimum concentration requirements of the LME Lending Guidance are not breached and if the Issuer, or the Metal Agent on the Issuer's behalf, is required to lend any of the Warrants as required by the LME Lending Guidance, to use commercially reasonable efforts to assist the Issuer in complying with the LME Lending Guidance (including (i) purchasing On Warrant Metal from the Issuer and selling at least the same amount back on a tom/next basis and subject to the same pre-set premium rate (the "**Spread**") as would be applicable to a tom/next transaction in accordance with the LME Lending Guidance and (ii) paying into the Issuer Cash Account (for the Issuer's own purposes) the Spread earned thereon less the tom/next fee referred to in paragraph 2 below);
  - 1.6.2 to use commercially reasonable efforts to ensure that on each Business Day there are sufficient Warrants in the LMEsword Account to allow Redemptions up to the Maximum Redemption Limit; and
  - 1.6.3 to use commercially reasonable efforts to monitor the status of Approved Warehouses and Metal producers and to assist the Issuer in maintaining and preparing a Proscribed List of unacceptable Approved Warehouses and Metal producers;
- 1.7 **Warehouse Receipt Services:** in consultation with the Issuer to use commercially reasonable efforts to determine whether the Approved Warehouse to which any particular Warehouse Receipts relate has suitable storage facilities for Off Warrant Metal, meets all necessary requirements such that no VAT or duties are chargeable or payable on or in respect of Metal stored in such Approved Warehouse and is in all other respects located in a suitable jurisdiction for such purpose and to hold all Warehouse Receipts in a secured vault as bailee; and
- 1.8 **Off Warrant Metal Services:** to use reasonable efforts to negotiate with Approved Warehouses to facilitate taking Metal Off Warrant to comply with LME Lending Guidance, to facilitate putting Metal back On Warrant to allow for liquidity in Redemptions, and to identify opportunities for and negotiate reductions to the Warehouse Fee with Approved Warehouses.

## 2 METAL AGENT FEE

In consideration for the performance by the Metal Agent of the services described in the Metal Agent Agreement and for its undertakings contained therein, the Issuer has agreed to pay to the Metal Agent an annual fee. In addition, in consideration for the Metal Agent's agreement to meet the Issuer's liabilities for payment of Warehouse Fees in respect of all LME Physical Metal and Warehouse Physical Metal held by the Issuer, the Issuer has agreed to pay to the Metal Agent the Storage Fee. In addition, for its services in respect of transactions on a tom/next basis to comply with LME Lending Guidance as described in paragraph 1.6.1 above, the Metal Agent will be entitled to deduct from the Spread by way of the "tom/next fee" a fee equal to 6 basis points applied to the purchase price and the amount of Metals purchased by the Metal Agent. Such fee will be cumulative so that if tom/next transactions are required on successive Business Days (and accordingly the Metal Agent purchases Industrial Metal from the Issuer on successive Business Days), the tom/next fee will be payable on each such purchase transaction.

## 3 AUTHORISED PARTICIPANTS

- 3.1 While the Issuer may appoint Authorised Participants in its sole discretion, the Issuer has agreed that in respect of each proposed Authorised Participant the Metal Agent will have a right of prior consent to such proposed Authorised Participant being permitted to commence submitting Applications.
- 3.2 The Metal Agent may at any time after an Authorised Participant has commenced submitting Applications, in the circumstances described in the Metal Agent Agreement and acting in good faith and a commercially reasonable manner, give notice to the Issuer that such Authorised Participant has ceased to be an acceptable Authorised Participant.

#### **4 ESCROW AGREEMENT**

- 4.1 Under the Metal Agent Agreement, the Metal Agent has agreed that on any day on which the aggregate amount of Warehouse Fees then accrued and unpaid in respect of all of the Issuer's LME Physical Metal and Warehouse Physical Metal exceeds the balance on deposit in the Escrow Account by US\$2,500,000 or more, the Metal Agent will ensure that an amount in cash in US dollars equal to not less than the aggregate Warehouse Fees then accrued and unpaid in respect of all the Issuer's LME Physical Metal and Warehouse Physical Metal on such day is held on deposit in the Escrow Account, and shall make any payment required to be made to meet such obligation by transfer in same day funds to the Escrow Account.
- 4.2 Withdrawals may be made from the Escrow Account either with the written consent of each of the Issuer and the Metal Agent in the circumstances specified below or at any time if the Metal Agent defaults in the performance of any of its obligations under the Metal Agent Agreement on the instructions of the Issuer.
- 4.3 The Metal Agent may require withdrawals from the Escrow Account on the first Business Day of April in each year subject to all Warehouse Fees accrued to the date of such withdrawal having been paid, within five Business Days of any prepayment of Warehouse Fees made prior to March 31 or at any other time when the balance in the Escrow Account exceeds the aggregate amount of accrued Warehouse Fees by more than US\$15 million.

#### **5 TERM AND TERMINATION**

- 5.1 The Metal Agent Agreement will continue in full force and effect for at least two years from the date thereof. Unless either party provides the other with written notice of termination at least 90 days prior to the end of the then current two-year term the Metal Agent Agreement will automatically renew for additional successive terms of two years each. Termination will take effect on the last day of the calendar month in which the then current two-year term comes to an end.
- 5.2 The Issuer may terminate the Metal Agent Agreement (i) with immediate effect upon the occurrence of a Metal Agent Event of Default, (ii) with immediate effect upon a material breach by the Metal Agent of the terms of the Metal Agent Agreement and (iii) upon 30 days' written notice for persistent breach of the terms of the Metal Agent Agreement. The Metal Agent may terminate the Metal Agent Agreement on two business days' notice upon the occurrence of an Issuer Event of Default.
- 5.3 Save in the case of termination by the Issuer, certain of the Metal Agent's obligations under the Metal Agent Agreement including in relation to Compulsory Redemptions and Warehouse Fees will continue in force in respect of all Metals held by the Issuer at the date of termination for a period of 90 days following the effective date of termination unless and until the appointment by the Issuer of a replacement Metal Agent identified to the Issuer by the Metal Agent and reasonably acceptable to the Issuer to perform such obligations set out in the Continuing Provisions.

#### **6 LIABILITY AND INDEMNITY**

- 6.1 The Metal Agent will use reasonable care in the performance of duties under the Metal Agent Agreement and subject as provided in the Metal Agent Agreement will only be responsible for any loss or damage suffered as a direct result of any negligence, fraud or wilful default on its part in the performance of its duties under the Metal Agent Agreement. The entire liability of the Metal Agent under or in connection with the Metal Agent Agreement in respect of loss or damage of Metal will (subject as so provided) not exceed, in respect of each event or series of connected events, the market value of the Metals lost or damaged at the time of such negligence, fraud or wilful default or at the time such loss or damage becomes known to the Issuer (whichever is greater).
- 6.2 The Metal Agent will not be liable for any delay in performance of any of its obligations under the Metal Agent Agreement by reason of any cause beyond the reasonable control of the Metal Agent, its officers, employees and agents.

- 6.3 Subject as provided in the Metal Agent Agreement, the Issuer has agreed to indemnify and keep the Metal Agent indemnified on demand against all direct costs and expenses, damages or liabilities (other than VAT) which the Metal Agent may suffer or incur in connection with the Metal Agent Agreement except to the extent that the same are so suffered or incurred due to the Metal Agent's negligence, wilful default, fraud or breach of the Metal Agent Agreement, provided that the Metal Agent shall not be entitled to be indemnified in respect of any losses, costs and expenses, damages or liabilities the Metal Agent may suffer or incur as a consequence of it:
- 6.3.1 acquiring, holding or disposing of any Industrial Metal Securities, whether for its own account or for the account of third parties;
  - 6.3.2 acquiring, holding or disposing of any Warrants, Warehouse Receipts or Metal, whether for its own account or the account of third parties;
  - 6.3.3 assuming liability for the payment of and paying Warehouse Fees to Approved Warehouses; or
  - 6.3.4 failing to fulfil any of its obligations to the LME (unless otherwise provided in the Remote Participant Agreement between the Metal Agent and the Issuer dated 27 August 2010 relating to issuing instructions relating to Warrants and the Issuer LMEsword Account),

nor shall it be entitled to be indemnified in respect of any losses, costs or expenses it may suffer or incur as a result of expenses and payments it is required to pay or make under the Metal Agent Agreement, or to any VAT.

## **7 ASSIGNMENT**

- 7.1 Subject as provided in paragraph 7.2 below and in relation to the Issuer's rights for certain breaches, neither party to the Metal Agent Agreement may assign, transfer, charge or otherwise deal with all or any of its rights and/or obligations thereunder without the prior written consent of the other party.
- 7.2 The Metal Agent consents to the Issuer entering into the Security Deeds and to the assignment by way of security of the Issuer's contractual rights under the Metal Agent Agreement and the TRS Master Confirmation in favour of the Trustee for the benefit of the Trustee and the Security Holders.
- 7.3 The Metal Agent acknowledges that, notwithstanding Condition 14 (*Application of Monies*), in its capacity as a Metal Agent the Trustee does not act as trustee for it and will owe no duties to it and the Metal Agent undertakes to provide confirmations to the Trustee to such effect.

## **8 GOVERNING LAW AND JURISDICTION**

The Metal Agent Agreement is governed by English law and the parties have submitted to the exclusive jurisdiction of the English courts with respect to any dispute arising thereunder.

## **9 EARLY WITHDRAWAL OF WARRANTS**

- 9.1 Where Industrial Metal Securities are to be Redeemed, the Metal Agent may not (save as described in paragraphs 9.2 and 9.4) permit the LME Warrants allocated for the purposes of such Redemption to be withdrawn from the Issuer LMEsword Account until the Registrar has confirmed that the relevant Industrial Metal Securities have been delivered to the Issuer in CREST or otherwise in accordance with the Conditions.
- 9.2 In respect of any Redemption by the Metal Agent (as an Authorised Participant) or any Authorised Participant who is a Cash Trading Authorised Participant, the Metal Agent may request that Warrants relating to such Redemption be delivered to it on the Settlement Date, notwithstanding that the relevant Industrial Metal Securities may not by then have been delivered to the Issuer (a "**TRS Transaction**").
- 9.3 If the Issuer accepts such request and the parties agree a TRS Confirmation specifying, *inter alia*, the Industrial Metal Securities and Warrants to which the TRS Transaction relates, then under the

Metal Agency Agreement and the TRS Master Confirmation the Metal Agent will be entitled to withdraw such Warrants from the Issuer's LMEsword Account subject to an obligation by no later than 4.30 p.m. on the date on which such Warrants are withdrawn and daily thereafter to pay cash collateral (for same day value), calculated by reference to the daily LME Cash Settlement Price for similar Warrants, until the delivery of the relevant Industrial Metal Securities to the Issuer. If, by the seventh LME Settlement Day after the Settlement Date, such Industrial Metal Securities have not been so delivered, the Metal Agent will be required to deliver to the Issuer Warrants equivalent to those originally withdrawn.

- 9.4 Under the Metal Agent Agreement the Metal Agent is required to withdraw LME Warrants, for the purposes of a Redemption by an Authorised Participant, on the Settlement Date for such Redemption for delivery to the applicable Security Holder Metal Account subject to certain conditions including the Issuer having confirmed to the Metal Agent that it has consented to Early Delivery (as defined in the Conditions) for the purposes of such Redemption and the Issuer having confirmed that the relevant Authorised Participant has entered into an AP TRS Master Confirmation and an AP TRS Confirmation.

## PART 7

### GLOBAL BEARER CERTIFICATES (GERMANY)

The following is a non-binding English language translation of the form of Global Bearer Certificates. The definitive German language text, of which the following is a direct translation, of the form of the Global Bearer Certificates and the Conditions of the Global Bearer Certificates is set out in Annexes 1 and 2 of this document.

#### Model Form of Global Bearer Certificate

(non-binding translation)

#### Global Bearer Certificate

for

- registered [see Annex 1] [type of Individual / category of Basket] Securities

of

ETFS Industrial Metal Securities Limited

Ordnance House, 31 Pier Rd, St Helier, Jersey, Channel Islands, JE4 8PW

divided into securities with a principal amount of • [see Annex 1] each

As underlying stock for this Global Bearer Certificate the Clearstream Banking Aktiengesellschaft, Frankfurt am Main, Federal Republic of Germany (hereinafter referred to as "**Clearstream**"), is holding • [see Annex 1] [type of Individual / category of Basket] Securities (hereinafter referred to as "**Notes**"), of ETFS Industrial Metal Securities Limited, Jersey, Channel Islands (hereinafter referred to as the "**Company**"), constituted by a Trust Instrument dated 6 December 2010 between the Company and The Law Debenture Trust Corporation p.l.c. as amended / supplemented from time to time (hereinafter referred to as the "**Trust Instrument**") and secured as described therein and divided into securities with a principal amount of • [see Annex 1] each, registered in the name of Vidacos Nominees Limited, London, England, and held in a special Safe Custody Account with Citibank N.A., London, England. Each co-owner of this Global Bearer Certificate is entitled to demand at any time from Clearstream to arrange for the delivery and registration in the relevant Register of Security Holders of ETFS Industrial Metal Securities Limited, Jersey, Channel Islands, in his name or in the name of a third party designated by him of such number of Notes as corresponds to his share in this Global Bearer Certificate.

In respect of all further matters, the Conditions attached to this Global Bearer Certificate and forming an essential part thereof shall apply.

Frankfurt am Main, ...

CLEARSTREAM BANKING  
Aktiengesellschaft

## TEXT OF THE CONDITIONS OF THE GLOBAL BEARER CERTIFICATES

### Conditions of the Certificate

(non-binding translation)

1. This Global Bearer Certificate bears the signature of two managing directors, or one managing director and one holder of procuration, of the Clearstream Banking Aktiengesellschaft, Frankfurt am Main, Federal Republic of Germany, (hereinafter referred to as "**Clearstream**").
2. Each co-owner of this Global Bearer Certificate is entitled to demand at any time from Clearstream the delivery and the registration in the relevant Register of Security Holders, in his name or in the name of a third party designated by him of such number of registered • [see Annex 1] [type of Individual / category of Basket] Securities (hereinafter referred to as "**Notes**") of ETFS Industrial Metal Securities Limited, Jersey, Channel Islands, (hereinafter referred as "**Company**") constituted by a Trust Instrument dated 6 December 2010 between the Company and The Law Debenture Trust Corporation p.l.c. as amended / supplemented from time to time (hereinafter referred to as the "**Trust Instrument**") and secured as described therein and divided into securities with a principal amount of • [see Annex 1] each, as corresponds to his co-ownership share in this Global Bearer Certificate. Such demand shall be made by the co-owner through his depositary bank to Clearstream, stating to whom the Notes shall be delivered, respectively, the address to which the certificate evidencing the registration shall be mailed by the Registrar.

In addition to the delivery, respectively, transfer fee determined by Clearstream pursuant to § 315 of German Civil Code, the co-owner shall bear any expenses, taxes, fees or duties arising from such delivery resp. transfer and registration.

The co-owners of this Global Bearer Certificate are not entitled to demand delivery of individual bearer certificates out of this Global Bearer Certificate.

3. As a rule, Clearstream shall convey to the co-owner, through his depositary bank and in proportion to his share in the Global Bearer Certificate, all rights arising from the Notes under the laws of England and Jersey, Channel Islands.

Payments of capital, interests and/or other amounts due will be passed on by Clearstream to the co-owner.

Furthermore, any terms and conditions to be announced as appropriate by Clearstream shall apply.

All payments to the co-owner shall be made in EURO, in accordance with the foreign exchange control regulations prevailing at the time, unless the co-owner has in time before the due date demanded payment in USD (United States Dollars).

4. As a rule, Clearstream shall not exercise voting rights arising in a noteholder meeting. On demand it shall cause a voting proxy to be issued to the co-owner or a third party indicated by him.

The Company has undertaken to publish the agenda of any noteholder meeting as well as the conditions for participating in the meeting and exercising the voting rights before each meeting.

5. Should the issuance of the Global Bearer Certificate be subject at any time to any taxes, fees or duties in the Federal Republic of Germany or in Jersey, Channel Islands, the co-owners shall bear such taxes, fees or duties in proportion to their shares in the Global Bearer Certificate.

Clearstream is entitled to divide among all co-owners in proportion to their co-ownership shares in the Global Bearer Certificate all taxes, fees and duties to which it may at any time be subject in the Federal Republic of Germany or in Jersey, Channel Islands, by the mere fact that it is holding the Notes.

6. If for any reason the Notes should be replaced by other notes or some other valuable, the co-owner's right to the Notes shall convert into a right to the relevant substitutes. In such event these Conditions shall apply *mutatis mutandis*.
7. Clearstream is entitled to substitute another entity for Citibank N.A., London, England, (hereinafter referred to as "Custodian") in its function as Custodian or Vidacos Nominees Limited, London, England, (hereinafter referred to as "Nominee") in its function as Nominee. In such event, Clearstream shall not be responsible for more than careful selection. This does not affect Clearstream's right to assume itself the functions of the Custodian or the Nominee. In the case where the Custodian or the Nominee are replaced, any reference to the Custodian or the Nominee in these Conditions shall be deemed to refer to the new Custodian or Nominee.
8. Should the Notes become good delivery on German stock exchanges in a way which would not require Clearstream's assistance in the present form or should the admission of the Notes in the form of co-ownership shares in the Global Bearer Certificate to trading and official quotation on German stock exchanges be withdrawn, Clearstream shall request from the co-owners instructions as provided for in Clause 2. paragraph 1 above. Should such instructions not be given within 3 months from the publication of the relevant request, Clearstream shall be entitled at its discretion to arrange for registration of the Notes in the name of the co-owner or a third party designated in its request and to deposit the relevant Notes at the co-owner's risk and expense with a depository designated in its request. All obligations of Clearstream arising from the Global Bearer Certificate shall cease therewith.
9. All notices concerning the Global Bearer Certificate shall be published in at least one supraregional newspaper designated by the German stock exchanges to publish obligatory notices of each German stock exchange on which the Notes in form of co-ownership shares in the Global Bearer Certificate are traded and officially quoted.
10. The co-owners shall bear proportionately any prejudice or damage, whether economic or legal, which may affect the Notes held as underlying stock for the Global Bearer Certificate in consequence of force majeure, governmental decrees, war, riots, official action at home or abroad or any other circumstances beyond Clearstream's or the Custodian's control.

