

# OCTOPUS INVESTMENTS

## TERMS OF BUSINESS FOR INTERMEDIARIES





# OCTOPUS INVESTMENTS - TERMS OF BUSINESS FOR INTERMEDIARIES

These Terms of Business ("Terms") form a binding contract between Octopus Investments Limited ("Octopus", "we" or "us") and "you" the Intermediary (defined below).

Octopus is authorised and regulated by the Financial Services Authority ("FSA") with FSA registered number 194779. Our registered office is at 20 Old Bailey, London EC4M 7AN.

The meanings of certain terms and expressions are set out in section 16 below.

## 1 Application and Scope

1.1 These Terms set out the basis upon which we may accept business from Intermediaries acting as agent of Investors in connection with Octopus Products.

1.2 For the avoidance of doubt, these Terms do not apply to our provision from time to time of tools, methodologies or technology (such as risk profiling tools) which you may decide to use in the course of your Business. The provision of such tools, methodologies or technology shall be governed by separate terms agreed with you.

## 2 Commencement

2.1 These Terms shall commence on the date we first accept an application for investment which has been placed with us by you.

2.2 These Terms form a binding contract between us and you, and by placing Investors with us you acknowledge you have read, understood and agree to these Terms.

## 3 Suitability assessment

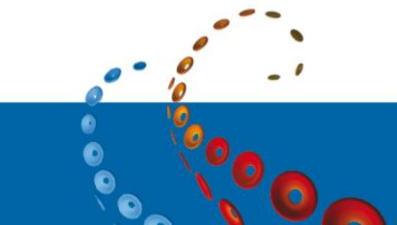
3.1 You agree that Octopus will not provide investment or tax advice to you or any Investors, or advise on the suitability of investing in an Octopus Product.

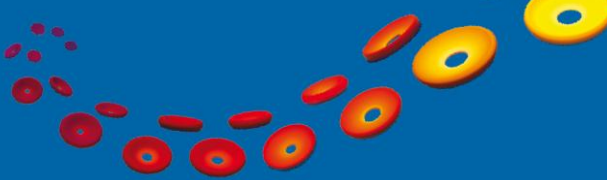
3.2 You agree that you are solely responsible for ensuring that any investments made by an Investor in an Octopus Product are and remain suitable and appropriate for the Investor for the purposes of all applicable Law including, without limitation, the applicable rules of the FSA set out in Chapter 9 COBS.

## 4 Relationship of the parties

4.1 You warrant and represent that in the course of your dealings with us (except to the extent of your personal responsibilities to Octopus as set out in these Terms) you are acting as agent of the relevant Investor. Further you warrant and represent that you shall continue so to act and we shall treat you as agent of the Investor until such time as we are notified otherwise by you or the Investor.

4.2 You acknowledge that you are not authorised to act on behalf of or bind Octopus and in particular under no circumstances will you act or hold yourself out to any Investor as our agent.





4.3 For the avoidance of doubt we shall treat the Investor (and not you) as our client for the purposes of COBS and CASS in respect of Octopus Products.

## **5 Conduct**

5.1 You warrant and undertake that you are authorised or exempt from authorisation for the purposes of the Act and you are authorised to enter into and perform your obligations under these Terms;

5.2 You shall inform us immediately if you cease to be authorised or exempt under the Act.

## **6 Documentation**

6.1 You agree that it is your responsibility to ensure you have the latest versions of the documentation produced by us relating to Octopus Products.

6.2 You shall promptly pass to the Investor without amendment, any document supplied by us for the Investor's information, benefit or completion, and promptly return to us all completed documents.

6.3 You agree that while respecting the nature of your advisory relationship with Investors we may communicate directly with Investors.

## **7 Information**

7.1 You agree that we may rely upon any information you provide to us and warrant that such information is accurate and complete unless you notify us otherwise.

## **8 Compliance**

8.1 Where required under the Applicable Laws you shall disclose to the Investor the amount of commission, fees and other income or non-monetary benefits you may receive prior to the Investor making an investment in any Octopus Product.

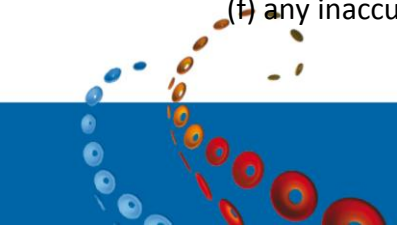
8.2 You acknowledge that all Investors placed with us in accordance with these Terms are subject to the AML Rules and you undertake to comply with all aspects of the AML Rules applicable to you.

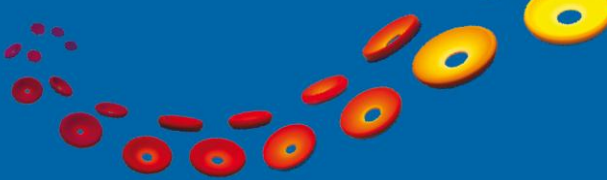
8.3 Where provided we shall be entitled to rely upon any anti-money laundering certificates provided by you.

