



# H&H Capital Mortgage Fund

## *Information Memorandum*

Issued: 2023



**Trustee:** H&H Capital Mortgage Fund Pty Ltd

**ABN:** 93 650 774 066

**AFS licence:** 537992

**Issued:** 14 February 2023



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## Important Information

This information memorandum ("IM") is dated 14 February 2023 and has been issued by H&H Capital Mortgage Fund Pty Ltd ABN 93 650 774 066 ("H&H CMF" or "Trustee"), the holder of Australian financial services licence number 537992. H&H is the trustee of the H&H Contributory Mortgage Fund ("Fund"). The Trustee has appointed H & H Mezz Pty Ltd ABN 19 605 210 348 ("H&H Mezz" or "Manager"), the holder of Australian credit licence number 503901, as the manager of the Fund. H&H CMF and H&H Mezz are related bodies corporate and are both part of the "H&H Group".

This IM contains an offer to invest in the Fund by applying for cash units ("Cash Units") in the Fund ("Offer"), a particular class of unit in the Fund. The purpose of this IM is to provide information to prospective investors to assist them in deciding whether they wish to invest in the Fund.

The Fund is not registered with, and is not required to be registered with, the Australian Securities and Investments Commission, nor has this IM been lodged with this body or any other government or regulatory body.

You should read this IM in full before deciding whether to invest in the Fund. If you are in doubt as to how to interpret or deal with this document, or whether an investment in the Fund is appropriate for you, then you should consult your financial or other professional advisers.

### Eligibility to invest

The Offer is only available for persons who qualify as "wholesale clients" or "sophisticated investors" ("Wholesale Clients") within the meaning of sections 761G and 761GA of the Corporations Act 2001 ("Corporations Act"). The Trustee reserves its right to accept or reject applications at its discretion.

The Offer is only available to persons receiving this IM (electronically or otherwise) in Australia. No action has been taken to register this Offer or otherwise permit a public offering of Units in any jurisdiction other than Australia.

This IM does not constitute an offer or invitation in any place in which (or to any person to whom) it would not be lawful to make such an offer or invitation. The distribution of this IM in jurisdictions outside Australia may be restricted by law and persons who come into possession of this IM who are not in Australia should seek advice on and observe any such restrictions in relation to the distribution or possession of this IM. Any failure to comply with such restrictions may constitute a violation of applicable securities laws.

### Not investment advice

The information contained in this IM is not financial product advice, nor is it taxation or legal advice. The information contained in this IM is general information only and does not take into account your investment objectives, financial situation and particular needs. Investment in the Fund may not be appropriate for you, and it is important that you read this IM in full before deciding whether to invest in the Fund and take into consideration your investment objectives, financial situation and particular needs. If you are in any doubt, you should consult your financial adviser or other professional advisers before making a decision to invest in the Fund.

### Forward looking statements

This IM contains forward looking statements. Forward-looking statements are identified by words such as 'aim', 'anticipate', 'assume', 'believe', 'could', 'expect', 'intend', 'may', 'plan', 'predict', 'potential', 'positioned', 'should', 'target', 'will', 'would', and other similar words that involve risks and uncertainties.

You should note these statements are inherently subject to uncertainties in that they may be affected by a variety of known and unknown risks, variables and other factors which could cause actual values or results, performance or achievements to differ materially from anticipated results, implied values, performance or achievements expressed, projected or implied in the statements.

### Authorised information

No person is authorised by the Trustee to give any information or make any representation in connection with the Offer that is not contained in this IM. Any information or representation that is not contained in this IM may not be relied on as having been authorised by the Trustee, its directors or any other person that may have liability for the content of this IM.

### No guarantee

An investment in the Fund is not an investment in, or a deposit with or other liability of, H&H CMF, H&H Mezz, or any of their related companies. None of H&H CMF, H&H Mezz, or any of their related companies, or any of their respective directors, officers or associates give any guarantee or assurance as to the performance of the Fund, the repayment of capital invested, the payment of income or capital distributions, or any particular rate of capital or income return.

## Risks

As with all investments, an investment in the Fund is subject to risks (including those described in Section 6). You should read this IM in full before deciding whether to invest in the Fund and if you are in any doubt as to whether an investment in the Fund is appropriate for you, then you should consult your financial or other professional advisers.

## Confidentiality

This IM is provided on a strictly confidential basis solely for your information and exclusive use to assess an investment in the Fund and may not be used for any other purpose. This IM may not be copied, reproduced, republished, posted, transmitted, distributed, disseminated or disclosed, in whole or in part, to any other person in any way without our prior written consent, which we may withhold in our absolute discretion. By accepting this IM, you agree you will comply with these confidentiality restrictions and acknowledge your compliance with these restrictions is a material inducement to us providing this IM to you.

## Interpretation

Unless otherwise specified or implied, references to “we”, “our” and “us” are references to the Trustee or the Manager, as the context requires, and “you” and “your” are references to a potential investor in the Fund. Capitalised terms used in this IM which have been given a specific meaning are defined in the Glossary (Section 9).

Unless otherwise specified or implied, references to currency are to Australian currency, references to times are references to the relevant time in Sydney, New South Wales, and references to years are to financial years. In addition, all pictures of properties in this IM are not pictures of buildings or property which are assets of the Fund. All information contained or statements made in this IM, including data contained in charts, graphs and tables within this IM are made or based on information as at the date of this IM, unless otherwise stated.

An aerial, black and white photograph of a city skyline, likely New York City, viewed from a high angle. The foreground is dominated by a dense cluster of skyscrapers of various architectural styles. In the background, a large body of water, possibly a harbor or bay, is visible with several sailboats and a few larger vessels. The sky is overcast. The overall tone is professional and urban.