Clearstream shall perform all its obligations arising from the Global Bearer Certificate with the due care of a proper merchant. If by reason of force majeure, governmental decrees, war, riots, official action at home or abroad or by any other circumstances beyond its control it is prevented from performing its obligations, it shall not be responsible.

The Custodian and the Nominee are responsible towards Clearstream for the due performance of their functions. Any claims against the Custodian or the Nominee shall be pursued by Clearstream on the co-owners' behalf. Beyond that Clearstream shall only be responsible for careful selection of the Custodian and the Nominee.

11. Should any of these conditions be or become fully or partly invalid or impracticable, the other conditions shall remain unaffected. Any such invalid or impracticable condition shall be replaced in accordance with the intent and purpose of this contractual agreement.
12. All legal relations between the co-owner and Clearstream shall be governed by the laws of the Federal Republic of Germany. The exclusive court of venue shall be Frankfurt am Main.
13. Except where required by law, an alteration of these Conditions shall be permitted only insofar as it does not impair the rights of the co-owners.



**Annex 1**

Annex 1 may be amended from time to time if additional types of Notes are issued by ETFS Industrial Metal Securities Limited under its multi-type Programme.

<u>Type of Security</u>	<u>Original ISIN (of the Notes)</u>	<u>Principal Amount USD</u>
ETFS Physical Copper	JE00B419CB89	4.00

## PART 8

### ADDITIONAL INFORMATION

#### 1 INCORPORATION AND SHARE CAPITAL OF THE ISSUER

- 1.1 The Issuer was incorporated as a public limited company in Jersey on 24 August 2010 under the Companies (Jersey) Law 1991 (as amended) (the “Law”). The Issuer operates under the Law and secondary legislation made thereunder. The Issuer is registered in Jersey under number 106363.
- 1.2 The Issuer is authorised to issue an unlimited number of no par value shares of one class designated as Ordinary Shares of which two Ordinary Shares of no par value have been issued for a consideration of £1.00 each.
- 1.3 The Issuer does not have any subsidiary undertakings.
- 1.4 All of the Issuer’s issued ordinary shares are owned by ETFS Holdings (Jersey) Limited, a wholly owned subsidiary of ETFSL.

#### 2 MATERIAL CONTRACTS

The following contracts (not being contracts entered into in the ordinary course of business) have been entered into by the Issuer within the two year period immediately preceding the date of this document and are or may be material or have been entered into at any time by the Issuer and (not being contracts entered into in the ordinary course of business) contain provisions under which the Issuer has an obligation or entitlement which is or may be material to the Issuer as at the date of this document:

- 2.1 the Trust Instrument dated 6 December 2010, a summary of the principal terms of which is set out in Part 4 (*Trust Instrument and the Conditions*);
- 2.2 the following Security Deeds dated 6 December 2010, a summary of the principal terms of which are set out in Part 5 (*Particulars of Security Deeds*):
  - 2.2.1 the Aluminium Security Deed;
  - 2.2.2 the Copper Security Deed;
  - 2.2.3 the Lead Security Deed;
  - 2.2.4 the Nickel Security Deed;
  - 2.2.5 the Tin Security Deed; and
  - 2.2.6 the Zinc Security Deed;
- 2.3 a Deed Poll dated 6 December 2010 made by the Issuer in favour of the Authorised Participants from time to time pursuant to which the Issuer has declared that in respect of each Application the Warrants delivered to the Issuer LMEsword Account for the purposes of such Application and held in the Issuer LMEsword Account shall be held by the Issuer on trust for the Applicant until the Initial Securities which are the subject of such Application have been issued to the Applicant and thereafter shall form part of the Secured Property. The Deed Poll is governed by English law and may be amended by the Issuer from time to time if the amendment is previously sanctioned by a written resolution of the Authorised Participants, if at the time of the amendment there are no Applicants and the Issuer has given at least seven days’ notice of its intention to make the amendment to each of the Authorised Participants, or if the amendment is considered, in the opinion of the Issuer’s English legal advisers, to be of a formal, minor or technical nature or to be necessary to correct a manifest error;
- 2.4 a Services Agreement dated 6 December 2010 between the Issuer and ManJer, a summary of the principal terms of which is set out in Part 1 (*Description of Industrial Metal Securities*);
- 2.5 the Metal Agent Agreement dated 6 December 2010 between the Issuer and the Metal Agent, a summary of the principal terms of which is set out in Part 6 (*The Metal Agent Agreement*);

- 2.6 the TRS Master Confirmation, a summary of the principal terms of which is set out in Part 6 (*The Metal Agent Agreement*);
- 2.7 the following Authorised Participant Agreements, a summary of the principal terms of which is set out in paragraph 3 below:
  - 2.7.1 an Authorised Participant Agreement dated 7 April 2011 between the Issuer and Barclays Bank plc;
  - 2.7.2 an Authorised Participant Agreement dated 7 April 2011 between the Issuer and Barclays Capital Securities Limited; and
  - 2.7.3 an Authorised Participant Agreement dated 6 December 2010 between the Issuer and Deutsche Bank AG, London Branch;
- 2.8 the following Security Assignments between the Metal Agent and the Issuer securing to Deutsche Bank AG, London Branch the Secured Obligations of the Issuer in relation to the Authorised Participant Agreement to which it pertains:
  - 2.8.1 Security Assignment dated 20 April 2011 between the Issuer and Deutsche Bank AG pertaining to the Authorised Participant Agreement between the Issuer and Barclays Bank plc; and
  - 2.8.2 Security Assignment dated 20 April 2011 between the Issuer and Deutsche Bank AG pertaining to the Authorised Participant Agreement between the Issuer and Barclays Bank plc;
- 2.9 the Registrar Agreement; and
- 2.10 an Administration Agreement dated 6 December 2010 between the Issuer and R&H Fund Services (Jersey) Limited.

### **3 AUTHORISED PARTICIPANT AGREEMENTS**

- 3.1 The Authorised Participants as at the date of this document are the persons who have entered into an Authorised Participant Agreement with the Issuer as described in paragraph 2.7 above.
- 3.2 The Issuer hopes to sign Authorised Participant Agreements with other Authorised Participants and/or market-makers in due course, which may include commitments to make markets on varying terms and which may include commitments to maintain particular maximum spreads and minimum lot sizes. The Issuer has agreed to use reasonable endeavours to ensure that at all times there is at least one Authorised Participant and intends to use reasonable endeavours to appoint additional Authorised Participants within 12 months of the date of this Prospectus. The names of all Authorised Participants at any time will be published by the Issuer on its website.
- 3.3 Pursuant to the terms of the Authorised Participant Agreements:
  - 3.3.1 the Issuer appoints the Authorised Participant as an Authorised Participant and authorises it to Apply for and Redeem Industrial Metal Securities in accordance with the terms of the Authorised Participant Agreement;
  - 3.3.2 each of the Issuer and the Authorised Participant agrees to comply with the Application procedures set out in the Authorised Participant Agreement;
  - 3.3.3 the Authorised Participant agrees that all Warrants to be delivered to the Issuer in connection with an Application must meet the requirements specified therein;
  - 3.3.4 the Authorised Participant agrees to pay Accrued Rent (calculated up to the Settlement Date or the date of delivery if later) into the Metal Agent Account on Warrants delivered to it in connection with an Application and to pay interest in certain circumstances;
  - 3.3.5 the Authorised Participant may delay delivery of Warrants in connection with an Application if it has entered into an AP TRS Master Confirmation and the Issuer has given its prior consent. Any resulting AP TRS Transaction will be subject to an obligation, by no later than

4.30 p.m. on the Settlement Date in respect of such Application and daily thereafter, to pay cash collateral (for same day value), calculated by reference to the daily LME Cash Settlement Price for similar Warrants, until the delivery of the relevant Warrants to the Issuer. If, by the fifth LME Settlement Day after the Settlement Date, such Warrants have not been so delivered, the Authorised Participant will be required to pay to the Issuer the cost of purchasing the relevant Warrants;

- 3.3.6 the Authorised Participant agrees that it may not elect for Early Delivery in accordance with the Conditions unless it has entered into an AP TRS Master Confirmation, and that such election shall not be effective without the prior consent of the Issuer. Any AP TRS Transaction will be subject to an obligation by no later than 4.30 p.m. on the date on which such Warrants are withdrawn and daily thereafter to pay cash collateral (for same day value), calculated by reference to the daily LME Cash Settlement Price for similar Warrants, until the delivery of the relevant Industrial Metal Securities to the Issuer. If, by the seventh LME Settlement Day after the Settlement Date, such Industrial Metal Securities have not been so delivered, the Authorised Participant will be required to deliver to the Issuer Warrants equivalent to those originally withdrawn;
- 3.3.7 the Authorised Participant consents to the Issuer entering into the Security Deeds and to the assignment by way of security of the Issuer's contractual rights under the provisions described in paragraphs 3.3.5 and 3.3.6 and the AP TRS Master Confirmation (if any), in favour of the Trustee for the benefit of the Trustee and the Security Holders; and
- 3.3.8 the Authorised Participant acknowledges that, notwithstanding Condition 14 (*Application of Monies*), in its capacity as an Authorised Participant the Trustee does not act as trustee for it and will owe no duties to it and the Authorised Participant undertakes to provide confirmations to the Trustee to such effect.
- 3.4 Pursuant to the terms of the Authorised Participant Agreements, each Authorised Participant represents, warrants and undertakes to the Issuer that:
- 3.4.1 in relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "**Relevant Member State**"), with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the "**Relevant Implementation Date**"), it has not made and will not make an offer of Industrial Metal Securities to the public in that Relevant Member State, except that it may, with effect from and including the Relevant Implementation Date, make an offer of Industrial Metal Securities to the public in that Relevant Member State:
- (a) in the period beginning on the date of publication of a prospectus in relation to those Industrial Metal Securities which has been approved by the competent authority in that Relevant Member State in accordance with the Prospectus Directive or, where appropriate, published in another Member State and notified to the competent authority in that Relevant Member State in accordance with Article 18 of the Prospectus Directive and ending on the date which is 12 months after the date of such publication;
  - (b) at any time to legal entities which are authorised or regulated to operate in the financial markets or, if not so authorised or regulated, whose corporate purpose is solely to invest in securities;
  - (c) at any time to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than €43,000,000, and (3) an annual turnover of more than €50,000,000, as shown in its last annual or consolidated accounts; or
  - (d) at any time in any other circumstances which do not require the publication by the Issuer of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an "offer of Industrial Metal Securities to the public" in relation to any Industrial Metal Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Industrial Metal Securities to be offered so as to enable an

investor to decide to purchase or subscribe for the Industrial Metal Securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State;

- 3.4.2 it has only communicated or caused to be communicated, and will only communicate or cause to be communicated, any invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA) received by it in connection with the issue or sale of any Industrial Metal Securities in circumstances in which section 21(1) of the FSMA does not apply to the Issuer or any Affiliate of the Issuer;
- 3.4.3 it has complied and will comply with all applicable provisions of the FSMA and the United Kingdom financial services regime (including, without limitation, the obligation to treat customers fairly) with respect to anything done by it in relation to any Industrial Metal Securities in, from or otherwise involving the United Kingdom;
- 3.4.4 neither it nor any of its Affiliates (including any person acting on behalf of it or any of its Affiliates):
- (a) has knowingly offered or sold or will knowingly offer or sell Industrial Metal Securities within the United States or to US Persons, whether before, on or after the relevant Application date, other than to Qualified Institutional Buyers (as that term is defined in Rule 144A under the Securities Act) that purchased pursuant to a Rule 144A offering memorandum provided by the Issuer;
  - (b) has knowingly offered or sold or will knowingly offer or sell Industrial Metal Securities to a Prohibited US Person or a Prohibited Benefit Plan Investor, whether before, on or after the relevant Application date; or
  - (c) has engaged or will engage in any “directed selling efforts” with respect to Industrial Metal Securities; and
- 3.4.5 it will not permit Industrial Metal Securities to be offered to, sold to, or purchased by persons resident for income tax purposes in Jersey (other than financial institutions in the normal course of business).

Further restrictions on offers and sales of Industrial Metal Securities and on the distribution of this Prospectus are set out in paragraph 22 of this Part 8 (*Additional Information*).

The Issuer may enter into agreements with institutions to act as Authorised Participants and/or market-makers which may include commitments to make markets on varying terms, but which may include commitments to maintain particular maximum spreads and minimum lot sizes.

#### 4 ISINS AND PRINCIPAL AMOUNTS OF THE INDUSTRIAL METAL SECURITIES

Six classes of Individual Securities and one category of Basket Securities are specifically described in this Prospectus. The ISINs and Principal Amounts of the Industrial Metal Securities are as follows:

<b>Class of Individual Securities</b>	<b>ISIN</b>	<b>Principal Amount</b>
ETFS Physical Aluminium	JE00B4MG1D30	US\$11.00
ETFS Physical Copper	JE00B419CB89	US\$4.00
ETFS Physical Lead	JE00B45M6883	US\$11.00
ETFS Physical Nickel	JE00B3W0N983	US\$11.00
ETFS Physical Tin	JE00B4L22R36	US\$12.00
ETFS Physical Zinc	JE00B41L4M99	US\$11.00
<b>Class of Basket Securities</b>	<b>ISIN</b>	<b>Principal Amount</b>
ETFS Physical IM Basket	JE00B3ZB4284	US\$9.78

To the extent that this Prospectus does not provide full details of any additional type or types of Individual Securities and Basket Securities constituted pursuant to the Trust Instrument after the date hereof such additional details (including the name, ISIN number and Principal Amount thereof and the initial Metal Entitlement or number of Individual Securities of any classes of which they are comprised) will be specified in the applicable Pricing Supplement or a supplementary prospectus supplemental hereto.

## **5 TAXATION IN THE UK**

### **5.1 General**

**The following paragraphs summarise certain limited aspects of the UK taxation treatment of holding Industrial Metal Securities. They are based on current UK law and HM Revenue & Customs practice, both of which are subject to change, possibly with retrospective effect. The following paragraphs relate to Security Holders who are individuals (i.e. natural persons) acting in a private capacity and who are domiciled, resident and ordinarily resident in the UK for taxation purposes (“UK Individuals”), are within the charge to UK corporation tax and holding Industrial Metal Securities as an investment or which are UK open-ended investment companies or authorised unit trust schemes. Accordingly, these paragraphs do not apply to certain categories of Security Holders, such as dealers (whether in Metal or Industrial Metal Securities). The statements in this summary are intended only as a general guide, and should be treated with appropriate caution. Any person who is contemplating acquiring an Industrial Metal Security (whether or not pursuant to the Programme), particularly if that person is subject to taxation in any jurisdiction other than the UK, is strongly recommended to consult his professional advisers immediately.**

### **5.2 The Issuer**

The Directors intend that the affairs of the Issuer should be managed and conducted so that it should not become resident in the UK for UK taxation purposes. Accordingly, and provided that the Issuer does not carry on a trade in the UK through a permanent establishment situated therein for UK corporation tax purposes, or through a branch or agency situated in the UK which would bring the Issuer within the charge to UK income tax, the Issuer will not be subject to UK corporation tax or income tax on income and capital gains arising to it. The Directors intend that the affairs of the Issuer are conducted so that no such permanent establishment, branch or agency will arise insofar as this is within their control, but it cannot be guaranteed that the conditions necessary to prevent any such permanent establishment, branch or agency coming into being will at all times be satisfied.

The Issuer is incorporated in accordance with the laws of Jersey. It is the intention of the Directors that the Issuer is, and should remain, resident for UK tax purposes outside the United Kingdom at all times.

### **5.3 Withholding Tax**

No payments made by the Issuer to Security Holders in respect of the Industrial Metal Securities are required to be made under deduction or withholding for or on account of UK tax.

### **5.4 Corporation Tax on Income and Gains**

In general, a Security Holder which is subject to UK corporation tax will be treated for tax purposes as realising profits, gains or losses in respect of Industrial Metal Securities on a basis reflecting the treatment in its statutory accounts, calculated in accordance with the Security Holder’s authorised accounting method. These profits, gains or losses, (which will include any profits, gains or losses on a disposal or redemption of Industrial Metal Securities and which may include fluctuations in value relating to foreign exchange gains and losses) will be treated as income for the purposes of a Security Holder’s UK corporation tax computation.

## 5.5 UK Open-Ended Investment Companies and Authorised Unit Trust Schemes

Whilst UK open-ended investment companies and authorised unit trust schemes are generally subject to UK corporation tax (although currently at the rate of 20 per cent.) they are exempt from tax on capital gains. Part 2 of The Authorised Investment Funds (Tax) Regulations 2006 (S.I. No. 2006/964) (the “**Regulations**”) provides an exemption for capital profits, gains or losses accruing to UK open-ended investment companies and authorised unit trust schemes on creditor loan relationships and derivative contracts. In this respect capital profits, gains or losses are those which, in accordance with UK generally accepted accounting practice, fall to be dealt with in the statement of total return (under the heading of “net capital gains/losses” or “other gains/losses”) in accordance with the relevant Statement of Recommended Practice. These provisions do not however apply to a qualified investor scheme which does not meet the genuine diversity of ownership condition. In addition, Part 2B of the Regulations treats all capital profits, gains and losses (determined in accordance with UK generally accepted accounting practice, as described above) arising to a UK open-ended investment company or authorised unit trust, which meets the genuine diversity of ownership condition, from an “investment transaction” (which includes loan relationships and derivative contracts) as a non-trading transaction and thus not taxable as income. These Parts of the Regulations will determine whether any profits, gains or losses arising to a Security Holder which is a UK open-ended investment company or authorised unit trust scheme in respect of Industrial Metal Securities will be exempt from tax.

## 5.6 Capital Gains Tax (Individuals)

Provided the Industrial Metal Securities are not treated as “deeply discounted securities” for UK tax purposes, any transfer or redemption of an Industrial Metal Security by a Security Holder who is a UK Individual will, subject to the offshore fund rules mentioned below, be a disposal of that Industrial Metal Security for UK capital gains tax purposes which may, subject to any available exemption or relief, give rise to a chargeable gain or allowable loss for those purposes.

Subject to this, it is expected that the Industrial Metal Securities will not be treated as “deeply discounted securities” for UK tax purposes, however, investors are advised to consult their own tax advisers in this connection.

