



# PROSPECTUS

7 June 2010



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**The Fund and the Directors whose names appear on page 8 under the heading "Responsible Persons", accept responsibility for the information contained in this document. To the best of the knowledge and belief of the Fund and the Directors (who have 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.**

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## IMPORTANT INFORMATION

No person has been authorized to issue any advertisements, to give any information or to make any representations in connection with the offering, subscription or sale of the Ordinary Shares, other than those contained in this document and, if issued, given or made, such advertisements, information or representations must not be relied upon as having been authorized by the Fund, the Directors or the Investment Advisor. Neither the delivery of this document nor the sale and/or issue of any of the Ordinary Shares shall under any circumstances create any implication or constitute a representation that the information given in this document is correct as of any time subsequent to the date of its publication.

This document does not constitute and may not be used for the purposes of solicitation to anyone in any jurisdiction in which such solicitation is not authorized, or to any person to whom it is unlawful to make such solicitation. The distribution of this document and the sale and/or issue of Ordinary Shares in certain jurisdictions may be restricted and, accordingly, persons into whose possession this document comes are required to inform themselves about and to observe such restrictions. Prospective investors should inform themselves as to (a) the legal requirements within their own jurisdiction for the purchase, holding and disposal of the Ordinary Shares, (b) any foreign exchange restrictions which may affect them and (c) the income and other tax consequences which may apply in their own jurisdictions relevant to the purchase, holding or disposal of Ordinary Shares.

The Fund will be a collective investment scheme as defined in Part XVII of the United Kingdom Financial Services and Markets Act 2000 (the "FSMA"). The Fund has not been authorized, recognized or otherwise approved by the Financial Services Authority ("FSA") in accordance with the FSMA and, as an unregulated scheme, it accordingly cannot be promoted to the general public in the UK, nor may units in the fund be dealt in the UK by any person other than by persons authorized under the FSMA to carry on regulated activities in the UK. In the UK, this Prospectus is directed at and is for distribution only to persons who either (a) have professional experience in matters relating to investments and who fall within the description of qualifying investment professionals within article 19 of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001 (the "UK Order"), (b) are persons who are qualifying high net worth companies, unincorporated associations, trustees and other persons who fall within the exemption created by article 49 of the UK Order, or (c) are persons to whom the fund may lawfully be promoted (all such persons being referred to as "relevant persons"). This communication must not be distributed to, acted on or relied on by persons who are not relevant persons. Transmission of this Prospectus to any other person in the U.K. is not authorised and may contravene the FSMA. Any investment or investment activity to which this communication relates is available only to relevant persons and will be engaged in only with such persons.

The Ordinary Shares have not been and will not be registered under the United States Securities Act 1933 as amended (the "Securities Act"), or the securities laws of any state or political subdivision of the United States. The Ordinary Shares may not be offered, sold, transferred or delivered, directly or indirectly, in the United States, or to, or for the account or benefit of US persons (as defined in Regulation S under the Securities Act) except in accordance with the provisions of Regulation S, pursuant to registration under the Securities Act or pursuant to an exemption from registration. The Fund is not and will not be registered under the United States Investment Company Act of 1940, as amended (the "1940 Act"), and, accordingly, is restricted in the number of beneficial owners of Ordinary Shares that may be US Persons and in the percentage of the outstanding Ordinary Shares that may be owned by certain US Persons. Ordinary Shares may not be offered, sold, delivered, or transferred directly or indirectly in the

United States or to or for the account of a US Person without the prior consent of the Fund and then only in transactions exempt from the registration requirements of the Securities Act and State or other securities law.

The three most recent annual reports and the most recent semi-annual report, if that has been published after the most recent annual report, are an integral part of this prospectus.

**Prospective investors should not treat the contents of this document as advice relating to legal, taxation, investment or any other matters and are strongly recommended to consult their own professional advisers concerning the acquisition, holding or disposal of Ordinary Shares. The attention of prospective investors is particularly drawn to Part X of this document, entitled Risk Factors.**

None of the Ordinary Shares may be offered or sold, directly or indirectly to any person, corporation or entity which cannot acquire or hold Ordinary Shares without violating laws or regulations applicable to it or to a custodian, nominee or trustee of any such person.

In accordance with current statutory requirements, this Prospectus and the (semi-) annual reports are available to download from the Fund's Website at:

<http://www.himalayanfund.nl>

Copies are also available at the registered offices of the Fund and the Investment Advisor, Iceman Capital Advisors Ltd.

The laws of the Netherlands shall govern this Prospectus and the courts in Amsterdam will be the competent courts for any conflicts which may arise.

A Financial Leaflet has been prepared for this product with information about this product, the costs and the risks. Ask for a copy and read it before investing in the Fund.

The Fund's Website is the primary means of communication for information on the Fund. All current information can be found there and is available for downloading.

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## I. DEFINITIONS

In this document, where the context permits, the following definitions shall apply:

“Administrator”	Fastnet Netherlands N.V.
“Articles”	the Articles of Association of the Fund
“Board”	the Board of Directors of the Fund
“BSE”	the Bombay Stock Exchange
“Cut-off Day”	the Trading Day before the Execution Day
“Cut-off Time”	the time at which buy and sell orders are final and no more buy and sell orders are accepted on the Cut-off Day after 16:00 CET
“Custodian”	Citibank N.A., Mumbai
“Euroclear Nederland”	Nederlands Centraal Instituut voor giraal effectenverkeer B.V., established and having its office at Damrak 70, Amsterdam as administrator of the Book-Entry Deposit as defined in the Securities (Bank Giro Transactions) Act
“Euronext”	NYSE Euronext Amsterdam N.V.
“Execution Day”	a day on which the confirmed buy and/or sell orders are executed, normally a Friday. If an Execution Day is not a Trading Day then Execution Day will take place on the next Trading Day. If an Execution Day falls on a day at which the Relevant Stock Exchanges are not open for trading the Execution Day will take place at the next Trading Day at which the Relevant Stock Exchanges are open for trading
“Execution Time”	the time at which trades will be executed on Execution Day normally 10.00 CET
“Fund”	Himalayan Fund N.V.
“Fund Agent”	Himalayan Fund N.V.
“Investment Advisor”	Iceman Capital Advisors Limited
“Listing Agent”	Fortis Bank (Nederland) N.V.
“London Stock Exchange”	The London Stock Exchange Limited

“National Stock Exchange”, “NSE”	The National Stock Exchange of India Limited
“NAV” or “Net Asset Value”	in relation to an Ordinary Share in the Fund, the estimated amount which would be received by its holder if the Fund was wound up and its assets after payment of its liabilities were distributed
“Net Assets”	the value of the net assets of the Fund determined in accordance with the provisions of the paragraph headed “Calculations of Net Assets” in Part IV of this document
“Ordinary Shares”	Ordinary Shares of EUR 0.01 each in the Fund
“Priority Shares”	Priority Shares of EUR 0.20 each in the Fund
“Relevant Stock Exchanges”	recognised stock exchanges in India, Bangladesh or Sri Lanka or recognized exchanges where shares, bonds, certificates or any permitted investments held by the Fund may be listed
“S&P CNX Nifty”, “Nifty”	the index of top fifty stocks traded on the NSE
“Shareholder”	a holder of Ordinary Shares
“Trading Day”	a day on which Euronext is open for trading
“Transaction Price”	the price at which the buy and/or sell orders for Ordinary Shares will be settled in accordance with paragraph XII of this document. The Transaction Price will be calculated in US Dollars
“UK”	United Kingdom of Great Britain and Northern Ireland
“United States” or “US”	the United States of America, its territories and possessions and any areas subject to its jurisdiction
“US\$”, “US dollars” “USD” and “cents”	United States dollars and cents
“Website”	the website of the Fund: <a href="http://www.himalayanfund.nl">http://www.himalayanfund.nl</a>

## II. GENERAL INFORMATION

Himalayan Fund N.V. is an open-end investment company incorporated in the Netherlands with the fiscal status of Fiscal Investment Institution. The Fund was registered on 11 January 1990 and is now twenty years in existence. The most recent amendment of the Articles took place on 26 August 2009. The Fund is licensed under the Dutch Act on Financial Supervision (section 2:56 (1 sub b)) and is registered with the Trade Register of the Chamber of Commerce in Amsterdam with number 33216642. Its statutory seat is in Amsterdam, The Netherlands and its address is: Legmeerdijk 182, 1187 NJ Amstelveen, The Netherlands, telephone number: +3120-6411161.

The authorized share capital of the Fund is EUR 60,000, comprising Ordinary and Priority Shares. Ordinary Shares are shares of EUR 0.01 nominal value and are entitled to one vote at a general meeting of shareholders. At present 4,450,005 Ordinary Shares are issued. All of these Ordinary Shares have been issued between the initial offering of shares in 1990 and a second public offering in 1994. Ordinary Shares bought by the Fund are held by the Fund in treasury and are resold in priority to the issue of new shares. As per the date of this prospectus 407,412 Ordinary Shares are placed with third parties meaning that the Fund holds 4,042,593 Ordinary Shares in treasury which will all be resold before issuing new Ordinary Shares.

The Ordinary Shares are listed on NYSE Euronext Amsterdam and The London Stock Exchange. Since November 2007, Ordinary Shares have been traded weekly on the Euronext Fund Service of NYSE Euronext Amsterdam.

Priority Shares are shares of EUR 0.20 par value and are entitled to 20 votes at a general meeting of shareholders. Priority Shares have no entitlement to dividends and for the purpose of liquidation of the Fund have a right to share in the distribution of surplus assets only to the extent of paid-up nominal capital. The Fund currently has 49,995 Priority Shares in issue and these are all held by the Investment Advisor.

The Fund is wholly-owned by its shareholders and has no operating subsidiaries.