# 01

*Key Features*

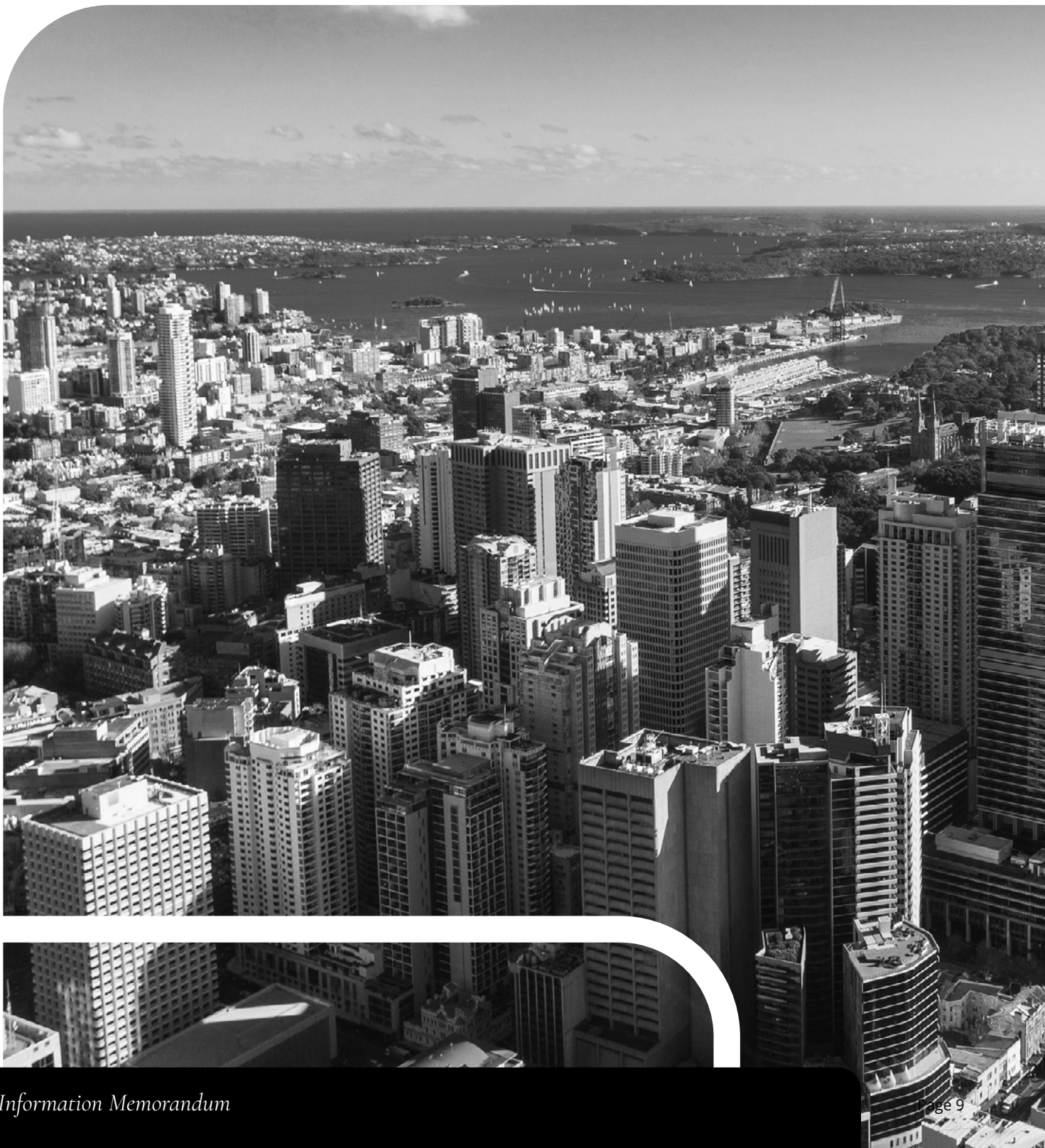
The following table summarises the key features of an investment in the Fund and provides section references where you can find further information. It is not intended to be exhaustive. You must read the whole of this IM to obtain more detailed information before making a decision to invest in the Fund.

<i>Feature</i>	<i>Summary</i>	<i>Reference</i>
<b>Fund</b>	The H&H Contributory Mortgage Fund.	Section 4
<b>Trustee</b>	H&H Capital Mortgage Fund Pty Ltd ABN 93 650 774 066, the holder of AFS licence number 537992.	Section 3
<b>Manager</b>	H & H Mezz Pty Ltd ABN 19 605 210 348, the holder of Australian credit licence number 503901.	Section 3
<b>Purpose</b>	<p>The Fund was established to provide commercial or business purpose loans that are secured by first or second ranking mortgages over real property (“Loans”).</p> <p>The objective of the Fund is to provide investors with access to a range of professionally managed Loans and receive regular income returns.</p>	Section 2
<b>How it works</b>	<p>The Fund is a unit trust that is operated as an unregistered contributory mortgage scheme. A contributory mortgage scheme allows you to select the Loan(s) you want to invest in alongside other investors, and the amount you wish to invest in such a Loan.</p> <p>To invest in the Fund, you will first need to apply for Cash Units. As a holder of Cash Units, you will have the right, but not the obligation, to invest in particular Loans offered by the Fund from time to time.</p> <p>The Trustee will issue a “Loan Memorandum” in respect of each Loan available for investment. If you want to invest in the relevant Loan, then you can apply under the Loan Memorandum and if your application is accepted, the relevant number of Cash Units held by you will be redeemed and your funds applied to acquire the relevant class of Loan Units.</p> <p>On maturity of a Loan, Loan Units will be redeemed and the realised capital will be applied to Cash Units. Investors can then choose to either withdraw their Cash Units or continue to hold Cash Units so they can invest in subsequent Loans.</p>	Section 4
<b>Eligibility to invest</b>	The Offer is only available for persons who qualify as “wholesale clients” or “sophisticated investors” within the meaning of sections 761G and 761GA of the Corporations Act. The Trustee reserves its right to accept or reject applications at its discretion.	Section 7.1