The Issuer may be treated as an “offshore fund” for UK tax purposes, and accordingly, Industrial Metal Securities may be treated as investments in an “offshore fund” for UK tax purposes. If this is the case, and the Industrial Metal Securities are not treated as “deeply discounted securities” and no other exemption applies, any gain accruing to an investor upon the sale, redemption or other disposal of Industrial Metal Securities will be taxed as income and not as a capital gain, unless the relevant class of Industrial Metal Securities achieves certification as a “reporting fund”. The Issuer has obtained a notification from HM Revenue & Customs that all classes of the Industrial Metal Securities have been accepted for entry into the “reporting fund” regime with effect from first issue. Whilst it is expected that certification as a “reporting fund” will be maintained for all periods, this cannot be guaranteed.

Note that under the reporting fund rules the Issuer is required to report to investors 100 per cent. of the net income attributable to the relevant class of Industrial Metal Securities. It is not expected that any such reportable income will arise in respect of any of the Industrial Metal Securities.

A copy of the annual report required to be made to investors under the reporting fund rules will be provided by the Issuer on the following website at: [http://etfsecurities.com/en/document/etfs\\_document.asp](http://etfsecurities.com/en/document/etfs_document.asp)

## 5.7 Income Tax (Individuals)

If the Industrial Metal Securities are treated as “deeply discounted securities” for UK tax purposes, and do not qualify as “excluded indexed securities” for those purposes, any profit arising to a Security Holder who is a UK Individual on transfer or redemption of an Industrial Metal Security will be subject to UK income tax and not to UK capital gains tax.

## 5.8 Stamp Duty and Stamp Duty Reserve Tax ('SDRT')

Provided the Register is not kept by or on behalf of the Issuer in the UK, neither stamp duty nor SDRT will be payable on the issue or the subsequent transfer of, or agreement to transfer, an Industrial Metal Security in Uncertificated Form.

In the case of Industrial Metal Securities held in Certificated Form, provided (i) the Register is not kept by or on behalf of the Issuer in the UK; (ii) any instrument of transfer is not executed in the UK; and (iii) any instrument of transfer does not relate to anything to be done in the UK, neither stamp duty nor SDRT will be payable on the Redemption or transfer of an Industrial Metal Security.

The issue of an Industrial Metal Security will not give rise to stamp duty or SDRT.

## 5.9 Inheritance Tax (Individuals)

For the purposes of inheritance tax, an Industrial Metal Security may form part of the value of the estate of a Security Holder who is an individual and inheritance tax may (subject to certain exemptions and reliefs) become payable in respect of the value of an Industrial Metal Security on a gift of that an Industrial Metal Security by, or the death of, a Security Holder who is an individual. Such a tax charge may be subject to appropriate provisions in any applicable Double Tax Treaty.

## 5.10 The European Savings Directive

EU Council Directive 2003/48/EC on the taxation of savings income (the "Directive") came into force on 1 July 2005. The Directive applies, amongst other matters, to payments of interest or other income on debt claims of every kind made by a paying agent in an EU Member State for the benefit of individual investors resident in another EU Member State. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside. A paying agent for these purposes is any economic operator who pays interest to, or secures interest for, the beneficial owner, and could include a UK broker effecting the sale of Industrial Metal Securities.

Industrial Metal Securities are undated secured limited recourse debt obligations of the Issuer. However, as no return in respect of Industrial Metal Securities (whether in Metal form on Redemption by an Authorised Participant, in Metal or US dollars by a Security Holder where there are no Authorised Participants or as a result of a compulsory Redemption under Condition 7.1, Condition 7.2 or Condition 7.3 or as a result of trading on the London Stock Exchange) will constitute a payment of interest for the purposes of the Directive, it is not envisaged that Security Holders or their paying agents will be within the scope of the Directive.

# 6 TAXATION IN JERSEY

## 6.1 General

**The comments below are of a general nature based on taxation law and practice in Jersey as at the date of this Prospectus and are subject to any changes therein. They relate only to the position of persons who are absolute beneficial owners of the Securities.**

## 6.2 The Issuer

Under the Income Tax (Jersey) Law 1961 (the "Jersey Income Tax Law"), the Issuer will be regarded as resident in Jersey but (being neither a financial services company nor a specified utility company under the Jersey Income Tax Law at the date hereof) will (except as noted below) be subject to Jersey income tax at a rate of 0 per cent.

If the Issuer derives any income from the ownership or disposal of land in Jersey, such income will be subject to tax at the rate of 20 per cent. It is not expected that the Issuer will derive any such income.



The Issuer will continue to be able to make payments in respect of the Industrial Metal Securities without any withholding or deduction for or on account of Jersey tax. Holders of the Industrial Metal Securities (other than residents of Jersey) will not be subject to any Jersey tax in respect of the holding, sale or other disposition of its Industrial Metal Securities.

### 6.3 Stamp duty

Under current Jersey law, there are no death or estate duties, capital gains, gift, wealth, inheritance or capital transfer taxes. No stamp duty is levied in Jersey on the issue, transfer, acquisition, ownership, redemption, sale or other disposal of Industrial Metal Securities.

In the event of the death of an individual sole holder of Industrial Metal Securities, duty at rates of up to 0.75 per cent. of the value of the Industrial Metal Securities held may be payable on registration of Jersey probate or letters of administration which may be required in order to transfer or otherwise deal with Industrial Metal Securities held by the deceased individual sole holder thereof.

### 6.4 Goods and services tax

The Issuer is an “international services entity” for the purposes of the Goods and Services Tax (Jersey) Law 2007 (the “**GST Law**”). Consequently, the Issuer is not required to:

- (a) register as a taxable person pursuant to the GST Law;
- (b) charge goods and services tax in Jersey in respect of any supply made by it; or
- (c) (subject to limited exceptions that are not expected to apply to the Issuer) pay goods and services tax in Jersey in respect of any supply made to it.

### 6.5 European Union directive on the taxation of savings income

As part of an agreement reached in connection with the European Union directive on the taxation of savings income in the form of interest payments, and in line with steps taken by other relevant third countries, Jersey introduced with effect from 1 July 2005 a retention tax system in respect of payments of interest, or other similar income, made to an individual beneficial owner resident in an EU Member State by a paying agent established in Jersey. The retention tax system applies for a transitional period prior to the implementation of a system of automatic communication to EU Member States of information regarding such payments. During this transitional period, such an individual beneficial owner resident in an EU Member State will be entitled to request a paying agent not to retain tax from such payments but instead to apply a system by which the details of such payments are communicated to the tax authorities of the EU Member State in which the beneficial owner is resident.

The retention tax system in Jersey is implemented by means of bilateral agreements with each of the EU Member States, the Taxation (Agreements with European Union Member States) (Jersey) Regulations 2005 and Guidance Notes issued by the Policy & Resources Committee of the States of Jersey. Based on these provisions and the Issuer’s understanding of the current practice of the Jersey tax authorities (and subject to the transitional arrangements described above), the Issuer would not be obliged to levy retention tax in Jersey under these provisions in respect of redemption payments made by it to a paying agent established outside Jersey.

## 7. TAXATION IN AUSTRIA

### 7.1 General

The following is a brief summary of some principles of Austrian tax law that may be of relevance for Austrian resident holders of the Industrial Metal Securities. It does not claim to fully describe all Austrian tax consequences of the acquisition, ownership, disposition or redemption of the Industrial Metal Securities. This summary does not take into account or discuss the tax laws of any country other than Austria nor does it take into account the investors’ individual circumstances.

Prospective investors are advised to consult their own professional advisors to obtain further information about the tax consequences of the acquisition, ownership, disposition, redemption, exercise or settlement of the instruments. Only personal advisors are in a position to adequately take into account special tax aspects of the particular Instruments in question as well as the investor's personal circumstances and any special tax treatment applicable to the investor.

This summary is based on Austrian law as in force when drawing up this supplementary prospectus. The laws and their interpretation by the tax authorities may change and such changes may also have retroactive effect.

## **7.2 Taxation of capital gains or redemption gains upon disposal or redemption of the Industrial Metal Securities**

### ***Individual Investors***

A new tax regime will apply for most types of investment income (*Einkünfte aus Kapitalvermögen*) including income derived from the Industrial Metal Securities as of 2012.

#### **- New law as of 2011/2012 (“New Law”)**

Under the New Law capital gains upon the disposal or redemption of Industrial Metal Securities are subject to a 25 per cent. flat tax rate. If Industrial Metal Securities are deposited with an Austrian custodian bank, the bank will - in most circumstances – withhold the 25 per cent. capital gains tax and forward it to the tax authorities. If for an individual investor the 25 per cent. flat rate is higher than the rate which would be applicable under the regular progressive tax rate (0 per cent. - 50 per cent. depending on the individuals total annual income) applicable for this individual, the individual can apply for a tax refund in his or her annual tax return.

#### **- Old law until 2011/2012 (“Old Law”)**

Under the Old Law capital gains upon the disposal or redemption of Industrial Metal Securities are only taxable where the acquisition and disposal of the Industrial Metal Securities is effected within a blocking period of one year ("speculation gain"). After the one year blocking period, capital gains are tax free. However, speculation gains – realised within the one year period – are subject to the full progressive tax rate of up to 50 per cent.

#### **- Entering into force of New Law**

The following applies in respect of the entering into force of the New Law:

- For Industrial Metal Securities purchased before 1 October 2011, the Old Law applies i.e. Industrial Metal Securities purchased and sold or redeemed within a one year holding period are subject to the full progressive tax rate of up to 50 per cent., and after the one year holding period the sale or redemption is tax free.
- For Industrial Metal Securities acquired between 1 October 2011 and 31 March 2012 and sold or redeemed before 31 March 2012, capital gains are subject to the full progressive tax rate of up to 50 per cent.
- Capital gains realised upon Industrial Metal Securities acquired after 1 October 2011 and sold or redeemed after 31 March 2012 are always taxable at 25 per cent. regardless of the holding period.

### ***Corporate Investors***

Corporate entities are in general subject to a 25 per cent. flat corporate income tax rate. Capital gains incurred upon disposal or redemption of the Industrial Metal Securities are subject to this general 25 per cent. taxation.

## **7.3 EU Savings Directive**

The rules implementing Directive 2003/48/EC in Austrian national law, provide that interest payments (including payments of certain types of capital gains incurred from the disposal or

redemption of a security) made by an Austrian paying agent to EU resident beneficial owners of securities are subject to a EU-withholding tax. The applicable tax rate is 35 per cent.

No EU-withholding tax is levied if the beneficial owner presents to his paying institution a certificate as provided for under Article 10 of the EU-Withholding Tax Act issued by the competent authority of his EU member state of residence for tax purposes.

## **7.4 Other taxes**

### ***Transfer Taxes***

There are no transfer taxes, registration taxes or similar taxes payable in Austria as a consequence of the acquisition, ownership, disposition or redemption of the Industrial Metal Securities.

### ***Inheritance or Gift Taxes***

The Austrian inheritance and gift tax (*Erbschafts- und Schenkungssteuer*) was abolished with effect as of 1 August 2008.

### **VAT**

The acquisition or disposal of the Industrial Metal Securities is not subject to Austrian VAT.

### ***Application of the Austrian Investment Fund Act***

There is a risk that Industrial Metal Securities whose underlying assets are composed of a variety of classes of metals (in order to achieve an effect of risk diversification) could be treated as investments in a foreign investment fund according to section 42 of the Austrian Investment Fund Act. The consequence of such treatment could be a taxation of the investment regardless of actual disposals, redemptions or distributions. Please discuss this issue with your personal tax advisor if you consider investing in Industrial Metal Securities whose underlying assets are composed of a variety of classes of metals.

## **8. TAXATION IN DENMARK**

### **8.1 General**

The following is a brief summary of some important principles of Danish tax law that may be of relevance for Danish holders of Industrial Metal Securities. The summary does not fully cover all aspects of Danish tax law that may be of relevance to holders. The summary is based on Danish tax law as of June 2012. The summary deals only with taxation in Denmark and not with foreign tax rules.

It should also be noted that the taxation of Industrial Metal Securities may change at any time as a result of new legislation, court practice or decrees issued by the relevant taxation authorities, potentially with retroactive effect. Investors interested in acquiring Industrial Metal Securities should consult their tax advisors with regard to any tax consequences that may be involved in acquiring, holding, redeeming, selling or gratuitously transferring the Industrial Metal Securities.

Only a tax advisor is able to adequately assess the individual tax situation of a specific investor.

Under Danish Law, share certificates including Industrial Metal Securities are governed by the special provisions in The Shares, Transfers and Capital Gains Taxation Act. Basically, this means that gains and losses on Industrial Metal Securities are taxed separately from the underlying assets applying a mark-to-market principle.

### **8.2 Security Holders liable to corporate tax**

Under Danish law, share certificates including Industrial Metal Securities are governed by the special provisions in The Shares, Transfers and Capital Gains Taxation Act. Basically, this means that gains and losses on the share certificates are taxed separately from the underlying assets, applying a mark-to-market principle. Both losses and gains are included in the taxable income.

Net gains are taxed at a flat rate of 25 per cent. The ability to utilize net losses is limited. Basically, the utilization requires that a previous gain has been realized.

### **8.3 Individual holding Industrial Metal Securities**

Under Danish law, share certificates including Industrial Metal Securities are governed by the special provisions in The Shares, Transfers and Capital Gains Taxation Act. Basically, this means that gains and losses on the financial instruments are taxed separately from the underlying assets, applying a mark-to-market principle. Both losses and gains are included in the taxable income. Net gains are taxed as capital income at a marginal tax rate of 45.5 per cent for an individual (43.5 per cent in 2013 and 42 per cent in 2014 and subsequent years). The ability to utilize net losses is limited. Basically, the utilization requires that a previous gain has been realized.

### **8.4 Investors holding Industrial Metal Securities via a pension scheme**

The investor will be taxed according to the mark-to-market principle. The Danish individual investor will be taxed at a rate of 15 per cent on the return pursuant to section 2 of The Pension Returns Tax Act.

### **8.5 Individual covered by the corporate tax regime ("*Virksomhedsskatteordningen*")**

It is possible for an individual to hold Industrial Metal Securities through the corporate tax regime (*Virksomhedsskatteordningen*).

### **8.6 Withholding Taxes**

Generally, no withholding tax is levied on outbound interest payments. However, special rules apply to inter-group interest payments from a Danish company to a controlling foreign company. However, in substance, this will only apply if the foreign company is a financial company situated in (i) a tax haven, or (ii) a jurisdiction with which Denmark does not have a double taxation treaty. Anti-avoidance provisions have been introduced which exclude the possibility of using back-to-back loan structures to avoid the withholding tax. The interest payments are in these cases subject to a final tax of 25 per cent.

Generally, no withholding tax is levied on outbound debt claims. However, Denmark has introduced taxation on intergroup debt claims payments from a Danish company to a controlling foreign company. However, in substance, this will only apply if the foreign company is a financial company situated in (i) a tax haven, or (ii) a jurisdiction with which Denmark does not have a double taxation treaty. The debt claims payments are in these cases subject to a final tax of 25 per cent.

### **8.7 VAT**

No Danish value added tax applies.

### **8.8 Inheritance/Gift tax**

Upon inheritance a tax must be paid if the deceased person's home is within Danish jurisdiction or if real estate is situated in Denmark. The tax calculation basis is the estate value exceeding, in 2012, DKK 2,595,100 (corresponding to approximately EUR 349,166). The tax rate for relatives is 15 per cent and for other beneficiaries 36.25 per cent calculated on the basis of inheritance exceeding, in 2012, DKK 264,100 (corresponding to approximately EUR 35,534). A non-separated spouse is not taxed on the inheritance.

Gifts are as a starting point taxed the same way as proceeds from inheritance. Gifts to a spouse are tax free. Gifts exceeding, in the year 2012 DKK 58,700 per year (corresponding to approximately EUR 7,897) to certain relatives are taxed at rate of 15 per cent whilst gifts to others are taxed at 36.25 per cent. The receiver or the donor must be a Danish tax subject in order for these thresholds/amounts to apply.

## **8.9 EU Savings Directive**

EU Council Directive 2003/48/EC on the taxation of savings income applies amongst other matters, to payments of income on debt claims of every kind made by a paying agent in an EU member state for the benefit of individual investors resident in another Member State in the EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside to operate a withholding system in relation to such payments. A paying agent for these purposes is any economic operator who pays interest or other similar income to, or secures interest or other similar income for the beneficial owner, and could in relation to Industrial Metal Securities include a Danish broker effecting the sale of Industrial Metal Securities.

## **9. TAXATION IN FINLAND**

### **9.1 General**

The following is a brief summary of some important principles of Finnish tax law that may be of relevance for Finnish resident investors acquiring, holding, redeeming or selling Industrial Metal Securities. The summary does not fully cover all aspects of Finnish tax law that may be of relevance to the Industrial Metal Securities. The summary is based on Finnish tax law as of the date of this Prospectus. It should also be noted that the taxation of investors may change at any time as a result of new legislation, court practice or decrees issued by the relevant taxation authorities, potentially with retroactive effect.

Investors interested in acquiring the Industrial Metal Securities should consult their tax advisors with regard to any tax consequences that may be involved in acquiring, holding, redeeming, selling or gratuitously transferring the Industrial Metal Securities. Only a tax advisor is able to adequately assess the individual tax situation of a specific investor.

### **9.2 Tax on income and capital gains**

#### ***Resident individuals***

Individuals and death estates, who sell their Industrial Metal Securities, are subject to capital gains taxation at a rate of 30 per cent. or 32 per cent. for taxable capital income exceeding €50,000. The taxable capital gain on disposal of Industrial Metal Securities is calculated by deducting the acquisition costs and sales costs from the sales price. Alternatively, the taxable capital gain can be calculated by deducting from the sales price as a deemed acquisition cost 20 per cent. of the sales price (40 per cent. for Industrial Metal Securities held for at least 10 years). According to the Finnish Income Tax Act, capital losses can be deducted from capital gains (but not from other capital income) arising during the year of disposal and the five following years. A capital gain is tax exempt if the aggregate income derived from disposals of assets during the tax year is less than €1,000.

#### ***Resident companies***

Resident companies are taxable on their worldwide income at the general corporate income tax rate of 24.5 per cent. This applies to both business income and other income.

Any capital gain or income on the Industrial Metal Securities relating to the business operations is regarded as taxable business income and the tax assessment is made according to the Business Income Tax Act. Generally, expenses incurred in acquiring or maintaining taxable business income are deductible. Tax losses can generally be carried forward for ten years.