Detailed information concerning the Fund is available through the Fund's website at:

<http://www.himalayanfund.nl>

### III. RESPONSIBLE PERSONS

#### 1. Board of Directors:

Ian McEvatt, Chairman  
Dwight Makins  
Robert Meijer  
Karin van der Ploeg

All of:

Legmeerdijk 182  
1187 NJ Amstelveen  
The Netherlands

#### 2. Advisers and Service Providers:

##### a) Investment Advisor :

Iceman Capital Advisors Limited  
PO Box 218  
45 La Motte Street  
St. Helier  
Jersey JE4 8SD  
Channel Islands

##### b) Administrator:

Fastnet Netherlands N.V.  
De Ruyterkade 6-i  
1013 AA Amsterdam  
The Netherlands

##### c) Custodian:

Citibank N.A  
Trent House, third floor  
G Block, Plot No. 60  
Bandra Kurla Complex, Bandra - East,  
Mumbai - 400 051  
India

##### d) Bankers and Listing/Paying Agent:

Fortis Bank (Nederland) N.V.  
Rokin 55  
1012 KK Amsterdam  
The Netherlands

**e) Auditor:**

**Deloitte Accountants B.V.  
Orlyplein 10  
1040 HC Amsterdam  
The Netherlands**

**f) Legal Adviser:**

**De Brauw Blackstone Westbroek  
Claude Debussylaan 80  
1082 MD Amsterdam  
The Netherlands  
P.O. Box 75084  
1070 AB Amsterdam  
The Netherlands**

**g) Dutch Tax Adviser:**

**Deloitte Belastingadviseurs B.V.  
Sophialaan 30  
8911 AE Leeuwarden  
The Netherlands**

**h) Indian Tax Adviser:**

**Ernst & Young  
18<sup>th</sup> Floor, Express Towers  
Nariman Point  
Mumbai 400 021  
India**

#### IV. BACKGROUND

Himalayan Fund NV was one of the first funds through which foreign investors could invest in India. It has a distinguished history and a long track record of investing in listed stocks in India, as well as selected stocks in Bangladesh and Sri Lanka, since 1990.

The Fund was launched to provide a vehicle through which foreign investors could invest in India on the same basis as local investors. The Fund also provides a tax-efficient structure under a double taxation treaty with the Netherlands. At the time of its launch, access to the Indian markets by foreign investors was severely restricted and regulatory approval was given on the basis that the funds raised could not be withdrawn for ten years. In 2000, the Fund opened for buying and selling Ordinary Shares on a monthly basis. In 2007, on the launch of a weekly dealing facility by Euronext Fund Services, the Fund changed to weekly dealing at a transaction price based on the net asset value of the Fund only.

Progressive reform of Indian foreign access provisions since 1994 has largely eroded the benefits of the original structure. As a consequence the Fund registered with the Securities and Exchange Board of India as a Foreign Investment Institution (FII) and is now entitled to hold its own shares in eligible Indian stocks directly, through its local Custodian, Citibank Mumbai. In 2009, the Fund initiated the liquidation of a dormant subsidiary in India, Canbank Offshore Mutual Fund, through which local investments were held under the old regulatory regime. This vehicle had been maintained to ensure that the Fund could retain its rights under a number of claims which had arisen from the Indian Stock Market scandal of 1992. These have now all been settled in full.

The Fund is managed by the Board of Directors and on their recommendation, Iceman Capital Advisors Ltd. was appointed as Investment Advisor (see section VI, "Investment Advisor") by a vote at the 2006 annual meeting of shareholders. The investment objective and investment policies of the Fund are agreed between the Board and the Investment Advisor and are reviewed periodically. The Investment Advisor has provided a detailed statement of the investment strategy, which is contained in Section IX, "Investment Policies". This describes the approach they will be taking to the investment of the Fund's portfolio with the objective of maximizing returns.

The Directors would like to remind shareholders and prospective investors that investing in developing markets involves greater risks than other types of investment. These risks are described in this Prospectus in Section X "Risk Factors". Investment in the Fund may only be made by means of this Prospectus and investors should take professional advice before investing. By purchasing shares, investors acknowledge that they have read and understand the risk statements provided.

The Fund is not a UCITS as defined in the EU UCITS Directive for the purposes of distribution in the European Union.

## V. BOARD OF DIRECTORS

The Fund operates with a one-tier Board of Directors and has outsourced administrative functions to appropriate service providers. It remains responsible for all the actions of the Fund including in respect of functions that have been outsourced. The Board must include at least two resident Dutch directors. The Chairman is Ian McEvatt, who has been a Director of the Fund since 1994 and Chairman of the Board since 2001.

The Directors are:

- Ian McEvatt, Chairman; Managing Director of the Investment Advisor, and former CEO of the previous Investment Manager;
- Dwight Makins, Senior Independent Director; Company Director and private equity investor;
- Robert Meijer, a Dutch Director; company director and venture capital investor;
- Karin van der Ploeg, a Dutch Director; partner of Inviqta, Company Secretary to the Fund.

The Fund has no employees. The Chairman, Mr. McEvatt, has notified the Board that he is the beneficial owner of 15,000 Ordinary Shares in the Fund held in a Self Invested Pension Plan under independent administration. Otherwise, none of the Directors has declared an interest in the Ordinary Shares of the Fund, nor in any of the investments held by the Fund at the date of this Prospectus. There are no service contracts between the Fund and any of the Directors nor are any such contracts contemplated. Mr. Ian McEvatt is a shareholder, director and officer of the Investment Advisor. Mrs. Karin van der Ploeg is a partner of Inviqta, which provides domiciliation and company secretarial services to the Fund.

The remuneration of the Board of Directors is subject to a limit of US\$100,000 in aggregate in any one year, unless varied by the Shareholders in a general meeting. This limit has been unchanged for at least ten years. Remuneration includes an annual retainer and a fee in respect of participation in statutory meetings of the Fund. Directors who are also employees of service providers to the Fund waive these fees. In addition, Directors who are involved in the day-to-day management of the Fund are also paid an annual fee. Where such Directors are also in the employment of service providers to the Fund, this fee is paid to their employers. All Directors are reimbursed reasonable expenses incurred in the fulfillment of their duties. There are no arrangements for stock options to be issued in favour of Directors of the Fund.

With the exception of Mr. McEvatt and Mrs. Van der Ploeg, as previously mentioned, no Director is materially interested in any contract or arrangement subsisting at the date hereof which is unusual in its nature and conditions or significant in relation to the business of the Fund. As Mr. McEvatt is a principal of the Investment Advisor, a committee of the Board comprising independent and Dutch Directors monitor the conduct of the Investment Advisory Agreement. Mr. McEvatt does not vote on any matters pertaining to the Investment Advisory Agreement. Similarly, a committee of the Board oversees the conduct of the Company Secretary and domiciliary agreement with Inviqta and Mrs. Van der Ploeg does not vote on any matters arising from this agreement.

No loan or guarantee has been granted by the Fund to any Director, however, the Directors are indemnified by the Fund and are covered by a Directors and Officers liability insurance policy; by the terms of the Investment Advisory Agreement, the directors and officers of the Investment Advisor are similarly indemnified.

## VI. INVESTMENT ADVISOR

The Fund has entered into an Investment Advisory Agreement with Icedan Capital Advisors Ltd. (**Icedan**), a company incorporated in Jersey, Channel Islands under the Companies (Jersey) Law 1991, registered number 93679 (the Investment Advisor). Icedan is regulated by the Jersey Financial Services Commission under the Financial Services (Jersey) Law 1998 and is authorized to act as Investment Advisor to the Fund. The Jersey Financial Services Commission is protected by this Law against liability arising from the discharge of its functions under the Law. Icedan was established by the Chairman of the Fund in 2006 with the initial purpose of providing investment advisory services to the Fund.

The primary responsibility of the Investment Advisor will be to formulate investment strategy, to review opportunities for investment by the Fund and to recommend transactions to the Board. In addition, it will be the responsibility of the Investment Advisor to ensure that the portfolio is at all times invested in such a way as to comply with the Fund's investment restrictions and prudent risk management. The Investment Advisor will also advise the Board of the Fund on the realization of investments. Finally, the Investment Advisor will provide investor relations and communications services to the Fund.

The principals of Icedan provide the Fund with considerable background and expertise in investing in India, stock research and portfolio management. Mr. Ian McEvatt, the Chairman of the Fund, is the Managing Director of Icedan. He has more than twenty-five years experience in investment management, including ten years based in Hong Kong, working predominantly in Asian emerging markets. During this period he was chief executive of Indosuez Asia Investment Services Ltd. (subsequently CAAM Hong Kong), which launched the Fund in 1990. Mr. Eric Jostrom, a Director of Icedan, is an investment professional with more than thirty years' experience in equity research, portfolio management and private equity investing. Mr John Owen, CMG, MBE, is a former career diplomat and is Chairman of the Board of Icedan. While serving as Governor of the Cayman Islands, he was involved in the establishment of the Cayman Islands Monetary Authority. Mr. Owen is also Chairman of Fidelity China Special Situations Fund PLC.

Mr. McEvatt has primary responsibility for Icedan's investment activity. He chairs Icedan's investment committee and applies his experience in investment process and portfolio management to the formulation of investment strategy and investment recommendations for the Fund. Mr. McEvatt's responsibilities are shared with Mr. Eric Jostrom, who has considerable depth of relevant experience in stock-picking and portfolio management with Eaton Vance, Indosuez Asset Management and CAAM Hong Kong. Mr. John Owen oversees independent control, audit and regulatory matters by chairing Icedan's compliance committee. Icedan's management has been unchanged since it's appointment as Investment Advisor.

Icedan uses the normal brokerage and investment banking sources to procure investment research and analysis. In addition, to support the development of investment strategy and to provide a dedicated source of company research and market intelligence, Icedan has an agreement with Indasia Fund Advisers Pte. Ltd. of Mumbai. Indasia is an independent investment banking and advisory company established and directed by Mr. Pradip Shah. Mr. Shah was a founding Director of the Fund and a member of the Board until 2003 when he resigned due to pressure of other duties.

To comply with Jersey statutory requirements, Icedan has two local Directors: Mr. Peter Nicolle and Mr. Michael Cordwell. Mr. Nicolle and Mr. Cordwell are both trust and financial services professionals associated with Minerva Financial Services Ltd., which provides administrative and secretarial services to Icedan.

The Investment Advisor is paid a fee of 1.5% per annum on the value of assets under management, calculated and paid quarterly in arrears.

## VII. ADMINISTRATOR

Fastnet Netherlands N.V. (Fastnet Netherlands) is part of the Fastnet Group ([www.fastnetgroup.com](http://www.fastnetgroup.com)) which is established in Luxembourg, Belgium, the Netherlands, Ireland and Italy. The Fastnet Group is a European market leader in the field of financial and administrative services to large investment managers, insurance companies and pension funds, mostly operating in international markets.

Fund administration is the core business of Fastnet Netherlands, which is a joint venture between Fortis Bank and CACEIS. CACEIS is a securities services business owned jointly by Credit Agricole and Caisse Nationale des Caisses d'Épargne of France ([www.caceis.com](http://www.caceis.com)).