<i>Feature</i>	<i>Summary</i>	<i>Reference</i>
<b>How to invest</b>	<p>You can apply to invest in the Fund by applying for Cash Units at an application price of \$1.00 per Cash Unit.</p> <p>The minimum initial investment for Cash Units is \$100,000. The minimum additional investment amount is \$10,000. The Trustee may accept lesser amounts in its absolute discretion.</p> <p>To apply for Cash Units, please complete the Application Form accompanying this IM and pay your application money in accordance with the instructions included in the Application Form.</p> <p>Before you apply to invest in the Fund, you should read this IM in its entirety.</p>	Section 8
<b>Returns</b>	<p>The return received by investors will depend on the specific Loan in which they participate and the performance of that Loan. Details of interest rates for a particular Loan will be set out in the relevant Loan Memorandum.</p> <p>Investors will not receive a return on any Cash Units they hold.</p>	Section 2
<b>Distributions</b>	<p>The distributions payable in respect of Loan Units will be set out in the corresponding Loan Memorandum. No distributions will be payable in respect of Cash Units. Distribution will generally be paid monthly.</p>	Section 4
<b>Withdrawals</b>	<p>You can withdraw any Cash Units held by you on 30 day terms subject to a complying Cash Units redemption request being lodged with the Trustee.</p> <p>The minimum withdrawal amount is the lesser of \$10,000 or the balance of Cash Units held by you.</p> <p>You will not be able to withdraw Loan Units. Loan Units will be exchanged for Cash Units when a principal repayment is made on the Loan referable to those Loan Units. This could be on maturity of the Loan, or in some instances, the borrower may have the right to repay the Loan early or make partial repayments throughout the term of the Loan.</p>	Section 7.5
<b>Transfers</b>	<p>An investor may transfer the ownership of their Loan Units at any time provided that the transferee is a Wholesale Client and has been approved by the Trustee. The Trustee may refuse to register the transfer of Loan Units at its discretion.</p>	Section 7.6
<b>Fees and Costs</b>	<p>H&amp;H Group is entitled to be paid certain fees out of the assets of the Fund. In addition, all costs and expenses incurred as part of establishment, operation and management of the Fund will be paid out of the assets of the Fund.</p>	Section 5



<i>Feature</i>	<i>Summary</i>	<i>Reference</i>
<b>Taxation</b>	We have not obtained taxation advice specific to the Offer. Please obtain your own independent tax advice before investing in the Fund.	Section 7.13
<b>Risks</b>	As with all investments, an investment in the Fund is subject to risk. You should read this IM in full before deciding whether to invest in the Fund and if you are in any doubt as to whether an investment in the Fund is appropriate for you, then you should consult your financial or other professional advisers.	Section 8



# 02

## *Investment Strategy*

## 2.1 Overview

The Fund was established to provide commercial or business purpose loans that are secured by first or second ranking mortgages over real property. The objective of the Fund is to provide investors with access to a range of professionally managed Loans and receive regular income returns.

All Loans will be secured by registered first or second ranking mortgages and may also be secured by other forms of security. Each Loan will be secured against property which may comprise a single residential, commercial, industrial, or rural property or vacant land or more than one property of the same type or a combination of different types of property.

Loan proceeds may be used for, among other things, the acquisition of real property, or as development and construction finance, or to refinance existing lending facilities, or for any other commercial purposes approved by the Trustee. The Fund will only provide Loans for commercial and business purposes and will not provide

consumer loans (for example, the Fund will not provide loans to purchase an individual residential property).

The Manager will be responsible for undertaking the assessment of any Loans proposed to be made by the Fund. The Manager will assess the merits of each prospective borrower and the associated risks. The analysis will take into account a set of criteria including available security, the precise nature of the security property, LVR, evidence of capacity to service the Loan, and the prospective borrower's creditworthiness and character.

When a suitable lending opportunity is identified, holders of Cash Units will be given a Loan Memorandum. The Loan Memorandum will include information about the borrower, the terms of the loan, the interest rate, any security offered, fees, among other things.

There is no obligation to invest in any Loan Units, and you have complete discretion over which Loans you participate in, and the level of your participation (subject to any minimum investment requirements that will be set out in the relevant Loan Memorandum).

## 2.2 Lending guidelines—Key terms

The following table provides a summary of the Manager's lending guidelines. Depending on the Trustee or the Manager's views as to market conditions, property market cycles and various other factors, these parameters may vary from time-to-time. They may be altered without providing notification to you.

<b>Borrowers</b>	Companies, trusts and individuals that satisfy the lending criteria of the Manager. The assessment process will consider a borrower's credit worthiness, character and competency to properly manage their business affairs and the security they can offer in respect of the Loan.
<b>No related party loans</b>	The Fund will not make Loans to related parties of the Manager or the Trustee.
<b>Loan Types</b>	Loans may be made to approved borrowers in the following instances:  (a) As a lender of senior (first mortgage) debt.  (b) As a lender of mezzanine (second mortgage) debt.
<b>Purposes of Loans</b>	Loan proceeds may be used for the following:  (a) Acquisition of real property.  (b) Refinance existing lending facilities.  (c) Development and construction.  (d) Other commercial purposes approved by the Trustee.  Loans must be used for commercial and business purposes only and may not be used for consumer purposes (for example, purchase of an individual residential property).