8.4 We will be entitled to rely on the suitability assessment you perform for the purposes of Chapters 9 and 2, COBS in respect of Investors proposing to invest in Octopus Products. We may ask for more detail on the supporting evidence you collect for these assessments in selected cases and you agree to provide such evidence in accordance with our reasonable requests.

## **9 Indemnity**

9.1 You agree to indemnify us and keep us indemnified against any Losses which we may suffer or incur arising from:

- (a) any failure by you to comply with the Applicable Laws;
  - (b) failure by you to perform and maintain suitability assessments in respect of each Investor in accordance with COBS;
  - (c) any negligence, fraud or wilful default by you;
  - (d) any breach by you of these Terms;
  - (e) the provision of inaccurate or incomplete information by you or failure to update information previously supplied to Octopus;
  - (f) any inaccurate or misleading statement made to an Investor concerning Octopus and/or
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an Octopus Product;

(g) failure to make, or late, payment of any amounts owing to Octopus by you or an Investor, except to the extent such Losses are directly caused by the negligence, fraud or wilful default of Octopus.

## **10 Remuneration**

10.1 Provisions governing remuneration arrangements shall be notified to you by us from time to time or as otherwise agreed with you in writing.

10.2 Octopus may, at its discretion cease to pay you fees or any other form of remuneration or payment contemplated or provided for under clause 10.1 above if:

(a) you cease to be authorised or exempt from the requirement to be authorised under the Act, or are subject to an investigation by the FSA;

(b) you cease to be the agent of an Investor;

(c) (if you are an individual) you die;

(d) you commit a breach of these Terms or Applicable Laws;

(e) if you go into liquidation or receivership or are subject to an administration order, enter into any arrangement with creditors, are unable to pay your debts, have your goods seized in execution, or (if an individual) are bankrupt;

(f) you give notice to terminate these Terms;

(g) the receipt of such payments by you would breach any Applicable Laws.

10.3 We reserve the right to reclaim (or withhold) commission from you:

(a) if we have overpaid you or you have received payment in error;

(b) if any Investor exercises any right of cancellation under the Applicable Laws;

(c) in order to satisfy any outstanding amounts owed by you to us under these Terms;

(d) to offset any settlement amount due.

## **11 Complaints**

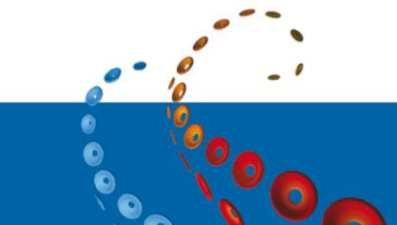
11.1 You shall be responsible for handling all complaints from an Investor relating to your Business and which involves Octopus Products but shall notify Octopus as soon as practicable of such complaints and provide to us forthwith all material information concerning such complaints.

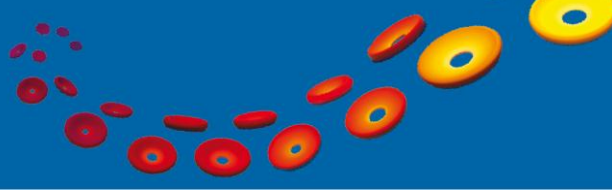
11.2 If an Investor makes a complaint in connection with any Octopus Products, any documentation relating to the Octopus Products or any transactions carried out by Octopus, you shall notify us immediately and shall provide the complainant with details of the person to whom the complainant should address the complaint, and shall inform the complainant of any relevant rights of redress including (if applicable) the right to refer the matter to the Financial Ombudsman Service.

11.3 Any complaints arising under these Terms should be notified to the Octopus Client Services Team at 20 Old Bailey, London EC4M 7AN. In addition, complaints may be made to the Financial Ombudsman Service.

## **12 Amendment**

12.1 We reserve the right to amend these Terms on one month's prior written notice, except where these Terms are required to be amended to comply with any change to the Applicable Law, in which case such amendment shall take effect as soon as is practicable.





### 13 Termination

13.1 These Terms may be terminated by either party on giving 30 days prior written notice to the other party.

13.2 Termination shall not affect any existing obligation incurred by either party.

13.3 We reserve the right to terminate these Terms with immediate effect by notice in writing to you in the following circumstances:

- (a) if you cease to be authorised or exempt from authorisation in respect of the Business;
- (b) if you go into liquidation or receivership or are subject to an administration order, enter into any arrangement with creditors, are unable to pay your debts, have your goods seized in execution or (if an individual) are bankrupt;
- (c) if you are subject to any regulatory investigation or have any enforcement action taken against you by any regulatory body or any other event happens which in the opinion of Octopus is likely to bring its reputation into disrepute or be detrimental to its business interests.