The Administrator is paid a fee of EUR50,000 per annum.

## VIII. MARKET BACKGROUND AND INVESTMENT PROSPECTS

### India

#### *General*

India covers an area of about 3.3 million square kilometers in South Asia and is the seventh largest country in the world by area. The population is over 1.2 billion people, making India the world's second most populous country after China.

#### *Government and Politics*

India gained its independence in 1947 and is a constitutional democracy with separate executive, legislative and judicial branches of government. It has a federal parliamentary system and elections to the national parliament and 26 state assemblies are held every five years.

The President of India is the constitutional head of state, exercising power under the Constitution with the advice of the Council of Ministers, headed by the Prime Minister. Executive authority rests with the Prime Minister and the Council of Ministers who are responsible to the Lok Sabha (House of People). The Prime Minister is elected by the Lok Sabha and ratified by the President who also appoints the other ministers on the advice of the Prime Minister.

India enjoys a common law legal system with an independent judiciary. Historically slow-moving, the system should benefit from recent reforms, especially in the field of company law. The existence of a stable common law legal system is, nonetheless, an important commercial advantage. At a policy level, the government has given the Reserve Bank of India (RBI) independence in setting monetary policy and its recent anti-inflation stance has been a notable success. Securities regulation is the responsibility of the Securities and Exchange Board of India (SEBI) which has developed an excellent reputation for regulation and standards.

A recent history of coalition politics has tended to undermine consistency in government policy but the 1990's were nevertheless characterized by economic reform. In 1999, a BJP-led government won power, introducing a relatively stable term of office with an unexpected tone of liberal economic reform. To widespread surprise, this government was rejected by the electorate in 2004, giving way to a Congress Party coalition government. This government was sustained through a full five-year term by various coalition partners but was prevented from following a consistent path of reform by coalition disagreements. In May 2009, in a considerable surprise to

markets and observers, the Congress Party was returned for another five-year term with a substantially stronger mandate.

The Prime Minister is Manmohan Singh, an architect of economic reform when he was Finance Minister in the early nineties. His new government has a much more stable power base but its first economic policy moves in a Budget statement disappointed markets. In fact it was highly political, with a focus on rewarding voters in the first instance. On close examination its stimulative personal tax benefits and infrastructure investment commitments paved the way for a recovery in economic growth. Subsequent statements confirmed reform intentions on the lines investors were seeking as well as commitments to disinvestment as a means to reducing the fiscal deficit. The introduction of nationwide goods and services tax by April 2010 is expected to lead to a dramatic improvement in compliance and introduce much needed efficiencies in inter-state trade.

Since the terrorist atrocities of November 2008 there has been some improvement in relations with neighbouring Pakistan. There has been a notable improvement in cooperation and the arrest of a number of suspects in Pakistan connected to the Mumbai attacks bodes well. The surviving terrorist has been convicted and sentenced in the Indian courts but further action following the arrests in Pakistan is still pending. Improved relations should help ease long-standing tensions over the disputed province of Kashmir. The prospect of a "peace dividend" is an important motivation and communications remain open in spite of periodic diplomatic stand-offs. Another important strategic development was the Nuclear Treaty with the US and subsequent recognition of India by the Nuclear Users Group as a civilian nuclear power. India sees this Treaty as an important sign of diplomatic maturity. More importantly, from the point of view of economic development, it will facilitate an efficiency upgrade at India's seventeen existing nuclear power stations, through access to better quality nuclear fuel. In the long-term, it offers the prospect of access to the latest technology in the field, boosting the prospects for power-generation capacity.

### *Economy*

The Indian economy is the fourth largest in the world in terms of purchasing power parity, contributing about 6% of global GDP. In nominal terms, however, its GDP of approximately \$1.2 trillion is only about 2% of the global aggregate. The scope to make up this difference is a vivid expression of India's economic potential.

Following a balance of payments crisis in 1991, the government initiated a programme of economic reform which delivered a period of sustained economic growth. Direct and indirect taxes were lowered and key industries were freed from the protection of a licensing regime which had restricted investment for years. Foreign direct investment is now permitted in key sectors, such as oil production and refining, telecommunications, power, coal and capital goods.

Trend growth in GDP averaged almost 6% per annum in real terms at first and since the turn of the century, it has accelerated to further. This has encouraged the government to contemplate a growth target of 10% during the twelfth economic planning period. Growth in the non-agricultural side of the economy has reduced dependence on agriculture to about 17%, though the monsoons can still cause some variation in GDP contribution. Service industries now contribute more than 50% to GDP as India has made itself a world power in the field of business process outsourcing and the financial sector expands into the service void that is the rural economy.

Private sector enterprises operated at a high level of capacity utilization until last year due to strong domestic demand. In response to the recent global economic slowdown, they focused on

operational management, cutting inventories and overhead. This, combined with the benefits of lower raw material costs has contributed to expanded margins in the first quarter of the current fiscal year and is providing a basis for a later market re-rating. The so-called growth gap, the difference between actual capacity utilization and the expansion needed to meet growing domestic demand, is yet another expression of India's economic potential.

India has substantial unexploited potential in natural resources which is driving a boom in Oil & Gas exploration and related service companies. In 2009 new production of natural gas from the Krishna Godavari basin and crude oil from three onshore fields in Rajasthan commenced. This will have a transforming effect on India's balance of payments, as these two developments alone will eventually substitute about 30% of energy imports. There will also be a fiscal benefit as domestic source fuels allow the government to move away from costly subsidy schemes in fertilizer production and domestic fuel. Other substantial discoveries will be brought into production over another three to five years.

Demand for basic materials such as cement and steel has exceeded supply in the past and a build-up of infrastructure development projects will sustain demand even with increased productive capacity. The technology sector is also enjoying improving profitability from its success in overseas markets. Rupee appreciation always poses a risk to the profitability of foreign contracts but aggressive cost management is sustaining margins and contract volumes are recovering, especially from financial sector clients. Domestic e-governance projects are opening a new channel of volume growth for the sector as the government pursues efficiency gains from automation.

Sustained growth in corporate profitability between 2005 and 2008 had two notable effects. First, the contribution to fiscal revenue from taxes on company profits accelerated dramatically, bringing a significant improvement in the national fiscal balance. Second, after years of underinvestment, companies launched a surge in capital expenditure, with investment commitments of hundreds of billions of dollars. The combined effect on investment demand is what drove GDP growth to 9.2% in the fiscal year ended March 31<sup>st</sup> 2008 (FY08). A slowdown in following year, FY09, prompted a fiscal stimulus of about 3.5% of GDP which brought a recovery in growth but boosted the fiscal deficit from 5.5% to 6.8% of GDP. The latest budget, for fiscal year 2010-11 (FY11) commits the government to reducing this back to 5.5% within eighteen months and the public sale of stakes in public sector enterprises (referred to as PSUs) will make an important contribution to this effort. Initial returns for the current fiscal year show fiscal revenue growing again, with direct tax revenue rising and advance profits tax payments signaling sustained acceleration in corporate earnings.

Demographic trends are having a stimulating effect on consumer demand. A majority of the population is rural but more than 50% per cent is aged less than 25 years. Intense urban development is drawing younger people to cities, to join an increasingly affluent middle class with typical modern tastes. This is stimulating private consumption, underpinned by rising incomes and availability of credit. The Reserve Bank of India (RBI) has shown its determination to manage inflationary tendencies with tight control of monetary policy and active management of a wide array of policy instruments. This year has seen the end of a period of easy monetary policy as the RBI has first increased bank cash reserves to remove excess liquidity and then increased policy rates to choke off incipient inflation. The immediate inflationary problem has been due to food prices as a result of crop shortages arising from the poor monsoon in 2009. An improvement in rainfall later in the year has led to a record winter crop, which will bring food prices back into line and gentle raising of policy rates should then be enough to sustain growth without overheating.

The Investment Advisor is convinced of the positive outlook for the Indian economy in the foreseeable future. This conviction is supported by a consistent government engagement in economic reform as well as two key drivers of economic growth: investment and consumption. The investment stimulus is a powerful combination of the government's commitment to infrastructure development and private sector capital expenditure. This adds to the continuing expansion of domestic demand driven by emerging urban affluence and improvement in rural incomes as a result of the National Rural Employment Guarantee Scheme, farm debt waivers and rising Minimum Support Prices for crops. The growth potential is well recognized and the flow of foreign investment into India reflects optimistic expectations for investment returns.

### *Stock Market*

The Bombay Stock Exchange (BSE) is the oldest stock market in Asia, having been established in 1875. It was first formally recognized by the Government of India in 1956 and demutualised in 2005. It has played a pivotal role in the development of the Indian capital markets and its index, the BSE Sensitive Index (SENSEX) has a worldwide following.

The BSE has a presence in 417 cities and towns in India and there are now almost five thousand companies listed. The exchange operates paperless, fully automated trading, settlement and registration systems. These systems are designed to safeguard market integrity and enhance transparency in operations. The BSE market is highly liquid and volumes grew strongly as the SENSEX index reached new peaks in recent years.

The National Stock Exchange of India (NSE) was incorporated in 1992 based on the recommendation of a government study that a national exchange be established by financial institutions. It was set up as a fully-automated securities exchange for paperless trading, with a national network of three thousand terminals giving access to electronic trading of shares in more than three hundred cities. More than thirteen hundred securities are listed on the exchange and daily processing capacity is more than six million transactions. The S&P CNX Nifty Index of fifty stocks was launched in 1998 and has become a benchmark index for the most liquid stocks in India. It is also the basis of futures and options contracts traded on the NSE. All of NSE equity debt and derivative markets are highly liquid.

The total Indian equity market capitalization is now about \$1 trillion. This includes more than one hundred companies with a capitalization level of more than \$500 million and six hundred with capitalizations of between \$25 and \$500 million. The interest of foreign investors, as represented by the share of FIIs in total trading volumes, dropped to around 15% in early March 2009 but is now recovering again.

The BSE and NSE are regulated by the Government of India acting through the Ministry of Finance. The Securities Exchange Board of India (SEBI) which was established by the Government of India in April 1988 has the primary responsibility of developing and regulating the Indian securities markets as well as protecting the interests of investors.