<b>Property Sectors</b>	Acceptable property against which the Fund secures Loans may be commercial, retail, industrial, residential, development or vacant land.
<b>Geographical Location of Properties</b>	East Coast of Australia including regional areas.
<b>Maximum and Minimum Loan Amounts</b>	The maximum and minimum Loan amounts will be assessed on a case by case basis.
<b>Loan to Value Ratio (LVR)</b>	It is anticipated the maximum LVR will be 80 percent of the value of a security property (in the case of first mortgages) and 90 percent of the value of a security property (in the case of second mortgages). However, this will be determined on a case by case basis and will depend on the type of Loan to be made, the security property used to secure the repayment of the Loan, and the nature of any security interest(s) being offered.
<b>Valuation Policy</b>	The security property for any mortgage will be independently valued for suitability and market value. Valuers will be required to comply with guidelines relating to valuation and independence, including the need for the valuation to be used for mortgage purposes. The Fund will maintain a panel of valuers it uses to provide valuations for security properties.
<b>Term</b>	The maximum term of a Loan is anticipated to be 24 months.
<b>Interest Rate</b>	The interest rate will be as negotiated between the Manager and the borrower, based on prevailing market interest rates.
<b>Default Interest</b>	If a borrower defaults under the terms of a Loan then the Fund may be entitled to charge default interest (i.e., interest at a higher rate, being up to 5% additional interest). If so then default interest payments received will first be used to pay the costs and expenses associated with enforcement of the Loan. Any remaining default interest will form part of the assets referable to the particular class of Units
<b>Default Terms</b>	Standard events of default including failure to pay amounts when due, breach of financial covenants and the insolvency of the borrower.
<b>Mortgages</b>	The Fund will hold a mortgage over real property to secure each Loan made by the Fund. Each mortgage will be either first ranking or second ranking, depending on the type of Loan. All mortgages will be registered with the relevant land titles office.
<b>Security Interests</b>	In addition to the mortgages, we may take other forms of security to secure the repayment of the Loan, referred to as security interests. These may include general security agreements, specific security agreements, personal guarantees or directors' guarantees.
<b>Other Key Requirements</b>	Typical representations, warranties, undertakings and events of default, including restrictions on the borrower disposing of the security property or incurring additional financial indebtedness.



# r-03

## *Management Overview*

H & H Capital Mortgage Fund Pty Ltd is the trustee of the Fund and holds Australian financial services licence number 537992. The Trustee has appointed H & H Mezz Pty Ltd, the holder of Australian credit licence number 503901, as the manager of the Fund. The Trustee and the Manager are related bodies corporate and are both part of the “H&H Group”. A summary of the management agreement is contained in Section 8.4.

The Trustee is responsible for the operation of the Fund and will, among other things, be the lender on record and will hold title to the Fund’s assets. The Manager will, among other things, source loans and administer and monitor the day-to-day management of the loans.

## *Key People*

### **Gabreal Halvagi Executive Director**

Gabreal is the Executive Director of H&H Group and is responsible for all aspects of the group’s business.

Over the past 10 years, Gabreal has undertaken the work required to facilitate a range of loans, including residential and investment property loans, commercial loans, as well as development financing. H&H Group facilitates over \$100 million in residential home loans and over \$200 million in commercial lending each year.



### **Edward Russell Compliance Officer**

Edward has been with H&H CMF since the commencement of its licensed mortgage management business in July 2022. Edward has an overriding duty to monitor H&H CMF’s ongoing compliance with its AFS licence and its conditions and to ensure that H&H CMF operates the Fund and performs the functions conferred upon it by the Constitution of the Fund and the Corporations Act 2001. Edward has over 40 years’ experience in the trustee and funds management industries and is a key person under H&H CMF’s AFS licence.



### **Poppy Krallidis Finance Manager**

Poppy has been with the H&H Group since 2016. Poppy manages all finance and accounting operations for the Group and for the Fund. Poppy spent the early part of her career in counselling, support, and education and in undertaking volunteer work across a small number of crisis support teams. Poppy now works in the finance industry and as the finance manager, under H&H CMF’s AFSL, she has primary responsibility for H&H CMF’s ongoing financial requirements for the Fund.





# 04

*How The  
Fund Works*

## Step 1

### Acquire Cash Units

In order to invest in the Fund, you need to acquire Cash Units. You can apply for Cash Units by completing the Application Form accompanying this IM. You can only invest in the Fund if you are a Wholesale Client (see Section 7.1). The minimum initial investment for Cash Units is \$100,000.

Cash Units provide investors in the Fund with a right to access Loans offered by the Fund. Cash Units do not accrue any investment returns and holders are only entitled to vote at meetings of holders of Cash Units and not at any other meetings.

The Fund can issue Cash Units at any time, including when there is no particular Loan available. You can increase your investment in the Fund at any time by acquiring more Cash Units. You may wish to do so if you want to invest a certain amount in a particular Loan but do not have enough Cash Units at the time. The minimum additional investment amount is \$10,000. The Trustee may accept lesser amounts in its absolute discretion.

You can redeem any Cash Units you hold on 30 day terms subject to a complying Cash Units redemption request being lodged with the Trustee. The minimum withdrawal amount is the lesser of \$10,000 or the balance of Cash Units held by you.

## Step 2

### Consider an investment opportunity

When a suitable lending opportunity is identified that meets the Fund's investment criteria, holders of Cash Units will be given a Loan Memorandum. The Loan Memorandum will include information about the borrower, the terms of the loan, the interest rate, any security offered, fees, among other things.

There is no obligation to invest in any Loan Units, and you have complete discretion over which Loans you participate in, and the level of your participation (subject to any minimum investment requirements that will be set out in the relevant Loan Memorandum).

## Step 3

### Exchange Cash Units for Loan Units

If you want to invest in a particular Loan, then you can do so pursuant to the relevant Loan Memorandum.

Loan Units will be issued for each Loan undertaken by the Fund. Loan Units will be a class of unit and each class of Loan Unit will be separate and distinct from each other. Loan Units will provide each Unitholder the right to the relevant income and capital arising from the Loan to which they were issued against. Further details of the Loan Units will be set out in the corresponding Loan Memorandum.

You can apply to invest in Loan Units by electing to convert Cash Units on the "Election Form" issued with the corresponding Loan Memorandum.

The Election Form will direct and authorise the Trustee to exchange the nominated value of Cash Units for an equivalent value of Loan Units offered under the corresponding Loan Memorandum.

Each Cash Unit is worth \$1.00, so if you want to invest \$500,000 in a particular Loan, you will need to ensure you hold at least 500,000 Cash Units for exchange. You can increase your holding of Cash Units at any time by applying for them under this IM.