Where the investment in the Industrial Metal Securities does not form part of business assets, tax assessment is made according to the Income Tax Act. Capital gains and income on the Industrial Metal Securities are then taxed as other income of the company. Capital losses from the disposal and/or redemption of the Industrial Metal Securities can be deducted from capital gains arising during the year of disposal and the following five years. Losses in the company's business income source cannot be deducted from the company's other income source or vice versa.

### **9.3 Withholding tax**

No deduction or withholding for or on account of Finnish tax is required to be made on payments directly from the Issuer to Security Holders on Redemption of Industrial Metal Securities.

### **9.4 Inheritance and gift taxes**

A transfer of the Industrial Metal Securities by way of gift or on death will be subject to Finnish inheritance or gift tax if the Security Holder, or heir, donee or other beneficiary, is a Finnish tax resident.

### **9.5 Value added tax**

No Finnish value added tax will be payable by a Security Holder in consideration for the issue of Industrial Metal Securities.

### **9.6 Other taxes or duties**

No Finnish registration tax, customs duty, transfer tax, stamp duty or any other similar tax or duty will be payable in Finland by a holder of Industrial Metal Securities.

### **9.7 EU Savings Directive**

EU Council Directive 2003/48/EC on the taxation of savings income applies amongst other matters, to payments of income on debt claims of every kind made by a paying agent in an EU member state for the benefit of individual investors resident in another Member State in The EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside. A paying agent for these purposes is any economic operator who pays interest or other similar income to, or secures interest or other similar income for the beneficial owner, and could in relation to Industrial Metal Securities include a Finnish broker effecting the sale of Industrial Metal Securities.

## **10. TAXATION IN FRANCE**

### **10.1 General**

The following summary describes the principal French tax treatment applicable to the holding of the Industrial Metal Securities by a French investor residing in France or outside of France following an offer of the Industrial Metal Securities in France.

This information is of a general nature and does not purport to be a comprehensive description of all French tax considerations that may be relevant to a decision to acquire, to hold and to dispose of the Industrial Metal Securities. In some cases, different rules can be applicable. Furthermore, the tax rules can be amended in the future, possibly implemented with retroactive effect, and the interpretation of the tax rules may change.

This summary is based on the French tax legislation, treaties, rules, and administrative interpretations and similar documentation, in force as of the date of this Prospectus and on the legal qualification of the Industrial Metal Securities as bond instruments, without prejudice to any amendments introduced at a later date, even if implemented with retroactive effect.

Any persons interested in acquiring the Industrial Metal Securities should consult their tax advisers with regard to any tax consequences that may be involved in acquiring, holding, redeeming, selling or gratuitously transferring the Industrial Metal Securities. Only a tax adviser is able to adequately assess the individual tax situation of a specific investor.

## 10.2 Investors residing in France

### ***Taxation of individuals***

#### *Taxation of capital gains*

Capital gains derived from the disposal of the Industrial Metal Securities are subject to capital gains tax at the rate of 19 per cent. plus 12.3 per cent. social contributions (i.e., a total rate of taxation of 31.3 per cent.).

If a French investor disposes of the Industrial Metal Securities at a loss, such loss may be offset against capital gains of the same nature made during the year of the loss or the ten following years, subject to filing obligations.

#### *Taxation of bond redemption premium (Prime de remboursement)*

Bond redemption payments made to an individual residing in France are taxed according to the standard progressive income tax schedule, whose top rate is currently 41 per cent. The abovementioned social contributions of 12.3 per cent. are also applicable.

### ***Taxation of companies subject to French corporate income tax***

#### *Taxation of capital gains*

Capital gains from the disposal of the Industrial Metal Securities are subject to corporate income tax at the standard rate of 33 1/3 per cent. (or to a reduced rate applicable to small companies where the relevant conditions are met), to which 3.3 per cent. surtax is added upon certain circumstances. Capital losses are, in principle, treated as ordinary losses which may be set off against operational profits and any remaining balance carried forward in accordance with standard rules (i.e., unlimited carry forward save in specific circumstances).

#### *Taxation of bond redemption premium (Prime de remboursement)*

Bond redemption premiums are taxed at the above-mentioned standard corporate income tax rate (or to a reduced rate applicable to small companies where the relevant conditions are met). Furthermore, Article 238 septies E of the French general tax code (FGTC) may possibly apply. According to the provisions of Article 238 septies E, if the estimated value of the redemption premium exceeds the purchase value by 10 per cent. and the issue price is less than 90 per cent. of the estimated redemption value, such premium due to indexation of the principal is partially taxed before maturity on an annual basis, even though this premium is only collected on disposal or redemption on maturity.

## 10.3 Investors residing outside of France

### ***Taxation of capital gains***

In principle, capital gains realised by investors residing outside of France upon the sale or disposal of Industrial Metal Securities are not subject to capital gains tax in France. The same applies to companies, provided that the Industrial Metal Securities are not booked in a permanent establishment or fixed base in France.

## 10.4 The European Savings Directive

EU Council Directive 2003/48/EC on the taxation of savings income (the “**Directive**”) applies, amongst other matters, to payments of interest or other income on debt claims of every kind made by a paying agent in an EU Member State for the benefit of individual investors resident in another Member State in the EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside (although, for a transitional period Luxembourg and Austria are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain countries and territories). A paying agent for these purposes is any economic operator who pays interest or other similar income to, or secures interest or other similar income for, the

beneficial owner, and could in relation to Industrial Metal Securities include a French broker effecting the sale of Industrial Metal Securities on a stock market. A number of non-EU countries and territories including Switzerland have agreed to adopt similar measures (a withholding system in the case of Switzerland).

## 11. TAXATION IN GERMANY

### 11.1 General

The following is a brief summary of some important principles of German tax law that may be of relevance for German tax resident investors acquiring, holding or selling Industrial Metal Securities. The summary does not fully cover all aspects of German tax law that may be of relevance to Industrial Metal Securities. The summary is based on German tax law as of the date of this Prospectus. It should also be noted that the taxation of investors may change at any time as a result of new legislation, court practice or decrees issued by the relevant taxation authorities, potentially with retroactive effect.

Investors interested in acquiring Industrial Metal Securities should consult their tax advisors with regard to any tax consequences that may be involved in acquiring, holding, selling or otherwise transferring Industrial Metal Securities. Only a tax advisor is able to adequately assess the individual tax situation of a specific investor.

### 11.2 Taxation of capital gains

German individual investors and German corporate investors are subject to German personal or corporate income tax and solidarity surcharge on any capital gains from the sale of Industrial Metal Securities.

The German Ministry of Finance on 22 December 2009 has issued a tax circular regarding the taxation of capital income in Germany and the new German flat income tax (*Abgeltungsteuer*) (circular no. IV C 1 – S 2252/08/10004) (the "**Tax Circular**"). Pursuant to this Tax Circular gains or losses from a note, eligible for listings on stock exchanges, that securitizes the right of the holder to request delivery of gold or other commodities from the issuer and where such right of the holder is backed by physical gold or such other commodities, would be treated by the German tax authorities as gains or losses from a debt instrument in the form of a speculative certificate (*Risikozertifikat*) and thus, be subject to German income taxation. This shall also apply if the holder of the note, instead of requesting delivery of gold, is entitled to request payment of the relevant amount of cash from the issuer.

As a consequence of the court case of the German Federal Tax Court (BFH) dated 24 April 2012 structured financial instruments which mirror the performance of an underlying investment without any additional embedded leverage ("Delta 1-instrument") should not qualify as a so-called "derivative Instrument" (*Terminingeschäft*).

The tax rate in respect of capital gains for German individual investors who hold Industrial Metal Securities as private assets (*Privatvermögen*) is 25 per cent. (plus 5.5 per cent. solidarity surcharge thereon and, if applicable, church tax). However, taxpayers are entitled to apply for a tax assessment on the basis of their net taxable income. In this case the personal income tax will be levied on the gross income. No expenses related to the capital gains except for a lump-sum tax allowance of EUR 801 for individuals and EUR 1602 for married couples subject to German joint taxation will be deductible. If Industrial Metal Securities are held in custody with a German credit institution or financial service institution (including a German permanent establishment of a foreign institution) as disbursing agent (*inländische auszahlende Stelle*), a flat withholding tax (*Abgeltungsteuer*) at a rate of 25 per cent. (plus 5.5 per cent. solidarity surcharge thereon and, if applicable, church tax) is deducted. Payment of the flat withholding tax satisfies any income tax liability of the investor in respect of such income (unless the investor elects to have the tax assessment of such income). Losses from the sale of Industrial Metal Securities can be set off only against other capital income (*Einkünfte aus Kapitalvermögen*) of the investor. Losses which cannot be set off in the same calendar year can be carried forward to a limited extent, if a tax loss certificate has been provided by the German paying agent, if applicable.



If Industrial Metal Securities are held as business assets, all capital gains from the sale of Industrial Metal Securities by German investors will be subject to German personal or corporate income tax and solidarity surcharge thereon based on the applicable tax rate for the investor. In such case gains will also be subject to German trade tax. Withholding tax on such gains is deducted at the rates mentioned above but does not satisfy any income tax liability of the investor in respect of such gains.

### **11.3 Applicability of the Investment Tax Act (Investmentsteuergesetz)**

The Issuer believes that there exist good arguments that investors in Industrial Metal Securities will not be subject to the German Investment Tax Act. Since Industrial Metal Securities do not, among other things, provide for regular Redemptions for all investors in Industrial Metal Securities they should not constitute a participation of an investor in a foreign investment fund or a foreign unit of foreign investment funds.

### **11.4 Gift or inheritance tax**

A transfer of Industrial Metal Securities by way of gift or on death will be subject to German inheritance or gift tax if the investor, or their heir, donee or other beneficiary, is a German resident for German gift or inheritance tax purposes according to the specific rules of the German Gift and Inheritance Tax Act. This may in particular be the case if the investor, heir, donee or other beneficiary is:

- (i) an individual having at the time of the donation or death its residence or habitual abode in Germany or if the individual is a German citizen who has not been living abroad for more than 5 years without having a residence in Germany; or
- (ii) a corporation having its seat or central place of management in Germany, or Industrial Metal Securities constitute business assets attributable to a permanent establishment or a permanent representative in Germany.

### **11.5 Other taxes**

No stamp, issue, registration or similar direct or indirect taxes or duties will be payable in Germany in connection with the issue, delivery or execution of Industrial Metal Securities, the Global Bearer Certificates or any interest therein. No net asset tax is currently levied in Germany.

### **11.6 The European Savings Directive**

On 3 June 2003, the Council of the European Union adopted Directive 2003/48/EC on the taxation of savings income in the form of interest payments. Under this directive, as implemented into German law, Germany is, as of 1 July 2005, required to provide the tax authorities of other member states with details of certain payments of interest paid or secured by a paying agent established in Germany to or for the benefit of an individual resident in that other member state. These details include but are not limited to details of the respective person considered the beneficial owner.

Industrial Metal Securities are undated secured limited recourse debt obligations of the Issuer. However, as no return in respect of Industrial Metal Securities (whether in the form of cash on Redemption, or as a result of trading on stock exchanges) should constitute a payment of interest for the purposes of the directive, the Issuer believes that investors in Industrial Metal Securities or their paying agents will not be within the scope of the directive.

The EU council has published a proposal for amending Directive 2003/48/EC dated 13 November 2008, which may expand the scope of such directive.

## **12. TAXATION IN IRELAND**

### **12.1 General**

The following summary outlines certain aspects of Irish tax law and practice regarding the ownership and disposition of Industrial Metal Securities. This summary deals only with Industrial Metal Securities held beneficially as capital assets and does not address special classes of Security Holders such as dealers in securities. This summary is not exhaustive and Security Holders are advised to consult their own tax advisors with respect to the taxation consequences of their ownership or disposition. The comments are made on the assumption that the Issuer is not resident in Ireland for Irish tax purposes. The summary is based on current Irish taxation legislation and practice of the Irish Revenue Commissioners.

### **12.2 Irish Withholding Tax**

Under Irish tax law there is no obligation on the Issuer to operate any withholding tax on a payment in respect of the Industrial Metal Securities except where such payment has an Irish source. The payment is only likely to be considered to have an Irish source, if, for example, the payment constitutes yearly interest and such interest was paid out of funds maintained in Ireland or where the Industrial Metal Securities were secured on Irish situated assets which it is understood will not be the case. The mere offering of the Industrial Metal Securities to Irish investors will not cause such a payment to have an Irish source.

In certain circumstances collection agents and other persons receiving interest on the Industrial Metal Securities in Ireland on behalf of a Security Holder, will be obliged to operate a withholding tax.

### **12.3 Taxation of Income**

Unless exempted, an Irish resident or ordinarily resident Security Holder will be liable to Irish tax on the amount of any interest or other income, including potentially any premium on redemption, received from the Issuer. Individual Security Holders would also potentially be liable to Pay Related Social Insurance and the universal social charge. Credit against Irish tax on the interest received may be available in respect of any foreign withholding tax deducted by the Issuer.

### **12.4 Taxation of Capital Gains**

Irish resident or ordinarily resident Security Holders would potentially be liable to Irish tax on capital gains on any gains arising on a disposal of Industrial Metal Securities. Reliefs and allowances may be available in computing the Security Holder's liability.

### **12.5 Stamp Duty**

Transfers of Industrial Metal Securities should not be subject to Irish stamp duty, provided the transfers do not relate to Irish land or buildings or securities of an Irish registered company.

### **12.6 Capital Acquisitions Tax**

A gift or inheritance comprising of Industrial Metal Securities will be within the charge to capital acquisitions tax if either (i) the disponer or the donee/successor in relation to the gift or inheritance is resident or ordinarily resident in Ireland (or, in certain circumstances, if the disponer is domiciled in Ireland irrespective of his residence or that of the donee/successor) or (ii) if the Industrial Metal Securities are regarded as property situated in Ireland. The Industrial Metal Securities could only be considered property situated in Ireland if the register of Industrial Metal Security Holders was maintained in Ireland or, to the extent that certificates are issued in bearer form, the bearer certificates were located in Ireland.

### **12.7 Offshore Fund Taxation**

While a holding of an Industrial Metal Security could potentially be treated as a material interest in an offshore fund and subject to the more onerous tax provisions applicable to offshore funds, the Irish Revenue Commissioners have indicated to ETFSL that exchange traded commodity

linked securities in the nature of the Industrial Metal Security should not be so treated. As recommended above, Security Holders should obtain independent tax advice in relation to the tax implications of holding and disposing of Industrial Metal Securities.

## **12.8 Provision of Information**

### **12.8.1 Generally**

Security Holders should be aware that where any interest or other payment on Industrial Metal Securities is paid to them by or through an Irish paying agent or collection agent then the relevant person may be required to supply the Irish Revenue Commissioners with details of the payment and certain details relating to the Security Holder. Where the Security Holder is not Irish resident, the details provided to the Irish Revenue Commissioners may, in certain cases, be passed by them to the tax authorities of the jurisdiction in which the Security Holder is resident for taxation purposes.

### **12.8.2 EU Savings Directive**

The Council of the European Union has adopted a directive regarding the taxation of interest income known as the "European Union Directive on the Taxation of Savings Income (Directive 2003/48/EC)".

Ireland has implemented the directive into national law. Any Irish paying agent making an interest payment on behalf of the Issuer to an individual, and certain residual entities defined in the Taxes Consolidation Act, 1997 resident in another EU Member State and certain associated and dependent territories of a Member State will have to provide details of the payment to the Irish Revenue Commissioners who in turn will provide such information to the competent authorities of the state or territory of residence of the individual or residual entity concerned.

## **13. TAXATION IN ITALY**

### **13.1 General**

The information set out below is a summary of certain limited aspects of the Italian tax consequences of the acquisition, ownership and disposition of Industrial Metal Securities and it does not purport to be a comprehensive description of all the tax issues that may be relevant to a decision to purchase Industrial Metal Securities. This summary does not describe any tax consequences arising under the laws of any state, locality or taxing jurisdiction other than Italy. This summary is based on the tax laws of Italy as in effect on the date of this Prospectus, as well as regulations, rulings and decisions of its taxing and other authorities available on or before such date and now in effect. All of the foregoing is subject to change, which change could apply retroactively and could affect the continued validity of this summary.

Because it is a general summary, holders of Industrial Metal Securities should consult their own tax advisers as to the Italian or other tax consequences of the purchase, holding and disposition of Industrial Metal Securities including, in particular, the application to their particular situations of the tax aspects discussed below, as well as the application of state, local, foreign or other tax laws. This summary assumes that the Issuer is not a tax resident nor deemed to be a tax resident of Italy.