## **Other Markets**

Within the Investment Restrictions listed under **IX. Investment Policies below**, the Fund could commit up to 15% of its assets to investments in other markets. Historically, selective investments have been made in Sri Lanka and Bangladesh for diversification purposes and in search of incremental returns. Because of security concerns in Sri Lanka and political uncertainty in Bangladesh, the Fund has not held any interests in these two markets for some time. The Fund maintains the discretion to add exposure in these markets but the Board has decided not to do so and this is a policy which the Directors intend to continue. They may consider suitable investment opportunities in the future subject to the security and political conditions prevailing and these will be reviewed periodically.

## **IX. INVESTMENT POLICIES**

### **Investment Objective and Approach**

The investment objective is to generate long-term capital appreciation for shareholders through investment in Indian stock markets and, selectively, in the stock markets of contiguous countries, such as Sri Lanka and Bangladesh. Investments may also be made in instruments that are traded on other recognized stock exchanges or markets, where the underlying investment is in a company whose business is substantially based in the Indian sub-continent. The investments will primarily be made through the medium of ordinary and preference shares and rights but the Fund may also invest in bonds, publicly-issued debt instruments, warrants, options, depository receipts, equity-linked notes and contracts for differences.

The portfolio will comprise a concentrated selection of investments, substantially from amongst the stocks which make up the National Market Index. These stocks would be expected to account for between 70 and 80% of the portfolio. Individual stock weightings will be determined in accordance with prevailing investment strategy as described below. The remainder of the portfolio will comprise stocks selected for their potential to boost returns over the medium term because of exceptional growth or transformation prospects

It is not the intention to use leverage in the normal course of activities but for liquidity purposes, an overdraft facility of no more than 20% of the net asset value of the portfolio may be maintained.

### **Investment Restrictions**

Investment of the Fund's assets is subject to certain restrictions determined by the Board and is unchanged from those published earlier Prospectuses. Additional restrictions apply to conform to the requirements of The London Stock Exchange. Furthermore, it is intended that the Fund will be managed in such a way as to obtain certification as a "distributing fund" by Her Majesty's Customs and Revenue in the UK, which requires observance of additional restrictions. To the extent that these are incremental to the restrictions determined by the Board, the differences are described below. The Board reviews compliance with these restrictions at its periodic meetings based on information reported by the Administrator and the Investment Advisor. The Fund will not:

- Invest in securities having unlimited liability;
- Invest in unlisted securities if, as a result, more than 15 % of net assets would then be invested in such securities (provided that unlisted securities whose return is linked to

- underlying listed equities shall not be regarded as unlisted securities for the purposes of this restriction);
- Invest more than 15% of net assets in securities issued by another collective investment undertaking (excluding any vehicles which are wholly owned by the Fund);
  - Borrow, except for temporary liquidity purposes up to a maximum of 20% of net assets;
  - Deal short or on margin, except such short-term credits as may be necessary for the clearing of transactions;
  - Purchase any security (other than obligations of governments carrying a credit rating) if, as a result, (a) more than 15% of net assets (taken at current value) would be invested in the securities of a single issuer or (b) more than 40% of net assets would be invested in a single industry;
  - Purchase any security, if, as a result, more than 15% of net assets would be held in a single class of securities or of the outstanding voting securities of a single issuer (other than a vehicle wholly-owned by the fund);
  - Buy or sell commodities, futures or futures contracts or commodity contracts or real estate or interests in real estate although it may purchase and sell securities which are secured by real estate or commodities and securities of companies which invest in or deal in real estate or commodities;
  - Make any loan or give any guarantee; or
  - Make investments for the purpose of exercising control or management.

The Fund will not take legal or management control of entities in which it invests. In addition to securities issued by companies, investments may be made which take the form of partnership arrangements, participations, joint ventures and other forms of non-corporate investment and may also include currency investments.

The following additional restrictions apply to conform to the listing requirements of The London Stock Exchange:

- i. distributable income will be principally derived from investment and the Fund and its subsidiaries (from time to time) will not conduct a trading activity which is significant in the context of the group as a whole;
- ii. except as provided in the Listings Rules of The London Stock Exchange, the Fund will not take legal or management control of investments in its portfolio;
- iii. except as provided in the Listing Rules of The London Stock Exchange, not more than 20% of the gross assets of the Fund (consolidated where applicable) will be lent to or invested in the securities of any one company or group (including loans to or shares in the Fund's own subsidiaries) at the time the investment or loan is made: for this purpose any existing holding in the company concerned will be aggregated with the proposed new investment (such restriction not applying to cash deposits awaiting investment);
- iv. dividends will not be paid unless they are covered by income received from underlying investments: for such purposes a share of profit of an associated company is unavailable unless and until distributed to the Fund; and
- v. except to the extent that The London Stock Exchange agrees, the Fund will not distribute as dividend any surpluses arising from the realization of investments.

The most important additional restriction that must be observed to qualify as a "distributing fund" in the UK is that no more than 5 per cent of the value of the assets of the Fund may consist of interests in other offshore funds unless such other offshore funds could be certified as distributing funds.

None of the above restrictions preclude the Fund from holding units issued by any entity wholly –owned by the Fund (which entities would be subject to the overall investment restrictions applicable to the Fund) or requires the realization of any relevant assets of the Group where any of such restrictions is breached as a result of any event outside the control of the Group and occurring after the relevant investment was made or upon any exercise of conversion rights attached to any investments held by the Group but no further investments may be acquired for the account of the Group until the relevant restriction can again be complied with.

The Fund will maintain prudent risk dispersion at all times while observing the investment restrictions listed above.

The Fund does not engage in securities lending.

### **Investment strategy**

India has attracted investment from foreign investors drawn by fundamental characteristics which make it a hospitable destination for liquidity in search of attractive returns. Its common law jurisdiction, independent judiciary and institutional framework provide transparency in the rule of law and the application of regulations. It has a culture of private enterprise with more than a hundred years of capital market history, as well as stable democracy in its form of government. This also provides a consistent framework of economic policy, which is underlined by the transparency of the RBI in its management of monetary policy.

The economy has an unbroken record of GDP growth, supported by the third largest pool of technical manpower in the world and substantial foreign reserves to balance fluctuations in the current account. Distinctly among developing countries, India's economy is substantially domestic-demand driven, fuelled by public sector investment and individual consumption which contributes almost 60% of total demand. It enjoys the added prospect of increasing private sector investment to expand capacity as growth accelerates. In the fiscal year ended March 31<sup>st</sup>, 2008 (FY08), GDP growth reached 9%, encouraging the government to set a long-term target of 10%. As the developed world descended into recession as 2008 progressed, the growth rate of Indian GDP slowed, eventually to 6.7% for FY09. Following the application of a fiscal stimulus worth about 3.5% of GDP, the economy recovered in FY10, with growth for the year forecast at about 7.2%.

The RBI eased monetary policy aggressively to support growth through this period and assured the health of the banking sector by tight lending controls and active management of bank reserves. As a consequence, unlike in developed markets, the Indian banking sector is well-capitalized and has a good quality asset-base. Thus the economy is well placed to enjoy acceleration in growth towards the government's eventual target of 10%. Inflation has revived substantially as a consequence of a weak monsoon in 2009. The summer (karif) harvest was poor, causing cereal prices to rise sharply and boosting inflationary pressure in food prices. The contribution of agriculture to overall GDP will be reduced as a consequence but heavy late rains replenished reservoirs and improved ground water levels so that the winter (rabi) harvest looks like being a record. In order not to derail economic acceleration, the RBI has embarked on policy of gentle withdrawal of monetary stimulus, including cash reserve increases and incremental policy rate increases. In the third quarter of FY10, the agricultural sector had slowed overall GDP growth back to 6% annualized; recovery in the fourth quarter is being driven by a surge in industrial production which is quickly absorbing surplus productive capacity. This should provide additional economic stimulus in FY11, as industry responds to a surge of public sector investment by increasing capital expenditure plans.

Between the end of 2007 and the first quarter of 2009, foreign investors (FIIs) withdrew about \$28 billions in portfolio investment from Indian markets. Over the same period, foreign direct investment (FDI) was sustained, though only at a level comparable to the previous period. Stock markets reached a trough on March 6<sup>th</sup> 2009, at which point it was valued at eight times historic earnings, a new low for the historic range of price-earnings multiples. From this level, a surge in FII flows drove the market up and the election result in May 2009 provided a new platform of political stability. Since then, momentum has been sustained by net portfolio (FII) inflows of more than \$13 billions and recent appreciation of the Rupee accompanied by a surge in FII investment in private placements suggest that the appetite for investing in India is growing again.

Corporate earnings growth is now generally forecast at 10% for FY10, rising to over 20% in FY11. The first three quarters of FY10 suggest that these forecasts may be exceeded and that accelerating earnings expectations will provide a basis for successive market re-ratings over several quarters. Simultaneously, a longer-term cycle of re-rating should evolve out of improvements to India's trade and fiscal balances as a result of increasing supplies of domestic-sourced oil and natural gas. A newly-invigorated programme of reductions in government holdings in public sector enterprises will help to reduce the fiscal deficit and finance much-needed infrastructure investment.

Against this background, investment strategy will be based on three main themes: first, to sustain GDP growth at a higher trend rate, the infrastructure for power generation and transportation must be developed. The current XI<sup>th</sup> Economic Plan calls for the addition of over 75GW of new power generation capacity by 2012. This may not be achieved in total but about 60GW is now expected to be completed, with the rest within the following eighteen months. In addition, the recognition of India as a civil nuclear power by the Nuclear Users Group last year will allow an upgrade of the output rating of India's 15GW of nuclear capacity from about 40% to over 90% simply due to availability of higher quality imported uranium. The Roads Minister has set a target for the construction of 22,000 kms of expressways over ten years and sanctioned hundreds of millions of dollars for improvement of other major roads. Streamlining of tender processes and high-level oversight should improve execution which has previously been a problem.

Second, in order to meet the surge in demand arising from the public sector investment programmes, private sector enterprises will have to invest in capacity expansion, creating employment and boosting domestic demand. The scale of investment required now to deal with the distribution of natural gas from the KG Basin and crude oil from Rajasthan is immense. A national pipeline network is planned with city gas to be piped to consumers in eight cities. A backbone pipeline between the east and the west coasts is already built and a crude oil pipeline from the Rajasthan oilfields to refineries in Gujarat is nearing completion. Substantial investment is still to be made in developing other significant offshore gas discoveries and the servicing of a rapidly increasing exploration sector is already meeting supply bottlenecks.