Once you elect to convert Cash Units to Loan Units via an Election Form, it is irrevocable and you will no longer be able to withdraw the relevant Cash Units or exchange those Cash Units for another class of Loan Units.

Provided the minimum subscription amount is raised for the Loan (as provided for in the Loan Memorandum), the Trustee will exchange your Cash Units up to the value you nominate in the Election Form for the equivalent value of Loan Units referable to that Loan (subject to the Trustee accepting your application and any scaling of your allocation).

If the minimum subscription amount is not raised for the Loan, or the Trustee otherwise determines not to proceed with the Loan, then your election to convert Cash Units to Loan Units will lapse and you will retain your Cash Units.



## *Step 4*

### **Distributions and holding Loan Units**

The distributions payable in respect of Loan Units will be set out in the corresponding Loan Memorandum. No distributions will be payable in respect of Cash Units. Distribution will generally be paid monthly.

You will not be able to withdraw Loan Units. An investor may transfer the ownership of their Loan Units at any time provided that the transferee is a Wholesale Client and has been approved by the Trustee. The Trustee may refuse to register the transfer of Loan Units at its discretion.

## *Step 5*

### **Loan maturity or principal repayment**

Loan Units will be exchanged for Cash Units when a principal repayment is made on the Loan referable to those Loan Units. This could be on maturity of the Loan, or in some instances, the borrower may have the right to repay the Loan early or make partial repayments throughout the term of the Loan.

## *Step 6*

### **Reinvest or withdraw**

Investors can then choose to either liquidate Cash Units or invest in subsequent Loan. You can redeem any Cash Units you hold on 30 day terms subject to a complying Cash Units redemption request being lodged with the Trustee. The minimum withdrawal amount is the lesser of \$10,000 or the balance of Cash Units held by you.



# 05

## *Fees & Costs*

## *5.1 Fees paid by the Fund*

This section summarises the fees H&H Group are entitled to be paid in relation to the operation and management of the Fund.

### **Establishment fee**

H&H Group is entitled to be paid a fee for the work involved in originating and settling a Loan. The amount of the fee for a particular Loan will be disclosed in the relevant Loan Memorandum. The amount of the fee will be no more than 5 percent of the facility limit of each Loan funded by the Fund.

### **Management fee**

H&H Group is entitled to be paid a fee for the work involved in managing and administering the Loans. The amount of the fee for a particular Loan will be disclosed in the relevant Loan Memorandum. The amount of the fee will be no more than 6 percent per annum of the total outstanding amount (including principal, interest and fees) of the Loan.

## *5.2 Fees paid by borrowers*

The Manager may charge fees to a borrower, such as commitment fees, loan management fees and line fees. These will be paid by the relevant borrower and not by the Fund.

## *5.3 Operating Costs and Expenses*

H&H Group is entitled to be paid or reimbursed from the assets of the Fund for costs and expenses relating to the establishment, operation, administration and management of the Fund.

## *5.4 Waiver and deferral of fees and expenses*

H&H Group may, in its absolute discretion, accept lower fees and expense repayments than it is entitled to receive, or may defer payment of those fees or expenses for any time. If payment of a fee is deferred, then the fee will accrue until paid.

## *5.5 GST Exclusive*

The fees described above are exclusive of GST. H&H Group is entitled to recover, in addition to its fees, an amount equal to the GST payable by H&H Group in respect of taxable supplies made by H&H Group.



# 06

## *Risks*

**N**either the performance of this investment nor the repayment of capital is guaranteed by the Trustee, Manager or their related entities or any of their respective directors, officers, employees or associates. As with all investments, an investment in the Fund is subject to risks, some of which are outside the control of the Trustee. If they eventuate, these risks may reduce or suspend distributions from the Fund, or reduce the capital value of your investment. An investment in the Fund may lead to a loss of capital invested.

Before deciding whether to invest in the Fund, you should consider your attitude towards the following, and other potential risks.

The risks summarised below are not an exhaustive list. You should read this IM in full before deciding whether to invest in the Fund and consider consulting your financial adviser or other professional advisers. Further, specific risks in relation to a particular Loan will be detailed in the relevant Loan Memorandum.

As well as considering the risks below (and those in a relevant Loan Memorandum), you should also consider how an investment in the Fund fits into your overall investment portfolio.

### **Liquidity and withdrawal risk**

You must provide at least 30 days notice to withdraw Cash Units, which may represent a risk to you in the event that you require the return of your investment more urgently. An investment Loan Units is an illiquid investment. Investors will not be able to withdraw their investment in a particular Loan until the Loan has been fully and finally repaid.

### **Default and credit risk**

There is a risk that a borrower may fail to meet their financial obligations under a Loan or otherwise fail to meet the terms of a Loan made by the Fund. This may be for a wide range of reasons, including:

- A change in the individual financial or other circumstances of the borrower.
- A change in the economic climate generally that adversely affects all borrowers.

This could adversely affect the income attributable to the Loan and the recoverability of the principal. If a borrower ultimately defaults on the Loan, then this may result in the Fund losing money if the security property is sold for less than the outstanding Loan amount together with arrears of interest, default interest, enforcement and realisation costs.

This may lead to holders of Loan Units referable to the Loan losing some or all of their investment as a result.

### **Enforcement risk**

If a borrower defaults under a Loan, then the Fund may have to enforce its mortgage to recover the Loan, any unpaid interest and costs. This will involve incurring enforcement costs (such as the costs of appointing a receiver, legal fees in enforcing against the borrower, agent's commissions for sale of the security property etc.). This will most likely lead to a reduction in distributions paid to investors that hold the Loan Units referable to the defaulting Loan and, depending on whether the enforcement costs can ultimately be repaid out of the proceeds from the sale of the security property, may result in those Investors suffering a loss.