### 14 Data Protection

14.1 Both parties warrant they will:

- (a) comply with the requirements of the DPA as appropriate; and
- (b) will hold and maintain all registrations and notifications as are required for the performance of its obligations under these Terms.

14.2 We may transfer data to other group companies and third party agents to comply with these Terms and for marketing of goods and services to other companies in its group. Transfers may be made outside the EEA where we are satisfied that appropriate controls are in place over the processing of such data.

### 15 General

15.1 If any part of these Terms are found to be illegal, invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of these Terms which shall remain in full force and effect.

15.2 You may not delegate or transfer any of your rights or obligations under these Terms without our prior written consent.

15.3 Octopus may assign these Terms giving 30 days notice subject to the prior written consent of the other party.

15.4 A party who is not a party to these Terms has no right under the Contracts (Rights of third parties) Act 1999 to enforce any provision of these Terms.

15.5 These Terms and any disputes arising out of or in connection with them are governed by and construed in accordance with English Law, and the parties submit to the exclusive jurisdiction of the English Courts.

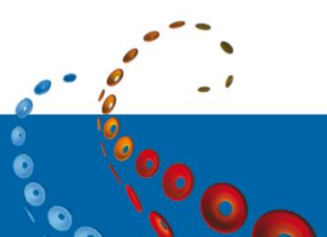
15.6 The failure of Octopus to exercise or delay in exercising a right or remedy provided by these terms or by law does not constitute a waiver of the right or remedy of other rights or remedies.

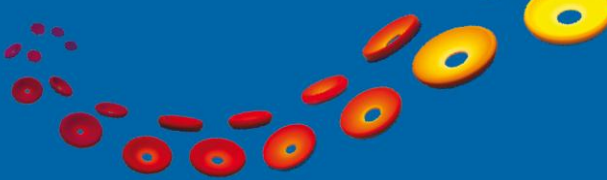
### 16 Defined Terms

16.1 In these Terms when we refer to:

"Act" we mean the Financial Services and Markets Act 2000, as amended or replaced from time to time;

"AML Rules" we mean the Proceeds of Crime Act 2000, the Money Laundering Regulations





2007, the Terrorism Act 2000, and any applicable anti-money laundering legislation, regulations rules or guidelines, in each case as amended or replaced from time to time;  
"Applicable Law" we mean all applicable laws, rules, regulations, guidance or codes of conduct which are relevant to the performance by you and Octopus of our respective obligations under these Terms, including, without limitation, the Act, the FSA's Handbook of Rules and Guidance, the DPA and the AML Rules, in each case as amended or replaced from time to time;

"Appointed Representative" we mean appointed representative as defined in section 39 of the Act;

"Business" we mean any specified activity for the purposes of section 22 of the Act including, without limitation, advising and/or arranging transactions in investments. For the avoidance of doubt, for the purposes of these Terms, "Business" also refers to the introduction of Investors by you to Octopus for the provision of portfolio management services.

"CASS" we mean the Client Assets Sourcebook of the FSA Handbook;

"COBS" we mean the Conduct of Business Sourcebook of the FSA Handbook;

"DPA" we mean the Data Protection Act 1998 as amended or replaced from time to time including related regulations and guidance;

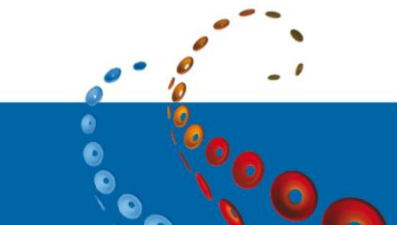
"FSA" we mean the Financial Services Authority or any successor entity;

"Intermediary" or "you" we mean an individual, partnership or company carrying out Business acting on behalf of Investors in Octopus Products. If you are a principal of a network of Appointed Representatives, or an Appointed Representative, these Terms shall apply to you and, (where applicable) each of your Appointed Representatives, and you are responsible for ensuring that all of your employees, agents and (where applicable) your Appointed Representatives and your Appointed Representatives' employees and agents are aware of and comply with these Terms;

"Investor" we mean a client of the Intermediary who invests in an Octopus Product;

"Losses" we mean any losses, claims, demands, damages, fines, penalties, actions, costs, expenses or liabilities of any nature (including legal fees reasonably incurred);

"Octopus Product" we mean an investment product or service which may from time to time be offered by Octopus through intermediaries including, without limitation, independent financial advisers. Please ask Octopus for further details about the specific investment products and services covered by these terms.





octopusinvestments.com

Please contact us on  
0800 316 2298

or email us at  
[info@octopusinvestments.com](mailto:info@octopusinvestments.com)

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