Third, the employment creation in urban areas is stimulating a recovery in consumer demand for the kind of discretionary products which typically accompany urban wealth creation. In rural India, the improvement in income at the lowest levels due to employment creation schemes has been remarkable. These schemes typically focus on basic infrastructure such as water and electricity provision to remote villages. In addition, agricultural subsidies for fertilizer use, irrigation and machinery use, combined with rising minimum support prices for crops are also contributing, stimulating demand for consumer staples. Household products and personal hygiene products as well as two- and three wheeler vehicles have seen exceptional demand

acceleration and sales of white goods and entry-level cars such as the Tata Nano are feeding urban appetites.

Thus investment strategy will focus Capital Goods, Engineering and Construction and the Financial Sector as investment demand accelerates lending growth. The potential for the Oil & Gas sector remains under-appreciated as the scale of discoveries is still a surprise to many foreign investors. As production comes on-stream, stocks become linked to energy prices but recoverable reserve valuations tend to appreciate during the early stages of productive life adding a new source of value. The Fund will maintain a strong position in upstream oil and gas companies. Demand for drilling capacity, shore base servicing, dredging capacity and pipeline requisites provides demand growth for an array of businesses in the wider economy. Finally, selective investment in the Consumer Goods Sectors will generate attractive returns as incomes improve and the government lives up to its commitment to spread the benefits of growth across all sectors of the population.

Sustained GDP growth often leads to capacity constraints and the resolution of such constraints can provide opportunities for enhanced returns to investors. Consolidation in industries with long lead-times for capital development, such as cement and mining, are an example. Capacity constraints also drive acquisition activity in the Healthcare Sector, as producers seek productive capacity for drugs coming off patent. Market entry strategies of foreign companies also accelerate consolidation activity: foreign interest in the mobile telecommunications field is an example of this. Finally, major private equity funds are establishing a significant presence in India. Their presence will eventually add to corporate finance deal flow, again creating opportunities for enhanced returns. Part of the portfolio will be reserved for investments which may provide value-added in this way.

When stock prices are driven up so that market valuation levels are extended, the risks can appear to outweigh the potential for returns. As middle class appetites develop, demand for imports can cause deterioration in the balance of payments current account. Lax credit expansion can increase the risk of bad debt in the financial sector. Loose monetary policy can promote inflationary tendencies and poor fiscal management can undermine government spending plans. Externally, a shock in the global economy can drain liquidity from the markets, as happened in 2008.

In India, there are important mitigating factors in the face of such risks. With the surge in corporate capital investment, the economy is now much more heavily domestic demand driven than most developing countries. Inflationary pressures have emerged but the authorities have shown determination not to allow them to undermine economic progress. The markets have already taken cycles of monetary tightening through interest rate increases as well as control of bank liquidity reserves in their stride. On the fiscal side, the introduction of a nationwide goods and services tax next year prefaces broader fiscal reform and central government revenue collection looks like seeing the benefit of fiscal drag again, driven by accelerating corporate profits.

Economic recovery in the developing world is looking slow and bumpy but India, in particular, depends on the rest of the world for only 14% of GDP in merchandise exports. The power of domestic demand has enabled the economy to withstand global shocks. The equity markets are recovering from a major setback and valuations have recovered from their lows. Stock valuations can still benefit from a sustained period of re-rating due to excellent results, which are forecast to be repeated for several quarters to come. Against this background, the Directors are convinced that India continues to hold outstanding potential for attractive returns. The Fund remains committed to investment in India in the long-term.

## X. RISK FACTORS

Investing in emerging and developing markets carries risks that are greater than those associated with investment in securities in developed markets. In particular, prospective investors should consider the following, in order of priority:

1. **Market Liquidity:** A substantial proportion of market capitalization and trading value in emerging markets can be represented by a relatively small number of issuers. Also, there is a lower level of regulation and monitoring of the activities of investors, brokers and other market participants than in most developed markets. Disclosure requirements may be less stringent and there may be less public information available about corporate activity. As a result, liquidity may be impaired at times of high volatility. The Indian markets have withstood high volatility in the recent past and recovered momentum because of excellent corporate results. This has shown that the liquidity in the shares of the top companies is strong, as further emphasized by demand for those shares through Depository Receipts in overseas markets. Furthermore, standards of governance and transparency are improving dramatically under the impetus of the regulatory bodies. Other contiguous markets are not necessarily the same and the Fund only invests in them with the utmost care.
2. **Market Volatility:** Securities exchanges in emerging markets are smaller and subject to greater volatility than those in developed markets. The Indian market has in the past experienced significant volatility and there is no assurance that such volatility will not occur in the future.
3. **Political Economy:** The Fund's portfolio may be adversely affected by changes in exchange rates and controls, interest rates, government policies, inflation, taxation, social and religious instability and regional geo-political developments.
4. **Fund Liquidity:** The Fund's rules allow weekly purchases and sales of Ordinary Shares but in order to allow orderly management of the portfolio in the interest of continuing shareholders, the value of purchases may be limited to 5% of the net asset value of the Fund on any one Execution Day.
5. **Counterparty Risk:** The Fund deals in listed stocks traded on the BSE and the NSE in India and the Colombo Stock Exchange in Sri Lanka. All transactions are book-entry and settlement is fully automated. In the event of non-delivery by either side, the transaction fails. In this case recovery can be achieved by delivery against payment or the transaction abandoned.
6. **Concentration Risk:** The investment restrictions for the Fund in section **IX INVESTMENT POLICIES**, above, limit the possibility for concentration of risk by stock and sector. Investors should note that the portfolio will be concentrated in the Indian sub-continent.
7. **Currency Fluctuations:** The Fund invests primarily in securities denominated in local currencies whereas the Ordinary Shares are quoted in US dollars. The US dollar price at which the Ordinary Shares are valued is therefore subject to fluctuations in the US dollar/ local currency exchange rate.
8. **Legal and Regulatory Compliance:** The Fund is responsible for ensuring that no action taken by it or by any contracted service provider might cause a breach of any legal or regulatory requirement. The Board and all of its service providers maintain adequate control procedures to guard against any such occurrence and these procedures are subject to regular review. Should such a breach occur inadvertently, control procedures should detect it and institute corrective action without delay.
9. **Financial Crisis:** Almost uniquely amongst financial markets, the Indian financial sector was insulated against any consequences of the recent financial crisis by the tight control

exercised by the RBI. Bank balance sheets were free of toxic assets and capital ratios were maintained. Ratios of non-performing assets remained within historic norms.

The risk profile of the Fund is intended to be comparable to that of other funds investing in India and contiguous markets. Nonetheless, the Directors remind shareholders and potential investors that the value of the Fund may go down as well as up and that the Fund should be viewed as a long-term investment. An investor may receive less than the amount he invested on liquidation, depending on the market. It is important therefore, that an investor contemplating an investment in the Fund should take professional advice in order to have a clear understanding of the contents of this Prospectus.

## **XI. VALUATION PRINCIPLES**

### **Calculation of Net Assets:**

The Administrator will determine the net asset value in USD of an Ordinary Share weekly on Execution Day,

The NAV will be determined based on the following principles:

- i. quoted securities will be valued at the prices at which they quote at 06:59 CET on the Relevant Stock Exchange on the relevant Execution Day;
- ii. unquoted bonds, debentures and financial notes are valued at cost plus interest accrued but unpaid from purchase to (but excluding) the relevant Execution Day, plus or minus the premium over or discount to par written off over the life of the security. Unquoted shares will be valued by the Directors on the advice of the Investment Advisor using whatever method of valuation they consider will achieve a fair value;
- iii. the Directors may, however, permit some other method of valuation to be used if it considers that such valuation better reflects the fair value; and
- iv. there will be deducted all liabilities of the Fund and such provisions and allowances for contingencies as the Directors consider appropriate in respect of the costs and expenses payable by the Fund and the nominal amount of the Priority shares.

The net asset value of an Ordinary share will be published weekly on the Fund's website, <http://www.himalayanfund.nl>

### **Suspension of Calculation of Net Asset Value:**

The Directors may declare a suspension of the calculation of net asset value if, inter alia, in their opinion, it is not reasonably practicable for the Fund to dispose of investments or fairly to determine its Net Assets, or if a breakdown occurs in any of the means normally employed to ascertain such value, or if the disposal of investments cannot be effected normally or without prejudicing Shareholders, or during any period when the transfer of funds cannot be effected without undue delay or at normal rates of exchange.

Notice of any suspension or postponement in the calculation of the net asset value and the termination of any suspension will be notified through the Fund's website, <http://www.himalayanfund.nl>

## XII. DEALING IN ORDINARY SHARES

Himalayan Fund N.V. is an open-end investment company with 4,450,005 Ordinary Shares in issue. Investors may buy or sell Ordinary Shares in the Fund through the Euronext Fund Service of NYSE Euronext Amsterdam (EFS). EFS will offset buy and sell orders and where there is a surplus of Ordinary Shares in the market, the Fund will buy such Ordinary Shares; where there is a shortfall in Ordinary Shares relative to demand, the Fund will sell Ordinary Shares it has previously bought. Since 15 November 2007 Ordinary Shares have been traded weekly on the Execution Day through EFS, based on an NAV which is calculated after the cut-off time for orders. The Cut-off Time for orders is usually one Trading Day before Execution Day at 16:00 CET (N.B. in case of holidays on the Relevant Stock Exchanges the Cut-off Time may differ, please check our Website for this). All orders that have been confirmed by the Fund Agent will be executed on Execution Day. All confirmed orders will be settled through Euroclear Nederland at the Transaction Price (as determined in the paragraph named "Transaction Price" below).

The Transaction Price will include a premium of 0,35% on the NAV in case the balance of the buy and sell orders of Ordinary Shares on Execution Day results in a net sale of Ordinary Shares by the Fund or a discount of 0,35% on the NAV in case the balance of buy and sell orders on Execution Day results in a net purchase of Ordinary Shares by the Fund.

The charge of 0.35% is to defray direct costs arising from portfolio transactions due to brokerage commissions, settlement costs, dilution levies and possible market impact costs because the portfolio has to be adjusted. Market impact takes place when orders cannot be executed without having an effect on the price of the shares in question.

Buy and sell orders for the Ordinary Shares of the Fund must be received by the Fund on the Cut-off Day no later than 16.00 CET. Orders received after Cut-off Time will be executed (if they have been confirmed) against the Transaction Price of the next Execution Day. On the Execution Day at 10.00 CET confirmed orders are processed against the Transaction Price.