It is possible the Trustee will undertake a further capital raising to raise the capital required to pay for the expenses associated with enforcing the Loan. There is therefore a risk that investors may be requested to contribute further capital to the Loan. It is highly likely that any such future capital raising will be undertaken at a price less than the original issue price for the relevant Loan Units and may therefore dilute the proportional holdings in the Loan Units of those Investors that decide not to contribute further capital.

### **Documentation risk**

A deficiency in documentation could, in certain circumstances, adversely affect the return on a Loan. This may make it difficult for the Fund to enforce its mortgage in respect of the Loan and may also affect the ability to recover any penalties imposed against the borrower.

### **Valuation risk**

The valuation of the security property for a Loan may be inaccurate or not accurately reflect its true value at the time the valuation is undertaken. If the valuation of the security property for a Loan is incorrect, then the amount realised on the sale of a security property may not cover the amount lent to the borrower.

### **Due diligence risk**

In all investments there exists a risk that material items that could affect the performance of individual investments are not identified during the investment analysis process and that these risks are not mitigated by the Manager.

## **Building risk**

Property assets naturally deteriorate over time and are subject to disasters, which can damage the structure of the building. There is a risk that the value of a security property could diminish if the building on the security property deteriorates or is damaged.

## **Environmental risk**

The valuation of a security property could be adversely affected by discovery of environmental contamination or the incorrect assessment of costs associated with an environmental contamination, as well as restrictions associated with flora and fauna conservation.

## **Disaster risk**

Disasters such as natural phenomena, acts of God and terrorist attacks may damage or destroy the property in relation to which the Fund holds a mortgage. It is not possible to insure a security property against some of these events. Occurrence of these events could also lead to insurance becoming unavailable for such events in the future, or premiums increasing above levels expected.

## **Trustee and Manager risk**

There is a risk we may be replaced as trustee of the Fund or our key personnel may change, or that the Manager may be replaced as investment manager of the Fund or its key personnel may change. You should note we may be obliged to retire as trustee of the Fund following a request made by the Manager, pursuant to the Investment Management Agreement. There is also a risk our authorisation under the Licensee's AFS licence may be suspended or revoked.

## **Manager performance risk**

The success of the Fund is dependent on the Manager identifying suitable Loans for the Fund to make and then managing those Loans to ensure that the Loans are repaid. If the Manager is unable to identify suitable Loans for the Fund to make, then this will impact upon the Fund's return.

The Fund's performance also depends upon the Manager recommending suitable Loans to the Trustee, conducting regular audits of the performance of the Loans and undertaking enforcement action against defaulting borrowers. Failure by the Manager to undertake these tasks properly may adversely affect the Fund's returns.

## **Manager strategy risk**

The risk that the Manager or the Manager's investment strategy will not achieve its performance objectives or produce returns that compare favourably against its peers. Many factors can negatively impact the Manager's ability to generate acceptable returns e.g., loss of key staff.

## **Market risk**

This is the risk that negative market movements will affect the price of assets within a particular market. By their nature, markets experience periods of volatility involving price fluctuations of varying magnitudes. Property market risk is the risk that the property market as a whole declines in value in line with various trends in the Australian or overseas markets. This may be due to a number of factors, such as over-supply of real estate, economic conditions, interest rate movements or general market sentiment.

The Fund will make Loans secured by mortgages. Therefore, factors which affect the property market may impact upon the value of Fund assets. Property market risk is inherent in the real estate securing the Fund's assets.

A fall in property values may affect the ability to fully recover the amount owing under a mortgage where a borrower defaults. If the Borrower defaults and the security property is sold for less than the outstanding Loan amount (including the costs of the sale and interest), then this may result in the Investors that hold Loan Units referable to the defaulting Loan suffering a loss if the Borrower cannot repay the balance of the outstanding debt from other assets of the borrower.

## **Taxation risk**

Changes to tax law and policy (including any changes in relation to how income of the Fund is taxed or to the deductibility of expenses or stamp duty law) might adversely impact the Fund and your returns. You should obtain independent tax advice in respect of an investment in the Fund.

## **Regulatory and economic risk**

There is the risk that the value of an investment may be affected by changes in domestic or international policies, regulations or laws (including taxation laws). There is also a risk that a downturn in domestic or international economic conditions may adversely affect investments.

These factors are outside the control of the Trustee and the Manager, but they may have a negative impact upon the operation and performance of the Fund.

## Taxation risk

The Trustee does not provide tax advice, nor has it obtained taxation advice specific to the Fund or Loan Units. Investors must take full and sole responsibility for their investment in the Fund, or Loan Units, the associated taxation implications arising from any investment, and any changes in those taxation implications during the course of that investment.

## General investment risks

In addition to the specific risks identified above (and those set out in a relevant Loan Memorandum), there are also other more general risks that can affect the value of an investment in the Fund. These include the following:

- The state of the Australian and world economies.
- Interest rate fluctuations.
- Legislative changes (which may or may not have a retrospective effect) including taxation and accounting issues.
- Inflation.
- Negative consumer sentiment which may keep the value of assets depressed.
- Natural disasters and man-made disasters beyond our control.
- The illiquidity and cost of capital markets.

**We strongly recommend you obtain your own independent financial advice before deciding to make an investment in the Fund.**



An aerial, black and white photograph of a city skyline, likely New York City, viewed from a high angle. The foreground is dominated by numerous skyscrapers of varying heights and architectural styles. In the background, a large body of water, possibly a harbor or bay, is visible, with a few boats and a large structure on the water. The sky is overcast. The overall tone is dark and professional.

# 07

## *Additional Information*



## 7.1 Eligibility to invest

The opportunity under this IM is only available to persons who qualify as “wholesale clients” or “sophisticated investors” (“Wholesale Clients”) within the meaning of sections 761G and 761GA of the Corporations Act.

The Offer is available only to those persons receiving this IM (electronically or otherwise) within Australia.

You will qualify as a wholesale client if, among other things, you invest at least \$500,000 in the Fund, or if you provide us with a certificate from a qualified accountant that certifies you as having net assets of at least \$2.5 million or which certifies you as having had gross income for each of the last two financial years of at least \$250,000.