### **13.2 Tax on income and capital gains**

Provided the Industrial Metal Securities qualify broadly as derivative instruments for the purposes of Italian tax law, which they are expected to do, then the following consequences apply to a Security Holder in respect of the periodic measurement of Industrial Metal Securities and/or in relation to the net proceeds received from a redemption or sale of the Industrial Metal Securities over the sum paid by such a holder on their subscription or purchase:

- (i) proceeds from the sale or redemption of the Industrial Metal Securities received by a holder which is (a) an Italian resident corporation or similar commercial entity, (b) an Italian individual engaged in entrepreneurial activities to which the Industrial Metal Securities are effectively connected, or (c) a permanent establishment in Italy of a non-Italian resident to

which the Industrial Metal Securities are effectively connected, as well as unrealised gains reported in the statutory financial statement, may have to be included in the relevant holder's taxable income subject to corporate income tax (IRES, currently applicable at a rate of 27.5 per cent.) and, in certain cases, depending on the status of such holder, may also have to be included in its taxable base for regional income tax on productive activities, (IRAP, currently applicable at a rate of 3.9 per cent.. IRAP rate may be increased in certain Italian regions, also in accordance with the provisions of Law Decree no. 93 of 27 May 2008, which has been converted into Law no. 126 of 24 July 2008; IRAP rate has also been increased to 4.65 per cent and 5.9 per cent by article 23(5) of Law Decree no. 98 of 6 July 2011 for the categories of companies indicated, respectively, under article 6 and article 7 of Legislative Decree no. 446 of 15 December 1997) and are therefore subject to the general Italian corporate tax regime, or to personal income taxation (as business income), as the case may be, according to the ordinary rules;

- (ii) according to article 5 of Legislative Decree no. 461 of 21 November 1997, capital gains realised by Italian resident individuals, not engaged in entrepreneurial activities to which the Industrial Metal Securities are effectively connected, and by certain other non commercial entities upon the sale for consideration or redemption of the Industrial Metal Securities are subject to a substitute tax (*imposta sostitutiva*) currently at the rate of 20 per cent.. Under the tax return regime, which is the standard regime for taxation of capital gains realised by Italian resident individuals not engaged in an entrepreneurial activity, *imposta sostitutiva* on capital gains is applicable, on a cumulative basis, on all capital gains, net of any incurred capital loss, realised in a fiscal year pursuant to all disposals of Industrial Metal Securities and other financial instruments triggering a capital gain or loss that is subject to the same tax regime, carried out during any given fiscal year. These individuals and non commercial entities must report the overall capital gains realised in any tax year, net of any relevant incurred capital loss, in the annual income tax return to be filed with the Italian tax authorities for such year and pay *imposta sostitutiva* on such gains. Capital losses in excess of capital gains may be carried forward against capital gains realised in any of the four succeeding tax years;
- (iii) as an alternative to the tax return regime, according to article 6 of Legislative Decree no. 461 of 21 November 1997, Italian resident individuals not engaged in entrepreneurial activities to which the Industrial Metal Securities are effectively connected and certain other non commercial entities may elect to pay the *imposta sostitutiva* separately on the capital gains realised upon each sale or redemption of the Industrial Metal Securities (under a so called "*Risparmio Amministrato*" regime, which is managed through the provision of non discretionary asset management services to a taxpayer). Such a separate taxation of each capital gain is allowed subject to: (a) the Industrial Metal Securities being deposited with an Italian bank, a *Società di Intermediazione Mobiliare* (SIM) or with one of certain other authorised financial intermediaries, (b) each relevant capital gain being realised through such intermediary, and (c) an express election for the *Risparmio Amministrato* regime being timely made in writing by the relevant Security holder. The financial intermediary, on the basis of the information provided by the taxpayer, accounts for *imposta sostitutiva* in respect of capital gains realised on each sale or redemption of Industrial Metal Securities (as well as in respect of capital gains realised at revocation of its mandate and upon other specific circumstances which are deemed to trigger an assignment under this regime), net of any incurred capital loss, and is required to pay the relevant amount of tax to the Italian fiscal authorities on behalf of the taxpayer, deducting a corresponding amount from proceeds to be credited to the Industrial Metal Securities holder. Under the *Risparmio Amministrato* regime, where a sale or redemption of Industrial Metal Securities results in a capital loss, such loss may be used to reduce the subsequent capital gains realised in the same tax year and up to the following fourth. All gains that have been subject to the *Risparmio Amministrato* regime do not have to be included in the yearly income tax return of the holder of Industrial Metal Securities;
- (iv) also as an alternative to the tax return regime, according to article 7 of Legislative Decree no. 461 of 21 November 1997, the increase or decrease in the fair market value of the Industrial Metal Securities, as well as the gains or losses realised upon the sale for consideration or redemption of the same securities by Italian resident individuals not engaged in entrepreneurial activities to which the Industrial Metal Securities are effectively

connected, and by certain other non commercial entities, who have elected for the so called *Risparmio Gestito* regime (namely, a regime managed by an authorised intermediary providing discretionary management services), will be included in the computation of the annual increase in value of the managed assets accrued, even if not realised, at year end which is subject to a 20 per cent. *imposta sostitutiva*, applied directly by the authorised asset manager. Under the *Risparmio Gestito* regime, any depreciation of the managed assets accrued at year end may be carried forward and deducted against future increase in value of the managed assets in the four succeeding years. All gains that have been subject to the *Risparmio Gestito* regime do not have to be included in the yearly income tax return of the holder of Industrial Metal Securities;

- (v) the increase or decrease in the fair market value of the Industrial Metal Securities, as well as the gains or losses realised upon the sale for consideration or redemption of the same securities by Italian resident collective investment funds and hedge funds, with the exception of Italian real estate investment funds, are not subject to taxation at the fund's level;
- (vi) the increase or decrease in the fair market value of the Industrial Metal Securities, as well as the gains or losses realised upon the sale for consideration or redemption of the same securities by Italian resident pension funds (subject to the regime provided for by articles 14, 14-*ter* and 14-*quater*, paragraph 1, of Legislative Decree 21 April 1993, no. 124 as further substituted by Legislative Decree no. 252 of 5 December 2005) are included in the determination of the yearly NAV accrued appreciation or depreciation of the assets under management that is subject to a substitute tax (*imposta sostitutiva*) currently at a rate of 11 per cent.;
- (vii) non-Italian resident Security Holders without a permanent establishment in Italy to which the Industrial Metal Securities are effectively connected are not subject to income tax in Italy on the proceeds realised on the sale of the Industrial Metal Securities, provided that:
  - the Industrial Metal Securities have not been deposited in Italy; or
  - the Industrial Metal Securities have been deposited in Italy and are traded on a regulated market; or
  - the Industrial Metal Securities have been deposited in Italy but are not traded on a regulated market and the beneficial owner of the proceeds from the Industrial Metal Securities: (i) complies with certain filing requirements; and (ii) is a resident of a country which allows a satisfactory exchange of information with the Italian tax authorities and certain filing requirements have been complied with by the holder. At the date hereof, the countries which allow a satisfactory exchange of information with the Italian tax authorities are identified by Ministerial Decree of 4 September 1996, as subsequently amended and supplemented. However, according to article 168-*bis*(1) of Presidential Decree No. 917 of 1986 (Italian Income Tax Code, IITC) a decree still to be issued is proposed to introduced a new list ordered to replace the current one.

The tax treatment of the Industrial Metal Securities described above has been confirmed by the Italian tax authorities decision No. 72/E of 12 July 2010 dealing with the Italian tax treatment of investment in secured exchange commodities. Nevertheless, should the Italian tax authority and/or tax courts take the view that, regardless of the previous position taken by the Italian tax authority in its decision No. 72/E quoted, the Industrial Metal Securities are to be characterised as debt instruments representing so-called “atypical securities” pursuant to Article 8 of Law Decree no. 512 of 30 September 1983 (as subsequently amended) a different tax treatment would apply. In fact, interest and other proceeds deriving from “atypical securities” issued by non- Italian resident issuers are subject to a 20 per cent. withholding tax applied by the Italian resident intermediary intervening in the payment save where held by a commercial partnership, a commercial private and public institution resident in Italy for tax purposes or by an Italian permanent establishment of a non-Italian resident entity. Instead these entities must include the proceeds in their taxable business income, under the same terms as described under paragraph (i) above.

### 13.3 Inheritance and gift taxes

Law no. 286 of 24 November 2006, which has converted into law, with amendments, Law Decree no. 262 of 3 October 2006, has introduced inheritance and gift tax to be paid at the transfer of assets (such as the Industrial Metal Securities) and rights by reason of death or gift.

As regards the inheritance and gift tax to be paid at the transfer of the Industrial Metal Securities by reason of death or gift, the following rates apply:

- (i) transfers in favour of spouses and direct descendants or direct relatives are subject to an inheritance and gift tax of 4 per cent. on the value of the inheritance or the gift exceeding €1,000,000.00, for each beneficiary;
- (ii) transfers in favour of brothers and sisters are subject to an inheritance and gift tax of 6 per cent. on the value of the inheritance or the gift exceeding €100,000.00, for each beneficiary;
- (iii) transfers in favour of relatives up to the fourth degree or relatives-in-law to the third degree, are subject to an inheritance and gift tax of 6 per cent. on the entire value of the inheritance or the gift;
- (iv) any other transfer is subject to an inheritance and gift tax of 8 per cent. on the entire value of the inheritance or the gift; and
- (v) transfers in favour of seriously disabled persons are subject to an inheritance and gift tax at the relevant rate as described above on the value of the inheritance or the gift exceeding €1,500,000.00, for each beneficiary.

Moreover, an anti-avoidance rule is provided by Law no. 383 of 18 October 2001 for any gift of assets (such as the Industrial Metal Securities) which, if sold for consideration, would give rise to capital gains subject to the *imposta sostitutiva* provided for by Legislative Decree no. 461 of 21 November 1997. In particular, if the donee sells the Industrial Metal Securities for consideration within five years from the receipt thereof as a gift, the donee is required to pay the relevant *imposta sostitutiva* on capital gains as if the gift had never taken place.

### 13.4 Value added tax

No Italian value added tax will be payable by a holder of Industrial Metal Securities in consideration for the issue or transfer of Industrial Metal Securities.

### 13.5 Securities Transfer Tax

According to Article 37 of Law Decree no. 248 of 31 December 2007, as converted with amendments into Law no. 31 of 28 February 2008, the transfer of the Industrial Metal Securities is not subject to Italian transfer tax.

### 13.6 Stamp duty

Pursuant to Article 19(1) of Decree No. 201 of 6 December 2011 ("**Decree 201**"), a proportional stamp duty applies on an annual basis to the periodic reporting communications sent by financial intermediaries to their clients for Industrial Metal Securities deposited therewith. The stamp duty applies at a rate of 0.1 per cent. for year 2012 and at 0.15 per cent. for subsequent years; this stamp duty is determined on the basis of the market value or – if no market value figure is available – the nominal value or redemption amount of the Industrial Metal Securities held. The stamp duty can be no lower than €34.20 and, for the year 2012 only, it cannot exceed €1,200.00.

### 13.7 Wealth Tax on securities deposited abroad

Pursuant to Article 19(18) of Decree 201, Italian resident individuals holding the Industrial Metal Securities outside the Italian territory are required to pay an additional tax at a rate of 0.1 per cent. for 2011 and 2012, and at 0.15 per cent. for subsequent years.

This tax is calculated on the market value of Industrial Metal Securities at the end of the relevant year or – if no market value figure is available – the nominal value or the redemption value of such financial assets held outside the Italian territory. Taxpayers are entitled to an Italian tax

credit equivalent to the amount of wealth taxes paid in the state where the financial assets are held (up to an amount equal to the Italian wealth tax due).

### **13.8 The European Savings Directive**

The EU Savings Directive (the "Directive") came into force on 1 July 2005. The Directive applies, amongst other matters, to payments of interest on debt claims of every kind made by a paying agent in an EU Member State for the benefit of individual investors resident in the EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside. A paying agent for these purposes is any economic operator who pays interest to, or secures interest for the beneficial owner, and could in relation to Industrial Metal Securities include an Italian broker effecting the sale of Industrial Metal Securities.

Industrial Metal Securities are undated secured limited recourse debt obligations of the Issuer. However, as no return in respect of Industrial Metal Securities should constitute a payment of interest for the purposes of the Directive, it is not envisaged that holders or their paying agents should be within the scope of the Directive.

## **14 TAXATION IN THE NETHERLANDS**

### **(a) General**

The information set out below is a summary of certain material Dutch tax consequences of the acquisition, ownership and disposition of Industrial Metal Securities and it does not purport to be a comprehensive description of all the tax considerations that may be relevant to a decision to purchase Industrial Metal Securities. This summary does not describe any tax consequences arising under the laws of any state, locality or taxing jurisdiction other than The Netherlands.

This summary is based on the tax laws of The Netherlands as in effect on the date of this Prospectus, as well as regulations, rulings and decisions of The Netherlands or of its taxing and other authorities available on or before such date and now in effect, and as applied and interpreted by Netherlands courts, without prejudice to any amendments introduced at a later date and implemented with or without retroactive effect. All of the foregoing is subject to change, which change could apply retroactively and could affect the continued validity of this summary.

Because it is a general summary, prospective holders of Industrial Metal Securities should consult their own tax advisors as to the Dutch or other tax consequences of the purchase, holding and disposition of Industrial Metal Securities including, in particular, the application to their particular situations of the tax considerations discussed below, as well as the application of state, local, foreign or other tax laws.

The Issuer believes that it is not a resident nor that it is deemed to be a resident of The Netherlands nor that it qualifies as a non-resident taxpayer (*buitenlands belastingplichtige*) for Netherlands tax purposes, and the following summary assumes that the Issuer will not be treated as a resident or deemed resident of The Netherlands nor that it will be treated as a non-resident taxpayer for Netherlands tax purposes.

### **(b) Withholding tax**

Payments of the Issuer with regard to the Industrial Metal Securities will be free from withholding or deduction for any taxes of whatsoever nature imposed, levied, withheld or assessed by The Netherlands or any political subdivision or taxing authority thereof or therein.

### **(c) Tax on income and capital gains**

#### *General*

The description of taxation set out in this section of this Prospectus is not intended for any holder of Industrial Metal Securities, who:

- (i) is an individual and for whom the income or capital gains derived from Industrial Metal Securities are attributable to employment activities the income from which is taxable in The Netherlands;
- (ii) is an entity that is a resident or deemed to be a resident of The Netherlands and that is, in whole or in part, not subject to or exempt from Netherlands corporate income tax;
- (iii) is a fiscal investment institution (*fiscale beleggingsinstelling*) or an exempt investment institution (*vrijgestelde beleggingsinstelling*) as defined in the Netherlands Corporate Income Tax Act 1969 (*Wet op de vennootschapsbelasting 1969*);
- (iv) has directly or indirectly, a substantial interest (*aanmerkelijk belang*) or a deemed substantial interest as defined in the Netherlands Income Tax Act 2001 (*Wet inkomstenbelasting 2001*) in the Issuer.

## **Residents of The Netherlands**

### *Individuals*

An individual who is resident or deemed to be resident in The Netherlands, or who opts to be taxed as a resident of The Netherlands for purposes of Dutch taxation (a “**Dutch Resident Individual**”) and who holds Industrial Metal Securities is subject to Netherlands income tax on income and/or capital gains derived from Industrial Metal Securities at the progressive rate (up to 52 per cent; rate for 2012) if:

- (i) the holder derives profits from an enterprise or deemed enterprise, whether as an entrepreneur (*ondernemer*) or pursuant to a co-entitlement to the net worth of such enterprise (other than as an entrepreneur or a shareholder), to which enterprise the Industrial Metal Securities are attributable; or
- (ii) the holder derives income or capital gains from Industrial Metal Securities that are taxable as benefits from “miscellaneous activities” (*resultaat uit overige werkzaamheden*, as defined in the Netherlands Income Tax Act 2001), which include the performance of activities with respect to the Industrial Metal Securities that exceed regular, active portfolio management (*normaal, actief vermogensbeheer*).

If conditions (i) and (ii) mentioned above do not apply, any holder of Industrial Metal Securities who is a Dutch Resident Individual will be subject to Netherlands income tax on a deemed return regardless of the actual income and/or capital gains derived from Industrial Metal Securities. This deemed return has been fixed at a rate of 4 per cent of the individual’s yield basis (*rendementsgrondslag*) insofar as this exceeds a certain threshold (*heffingvrij vermogen*). The individual’s yield basis is determined as the fair market value of certain qualifying assets (including, as the case may be, the Industrial Metal Securities) held by the Dutch Resident Individual less the fair market value of certain qualifying liabilities, both determined on 1 January of the relevant year. The deemed return of 4 per cent will be taxed at a rate of 30 per cent (rate for 2012).

### *Entities*

An entity that is resident or deemed to be resident in The Netherlands (a “**Dutch Resident Entity**”) will generally be subject to Netherlands corporate income tax with respect to income and capital gains derived from Industrial Metal Securities. The Netherlands corporate income tax rate is 20 per cent for the first € 200,000 of the taxable amount, and 25 per cent for the excess of the taxable amount over € 200,000 (rates applicable for 2012).

### *Non-residents of The Netherlands*

A person who is neither a Dutch Resident Individual nor Dutch Resident Entity (a “**Non-Dutch Resident**”) and who holds Industrial Metal Securities is generally not subject to Netherlands income tax or corporate income tax on income and capital gains derived from Industrial Metal Securities, provided that:

- (i) such Non-Dutch Resident does not derive profits from an enterprise or deemed enterprise, whether as an entrepreneur (*ondernemer*) or pursuant to a co-entitlement to the net worth of such enterprise (other than as an entrepreneur or a shareholder) which enterprise is, in whole or in part, carried on through a permanent establishment or a permanent



representative in The Netherlands and to which enterprise or part of an enterprise, as the case may be, Industrial Metal Securities are attributable or deemed attributable;

- (ii) in the case of a Non-Dutch Resident who is an individual, such individual does not derive income or capital gains from Industrial Metal Securities that are taxable as benefits from “miscellaneous activities” (*resultaat uit overige werkzaamheden*, as defined in the Netherlands Income Tax Act 2001) performed or deemed to be performed in The Netherlands, which include the performance of activities with respect to the Industrial Metal Securities that exceed regular, active portfolio management (*normaal, actief vermogensbeheer*); and
- (iii) such Non-Dutch Resident is neither entitled to a share in the profits of an enterprise nor co-entitled to the net worth of such enterprise effectively managed in The Netherlands, other than by way of the holding of securities or, in the case of an individual, through an employment contract, to which enterprise Industrial Metal Securities or payments in respect of Industrial Metal Securities are attributable.

A Non-Dutch Resident that falls under any of the exclusions (i) through (iii) mentioned above, may be subject to Netherlands income tax or corporate income tax on income and capital gains derived from Industrial Metal Securities. In case such holder of an Industrial Metal Security is considered to be a resident of Aruba, Curaçao or St. Maarten under the provisions of the Tax Arrangement for the Kingdom of the Netherlands (*Belastingregeling voor het Koninkrijk*), or is considered to be a resident of a country other than the Netherlands under the provisions of a double taxation convention the Netherlands has concluded with such country, the following may apply. Such holder of an Industrial Metal Security may, depending on the terms of and subject to compliance with the procedures for claiming benefits under the Tax Arrangement for the Kingdom of the Netherlands or such double taxation convention, be eligible for a full or partial exemption from Netherlands taxes (if any) on (deemed) income or capital gains in respect of an Industrial Metal Security, provided such holder is entitled to the benefits of the Tax Arrangement for the Kingdom of the Netherlands or such double taxation convention.

**(d) Gift or inheritance tax**

No Netherlands gift or inheritance taxes will be levied on the transfer of Industrial Metal Securities by way of gift by or on the death of a holder, who is neither a resident nor deemed to be a resident of The Netherlands for the purpose of the relevant provisions, unless:

- (i) the transfer is construed as an inheritance or bequest or as a gift made by or on behalf of a person who, at the time of the gift or death, is or is deemed to be a resident of The Netherlands for the purpose of the relevant provisions; or
- (ii) such holder dies while being a resident or deemed resident of the Netherlands within 180 days after the date of a gift of Industrial Metal Securities.