### **Transaction price**

The transaction price is determined as follows:

- in case the balance of buy and sell orders for Ordinary Shares on an Execution Day results in a net purchase of Ordinary Shares by the Fund, the Transaction Price will be the NAV minus 0,35%;
- in case the balance of the buy and sell orders for Ordinary Shares on an Execution Day results in a net sale of Ordinary Shares by the Fund, the transaction price is the NAV plus 0.35%.

Details of the determination of the Net Assets are set out in Part XI of this document: "Valuation Principles".

### **Incorrect Net Asset Value**

Shareholders who have suffered damages as a result of a statement from the Fund of an incorrect NAV of a Share as a result of a calculation error or another cause are entitled to compensation if:

- a. the difference between the reported NAV and the true NAV amounts to more than 1 %;
- b. the compensation amounts to at least EUR 100.-; and
- c. the error in the calculation is observed within 6 months after the relevant Execution Day.

The Ordinary Shares are in registered form.

All issued Ordinary Shares are held by Euroclear Nederland for inclusion in the giro deposit as referred to in the Securities (Bank Giro Transactions) Act (Wet giraal effectenverkeer) .

Ordinary Shares purchased by the Fund will be held by the Fund in treasury and may be resold on Execution Days. Such shares will be resold in priority to the issue of new Ordinary Shares.

### **Settlement**

Settlement will take place 3 business days after Execution Day through Euroclear Nederland. Himalayan Fund N.V. has the right to refuse a buy or sell order in case the settlement instruction is not a standard instruction. The standard settlement instruction is: settlement through LCH Clearnet (guarantee function), settlement term of 3 days after Execution Day and settlement through Euroclear Nederland.

### **Restrictions on the purchase of Ordinary Shares by the Fund**

The Directors reserve the right to limit net purchases of Ordinary Shares by the Fund to 5 per cent. (or such higher percentage as they may determine) of the number of Ordinary Shares in issue (excluding Ordinary Shares held in treasury by the Fund itself) at the end of the previous Execution Day. All buy and sell orders received in accordance with the time limits specified herein will be aggregated. Where purchase orders are received which exceed the limits which the Directors may impose as referred to above, such orders will be rejected. Any order or part of an order to which effect is not given will be void and not held over to the next Execution Day and must therefore be re-submitted. If re-submitted, such Shareholder will not receive priority over other Shareholders who submit orders on the next Execution Day.

The Fund is precluded under its Articles from purchasing any Ordinary Shares if its issued share capital (ignoring any Ordinary Shares held by the Fund itself) were thereby to fall below one-tenth (by nominal value) of the Fund's authorised share capital. If orders are received by the Fund in respect of any Execution Day which could, if executed, cause that limit to be breached, such orders will be rejected.

### **Suspensions**

No buy or sell orders for Ordinary Shares will be accepted during any period when the calculation of the net asset value is suspended as referred to under "Calculation of Net Assets in Part XI" The Fund may withhold payment to persons whose Ordinary Shares have been sold prior to such suspension until after the suspension is lifted, such right to be exercised in circumstances where the Directors believe that to make such payment during the period of suspension would materially and adversely affect and prejudice the interests of continuing

Shareholders. Notice of any suspension or postponement in the calculation of the net asset value and the determination of the net asset value will be sent to Shareholders or published in such newspaper(s) as the Directors will determine. The notice will also be published on the Website of the Fund. Buy and sell orders subject to the suspension will be dealt with on the Execution Day next following the end of the suspension or on such earlier day following the end of the suspension as the Directors may decide.

### XIII. COSTS WHICH WILL BE CHARGED TO THE FUND

In the year 2009 reporting period, the Total Expense Ratio (TER) of the Fund was 4.52% (2008: 3.49% and 2007:3.34%). This calculation covers a period when observation points for the net assets of the Fund were at an all-time low. The Board of Directors sets budgets for operating expenditures which are intended to maintain the TER at a level of 3% or lower

#### Overview total costs, total NAV and TER for the past 5 years

Year	Total costs in USD	Total NAV in USD	TER in %
2005	641,676	32,525,000	3.52
2006	942,591	22,314,000	4.18
2007	896,621	38,375,000	3.34
2008	834,859	12,921,000	3.39
2009	744,519	20,886,000	4.52

The following table shows the composition of the TER and its value when the volume of the fund is \$25,000,000:

<u>Variable (related to NAV)</u>	USD	%
NAV		
Investment advisory fee	375,000	1.5
Custody	25,000	0.1
<b>Total variable costs</b>	<b>400,000</b>	<b>1.6</b>
<u>Fixed (not related to NAV)</u>		
Administrator	72,000	0.2
Board fees	100,000	0.3
Board expenses	25,000	0.1
Domicile and secretarial services	43,000	0.1
Audit	57,000	0.2
Legal advice	30,000	0.1
Supervision	20,000	0.1
Publication/promotion/shareholder service	86,000	0.2
Insurance	29,000	0.1
<b>Total fixed costs</b>	<b>462,000</b>	<b>1.4</b>
<b>Total TER @ \$25,000,000 Assets under Management (AUM)</b>		<b>3.0</b>

The Directors intend to continue to promote the Fund to new investors and thus grow the NAV over time. Given a degree of success in this, they point out that at an AUM of \$50 millions, the TER would be reduced to 1.7%.

#### **Costs for administration**

The Administrator is paid a fee of EUR50,000 per annum (this fee is exempt from VAT).

#### **Costs for domiciliation and company secretarial services**

Inviqta is paid a fee of EUR25,000 (excl. VAT) per annum for domiciliation and company secretarial services.

#### **Marketing, advisory and advertising costs**

Marketing, advisory and advertising costs of the Fund in 2009 were USD 86,015 (incl. VAT)

#### **Auditor and fiscal advisor costs**

Auditor and fiscal advisor costs in 2009 were USD 56,632 (incl. VAT).

#### **Costs for annual audit**

The Auditor is paid a fee of approximately EUR 22,000 (excl. VAT) per annum for the audit of the annual accounts.

#### **Commission and bank expenses**

In 2009 a total of USD 17,261 was paid on commission and bank expenses. The costs are exempt of VAT.

#### **Regulatory fee and expenses**

The costs for supervision vary. In 2009 the Fund has paid the AFM a total of EUR 9,718 The FSA is paid a total of GBP 3695 for the year 2009/2010 and the LSE a total of GBP 6145. All supervision charges are exempt from VAT.

#### **Costs for listing**

The fee for listing on NYSE Euronext in 2009 was EUR 4400. The cost of listing on the London Stock Exchange for the year 2009/2010 was GBP 6415. These charges are exempt from VAT.

#### **Costs for the Board**

The remuneration of the Board of Directors is subject to a limit of US\$100,000 in aggregate in any one year, unless varied by the Shareholders in a general meeting. This limit has been unchanged for at least nine years. Remuneration includes an annual retainer and a fee in respect of participation in statutory meetings of the Fund. Directors who are also employees of service providers to the Fund waive these fees. In addition, Directors who are involved in the day-to-day management of the Fund are also paid an annual fee. Where such Directors are also in the employment of service providers to the Fund, this fee is paid to their employers. All Directors are reimbursed reasonable expenses incurred in the fulfillment of their duties

The directors and officers liability insurance fee for the year 2009/2010 is EUR 17,130 (exempt from VAT)

## **The Fund**

### **Transaction costs:**

Charges, including brokerage fees, transaction charges and local expenses (including stamp duties and service taxes inter alia) are included in the cost of each investment as it is posted to the portfolio. As an example, on an equity purchase of \$1,000,000, the total transaction charges amount to \$4,055, so that a total cost of investment of \$1,004,055 will be posted to the portfolio. Some of the portfolio investments may be equity participation notes traded in markets outside India. As an example, an equity participation note of \$1,000,000 in value traded in Hong Kong will attract charges totaling \$8,525, so that a total cost of investment of \$1,008,525 will be posted to the portfolio.

#### XIV. FINANCIAL INFORMATION ON THE FUND

The following is a digest of the financial performance of the Fund for each of the last five financial years ended December 31<sup>st</sup>, up to 2009.

	31-12-2009	31-12-2008	31-12-2007	31-12-2006	31-12-2005
<b>Net Asset Value (USD x 1,000)</b>					
Net Asset Value according to statement					
of assets and liabilities	20.100	12.922	38.376	22.315	23.578
Less: value priority shares	<u>14</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>53</u>
	<u>20.086</u>	<u>12.921</u>	<u>38.375</u>	<u>22.314</u>	<u>23.525</u>
	2009	2008	2007	2006	2005
<b>Profit and loss (USD x 1,000)</b>					
Income from investments	201	244	307	413	304
Capital gains/losses	11.308	-23.478	18.154	9.264	5.479
Expenses	<u>-745</u>	<u>-835</u>	<u>-897</u>	<u>-943</u>	<u>-642</u>
Total investment result	<u>10.764</u>	<u>-24.069</u>	<u>17.564</u>	<u>8.734</u>	<u>5.141</u>
Number of ordinary shares outstanding	410.804	502.049	544.145	588.746	892.419
<b>Per ordinary share</b>					
Net Asset Value share (USD)	48,89	25,74	70,52	37,90	26,36
Transaction price Euronext Amsterdam					
end of reporting period (USD)	47,29	24,69	69,35	37,00	32,01
Dividend (EUR)	-	-	-	-	-
Income from investments (USD)	0,49	0,49	0,56	0,70	0,34
Capital gains/losses (USD)	27,54	-46,75	33,37	15,74	6,14
Expenses (USD)	<u>-1,81</u>	<u>-1,66</u>	<u>-1,65</u>	<u>-1,60</u>	<u>-0,72</u>
Total investment result (USD)	<u>26,22</u>	<u>-47,92</u>	<u>32,28</u>	<u>14,84</u>	<u>5,76</u>

## XV. TAXATION

A summary of certain relevant taxation matters based on current legislation and practice is set out below. In that respect it is noted that the taxation of income and capital gains of the Fund and persons who have an interest in the Fund are subject to the fiscal laws and practices of the Netherlands and of the jurisdictions in which such persons are resident or otherwise subject to tax. The applicable fiscal laws and practices of the jurisdictions in which investments are made may also affect the Fund.