If you are unsure as to whether you are eligible to invest in the Fund, then you should consult your financial or other professional advisers.

## 7.2 Reporting

Our reporting will comprise the following:

- A confirmation upon issuing Units.
- An annual income distribution detailing any investment and distributions paid to you, including an annual tax statement detailing information required for inclusion in your annual income tax return which will be provided within 90 days of the end of each financial year.
- Periodic performance updates.

## 7.3 Constitution

The constitution is the primary document governing the relationship between the investors and the Trustee. It contains extensive provisions about the legal obligations of the parties and the rights and powers of each.

Subject to the constitution and depending on the class of Unit(s) you hold, as an investor you have the following rights:

- The right to share in any distributions referable to a class of Unit(s) you hold.
- The right to attend and vote at investor meetings. In some cases, we may elect to call a meeting of investors who hold a particular class of Units. In those cases, only investors who hold Units of that class are entitled to attend and vote at the meeting.
- The right to participate in the proceeds of winding up of a class of Units you hold.

Those rights are also regulated by the general law. The constitution of the Fund is available for inspection at the office of the Trustee.

## 7.4 Management Agreement

The Manager has been appointed as manager of the Fund pursuant to a management agreement. The Manager’s services to the Fund include the following:

- Sourcing and evaluating Loan applications.
- Monitoring and reporting on the status and performance of Loans.
- Participating in recovery and enforcement process for Loans in default.

The agreement contains provisions dealing with matters such as the Manager’s obligations to report to the Trustee and sets out the fees payable to the Manager.

The agreement can be terminated by the Trustee if the Manager is in material breach and that breach has not been remedied after a certain time. The Trustee can also terminate the agreement if the Manager becomes insolvent.

## 7.5 Withdrawals

You can withdraw any Cash Units held by you on 30 day terms subject to a complying Cash Units redemption request being lodged with the Trustee. The minimum withdrawal amount is the lesser of \$10,000 or the balance of Cash Units held by you.

You will not be able to withdraw Loan Units. Loan Units will be exchanged for Cash Units when a principal repayment is made on the Loan referable to those Loan Units. This could be on maturity of the Loan, or in some instances, the borrower may have the right to repay the Loan early or make partial repayments throughout the term of the Loan.

## 7.6 Transfer of Loan Units

An Investor may transfer the ownership of their Units at any time provided that the transferee meets the requirements of an Investor in the Fund and has been approved by the Trustee.

Under the Constitution, the Trustee has the discretion to refuse the transfer of Units and is not obliged to accept a transfer of Units. Please note that a transfer of Units may have taxation consequences.

There will not be any established secondary market for the sale of Units.

## *7.7 Conflict of interest and related party transactions*

We may from time-to-time face conflicts between our duties to the Fund, our duties to other funds we manage from time to time and our own interests. We will manage any conflicts in accordance with our conflicts of interest policy, the Constitution, ASIC policy and the law.

The Trustee and the Manager are related companies. The relationship between them is governed by the terms of the management agreement which has been negotiated on arm's length terms. Further information about the management agreement is provided above.

## *7.8 Anti-Money Laundering and Counter-Terrorism Financing*

The Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) ("AML Legislation") is aimed at addressing money laundering in Australia and the threat to national security caused by terrorism. The AML Legislation requires us to collect identification information from you and to verify your identity from original or certified copies of specified documents, or reliable independent electronic data (or a combination of documents and electronic data). Further details of the anti-money laundering regime, including what identification information and documentation you are required to provide, are set out in the Application Form. By applying for Units, you agree to the following:

- You will supply, or procure the supply of, any documentation and other evidence and perform any acts to enable us to comply with the AML Legislation.
- If we suspect that you are in breach of the AML Legislation applicable in Australia or elsewhere, or we believe it is required to take action under any laws relating to the AML Legislation or any other applicable law in Australia or elsewhere, we may take any action we consider appropriate, including by returning your application, transferring your Units or refusing or ceasing to provide you with services, in order to comply with any laws relating to the AML Legislation or any request of a relevant authority.
- We may, in our absolute discretion, with or without notice to you, disclose or otherwise report the details of any transaction or activity, or proposed transaction or activity, in relation to the Fund (including any personal information, as defined in the Privacy Act 1988 (Cth) that you may have provided to us) to any reporting body authorised to accept reports under any laws relating to the AML Legislation applicable in Australia or elsewhere.

If you do not complete the relevant verification sections of the Application Form, this may delay the processing of your Application or result in your Application being returned.

## *7.9 Privacy*

In applying to invest, you are providing the Trustee with certain personal details (your name, address etc.). The Trustee uses this information to establish and manage that investment for you.

Under the Privacy Act 1988 (Cth), you can access personal information about you held by the Trustee, except in limited circumstances. Please let the Trustee know if you think the information is inaccurate, incomplete or out of date. You can also tell the Trustee at any time not to pass on your personal information by advising it in writing.

If you do not provide the Trustee with your contact details and other information, then it may not be able to process your application to invest.

Under various laws and regulatory requirements, the Trustee may have to pass-on certain information to other organisations, such as the Australian Tax Office or the Australian Transaction Reports and Analysis Centre.

By applying to invest, you give the Trustee permission to pass information it holds about you to other companies which are involved in helping it administer the Fund, or where they require it for the purposes of compliance with the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) or in connection with the holding of Application Money. The Trustee may also use your information to provide you with details of future investment offers made by it.

## *7.10 United States of America (US) Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS)*

FATCA is a US law that came into effect on 1 July 2014 and impacts investors worldwide. FATCA attempts to minimise US income tax avoidance by US persons investing in assets outside the US, including through their investments in foreign financial institutions. FATCA requires reporting of US persons' direct and indirect ownership of non-US accounts and non-US entities to the US Internal Revenue Service (IRS). The Australian Government has entered into an Inter-Governmental Agreement (IGA) with the Government of the United States of America for reciprocal exchange of taxpayer information. Under the IGA and enacted legislation, financial institutions operating in

Australia report information to the ATO rather than the US IRS. The ATO may then pass the information on to the US IRS.