For purposes of Netherlands gift and inheritance tax, an individual who is of Dutch nationality will be deemed to be a resident of The Netherlands if he has been a resident in The Netherlands at any time during the ten years preceding the date of the gift or his death.

For purposes of Netherlands gift tax, an individual will, irrespective of his nationality, be deemed to be resident of The Netherlands if he has been a resident in The Netherlands at any time during the 12 months preceding the date of the gift.

**(e) Value added tax**

No Netherlands value added tax will be payable by a holder of Industrial Metal Securities in consideration for the issue of Industrial Metal Securities (other than value added taxes on fees payable in respect of services not exempt from Netherlands value added tax).

**(f) Other taxes or duties**

No Netherlands registration tax, custom duty, transfer tax, stamp duty or any other similar tax or duty, other than court fees, will be payable in The Netherlands by a holder of Industrial Metal Securities in respect of or in connection with the acquisition, ownership and disposition of the Industrial Metal Securities.

## **(g) The European Savings Directive**

EU Council Directive 2003/48/EC on the taxation of savings income (the “**Directive**”) applies, amongst other matters, to payments of interest or other income on debt claims of every kind made by a paying agent in an EU Member State for the benefit of individual investors resident in another Member State in the EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside. However, for a transitional period, Belgium, Luxembourg and Austria are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries and territories). The Belgian Government has elected to end the transitional period applicable to Belgium and therefore operates the information exchange regime with effect from 1 January 2010. A paying agent for these purposes is any economic operator who pays interest or other similar income to, or secures interest or other similar income for, the beneficial owner, and could in relation to Industrial Metal Securities include a Dutch broker effecting the sale of Industrial Metal Securities. A number of non-EU countries and territories including Switzerland have agreed to adopt similar measures.

On 15 September 2008 the European Commission issued a report to the Council of the European Union on the operation of the Directive, which included the Commission’s advice on the need for changes to the Directive. On 13 November 2008 the European Commission published a more detailed proposal for amendments to the Directive, which included a number of suggested changes. If any of those proposed changes are made in relation to the Directive, they may amend or broaden the scope of the requirements described above.

## **15. TAXATION IN PORTUGAL**

### **15.1 General**

The following is a summary of the material Portuguese tax issues applicable to the acquisition, holding and disposition of Industrial Metal Securities by investors residing for tax purposes in or outside of Portugal pursuant to an offer of Industrial Metal Securities in Portugal. Industrial Metal Securities are not expressly dealt with in the Portuguese legislation and no express opinion has been issued by the Portuguese tax authorities or courts as to their status for tax purposes.

Industrial Metal Securities should be considered zero-coupon secured debt securities for the purposes of Personal Income Tax (“**PIT**”) and Corporate Income Tax (“**CIT**”). However, the Portuguese tax authorities and courts may adopt a different approach and there is no guarantee that the courts or tax authorities will adopt the position described above (for instance, the legal qualification as derivative financial instruments) and this could lead to the application of a tax treatment significantly diverse from that described herein.

This information is of a general nature and does not purport to be a comprehensive description of all Portuguese tax considerations that may be relevant to a decision to acquire, to hold and to dispose of Industrial Metal Securities. Holders of and prospective investors in Industrial Metal Securities should consult their own tax advisors as to the Portuguese and any other tax consequences that may be involved in acquiring, holding, redeeming, selling or gratuitously transferring Industrial Metal Securities. Only a tax advisor is able to adequately assess the individual tax situation of a specific investor.

Finally, while this summary is based on the tax laws in Portugal in effect as of the date of this Prospectus, the tax rules may be amended in the future and the interpretation of the tax rules may change.

### **15.2 Taxation of capital gains arising from the disposal of Industrial Metal Securities**

#### *Capital gains obtained by Portuguese resident individuals*

Capital gains obtained on the disposal of Industrial Metal Securities, by individuals resident for tax purposes in Portugal, are currently subject to tax at a special 25 per cent. rate levied on the positive difference between the capital gains and capital losses of each year, unless an individual

chooses to aggregate such capital gains to their taxable income and then be subject to the general progressive Personal Income Tax rates of up to 46.5 per cent. During 2012 and 2013 an additional income tax rate of 2.5 per cent will be due on the part of the taxable income exceeding €153,300. An income tax exemption applies if such annual positive difference does not surpass €500.

#### *Capital gains obtained by Portuguese corporate entities*

Capital gains obtained on the disposal of Industrial Metal Securities, by corporate entities resident for tax purposes in Portugal and by non-Portuguese resident corporate entities with a permanent establishment therein to which the gains are attributable, are included in their taxable income and subject to Corporate Income Tax, at a 25 per cent tax rate, to which may be added a municipal surcharge (*derrama municipal*) of up to 1.5 per cent of its taxable income, as well as a state surcharge, if taxable income exceeds €1,500,000, which is levied at a 3 per cent rate over the part of the taxable income exceeding such amount and up to €10,000,000 and at a 5 per cent over the part of the taxable income exceeding €10,000,000 (*derrama estadual*).

#### *Capital gains obtained by Non-Portuguese residents*

Capital gains obtained on the disposal of Industrial Metal Securities, by individuals and corporate entities not resident for tax purposes in Portugal and without a permanent establishment therein to which the gains are attributable, are not subject to taxation in Portugal.

### **15.3 Gratuitous Transfers of Industrial Metal Securities**

Gratuitous transfers of Industrial Metal Securities to Portuguese resident individuals would not be liable to Portuguese Stamp Duty, as they fall outside the territorial scope of such tax (i.e., no connection with the Portuguese territory exists as the debtor of the patrimonial or credit rights has its domicile, head office, place of effective management or permanent establishment outside the Portuguese territory).

Gratuitous transfers of Industrial Metal Securities in favor of Portuguese corporate entities (or non-Portuguese corporate entities with a permanent establishment located in Portugal to which such transfer is attributable) shall qualify as patrimonial increases, which would be included in their taxable income and subject to Corporate Income Tax at a 25 per cent rate to which may be added a municipal surcharge (*derrama municipal*) of up to 1.5 per cent of its taxable income, as well as a state surcharge, if taxable income exceeds €1,500,000, which is levied at a 3 per cent rate over the part of the taxable income exceeding such amount and up to €10,000,000 and at a 5 per cent rate over the part of the taxable income exceeding €10,000,000 (*derrama estadual*). These patrimonial increases deriving from the gratuitous acquisition of Industrial Metal Securities shall be assessed at the market price of Industrial Metal Securities.

Gratuitous transfer of Industrial Metal Securities, obtained by non-Portuguese investors would not be subject to taxation in Portugal.

### **15.4 The European Savings Directive**

Under EC Council Directive 2003/48/EC on the taxation of savings income, Portugal is required, from 1 July 2005, to provide to the tax authorities of another Member State details of payments of interest (or similar income) paid by a person within its jurisdiction to an individual resident in that other Member State. However, for a transitional period, Belgium, Luxembourg and Austria are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries). A number of non-EU countries and certain dependent or associated territories of certain Member States have agreed to adopt similar measures (either provision of information or transitional withholding) in relation to payments made by a person within its jurisdiction to, or collected by such a person for, an individual resident in a Member State (Switzerland adopts such a withholding system). In addition, certain Member States have entered into arrangements for reciprocal provision of information and/or transitional withholding arrangements with certain of those dependent or associated territories in relation to payments made by a person in a Member State to, or collected by such a person for, an individual resident in one of those territories.

For these purposes, a paying agent is any economic operator who pays interest or other similar income to the beneficial owner and could in relation to Industrial Metal Securities include a Portuguese broker or a financial entity that would intervene in the reimbursement or redemption of Industrial Metal Securities. Industrial Metal Securities should not, from a Portuguese point of view, be affected by the obligations foreseen in the Directive and its corresponding transposition into the Portuguese legislation, as no Portuguese paying agent intervenes in this issue.

### **15.5 Taxation of income arising from the redemption of Industrial Metal Securities**

*(Only applicable in cases where Security Holders (other than Authorised Participants) are permitted to Redeem Industrial Metal Securities directly with the Issuer, i.e., if there are no Authorised Participants).*

As a general rule, the economic advantages arising from Industrial Metal Securities are qualified as investment income for Portuguese tax purposes.

#### *Investment income obtained by Portuguese resident individuals*

Investment income derived on Industrial Metal Securities paid to a Security Holder considered to be resident in the Portuguese territory for tax purposes (or to a non-Portuguese resident having a permanent establishment in the Portuguese territory to which such income is attributable), is subject to Personal Income Tax at a special rate of 25 per cent, unless the individual chooses to aggregate such investment income to their taxable income and then be subject to general progressive Personal Income Tax rates of up to 46.5 per cent. During 2012 and 2013 an additional income tax rate of 2.5 per cent will be due on the part of the taxable income exceeding €153,300.

#### *Investment income obtained by Portuguese resident corporate entities*

Regarding Security Holders that are corporate entities resident in Portuguese territory (or nonresidents having a permanent establishment therein to which income is imputable) investment income or gains are included in their taxable income and are subject to Corporate

Income Tax at a 25 per cent rate, to which may be added a municipal surcharge (*derrama municipal*) of up to 1.5 per cent of its taxable income, as well as a state surcharge, if taxable income exceeds €1,500,000, which is levied at a 3 per cent rate over the part of the taxable income exceeding such amount and up to €10,000,000, and at a 5 per cent rate over the part of the taxable income exceeding €10,000,000 (*derrama estadual*).

#### *Investment income obtained by non-Portuguese residents*

Investment income derived on Industrial Metal Securities paid to Security Holders nonresident for tax purposes in the Portuguese territory and without having a permanent establishment therein would not be subject to Portuguese taxation.

#### *Common rules*

Pension funds and some other exempt entities may be not subject to taxation in Portugal, as specified by current Portuguese tax law.

## **16. TAXATION IN SPAIN**

### **16.1 General**

A brief summary is provided below of the Spanish tax regime applicable to the investments arising from this offer, for which purpose only current legislation and general factors which may affect investors are taken into account. No regional legislation which may be of application to a particular investor is considered.

Industrial Metal Securities are not expressly dealt with in the Spanish legislation and no express opinion has been issued by the Spanish tax authorities or courts as to their status for tax purposes.

The Issuer believes that Industrial Metal Securities would be considered interest-generating debt securities for the purposes of Personal Income Tax and Corporate Income Tax and that the special tax regime applicable to participants in tax haven Collective Investment Institutions should not apply to Industrial Metal Securities.

Nevertheless, the Spanish tax authorities and courts could adopt a different approach, since it is an uncertain matter and there is no guarantee, therefore, that such Courts or Tax Authorities will adopt the position of the Issuer. A different position from that of the Issuer, if adopted by the Tax Authorities or Courts (including but not limited to, as regards the application of the tax regime of participants in tax haven Collective Investment Institutions), could lead to the application tax treatment radically different from that described herein.

Holders of and potential investors in Industrial Metal Securities should consult their own tax advisors as to the Spanish or other tax consequences of the purchase, holding and disposition of Industrial Metal Securities including, in particular, the application to their particular situation of the tax considerations discussed below, as well as the application of state, local, foreign or other tax laws taking into account the arising tax uncertainties.

This summary assumes that all Industrial Metal Securities issued as at the date of this Supplemental Prospectus or to be issued will be admitted to trading on the Main Market of the London Stock Exchange which is part of its Regulated Market for listed securities (being securities admitted to the Official List).

The tax regime in Spain applicable to Industrial Metal Securities may change from time to time.

Finally, it should be pointed out that the tax treatment described here is of a general nature and, therefore, among other aspects, does not describe the tax consequences for certain categories of taxpayers including, but not limited to, entities falling under the attribution of income regime, financial institutions, Collective Investment Institutions, Cooperatives, which may be subject to specific rules.

## **16.2 Taxation of income from Industrial Metal Securities**

*Natural or legal persons resident in Spain*

### Personal Income Tax: Natural persons

The income obtained by individual holders of Industrial Metal Securities who have the status of taxpayers for the purposes of Spanish Personal Income Tax, due to the purchase, holding and disposition of such Industrial Metal Securities, will be considered income from movable capital obtained due to the supply of funds to third parties upon the terms of Article 25.2 of Law 35/2006, of November 28, on the Personal Income Tax. Such income would be included in the savings tax base and, in cases of losses, their integration on the savings tax base and their offsetting will be subject to the rules foreseen in that respect in the Personal Income tax legislation.

Any income derived from the purchase, holding and disposition of Industrial Metal Securities will be subject to withholding tax on account of the Personal Income Tax of the holder, in case there is any person or entity obliged to levy said withholding tax in accordance with the general rules of the levying of withholding taxes. From January 1, 2012 pursuant to the Royal Decree Law 20/2011, of December 30, the withholding tax will be of 21 per cent for the tax periods 2012 and 2013. From January 1, 2014 and onwards, in principle, the withholding tax will be of 19 per cent.

For tax periods 2012 and 2013, income included in the savings income taxable base will be taxed at 21 per cent (applicable to the first 6,000 Euros), 25 per cent (applicable to the following 18,000 Euros) and 27 per cent (applicable to the remainder amounts). In principle, from January 1, 2014 and onwards, income included in the savings income taxable base will be taxed at 19 per cent for amounts up to €6,000 and 21 per cent for amounts including and in excess of €6,000.01.

### Corporate Income Tax: Entities

The tax regime for Spanish-resident entities holders of Industrial Metal Securities is included in the Royal Legislative Decree 4/2004, of March 5, that approves the Revised Text of the Corporate Income Tax Law ("Royal Legislative Decree 4/2004") and the Royal Decree 1777/2004, of July 30, that approves the Corporate Income Tax Ruling ("Royal Decree 1777/2004").

According to article 10.3 of the Royal Legislative Decree 4/2004, the taxable income will be calculated in accordance with the accounting treatment of such income by the relevant entity. The tax adjustments to the accounting treatment which may be of application should be taken into account when calculating the taxable base.

In accordance with the provisions of Article 59.s) of Royal Decree 1777/2004, the income obtained from the purchase, holding and disposition of Industrial Metal Securities by entities which are considered taxable persons for Corporate Income Tax purposes will not be subject to withholding tax on account of Corporate Income Tax, provided that Industrial Metal Securities were traded on an organized market of an OECD country..

### **16.3 Natural or legal persons not resident in Spain**

The income obtained from the purchase, holding and disposition by holders of Industrial Metal Securities who are taxpayers pursuant to the Spanish Non-Residents Income Tax will be taxed pursuant to the Refunded Text of the Non-Residents Income Tax Law, passed by Royal Legislative Decree 5/2004, of March 5 (hereinafter "Non-Residents Income Tax Law").

#### Income obtained through a permanent establishment

The income from Industrial Metal Securities obtained through a permanent establishment in Spain will be taxed in accordance with the rules of Chapter III of the Non-Residents Income Tax Law, subject to the provisions of any relevant double tax treaties.

Such income will not be subject to withholding tax on account of Non-Residents Income Tax upon the same terms set out above for taxable persons under Spanish Corporate Income Tax (entities resident in Spain).

#### Income obtained without a permanent establishment

The Issuer believes that income realized by investors residing outside Spain and without a permanent establishment within the Spanish territory (individuals and legal entities) would not be considered as Spanish-source income and, therefore, would not be subject to taxation and withholding tax in Spain under the Non-Residents Income Tax Law.

### **16.4 Value Added Tax**

The general rules foreseen in the Spanish Value Added Tax legislation would apply to the purchase, holding and disposition of Industrial Metal Securities.

### **16.5 Transfer Tax**

The purchase, holding and disposition of Industrial Metal Securities would not be taxed under the Spanish Transfer Tax.

### **16.6 Inheritance and Gift Tax**

The transfer of Industrial Metal Securities as a result of an inheritance or gift situation would be subject to the general rules of the Spanish Inheritance and Gift Tax, subject to the application of any relevant double tax treaties.

If the beneficiary of any inheritance or gift were a Spanish legal entity or a non resident entity with a permanent establishment in Spain, income obtained would be subject to taxation under the Spanish Corporate Income Tax or the Non-resident Income Tax, subject to the application of any relevant double tax treaties.

However, in principle, non-Spanish resident individuals and non-Spanish entities without a permanent establishment in Spanish territory would not be subject to the Spanish Inheritance and Gift tax on the acquisition of Industrial Metal Securities.

### **16.7 Net Wealth Tax**

The ownership of Industrial Metal Securities would be subject to the Net Wealth Tax pursuant to the Royal Decree 13/2011, of September 16 that has restored temporarily for years 2011 and

2012 the Spanish Net Wealth Tax regulated by Law 19/1991, of June 6 (hereinafter “Net Wealth Tax Law”), subject to the application of any relevant double tax treaties

Only natural persons holders of Industrial Metal Securities would be subject to the Net Wealth Tax.

#### Ownership of Industrial Metal Securities by natural persons resident in Spain

Under article 5 of the Net Wealth Tax Law, the relevant taxpayers will be all those natural persons who have their habitual residence in Spain regardless of the place where their assets or rights are located or could be exercised.

Consequently, the ownership of Industrial Metal Securities by individuals resident for tax purposes in Spain will be subject to taxation under the Net Wealth Tax at a progressive rate scale from 0.2 per cent to 2.5 per cent.

However, it is necessary to take into account that the power to implement the NWT (including certain tax benefits) has been transferred to the Spanish regions and, as a result, some territories have, in practice, eliminated the NWT under specific circumstances. Therefore, an analysis must be made in each specific case to determine to what extent any regional legislation might be applicable, since there might be differences in respect of taxation under Net Wealth Tax depending on the region in which an investor resides.

#### Ownership of Industrial Metal Securities by natural persons not resident in Spain

Non-Spanish residents would not be subject to the Net Wealth Tax on the holding of Industrial Metal Securities.

### **16.8 The European Savings Directive**

EU Council Directive 2003/48/EC on the taxation of savings income (the Directive) applies, amongst other matters, to payments of interest or other income on debt claims of every kind made by a paying agent in an EU Member State for the benefit of individual investors resident in another Member State in the EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside (although, for a transitional period, certain countries (not Spain) are instead required (unless during that period they elect otherwise) to operate a withholding system in relation to such payments (the ending of such transitional period being dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries and territories).