Prospective investors should consult their own professional advisers on the implications of making an investment in, or holding and disposing of, Ordinary Shares; and the receipt of income distributions under the laws of the countries in which they are liable to taxation.

### 1. The Netherlands

#### 1.1. Dutch tax aspects of the Fund

The tax aspects of the Fund described below are limited to the levy of Dutch corporate income tax, Dutch dividend withholding tax and Dutch capital contribution tax on the Fund itself.

##### (1.1.a) Corporate income tax

The Fund is a N.V. ("naamloze vennootschap" i.e. public limited company) incorporated under Dutch civil law. This means that the Fund is an entity which is liable to Dutch corporate income tax as a resident taxpayer. The place of effective management of the Fund is in the Netherlands and for the purposes of the application of the Dutch-Indian tax treaty of 30 July 1988 the Fund will be a resident of the Netherlands.

If a N.V. is established in the Netherlands and both its objective and activity in practice is the (passive) investment of capital, the N.V. may obtain the status of "fiscal investment institution", provided that a number of conditions are met (the conditions are set out in article 28 of the 1969 Dutch Corporate Income Tax Act, and, in more detail, in the Investment Institutions Decree). The most important conditions for the Fund are:

- The profit of the Fund must be distributed to shareholders within 8 months after the end of the financial year. In determining the profit to be distributed, the accrued and realized capital gains will be allocated to the reinvestment reserve (see below). Therefore, capital gains do in principle not increase the dividend distribution liability;
- As the shares in the Fund are officially listed on the Amsterdam Stock Exchange, 45% or more of the share capital may not be held by an entity or affiliated entities liable to a tax on its profits;
- As the shares in the Fund are officially listed on the Amsterdam Stock Exchange, a natural person may not hold an interest of 25% or more in the Investment Fund; and,
- The Fund may only borrow to a maximum of 20% of the fiscal book value of the investments.

If all conditions as set out in article 28 of the 1969 Dutch Corporate Income Tax Act are met, the N.V. will be subject to corporate income tax at a rate of 0%. The status of fiscal investment

institution ceases to apply from the beginning of the year in which the conditions are no longer met.

The Directors of the Fund intend that the Fund will comply with all the conditions for a fiscal investment institution. The Fund has claimed the status of investment institution as from its date of incorporation.

A special facility that exists for fiscal investment institutions is the ability to form a reinvestment reserve. The yearly addition to the reserve comprises the positive balance calculated of capital gains and losses on securities realized or non-realized and of profits and losses obtained on alienation of other investments. Thus, capital gains or losses do not influence the dividend distribution obligation. If the balance of capital gains and losses on securities realized or non-realized and of profits and losses obtained on alienation of other investments is negative, in a given year, then this balance is charged against the reinvestment reserve as far as possible. Furthermore it is noted that part of the (management) costs should be charged to the reinvestment reserve each financial year.

#### **(1.1.b) Dividend withholding tax**

All profit distributions made by the Fund to residents of the Netherlands are subject to 15% Dutch dividend withholding tax. Profit distributions to non-residents of the Netherlands are also subject to the withholding of Dutch dividend withholding tax, at a maximum rate of 15%. The applicable tax treaty between the Netherlands and the country where the Shareholder in the Fund is resident may partially or entirely relieve the 15% tax provided that appropriate applications are made.

The FBI status entitles the Investment Fund to apply a rebate on its dividend tax remittance obligation. This means that the dividend tax withheld by the Investment Fund does not have to be remitted to the Dutch tax authorities in full but may be (partly) reduced with Dutch dividend taxes and foreign withholding taxes (at the tax treaty rate of up to 15%) withheld on dividends or coupons received by the Investment Fund. The withheld but not remitted dividend taxes accrue to the Investment Fund's income.

In case more foreign withholding tax has been withheld on dividends or coupons received than is allowed under a tax treaty, the Investment Fund can submit a refund claim with the foreign tax authorities.

#### **(1.1.c) Capital contribution tax**

The Fund is not liable to capital contribution tax on the issuance of share capital, as Dutch capital contribution tax is abolished as per January 1, 2006.

### **1.2. Dutch tax aspects of Dutch private investors**

Note that the information outlined below is only meant for the Shareholders in the Fund (private investors - not legal entities) whose investments are not considered to be part of their business assets, who do not perform activities in respect of the shares which go beyond passive investment ("resultaat uit overige werkzaamheden") and who do not have a so-called substantial interest in the Fund.

## **Personal Income Tax Act 2001**

Shares held by persons resident in the Netherlands are generally taxed in box 3 (income from savings and investments). A notional yield (forfaitaire rendement) is levied on the average value of the asset components in box 3, insofar as these box 3 assets surpass the applicable tax-free allowances. The notional yield of 4% is subsequently taxed at 30%. This means that the overall taxation is effectively 1.2% of the average value of the assets. As such, the actual gains or losses realised on the Shares are not relevant for income taxation in the Netherlands. As of 1 January 2011 the average value of the assets components in box 3 will be replaced by the value of the asset components as at the beginning of the calendar year.

Shareholders resident in the Netherlands holding Shares that are taxable in box 1 (corporate income) or box 2 (substantial interests) are advised to consult their own tax adviser regarding the tax aspects applicable to their investment.

### **1.3. Dutch tax aspects of Dutch corporate investors**

For Dutch resident corporate investors the profits made with investing in the Fund will most likely form part of their taxable income for Dutch corporate income tax purposes. The participation exemption cannot be claimed. The 2010 corporate income tax rate is 20% on the first € 200.000 of the taxable profit and 25.5% on the excess amount.

### **1.4 Non-Dutch shareholders**

Shareholders that are not resident or registered in the Netherlands are advised to consult their own tax adviser regarding the tax aspects applicable to their investment.

### **1.5 Dividend tax**

For Shareholders resident or registered in the Netherlands, the dividend tax withheld on dividends paid by the Investment Fund serves as an advance levy for the income taxes. This means that taxable Shareholders can set off this dividend tax against their income or corporate taxes payable.

Entities that are not subject to corporate income tax may ask the Dutch tax authorities for a (partial) refund of the dividend taxes withheld, provided that certain conditions are met. The information required for such a refund request can be found on the Website.

## 2. The United Kingdom

- A. In the United Kingdom (the “UK”), the Fund is categorized as an unrecognized collective investment scheme, promotion of which is restricted by Section 76 of the Financial Services Act 1986 (the “Act”) and this document has not been approved for the purposes of Section 57 of the Act by a person authorized under the Act (an “authorized person”). Ordinary Shares may not be offered or sold in the UK by persons other than persons authorized to carry on investment business under the Act, persons whose ordinary business involves the acquisition and disposal of property of the same kind as the property in which the Fund invests and persons permitted to receive this document under the Financial Services (Promotion of Unregulated Schemes) Regulations 1991. Except as described above, no document, including this document, may be issued or passed on in the UK to any person, other than persons to whom the document may otherwise lawfully be issued or passed on and unless that person is of a kind described in Article 11 (3) of the Financial Services Act 1986 (Investment Advertisements) (Exemptions) Order 1996.**
- B.** The Directors intend to conduct the affairs of the Fund (a) so that the management and control of the Fund is not exercised in the UK and (b) so that the Fund is not resident in the UK for taxation purposes and (c) so that the Fund does not carry on any trade in the UK (whether or not through a permanent establishment situated there). Accordingly, the Fund should not be liable for UK taxation on its income or gains other than certain UK sourced income.
- C.** The Fund will be an “offshore fund” for the purposes of the UK offshore funds legislation. Under this legislation, persons who are resident or ordinarily resident in the UK for taxation purposes may be liable to income tax (or corporation tax on income) in respect of any gain arising on the disposal of shares in an offshore fund. This charge does not apply if the fund is certified by the UK tax authorities as a “distributing fund” throughout the period during which the Ordinary Shares have been held.
- D.** The Fund has conducted its affairs since January 1, 2000 in such a way as to enable it to be certified as a “distributing fund”. There can be no guarantee that such certification will be obtained or that, once obtained, it will continue to be available for future periods of account. HM Revenue and Customs have confirmed that the Fund was granted the status of “distributing fund” in respect of the year ended December 31<sup>st</sup> 2008. An application will be made for such certification in respect of subsequent financial years as soon as the annual accounts are approved by shareholders.
- E.** Where such certification has been obtained, Shareholders who (and to the extent they do) acquire shares in the Fund in an accounting period for which the Fund obtains distributing fund certification and who are resident or ordinarily resident in the UK for tax purposes (other than persons who are dealing in the Ordinary Shares who are subject to different rules) may, unless otherwise exempt from tax, be liable for capital gains tax (or corporation tax on capital gains) in respect of any gain realized on the disposal of Ordinary Shares.

- F. UK resident shareholders may also be liable for UK income tax or corporation tax on dividends received and on any payment received which represents accrued income forming part of the proceeds of sale.
- G. Investors should be aware that if one or more persons resident in the UK control the Fund (which would include holding enough shares or voting power to ensure that the affairs of the Fund are conducted in accordance with the wishes of that person or those persons), the Fund will be a “controlled foreign company” for the purpose of Chapter IV of Part XVII of the Income and Corporation Taxes Act 1988 (“ICTA”). If the Fund becomes a controlled foreign company, any UK resident shareholder which is a company which, either alone or together with connected or associated persons, has at least 25% of the chargeable profits of the Fund apportioned to him may be assessed to corporation tax in respect of the profits of the Fund which are attributable to such investor’s interest in the Fund. Such an assessment may not be raised, however, if the Fund pursues an “acceptable distribution policy” which broadly requires the Fund to distribute annually 90 per cent of its “net chargeable profits” as calculated for UK taxation purposes. Whilst it is possible that the Fund will satisfy the “acceptable distribution policy” test, a UK resident shareholder which is a company holding (together with its connected parties) 25 per cent or more of the capital of the Fund (directly or indirectly) should take its own specific professional taxation advice.
- H. The attention of individuals ordinarily resident in the UK is drawn to Chapter III of Part XVII of ICTA, which may in certain circumstances render them liable to UK income tax in respect of the undistributed income of the Fund.

### **3. India**

The Fund’s tax position in India is defined by its status as a Foreign Investment Institution (FII). The proceeds of its investments in India are exempt from withholding tax on repatriation.