The Fund may meet the definition of a 'Foreign Financial Institution' and if so, the Trustee will comply with its FATCA obligations. These laws apply to all financial institutions offering bank or deposit accounts, investment funds, custodial accounts and certain insurance accounts in Australia.

The FATCA self-certification form included in the Application Form must be completed by all investors and requires self-certification of an Investor's taxation status under US law. The self-certification is used by H&H to determine if reporting is required in relation to your investment in the Fund.

The CRS is the single global standard for the collection, reporting and exchange of financial account information of non-residents, which applies to calendar years ending after 1 July 2017. Under CRS, the Fund may need to collect and report financial account information of non-residents to the ATO. The ATO may exchange this information with the participating foreign tax authorities of those non-residents.

## *7.11 Dispute resolution*

We are committed to striving for excellence in relation to our products and services. Despite our best endeavours, we realise that complaints will occur from time to time and, to this end, we have in place comprehensive internal complaints resolution processes to ensure they are resolved with minimum inconvenience.

If you have a complaint, please contact us on 02 8019 9999. We will either try to resolve your complaint or put you in contact with someone who is better placed to resolve the complaint. If you are not satisfied with the response you receive or if you wish to submit a written complaint, you may write to us at:

Address: No. 1 & 2, 50 Murray Street, Pyrmont NSW 2009

Email: [info@hhfs.com.au](mailto:info@hhfs.com.au)

Please provide the reason for your complaint and any other additional details. We will acknowledge your complaint as soon as possible and will endeavour to resolve the matter and respond within 30 days of receipt.

## *7.12 Ethical considerations, labour standards and environmental impact*

Whilst the Trustee intends to operate the Fund in an ethical and sound manner, the Fund's lending criteria does not include giving additional weight to labour standards, environmental, social or ethical considerations.

## *7.13 Taxation information*

We have not obtained taxation advice specific to the Offer. As such, this IM does not address taxation issues which may be relevant to you. You must take full and sole responsibility for your investment in the Fund, the associated taxation implications arising from your investment and any changes in those taxation implications during the course of your investment.

Before investing in the Fund, you should obtain your own independent tax advice, which takes into account your own circumstances. In particular, you should seek advice on income tax and interest withholding tax liabilities arising out of the investment.

# 08

## *How To Invest*

**Y**ou should read this IM carefully. Please pay particular attention to all of the risk factors in Section 7. The risks should be considered in light of your personal circumstances before making an investment decision.

Where appropriate, you should also consult a financial, taxation or other professional advisor before deciding whether to invest in the Fund.

To apply for Cash Units, please complete the Application Form accompanying this IM and pay your application money in accordance with the instructions included in the Application Form.

Your initial investment in the Fund must be for a minimum of \$100,000. However, we may accept investments less than this amount in our absolute discretion.

This Offer is restricted to Wholesale Clients. We have the sole discretion whether to accept or reject an application.

If your application is rejected, wholly or in part, then we will notify you in writing and arrange for return of your application money to you. Interest will not be paid to you on your application money. If your application to invest in the Fund is accepted, then interest earned on your application money will be retained by us. If your application to invest in the Trust is not accepted, then your application money will be returned to you (without interest).

By sending a completed Application Form, you are making an irrevocable offer to become an investor in the Fund and you are agreeing to be legally bound by the constitution of the Fund, the terms of issue of the Cash Units, and the terms of this IM. No cooling-off rights apply to an investment in the Fund.



An aerial, black and white photograph of a dense city skyline, likely New York City, viewed from a high angle. The image shows numerous skyscrapers and buildings of varying heights and architectural styles. In the background, a large body of water is visible, with a bridge and some industrial structures on the far shore. The sky is clear and bright. A large, white, stylized number '09' is overlaid on the left side of the image, partially obscuring the buildings. The number is composed of two '0's and a '9', with the '9' having a long, curved tail that extends downwards and to the right.

# 09

## *Glossary*

<i>Term</i>	<i>Meaning</i>
<b>Application Form</b>	The application form accompanying this IM pursuant to which a person can apply for Cash Units.
<b>Cash Units</b>	A class of unit in the Fund known as "Cash Units".
<b>Corporations Act</b>	The Corporations Act 2001 (Cth), together with its regulations and as amended from time to time.
<b>Election Form</b>	An election form accompanying a Loan Memorandum pursuant to which holders of Cash Units may elect to convert some or all of their Cash Units to a particular class of Loan Unit.
<b>Fund</b>	H&H Contributory Mortgage Fund.
<b>H&amp;H CMF or Trustee</b>	H&H Capital Mortgage Fund Pty Ltd ABN 93 650 774 066, the holder of Australian financial services licence number 537992.
<b>H&amp;H Group</b>	H&H Mezz, H&H CMF, and their related or associated companies.
<b>H&amp;H Mezz or Manager</b>	H & H Mezz Pty Ltd ABN 19 605 210 348, the holder of Australian credit licence number 503901.
<b>IM</b>	This information memorandum.
<b>Loan</b>	A loan made by the Fund.
<b>Loan Memorandum</b>	A document issued by the Trustee that contains details of a particular Loan available for investment and which contains an offer for holders of Cash Units to convert their units to Loan Units belonging to a particular class that is referable to the Loan.
<b>Loan Units</b>	A class of Unit in the Fund referable to a particular Loan. A different class of Loan Unit will be created for each Loan to be made by the Fund.
<b>Offer</b>	The offer to apply for Cash Units in the Fund that is contained in this IM and is available to Wholesale Clients only.
<b>Unit</b>	A unit in the Fund, such as a Cash Unit or a particular Loan Unit.
<b>Wholesale Clients</b>	Has the meaning given to that term in section 761G of the Corporations Act



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