A paying agent for these purposes is any economic operator who pays interest or other similar income to, or secures interest or other similar income for, the beneficial owner, and could in relation to Industrial Metal Securities include a Spanish broker or financial entity that would intervene in the sale or reimbursement or redemption of Industrial Metal Securities. A number of non-EU countries and territories including Switzerland have agreed to adopt similar measures (a withholding system in the case of Switzerland).

The Issuer believes that Industrial Metal Securities are, from a Spanish point of view, affected by the obligations foreseen in the Directive and its corresponding transposition into the Spanish legislation.

## **17. TAXATION IN SWEDEN**

### **17.1 General**

The following summary of certain tax issues that may arise as a result of holding Industrial Metal Securities is based on current Swedish tax legislation as at the date of this Prospectus and is intended only as general information for Security Holders who are resident or domiciled in Sweden for tax purposes. This description does not deal comprehensively with all tax consequences that may occur for Security Holders, nor does it cover the specific rules where Industrial Metal Securities are held by a partnership or are held as current assets in a business operation. The description does not, moreover, cover Industrial Metal Securities held on a so-called investment savings account (*investeringssparkonto*). Special tax consequences that are not described below may also apply for certain categories of taxpayers, including investment

companies, mutual funds and persons who are not resident or domiciled in Sweden. It is recommended that prospective applicants for Industrial Metal Securities consult their own tax advisers for information with respect to the special tax consequences that may arise as a result of holding Industrial Metal Securities, including the applicability and effect of foreign income tax rules, provisions contained in double taxation treaties and other rules which may be applicable. Moreover, this summary assumes that the Issuer is not a tax resident nor deemed to be a tax resident of Sweden.

## **17.2 Taxation of individuals resident in Sweden**

### *Capital gains and losses*

Individuals and the estates of deceased Swedish individuals, who sell their Industrial Metal Securities, are subject to capital gains taxation. The current tax rate is 30 per cent. of the gain. The capital gain or loss is equal to the difference between the sales proceeds (that is the market value of the warrants at the time of redemption plus any cash received) after deduction of sales costs and the acquisition cost of the Industrial Metal Securities. The acquisition cost is calculated according to the so-called average method. This means that the costs of acquiring all Industrial Metal Securities of the same type and class are added together and calculated collectively, with respect to changes to the holding.

As a general rule, 70 per cent. of a capital loss is deductible against any other taxable income derived from capital. However, if the Industrial Metal Securities should be treated as foreign listed receivables, any capital loss will be fully deductible in the capital income category. Should the total of "income from capital" be negative, a reduction of the tax on income from employment and from business, as well as the tax on real estate, is allowed. The tax reduction allowed amounts to 30 per cent. of any deficit not exceeding SEK 100,000 and 21 per cent. of any deficit in excess of SEK 100,000. Any deficits may not be carried forward to a subsequent fiscal year.

## **17.3 Taxation of Swedish legal entities**

### *Capital gains and losses*

Limited liability companies and other legal entities, except for the estates of deceased Swedish individuals, are taxed on all income (including income from the sale of Industrial Metal Securities) as income from business activities at a flat rate of 26.3 per cent. Regarding the calculation of a capital gain or loss and the acquisition cost, see "Taxation of individuals resident in Sweden" above.

Capital losses attributable to Industrial Metal Securities are fully deductible against any other taxable income from business activities. Capital losses that are not deducted against taxable income within a certain year may normally be carried forward and offset against taxable income the following fiscal year without any limitation in time.

## **17.4 Withholding tax**

No deduction or withholding for or on account of Swedish tax is required to be made on payments from the Issuer to Security Holders on Redemption of Industrial Metal Securities.

## **17.5 Inheritance and gift taxes**

No Swedish gift or inheritance tax will be levied on the transfer of Industrial Metal Securities by way of gift by or on the death of a Security Holder.

## **17.6 Value added tax**

No Swedish value added tax will be payable by a Security Holder in consideration for the issue of Industrial Metal Securities.



## 17.7 Other taxes or duties

No Swedish registration tax, custom duty, transfer tax, stamp duty or any other similar tax or duty will be payable in Sweden by a holder of an Industrial Metal Security.

## 17.8 The European Savings Directive

The EU Savings Directive (the “**Directive**”) came into force on 1 July 2005. The Directive applies, amongst other matters, to payments of interest on debt claims of every kind made by a paying agent in an EU Member State for the benefit of individual investors resident in the EU. In circumstances where the Directive applies, such a paying agent would be under an obligation to provide information to the tax authorities of the EU Member States in which individual investors reside. A paying agent for these purposes is any economic operator who pays interest to, or secures interest for, the beneficial owner, and could in relation to Industrial Metal Securities include a broker effecting the sale of Industrial Metal Securities.

Industrial Metal Securities are undated secured limited recourse debt obligations of the Issuer. However, as no return in respect of the Industrial Metal Securities (whether in the form of cash or Warrants on redemption, or as a result of trading on the London Stock Exchange, the Exchange Traded Commodities SEK of the OMX Nordic Exchange, or any other stock exchange or market) should constitute a payment of interest for the purposes of the Directive, it is not envisaged that Security Holders or their paying agents will be within the scope of the Directive.

## 18 SOURCES

18.1 Certain statements in Part 2 (*The Industrial Metals Market*) have been derived from external published sources as follows:

The statements under the heading “Trading Metal” in Part 2 (*The Metals Market*) have been derived from the websites of the CME Group (<http://www.cmegroup.com>), the Shanghai Futures Exchange (<http://www.shfe.com>) and the Tokyo Stock Exchange (<http://www.tse.or.jp>).

The statements under the heading “The London Metals Exchange” in Part 2 (*The Metals Market*) have been sourced from the website of the London Metals Exchange (<http://www.lme.com>).

The statements under the heading “Storing Metals” in Part 2 (*The Metals Market*) are derived from the website of the London Metals Exchange (<http://www.lme.com>) and the LME Rules.

The statements under the heading “Aluminium” in Part 2 (*The Metals Market*) are derived sourced from the CRB Commodity Yearbook 2005, published by the Commodity Research Bureau, and the United States Geological Survey website (<http://www.usgs.gov>).

The statements under the heading “Copper” in Part 2 (*The Metals Market*) are derived from the CRB Commodity Yearbook 2005, published by the Commodity Research Bureau, and the International Copper Study Group website (<http://www.usgs.gov>).

The statements under the heading “Lead” in Part 2 (*The Metals Market*) are derived from the websites of the International Lead and Zinc Study Group (<http://www.ilzsg.org>) and the Lead Development Association International (<http://www.ldaint.org>).

The statements under the heading “Nickel” in Part 2 (*The Metals Market*) are derived from the CRB Commodity Yearbook 2005, published by the Commodity Research Bureau.

The statements under the heading “Tin” in Part 2 (*The Metals Market*) are derived from the CRB Commodity Yearbook 2005, published by the Commodity Research Bureau, and the website of ITRI (<http://www.itri.co.uk>).

The statements under the heading “Zinc” in Part 2 (*The Metals Market*) are derived from the CRB Commodity Yearbook 2005, published by the Commodity Research Bureau, and the International Lead and Zinc Study Group website (<http://www.ilzsg.org>).

The data used to create the charts under the headings “Historic Industrial Metals Price” and “Warehouse Fees” in Part 2 (*The Metals Market*) has been sourced from Bloomberg LP and the website of the London Metals Exchange (<http://www.LME.com>).

The data used to create the table under the heading “Correlation of Metals with other Asset Classes” in Part 2 (*The Metals Market*) has been sourced from Bloomberg LP.

- 18.2 To the extent that the information referred to in this paragraph 17 above has been sourced from a third party, such information has been accurately reproduced and, so far as the Issuer is aware and is able to ascertain from information published by the referenced third party source, no facts have been omitted which would render the reproduced information inaccurate or misleading.

None of the documents or websites referred to in this paragraph 17 above are incorporated into or form part of this Prospectus for the purposes of the Prospectus Directive or the Prospectus Rules.

## **19 GENERAL**

- 19.1 The Issuer’s auditors are Deloitte LLP of Lord Coutanche House, 66-68 Esplanade, St Helier, Jersey JE4 8WA, Channel Islands. The Issuer was formed on 24 August 2010 and its accounting reference date is 31 December. The annual reports of the Issuer for the year ended 31 December 2010 and 31 December 2011 as published by the Issuer through the Regulatory News Service of the London Stock Exchange on 28 April 2011 and 12 March 2012 respectively are incorporated into this document by reference and are available at the Issuer’s website at <http://www.etfsecurities.com/iml> and at the registered office of the Issuer as set out in paragraph 20 of this Part 8 (*Additional Information*).
- 19.2 There has been no material adverse change in the financial position or prospects of the Issuer since 31 December 2011.
- 19.3 The Issuer is not and has not been involved in any governmental, legal or arbitration proceedings which may have or have had during the 12 months preceding the date of this document a significant effect on the Issuer’s financial position or profitability nor, so far as the Issuer is aware, are any such proceedings pending or threatened by or against the Issuer.
- 19.4 All Industrial Metal Securities in issue at the date of this document have been admitted to the Official List and admitted to trading on the Main Market of the London Stock Exchange, which is part of its Regulated Market for listed securities and is a regulated market for the purposes of Directive 2004/39/EC (the Markets in Financial Instruments Directive). Applications have been made to the UK Listing Authority for all Individual Securities and Basket Securities issued within 12 months of the date of this document to be admitted to the Official List and to the London Stock Exchange for all such Industrial Metal Securities to be admitted to trading on the Main Market.
- 19.5 The ETFS Physical Copper Securities have also been admitted to listing on the Regulated Market (General Standard) (*Regulierter Markt [General Standard]*) of the Frankfurt Stock Exchange (*Frankfurter Wertpapierbörse*) since 12 July 2011.
- 19.6 No Application has been or is currently being made for the Industrial Metal Securities of any type to be admitted to listing or trading on any other exchange or market but the Issuer may cause such Application to be made in respect of the Industrial Metal Securities of any or all types on any such exchanges or markets in its discretion.
- 19.7 The Issuer intends to publish annual financial statements and Pricing Supplements as required by Listing Rules and to publish certain other information on the Issuer’s Website as described under the heading “Publication of Relevant Information” in Part 1 (*Description of Industrial Metal Securities*). Save as aforesaid the Issuer does not intend to provide post-issuance information.
- 19.8 The Metal to be held by the Issuer has characteristics that demonstrate capacity to produce funds to service any payments due and payable on the Industrial Metal Securities.

## **20 DOCUMENTS AVAILABLE FOR INSPECTION**

For the duration of the Programme or so long as any Industrial Metal Securities remain outstanding, copies of the following documents will be available for inspection by holders of Industrial Metal Securities during normal business hours on any weekday (Saturdays, Sundays and public holidays excepted) at the registered office of the Issuer:

- 20.1 the Memorandum and Articles of Association of the Issuer;
- 20.2 the Trust Instrument;
- 20.3 the Security Deeds;
- 20.4 the Deed Poll;
- 20.5 the Services Agreement;
- 20.6 the Metal Agent Agreement;
- 20.7 the TRS Master Confirmation;
- 20.8 the Authorised Participant Agreements;
- 20.9 the Security Assignments;
- 20.10 the Registrar Agreement;
- 20.11 the Administration Agreement dated 6 December 2010 between the Issuer and R&H Fund Services (Jersey) Limited; and
- 20.12 the annual reports of the Issuer for the years ended 31 December 2010 and 31 December 2011.

## **21 JERSEY LAW CONSENTS**

A copy of this document has been delivered to the Jersey Registrar of Companies in accordance with Article 5 of the Companies (General Provisions) (Jersey) Order 2002, and he has given, and has not withdrawn, his consent to the circulation of this document.

The Issuer has obtained a certificate under the Collective Investment Funds (Jersey) Law, 1988, as amended, (the “**CIF Law**”) to enable it to undertake its functions in relation to Industrial Metal Securities. The Jersey Financial Services Commission is protected by the CIF Law against liability arising from the discharge of its functions thereunder.

Each of ManJer, R&H Fund Services (Jersey) Limited and the Registrar is registered under the Financial Services (Jersey) Law 1998, as amended, (the “**Financial Services Law**”) to enable it to undertake its functions in relation to Industrial Metal Securities. The Jersey Financial Services Commission is protected by the Financial Services Law against liability arising from the discharge of its functions thereunder.

It must be distinctly understood that, in giving these consents, neither the Jersey Registrar of Companies nor the Jersey Financial Services Commission takes any responsibility for the financial soundness of the Issuer or for the correctness of any statements made, or opinions expressed, with regard to it.

## **22 SELLING RESTRICTIONS**

### **22.1 United States**

The Issuer has imposed the restrictions described below on the Programme so that the Issuer will not be required to register the offer and sale of Industrial Metal Securities under the Securities Act and to address certain ERISA, US Internal Revenue Code and other considerations.

Industrial Metal Securities have not been and will not be registered under the Securities Act or any other applicable law of the United States. Industrial Metal Securities are being offered and sold only outside the United States in reliance on the exemption from registration provided by Regulation S under the Securities Act or in transactions otherwise exempt from the registration requirements of the Securities Act.

Industrial Metal Securities and any beneficial interest therein may not be reoffered, resold, pledged or otherwise transferred in the United States other than to Qualified Institutional Buyers pursuant to a Rule 144A offering memorandum provided by the Issuer. If the Issuer determines that any Security Holder is a Prohibited US Person (being a US Person other than (i) a “qualified

institutional buyer” as defined in rule 144A under the Securities Act that purchased from an Authorised Participant, or any US affiliate thereof, pursuant to a Rule 144A offering memorandum provided by the Issuer; or (ii) a US Person who purchased the Industrial Metal Securities pursuant to Regulation S or another exemption from registration under the Securities Act), the Issuer may Redeem the Industrial Metal Securities held by that Security Holder in accordance with the provisions of Condition 7.4 (*Compulsory Redemption for Cause*) set out in Part 4 (*Trust Instrument and the Conditions*).

The Industrial Metal Securities may not be purchased with plan assets of any “employee benefit plan” within the meaning of section 3(3) of the United States Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”), subject to Part 4. Subtitle B of Title I of ERISA, any “plan” to which section 4975 of the United States Internal Revenue Code of 1986, (the “**Code**”) applies (collectively, “**Plans**”), any entity whose underlying assets include “plan assets” of any of the foregoing Plans within the meaning of 29 C.F.R. Section 2510.3-101 or section 3(42) of ERISA, as they may be modified, by reason of a Plan’s investment in such entity, any governmental or church plan that is subject to any US Federal, state or local law that is similar to the prohibited transaction provisions of ERISA or Section 4975 of the Code (any such employee benefit plan, plan or entity, a “Prohibited Benefit Plan Investor”). If the Issuer determines that any Security Holder is a Prohibited Benefit Plan Investor, the Issuer may Redeem the Industrial Metal Securities held by that Security Holder in accordance with the provisions of Condition 7.4 (*Compulsory Redemption for Cause*) set out in Part 4 (*Trust Instrument and the Conditions*).

Further restrictions on offers and sales of Industrial Metal Securities and on the distribution of this Prospectus are set out in paragraph 3 of this Part 8 (*Additional Information*).

### **23 ISSUER’S ABILITY TO ISSUE NOTES AND MAKE MATCHED INTERCOMPANY LOANS**

Under Condition 15 of the Industrial Metal Securities, it is expressly recognised that the Issuer may:

- (a) issue unsecured limited recourse notes to ETFSL (or any Affiliate of the Issuer) and may redeem, amend, supplement, extend or replace such notes in accordance with the terms thereof; and
- (b) make any loan to ETFSL (or any such Affiliate) of the proceeds of the issue of such notes under which the Issuer may, if it determines to do so, make advances to ETFSL (or any such Affiliate) (including by way of set-off of such proceeds).

The Issuer has determined that if it were to issue any such notes or make any such loan or advance, it would do so only on the basis that (a) the holder of the notes would have recourse only to assets of the Issuer other than the Secured Property, (b) the notes would not be transferable or assignable without the prior written consent of the Issuer, and (c) the principal amount and each payment of interest under the notes would be matched by the principal amount and each payment of interest under any such loan or advance, both in respect of the amount and of the date on which any such amount would become due and payable.

## ANNEX 1

### FORM OF THE GLOBAL BEARER CERTIFICATES (GERMANY)

#### INHABER-SAMMELZERTIFIKAT

für

- [siehe Anhang 1] [Klasse der Individual-Securities / Kategorie der Basket-Securities]

Namensschuldverschreibungen

der

#### ETFS Industrial Metal Securities Limited

Ordnance House, 31 Pier Rd, St Helier, Jersey, Channel Islands, JE4 8PW

eingeteilt in Teilschuldverschreibungen im Nennbetrag von je • [siehe Anhang 1]

Für dieses Inhaber-Sammelzertifikat hält die Clearstream Banking Aktiengesellschaft mit Sitz in Frankfurt am Main, Bundesrepublik Deutschland (im Folgenden "**Clearstream**" genannt), als Deckung • [siehe Anhang 1] [Klasse der Individual-Securities / Kategorie der Basket-Securities] Namensschuldverschreibungen (im Folgenden "**Schuldverschreibungen**" genannt) der ETFS Industrial Metal Securities Limited, Jersey, Channel Islands (im Folgenden "**Gesellschaft**" genannt). Die durch den Treuhandvertrag vom 6. Dezember 2010 zwischen der Gesellschaft und der The Law Debenture Trust Corporation p.l.c. in seiner jeweils geänderten / ergänzten Fassung (im Folgenden "**Treuhandvertrag**") begründeten Schuldverschreibungen sind, wie im Treuhandvertrag näher dargelegt, besichert und in Namensteilschuldverschreibungen mit einem Nennbetrag von je • [siehe Anhang 1], eingeteilt. Die Schuldverschreibungen sind auf Vidacos Nominees Limited, London, England, eingetragen und in einem bei der Citibank N.A., London, England, unterhaltenen Sonderdepot verwahrt. Jeder Miteigentümer dieses Sammelzertifikats ist berechtigt, jederzeit von der Clearstream die Auslieferung und Registrierung einer seinem Miteigentumsanteil entsprechenden Stückzahl von [Klasse der Individual-Securities / Kategorie der Basket-Securities] Schuldverschreibungen der Gesellschaft auf seinen Namen oder den Namen eines von ihm benannten Dritten in das maßgebliche Schuldverschreibungsregister der ETFS Industrial Metal Securities Limited, Jersey, Channel Islands, zu verlangen.