## **XVI ADDITIONAL INFORMATION ABOUT THE FUND**

### **Publication of information**

The primary medium of communication of information about the Fund is the Fund's website: <http://www.himalayanfund.nl> where all documents which must be available to comply with legal or regulatory requirements will be available. Such documents will also be available for inspection free of charge at the address of the Fund. The website will also carry periodic market commentaries and portfolio reports provided by the Investment Advisor in a manner determined by the Board.

1. Every year the Fund will prepare audited annual accounts in respect of the financial year just ended and will publish such annual accounts on its website within one hundred and twenty days (before 30 April).
2. Every year the Fund will prepare a semi-annual report in respect of the first six months of the financial year in question and will publish such semi-annual report on its website within sixty days (before 30 August).
3. The authorization and rules of the Fund and the instruments of incorporation as well as the license are available for inspection at the office of the Fund.
4. A transcript of the rules of the Fund or the articles of incorporation will be supplied by the Fund to any person at his or her request, free of charge.
5. Information will be provided to any person at a charge not exceeding the cost of such provision concerning the Investment Advisor, the Fund, the Administrator and the Custodian.
6. A transcript of any statutory or constitutive document concerning the Fund or the licence of the Fund will be provided to any shareholder of the Fund at their request at a charge not exceeding the cost of such provision.
7. In the event of a dividend becoming payable to shareholders of the Fund, the composition of the dividend and the manner in which it is payable will be published in one national newspaper in the Netherlands as well as on the Fund's website. The payment of a dividend will also be posted on the shareholder information systems of Euronext Amsterdam and The London Stock Exchange.

### **General Meetings**

An annual general meeting of shareholders shall be held in the Netherlands at the places and times determined by the Board. Notice of such meetings and of all other shareholder meetings will be published in one national newspaper in the Netherlands and on the Fund's website. To vote at a general meeting a shareholder must provide evidence of his shareholding in a form, which will be specified in the notice of convocation.

All general meetings will be convened by a notice to shareholders published in one national newspaper in the Netherlands and on the Fund's website giving at least fourteen days notice of such a meeting.

### **Changes to the Prospectus**

This prospectus contains a description of the terms and conditions that apply between the Fund and its shareholders from time to time. The manner in which such terms and conditions may be changed is described below.

1. A proposal to change the terms and conditions that apply will be announced in one national newspaper in the Netherlands and by a notice published on the Fund's website <http://www.himalayanfund.nl> where the proposal to change will be explained.
2. A request to the Supervisor to withdraw the license of Himalayan Fund NV shall be announced by a statement published in one Dutch national newspaper or sent to the address of record of shareholders as well as on the website of the Fund.
3. A change in the terms and conditions will be announced in one national newspaper in the Netherlands and on the Fund's website where the change will be explained.
4. Any change in the terms and conditions which causes a reduction in shareholders' rights or security or increases costs does not become effective until three months after the approval of the change in the manner described and shareholders may offer their shares for sale on the usual terms during that period.
5. Any change in the terms and conditions through which the investment policy is changed does not become effective until three months after the announcement of the change in the manner described and during this period the shareholders may offer their shares for sale on the usual terms during that period.

### **Liquidation of the Fund**

The Fund may be wound up by an ordinary resolution of the Fund passed in general meeting upon the proposal of the Board. The assets available for distribution on a liquidation are required by the Articles of Association to be applied first in repayment to the holders of the Priority Shares of the nominal value paid up on those shares and as to the remainder in payment to the holders of Ordinary Shares pro rata to the number of Ordinary Shares held by such holders.

### **Complaints**

In case of a complaint investors may address themselves to Himalayan Fund. The Fund prefers to receive the complaint in writing. All complaints are communicated to the Directors of the Fund directly on receipt. The Directors confirm to the client in writing: the receipt of the complaint, the status of the complaint and the term within the complaint will be handled.

In case the complaint is not settled to the satisfaction of the investor, the investor may contact the Geschillencommissie Bankzaken ( the Disputes Committee for the Banking Industry) at:

Geschillencommissie Bankzaken  
Postbus 90600  
2509 LP Den Haag  
Tel: 070 - 3105310

This committee will only handle the complaint after the Fund has been given the opportunity to handle the complaint.

### **Voting policy of the Fund**

The Fund will make no use of the voting powers on shares of the companies in which the Fund invests.

## ANNEX

### REGISTRATION DOCUMENT HIMALAYAN FUND N.V.

This document is the registration document of Himalayan Fund N.V. pursuant to Section 4:48 (1) of the Financial Supervision Act. This document contains the information as stipulated in Annex D of the Besluit Gedragstoezicht Financiële Ondernemingen (Decree on the Supervision of Financial Enterprises).

#### **1. Information about Himalayan Fund N.V.**

Himalayan Fund N.V. ("Himalayan Fund") is an open-end investment company. The Ordinary Shares of Himalayan Fund are listed on Euronext Amsterdam N.V. and on the London Stock Exchange in US Dollars.

The investment objective is to generate long-term capital appreciation for shareholders through investment in India and, selectively, in contiguous markets, such as Sri Lanka and Bangladesh. The investments will primarily be made through the medium of ordinary and preference shares but the Fund may also invest in bonds, publicly-issued debt instruments, warrants, options, depository receipts, equity-linked notes and contracts for differences.

#### **2. Information about the persons who are responsible for the (day-to-day) management of Himalayan Fund.**

The following persons are responsible for the day-to-day management:

Mr. Ian McEvatt, who is also the Chairman of the Board of Directors of Himalayan Fund N.V.

Mrs. Karin van der Ploeg, who is also a partner in Inviqta, who provided domiciliation and company secretarial services to Himalayan Fund.

Mr. Robert Meijer and Mr. Dwight Makins, the above persons hereafter also referred to as the "Board".

Himalayan Fund is a self-investing fund. The investment decisions of the Board are based on the advice of the Investment Advisor of Himalayan Fund.

The Investment Advisor of Himalayan fund is:

Iceman Capital Advisors Limited ("Iceman")

PO Box 218

45 la Motte Street

St. Helier

Jersey JE4 8SD

Channel Islands

The Investment Advisor is also the priority shareholder of Himalayan Fund.

The Board of Directors of Iceman consists of:

Mr. John Owen (Chairman)

Mr. Ian McEvatt;

Mr. Peter Nicolle;

Mr. Michael Cordwell;

Mr. Eric Jostrom.

### **3. General information about Himalayan Fund**

Himalayan Fund is a company limited by shares with variable capital and was incorporated on 11 January 1990 for an indefinite period of time.

Himalayan Fund is registered with the Trade Register of the Chamber of Commerce in Amsterdam under number 33216642.

Himalayan Fund has its statutory seat in Amsterdam.

The address of Himalayan Fund is:

Legmeerdijk 182  
1187 NJ Amstelveen  
The Netherlands  
tel:+ 31 20 6411161  
fax:+31 20 6411161

The correspondence address of Himalayan Fund is:

Legmeerdijk 182  
1187 NJ Amstelveen  
The Netherlands

Himalayan fund has an insider trading procedure and a procedure to avoid incidents in place. The net assets of Himalayan Fund amount to at least EUR 300,000. A statement of the auditor regarding the net assets of Himalayan Fund may be found on the Website:

[www.himalayanfund.nl](http://www.himalayanfund.nl)

### **4. Information about the provision of information about Himalayan Fund**

Current information about Himalayan Fund is published on its website:

<http://www.himalayanfund.nl>

The annual report of Himalayan Fund will be drawn up annually within four month after the closure of the financial year. The semi-annual report will be drawn up two months after the ending of the first half year of the financial year.

The financial year of Himalayan Fund is equal to a calendar year.

A copy of the Articles of Association, the annual reports and the semi-annual report may be obtained at the offices of Himalayan Fund free of charge.

The following information may be obtained at the offices of the Himalayan Fund at cost price or less:

1. Information about Himalayan Fund that is required to be published according to the law with the Trade Register of the Dutch Chamber of Commerce;
2. A copy of the license of Himalayan Fund; and
3. The Monthly Report, the NAV, the total NAV and the total of the shares that are outstanding with third parties.

A request to the Supervisor pursuant to Section 1:104 (1a) of the Financial Supervision Act to withdraw the license of Himalayan Fund shall be announced to the shareholders through a publication in a national Dutch newspaper or through an announcement at the (email) address of the shareholders as well as on the Website of Himalayan Fund.

To the Board of Directors and the Shareholders of  
Himalayan Fund N.V.  
Amstelveen

Date  
June 7, 2010

Reference  
3100266980/OP9997/dv

## **Assurance report (ex Section 4:49, subsection 2 under c of the Financial Supervision Act (Wft))**

### **Engagement and responsibilities**

We have performed an assurance engagement in respect of the contents of the prospectus Himalayan Fund N.V. Our engagement was aimed at establishing whether the prospectus dated June 7, 2010 of Himalayan Fund N.V., Amstelveen at least contains the information which is required to be included therein pursuant to Section 4:49, subsection 2 under a through e of the Dutch Financial Supervision Act (Wet op het financieel toezicht, herinafter "Wft"). This assurance engagement is aimed at obtaining a reasonable level of assurance pursuant to Section 4:49, subsection 2 under b through e Wft. Unless specifically stated to the contrary in the prospectus, the information contained in the prospectus is unaudited.

The respective responsibilities are as follows:

- The management company/director of the entity is responsible for preparing the prospectus, which at least contains the information required to be included therein under the Wft.
- Our responsibility is to issue a conclusion as referred to in Section 4:49, subsection 2 under c of the Wft.

### **Scope**

We conducted our examination in accordance with Dutch law, including Standard 3000 "Assurance engagements other than audits or reviews of historical financial information". Based thereon, we have performed the procedures that we deemed necessary under the circumstances to draw a conclusion.

2

June 7, 2010

3100266980/OP9997/dv

We have examined whether the prospectus contained the information required to be included therein under Section 4:49, subsection 2 under b through e, of the Wft.

The law does not require the auditor to perform additional procedures with respect to Section 4:49, subsection 2 under a of the Wft.

We believe that the assurance evidence we have obtained is sufficient and appropriate to provide a basis for our conclusion.

## **Conclusion**

Based on our procedures performed and the description included in the section “Engagement and responsibilities”, we conclude that the prospectus at least contains the information required to be included therein under Section 4:49, subsection 2 under b through e of the Wft. With respect to Section 4:49, subsection 2 under a of the Wft we report to the extent of our knowledge that the prospectus contains the information required to be included therein.

Deloitte Accountants B.V.

already signed: W.H.E. van Ommeren