Im übrigen gelten die diesem Inhaber-Sammelzertifikat beigefügten Zertifikatsbedingungen, die Bestandteil dieser Urkunde sind.

Frankfurt am Main, den ...

Clearstream Banking  
Aktiengesellschaft

## ANNEX 2

### TEXT OF THE CONDITIONS OF THE GLOBAL BEARER CERTIFICATES (GERMANY)

#### Zertifikatsbedingungen

1. Dieses Inhaber-Sammelzertifikat trägt die Unterschriften zweier Vorstandsmitglieder oder eines Vorstandsmitgliedes und eines Prokuristen der Clearstream Banking Aktiengesellschaft, Frankfurt am Main, Bundesrepublik Deutschland, (im Folgenden "Clearstream" genannt).
2. Jeder Miteigentümer dieses Inhaber-Sammelzertifikats ist berechtigt, jederzeit von der Clearstream die Auslieferung und Registrierung einer seinem Miteigentumsanteil entsprechenden Stückzahl von • [siehe Anhang 1] [Klasse der Individual-Securities / Kategorie der Basket-Securities] Namensschuldverschreibungen (im Folgenden "**Schuldverschreibungen**" genannt) der ETFS Industrial Metal Securities Limited, Jersey, Channel Islands, (im Folgenden "**Gesellschaft**" genannt) auf seinen Namen oder den Namen eines von ihm benannten Dritten in das maßgebliche Schuldverschreibungsregister zu verlangen. Die durch den Treuhandvertrag vom 6. Dezember 2010 zwischen der Gesellschaft und der The Law Debenture Trust Corporation p.l.c. in seiner jeweils geänderten / ergänzten Fassung (im Folgenden "**Treuhandvertrag**") begründeten Schuldverschreibungen sind, wie im Treuhandvertrag näher dargelegt, besichert und in Namensteilschuldverschreibungen mit einem Nennbetrag von je • [siehe Anhang 1] eingeteilt. Einen entsprechenden Auftrag hat der Miteigentümer der Clearstream über seine Depotbank zu erteilen, wobei die Lieferadresse bzw. die Adresse, an welche die Urkunde bezüglich der Eintragung in das Schuldverschreibungsregister durch den Registrar versandt werden soll, angegeben sein muss.

Außer der von der Clearstream im Rahmen des § 315 des Bürgerlichen Gesetzbuches bestimmten Gebühr für die Auslieferung bzw. Übertragung hat der Miteigentümer etwaige mit der Auslieferung bzw. Übertragung und Umschreibung entstehende sonstige Kosten, Steuern, Gebühren oder Abgaben zu tragen.

Die Auslieferung von Einzelstücken aus diesem Inhaber-Sammelzertifikat kann von den Miteigentümern nicht verlangt werden.

3. Die Clearstream vermittelt dem Miteigentümer über dessen Depotbank nach Maßgabe seines Anteils am Inhaber-Sammelzertifikat grundsätzlich alle Rechte aus den Schuldverschreibungen, soweit sie ihr nach Maßgabe des englischen Rechts bzw. des Rechts von Jersey, Channel Islands, zustehen.

Zinsen, Ausschüttungen, Kapital und etwaige sonstige Barzahlungen leitet die Clearstream an den Miteigentümer weiter.

Im Übrigen gelten die von der Clearstream gegebenenfalls bekanntzugebenden Fristen und Bedingungen.

Sämtliche Zahlungen an den Miteigentümer erfolgen nach Maßgabe der jeweils geltenden Devisenvorschriften in EURO, es sei denn, dass der Miteigentümer rechtzeitig vor Fälligkeit Zahlung in USD (United States Dollars) verlangt hat.

4. Ein etwaiges Stimmrecht anlässlich einer Gläubigerversammlung wird die Clearstream grundsätzlich nicht ausüben. Sie wird dem Miteigentümer oder einem von diesem benannten Dritten auf Verlangen eine Vollmacht zur Ausübung des Stimmrechts erteilen lassen.

Die Gesellschaft hat sich verpflichtet, die Tagesordnung von Gläubigerversammlungen sowie die Voraussetzungen zur Teilnahme an der Gläubigerversammlung und zur Ausübung des Stimmrechts im Vorfeld einer solchen Gläubigerversammlung bekanntzugeben.

5. Sollte die Ausgabe des Inhaber-Sammelzertifikats zu irgendeinem Zeitpunkt in der Bundesrepublik Deutschland oder auf Jersey, Channel Islands, irgendwelchen Steuern, Gebühren oder Abgaben unterliegen, so haben die Miteigentümer diese Steuern, Gebühren oder Abgaben nach Maßgabe ihrer Anteile am Inhaber-Sammelzertifikat zu tragen.

Die Clearstream ist berechtigt, Steuern, Gebühren oder Abgaben, denen sie zu irgendeinem Zeitpunkt in der Bundesrepublik Deutschland oder auf Jersey, Channel Islands, allein auf Grund der Tatsache unterworfen wird, dass sie die Schuldverschreibungen hält, auf alle Miteigentümer nach Maßgabe ihrer Anteile am Inhaber-Sammelzertifikat umzulegen.

6. Treten aus irgendeinem Grunde an die Stelle der Schuldverschreibungen andere Schuldverschreibungen oder ein sonstiger Vermögenswert, so wandelt sich das Recht der Miteigentümer auf die Schuldverschreibungen in ein Recht auf den Ersatzgegenstand. Die Zertifikatsbedingungen gelten dann sinngemäß.
7. Die Clearstream ist berechtigt, die Citibank N.A., London, England, (im Folgenden "**Verwahrer**" genannt) in ihrer Funktion als Verwahrer oder die Vidacos Nominees Limited, London, England, (im Folgenden "**Nominee**" genannt) in ihrer Funktion als Nominee durch eine andere Person zu ersetzen. Die Haftung der Clearstream beschränkt sich hierbei auf die sorgfältige Auswahl. Unberührt bleibt die Befugnis der Clearstream, die Funktion des Verwahrers oder des Nominees selbst wahrzunehmen. Im Fall der Ersetzung des Verwahrers oder des Nominees gelten alle Bezugnahmen auf den Verwahrer bzw. den Nominee in diesen Bedingungen als Bezugnahmen auf den neuen Verwahrer bzw. Nominee.
8. Werden die Schuldverschreibungen in einer die Mitwirkung der Clearstream in dieser Form nicht mehr erfordernden Weise an deutschen Wertpapierbörsen lieferbar oder wird die Zulassung der Schuldverschreibungen in Form von Miteigentumsanteilen am Inhaber-Sammelzertifikat zum Handel und zur amtlichen Notierung an deutschen Wertpapierbörsen zurückgenommen, so wird die Clearstream die Miteigentümer auffordern, ihr einen Auftrag gemäß Ziffer 2. Abs. 1 zu erteilen. Wird dieser Auftrag nicht innerhalb einer Frist von 3 Monaten seit Veröffentlichung der Aufforderung erteilt, so ist die Clearstream nach ihrem Ermessen berechtigt, die Eintragung der Schuldverschreibungen auf den Namen des Miteigentümers oder eines in der Aufforderung benannten Dritten zu veranlassen und die Schuldverschreibungen bei einer in der Aufforderung angegebenen Stelle für den Miteigentümer auf dessen Kosten und Gefahr zu hinterlegen. Damit erlöschen die Pflichten der Clearstream aus dem Inhaber-Sammelzertifikat.
9. Alle das Inhaber-Sammelzertifikat betreffenden Bekanntmachungen werden in mindestens je einem überregionalen Börsenpflichtblatt der deutschen Wertpapierbörsen veröffentlicht werden, an denen die Schuldverschreibungen in Form von Miteigentumsanteilen am Inhaber-Sammelzertifikat gehandelt und amtlich notiert werden.
10. Die Miteigentümer tragen anteilig alle wirtschaftlichen und rechtlichen Nachteile und Schäden, die den für das Inhaber-Sammelzertifikat als Deckung gehaltenen Bestand an Schuldverschreibungen infolge höherer Gewalt, Regierungserlassen, Krieg, Aufruhr, Verfügungen von hoher Hand im In- oder Ausland oder anderer Umstände treffen sollten, die die Clearstream oder der Verwahrer nicht zu vertreten haben.

Die Clearstream wird alle Verpflichtungen aus dem Inhaber-Sammelzertifikat mit der Sorgfalt eines ordentlichen Kaufmannes erfüllen. Wird sie durch höhere Gewalt, Regierungserlasse, Krieg, Aufruhr, Verfügungen von hoher Hand im In- oder Ausland oder andere Umstände, die sie nicht zu vertreten hat, an der Erfüllung ihrer Verpflichtungen gehindert, so trifft sie keine Verantwortung.

Der Verwahrer und der Nominee sind der Clearstream gegenüber zur ordnungsgemäßen Wahrnehmung der ihnen obliegenden Aufgaben verpflichtet. Etwaige Ansprüche gegen den Verwahrer oder den Nominee wird die Clearstream zugunsten der Miteigentümer geltend machen. Darüber hinaus haftet die Clearstream nur für die sorgfältige Auswahl des Verwahrers und des Nominees.

11. Sollte irgendeine dieser Bestimmungen ganz oder teilweise rechtsunwirksam oder undurchführbar sein oder werden, so bleiben die übrigen Bestimmungen hiervon unberührt. Für unwirksame oder undurchführbare Bestimmungen soll eine dem Sinn und Zweck dieses Vertragsverhältnisses entsprechende Regelung gelten.
12. Alle Rechtsbeziehungen zwischen dem Miteigentümer und der Clearstream unterliegen dem Recht der Bundesrepublik Deutschland. Ausschließlicher Gerichtsstand ist Frankfurt am Main.
13. Eine Änderung dieser Zertifikatsbedingungen ist nur zulässig, soweit durch sie die Rechte der Miteigentümer nicht beeinträchtigt werden, es sei denn, dass sie durch gesetzliche Vorschriften bedingt ist.

## ANNEX 3

### FORM OF PRICING SUPPLEMENT

Pro Forma Supplement for an issue by ETFS Industrial Metal Securities Limited under the Programme for the issue of ETFS Industrial Metal Securities

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#### PRICING SUPPLEMENT

Dated [•] 201[•]

### **ETFS Industrial Metal Securities Limited**

*(Incorporated and registered in Jersey under the Companies (Jersey) Law 1991  
(as amended) with registered number 106363)*

**(the “Issuer”)**

#### **Programme for the Issue of ETFS Industrial Metal Securities**

**Issue of**

**[number] [class] [Individual/Basket] Securities**

**(the “ETFS Industrial Metal Securities”)**

This Pricing Supplement (as referred to in the base prospectus (the “Prospectus”) dated [1 December 2011] in relation to the above Programme) relates to the issue of the ETFS Industrial Metal Securities referred to above. The ETFS Industrial Metal Securities have the terms provided for in the trust instrument dated 6 December 2010 between the Issuer and The Law Debenture Trust Corporation p.l.c. as trustee constituting the ETFS Industrial Metal Securities. Terms used in this Pricing Supplement bear the same meaning as in the Prospectus. The particulars in relation to this issue of ETFS Industrial Metal Securities are as follows:

Issuer:	ETFS Industrial Metal Securities Limited
Issue Date:	[•]
Class or Category of ETFS Industrial Metal Securities to which this Pricing Supplement applies:	[•]
ISIN	[•]
Price per ETFS Industrial Metal Security:	[•] metric tonnes Aluminium/ [•] metric tonnes Copper/ [•] metric tonnes Lead/ [•] metric tonnes Nickel/ [•] metric tonnes Tin/ [•] metric tonnes Zinc
Aggregate Number of ETFS Industrial Metal Securities to which this Pricing Supplement applies:	[•]



Following the issue of ETFS Industrial Metal Securities to which this Pricing Supplement applies, the following ETFS Industrial Metal Securities will be in issue:

<b>Class of Individual Securities or Category of Basket Securities</b>	<b>Number</b>
ETFS Physical Aluminium	
ETFS Physical Copper	
ETFS Physical Lead	
ETFS Physical Nickel	
ETFS Physical Tin	
ETFS Physical Zinc	
ETFS Physical IM Basket	

## ANNEX 4

### FORM OF PRICING SUPPLEMENT – PUBLIC OFFERS

Pro Forma Supplement for an offer of ETFS Industrial Metal Securities to the public under the Programme for the Issue of ETFS Industrial Metal Securities

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#### PRICING SUPPLEMENT

Dated [•] 201[•]

### ETFS Industrial Metal Securities Limited

*(Incorporated and registered in Jersey under the Companies (Jersey) Law 1991  
(as amended) with registered number 106363)*

(the “Issuer”)

#### Programme for the Issue of ETFS Industrial Metal Securities

Issue of

[number] [class] [Individual/Basket] Securities

(the “ETFS Industrial Metal Securities”)

The Prospectus referred to below (as completed by these Final Terms) has been prepared on the basis that, except as provided in sub-paragraph (ii) below, any offer of ETFS Industrial Metal Securities in any Member State of the European Economic Area which has implemented the Prospectus Directive (2003/71/EC) (each, a “**Relevant Member State**”) will be made pursuant to an exemption under the Prospectus Directive, as implemented in that Relevant Member State, from the requirement to publish a prospectus for offers of the ETFS Industrial Metal Securities. Accordingly any person making or intending to make an offer of the ETFS Industrial Metal Securities may only do so:

- (i) in circumstances in which no obligation arises for the Issuer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive, in each case, in relation to such offer; or
- (ii) in those Public Offer Jurisdictions mentioned in the following paragraph, provided such person is [one of the persons mentioned in the following paragraph] and that such offer is made during the Offer Period specified for such purpose therein.

An offer of the ETFS Industrial Metal Securities may be made by the Issuer or by [specify permitted offeror] other than pursuant to Article 3(2) of the Prospectus Directive in [specify relevant Member State(s) – which must be jurisdictions where the Prospectus and any supplements have been approved or passported] (“**Public Offer Jurisdictions**”) during the period from [specify date] until [specify date] (the “**Offer Period**”).

The Issuer has not authorised, nor does it authorise, the making of any offer of ETFS Industrial Metal Securities in any other circumstances.

This Pricing Supplement (as referred to in the base prospectus (the “Prospectus”) dated [1 December 2011] in relation to the above Programme) relates to the issue of the ETFS Industrial Metal Securities referred to above. The ETFS Industrial Metal Securities have the terms provided for in the trust instrument dated 6 December 2010 (as may be amended from time to time) between the Issuer and The Law Debenture Trust Corporation p.l.c. as trustee constituting the ETFS Industrial Metal Securities. Terms used in this Pricing Supplement bear the same meaning as in the Prospectus. The particulars in relation to this issue of ETFS Industrial Metal Securities are as follows:

Issuer:	ETFS Industrial Metal Securities Limited
Issue Date:	[●]
Class or Category of ETFS Industrial Metal Securities to which this Pricing Supplement applies:	[●]
ISIN:	[●]
Price per ETFS Industrial Metal Security:	[●] metric tonnes Aluminium/ [●] metric tonnes Copper/ [●] metric tonnes Lead/ [●] metric tonnes Nickel/ [●] metric tonnes Tin/ [●] metric tonnes Zinc
Aggregate Number of ETFS Industrial Metal Securities to which this Pricing Supplement applies:	[●]
Total amount of the offer; if the amount is not fixed, description of the arrangement and time for announcing to the public the amount of the offer:	[●]

**Terms and Conditions of the Offer<sup>1</sup>**

*[Consider the circumstances in which the items specified below need to be completed or marked “Not Applicable” by reference to the requirements of the relevant home and/or host member states where any non-exempt public offer is being made, in compliance with the Prospectus Directive, as implemented in such member states.]*

Offer Price: <sup>2</sup>	[specify]
Conditions to which the offer is subject: <sup>3</sup>	[Not Applicable/give details]
Description of the application process: <sup>4</sup>	[Not Applicable/give details]
Details of the minimum and/or maximum amount of application: <sup>5</sup>	[Not Applicable/give details]
Details of the method and time limits for paying up and delivering the ETFS Industrial Metal Securities: <sup>6</sup>	[Not Applicable/give details]
Manner in and date on which results of the offer are to be made public: <sup>7</sup>	[Not Applicable/give details]
Categories of potential investors to which the ETFS Industrial Metal Securities are offered and whether tranche(s) have been reserved for certain countries: <sup>8</sup>	[Not Applicable/give details]
Process for notification to applicants of the amount allotted and the indication whether dealing may begin before notification is made: <sup>9</sup>	[Not Applicable/give details]
Amount of any expenses and taxes specifically charged to the subscriber or purchaser: <sup>10</sup>	[Not Applicable/give details]

Name(s) and address(es), to the extent known to the Issuer, of the placers in the various countries where the offer takes place:

[Not Applicable/give details]

Name and address of any paying agents and depository agents in each country: <sup>12</sup>

[Not Applicable/give details]

Entities agreeing to underwrite the issue on a firm commitment basis, and entities agreeing to place the issue without a firm commitment or under “best efforts” arrangements. Where not all of the issue is underwritten, a statement of the portion not covered: <sup>13</sup>

[Not Applicable/give details]

When the underwriting agreement has been or will be reached: <sup>14</sup>

[Not Applicable/give details]

- 1 Paragraph 5 of Annex XII.
- 2 Paragraph 5.3.1 of Annex XII.
- 3 Paragraph 5.1.1 of Annex XII.
- 4 Paragraph 5.1.3 of Annex XII.
- 5 Paragraph 5.1.4 of Annex XII.
- 6 Paragraph 5.1.5 of Annex XII.
- 7 Paragraph 5.1.6 of Annex XII.
- 8 Paragraph 5.2.1 of Annex XII.
- 9 Paragraph 5.2.2 of Annex XII.
- 10 Paragraph 5.3 of Annex XII.
- 11 Paragraph 5.4.1 of Annex XII.
- 12 Paragraph 5.4.2 of Annex XII.
- 13 Paragraph 5.4.3 of Annex XII.
- 14 Paragraph 5.4.4 of Annex XII.

**Date**

**Time**

Following the issue of ETFS Industrial Metal Securities to which this Pricing Supplement applies, the following Industrial Metal Securities will be in issue:

<b>Class of Individual Securities or Category of Basket Securities</b>	<b>Number</b>
ETFS Physical Aluminium:	
ETFS Physical Copper:	
ETFS Physical Lead:	
ETFS Nickel:	
ETFS Tin:	
ETFS Zinc:	
ETFS Physical IM Basket:	